

TRANSPORT AND THE ENVIRONMENT COMMITTEE

Wednesday 12 December 2001
(Morning)

Session 1

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TRANSPORT AND THE ENVIRONMENT COMMITTEE

31st Meeting 2001, Session 1

CONVENER

*Bristow Muldoon (Livingston) (Lab)

DEPUTY CONVENER

*Nora Radcliffe (Gordon) (LD)

COMMITTEE MEMBERS

*Robin Harper (Lothians) (Green)

*Mr Adam Ingram (South of Scotland) (SNP)

*Angus MacKay (Edinburgh South) (Lab)

*Fiona McLeod (West of Scotland) (SNP)

*Maureen Macmillan (Highlands and Islands) (Lab)

*Des McNulty (Clydebank and Milngavie) (Lab)

*John Scott (Ayr) (Con)

*attended

THE FOLLOWING ALSO ATTENDED:

Jackie Baillie (Dumbarton) (Lab)

John Farquhar Munro (Ross, Skye and Inverness West) (LD)

Mr John Home Robertson (East Lothian) (Lab)

WITNESSES

Dr Kenneth Black (Scottish Association for Marine Science)

Professor Randolph Richards (University of Stirling)

Dr Dick Shelton

CLERK TO THE COMMITTEE

Callum Thomson

SENIOR ASSISTANT CLERK

Tracey Haw e

ASSISTANT CLERK

Alastair Macfie

LOCATION

The Hub

Scottish Parliament

Transport and the Environment Committee

Wednesday 12 December 2001

(Morning)

[THE DEPUTY CONVENER *opened the meeting at 09:36*]

The Deputy Convener (Nora Radcliffe): Good morning and welcome to the 31st meeting in 2001 of the Transport and the Environment Committee. I welcome Angus MacKay as a new member of the committee. I have received no apologies, but we have been told that Fiona McLeod has been delayed. She will be here as soon as she can, trains permitting.

I open the meeting in my capacity as deputy convener of the committee, following the appointment of Andy Kerr as the Minister for Finance and Public Services. I am sure that all members of the committee will want to join me in thanking Andy for his substantial work on this committee during his time as its convener.

Before we move to agenda item 1, I advise members and the public—who have not yet arrived—that a revised agenda for the meeting was published in this morning's business bulletin. Unfortunately, for family reasons, Allan Wilson is unable to attend today's meeting. We hope that we will be able to reschedule for next week his appearance to give evidence as part of our aquaculture inquiry.

Interests

The Deputy Convener: Item 1 on our agenda concerns a declaration of interests. I invite Angus MacKay to declare any interests that are relevant to the work of the committee.

Angus MacKay (Edinburgh South) (Lab): I declare a Lothian Buses concessionary bus pass, which I obtained on Monday and which I intend to enter in the register of members' interests.

Robin Harper (Lothians) (Green): Can I declare my pass as well?

The Deputy Convener: We will take a late declaration of interests from Robin Harper.

Robin Harper: I will enter my concessionary bus pass in the register of members' interests as soon as possible. I had forgotten to do so.

Convener

The Deputy Convener: Item 2 on our agenda concerns the election of a new convener. The Parliament has agreed that the convener of the Transport and the Environment Committee should come from the Labour party. I request nominations from members.

Maureen Macmillan (Highlands and Islands) (Lab): I nominate Bristow Muldoon.

The Deputy Convener: Bristow Muldoon has been nominated. Do members agree that he should be the committee's new convener?

Members indicated agreement.

Bristow Muldoon was chosen as convener.

The Deputy Convener: I congratulate Bristow Muldoon on his election and hand over the chair to him.

The Convener (Bristow Muldoon): I thank colleagues for electing me as convener of the Transport and the Environment Committee.

Maureen Macmillan: Did your nomination come as a surprise?

The Convener: It came as a complete surprise. I thank Nora Radcliffe for her extensive stint convening this morning's meeting, a task that she performed very ably. I am sure that she will perform it equally ably in future, if ever she needs to.

I, too, welcome Angus MacKay to the committee. I am sure that his experience in local government and as a minister will enable him to make a valuable contribution to our work. I look forward to working with him on the committee and hope that other members will work with him constructively.

Before we move on, I would like to acknowledge the role that the previous convener, Andy Kerr, played over the past two and a half years. Andy Kerr is widely recognised as having been an effective convener, who guided the committee well during the first two and a half years of the Parliament's existence. I offer my best wishes to him in his new post.

Robin Harper: Can we acknowledge Andy Kerr's contribution, which was considerable, in a formal way? Andy did an extremely good job over the past two and a half years.

The Convener: I would be more than happy to write to Andy Kerr on behalf of the committee to express our recognition of his contribution and to offer him best wishes in his new role.

Item 3 on our agenda is consideration of lines of questioning for the witnesses from whom we will

take evidence as part of our aquaculture inquiry. Previously we agreed to take that item in private. I recognise that my first act as convener is to take the committee into private session and apologise to the people who were responsible for writing the consultative steering group report. I invite members of the press and the public—who are not yet here—to leave the room. We will move back into public session in 10 to 15 minutes' time.

09:41

Meeting continued in private.

09:59

Meeting continued in public.

Aquaculture Inquiry

The Convener: I welcome the press and public back to the meeting. The main item of business is further evidence taking on the committee's inquiry into aquaculture. I also welcome our three witnesses—Dr Kenneth Black, Professor Randolph Richards and Dr Dick Shelton.

Before we start, I will say a few words about the proposed appointment of a research co-ordinator for the committee and the Executive on this matter. Reporters from the committee are discussing proposals with officials from the Scottish Executive. We hope, by next week, to have put more flesh on the bones of the proposal that the committee discussed. We hope to hear from the reporters next week on their recommendations on how we should proceed.

We will now move to questions to our three witnesses. We will go through several specific issues on aquaculture. When the questions are asked, could the witnesses indicate who wants to answer first? You may all want to comment on the same issue. We will try to ensure that supplementaries are related to the initial questions.

Robin Harper: On our travels, the committee's reporters—Maureen Macmillan, Bristow Muldoon and I—have picked up an almost unanimous view that an assessment of the carrying capacity of Scottish coastal waters is needed. What work needs to be undertaken to assess carrying capacity?

Dr Kenneth Black (Scottish Association for Marine Science): A lot of research has been done over the years in the name of contributing to carrying capacity estimations. Internationally, a lot of effort has been made. In Scotland, there are estimates of carrying capacity in both benthic effects and sea loch level effects. Fairly simple modelling approaches have been taken. We need more of those. We must consider them loch by loch and region by region. We also need more definitions about the aspects that limit carrying capacity. One could argue that the best use of funds would be to focus on the issues that are likely to limit capacity. Sea lice should be included, as well as aspects such as nutrients.

Professor Randolph Richards (University of Stirling): The current estimation of carrying capacity is carried out quite well by the Scottish Environment Protection Agency through the impact assessments that are done as part of the licensing process and the continuing ability to hold fish in stocked areas. The factors other than fish

farming that contribute to the relative carrying capacity of loch systems should also be considered to find out whether the total effects can properly be estimated. That is probably not being done yet.

Dr Dick Shelton: If we are to include sea lice in the carrying capacity calculation, I can say confidently that the carrying capacity of Scottish coastal waters is already substantially exceeded. I have prepared a background paper for the committee, which I hope members have received.

Sea trout populations in the north-west of Scotland have collapsed—a situation that is unique to that part of Scotland. Sea trout spend the entire summer in inshore waters where they are exposed constantly to high levels of young sea lice. That exposure has caused the collapse in the sea trout population. Given the collapse of many of the wild fish populations, the staple diet for young sea lice now has to be caged salmon. As a matter of urgency, the salmon industry needs to be regulated and inspected. As I said, I have given the committee a full background paper on the subject.

Sea lice are the biggest threat to wild salmonid fish in north-west Scotland. In some of the more fiordic systems, salmon are also affected. In contrast to sea trout, which hang about in the inshore waters, young salmon go to sea rapidly. Sea louse larvae treat long fiordic systems such as Loch Fyne and Loch Linnhe as bomber alleys. I would like a moratorium on the expansion of salmon farming in Scottish coastal waters until the problem has been resolved properly. The carrying capacity is exceeded substantially.

Robin Harper: In the absence of scientific certainty about carrying capacity, what steps should the Executive take to manage the environmental risks of fish farming? Should there be a moratorium on the issuing of new consents for large-scale salmon farming?

Professor Richards: To expand salmon farming in certain areas would produce greater risks. A moratorium would have to be carried out on a site-by-site basis. However, the salmon farming industry is important to Scotland. A blanket moratorium, which may be based on insecure facts, would not help the industry to develop.

