

Minutes BGMCF - Meeting 9

Date: 8th March 2011

Venue: BIM, Crofton Road, Dun Laoghaire

In attendance: Mr Donal Maguire – Chairman of the BGMCF
Ms Joanne Gaffney – Secretariat
Mr Paul Moore - DARD
Mr Greg Griffiths - DARD
Mr Keith Kelleher– DAFF
Mr Damien Clarke - DAFF
Dr. Oliver Tully – MI
Mr Barry Fox – Loughs Agency
Mr George Golden – Industry Rep Carlingford/Dundrum
Mr Michael O’Driscoll–Vessel owner and operators association
Mr Michael Havlin – Industry Rep. Foyle
Mr Stephen Kelly – Industry Rep Kinsale/Waterford/Wexford
Mr Raymond Dougal – Industry Rep Belfast/ Larne
Mr Seamus Gallagher - SFPA

Apologies Mr John McLaughlin – Industry Rep Swilly
Mr Michael Murphy – Secretariat
Mr Richie Flynn – IFA
Mr Arthur McCarthy–Rep Castlemaine/Shannon/Cork/Clew
Mr Kenny Parker – DARD

Donal Maguire welcomed all to the meeting.

1. Minutes of the last meeting

The minutes of the last meeting were accepted, and it was agreed that all action points would be addressed through the agenda

2. Natura 2000 update – Dr Ollie Tully

Dr Tully gave a PowerPoint presentation to the group on the implementation of Natura 2000 requirements in fisheries and aquaculture and updated the group on current work areas relating to Mussels i.e. Castlemaine.

Under S.I. No. 346/2009 — European Communities (Habitats and Birds) (Sea-fisheries) Regulations 2009, the Marine Institute (MI) are the responsible body for carrying out the Assessments on whether an aquaculture or fisheries proposal is likely to pose a significant risk to the features of a protected site.

The approach adopted by the MI to fulfil this duty is one of working with BIM and industry members to provide the basis for providing advice to DAMF on the rational exploitation of

stocks, with previous assessments on the cockle Fishery in Dundalk and the Seed fishery in Castlemaine Harbour acting as examples for how the process works.

Dr Tully highlighted the challenges to this work, particularly the subjective nature of the Directive. It is up to each member state and competent authority to weigh up what is activities do pose unacceptable risk and those that are incompatible with the Natura Designation, using available scientific data and experience from elsewhere in Ireland and the wider EU.

The process is further complicated by the obligation to not only consider the risk posed by a certain activity to features of the protected site, but also sub-features, the function and structure of the protected site and also the risk posed by the activity in combination with all other activities in or adjacent to the protected site.

In cases where there is insufficient data either on the features or the activity and it cannot be judged whether an activity is likely to cause a risk to the protected site, a precautionary approach must be adopted and the proposed activity must not be permitted or permitted at a reduced level at which the risk is deemed insignificant.

George Golden (GG) and Mick O'Driscoll (MOD) queried if the delays and difficulties Ireland has experienced in the implementation of the Directive with regard to Fisheries and Aquaculture is a result of our interpretation of the Directive

Dr Tully informed the group that Ireland is not unique in having difficulty in complying with the terms of the Directive and indeed many European countries are in a similar situation in trying to implement a piece of legislation that may be interpreted in many different ways. However the Irish situation is undoubtedly further complicated by the ECJ ruling in 2007.

Dr Tully then outlined the current work programme to bring all fisheries and aquaculture into compliance, Castlemaine Harbour is first to be assessed, followed by Roaringwater Bay, Lough Swilly and then Clew bay.

George Golden (GG) asked what will happen in a situation where seed is identified in a different Natura site such as the Wicklow Box. Dr Tully informed the group that carrying out an assessment outside the current work schedule would be very difficult given limitations of available staff and finances, however if seed additional seed were to be identified that BIM, DAMF and the MI should be informed immediately in an effort to quickly assess what is possible.

