MINUTE OF MEETING OF THE SPEY DISTRICT FISHERY BOARD IN OPEN SESSION held via video conference session commencing at 9.30 a. m. on Friday 3rd September 2021

## Present: -

**Chairman** Dr Alexander Scott Craigellachie Fishings

**Proprietors** Angus Gordon Lennox Brae Water Trust

David Greer Seafield Estates

Peter Graham Rothes & Aikenway

Guy Macpherson-Grant Ballindalloch

William Mountain Delfur Fishings

Toby Metcalfe Crown Estates

Callum Robertson Easter Elchies

Dr CMH Wills Knockando

**Co-Optees** John Trodden River Spey Anglers Association

**In Attendance** Roger Knight Director

Brian Shaw Senior Biologist

Lisa Forsyth SEPA:

Jennifer Heatley Nature Scotland

Neil Torrance Clerk

**Public Attendees**

**WELCOME,** **INTRODUCTIONS AND CONFLICTS**

On welcoming all to the meeting the Chairman noted that a new representative from SEPA Lisa Forsyth would be joining us this morning. She is the head of the Elgin office and also the chair of the Spey Dam Technical Working Group.

The Chairman also advised as to some amendments to the agenda.

In the Director's report, as he covered it the last time, the Envirocentre 2021 Report, the launch done and the plans which are currently in the closed agenda are all to be brought forward to the Open Meeting and covered as part of the Director’s report.

In relation to the SPEYSCIENTIFIC COMMITTEE **w**hich confirmed with Peter Graham that he is not to go through too much of it as all have seen the minutes

Noted that Jennifer Heatley from NatureScot had submitted a presentation to the Director but that because of the agenda it would be dealt with at the next meeting. Acknowledging the work undertaken by Jennifer Heatley.

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The Chairman asked those present to record any conflict of interest they may have and there were none.

1. **APOLOGIES**

No apologies had been received other than from Grant Mortimer.

1. **MINUTES OF THE OPEN SESSION OF THE MEETING ON 3RD SEPTEMBER 2021**

The Chairman noted that there were no comments as to accuracy and the Minute was proposed by Peter Graham and seconded by Toby Metcalfe for signature by the Chairman.

1. **MATTERS ARISING FROM PREVIOUS MINUTES**

The Chairman asked those present if they wished to discuss any specific action point, or whether they would like an update or further information.

The Chairman asked Angus Gordon Lennox about the SEPA Dipple saga. Angus Gordon Lennox confirming that Scottish Water were in breach of contract, and their advocate was in the process of drafting the papers to sue them as they had just ignored the issue. While they have agreed that compensation is due, they have committed a further breach just the other day, and as such do not appear to be learning very fast.

Peter Graham noting this matter can be linked to the Directors report and the Envirocentre report.

Before moving on the Chairman welcomed Lisa Forsyth from SEPA who had joined the Open Meeting.

1. **DIRECTOR’S REPORT**

The Director confirming at the outset that because of the length of the agenda he will not cover everything in his report, but rather will highlight certain aspects only, while willing to take questions on any part of the report.

**Catches**

In relation to the catches for the spring, almost all of the catches have been collated with only one still to come in. The total is just under 1900, with the one to come expected to take the figure to over 1900.This was about 400 up on last year’s figures and about 100 over the five-year average. The Director commenting that it is important to recognise that local anglers only were fishing the river until 26th April, so the majority of these catches relate to May and June and when looking at what has been happening on rivers elsewhere around Scotland, it is a very encouraging and very positive result for the river. Brian Shaw thought that the Spey was probably on track to have the highest spring catch in Scotland this year.

Reporting that with the Conservation Policy, which had stood at 98% of fish being caught being returned for the last couple of years, this had actually gone up. It is now standing at 99% of all fish caught being released which is a tremendous result for this river. Expressing thanks to the proprietors, ghillies and anglers for their support for the policy.

Sea trout catches were slightly disappointing at 537, below the five-year average of 666. However, once again the Conservation Policy has been strongly supported with 89% of fish caught being released, only slightly down on the 92% last year, but up on the results from 2019.

**Water Abstraction and Spey Dam**

Recalling that he had written to Kate Forbes MSP as MSP for Lochaber and Richard Lochhead MSP following the publicity surrounding the financial challenges faced by GFG Alliance. A response to that was received on 10th June from Kate Forbes, saying that she was going to write to SEPA and to GFG, and subsequently her office forwarded the response from GFG on 7th July. Noting that while the 3-page GFG response went into the history of the Spey Dam and outlined their extensive plans for the future, it really lacked any detail on what they actually had done and put forward multiple reasons for not doing things. Kate Forbes office asked for the Board’s reaction to this and the response that issued highlighted the **20** **years** that the board has been engaged with the issue, which has been largely dominated by prevarication and delay, she was asked for her support in encouraging SEPA to take a very robust regulatory approach towards the owners of Spey Dam and ensure that they comply with the obligations of their licence. That letter has outraged GFG in Fort William with Jahama Highland estates telephoning the Director to explain in some length that it had outraged them.

John Trodden, as chairman of the River Spey Anglers Association, had also written to Richard Lochhead and to Kate Forbes back in March, without responses. He wrote again to Richard Lochhead and received an apologetic letter in response, expressing considerable concern for the state of salmon stocks, and also promising to write to SEPA to ask them how they were going to address those issues, and implement the actions identified as beneficial some years ago - presumed to be reference to the upgrades to Spey Dam. John Trodden very helpfully forwarded the response that Richard Lochhead received just a couple of days ago from SEPA, which directed inquiries to Marine Scotland Science with regards to salmon stocks, but also highlighted SEPA’s work on implementing the Water Framework Directive. The response also declared that sites at Rothes and Spey Dam were “on track to improving fish easement by 2024. In the case of the Spey Dam we are working on securing this improvement by October this year.” The Director commenting that Lisa Forsyth will be invited to comment on this in due course.

The Director then reminding the Board that it had been reported at the May meeting that SIMEC had commissioned FishTec, consultants, to advise on how the implementation and the improvements to the Dam might take place - the artificial lighting and the trial of the notches that are to go into the fish pass. Reported that SIMEC had promised to send a copy of that report, but that not been received as yet.