We are at the early stage of the development of fish farming in other species of marine fin fish. It is likely that that development into other fin fish, including cod, will depend in the first instance on the ability to try out cod farming in association with salmon farms. Such associated development would help to determine what factors are important to the development of other fin fish species. The future of fish farming in Scotland may depend on

the substitution of new species for salmon. A moratorium at this time on new species farming would be detrimental to Scotland.

Dr Black: I agree with Professor Richards's last statement. However, we need to get salmon farming out of the most sensitive locations and a moratorium might not be conducive to that. We need to find good offshore sites that have fewer sea lice problems. We need to take farms away from the heads of sea lochs and other places where there are known problems and where the farms have difficulty in controlling sea lice.

The Convener: Two members want to ask supplementary questions. I will return to Robin Harper in a moment.

Maureen Macmillan: We heard evidence from Scottish Natural Heritage that the definition of carrying capacity should be broadened to include shoreline development and visual impact. Do you agree with that? Do we need to broaden the definition of carrying capacity to encompass aesthetic as well as scientific aspects?

Dr Black: I am not an expert on the visual aspects of carrying capacity—neither is anyone else. When people start to talk about such issues, they mean integrated coastal zone management. That would ensure that all users have an equitable stake in the environment. It would include coastline developments and, potentially, tourist developments—we have to consider more than just carrying capacity. There may be people who can make judgments on carrying capacity and scenic amenity, but I have not yet seen a robust approach to those issues.

Professor Richards: I agree with those comments. A great start has been made in involving a number of different users of the coastal areas—the tripartite working group has been set up and area management agreements are being developed. It may be sensible to expand those arrangements to include other interested parties.

The Convener: Dr Shelton, do you wish to comment?

Dr Shelton: Not really—coastal amenity is not my area of expertise.

Angus MacKay: There seem to be slightly conflicting views on moratoriums. Robin Harper referred to scientific uncertainty. On what kind of evidence could there be either a wholesale moratorium or localised moratoriums?

Dr Black: We have to be clear about what scientific uncertainty we are talking about. On sea lice, there is limited scientific uncertainty, in my view; Dick Shelton explained that well. On nutrients, there is more scientific uncertainty. Which issue are you referring to, because the issues are different?

Angus MacKay: What evidential basis would support local moratoriums or a national moratorium, in either circumstance? I am not clear which circumstance you were talking about.

Dr Shelton: The evidential basis for the need to be precautionary is the collapse of populations in the affected area. On the north coast of Scotland or west of the outer Hebrides, salmon farming goes on with very little effect, as far as we can see, on sea trout or wild salmon. In Orkney and Shetland, there are problems. However, on the mainland coast, to the north, west and south-west of the farmed area, the wild salmonid fisheries are functioning perfectly normally.

Having seen the problems, we have to be careful about the way in which the industry spreads. In particular, we do not want it to spread to new areas in the east of Scotland, which has some of the most valuable salmonid fisheries. I will give members a case in point: the proposal to put a smolt-rearing operation on the River Ettrick. The River Ettrick system is the driving force for the remaining spring salmon population in the Tweed. The introduction of such an operation would be absolute lunacy, given the worries about the impact of the two industries on each other, but I do not know how it can be prevented.

Under the precautionary principle, until there is better regulation and inspection, we have to be very cautious about allowing the industry to get bigger and spread further. My view is that the future of the industry lies not in expansion and chasing the world salmon price; my view is like that of Dr Michael Foxley, who would say, "Let's go for the quality end of the market, let's do so in the right places, and let's not try to chase the world salmon price because we can always be beaten by countries such as Chile. Let's do what we are best at—producing high-quality farmed salmon at lower stocking densities."

Professor Richards: The decline in sea trout and salmon stocks has been going on for a considerable time. It certainly predates the beginning of salmon farming in Scotland. Although in some areas sea lice may be a contributing factor to that decline, they are hardly the main cause. It is important to acknowledge that.

However, the industry is determined to bring sea lice under control and is doing so reasonably well in many areas. We have a range of medicinal compounds to treat sea lice. Much of the urgency is focused on ensuring that those products are available and can be used effectively in the fish farming areas. In that way, the risk from sea lice will be dramatically reduced for the industry and for wild fish operations. Perhaps the ability to use such treatment compounds effectively should be taken into account in the siting of fish farm operations.

Dr Shelton: I want to say a little bit about the wider problem of the decline in the abundance of salmon and sea trout. This circumpolar problem also affects Pacific salmonids and is associated with changes in the growth and survival opportunities provided by marine climate, which is currently not particularly conducive to high survival rates of subarctic fish. As a result, the return rates of fish are about a third to a half of what they were in the late 1960s and early 1970s.

The problems in north-west Scotland are of an entirely different character. They are major and quite unprecedented changes in the abundance and structure of the stocks and are unrelated to the wider problem, which is driven by changes in world climate.

10:15

The Convener: I ask Adam Ingram to make his question brief, as I want to make progress.

Mr Adam Ingram (South of Scotland) (SNP): I wanted to follow on from Robin Harper's question about moratoriums. I take on board Professor Richards's point about improving the hygiene of the fish farms to ensure that the natural balance is not disturbed. However, given the delicate balance in the north-west of Scotland, does it not make more sense to establish an exclusion zone for fish farms in such areas and perhaps to relocate the farms outwith those areas? How feasible would that be?

Professor Richards: We are actively following up the possibility of relocation. Fish farming has modified the sites that it uses to farm fish. We should also realise that, after major investigations and discussions about the effects of infectious salmon anaemia, there is a greater understanding of the need to fallow sites to maintain single-year classes. However, such an approach requires more sites, not necessarily with increased production. Although the siting of those operations should be made on a case-by-case basis, there is a requirement constantly to modify the areas where fish are being farmed.

Des McNulty (Clydebank and Milngavie) (Lab): What are the key factors in determining carrying capacity? Might they include the physical geography of the coastal area, the farming practices that are used—or some combination of the two—or the incidence of latent carriers of disease that might be present? Can we draw any useful international comparisons with Norway or other countries with a similar physical geography that would allow us to find out how different factors could be manipulated to influence carrying capacity?

Professor Richards: The current system tends to encourage sites with better water exchange. We

have traditionally moved away from inland sites with good protection against wind and wave action—which might lead to the build-up of solid waste—to more open areas. The same approach applies to the use of medicaments, as their build-up or otherwise is an important factor in the allowable amount of material that can be used. That factor is taken into account in the licences to discharge that SEPA issues; it is constantly monitored and can be modified if the modelling suggests that the level is not correct. As a result, the current system prevents the development of major problems such as the build-up of waste and the possible effects of treatment products. Our system is probably more advanced than that in most other areas where fish farming takes place. We are already very regulated and controlled and the industry is developing its own systems of environmental management to take account of the issue.

Dr Black: I would like farmers to have more incentives to take advantage of developments in technology for cages in locations that are further offshore and more exposed. Some new technologies are coming along and the regulations need to create incentives for farmers to expand into less sensitive areas and to move out of the more sensitive areas.

The Convener: Sorry for the extensive delay, Robin.

Robin Harper: Before I ask my third question, I have some quick supplementaries to sum things up on that section. SEPA supported Professor Richards's view that there is a case for localised moratoriums. Do the three witnesses agree that the argument is between Dick Shelton's view of loch moratoriums and localised moratoriums, not between no moratoriums and localised moratoriums?

Dr Black: Having a moratorium on new development will not solve the problems in places where there are existing sites. The issue is more about relocation than about moratoria.

Professor Richards: The issue is about evaluation of cutting the capacity of those areas. An assessment might suggest that, rather than a moratorium, there should be no expansion of farming or a reduction in farming in certain areas. That might extend to a whole loch system, but it is just another example of local evaluation of the risks and opportunities in those areas.

The Convener: I will let Dr Shelton carry on, Robin, but Maureen Macmillan would like to ask a supplementary before you get to your final question.

Dr Shelton: There is a wider issue where the scientific uncertainty is greatest—the problem of algal blooms in open waters in the Minch.

Conventional wisdom and all the modelling that has been done suggest that the algal blooms are unrelated to the large quantities of nutrients that arise from the rearing of salmon in cages. Allan Berry's view is that perhaps there is a link. We do not know for certain whether he is right or wrong. If there is any possibility that he is right, that would be another reason to hold on for a minute; we should find out whether he is right before we allow a large industry, which already pours enormous quantities of nutrients into confined waters, to get bigger.

