TRANSPORT AND THE ENVIRONMENT COMMITTEE

AGENDA

1st Meeting, 2002 (Session 1)

Wednesday 9 January 2002

The Committee will meet at 9.30 am in Committee Room 1, to consider the following agenda items:

1. **Aquaculture Inquiry (in private):** The Committee will consider possible areas of questioning for the Deputy Minister for Environment and Rural Development.

2. **Announcement of Proposed Board of Scottish Water:** The Committee will consider correspondence between the Convener and the Minister for Environment and Rural Development on the announcement of the proposed board of Scottish Water.

3. **Water Industry (Scotland) Bill:** The Committee will consider the Bill at Stage 2 (Day 2).

4. **Aquaculture Inquiry:** The Committee will take evidence as part of its inquiry into aquaculture from Allan Wilson MSP, Deputy Minister for Environment and Rural Development.

Callum Thomson
Clerk to the Transport and Environment Committee
Room 3.5, Committee Chambers
0131 348 (8)5208
e-mail Callum.Thomson@scottish.parliament.uk
The following public papers are relevant for this meeting:

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<td>Correspondence between the Convener and the Minister for Environment and Rural Development on the announcement of the proposed board of Scottish Water.</td>
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<td>Letter from the Deputy Minister for Environment and Rural Development to the Deputy Convener</td>
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In addition to the above papers, the Water Industry (Scotland) Bill and Accompanying Documents are also relevant to this meeting. Copies of the Marshalled List of Amendments and the groupings of amendments will be available at the start of the meeting in Committee Room 1.
I am writing in connection with your letter of 18 December relating to your intention to announce, this week, the membership of the prospective Board of Scottish Water. This announcement was subsequently made by way of a written answer and was available on the Parliament’s website yesterday morning.

Firstly, on behalf of the Committee, I would like to express my serious concern about the timing of this letter. A copy was faxed to me shortly before 5 pm on Tuesday 18 December. I then informed the clerk of the Committee. He asked your private office to send him an electronic version and this was done early yesterday morning. Hard copies were distributed to members of the Committee at the start of the Committee meeting at 9.30 am.

I consider that issuing an important letter on this important subject at such a late stage is a discourtesy to the Committee. At the end of your letter you indicate that Allan Wilson and yourself are happy to answer any questions the Committee may have about the process and the appointments. I would have thought that the appropriate juncture to raise such issues with yourself or Mr Wilson would have been yesterday’s meeting since at our next meeting on 9 January the Committee will be considering the sections of the Bill (and any amendments) which deal with the membership of Scottish Water. By dealing with the issue yesterday, members would have been in an informed position in deciding whether or not to lodge amendments on this subject at Day 2.

Since the letter was received so late it was, of course, not possible to revise the Committee’s agenda to allow members to question Mr Wilson on the contents of the letter.

I now turn to the substance of the letter and your intention to announce proposed appointments to the Board of Scottish Water, albeit with the caveat that the format of the Board is still a matter for approval by the Parliament.
Members of the Committee – across all political parties – expressed to me their profound displeasure with your decision (this was even before members were aware that the announcement had actually taken place).

As you know, in its Stage 1 report, the Committee strongly recommended that non-executive directors should be in a substantial majority on the Board. I therefore consider that there is a significant possibility that the Board structure which you announced yesterday will not be the same as the structure which is set out in the Bill which is passed by the Parliament. In light of this, members questioned why it was necessary to proceed with the announcement when the Committee will be considering the part of the Bill to which this announcement relates at its meeting on 9 January.

I should be grateful if you would reflect on the points which I make in this letter and respond to me by 3 January in order that the Committee can consider it at its meeting on 9 January.

Could I also formally request that any letter which you send to me in my capacity as Convener of the Transport and the Environment Committee is copied (by email) to the clerk of the Committee.

Copies of this letter go to members of the Committee.

Yours sincerely

Bristow Muldoon MSP
Convener
Thank you for your letter of 20 December about the announcement of Scottish Water's board and other senior appointments to Scottish Water, all of which are subject to Parliamentary approval of the Water Industry Bill.

