The Committee will meet at 1.30 pm in The Chamber, Assembly Hall, The Mound, Edinburgh, to consider the following agenda items:

1. **Areas of Questioning (in private):** The Committee will consider areas of questioning for witnesses as part of its consideration of the Scottish Executive’s proposals for the future of the Highlands and Islands ferry service network, and as part of its consideration of PE 96.

   *Not before 1.40 pm*

2. **Items in Private:** The Committee will consider whether to take item 7 in private.

3. **Public Petitions:** The Committee will consider the following Public Petitions—

   - **PE8 / PE187:** PE8 from the Scottish Homing Union on the impact of the number of birds of prey on the sport of pigeon racing, along with Petition PE187, from the Scottish Gamekeepers Association on the culling of raptors. The Committee will consider a report from the reporter.

   *Not before 2.00 pm*

4. **Highlands and Islands Ferry Services:** The Committee will take evidence from—

   Sarah Boyack, Minister for Transport and Planning, Scottish Executive

   *Not before 3.00 pm*

5. **Petition PE 96 on Sea Cage Fish Farming:** The Committee will take evidence from—

   Rhona Brankin, Deputy Minister for Environment and Rural Development, Scottish Executive
6. **Consideration of Petition PE96**: The Committee will discuss the evidence taken under item 5 on Petition PE96, on Sea Cage Fish Farming.

7. **Committee Away Day**: The Committee will consider a paper from the Clerk on whether to have an away day in the Autumn.

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Shelagh McKinlay  
Clerk to the Transport and Environment Committee  
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The following public papers are relevant for this meeting:

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<td>A further submission from Professor Neil Kay on Highlands and Islands Ferry Services</td>
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<td>A letter from Ross Finnie to the Convener dated 10 April 2001 on Petition PE96</td>
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<tr>
<td>A letter from Councillor Dr Michael Foxley, The Highland Council relevant to Petition PE96</td>
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Please note that background papers on Petition PE96 have previously been circulated to Members by e-mail. Spare copies will not be available at the meeting.
The Petitions

1. Petition PE8 by the Scottish Homing Union (SHU) calls for the Government to review the operation of the Wildlife and Countryside Act and, in particular, obtain two outcomes—

   - Altering legislation, granting a status to racing pigeons to enable owners to legitimately protect their birds; and
   - Obtaining agreement on population level of birds of prey designed to achieve an acceptable ecological balance with other species.

2. Petition PE187 by the Scottish Gamekeepers Association calls for the Scottish Parliament to allow limited licensed culling of raptors under the terms of the 1981 Wildlife and Countryside Act in areas where local populations have increased beyond normal levels.

3. This report deals with each petition in turn. In the course of her work on the petitions, the Reporter has met with the following bodies and individuals: the Scottish Homing Union, the Scottish Gamekeepers Association, RSPB Scotland, and Alex Neil MSP.

PETITION PE8

Background

Parliamentary Progress

4. Petition PE8 was passed by the Public Petitions Committee on 31 August 1999 to the Transport and the Environment Committee and the Rural Affairs Committee (now the Rural Development Committee). The Transport and the Environment Committee initially deferred consideration of the petition until a DETR report on raptor predation had been published. This report was published on 3 February 2000 and was entitled the Report of the UK Raptor Working Group. The Committee considered the petition again at a meeting on 1 March 2001, and agreed to appoint Helen Eadie MSP as a reporter on the petition, and to await the publication of a further DETR report “A Study into the Raptor Predation of Domestic Pigeons”, which was based on research by Members of the Hawk and Owl Trust. This report was published on 27 March 2000, and acts as a supporting document to the Raptor Working Group Report.

5. Helen Eadie subsequently reported to the Committee on 7 March 2001. However, as Helen Eadie was no longer a member of the Committee, the Committee agreed that Maureen Macmillan MSP should be appointed as a reporter in her place to take forward consideration of the petition.
6. The Rural Development Committee still has an interest in this petition. However, it is understood that it is awaiting the outcome of the Transport and the Environment Committee’s consideration of the petition before taking any further action.

7. In considering the SHU’s petition, this report recognises that there is considerable disagreement over how to approach the problem of raptor predation of racing pigeons. In particular, there are long-standing differences of opinion between the SHU and organisations such as RSPB over statistics such as the size of raptor population and the scale of the impact of raptors on racing pigeons. This report does not propose to analyse the validity of the statistics set out in the Raptor Working Group Report or those provided by the SHU. Instead, its starting point is to recognise the considerable concern among pigeon fanciers about raptor predation of pigeons. This report aims to identify a constructive way forward in the debate.

**SHU Position**

8. The Scottish Homing Union is concerned over what it sees as a growing number of reports of attacks on racing pigeons by birds of prey. During a survey by the SHU in 1996/97 in which responses were received from 1,937 lofts (47 per cent of the total lofts in Scotland), 90 per cent of respondents reported a problem with birds of prey. 52 per cent of the lofts which responded to the survey reported attacks by peregrines, and 89 per cent reported attacks by sparrowhawks. The SHU report that these two birds are the main predators of racing pigeons.

9. The SHU concede that pigeon fanciers have to accept that the nature of their sport carries a degree of risk from attack by predators. However, they state that “it has become clear from reports made by members of the SHU that the risk of such attacks has become unacceptably high and will continue to increase unless urgent action is taken to address the problem. If such action is not taken, there is a serious risk that the sport in this country will suffer irreparable damage”.

**Report of the Raptor Working Group**

10. The Raptor Working Group (RWG) was established by the then Department of the Environment in 1995, with the following terms of reference: “to consider population status of birds of prey; identify species alleged to be causing problems; identify, in particular, the impact of such species on game birds and moorland management and on racing pigeons; identify gaps in research and future needs, and identify possible sources of funding; and consider statutory and other mechanisms for the resolution of problems.”

11. The following bodies were represented on the UK Raptor Working Group: the Department of the Environment Transport and the Regions; the Joint Nature Conservation Committee; the Royal Society for the Protection of Birds; the Confederation of Long Distance Racing Pigeon Unions (also representing the Royal Pigeon Racing Association); the Scottish Landowners Federation; the

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1. Attacks By Racing Pigeons And Sparrowhawks On Racing Pigeons In Scotland – An Appeal By the Scottish Homing Union
Scottish Executive; the Institute of Terrestrial Ecology; the Game Conservancy Trust; the British Association for Shooting and Conservation; and the Scottish Raptor Study Groups. The Scottish Homing Union was not represented on the RWG, and the SHU does not support the recommendations contained in the RWG Report. The SHU did, however, present the results of its survey on raptor predation to the RWG and also gave an oral presentation to the Group.

12. The RWG Report reaches a number of conclusions in respect of raptor predation on racing pigeons. Like the SHU, it identifies sparrowhawks and peregrines as the two species of birds most likely to interact with racing pigeons.

13. The Report refers to the report by the Hawk and Owl Trust[^3] which estimated that peregrines take 3.5 per cent and sparrowhawks take less than 4 per cent of the UK racing pigeon population annually. It suggests that overall losses to all causes of racing pigeons is about 52 per cent, which is similar to the natural mortality rate of wood pigeon populations. Failure to return home, or straying, is cited as the most significant underlying reason for this level of loss.

14. The RWG Report suggests that there are various avenues of research which may help limit raptor predation and improve pigeon survival rates. The report by the Hawk and Owl Trust makes various suggestions for specific measures which might reduce raptor predation and pigeon losses. These are set out at paragraph 20.

