

Hand Picking Licences

Background

The Menai Strait mussel fishery can be prosecuted by a limited number of “hand pickers” as well as the vessels engaged in mussel cultivation. There are currently two licences issued for this activity.

This report sets out proposals for rationalising the hand picking licences and also considers the prospects for issuing additional licences to applicants on the waiting list for licences.

Recommendations

1. That the steps taken to implement annual rather than seasonal licences are endorsed.
2. That the Association should endorse the proposals for assessing the status of the mussel stock available for hand gathering and for issuing new licences if this is considered appropriate.

1. Hand Picking in the Strait

- 1.1 The Menai Strait Oyster and Mussel Fishery Order 1962 allows the Grantees of the Order to “...grant permits or licences to fish for oysters and mussels or either of them within the whole or any specified part or parts of the fishery to any persons or associations of persons applying for the same on such terms and subject to such conditions as may be determined by the Grantees...” (at §6).
- 1.2 This power has been used since the Order was established to issue a limited number of licences for hand picking of mussels from the areas outside the cultivated mussel lays in the Order area. Most of this activity has been concentrated in the area known as “Ballast Bank”.
- 1.3 The current hand picking licences in force allow mussels to be gathered by hand between the 1st September and the 30th April of the following year.
- 1.4 The number of licences issued can be limited by the Grantee, and has been varied in the past in response to changes in the abundance of mussels outside the cultivated areas in the Strait. New licences have been issued only when there are considered to be sufficient stocks in the area to support the activity.
- 1.5 There are currently two licensed hand pickers operating in the Strait.
- 1.6 A fee of £150 is currently charged for each licence issued.

2. Procedure for issuing new licences

- 2.1 The number of licences issued for the Menai Strait has varied in the past, although numbers have always been low (the old records of licence numbers are held by the NW-IFCA). In the 2005-06 season there were 5 licence holders, a number which includes the current 2 licence holders.

2.2 When the NW&NWSFC were Grantees of the Order, the number of licences that should be issued were reviewed annually, and issued according to clear criteria that were adopted in 2003. These are reproduced at Annex A of this report. This procedure was adopted by this Association in June 2010.

3. Proposed changes to licensed period for hand picking

3.1 The hand gatherers currently operating in the Strait have been proposed that the duration of the hand picking licences should be changed so that they will allow the activity to take place throughout the year rather than for just 8 months.

3.2 It is considered unlikely that this change to the duration of the licensed period would have any significant effect on the mussel stock status in the Strait.

3.3 The change to the licensed period might have implications for nature conservation features in the area. CCW have been consulted to seek their views on whether or not such effects are likely to arise and whether any effects are likely to be significant.

3.4 In the absence of any significant wildlife conservation concerns, it would seem appropriate to change the licensed period for hand gathering from the 8 months between 1st September and 30th April to 12 months of the year with immediate effect.

4. Prospects for issuing new licences

4.1 Members are advised that 3 individuals have expressed a formal interest in obtaining licences to fish in the Menai Strait Fishery Order area at present.

4.2 There has been no recent assessment of the stock of "wild" mussels in the area. It is understood however that mussels are currently quite abundant in the Ballast Bank area, and that it might therefore be reasonable to issue more than 2 hand picking licences this year.

4.3 It would be appropriate to organise an inspection of the mussel stock at Ballast Bank by representatives of the Association to determine whether or not it would be reasonable to issue any new licences for hand picking in the fishery. If this inspection should result in an unequivocal view on the number of licences that should be issued, then it would seem appropriate for the Chair of the Association to be authorised to issue such a number of licences to the eligible applicants.

MSFOMA Secretariat
February 2012

Annex A

NORTH WESTERN AND NORTH WALES SEA FISHERIES COMMITTEE

MENAI STRAIT OYSTER & MUSSEL FISHERY ORDER 1964:

CRITERIA FOR ISSUE OF LICENCES

1. Background

- 1.1 The Menai Strait Oyster and Mussel Fishery Order 1964 requires that any person wishing to fish for mussels in that part of the Fishery Order area known as Ballast Bank obtains a licence. This document sets out criteria, agreed by the Scientific & Byelaws Sub-Committee, to use in determining the issue of licences.

