MINUTE OF MEETING OF THE SPEY DISTRICT FISHERY BOARD IN OPEN SESSION held in person at the Boat of Garten Community Centre andcommencing at 9.30 a. m. on Friday 4th February 2022

## Present: -

**Chairman** Dr Alexander Scott Craigellachie Fishings

**Proprietors** Angus Gordon Lennox (AGL) Brae Water Trust

David Greer (DG) Seafield Estates

Peter Graham (PG) Rothes & Aikenway

Guy Macpherson-Grant (GMG) Ballindalloch

Toby Metcalfe (TM) Crown Estates

Callum Robertson (CR) Easter Elchies

Dr CMH Wills\* (CW) Knockando

William Mountain (WM) Delfur Fishings

**Co-Optees** John Trodden (JT) River Spey Anglers Association

Grant Mortimer (GM) Strathspey Angling Improvement Association

**In Attendance** Roger Knight Director

Paul Hughes\* Digital Marketing Director

Jennifer Heatley (JH) Nature Scotland

Dr Allan Wells (AW) Fisheries Management Scotland

Neil Torrance Clerk

**Public Attendees**

Peter Austin Secretary River Spey Anglers Association

\*Attending via video conference

**WELCOME,** **INTRODUCTIONS AND CONFLICTS**

On welcoming all to the meeting the Chairman noted that the meeting is in fact a blended meeting with both Dr Catherine Wills and Paul Hughes attending by video conference.

1. **APOLOGIES and CONFLICT**

Apologies had been received from Lisa Forsyth (SEPA).

The Chairman asked those present to record any conflict of interest they may have and there were none.

1. **MINUTES OF THE OPEN SESSION OF THE MEETING ON 3RD SEPTEMBER 2021**

The Chairman noted that there were no comments as to accuracy and the Minute was proposed by JT and seconded by PG for signature by the Chairman.

1. **ACTION POINTS AND MATTERS**

The Chairman noted two matters from the last meeting. The first was the mention of getting a judge in chambers to look at the situation with the Spey dam and provide an opinion. Murray Beith Murray in Edinburgh were approached and who advised that they would require £10,000 plus VAT as a minimum just to look at the documentation to tell us if we had any case to take to the appropriate person in chambers to get a view. Noted as not a financially viable option. Noted that that is offset by the progress that has been made since the last meeting around the Spey catchment in raising the profile of the issue through the good work on the levels of waters in the Spey and the extraction levels from the Spey.

In relation to that the Chairman reporting on his discussions with Kate Forbes, the Finance Secretary of State and MP for Lochaber, with regard to GFG and their lack of investment. Reporting that at the end of the last meeting just before Christmas she undertook to get her PPS to write up the actions that need to be done on the dam and the smolts to get through it, with the agreement to meet again in three months to look at what progress has been made. That was in front of the managing director of the smelter, one of his assistants and their director of government affairs.

Noting that because of the water situation, they will need to wait until the second quarter to start working on the dam. The Director confirming that they are committing themselves to progressing work in June and July, principally because the fish pass needs to remain open for smolts to get out between March and May, and then needs to be open for adult fish passage from August to October. They have now committed to installing the artificial lighting with LED lighting within the tunnels. They are running into big problems with regards to altering the trapezoidal notches on the walls - principally because they are trying to make alterations to a concrete structure that is now 80 years old. They need to conduct a topographical survey in June and July, which they are committed to doing, in order to then to get designs made up for changes to the notches to take place in the summer of next year.

PG noting that a topographical survey along the lines discussed would only take about half an hour and as such, the reference to having to wait for this being undertaken in June and July doesn’t make sense. The Chairman suggesting that PG and the Director collaborate in the drafting of a note on this. Discussion then ensued on the query of whether the Board could instruct & pay for the survey being undertaken as soon as possible, with the conclusion reached that it was not a good idea in case anything went wrong with the survey – with the Board shouldering the blame.

**ACTION: PG and the Director to collaborate on a note to GFG Alliance.**

The Chairman then opening the floor for any decisions on the action points.