My purpose in writing to the Committee on 18 December had been to ensure that you and your colleagues were given as much advance notice of the announcement as possible. I very much regret that for a number of reasons the letter was late in reaching you.

I appreciate fully your comments about delaying the announcement until after the Committee’s detailed consideration of the relevant parts of the Water Industry Bill. However, our decision to make the announcement sooner than this was dictated by the need to get the new senior management structure in place for vesting on 1 April 2002. Crucially, for Scottish Water's top management team to be in place by the target date, a number of the external recruits announced on the 19 December needed to give notice to their current employers in December.

In addition, the early announcement of the top tier of management, allowed progress to be made in selecting the next tier of management before Christmas. A further important consideration is that the announcement provided those who will be working for Scottish Water with clarity as to the new leadership team sooner, rather than later. Clearly, we could not reasonably make these announcements, which included some board members, without announcing the full board membership.

I should emphasise that we considered very carefully whether announcing these provisional appointments when we did would be at odds with the Committee's position on the role and composition of the board. Our conclusion was that the approach we are adopting in this area very much meets the Committee's concerns. On the most critical of the issues identified by the Committee, the split between non-executive and executive members, the announcement confirmed that the non-executives will be in the majority.
We could, of course, have underlined the non-executive preponderance by providing for a larger number of non-executives, but our judgement is that the split we have is about right. On the one hand, the board is large enough to allow the key executive functions of asset management, finance, customer service and commercial services to be represented, while on the other it is small enough to be effective. You might be interested to note that the Board of Scottish Power plc comprises five executive and seven non-executive directors. I recognise, however, that there is room for debate on this issue but I hope your Committee will conclude that we have got the balance right. I do recognise that your Committee is likely to conclude that the non-executive majority should be explicitly enshrined in statute, and I am sure we could provide for this.

The Committee has also highlighted the need to empower Board members, and I hope the draft Corporate Governance direction that I sent to you earlier this month helped meet that concern. For example, I hope that our intention for the key audit and remuneration committees to contain only non-executives will reassure the Committee that we have identified clear and appropriate non-executive roles.

I should perhaps confirm for the Committee that the identification of the non-executives was carried out in full accordance with the guidance issued by the Office of the Commissioner for Public Appointments. The Committee should also be aware that pending the Water Industry Bill being approved by Parliament and subsequently receiving has Royal Assent, our intention is that the non-executives will be employed as consultants by the Scottish Executive, while the executives take up employment with the existing authorities.

I am copying this letter to the Clerk to the Committee.

ROSS FINNIE
As my predecessor undertook to do in her letter of 15 November, I am writing now to explain how I propose to take forward the conclusions of the recent review of the regulations governing aquaculture in Scotland. While I note from your letter of 22 November that you would have wished for some earlier announcement of the Executive’s intentions, I would point out that officials were still receiving responses to the consultation paper right up to the middle of last month. The detailed analysis of these required careful consideration before any announcement could be made.

After due deliberation I am satisfied that my proposals will provide the basis for an effective and balanced regulatory regime, as well as for the sustainable development of the Scottish aquaculture industry. To assist your Committee’s consideration, they are set out below under the same headings as were employed in the consultation paper.

SINGLE REGULATORY BODY/SINGLE APPLICATION PROCESS

The consultation paper proposed that: “within local authorities Area Advisory Committees… be set up, comprising a local authority planning official and representatives of the other regulators, to consider site applications….. and applications for consents under the Control of Pollution Act 1974 (COPA)”.

It sought views on the proposition that the applications to SEPA for discharge consent and the Crown Estate for development consent be combined, or at least more closely aligned.

And it proposed that SEPA be designated a competent authority under the EIA Regulations and that applications to be submitted in parallel to local authorities and SEPA.

The proposal to establish Area Advisory Committees received a mixed response: 21 respondents offered support in principle, 18 were opposed and 8 offered no comment. Three local authorities expressed reservations about the effectiveness of such a measure in reducing bureaucracy, given that most authorities do not deal with sufficient applications to make it workable, and foresaw the possibility that a Committee’s taking decisions about two different consents might create difficulties for any subsequent appeals. The industry itself was divided over the proposal: 5 respondents were in favour, subject to clarification of the practicalities and assurances that there would not be increased
bureaucracy, additional costs or further delays in granting permissions. The remaining 5 were not in favour, largely for the reasons expressed by some local authorities themselves. Other respondents were similarly divided.