**Responses to the RWG Report**

15. RSPB Scotland strongly support the recommendations of the RWG Report. RSPB Scotland note that it represented a consensus view of a wide spectrum of organisations, which was based on the best available science and was agreed by all the participants[^4].

16. The SHU disputes the findings of the RWG Report, and the statistical basis on which the conclusions in the report were reached. The SHU, for example, expressed concern at “the fundamentally flawed methods of research and the inadequately small samples used to produce data on the raptor, pigeon racing problem”[^5].

**Solutions to the Problems Raised in PE8**

17. There are two general approaches to the problem of raptor predation of racing pigeons—

- Methods that are non-harmful to raptors, such as deterrents, which are the methods favoured by the RWG Report, and
- Methods involving the killing, taking or disrupting of raptors, which the SHU contend are the only effective methods of dealing with the problem of raptor predation.

[^3]: Study into the Raptor Predation of Domestic Pigeons – March 2000
[^4]: RSPB Scotland Parliamentary Briefing on Birds of Prey and Racing Pigeons
[^5]: Correspondence from the SHU – 20 March 2001
Licenced Taking, Killing or Disrupting of Birds of Prey

18. Under the current legal framework, sparrowhawks and peregrines are protected by the Wildlife and Countryside Act 1981 which implements the EU Birds Directive of 1979. The Wildlife and Countryside Act 1981 permits licences to be issued to take protected birds if they are causing serious damage to livestock, foodstuffs or fisheries. However, legal advice received by the DETR and MAFF, and set out in the RWG Report, states that racing pigeons can not be defined as livestock under the terms of the Act. Indeed, the SHU recognises that “within existing UK legislation no opportunity exists for those engaged in the training and racing of pigeons to legitimately protect their birds against attacks by birds of prey”.

19. The SHU petition is seeking a change in the law to enable sparrowhawks and peregrines to be killed or disrupted in order to protect racing pigeons. The SHU contend that this course of action is necessary because the use of deterrents has met with “negligible or limited success”.

Non Lethal or Non Disruptive Measures

20. Neither the RWG Report nor the Study into the Raptor Predation of Domestic Pigeons supports the licensed taking or killing of birds of prey. The latter report sets out a number of main recommendations for dealing with the problem of raptor predation—

- Research into why racing pigeons stray
- Alter racing seasons to prevent their coinciding with peregrines breeding season;
- Maximise racing times over East England minimising exposure of pigeons to raptors;
- Establish race “flight corridors” to prevent airborne clashes and subsequent diversions;
- Research the potential of reward systems to encourage pigeons to return to the correct loft;
- Research deterrent systems;
- Examine and disseminate best practices by researching why some lofts have lower rates of attacks than others; and
- Optimise locations, timing and numbers of pigeons liberated on training flights to minimise raptor predation.

21. The RWG Report concedes that many of these methods have not at this stage been subject to rigorous scientific study. It states that “there is now a need to undertake pilot trials to test the effectiveness or otherwise of these proposals and the [Raptor Working] Group commends this course of action to pigeon racing associations”. Recommendation 20 of the RWG Report recommends that “scientific studies be undertaken on the range of possible means of reducing predation on racing pigeons”. It suggests that this could be achieved through “collaboration… by the racing pigeon community with academic institutions and, where appropriate, internationally”.

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6 Attacks By Racing Pigeons And Sparrowhawks On Racing Pigeons In Scotland
22. The RSPB has indicated a willingness to assist pigeon associations in researching non-lethal or non-disruptive methods of reducing raptor predation.

23. The SHU noted that in its survey, only 39 out of 366 lofts which had tested deterrents thought they were useful in reducing attacks. The SHU stated that “the fact that attacks continued when deterrents were in use argues strongly against their effectiveness”. The SHU also points out that if the measures set out in the Study into the Raptor Predation of Domestic Pigeons worked, then more pigeon fanciers would use them, since it would be in their own interest.

SHU and Scottish Natural Heritage – Working Group
24. Alex Neil MSP has helped to co-ordinate the establishment of a working group involving the SHU and the Scottish Natural Heritage, with the aim of responding to the proposals of the RWG Report, and, in particular, to consider how scientific research proposals might be taken forward.

Ecological Balance
25. The SHU petition calls upon the Parliament to obtain agreement on a population level of birds of prey designed to achieve an acceptable ecological balance with other species. The SHU argue that numbers of birds of prey are increasing beyond their “natural” levels because racing pigeons are providing a readily available source of food for the birds of prey, and are largely responsible for their increasing numbers. The SHU argues that this does not represent an ecological balance of species.

26. The view of the RSPB is that an increase in the numbers of birds of prey that is caused by predation on pigeons still represents an ecological balance of species, because it is natural for a species’ population to increase with the increasing availability of food. Conversely, if raptors’ sources of food is cut, then the ecological balance would shift, and result in raptor numbers falling. In other words, there is no set number of raptors at which an “ecological balance” with other species can be said to occur.

Next Steps – Petition PE8
27. The SHU see the only effective solution to the problem of raptor predation of racing pigeons as being selective killing, taking or disrupting of raptors. Petition PE8 therefore asks that the Scottish Parliament alters legislation, granting a status to racing pigeons to enable owners to legitimately protect their birds.

28. The reporter recognises the very legitimate concerns of the SHU. The reporter also notes that despite these concerns, the SHU has always opposed the illegal killing of raptors, and the reporter strongly supports this stance. While recognising the SHU’s concerns, the view of the reporter is that, where possible, there should always be a presumption in favour of non-lethal and non-disruptive methods of raptor control. The aim should be for birds of prey and racing pigeons to co-exist with a minimum of disruption to either species.

29. A change in legislation should therefore only be considered if non-lethal and non-disruptive methods of raptor control have been proved ineffective. However, for
us to be able to judge whether or not non-lethal and non-disruptive methods of controlling raptor predation are effective, further research is needed. This is recognised in the Raptor Working Group Report.

30. The reporter therefore recommends that further scientific research is carried out into the success of non-lethal and non-disruptive methods of controlling raptor predation of racing pigeons. This is not a rejection of the idea of a change in legislation, but rather a recognition that it is not the most appropriate method of control at this stage.

31. Should a change in legislation be required, the reporter’s view is that it should only be to legalise disruption of raptors and should not legalise lethal methods of raptor control. The reporter also believes that a distinction should be made between those raptors which are listed on Schedule 1 of the Wildlife and Countryside Act 1981, and other less heavily protected raptors. Schedule 1 raptors are the amongst the most heavily protected wild birds in the EU, and Schedule 1 includes peregrines, but not sparrowhawks. The reporter is of the view that even if the law was changed to allow disruption of raptors, Schedule 1 raptors should remain exempt from disruption.

**SHU Views on Deterrents**

32. The reporter notes that the SHU has evidence that using deterrents to raptor attacks does not work. However, the SHU survey did not test the full range of possible non-lethal methods set out in the Study into the Raptor Predation of Domestic Pigeons. In addition, while the SHU sought members’ views on the effectiveness of deterrents, it would be helpful to have more precise scientific data to test the validity of these views. The reporter therefore believes that the SHU’s research, while helpful, should be supplemented by other work.

**Means of Taking Forward Research Proposals**

33. The working group established by the SHU and Scottish Natural Heritage seems to be the best forum for taking forward this research process. Indeed, this is one of the aims of the group.

