

## **North Western Inshore Fisheries and Conservation Authority**

**Quarterly Meeting: 6 December 2011,  
Morecambe Town Hall, 10.30 a.m.**

**Agenda Item: 7**

### **THE RIBBLE COCKLE FISHERY**

**Purpose:** to report the background to the current position and options for management

#### **Recommendations**

- 1. Approve actions to date to close the fishery and investigate options to improve regulation and management.**
- 2. Maintain the emergency closure enacted on 7 November to protect the safety of boat users recognising the advice of the Marine and Coastguard agency**
- 3. Maintain the closure to protect low density and undersize stock following scientific survey of the main Ribble estuary beds.**
- 4. Consider management options for the remainder of the cockle season and beyond including improvements to safety, removing the 5kg non-commercial limit and setting a date for reopening the fishery.**
- 5. Agree priorities and actions.**

#### **Summary update.**

1. I reported in some detail on the preparations for this fishery at the September meeting. During the second half of September and October, the fishery became focused almost entirely on the offshore Foulnaze bank where by far the largest stocks of fishable sized cockles were found. This bed proved to be highly productive and on some days over 200 tons of cockles were taken fished by up to 300 people.
2. The main pattern of fishing was that most cockles were transported from the beach using up to 5 licensed fishing vessels. These vessels were Drie Gebroeders, Lord Sam, Ascari, Vicki Lee, and Solway Prospector. From early September, the vessels were based in Preston marina sailing daily to the Foulnaze bank over high water and drying out over low water so that cockles could be loaded by hand gatherers. These vessels also transported quad bikes and cockle fishing equipment.
3. About 10% of the catch was transported from the beds using small boats. Some went to the Seafield Road slipway at Lytham St Annes and some went over the South Gut Channel and over the sands to Southport where there are a number of possible landing points over a 8-10 mile stretch of coastline.
4. A substantial proportion of the stock was undersize throughout the period of the fishery. In early September, warnings were given for retaining undersize and riddles were encouraged. Officers noted that the catch improved significantly although a very high proportion of the stock harvested was at the minimum size.
5. In the 2 months from 1 September to 7 October when the Ribble estuary beds were closed for safety reasons, there were 29 days fishing in which all or some of the Preston based vessels were used. The 3 main shellfish merchants report that they had harvested approximately 6,500 tons of cockles. At £600 per ton, this represents a first sale value to the gatherers of approximately £3.9M in total. Towards the end of October, merchants

reported that an oversupply from the Ribble fishery was leading to a reduced demand for cockles.

6. Also towards the end of October, Officers received reports that stocks were becoming noticeably reduced on the Foulnaze bank with fishers collecting only 50% of the amount per day that was recorded at the start of the fishery. Survey work on the bed is scheduled for 22 November and will be reported at the meeting.
7. Following Ministerial involvement and extensive media coverage, the NWIFCA introduced an emergency byelaw to close the fishery to protect the safety of fishers on 7 November.

### **Foulnaze Bank**

8. The Foulnaze Bank is a shallow offshore sandbank at the entrance to the Ribble Estuary. There are no records of this Bank holding cockles in the past and first indications are that the current stock may be temporary and short lived. From surveys in early September and reports from fishermen, the stock consists almost entirely of a single year class from 2010 which are present at high density. Within a very narrow band they are all essentially the same size. There is no evidence of a 2011 settlement indicating that once the 2010 stock has died out, the bed will no longer exist.