2. Criteria

- (a) Licences should be re-issued only to those fishermen who have fished for mussels at Ballast Bank during the previous year and who have complied with all of the licence conditions and regulations applying to the fishery.
- (b) Additional licences shall only be issued if the Committee agrees that the increased fishing effort is sustainable in terms of the mussel stocks at Ballast Bank, the quality of the environment, and the economic viability of mussel fishing in the Fishery Order.
- (c) If additional licences are to be issued, the Committee shall determine the number that shall be issued, having regard to the sustainable management of the fishery (as described in (c) above).
- (d) Additional licences shall be issued to fishermen who have written in asking to be placed on the waiting list. They shall be issued in chronological order, such that the fisherman who has been waiting longest is the first to be offered a licence.
- (e) Licences shall not be issued to any fisherman who is in debt to the Order, having failed to pay fully for a licence issued in any previous year.
- (f) The Committee shall not be informed of the personal details of any licence holder or fisherman on the waiting list, to ensure that the decisions taken are objective and are not prejudiced in any way.

JIM ANDREWS
Chief Executive
17th June 2003

Welsh Government Review of Fishing Vessel Size Restrictions

Background

On 10th November 2011, the Welsh Government published a consultation document outlining proposals to review the restrictions on fishing vessel size in Welsh waters. The deadline for consultation was set at 2nd February 2012.

This report outlines the key proposals in the WG consultation document, and summarises the response that has been submitted to the WG on this Association's behalf.

Recommendations

1. That the comments submitted to the Welsh Government on this Association's behalf are accepted.
2. That any further comments arising from the discussion of this issue at the Association meeting are forwarded to the Welsh Government.

1. Welsh Government Proposals

- 1.1 The Welsh Government proposes to harmonise the restrictions on fishing vessel length that are currently in force in Wales.
- 1.2 There are currently three different vessel size restrictions in the inshore waters (offshore to 6nm) around Wales. In north Wales to the east of the Great Orme, the vessel size limit is 15m; and to the west of the Great Orme it is 12m. In south Wales (south of Cemaes Head), the size limit is 15.9m.
- 1.3 In north Wales, these vessel size restrictions do not currently apply to any vessel engaged in fishing for mussels. There is no equivalent derogation in south Wales.
- 1.4 Under the new proposals, the vessel size in north Wales will become 15m in all areas, and in south Wales it will become 15.9m in all areas. In all areas it is proposed that there should be a derogation for "*a British fishing boat [...] being used to fish in connection with an Order made under section 1 of the Sea Fisheries (Shellfish) Act 1967*". This definition includes the Menai Strait Oyster and Mussel Fishery Order area.
- 1.5 The derogation set out in this legislation contrasts to that set out in the old Byelaw 9 of the North Western & North Wales Sea Fisheries Committee, which exempts "*those vessels [...] used in fishing for mussels (Mytilus edulis) using dredges*".
- 1.6 The Welsh Government proposals are set out in full in their consultation document (attached).

2. Implications

- 2.1 On first reading, these proposals seem to be quite benign. They would not prevent the Menai Strait mussel fishing boats from dredging mussels from Caernarfon Bar or other locations for relaying in the Menai Strait Fishery Order area, or any other Fishery Order.
- 2.2 On further consideration, it becomes apparent that the proposals will have unintended mischievous consequences. In particular, they would act to prevent any experimental cultivation in areas outside existing Fishery Order areas as part of any trial mussel cultivation. It would not, therefore, be permissible to dredge mussels from Caernarfon Bar for relaying in an experimental area.
- 2.3 There do not appear to be any powers granted to the Minister in this new legislation to make any derogation from the vessel size restriction so that cultivation trials could be carried out.
- 2.4 It therefore appears that by setting out some very narrow terms in this new legislation, the Welsh Government proposals could stifle the development of the shellfish cultivation industry in Wales by preventing mussel cultivation trials from being carried out.

3. Industry views

- 3.1 The Chair has consulted with the main operators in the Menai Strait, who share the concerns set out in para 2.4 above.
- 3.2 It is understood that the Menai Strait mussel farmers have responded to the Welsh Government to raise these concerns about the proposals and to register an objection to them. They have favoured the retention of something similar to the existing regime.

