

# Notes of the meeting of the Wye Catchment Nutrient Management Board held in on Wednesday 28 September 2022 at 2.00 pm

## Attendees:

### Voting Members present

Merry Albright (MA)  
Cllr Jackie Charlton (JC)  
Helen Dale (HD)  
David Lee (DL)  
Cllr Catrin Maby (CCM)  
Claire Minett (CM)  
Fergus O'Brien (FOB)  
Councillor Sid Phelps (SP)  
Martin Quine (MQ)  
Councillor Elissa Swinglehurst (ES)

Herefordshire Construction Industry Lobby Group  
Powys Council  
Countryside Landowners Association  
Natural Resources Wales  
Monmouthshire Council  
Natural England  
Dwr Cymru Welsh Water  
Forest of Dean District Council  
Environment Agency  
Herefordshire Council

### Statutory Advisors present

Hayley Fleming (HF)  
Rachael Joy (RJ)  
Ann Weedy (AW)

Natural England  
Herefordshire Council  
Natural Resources Wales

### Others present

Simon Cann (SC)  
Gordon Green (GG)  
Jenny Grubb (JG)  
Tom Tibbits (TT)  
Helen Hamilton (HH)  
Jim Hicks (JH)  
James Marsden (JM)  
Andrew McRobb (AM)  
Stuart Smith (SS)  
Kate Speke (KS)  
Richard Tyler (RT)

Herefordshire Council

Wye Salmon Association  
The Wye and Usk Foundation

## Welcome and apologies

The Chair welcomed everyone to the meeting and requested that members of the Board briefly introduce themselves, which they did. The Chair explained voting rules and protocol to the attendees.

### Apologies for Absence

Apologies were received from: Jamie Audsley, Simon Evans, Steve Hodges

Kate Speke-Adams was substituting for Simon Evans

## 26. BOARD MEMBERSHIP

- Proposal to accept Martin Williams resignation from the NFU rep role
- Proposal to accept Sarah Faulkner's Nomination to the NFU rep role
- Proposal to accept Martin Williams Nomination to the vacant Farm Herefordshire role

- Proposal to accept the resignation of Helen Stace from HWT
- Proposal to accept the nomination of Jamie Audsley from HWT

The Chair made the above proposals and they were all unanimously approved by the board.

## 27. NOTES AND MATTERS ARISING FROM LAST TIME

The Chair invited the Board to consider and approve the minutes of the previous meeting:

**The minutes of the previous meeting on 28<sup>th</sup> September 2022 were agreed as a correct and accurate record.**

### Matters Arising

The Board considered the actions recorded from the previous meeting:

**Action: A second letter to be sent out on behalf of the Board to DEFRA to request data from its inventory on livestock numbers, specifically the numbers of chickens, in the Herefordshire catchment area. [Action by: RJ]**

- *Rachael Joy (RJ) suggested Jenny Gamble (JG) should coordinate this. Martin Quine (MQ) to pick up with Jenny Gamble to source figures of tonnage. Merry Albright (MA) explained they have been published but don't include poultry. Merry Albright provide this link to livestock census:*

<https://www.gov.uk/government/statistical-data-sets/structure-of-the-livestock-industry-in-england-at-december#full-publication-update-history>

- *Kate Speke-Adams (KSA) Explained she was trying to compile figures from Noble, Stonegate and Avara and would try to link back with the British Egg Industry Council.*

**Recommendation: Chairs of TAG Working Groups to be brought forward by 29 July 2022 [Action by: all of group]**

- *Completed*

**Action: Powys Cllr to provided details of the equivalent to Farm Herefordshire in Powys. [Action by: Cllr Jackie Charlton (JC)]**

- *JC Couldn't find equivalent, but Herefordshire and Powys Councils have met jointly to look at the issue and have committed to retaining links at those levels. FUW might have a better idea*

- *KSA Part of TAG farm advice working group was to convene a meeting with all relevant organisations and discuss setting up a similar group, it was being pushed forward by a poultry farmer in Rhayader and being progressed by the working group.*

**Action: Grace Wight to bring information relating to WEIF, Project TARA, tree planting initiatives and phosphate bound in sediment data to the board as part of the Evidence working group remit. [Action by: GW]**

- *Martin Quine (MQ) circulated this information pre-meeting and it was also accessible online.*
- *The Chair – Cllr Elissa Swinglehurst (ES) had previously requested Grace Wight (Environment Agency) gather information relating to WEIF, Project Tara and phosphate found in sediment, and requested that this remain on the evidence working group radar.*

**Action: ES would like enforcement process mapped out, with an overview of the problems involved in progressing certain cases. [Action by: GW]**

