

## Menai Strait (West) Fishery Order

### **Background**

A Fishery Order operated in the western end of the Menai Strait between 1978 and 2008. This Order enabled the cultivation of some mussels and oysters in that area. The previous participants in that fishery are keen to re-establish the Fishery Order and for MSFOMA to assist with its management.

### **Recommendations**

1. Consideration should be given to an invitation for MSFOMA to act as Grantee for a proposed new Fishery Order in the western Menai Strait.
2. If MSFOMA is minded to accept this invitation, some terms of reference should be drawn up to define the scope of the proposed Order and any duties and responsibilities arising from it.

### **1 History**

- 1.1 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<sup>rd</sup> March 2008.
- 1.2 This Fishery Order established four areas on the seashore at the western end of the Menai Strait where mussels, oysters and clams could be cultivated. These areas are illustrated in Figure 1 below.

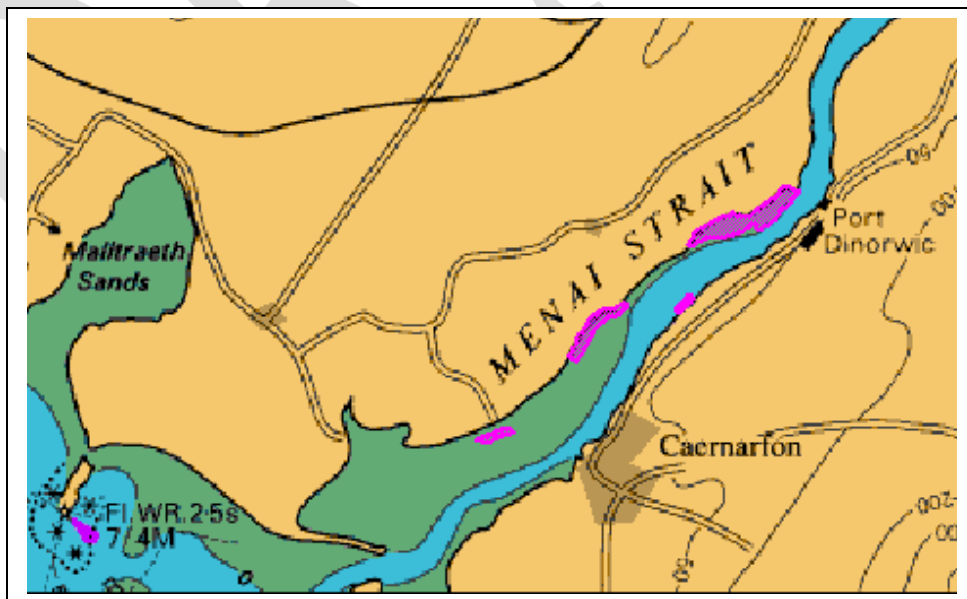


Figure 1: Boundary of the Menai Strait (West) Oyster Mussel and Clam Fishery Order 1978.

- 1.3 The four areas illustrated were initially subdivided into separate plots, which were trialled by various different operators with limited success. During the last few years of the Order's operation, there were four lease holders operating in the area. One of these operators was operating a successful oyster cultivation operation; two others were trialling different cultivation methods; and the final operator was Mr Trevor Jones, one of the shellfish farmers from the eastern Menai Strait who was trialling the bottom culture of mussels in his leased areas.
- 1.4 The Order expired because in 2008 there was an impasse over the creation of new Orders, and the North Western and North Wales Sea Fisheries Committee had decided in 2006 that renewal of this Order could not be progressed.

## **2 Recent developments**

- 2.1 In November 2010, Mr Trevor Jones wrote to the Chairman of this Association about the possibility of working in partnership to re-establish the Menai Strait (West) Fishery Order. A copy of this letter is attached at Annex A of this report.
- 2.2 Mr Jones has asked whether MSFOMA could be the vehicle to accept a new Order in the western Menai Strait. In essence he is asking whether MSFOMA could act as grantee for this Order.
- 2.3 The Chairman has discussed these proposals with Mr Jones, and offered to table his request to this meeting.

## **3 Options for progress**

- 3.1 MSFOMA has been specifically created to act as the Grantee for the eastern Menai Strait Fishery Order. Its constitution and terms of reference are therefore suited to the task of acting as Grantee of another Fishery Order in the western Menai Strait. There is no fundamental reason why MSFOMA could not act as Grantee for a new Order in the western Menai Strait (although some specific amendments may be required to enable this).
- 3.2 While MSFOMA might act as Grantee for a new Fishery Order, the task of applying for an Order is a different matter. An application for a Fishery Order can be a significant undertaking. Government will only consider Fishery Order applications that are supported with a management plan and have been subject to adequate consultation with stakeholders.
- 3.3 Mr Jones has not asked MSFOMA to carry out these activities, and it is understood that he is working with the other 3 lease holders from the 1978 Order to undertake these tasks.
- 3.4 If MSFOMA opts to volunteer to act as Grantee for any future Order, it would be appropriate to define broad terms of reference for both the Order and for MSFOMA's likely responsibilities under it in advance.

