

Welsh Government Activity: Update

Background

The Welsh Government has carried out a number of activities that are relevant to the Association since the last meeting in October. This report provides a brief report on these activities to inform discussions at the Association meeting.

Recommendations

1. That a meeting should be organised with the new Minister for Natural Resources
2. That the Association considers its response to the items reported below.

1. Meetings & Correspondence

- 1.1 Since the last Association meeting there has been quite a lot of dialogue with WG, in connection with both the Menai Strait West Fishery Order proposal and the proposed new leased areas in the eastern Menai Strait. The key details of this correspondence are considered under the relevant items below.
- 1.2 After the last meeting of the Association, the Chair wrote to the new Minister for Natural Resources to request a meeting (see Annex A of this report). It has not yet been possible to organise a meeting with the new Minister. This opportunity is still being pursued.
- 1.3 Progress with the Menai Strait West Fishery Order proposal and the new leased areas in the eastern Menai Strait is described briefly below.

2. Menai Strait West Fishery Order Proposal

- 2.1 The Menai Strait (West) Fishery Order was established in 1978 for a period of 30 years. This Fishery Order provided the basis for the development of some oyster and mussel farming activity in the western Strait. Unfortunately the Order lapsed in 2008, preventing the further development of these businesses. The operators who had been working in this area before 2008 have been progressing an application for a new Fishery Order to set the foundations for developing sustainable shellfish cultivation in the western Menai Strait.
- 2.2 Progress with the creation of a new Fishery has been delayed by concerns raised by WG lawyers. These arise from the WG perception that a Fishery Order cannot be granted for a period of more than 7 years within an area that has been designated a Special Protection Area or a Special Area of Conservation, and thus must be managed in accordance with the requirements of the EC Habitats Directive (this situation is described by the Minister's letter attached at Annex B).

- 2.3 On the 31st July 2014 the Chair wrote to Mr David Tripp at the Welsh Government Sea Policy Executive to request clarification of this Association's role as a "competent authority" in the sense of the Conservation of Habitats and Species Regulations 2010. The Chair pursued this matter with WG Officers (see Annex C) and ultimately received a response in late November 2014 (Annex D).
- 2.4 The key aspects of the WG with respect to the Menai West proposals are:-
- a) Menai Strait West - WG seem to be of the view that it is not possible to grant an Order for a period of more than 7 years (see Annex D). There does seem to be some confusion in WG about exactly why this is though (compare the Minister's letter at Annex B with Annexes D, E and F).
 - b) MSFOMA as a competent authority - WG lawyers are of a contrary view to our own legal advisors, and do not consider that MSFOMA, as Grantee of a Fishery Order, is a "competent authority" in the sense of the Habitats Regulations 2010. No detailed explanation is provided (see Annex D).
- 2.5 There has been some discussion among the applicants for the Menai Strait West Fishery Order about the appropriate response to the WG advice. It would be appropriate to discuss this matter further at the meeting before submitting a formal response to the Minister.

3. New leased areas, eastern Menai Strait

- 3.1 In April 2014 the Minister was formally asked by the Association to consent to the creation of two new leased areas within the Menai Strait Oyster and Mussel Fishery Order 1962. In September 2014 the Minister granted consent to these new areas.
- 3.2 The Chair consolidated some queries that arose from the Minister's consent in a letter that was sent to Mr David Tripp on the 26th September (Annex G). A response to this letter was received in November 2014 (Annex H).
- 3.3 It is now possible to with issue the new leases for these areas, as resolved at the last meeting of the Association in October.

MSFOMA Secretariat
December 2014

Annex A: Letter from Chair to Minister for Natural Resources, October 2014

Menai Strait Fishery Order Management Association

Porth Penrhyn, Bangor, LL57 4HN

Carl Sargeant, AM
Minister for Natural Resources
National Assembly for Wales
Cardiff Bay
Cardiff
CF99 1NA

22nd October 2014

Dear Minister

Shellfish farming in the Menai Strait

On behalf of the shellfish farmers in the Menai Strait I would like to congratulate you on your appointment.

I am sure that you will quickly find that the fisheries portfolio holds many challenges, and also some opportunities. One opportunity that has already been recognised by the National Assembly is the potential for developing aquaculture in Wales. The largest single aquaculture site in Wales (and in fact in the UK) is the shellfish farming operation in the Menai Strait. This area will be a vital component of the future success of the Government's Marine and Fisheries Strategic Action Plan, which aims to double Welsh aquaculture production by 2020.

Shellfish farming in the Menai Strait has been developed by local operators over the past 30 years from a cottage industry into a thriving international trade. The Menai mussel farmers have invested in modern vessels and equipment, employ dozens of local staff, and operate to the highest standards. In 2010 the Menai Strait became the first mussel farming area in the world to achieve the prestigious Marine Stewardship Council standard for sustainable fisheries.

We have recently been working with local Assembly Member Rhun Ap Iwerth and your predecessors to strengthen the foundations for the future operation and development of shellfish farming in the Menai Strait, and also in the rest of Wales. Rhun has been helping us to try and resolve some frustrating issues that have been hindering our efforts to re-establish the legal protection is needed to enable the shellfish farmers in the western Menai Strait to develop their businesses. There is a very real risk that these administrative problems will result in a lost opportunity that will cost the Welsh economy millions of pounds per year.

Shellfish farming provides a great opportunity for your administration to create sustainable long-term employment and export trade in rural Wales. With each delay this opportunity slips further from our grasp, and the chances of meeting the Welsh Government's strategic objectives for aquaculture growth become more and more remote.

We would welcome the opportunity to meet with you at the earliest opportunity either up here at Porth Penrhyn near Bangor or at your offices (either in Connahs Quay or in Cardiff) to discuss how we could work with you to realise the potential for shellfish farming in Wales.

I hope that you will be able to find time for in your diary, and look forward to meeting you in the near future.

Yours sincerely

Dr Sue Utting – Chair MSFOMA
cc. Rhun Ap Iwerth, A.M.

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

Annex B: Letter from Minister to Rhun Ap Iorwerth AM, August 2014

Rebecca Evans AC / AM
Y Dirprwy Weinidog Amaeth a Physgodfeydd
Deputy Minister for Agriculture and Fisheries



Llywodraeth Cymru
Welsh Government

Ein cyfi/Our ref RE/00024/14

Rhun Ap Iorwerth AM
National Assembly for Wales
Cardiff Bay
Cardiff
CF99 1NA

August 2014

Dear Rhun,

Thank you for your email dated 15 July on behalf of your constituents regarding shellfish farming in the Menai West.

