Dear Edward,

SCIENTIFIC TRIAL OF ELECTROFISHING FOR RAZOR CLAMS

You may recall that I wrote to the Committee, and to other interested colleagues, in April 2017 about the publication of a Government response to a consultation about whether electrofishing should in future be a permitted method for the capture of Razor Clams. In that letter I noted that the Government had decided to authorise a controlled trial of electrofishing for Razor Clams, in Scottish waters.

I wanted to write again now to offer an update on the progress that has been made in preparations for the trial, and to advise about where it will take place and under what conditions. It is hoped now that the trial will commence on 1 February 2018, although this date is subject to the determination of applications and connected practical preparations.

I wanted to offer this update in part because I have laid for the Committee's consideration a Scottish Statutory Instrument (SSI) that will make provision for fishing for Razor Clams in Scottish waters to be prohibited, except where it takes place through the trial or where it involves only the gathering of limited numbers of Clams by hand on the shore. I do consider that the effect of this SSI is essential to the integrity and success of the trial, and that it will not be possible to proceed without it being in place.

The Razor Clam fishery now

Razor Clams are common molluscs that can be found burrowed in sandy inter-tidal and sub-tidal areas throughout Europe. In Scottish waters there are two commercially important species: *Ensis arcuatus*, colloquially known as "bendies"; and the larger pod razor *Ensis siliqua*, "straights". In 2016 there was landed into Scotland by UK vessels 461 tonnes of Razor Fish, with a landed value of £2.296 million. Almost all of the Clams landed into Scotland are exported, primarily as a premium restaurant product, to East Asia. In recent years between 20 and 40 vessels have been involved in the fishery, supplying a small number (around 6-10) of processing and export companies.
Electrofishing

While fishing for Razors is legal, fishing with electricity is prohibited under EU law. It is however the Government's understanding that all or almost all of the commercial fishing effort directed at Razor Clams in Scottish waters employs the electrofishing method, and that this has been the case for a number of years. As a consequence, significant efforts have been made by the compliance authorities to detect, disrupt and deter fishermen from electrofishing, with a number of prosecutions secured.

At the same time, the Government has been interested to establish whether electrofishing for Razor Clams can be conducted safely and sustainably. A scientific study on this matter was published in 2014 ([http://www.gov.scot/Publications/2014/10/8462](http://www.gov.scot/Publications/2014/10/8462)) and it concluded that electrofishing is likely to be more environmentally benign than some other traditional methods, such as dredging and salting in the sub-tidal zone. Noting this report, and following the 2016 consultation, the Government considers it appropriate now to undertake a controlled trial of electrofishing for Razor Clams in Scottish waters.

Areas to be included in the trial – consultation with interested fishermen, environmental organisations and Scottish Natural Heritage

After the publication of the Government's consultation response this April, my officials met fishermen and other interested parties in Oban and in Glasgow about the areas that might be appropriate for the trial fishery. These meetings concluded with proposals for 11 areas and include areas in the Solway Firth, the Firth of Clyde, the Minches, the Western Isles and also the Firth of Forth. Consultation meetings have also been held with interested environmental organisations.

Further to these consultations, surveys were undertaken over the summer in two of the 11 areas, to establish Razor Clam abundance. The surveys were undertaken by fishermen under scientific supervision and have informed the setting of catch limits for vessels participating in the trial (see below).

My officials also requested advice from Scottish Natural Heritage (SNH) about any likely significant effect on protected marine features present in the candidate trial areas through the use of the specified electrofishing gear. SNH offered in their response some general advice about the conduct of a trial and also commented about particular areas. In relation to two (the Sound of Barra and Luce Bay / Solway Coast) it advised that Marine Scotland would be required to carry out an "appropriate assessment" to determine that there would be no adverse effects on features there.

Members of the Committee and other interested colleagues may read the exchange of official correspondence on this issue, as well as the minutes of consultation meetings, at the relevant Marine Scotland website page: [http://www.gov.scot/Topics/marine/Sea-Fisheries/managementirazors](http://www.gov.scot/Topics/marine/Sea-Fisheries/managementirazors).

In light of these consultations and advice the Government is making preparations now to commence the trial in the eleven areas proposed by fishermen, shown on the map enclosed as Annex A. My officials are working with SNH now to complete appropriate assessments in relation to the two areas noted above. Application forms for the trial have now been issued to interested fishermen and through normal fisheries management information channels, with a closing date of 29 December 2017. The application form and criteria for selection may be viewed on the Government website page above.