January 2011

**Annex A.**

**Extramussel Ltd.**

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Dr. Sue Utting  
Chair, MSFOMA  
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11th November 2010

Dear Sue,

**Re: Menai West Order, Formation of Management Association**

I have been charged by my fellow layholders in the Menai West to try and establish some form of association to receive the lapsed West Several Order.

It has become apparent whilst trying to do so that rather than trying to form a completely separate association, a more elegant solution may be for the Menai Strait Fishery Order Management Association to be the vehicle to accept the West Order.

Given the political goodwill which seems to be emanating from WAG for the Order to be made as soon as possible, I wonder if it would be possible for this topic to be tabled for discussion at the next meeting of MSFOMA in January?

Please don't hesitate to contact me should you require any further information.

Kind regards,  
Yours sincerely,



Trevor Jones

c.c. Mr. Chris Guy  
Mills Selig Solicitors  
Belfast

## **Proposed Morecambe Bay Fishery Order**

### **Background**

Morecambe Bay is the source of most of the seed mussels that form the basis of the Menai Strait mussel fishery. The North Western Sea Fisheries Committee has recently set out proposals for a new fisheries management regime for Morecambe Bay. These proposals are briefly reviewed here.

### **Recommendations**

3. The NWSFC proposals for a Morecambe Bay Fishery Order should be cautiously welcomed.
4. Clarification should be sought on those aspects of the proposal that have not been clearly specified before a more considered response is made.
5. The NWSFC should be asked to include MSFOMA and the Menai Strait mussel fishermen in its future consultation activity on this proposal.

## **4 Proposals**

- 1.5 A "Fishery Order" that would change the management regime for cockles and mussels in Morecambe Bay has been proposed by the North Western Sea Fisheries Committee (NWSFC). It is proposed that a "hybrid Order"<sup>1</sup> should be made under the Sea Fisheries (Shellfish) Act 1967.
- 1.6 The NWSFC have proposed that the Grantee for this Order should be the North West Inshore Fisheries and Conservation Authority (NWIFCA) that will be established on 1<sup>st</sup> April 2011. It is proposed that the new Fishery Order should come into force on 1<sup>st</sup> September 2011 for a period of 30 years.
- 1.7 A consultation exercise on the proposed Morecambe Bay Fishery Order was initiated by the NWSFC in November 2010. A copy of the consultation document is attached at Annex A of this report. This document describes a future management regime where all shellfish gathering by hand in Morecambe Bay will require a licence that will have a cost associated with it. This document does not mention dredging for mussels.
- 1.8 A copy of the draft Management Plan for the Fishery Order has been obtained from the NWSFC. This is only being issued as a hard (paper) copy. The management plan sets out the proposals for managing hand gathering in more detail, and also sets out proposals for managing the dredge fishery in Morecambe Bay. These are considered in more detail below.

## **5 Proposals for managing mussel dredging in Morecambe Bay**

- 5.1 Morecambe Bay is an important area for the Menai Strait mussel fishery. It is the main source of the seed mussels that are the basis of the Menai Strait industry. Several thousand tonnes of seed mussels are dredged from Morecambe Bay and transported to the Menai Strait annually.

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<sup>1</sup> See section 3.1 for an explanation of this terminology.