This proposal was included because in my officials’ preliminary consultation two local authority respondents had thought it worth exploring; but, given the reservations expressed, I have concluded that it would not be appropriate to pursue this. Nevertheless, in light of the comments expressed, I shall wish to give further thought to other ways in which a “one-stop shop” approach might be facilitated.

Thirty-three of the respondents were in favour of combining or aligning the two application forms and of making SEPA a competent authority under the EIA Regulations. Some concern was expressed, however, that in a combined application process one consent could become dependent on the other. Regulators were in favour of retaining separate forms, but of more closely aligning them and requiring their submission in parallel so that each regulator received the relevant data at the same time, enabling effective consultation and liaison. There was general agreement that the process would be further aided by making SEPA a competent authority under the EIA Regulations. This would ensure EIAs met all the information requirements of the appropriate authorities by reducing attendant bureaucracy and duplication of information.

I have therefore concluded that the proposal for more closely aligning the two application forms should receive further consideration; and that the Environmental Impact Assessment (Fish Farming in Marine Waters) Regulations 1999 should be amended to make SEPA a competent authority and to require applications to SEPA and the Crown Estate to be submitted in parallel.

CONSENT PROVISIONS UNDER THE CONTROL OF POLLUTION ACT 1974 (COPA)

The consultation paper proposed a number of changes to the way in which SEPA regulates the aquaculture industry through the Control of Pollution Act 1974 (COPA). In summary, the proposals were to provide SEPA with new powers to facilitate review of consents at any time, to serve enforcement notices and to issue stop notices, to control the process of fish farming rather than its associated discharge and to adjust the application process to make it more effective and relevant.

All of these proposals received overwhelming support, with proposals to provide SEPA with new powers and to adjust the application process attracting favourable support from 33 respondents. The proposal that SEPA be enabled to control the process of fish farming rather than the associated discharge through the licence conditions which are applied attracted support from 31 respondents, although there were some concerns about how this might work in practice. Some respondents, who saw this as a bid for SEPA to become involved in day-to-day husbandry issues, were not at all attracted to the proposal and the notion of “lighter” regulation clearly alarmed others, who argued that smaller developments might still have a major environmental impact. Clearly, further consideration is required as to how these proposals might be given practical effect. I have therefore concluded that legislative proposals should be developed to implement these changes, through the forthcoming Water Environment and Water Services Bill, and that further consultation should be undertaken on how they might operate in practice.
SEA LICE CONTROL

The consultation paper invited comment on three proposals:

that, at such time as there seemed likely to be a legislative opportunity, we review the operation of the AMA process and the need for, and the feasibility of, introducing mandatory controls;

that the legislation be amended to enable lice treatment discharge consents to be given for management areas rather than specific sites; and

that the Tripartite Working Group (TWG) develop a national sea lice control strategy.

Responses on the first of these proposals were polarised. While respondents acknowledged the importance of effective sea lice control, 16 were in favour of pursuing control via the voluntary AMA process; 17 favoured introducing mandatory controls as soon as possible; and 14 offered no comment at all on this aspect. Those in favour of maintaining the voluntary approach (largely the industry, SEPA and local authorities) acknowledged the process had been slow to deliver, but believed it offered the best hope of controlling sea lice by providing a flexible and more responsive approach, while recognising that, if it could not deliver, mandatory controls might need to be imposed. Wild fishery interests, SNH and a number of other interested organisations considered the AMA approach slow to deliver and saw regulation as essential.

