MINUTE OF MEETING OF THE SPEY DISTRICT FISHERY BOARD IN OPEN SESSION held via video conference session commencing at 9.30 a. m. on Friday 21st May, 2021

## Present: -

**Chairman** Dr Alexander Scott Craigellachie Fishings

**Proprietors** Angus Gordon Lennox Brae Water Trust

David Greer Seafield Estates

Peter Graham Rothes & Aikenway

Guy Macpherson-Grant Ballindalloch

William Mountain Delfur Fishings

Toby Metcalfe Crown Estates

Callum Robertson Easter Elchies

Dr CMH Wills Knockando

**Co-Optees** John Trodden River Spey Anglers Association

**In Attendance** Roger Knight Director

Brian Shaw Senior Biologist

John Veitch Digital Marketing & Communications Manager:

Jennifer Heatley Nature Scotland (formerly SNH)

Neil Torrance Clerk

**Public Attendees** Pru Jowett

**1.** **WELCOME,** **INTRODUCTIONS AND APOLOGIES**

The Chairman welcomed Neil Torrance from Mackinnons solicitors at this his first meeting as the new Clerk to the Fishery Board.

Noted that Toby Metcalfe was coming to the meeting but may be a few minutes late. Apologies had been received from Grant Mortimer and it was noted that Richard Fyfe had just retired from SEPA.

**2. MINUTES OF THE OPEN SESSION OF THE MEETING HELD ON FRIDAY 5th FEBRUARY 2021**

There were no comments as to accuracy and the Minute was proposed by William Mountain and seconded by David Greer for signature by the Chairman.

**3. MATTERS ARISING FROM PREVIOUS MINUTES**

**3.1** The Chairman opened the floor to the members to see whether there were any matters members would like to raise themselves that aren't covered later in the director’s report, the biologists report or the patrol boat paper that the Director has done.

**3.2** There being no comments the Chairman raised with the Biologist whether Envirocentre ever got back to him on his question about very high flows (Q5 to Q10 flows). In response, the Biologist advised that no response had been received; that he had chased up Kenneth MacDougall and he promised to review the data and to forward it to him in due course, but it hadn’t arrived as yet.

**4. DIRECTOR’S REPORT**

This was as noted in the handout as an extensive report this time but, while the Director indicated that he was happy to take questions on any part of it, he indicated that there were a number of areas he would like to highlight. The director shared his screen and referred to the following areas using the numbering from the report

2.2 Water Abstraction (in particular Spey dam)

He reported that Richard Fyfe, who has been a long-serving member of SEPA, an invitee to the Board and the Chairman of the Spey Dam Technical Working Group has retired from SEPA yesterday. He reported that the replacement at least in the interim by Graeme Henderson who is from the Elgin Office of SEPA, and well-known to the Board but more importantly, he's well-versed in Spey issues.

He reported that he and the Chairman met with Dimitri Harrison and Julia Stoddard from Jahama Highland Estates (part of the GFG) on the 15th of April. The Chairman began by raising the issue of all of the press coverage surrounding GFG and Sanjay Gupta following the collapse of Greensill Capital. In response they commented that it was felt everything had been sensationalised and dramatised by the press, and as far as they were concerned, it was business as usual with all of their budgets in place. They did however, admit that they have not got as far as they had hoped, being set back by what they called “COVID and chaos”. A sustainable environment project for the upper Spey was discussed along the lines of what has been achieved on the river Calder with large wood structures in the river, and riparian tree planting. It was however highlighted that there was still a need to focus on the issues of Spey dam. Dimitri Harrison assured us that as much attention would focus on the technical issues at the dam as they would on the environmental projects above it.

He then reported that the more significant meeting though, took place on the 10th of May when Richard Fyfe convened what was his last Technical Working Group meeting, principally to determine the work programme at the dam this year and going into next.

SIMEC have commissioned Fishtech, who are fisheries management consultants, to report on the implementation of the improvements of the dam: artificial lighting within the fish pass; a trial of the improved notches over the trapezoidal notches that currently exist within the fish pass which create quite a turbulent flow, and their replacement with the structures the Board would like to see placed over these notches.