In connection with the application for a Several Order in the Menai Strait West, my Officials have engaged with the applicant on a number of occasions to discuss their application and agree the best way forward. The applicant has been made aware that, because their submitted management plan was for a period of 7 years, that was the period of time over which the necessary environmental assessments could be undertaken. In addition, in order to comply with Welsh Ministers' obligations under the Habitats Directive (Council Directive 92/43/EEC), my officials have explained that that was the only period over which they could recommend that the proposed Order is granted.

The next stage in processing this application is for my Officials to make a submission to me setting out the detail of the position summarised above and requesting a decision from me as to how we should proceed. I understand that that position has been relayed to your constituents' who have indicated to my Officials that, in the circumstances, they would prefer to consider the matter further before any Ministerial decision is sought.

It is noted that your constituents' previous lease (which expired in 2008) was granted pursuant to the previous Several Order which existed in the Menai Strait West (the Menai Strait (West) Oyster, Mussel and Clam Fishery Order 1978 (S.I. 1978/243)). That Order was made and, consequently, those Leases were granted before the creation of the Habitats Directive. The legislative framework within which my Officials must consider this application has, therefore, changed significantly since this shellfishery was last considered by the Government.

Bae Caerdydd • Cardiff Bay
Caerdydd • Cardiff
CF99 1NA

Wedi'i argraffu ar bapur wedi'i ailgylchu (100%)

English Enquiry Line 0845 010 3300
Llinell Ymholiadau Cymraeg 0845 010 4400
Correspondence.Rebecca.Evans@wales.gsi.gov.uk
Printed on 100% recycled paper

Your constituents ask for a discussion between their lawyers and ours. I do not think that would be helpful or feasible. The legal position in this case is clear. The Welsh Ministers must administer this application for a Special Order in a way which is in accordance with their obligations under the Habitats Directive. It is acknowledged that the operation of Part 1 of the Sea Fisheries (Shellfish) Act 1967 in a manner which is compliant with our obligations under the Habitats Directive has raised a number of practical difficulties from time to time. With that in mind, my Officials are currently working towards bringing forward appropriate amendments to the 1967 Act in the forthcoming Environment Bill.

In relation to the proposed discussion between lawyers, the role of Welsh Government lawyers is, as you will appreciate, solely to provide legal advice to the Welsh Ministers. That advice is confidential and carries legal professional privilege, which is a principle strongly defended by the Welsh Ministers. It would not be appropriate, in the circumstances, for the suggested discussion to take place.

I should like to emphasise that I am keen to support the development of the aquaculture industry in Wales. I believe that the proposals that we intend to bring forward in the Environment Bill will provide a helpful way forward to overcome problems of this nature, and to allow for the possible development of further aquaculture installations within European Marine Sites.

Yours,
Rebecca

Rebecca Evans AC / AM

Y Dirprwy Weinidog Amaeth a Physgodfeydd
Deputy Minister for Agriculture and Fisheries

Annex C: E-mail from Chair to WG Officers, November 2014

From : sutting003@btinternet.com
Date : 17/11/2014 - 12:58 (GMTST)
To : David.Tripp@Wales.GSI.Gov.UK, William.Somerfield@Wales.GSI.Gov.UK,
Graham.Rees@Wales.GSI.Gov.UK
Cc : trevormussels@yahoo.com, jamesmussels@gmail.com, Rhun.aplorwerth@wales.gov.uk
Subject : Current situation with Menai Strait?

Dear David/Graham/Bill

I am directing this email to you all as I'm really at a loss as to who is dealing with the correspondence that I have been sending to Welsh Government as Chair of MSFOMA. The letters I have been sending seem to be disappearing into a big black hole as I have not received any replies or even a holding response. I worked for many years as a government employee and it was always policy to send a response within 10 working days.

We have three important issues still outstanding and I would like some clarification as to where we are at the moment. As Chair of MSFOMA I really want to see shellfish cultivation in the Menai Strait developing, current businesses prospering and opportunities for even more investment in the area in the future.

We seem to have had no clarification from Welsh Government on the following:

1. The proposed Menai Strait (West) Fishery Order and

2. MSFOMA as a Competent Authority

Letters were sent to David on 31 July and 27 October this year. We have received no detailed response on where we are in clarifying progress with these two issues. My understanding is that interpretation of the legislation (in the 1967 Shellfish Act) differs between MSFOMA's legal advisor and the Welsh Government lawyer. This situation has not moved on for months, even after we met with Rebecca Evans on 3 September. If we are not able to have a meeting between the two legal advisors, then can you at least tell us why your lawyer says our interpretation of the legislation is wrong. We cannot move forward until this is resolved.

3. New cultivation areas in Menai Strait (East)

We were thrilled to hear in a letter (dated 4 August) from the Minister (then Rebecca Evans) that she had given consent for two new areas to be developed for mussel cultivation in the eastern Menai Strait. Conditions for the consent were also outlined in the Minister's letter that we have since clarified and amended. I assumed that we would have received a quick response after that but still nothing to date.

Can someone please tell me where we are with all this? What I would really like would be for someone from WG to come along and meet with us again. We have a MSFOMA meeting on 18th December although having a meeting earlier than that would be preferable. Or we could meet with you in Aberystwyth. Tim Croucher does attend the MSFOMA meetings but is not in a position to clarify these questions for us.

I look forward to hearing from you.

Dr Sue Utting

Annex D: E-mail correspondence between Mr W. Somerfield (WG) and Chair.

From : William.Somerfield@Wales.GSI.Gov.UK
Date : 26/11/2014 - 14:48 (GMTST)
To : sutting003@btinternet.com
Cc : jamesmussels@gmail.com, trevormussels@yahoo.com
Subject : RE: RE: Current situation with Menai Strait?

Dear Sue

I believe that point 3 in your email of the 17/11/14 has been covered in my earlier response.

I will now clarify the Welsh Government position regarding the other 2 substantive points you raised.

1. The proposed Menai Strait (West) Fishery Order

There is no change from our position as previously stated in meetings with MSFOMA members, in that we are ready to progress to the next steps in connection with your application which would involve putting a Submission to the Minister asking for a decision on moving to the next steps in this matter (i.e. the drafting and publication of a draft Order in accordance with the Schedule to the 1967 Act). As we have previously discussed, MSFOMA requested a 28 year Order, but only submitted a Management Plan covering a 7 year period. In those circumstances, WG Fisheries Scientists are only able to draw a conclusion about whether or not this fishery will be damaging to the EMS (within which it sits) for a 7 year period.

Therefore, in accordance with regulation 61(5) of the Habitats Regulations, the Welsh Ministers are only able to consider granting a 7 year Order at this time.