Although the outcome of the consultation exercise cannot therefore be said to offer a clear mandate either for proceeding immediately to legislative control or for deferring this, there is at present no legislative vehicle we might use. My officials are yet to consult on the proposed terms of the Water Environment and Water Services Bill, but it is clear that direct control of sea lice would be outwith its scope. (Sea lice are a naturally occurring parasite and it would be inappropriate to deal with them in legislation whose main focus is the control of anthropogenic impacts on the environment. Sea lice more readily fall to be dealt with under the fish health legislation.) However, the Water Environment and Water Services Bill, by enabling SEPA to be more involved in the process of fish farming, will provide tools which will assist with control of sea lice by enforcing management techniques such as fallowing. The range of conditions SEPA is able to set would be broadened so that, for example, signing and implementing an Area Management Agreement with wild fish interests might be made a condition of consent.

I have also asked my officials to look again at the area management agreements and press ahead with arrangements to:

- formalise the Area Management Groups to achieve a recognised structure;
- require standard, bi-annual, progress reports;
- provide feedback [from the reports] to interested parties to help inform future decisions and development of AMAs;
- make the process more open and transparent ie minimise the need for confidentiality clauses within AMAs;
- introduce the principle of 5 year forward stocking plans to all AMAs;
- appoint a national co-ordinator to drive forward the process, in particular AMA coverage and efficacy; and
• identify and develop regional research and information gathering projects, again to inform
decision making

as a way of reinforcing the process.

I propose to take advantage of the limited opportunity which the Water Environment and
Water Services Bill represents to legislate in this area, but I shall also ensure that the AMA
process is kept under review, with the option to legislate separately in due course for
mandatory controls should these prove necessary.

The proposal that the legislation be amended to enable lice treatment consents to be given for
management areas rather than specific sites attracted support from 21 respondents on the basis it
would make area management strategies more effective and might result in reduced use of chemical
therapeutants, 4 were against and 22 offered no comment. Concern was expressed about whether in
practice such consents would be enforceable, given the difficulty of identifying in law the party or
parties responsible where a breach of consent was suspected and where responsibility for compliance
was shared among several companies or individuals. An additional concern related to the situation
where the total carrying capacity of a loch could be determined, but where it would not be safe to
allow fish farmers free rein as to where and when they used their quota of chemical therapeutants
because particular parts of the loch were more sensitive than others.

However, the benefits which might be derived from such an approach - reduced lice populations,
resulting in a reduction of physical and economic damage to both wild and farmed fisheries, reduced
treatment use and cost, and the resultant reduction in environmental impact – would all assist in
ensuring the sustainability of the aquaculture industry and therefore make it vital that we explore its
feasibility.

The proposition that SEPA be given a discretionary power under the Water Environment and
Water Services Bill to issue sea lice treatment discharge consents for whole management areas
- where the environmental conditions indicate this would be appropriate - will be given further
consideration.

The proposal that the Tripartite Working Group develop a national sea lice control strategy received
support from 22 respondents, 3 were against and 22 offered no comment. Those against the proposal
pointed out that Scottish Quality Salmon had developed and implemented a National Treatment
Strategy in 1998; members had carried out co-ordinated treatments under that strategy since then, but
had been hampered by lack of access to new, more efficacious, therapeutants (although this was now
being addressed). The Shetland Salmon Farmers Association, which has also adopted the principles
of this strategy, indicated it would welcome an area-specific strategy for Shetland. Generally,
opinion favoured improving the existing arrangements.

Those who supported the proposal considered a national strategy essential. Some suggested that the
SQS Strategy might form the basis of a national integrated pest management control strategy. There
was agreement that such a strategy might be developed under the auspices of TWG – but only if the
Group became more transparent, open and inclusive in its approach.

On balance it seems to me appropriate to invite TWG to establish a sub-group, with
appropriate external representation (e.g. from local authorities, Crown Estate, Association of
Scottish Shellfish Growers and local authorities) to review the effectiveness of the SQS
National Treatment Strategy and, if it considers it necessary, to develop a national strategy for application throughout Scotland.

FLEXIBILITY FOR NEW SPECIES

The Executive currently advises against multi-species sites on fish health grounds. But, recognising the uncertainties which currently affect development of new species and the high risk involved, the consultation paper invited views on the proposition that officials take a more pragmatic view of multi-species site applications in the short term, considering each application on its merits.

