

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 5th
February, 2021

Present: -

Chairman	Dr Alexander Scott	Craigellachie Fishings
Proprietors	Angus Gordon Lennox David Greer Peter Graham Guy Macpherson-Grant William Mountain Toby Metcalfe Callum Robertson Dr CMH Wills	Brae Water Trust Seafield Estates Rothes & Aikenway Ballindalloch Delfur Fishings Crown Estates Easter Elchies Knockando
Co-Optees	None	
In Attendance	Roger Knight Brian Shaw Jennifer Heatley William Cowie Neil Torrance Kenneth MacDougall	Director Senior Biologist Nature Scotland (formerly SNH) Clerk Clerk designate Envirocentre
Public Attendees	Des McInnes, Richard Banks & Daniela Morey	

1. WELCOME, INTRODUCTIONS AND APOLOGIES

The Chair welcomed Jennifer Heatley of Nature Scotland, Kenneth MacDougall of Envirocentre who would be presenting a summary on his report on River Spey water abstraction and Neil Torrance from McKinnons solicitors who would be assuming the responsibility as Clerk to the Fishery Board from the close of the AGM that afternoon.

Apologies had been received from John Trodden, Grant Mortimer and Richard Fyfe and it was noted that following the cyber-attack on the SEPA data system on Christmas Eve communication with members of SEPA was limited to mobile phones and Richard Fyfe had therefore presented his apologies.

2. MINUTES OF OPEN MEETING HELD ON FRIDAY 20th NOVEMBER, 2020

There were no other comments as to accuracy and the Minute was proposed by Angus Gordon Lennox and seconded by Peter Graham for signature by the Chairman.

3. ACTIONS POINTS AND MATTERS ARISING

3.1 Water abstraction

The Chairman advised that the meeting with GFG's representatives had started off on rather an aggressive footing but had subsequently improved. In particular, he felt that Julia Stoddart, who was the Chief Operating Officer, clearly showed interest in discussing a catchment wide sustainability initiative involving restoring the salmon population with other ongoing work on the Estate and she undertook to write-up a proposal to discuss with the Board representatives at a follow-up meeting. The Chairman noted, however, that the follow-up meeting had been cancelled by Julia Stoddart at short notice. He expressed the Board's disappointment and had now reverted to SEPA via Richard Fyfe to apply pressure for progress to be made particularly on the smolt tracking project proposal.

The Chairman reported to the meeting that in discussions with the Director Spey Dam was now to be considered the Director's number one objective for the coming season. He then invited questions regarding water abstraction.

Angus Gordon Lennox noted that in other spheres that were regulated, the regulators were not afraid to take action where necessary and had the necessary powers and willingness to do so. He felt that SEPA had consistently failed to exercise their regulatory remit to enforce compliance and it was vital that the Board hold SEPA to account.

Peter Graham asked Brian Shaw regarding progress of the trap and truck scheme above Spey Dam and also what the intention was for the genetic project which had been put on hold during the previous year's pandemic.

In response, Brian Shaw advised that as far as trap and truck was concerned, the initial aim was to work out survival rates of smolts above and below Spey Dam and this would be the first priority.

As far as the genetics were concerned, they already had one study in progress for genetics above Spey Dam, but it was noted that SEPA were keen to start smolt monitoring first.

Board Members concurred with Angus Gordon Lennox's concern about lack of progress from SEPA, but it was recognised that Richard Fyfe had been supportive of the Board's position. He needed continuing support from the Board because he faced major internal problems at SEPA. It was also noted that he was no longer full time, so the Board would require to assist him as far as they could to prioritise the issue within SEPA.

Peter Graham asked who was it that regulates the Regulators themselves? It was suggested that if a formal complaint through the standard complaints procedure did not succeed, then it would be through the Parliamentary route.

It was recognised that there were now serious failings within SEPA irrespective of the data hack and the Chairman suggested that he telephone Richard Fyfe directly to try to understand where the blockage was and how GFG could be “brought to book” to undertake what they were required to do.

Angus Gordon Lennox also suggested that the Chairman needed to make it clear to SEPA that they have the power to regulate and enforce and must use that power.