I am not an expert on the generation of algal blooms, but I know that it is a complex area that is full of uncertainty. Over a 30-year scientific career as an environmental and fisheries scientist, I have never before come across a situation in which scallop fishing had to be banned over 10,000 square miles of sea. We need to be cautious—we are not necessarily just dealing with problems in the lochs. I am perhaps being alarmist in saying such things. However, we need to be sure and that will require high-calibre work.

Maureen Macmillan: When I discussed relocation of fish farms with senior executives in the industry, they said that moving fish farms offshore creates the problem of stress on the fish, because of the pounding of the seas. What is your response to that?

Dr Black: There is a risk of that happening, but I believe—although far more would probably disagree—that there are plenty of good, relatively sheltered offshore sites. There are ways round the problem. We do not want to put the farms in a situation where the fish will not grow and thrive, but there are places of high dispersion that are nonetheless relatively sheltered. We have an absolutely marvellous coastline for that sort of thing.

Professor Richards: I agree with that. Lots of opportunities exist—we do not have to go out into full open sea, where the fish can be pounded and suffer major mortality rates.

Although algal blooms appear to be more common around the Scottish coast, many scientists who work specifically on such matters have evaluated that, for example, the contribution from fish farming to the total nutrient loading in the Minch is very small compared to that from the run-off from agricultural land. I cannot remember the exact figure, but it is of the order of 15 per cent. Therefore, although fish farming contributes to nutrient build-up, it does so to a lesser extent than agriculture.

It is recognised that many of our algal bloom problems originate far out at sea and drift inshore. The direct comparison of salmon farming effects and non-effects was probably best evaluated by

the Irish, who have been monitoring such things more carefully and for longer. The Irish have found no evidence of a link between fish farming and the development of algal blooms.

Robin Harper: In a sense, you have already begun to answer my last question. If you are operating a rope, you do not operate it at breaking strain—if it has a breaking point of a ton, you use a daily load of only a couple of hundredweight. Is there any possibility that we can move to a reasonably transparent assessment of carrying capacity in order to have a reduced load precautionary assessment of fish farming releases into the environment? Is it necessary to take a more holistic approach to the monitoring and control of coastal enrichment rather than treating aquaculture in isolation? Is the regulatory framework appropriate and adequate for a holistic approach that must, by its nature, deal with diffuse pollution?

Dr Black: I am not an expert on regulatory frameworks, so I would rather address the first part of your question. Someone having a hypothesis that there is a strong link between one thing and another—it might be a justifiable hypothesis—is not a justification for stopping an activity. One could produce hundreds of hypotheses. We could not stop everything we do simply because we have ideas about it. It is reasonable to find a position where we know, given the current practices, what is Scotland's current capacity for salmon production. That is a reasonable and achievable objective.

The Scottish Executive is funding some modelling work on fish farming nutrients. That study will be complete next year and its results will be very interesting. The study will give us a good idea of the impact of fish farming and its nutrient inputs. We need to concentrate on the carrying capacity. We could be miles from it and we could be above it. I do not think that we are above capacity and I do not think that we can stop the industry in its tracks for a long period while people argue it out. We need to take it on board quickly. To some extent, that has already happened.

Professor Richards: I agree. I would also point out that most of the models in use have large built-in safety factors, to allow for uncertainty. That is backed up by measurements that determine that the models are safe.

John Scott (Ayr) (Con): I want to address the international dimension. Are we similar to other countries, such as Chile and Canada, in relation to our carrying capacity?

Professor Richards: I am not sure what the regimes are in those countries, so I speak from a position of some ignorance. The controls in those countries are probably rather fewer than those

applied here. Fish farming in Chile is rapidly increasing in scale. I do not know what environmental assessment is carried out there, but I do not believe it to be as strict as that in the UK.

Dr Black: I am sure that that is correct. I know a little about the carrying capacity for sea lice. In Norway, the issue of lice from farms is treated more seriously than that of medicines. The Norwegians purposefully err on the side of caution in respect of lice, whereas we have gone the other way, by erring on the side of caution in respect of chemical use.

Dr Shelton: I can add a few points about Canada. Cage rearing of salmon takes place on a large scale in the Bay of Fundy. There are two main sorts of salmon population there. One group migrates to the open ocean—to the wide Atlantic—much as our salmon do. There are other salmon populations—bearing in mind the fact that sea trout do not occur naturally in Canada—that behave in a sea-trout-like way and spend their whole lives close inshore. There is a group of populations of that kind in the Bay of Fundy that have almost collapsed. That is new, and it correlates strongly—we do not know the cause for certain—with the advent of relatively large-scale salmon farming in the Bay of Fundy. That is another carrying capacity issue. It is part of the whole world story.

10:30

The Convener: We will try to make progress now. I am conscious that I have been quite liberal in allowing a range of supplementary questions. We should move on to the next area that we wish to examine, which Professor Richards touched on in one of his earlier answers. I invite Angus MacKay to ask his questions on new species and polyculture.

Angus MacKay: I have three questions, the first of which has a number of parts. Ministers have decided to take a more pragmatic approach to multi-species farming. What are the implications of that decision? Should polyculture be encouraged at all? What risks are there, if any, with multi-species farming? For example, one risk could be the proximity of sites.

Professor Richards: When new species are developed, it is unlikely that massive farms will be set up soon after the young stages are produced in numbers. It is likely that to gain experience in the production of those animals, a cage in a complex will be given over to the development of the new species. As the young stages come on stream and are produced in numbers, it is unlikely that there will be polyculture; rather, there will be individual cage farms for each species. However, there will have to be a transitory phase in which polyculture takes place.

Work to evaluate the risk of the transfer of disease agents from salmon to new species and from new species to salmon is going on. That is an important part of the science that underlies the issue. A new condition may appear in time. We know, for example, that cod and salmon suffer disease from common agents; that will always be the case. The risk from new species will be monitored carefully, because people will be on a learning curve. Monitoring will principally and initially be carried out by salmon farmers who switch part of their production to new species. That makes sense in terms of the development of the industry.

Dr Black: The polyculture of new fish species with or close to existing species is one thing, but integrated polyculture, where a variety of different trophic levels exist in the same area, and where each feeds off the waste products of the other, has been practised in the world for many centuries, particularly in south-east Asia. Lots of experiments have been done in the Bay of Fundy, the Baltic and Scotland to see whether we can put species together so that one mitigates the impact of another. That is particularly appropriate for shellfish, and perhaps also for seaweed culture.

At present, regulation is oriented towards salmon. Perhaps that has contributed to what I call the segmentation of the industry. The way forward is not to have a salmon industry but to have an aquaculture industry, where farmers are encouraged to farm a variety of species, and not just different fin fish species, but different shellfish and perhaps seaweed species. That will have positive environmental benefits and probably economic benefits, because one of the problems that shellfish farmers have had is a lack of infrastructure, whereas salmon farmers have good established infrastructure and marketing organisations. I feel that putting them together more and more is a good way forward. One or two of the smaller, more Scotland-based companies are beginning to do that.

Dr Shelton: All I would add is, as Randolph Richards said, that we need to be especially vigilant at this time. We do not want to rush bald-headed into things and make the same mistakes with other species as have already been made with salmon farming. We must remain vigilant.

A point in favour of bivalve culture is that it really is farming: it uses the production of the sea rather than uses it simply as a source of salt water to keep fish in. Bivalves live on phytoplankton, which is greatly in their favour.

Angus MacKay: My next question was going to be about the scientific risks involved in the farming of new species and how those problems could be addressed, but Dr Shelton and Professor Richards have already touched on that in flagging up the

fact that we need to think about what may lie ahead in future. You may want to say a little more about that.

I would also like to pick up on what two, or perhaps all three, of you seemed to be saying about polyculture. Do you foresee any positive advantages in polyculture? Dr Black seemed to imply that there could be some positive advantages in a polycultural approach to the industry.

You mentioned the existing marketing infrastructure in the salmon industry. You seemed to be saying that there is potential to add considerable value to the existing industry by developing a wider range of products and tacking them on to the existing infrastructure for producing salmon. Is that what you were saying?

Dr Black: Yes, I think that that is right. The risks for new fin fish or shellfish species, or even for plant species, are fairly clear. There is a risk of transferred diseases and transferred genes. Those are big issues. As Dick Shelton said, the risks must be carefully assessed, particularly if non-indigenous species are to be moved around. There is lots of literature about the disasters of moving non-indigenous species around—intentionally, through aquaculture, or unintentionally, through such things as ballast water. The effects can be catastrophic and we would obviously want to study the literature and consider the risks. There is already plenty of regulation.

Professor Richards: Regulations to prevent that are already in place. In France, the introduction of new species to the shellfish industry has introduced new diseases, which have had a severe effect on the existing industry. That is not to be recommended.