He then reported that when discussing the smolt trapping project that hasn't taken place this year, our sincere disappointment at that was expressed. In response, which the Director noted as possibly the most telling point of the meeting, it was impressed upon SIMEC that they needed to put resources in place this year for the project to be undertaken in March next year and, particularly, that enforcement action could be taken. The director then quoted from the minutes of the meeting:

“Richard Fyfe explained that the timescales for improvements set out in the river basin management plan, and the final deadline for improvements is 2027 [the deadline for implementation of the Water Framework Directive]. SEPA do not envisage extending beyond this date. We will continue to work with operators and third parties to meet this date. However, when necessary, SEPA will use regulatory powers to ensure that measures are delivered in time.”

It was reported that Richard Fyfe then went on to explain that in some cases operators have welcomed enforcement action, as it provides the necessary business case and business drivers to identify resources. Whereas in other cases, it's pressed them to actually put in place the required changes.

This was noted by the Director that this is the first time, in the 15 years he has been dealing with this issue, that SEPA have openly mentioned regulatory measures and enforcement, which is to be welcomed very much. There is a need to ensure that Richard Fyfe’s successor actually implements that and carries it through.

He then paused to invite questions

The Chairman noted as far as GFG is concerned that matters have moved on since 15th April and it does seem to be unravelling. The credit shadow banking group from California anticipated to be involved in a bailout have withdrawn because of the SFO inquiry. Noted that there is not a lot that the Spey Board can do about all of that, other than to wait for events there, as far as GFG are concerned, to unfold.

A discussion thereafter occurred prompted by Angus Gordon Lennox as to how we can know that SEPA is to going to use its regulatory powers, with it being stressed that the minuting of the comments will leave us a legacy to take forward and to be reinforced with Richard Fyffe’s successor.

It was suggested by William Mountain, while noting that we' have had no response from our letters to the politicians which needed chasing-up, that there may be merit in publishing those comments on our website, so that it is promulgated and known across the river that those are the words that have been offered by SEPA.

The Chairman noted this as a very good suggestion. He also commented that once the Board has a summary of the SEPA minutes and the Envirocentre report together he, together with the Director, and perhaps one of our technical experts like Peter Graham or Toby Metcalfe should request a meeting with the new Secretary of State for the Environment and with our local MP Richard Lochhead. That would be to let them know that with all these issues abound, we are very concerned about climate change resilience in the Upper Spey catchment. Finally, on that topic the Director, when being queried as to how available those SEPA minutes are to enable them to be included in John Veitch’s weekly report, suggested that a quote in the report rather than publishing others minutes would be more appropriate.

The Chairman then asked the Members whether they thought it is time we try to do some direct lobbying, with or without Alan Wells, of our parliamentarians in Edinburgh over the Spey Dam and GFG. John Trodden indicated he would be happy to follow matters up with further correspondence to that sent by the Board and by himself as Chairman of the River Spey Anglers Association. The suggestion from Angus Gordon-Lennox that we include Alan Wells in discussion on the way forward was noted, with the Director advising that those discussions had started. Further discussion occurred prompted by Peter Graham in relation to the political landscape and whether the Board would benefit from formal lobbying of the Green Party to get a more formal understanding of what the situation in Holyrood is. The Chairman and Director to come up with a plan in that regard, running the issue past both FMS and the lobbying company identified by Callum Robertson. Further noted the suggestion of a celebrity champion – Roy Dennis - with Peter Graham to introduce him to the Biologist.

**ACTION: Chairman and Director to develop a plan for launching the Envirocentre Report.**

The Biologist advised as to his correspondence with SEPA concerningongoing problems about rubbish emanating from an old farm dump in the Rothes burn washing into the river. The response received was very frustrating, which he summarised by saying that SEPA were unsure that they had any remit over the issue. The Chairman advised that the SEPA issue had been put on the FMS board agenda last time, and it was greeted with a fairly unanimous resigned acceptance that SEPA as a regulator fails to regulate. Alan Wells was tasked with raising that issue with the Scottish Government, and it is noted that he has already started to do that, by referring it to the Wild Salmon Strategy Advisory Group.

2.4 SFB Stocking 2020 and 2021

It was noted that this year, we began planting out eyed ova as from February, and we completed the stocking with the unfed fry being planted out in April in places like the Ringorm burn. An application for a broodstock capture licence will require to be submitted in June, given how long things are taking to be dealt with. Mitigation stocking is currently being undertaken in all the burns that we are able to stock i.e. those that have manmade barriers. Restoration stalking is also being carried out in the Lour burn, following a pollution incident there.

