EXPLANATORY MEMORANDUM TO

THE RIVER CAMEL MUSSEL AND OYSTER FISHERY ORDER 2013

2013 No. 1978

1. This explanatory memorandum has been prepared by the Department for Environment, Food and Rural Affairs and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 This Order confers on I Marshall & Sons LLP of Porthilly Farm, Wadebridge, Cornwall a right of Several Fishery for Pacific Oysters (*Crassostrea gigas*) and Mussels (*Mytilus edulis*) in the River Camel (Cornwall) for a period of 15 years (see map at end of document).

3. Matters of special interest to the [Joint Committee on Statutory Instruments *or* the Select Committee on Statutory Instruments]

3.1 None

4. Legislative Context

4.1 The Order is made under Section 1 of the Sea Fisheries (Shellfish) Act 1967.

4.2 Section 1(1) of the 1967 Act provides that the Appropriate Minister may, on application, provide by Order for the establishment or improvement, and for the maintenance and regulation, of a fishery for shellfish of any kind specified in the Order. The Order can cover any portion of the sea shore and bed or estuary or tidal river within 6 nautical miles of the baselines.

4.3 Messers I Marshall & Sons have applied for a Several Order on the River Camel in Cornwall. The application is for the Secretary of State to confer a right of several fishery for Pacific Oysters (*Crassostrea gigas*) and Mussels (*Mytilus edulis*) within a specific area of the River Camel for a period of fifteen years. The Grantee intends to continue to manage the fishery as he has been doing for the previous thirty years.

5. Territorial Extent and Application

5.1 This instrument extends to England and Wales. The River Camel is in Cornwall.

7. Policy background

7.1 The Sea Fisheries (Shellfish) Act 1967 allows the Secretary of State to create Shellfish Orders around the English coast. These Orders provide for the

establishment, improvement or management of shellfisheries. Defra is keen to encourage the use of Shellfish Orders to develop shellfish aquaculture and improve the management of wild shellfish stocks.

7.2 Granting of a Several Order gives the grantee exclusive fishing rights within a certain area. The Several Order, once granted, is a property right which may be leased or transferred. In exercising this right the Grantee (or lessees) may create and maintain shellfish beds and may collect, move or deposit shellfish

7.3 The Order is made at the request of the applicant. Granting such rights allows the applicant to plan for the long-term development of their business, and encourages them to invest in the good maintenance of the fishery.

8. Consultation outcome

8.1 The grantee carried out an extensive consultation (both formally and informally) of the proposed SO.

8.2 The application for the Order has generally been supported, although some issues were raised during the consultation. We have summarised these below:

Environmental Matters

8.3 There are no environmental designations that are under the boundaries of the specified site, or that the Order will impact on.

8.4 The grantee has agreed a Management Plan with Natural England (NE) who do not feel the proposals are likely to significantly affect the natural environment.

8.5 Defra are satisfied with Natural England's conclusions.

Concerns from the Padstow Harbour Commissioners

8.6 The Padstow Harbour Commissioners expressed concerns around the area covered by the Order and the potential impact on the local communities use of the River Camel. Through discussions between the applicant and the concerned party, Defra officials are satisfied that these issues have been resolved.

Concerns from Mr David Houldsworth of Dallas Estate

8.10 Mr David Houldsworth has expressed concerns with the vicinity (being originally directly adjacent) of the area under the proposal with respect to his property and related implications for residents of Dallas Estate.

8.12 In response to the concerns raised the grantee has now amended the area covered by the application to which the Order would apply, so that it is no longer adjacent

to Mr Houldsworths property interests. In addition it is recommended the area will be marked with withies, instead of marker bouys to lessen the visual impact. .

8.13 Defra officials are satisfied with the steps taken by the applicant to resolve the concerns raised.

9. Guidance

9.1 The Department does not plan to publish guidance on this instrument.

10. Impact

10.3 An Impact Assessment has not been prepared for this instrument.

10.4 No Regulatory Impact Assessment has been completed because no significant impact is foreseen to the interests of any individual, business, group or organisation, as a result of the making of this Order.

11. Regulating small business

11.1 The legislation does not apply to small business. This Order is made at the request of the applicant.

12. Monitoring & review

12.1 This Order is time-limited for 15 years and will cease on *** 2028.

13. Contact

Matt Whittles at the Department for Environment, Food and Rural Affairs Tel: 0207 238 4869 or email: James.Turner@Defra.gsi.gov.uk can answer any queries regarding the instrument.

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