However, in discussion with Lisa Forsyth about Spey Dam and the need for continuity, she issued assurances that Spey Dam remains a priority for SEPA. Lisa also highlighted that while the Water Framework Directive concludes in 2027, in order to meet that conclusion, the issues at Spey Dam need to be rectified by 2024, so that they can be shown to be working in time for 2027. Suggested that enforcement action was very likely to be required in order to achieve that.

Lisa Forsyth then invited to comment on any of those issues.

Lisa Forsyth reinforcing that SEPA do and have seen the Spey Dam as a priority to improve fish passage. It is down as a RBMP 3 measure which concludes in 2027 and thereby the fish pass improvements have to be in place by 2024. So SEPA are under pressure to ensure the improvements are in place. With us nearing the end of 2021, if need be, SEPA will take enforcement action against a site if voluntary agreement is not obtained. She advised that she is aware that Richard Fyfe, along with the Director, progressed the issue. As such, the exercise is to keep the momentum going, as the site is fully aware of what they need to do. SEPA has to just work with them to ensure that they do that by 2024, if not before then. Re-assuring the Board that if SEPA get any indication that this measure is not achievable, the next stage will be potentially enforcement action or a licence review, to essentially put a licence condition of the fish pass improvements within the CAR licence to ensure that it's achieved by 2024. Highlighting that there are options available to SEPA if need be, although the hope is that they do not need to take enforcement action or a licence review. Commenting that it is a priority to SEPA, and they are as keen as the Board to see the issue finally resolved.

In response to a query raised by Angus Gordon Lennox, Lisa Forsyth commenting as to the source of the pressure she referred to, that the RBMP planning procedure is essentially putting SEPA under pressure, because it is a legal requirement to get these RBMP measures completed by the set timescales in the legislation. She also confirmed that there is no “get-out” due to COVID.

In response to a query raised by John Trodden in relation to effecting improvements by October of this year, Lisa Forsyth commenting that the Director had mentioned the keenness to get the notches and the lighting improved by October this year before the salmon run. As such, SEPA are going to pursue that and try and get that in place, however that required working with the company and continuing that partnership to try to get that in place by then. SEPA have to acknowledge that there have been delays lately, because of COVID, and that the firm timescale is 2024 - period. That notwithstanding, SEPA are pursuing an improvement way before then, hopefully by the end of October this year. The company know what they have to do and SEPA are supporting them to put them in place as soon as possible.

Toby Metcalfe raised a query in relation to the timescale commencement for pursuing the two options open to SEPA - enforcement or licence review - in the event they are not getting the reaction that they want, in order to still hit the 2024 target. In response, Lisa Forsyth advising that as part of any SEPA initiated licence review issued to the company, they have three months to appeal that decision to the Scottish Government. As such, SEPA would take that into account, and they would ensure that the licence review is taking place well before the 2024 deadline to allow for that formal appeal process to run its course. She also commented that the application of the appropriate condition is something that could be done relatively quickly, because it is a SEPA-initiated license review, rather than a site applying to SEPA for an authorisation. Toby Metcalfe encouraged SEPA to undertake such steps as soon as possible.

In response to a question raised by the Senior Biologist in relation to the level of proof to show that the improvements have delivered the desire aim to enable fish migration, as any form of tracking work takes time to set up and to deliver, Lisa Forsyth commenting that that is why the measure needs to be in place by 2024. In doing so there will be time to do survey works to demonstrate that the fish are actually moving through the dam. SEPA will definitely need a couple of years of data. SEPA and hopefully the Board would get involved to try and assess if that measure has been achieved in terms of getting the fish ecology up to good status as such. The Senior Biologist commenting that it is important to keep reiterating to the owners of Spey Dam that responsibility for funding and acquiring that data is theirs.

Toby Metcalfe querying the Senior Biologist as to the benefit of putting forward an argument that a fish counter should form part of the infrastructure provision within the fish pass. The Senior Biologist reminding all there has been a fish counter at the bottom of the fish pass installed in 2013. That produces rather high counts at the bottom of the dam, but it does not actually record how many are going through the dam. The crucial point is to be aware how many fish actually penetrate through the fish pass. Further work will be required, notwithstanding the counter at the bottom of the dam is a useful long-term tool, but it does not disclose what is needed right now. It is technically not possible to reposition the current counter. Some low-cost work, like using PIT tags and PIT tag loops at the top end of the fish pass would probably be the thing that could deliver the answers needed, but these sorts of things need to be planned now, and hopefully this can be discussed with SEPA.

Peter Graham raising his concern that the debate is being focussed narrowly and just on fish getting through a dam. The River Basin Management Plan was prepared some time ago, the world's moved on, technology has moved on and everything else has changed. There is a whole range of different things that are happening that are putting increasing pressure on to the way that we look at our water resources and the Envirocentre report is part of that. The suggestion is that the Board ought to be gathering together with all the other interested parties in relation to what's going on about Spey Dam, whose technology, which is now 75 years old, is out of date. Consideration should be given to actually removing the Dam in total, and SEPA should be asked to review the River Basin Management Plan into the bigger perspective, not just limited to salmon. Query raised as to whether SEPA are just to carry on with a River Basin Management Plan which was originally structured some 15 years ago, or whether a proper intelligent review on the basis of today's technology and today's climate and today's requirements will be undertaken.

The Chairman paused that discussion to allow Lisa Forsyth a few minutes to gather her thoughts on those issues and invited the Director to talk about the launch of the Envirocentre report

The Director reported that, since the Board’s last meeting, a layman's summary had been prepared and the report was launched on Tuesday of this week by sending it to Michael Matheson MSP, as the Cabinet Secretary for Net Zero & Energy. As such, he has direct responsibility for SEPA and for climate change. Within the letter to him a meeting was requested for the Director and the Chairman to present the report and discuss it with him. The report has also been copied it to Mairi Gougeon as Cabinet Secretary for Rural Affairs, and also Mairi McAllan, as Minister for Environment and Land Reform together with the policy officer within Marine Scotland, Dr Antje Branding. Separately, and because of previous correspondence with them, copies have also been sent to Richard Lochhead MSP and Kate Forbes MSP. A local press release was put out earlier in the week and both that and the Report have been placed on the Board's website.

Extensive discussions have taken place with Fisheries Management Scotland about how they might assist with the launch. They have, as members of the Missing Salmon Alliance put the Director in touch with Claire Zambuni from the Missing Salmon Alliance Communications Group, who was very keen to promote the report. Claire Zambuni has put out a much wider press release nationally from their London base.