It was noted that in relation to the previously proposed robust experiment to compare the stocking of eyed ova and unfed fry against a stocking of fed fry we simply don't have the capacity at the moment to undertake this sort of experiment. Therefore, recommend that we repeat the stocking that we have done this year in 2022 and that we postpone consideration of a stocking experiment until next year.

Discussions then occurred in relation to the possibility of an increased application number to take into account potential losses with the high water over the winter

The Chairman noted that approval was given.

**ACTION: Director to submit a Broodstock Capture Licence application to Marine Scotland Science for 2022 Stocking that repeated that undertaken in 2021.**

3.1.2 Seal Licences

It was noted that we are no longer able to apply for licences to prevent damage to fisheries, but are now able to apply for a licence to conserve other wild animals, i.e. Atlantic salmon. The application process is now even more complicated than it was before, economic arguments cannot be deployed and the focus is only on conservation. At the end of March, a licence was applied for on behalf of the Spey, Deveron, Ness and Kyle of Sutherland Boards. A response is still awaited as they are still going out to consultation. Comment made that it is reflective of the difficulties and delays experienced in dealing with the Scottish Government and to some extent their agencies at the moment. The Biologist querying whether we needed to re-think our strategy on this issue as we are unlikely to ever get a licence to control seals in the way we would wish. The Director advising as to the ongoing battle with the public and with politicians who don't want to go near this issue, and noting the efforts underway to develop an effective acoustic deterrent device. However, noting that as that is still some way off, and as we have no other means of effectively keeping seals out other than lethal removal we have to stick with our licence applications until an effective deterrent becomes available.

Noting that seals regularly enter the estuary, the bottom mile of the river between Spey Bay and the Garmouth viaduct and they are regularly visiting those areas. They don't often come up beyond that, but when they do the level of disruption that they cause is extensive. That disruption is to the anglers, in terms of disrupting the fish within the pools, as they will disperse with a seal swimming through. Noting that we are talking about a limited number of seals that develop a specialist behavior and break away from the main colonies and come into the rivers.

The director also responded to the query raised by William Mountain as to whether we had ever received a response to the question of once a species gets on to the protection list, what is the process for getting it removed from the protection list. The Director advising that he had followed this up with the NatureScot Licensing department, but had not received an answer. Further advised that the best place to get an answer is the FMS Predator Management Group, which hasn't met for over a year because of COVID. That group is attended by NatureScot's Licencing team as well as by Marine Scotland. It was noted that no-one was aware of a removal from the list ever happening. The Director to follow that enquiry up with the group and the politicians to be consulted on other matters.

Angus Gordon Lennox queried whether there is any merit in undertaking a Gulls study and the Biologist responding to the query raised indicating that there was not much evidence that gulls on the Spey were a significant predator of salmon. John Veitch advising as to observation of dramatic increase in gull activity on the Lochy during the release of smolts from the hatchery. The Chairman also noted his own observations on this matter and decided that the suggestion should be minute with the Biologist asked to take it away and think about how it could be implemented.

**ACTION: Senior Biologist to consider a study on Gull predation of salmonids.**

3.2.1 Enforcement: Wildlife Crime

Reported that our bailiffs had a great success on Sunday the 11th of April at Craigellachie when they detained four poachers on a Sunday afternoon. The poachers subsequently absconded from the scene, but because of our close ties with Police Scotland, we were able to liaise with the police in Elgin and the traffic officers, reinforced by officers from Elgin police station, were able to intercept them on the way into Elgin. All four poachers were arrested and their vehicle was impounded. Noted that one of them is from a family of very well-known poachers. A great result for which we will almost certainly get a conviction.

Moving onto the issue of our patrol boat, noted that a separate paper on this had been circulated. Highlighting the deterrent effect of the patrol boat on the activities of the known poachers along the coast, and then recommending first of all that the board maintains its coastal boat patrols but secondly, while acknowledging previously recommending at the last two meetings that we replace our patrol boat, that with reference to our current financial position, now recommending that we retain the existing patrol boats and postpone replacement until the next financial year. This was agreed unanimously by the Board.

1. Spey Catchment Initiative

Noting that phase 2 of Riparian Enhancement Project at Glentruimalongside the A9 has now begun with the fencing element completed in early March. However, the tree planting hoped to begin in the spring of this year, had to be postponed due to the UK-wide shortage in stock being available because of the popularity of tree planting to mitigate the impacts of climate change.