### **Enforcement, safety, media and political issues**

9. The inaccessibility of the Foulnaze bed has made it very difficult to police. From early October, Officers found that the combination of adverse weather, lack of daylight, and the hazards of the estuary meant that there were few occasions when enforcement could be carried out on the beds. Patrols were therefore mostly undertaken at the access points of the Marshside track in Sefton and the Seafield Road slipway in Fylde.
10. However, the IFCA has limited powers to require permits off the beds. Fishers have a general right to access areas of the foreshore including cockle beds and also under Byelaw 5 a right to gather up to 5kg for personal use. Only if there is strong evidence that individuals are going to fish commercially and have in their possession a full kit of cockle fishing equipment can IFCOs refuse access to the beds or prosecute for illegal fishing. These limits to the powers of the IFCA meant that there were significant numbers of fishers accessing the cockle beds who did not hold byelaw 5 permits.
11. From the start of the fishery, risks were taken over the use of small and unsuitable craft to attempt access to the Foulnaze bed. On some days over 100 small boats launched from the Seafield Road slipway at Lytham, including many rubber dinghies. Many did not carry adequate safety equipment or an auxiliary engine, they had inadequate engine power and many users had little or no experience of using their boats. They launched in adverse weather without taking account of the forecast, often in the dark and often overloaded with fishers. The return journey could be even more hazardous. The weather sometimes turned worse and boats attempted to tow or carry several tons of cockles in addition to the passengers.
12. Between 1 September and 7 November, there were approximately 25 calls to emergency services resulting in responses by the Coastguard and RNLI. The most serious incident on the night of Monday 24 October resulted in a major emergency regional response including MCA, RNLI, Police, 2 search and rescue helicopters a fleet of ambulances and hospitals in the area placed on standby for several hours.
13. Following that incident, the fishery attracted the interest of regional and national media with BBC and Granada external broadcast vans present at Seafield Road for several days in the week starting 1 November. A series of planning meetings were convened by Fylde

Council. All Authorities voiced their concern that the risks being taken by fishers were unacceptable. There were multiple calls for the fishery to be closed urgently. The main options being considered at that stage were a complete closure or a dredge fishery.

14. Fylde Council representatives and Lancashire Police obtained a meeting with Fisheries Minister Richard Benyon on 3 November at which the CEO provided briefing and advice by phone. Subsequently the Minister wrote to the NWIFCA on 9 November indicating support for a closure as attached at Annex A.
15. Local Councillors and MPs became involved resulting in a series of Parliamentary questions for which the CEO provided briefing. A question in the House of Lords led to the exchange recorded in Hansard as attached at Annex B.

### **Suction Dredge proposal**

16. Suction dredging is a form of mechanical harvesting of shellfish from a fishing vessel. Surface layers of sediment are lifted by suction and passed through a sieve aboard the vessel. Harvest sized cockles are retained and all other material including small cockles are returned to the sea. As a general policy the NWIFCA does not support dredging of intertidal beds which are accessible to hand gatherers. Dredging may be more environmentally damaging than handgathering. There is evidence from some areas such as the Wash that dredged beds do not recover as well as hand gathered beds.
17. Suction dredging was proposed as an option for the Foulnaze bed following the incident on 24<sup>th</sup> October as a means of bringing the fishery to an end quickly. The policy aim being to substantially reduce stocks quickly so that the incentive to take hand gathering risks would be reduced. The hand fishery would be re-directed to intertidal beds such as North Penfold and South Gut.
18. The Foulnaze bed may be considered for suction dredging because it is an offshore bed which is not accessible to hand gathering without unacceptable safety risk. There have not been cockles in this area in the past. The current stock appears to be short lived and temporary because there has not yet been a 2011 settlement which would continue the population in 2012. An assessment of the environmental impact of dredging was prepared and sent to Natural England. This indicated that NWIFCA officers were moving towards a conclusion that there would be no significant impact on the integrity of the protected areas from a short and relatively small scale dredge fishery. The assessment covered the following potential impacts:
  - I. **Damage to other fauna in the sediment.** If as expected, the bed is a 'monoculture' of cockles then dredging would be considered less damaging than if there was a community of species which would be destroyed.
  - II. **Loss of food resource for intertidal and diving birds.** As this stock of cockles is assumed to be temporary it should not be considered as an essential food resource on which predator species such as wildfowl are dependent. Both intertidal feeding birds and diving birds use the area and are known to feed on cockles. There is no shortage of shellfish in other parts of the Ribble or wider coast of Liverpool Bay and no shortage of space in which the bird species present are regularly seen.
  - III. **Disturbance to birds.** Dredging would cause some relocation of diving birds such as Scoter. In general fishermen report that diving birds are attracted by sediment disturbance activities such as suction dredging or trawling. We can assume that these activities provide easy feeding opportunities.
19. On November 3<sup>rd</sup>, Natural England provided verbal advice that suction dredging could not go ahead on environmental grounds. NE reported that the NWIFCA could be at risk of

prosecution if suction dredging was permitted and could open the UK Government to infraction proceedings by the European Court for allowing damage to a European Marine Site. Officers have had a number of discussions with NE to clarify the evidence relating to their assessment and their written advice is awaited. However, in the face of this preliminary advice Officers have ceased consideration of suction dredging on the Foulnaze bank.

