

**NWIFCA Technical, Science and Byelaw
Sub-Committee**

1 November 2013: 10:00am

**Report
Number**

14

REMOVAL OF MUSSELS FROM THE MORECAMBE BAY OYSTER FARM

Aim of the paper: To review the current authorisation and address unforeseen difficulties

Recommendation: That TSB approve an amended authorisation to be issued as of 31 October 2013.

Background

1. At the beginning of October an authorisation as at Annex A, was issued to Seasalter Ltd to permit them to use Morecambe Bay Mussels to remove undersize mussels from the area of the Seasalter oyster farm. Mussels are fouling the oyster frames and the seabed within and around the frames on the area leased from Boughton Estate for cultivation of oysters.
2. The authorisation followed previous SFC and IFCA practice and permitted clearance to be carried out by the Oyster farm or agents acting on their behalf. The seed gathered can be removed and sold or must be re-deposited on areas of existing seed. Seed can only be removed from the area defined within Paragraph 2 of the authorisation.
3. In the past the SFC allowed clearances from the area by hand gathering or by physical movement using heavy machinery.

The changed position in 2013

4. A difference has appeared this year in the fact that Kingfisher Seafoods (Morecambe Bay Mussels) are acting as an agent for the oyster farm and are providing the labour to remove the mussels. Mussel fishermen accuse Kingfisher Seafoods of excluding some gatherers so that the operation is not open to all gatherers or other buyers. The NWIFCA has a responsibility to ensure that its authorisations are fair to all permit holders and are non-discriminatory. The way the Seasalter authorisation is being used is unacceptable and NWIFCA must withdraw or modify its authorisation to ensure it is non-discriminatory.

Environmental impact

5. Under an assessment by NWIFCA science officers, Natural England has agreed the mussel clearance work up until the 30th November when a review will be needed to ensure protection for wintering birds. The area is part of the Morecambe Bay SSSI, SPA and SAC.

Legal status of the area

6. The oyster fishery is on Boughton land but no fishery order is in place to protect the oyster farm from the public fishery. Therefore the area is subject to NWIFCA byelaws and the Authority must aim to ensure the public fishery is not damaged by any other activity.
7. On the understanding that shellfish not on the seabed are not part of the public fishery, oysters and mussels on trestles are assumed to be owned by Seasalter limited and to be outside the public fishery. Mussels on the seabed including those under the trestles are

assumed to be part of the public fishery. Damage to shellfish beds in the public fishery without authorisation from NWIFCA is an offence under the 1967 shellfish act and removal of undersize mussels without a Byelaw 3 permit and written authorisation from NWIFCA is an offence under NWIFCA Byelaw 3.

Enforcement

8. At present, NWIFCOs require gatherers to have a Byelaw 3 permit and restrict the taking of undersize mussels from within the boxed area. However, NWIFCA has received many complaints that some byelaw 3 permit holders are being excluded from the fishery. IFCOs cannot tell who is allowed by Seasalter and MBS to fish and must permit all Byelaw 3 permit holders to have equal access.
9. The oyster farm is concerned that if all Byelaw 3 permit holders are allowed to gather, the likelihood of damage to the Oyster trestles or theft of oysters is increased. IFCOs consider that fishing effort is unlikely to increase much because seed mussel are of relatively low value and it is uneconomic for gatherers to travel to fish from outside the local area.
10. To mitigate this concern, NWIFCA will note and report any damage to the Oyster farm. With careful monitoring any small increase in numbers of fishers will increase removal of mussels and be to the benefit of the farm.

Amended Authorisation

11. Officers propose that the Seasalter authorisation is amended as of 31 October to say that all Byelaw 3 permit holders will be permitted to take undersize mussels from the area of the Oyster farm.

Chief Executive
31st October 2013