The Director advised that the reason the report had been put on the agenda, which tied-in with the comments made by Peter Graham, was to ask the Board for any comments or suggestions as to how it might like to see the report further promoted. The Board papers also included a short briefing from Alan Wells at Fisheries Management Scotland as to how they would support the Board in promoting this report within the Scottish Parliament and with MSPs. The report has already been shared with the Spey Catchment Initiative partners back in June, and a positive response has been received from SEPA who want to include this as part of a review of hydro-electricity generation.

Angus Gordon Lennox then commenting as relevant to Peter Graham’s question, that the Envirocentre Report states that 90% of the water that is abstracted from the Spey is used in hydro-electric generation, which is obviously a huge amount of the overall abstraction. The question that arises is whether hydro energy is in fact “good” energy given the age of the technology, that it is inefficient, and it has all the highlighted downside. Therefore, should the Board’s focus be on proving that hydro energy is bad, rather than necessarily just saying that there should be less water taken out of the river. Commenting that the average person on the street may not care about the salmon, but they would care if there was general harm being done by hydro.

Peter Graham commenting that the answer is that some hydro is good, and some hydro is bad, and that complicates the issue even more. Suggesting that the need is to show the damage that has been done ecologically to the wider natural environment. The big political movement that exists in the 15 to 25-year-old population supports the belief that the time is right for the River Basin Management Plan to be reviewed, to see the wider impact and to involve other stakeholders to put pressure on the government to look at specific hydro schemes – such as the Spey one, which is actually causing significant harm. He would like to ask the Board to set some general direction as to where it wants to go. His view is that if the focus is solely on the salmon going through the Spey Dam, he cannot support that. The focus needs, in his opinion, to be much bigger, bringing people together to look at the bigger environmental picture, and the Board probably should set as its high-level objective, the aspiration to remove Spey dam. From that, the Board can hit lower targets in the meantime, but why not set our sights that high, bring people on board to show how we can achieve that and seek what is needed to be changed as result of the report?

In response to the comment from Angus Gordon Lennox that hydro is currently deemed to be good, because it is green energy, and the first thing to do is to say or show that it is bad, Peter Graham commented that the Board doesn't necessarily need to show that hydro is bad; what we do need to show is that the impact of that specific scheme has a bigger cost to the environment than the benefit of the electricity it generates.

The Director in agreement with Peter Graham and Angus Gordon Lennox, pointing out that the power of the Envirocentre Report lies in exactly that, that showing that hydro electricity generation is not as green as people and the government may have previously perceived it to be. Suggesting that it is that angle that the Board needs to take and that while it is entirely accepted that the Board’s ultimate aim should be the removal of the dam, in the meantime and as Roy Dennis pointed out, the Board has a very major “hearts and minds” PR campaign to mount locally to stand any realistic chance of achieving that. His belief is that the first thing to be done is take the report to the politicians and their Cabinet Secretaries, to explain to them that hydro electricity generation is not as green as it was once thought to be and it does have very much wider ecological impacts. Maybe not suggesting taking all hydro electricity generation away at the moment, but asking the Scottish Government to reappraise its approach to it and put more water down our tributaries.

Angus Gordon Lennox and Peter Graham commenting that other countries have taken dams away. The Senior Biologist confirming that there is a global movement towards removing dams, but generally those already removed will be structures that probably have maintenance issues, and as such there are probably other factors involved. Pointing out that while hydro is still a huge renewable source of power generation globally, a 10-megawatt offshore wind turbine can probably now produce as much energy as several of the small dams in the Upper Spey are producing. That is a key point.

The Chairman commenting that he anticipates that everyone agrees with the comments of both Peter Graham and Angus Gordon Lennox and that the focus has to be on the bigger picture in this Spey catchment, not to attack hydroelectricity generally. The Director and Chairman to think again about some help from other organisations on the broader angle to develop it. In the meantime, the Chairman requested the Director to summarise the current position.

**ACTION: Chairman and Director to discuss assistance from other organisations in promoting the Envirocentre Report.**

The director confirming that: -

* before it was officially launched the plan was sent to the Spey Catchment Initiative and that was crucially to involve the likes of SEPA, Nature Scot and the Cairngorm National Park Authority, all of whom have responded positively towards it. Cairngorm National Park Authority want to include it within their review of the park’s next five-year plan.
* in terms of a review of the hydro withdrawals what is being proposing to the Scottish Government is that the Board needs support with re-watering some of the upper tributaries, particularly
  + the **Allt** Bhran which is a tributary of the River Tromie, and which is completely diverted into **Loch an t**-**Seilich a**nd then sent off into the Tay system. The picture that accompanied the press release was of the **Allt** Bhran
  + The **River Cuaich** which is close to Dalwhinnie, alongside the A9, and
  + The **Allt** an Sluie which runs alongside the Dalwhinnie distillery and which is completely abstracted by Dalwhinnie distillery, who then pipe that water that they use back up the hill to Scottish and Southern Energy so that they can divert it into Loch Ericht. A re-watering of the **Allt** an Sluie on its own would almost entirely offset the Dipple Wellfield abstraction, as well as bringing benefits to the whole of the river catchment as well.

That completed the summary of the Board’s initial targets, whilst it then engages with the broader PR campaign with regards to removal of dams.

Peter Graham, while referencing the mention of the Cairngorm National Park, using the report as a part of their review of their five-year plan, requesting that reference is made back to Lisa Forsyth in relation to the query raised earlier as to whether SEPA are going to review the River Basin Management Plan to take into account the new ideals.

Lisa Forsyth in response commented that the River Basin Management Plan is moving into the third cycle, with the deadline for all the improvements being 2027, and there is not going to be a fourth RBMP cycle after that. SEPA at the moment are already reviewing the abstractions at the top of the Spey, with the hydro permit team and specialists reviewing the abstractions. That ongoing process feeds into the RBMP planning process, and that may change some of the measures that's in the third cycle of the plan. At this point in time, that review is still ongoing, with the report commissioned by the Board feeding into that review.

Peter Graham commenting that his view is that further pressure needs to be put on SEPA and the Scottish Government to have a more fundamental review of River Basin Management plans in order to take into account changing circumstances that have happened since 15 years ago, using the report as the foundation to help.