Dr Tully when questioned on the delay to licence renewals, he confirmed that Natura 2000 assessments must be completed for all aquaculture licences within or adjacent to Natura sites prior to renewal. It is the intention that cumulative assessments will be carried out in all bays in the coming years to bring the sector into compliance with Natura 2000

DM highlighted clause 19a of the 2006 act which provides for the continuation of activity on licenced sites where renewals have been applied for pending a decision from the licencing process.

Castlemaine Harbour

Dr Tully informed the group that the Castlemaine assessment for the period 2011-2016 is nearing completion and it is hoped that the plan and assessment will be out for consultation in the coming months. Following the consultation period (1 month), a technical advisory committee will examine all responses received and provide advice to the Minister. Work to date including that in previous years has not identified any significant risks posed by the seed fishery as outlined in the Fisheries Natura Plans for the area.

3. Seed fishery

Michael Havelin (MH) expressed great dissatisfaction with the seed opening dates in the previous two years from the perspective of the operators in Lough Foyle, operators request that the autumn season open in July to ensure the safe passage of vessels in more settled conditions than that which normally occur in September and October.

Donal Maguire (DM) acknowledged that the Departments understood the concerns of operators in the Foyle however he pointed out that the Forum had also been lobbied by operators to keep the opening dates in line with those of the previous two years, he informed the group that the departments are minded to recommend a later opening of the spring fishery (8th of May) and to bring the autumn opening forward by one tide (19th August)

Therefore the proposal for seed fishing dates for 2011 will be;

“The seed fishery will open on the 8th of May 2011. It will continue, subject to seed availability, through the following suitable tides:

- 08th May to 14th May
- 22nd May to 31st May
- Possibility of an additional period

A close season will then ensue until the 19th August, when fishing will resume.

Depending on seed availability fishing will continue through appropriate tides until 08th of December. As in previous years, a number of areas may remain closed to seed fishing due to considerations related to nature conservation. Details of the opening and closing timetable for the Cromane fishery will be notified separately as soon as these details are known.”

As in 2010 in cases where a seed bed is subject to heavy predation during a closed period, and it is clear that the seed will be lost to the industry unless fished, that opening such an area outside the dates agreed above could be an option. Such events would be treated on a case-by-case basis as they arose and on their individual merits. It should be noted that Natura 2000 designated areas would have to be treated separately if such a situation arises.

MH expressed some continued reservations with the proposal but notwithstanding this there was a broad consensus to adopt the arrangements.

5. Surveying

ROI waters

BIM surveying in ROI waters will be in line with that conducted in previous years, i.e. the T Burke will survey the East Coast and Castlemaine

Operators were reminded by the secretariat at the request of the SFPA that any vessel searching/surveying for seed outside the open tides for seed fishing should have a written consent from SFPA on board. SFPA should be informed 48 hours before any "searching" activity occurs and will issue these consents through the Howth Office.

Lough Foyle and Carlingford

The Loughs agency will undertake surveys in these areas.

NI waters

Raymond Dougal (RD) questioned DARD's approach to seed surveying in NI waters highlighting the differences with the system adopted in ROI water and industry dissatisfaction with the approach taken. In particular he identified the case in 2010 where seed was identified at Burial Island in the first industry survey but that later in the year after giving the seed a chance to develop the fleet was not given access to the area.

Paul Moore (PM) informed the group that the area had been surveyed again later in the year by AFBI but that seed in the area was in very small quantities and that it was not deemed suitable to open the area on a scientific and safety basis.

RD queried the DARD's interpretation of a "substantial seed bed" and "exploitable seed" and opined that the industry should have more input into the decision making process when it comes to seed beds in NI waters.

PM highlighted that where and when seed beds are identified in NI waters DARD will undertake the required assessments under Natura 2000 and where appropriate work towards opening the beds for fishing but, he stressed, that DARD must also manage the competing interests of other sections of the fishing industry and must also be mindful of its nature conservation obligations.