- *ES suggested taking this through TAG via Regulation working group.*
- *Martin Quine stated there is a published process, it's consistent for the entire EA and we can bring that up through TAG and bring everything to the board that is of key note.*

**Action: Ann Weedy (AW) to provide detailed update on pig farm visits. [Action by: AW]**

- *Update Provided.*

**Action: Claire Minett (CM) to go back and get information and data on ammonia added. [Action by: CM]**

- *CM sent this through.*

**Action: AW to follow up with WPZ proposal response with Welsh Minister. [Action by: AW]**

- *AW Nothing more on this from the Welsh government, but will keep pursuing.*

**28. UPDATE FROM TAG**

Hayley Fleming (HF) gave a verbal update on the report. The TAG had met on 7<sup>th</sup> September and its next meeting was 21<sup>st</sup> October. Significant effort had been focused on the working groups and getting those off the ground.

The working groups would cover: evidence, regulation, farm advice, poultry, and innovation and projects. They served two purposes: firstly, to identify projects that would be plugged into the action plan. Secondly to identify gaps and issues that were beyond the TAGs ability and to sort out and bring these to the board.

Each working group would have a chair and the aim was to start populating those groups with people to be involved. Partners should contact the boards with nominees for the chairs. The groups would require a good mix of people who would not be afraid to ask hard questions and challenge things.

HF Felt there was value in having a vision for the Wye and what it will be like in 10, 20 and 50 years.

Rachael Joy (RJ) suggested that a vision would be a complex area and the national position was very fluid and unclear on policy at the moment. This would anchor some of the choices available at local level.

RJ also noted that there was existing legislation already in place or being planned.

RJ Noted there would be issues around climate change, the heating of the river and the changing of flow rates, all of which would make creating a vision of the Wye very complex and simply asking people what such a vision would look like could lead to dashed expectations.

RJ Stated that she had asked Clare Dinnis to assist with a related piece of work and understood that Wye and Usk were doing some work in that territory. The board would need a proper policy paper to anchor that debate in.

RJ Some working groups have governance arrangements in place and it's important that we clarify governance systems for all other work streams, for example the evidence working group.

RJ TAG needed to be 'light touch' on areas where there was strong governance and clarify governance in other areas, this would allow TAG to focus in on a lot of the gaps.

RJ Stated that there was a need for TAG to be clear on what the product was, was it a business case, project proposal or piece of advice? What's the product and what's the outcome?

ES enquired about funding for the working groups.

RJ Explained that funding went back to resolving the governance issue. If the board was clear on who the lead authority was for each of the work streams, then there could be some accountability for funding and resourcing. Herefordshire and the Wetlands project was given as an example.

CM agreed that clearer governance and clarity on the roles of the leads of working groups was needed.

It was noted that private projects funded by the private sector would fall under the remit of the innovation working group.

## 29. UPDATES FROM PARTNERS

### NATURAL ENGLAND UPDATE

Update taken as read, with no questions from the board.

### ENVIRONMENT AGENCY UPDATE

ES Enquired about the impact of the drought period on the Environment Agency.

MQ A lot of resources had been put into the Wye catchment and there had been significant focus on 'new authorizations' these were activities that were previous exempt, but now fell into the permitting regime and were licenced.

MQ stated that the EA had continued with its inspection and licensing regimes. It had piloted the use of sondes in the catchment area. These had improved communications and monitoring of river temperature. The sondes would be removed over winter to avoid them being washed away and damaged.

Sarah Faulkner (SF) enquired how seasonal variations could be measured if the sondes weren't deployed over the Winter?

MQ Explained the risk of the sondes being washed away was high and that winter data was generally less reliable.

KSA asked if orthophosphate and total phosphate were parameters on the EA sondes? MQ Explained that he sounds were being used for looking at water quality, temperature and PH.

MA, if the sondes don't measure ortho or total phosphate, how do you measure phosphate?

MQ we can get phosphate readings from the auto samplers (8 in strategic locations).

MA No real-time data?

MQ I'd need to check and confirm.

MA Where does the new data go when it comes through.

MQ We have someone checking sonde data every day, which gives trend data. If we identify a spike in ammonium we can deploy people on the ground to try and locate the source of where that's coming from.

MA How would we know if phosphate was going up or down?

MQ This issue really relates to funding and availability of equipment, and is perhaps something that could be viewed by the TAG subgroups.

*The discussion on the update turned to poultry farming units:*

ES how many under 40,000 bird units do you visit

MQ very few at all. General farming and livestock would be a priority.