WM mentioning the question on the process for taking protected species off the protected lists, which has been raised on a number of prior occasions without any answer as to what the processes are for whether a species should remain on the protected list. The chairman inviting comment from JH.

JH advising of her experience in review of level of protection but commenting that there has been little talk of taking species off the protected list, primarily because some of the pressures on the species are still there. Suggesting the time of looking at new legislation would be the opportunity to deal with that. However commenting that the focus is very much now going to be obviously on the biodiversity and climate crisis, and as such her view is that the chances of things coming off the protected list or getting less protection are probably fairly slim. That being said licensing might come in providing for certain derogations for doing certain things to a species. Offering to investigate further and ask the questions. Encouraged to do so as approach by the Director has not elicited a response. AW commenting that the programme for government has a commitment to review the species license process. That is not about whether or not a species is protected or not, but what you can do with them under a licensing system as it relates to the balance between protection of prey and predator species.

**ACTION: Jennifer Heatley to investigate the removal of a species from the Protected List.**

1. **ANNUAL REPORT 2021 AND ACCOUNTS**

The Annual Report was the usual comprehensive report put out each year. Very positive feedback had been received. Discussing the benefits of printed hard copies as well as placing it online. In addition, discussing future reports being a more condensed, much more visual report with the scientific committee report being a separate report published on the website. Agreement that future reports should continue to be printed for distribution, including to Ghillies’ huts.

The director then highlighting entries in the income and expenditure accounts, including the movement out from the board’s account (as restricted funds) the Spey Catchment Initiative funds into a dedicated Spey Catchment Initiative account.

There were no comments or questions on the income or expenditure

In relation to the balance sheet, the Director highlighting that the accountants have made a mistake when dealing with the assets value. The asset value per balance sheet at the end of 2021 disclosed motor vehicles amounted to £76,385 and that together with equipment of £3,448 produced a total of £79,833. The accountants have mistakenly put in just the figure for the vehicles and not the overall sum. That error has transposed to page four where the net asset value is disclosed as £236,769 when it should read £240,217.

The director clarifying that the previous draft was correct, but they managed to change the numbers when complying with a request to put in some further information. The Director had checked that the additional information had been inserted but did not think that any other figures would change.

On approval subject to the requirement to have that error corrected, they will be put forward to the AGM. The final accounts would not appear on the website until the error had been addressed. The director also instructed to raise with the accountant that this is now the second year in a row where such errors have been made.

**ACTION: Director to raise accounting errors with the accountants.**

There were no other comments or questions on the Annual Report or Accounts and subject to that one correction, adoption of the accounts was proposed by Angus Gordon Lennox and seconded by Guy Macpherson-Grant.

1. **DIRECTOR’S REPORT**

The Director confirming at the outset that his report focussed almost exclusively on the strategy moving forwards – entitling it as “Addressing the climate and biodiversity crises” but within that biodiversity crisis is Atlantic salmon. This was as noted in the handout, but the Director reported on or highlighting a number of aspects including:

* The biodiversity crisis and the effect on Atlantic salmon where there is now almost unequivocal evidence that this species populations are at crisis point, not just in Scotland, but across all of the salmon’s North Atlantic range.
* The actions of the board and staff, who have worked tirelessly to inter alia, protect our salmon from illegal fishing, reduce exploitation through catch and release, monitor their welfare and overall maximize the number of smolts going to sea.
* The Spey Catchment Initiative as being instrumental in the board’s work moving forward, with the board being in the past and remaining at present the driving force behind the Initiative. Projects and their success highlighted, as well as future projects.
* The climate and biodiversity crises coming to the forefront of the public awareness as a result of COP26, with the Scottish Government making significant funding available through the Nature Restoration Fund over the next 10 years creating opportunities to expand the board’s work to adopt an even more holistic approach and make landscape scale changes, making the River Spey catchment more sustainable and more resilient to the climate and biodiversity crises.
* Approaches from other parties to help them implement sustainability strategies in response to the climate emergency and subsequently with it the accompanying biodiversity crisis.
* Launch of the “Release the Spey” campaign with reducing water diversion from the upper Spey remaining a priority and being the single biggest thing that can be undertaken to make the Spey sustainable and resilient.
* Discussing all the remaining aspects as part of the board's toolbox that will help the board implement the Scottish Government's wild salmon strategy, reverse the fortunes of our iconic Atlantic salmon and maximize the numbers of smolts going to sea. Suggesting that the board’s strategy and action plan may need to be revised rather than a need for it to be rewritten.
* Staffing levels and areas disclosed. Highlighting that with the senior biologist position vacant at present, there is an assistant biologist with assistance brought in to help with the smolt trapping and electrofishing in the spring and summer, with opportunities for those employees’ costs to be recouped from the Spey Catchment Initiative, the organisational structures and the interlinking with the Scientific Committee.

