

135 AT A MEETING OF THE TECHNICAL, SCIENCE AND BYELAW SUB-COMMITTEE held at NWIFCA Offices, Carnforth on 1st November 2013

PRESENT – MEMBERS

Mr R. Graham	(Chairman)	MMO (Fishing Industry – Cumbria)
Mrs J. Butler		MMO (Shellfish)
Dr J. A. Clark		MMO (Marine Science)
Mr T. Jones		MMO (Aquaculture)
Councillor A. J. Markley		Cumbria County Council
Mrs M. R. Owen		MMO (Fishing – various)
Mr C. J. Woods		MMO Fishing Industry – North West)

OFFICERS

Dr S. Atkins	Ms M. Knott
Mr S. Brown	Mr J. Moulton
Mr A. Deary	

IN ATTENDANCE

Mr L. Browning	Natural England
Mr R. Whiteley	Natural England

APOLOGIES

Mr B. Crawford	MMO (Anglers and Recreation)
Prof C. Frid	MMO (Marine Science)
Mr C. Lumb	Natural England

136 CHAIRMAN'S ANNOUNCEMENTS (Agenda Item 1)

1. The Chairman welcomed members and announced apologies.
2. The Chairman welcomed Mr R. Whiteley who was attending as a substitute for Mr Lumb.

137 DECLARATIONS OF PECUNIARY AND NON-PECUNIARY INTEREST IN AGENDA ITEMS (Agenda Item 2)

Agenda Item 5. Lune Deep EMS – Report on progress and revised byelaw. Mr R. Graham, Mrs M. R. Owen.
Agenda Item 7. Review of Byelaw 2. Mr T. Jones.
Agenda Item 8. North Morecambe Bay Seed Mussel Fishery 2013. Mrs J. Butler, Mr T. Jones, Mrs M. R. Owen
Agenda Item 9. North Morecambe Bay Seed Mussel Dredge Fishery – Track Record. Mr T. Jones.
Agenda Item 10. Foulhaze Cockle Fishery. Mrs J. Butler, Mrs M. R. Owen
Agenda Item 11. Dee Estuary Co-operation with Natural Resources Wales (NRW) and Welsh Government (WG). Mr T. Jones, Mr C. J. Woods.
Agenda Item 12. Morecambe Bay Hybrid Fishery Order update. Mrs J. Butler, Mr T. Jones, Mrs M. R. Owen, Mr C. J. Woods.
Agenda Item 13. Razor Clam Update, Foulney Mussel Management, Leasowe Unregulated Bivalves, Communications Update. Mr T. Jones.
Agenda Item 14. Removal of Mussels from the Morecambe Bay Oyster Farm. Mrs J. Butler.

138 TO RECEIVE MINUTES OF THE TECHNICAL, SCIENCE AND BYELAW SUB-COMMITTEE MEETING HELD ON 16TH AUGUST 2013 (Agenda Item 3)

RESOLVED: The minutes of the Technical, Science and Byelaw Sub-Committee meeting held on 16th August 2013 be approved and signed as a correct record.

139 MATTERS ARISING (Agenda Item 4)

The Chairman advised that match funding from FLAG for projects linked to fishing may be available. Mr Paul Crookes from FLAG would be able to explain what could be applied for. Mr Whiteley said that he would ask NE about funding.

Support from wind farms for local fishing communities may be available. Mr Jones suggested that previously there had been a lack of support for small fisheries projects by wind farm companies. Ms Knott suggested investigating the prospect with the wind farm companies of wind farm subtidal infrastructure creating habitat for new fisheries. Mr Graham requested that a representative of the West of Morecambe Fisheries fund who represented the four energy companies be asked to present at an IFCA meeting.

Action

Mr J. Moulton to contact Andy Revell of WMFF to see if he can attend either the NWIFCA meeting in December or a special meeting to be arranged for the New Year.

140 LUNE DEEP EUROPEAN MARINE SITE – REPORT ON PROGRESS AND REVISED BYELAW (Agenda Item 5)

Members were updated on the progress of work carried out by the Science Team to provide the Authority with a mechanism for including the site within Byelaw 6. This is required by Defra policy to address the NGO legal challenge, but Officers have found a way to allow current fishing activity to continue in the sandy bottom next to the reef feature using a sunset clause. The single vessel fishing the area causes no damage to the feature from this activity and could receive an authorisation to continue under the sunset clause.