The Chairman queried the Director as to whether the Envirocentre Report aspect was discussed that with Alan Wells in light of the River Basin Management Plan, as the review of that is mentioned in his weekly and monthly reports. The director confirmed that he had not, and the discussion focused on salmon and the Missing Salmon Alliance

Angus Gordon Lennox thereafter commenting on the need to involve the forestry regulator, which he assumes is the Forestry Commission, in relation to the number of organisations that will be seeking to plant trees in the Spey Valley for the next few years to do carbon offsets, etc. Reference was made to the bad planting of Sitka spruce in the 70s and 80s which caused great damage to the river in terms of runoff, acidity, etc. While he recognised that practices have changed, he wished the Board to make sure that the forestry regulator is involved in these conversations, because the massive amount of forestry planting is going to have very significant influence on the catchment in the next 20 years.

Peter Graham suggesting that actually it is bigger than just the Forestry Commission, and that there is a massive opportunity here with a review of the agriculture subsidy grant, following the departure from Europe, to move the government to accept that there is a bigger picture here and they need to get on board with it. The Board cannot do it on their own, although there is a need to start setting tasks for ourselves, as individuals, people whom it is our job to go and see.

Angus Gordon Lennox acknowledging that what he has come to realise today is the whole ecological situation, with the millennials really picking-up the ball and running with it, and that up to now all that the Board has said is that all it really wants to do is get more salmon up Spey Dam. As commented earlier, most people don't care about salmon as the iconic fish, but if it is presented to them as a degradation of the catchment, or of Scotland as a whole through all those practices, but particularly the old dams, then his view is that that will capture the imagination of the press, much more than talking about the iconic species.

The Director in response commented that the suggested approach is exactly what he has been doing with the Spey Catchment Initiative, recognising that the issue is far bigger than salmon and that people are less interested in salmon. The Report is, to his knowledge, the first time that any report has been produced to highlight the broader implications of hydro electricity generation and the water diversions that go with it. That has been highlighted to the Spey Catchment Initiative, which includes Forestry & Land Scotland, SEPA, NatureScot, the local authorities, the likes of Diageo, and Jahama Highland Estates with the latter very worried about where the board is going with this because they are aware of its implications. The Cairngorms National Park Authority have completely taken on board that this has highlighted for the first time the impact that water diversion has had on the ecology of the river catchment. That is the start of this process.

The senior Biologist, on the issue of forestry, advised that in a meeting with Wild Land last week, they advised that they themselves have planted 6 million trees in the Spey catchment. Where they are being planted there is no ploughing involved, they are mixed species with riparian planting going on, and there is space for natural regeneration all planned into this forestry. Forestry in that sort of environment has moved on massively since the earlier decades and all the bad practice that was going on as previously mentioned.

Toby Metcalfe noting that with reference to the question about conflict of interest asked at the start of the meeting, that he is the new convener of the Tay District Salmon Fishery Board. While he doesn’t regard this as a conflict of interest, he felt that it was important to have it as recorded that it is declared. He then advised that he personally agreed with the discussions raised on the subjects, that he listened to Peter Graham speaking at the recent FMS Members meeting on the same points and had himself raised the point about removal of out of date barriers and dams with the Tay board only a few months ago. He expressed the view that these are interlinking issues, particularly between the Spey and the Tay, that it would be constructive to recognise that and for the two bodies to work together as the objectives that the Board have been being discussing today, while not adopted yet by the Tay Board are, to his mind, shared objectives.

The Chairman recognising Toby Metcalfe’s new position and that the issues being discussed are even bigger issues in the Tay catchment, before noting that he and the Director have further work to do on this issue.

The Chairman then referred back to the Director for any other matters to be covered by him

The Director wished to illustrate some of the work of the Spey Catchment Initiative. The Delliefure Burn is a burn between Tulchan and Seafield estates. Acknowledging the help and support given by both of those estates to the project which involves breaching the embankment in two places and creating floodplain scrapes, where some will be filled in normal conditions and others in only really high flow conditions. That will also be enhanced by putting four or five large wood structures, whole trees essentially complete with our tree roots, into the burn to encourage the natural river processes to restart and provide spawning gravels and pools etc. it had been hoped to start next week, but they had been let down by the contractors, which has resulted in it being postponed by one week to begin in the week commencing Monday 13th of September.

The Chairman after advising that he had been to see Laura Irwin at the start of the year about the Tulchan side channel, which was too big a project for them to consider and she came back with the suggestion of the Delliefure Burn. As well as querying whether anybody had been in contact with her to advise her of this work, he also wished to thank David Greer for persuading the farmer and thanks to Callum Robertson for getting the funds from Macallan. The Director was unable to confirm whether Laura Irwin had been contacted, but David Greer

was able to confirm that not only was Laura Irwin involved, it was her farmer and therefore the credit is due to her for getting him on board.

The Director then highlighted that the Cairngorm National Park Authority, who over the last couple of years have been bidding for funds under the National Lottery Heritage Horizons Award, have been successful. Reported that this is tremendous news for the Spey Catchment Initiative with £12½ million pounds available over the next nine years which is going to start with an 18-month development phase. This will be see Cairngorm National Park recruiting 10 project officers to progress this, with an implementation phase from 2023 to 2030 in the five listed areas. Noting that the most important one for the board is the river catchment management section, which is going to have a very significant and very positive impact on the Spey catchment Initiative's work, not least because at least one of those project officers is going to be helping Penny Lawson, our own project officer, with cash flow and project management plans. Four areas or projects have been highlighted as the focus within this Heritage Horizons bid: -

* The first is the Sluggan Burn just north of Carrbridge, a tributary of the river Dulnain with a 350-metre canalised section, where in high flows the river wants to break out naturally to the right. Essentially, what is wished is a re-meandering of that burn. That has got the potential to be the biggest project the Catchment Initiative have taken on so far, particularly in terms of the amount of new habitat that it will create. Recognising the support of David Greer.
* The second project is the confluence of the River Calder and the Spey below Newtonmore, which has a lot of manmade modifications sought to be mitigated.
* Thirdly, further down river at Nethy Bridge, the confluence of the Nethy with the Spey, there is a significant restoration or re-naturalisation project to be looked at.
* Fourthly, the River Gynack above Kingussie, where the wish is to do some riparian tree planting. With the steepness of the slopes and the landslides that have occurred there it is very challenging terrain.