3.2 Patrol Boat

The Director reported that within the financial projections he had included a new patrol boat as the current patrol boat was some 18 years old and was likely to incur major refurbishment costs in the near future and would cease to be cost effective. A possible replacement had been identified although, given the current restrictions, it was not possible to proceed with this at the current time but, it was earmarked for the Spring.

In answer to an enquiry from Angus Gordon Lennox, the Director reported that they had looked at renting a suitable boat rather than purchasing, but given that the boat had to be “commercially coded” for its particular purpose, there were extremely limited options for hire.

He also noted that whilst it was possible to continue to undertake running repairs on the boat, given its age, the cost of these was likely to become very large.

Finally, in answer to the enquiry, he advised that the boat was used on approximately 30 days during the year. Whilst it was possible to investigate whether other Estates or estuary interests could share the costs, it was unlikely that they would need someone of Richard Whyte’s high level of training and cost.

3.3 Scientific Programme

Peter Graham asked Brian Shaw for a brief summary of the planned programme for this season prior to Biologist’s questions which was scheduled for later in the Agenda.

In response, the Biologist noted the programme per his report and commented that these would include the following: -

- Planting-out of eyed ova and unfed fry (following the Government restriction) with approximately 370,000 to plant out.
- Improvements to fish passage and habitat on Rothes burn involving Diageo.

- Continued smolt tracking for the Missing Salmon Project, with in-river and near shore involvement and training beginning in March.
- Water quality assessment, for which the Biologist reported he had recently received a huge amount of water chemical data from SEPA which he was in the process of following-up. There was also a significant amount of material involved in chemical measurements at the Dorenell Windfarm and there was equipment used for that chemical measurement which was still available to the Board and may be utilised in the main river in due course.
- Continued electrofishing. It was noted that Marine Scotland had applied for additional funding which the Board would be eligible for.
- An increase in the snorkelling programme.
- Monitoring of pink salmon, given that it was 2 years since the last appearance of pink salmon in the river according to the recognised cycle.

4. PRESENTATION ON ENVIROCENTRE REVISED REPORT.

4.1

The Chairman then invited Kenneth MacDougall to present the updated Envirocentre report on Spey abstractions from 2021.

Kenneth thanked the Chairman and noted that the report represented an update of the detailed report produced in 2008 and included:

- An analysis of present abstraction.
- The effect of those abstractions on the river.
- Future climate concerns.
- Forward issues.

He presented a short summary of the findings of the 2008 report and then noted that the main difference between that and the current report in 2021 was the availability of data. There was now a complete data set under the CAR Licence regime and all consented projects had produced a significant data from 2014 onwards. In the period between 2014 to 2018 there were 51 licenced sites and 74 different activities, with distilleries being the most common users. The largest by far, however, were the Fort William aluminium smelter at approximately 72% of total abstraction and the SSE Tummel Valley Hydro Scheme at 27%. From these largest extractions, it was noted that 91% of the water left the catchment entirely.

The report found that the land mass affected by direct abstraction comprised about 13% of the whole catchment by area. Abstractions including the Fort William aluminium smelter and SSE Tummel Valley were authorised through Acts of Parliament. Whilst there was no limit on how much could be abstracted, there were requirements for compensation flow to partly mitigate against the abstraction.

It was noted that the actual consented amount was far larger than that actually utilised and the average abstraction was in the region of 25%-30% of the total consented amount.

Turning to the Hydrological Analysis, he advised that long term data sets were not reliable, so they had to utilise an alternative technique to endeavour to determine the effect. Using that technique, however, their conclusion was that abstractions reduced the flow in the Spey by up to 66% immediately below abstractions, by between 39% - 61% at Kinrara and by approximately 17% - 24% at Boat o' Brig. It was Envirocentre's conclusion that this reduction in natural flow reduced the resilience of the river during low flow conditions.

As far as the level of abstractions was concerned, it was noted that generally more was taken in wet years than in dry.

The report then covered future climate forecasts and details were presented to Board Members. The potential impact of the climate changes would deplete average flow rates which, over time, would lower the natural ground water levels which were vital in supporting or sustaining base flows.