We are ready to recommend this to the Minister, but were asked by MSFOMA representatives to not do so, as they wanted to explore other possible avenues to move this application forward. As far as I am aware there have been no further relevant developments.

2. MSFOMA as a Competent Authority

The Welsh Government position is that MSFOMA are not a “competent authority” for the purposes of regulation 7 of the Habitats Regulations. As you will appreciate, legal advice on this matter received by the Welsh Government is subject to Legal Professional Privilege and, consequently, it would not be appropriate to disclose the same. All legal advice to Welsh Government officials and to the Welsh Ministers is protected by Legal Professional Privilege.

However, my understanding is that, whether or not MSFOMA are the competent authority in this case, is not a crucial point in moving this application forward.

The crux of the matter, is that the power to grant the Order, pursuant to section 1 of the Sea Fisheries (Shellfish) Act 1967, rests with the Welsh Ministers and it is the Welsh

Ministers, consequently, who have to reach the necessary level of environmental certainty for the entire period over which it is proposed to grant a shellfishery, before they can grant the Order (as per Regulation 61(5) of the Habitats Regulations).

Yours sincerely

Bill

[...]

From: Somerfield, William (NR - Marine & Fisheries)
Sent: 25 November 2014 14:24
To: 'sutting003@btinternet.com'
Cc: 'James Wilson'; 'Trevor Jones'
Subject: RE: RE: Current situation with Menai Strait?

Dear Sue

I will have something to you by the end of tomorrow.

Regards

Bill

[...]

From: N UTTING [<mailto:sutting003@btinternet.com>]
Sent: 25 November 2014 14:21
To: Somerfield, William (NR - Marine & Fisheries)
Cc: James Wilson; Trevor Jones
Subject: Re: RE: Current situation with Menai Strait?

Dear Bill

Any news yet?

Sue

-----Original message-----

From : William.Somerfield@Wales.GSI.Gov.UK
Date : 18/11/2014 - 12:41 (GMTST)
To : sutting003@btinternet.com
Cc : trevormussels@yahoo.com, jamesmussels@gmail.com,
Rhun.apIorwerth@wales.gov.uk, David.Tripp@Wales.GSI.Gov.UK,
Graham.Rees@Wales.GSI.Gov.UK
Subject : RE: Current situation with Menai Strait?

Dear Sue

Thank you for your email of the 17 November, and please accept my apologies for not dealing with your queries more promptly.

Regarding point 3 of your message, please find attached a revised authorisation letter for the new cultivation areas in Menai East, containing conditions in line with your suggestions.

WG officials and MSFOMA members have discussed points 1 and 2 face to face and through correspondence previously, and our position has not substantially changed.

I will look into these issues again, in the light of the Deputy Minister's meeting of 3 September with MSFOMA colleagues, and reply more substantially by the end of the week.

Regards

Bill

William Somerfield
Rheolwr Polisi Pysgodfeydd - Fisheries Policy Manager
Is-adran Môr a Physgodfeydd / Marine and Fisheries Division
Llywodraeth Cymru - Welsh Government
Aberystwyth
Ffôn / Tel 0300 062 2204

www.cymru.gov.uk/morol

www.wales.gov.uk/marine

www.cymru.gov.uk/pysgodfeydd

www.wales.gov.uk/fisheries

Annex E: Correspondence between Chair and Mr W. Somerfield concerning Menai Strait West Fishery Order application.

From: N UTTING [mailto:sutting003@btinternet.com]

Sent: 01 December 2014 14:06

To: Somerfield, William (BETS - Rural Affairs)

Cc: SHAUN KRIJNEN; David Tripp; Trevor Jones; 'David Lea-Wilson'; Jon King; James Wilson; Rees, Graham (SF - Agriculture, Fisheries & Rural Strategy); Jim Andrews

Subject: Fwd: Letter re: West Menai

Dear Bill

You wrote to me recently saying that we had never said what we wanted for the duration of the Fishery Order for Menai West. The letter attached in this e-mail to Graham states the position that we have given you (after the meeting we had with Graham in Halen Mon in November 2013) and that we have never changed from. We have had several meetings with you and David Tripp where we have always said that 28 years was still our requested time frame.

Jon King has also sent me an e-mail with the documents that were sent off to you on 6 December 2013. We sent them as printed and signed documents in the post. I will forward them to you.

Regards

Sue Utting

-----Original message-----

From : sutting003@btinternet.com

Date : 26/11/2013 - 11:57 (GMTST)

To : Graham.Rees@Wales.GSI.Gov.UK

Cc : William.Somerfield@Wales.GSI.Gov.UK, Sarah.Price@Wales.GSI.Gov.UK

Subject : Letter re: West Menai

Dear Graham

Find attached a letter that explains our current thinking about the Menai Strait (West) application. I am posting a signed copy too.

Jon King has been working on the application documents that were sent to you originally and he is currently making a few amendments that might provide more clarity and flexibility in the interpretation. We will be in touch hopefully next week concerning this.

If the Menai West operators do want to meet with you on 9 December, then the same venue at Halen Mon is available. I will keep you informed. I would imagine you are quite busy that day so what time would suit you if you were to meet. Unfortunately I

will be busy that day as I am going to the Environment Bill Workshop in Llandudno Junction.

Regards

Sue Utting

Annex F: Correspondence between Mr David Tripp and the Chair concerning Menai Strait West Fishery Order application.

From: Tripp, David (NR - Marine & Fisheries) [mailto:David.Tripp@Wales.GSI.Gov.UK]
Sent: 02 December 2014 13:30
To: 'sutting003@btinternet.com'; Somerfield, William (NR - Marine & Fisheries)
Cc: 'david@halenmon.com'; 'jim@awjmarine.co.uk'; 'trevormussels@yahoo.com'; 'j.w.king@bangor.ac.uk'; 'jamesmussels@gmail.com'; 'theoysterman@btopenworld.com'; Rees, Graham (NR - Marine & Fisheries)
Subject: RE: RE: Letter re: West Menai

Dear Sue,

I thought it would help if I tried to clarify beyond all doubt. We have been clear from correspondence and meetings over a long time that MSFOMA would like a 28-year Order. We have also made clear to you for some time that Welsh Ministers are only able to consider granting a 7 year Order at this time, as Bill's mail of 26 November confirmed. We would like to be able advise the Minister of the latest position as soon as possible, and to recommend how to proceed, so that the application can be determined. Your latest mail confirms that a 7-year Order is not desirable from your perspective. In those circumstances, we would seem to have little option other than to recommend that no Order be granted, since the maximum length that we could recommend (7 years) is "inappropriate" in your view.