RD and Stephen Kelly (SK) then highlighted their dissatisfaction with the DARD system of keeping people restricted in "boxes" with SK highlighting the risks posed to vessels and to safe fishing practice in such restricted areas. PM reiterated the points outlined above

The outcome of the discussion was an agreement to add an extra step to the process and to involve the BGMCF via the AI more deeply into the process. DARD would direct AFBI to undertake surveys and assuming industry interest, an industry survey of NI waters will be facilitated in April. If needed Industry members will be consulted with a view to establishing a rational exploitation plan for seed mussels detected. The Aquaculture Initiative, acting as secretariat to the BGMCF will assist in this regard

Action: Secretariat to assist in scheduling industry survey and subsequent consultation if needed to arrive at agreement on possible fishing actions arising from the outcome of the survey effort

6. Donaghadee

PM and Greg Griffiths (GG) informed the group that uptake from the public fishery at Donaghadee had been very low < 3 tonnes, and that the aquaculture section was now working with the Fisheries Director in making a recommendation to the Minister that the area should be opened as a seed fishery.

DM also informed the group that a letter had been submitted to DARD on this issue as requested at the last meeting of the Forum.

GG said that he hoped a final decision would be made in the coming weeks but that a decision would be definitely be made in advance of the spring fishery.

Industry members highlighted that they had advised DARD over the last three years that a 'public fishery' in this area would not be successful and that it was unfortunate that this advice had taken a long time to be taken on board.

PM informed the group that in his personal view the only logical course of action would be to open the area but that DARD were obligated to give all stakeholders an opportunity to make a case for access to resources where possible and appropriate. He assured the group that DARD would be in a position to open the area in compliance with Natura 2000, with AFBI undertaking the assessment, if required.

Action: DARD to update group on decision as soon as possible

7. Black Boxes

DM informed the group that all vessel owners and applicants for seed allocation in 2011, should be aware that given current financial constraints the Regulatory and Development authorities are going to hand over the responsibility for the continuous maintenance of the 'black box' VMS system to the vessel owners and operators for the 2011 season and beyond.

Action: Industry members to be kept up to date on the Departments and Agencies procedure for handover.

8. Allocation Reviews

DM informed the group that despite the improvements in stock tracking initiated in 2010, the Departments have indicated that the recommendation of the Rising Tide on this matter remain current policy i.e. "that seed mussel allocations remain static until a comprehensive dataset from a stock tracking system is available". Notwithstanding, the Departments acknowledged that there may, with the passage of time, be some individual anomalies that have crept into the allocation system that may warrant particular examination by the sub-committee, without prejudice to the allocations as a whole.

As agreed in 2010, the Departments will convene a special subcommittee to assess anomalous cases. Any operator who believes that their current allocation is anomalous and if they wish to have it reviewed can make a written request to the relevant Department by the 25th of March of this year at the latest. It is stressed that it is not the intention to undertake a wholesale review of the current allocations and that any applicant for review will be required to furnish a detailed case extensively backed up by the necessary evidence and paperwork demonstrating the basis on which they contend that their current allocation has become anomalous.

9. Allocation Application

DM informed the industry side that the Departments would be issuing allocation applications in the coming weeks but it is thought that the format of the application forms would be broadly similar to those in 2010

10. Report on the seed fishery 2010

DM reported to the group that final seed fishing returns for 2010, indicated that the tonnages fished by the fleet was 21,800t net and 17,615 gross. The fishery was composed of 26 fishing vessels, fishing 238 loads over 41 days.

Compliance with the SMS system was at 85% with the SFPA providing data on the additional unreported 15%.

11. Relaying Embargo in the Netherlands

JG informed the group that James Wilson of 'Deepdock' had recently provided the secretariat with a copy of the latest draft licence proposed by the fishery operators and the Fish Board.

Our understanding is that this licence is again out to consultation with the environmental groups and that there is no guarantee that the Dutch courts will side with the mussel sector if this current draft is challenged as previous ones have be.

Action: The secretariat will monitor the situation and provide an update at the next meeting of the Forum.