The Director thereafter completing his report with the Chairman then opening up matters for questions.

Callum Robertson querying whether there is a summary of the lottery Heritage Horizons projects, with the reference to allocating tasks for people to do here and his willingness to make the necessary approaches to the agencies to explain what the Board are looking for. Commenting that as the 2022 budgets is being looked at now, it is something to be done earlier rather than later.

The Director advised that project officer, Penny Lawson, has got a summary and will be asked to liaise directly. Confirming that there is going to be a two-year lead-in to a lot of the projects. Acknowledging Callum Robertson for the offer which will be gratefully accepted.

**ACTION: Penny Lawson to be asked to provide Callum Robertson with details of the SCI Heritage Horizons Projects.**

Angus Gordon Lennox raising the issue of money that people are wanting to spend on carbon offset and on their corporate and social responsibility, and querying whether these can be packaged-up, not just for lottery funding, but for corporate funding.

1. **SPEY SCIENTIFIC COMMITTEE BRIEFING AND QUESTIONS ON THE BIOLOGIST’S REPORT**

The Chairman noting that Peter Graham had earlier stated that he did not want to comment on the minutes of the Spey Scientific Committee Meeting, so treating those as read. He then queried whether anything was to be said about the strategy document, which had been included with the papers.

Peter Graham commenting that the strategy document would be commended but was viewed as not being ambitious enough because there weren't enough things that might not be achieved and there was a need to push a little bit harder.

* Noted that the senior Biologist and the Director were to go away and have a look to see if there were areas that should be pushed a bit harder.
* The trout diet study, while interesting, didn't really show much at the moment, but is to be repeated over the next couple of years, probably using drop minnow rather than flies or other lures. It was interesting to see the distribution between different beats versus the different levels of the river.
* In the goosander diet study, DNA scat analysis is being looked-at as adding on to data from stomach analysis from shooting them. There was a disappointment that there weren't invertebrate studies done this spring. This had been affected by COVID, because a lot of the team were furloughed. An effort is to be made to make sure that it is done next year. All of these aspects are about putting together and advancing knowledge about what happens to salmon.
* Everything else to be said was noted as being in the minutes.

The Chairman then referred to the Senior Biologist for his report.

The Senior Biologist commented that it was interesting to show that 60% of the trout stomachs sampled had juvenile salmon or trout inside them, while acknowledging that because they are partially digested, more work was needed to establish what species they were. Advised that there had been subsequent discussions with another meeting with the Atlantic Salmon Trust this week who are quite interested in the fish work that the Board have pioneered. Commenting that other Boards and Trusts in the Moray Firth area are going to focus on trying to track goosanders, but he is of the view that where the Board can add value to the overall Missing Salmon Alliance picture is to focus a little bit more on the fish predation. Looking at doing the smolt tracking next year in the upper Spey, possibly above Spey Dam, more than likely below Spey dam due to the complications involved, but also a more natural upper tributary like the Truim or Tromie.

As for the tracking this year, the results were rather similar to what they were in 2019. A similar amount of smolts were lost on the way downstream and the overall picture was the same, with steady losses downstream from Ballindalloch and no real hotspots identified. Commenting that the strategy for next year, being the third and final year of the Missing Salmon Project, is to move upstream, track the salmon all the way downstream, add value to it by focusing more on fish predation, and also to include active tracking. That would mean canoeing the upper river on a regular basis, perhaps three times a week with a detector hanging over the rear of the canoe to try to identify if there are tags lying in the bottom of the river. The proposal being worked on is viewed as being quite good and while it is still in the early stages of development with the Atlantic Salmon Trust, but that's where we're likely to go with it. Commenting that the work undertaken this year was commendable and the aim is to add value to it next year.

Thereafter in an update on the National Electro-fishing Programme, with this being the third year, with last year being missed because of COVID, explained that 30 sites were given by Marine Scotland Science, randomly selected around the catchment. Reported as now completed and an update in the Biologist's report. That shows that all order five streams, which are the larger streams, were included for the first time.

The table in the report shows how the distribution of the steam orders has changed. Confirmed that 12 of the 30 sites were order five streams. Commented that there is going to be some interesting discussions coming out of the results because it was found that juvenile densities are lower in these order five streams than Marine Scotland are expecting them to be – as their benchmark is rather high. Only 9 out of the 35 organisations involved in this national programme elected to do order five streams. For the Board to do so was the correct decision, because this is where far more of our salmon are produced in order five streams than they are in the smaller order three and four streams, although the densities are higher in the order four streams. This will produce some interesting discussions with Marine Scotland about categorization for next year. That may result in a drop down to Category Two on the juvenile assessment and part of that will be because of the higher expectations Marine Scotland have for order five streams. That has been discussed with some of the other organisations involved, but there is a need to have more discussion for them to see whether their findings are similar. That survey brought in £15,000 of funding.

Reported that the main stem surveys were completed, with the results pretty average. In summary, 10 years of these main stem surveys have been undertaken in a standard fashion, with analysis on this having been started. That shows an upward trend in salmon fry counts in the Spey, but as there is a slight downward trend in the parr counts, there is a slightly mixed message there. Looking at the picture above Spey Dam, in three out of the last four years, salmon fry have been found at every site there, and as such maybe there is actually positive news about the numbers of fish above Spey dam. While this work has been questioned by some, the Senior Biologist’s view is that it is really valuable. He is to produce a summary report on the last 10 years of monitoring in the main stem shortly.

Peter Graham commenting that on the message being presented, in his view the results are very much in the median and no significant statistical variation in the numbers of parr. While agreeing, the Senior Biologist commenting that it was meant as a comparison between the distinct upward trend in the fry and the slight downward trend in parr, and he hadn’t analysed it too statistically yet.

The Senior Biologist then reported on pink salmon, with their being at least nine reports of fish either caught by rod on the Spey or found dead, and a report of multiple fish spawning, with the ghillies and anglers seeing 16 in one spot. Expressing the view that the colonisation of Scotland by pink salmon is increasing, and in 20 years’ time they will be extremely numerous here, which is certainly not a welcome thing.

