



# Association of Salmon Fishery Boards

## Comments on the North East Coast Net Limitation Order 2012

July 2012

### **Introduction**

The Association of Salmon Fishery Boards is the representative body for Scotland's 41 District Salmon Fishery Boards (DSFBs) including the River Tweed Commission (RTC), which have a statutory responsibility to protect and improve salmon and sea trout fisheries. The Association and Boards work to create the environment in which sustainable fisheries for salmon and sea trout can be enjoyed. Conservation of fish stocks, and the habitats on which they depend, is essential and many DSFB's operate riparian habitat enhancement schemes and have voluntarily adopted 'catch and release' practices, which in some cases are made mandatory by the introduction of Salmon Conservation Regulations. ASFB creates policies that seek where possible to protect wider biodiversity and our environment as well as enhancing the economic benefits for our rural economy that result from angling. An analysis completed in 2004 demonstrated that freshwater angling in Scotland results in the Scottish economy producing over £100 million worth of annual output, which supports around 2,800 jobs and generates nearly £50million in wages and self-employment into Scottish households, most of which are in rural areas.

We welcome the opportunity to comment on this consultation.

### **Specific Comments**

The River Tweed Commission (RTC) and District Salmon Fishery Boards (DSFBs), who have a statutory responsibility to protect and improve Salmon and Sea Trout fisheries, have a key interest in the outcome of the NLO review. Conservation of fish stocks, and the habitats on which they depend, is a key aspect of this work and the RTC and DSFBs operate riparian habitat enhancement schemes, fish passage improvements, enforcement and other fisheries management activities in order to ensure the health of fish stocks. Given the significant investment in the management of the resource in Scotland, it is inherently inequitable that fish are harvested by those who made no such investment. This disparity is especially marked by the North East drift net fishery, where only 14 licensed netsmen receive a disproportionate benefit from such conservation measures.

### ***Origin of Fish***

In our earlier submission to the informal consultation on the Review of the Net Limitation Order we expressed the belief that the majority of Salmon taken in North East net fisheries are of Scottish origin because the fish are migrating north and most are taken by nets operating between the Tyne and Holy Island. This has subsequently been confirmed by Marine Scotland Science, in partnership with the Environment Agency. This study found that 70-75% of the salmon caught in the drift net fishery and 35-50% of the salmon caught in the T&J nets are of Scottish origin.

### **Mixed Stock Fisheries**

The fact that both the drift nets and the T & J fisheries are mixed stock fisheries is beyond doubt. The North-East Coast net fisheries indiscriminately kill not only fish from many different rivers of origin but, crucially, **do not discriminate between the different stock components** within these rivers. This is absolutely contrary to The International Council for the Exploration of the Seas (ICES), North Atlantic Salmon Conservation Organisation (NASCO) and European Commission advice. It has been UK Government policy since 1991 to phase out the North East coast drift net fishery. This policy of phasing out mixed stock fisheries was subsequently endorsed by the Review of Salmon and Freshwater Fisheries (2000) and confirmed in the UK Government response to the Review. As detailed below, we are concerned and disappointed that the objectives, and options appraisal for these fisheries are not consistent with this policy.

It is worth noting that the drift net fishery in Scotland has been closed for nearly 50 years. The delay and prevarication in taking similar action in the North East of England is therefore a matter of significant frustration.

### **Objectives**

The second objective set out by the Environment Agency is 'Sustainable exploitation of salmon and sea trout stocks by fisheries that contribute to the local economy'. As we stated in our submission to the informal consultation on the Review of the Net Limitation Order, given the ICES advice and the NASCO guidelines, we do not believe that the North East net fisheries can currently be defined as sustainable. The EA acknowledge the (International accepted) difficulties in management mixed stock fisheries can introduce. We therefore believe that the objective of the UK Government should be to accelerate the closure of these fisheries.