In conclusion the Director recommending the following for the board’s consideration.

* Not to lose sight of the plethora of work undertaken as part of our statutory responsibilities - , particularly if we are to play an effective role in helping the Scottish Government achieve its Wild Salmon Strategy.
* Promote expansion for the Catchment initiative strategy to adopt an even more holistic approach to catchment management to include increased tree planting, carbon sequestration, peatland restoration and possibly even deer management ( but not to duplicate the efforts of others).
* To support the belief that the catchment initiative and its new partners can build upon the projects that have already been undertaken to make landscape scale changes to our catchment to make it sustainable, more resilient to the climate and biodiversity challenges that confront us all.

The Chairman highlighting that he did not really want to get into the strategy until the closed session but wanted the Director to touch on the Spey Catchment Initiative and the number of projects it has ongoing. The director confirming that they currently have around 30 for which funding was being sought.

The Chairman then inviting questions.

The Director clarifying in response to query raise by AGL that the approaches mentioned are made both to the board and the initiative, and thereafter advising as to the structure of the Initiative as being guided by a steering group which consists of representatives from all of the highlighted partner organizations, with the chair being Anne Elliot from Nature Scot. Advising that there are two people who do the day-to-day work - project officer Penny Lawson applies for the licenses and crucially applies for the funding and once all the paperwork is done she hands it over to Duncan Ferguson, the operations manager, and he puts the projects in place on the ground. There are a further three people working closely with them and advising - our director, Sally Mackenzie from the Cairngorms National Park Authority and Anne Elliott.

TM raising the query as to monitoring of projects as they relate to the board’s responsibilities which are set out for us and the need to make sure that we remain focussed on salmon centric projects, as well identifying the plethora of benefits that come from these projects and those areas where assumptions being made could be wrong. The chairman seconding that need, which is not being met at present. There is a need for the board to provide the resources to be able to see what the outcomes are of those interventions.

PG commenting that the Spey Catchment Initiative is going to develop a life of its own and it's going to expand, and what we will see will be Nature Scot using it as a vehicle to deliver wider projects, which hopefully will benefit us as well. Expressing the view that we should not delude ourselves that the Board will continue to have the authority to run the Initiative unless we start really focusing on how we help it deliver some of these wider projects. TM commenting that a lot of those wider projects will deliver benefits to salmon that we were unaware of at the moment.

The chairman concluding the discussion, emphasising the point made by PG that we need to see ourselves in the future as simply a partner in the wider landscape approach, while accepting the points made that the Board looks to remain at the heart of the project and the initiative

1. **Scottish Government Wild Salmon Strategy: Presentation by Dr Alan Wells, Chief Executive Officer, Fisheries Management Scotland**

The Chairman then referred to Dr Alan Wells who had come up to present to us.an overview of the Wild Salmon Strategy which first came about in the Scottish Government's Programme for Government back in 2019/ 20.