4. MSFOMA Response

- 4.1 The deadline for a consultation response was set at 2nd February 2012.
- 4.2 Following discussion between the Chair and the industry operators in the Menai Strait, an initial response has been sent to the Welsh Government on behalf of MSFOMA. This response raises the concerns outlined in this report, and registers an objection to the proposed changes. A copy of this response is attached.
- 4.3 The views of Members of this Association are sought so that, if necessary, a supplementary response to these proposals can be submitted to the Welsh Government.

MSFOMA Secretariat
February 2012

Menai Strait Fishery Order Management Association

Port Penrhyn, Bangor, LL57 4HN

Mr Graham Rees
Fisheries Unit
Welsh Government
Rhodfa Padarn
Llanbabarn Fawr
Aberystwyth
SA23 3UR

January 31st, 2012

Dear Graham

PROPOSED REVISIONS TO VESSEL SIZE RESTRICTIONS

I am writing in response to the consultation document published on the Welsh Government website proposing changes to the regulation of fishing vessel sizes in the waters around Wales.

I enclose a copy of the consultation response form that we have downloaded from the Welsh Government website. Regrettably this appears to have some internal formatting problems that prevent us from adding text to it. We have therefore summarized our response below, and trust that this will be acceptable.

Our key comments are:-

1. This Association has no objection in principle to the proposal to harmonise vessel size restrictions as far as possible.
2. We are very concerned that the proposed changes to the exemption for vessels engaged in fishing for mussels (*Mytilus edulis*) will act to stifle the development of the mussel cultivation industry in Wales.
3. We would therefore like to register our objection to the proposals as they currently stand.
4. We would urge you to reconsider the wording of the exemption for mussel dredgers, and to adopt the form of words set out in the old NW&NWSFC Byelaw 9, which seems to us to offer appropriate constraints on mussel dredging activity (particularly in conjunction with Byelaws 12 and 15), whilst allowing the potential for the mussel industry to develop.

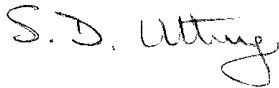
Our detailed reasoning for the comments set out in (2) and (3) above is that by limiting the exemption from the vessel size to mussel fishing activities associated with "*an Order made under section 1 of the Sea Fisheries (Shellfish) Act 1967*", the proposed legislation will prohibit any mussel cultivation activities or trials in areas that have not yet been designated under this section of the 1967 Shellfish Act. If the industry are prohibited from carrying out trials, it will be unable to develop new areas for cultivation in Welsh waters.

We are sure that this was not the intention of the proposals, and trust that you and your colleagues will be able to identify an alternative form of words that will provide appropriate restrictions on fishing activity whilst ensuring that our thriving shellfish cultivation industry will be able to pursue future opportunities to develop.

I should also add that the consultation period for these proposals has unfortunately fallen between two of our Association meetings. Our last meeting was in October, and our next is scheduled for 7th February, after the consultation period for these proposals has ended. I hope you will permit us to forward any further comments arising from this meeting to you after the deadline has passed.

We hope that these comments are helpful. If you have any queries about our comments or if you feel that further input from this Association might help to further refine the proposed new vessel size restrictions, please get in touch with me.

Yours sincerely

A handwritten signature in black ink that reads "S. D. Utting". The signature is written in a cursive style with a large, looped "U" and a long, sweeping tail.

SUE UTTING
Chair, MSFOMA

Encs.

Welsh Government Review of Shellfish Water Designations

Background

On 5th December 2011, the Welsh Government published a consultation document outlining proposals to review the shellfish water designations in Wales. The deadline for consultation was set at 2nd March 2012.

This report outlines the key proposals in the WG consultation document, and summarises the issues that may need to be addressed in a MSFOMA response to this consultation.

Recommendations

1. That the comments submitted to the Welsh Government on this Association's behalf are accepted.
2. That any further comments arising from the discussion of this issue at the Association meeting are forwarded to the Welsh Government.