### **Options Appraisal**

A number of options were considered as part of the review:

- **Option A** would have allowed the NLO to lapse, allowing unrestricted fishing. We support the decision that this option is clearly not viable and would compromise salmon and sea trout stocks.
- **Option B** would cap the number of drift nets at existing levels, in combination with options for the T & J net fishery. We support the decision that this option does not meet with the aims of the review, since it *'does not reduce the risks associated with exploitation... to a low and manageable risk'*. We agree that *'difficulties in managing stocks in individual rivers created by the operation of the mixed stock fishery would remain'*.
- **Option C1** would retain a reducing NLO for drift nets and leave the T & J nets unchanged.
- **Option C2** would retain a reducing NLO for drift nets and introduce a reducing NLO in the T & J net fishery with continuing but controlled opportunity for transfers for endorsees. We do not agree that this should be the preferred option, as it does not significantly reduce the risks and difficulties already highlighted by the EA in relation to Option B. The phase out of drift net licenses since the 2002 buy-out is proceeding very slowly with a reduction of only 3 licenses during that time. We see no reason that the reduction in T & J licenses would fall any quicker. Whilst we welcome the inclusion of T & J licenses within the draft order (subject to our concerns relating to the transfer of T & J licenses – see below), we do not understand the conclusion that the marginal reduction in licences implied by Option C will address the problems identified in the appraisal of Option B. We do not believe that the current level of exploitation by these fisheries will be affected by the proposals.

These concerns are reinforced by the substantial increase in catches in these fisheries over the last 2 years. A significant factor in these increases is the increase in the number of T & J net licenses since the drift net buy-out. Both the number of nets and the number of days fished have increased, alongside a substantial increase in the exploitation of fish by these nets. We are concerned by the significant potential for a further increase in exploitation, arising from the potential to increase effort from the current levels of ~27% utilisation of the days available to the Northumbrian net fishery.

- Option D would accelerate closure of the drift net fishery, in combination with other options for the T & J net fishery. We do not agree with the conclusion of the appraisal on this option that '*there is no conservation case to further accelerate the rate of reduction*' (see below). We also do not accept the argument that a prolonged phase out is necessary to allow local communities to adapt. Similar arguments were put to the 2000 Salmon and Freshwater Fisheries review, which nevertheless recommended that 'the phase out of mixed stock salmon net fisheries in England and Wales should be accelerated, and to achieve this compensation should be offered to netsmen to encourage them to leave these fisheries on a voluntary basis as soon as possible.' This recommendation was accepted by the UK Government at that time and should be followed through now. Under such a scenario, if the end point was within a reasonable period of time, some of our members would consider contributing to a compensation package or buy-out arrangement.

### ***Transfers to Endorsees (T & J Nets)***

We believe that section 9 of the draft NLO should be removed as it goes beyond the provisions for endorsees on drift net licenses. As stated above, we are disappointed at the very slow rate of progress in the phase out of drift net licenses since the 2002 buy-out. This provision will inevitably prolong the phase out of these licenses and we do not support this provision.

### ***Habitats Directive***

The report maintains that because rod catches on Scottish east coast rivers are stable (River Tweed) or low (more distant rivers), the north east fishery poses no threat to them. However, there is no evidence to support that more distant fisheries are exploited to a lesser extent nor indeed that stocks are stable and at full reproductive capacity as is required by international convention.

In addition, the Rivers Tweed, Teith, Tay, South Esk and Dee are SACs for Atlantic Salmon under the Habitats Directive, the main aim of which is to promote the maintenance of biodiversity by requiring Member States to take measures to maintain or restore natural habitats and wild species listed on the Annexes to the Directive at a favourable conservation status. The conservation status for Atlantic Salmon in the Rivers Tweed, Teith and South Esk is currently '*unfavourable recovering*.' There is an obligation to restrict any activity which *is likely to* have a significant effect on the integrity of an SAC. We believe that the review of the NLO represents a new plan or project which is likely to have a significant impact on one or more of these SACs and therefore there is a requirement on the licensing body to ensure that an appropriate assessment is carried out. The recent review of migratory routes and behaviour of Atlantic Salmon, Sea Trout and European Eel in Scotland's coastal environment<sup>1</sup> has demonstrated all of Scotland's east coast SACs for Atlantic Salmon should be included in this assessment.

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<sup>1</sup> Malcolm et al. (2010) Review of migratory routes and behaviour of Atlantic salmon, sea trout and European eel in Scotland's coastal environment: implications for the development of marine renewables. Scottish Marine and Freshwater Science Vol 1 No 14

It should be noted that SNH is currently undertaking a process of site condition monitoring of all SACs for Atlantic salmon in Scotland. We would expect that SNH are fully consulted on the appropriate assessment and we would appreciate sight of this document at the earliest possible opportunity.

Subsequent correspondence with the EA has clarified that a Habitats Regulations Assessment was undertaken to assess the impact of netting on the five catchments on the east coast of Scotland designated as SACs with salmon as an interest feature (taking account of the advice of both Natural England and SNH, and with further input from CEFAS and Marine Science Scotland).