### **Closure of the Fishery**

20. Removal of the suction dredge option (at least in the short term) left the NWIFCA no option but to close the fishery as soon as possible as a vital safety measure. An emergency byelaw was drafted on the 3-4 November and circulated to members for approval. All responses from members were supportive and there were no messages against.
21. The emergency byelaw was made and signed by the Chairman on Saturday 5<sup>th</sup> November. It came into force on Monday 7<sup>th</sup> November. Copies were sent to the Minister as required by the Defra regulations and placed on the NWIFCA website. Closure notices were prepared and displayed around the District and an information letter sent to all permit holders. The closure was broadly supported by other regulators including Lancashire Police, Coastguard, Health and Safety, Fylde and Sefton Council (with a proviso that the fishery should be reopened as soon as possible) and the Gangmaster Licensing Authority.
22. From 7<sup>th</sup> November to date (22<sup>st</sup> November), there was only 1 recorded alleged poaching incident on the night of Thursday 10<sup>th</sup> November. IFCOS S. Brown and S. Waite intercepted a group of alleged cocklers returning from the direction of the South Gut channel carrying full sets of cockling equipment and 2 outboard engines. A quad bike and inflatable boat were later recovered from the scene. All the equipment was seized by IFCOs and 5 fishers are under caution for alleged fishing without permits in a closed area.
23. Despite the lack of poaching attempts the closure takes intensive effort and resources to maintain. IFCOs have patrolled the Seaford Road slipway at Lytham and the Marshside track at Sefton on almost all night time tides and many early morning and late evening tides.

### **Stocks on the Penfold Channel and South gut beds.**

24. Science officers undertook a comprehensive survey of these beds on 9-10 November. Results are shown in Annex D. In summary they show that in most areas, the density of cockles is close to the threshold of 20 sized cockles per m<sup>2</sup> used by the NWIFCA (and NWSFC in the past) as an indicator of a level when fishing should cease. There is a good stock of undersize cockles which provide grounds for expecting a fishery on these beds in 2012.

### **Stocks on the Foulnaze beds**

25. A comprehensive survey of Foulnaze bank was carried out on 22 November. 42 points spaced at 250m intervals were sampled. Results are shown in Annex E. As expected, the remaining stock on the bed following over 2 months intensive fishing was found to be patchy with densities ranging from zero to over 1000 per m<sup>2</sup>. The average density was 216 cockles per m<sup>2</sup>. However none of the stock was significantly above the minimum landing size and most was undersize. The average proportion of undersize was 62% with some sites giving 100% undersize. This survey gives an estimate of less than 1000 tons of sized cockles remaining on the Foulnaze bank.

## Future management of the Ribble estuary

26. For the immediate future, stock surveys indicate that none of the beds on the Ribble should be fished at present but that there is the stock to suggest a good fishery in 2012 particularly on the Foulnaze bank. Therefore this report recommends that the NWIFCA maintains the emergency closure put in place on 7 November.
27. For longer term consideration, before the Ribble cockle beds are reopened for hand fishing, the NWIFCA should consider a number of factors:
  - A. The potential for improvements to safety
  - B. The potential for improvements to regulations and the application of Byelaw 5
  - C. The timing of any reopening.