1. Welsh Government proposals

- 1.1 There are currently 26 "Shellfish Waters" in Wales. These areas are designated in response to the EC Shellfish Waters Directive (2006/113/EC) in order to protect and improve the quality of waters that support shellfish that are harvested for human consumption.
- 1.2 Shellfish waters are monitored by the Environment Agency for compliance with water quality standards set out in the Directive. The EA also produce pollution prevention plans for each designated shellfish water area.
- 1.3 The location and extent of the designated Shellfish waters in Wales were last reviewed in 2004. Since then, the areas classified for shellfish gathering under the shellfish hygiene regulations have changed, and the pattern of shellfish gathering has also changed. Some of the areas enclosed by shellfish water designations are no longer used for shellfish production.
- 1.4 A review of shellfish waters in Wales was carried out by the Welsh Government in 2011. This review aimed to identify the waters that are currently commercially harvested and those which are no longer harvested. The Welsh Government worked with Cefas to identify these areas, and the conclusions of their report was reviewed by the Environment Agency and the members of the Welsh Government Fisheries Team.
- 1.5 It was concluded that it would be appropriate to maintain Shellfish Water designation in areas where there has been at least one year of commercial activity in the past three years; and to de-designate areas where there has been no commercial harvesting for three continuous years. These criteria result in the following changes:-

- a) Designation of 3 new areas (Anglesey Inland Sea; Cleddau East; Moelfre);
 - b) De-designation of 7 shellfish waters (Porthcawl, Milford Haven Carew; Dwyrdd; Glaslyn; Llanddwyn Bay; Menai Strait - Foryd Bay; Llanddulas); and
 - c) Amend 3 existing areas (Malltraeth Sands; Menai Strait - West; Dee - West); and
 - d) Retain the remaining 16 existing shellfish waters, unchanged.
- 1.6 A map is attached at Annex A, showing the effect of these proposals for the Menai Strait. The full consultation document outlining the review is available from the Welsh Government website [here](#).

2. Implications

- 2.1 It appears that these proposals will have no direct effect on shellfish harvesting and cultivation activities in the Menai Strait. The only changes proposed are a minor alteration to the Menai Strait (West) area, to link it with the only part of the Foryd that has recently produced shellfish commercially.