Eighteen respondents were in favour of the proposal, 20 respondents were against and 9 offered no comment. The industry, not surprisingly, responded favourably, acknowledging the proposition as likely to be helpful in the short term. However, caution was advised against adopting less stringent regulation so that established salmon sites were not compromised. The local authorities pointed to the unknowns in relation to species compatibility and disease transfer in farmed situations, but largely supported the proposal to encourage diversification, subject to appropriate controls.

Wild salmonid interests and environmental NGOs expressed strong opposition, advocating that the precautionary principle be applied until the impacts of new species were better understood.

The aquaculture industry in Scotland needs to diversify to secure its future. Nevertheless, it would be imprudent to abandon the precautionary principle – and I do not propose to do so. If the industry is to be sustainable, the competing interests of the new species sector on the one hand and the concerns of the established salmon sector, wild salmonid interests and environmental NGOs on the other will have to be balanced. While I am in favour of implementing this proposal, I recognise the need to have in place the necessary monitoring arrangements.

The consultation paper also invited views on a suggestion for fast-tracking applications seeking to convert small inshore sites licensed for salmon farming to farming of new species. Seven respondents were in favour of such an approach, 21 were against and 19 offered no comment. On reflection, I am inclined to drop this suggestion, so that there is no compromise of standards of appraisal.

On the first point, I shall ask my officials to take a more pragmatic view of multi-species sites to assist development of this sector - but require that this go hand-in-hand with the development and application of appropriate monitoring procedures designed to identify potential problems at an early stage and prompt any necessary remedial action. I am asking the Aquaculture Health Joint Working Group to develop advice to underpin the policy (more frequent inspections by FRS Fish Health Inspectors might be a feature). And I shall want the policy to be reviewed in due course in light of the research into cross-species infectivity and separation distances between farms which is being put in hand by FRS.

I have decided against the fast tracking of applications seeking to convert small inshore sites licensed for salmon farming to farming of new species as it would not be appropriate for such applications to be subject to less rigorous assessment procedures.
FISH HEALTH

The consultation paper provided an account of work on ongoing fish health issues in which my officials are engaged: the EU review of fish health controls, compliance with the Infectious Salmon Anaemia Code of Practice and plans to repeal section 9 of the Diseases of Fish Act 1983. The first report on compliance with the ISA Code of Practice will be published shortly and will, over time, inform thinking on whether legislation would be the appropriate way forward. The timetable for repealing section 9 of the Diseases of Fish Act remains 2003.

ESCAPES OF FARMED FISH

The consultation paper also outlined existing initiatives to address concerns about escapes of farmed fish. My intention is to introduce legislation requiring that Scottish Ministers be notified of escapes from fish farms. I expect the necessary Scottish Statutory Instrument to be in force early next year.

CARRYING CAPACITY OF COASTAL WATERS FOR FISH FARMING

The consultation paper acknowledged that there is insufficient scientific information about the carrying capacity of our coastal waters. It proposed that in the first instance the task and the criteria might be specified by a small group representing the different interests involved, perhaps as a sub-group of the Tripartite Working Group, co-opting experts as necessary, and possibly liaising with existing groups such as the Highlands and Islands Forum on Aquaculture.

Forty respondents agreed that work to define carrying capacity is urgently required; 7 offered no comment. However, there was rather less agreement as to who might undertake the work. Twenty-one respondents agreed that it should be carried out under the auspices of the Tripartite Working Group. The other 19 did not consider TWG an appropriate vehicle for pursuing work in this area - its lack of expertise, transparency and resources was cited. Instead a separate, dedicated working group, whose membership might include academic experts, industry practitioners, regulators, environmentalists and others with an interest, was proposed, to be headed up by Fisheries Research Services or SEPA.

I agree that TWG is not the appropriate forum. Since the paper was issued, the Crown Estate Commission, as you know, has set up a research committee which has agreed that its first priority for funding will be research on the carrying capacity of coastal waters. I also understand that at a recent meeting of the Committee for Aquaculture Research and Development a commitment was given by those present - industry and potential research sponsors alike – to fund the necessary research into carrying capacity as a collaborative venture on the part of all interested in ensuring that the industry operates sustainably.