Best regards,

David Tripp

Head of Strategy, Marine and Fisheries Division, Welsh Government; Cathays Park, Cardiff
Pennaeth y Strategaeth, Is-adran Môr a Physgodfeydd, Llywodraeth Cymru; Parc Cathays, Caerdydd
Tel/Ffôn 02920 82 3553; mobile/ffôn symudol 07814 557 882; david.tripp@wales.gsi.gov.uk <')><

From: N UTTING [mailto:sutting003@btinternet.com]
Sent: 01 December 2014 14:24
To: Somerfield, William (NR - Marine & Fisheries)
Cc: david@halenmon.com; jim@awjmarine.co.uk; trevormussels@yahoo.com; j.w.king@bangor.ac.uk; Tripp, David (NR - Marine & Fisheries); jamesmussels@gmail.com; theoysterman@btopenworld.com; Rees, Graham (NR - Marine & Fisheries)
Subject: Re: RE: Letter re: West Menai

Hi Bill

Yes, I am responding to your e-mail of 26/11/14 where you say that you can only proceed in preparing paperwork for a FO for 7 years. MSFOMA has discussed with the Menai West operators over many months and with WG officials that we still hope for the 28 years that we requested at the outset. A FO for seven years is inappropriate for the businesses concerned.

Regards

Sue Utting

-----Original message-----

From : William.Somerfield@Wales.GSI.Gov.UK

Date : 01/12/2014 - 14:15 (GMTST)

To : sutting003@btinternet.com

Cc : theoysterman@btopenworld.com, David.Tripp@Wales.GSI.Gov.UK,
trevormussels@yahoo.com, david@halenmon.com, j.w.king@bangor.ac.uk,
jamesmussels@gmail.com, Graham.Rees@Wales.GSI.Gov.UK,
jim@awjmarine.co.uk

Subject : RE: Letter re: West Menai

Dear Sue

I'm sorry if I gave you the impression that I thought that MSFOMA 'had never said what we wanted for the duration of the Fishery Order for Menai West'.

If you are referring to my latest email to you on 26/11/14, then the wording was very carefully considered, and I did not mean to convey the meaning you mention below.

If not, can you please tell me on what date you received this communicate from me, so I can identify it and respond?

Yours sincerely

Bill

Annex G: Letter from Chair to David Tripp, 26th September 2014

Menai Strait Fishery Order Management Association

Port Penrhyn, Bangor, LL57 4HN

David Tripp
Welsh Government
Sea Policy Executive
Rhodfa Padarn
Llanbadarn Fawr
Aberystwyth
Ceredigion
SY23 3UR

26th September 2014

Dear David

LEASED AREAS IN THE MENAI STRAIT OYSTER AND MUSSEL FISHERY ORDER 1962

I am writing further to the letter sent by Rebecca Evans AM, Deputy Minister for Agriculture and Fisheries granting consent to the creation of new leased areas in this Fishery Order area. The Members of MSFOMA have all noted the Minister's consent, and we shall meet to determine our formal response to the consent letter at the next MSFOMA meeting on the 10th October 2014 in Porth Penrhyn.

In the meantime we have a number of queries about the letter that you will no doubt be able to answer ahead of the meeting to help me to ensure that the Association is fully briefed before determining its course of action.

1. Date of the letter

This is a minor query, but could you confirm that the Minister signed the letter on the 4th September and not the 4th August? We suspect it was the later date because both you and the Minister indicated that the letter had not been signed when you met with Trevor Jones, James Wilson and Jim Andrews in Cardiff on the 3rd September. Some of our Members have been concerned that the letter may have been held up in the administrative machinery and I would like to reassure them that this is not the case.

2. Conditions

The consent is subject to a number of conditions (such as limiting the size of dredger to 10m, using a single 2m dredge; and restricting the density for relaying mussels to <40t/ha in intertidal areas and <100t/ha in subtidal areas). These are clearly prescriptive practical conditions, rather than conditions that have been designed to address legal issues. We therefore presume that the conditions were based upon scientific and technical information about the mussel cultivation practices used in the Menai Strait and their impact on wildlife in the area.

We note that the documents provided in support of the HRA for each leased area include a description of proposed activities, and it seems that these descriptions have been misunderstood and conflated to create an inappropriate set of conditions.

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

In summary, the two HRA documents submitted by the applicants propose the following activities:-

- Bangor Pool
 - This area is suitable for cultivating larger mussels at a density of up to 100t/ha
 - It is not thought that this area is suitable for seed mussels, (but it is proposed that this should be trialled on the site)
 - The proposal includes an explanation of the mussel cultivation process that refers to seed mussel relaying densities of 25-40t/ha.
- Ballast Bank
 - The applicant will clear the central gutter in this area using twin 2m dredges to remove old mussels.
 - The applicant proposes to move seed from higher parts of Ballast Bank into the central gutter using a dredge.
 - Seed may also be relayed in this area from other (unspecified) areas in accordance with the BMPA Code of Good Practice.
 - It is proposed to harvest mussels from the area using an 8-10m dredger with a single dredge (width unspecified).

We would draw your attention to the fact that the Bangor Pool proposal makes no reference to vessel size, the number of dredges that would be used to harvest mussels, or the size of such dredges. Likewise the Ballast Bank proposal makes no reference to relaying densities. Neither proposal makes any reference to "adult" mussels. Neither precludes the possibility that "adult" mussels might be relayed on intertidal areas and seed mussels in subtidal areas.

The Members of the Association are familiar with both applicants' proposals, and consider that the proposed conditions for the consent have conflated and confused the details of each application to produce a set of conditions that are unsuitable for both operations. The applicants and Members of the Association have raised a number of queries with me about this, and I have summarised their queries below. I hope you will be able to assist me by providing a response to these matters.

a) Vessel size constraints

Although the proponents of the Ballast Bank area propose to use an 8-10m dredger, no such proposal has been put forward for the Bangor Pool area. There is therefore some surprise about the formal application of constraints on vessel size and dredges for mussel cultivation. The conditions for the new areas are at odds with the established cultivation practices used in all of the other areas in the eastern Menai Strait. Throughout this Fishery Order, mussels are typically cultivated using vessels of between 26-43m length, and using up to 4 dredges.

The cultivation practices in the Strait are well established, and no concerns have ever been raised by NRW (or its predecessors) with the Association (or its predecessors) about adverse effects on wildlife in this area resulting from either the size of a mussel dredger or the number of dredges towed by the dredger.

The imposition of the vessel size condition for both areas, and in particular for Bangor Pool, appears to be unwarranted. I hope that you will be able to review this decision, which seems to have arisen from a misunderstanding of the documents submitted.

b) Relaying densities

The mussel farmers from the Menai Strait expressed some concern about the introduction of constraints on mussel relaying densities. Again, these have never been imposed on mussel farmers in the Fishery Order at any time in the past 50 years. We are also not aware of such constraints being imposed by Government on any of our commercial rivals, either within or outside Natura 2000 sites.