- 5.2 The key proposals in the November 2010 draft Management Plan that relate to dredging for mussels in Morecambe Bay have been considered in this context. The proposals that may have an effect on the Menai Strait fishery are summarised here.
- 5.3 The document indicates that dredging on ephemeral seed mussel beds in the Bay will continue to be authorised as before; however it is proposed that the number of dredging licences issued per year may be limited (no number is specified) (section 3.6.2.2 of the draft plan).
- 5.4 Applications for dredging will be considered in full consultation with an “Environmental Forum” (section 3.7.1.1 of the draft plan). This consultation may result in controls on the size of dredges, spatial and temporal restrictions, and “*any other controls deemed necessary*”. The composition and role of this Environmental Forum and another body, the Environmental Steering Group, are not clearly specified.
- 5.5 Licences for dredging will be issued on a first come, first served basis to the owners of vessels with a track record of seed mussel dredging. Licences to operate in the fishery order area will only be issued to vessels designed for the purpose of dredging seed for relaying that are registered under the Merchant Shipping Act and that have a Special Licence to Dredge Seed Mussel (MUS 1) (section 3.6.1.2 of the draft plan).
- 5.6 The size, number and pattern of dredges that may be used in dredging for seed mussels in the Bay will have to be approved by the IFCA. The type of dredge that might be acceptable has not been specified (section 3.3.2 of the draft plan).
- 5.7 Proposals for charging for vessel dredging licences are set out. Charges will be “*decided annually based on vessel length and catching capacity*” but the charging structure has not been determined (section 3.6.3.2 of the draft plan).
- 5.8 Provisions are put forward to limit the transfer of licences between vessels (section 3.6.4 of the draft plan).
- 5.9 There appear to be some proposals in the plan that may limit the crew of fishing vessels to no more than two: the licence holder who is eligible to gather shellfish, and “*a second person solely to assist in the navigation and handling of a boat. There will be no authorisation for said person to assist the licence holder in gathering the shellfish.*” (section 3.6.4 of the draft plan).
- 5.10 Overall, these proposals seek to replicate and strengthen the management regime for the seed mussel dredge fishery in Morecambe Bay. There are some aspects of the proposals that have not been clearly specified in the management plan (notably the number of dredge licences likely to be issued; fees likely to be charged; and specification of dredges) which could significantly influence the effect of these proposals on the seed mussel fishery that is so vital for the Menai Strait.
- 5.11 It would therefore seem appropriate to cautiously welcome the proposals, and to seek clarification from the NWSFC on those aspects of the proposals that have not been clearly specified, so that a more considered response can be made.

## **6 Other issues**

- 6.1 The consultation arrangements for these proposals give rise to some concern. None of the Menai Strait operators, who have been fishing for seed mussel in Morecambe Bay for around 20 years, were consulted by the NWSFC over these proposals. MSFOMA has also not been consulted. The proposals came to light during chance discussions with other fishermen, and then in subsequent discussions with NWSFC staff.
- 6.2 It would seem appropriate to ask the NWSFC to include all of the Menai Strait operators and MSFOMA in its future consultations over these proposals.

## **7 Sea Fisheries (Shellfish) Act 1967 and Fishery Orders**

- 7.1 The Sea Fisheries (Shellfish) Act 1967 sets out a framework for managing “several” and “regulated” fisheries under “Fishery Orders”, which are Statutory Instruments made under the Act by the relevant Minister.
- 7.2 A “regulated” shellfishery is one where fishing effort can be controlled by limiting the number of participants. A “several” shellfishery is one where the right of fishery is assigned to an individual, essentially creating a private fishery for a particular species. A “hybrid” Order is one that combines the power to regulate a fishery and the power to create several fishery areas within one Statutory Instrument. The Menai Strait Fishery Order is an example of a hybrid Order.

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## Morecambe Bay Hybrid Fishery Order

Update for NWSFC Joint Committee

### **Background**

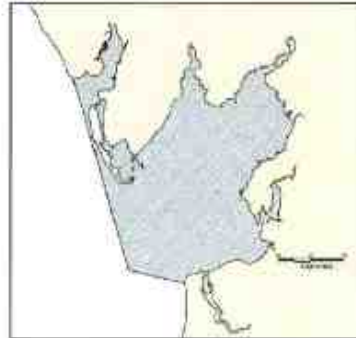
The North West Sea Fisheries Committee intends to apply for a Hybrid Fishery Order to govern shell fishing in Morecambe Bay and the Duddon Estuary. Under the Marine and Coastal Access Act 2009 Sea Fisheries Committees will be replaced with Inshore Fisheries and Conservation Authorities (IFCAs). An IFCA committee has already been formed and is running alongside the NWSFC with limited powers until it takes over fully on April 1<sup>st</sup> 2011. The new North Western IFCA has been formed by the amalgamation of the NWSFC with Cumbria SFC. For ease of understanding and due to the fact that the Order will not come into effect until after the change-over, within this update, the organisation will be referred to as the NWIFCA (the Authority).

Due to changing economics over recent years, managing the mussel and cockle fisheries through byelaws alone has become increasingly difficult and burdensome in terms of enforcement and administration.

The Order will enable us to control fishing intensity and better balance interests of stakeholders. The objective is to develop a modern, professional and sustainable molluscan bivalve fishery, with provision for the development of cultivation and aquaculture.

### **What is proposed?**

The Order will cover the whole of Morecambe Bay and the Duddon Estuary seaward from Mean High Water to the line shown on the map. It will apply to all bivalve shellfish to ensure that future developments in the fishery can be managed appropriately. Fishing for finned fish will not be affected under the Order.