Work on carrying capacity, particularly in relation to nutrient input, is already being carried out. I have asked my officials to work collaboratively with potential research partners to scope the further necessary research into the carrying capacity of coastal waters.
I have set out my intentions very fully above as a way of briefing the Committee for our discussion on 12 December. I have also attached to this letter a summary of the consultation responses. If there is anything further you would find it helpful to know in advance of your December meeting, perhaps the Clerk to the Committee, to whom this letter is copied, would let my office know.

ALLAN WILSON
SUMMARY OF CONSULTATION

Breakdown of respondents

Forty-seven responses to the paper were received. The respondents can be categorised as:-

5 public bodies: Scottish Natural Heritage, Scottish Environment Protection Agency, Crown Estate Commissioners, Highlands & Islands Enterprise, Marine Coastguard Agency.


12 aquaculture trade associations and individual companies: Scottish Quality Salmon, British Marine Finfish Association, Orkney Fish Farmers Association, Shetland Salmon Farmers Association, Association of Scottish Shellfish Growers, British Trout Association, Marine Harvest International Ltd, Loch Duart Ltd, Wester Ross Salmon Ltd, Migdale Smolt Ltd, Aquascot and 1 respondent who requested confidentiality.

9 wild salmonid organisations: The Salmon and Trout Association, Scottish Anglers’ National Association, Atlantic Salmon Trust, Association of Salmon Fishery Boards, Lochaber District Salmon Fishery Board, Wester Ross Fisheries Trust, Ness District Fishery Board, Awe District Salmon Fishery Board, Western Isles Fisheries Trust.

4 NGOs: RSPB Scotland, Scottish Wildlife Trust, WWF Scotland, National Trust for Scotland.


3 individuals

Profile of views on the main proposals in the consultation paper

SINGLE REGULATORY BODY/SINGLE APPLICATION PROCESS

The consultation paper proposed, in preference to the new regulatory body some consultees had previously asked for, Area Advisory Committees within local authorities to co-ordinate consideration of applications for Crown Estate sea bed leases and SEPA consents to discharge.

- Public bodies: favoured improved co-ordination, but felt unable to provide meaningful comment without more information. Some concern was expressed that the case for establishing another bureaucratic forum had not been made. Adequate resourcing was seen as a major issue.

- Local authorities: of the 5 which responded, only one supported the proposal in principle, subject to adequate resources’ being made available. The others were not convinced real benefits would be derived, given the relatively small number of applications currently considered. Concerns were expressed about confusion which might arise in considering two applications, and the possibility of further increasing the time taken to reach decisions.
• Aquaculture industry: expressed reservations about local authorities’ having the necessary expertise to deal with applications timeously, as well as concerns about maintenance of impartiality and lack of national consistency in approach. Some respondents would accept, subject to assurances that these matters could be dealt with effectively and without increasing costs.

• Wild salmonid organisations: some would still prefer to see a single regulatory body but accepted this is not feasible. If proposal goes ahead, needs to be adequately funded. Would like to see a role for the Area Management Groups which manage Area Management Agreements as part of the Tripartite Working Group process.

• NGOs: offered support in principle subject to adequate resources’ being made available and a clear remit established. Environmental interests should be included in membership.

• Other organisations: offered little support because of concerns about expertise, consistency of approach and resourcing. Some support for concept of “one-stop shop” approach - but not if led by local authorities.

• Individuals made only limited comment.

The consultation paper proposed that, to reduce duplication, the application forms be combined or more closely aligned, SEPA be designated a competent authority under the EIA Regulations and those Regulations be amended to require parallel submission of applications.

• Public bodies: SNH supported the principle of a single or joint application but was not in favour of SEPA’s being designated a competent authority under the EIA Regulations, considered current arrangements work well. SEPA favours retention of separate forms which could be more closely aligned to reduce duplication and would welcome a role under the EIA Regulations. The Crown Estate does not consider there is a need for change as the applications are rarely made in tandem, sees a role for parallel applications where relevant.

• Local authorities: favour retention of separate forms, but agree a closer alignment is appropriate. Welcome proposals for SEPA to be designated a competent authority and for parallel submission of applications.