34. However, it is crucial that the SHU feels able to sign up to, and have confidence in, the research proposals on offer. This is important since the SHU has previously felt excluded from research studies, and that their views were not adequately taken into account. Having said this, if the SHU agrees to particular research proposals, it has an obligation to accept the results of the research.

35. The reporter also feels that it is important that any research is undertaken on a distinctively Scottish basis. This is because one of the objections the SHU had to the RWG Report was that it did not adequately take into account issues such as the proportionately larger concentration of raptors in Scotland.

36. It is also important that the process of developing research proposals is progressed as a matter of urgency, since the SHU first raised this issue with the Parliament in August 1999, and it has been of long-standing concern to SHU members.
Recommendations – Petition PE8

37. The reporter notes that—

- Action is required to address the legitimate concerns of the Scottish Homing Union.
- If a change in legislation is required, it should only be to legalise the disruption of raptors which are not on Schedule 1 of the Wildlife and Countryside Act, and not to legalise the disruption of Schedule 1 raptors, or to legalise lethal methods of control.
- While a change in legislation described above should not be ruled out, it does not seem to be the most appropriate solution at this stage, given the need for further research into non-lethal and non-disruptive methods of raptor control.
- It is difficult to identify a particular size of raptor population at which an ecological balance with other species could be said to exist.

38. The reporter recommends that—

- Further research should be undertaken into the success or otherwise of non-lethal and non-disruptive methods of discouraging raptor predation of racing pigeons.
- The working group established by Scottish Natural Heritage (SNH) and the SHU is the most appropriate body to develop this research.
- The Committee should write to SNH and the SHU to recommend that any research undertaken should (a) be supported by the SHU; (b) reflect the distinctive experiences of pigeon fanciers in Scotland; and (c) be taken forward as a matter of urgency.
- While the Committee will want to monitor, on an on-going basis, the work undertaken by SNH and the SHU, it may wish to conclude its consideration of the petition at this stage.
- The Committee should write to the Rural Development Committee to inform it of the action taken on the petition.

PETITION PE187

Background – Petition PE187

39. Petition PE187 was submitted by the Scottish Gamekeepers Association (SGA) and, on 9 May 2000, the Public Petitions Committee agreed to pass the petition to the Rural Affairs Committee and the Transport and Environment Committee to take into consideration with Petition PE8 by the Scottish Homing Union.

40. The Transport and the Environment Committee considered the petition at a meeting on 7 March 2001, and agreed that Maureen Macmillan MSP should be appointed as a reporter to take forward consideration of the petition. As with Petition PE8 by the Scottish Homing Union, the Rural Development Committee have an interest in this petition, and is awaiting the outcome of the Transport and the Environment Committee’s consideration of the petition before taking any further action.
SGA Position

41. The SGA contend that there is mounting predation on wild birds and reared gamebirds within Scotland, due to a burgeoning population of certain raptor species. The SGA suggest that the raptor population in certain areas is artificially high and is being sustained at these levels through the availability of gamebirds as prey.

42. Petition PE187 therefore calls for the Scottish Parliament to allow limited licensed culling of raptors, under the existing provisions of the 1981 Wildlife and Countryside Act in areas where local populations have increased beyond normal levels.

43. As discussed at paragraph 18 above, the Wildlife and Countryside Act 1981 does allow for licences to be issued for killing otherwise protected species (such as peregrines) to prevent serious damage to livestock, but only if there is no satisfactory alternative solution. However, SPICe could find no evidence of such licenses having been issued and there are no examples of persons having been able to prove that they legally killed protected birds to safeguard livestock. The reporter welcomes the SGA’s opposition to the illegal killing of raptors, and strongly supports this position.

44. In a Parliamentary briefing, the SGA argue in favour of “changes in the law to allow for the control of raptors to maintain an ecological balance”. The SGA advocate a quota system, whereby any birds found to be over the stated quota could be controlled providing they are high number species such a buzzards, peregrines or sparrowhawks. The SGA suggest that a relocation programme could be used for less numerous species such as kites and harriers. The SGA ask “for the right to protect our stock and the diversity of wildlife in the countryside and consequently the jobs of gamekeepers across Scotland”.

Raptor Working Group Report

45. The RWG Report considered the impact of raptors on gamebirds and moorland management.

46. The Report did not consider that increasing raptor predation was the main cause of declining numbers of grouse. It suggests “that much of the long-term solution to the problems faced by grouse moor owners lies in the need to restore and enhance the extent and quality of heather moorland”. The Report suggests that “the long term decline in grouse stocks has been caused by loss of heather moors and reduced numbers of gamekeepers”. However, the Report did recognise that in some cases an increase in raptor numbers could contribute to a suspension of driven grouse shooting. The Report recommends that measures are put in place to reduce the conflict between raptors and grouse.

47. The RWG Report does not support measures to reduce the predation of raptors on gamebirds which would necessitate a derogation from the Wild Birds Directive (as implemented in the UK by the Wildlife and Countryside Act 1981). Instead, as

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7 Scottish Gamekeepers Association Parliamentary Briefing
a solution to the problem of raptor predation, the Report suggests that habitat management could increase grouse numbers, and that various species management measures could be implemented, including—

- Captive rearing and releasing of red grouse.
- Restocking local densities of red grouse by the transfer and release of birds trapped on other moorland areas.
- Burning or interfering with raptor nests not in use.
- Diversionary feeding of raptors during the breeding season.

48. The Scottish Gamekeepers Association was not involved in the production of the Raptor Working Group Report, and does not support its recommendations.

*Derogations from the Wild Birds Directive*

49. Although the RWG Report does not support derogations from the Wild Birds Directive, it does make reference, in passing, to some species management measures which might require a derogation. These include—

- Using conditioned taste aversion, whereby baits of a dead prey species are laced with a chemical agent causing the predator to become unwell.
- The temporary movement of hen harrier young to aviaries to be released after the grouse shooting season has begun.
- Scaring hen harriers in the pre-breeding or breeding season.
- Translocation of hen harrier eggs and young to potential settlement areas.
- A quota system by which grouse moors have a target of achieving a set number of hen harriers per acre, beyond which number nests could be removed and fertile eggs destroyed
- Killing of individual raptors

*Potential Obstacles to Receiving a Derogation*

50. The RWG Report rejects the methods of species management described above. This is in part because their implementation would require a derogation from the provisions of the Wild Birds Directive. Achieving this would not be straightforward, according to the RWG Report.

51. First, methods of raptor control requiring a derogation could only be undertaken "where there is no other satisfactory solution" to the problems posed by raptors. Second, the Report considered that there was "legal uncertainty" as to whether derogations under the Wild Birds Directive could be undertaken to protect a shootable surplus of grouse.

52. These obstacles would also be faced by the SGA, if it tried to implement its proposals for dealing with raptors.

*Questions Raised by the Petition*

53. In light of these potential obstacles to receiving a derogation, it is unclear whether the request made in Petition PE187 (for a “limited licensed culling of raptors, under the existing provisions of the 1981 Wildlife and Countryside Act”) would be
possible within the current legislative framework. It would be useful to receive clarification in writing from the Scottish Executive and/or Scottish Natural Heritage on a number of issues, including—

- Whether it is possible for a derogation to be obtained from the Wild Birds Directive to protect a shootable surplus of grouse.
- Whether any licences have so far been issued for the culling of raptors to protect gamebirds in Scotland.
- On what specific grounds might such licences be issued (protection of livestock?)
- If a gamekeeper was to receive a derogation, in what ways can gamebirds be protected from raptors (by shooting raptors? by pricking raptors’ eggs?)
- To what extent is the applicant seeking a derogation required to demonstrate, as the legislation requires, that “there is no other satisfactory solution” to the problem of raptor predation.
- What views in general do the Executive and SNH have on the petitioner’s proposals.