John Scott: What are the regulations that militate against polyculture?

Dr Black: I was referring to the guidelines on separation distances. They are guidelines rather than regulations. They seem to imply that shellfish farming and salmon farming should not occur close together. In my view, there is no particular reason for that. From a scenic point of view, it might not be very attractive, but in terms of science there is not a great deal wrong with such polyculture. Perhaps there is a fear that diseases may be retained in cultivated shellfish populations as a residue that could be transmitted on to farmed fish again if they were on a different production cycle, which they probably would be. That may be one aspect of the concerns. However, we can get round such problems. I do not think that they are insurmountable. The current regulations try to separate species. I do not think that that is necessarily a good thing.

John Scott: Are there examples of existing polyculture fish farms?

Dr Black: There are two companies that I know of that have both shellfish and farmed fish interests. There are probably several more that I do not know about. They tend to be the smaller operators.

Des McNulty: Does polyculture make the modelling process that you referred to more difficult? From what you said about salmon farming, it appears that there is a balance of risks between those associated with parasites, those associated with the chemicals that deal with the parasites and those associated with nutrients. Those seem to be the three main sources of pollution. If you are dealing with a single fish species, it appears that you can map out a model based on that balance. If a polyculture in which the risks may be different species by species is being dealt with, does that make the process of modelling and planning more difficult?

Professor Richards: That would probably not affect waste modelling, for example. The systems are similar. The differential usage of medicaments and risks from disease agents are taken into account. It would certainly be possible to model that easily into the system.

Dr Black: That is absolutely right. The more complex the model, the more interested the modellers will be.

Angus MacKay: We have already touched on my final question. Ministers have announced an intention to regulate on reporting escapes of farmed fish. How important is the prevention of escapes and the containment of escaped fish? Can more be done to minimise the risks to wild stock of escapes?

Dr Black: Containment of salmon and escaped salmon is crucial to the genetic integrity of wild stocks. However, there is a potential problem. One might want to ensure that farmers use the best available technology for containment and the best maintenance regimes. One might want them to move offshore, into a more hostile environment. They will be required to report losses. If farmers are penalised too heavily for reporting losses, there might not be such good reporting. That needs further work. There must be proper policing, but for much of the time we rely on the farmers to give us information.

A potential way around the problem is to tag. Salmon could be marked just like we mark sheep—that is becoming feasible, although I imagine that farmers would not like it because it is an additional cost. However, it is a possible way of policing the system.

The Convener: Des McNulty has a question

about locational guidelines, which we have already touched on.

Des McNulty: If locational guidelines are introduced, they will be based on scientific evidence. How will we get the people running fish farms to buy into the scientific, evidential basis of locational guidelines? How can locational guidelines be revised to take account of advances in scientific knowledge since being published? Is there a role for locational guidelines in zoning issues—in creating exclusion zones, for example? Dr Shelton highlighted that as a possible route forward.

Dr Black: Absolutely. The scientific basis for locational guidelines should be transparent. I do not think that they are sufficiently transparent at present. Perhaps they could be on a web page that is continuously updated. The underlying rationale for their designation could be publicly available—I do not see any problem with that.

Locational guidelines are almost the first step towards a proper data system for integrated coastal zone management. We need more information on that, but technology is developing so quickly that we can envisage putting together useful geographic information system-type tools and the decision-making process can be embedded into the software to become transparent to everyone. Rules can be developed and applied. In principle, that was done 15 years ago, but it needs to be implemented—it would clarify and make public and transparent many issues that we have discussed today.

Dr Shelton: I associate myself totally with Dr Black's views.

Professor Richards: I think that the industry would also support that. New planning guidelines are coming in and the industry wants to ensure that standard features are applied uniformly throughout the country—from council to council and so on. It makes sense for the industry to realise exactly what the guidelines are, to enable it to assess individual sites for fish farming.

Des McNulty: I want to ask about a contingency that could arise. It will take time and money to move a salmon farm from one location to another. What if the evidence suddenly shifts? What if there is a new scientific breakthrough, or a new mode of analysis designates that there is excess capacity in one area and that there will be a move towards enforcement? How will we deal with the dialogue that will inevitably ensue between the scientific evidence and the real economic circumstances that fish farmers will have to face as a result of scientific breakthroughs or development?

Dr Black: That is part of the integrated management process. There will always be conflicts. The right way of resolving them is to

have all the information on the table so that all users can access it and to do things in a fair and open way. How one relocates a farm is a political problem that I do not feel able to address.

10:45

The Convener: The next issue that I would like to address is that of best practice in disease and parasite control. We touched on that when we discussed carrying capacity and gave considerable attention to sea lice. I ask members and witnesses to address themselves mainly to issues that we have not yet considered.

Maureen Macmillan: In the seminar that I chaired at the aquaculture conference last week there was an extremely lively discussion of what we should do with sea lice. The seminar included someone from an environmental group, a representative of a firm that makes a well-known brand of medicine for dealing with sea lice, representatives of wild fish interests and fish farmers. We discussed the way forward in controlling sea lice. What are your views on the issue? Should sea lice be controlled through management—for example, through synchronised fallowing—or through chemical intervention? Is there a way forward with biological controls such as sea wrasse? If you see a role for all three methods, how do you think they should be balanced?

Professor Richards: We need to use all the methods of controlling sea lice to which the member referred. At the moment, a great deal is done through husbandry to reduce the impact of all sorts of diseases, including sea lice. Techniques such as fallowing are very important. A panel of different medicinal treatments is now available for dealing with sea lice. It is important that resistance to those chemicals does not build up in stocks. That is why integrated pest management is a way ahead. We need to modify the compounds that are used, to prevent repeated use creating resistance.

There is a requirement to treat entire loch systems to reduce dramatically the overall impact of sea lice. Whether that can be done depends on the availability of materials for use. SEPA should consider the overall risk of allowing slightly increased overall use of a particular product within a loch system instead of narrowly determining daily allowances for treatment on a site-by-site basis. I think that the overall benefit to be gained from treating all sites at the same time outweighs the possible risk from slightly increased usage at one site.

The other possibility is to use other forms of control. Considerable efforts are being made to produce a vaccine against sea lice. It would be ideal if such a vaccine could be produced, but we

are still a long way off that. Over many years, the industry has considered all the different ways of controlling the problem of sea lice.

Dr Black: I would like to make two points. What Randolph Richards just said is absolutely right. However, one problem with that approach is that SEPA is in control of the medicines and someone else is in control of the lice. I know that SEPA is reluctant to have anything to do with sea lice because it believes that that would put it in an awkward position, but I believe that we should join up sea lice regulation and place a constraint on SEPA regarding lice numbers. SEPA would then have to deal with the problem from both ends. I accept that that would be a very awkward spot for SEPA to be in, but the farms that cause the most trouble are the ones that are clearly in the wrong places. In time, we want those farms to move on. Farms that cannot regulate their lice burdens under the available discharge consents should eventually be moved on.

My second point concerns AMAs. Everyone agrees that they are a good starting point. One problem with the process is the degree to which information is held back both within AMAs, in some cases, and from the general public. Farmers hide behind commercial confidentiality. At the moment, lice burden data, production data, feed input data and so on are supplied every month to SEPA or some other regulator. There is no commercial reason why all farmers should not be obliged to put such information on the public register.

Dr Shelton: I agree with everything Kenneth Black has just said, particularly about joining up the regulations that relate to lice levels and the giving of consent for the use of the chemicals that are used to control them. The AMA system has been helpful, as it has brought out information that would otherwise not have been considered, but there is far too great a degree of confidentiality; the louse levels in the area of at least one AMA are having a harmful effect on the local sea trout population. We know about that because the area happens to be monitored by Fisheries Research Service scientists.

Maureen Macmillan: You will be aware that we are still researching this issue and are trying to determine whether we should have a national strategy on it. What is your view on that?

You have touched on the conflicting evidence relating to whether sea lice should be controlled under the Diseases of Fish Act 1937, which was amended by the Diseases of Fish Act 1983, or under the auspices of SEPA. SEPA seemed to suggest to us that it did not want to get involved with the aspect of the situation that relates to disease. I felt that the result of that could be that although a fish farmer has been told that he has to

do something about the sea lice in his farm, SEPA would not give the consent for the appropriate treatment. Presumably, that would result in fish being slaughtered.

What legislative regime should we have to control sea lice?