• Aquaculture industry general support for both proposals, although there was some concern that a single application approach could result in licenses being dependent on each other.

• Wild salmonid organisations support both proposals but one respondent could foresee difficulties and confusion arising in terms of responsibilities, an issue which would need to be addressed.

• NGOs support both proposals but RSPB points out that a rigid framework will be required to ensure bodies work in tandem.

• Other organisations limited comment. Shetland Seafood Quality Control Ltd suggested closer alignment of the application forms would be appropriate for applications which require EIA but there was less of a need where this was not the case. Considered creating a role for SEPA under the EIA Regulations would be likely to result in increased bureaucracy.
CONSENT PROVISIONS UNDER THE CONTROL OF POLLUTION ACT 1974 (COPA)

The consultation paper proposed a number of changes to the way in which SEPA regulates the aquaculture industry through COPA. In summary the proposals were to provide SEPA with new powers to regulate the process of fish farming rather than the associated discharge, a range of enforcement powers to assist in making the regulation more effective and adjustments to the application process to provide streamlining.

All of these proposals attracted considerable support across the board, subject to further consultation on detailed proposals. Some sectors of the industry were not attracted to the prospect of SEPA’s regulating the process of fish farming rather than the discharge as they did not consider it has the necessary expertise.

SEA LICE CONTROL

The consultation paper proposed that the existing (voluntary) AMA approach continue meanwhile; legislation should be amended to enable lice treatment discharge consents to be given for management areas rather than specific sites; and a national sea lice control strategy should be developed by the Tripartite Working Group.

- Public bodies SNH supported the partnership approach but thought the AMA process was not producing results rapidly enough: arrangements should be put on a firmer footing through implementation of the Water Framework Directive. Agreed with proposal for lice treatment consents to be issued for management areas but expressed concerns about possible impact of these on non-target organisms. SEPA supported maintenance of voluntary approach but was strongly opposed to the proposal to issue consents for management areas believing this would be unenforceable in practice as it would be impossible to identify in law a party or parties responsible where a breach of consent was suspected and the responsibility for compliance was shared between several companies or individuals. The Crown Estate suggested it may be appropriate to introduce maximum lice loading levels which, if exceeded, must be treated. The level set may vary from site to site.

- Local authorities agreed voluntary approach but Highland Council suggested that the need to standardise monitoring, recording and treatment use in the future may require a mandatory approach. Both Highland Council and Western Isles Council favoured issuing lice treatment consents on a management area basis but Orkney Islands Council opposed because consents could not be assessed in the same detail. Highland Council pointed out a national strategy already exists in the form of the SQS National Treatment Strategy implemented in 1998. Western Isles and Orkney agreed guidance is necessary.

- Aquaculture industry wide support for maintaining voluntary approach, acknowledged progress slow but believed it can deliver over time. General support for lice treatments to be consented on a management area basis but little support for a national control strategy given the existence of the SQS Strategy although Shetland Salmon Farmers Association indicated a Shetland-specific strategy would be welcome.

- Wild salmonid organisations were generally of the opinion that the voluntary AMA approach needs to be underpinned by a regulatory framework to ensure the necessary management measures are taken to control sea lice. The ability to issue treatment consents on a management area basis
would be consistent with AMA aspirations to manage lice on a regional basis. A national strategy for sea lice control considered essential.

- **NGOs** RSPB commented that if the AMA process is to become the general mechanism for addressing sea lice issues the agreements and groups need to become more transparent and accessible. WWF supported mandatory controls which would require development of an integrated pest control strategy which should aim to reduce emission of therapeutants and place emphasis on prevention of infestation through good husbandry and site management practices. Both were agreed a strategy is required but if it is to be developed by TWG the Group must become more open and transparent and should co-opt appropriate representation.

- **Other organisations** offered limited comment. The consensus was in favour of mandatory controls, treatment consents to be issued on a management area basis and a national control strategy.

- **Individuals** also offered limited comment, but in favour of mandatory controls, treatment consents on an area basis and for a national control strategy.

