

Water Division
Scottish Executive
Area 1-H
Victoria Quay
Edinburgh
EH6 6QQ



10 March 2006

Dear Sir/Madam,

Consultation on Diffuse Water Pollution from Rural Land Use

Introduction

Tweed Forum welcomes the opportunity to respond to the consultation on diffuse pollution from rural land use to improve Scotland's waters. In principle, we agree with many of the proposals and approaches. However, from Tweed Forum's perspective, there are a number of areas that require clarification.

It should be stressed that these comments do not necessarily reflect the views of all members of the Forum, although the Forum membership has been involved in composing this response. It is expected that many of the Forum members will be making individual comments anyway.

Voluntary versus regulatory clarification

The difference between voluntary and regulatory arrangements needs clarification. LMCs are described as voluntary yet under Tier 1 farmers have to comply with GAEC measures with economic consequences for not doing so. The CAR are said to offer the regulatory muscle to balance the 'voluntary' approaches yet the GBRs are not regulated as such, but rely on farmers following a code without registration. There seems to be scope for flouting these rules when compared to the LMC conditions which are geared to payments that can be docked if non compliance is an issue. The adjustment of Single Farm Payment in accordance with compliance seems a much more effective means of achieving results than GBRs that are not registered (licensing/registration excepted).

Duplication of effort and regulatory burden for farmers

Essentially there seem to be two strands of regulation – through SEERAD and the LMC system and through SEPA and the CAR. There seem to be many similarities between the GAEC conditions at all Tier levels and the GBR's. Licensing offers a way to actively regulate activities through the charging of a fee and imposing of conditions. However, varying the Single Farm Payment in relation to compliance seems to be exactly the same. One charges, the other takes away but amounts to the same thing in terms of economic impact and the fact that conditions have to be met.

Although Tweed Forum is supportive of the principles of the CAR system in general there seems to some duplication here and there is an argument that diffuse pollution would be addressed through one system only and that the LMC system would be best placed to do this in that it exists already and offers incentives as well as pecuniary measures to ensure compliance with conditions and standards i.e. a good balance between carrot and stick. However, we understand that there are some areas of land that have no entitlement and this would have to be addressed if this approach were to be comprehensive. Farmers, who are facing a considerable onslaught of regulation, would appreciate a simple a system as possible. They could in certain situations find themselves in the position of paying a license for an activity whilst losing money through the cross compliance system for that very same activity

Tweed Forum, South Court, Drygrange Steading, Melrose, Roxburghshire, TD6 9DJ.

Tel: 01896 849723 Fax: 01896 849129 email: info@tweedforum.com

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Enforcement

Enforcement is essential if cross compliance and GBRs are to be followed and respected. Firstly we would like to see adequate provision of enforcement and further details of how SFP would be docked and/or the consequences of not meeting GBRs. Secondly there is the question of duplication with SEERAD checking for compliance with LMCs and SEPA checking GBRs.

In conclusion there seems to be a strong argument for bringing these regulatory strands together for a number of reasons – simplicity, transparency, reduction in bureaucracy and economic savings in imposing and enforcing the regulations.

Roles

With regards to the roles of SEPA and SEERAD (set out in section 6), it is still not exactly clear who will be doing what. Whilst it is clear that SEERAD will administer the LMC system, reference is also made that they will be involved in the CAR's. The document acknowledges the fact that SEPA are the competent authority for the WFD but in defining SEPA's job description no mention is made to actually issuing and granting licences. It seems logical that SEPA should be responsible for all CAR issues but with SEERAD handling LMC's, NVZ's etc there is clearly a great deal of overlap.

Support

We believe support measures to be very important but these should go beyond just publications. The provision of people on the ground giving practical advice is essential. The success of the West Country River Trust approach¹, and indeed of the local SEPA office, has been through site visits and one to one meetings with farmers.

Tweed Forum endorses the fact that individual farmers cannot deliver what is required in isolation and that a catchment wide approach is required. It is important to note that the Tweed forms part of the Solway-Tweed Cross Border River Basin District. As such, cross border communication is vital to ensure that initiatives being proposed benefit the whole catchment. A catchment sensitive officer already exists for the Till catchment; a similar position on the Scottish portion of Tweed would be invaluable to ensure this catchment wide approach although the West Country experience shows that they are more successful if they are not employed by statutory agencies.

Measures

We endorse all the measures detailed under section four. However we would like to emphasise a number of areas. With regards to farm audits we are of the opinion that the self regulated audits will not have the required impact. Experience shows that if it is simply the responsibility of the farmer there is a strong possibility it will not get done. However, we would back the use of advisors to facilitate farm auditing. The reason for the marked success of diffuse pollution control on the Tamar was that the West Country Rivers Trust sent advisors to do audits for all the farms in the catchment and the fact that these audits outlined economic savings that could be made through changes in farm practices. The take up of the measures was extraordinary.

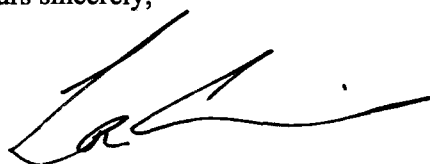
¹ Of a 1000 farmers contacted on the Tamar, 80% agreed to the audit process and the production of a bespoke diffuse pollution farm management plan. An independent survey showed that 70% of farms adopted and implemented the top 3 priority actions outlined in the plan. The success of the project was put down to having dedicated officers contacting farmers proactively (cold calling) and the fact that there was an element of confidentiality through the impartiality of the organisation (i.e. not a statutory approach)

We would also like to stress the importance of constructed wetlands. Whilst the document recognises the significance of wetlands in treating dirty water and providing wildlife habitat, there are many other benefits. These include sustainable flood management, carbon sequestration, and tourism and recreation facets. They represent extremely good value for money due to their multi-functionality and their contribution towards achieving 'good ecological status'. The regeneration of wetlands and riparian habitats has the potential to deliver substantial gains on a wide range of policy fronts for relatively little effort and investment, and to generate operational benefits and cost savings for land owners.

It is very encouraging that in the conclusion there is reference to expanding the water related measures of the LMC system. We have written to the Minister highlighting the poor rates attached to these important measures before, but with little effect. In the absence of adequately supported wetland associated measures, the Forum has helped develop and resource initiatives that demonstrate their significance by other means and we would welcome the expansion of water related measures and hope they get the support they deserve in the future under the LMC system.

We hope that these comments are useful to the Scottish Executive. Please do not hesitate to contact me should you have any queries or require more information.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Luke Comins', written over a horizontal line.

Luke Comins
Manager