Dr Black: At the moment, one organisation passes the buck to another and the problem is not dealt with. We come down on the side of the careful regulation of medicines. By contrast, Norway came down in favour of the closer regulation of lice. The choice must be made on the basis of information about the environmental risks. I am clear that there is a severe risk to wild salmonids. I am not clear about the risks that arise from the current level of medicine use, but I think that the balance of evidence suggests that the lice are causing the problem at the moment.

Professor Richards: It is perhaps worth mentioning that some of the newer medicaments offer much more practical ways of controlling lice than we had even two years ago. Greater access to those products would give us rapid control that could be more easily maintained.

Dr Black: Membership of Scottish Quality Salmon depends on adherence to the compulsory sea lice management strategy. That is a sensible and laudable scheme. Although many of the non-members have signed up to that strategy, the fact that many farmers are not members means that we must ensure that medicine is used strategically so that one medicine is not used continuously. That is probably more important than the commercial implications for individual farmers. Perhaps the matter should be dealt with by a statutory or other body rather than left to a voluntary scheme.

John Scott: Previous witnesses have suggested that SEPA should apply an environmental consent rather than a discharge consent. The environmental consent would include conditions regarding site management, husbandry, best practice, food quotas, feeding practice, number of cages and the positioning of cages. What is your view of that proposal? Is it feasible to apply a best-available-technology regime to aquaculture? If not, should what I suggest be introduced into the new planning regime?

Dr Black: On the first question, I think that everyone agrees that SEPA should have the powers to regulate processes. I do not think that there is any argument about that. What was your second question?

John Scott: Should best available technology be incorporated into the planning regime?

Dr Black: As opposed to it being regulated by SEPA?

John Scott: As opposed to it happening at the time, I suppose. Is it necessary to have a plan?

Dr Black: I want common standards throughout Scotland. I suspect that if the matter is left to local authorities, different standards will be applied. However, I have no strong views on the subject.

Professor Richards: Current quality schemes take on board many of those issues. It is not so much that the many people who are involved in quality schemes are at risk, but that people who do not conform need bringing into line. Perhaps regulation should have a role in ensuring that that happens.

John Scott: Many previous witnesses highlighted the importance of synchronised production, fallowing arrangements and disease treatments and the difficulties that those measures can impose on small operators. How important are those techniques for disease control?

Dr Black: They are vital. I am not sure how one gets round the problem of farmers who cannot use those techniques because of the techniques' scale. Perhaps they should be encouraged to link with other farmers to form co-operatives so that they can get the benefits of scale. If not, perhaps those farmers should be encouraged to farm new species that might not need the same fallowing regime. However, I do not know what to do about the problem of farmers who cannot use those disease control techniques. There is no doubt, however, that those strategies are crucial to disease and pest control.

Professor Richards: Those techniques, which have been developed over a long time, were developed particularly because of the infectious salmon anaemia outbreak. The joint Government-industry working group has helped to develop best practice, which is being widely undertaken in environmental quality schemes, to prevent disease from occurring. However, others are also aware of that work and are making improvements where they can. It is more difficult for the small operator who, for example, has to raise multiple year classes on a particular site and has difficulty in implementing extended fallowing periods. However, a move towards those practices is important for the future.

John Scott: Would not that be more complicated in polyculture sites?

Professor Richards: One would have to take that into account when one was deciding how to use those sites. If one was carrying out fallowing at a salmon site, one would have to ensure that fish that were in an adjacent cage—for example, cod—were also removed, to ensure that the entire site had a fallow period. It is important to do that.

The Convener: We move on to the last section

of this morning, which concerns the effectiveness of harmonising the regulatory regime.

Nora Radcliffe (Gordon) (LD): The minister is investigating having parallel applications for planning and discharge consents and considering methods of aligning the two application forms. What might be the implications of that? Where should the work of the Fisheries Research Services and the Veterinary Medicines Directorate fit in such a proposed structure?

Professor Richards: It would be sensible to have parallel applications for planning and discharge consents. However, there would be a cost implication for the industry, which at the moment applies for one consent before the other. That means that if the first one is turned down, there is no need to pay a fee for the second—which is why parallel applications would be an issue for the industry. However, that practice would cut down the time that the process currently takes.

You specifically mentioned the VMD, which licenses medicines in the same way as for all other farmed species. I see no need to change that role. It is perhaps worth pointing out that when fish products are examined, representatives from SEPA are invited to assess the environmental aspects of using medicines. That is considered when the decision is made whether to grant a licence for a medicinal product. SEPA is well aware of that work and has a chance to contribute to the discussion around it. Even when the product is licensed, SEPA considers its use on a site-by-site basis, which is the correct approach.

Nora Radcliffe: I would be interested in your comments on how robust the current monitoring, audit and enforcement arrangements are in respect of environmental protection issues, such as nutrient enrichment and the use of medicines and chemicals. Is the current regime sufficiently robust in relation to planning and siting controls and consumer protection? The difficulty with asking those questions at the end is that they have been partially answered already.

11:00

Dr Black: The level of enforcement is low. The penalties for farmers who misuse medicines are fairly trivial in comparison with the benefits that they might gain, and more of an obligation should be imposed on them. I am not suggesting that that practice is widespread, but only small fines have been imposed in the cases that have gone to court. That issue should be addressed.

Professor Richards: I agree. The penalties for farmers who breach guidelines should be severe. However, I point out that the industry carries out much of the measurement independently—it uses

outside bodies to carry out the measurement to the required standards, and the results are passed on to organisations such as SEPA. The codes of practice are mandatory for those who are involved in quality schemes. If they are found to be in breach of those codes, they are thrown out of the schemes, which has a severe financial effect on the member concerned.

The arrangements are robust and the system is constantly improving—the problem is with those who are outwith the quality schemes. For example, samples of fish flesh are monitored regularly by the Veterinary Medicines Directorate, by quality schemes and by the supermarkets. Breaches that are found when those measurements are taken should be punished quite severely.

Nora Radcliffe: You are saying that the regime is fine; the difficulty comes with implementing it and ensuring sufficient sanctions.

Dr Shelton: I will add a little point. We are right to say that what gets measured gets done—that is a bit of cliché, but it is quite valid. However, louse levels are not inspected or measured uniformly, although, in my view, they should be.

Dr Black: I entirely agree. Inspection would be required if a lice maximum burden were set. I understand that, in Norway, state-funded veterinarians carry out that inspection. The issue is partly to do with money. SEPA has a limited budget for monitoring the environment. It is a question of who should pay for that work. Some people would argue that the polluter must pay but, at the same time, the public purse must make an investment and increase SEPA's financial resource, so that it can undertake that monitoring and counting of lice.

Fiona McLeod (West of Scotland) (SNP): Dr Black summed up the answer that I was looking for. Professor Richards talked about the amount of self-monitoring that goes on, and we heard from Scottish Quality Salmon that it expelled a member when monitoring showed that they were not up to standard. Dr Black put his finger on the problem—self-monitoring is effective only to a certain level. Earlier, we were told that SQS monitors for lice, but we were also told that that monitoring is not sufficient to control the problem. Will Dr Black confirm my belief that one cannot rely on self-monitoring and that a statutory body must underpin regulation?

Dr Black: Yes. What we do is like auditing. Farmers have an interest in counting lice, as they need to know how many they have so that they know when to treat them. That work goes on for other reasons, and other monitoring programmes, such as self-monitoring programmes, are laudable. However, some statutory auditing must

take place if we are to gain public confidence. Some auditing takes place already, but it is not enough. That is where the issue of resources comes in.

Professor Richards: I agree. The monitoring of environmental impact is carried out within quality schemes by independent outside bodies, not by the farmers. Some monitoring by SEPA backs up that work. The issue of how much monitoring SEPA can carry out is connected with resources. Lice monitoring is not carried out by outside bodies—unless veterinary surgeons conduct that monitoring, it is done by the farmers themselves. It is essential to carry out lice monitoring in order to determine the right time for applying treatments. We do not want to apply treatments every fortnight in order to ensure that there is no problem—treatments should be applied when necessary. If farmers get it wrong, they will have a severe problem because lice will affect their fish.

It is necessary to carry out that monitoring in order to control lice on the farms. Perhaps the additional question is whether there should be another form of external monitoring to determine that the level of lice that builds up is not dangerous for other populations, such as wild salmon.

Dr Shelton: That is the nub of the louse problem, in regard to the wild resource. The level of ovigerous lice that can be tolerated on a fish farm is considerably higher than the level that would represent a danger to wild fish. That is the great difficulty. In my view, external surveillance is required if louse levels on fish farms are to become low enough to protect wild fish.

The Convener: That concludes our questions. I thank our witnesses for their evidence, which was valuable to our inquiry into aquaculture.

