



RIVER TWEED COMMISSION THE NORTH COURT DRYGRANGE STEADING MELROSE ROXBURGHSHIRE TD6 9DJ
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Established by Order under an Act of Parliament to protect the fish stocks in the Tweed river system
Clerk: N P Yonge Treasurer: Miss J J Lovett Superintendent: A P Coleman

Aquaculture & Fisheries Consultation
1B-North, Victoria Quay,
EDINBURGH
EH6 6QQ

24th February 2012

Dear Sir

AQUACULTURE AND FISHERIES BILL CONSULTATION

The River Tweed Commission welcomes the opportunity to comment on this Consultation. The River Tweed Commission (RTC, formerly the River Tweed Commissioners) is charged under The Scotland Act 1998 (River Tweed) Order 2006 with the general preservation and increase of Salmon, Sea-trout, Trout and other freshwater fish in the River Tweed and its Tributaries, and in particular with the regulation of fisheries, the removal of nuisances and obstructions and the prevention of illegal fishing. The area of jurisdiction extends five miles out to sea and includes the coastline between Cockburnspath and Holy Island; it also includes all the waters that drain, or drain to some extent, to the sea in the Tweed District which are both in England and in Scotland. Powers under the above legislation are granted to the Commission to fulfil these duties. Whilst we understand that many of the questions in the Consultation do not refer directly to the Commission or the Tweed District we nevertheless wish to make the comments below.

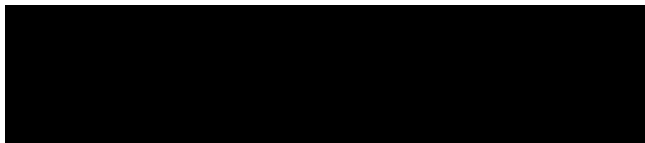
The Tweed fisheries contribute great value to the local economy, which was most recently estimated at £18m and provides almost 500 full time equivalent jobs. We wish to emphasise that this is achieved at no cost to the Government or tax payer and therefore is of significant public benefit. Furthermore, due to the statutory composition of the Commission, it is unusually representative. Of the 81 Commissioners, 43 are appointed by Local Authorities, 23 from Local Angling Clubs and 20 from other interests, and 38 members elected by the Proprietors of the River. The Commission does not wish to see this diluted in any way.

The RTC is not a Fishery Board although in many respects it is the equivalent of one for the Tweed District. Generally we welcome the proposed Bill, which contains many positive proposals for fisheries management in Scotland although we understand that some may not apply to the Tweed District. We wish to strongly associate ourselves with the response made by the Association of Salmon Fishery Boards (ASFB) of which the Commission is a member and with which we have worked closely in formulating their response. We answer Consultation questions below as fully as we are able. Where we do not offer a response, please accept the ASFB's response as that of the Commission.

We respectfully make the observation that whilst you ask for simple 'yes' or 'no' answers to some questions, it is not in all cases possible to give such answers. In such cases we have given an answer and explained as fully as we can the reasons for it.

Finally, we submit this response by your requested due date of March 2nd which is ahead of the Commission considering this at their meeting on March 5th 2012. If it decides that it wishes to make additional representation to you, we will do so as soon after that date as we can.

Yours faithfully



N P YONGE
CLERK TO THE COMMISSION

CONSULTATION QUESTIONS

SECTION 4 - SALMON AND FRESHWATER FISHERIES MANAGEMENT

General comments: The River Tweed Commission is unique and does not see the need for any change in its own structure and method of operation. It has the support of and fully represents the local community through the composition of its Commissioners.

Modernising the Operation of District Salmon Fishery Boards

1. Do you agree that we should introduce a specific duty on Boards to act fairly and transparently? (Page 29)

YES

NO

No, although we agree that the RTC and the SFBs should act fairly and transparently and we believe that the RTC at least already does so; indeed, the ASFB Code of Good Practice, which has recently been updated, is designed to ensure that and has been accepted by the RTC. Whilst we would be content with the obligation to act fairly and transparently, we do not believe that a specific duty is the best way to achieve this aim. Indeed, we do not understand how such a duty would work in practice or how we would demonstrate that we were discharging such a duty. In addition, it is not clear from the Consultation document who would judge whether a Board or the RTC has acted fairly and transparently, or what criteria would be used to determine this? We have no legal powers to make statutory regulations without application to Scottish Ministers (e.g. conservation measures, reduction of exploitation {rod and/or net fisheries}, methods of fishing, etc.). Therefore any such regulations are already subject to due process, consultation and Ministerial approval. It is worth noting that it is almost inevitable that any such decisions will be perceived as unfair by some stakeholders. Indeed, this difficulty is highlighted by the fact that the Consultation includes a section entitled '*dispute resolution*'. Despite the requirement for Ministerial Approval, if a stakeholder does not believe that any SFB or the RTC has acted fairly, then any decision is already subject to a judicial review procedure.

We believe the best means of achieving fairness and transparency is adherence to the Code of Good Practice (see below), which the RTC will adopt.

