

Issued on behalf of the
Salmon & Trout Association

by Andrew Graham-Stewart, 26 November 2010

Gagging of Scottish Government by salmon farmers exposed

FOI shows how authorities capitulated after threat of legal action

A series of Freedom of Information requests on behalf of the Salmon and Trout Association (S&TA) has exposed how the Scottish Government made a policy u-turn in the face of pressure, including the threat of legal action, from the salmon farming industry. In March Marine Scotland informed the industry that it would be publishing details online of certain inspection reports on salmon farms relating in particular to sea lice infestations and fish escapes, carried out under the terms of the Aquaculture and Fisheries (Scotland) Act – given a ruling by the Scottish Information Commissioner that such information should be in the public domain.

The industry's trade body, the Scottish Salmon Producers' Organisation (SSPO), responded threatening Marine Scotland with legal action if any company's business was "compromised" as a consequence. Marine Scotland then announced that it was "suspending the publication plan" and reviewing the situation in light of the issues raised by SSPO. In October Environment Minister Roseanna Cunningham confirmed that no audits or inspections of fish farms had taken place since March 2010.

Guy Linley-Adams, the lawyer tasked with spearheading S&TA's campaign to protect wild Atlantic salmon and sea trout from the negative impacts of aquaculture, commented: "The threat by the Scottish Salmon Producers' Organisation to bring claims for damages against Marine Scotland over publication of enforcement audits is, in my experience, unprecedented. On the one hand it shows just how confident the salmon growers are of their position in Scotland with respect to central government. On the other it is a clear indication of just how impotent the authorities are in the face of the salmon farmers' bullying tactics."

Paul Knight, S&TA CEO, said: "This saga gives the lie to Scottish Government's contention that the salmon farming industry is properly and effectively regulated. It now appears that the industry is calling the tune and consequently there must be fundamental questions over the credibility of Scottish Government's aquaculture policy and, indeed, its commitment to protecting wild Atlantic salmon and sea trout, two of Scotland's iconic natural resources."

Prominent amongst salmon farming companies opposing the publication of inspection reports in March was **Loch Duart Ltd**, which brands itself as the "Sustainable Salmon Company". Loch Duart admitted to an escape of 4,000 farmed salmon from its Loch Laxford site in early November.

Mr Linley-Adams added: "Loch Duart is a prime example of why Marine Scotland's inspection reports should indeed be in the public domain. The company has an abysmal record on fish escapes and is reported to have lost almost 60,000 in eight separate incidents in the last ten years. Perhaps it is understandable why it so keen to suppress certain inspection reports on its farms."

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Extracts from correspondence between Marine Scotland and the salmon farmers (obtained under FOI)

From Neil Purvis, Fish Health Inspectorate Policy Manager, Marine Scotland to stakeholders (salmon farmers), 25 March 2010: "Since November 2008, the Fish Health Inspectorate has implemented a programme of audits in relation to the parasite (sea lice) and containment provisions of the Aquaculture and Fisheries (Scotland) Act 2007....This letter is to inform you that Marine Scotland will be publishing a summary of audit findings on our website www.frs-scotland.gov.uk and this page will be updated periodically as audits are conducted. The intention to publish this information has been made previously through meetings of the Ministerial Working Group for Scottish Aquaculture. In addition to a summary publication, if third party applications for the full details of audits are made then this information may be released."

From Phil Thomas, Chairman of the Scottish Salmon Producers' Organisation, to Rob Raynard (Director of the Aquaculture and Fish Health Programme within Marine Scotland Science) and Charles Allan (Head of the Fish Health Inspectorate within Marine Scotland Science), 30 March 2010: "If a company's business is compromised, or if it loses business as a result of an MSS 'audit', there is every possibility it could seek legal redress on the grounds that the 'audit' is 'not competent under statute' or 'not-accredited and is carried out by staff who are not qualified auditors'. Similarly, if you release audit information that contains any error, there is every prospect that a company will seek legal redress through the courts for material damage to its business."

From Rob Raynard (Director of the Aquaculture and Fish Health Programme within Marine Scotland Science) to Phil Thomas, Chairman of the Scottish Salmon Producers' Organisation, 9 April 2010: "The Scottish Information Commissioner has deemed that we do not have grounds to withhold information or the names of businesses where such information is generated under statute.....However, in light of the other issues that you raise we are suspending the publication plan until we have had the opportunity to fully investigate these and to consider with SG policy colleagues in Edinburgh."

From Loch Duart Ltd to Neil Purvis (Marine Scotland Science), 30 March 2010: "Loch Duart Ltd does not agree to its audits being placed on the website....Inaccurate critical reports could destroy a company or its business and in such a case, what would the legal position be? We require a full and frank response to how a company might achieve financial redress before this proposal is brought to fruition."

Note to Editors

1) The Salmon & Trout Association (S&TA) was established in 1903 to address the damage done to our rivers by the polluting effects of the Industrial Revolution. For 107 years, the Association has worked to protect fisheries, fish stocks and the wider aquatic environment on behalf of game angling and fisheries. In 2008 it was granted charitable status. S&TA's charitable objectives empower it to address all issues affecting fish and the aquatic environment, supported by strong scientific evidence from its scientific network. Its charitable status enables it to take the widest possible remit in protecting salmonid fish stocks, and the aquatic environment upon which they depend. For further information visit www.salmon-trout.org

2) S&TA recently engaged Guy Linley-Adams, a dedicated campaigner and lawyer, to focus solely on just one key issue: to move the fish farming industry towards environmental sustainability. The priority targets for the campaign are the relocation of those existing fish farm sites identified in areas sensitive for wild fish and the removal of all smolt cage units from river systems containing wild salmon populations. Guy is a practising solicitor qualified in England and Scotland, specialising in environmental, water, fisheries and freedom of information law. Guy has had a number of successes with the Scottish Information Commissioner in securing disclosure of official information on fish farming, including inspection reports and audits relating to escapes on Lochs Lochy, Etive and Awe.

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