Again, it would appear that there has been a misunderstanding of the descriptive nature of the information submitted. The Ballast Bank applicant made no suggestions about relaying densities at that site (these will be determined over a period of time for this area, as they have been elsewhere in the Fishery Order). The applicant for Bangor Pool made reference to relaying areas, but may also find it expeditious to relay mussels at a density of more than 100t/ha in subtidal areas from time to time.

I would very much appreciate a review of the decision to impose these constraints, which would seem to serve no fisheries or nature conservation purpose that we are aware of.

c) Constraint on relaying adult and seed mussels

We note that condition 5 permits the relaying of mussel seed in intertidal areas and condition 6 permits the relaying of adult mussels in areas below Chart Datum.

These conditions raise a number of concerns:-

- i) When do you consider a mussel reaches adulthood? Is this the age or size of first maturity; or is it the size at which the mussel attains the MLS that applies to wild fisheries (i.e. 45mm). It would be helpful if this term was clarified. It is not mentioned in either of the applicants' documents.
- ii) Does this mean that within the new "Ballast Bank" area, all of which lies above Chart Datum, it would be a breach of the conditions to relay any "adult" mussels (however defined).
- iii) Does this also mean that within the new "Bangor Pool" area, nearly all of which lies below Chart Datum, it would be an offence to relay any "mussel seed" (however defined).

As mentioned above, it is anticipated that the Bangor Pool operator will use that area mainly for the on-growing of larger mussels, but the proposal specifically mentions that on-growing of smaller mussels will be trialled here. The Ballast Bank proponent has not precluded the possibility that larger mussels might be relayed on the site, even though this is not likely to form a major part of their activities.

We would very much welcome your clarification on this matter so that we can provide clear guidance to the operators about the intent of the conditions, and subsequently provide you with an informed response to them.

d) Boundaries of areas

The consent letter refers to a set of points (A-I) with corresponding latitudes and longitudes. These are all in the vicinity of the new Ballast Bank leased area. The applicant for this area listed 8 points (A-H). We are not certain of the origin of the new point "I" that is listed in the Minister's letter.

I wonder if you could perhaps double-check these points and also include a set of points that correspond to the boundary of the proposed Bangor Pool area, which is presently omitted from the Minister's consent letter.

e) Impact on WG Strategic Objectives

You may recall that during our meeting with the Minister on the 3rd September we made the point that the Welsh Government's strategic objective of doubling cultivated mussel production by 2020 is being thwarted by administrative problems. At that time the key concern was that WG legal advice was consistently obstructing the creation of new Fishery Orders.

The conditions set out in the Minister's letter have added to the challenges of meeting the objectives set out in the WG Marine and Fisheries Strategic Action Plan. The proposal to limit dredge size, dredger length and relaying densities would all make cultivation in the new areas commercially inviable. If it is the intention that mussel cultivation in Wales should be subject to such constraints (which as we note above are not applied to businesses outside Wales that are in competition with our local companies) then it would seem that the WG Strategic Objectives for aquaculture shall never be achieved, and the Minister should be advised accordingly.

We are certain that the Minister must have been advised of how her decision could affect the delivery of the Government's strategic objectives (particularly since we had mentioned this to her the day before), and would appreciate sight of the briefing given to her in this regard to help us fully understand the basis of her decision.

I imagine that the information we request is readily available because it must have been presented to the Minister to inform the decision that she took prior to issuing consent for cultivation in these new areas. I therefore anticipate that you will be able to respond to our request readily. If you require a more formal request for the release of this information, I would be happy for you to regard this letter as a request for sight of all documents relevant to the Minister's decision on this matter (including but not limited to reports, letters and e-mails) submitted in accordance with the relevant sections of the Environmental Information Regulations 2004 and the Freedom of Information Act 2000 if you need to.

3. Vires of the Minister's conditions

You will appreciate that the Association, as Grantee of the 1962 Order, has certain obligations. In particular we are aware that if we take a decision that is unreasonable or ultra vires and has a commercial impact on lease holders, our decision is open to challenge. In this regard we would welcome some evidence that the conditions associated with the Minister's consent are within the scope of the powers set out the Sea Fisheries (Shellfish) Act 1967 or the Menai Strait Oyster and Mussel Fishery Order 1962. We can find no facility in either piece of legislation for the Minister to associate conditions with her consent. There is, however, express provision for the Grantee to do this (under §8(1) of the 1962 Order).

You will recall that we have very recently been told by WG lawyers that the Minister's capacity to set out constraints within a Fishery Order made under the 1967 Shellfish Act is limited by what is allowed, in the lawyers' words, "on the face of the Act". This advice was provided in relation to the development of shellfish cultivation under a proposed new Fishery Order for the Menai Strait West, and was considered to be an insurmountable obstacle that would prevent the creation of a Fishery Order that would include constraints and conditions on cultivation that were intended to protect marine wildlife in the Conwy Bay and Menai Strait SAC.

I am very concerned that if the Association should implement these or any other Ministerial conditions, we could be acting illegally because there is no express provision "on the face of the Act" (or 1962 Order) for such conditions. I would very much welcome some guidance from you on this matter, and I have an inkling of hope that this guidance might also help us to resolve the deadlock with the Menai Strait West Fishery Order.

I would also welcome your advice on the grounds that may exist for this Association to take any enforcement action against a lessee that breached any of the conditions set out in the letter, given that the conditions do not directly link to any wording "on the face of the Act", or indeed the Order. Your advice on this matter would be a great reassurance to us.

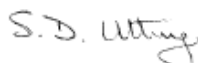
4. Next meeting of the Association

The next meeting of this Association is on the 10th October in Porth Penrhyn. We are keen to determine the arrangements for leasing so that these areas can be brought into production this year (if there is any further delay it may not be possible to start cultivation until 2015).

We would very much appreciate your response to the queries above before the 10th of October. If you or one of your colleagues would like to attend the meeting, you would be very welcome indeed.

If you have any queries about this letter, please do not hesitate to get in touch with me.

