Written submission from the SaveSeilSound Campaign Group

In our response to the Consultation at the pre-Bill stage we included the following comment,

“It is time for SG (the Scottish Government) to accept what the industry already knows, that fish farming damages the environment. The challenge for those who wish to secure a future for the industry in the longer term is to minimise that damage. The present consultation represents a start, but a number of important issues are missing.”

Regrettably it now seems that we were wrong to concede that there was even a start, as a number of major issues that were canvassed before, some of which received an overwhelming level of support from commenters from outside the industry, have disappeared without trace. This is extremely disheartening for those such as the active contributors to our group, who put a lot of hard work into our submission with the sole aim of helping Scottish Government in what appeared to be an attempt to provide some much-needed protection for our environment. One is left with the disturbing impression that SG have not acted in good faith in inviting comments on topics on which it has had no intention of legislating. What is left in the draft Bill is so limited that there seems little point in engaging in further “consultation”. However in the hope that even at this stage some of these issues can be resuscitated we do offer further comments in relation to fin-fish aquaculture, the area which is of most concern to our supporters.

Power to cancel unused consents

It seemed to us perfectly sensible for SG to have this power, subject to some obvious safeguards which have been discussed before. No reason is given for this proposal being dropped in its entirety and we are left wondering if SG has given in to threats from some of the companies holding these consents to challenge the measure on grounds based on the European Convention on Human Rights if introduced. This could arise as a result of the combination of two factors, (one) the transfer of decision-making from the Crown Estate to the local authorities and (two) the change in practice by the Crown Estate, who now grant long term, renewable and freely transferable leases of the seabed, rather than non-transferrable ones for limited terms. We comment on these aspects in turn.

Transferring decision-making was done for the best of reasons. In a democracy it was absurd that an unelected body of London-based commissioners could decide to confer exclusive rights to areas of seabed without external scrutiny. In doing so they of course denied to the general public our “inalienable” rights to use the surface of the sea for leisure and recreation as well as for navigation and fishing, but that was of no concern when money could be made for the Crown.

Subsequent experience has shown that in practice the transfer was not properly thought through. There is now a regulatory mish-mash, with some matters, such as impacts on the local economy of a proposal, the responsibility of the local authority while others stay with central government bodies, for example pollution stays with SEPA via the CAR licence system and science stays with Marine Scotland. One vital
matter, the impact of sea-lice on wild fish, seems to be the responsibility of no-one in particular but perhaps lands on the local authority by default.

We have great sympathy with the planning officers in the four or five local authorities affected, as they have to wrestle with a totally new concept of offshore planning with no additional resources.

The change from leases of ten years to longer term ones was unheralded and undeclared within government. There was very good reason for the time-limiting of the leases, the intention being that at the end of the term the operation would be moved and the seabed allowed to recover. This would have been feasible in the early years, when farms were very small, locally-owned outfits, although in practice it never happened. There is no good science for abandoning the idea, rather government should have grasped the nettle and enforced rotation. Instead the Crown Estate decided to entrench the practice of renewing leases on the same sites by deciding to grant longer term ones.

The effect of these changes, taken together, is that the operators of the present generation of large-scale industrial “farms” will start claiming that their leases are in effect rights of property and that accordingly any restriction would be expropriation. These operators, all of them owned by international shareholders and controlled from locations as diverse as Norway, Poland and Kazakhstan are sophisticated, well-funded and well-advised entities. It has to be assumed that they are more interested in making a profit than in caring for the Scottish environment.

The Committee should ask the Minister if this potential legal threat is the reason that this provision has been dropped. If so we suggest that steps be taken to avoid it becoming a reality, rather than that the issue should simply be ducked.

**Power to restrict permitted biomass**

Exactly the same “expropriation” argument may be open here as well.

Evidence has recently come into the public domain under FOI, having been known within SEPA for years, that a substantial number of fish farms have been failing to meet pollution standards. Members of the Committee should ask SEPA to provide full information about how it deals with these failings, whether by requesting voluntary reductions in biomass, withdrawing licences or howsoever. On 31 October we requested information from the Crown Office about the number of cases referred to it by SEPA and await the response, which I will forward on receipt.

**Sealice, Mortality, Disease and Biosecurity**

Those of us learning about the intricacies of the regulation of fin-fish farming have been very surprised to learn that sea-lice are not technically regarded by SEPA as pollution and thus they are not something SEPA tries to regulate. Their concerns are limited to the quantities of organic fish waste, uneaten foodstuffs, poisonous metals and the pesticides used to kill sea-lice. To lay-people like ourselves and perhaps to some members of the Committee this may seem odd, as it is known that plumes of sea-lice larvae are released from fish farms, travelling for many miles in the fast tidal streams along our coasts and surviving for weeks in their search for a host fish.
Even more surprising is that the other agencies of SG, Marine Scotland and SNH, only concern themselves with the effects of sea-lice on the fish actually caged in the farms and will only take action to limit the effects of lice on those fish. The wild salmon and sea trout passing by get no protection. This is wrong and can be corrected by a simple legislative change.

On reporting sea-lice, mortalities and disease the response from Marine Scotland that this should be done by a voluntary system or under some secondary legislation is quite inadequate. The Norwegians found this to their cost and have introduced an effective system of near real-time reporting, as former Environment Minister Stewart Stevenson found when he discussed the problem with his counterpart in Norway, seen on the BBC’s “Fishy Business” documentary. The Committee should ask him to inform them about his impressions from his visit.

**Power to kill non-commercial native species**

When I circulated our comments on the pre-Bill consultation in draft form some of our members could not believe that this wording was correct and asked why a native species should be wiped out to assist a commercial operator? The wording was of course correct and it is sad that this has survived into the draft Bill. Admittedly only a group of mussels is in the sights just now, but this is a bad principle to establish.

**Conclusion**

We are aware that much of the foregoing has been excluded from the Bill as drafted. The pre-Bill Consultation was already a seriously limited piece of work, making no reference to several major issues of public concern, such as seal-shooting and the adverse impacts of acoustic scaring devices on marine mammals. One is forced to conclude that lobbying by a powerful industry enjoying the ear of government, rather than proper concern for our environment, may be the cause. Much of Scotland bears the scars left behind by earlier industries in an age when regulation was non-existent and we carry the cost of this today. The richness of our coastal heritage is a major national asset which should not be lost to serve the short-term interests of multi-nationals, who ironically trade on the healthy reputation of Scotland’s wild fauna the destruction of which is often a by-product of their efforts.