Peter Graham advising that the debate on this issue occurred in the FMS discussion and one of the queries raised was what harm do they do, as they come into the river, they spawn, they go back out to sea, and they give us something else potentially that we can fish for. As such, if the Board are to maintain or express the view that pink salmon in our waters are not a welcome sight, we need to explain why. As such there is a need to put together something that we can present to people, either in a brochure or a hand-out, explaining why pink salmon are not good news.

Toby Metcalfe raised a question about the tags on the smolt tracking and the suggestion that smaller tags are available, and if so, will we have those for the next phase of the project? In response, the Senior Biologist confirmed that the smaller tags will be available for next year. Advising that the Atlantic Salmon Trust committed a lot of resources into the receivers, which work on 69 kilohertz. A lot of the smaller tags that are available work on different frequencies and therefore if used, would mean that the old receivers would be redundant. However, advising that the tag manufacturers are developing a 5.5 mil tag that will work on the 69 kilohertz frequency Atlantic Salmon Trust equipment.

William Mountain queried with reference to the database that was to be established with the pressures on the river, whether there is any update on how that is going forward, and whether that data will be able to be usefully used in some of the bigger issues going on in the river. In response the Director advised that the government is developing the 12 Pressures tool. Reiterating his prior comment that the Scottish Government over COVID and the lockdown have been almost non-existent. The Wild Atlantic Salmon Advisory Group he sits on has met once over the last year, back in March, and is meeting again at the end of September. It is that group that is going to be discussing the pressures framework. It us unknown at present quite where they have got to at the moment. He is looking forward to an update at the end of September.

William Mountain commented that presumably he will also be looking to get that answer to Peter Graham's previous point of when a protected species comes up the protection list. The Director, in response, confirmed that he had sked that question and was looking forward to asking it again, particularly in a face to face meeting.

Peter Graham also commented that the river temperature went to quite a high level this year and on a number of occasions the Senior Biologist was therefore not able to do electro-fishing, because of the stress that would have been put on the fish. Mention was made of prior debate about whether or not with river temperatures rising, the river should be shut for fishing, and that a conclusion was not reached. He advised that he had subsequently talked to a number of people and one of the issues raised is that when the river temperature is high, fish basically don't take. He queried therefore whether it is that they are not being stressed, or should fishing stop because that temperature is high. Inviting Callum Robertson to join the debate.

Callum Robertson commenting that the issue was raised the previous evening at the Trust meeting in terms of rod pressure, etc. His view is that excluding shortening the season to six months in certain conditions, if we do have a certain temperature, we should stop fishing. That was discussed at reasonable length at the last Scientific Committee meeting. Suggested that that may only be for a certain period in a day. Noting that the Senior Biologist had advised that the hottest temperature is in the evening at 7pm, so maybe a four-hour window then, although disclosed that he had no support last night. His view remains that the river should be closed sometime at certain temperatures, and even if the seed of that idea is planted, it would be positive as it doesn’t need to be mandatory.

The Chairman referring the issue to the Senior Biologist to prepare a note over the winter about river temperatures and fish, what might be done, and what is done elsewhere for our consideration.

**ACTION: Senior Biologist to prepare a note over the winter about water temperatures and the impact on fish, with options for action.**

Angus Gordon Lennox referring to the reference in the Senior Biologist’s report about a presentation of the analysis of SEPA’s extensive database having been shown at the meeting, and querying whether the Board were going to get that. The Senior Biologist advising that that report was written for the Scientific Committee meeting, that while he cannot provide the presentation he can produce a summary and circulate that to all the members.

**ACTION: Senior Biologist to circulate a summary of water temperature monitoring following his analysis of SEPA’s database.**

Angus Gordon Lennox acknowledging, referring to the issue of water quality generally and not just temperature, in that last week, for instance, the river was in a terrible state. Reference to the water being black, the Gillies waders being dyed and querying to what extent do the Board look at water quality in each and every aspect. In response, the Senior Biologist advised that the summary of the presentation to be circulated will disclose that it looked at the SEPA database, which is extremely extensive and very comprehensive. He was able to identify a couple areas of the river where water quality appears to dip – below Rothes and below Aviemore, for example. Generally, though, the picture is of high-water quality in the Spey, but there are threats going forward. Reference was made to the algae bloom in the River Tweed this year, which is the first time he had heard of an algae bloom affecting a Scottish main stem River, although it is a feature down south. Confirmed that the Board look at this and take it seriously. There is a responsibility on SEPA to gather the data, as the Board don't have the resources to do that. His analysis has highlighted a couple areas of risk that we need to be aware of.

Angus Gordon Lennox queried whether, with incidents such as last week, where the water was black for a week, and you couldn't see your feet even though it was running reasonably clear, that could be analysed. The Senior Biologist commenting that he had been unaware of it, and if informed he would have attended and taken a sample. In response to Angus Gordon Lennox advising that his query is whether the SEPA data can be looked at retrospectively to see if the cause can be ascertained, he advised that he was unsure. He did however comment that there was no indication from the water quality station of any change in levels or anything untoward.

Callum Robertson offering to fund the nitrates monitoring equipment’s £7,000 cost, if that was an action point and felt to be of use. Thereafter in relation to the request made by the Chairman to the Senior Biologist on the water temperature issue querying whether catching hen fish in September should be added as well. The Chairman then clarifying that the request was specifically in relation to temperature, and other issues would be dealt with in the Closed Session.

The Chairman then requesting the Senior Biologist to comment on the electro fishing results post stocking of the burns with eyed ova and unfed fry.

The Senior Biologist commenting that: -

* he had provided a summary of the stocking monitoring from 2017 to 2021 for the Scientific Committee. The average parr density for the 30 NEPS sites over the catchment was 9 parr per 100 square metres. In 2018 and 2019 it was in the region of 14 and 15. Comment made that that provided just a basic and general figure for the number of parr you could expect to see anywhere in the catchment, with it lying between 10 and 15 per 100 square metres. Looking at the parr densities achieved with stocking in 2017, 2018 and 2019, they were 7 to 10 parr per square metre in the sites that were stocked, and as such, not too far away from what is now seen in the naturally-spawning part of the catchment in its entirety.

