

**Chairman:** Thomas C Florey  
**Clerk:** Roderick R Styles  
**Director:** James Henderson

**Nith District  
Salmon Fishery Board**

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1 March, 2012

***First Class***

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

Dear Sirs

***Aquaculture & Fisheries Bill Consultation***

I write on behalf of Nith District Salmon Fishery Board in response to the consultation process on the Aquaculture & Fisheries Bill. I enclose your Response Form completed on behalf of the Board.

Our Fishery Director, Jim Henderson, is a member of the Association of Salmon Fishery Board's Executive Committee and has been involved in the formulation of the response of ASFB to you – **which is fully endorsed by this Board.**

In addition, I am instructed on behalf of the Board to raise two additional issues which this Board wishes to have addressed as part of the consultation process and in respect of any impending legislation.

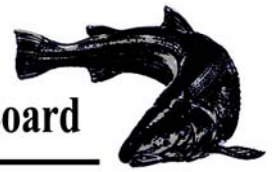
1. It is the view of the Board that it is now essential that the Board should be considered as statutory consultees for the purposes of Applications for Planning Permissions made by proposed developers to Local Authorities in respect of development proposals that will directly or indirectly impact upon the river system under a Fishery Board's jurisdiction.

In this catchment this Board has faced a raft of Planning Applications relating to issues as diverse as open cast coal site operations giving rise to complete river diversions over a distance of three kilometres, wind farm applications giving rise to the diversion of burns, micro hydro-electric schemes which inevitably have an impact upon water courses utilised by salmonid species as spawning and nursery areas, major engineering works in respect of bank stabilisation for railway line, gas pipeline crossing and bridge re-construction.

This Board considers that it has an informed modern and co-operative approach in connection with any such Planning Applications and has both experience and input to offer in respect of such consultation processes which by and large allow the developments to take place but at the same time minimising the impact upon the river system over which we have jurisdiction.

However, it is only by reason of our working relationship with SEPA, Scottish Natural Heritage, East Ayrshire Council and Dumfries & Galloway Council that any information about a proposed development is ever passed onto us.

In our view it is impossible for the Board to perform its statutory functions which relate primarily to the protection of the Fishery without being given mandatory fully sufficient information about any



proposed developments as a matter of statutory necessity in connection with the giving of permission for these developments.

The argument has been put on behalf of Government before that the building of a co-operative relationship such as the one that we have with above specified organisations should be sufficient to allow for us to be kept informed and removes another layer of bureaucracy that a proposed developer might have to follow through upon in connection with any statutory consultation process with us.

In current times with environmental pressures and the inevitable push to produce green renewable energy we cannot accept that this is a reasonable and justifiable stance to take, particularly when promotion of obtaining these green credentials by pursuing renewable energy systems may be at the expense of other major environmental considerations such as the welfare of the salmon fishery under our jurisdiction. An example of the reasoning behind this is dealt with in the second of the two observations that I provide to the consultation process.

In summary however, the Board requests that District Salmon Fishery Boards be given the status of statutory consultees in respect of any process of Planning Application which might involve development in or within the immediate environs of a river system.

2. Scottish Environment Protection Agency has produced guidelines in respect of what might be required by the proposer of a micro hydro scheme to satisfy the environmental credentials that SEPA consider need to be met when dealing with the possible impacts of a micro hydro scheme on a water course.

One of these guidelines provides that in general terms any water course that is under one metre in width does not require full detailed electro fishing survey to establish the presence/absence of fauna within a water course and in particular, in our case, salmonids.

SEPA guidelines state that for any sub one metre wide water course all that is required is a “walk-by” survey.

This Board believes that this guidance is fundamentally wrong and fails to take into account the biology and lifecycle of salmonids in general and sea trout/brown trout in particular.

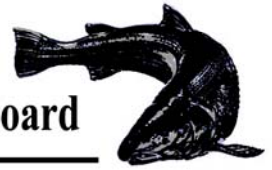
The combined experience and opinions of our Fishery Director and Fishery Biologist, both of whom are qualified in various aspects of fresh water fisheries biology, are that a vast amount of the recruitment required to sustain salmonids populations within our river system takes place within sub one metre wide water courses. This Board considers that these water courses are of crucial importance to the sustainability of a successful breeding population of salmon, sea trout and brown trout within our river system and throughout Scotland.

- This Board considers that in producing the guideline SEPA has failed to take into account the fact that sea trout and brown trout are genetically identical.
- Sub one metre tributaries are capable of sustaining brown trout, sea trout and salmon breeding grounds and nursery areas.

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- In respect of a walk-by survey where it might be established that there are impassable falls which prevent the migration of upstream returning adult salmon and sea trout for spawning purposes, this fails to take into account that in respect of brown trout/sea trout, downstream migration is also important for the purposes of recruitment of a sea trout population from descending brown trout which have for whatever biological reason chosen to migrate to sea to spend much of their adult life.
- In failing to take into account the requirement for electro fishing surveys in sub one metre wide water course, Planning Applications in our jurisdiction have not come to our notice because the Council's Planning Department have received the results of a walk-by survey, have not required sight of an electro fishing survey (which would ordinarily be carried out by our Board Biologist Team) and have passed the Application without recourse to the Fishery Board.

The Board has been involved in discussions with SEPA in connection with this guideline but we offer the above example as explanation for how Planning Applications having a fundamental impact upon the Fishery under our control can be granted without reference to us and why this could be avoided if Fishery Boards were to become statutory consultees.

Yours sincerely

**Roderick R Styles**

***Roderick R Styles***  
***Clerk to Nith District Salmon Fishery Board***