2. Do you agree that there should be a Code of Good Practice for wild salmon and freshwater fisheries? (Page 29)

YES

NO

Yes.

3. If yes, should such Code of Good Practice be statutory or non-statutory? (Page 29)

YES

NO

We believe that there should be a non-statutory Code of Good Practice. The ASFB finalised an updated version of the Code of Good Practice for Boards in November 2011 and therefore we strongly agree that there should be such a code. The Code is designed to ensure a rigorous and consistent approach, but one that allows solutions to be tailored to local conditions and catchment management. We note that it is not clear which code is being referred to in the Consultation as we are also aware that the production of a Code of Best Practice for Fisheries Management is also under development. The Consultation document also goes further and suggests what the code could include:-

- *Hold annual open meetings, i.e. in addition to the statutory requirement on Boards to call an annual meeting of proprietors.* The RTC already has a statutory requirement for an AGM but this is only for Commissioners; to be inclusive, it invites all other

Tweed fishery owners to the AGM and the Quarterly meeting of the Commission that follows it. We do not see the need to make this statutory.

- *Hold Board meetings in public, unless there is a good reason not to.* The RTC does hold open meetings when they are required. However given the wholly representative nature of the Commission we see no advantage in moving towards meetings being held any more openly than they are at present.
- *Publish summary reports and/or minutes of meetings.* The RTC already publishes its Annual Report and other reports as recommended in the latest version of the Code of Good Practice (November 2011). We do not see the need to make this statutory.
- *Invite evidence from members of the public on matters of public concern.* The RTC already does this on occasion but, given the representative nature of the Commission, we do not see the need to make this statutory.
- *Consult stakeholders on a wide range of issues.* The RTC already does this by the representative nature of the Commission and we do not see the need to make this statutory.
- *Make their Annual Report and audited accounts widely available e.g. by publishing on web sites and local distribution.* The RTC already does this and we do not see the need to make this statutory.

Statutory Carcass Tagging

- 4. Do you agree that Scottish Ministers should have powers to introduce a statutory system of carcass tagging for wild Atlantic Salmon and Sea-trout? (Page 31)**

YES

NO

Yes, such powers should be taken and implemented as soon as possible.

Fish Sampling

- 5. Do you agree that Scottish Ministers should have powers to take or require fish and/or samples for genetic or other analysis? (Page 32)**

YES

NO

Yes, and the RTC would wish to help collect these.

Management and Salmon Conservation Measures

- 6. Do you agree that Scottish Ministers should have powers to initiate changes to Salmon District Annual Close Time Orders? (Page 32)**

YES

NO

No, whilst not presuming against such powers, we do not believe this should be done without agreement of the RTC or other SFBs as appropriate.

- 7. Do you agree that Scottish Ministers should be able to promote combined Salmon conservation measures at their own hand? (Page 32)**

YES

NO

No, whilst not presuming against such powers, we do not believe this should be done without agreement of the RTC or other SFBs as appropriate.

- 8. Do you agree that Scottish Ministers should be able to attach conditions, such as monitoring and reporting requirements, to statutory conservation measures? (Page 32)**

YES

NO

Yes, we agree that this should be done but only with the agreement of the RTC or other SFBs as appropriate.

Dispute Resolution

- 9. Do you agree that we should introduce statutory provisions related to mediation and dispute resolution, to help resolve disputes around Salmon conservation, management and any related compensation measures? (Page 33)**

YES

NO

No, we do not believe that this would bring benefit to the Tweed District given the representational structure of the Commission.

Improved Information on Fish and Fisheries

- 10. Do you agree that there should be a legal requirement to provide comprehensive effort data for rod fisheries? (Page 34)**

YES

NO

Scottish Ministers and the Commission already have powers to collect information in the Tweed district and we believe that effort data is important. For the Tweed we would prefer that any such powers should be given to the Commission with significant and specific power to implement the collection.

- 11. What additional information on the fish or fisheries should proprietors and/or Boards be required to collect and provide; and should this be provided routinely and/or in specific circumstances? (Page 34)**

We believe that it would be helpful to have a national strategy for collecting data, as proposed by the ASFB, which could be implemented throughout Scotland and the Tweed District. Crucially, for the English part of the District, it should be collected in concert with data collected by the Environment Agency for adjacent fisheries under their jurisdiction.

- 12. Should Scottish Ministers have powers to require Boards and/or proprietors or their tenants to investigate and report on Salmon and Sea-trout and the fisheries in their district? (Page 34)**

YES

NO

The RTC already requires proprietors and their tenants to report on Salmon and Sea-trout.

Licensing of Fish Introductions to Freshwater

- 13. Do you agree that Scottish Ministers should have powers to recall, restrict or exclude the jurisdiction of Boards in relation to fish introductions, in certain circumstances? (Page 35)**

YES

NO

No, we do not believe that these powers should be recalled, restricted or excluded from the RTC in any circumstances.

- 14. If so, why and in what circumstances? (Page 35)**