The existing NWSFC Byelaw 5 permit scheme will be replaced by a regulated licensing system established to control fishing intensity, method of fishing and time spent fishing. A limit of 200 hand-gathering licences per year (including ten 'kept back' for a Young Persons Apprenticeship Scheme) has been set, allocated on the basis of experience of active and material participation in the commercial Morecambe Bay fishery. Initially they will be allocated to those having had a permit every year continuously since the permit scheme began in 2003.

In October, it was calculated that 155 persons would be eligible for licences under this criteria. Any initial shortfall between this number and the total licence allocation of 190 will be made up from a waiting list.

Licences will be issued to individuals and will not be saleable or transferable between fishers.

The waiting list will be established for people wishing to participate in the fishery as licences become available i.e. due to the initial anticipated shortfall or when licence holders retire from the fishery. Any previous permit holders may apply for a licence, which will be allocated on a points

system. Applicants will qualify for 10 points for each year they held a permit under the byelaws, and will be ranked on the waiting list accordingly. When a licence becomes available it will be allocated to the applicant with the highest score. In the event of a tied score, a random draw of tying applicants will be used to break the tie and determine the licence allocation.

A licence levy will be administered for the direct improvement, development and benefit of the fishery, including enforcement, and the costs of the eventual renewal of the Order. The hand-gathering levy is likely to be between £860 and £1230.

Catch returns are to be submitted monthly within 7 days of the end of the month, including nil returns, when beds are open. Non compliance will result in a penalty endorsement of the licence.

Fishing will only be allowed from one hour before sunrise to one hour after sunset. As circumstances dictate, the Authority reserves the right to introduce weekend closures. The annual seasonal closure for cockles, from 1<sup>st</sup> May to 31<sup>st</sup> August will continue. Subject to stakeholder consultation, the Authority may close any cockle or mussel bed or part thereof within the Order either permanently or temporarily for the purposes of fisheries management.

The Authority reserves the right to limit the catch for all or part of the open season - i.e. to set TACs or bag limits, based on the best available scientific data.

From time to time, the Authority may approve derogation from the MLS for mussels to allow for the hand gathering of a specified tonnage of undersized mussels by licence holders in specified areas. Prior to fishing, licence holders must obtain an endorsement to collect seed from such areas.

Access to and from the fishery will be via designated access and landing points, and may be subject to specific restrictions. The use of two-wheel drive vehicles on the shellfish beds shall be prohibited.

Where not already implicit e.g. public right of way, landowners permission must be obtained to use other access points and any permissions attached observed as part of the conditions of the licence. Due consideration will be given to

requests from licence holders to expand the designated access and landing points.

To assist the Authority in promoting development of and investment into the fishery with attendant benefits to the local economy, further licences or leases may be granted allowing fishing operators exclusive rights to cultivate shellfish within smaller, specifically negotiated Several Areas.

#### **Latest News**

Previous consultation revealed a high degree of support for the Order. Since August 2010 progress has been made with meetings with DEFRA and the Environmental Forum, to assist in developing the draft Management Plan and Appropriate Assessment for the first five years of the Order (anticipated as being 2011 – 2016).

These are now open to public consultation, with the full draft Management Plan or an abridged summary available from the Camforth office. These document the main measures proposed for management of the fishery, and stakeholders have been invited to send any comments, observations, objections or letters of support to the Camforth office.

To date there has been a large number of calls coming in to the office, mainly from existing permit holders anxious to know whether they were likely to be amongst the first tranche of licence holders. When answering their queries, efforts have been made to engage them in further discussion to gauge their level of support. Generally long-standing fishers welcome the moves to a more professional and regulated hand-gathering fishery.

Requests for full copies of the draft Management Plan have been received from the North Morecambe Bay Fishermen's Association and the Morecambe Bay Fisheries Association, Seascoastor (Walney) Ltd, and the Crown Estates.

Concerns raised so far have been around the following issues:

- Fishing hours (from one hour before sunrise to one hour after sunset)
- Young Persons Apprenticeship Scheme
- Proof of *active* employment as a fisher
- Inclusion of a 'non-use' clause to avoid licences being issued but not used.

Efforts will be made to take these and other concerns into account before the final draft Management Plan is produced.



It is anticipated that the next step will be to apply to DEFRA in the New Year to produce a Draft Order. This will be subject to further consultation and providing there are no significant objections, approved by the Fisheries Minister and laid

before Parliament to become law, hopefully by September 2011.

**Bob Houghton and Mandy Knott**  
**Scientific Officers**  
**November 2010**