As the deputy convener said at the beginning of the meeting, Allan Wilson MSP, the Deputy Minister for Environment and Rural Development, was originally scheduled to give evidence to the committee today on the aquaculture inquiry, but he is unable to attend for family reasons. I hope that we will be able to reschedule his appearance as soon as possible. We might be able to do so next week, but that will depend on his availability.

I offer MSPs and members of the public a short comfort break, because I realise that the room is not very warm. We will reconvene in approximately five minutes.

11:07

Meeting adjourned.

11:19

On resuming—

The Convener: I allowed the previous session to run on for longer than scheduled as the

evidence was valuable and members wanted to ask quite a few supplementary questions.

Petitions

Public Transport (Passenger Safety) (PE59)

The Convener: I welcome John Home Robertson, the MSP for East Lothian, and Jackie Baillie, MSP for Dumfries, who are here to give their views on particular petitions.

The first petition is PE59, from Mr Frank Harvey, which is about passenger safety on public transport and the issue of taking dangerous dogs on trains. We have twice corresponded with the Scottish Executive on the subject. That correspondence is attached to the covering note on the petition. Members will see from the covering note that the issue of passenger safety on public transport is a reserved matter.

The petition has been on-going for almost two years. We would wish to try to bring the issue to a conclusion and to respond to the petitioner with our views on the petition.

The suggested option for action, as set out in the covering note, is to conclude the petition by writing to the petitioner, informing him which areas of his petition refer to reserved matters; to draw his attention to members' comments on the petition, as set out in the *Official Report*; and to forward him copies of the responses from the Scottish Executive. I seek views from members on the progress of the petition.

Fiona McLeod: I am sorry, but you are not going to like this. In the most recent letter that we received from the Scottish Executive, the final bullet point is entitled:

"Passengers in Excess of Capacity (PIXC)".

The letter goes on to state that the

"PIXC regime in Scotland applies to the Fife commuter lines to Edinburgh only"

in recognition that it is a

"near-monopoly of ScotRail".

I would contend that the Glasgow to Edinburgh route is also a near-monopoly of ScotRail. I know that it will delay a response to the petition, but I wonder whether we can write yet again to ask why PIXC is not applied to the Glasgow to Edinburgh route. PIXC applies only when 3 per cent of passengers have to stand.

The Convener: I suggest that we should address that broader issue in any review of the ScotRail franchise. I have no problem with our writing to the Executive on that issue, but it is not necessarily specifically related to Mr Harvey's petition, which was on safety. Safety on public transport is a reserved issue and a matter for the Health and Safety Executive.

John Scott: It might be helpful to Fiona McLeod to point out that the last sentence in the next paragraph might, in a way, address her question. It states:

"Apart from additional capacity negotiated through the franchise replacement process, the options to control overcrowding include altered stopping patterns through timetable changes, and longer or additional trains."

That is a pragmatic and commonsense way of addressing overcrowding, which I would expect the rail companies to use.

Mr Ingram: The only question is one of the effectiveness of the procedures. I would be interested to get information on what action has been taken with regard to overcrowding, on the basis of the surveys that the Strategic Rail Authority and so on were undertaking. I note that there is a members' business motion from Sylvia Jackson on overcrowding. We seem to have on-going problems with it. It would be useful to obtain that information on what action has been taken under the franchising arrangements.

The Convener: That is not directly related to Mr Harvey's petition. It is my intention as convener that we consider the broader aspects of the railway industry, in particular Scotland's passenger franchise. Those issues might be better addressed in that way rather than by way of the petition. The petition is specifically about safety on passenger services, which is clearly a reserved matter. That should form the basis of our response.

Maureen Macmillan: I agree with that, convener; the issue is one of health and safety and is therefore not within our remit. However, we should write to the petitioner to say that the committee intends to examine railways in Scotland and that his concerns might be dealt with in some way. The petitioner's concern is

"especially about overcrowding on trains"

and he thinks that

"there is no limit to standing passengers".

For the reasons that we have mentioned, it would be worth pursuing those questions—whether or not they are reserved—on behalf of the petitioner. We all must get on the trains every morning.

The Convener: My point was that the committee's remit does not extend to reserved issues. I did not say that the quality of public transport services is not an important issue. Overcrowding is an aspect of the quality of service. However, it would be unhelpful and improper of us to delve into reserved issues when an appropriate mechanism exists by which the petitioner's concerns could be considered further.

Angus MacKay: Will you clarify the reserved nature of the issue? I do not dispute what you

said, but I am new to the committee and I would like to understand the matter better.

The Convener: Regulation of the railway industry falls under the remit of the Health and Safety Executive, which is a United Kingdom body and is responsible to the UK Government and the Westminster Parliament. That is why the matter is reserved.

Angus MacKay: Does that mean that the content of the petition is a matter for Westminster?

The Convener: Yes.

Angus MacKay: So why are we discussing it?

Mr Ingram: Are we not in the realms of the franchise agreement, which is not reserved? When we review the franchise agreement, we will consider whether measures to prevent overcrowding are being implemented. Therefore, it is relevant for the committee to consider the matter.

The Convener: The subject of the petition is:

"Passenger safety on public transport in Scotland."

Therefore, I take the petition to be about passenger safety, which undoubtedly is a reserved issue.

Mr Ingram: In so far as the franchise agreement is connected with those matters, they are a legitimate concern for the committee.

The Convener: The franchise might be connected to the issue of capacity on the rail network and, as I said, I am happy for us to come back to that. The Parliament can discuss the definition of the franchise, the extent of public support for the franchise and the effect that the franchise has on capacity. However, the petition is not about that.

Angus MacKay: I want to be clear on the matter. The franchise negotiation has no locus in addressing public safety on public transport.

Fiona McLeod: It does.

Angus MacKay: No, it does not. The franchise replacement process can deal with overcrowding by considering matters such as stopping patterns and timetable changes, but that is different from public safety on transport. A regime for public safety operates at Westminster, so, frankly, we are wasting our time by discussing it here.

Robin Harper: I subscribe to that.

Mr Ingram: Given the response that we had from the Executive on capacity considerations, the petition is of interest to the committee. As Maureen Macmillan said, we should write to the petitioner to say that we will consider the matter in due course.

The Convener: I have no problem with saying that we will consider capacity, but given that the petition has been in the system for some time, I wish to bring it to a conclusion. I do not wish to give the petitioner the idea that we will continue with it. We will deal with the broader issues of the franchise in due course.

Does the committee agree that we should respond to the petitioner in the manner that is suggested in the report?

Members indicated agreement.

Raptors (Licensed Culling) (PE187)

11:30

The Convener: Petition PE187, which came from the Scottish Gamekeepers Association, called on the Scottish Parliament to allow limited licensed culling of raptors. Maureen Macmillan, who was appointed as the committee's reporter on the petition, reported to the committee initially in June 2000 and the extract of her report is included in the cover note. The committee agreed to the report's recommendation to write to Scottish Natural Heritage to seek clarification on the legal status of the petitioners' request. We have received a response from SNH and a letter from the Scottish Gamekeepers Association, copies of both of which have been circulated.

Before I ask for members' views, does Maureen Macmillan, as our original reporter, wish to comment on the developments since the report?

Maureen Macmillan: I am sure that members will recall the petition from the SGA, which was concerned at the effect on the grouse population of the increasing numbers of raptors. The petition requested a derogation from the wild birds directive, which the petitioners thought might be possible if grouse were defined as livestock.

The SNH response to our request for clarification of the legal position is given in paragraphs 7 to 11 of the cover note. Although SNH does not close the door on derogation, it notes that derogation would be a last resort, for which substantial evidence would be needed to show that diversion methods do not work.

At the time, the committee did not take the view that shooting or culling raptors was an option. We thought that any derogation from the Wildlife and Countryside Act 1981 would have to be for a measure less serious than culling, such as the disruption of nesting birds.

Paragraph 10 of the cover note indicates that a moorland working group has been established, but the SGA is not listed as a member. It is important that the SGA is not left out on a limb. The SGA should be included in talks with organisations such

as those that are represented on the moorland working group so that a way forward can be found to address the SGA's concerns or to reach some compromise. The situation is similar to what happened with the petition from the Scottish Homing Union, where there seemed to be a stand-off between the two sides.

It is important that the groups get together to discuss how they can make progress on aspects such as tactics to divert raptors from the grouse. Those tactics need to work, but the SGA feels that the tactics that are being suggested by groups such as SNH or RSPB Scotland are not workable. More research needs to be done.

The Convener: For the sake of clarity, which of the options that are outlined in the paper would you prefer?

Maureen Macmillan: Option B would be the appropriate way forward.

Mr Ingram: Option B mentions

"the need to address the problems identified by the SGA".