Noted that the large wood structures installed in the River Calder in the summer of last year survived the winter floods. Water gates have been installed to allow deer to cross the river, but not get in to the enclosures where the trees have been planted. Noted that the tree planting was completed on the 2nd of April and was undertaken as the enclosures were being fenced-off, with the Biologist and his team having also conducted macroinvertebrate surveys.

Final comments from the Director were made in relation to some sponsorship news from the Macallan and expressing sincere thanks to Callum Robertson and Macallan’s ghillie, Robert Mitchell. Noting that Macallan are making £15,000 available to the Board and the Spey Catchment Initiative (SCI) for habitat enhancement and projects to assist fish migration in 2 stages. Firstly, £7,500 to the SCI towards the Delliefure Burn and the intention to restore the natural processes and reconnect the burn with its floodplain. Noted that this money from Macallan will provide the bulk of the consultancy work needed to put in place before any groundworks can follow. Secondly, £7,500 to the Board for our fish migration enhancements on the Ringorm Burn, which runs through the Macallan estate past the distillery, to put in a fish ladder at the waterfall, putting in a fish trap at the mouth of the burn where it joins the Spey and tree planting along the Green Bank.

Noting that our Digital Marketing and Communications executive, John Veitch, had been working with the Macallan over a JustGiving campaign which concluded last week and involved a charitable campaign for the Macallan experience. That raised £1,687 online with a donation campaign and Macallan are going to match that. A total of £3,374 pounds is going to be coming to the Spey Foundation.

The Director then noted that his report was concluded.

5. **QUESTIONS ON BIOLOGIST’S REPORT**

The Biologist provided some further explanation on his report dealing with the following aspects: -

* + - **Smolt tagging**

Thanks were given to Ballindalloch Estate for allowing the deployment of the smolt traps in the lower Avon. The target of tagging 100 smolts by the 2nd of May was achieved, which is the same day that the tagging was finished in 2019. The receivers have to stay in-river until six weeks after the last fish was tagged, after which they can be retrieved and we can assess how well our smolts have survived on the way downstream. Noted as a successful project overall with quite a few visitors to the smolt trapping.

* + - **NEPS survey.**

There is talk about the National Electrofishing survey that was organised in 2018, and 2019 happening again this year, although nothing confirmed as yet. An addition to the report is that whilst collecting the fish in 2018 to 2019, we were also collecting DNA samples for an introgression study, looking at introgression of farmed fish across the country. Noted that the report is actually ready, held up because of the election, but due now for publication in June 2021. Noted that that will be the first comprehensive national survey looking at the introgression of farmed genes into the wild stock, and await the results of how the Spey compares to the west coast example.

* + - **Copper bioaccumulation sampling**.

Whisky distilling is the main industrial activity in the river Spey. Copper is produced as a waste product through the cooling water, but mainly through things like the spreading of spent lees onto land. Samples were collected from various sites and the results showed that there were higher copper levels in two potentially impacted sites, although those results for those sites were not massively different to those for the control sites. Noted as demonstrating at a very basic level that there is an impact by the distilling industry on heavy metal accumulation in our smolts. Also noted that the results have still to be discussed with SEPA.

* + - **Water Quality**

Analysis has been undertaken of a huge amount of information from SEPA that has been accumulated over many years and which has identified that the Spey still remains a river with high water quality.

* + - **Atlantic Salmon Trust predator scat analysis**.

Noted that what are considered eighteen goosander scat samples, one from a heron, one from a cormorant, and six from otter have been collected. The samples have been sent away to the University of Belfast for DNA analysis. Noted that if the gull issue appears to be something we wish to progress, this may be one avenue for taking that forward.

Questions were then asked for

In response from the question by Toby Metcalfe as to when the SISI project actually comes to an end and how we should keep on top of these invasive species in the post-SISI period, the Biologist advised that SISI had been due to end in October 2021 but, because of COVID mainly, there has been a project extension until October 2022. Therefore, we have got both the current growing season and next year for control. Thereafter noting that moves are afoot at the moment to try and maintain some level of control through a further or a new or an enhanced project. Also various initiatives are being developed locally, and a proposal for engaging with the three main whisky interests in the river Fiddich, with the intention to be proactively working on that project with the whisky industry over the next two years. Noted that in the longer term, we need to be looking at alternative sources of funding, whether that is from local sources, for example windfarms, or from the landowners involved.