ES It's concerning that nobody is looking at them and we don't know what percentage of birds is contained in the 40,000 units. We're very unsighted.

MQ take some of these concerns to the sub group/working group.

MA can the EA release the results of its fair share assessment?

MQ we will get back to the board when we're able to release this information and expect something to be published shortly.

MA the working groups need to know what fair share means in order to carry out their roles effectively.

KSA It's amazing after years of negative intensive poultry unit stories in the papers, that the EA has seemingly done very little to look into this area. We're working with Stonegate, Noble and Avara and there are about 50 free range sites within that supply chain. Visits have been quite challenging, because growers have never been told that their infrastructure is potentially causing pollution and they don't have any guidance for those sites to know how they should be operating and are going ahead blindly without guidance from the regulatory authorities. They don't know how to improve because they don't know how to comply. It would be better if all sites were permitted, as it's currently a bit of a black hole. It's very frustrating.

ES how do we get to a place where 40,000 birds or less is worthy of a visit?

MQ it's based on priority and risk, The EA prioritise larger units because they fall within its regulatory powers.

MQ This would probably be best discussed within the TAG.

David Lee (DL) There is a wealth of information about CoGAP (Code of Good Agricultural Practice) and SSAFO (Silage Slurry or Agricultural Fuel Oil). The ball is in the farmer's court as to how they comply with the law.

DL We spend an awful lot of time commenting to Powys councillors and planning authorities that all infrastructures should comply with SSAFO. Farmers are told about what they need to comply with, and if they're not complying then that's necessarily the fault on this line.

DL provided a link to the new agriculture bill launched in Wales:  
<https://gov.wales/historic-first-welsh-agriculture-bill-support-farmers-future>

Cllr Sid Phelps (SP) pointed out that focusing too much on under 40,000 units may not be worthwhile as most of the pollutants are exported and put on land.

RJ Stated that there was a need to challenge ourselves in terms of going further on enforcement. Enforcement was a plan and a project about a place.

RJ There's a need for a proper risk assessment and enforcement for units with less than 40,000 birds, as we don't know whether that's the bulk of the flocks. The whole area needs to be subject to a habitats risk assessment.

ES This could sit in the regulation working group

AW any IPU whether below or above 40,000 will require planning permission, which in itself will require an HRA. So there is HRA screening even if it doesn't end requiring an environmental permit.

RJ that's permission to be in business, that's not monitoring what happens once they're operating and who looks at that? We have a gap as we don't know whether the bulk is in units over or under 40,000.

RJ It might not be that from a regulatory perspective we are required to do this by law, but as an exemplar organisation we need to go further and subject that to a habitats risk assessment.

### **NRW UPDATE**

ES need to keep both sides of the divide equally engaged.

ES It might be worth opening a dialogue with the Monnow Rivers Association (who are already over the invasive species) to make sure there's no duplication.

ES Also worth talking to the angling community, because they often know the locations of the knotweed and crayfish.

ES Sad to hear of death of 40 salmon.

AW that was over the summer and not one incident.

ES enquired about the restoration project and how it was going to work with phosphate action plan.

AW the project links in with me, the TAG, this board and the SAC rivers project. It is not just about phosphates but about increasing resilience of the river as a whole. It's a holistic project and will be substantial in its funding if it goes ahead.

ES I was at SACROG (Rivers Oversight Group) which had a lot of energy and was being supported by the Welsh government. Are the sondes you're using being taken out of action during the Winter,

AW Our sondes are not linked to telemetry so no live feed. They are put out in areas where they shouldn't be washed away, they will be rotated after eight weeks for fresh units. We are anticipating a drier than average winter, which is worrying as the whole of Wales is in drought. Next year is likely to be challenging for water quantity.

AW we're hoping to host our data analysis on a publicly platform.

David Lee (DL) it might be worth talking with EA about sharing data with EA and pooling all the data together.

RJ We're beginning to take an early look at the Wye and what might be needed for mitigation if we have to move to tighter measures. This will require help from the EA over

targets and obligations and helping us identify where the opportunities are on the Wye. This should help in develop contingency plans.

### **HEREFORDSHIRE COUNCIL UPDATE**

ES Drew the board's attention to the terms of reference of the cabinet commission which includes writing of a plan for the nutrient management board.

ES in the recent SACROG meeting it was noted that the Welsh government was developing governance arrangements and terms of reference for all the nutrient management boards, of which we are one. We are also an English board so it would make sense to wait and see what comes from these different sources and then try and do something that fits once the guidance is out.

RJ The chair of the commission has indicated that she wants to work very closely with the board.