Yours sincerely



SUE UTTING
Chair, MSFOMA

Cc Rowland Sharpe, Natural Resources Wales
David Jarrad, Shellfish Association of Great Britain

Annex H: Letter from David Tripp to Chair, November 2014

Rebecca Evans AC / AM
Y Dirprwy Weinidog Amaeth a Physgodfeydd
Deputy Minister for Agriculture and Fisheries



Llywodraeth Cymru
Welsh Government

Ms S Utting
Menai Strait Fishery Order Management Association
Port Penrhyn,
Bangor,
LL57 4HN

November 2014

Dear Ms Utting,

**LEASED AREAS IN THE MENAI STRAIT OYSTER AND MUSSEL FISHERY ORDER
1962 ("the 1962 Order")**

Thank you for your letter and the report dated 11 April 2014 regarding your wishes to gain my consent for designating and leasing two new layings to local mussel farmers within the fishery area created by the 1962 Order.

After due consideration of the details of the proposals and all other relevant factors, I issue the consent below as Deputy Minister for Agriculture and Fisheries, under authority of the Minister for Economy, Science and Transport, one of the Welsh Ministers and is subject to the Conditions set out below.

The areas where the proposed new cultivation areas fall are within or near the Menai Strait and Conwy Bay Special Area of Conservation ("SAC"), the Traeth Lafan Sands Conwy Bay Special Protection Area ("SPA") and a number of Sites of Special Scientific Interest ("SSSI").

In relation to the nearby SAC and SPA, the Welsh Government has undertaken an environmental assessment (pursuant to Article 6(3) of the Habitats Directive (Council Directive 92/43/EEC) and Regulation 61 of the Conservation of Habitats and Species Regulations 2010 (SI 2010/490)). A copy of our environmental assessment is enclosed as Annex 1 (and referred to in this letter as the "Appropriate Assessment"). Based on the description of the proposed new layings, the leasing of the same and the mitigation action described in the Appropriate Assessment, Welsh Government Fisheries Science Officers have concluded that there will be no likely adverse effects on the integrity of the SAC or SPA as a result of the proposals.

Bae Caerdydd • Cardiff Bay
Caerdydd • Cardiff
CF99 1NA

Wedi'i argraffu ar bapur wedi'i ailgylchu (100%)

English Enquiry Line 0845 010 3300
Llinell Ymholiadau Cymraeg 0845 010 4400
Correspondence.Rebecca.Evans@wales.gsi.gov.uk
Printed on 100% recycled paper

On that basis, I HEREBY CONSENT to the proposed designation and letting of the two proposed new layings within the area of the Menai Strait Oyster and Mussel Fisheries Order 1962 upon the following conditions.

Conditions

1. Once designated as layings, the "Bangor Pool" and "Ballast Bank" layings may be leased to third parties provided that those lease arrangements and the activities permitted therein have been subject to an "Appropriate Assessment" carried out in accordance with §61 of The Conservation of Habitats and Species Regulations 2010 (SI2010 No.490).

Specific conditions for the Ballast Bank Laying

2. The new laying that shall be known as the "Ballast Bank Laying" shall be within the following coordinates which enclose the area in a clockwise direction:-
 - a. 53.2371°N 4.12229°W
 - b. 53.2436°N 4.10526°W
 - c. 53.2435°N 4.09498°W
 - d. 53.2387°N 4.09259°W
 - e. 53.2401°N 4.0801°W
 - f. 53.2372°N 4.07918°W
 - g. 53.2369°N 4.09497°W
 - h. 53.2397°N 4.09682°W
 - i. 53.2362°N 4.12094°W
3. Within this area mussels (*Mytilus edulis*) may be cultivated on the seabed or seashore.
4. Mussels shall be harvested using a vessel that does not exceed 10m registered length.
5. Mussels shall be harvested using a dredge or dredges that do not exceed 2m beam width.
6. Mussels must be deposited at a density of no more than 40 tonnes per hectare within this laying.
7. Mussel cultivation and harvesting activities must not be undertaken within 5m of any *Zostera noltii*.

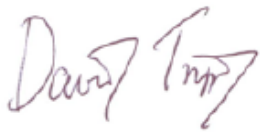
Specific conditions for the Bangor Pool Laying

8. The new laying that shall be known as the "Bangor Pool Laying" shall be within the following coordinates which enclose the area in a clockwise direction:-
 - a. 53.23493°N 4.14406°W
 - b. 53.23768°N 4.13933°W
 - c. 53.24011°N 4.1339°W
 - d. 53.24256°N 4.12743°W
 - e. 53.24138°N 4.12651°W

9. Within this area mussels (*Mytilus edulis*) may only be cultivated on the seabed below the level of Chart Datum.
10. Mussels must be deposited at a density of no more than 100 tonnes per hectare within this laying.
11. Mussel cultivation and harvesting activities must not be undertaken within 100m of any reef feature within a European Marine Site (*sensu* §8(4) of The Conservation of Habitats and Species Regulations 2010 (SI2010 No.490)).

Definitions

12. "Chart Datum" means the datum shown on the Admiralty Chart for Holyhead to Great Ormes Head numbered 1977 (Edition Date 2 July 2013).
13. Coordinates (latitudes and longitudes) listed in this consent are referenced to the WGS84 datum. They are presented as decimal degrees.



David Tripp
Pennaeth y Strategaeth / Head of Fisheries Strategy,
under authority of the Minister for Natural Resources, one of the Welsh Ministers

North West Inshore Fisheries and Conservation Authority Activity

Background

The North West Inshore Fisheries and Conservation Authority (NWIFCA) is responsible for managing sea fisheries, including mussel fisheries, in the coastal waters lying between the Dee and the Solway Firth. This area includes the UK's largest seed mussel resource, which is vital to the ongoing success of the Menai Strait mussel fishery. This report provides a brief update on NWIFCA activities that could have an impact on the Menai Strait mussel fishery.

Recommendation

1. That the Association should note the IFCA's actions with respect to the seed mussel fishery in 2014 and consider if a further response is required
2. That progress with the proposed new Morecambe Bay Fishery Order is noted.
3. That progress with the proposed new vessel size byelaw is noted.

1. IFCA Meetings

- 1.1 Since the last meeting of the Association the IFCA Technical, Scientific and Byelaws Sub-Committee has met (a special meeting on the 13th October 2014 and a scheduled meeting on the 31st October 2014) and a Quarterly meeting is scheduled for the 12th December 2014.

2. Correspondence

- 2.1 The Chair of the Association wrote to the Chief Executive of the IFCA on the 27th October to alert him to concerns about the management of the Morecambe Bay seed mussel fishery and enquire about progress with the Morecambe Bay Fishery Order. A copy of the Chair's letter is attached at Annex A of this report, and the response of the Chief Executive is attached at Annex B. The issues arising from this correspondence are considered in this report.