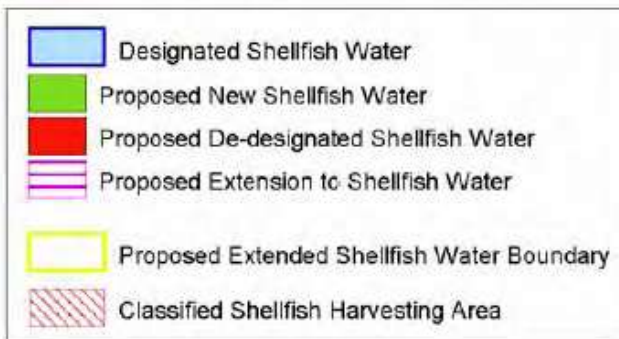
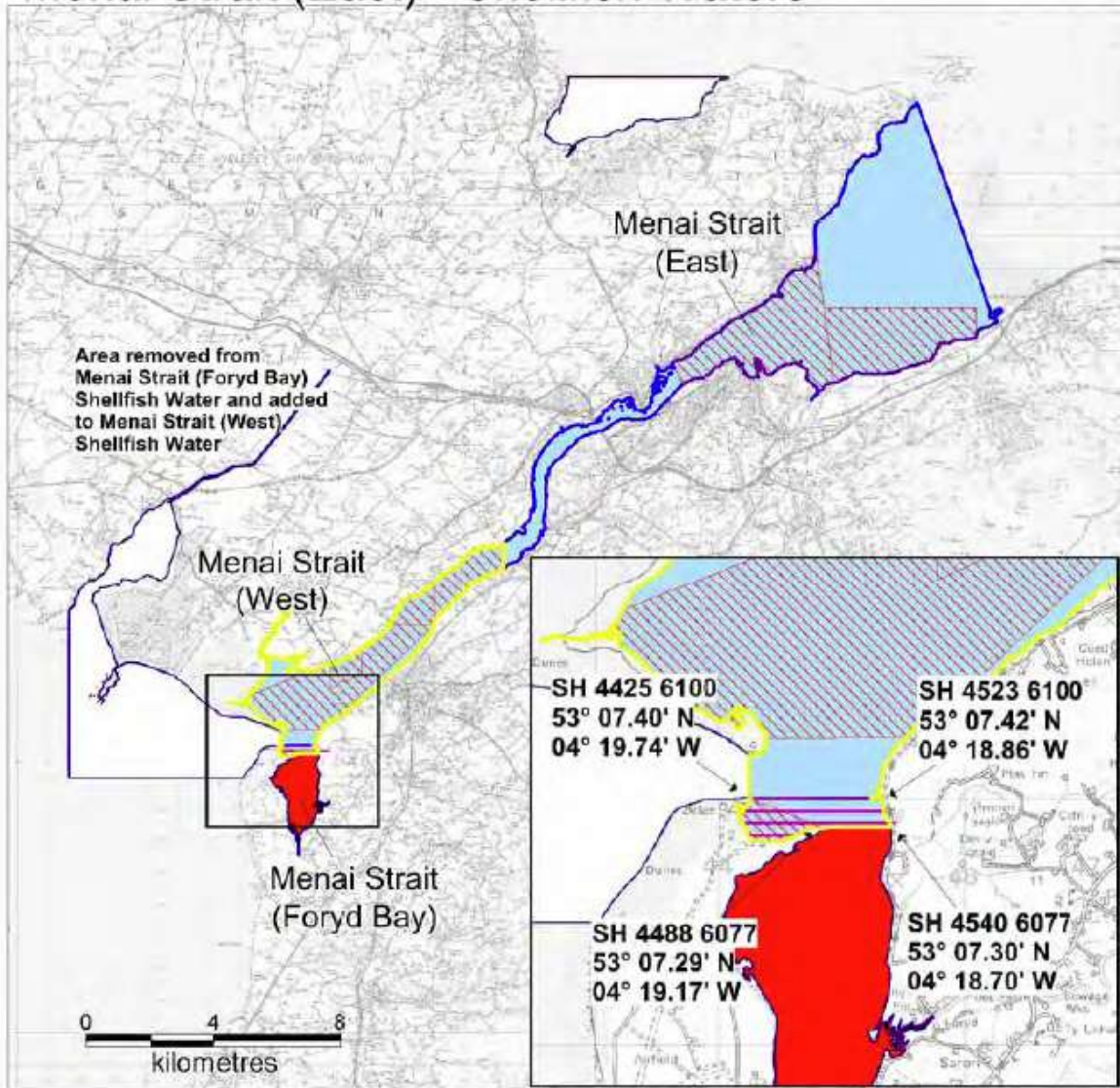
3. MSFOMA Response

- 3.1 The Welsh Government has asked consultees whether they agree with their proposals to designate, de-designate and amend shellfish waters
- 3.2 In view of the benign implications of these proposals, it would seem appropriate for MSFOMA to offer its support to the proposed changes.

MSFOMA Secretariat
February 2012

Annex A

Menai Strait (Foryd Bay), Menai Strait (West), Menai Strait (East) - Shellfish Waters



Produced by the Centre of the Environment, Fisheries and
Aquaculture Science, Weymouth Laboratory.

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North West IFCA Activity

Background

The North West Inshore Fisheries and Conservation Authority (NW-IFCA) is responsible for the management of inshore fisheries between the Dee and the Solway in north-west England.

Over the past few months, the NW-IFCA has proposed new management areas for their District that could affect the future of the Menai Strait fishery. This report provides an update on these proposals.

Recommendations

1. That this update is accepted, and the Association is kept informed of progress with this matters.

1. Morecambe Bay Fishery Order Proposal

- 1.1 It is understood that the NW-IFCA has submitted its application for a Morecambe Bay Fishery Order to Defra. NW-IFCA officers report that some amendments are being made to the management plan for this Order, and that they are hoping that the formal public consultation on the Order by Defra will start soon.
- 1.2 Providing that the proposed Order and the management plan have taken account of the earlier comments submitted by this Association, it is anticipated that they should have no adverse effect on shellfish cultivation in the Menai Strait.