**Recommendation – Petition PE187**

54. At present, it is not clear whether “a limited licensed culling of raptors, under the existing provisions of the 1981 Wildlife and Countryside Act” is possible. There is a need to clarify the current legal position.

55. The reporter therefore recommends that the Committee writes to the Scottish Executive and/or SNH to request clarification on the issues raised in paragraph 53 above. The aim would be to see whether the petitioner’s request is possible within the current legal framework, or whether it would require a change in the law. The Committee can take any further action it considers appropriate on the petition once a response has been received. The reporter also recommends writing to the Rural Development Committee to inform it of the action taken on the petition.

**RECOMMENDATION**

The Committee is invited to consider the recommendations in respect of Petition PE8 (at paragraph 38) and Petition PE187 (at paragraph 55), and agree a response to the petitions.

Maureen Macmillan MSP
Reporter
TENDERING OF HIGHLANDS AND ISLANDS FERRY SERVICES

I was grateful for the opportunity to contribute written evidence on this issue, and I have some comments on the oral evidence that was made to the Committee at their meeting of 18th June. I hope this may be of some help. I would be happy for the points made here to be made public if this was deemed appropriate.

There was nothing in the oral evidence that would lead me to suggest the written evidence provided by Captain Ferguson, Professor Prosser, or myself should be modified or qualified.

The points regarding the economic and technical justification for tendering the network as one unit were well made by the witnesses, as were the concerns regarding maintenance of safety standards.

It was clear from the witnesses comments that they could see no obvious solutions to the question of operator of last resort. But it is worth reiterating that in the case of other former nationalised industries put out to competitive tender (and supplying essential or lifeline services), provision exists to obligate a public body, or to direct a private firm, to act as operator in the event of incumbent default. No such provision is planned at the moment in this case. It is, as more than one witness stated, the responsibility of the Executive to deal with this point - and before tendering takes place.

Arguments were submitted by witnesses as to the fitness of CalMac and why it should be regarded as a superior operator. While all these arguments are legitimate and may be endorsed, it does not detract from the need to fashion appropriate safeguards before tendering takes place. It could be argued that Manchester United is the best team in English football, but that does no mean we can expect it to win the league in perpetuity. Nor can we expect CalMac to win the tender for its network in perpetuity. The whole point about competitive tendering is that changeover of operator is not only possible but an expected part of the system; indeed if this does not happen at some point it may raise questions as to whether the tendering process is fair. That being the case, it is important to fashion appropriate safeguards before such changeover of operator takes place, because it will be too late to do so once a private firm has won the contract.

It was also suggested in evidence that this is not a "not a classic privatization". This is consistent with the Executive's view which is that it is not a potential privatisation of a nationalised industry because the assets will stay in state hands. In fact, there are varying interpretations of what constitutes privatization and the Executive's position is a very narrow one. The New Shorter Oxford English Dictionary defines "privatize" as to "assign (a business, service, etc) to private as opposed to state control or ownership". In such an interpretation, assigning control of CalMac ferry services to the private sector may be regarded as a form of privatization, and from the arguments of my previous paragraph this is a likely endpoint of the process. I think it is helpful and more realistic if we do see this as a process that will almost inevitably (sooner or later) lead to the privatization and denationalisation of these nationalized ferry services in
Scotland. Seeing the process for what it really is should hopefully contribute to more realistic policy making in this context.

The evidence provided by the witnesses also confirms that the advice of the Maritime and Coastguard Agency (MCA) on these issues is essential. It is not sufficient to second-guess whether and how the MCA would assess who would be regarded as qualified to act in an operator-of-last-resort capacity. The MCA should be consulted directly.

I can understand resistance to the notion of an independent regulator in some quarters. However, as with the question of operator of last resort, the notion of an independent regulator is generally accepted in the case of formerly nationalised industries where there is limited opportunity for competition between alternative suppliers in actual operating conditions. The onus is on the Executive and other parties to explain why a regulator or regulatory agency is not needed here.

There is a further point worth making in relation to the evidence given. Any management asked if they would like to see a regulator backed with legislative support appointed to oversee their activities will be unlikely to welcome the prospect. However, this is not surprising and does not reduce the case for a regulator in the public interest.

The councils might be expected to be diffident at best regarding the notion of a regulator since this they may see this as conflicting with the role of a Highlands and Islands Transport Authority (HITA). This question is one that could be explored further, for example it could be that an HITA could have powers and responsibilities that parallel at least some of those associated with a regulator. Whatever is decided, it does not remove the need for strong and effective regulation in the public interest. It can be argued that many of the problems that the former nationalised industries have faced are not due to the existence of a regulator, but at least partly due to the fact that regulatory control was not strong enough.

Finally, reference was made to the Northern Isles contract recently won by Northlink (CalMac+Royal bank) as a possible basis for tendering the CalMac network as whole, in lieu of a regulator.

I think three points could be made regarding this possibility.

Firstly, the Northern Isles contract only comprises two routes, to Orkney and Shetlands. Tendering Calmac’s services involves tendering a whole integrated network and an implied level of complexity which is an order of magnitude greater than that associated with the Northern Isles contract.

Secondly, even though it is likely to be a much more manageable process than tendering CalMac as a whole, the Minister admitted in December that the Northern Isles contract process was "lengthy and complex", and indeed it took a considerable period of time just to set up. If Northern Isles was complex and time consuming, Calmac will be even more so, and from the experience of other formerly nationalised industries it cannot be expected that emergent problems can be resolved by simply writing the contracts and leaving them to be dealt with on an ad hoc basis. As well as setting up the conditions and specifications of the contracts on a recurring basis every five years, this will need professional, expert, and continual monitoring in the public interest - in short, a regulator or regulatory agency, as justified by Professor Prosser in his written evidence. As we have seen, the resources and expertise of the civil service has been fully stretched just to get us to
this stage: I think it would be unfair on all concerned to have them go on to assume the responsibility for writing, monitoring and enforcing the ferry contracts that will be in force post-competitive tendering. It is not done in the case of other formerly nationalised essential public services. It should not be done here.

Thirdly, the Northern Isles contracting system is untried, it will not come into force until 2002. On the other hand, we know a lot about why properly constituted regulatory control is needed and how this should be set up. I find it difficult to understand why the Executive is apparently prepared to ignore the considerable body of evidence and knowledge that has been developed in the UK and elsewhere on this point.

Professor Neil Kay
REPORTERS PAPER ON PETITION PE 96, MR ALAN BERRY
REQUEST FOR AN INQUIRY INTO
SEA CAGE FISH FARMING AND THE ENVIRONMENT

Background:

1. This petition was referred to the Rural Affairs and Transport and Environment Committees. The petition requests an independent inquiry into the environmental impacts of sea cage fish farming. The main environmental impacts of sea-cage fish farming have been suggested as: enrichment of the marine-environment from spilt food and fish waste; interbreeding and competition of escaped fish with wild fish stocks; transfer of pests and diseases to wild fish populations; pollution from the use of chemicals to treat fish diseases; conflict with other wildlife e.g. fish-eating birds and seals; and visual impact of inshore cages. The issues raised in the petition have been the subject of intense discussion and public interest over a number of years.