* In 2020 and 2021 the parr density in the stock sites dropped down to 2.4 and 2.8 per 100 square metres. In 2021 the parr are derived from the eyed ova stock from 2020. But in 2020 the parr that were there were derived from parr that were stocked, rather than from eyed ova. What is being achieved in terms of parr density in the stocked burns has dropped, not over the last two years, but only in 2021. Could you say that was related to eyed ova, as the evidence for 2020 shows you that the parr density dropped anyway, even though the parr were derived from autumn parr? In considering why that is the case, he commented that one of the main reasons was that the Tommore Burn was removed from the Board’s stocking plans, and that Burn supported by far the highest density of parr in any of the stocked burns. The situation now exists that some rather poor burns are being stocked, such as the Fochabers Burn. That can support a good density of fry, and a good density of fry has been achieved with the stocking of eyed ova there, but it can't support a high density of parr because of the nature of the habitat. It is a slightly complex situation, where it looks like there is a reduction in the parr densities in the stocked burns, and it largely coincides with the eyed ova stocking, but not because of it.

* Commenting that there is a lot of debate about this around the catchment. It really needs a thorough investigation, an experiment and a trial to look properly at the effects of eyed ova and autumn parr stocking. Suggesting that the ideal place for this would be in the Tommore Burn, where there is five years of data during the days when it was stocked with autumn parr and included smolt trapping, with the output from the burn being a consequence of the stocking.
* Peter Graham noting that the problem there is the lack of the detail on returning adults and that that is needed for the whole picture, because part of the argument is always that however successful they might be growing to smolt, it is how successful they are at coming back that was more important.
* The Senior Biologist, while agreeing, commented that things like PIT tagging could be incorporated, with a PIT tag reader in the trial burn which would monitor success right through to returning adult stage.
* Guy Macpherson-Grant commenting that the Tommore Burn was substantially set up before his time, and as such he cannot really comment on the lack of activity to capturing the returning adult data. His view is that there would need to be some convincing that actually putting out eyed ova is going to produce something meaningful. The view on prior discussions on the topic was that it was not a very effective way of stocking a burn.
* Peter Graham commenting that that was exactly the point, as it was the opportunity to prove that that was the case with the burn being stocked for so long with fed fry that the results of that needed to be known and to then stock it with eyed ova to show Government whether it isn't or is effective.
* In response, Guy Macpherson-Grant made the point that the data from projects 10 to 15 years ago showed that it isn't effective, i.e. that that's already been done.
* The Senior Biologist responded by commenting that he was pretty sure that is not the case. The Connon, for example, has maintained its fishery on the back of eyed ova stocking for decades. As a hydro river, a high proportion of their catch is derived from eyed ova stock. Generally, it is quite extensively done. Returning to the point made by Peter Graham, he commented that when it comes to adult returns, that while we may have lower parr densities, we may be producing a better product and a higher adult return at the end of the day. It is that point that is unknown and having a test bed would provide some answers that would be advantageous to Ballindalloch and the river more generally, possibly even to Scotland.

Callum Robertson raising the suggestion that Ballindalloch be brought back on board on the Scientific Committee to see what is happening and, in terms of a trial project, might be the best approach or happy medium. Guy Macpherson-Grant suggested that he and Callum Robertson discuss that aspect direct.

The Chairman then noting no further comment on the Biologist Report and moving on to the next item on the agenda, to be dealt with by Lisa Forsyth from SEPA.

1. **SEPA: THE REGULATION OF WASTE DISCHARGES INTO WATERCOURSES**

Lisa Forsyth confirming that the Director had asked her to give a quick update on how the local Compliance Team essentially regulate Scottish Water sites on the Spey catchment. Essentially, all the sewage treatment works across Scotland are regulated via a licence that SEPA have issued to Scottish Water under the Water Environment (Controlled Activities) Regulations (“CAR Regulations”). Each site has a licence, which essentially controls any impact from their final effluent discharges into the water environment, and also the discharge into the Combined Sewer Overflows (CSOs). The licences essentially control the quality and quantity of the effluent that is discharged into watercourses, and also how these CSOs operate. Provided Scottish Water comply with these licences, there shouldn't be any impact on the water environment from these activities. Each site is essentially sampled once a month to ensure that they are compliant with the effluent quality before it is discharged into the water environment. These sites are usually inspected by the local team once or twice a year. Also to ensure there's no impact on the water environment, SEPA actually sample the receiver watercourses to assess the water quality, to ensure there's no impact on water quality from these discharges. The SEPA ecologists assess any impacts on ecology, so they sample outfall locations usually once or twice a year. SEPA also do hydraulic modelling of sewer networks to ensure there's no impact. The checks are annual events, not a one-off activity. The caveat on that, is that now because of COVID, the sampling and monitoring has been reduced. Out with COVID and under normal conditions, that is the standard procedure that SEPA carry out to regulate Scottish water sites and other similar sites. As part of licence conditions, as well, Scottish Water are required to report any potential issues that would likely impact effluent quality that's being discharged into the water environment or any impacts on their infrastructure.

Lia Forsyth then mentioned her background as the Environment Protection Officer allocated to the Spey Catchment historically, and that having done that role for about 13 years, her view was that the Scottish water sites on the Spey have, over the last eight years, significantly improved in terms of their compliance rating. Also in the amount of investment that Scottish Water applied in terms of improving their infrastructure. So there are new Scottish Water sites in Aviemore, Newtonmore, Boat of Garten and other locations across the Spey. As a result, effluent quality from these sites have significantly improved over the years, as well as their compliance scores. At this point in time, SEPA have no concerns relating to compliance or infrastructure in Scottish Water sites on the Spey. That is in terms of their final effluent quality, and also with reference to the Combined Sewer Overflows that are discharged from the sites across the Spey. All the sites at the moment are ranked as good and excellent, which demonstrates that these sites are essentially complying with these licences. Also SEPA have got no concerns in terms of environmental impact from these sites.

Ongoing issues in terms of treatment are minor issues, that don't have an impact on the environment and that don't cause any significant impacts to water quality or ecology. SEPA do see CSO discharges as a potential issue in terms of impacts of water quality across Scotland, and particularly because of the climate change projections in terms of storm events. So, generally, CSO discharges are a problem and do cause impacts to the water environment. But in terms of, specifically the Spey, SEPA don’t have any concerns because Scottish Water have invested significantly in improving infrastructure across the Spey catchment.

The Chairman then asking for any questions for Lisa Forsyth.