The Science Team are finalising a draft HRA in consultation with NE and with minor amendments will conclude there would be no adverse effect on the integrity of the European Marine Site arising from operating the sunset clause.

Officers suggested that a sunset clause could be seen as good practice for other IFCA but NE cautioned that closing the red feature would still be considered as best practice.

Mr Graham noted that existing fishing activity cannot be shown to have caused any damage to the feature and should be allowed to continue. IFCO Brown suggested that the use of the sunset clause in Byelaw 6 could be crucial in finding a solution to this problem. Mr Jones expressed concern that the sunset clause was not drafted tightly enough. The CEO stated that MMO legal Officers would have to approve the wording. Mr Jones also questioned a byelaw that would prohibit in the future fishers with the appropriate skills and experience from fishing the sandy area at the bottom of the reef or from using fisheries technology developments which could make fishing the Lune Deep easier with greater certainty about avoiding reef features. Ms Knott asked whether or not the standard byelaw review process would not capture such eventualities.

Members expressed concern about the validity of the red list in identifying threatened areas and considered that the NWIFCA should not be forced to act on the unscientific and non-rigorous process that was used to determine EMS features at risk from fishing. The method had generated a number of areas in the NWIFCA District which were not under threat from fishing and do not require byelaw protection. Dr Clark said that the policy requirement to enact a byelaw to prohibit fishing which does not take place, let alone cause

damage to EMS features, is unreasonable and risks opening the Authority to legal challenge by the fishing industry.

The CEO pointed out that Byelaw 9 restrictions on vessel size in the District already limited the size of gear that could be towed to light trawl gear and that dredging was prohibited under Byelaw 12. Dr Clark felt that it was inappropriate for the NWIFCA to prohibit legitimate undamaging fishing. Mr Graham and Mr Jones agreed although the Authority understands the difficulties that Defra are facing through legal challenges.

The CEO introduced the Defra letter urging protection for the Lune Deep suggesting that the Authority should be cautious about failing to support Government policy at a time when IFCA are being reviewed and future funding is under consideration. Dr Clark asked for the Authority to respond robustly to the Defra letter pointing out that protection for the Lune Deep was unnecessary as the feature is not under threat, that the NWIFCA already has a number of measures which effectively stop damaging fishing on the reef and that NWIFCA is confident that it is already in compliance with the Habitats Directive for this site.

RESOLVED

1. The report be received.
2. The Authority delay re-making Byelaw 6.
3. Further investigations are needed on the possibility that potential impacts could have been underestimated because there could be other fishing boats that have previously fished the area which could apply for authorisations under the sunset clause.
4. NWIFCA should make provision for future fisheries technology developments which could make fishing the Lune Deep easier with greater certainty about avoiding reef features.
5. NWIFCA responds to the Defra letter as proposed by Dr Clark.

141 REVIEW OF BYELAW 1 (Agenda Item 6)

NWIFCA Byelaw 1 will replace Cumbria SFC Byelaws 1 and 2 as well as NWSFC Byelaw 1 as part of a review of NWIFCA's inherited byelaws. The byelaw provides a definition of the District and allows for scientific derogations.

RESOLVED

1. The report be received.
2. Byelaw 1 be presented and 'made' at the 6th December meeting.

142 REVIEW OF BYELAW 2 – MECHANICALLY PROPELLED VESSELS – MAXIMUM LENGTH (Agenda Item 7)

The NWIFCA byelaw review in 2011 decided that a standardisation of vessel maximum length across the District should be achieved if possible. NWIFCA Byelaw 2 was made in 2011 but not progressed and is not being reconsidered. Members felt that some of the wording was not tight and should be reconsidered. The possibility of using a maximum engine size was considered but the NWIFCA does not have expertise to enforce such a measure.

RESOLVED

1. The report be received.

2. Re-examine the wording and the impact that Byelaw 2 would have on fishing in the District and possible impacts upon fishing in the future.

143 NORTH MORECAMBE BAY SEED MUSSEL FISHERY (Agenda Items 8 and 9)

Ms Knott reported that the dredge seed mussel fishery was largely successful after initial issues over compliance with the permit regulations. It had generated £21,000 of fee income. Fees were charged based on vessel length. The MMO has still not responded to a request from NWIFCA for clarification on the legality of transshipment legislation. Natural England and RSPB representatives had observed the dredge facility, facilitated by Mr Jones.

RESOLVED

The report be received.