2. The petition was first discussed by the Rural Affairs Committee on 26 September and by the Transport and Environment Committee on 27 September. In recognition of the ongoing debate regarding the issues raised by the petition, both Committees agreed to support such an inquiry in principle, and to appoint reporters to consider the issue further. The reporters’ remit was to give further consideration to the issues raised and to consider the mechanisms and terms of reference for such an inquiry. This paper provides further background information on the issues raised by the petition, and sets out a range of mechanisms for an inquiry, as identified by the reporters.

The Scottish Marine Fish Farming Industry

3. The Salmon farming industry has expanded substantially over the past two decades, and is an important source of employment in remote areas of Scotland. Scotland has around 350 marine salmon farms, along with a small but growing number of sites where other marine species such as halibut, sea trout, turbot and cod are farmed. Salmon farming represents over 95% of all marine cage fish farming.

Salmon Producers

4. Salmon production has become increasingly consolidated, with 15 companies accounting for 70% of production in 1997. Over the past decade the number of producers has declined, but in 1997 there remained about 113 salmon farmers and 60 smolt (young salmon) producers. There has been a trend towards increasing foreign ownership of Scottish salmon farms, in 1996 foreign companies owned almost 50% of farms.

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1 The Economic Impact of Scottish Salmon Farming, Scottish Office Economic Research Paper 1999
5. Production of farmed salmon has increased steadily over the last two decades, from 589 tonnes in 1980, to almost 127,000 tonnes in 1999. During this period the annual rates of production growth have varied between 10 and 35% per year.

**Salmon Processors**

6. There are around 70 small companies in the salmon smoking sub-sector, but the majority of smoked salmon production (82%) comes from the 12 members of the Scottish Salmon Smokers Association (SSSA). There has been a considerable integration between processors and producers.

**Suppliers to the industry**

7. There are around 150 firms involved in the supply of the Scottish sea-cage fish farming industry. Many of the specialist supply companies are SMEs. The largest companies involved in the supply of the salmon industry are the four feed companies, all of which are under foreign ownership. The largest salmon producers are often partially self-sufficient in services such as transport and veterinarians.

**Employment and GDP**

8. Direct employment in salmon production was 1623 Full Time Equivalents (FTEs) in 1997 (1437 full-time employees and 373 part-time). In 1990 there were 1659 FTEs in salmon production. Since 1990 salmon production has trebled, but there has not been a corresponding increase in employment associated with the industry. This is because of competition pressure and more efficient production in the enlarged companies that remain in the industry today. Larger companies have a per person productivity of 99 tonnes per employee compared to 9 tonnes in the smaller companies.

9. Employment in salmon processing was estimated to be 2,787 FTEs in 1997. The supply sector was estimated to support an estimated 1,383 FTEs. The spending of income generated in salmon farming, processing and supply sectors is estimated to sustain a further 540 FTE induced jobs. This gives a total of 6,334 FTEs for 1997 associated with salmon farming, of which an estimated 4,595 are located in the Highlands and Islands.

10. The GDP of the salmon farming industry was assessed for the first time in 1997. The GDP of salmon producers was estimated to be £50m with a turnover of £265m. The GDP of processors was estimated at £78m with a turnover of £243m, and the GDP of the supply sector was estimated at £56m. The total GDP of the salmon farming industry was therefore estimated to be £184m.

**REGULATION OF MARINE FISH FARMING IN SCOTLAND**

11. Marine fish farming in Scotland is regulated in three broad areas:

Planning controls
Control of pollution
Control of fish diseases

Planning controls

12. Property rights over the seabed between the low water mark and the limits of Scottish territorial waters are vested in the Crown. Leases for marine fish farms are granted by the Crown Estate Commissioners (CEC). When they receive an application the CEC consult with local interests and with Scottish Natural Heritage, but this is not a statutory requirement. Leases usually oblige the tenant to obtain the permission of the Transport Division of the Scottish Executive Development Department under the Coast Protection Act 1949 to ensure that the salmon cages do not constitute a hazard to the public right of navigation on the sea.

13. The Scottish Executive is currently consulting on proposals to bring marine fish farming within the scope of planning legislation. The proposals would introduce an exception for fish farming developments below the low water mark to be subject to planning control. Planning permission would operate in addition to other regulatory controls.

14. Although there are no planning controls at present, Environmental Impact Assessment (EIA) forms part of the process for considering applications for marine fish farm leases. The EC Directive on EIA (85/337/EC) as amended by Directive 97/11/EC seeks to ensure that where a development is likely to have significant effects on the environment, the effects are addressed in a formal environmental statement. The Environmental Impact Assessment (Fish Farming in Marine Waters) Regulations 1999 implement these requirements in the UK, and apply to proposed developments in sensitive areas, those designed to hold a biomass of 100 tonnes or more, or those that cover an area in excess of 0.1 hectares.

15. There is a further requirement that a fish farmer must, within two months of commencing of the business, notify the Secretary of State in writing of certain details under the Registration of Fish Farming and Shellfish Farming Business Order 1985.

Control of Pollution

16. Under the Control of Pollution Act 1974 and the Water Act 1989, effluent from fish farms is defined as trade effluent. Amendment of the Control of Pollution Act 1974 by the Environment Act 1995 makes it an offence to knowingly discharge trade effluent into controlled waters. Consents to allow discharges by fish farmers are issued by the Scottish Environment Protection Agency (SEPA) as part of the functions assigned to it under the Environment Act 1995. SNH are consulted by SEPA as part of the assessment process. Consent conditions are site-specific.

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2 The Laws of Scotland, Stairs Memorial Encyclopaedia, Vol 11 paras 57-63
3 The Extension of Planning Controls To Marine Fish Farming: A Consultation Paper Issued by the Scottish Executive
and remain in place for a minimum of four years. Trade effluent from fish farming
does not fit neatly under the terms of the Control of Pollution Act 1974, and as a
result release consents issued by SEPA often have to be very detailed and long\(^5\).
SEPA has powers to require remedial action to be taken by fish farm operators if
the conditions of release consents are not followed.

17. Legal proceedings instigated by the Scottish Sea Trout Group (a consortium
representing wild fish interests) against SEPA had sought to establish whether
sea-lice (a parasite of salmon and sea trout) are encompassed under the
definition of trade wastes provided under the Control of Pollution Act 1974, but
the case has been dropped\(^5\).

18. Antifouling net treatments which are used to clean the nets used in fish farms are
classed as pesticides, and their use therefore has to be licensed under the
Control of Pesticides Regulations 1986. Registration of antifouling products is co-
ordinated by the Health and Safety Executive (HSE) \(^6\). The HSE also has
responsibilities to ensure the safe operation of fish farms under the terms of the
Health and Safety at Work Act 1974. It has issued guidance on standards for the
construction of floating fish farm installations used for marine fish farms.

19. Some chemicals used in marine fish farming are listed under List II of the EC
Directive on Dangerous Substances (76/464/EEC). Member states are required
to introduce programmes to reduce pollution by List II substances in compliance
with water quality objectives. SEPA is responsible for setting Environmental
Quality Standards to regulate water quality in Scotland\(^4\).

Control of Fish Diseases

20. Under the Diseases of Fish Acts 1983 & 1937 areas can be designated where
restrictions may be imposed on fish movements by fish farmers, and in which fish
farmers may be required to take steps to prevent the spread of disease. Certain
diseases of fish are notifiable under the Diseases of Fish Act 1937 and the
Scottish Executive Rural Affairs Department (SERAD) must be informed of any
outbreaks. The 1937 Act was introduced to control furunculosis (a highly
infectious disease of salmonids), but similar controls have been introduced under
the Act for other diseases such as Infectious Salmon Anaemia (ISA). In
conjunction with the fish farming industry SERAD has established a set of
guidelines for reacting to outbreaks of notifiable diseases\(^4\). SERAD also has
responsibilities under EC fish health legislation to prevent the introduction and
spread of serious diseases of fish that may affect wild and farmed stocks.