In summary, the future management initiatives that the report recommended were:

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- To reduce the loss of water transfers.
- To retain more flow and water in the catchment through land management.
- To promote a holistic, whole river basin approach to abstraction.

He then invited questions.

The Chairman thanked Kenneth MacDougall for his presentation but noted with sadness that the climate predictions were not great for the future and there were many challenges.

Angus Gordon Lennox thanked Kenneth MacDougall for an excellent presentation and noted the alarming future numbers and effects. He asked whether SEPA look at total catchment effect when considering abstraction licencing for new abstractions.

In response, Kenneth MacDougall confirmed that they do look at overall abstraction, but in a local catchment environment i.e. when looking at an abstraction in the Avon, they would look at Strathavon, but not necessarily down river. He did however suggest it was unlikely that there would be many additional abstractions sought.

In response to enquiry, he agreed that, as far as the Dipple Wellfield was concerned, the issue had more been the method of abstraction rather than the level and it was noted that Angus Gordon Lennox did now hold a copy of the legal document which provided for the methodology of abstraction.

Peter Graham noted that whilst only 13% of the catchment by area was subject to abstraction it may have a significantly larger effect on the river, given that the area was also the area with the highest rainfall and therefore a much more significant area for sustaining flows throughout the river. He asked Kenneth MacDougall whether he knew if this was taken into account in consenting abstractions.

In response, Kenneth MacDougall advised that flow reductions were based on average flow, so the significance of the area was taken into account in the total. He advised that the actual abstractions were set-up to trigger compensation flows, but he did acknowledge the biggest change to the river flow pattern was generally around the mid-range, as low flow periods were sustained by compensation flow.

Peter Graham was of the opinion that the 13% abstracted area was likely to represent something in the region of 30% of the total rainfall.

Brian Shaw noted that the Q5 flows which had been reported were actually fairly average spate level flows which were encountered fairly regularly. He asked whether Kenneth would be able to provide a graph showing very high flow events, such as Q5 – 10. Kenneth MacDougall confirmed that this was possible and said he would liaise with Brian regarding this.

Brian also noted that there were functional flood plain areas, such as Insh Marshes, which presented opportunities for management in the future.

The Chairman recommended that the Scientific Committee look at whether the Board were taking all the necessary steps to mitigate against the effects of abstraction and it was agreed by the Board that this should be scrutinised by a small working group.

Toby Metcalfe also commented that compensation flows, particularly from Spey Dam, were likely to be drawn from the bottom of the dam and therefore at a significantly lower temperature than the rest of the river. He asked Brian Shaw whether this would have an effect on spawning salmon.

The Biologist confirmed that it would, and there was plenty to think about regarding the effect on smolt production around compensation flows.

William Mountain enquired regarding the circulation limit of the report as yet, and the Chairman confirmed that it was only Board Members currently who had seen it, although it would be circulated to all stakeholders shortly.

The Chairman would meet with the Director, the Biologist, Peter Graham and Angus Gordon Lennox to look at the report in detail and break down the information to determine how it would be used. It would then be circulated as widely as possible after that point. William Mountain was happy with this, so long as information was not leaked “piecemeal” prior to then.

ACTION: Chairman, Biologist, Peter Graham and Angus Gordon Lennox to meet to discuss the Envirocentre Report and how it would be utilised.

The Chairman then thanked Kenneth MacDougall for his excellent presentation.

5. **ANNUAL REPORT 2020**

The Director said he would present a synopsis of the Annual Report at the afternoon's Annual General Meeting. It was noted that the approach to the Annual Report had changed to put emphasis on positives, before tackling regulatory and finance matters.

He then invited questions. Some discussion followed regarding the accountants' treatment of the money for the Spey Catchment Initiative, which the Chairman felt was wrongly shown in the accounts. The SCI funding was administered by the Board, but did not represent Board income.

Guy Macpherson-Grant also noted that the figures in the page reproduced in the Annual Report were not correct and did not add up without the additional notes to the Accounts.

In response, the Chairman confirmed this was due to the anomaly of the SCI monies and would be resolved.

ACTION: Accountants to revise the Income and Expenditure account regarding the treatment of Spey Catchment Initiative funds.