I did contemplate, in light of the requirement for further appropriate assessments in relation to two of the areas, whether it might be better to postpone the issue of application forms and the commencement of the trial until all of the these processes were fully complete. I considered, on balance, however that it was more in the public interest for the trial to commence in most of the possible sites, and - very importantly - for the prosecution of this fishery to be established as part of the general system of appropriately regulated fisheries in our waters. I am sure that all colleagues will agree that it is important to the general reputation of fishing in Scotland that all of our fisheries should have a good reputation here and internationally.
Catch limits for the trial

As noted above, 461 tonnes of Razor Clams were landed into Scotland by UK vessels in 2016. The five year average (2012-2016) is 612 tonnes annually. Landings may well have been higher but for management measures introduced in 2014 by Marine Scotland to limit access to the fishery and, latterly, to introduce a daily catch limit for Scottish vessels. By contrast, stock abundance surveys undertaken during the summer of 2017 revealed significantly lower abundances of Razor Clams in the areas selected than those that might have been expected in light of catch rates that are understood to have been achieved in the commercial fishery. Scientific review of the stock assessment survey report is expected to be completed shortly and this will also be published on the website page referenced above.

In light of these developments, the Government has decided to take a cautious approach to the catch limit for the trial. It is proposed that each vessel participating in the trial will be subject to a daily catch limit of 450kg and be limited to 110 days at sea, subject to review once the final number of successful applications is confirmed. Compared to current arrangements for a Scottish vessel, this represents a 25% reduction in the daily catch allowance and the introduction of a cap on time spent at sea.

It is not possible at this time to provide a figure on the number of vessels that can be involved in the trial. Successful applications will be ranked as to the quality of their application as it relates to safe fishing and diving operations and the evidence provided in relation to a positive economic link to Scotland. A reserve list may be maintained. The Government will of course reserve the right to re-allocate quota and quota will not be transferrable between vessels.

Vessels may also be limited in terms of the trial areas where they may fish, if it is necessary to prevent any one area being over-exploited, and the Government will reserve the right to close trial areas if it appears there is a risk of over-exploitation. Similarly, the Government will reserve the right to close trial areas if they are not utilised within one year. It should be emphasised that participating vessels will of course remain free to be involved in other fisheries during the period of the trial – indeed the Government would encourage such diversification and not reliance on a single fishery.

Applications and conditions for participation

UK-registered fishing vessels may apply to participate in the trial. Applicants will be invited to describe:

- The suitability of their vessel and fishing operations in terms of the safe conduct of electrofishing, particularly with respect to the safe deployment of divers and the use of electrical equipment;
- Evidence of a positive economic link, either existing or planned, to Scotland and in particular the ways in which they might support employment and economic activity; and,
- The trial areas in which they would prefer to operate.

Electrofishing for razors is expected to involve the use of divers (although there are also emerging innovations that may provide for diverless harvesting). In light of this, my officials have been working closely with the Health and Safety Executive (HSE) to ensure that applicants meet all necessary standards for safe diving under the Diving at Work Regulations 1997 and having regard to HSE’s Commercial Shellfish Diving in Inshore Waters information leaflet.

Successful applicants will participate subject to a range of conditions designed to assist the gathering of evidence, and for the purposes of control. They will be required to have on board equipment that confirms position and other technical details about the operation of the vessel, including the level of electrical current deployed. Landings will be controlled, with vessels required to land at specified times and places so as to facilitate inspection of landed Clams and vessels. Marine Scotland will also look to vessels to collect a range of information helpful to the improvement of evidence about stock abundance and distribution, which will likely evolve as the trial progresses. And steps will be taken to develop evidence about any impacts on the marine environment, and particularly the benthic environment.

St Andrew's House, Regent Road, Edinburgh EH1 3DG
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At this point, the Government does not have a settled view about the duration of the trial, but expects that it will continue over a number of fishing seasons. The European Commission has been given notice of the trial in terms of Article 43 of EC Regulation 850/98.

**Prohibition on fishing for Razor Clams in Scottish waters other than through the trial**

As I note above, an SSI has been laid that will have the effect of prohibiting the fishing for Razor Clams in Scottish waters, except when pursued through the trial.

I do consider that this measure is essential if the trial is to be a success. A prohibition on fishing for Clams (rather than the present prohibition on using electricity) will be considerably more practicable to enforce, as the authorities will no longer have to catch vessels “in the act” of using the equipment.

In the absence of such a prohibition the compliance authorities consider it very likely, given the profitability of the fishery, that there will continue to be attempts to fish with electricity illegally, either in the trial areas or in other places, and to evade attempts at detection.

The continuation of fishing outside the trial would significantly reduce the utility of information gathered by the trial and involve a significant risk of over-exploitation of stocks in general and in particular places.

The SSI that has been laid will however provide an exemption for gathering by hand, up to a limit of 30 Clams a day, so that private individuals collecting Clams for personal consumption are not caught up in the regulatory arrangements.

**Conclusion**

I hope that the Committee and other interested colleagues have found this further update on progress on this project helpful. While still at an early stage, the Government does hope that the proposed trial can be the first step in the development of a genuinely new and sustainable opportunity for Scottish fishing vessels and businesses in our inshore fisheries.

If you have any questions about this issue please do not hesitate to be in contact with my office. I am also very happy for officials to offer a briefing to the committee and to interested colleagues, if that were considered helpful.

I am copying this letter to the Rural Economy and Connectivity Spokespersons in the Parliament and also to Finlay Carson MSP.

FERGUS EWING

St Andrew's House, Regent Road, Edinburgh EH1 3DG
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