21. Medicines administered to fish come under the terms of the Medicines Act 1968
and the Marketing Authorisations for Veterinary Medicinal Products Regulations
1994.

22. Marketing authorisations have to be obtained for new medicines from the
Secretaries of State for Agriculture and Health, who are advised by the Veterinary
Products Committee (VPC) \(^3\).

\(^{5}\) SEPA official, pers comm
\(^{6}\) The Laws of Scotland, Stairs Memorial Encyclopaedia, Vol 11 paras 57-63
WORKING GROUPS

23. The interaction between marine fish farming and wild salmonid stocks and the environment has recently been the objective of three Scottish Executive/fish farming industry/wild fishing interest working groups.

24. The Tripartite working group (TWG) was formed to address concerns raised by wild fishing interests about the effects of salmon farming on wild salmonids, particularly sea trout. The principal finding of the report is that co-operation between fish farming and wild fishing interests should be encouraged through the establishment of Area Management Agreements (AMAs). The main components of AMAs are the introduction of synchronised site fallowing (where all local farmers synchronise production and fallowing cycles) and sea lice control strategies. These measures are designed to reduce the spread of sea-lice from farmed to wild salmonids.

25. The TWG also raised the issue of escapes from fish farms, and consequently the Scottish Executive established an Escapes working group. The group’s report highlights the importance of implementing effective measures to prevent escapes, improving reporting arrangements, and of establishing mechanisms for recapturing fish if escapes do occur. Measures taken following the report are likely to include the development of a code of practice on fish containment, and the creation of a mandatory legislative requirement to notify escapes.

26. In October 1998 a Joint working group (JWG) on Infectious Salmon Anaemia (ISA) was established to identify risk factors associated with the disease, reduce risks from the disease in the future and review current industry practices. The JWG produced its final report in February 2000. The report contains practical measures to minimise the risk of ISA and recommends that these be enshrined in a code of practice. Scottish Ministers responded to the report in May and agreed that the best way to implement the recommendations of the JWG would be through a voluntary code of practice. The response also suggested that this code would be subject to close monitoring, and that statutory requirements could be imposed if producers did not follow it. An Aquaculture Health Joint Working Group has been established to develop this code of practice and monitoring requirements, and also has a more general work programme covering fish health, welfare, and notifiable diseases and contingency planning.

ENVIRONMENTAL IMPACTS OF SEA CAGE FISH FARMING

27. Atlantic Salmon are the principal species subject to sea-cage fish farming in Scotland. This means that the majority of impacts that have been reported are associated with salmon farming.

28. The main environmental impacts of sea-cage fish farming have been suggested as: enrichment of the marine-environment from spilt food and fish waste; interbreeding and competition of escaped fish with wild fish stocks; transfer of pests and diseases to wild fish populations; pollution from the use of chemicals to
treat fish diseases; conflict with other wildlife e.g. fish-eating birds and seals; and visual impact of inshore cages.

**Nutrient Enrichment**

29. When large farms are located in sheltered sea-lochs there can be a considerable build up of fish wastes and spilt food on the sea-bed in the area around the cages. The material is broken down on the sea-bed by bacteria. Increased levels of bacterial activity depletes the amount of oxygen in the water, which can reduce the capacity of the loch to support other aquatic life. Fish Farms also release substantial quantities of soluble nitrogen and phosphorus. It has been alleged that the enrichment of sea lochs caused by increased concentrations of these nutrients is responsible for the development of summer algal blooms. Similar problems have been identified in relation to smolt farms in freshwater lochs. These problems can often be reduced by site rotation and fallowing which are intended to allow the seabed to recover from the build up of solid waste.

**Fish escapes**

30. Escapes of fish, sometimes in very high numbers, can occur as a result of winter storm damage to cages, predator damage to nets, or when fish are being transferred between cages. Fish farmers are required to notify the Scottish Executive of any escapes that occur. The Executive was notified of 15 incidents in 1999 involving up to 255,000 salmon. Escaped fish interbreed with wild salmon, and in 1998 approximately 1% of all salmon caught in Scotland were of farmed origin. Wild salmon populations tend to exhibit specific genetic adaptations to different river environments. Interbreeding with escaped farmed fish can therefore reduce this degree of adaptation.

**Diseases and Pests**

31. Diseases and pests can be a major problem for farmed Salmon, and can cause high losses amongst farmed stock.

32. **Infectious Salmon Anaemia** (ISA) is a contagious viral disease of salmon transmitted through water (from blood, faeces etc). An outbreak was first confirmed in May 1998 in Scotland. ISA is classified as a List I Disease under Directive 91/67/EEC. The legislation requires that suspicion of the disease must be reported. By August 1999 there had been 11 confirmed outbreaks, and 25 suspected outbreaks of ISA out of a total of 340 salmon farms in Scotland. The main concerns are the risk of transfer of this disease to wild populations of salmon, and the effects on the aquaculture industry because of restrictions imposed in the event of an outbreak.

33. One of the more serious environmental problems associated with salmon farming is the transfer of **sea lice** from farmed stock to wild fish. Sea Lice (*Lepeopthirus salmonis*) parasitise both salmon and sea trout by feeding on their skin. With

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7 Written Answers 12th May 2000, S1W-6276
severe cases lesions on the head may result in the exposure of the skull or cause death through failure of the system of water balance. There has been a serious decline in stocks of sea trout (which are a migratory species similar to brown trout) and grilse (small salmon which only spend one winter at sea as opposed to the usual three or four) in rivers on the west coast of both Scotland and Ireland over the last twenty years, corresponding to the growth in both areas of salmon farming. It is thought that smolts (the name given to young salmon before their first sea winter) become infected with sea lice as they pass salmon cages in sea lochs and estuary mouths on their way to sea1.

34. It has been alleged that incidents of algal blooms on the Scottish coastline which result in toxic shellfish poisoning outbreaks (eg, ASP, PSP, DSP) are linked to nutrient enrichment caused by effluents from salmon farms. These outbreaks of shellfish poisoning have led to the closure of the Scallop fishery around many parts of Scotland’s coast, which has had a serious impact on the fishing industry. However, at present there is no definitive scientific evidence to link nutrient enrichment from salmon farming to these blooms.

Use of chemicals for pest and disease control

35. The main method of controlling pests such as sea-lice is through the use of various chemicals. The most commonly used chemicals are Dichlorvos, Azamethiphos (both organophosphates (OPs)), Ivermectin (a broad-spectrum parasiticide also used in the control of parasites of sheep, cattle and pigs), Cypermethrin, Diflubenzuron and Hydrogen peroxide1. The release of these chemicals into the marine environment has implications for non-target organisms, and there is evidence to suggest that the use of these chemicals can adversely impact upon marine ecosystems, (and, in the case of smolt farms, freshwater lochs).

Interactions with predatory wildlife

36. Salmon farms attract predatory wildlife, most commonly seals (common and grey) and birds (cormorants, shags, herons and gulls) which predate directly on the farmed fish or scavenge on the remains of dead fish. The Wildlife and Countryside Act 1981 requires fish farmers to obtain licenses for the control of birds, though seals may still be shot for the protection of fisheries under the Conservation of Seals Act 1970. There may be conflict of interests between fish farmers desire to control these species, and the requirements of conservation designations which aim to protect seals and fish eating birds.