The Director confirmed that full accounts would be presented for approval at the AGM including an explanation which should address the position. The final accounts would not appear on the website until the anomaly had been addressed.

There were no other comments or questions on the Annual Report.

6. **DIRECTOR'S REPORT**

This was as noted in the handout but the Director reported on a number of aspects using the numbering from the report.

2.1 Wild Salmon Strategy Group

He advised that he was delighted to be joining the group, but that the meeting had not yet taken place. Marine Scotland were currently struggling with staff absences, but he would be attending a meeting as soon as logistically possible.

2.2 Water Abstraction

He reported that he had issued an invitation, on behalf of SEPA, for a subsequent meeting with GFG to discuss the smolt monitoring project.

2.4 SFB Stocking

It was noted that the surplus which had been produced in the hatchery in the current year would be planted out following a revised plan from Brian Shaw. It was hoped that planting-out would be in a more appropriate manner than in 2020, where the final planting out was rushed due to the imminent Covid restrictions.

3.1.2 Seal Licences

The previous licence programme had terminated on the 31st January, following a need to fall into line with US Legislation which prevented the lethal removal of sea mammals. It was noted, however, that there were exemptions in the UK Legislation to allow removal of seals for the conservation of other animals and Marine Scotland had indicated a willingness to listen. It was hoped that a revised licensing system would be introduced in the Spring.

3.2.1 Wildlife Crime

The Director noted a significant rise in reported poaching during lockdown.

4.1.1 Riparian Enhancement at Glen Truim and Calder

Fencing was almost complete at the River Calder and temperature loggers and time lapse cameras were also deployed.

He then invited questions.

There were none from Board Members although the Chairman noted that as far as the meeting with William Mountain regarding the Risk Register was concerned, he had concluded this would be best considered in conjunction with the Strategy review at the next Board Meeting in May.

7. **QUESTIONS ON BIOLOGIST'S REPORT**

The Biologist provided some further explanation on his report dealing with the following aspects: -

- Electro Fishing Report

He advised that in reading this, everyone should bear in mind the shifting baseline, but the report had dealt with data from 1990 onwards. The primary findings in

the previous year were very good numbers on the main stem, but the tributaries were showing some decline. The level of juvenile stocks remained good though.

- Piscivorous Bird Study

Some of the birds retrieved had no fish in their intestines, but of those that did, 44% of the contents were salmon and 38% were trout. This appeared to be a larger than expected level of trout. He explained that the method of differentiating between salmon and trout was by an examination of the “atlas” vertebrae which could also determine the age of the fish. He advised that there was more work to come on this.

- Bio accumulation

He reported that the process of distilling created a lot of copper. He was therefore intending to sample parr to see if there were higher levels in river areas impacted by Distilleries compared to control areas. This would be a relatively easy project to undertake.

- Invasive Species

He reported that this was a very useful project and still had 2 years to run.

- Rainfall record

He was undertaking modelling which was already suggesting a marked variability of rainfall.

Peter Graham congratulated the Biologist on the Electrofishing Report, which represented a huge amount of work and it was noted that no other river in Scotland had a better understanding of their juvenile stocks.

8. AOCB

8.1 Jen Heatley advised that when dealing with Nature Scotland it was likely that significant focus on the evaluation of projects would be based on “nature based solutions”. Currently there was no succinct definition of this, but it would be a key to attract funding across the range of Nature Scotland’s involvement and would be a focus for the future. She offered to assist and help the Board translating applications to focus on nature based solutions.

Toby Metcalfe thanked Jen Heatley for her involvement and requested that she encourage Nature Scotland to disseminate how Boards and other stakeholders were to convert this into practice. She confirmed that she would do her best to do so and would report back at the next meeting, which would be included as an Action Point.

ACTION: NatureScot to advise on the practical application of nature-based solutions.

8.2 David Greer advised that in connection with water quality issues the Scottish Government had released a paper on anaerobic digestate from electricity producing anaerobic digesters for farmers use and he felt that the Board should be aware of this. The Biologist confirmed that he was and this represented a real issue and was very timely.

9 **DATE OF NEXT MEETING**

The date of the next meeting was Friday 21st May 2021 and the meeting then closed at 11.30 a.m.