AW started off with some of the background and the circumstances that has delayed the intention to have a multi-year National Wild Atlantic Salmon Strategy published by September 2020, including COVID, Brexit and the passing of Alastair Mitchell, who at the time was the deputy director in Marine Scotland responsible for Wild Fisheries and Aquaculture and the chair of the advisory group. Thereafter moving on to deal with the restated commitment from the Scottish Government to this process issued last year, stating that Wild Salmon Strategy will be published by the end of 2021, which will provide an overarching framework to tackle the pressures on wild salmon, which is where we find ourselves now. Explaining how that was taken forward by an advisory group and FMS involvement in the process as well as that of our Director and other parties/stakeholders.

Thereafter looking at some of the detail of the strategy, which was published on 14 January of this year, emphasising that while it is a relatively short document, it is a high-level strategy that will be followed by an implementation plan over the next 12 months, which will set out the detail of the whole process. Also confirming that there are parts that can go forward immediately without a need to wait for the implementation plan.

The high-level ambition of this strategy is reflected in a comment from Mary Gougeon, the Cabinet Secretary for Rural Affairs and Islands that accompanied the press release with the strategy – “There is now significant evidence showing the populations of Atlantic salmon are at crisis point. We must now reinvigorate our collective efforts to ensure a positive future for the species.” Highlighting that this is the Cabinet Secretary essentially recycling the points that we have been making for the last three or four years.

AW then moving on to speak on the objectives of the strategy, the five priority themes for actions and how they will look to be achieved.

Highlighting that the strategy recognises a whole range of wider policy drivers and having it really gives us the handle to get engaged properly. Having a strategy there as part of the programme for government changes the discussion that we have with these other parts of government. So it absolutely recognises policies for responding to the nature and climate crises. The strategy will complement and be reflected in Scotland's Land Use strategy, Biodiversity strategy, the Climate Change plan, River Basin Management plans, the Forestry strategy, the Marine plan and the National Planning Framework.

The strategy also makes reference to the Natural Environment bill, which is about preventing extinctions, halting declines and restoring Scotland's natural environment. It is that which will likely be the vehicle through which we make the changes to our current legislation such as penalties for enforcement.

In conclusion, AW commenting that while at present we are at the end of the first phase of this process, it is by no means over. The implementation plan will be key, and there is a lot of hard work still to do on this process. Issues relating to funding are now recognised and recognised at cabinet secretary level, which is incredibly helpful. The importance of preventing further deterioration, and also addressing shortcomings of existing regulation were discussed at length within the process.

The Chairman then thanked AW for his excellent presentation, commented that the document changes the discussion with the government and that can be used on the Spey when the board talks to all the partners and possible sources of funding. He then opened the floor to the board members for any questions

On the query being raised by CM, AW confirmed that while the Scottish Government has responsibility under devolved powers for most of the things set out, in relation to the international agreements through NASSCO it is the UK that is the signatory and Scotland contributes to the UK process.

Thereafter on the issue of seals and the prior proposal to change the legislations, whereby they were simply going to remove the licensing process altogether AEW had pointed out that there is actually a provision in place that allows seals to be taken by license for the conservation of another species. At that point, the government changed their plans, and that provision still exists. Commenting that he and the Director over the last little while, have been working with the seal licensing team at Marine Scotland, pointing out the system that they originally set out just simply does not work on the ground. Commenting that we are currently in live stage of a process that we hope is, at least, giving fisheries managers an opportunity to remove a seal under license in certain circumstances. Also, there is work ongoing with Marine Scotland to get as many and as wide a range of non-lethal approaches that will work for the next generation of seal management. They are more likely to be triggered by sonar device rather than on all the time as the seals become habituated to these sorts of things, with the view to keeping the seals out of the rivers where they can do the most damage.

On the issue of timing raised by JT with reference to the 12-month period referred to, avoidance of a vacuum for that period, and the issue of updates along the way as to how the group that brings forward the implementation plan is getting on, AW said that while he agrees that 12 months is a long period, it is almost the standard timing that gets set out by Scottish Government. FMS has already pointed out that there are a number of things that can be taken forward immediately and as such there is work going on at the moment. On the broader picture, because of implementation plan coming through and the strong commitments that have been made, AW commenting that he would expect to see the Cabinet Secretary coming forward to the Scottish Parliament and actively provide updates.