Visual impact of fish farm developments

37. Proposals for marine fish farm developments do not require the approval of Local Planning Authorities. The Scottish Executive has recently consulted on proposals to bring marine fish farming developments within the scope of the planning system. However this historical exclusion means that developments have not been subjected to rigorous controls of the planning system as regards their visual impact. The visual impact of some fish farms has been criticised, especially that of farms located in some of Scotland’s most beautiful sea lochs.
MECHANISMS FOR INQUIRIES

38. The subject matter of the petition clearly falls within the remit of both the Rural Affairs and the Transport and Environment Committee. Accordingly, consideration of the appropriate mechanism for an inquiry will require the involvement of both Committees.

39. Reporters have identified three possible mechanisms for an inquiry into the environmental impacts identified above. Options 1 and 2 involve using the existing parliamentary committee structure, while Option 3 proposes an independent inquiry. Both options 1 and 2 would require the Rural Affairs Committee and the Transport and Environment Committee to clearly identify their roles in these inquiries. In the event of a failure by the Committees to agree their respective roles, the matter may be resolved by the Parliament (on a motion from the Parliamentary Bureau) naming a ‘lead’ and ‘other’ Committee on this issue. Should the Committees wish to work together on this inquiry, there are several options, which are set out further below.

Option 1 – Inquiry within the Parliamentary Committee System

40. Under this option, a detailed inquiry would be mounted by a Parliamentary Committee or Committees. Such an inquiry could entail hearing witnesses, seeking Convener’s Group approval to undertake fact-finding visits to scientific laboratories and fish farms, and the preparation of a report. It would require some months to complete and would require the services of a dedicated adviser, due to the scientific and technical nature of the issues raised. There is a possibility that SPICe could also commission external research into this matter. However, this research request would require the approval of CG and would have to compete with bids put in by other Committees. Bids for external research are considered by the CG twice each year in May and November. It is unlikely therefore, that any bid for external research could be considered or approved by CG prior to May 2001.

41. As with all inquiries, it would require to be balanced against other ongoing committee business such as legislation, scrutiny of subordinate legislation, petitions and other inquiries and timetabled into the Committee’s work programme. Such an inquiry could be mounted, with agreement, by either the Rural Affairs or the Transport and Environment Committee. It could also be mounted jointly, or by a lead/other Committee as designated by the Parliament, as set out below.

Option 2 – Limited Parliamentary Inquiry

42. In essence, this would involve a short, focused inquiry, undertaken with a view to establishing options for further procedure.

43. Should the Committees wish to pursue either Option 1 or 2 then it would be necessary to use one of the mechanisms set out below enabling committees to
work together. As with all inquiries, it would require to be balanced against other ongoing committee business such as legislation, scrutiny of subordinate legislation, petitions and other inquiries. Meetings would require to be scheduled within existing Committee time slots and be serviced by existing Committee resources (eg, SPICe, clerking staff).

Use of Reporters
44. If the two Committees could agree that one of them should take a lead role in this inquiry, then it would be possible for members of the second committee to be appointed as reporters. Using this mechanism would allow members of the second committee to contribute to all discussions and evidence sessions, however it would not permit them to attend meetings of the Committee in private (eg when a draft report is being agreed).

Designation by Parliamentary Bureau
45. Should both Committees have a strong interest in pursuing this inquiry, Rule 6.13.2 would apply. When a matter falls within the remit of more than one Committee, the Parliament may, on a motion from the Parliamentary Bureau, name one of the Committees as the lead Committee on the matter. If this occurs, the other Committee is asked to give their opinion to the lead Committee. This opinion would of course be taken into account in formulating any report of the lead Committee.

Joint Consideration with Approval of Parliamentary Bureau
46. Where a matter falls within the remit of more than one Committee, the Committees may, with the approval of the Parliamentary Bureau, decide to consider the matter jointly. (Rule 6.14) This would involve the Committees meeting jointly, with the meeting being convened by the convener of either Committee. All meetings require both Committees to be quorate. Any report produced following joint consideration of an issue is to be produced jointly by both Committees. This option has not previously been used in the Parliament and careful consideration would have to be given to how it would work in practice.

Option 3 – Independent Inquiry
47. It would also be possible for the Committee(s) to recommend to the Minister that an inquiry should be carried out, and that in view of the subject matter, this should be an inquiry independent of the Executive (although set up by it). There are examples of such inquiries to be found elsewhere (eg, the McCrone Committee of Inquiry into professional conditions of service for teachers). Typically, terms of reference are set for such inquiries, which may then take evidence, hold public meetings and commission research, (if required) and report to the Executive. It would be open to the Committees to recommend that an inquiry be set up to inquire into the environmental impacts identified above. Such an inquiry would have the advantage of having resources devoted solely to the project.
Recommendation

48. After careful consideration of the issues, and given the urgency of the matters raised, **it is the unanimous recommendation of reporters that the Committees should agree to Option 3 as set out in this paper.** It is the view of Reporters that an independent inquiry is the best way of proceeding with this matter, given the time and resources needed to conduct such an inquiry. Reporters further recommend that members familiarise themselves with the issues covered in this paper. If the Committees agree with the recommendation of reporters, **it is also recommended that the two Committees meet jointly for one meeting to further flesh out the specific terms of reference for this inquiry.**

Robin Harper
Nora Radcliffe
Transport and the Environment Committee

Richard Lochhead
John Munro
Rural Affairs Committee
Thank you for your letter of 8 February proposing on behalf of your Committee that the Executive should establish an independent inquiry into the environmental impacts of sea cage fish farming. As you know I have also had a similar approach from Alex Johnstone on behalf of the Rural Development Committee. These requests, you will recall, arose out of Petition PE96 from Mr Allan Berry.

I am sorry there has been some delay in letting you have a reply but I wished to review with my officials the work which is currently under way on aquaculture-related issues within my Department and elsewhere and to assess how the proposed inquiry might fit with this programme of action.

Rhona Brankin and I have now given your proposal the very careful consideration we acknowledge it merits. We certainly recognise that, both within the Committees and among the wider public, there are concerns about issues around fish farming. We have no wish to set aside or downplay these concerns: indeed we accept that they need to be fully and openly addressed and are committed to doing so.

However, we believe that the key issues of concern have been identified and the Executive and others have embarked upon a range of actions designed to tackle them. Some of these were outlined in the Executive’s initial response to the Petition which was submitted to Parliament last September; others have got under way since that time. To assist your Committee, I attach a complete list in the Annex to this letter.

Notably, you will see that we have set in train a review of the whole field of aquaculture regulation and expect a report later this year. The aim is to ensure that the work of the various regulatory
bodies is appropriate to the circumstances of this industry and to seek opportunities for better and more effective co-ordination as well as to strengthen the regulatory framework wherever necessary. We are committed to implementing the findings of this review promptly, and in particular to seek an early opportunity to make any legislative changes which may be deemed necessary. This examination is being made in full consultation with all the interested parties and will certainly include those who have expressed support for the Petition.

We are also undertaking a research programme which will examine the specific environmental issues which the supporters of the Petition have associated with fish farming. These include nutrient inputs to the marine environment along the West coast from fish farming and other sources, including an examination of individual 'hot spots'; and an examination of possible links between fin fish farming and algal toxin events offshore. The results will of course be made publicly available in due course.