3. Morecambe Bay Seed Mussel Fishery

- 3.1 Concerns were raised by participants in the dredge fishery about the way that this resource had been managed during 2014. The key concerns were that there had been delays in the opening of the fishery, and about the policy basis and implementation by the IFCA. The IFCA response to these concerns is set out in the Chief Executive's letter.
- 3.2 The Association is advised that the members of the Bangor Mussel Producers Association have met with Morecambe Bay hand gatherers to allay their concerns about the impact of dredging on the seed mussel resource. Hand gatherers' representatives were invited aboard the Mare Gratia to observe dredging activity at first hand. A verbal report on discussions with hand gatherers will be presented to the meeting.

4. Morecambe Bay Fishery Order

- 4.1 The NWIFCA has been working on proposals to establish a new Fishery Order for all of Morecambe Bay for several years. The proposed new Fishery Order would cover all of Morecambe Bay and would establish a Regulated Fishery for cockles and mussels, as well as providing opportunities for shellfish cultivation within Several areas in the Bay.
- 4.2 At the TSB meeting on October 31st the Chief Executive of the NWIFCA submitted a report proposing that the IFCA should not progress with a Fishery Order but should instead use its byelaw making powers under the Marine & Coastal Access Act 2010 to manage mussel and cockle fisheries in Morecambe Bay.
- 4.3 The minutes of this meeting and the resolution of the TSB meeting have not yet been published. Mr Trevor Jones of this Association attended the meeting, and will provide a report on its outcome (and also the outcome of the quarterly meeting) with respect to this issue.

5. Proposed new vessel size byelaw

- 5.1 No progress with this byelaw appears to have been made since it was last considered at the TSB meeting in August 2014. The Chief Executive reported to the Quarterly meeting in September that the TSB had *“requested further discussion on some measures”* and the Officers of the IFCA were to review the byelaw and *“revert to TSB”*.
- 5.2 Progress with this proposal shall be kept under review by the Association.

MSFOMA Secretariat
December 2014

Annex A: Letter from Chair to Chief Executive of NWIFCA, 27th October 2014

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

27th October 2014

Dear Stephen

MUSSEL FISHERY MANAGEMENT IN MORECAMBE BAY

At a meeting of our Association earlier this month we discussed the current and proposed management of the mussel fishery resources in Morecambe Bay. We are aware that your Authority is due to meet to discuss these matters later in the month, and I felt it could be useful to inform you of the nature of our discussions.

1. Seed mussel dredge fishery:

There has been a significant seed mussel resource in Morecambe Bay this year, yet regrettably it seems that the opportunity for this resource to be harvested by dredgers has been limited. The value of the mussels that were eaten by starfish at the end of the summer and which have subsequently been washed away by recent storms is considerable. Sadly this situation appears to have been both predictable and entirely avoidable.

The seed mussel dredge fishery in Morecambe Bay was established after trials and research carried out by my former MAFF colleagues in the late 1960s and early 1970s. Those scientists identified the pattern of recruitment to, and erosion of, the mussel stock on South America and adjacent mussel skears in the northern part of Morecambe Bay. It was clear from the outset of this work that if there is a substantial stock of mussels in this area in the mid-late summer, it will either be consumed by predators (mainly starfish and also sea birds) or swept away in autumn gales. Very few mussels in this area have ever survived their first winter, irrespective of whether it is dredged or not.

The pattern of recruitment and mortality of the mussels that was identified 40 or more years ago has for many years set the schedule for survey, consultation and management of the seed mussel resource. Until recently this has been very successful, and in many years several thousand tonnes of mussels have been harvested from the area with no detriment to mussel stocks in the Bay as a whole or to the underlying seabed habitats.

This year, the management system has failed to deliver a significant harvest from a plentiful resource. Only a few hundred tonnes of mussels have been harvested; many thousands of tonnes have been consumed by starfish and washed away by autumn gales.

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

Our Association is very concerned that a management system that until recently worked so well has encountered significant difficulties this year. We hope that your Authority will take the opportunity to carefully review its management policy and the implementation of this policy. We have made some comments below that may assist in this regard.

a. Policy basis

We note from the report submitted by Scientific staff to the TSB meeting in August that Officers have made reference to legacy policies inherited by the authority from the old NW&NWSFC. The two policies referred to are:-

Background

1. Mussel beds throughout the District are open all year round for the hand-gathering of size mussel (>45mm) by Byelaw 3 permit holders.

2. The NW&NWSFC had a long-standing policy, adopted by the NWIFCA, that harvesting of undersize or seed mussel should only be authorised on beds that are classed as ephemeral – ie. where stock is usually lost through natural processes and rarely forms a size fishery.

3. The NW&NWSFC also had a long-standing policy, adopted by the NWIFCA, that only mussel beds that cannot be safely accessed from the inter-tidal area should be opened to mussel dredging, and only when stock allows.

[Emphasis added]

We wonder if you could advise us and the Authority Members of the following:-

- i) When were these policies adopted by the NW&NWSFC;
- ii) What is the precise wording of these policies;
- iii) What is the cycle for evaluation and review of policies of this type?

We feel that this information would bring a clearer understanding to all parties involved in the management and fishing of this resource.

b. Policy implementation

This summer there has been a significant settlement of seed mussels in an area that has been dredged in the past but which has recently become more accessible from the shore than is normally the case. The mussels in this area rarely, if ever, form a fishery of full size (>45mm) mussels.

Dredge vessel operators have been encouraging IFCA Officers to allow this area to be opened up to dredging. There has been considerable delay in responding to these requests; ultimately they resulted in an emergency meeting of the TSB earlier this month. The TSB resolved that the area permitted for dredging should be extended, but to date this resolution has not been implemented.

We are rather concerned about the delays that have prevented dredging in an area that has been dredged in the past and where dredging would seem to be compatible with the legacy policies outlined above.

In the light of these events, we would ask you to advise us and the Members of your Authority of the steps that will be taken next year to avoid a similar set of circumstances arising.

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

2. Morecambe Bay Fishery Order

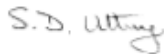
We note that the August 2014 meeting of the TSB considered a report from the Chief Officer and Senior Scientist outlining options for progressing the proposed Morecambe Bay Fishery Order. It was proposed that the application for a Hybrid Fishery Orders should be dropped, and that the Authority should instead look to provide an equivalent management regime using an amended Byelaw 3 and through an application for a Several Order to enable shellfish cultivation in the Bay.

We view these proposals with some concern, principally because this would mean that the Authority would be left with no clear formal mechanism for managing the mussel dredge fishery in Morecambe Bay. The existing arrangements that have been introduced as a temporary measure using Byelaw 3 are far from satisfactory (because Byelaw 3 was never intended to apply to the dredge fishery).

We feel that it would be helpful if Officers could draw this key point to the attention of the Authority in their consideration of this issue, as its omission from the report submitted to the August TSB meeting and any subsequent debates could lead the Authority to take a decision that it comes to regret.