2. Vessel size restrictions

- 2.1 Proposals to introduce new restrictions on the size of fishing vessels that would be permitted to operate in the NW-IFCA District were discussed at the last meeting of this Association in October 2011.
- 2.2 The Chair of the Association sent a response to the byelaw proposals to the Chief Executive of the NW-IFCA in November 2011. A copy of this response is attached at Annex A.
- 2.3 Members are advised that no response to this letter has yet been received from the IFCA. The Chair of this Association has therefore written to the Chief Executive of the IFCA to request an update.

MSFOMA Secretariat
February 2012

Annex A

Menai Strait Fishery Order Management Association

Port Penrhyn, Bangor, LL57 4HN

Stephen Atkins
North West Inshore Fisheries and Conservation Authority
1 Preston St
Carnforth
Lancs LA5 9BY

November 21st, 2011

Dear Stephen

PROPOSED REVISIONS TO BYELAWS: VESSEL SIZE AND MUSSEL SIZE

I am writing in connection with the proposals being considered by the NWIFCA to modify the byelaws regulating the maximum size of vessels that can operate within the IFCA District and the minimum size of mussels that can be removed from the District. We discussed your proposals at our recent Association meeting, and I have summarised our comments in this letter.

1. New Byelaw 4: Mussel Minimum Size

With respect to the mussel minimum size byelaw, we note that the proposed revisions will retain all of the key features of its predecessor byelaws. We therefore support the move to consolidate the old NWSFC and CSFC byelaws in this new byelaw.

2. New Byelaw 2: Maximum vessel size

We wish to register some concerns about the current wording of this byelaw, which appears to differ significantly from the old NWSFC Byelaw 9 and which may thus adversely affect the future activities of mussel dredging vessels operating in the NWIFCA District.

We note that the old Byelaw 9 stated at para 3(b) that the byelaw would not apply to vessels "*used in fishing for mussels (*Mytilus edulis*) using dredges*"; and that the proposed new Byelaw 2 has replaced this text with a provision to exempt "*vessels used for the trans-shipment and relaying of mussels *Mytilus edulis* operating under permit issued by the Authority*".

You will appreciate that these exemptions are quite different in their character and effect. The wording in the old Byelaw 9 provides the basis for mussel dredgers from the Menai Strait to operate within the IFCA District (under the existing regulatory framework provided by other byelaws). The wording in the new Byelaw 2 would ultimately prohibit any mussel dredger that does not meet the size criteria from operating in the IFCA District.

It is clear from the supporting documentation for this byelaw that this outcome was not the intention. We would therefore request that you and the Committee review the wording of the byelaw to address this and more faithfully transpose the effect of the old NWSFC Byelaw 9.

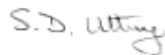
Menai Strait Fisher Order Management Association
Company registered in England and Wales No 07163689

3. Consultation

This Association would welcome the opportunity in future to be consulted at an earlier stage during the review of any other proposals to change byelaws that could affect mussel fishing within the IFCA District. This would ensure that we are able to make a constructive and timely input that we are sure would be of mutual benefit.

We hope that these comments are helpful, and look forward to hearing further from you about the proposed changes to the vessel size byelaw.

Yours sincerely



SUE UTTING
Chair, MSFOMA

Developing the Association

Background

This Association was established on 1st April 2010 for the sole purpose of acting as Grantee of the Menai Strait Oyster and Mussel Fishery Order area. Over the past 2 years, the Association has been invited to adopt a similar role for other shellfish production areas in North Wales. This report considers how these invitations might be progressed.

Recommendations

1. That this update is accepted, and the Association is kept informed of progress with this matters.

1. Remit of the Association

- 1.1 When this Association was established in 2010, it was given a very specific remit to act as the Grantee for the Menai Strait Oyster and Mussel Fishery Order 1962. This remit forms part of the Articles of the Association.
- 1.2 If this Association decides that it is appropriate to widen its remit, then it will be necessary to amend the Articles of Association. This will require, at the very least, appropriate legal advice and also consultation with Companies House and the Fisheries Minister in Wales.
- 1.3 It would now be appropriate to seek legal advice on the scope for amending the Articles of Association and to determine the procedure and timescale for making such amendments.