William Mountain advising that he has a whole raft of questions or points to make: -

* Firstly, he made the point, in relation to the comment said that the licence controls the impact from final effluent, that the licence doesn't control anything – it only stipulates.
* Secondly, in relation to regular audits, he queried whether those audits are known in advance, or were they random audits? Lisa Forsyth confirming that they are random audits and that the inspections that SEPA carry out are unannounced.
* In response to the next query, as to how many outlets of raw sewage there are into the river from Scottish Water, Lisa Forsyth confirmed that there are no outlets of raw sewage into the river in the Spey catchment. Clarifying that every discharge from a Scottish water site on the Spey has some form of treatment prior to discharge into the environments – they are not raw discharges.
* With regard the concern of discharge in the event that there was torrential rain, Lisa Forsyth clarified that as Combined Sewer Overflows (CSO), they are controlled under the CAR licences, which essentially stipulate that these CSOs can only happen during storm high rain events. During such events, these overflows can operate. Indeed, they are critical to protect Scottish Water’s infrastructure and also to protect properties from flooding. SEPA essentially see them as a pressure release valve, when the sewer network gets inundated with surface water and the capacity is reached. When that capacity is reached, Scottish Water are then allowed to operate their combined sewer overflows. She is unaware of how many times that happened last year, but would suggest that in any storm event there would be overflows operating across Scotland and across the Spey catchment.

To clarify, she commented that at a sewage treatment works, they do have storage for storm sewage to a point. At the old Aviemore sewage treatment works for example, they have two or three hours of storm sewage capacity. The higher pollution matter from the sewer network is essentially stored at these locations and processed at a later date. When the CSOs do operate, it is two hours after that that initial high strength pollution is stored, and whatever is discharged is screened and is a very diluted form of sewage. Where there are two or three hours of storage, that allows the receiving water courses to increase in flow, because as it's raining, that in turn helps dilute and mitigate against any impacts. While the perception is that it is raw sewage, in reality it is just storm water. While standard overflows occur across Scotland, that is not to say that SEPA do not have concerns regarding these overflows, just not necessarily in the Spey catchment.

In response to the comment from William Mountain that after a big spate, all sorts of things are found such as nappies, wet wipes, condoms, etc. coming out, if evidence is seen that actually something that should not be occurring is in fact occurring, then the audit and the licencing process is not working. Lisa Forsyth commented that such sewage debris seen in the end watercourses should be reported to SEPA’s local team, so that they can resolve that, as Scottish Water have a responsibility to resolve their screening of that.

Lisa Forsyth making the final comment that, while she hoped that she had answered or clarified the Board’s concerns, and she can understand the perceptions about the Combined Sewer Overflows, they are critical to protecting people and property as well, ensuring that the sewage treatment works can still operate after storm events.

The Chairman thanking Lisa Forsyth for her attendance and input.

1. **AOCB**

Angus Gordon Lennox raising a couple of issues

* Commenting that the worst year he has ever seen for Finnock has just been experienced, and the Board had heard earlier that sea trout catches were down, and raising the query as to whether Finnock, as salmonids, are monitored at all. Query possibly directed to the Senior Biologist.
* The second is in relation to seals. Acknowledged that at the moment seals cannot be controlled, but unfortunately a seal down with them has completely emptied a couple of pools of fish. There was also an incident where a salmon was taken five yards away from one of the anglers. The question as previously raised is where the seals cannot be shot, can steps be taken to scare them off.
* In answer to the Finnock issue, the Director confirmed that Finnock numbers are requested on the Catch Returns, but not much is reported to and all that the Board can do is ask.
* In terms of seals, the Director advised that he had sent a suitably worded message again yesterday to Marine Scotland, explaining that it was now five months since a comprehensive licence application had been completed and seven months since any active seal management had been undertaken. Noting that the Board is getting probably daily, if not weekly, complaints, primarily from the lower river about seals coming in. In response to the issue of who has responsibility and whether a test case should be triggered, advising that the Spey Board cannot authorise shooting of seals or shooting to scare seals without authority from the Scottish Government, and that it is Marine Scotland Licencing which authorises the lethal removal of seals. In relation to from whom the Board can obtain an answer as to whether a seal can be scared so that it goes back to where it should live, the Director confirmed that he is struggling to get an answer from anyone in the Scottish Government on this.

Jennifer Heatley advising that, in her view an answer about the scaring of seals is going to be a tricky one to get a clear answer on. She offered ask her colleagues that deal with marine mammals to find out as much about the background to it all and what's happening. The reason seals cannot be shot at the moment is because seals aren't doing well in the places that they're supposed to be doing well. She acknowledged that while it is Marine Scotland's licensing work, they are obviously getting advice from NatureScot somewhere and she will take an action there and try and feedback as soon as possible whatever information she can obtain.

**ACTION: Jennifer Heatley to research NatureScot advice to Scottish Government on seal management.**

The Chairman raised a query in relation to proprietary seal scarers i.e. Acoustic Deterrent Devices. The Director advised that they have only limited effects which depend on the area that you deploy them. To be effective, they really need a mains power supply and the only source that the Board have got for a mains power supply at Spey Bay is at the Whale and Dolphin Conservation Society. They will not be receptive to any such approach. The seal scarers also only have limited effect, of between 50% and 89% dependent on where they are sited. They really need to be in a rocky environment for the sounds to work effectively, as if it is a sandy environment it absorbs too much of the noise. Even at their most effective, some seals are still going to get through. The government is working to develop an effective Acoustic Deterrent Device. The frustration experienced in trying to get any answers from the government on seals at the moment will be taken up with the Salmon Strategy Group when it meets on 27th September.

Toby Metcalfe advising that at the moment the River Dee are running a monitored experiment with some new acoustic devices with the results of that due out next year, and it might be quite helpful just to get a bit of feedback from them as to how that that exercise has worked out

The Director then raised a final piece of business pointing out that there are Triennial elections coming up in February of next year, and he would like to ask the board to discuss at its November meeting how big the board should be in terms of elected members. That will enable him to then go out to the proprietorship to determine whether or not there will be a contested election. There will also be a need to ask the elected board members whether they are prepared to stand again for election.

1. **DATE OF NEXT MEETING**

The date of the next meeting was confirmed as Friday 19th November 2021 at 9.30 hopefully in person and at Craigellachie Hotel.

The meeting then closed at 11.35 a.m.