Are we to respond to that merely through Maureen Macmillan's report?

Maureen Macmillan: The recommendation is that there needs to be some kind of joint approach and joint working. We need agreement on the way forward.

Mr Ingram: Do we want to ensure that the SGA's views are properly heard and consulted upon?

The Convener: Perhaps we could also say that the SGA should be incorporated into the moorland working group.

John Scott: Will we subsequently want to seek a derogation?

Maureen Macmillan: Paragraph 8 of the cover note quotes SNH's contention that:

"an application to derogate from the Birds Directive would need to follow on from a substantial amount of work and evidence to show that non-lethal methods would not work".

That has not been done yet. Other methods to protect the grouse population from raptors have not been investigated. As far as I can see, the SGA has not been closely involved with the working groups.

John Scott: It seems to be a source of great resentment to the SGA that it has not been involved. That resentment seems reasonable.

Maureen Macmillan: I agree.

John Scott: Will the SGA's inclusion in the working group be sufficient to address the problem?

Maureen Macmillan: The committee was not

prepared to agree with the SGA's call for the culling of raptors; in our view, the petition went too far. We discussed the possibility of methods that did not go as far as shooting or killing raptors, such as pricking eggs or disrupting nesting sites. Such methods would also require a derogation from the Wildlife and Countryside Act 1981, and Scottish Natural Heritage says that every other possibility would have to be examined before that was done.

I want the SGA to be involved. Other organisations should not be conducting experiments while the SGA is standing on the sidelines saying that the method does not work. We should recommend that the SGA should be involved and consulted during the experiments and field trials, just as we recommended that the Scottish Homing Union should be involved in examining methods of stopping raptors taking homing pigeons. That situation has been worked out, and a joint group that involves the Scottish Homing Union and environmental organisations is working on the matter. I do not see why the SGA should not be able to work with other organisations on this matter.

Nora Radcliffe: The SGA says that this is a matter of balance between raptors and the grouse population; it believes that measures such as diversionary feeding would only add another element to the equation and that the number of raptors would rise to compensate for the added feeding. The same argument could be applied to habitat management. If you tackle the problem by creating better heather cover for the grouse, you are working with nature instead of against it to keep the balance more in favour of the grouse.

Who set up the moorland working group? Is it under the aegis of SNH?

Maureen Macmillan: I do not know.

Nora Radcliffe: It would be useful to find out the sponsoring body. As part of our response to the petition, we should write to the sponsoring body and ask it to invite the SGA to be part of the group. Would that be a helpful way forward?

The Convener: My advice from the clerk is that SNH set up the working group.

Robin Harper: I declare an interest as a member of RSPB Scotland.

Having read through the documents, I would observe that until a common method for assessing raptor numbers has been agreed between the SGA, RSPB Scotland and other groups, it will be difficult to make progress.

Mr Ingram: The SGA has a case, in that it intends to kill raptors only in areas where the balance is out of kilter. The issue lies in determining the correct balance, which must be

based on scientific research. The fact that the SGA is not involved in the working group is a serious omission. I would like the committee to put as much weight behind the recommendation as it can, to ensure that the SGA becomes involved in the group.

Des McNulty: We are in danger of repeating debates that we have already had—some of us were on the committee for the previous debate—and I am anxious to avoid that.

I agree with Adam Ingram. We need to state specifically that consideration should be given to involving the SGA in the moorland working group. If we can make that amendment to option B, that would be reasonable. Ultimately, there is disagreement and we will not resolve the matter in this committee—we do not have the expertise—but if we could promote dialogue, that would be a step forward.

John Scott: At the risk of upsetting Des McNulty—I was not here at the first debate—there is a need for balance to be struck, as Nora Radcliffe and Adam Ingram have said. There is a widely held view in the countryside that somehow, the situation is out of balance and the grouse population needs to be reconciled with the huge increase in the number of raptors.

SNH and the RSPB want to produce more raptors; I appreciate the reasons for that. They are perfectly entitled to pursue their position, with which I agree, but the situation is out of balance and people are suffering. It was said earlier that a derogation could be found only if grouse were treated as a crop. Grouse are definitely harvested in the shooting season, so they are no different from a crop of lambs on hills in that respect.

Maureen Macmillan: I am afraid that that is not the case under the Wildlife and Countryside Act 1981.

John Scott: I am just saying what the situation is as I see it.

The Convener: We should write to the Scottish Executive and the SGA to outline the views that members have expressed today. We should indicate that our strong recommendation is that the SGA should be incorporated into the moorland working group. We should double-check whether SNH is the sponsoring body and write to it about the matter.

Do members agree to take that approach as the way forward?

Members indicated agreement.

Quarrying (PE225)

The Convener: Petition PE225, by Mr William Ackland, calls on the Scottish Parliament to

address the concerns of local residents about the vibration, noise and environmental threats that are caused by quarrying. A covering note has been circulated with the petition and members will note that the petition is outstanding and has had slow progress. It relates to a planning decision at Sheephill quarry in Milton.

I remind members that the committee has previously decided not to express a view on individual planning issues. I ask members to concentrate on the broader issues that the petition raises. On the broader issue of mineral permissions, the Executive issued a consultation paper on the review of old mineral permissions in November. Before members comment, I invite Jackie Baillie, who is the constituency MSP for the area from which the petitioner comes, to make a contribution to our response to the petition.

Jackie Baillie (Dumbarton) (Lab): Thank you for the opportunity to address the committee. I appreciate the fact that the committee is not in a position to comment on individual cases, but I think that the case illustrates a flaw within the current planning process. I add that I have visited both the constituents and the quarry operators, so I have a well-rounded perspective of the problems.

I will not rehearse again what the committee has already considered. I will focus on the fact that there has been inordinate delay in the planning process and in obtaining an environmental impact assessment, and illustrate the point by describing the situation to the committee.

The situation goes back to March 1998, when the quarry operators submitted an application for the review of mineral permissions and to extend the coverage of their operation very close to residential property and a scheduled ancient monument.

In November 1998, the Scottish Office issued guidance about the need for applications to be supported by an environmental impact assessment. At the time, the Scottish Office took the view that it was the responsibility of the developer to obtain an EIA. The developer agreed to obtain an EIA, but it is now December 2001 and, so far, there is no evidence of an EIA.

In February 2001, application was made to Historic Scotland concerning the excavation of the fort at Sheephill, which raises the issue of scheduled monuments. Historic Scotland is still to determine on the matter.

11:45

The crux of the problem is that we are now in December 2001. The local authority will not proceed until there is an EIA, because it could be accused of failing to take into account all material

considerations. It appears that the operator will not want to proceed to obtain an EIA until it hears from Historic Scotland. In the correspondence that has been supplied to the committee, Historic Scotland is saying that there is nothing to stop an EIA being obtained anyway. You can imagine that there is confusion about the delay as Parliament approaches another birthday, and the frustration of all involved.

I would like the committee to address the principles. Aside from ensuring that, within the regulations, there is specific provision for consideration of a range of environmental matters including noise and vibration, we need to be clear that time scales need to be applied for submission of EIAs to local authorities. Given the committee's knowledge of the area, I would appreciate advice on whether the proposed regulations will cover that aspect. If they will not, will the committee recommend that time scales be specified?

I note from the report that has been presented to the committee that the presumption is that the new regulations would not apply in this case. I have to say that, while a review might be technically under way, little progress has been made. I therefore believe that such situations should be covered by the new regulations and I would like the committee to explore that with the Executive. The determining factor should not be the start of the process, but whether the process has been completed.

The Convener: Thank you. I understand that the regulations that are under consultation cover time scales. The consultation process continues and concludes at the end of this year. At the end of the consultation, the Executive will consider how it intends to progress the regulations.

No other members want to add to the debate. Does the committee therefore want to progress the matter according to the options set out in the paper? We can write to the petitioner to advise of the correspondence the committee has received to date about the matter. We can also indicate, while referring to the current Scottish Executive consultation, that we have a policy of not becoming involved in individual planning issues. It might also be useful to write to the Executive to express some of the concerns that Jackie Baillie outlined about the general principles of the delay that has taken place and how they might apply to other, similar, situations. The Executive might take that into consideration in the consultation. Is that agreed?

Members indicated agreement.

Des McNulty: I want to raise one issue. The letter from Sarah Boyack refers to

"draft regulations which will introduce statutory environmental assessment procedures into the mineral review provisions."

The letter also indicates that the application of environmental impact assessment is voluntary and operates on a precautionary basis.

I wonder whether it would be worth writing to the Minister for Environment and Rural Development to ask what stage the introduction of statutory procedures is at. It seems that "shortly" can mean at least a year and a half.