In response, TM commenting on the need for the board and FMS as our representative organisation, to be supported in keeping pressure on the government to actually deliver on what has been set out. AW also expanding as requested on the comment made as to the statement in his presentation as to there being a number of things which could be actioned without having to wait for the implementation plan. AW confirming that there is work going forward already in terms of the biodiversity strategy, which he is involved in, which relates to things like tree planting, habitat improvements, and work through the Enforcement Committee that has been done already to identify the offences that need to be taken forward. While that will need a legislative window in order to make those changes, all the preparatory work for that can be undertaken now. The same can be said for the species licensing process

TM also commenting that there is tremendous onus placed in front of SEPA to be a key agency in this exercise, and not only have they just lost their leader but their track record on delivery is miserable. The concern is that they will become the biggest block on progress being made. While recognising the frustration with SEPA, which is shared by FMS and across the rest of the network, AW commenting that there is an opportunity for the new chief executive coming in to change the attitude, but all parties need to work very hard to make sure that that opportunity is realised. He is also of the opinion that over the last 12 months and throughout this process, SEPA have recognised that there are issues that need to be addressed, that their approach could be better, and they want to work with FMS to change their approach. As such, FMS will be bringing in a whole series of their members on specific issues to address some of the issues going forward, for example the way licensing works - consultation around that or lack of consultation - and that by bringing in the expertise of district fishery boards into that process.

TM stressing that it needs to be very clear that the proprietors and the board are enthusiastic about this and as a board we are seen to be wholly supportive of the strategy as active participants with a desire to deliver on the strategy – with any concerns as to for example timing, slowness or whether the agency to deliver has the capacity, etc. are not concerns about what the strategy is telling us is required. Agreeing that that could be achieved by working with the Spey Catchment Initiative as mentioned by AGL, but the board’s position must be made clear.

AW then addressing a query in relation to SEPA’s approach to barriers. Commenting that SEPA in the River Basin Management Plan are committed to remove considerably more barriers than they have ever managed before, and that they have done a lot of the preparatory work for that as well. While historically there has been a lot of issues with SEPA, we now have another tool in the armoury to push them harder and to get the Cabinet Secretary to push them harder.

The Chairman then raising the query as to whether, apart from what we need to do locally, there anything going on centrally to influence what needs to be undertaken. AW replied that the Board has a very important role in terms of consultation on proposals on planting forestry when they come forward. Commenting that anything that involves work within rivers or things like that require a CAR license through SEPA, so again, the Spey Board has an opportunity to add to that consultation process and to be engaged in those events, which is a really important role for district salmon fishery boards and indeed fishery trusts. This is to ensure that anything that gets licensed does not clash or be negative to the work being undertaken by the Initiative. Therefore, stressing that the absolute first point is to make sure the activities that are brought forward via a license, or indeed anything else, does not make things worse, and then work to make the improvements that we need to make in parallel.

Responding to a query as to whether AW was of the view that there will be increased funding for local scientific research, or whether more is to be done more centrally, AW commenting that he was of the view – as it is set out in the strategy - that there will always be scope for that work to be done locally, but whether there will be more funding for that work is unknown. Funding has primarily been focused towards local work that feeds into national strategy. But if there is more funding for fisheries management locally, which is hoped to come through these reviews, then presumably that means that there is more scope to divert that funding into the areas that are the local priorities. Comment made by the Director that there is a distinct change in the way Marine Scotland Science approached the district salmon boards and trusts, and unlike the position in the past, there is almost a reliance by them upon the ability of local organizations to collect that data on their behalf as they don’t have the capacity to do it themselves.

1. **AOCB**

Today’s location commended as a setting for the board’s meeting.

On the suggestion of PG, request made of JH, who would normally depart after the open session, to stay for the discussions in the closed meeting on the board’s strategy, as NatureScot will be a very big part of what is involved there. JH accepting.

1. **DATES OF NEXT MEETINGS**

The date of the next meeting confirmed as Friday 27th May 2022 both location and method (digital or in person) TBC

The meeting then closed at 11.30 a.m.