MMO lawyers have been instructed to provide legal advice in respect of mechanisms for achieving points A and B above. The full instructions are attached at Annex C

### A. Safety

28. Safety was considered with HSE and the Marine and Coastguard Agency (MCA) at a meeting on 17<sup>th</sup> November in Fylde Town Hall. Discussion focused on the risks taken by users of small boats and their inexperience. The MCA stated that it does not consider that the Foulnaze bed can be fished safely in winter conditions using small boats unless those vessels comply with the highest standards of construction and safety. There was agreement that the boats used in this commercial cockle fishery are being used commercially and should be defined as workboats. Accordingly they should be coded under the terms of MGN 280: **Small Vessels in Commercial Use for Sport or Pleasure, Workboats and Pilot Boats – Alternative Construction Standards**. MCA have supplied a full copy of the code as a digital file which is available on request.
29. Coding would ensure vessels comply with minimum construction standards, also that they were limited in the number of personnel they were permitted to carry and that they carry sufficient safety equipment for all the personnel on board.
30. Coding would improve enforcement by MCA, IFCOs and other regulators. Coded vessels carry an identification number and coding would facilitate enforcement action by MCA on vessels which did not meet coding standards. Making vessel coding a condition of an IFCA Bylaw would give IFCOs powers to prosecute users of vessels which did not comply for a bylaw offence and would ensure that MCA could take enforcement action against vessels which did not comply within all the controlled waters of the Ribble Fishery
31. Coding would require a cost, thought to be in the order of £500 per vessel to cover the charge of an inspector approved by the MCA to certificate vessels. There could be further charges for any required improvements and safety equipment for the vessel and any training courses required. It must be noted that MCA officers have advised that few if any of the boats they inspected for safety equipment at Lytham would be of sufficient construction standard to achieve the requirements of coding.
32. A draft emergency byelaw has been prepared, requiring all vessels used in cockle fisheries to be coded to meet MGN 280. However, in the light of the MCA comments, officers are unconvinced that this measure would be appropriate, workable or enforceable.

### B. Improvements to regulations

33. The Foulnaze Bank fishery has drawn attention to the loophole in Bylaw 5 which is the provision for anyone to collect up to 5 kg of cockles or mussels per day for their own use

without requiring a byelaw 5 permit. This coupled with the general right of anyone to be on the beach for whatever purpose grossly weakens the byelaw. In order to prosecute for not holding a byelaw 5 permit, IFCOs must gather evidence of a court standard that the fisher without a permit takes more than 5kg per day.

34. The fishing pattern at Foulnaze using fishing vessels to transport cockles meant that fishers returned to the shore without their catch or cockle fishing equipment. This further weakened IFCO powers to enforce the commercial fishing regulations. Unless IFCOS could closely monitor the fishing of individual fishers on the bed, they could not be sure of a chain of evidence which would lead to a prosecution for fishing without permits.
35. MMO Lawyers have been instructed to give legal advice on options for plugging the 5kg loophole as at Annex C. Officers are meeting with MMO lawyers on 29 November and will report on 6 December.

### **C. Timing options**

36. **Open after the 6 December meeting.** Following the discussion of safety above, opening would require an emergency byelaw to require all boats to be registered or coded and all fishers to hold fishing safety qualifications.
37. Survey results dictate that none of the Ribble cockle beds should reopen in the immediate future. However, the industry requests that the fishery is opened urgently before Christmas to take advantage of the strong pre-Christmas market. This date would provide approximately 10 days of fishing before the markets close for the Christmas break. We expect that the value of the catch could fall in the New Year as demand weakens and quality falls.
38. However, given the safety risks taken in October and the political and media storm around the fishery, an opening in December even with only coded or registered fishing vessels may be seen as too hasty. Days are short and weather conditions severe and unpredictable. There would not be time for vessels to comply with the requirements of the emergency byelaw and get boats coded and safety equipped. It is highly unlikely that the 5kg limit problem could be addressed by 9 December and this opening would be against scientific advice.
39. **9<sup>th</sup> January 2012.** An emergency byelaw would be required as above. A delay to January would give more time for vessels to be equipped and inspected. The problem of dark winter days and severe weather remains. It is still unlikely that there will be a solution to the 5kg limit by this date and it is unlikely that the size of the stock will have significantly increased in the intervening month as temperatures will be low.
40. **1 February or 1 March 2012.** These dates take us to better weather and longer days for fishing. The later the opening is delayed into spring, the safer the fisher will be. However the seasonal closure from 1 May is also important to provide for spawning and settlement (if any) in late spring and summer.

**Chief Executive**  
**24 November 2011**