The Convener: Are not those the regulations that are currently under consultation?

Des McNulty: Presumably. I would like to know when they are going to be introduced.

The Convener: So you are seeking clarity on the timetable for the introduction of the regulations following the consultation process?

Des McNulty: Yes.

The Convener: Is it agreed that we include that point?

Members indicated agreement.

Opencast Mining (PE346 and PE369)

The Convener: The final petitions that we must deal with relate to opencast mining: PE346 from Scotland Opposing Opencast and PE369 from the Confederation of UK Coal Producers. Members have been provided with a note on the petitions. I seek members' views on how we should deal with them.

Three options are set out in the paper. Option A is to note the petitions and write to the petitioners, including a copy of the *Official Report* of any relevant meetings. We could also write to the Executive setting out the views in the petitions. Option B would be to take oral evidence from the petitioners. Option C would be to consider the issues raised in the petitions and to appoint a reporter or reporters to take evidence from the petitioners and other relevant bodies, including the local authorities, and report back to the committee.

I welcome John Home Robertson, the MSP for East Lothian, which is the source of one of the petitions. I, too, am a member for one of the areas referred to in petition PE346.

Mr John Home Robertson (East Lothian) (Lab): The layout of the committee room would be a credit to the Stasi—I would hate to face hostile cross-examination here.

The committee is considering two petitions, one that would wipe out the opencast industry altogether and one that would open up all coal-bearing areas in Scotland to exploitation for opencast mining. My position is somewhere between the two. However, from a constituency point of view, my main concern is petition PE369, from the Confederation of UK Coal Producers,

which calls for a guarantee that

“exploitable coal deposits are accorded positive policies in development plans.”

As we know, that is extremely controversial. I will not detain the committee for much time on that point, because it was fully covered in the members’ business debate that I initiated on 21 November. That debate included eloquent speeches from Bristow Muldoon and Adam Ingram.

I understand the interests of opencast companies. I am sure that any reasonable person would acknowledge that there are places where opencast mining is appropriate, might be beneficial to the local economy and could help in the reclamation of industrial dereliction. However, it is very important to have regard to the track record of the industry. Several members have opencast mines in our constituencies and are aware of particular problems arising from dust, traffic, noise and so on.

I submit that it is also very important to take account not just of the economic, environmental and social interests of communities that are close to proposed opencast sites, but of those that find themselves in areas that have been designated as areas of search for opencast coal, which could be blighted for many years to come by the implied threat of an opencast site in that neighbourhood.

Recently, a substantial part of my constituency has been designated by the Scottish Executive as an area of search. It is very important that that area is narrowed down and that the industry is directed into areas that are genuinely suitable for opencasting. That would lift the blight from other parts of the countryside, because the designation of an area for opencast searching impacts not only on the landscape, the value of people’s houses and the environment in such areas, but—crucially—on other industries. The area in my constituency that has been designated as an area of search has several new industries that employ a lot of people. Those industries could grow and be valuable to the local economy and benefit the area in the long term. It would be tragic if such potential were blighted by the threat of opencasting for short-term gain and short-term jobs.

I have an obvious constituency concern. In any deliberation on the issue, I urge the committee to have regard for considerations of the kind that I have described. It is important to establish a credible distinction between the fairly narrow range of areas that are suitable for opencasting, which the industry could consider further legitimately, and the much wider range of areas that are not suitable for opencasting and should be excluded from such consideration. I hope that those points will be taken into account in the much

wider examination of the national planning policy guidelines and other aspects of Scottish Executive policy.

Mr Ingram: I endorse much of what Mr Home Robertson has just said. I suggest that we should look at options B and C together. Where there is a large number of opencast sites, particularly in the areas in East Ayrshire with which I am familiar, there is the problem that councils and other authorities do not have the resources to monitor properly what is going on.

I note the Executive’s letters that indicate that NPPG 16 has tightened up a lot, which I agree with. I am less sure about whether the guideline has tightened up enough, particularly on issues such as airborne dust and particulates, which affect the health of people in and around opencast sites. The Executive has acknowledged that it has changed the framework on that to some extent. It also says that it wants the new framework to settle down. Although I agree with that, I do not want the Executive to close its mind to the concerns of local communities, which Mr Home Robertson has articulated and of which I am aware in East Ayrshire.

There is still controversy about issues such as the buffer zones between opencast sites and local communities and the definition of a local community—how large a group of houses constitutes such a community. On fees for mineral permission, there are a lot of section 75 agreements, whereby opencast companies pay a levy per tonne to a mineral trust fund. Such funds, which have been set up in many areas, might represent a mechanism for raising moneys to pay for a type of fee arrangement that would enable the local authorities to hire the relevant people to do the necessary monitoring of sites.

As we need to examine such issues, we should choose option C. That said, given that there is continuing controversy on this matter, we should ask the two sets of petitioners to give evidence for our consideration.

Robin Harper: I, too, spoke briefly in the members’ business debate on the motion that John Home Robertson lodged. I have been lobbied about an opencast mining site and a quarry in Midlothian, and have attended a meeting in Ayrshire. The depth of feeling in threatened local communities compels me to suggest that we choose options B and C, if for no other reason than to show these small, widely dispersed communities that the Scottish Parliament takes their feelings very seriously. Appointing a reporter would be a very good way of ensuring that we gather views at first hand from the communities that feel most threatened.

12:00

Des McNulty: I agree that we should appoint a reporter or reporters to take the matter forward. Although the area is quite technical, the issue itself is localised. I wonder whether we should follow the approach that Andy Kerr took with a relatively recent petition, when he went out and spoke to people in a specific locality. As far as this petition is concerned, it might be appropriate for the reporter to identify a couple of localities, find out the situation on the ground and come back to the committee with a report which would form the basis for deciding how we proceed with the matter. That would be a good way for the Parliament to deal with a particular issue without necessarily interfering with the usual run of committee business.

Maureen Macmillan: If we appoint a reporter or reporters, we can address the problem almost immediately. Goodness knows when we would be able to fit in any evidence taking. We should appoint the reporter or reporters and find out later whether we need to take evidence.

The Convener: I must try to draw everything together. Without wishing to abuse my position as convener too much, I should repeat—as John Home Robertson mentioned—that I made a speech in the recent debate on this issue, so many of my concerns are well known and on the public record.

Both petitions raise important issues that the committee should investigate further. I am getting the feeling that members favour option C, which is that we appoint a reporter or reporters to carry out further detailed research on the committee's behalf and submit a report to us in due course. Perhaps the report could concentrate on specific issues such as the NPPG, the cost of monitoring and the question of enforcing permissions.

I am also attracted by Des McNulty's suggestion that the reporter or reporters pay site visits to some communities, as the geographical context of some of the communities is an important part of the issue. Before we agree on who will undertake the work, are members agreed that we appoint reporters who will be able to carry out site visits; speak to the individuals, communities and organisations associated with both petitions and other organisations, such as local authorities, that are not signatories but whose contributions are obviously worthy of consideration; and report back to the committee in due course?

Members indicated agreement.

The Convener: I open the question of who will act as reporter to expressions of interest from members.

Mr Ingram: I am very interested.

The Convener: Are any other members interested?

Nora Radcliffe: It would be sensible for two members to share the burden.

The Convener: I agree. Are you expressing an interest, Nora?

Nora Radcliffe: I am prepared to work with Adam Ingram on the issue, if the committee is agreed.

The Convener: If no other member wishes to express an interest, are members agreed that Adam Ingram and Nora Radcliffe will act as the two reporters on this issue?

Members indicated agreement.

Mr Home Robertson: I look forward to seeing the reporters in East Lothian.

Item in Private

The Convener: Before I close the meeting, I advise members that we hope to consider a paper on our work programme at a future meeting. I suggest that, in line with previous practice, we take the item in private when it comes up on the agenda and that, once the committee agrees the work programme, we make it publicly available. Are we agreed?

Members *indicated agreement.*

The Convener: Finally, I remind members of the announcement in today's business bulletin that amendments for parts 1 and 2 of the Water Industry (Scotland) Bill must be lodged by 2 pm on Monday 17 December ahead of next week's meeting, which will take place on 19 December. I encourage members to lodge amendments as early as possible in advance of that deadline to assist the clerks in their preparation of next week's agenda and to assist me in my consideration of the admissibility of amendments. I thank members of the press and public for their interest in today's meeting.

Fiona McLeod: Can I confirm that we will be considering parts 1 and 2 and the attendant schedules to the Water Industry (Scotland) Bill on Wednesday?

The Convener: That is right.

Meeting closed at 12:06.

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