

PE1598/H

Letter from Guy Linley-Adams of 15 September 2016

Thank you for your email of 24 August with responses from ASFB, SEPA, AST, Professor Todd and Marine Scotland (MS). We focus our response on that of MS as that details Scottish Government policy and law, which the Petition seeks to address.

The contribution of aquaculture to Scotland's economy

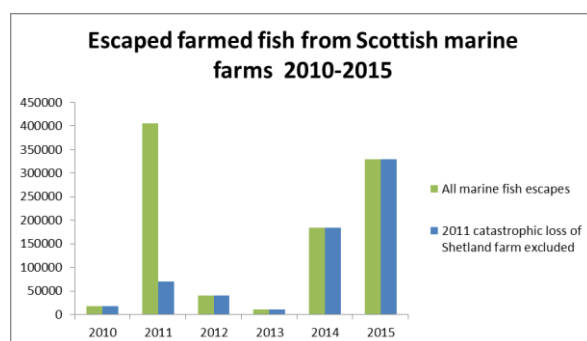
We recognise the importance aquaculture makes to Scotland. As we stated in oral evidence, we do not seek to close down fish-farming, but seek to make the industry more sustainable and minimise its externalities, including the impact upon wild salmonid fish. Ultimately, we believe this will mean moving all production to closed containment, with all the associated benefits as highlighted by AST. The industry can then make the best long-term contribution to the Scottish Government's aim to create a more successful country with opportunities for all to flourish.

The current legislative framework

We do not accept the argument put forward by MS that the current legislative and regulatory framework provides the right balance between growing aquaculture and protecting the environment. Hard evidence, as highlighted by report produced by S&TCS and others, shows that to be incorrect.

MS refers to the moratorium on the east and north coasts, but we refer the Committee to ASFB's response (para 3). We agree that the logical consequence of the presumption on the north and east coasts, is that on the west coast, Scottish Government must act more robustly to safeguard migratory fish where aquaculture is allowed. A de facto decision to 'sacrifice' west coast salmonids would be lawful and would welcome written confirmation from Government that such is not their position.

We note the reliance placed on the four west coast SACs designated, at least in part, for the protection of wild salmonids, but would refer the Committee to a formal complaint made to the European Commission relating to the impact of escapee farmed salmon on the Langavat SAC. That complaint is based upon the argument that the appropriate assessments carried out for nearby fish-farms have not been sufficiently robust to protect wild salmonids. While progress is welcome on improving equipment to prevent escapes, the graph below, using MS data, illustrates that the number of escaped fish has increased again in the years to 2015.



On EIAs, MS states incorrectly that all applications for new and modified fish farm developments require a detailed assessment of the potential impacts through an EIA. In fact, many modifications to fish farms do not require a full EIA, because they receive negative screening opinions from planners: thus no EIA is required.

The key request made in the Petition

We are clear that the legislation (the 2007 and 2013 Acts) needs to be amended to require action from Scottish Ministers, through an appropriate regulator, where fish farm activities threaten wild salmonids, due to sea lice, other diseases or escapes.

As has been known for many years, (for example, see SEPA (2000) Policy on Regulation and Expansion of Caged Fish Farming of Salmon), researchers *“indicate that control over the level of lice infestation necessary to protect wild fish stocks far exceeds that required by farm operators purely on economic grounds and the actions required to achieve these very low levels requires additional cooperation and investment by the industry in carrying out more lice counts and treatments”*.

MS make a general statement that the 2013 Act *“requires that farmed and wild fisheries and their interactions must be managed effectively, ...supporting sustainable economic growth with due regard to the wider environment”*. However, it has consistently been FHI’s position that there is no legislative regulatory framework expressly to protect wild fish from sea lice generated by fish farms. We have been refused sight of legal advice upon which Government bases this conclusion.

MS has not, in its submissions to the Committee, addressed, directly and unambiguously, whether or not the 2013 and 2007 Acts enables the FHI or other regulator to require treatments for sea lice at fish farms, early harvest, culling or reductions in fish-farm biomass, *expressly and solely for the protection of wild fish*.