RJ I'm also working closely with the Welsh group that are reviewing NMBs. The commission will engage in a fundamental review, which will take a fresh look at the nutrient management board and the nutrient management plan. Success will be dependent on the cooperation of voluntary partners and it is vital that a fresh look is taken at what is going on with the Wye.

## **30. REGULATION - INCLUDING FARMING RULES FOR WATER**

ES asked the board members whether they felt the Farming Rules for Water were fit for purpose and explained that in the catchment we have a principal source of phosphate and an abundance of phosphate rich manure from different agricultural sources. The UK government guidelines include an instruction to the EA not prosecute unless all the voluntary and advisory measures have been exhausted.

The concept of reasonably practical avoidance of excess phosphate application was considered and it was noted that the EA had essentially confirmed that it is essentially not reasonably practical to separate phosphate from the nitrate when they're combined.

ES since the introduction of the Farming Rules for Water the rate of violations at a national level has increased to 391 recorded breaches in the last financial year 21/22 and over the last two years there were a total of 2053 inspections, 497 violations and not one single prosecution or fine.

ES the Farming Rules for Water are disabled by these guidelines. Option to forbid spreading of phosphate is unfair on those who are using it responsibly.

MA the rules aren't strong enough. If they were we wouldn't have pollution.

ES what is required can it be made to work?

MA we need proper enforcement.

JC a lack of resources is a problem. Expectation by public that we're doing something, but we're not.



RJ we need farmers to know what they can and can't do. National policy on enforcement is set nationally but has a reasonableness test set at the farmer level when it would be far more effective at catchment level.

Sarah Faulkner (SF) rather than focus too much on national figures, we should work with the EA locally and discuss how the rules are working in this catchment and seek information from the EA about what they're finding when they go up farm drives.

Fergus O'Brien (FOB) A regulatory floor is a key to resolving these issues and currently in Wales, legislation focusing on this area is already under discussion.

MQ Farming rules for water, guidance is clear on reasonableness and appropriate measures. Limited resources are a problem and enforcement is complex. The EA will look at legal resource and scale of impact before deciding if enforcement is practical.

Richard Tyler (RT), not a question of lack of will or resources but the structure of the rules.

RT return to the minister and how they justify turning down the justification for the water protection zone when their chosen mechanism for preventing damage is no longer viable, because the manure can be applied almost anywhere. We can't carry on pouring phosphate into a system that already has too much in it.

MQ The Secretary of State's guidance isn't due for review until 2025, we base our regulatory approach on that.

### **31. CITIZEN SCIENCE PRESENTATION**

Stuart Smith (SS) of the Wye Salmon Association introduced the item and Gordon Green presented a series of slides to the board providing a summary of the report on soil sampling in the Garren Catchment

The Chair and board congratulated Gordon and Chris for their excellent work and presentation.

Tom Tibbits (TT) suggested that if regulation RB209 was being diligently followed, then the situation as outlined in the report would never have arisen. TT felt this demonstrated that the voluntary regulations were not a failsafe way of protecting the catchment.

KSA praised the work, but did urge that care was taken in the methodology being used so as not to undermine the trust that was being built with landowners, many of who were working together with the citizen scientists.

MA stated there was a need for catchment data mapping to aid decision makers. Helen Dale (HD) noted that the report didn't necessarily show that the farming rules weren't fit for purpose, but highlighted that the implementation of the rules and how those rules were regulated need looking at.

Andrew McRobb (AMR) suggested that there was little benefit in just bashing the EA and that it might be helpful if every organisation concerned could write to the Office for Environment Protection, who are an oversight body for the government. They have replaced the European Commission and are there for judicial redress.

Christine Hugh-Jones (CHJ) noted the permitting regime doesn't account for manure spreading on fields around installations and being in the regime may not be the best way to tackle things.

David Lee (DL) said he would contact Farming Connect to establish whether they still offered free soil testing.

MQ we now have a dedicated officer assigned to citizen science.

**32. PUBLIC QUESTIONS**

The Board considered questions from members of the public attending the meeting:

Tom Tibbits outlined how he felt the planning application processes were open to exploitation.

Helen Hamilton (HH) asked if the EA could explain the recent spike in ammonium in the Wye?

MQ couldn't identify spike in ammonium in the river.

HH more attention to permits and new planning permission being given to old sites that are no longer suitable for purpose and a more proactive approach is required.

RJ This is something the cabinet commission will be looking into.

**33. AOUB**

None

**34. DATE OF NEXT MEETING**

It was confirmed that the date of the next meeting would be 21<sup>st</sup> December 2022.

The meeting ended at Time Not Specified

**Chairperson**