12. MSC Certification

GG expressed his dissatisfaction with the lack of progress on the issue of MSC certification. He highlighted the fact that this is a pressing matter if the sector on the Island of Ireland hopes to maintain market access and that this must be progressed as a matter of urgency.

He queried the delay in starting the process and wanted to know when the project would be started.

DM and JG responded by highlighting the complexity in sourcing parallel funding in ROI and NI under different schemes and also the difficulties encountered in creating a single central applicant to hold the certification.

DM agreed with Mr Golden that by the next meeting of the forum in June that firm proposals would be tabled for consideration on how best to handle this issue.

Action: JG and DM to progress this issue with a view to having proposals ready for the next meeting

13. Crepidula

GG informed the group that an industry/AFBI/DARD meeting will be scheduled in the coming weeks to look again at this issue. AFBI will be looking at all available information and that it is possible that further data collection will be needed.

Action: GG to report back to the group on any developments at the next meeting of the Forum.

14. Loughs Agency Aquaculture Implementation Plan

BF informed the group that the Loughs Agency legislation has not progressed in recent months, primarily as a result of the delay in DAMF and the Crown estate developing a management agreement for the two loughs.

He expressed his hope that legislation could be enacted before the end of this year.

15. AOB

Reporting requirements

JG reminded the group that as in 2010 all seed fished in RoI waters must be notified via SMS to 00353 87 9885116 as part of a stock tracking system prior to boats leaving the seed fishing areas. The phone number of the skipper must be notified to the Department prior to the fishing season and caller id must be enabled on the skipper's phone.

Marking of Pots

JG reported to the group on information obtained from the SFPA.

While there are fairly detailed rules for the marking of passive gear such as longlines, gillnets, entangling nets, trammel nets, drifting gillnets and beam trawls ((EC) 356/2005), pots are not classed as passive gear under this regulation

The only relevant legislation identified was (EEC) 381/87 - Establishing detailed rules concerning the marking and documentation of fishing vessels

Article 2

1. Small boats carried on board fishing vessels flying the flag of, or registered in, a Member State shall be marked with the letter(s) and number(s) of the vessel to which they belong.
2. Marker buoys and similar objects floating on the surface and intended to indicate the location of fishing gear shall be clearly marked at all times with the letter(s) and number(s) of the vessel to which they belong.

Seamus Gallagher (SG) reiterated that the relevant statement is "clearly marked at all times" Anything of poor construction would not facilitate the requirement above.

Electronic Logbooks

Stephen Kelly queried the position on the installation of electronic log books on mussel dredgers

Seamus Gallagher quoted the EU Council Regulation 1224/09. In the regulation a 'fishing vessel' means any vessel equipped for commercial exploitation of living aquatic resources and details that fishing vessels over 12m shall be required to not only keep a logbook but to record and transmit its detail electronically except for those vessels exempted under the following conditions;

A Member State may exempt masters of Community fishing vessels of less than 15 metres' length overall flying its flag if they;

(a) operate exclusively within the territorial seas of the flag Member State

(b) never spend more than 24 hours at sea from the time of departure to the return to port.

He highlighted that none of these conditions exempts mussel dredging and that as it stands the requirement will be that mussel dredgers must install e logbooks.

Greg Griffiths highlighted the 'Detailed rules for the Control Regulation' Art 36(2) which provides a derogation for the mussel dredge fleet, however it is not confirmed that these rules are currently in force or that a derogation, available at an EU level, will be implemented in each member state.

Action: GG and SG to clarify this matter at the next meeting of the Forum.

Circulation of Minutes

MOD requested that minutes be circulated to all industry members as quickly as possible, especially given the important issues discussed at the meeting. JG confirmed that she would make every effort to get the minutes out as fast as possible. Notwithstanding, pending full minutes, an information note will be sent to all licence holders before the end of the week.

Lough Swilly Rep

JG informed the group that the Lough Swilly rep Mr John McLaughlin has withdrawn from the forum, as he is no longer active in the Sector. A new rep will be sought from the area in advance of the next meeting

Date of Next meeting

The date of the next meeting was set for the 22nd/ 23rd of June