We hope that these comments are helpful, and trust that you will bring them to the attention of the Authority. Please do not hesitate to get in touch if you would like to discuss the issues raised in this letter.

Yours sincerely



SUE UTTING
Chair, MSFOMA

cc Trevor Jones
James Wilson
Kim Mould
David Jarrad, SAGB
Ron Graham, Chair NWIFCA TSB
Cllr A. Markley, Chair NWIFCA.

Annex B: Response to Chair from Chief Executive of NWIFCA, 10th November 2014

NORTH WESTERN INSHORE FISHERIES AND CONSERVATION AUTHORITY

www.nw-ifca.gov.uk

E-mail: office@nw-ifca.gov.uk



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STEPHEN ATKINS, PhD

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OUR REF: SMA/IVA/D.1.16.1

YOUR REF:

Sue Utting (by email)
Chairman
MSFOMA
Port Penrhyn
BANGOR,
Gwynedd, LL57 4HN

10th November 2014

Dear Sue

1. Mussel Fishery Management in Morecambe Bay

The comments of the MSFOMA in your letter of 27th October are noted. You will be aware that the Authority has already had 3 extra meetings on this fishery in October and a further one is planned in addition to the routine TSB meetings in August and October and discussion at the full Authority in September. Despite this effort, the issue is not yet resolved. The level of resource which the Authority is committing to this fishery is far above that which would normally be expected and the budget allocated.

Your first paragraph requires qualification. Our surveys indicated that the seed this year was largely accessible to hand workers with relatively little on South America and Falkland skears. Officers discussed Trevor Jones' findings with him earlier in the year and accompanied him on one inspection. On 2 occasions having seen the stock on the ground he commented that there was unlikely to be a dredge fishery this year. Following strong representation from the industry we nevertheless agreed to open the fishery but with reduced effort by limiting the number of vessels authorized. A further factor was that in contrast to most years, some seed survived over winter 2013-4 on South America (therefore it was not fully ephemeral) which appeared to give the starfish an early bonanza resulting in heavy predation early in the year.

In previous years, when the offshore seed stock has been poor the dredge sector has accepted the situation and no dredge fishery has taken place. Following an exceptionally good dredging year in 2012 and two good years in 2011 and 2013, Officers were very surprised to find your operators pressing so hard for areas outside the historical Fishery Order area. Hindsight is very powerful but I do not see how this situation was either predictable or avoidable.

This leads me to question your similar point in the 4th paragraph. We do not think the resource for dredging was plentiful.

The Authority has used the same policy framework for managing the seed mussel resource this year as in the past years since I came into post in 2005 and before. The guiding policies are broadly as you set out. I would have to undertake some historical research to find out when these policies were formulated and how they were originally worded but it is likely that they were established under the 1978 Fishery Order.

The policies are just that. They are not byelaws or strict rules. Since expiry of the Order, they are discussed and confirmed each year in response to the stock present and changes in the shoreline and substrate of Morecambe Bay. This is why there have been differences in the authorised areas in recent years. The Authority has responded and adapted to changing circumstances and new requests from stakeholders.

Various points in your section b are disputed. At least some of the area we have called Box 1 is not normally authorised for dredging because of its proximity to the intertidal and uncertainty about the extent to which seed there is ephemeral. As it has become more accessible to hand working in recent years as a result of sediment changes, this means that under the NWIFCA policy it is less likely to be authorised for dredging. Over the last year, hand workers claim the area has yielded a good size mussel fishery. We recognise the excessive pressure from your operators (encouragement in your words) but do not accept the accusation of excessive delay in respect of an area that we know at least in part did not qualify for dredging under NWIFCA policy. Questions have arisen over the data presented to the Authority on 13th October by your operators which lead to uncertainty over the industry description of the box 1 area as inaccessible to handworkers.

As you know, the Authority authorised a main area and 2 extensions in September. The level of work for these was considerable. This appears to be unappreciated and not understood by your operators. The deadlines expected by operators have been unrealistic, however Officers have responded as swiftly as possible in carrying out amendments to HRAs, consulting with Natural England and issuing authorisations. In some cases new survey and mapping were needed and in all cases a new impact assessment and agreement with Natural England were required. NWIFCA officers have done 3 new authorisations in less than 2 months, the last as you know highly controversial requiring considerable new work. This was actually implemented on the day your letter was received about 6 weeks after the application was received. We consider this a significant achievement but I readily admit that proper consultation was not carried out because of the pressure placed on Officers. For August – October, most other NWIFCA work has been postponed and continues to be so as the dredge sector maintains the pressure on the Authority wanting to fish again next week even though there is now negligible seed available.

For the future a new Morecambe Bay Mussel Management forum is planned although any funding needed is not in place. The Authority will set out a more specific timetable for processing new applications as the historical 'as soon as possible' approach is no longer acceptable. More consultation with all stakeholders will also be needed in future on the evidence used to justify fisheries and the area and duration of authorisations.

2. Morecambe Bay Fishery Order

This issue has moved on since your letter and a further paper was presented to the TSB on 30 October but not properly discussed. I would ask you to consider that paper and comments are invited.

The paper is intended to present options to the Authority in a balanced way including the points you raise. You will be aware that I have a detailed understanding of Fishery Orders having managed your Menai Strait Orders for 5 years and contributed to the Gallows Point fight. We should therefore have a well-informed discussion in due course. I believe the information from Defra and comments in the paper is a fair account of the pros and cons of an Order and shows the power of the new byelaw regime. The legislation underpinning Orders is now very out of date and difficult to implement. I note a number of other IFCA are thinking along the same lines but it will be up to the NWIFCA to make its own decision on how to proceed. I will seek to implement whatever is that decision.

The Authority is not and should not be left without a formal mechanism for managing the dredge fishery and I accept the current position is inadequate. We already have a management plan prepared for the Order which can be put to the proposed mussel management forum for development, updating and implementation. I believe the quickest route to a solution is the new Byelaw 2 (Vessel size and gear restrictions) which if implemented will include provision for managing dredging in a similar manner to the provisions of the Morecambe Bay Order and NWSFC byelaws. Your comments are invited on this draft byelaw.

This issue and a number of others have been delayed for 3 months by the seed fishery as well as ongoing pressure from the Defra EMS programme. If the Authority wishes to make progress on important other areas of work, it is vital that Officers have time available.

I trust this answers the points raised by MSFOMA but please let me know if you have further questions.

Yours sincerely

Stephen Atkins
Chief Executive

Cc by email: David Jarrad, Kim Mould, James Wilson; Trevor Jones, Ron Graham, Tony Markley, Mandy Knott.