The Petition seeks to plug this gap in the operation of the controls within the 2013 and 2007 Acts, which are implemented by FHI solely in order to protect the health and welfare of farmed fish. Controls are needed to be used to prevent damage to wild salmonids caused by sea lice and other interactions with fish farms. The Acts need to be amended to make sure that they can be so used and that there is a requirement to use the controls for those purposes. This can be achieved by including an amending clause in the forthcoming Bill on wild fisheries management.

The Committee is referred to the extremely useful briefing by SPICe on sea lice reporting requirements in Norway and elsewhere. Page 2, stresses that Norway requires mandatory reporting of farm specific lice data (also published online) and can order the compulsory slaughtering of all fish in a given site where operators are incapable of maintaining sea lice levels under 0.5 adult female lice per fish. Contrast this with the new Scottish intervention levels of 3 and 8 adult females. As SPICe notes, in Norway, mandatory synchronised delousing treatments and the like are designed such that *“the primary objective is to minimise the sea lice infestation levels on Atlantic salmon during the wild smolt migratory window in the spring and early summer”*. In 2014, Norway introduced even stricter rules such that there should be

no more than 0.1 adult female lice, far stricter than is operated in Scotland, through the Code of Good Practice or via the Scottish Government's new intervention points.

While development of new sea lice treatment technology is welcome, there needs to be a legal requirement that all such technologies are used to limit sea lice numbers, where required, solely and expressly to protect wild fish, and that they are seen to be effective. If sea lice numbers on fish farms cannot be controlled, then, as would be the case in Norway, the power to order early harvest, fallowing, culls and a reduction in permitted biomass at particular sites - for the express and sole purpose of protecting wild fish - needs to be made available to an appropriate regulator tasked with protecting wild fish. Such a system does not operate in Scotland at present.

Research and delay

We are disheartened to see that MS continues to make significant play of the lack of robust evidence regarding adverse impacts on wild populations in Scotland. Scientists at MS Science know well that the evidence is present in Ireland and in Norway. There is no rational or reasonable argument advanced as to why it is in any way likely that the effect of Scottish aquaculture on wild salmonids should be any different from that demonstrated in Ireland and Norway.

Conducting more research is a well-known tactic for delaying action, where that action is pressing but might be uncomfortable for other reasons. The long grass" is a tempting option, but, in the case of aquaculture impacts on wild fish, there is no longer any reasonable argument why giving Scottish Ministers a duty and requisite powers, expressly and solely to protect wild fish, should now be delayed further.

Publication of farm specific sea lice data

We continue to seek the publication of sea lice data on a farm specific basis and in a timely manner and we are disappointed to note again that Marine Scotland states that "*it has been concluded that there is no convincing case for requiring a change to the public reporting of sea lice at this time*".

This contrasts dramatically with the view of **all** respondents who address this point, in particular SEPA, which argues that "*there seems to be no clear reason why sea louse data should be treated any differently*" from other data on the environment, especially where it relates to practices which may impinge upon others. The independent review of Scottish Aquaculture Consenting Final Report, from March 2016, and prepared for the Scottish Government, on page 71, in relation to farmed and wild fish interactions, also recommends that "*monitoring and reporting of sea lice within farmed salmonids is reported at a site level*".

We note that SSPO has not responded to defend the current position, leaving MS in a minority of one. Aggregated data, produced voluntarily, in-house and three months in arrears by the industry, is way short of the freedom of information enjoyed in Norway. To deal with this in Scotland, all that is required is a one-line amendment of the Fish Farming Businesses (Record Keeping) (Scotland) Order 2008.

Closed containment

We are surprised that MS appears to downplay even a long-term move to closed containment, describing it as “*a supplement to existing Scottish open pen production, not as a replacement*”. Internationally, closed containment is progressing, both practically and economically, and of course, holds out the prospect of a complete solution to negative interactions with wild salmonids. It is vital that Scotland does more than just “*watch with interest*” how matters develop. We have provided SPICe with some examples of how this technology is developing rapidly overseas, dealing with the entire production cycle. It would be regrettable, given aquaculture’s economic importance, if Scotland did not develop Scottish closed containment.

Finally, we wish to thank all respondents for addressing the Petition and the excellent work by SPICe in providing additional briefings.

Yours sincerely

Guy Linley-Adams for S&TC Scotland