144 FOULNAZE COCKLE FISHERY (Agenda Item 10)

Mr Deary reported that since the last meeting, fishing on three more sets of tides had yielded only 67T of cockles removed from the fishery by around 40 gatherers. The fishery has operated smoothly with no complaints from the public or other agencies. Three boats had been operating reducing to one as the size of the fishery declined. Disputes between fishers and buyers were noted but this issue is out of the Authority's control. The fishery was closed under Byelaw 13a from 1st November to ensure compliance with MCGA regulations on use of boats in winter. Enforcement operations led to eight cautions being issued to gatherers, five of which were dealt with through formal letters. Once case has been submitted to court and two are being further investigated. Mr Brown is looking into the future enforcement of the fishery against poaching through the winter months.

The Head of Enforcement was requested to provide a written report on this subject so to provide all members of the TSB with a better understanding of the issues involved.

RESOLVED

The report be received.

145 DEE ESTUARY: CO-OPERATION WITH NATURAL RESOURCES WALES (NRW) AND WELSH GOVERNMENT (WG) (Agenda Item 11)

Mr Jones reported developing co-operation with NRW and the Welsh Government. NWIFCA is meeting with NRW to agree joint enforcement on the Dee. This could be in the form of a cross order joint working party. It was agreed that NWIFCA should be more proactive in working with the Welsh Government and that ecosystem based approach to management would be effective.

Mr Woods said that fishermen from the northern side of the Dee felt a little disadvantaged under the current arrangements and welcomed the proposed proactive approach to be adopted by NWIFCA.

RESOLVED

1. The report be received.
2. Mr Jones to report back to Welsh partners to consider if further joint working would be of value.

146 SUMMARY REPORT (Agenda Item 13)

Razor Clam trial fishery

Work to develop the gear has progressed and an HRA has been carried out. Officers will liaise with Cefas and once the HRA has been signed off and a start date has been set a Byelaw 1 derogation will be issued.

Foulney Mussel Bed Management

A public meeting at Heversham was held on the 28th October. Gatherers were invited to share their views on possible management options for the Foulney mussel bed. It was suggested that the slightly undersize stunted mussel at the top of the bed should be removed to allow new seed to settle. The idea of zoning was debated and the gatherers liked the idea of a line across the bed from which they could work down towards the water without fear of enforcement for gathering undersize. This line could be flexible and move up or down dependent on the location of size mussel. It was explained that such a management measure would be subject to an HRA and agreement with Natural England.

Action

Officers to investigate the use of a line to separate areas of predominantly size mussel.

Leasowe - Unregulated gathering of intertidal bivalves

Gathering of unregulated species is continuing. IFCOs will collect data on the hand-gathering and report back to the Science Team, who will keep the TSB informed.

Communications Update

A verbal update was given by IFCO J. Moulton on the progress made since taking over from Mr Lindop in September. Mr Moulton has drafted a number of communications items and issued a further edition of the NWIFCA newsletter.

147 REMOVAL OF MUSSELS FROM THE MORECAMBE BAY OYSTER FARM (Agenda Item 14)

At the beginning of October an authorisation was issued to Seasalter Ltd for the removal of seed mussel by hand gatherers from around the oyster trestles. The seed mussel and associated mussel mud fouls the oyster cultivation area. Seasalter engaged Kingfisher Seafoods to operate a commercial seed mussel fishery to remove the seed. However, NWIFCA received complaints that some Byelaw 3 permit holders were being excluded from the seed fishery. NWIFCA decided that its authorisation could not be used to discriminate against some permit holders.

It was also confirmed that the gathering of seed mussel from outside the "Box Area" as specified in the authorisation is an offence under the NWIFCA byelaws.

RESOLVED

1. The report be received.
2. To immediately withdraw the authorisation previously issued on 14th October 2013.
3. To offer a new authorisation which would state that all gatherers must hold a Byelaw 3 permit
4. To inform the operator that the authorisation could not be used to discriminate against some fishermen.

148 MORECAMBE BAY FISHERY ORDER (Agenda Item 12)

Mandy Knott reported Defra progress on the draft Statutory Instrument. Consideration needs to be made by Members on the full detailed content of the proposals within the Management Plan. As there was not enough time to discuss all issues fully, the sub-committee agreed that a separate meeting was needed.

RESOLVED

1. Ms Knott to convene a meeting for all interested NWIFCA members.
2. Mrs Owen wished thanks be recorded to Mandy for her exceptionally hard work on the Fishery Order.