Against this background, we are not persuaded that an independent inquiry would be the best way to proceed at this time. Rhona and I are committed to driving forward the range of actions which I have described and we believe that an inquiry could divert effort away from these practical steps to address the issues and indeed might even be used as a rationale for delay.

We are, however, keen to continue to engage with all of those interested in the future development of the aquaculture industry, including wild fish interests, environmental NGOs and of course the industry itself. Rhona Brinkin therefore intends to conduct over the year ahead thorough and wide ranging consultations with all of the relevant interests to ensure that any decisions we take are fully informed and appropriate. We intend that this process should provide a basis for establishing a longer term strategic view about the development of the aquaculture industry in Scotland which strikes an appropriate balance between the need for sustainable development and the desire to optimise the industry’s vitally important contribution to the rural economy.

I realise that our decision not to mount an inquiry may come as a disappointment to both Committees, but I hope you will understand the reasons behind it. Could I emphasise, however, that if the Committees consider that there would still be value in mounting a Parliamentary Inquiry, the Scottish Executive would of course stand ready to co-operate fully in that process.

I am writing in similar terms to Alex Johnstone.

Yours sincerely,

ROSS FINNIE
List of initiatives under way:

- transfer of the planning responsibility for marine fish farming from the Crown Estate to local authorities as soon as a legislative vehicle can be found;

- interim planning arrangements meanwhile operating to ensure local authorities have a key role in determining marine fish farming proposals;

- new Environmental Impact Assessment legislation supporting these arrangements, which means most new and modified proposals for fish farms are now subject to the process;

- "Locational Guidelines for the Authorisation of Marine Fish Farms in Scottish Waters" for use by the relevant regulators, including a presumption against development on the north and east coasts and the concept of "constrained area mechanisms" elsewhere;

- ISA industry Code of Practice, introduced August 2000, which informs future development decisions both by regulators and industry; the Executive is monitoring compliance;

- Containment Code of Practice for fish farms, introduced November 2000; the Executive also intends to bring forward shortly legislation which will require compulsory notification of escapes;

- Aquaculture Forum, established by the Highlands and Islands Convention, to help inform future planning arrangements, especially at local authority level;

- adoption by SEPA of a new modelling technique for assessing the benthic impact of trade effluent and therapeutants from cage fish farms; and

- Scottish Natural Heritage's recently adopted policy on fish farming, acknowledging the need to balance environmental considerations with the legitimate requirements of the industry.

In addition, there is a number of ongoing initiatives which will build on these developments:

- the Tripartite Working Group, comprising the Executive, the fish farming industry and wild fishery interests, aimed at developing solutions for ensuring the maintenance of healthy wild salmon and sea trout stocks whilst promoting a sustainable aquaculture industry;

- the Aquaculture Health Joint Working Group designed to improve the general health, welfare and management of farmed fish;

- Executive funding for a wide-ranging programme of research and development;
• a strategic examination of nutrient inputs to and the effects on Scottish waters (the ERSEM model), to be carried out by the Fisheries Research Services (FRS) in conjunction with Hamburg University, using a modelling approach which has also been adopted by the Scandinavian countries and, by Germany;

• an examination of particular areas in coastal waters where eutrophication is most likely – so-called “hotspots”, using the SEPA and FRS’s existing assessment tools to understand the inputs from land and marine sources and the impacts these individually and cumulatively have on the marine environment, giving an idea of carrying capacity at both a local and a district level;

• ongoing work on the Continuous Plankton Recording project; and

• the Executive’s recent decision to embark upon a fundamental review of aquaculture regulation. This will assess whether there are gaps in the regulatory regime which need to be closed, and the scope for streamlining the process and improving its consistency. It will involve public consultation, including with environmental interests. An early opportunity for undertaking any legislative change deemed necessary will be the Water Environment Bill, which we hope to introduce in the Scottish Parliament early in 2002.

• Looking further ahead, the Executive expects to review the Locational Guidelines for Marine Fish Farms to take account of the effects of some of these new initiatives. We expect to review the interim planning arrangements over the coming year. We are also developing the specification for an independent scientific review of any link between fin fish farming and shellfish poisoning syndrome events, to be carried out by experts of international standing, and including an examination of the science used by SEPA and FRS, as well as work done on behalf of NGOs.
Andy Kerr MSP
Convener
Transport & the Environment Committee
The Scottish Parliament
Edinburgh
EH99 1SP

Dear Mr Kerr

PROPOSED INQUIRY INTO THE ENVIRONMENTAL IMPACTS OF SEA CAGE FISH FARMING

The Highlands Council’s Land and Environment Select Committee recently considered the Scottish Executive’s rejection of the need for an independent inquiry into the environmental impact of sea cage fish farming, as recommended by your own Committee and by the Rural Development Committee. The Highland Council noted that the Executive are however committed to co-operating fully in a Parliamentary Inquiry, should the Transport & the Environment Committee and the Rural Development Committee feel one should be mounted.

The Highland Council wishes to express its disappointment that an independent inquiry has been rejected by the Executive. The Council strongly supports the need for a Parliamentary Inquiry, which it believes, will benefit all directly involved in the industry and those with an interest in the industry. Indeed the Council considers that a Parliamentary Inquiry should be held within the Highlands and Islands and asks that you consider the opportunity this offers to gather evidence from a wide range of interests involved daily with the fish farming industry.

Members of the Council recommended that a Parliamentary Inquiry should look retrospectively at the development of the industry and the regulatory process during the development period. The legislative transfer of planning powers to local authorities should be speeded up in order to bring the democratic process and community involvement in the regulatory process more to the fore in future.

In addition to the above, the Highland Council would prioritise the following issues, adapted from your own list of potential impacts, for investigation:-

- nutrient enrichment of sea and freshwater lochs, and sheltered coastal waters and links to algal toxic events, impacts on fishery resources
- escapes of farmed fish and their impact on wild populations
- the risk of transfer of notifiable diseases from infected farms to wild fish
- the transfer of sea lice to wild fish and the impact of this transfer

Councillor Dr Michael E M Foxley
Antrim and Morvern Ward
2 Achaphubul, Trestaig, Fort William PH33 7AL Tel: (01397) 772177 Fax: (01397) 700655
• the use of veterinary medicines to control pests and disease and their impact on the wider environment and natural resources
• the visual impacts of fish farming
• the sustainability of marine fisheries supporting the fish feed industry
• the specific economic impact on coastal and island communities
• foreign and multi-national control of the fish farming industry

As you may be aware, the Highlands and Islands Aquaculture Forum next meets in Shetland on Thursday 14th of June. The Forum, which has been brought together under the Convention of the Highlands and Islands, seeks to consider strategic issues for the development of aquaculture and for recommendation to the Convention. The Forum draws its membership from a wide range of bodies with interests in aquaculture, including local authorities and other regulators, industry representatives, fishermen’s representatives, wild fish interests and Scottish Environment Link. The Highland Council has agreed to seek identification of additional areas on which a Parliamentary Inquiry might focus through its membership of the Forum. I hope to be able to pass these to you in due course.

I hope this letter of support is helpful in your Committees consideration of whether to undertake a Parliamentary Inquiry into sea cage fish farming. I am writing in similar term to Alex Johnstone MSP in his capacity as Convener of the Parliaments Rural Development Committee.

Please do not hesitate to contact me if you wish to discuss any of the points raised in this letter.

Yours sincerely

Dr Michael Foxley