2. Menai Strait (West) Fishery Order

- 2.1 The Association is advised that good progress is being made with the proposed new Menai Strait (West) Fishery Order. This would be a new Order made to replace the one that lapsed in 2008 without being replaced by the Grantee at that time (the NW&NWSFC).
- 2.2 A draft "Memorandum of Understanding" has been drawn up to set the terms of reference between the proponents of this Fishery Order (who will be liable for all costs associated with its introduction) and the Association (who might act as the Grantee if this is appropriate). A draft of this Memorandum is attached at Annex A.
- 2.3 It would be appropriate for this Association to give some feedback on this proposed Memorandum of Understanding.

3. Conwy Fishery Order

- 3.1 The Conwy Estuary mussel fishery was managed under a "Regulating Order" for nearly 100 years ending when the 1948 order lapsed in 2008 without being replaced by the Grantee at the time (the NW&NWSFC).

- 3.2 There is considerable enthusiasm among the existing operators in the Conwy Estuary to establish a new Fishery Order similar to that currently in place in the eastern Menai Strait which would allow for both the regulation of fishing effort and also create opportunities for mussel cultivation. Both activities would help to develop and protect an industry that is a feature of the local community and heritage of the area.
- 3.3 To date, there have been no formal discussions about how MSFOMA might work with the Conwy mussel fishing industry to develop a new Order for this area.
- 3.4 The Association's views are sought on the prospects for working with the mussel fishing industry in Conwy to progress this proposal.

MSFOMA Secretariat
February 2012

Annex A

Proposed new Menai Strait (West) Fishery Order

Memorandum of Understanding between the Menai Strait (West) Lay Holders and the Menai Strait Fishery Order Management Association

Preamble

Whereas:-

The Menai Strait (West) Oyster, Mussel and Clam Fishery Order 1978 was a Several Order granted under the Sea Fisheries (Shellfish) Act 1967 to enable the cultivation of mussels, oysters and clams. The Order was granted for a period of 30 years and expired on 23 March 2008;

The Menai Strait (West) Lay Holders are proposing to reinstate a new Fishery Order through the Marine and Coastal Access Act 2009 and with the same boundaries as in the previous Several Order. This Order is for 28 years in four 7 year tranches;

Welsh Government has stated that its preferred option would be for the Menai Strait Fishery Order Management Association (MSFOMA) to be the Applicant/Grantee of the proposed new Fishery Order;

MSFOMA and the Menai Strait (West) Lay Holders (namely Trevor Jones, Jon King, Sean Krijnen and David Lea-Wilson) have agreed the following terms of reference in order to proceed with the application of the proposed new Fishery Order and then the its future management within MSFOMA if and when the Fishery Order is granted.

Terms of reference

- 1. Application process (Phase 1)**
 - i. The Menai Strait (West) Lay Holders agree to meet all their costs (including costs that may arise through needing to consult with other stakeholders in the proposed new Fishery Order area) and any reasonable additional costs incurred by MSFOMA during the application process.

- ii. The Menai Strait (West) Lay Holders will prepare all the required documentation that has to be submitted by MSFOMA to Welsh Government.
 - iii. Through its quarterly meetings, MSFOMA will provide the communication channel that will keep all parties aware of progress with the application process. If and when deemed appropriate, additional meetings may be scheduled.
- 2. Management of the new Fishery Order (Phase 2 - dependent on the successful outcome of Phase 1)**
- i. The Menai Strait (West) Lay Holders agree that Trevor Jones should become a Director of MSFOMA and be their representative for the new Fishery Order.
 - ii. The Menai Strait (West) Lay Holders agree to meet any reasonable costs to make changes (if and where deemed necessary) to the current Articles prepared by MSFOMA for the Eastern Menai Strait Order.
 - iii. MSFOMA and the Menai Strait (West) Lay Holders will need to agree a robust and transparent system to ensure that the finances of each party are managed effectively, including the setting of annual fees for lays in the West Menai. The most appropriate method may be to manage the finances separately.
 - iv. The Menai Strait (West) Lay Holders will establish methods of self-regulation for their Fishery Order, to help ensure that each operates to acceptable standards and established Codes of Conduct.

These terms of reference shall be revised from time to time at the request of either MSFOMA or the Menai Strait (West) Lay Holders.

13 December 2011