**FLEXIBILITY FOR NEW SPECIES**

Comments were invited on the proposal that the Executive take a more pragmatic view of multi-species sites in the short term to help the development of the new species sector. It had also been suggested to us that a fast track approval process be available for applications to convert existing small scale salmon farms to new species farming.

- **Public bodies** SNH commented that lessons need to be learned from salmon farming and; the precautionary principle should therefore be applied until the impacts are better understood fast tracking applications would be difficult given the range of environmental issues which need to be addressed. The Crown Estate pointed out that the proposal would be welcomed by the industry but would need to be kept under regular review and that fast tracking ought not to be controversial in most cases. Highlands & Islands Enterprise expressed support but cautioned that risk to established farms must be avoided; was against fast tracking on the basis it would not be appropriate to compromise the standards of appraisal in this way.

- **Local authorities** acknowledged there are many unknowns in relation to species compatibility and disease transfer in farmed situations. However, they offered support in order to encourage diversification and as way of answering some of these questions, subject to appropriate controls. Highland Council recognised a need for fast track applications but considered consultation is required on how such measures would be implemented.

- **Aquaculture industry** considered it important that lessons are learned from salmon farming to deliver sustainability from the outset but subject to appropriate controls support proposal in the short term. The British Marine Finfish Association welcomed the proposal as a practical measure to assist development of the sector and acknowledged that single species sites should be the accepted norm. The suggestion of a fast track application process was supported.

- **Wild salmonid organisations** considered lessons need to be learned from salmon farming and the precautionary principle applied until the impacts are better understood. The Association of Salmon Fishery Boards suggested that some development could be trialled in zoned areas where any potentially damaging effects can be assessed.
• **NGOs** strongly opposed. Considered the precautionary approach should be maintained until a properly informed decision can be taken about the disease and environmental implications of new species.

• **Other organisations** The Royal Institute of Chartered Surveyors, Firth of Clyde Forum and the Scottish Landowners Federation considered the precautionary principle should be applied until the impacts are better understood. Sea Fish Industry Authority, Schering-Plough and Shetland Seafood Quality Control Ltd welcomed the proposal as a short-term measure which should be subject to review.

• **Individuals** strongly opposed. In favour of precautionary approach being maintained until the impacts are properly understood.

### CARRYING CAPACITY OF COASTAL WATERS FOR FISH FARMING

The consultation paper proposed that preliminary work be undertaken to establish carrying capacity, perhaps under the auspices of the Tripartite Working Group.

Respondents unanimously agreed that preliminary work should be undertaken to establish carrying capacity, as a matter of urgency. However, a little more than half of respondents did not consider the TWG an appropriate forum.

• **Public bodies** The Crown Estate and HIE would prefer to see a separate dedicated group established, representing the relevant interests and areas of expertise. SNH commented they would like to participate in an assessment in relation to the natural heritage and would wish to be included in any working group established. SEPA suggested a separate group be established with FRS providing expertise and administrative support to a wider group of experts, including SEPA.

• **Local authorities** Highland Council in favour of work being undertaken by TWG in liaison with the Aquaculture Forum. Western Isles also in favour and suggested that, given the complexity of the subject, the group should learn from similar work undertaken in other countries. Orkney Islands Council would like to be represented on any group looking at carrying capacity around Orkney.

• **Aquaculture industry** agreed with proposal that TWG undertake this work, with the exception of Loch Duart Ltd, which suggested it would be more appropriately carried out by FRS.

• **Wild salmonid organisations** concurred that the TWG does not have the necessary resources or expertise to carry out work in this area. The Salmon and Trout Association and Scottish Anglers National Association suggested SEPA could be an appropriate agency given adequate funds. Wester Ross Fisheries Trust supported the principle of using the ceiling between Category 1 and 2 (defined in the Locational Guidelines) as the limiting factor until carrying capacity is established.

• **NGOs** WWF suggested a more transparent committee is required, including a broad selection of academic experts, industry practitioners, regulators, environmentalists and others with an interest. The RSPB would like to see urgent action, with a moratorium on further expansion of the industry until a fuller understanding of carrying capacity is available.

• **Other organisations** limited comment.
• **Individuals** limited comment.