6. **AOCB**

6.1 William Mountain advised that a site in Rothes had become a continual problem with a requirement after every spate to pick up silage wrapping, feed bags, and fertiliser bags. The hope is to put an action point to Graeme Henderson at SEPA to elevate earlier discussions. Reference was then made to the BBC Panorama expose about untreated sewage in the English river systems showing that over circa 3 million hours last year there was untreated sewage poured into the rivers following heavy rainfall and that this happened over 400,000 times. William Mountain, commenting that this really coincides with what has been found at Delfur, where after a large spate they are finding some quite unmentionable items along the river bank. The hope is to have a presentation from SEPA about the sewage effluent programme on the river system, perhaps for the next meeting.

The Chairman noting this as a very good suggestion, mentioning his own personal experience of what SEPA calls an emergency. Commenting that he is in no doubt that the situation is equally dire in Scottish rivers, when it comes to discharging raw sewage.

Peter Graham also noting that as owners of property with septic tanks there is an obligation to have all septic tanks and discharges registered with SEPA so they're all licenced and all on a map. However, there is a suspicion that there are some older ones which are still discharging directly from upland farms. The issue is whether there is any record of a lot of those at all.

The Biologist re-iterating that water quality on the Spey remains high, with the Spey Board throughout its history fighting for water quality but recognising the need to continue to do so.

**ACTION:** **The Director to approach Graeme Henderson and request a presentation from SEPA at the September Board meeting on their regulation of pollution from plastics, as well as from sewage and farm discharges into the River Spey.**

6.2 Jennifer Heatley introduced a new bit of advice that NatureScot has been responsible for producing a conservation advice package for the River Spey Special Area of Conservation. The document is bespoke to the River Spey and has been published online. As no consultation was possible, it is advice only and doesn’t form any legally binding obligations. Offering to email link or email that document, so that the Director can consider it when completing the Broodstock Capture Licence application.

Also referred to her mention at the last meeting that she could explain more about nature-based solutions. Advising that she is still happy to do that if allocated time at a future meeting.

**ACTION:** **Link on the Conservation Advice document to be sent to the Director and nature based solutions to be put on the agenda for the next meeting.**

6.3 Callum Robertson making reference to correspondence he sent to the Chairman on the number of rods on the river, the issue of guidance and consideration of reducing the number of rods on the river

The Chairman acknowledging the correspondence on both the rod pressure on the river and a secondary point on the length of the season. Queried if this was something for Angus Gordon Lennox’s proprietors Trust meeting to discuss in the first instance

Angus Gordon Lennox commenting that on his beats they do have restrictions in place, but generally it would be quite difficult for the Board to start imposing restriction on the angling associations.

William Mountain commenting that over the last year with COVID his view was that the river has been unremarkably fished hard and a lot of it has been rested by most beats. While accepting that it is a very valid point, it is a question of timing and he was of the view that probably now is not the right time to be raising this issue.

In answer to the query raised by Guy Macpherson-Grant as to where the rod numbers actually come from, the Director advised that these are very much a proprietorial issue. As such, suggesting that this should be a matter to be discussed by the next Spey Fishing Trust meeting which will be the night before the Board’s next meeting in early September, and that on the basis that historically the Board has been put in its place whenever it has tried to suggest how proprietors should let their fishing. However also noting that while it is very much a proprietorial issue and one that should not affect the Board, the exception to that is if the Board is looking at it from a conservation point of view. Expressing agreement with the comment of William Mountain, that given the pressure that proprietors are under with assessments and the restrictions they've had with COVID, now is not perhaps the right time to progress.

Peter Graham introduced two observations. Firstly, that just resting pools by using less rods, he was not sure that resulted in less fish being caught. The second, that an increase in the number of rods really made no difference to the fish catch, and conversely a reduction in rods does not ensure the catch of less fish. Those observations supported by Callum Robertson.

Angus Gordon Lennox confirming his view that it is a proprietorial issue but commenting that as far as he is concerned rod numbers are a limit, not a target or a requirement.

**ACTION:** **On the issue of the number of rods, the Chairman requested that Angus Gordon Lennox raise this with the Trust and that he feeds back to the Board the outcome of those discussions.**

7 **DATE OF NEXT MEETING**

The date of the next meeting was Friday 3rd September 2021 and the meeting then closed at 11.10 a.m.