However, we have received confirmation that the MSS input was limited to the genetic study (which was unable to determine the specific rivers of origin of those fish determined to be of Scottish origin). The SNH response, which the EA also supplied made the following statement – *'The relevant Conservation Objective for each of these SACs is to maintain the population of salmon. The HRA as currently drafted does not refer to COs but concludes no significant effect and therefore screens this issue out from the Appropriate Assessment. The competence of this conclusion does depend to a fair degree on assumptions about which river salmon caught in the NE net fishery originate from. If the origins of the salmon caught are widely dispersed then the conclusion of no significant effect, based on analyses in the technical report, is probably safe. However, if the majority of caught salmon originate from just one or two rivers then a different conclusion could be drawn for those SACs. This issue is equally relevant to the in combination assessment. I understand that the Environment Agency has access to information on the genetics of salmon caught in the NE fishery. If so we suggest that timely analysis of this might help to give more confidence to the conclusions and help inform which option to implement.'*

The Habitats Regulations Assessment makes clear that Scottish Rivers have been assessed using rod catch data which *does not* distinguish between different stocks of fish. SAC site assessment is not carried out on total stocks, but on Spring, Summer & Autumn stocks separately. The major impact of the North-East Coast net fisheries is of summer-running, Scottish fish, the status of which has not and cannot be determined by rod catches. The HRA makes specific reference to the lack of an impact on spring stocks but does not assess effects on summer stocks. Indeed, the ASFB and RAFTS annual review is quoted and makes specific reference to healthy *autumn* catches in several Scottish SACs in order to justify a perceived lack of effect on these rivers. As highlighted above (and expanded on below), it is the summer stocks of salmon which are most likely to be impacted by the NE fisheries. The conservation objectives for all of the SACs in question require that the population of the species, *including range of genetic types for salmon*, as a viable component of the site are maintained in the long term.

On this basis, we do not believe that the plan or project to be licensed could be determined not to be likely to have a significant effect on the integrity of any of the SACs in question and therefore trigger an appropriate assessment. We therefore maintain that an appropriate assessment is necessary and that these fisheries should not be licensed until such time as that assessment is completed.

### **River Tweed**

Recent correspondence with the EA stated that: *'The catchment on which the impact of the net fishery is greatest is the river Tweed, where the rod fishery performance shows a stable trend, with some fluctuations in recent years, suggesting stock levels are stable. In light of this stable trend and recent increase in salmon population, it can be concluded that there is currently no significant adverse impact on this catchment from the north east net fishery alone, or in combination with other impacts.'* This conclusion appears to be based on tagging studies by Potter and Swain (1982). However it does not take into account the fact that Potter and Swain (1982) demonstrated that there was, on average, only 10

days between tagging in the drift nets & recapture in the Tweed. There is therefore no justification for including River Tweed catch data from October & November (or pre-June catches) in assessing the effect on the Tweed SAC.

As highlighted above, SAC site assessment is not carried out on total stocks, but on spring, summer & autumn stocks separately. The Tweed Foundation has established that summer fish do not come from the whole catchment, but only from parts of it, mainly the River Ettrick. The drift net impact is therefore on certain stocks of certain parts of the catchment not on all Tweed stocks from all of the catchment. It is also important to note that rod exploitation rate data specific to the River Tweed is available, suggesting an exploitation rate near to 10% for summer fish. Where such data is available, it is important to use this data, rather than estimates from other rivers.

### **Quotas**

In 1991 the UK Government accepted that the NE drift net fishery should be phased out as soon as practicable. A large proportion of this fishery (52 licensees) were decommissioned in 2003, principally due to a significant effort made by private fishery interests who raised more than £2m, with assistance from the UK Government of £1.25m, in order to compensate those who had agreed to surrender their licences. In the light of this significant investment, and given the current high demand for wild salmon and sea trout, following the closure of the Irish drift net fishery in 2007 and the ban on the sale of rod caught fish, and the resulting pressure on licensed netmen to maximise their catches, we believe that such catches must be limited. It is particularly concerning that, in the face of a net **limitation** order, both exploitation **and** effort have increased in this fishery. We understand that the Environment Agency is considering plans to introduce quotas to set a maximum limit on net catches in net fisheries in the South West and we believe that this option must be included, as a matter of some urgency, in the North East. However, a quota system does not get beyond the inherent issue that such fisheries are mixed stock and therefore, if such an approach was to be adopted, it should be accompanied by setting a clear and timely end point to the fishery.

### **Sea Trout**

There has been very little focus on the impact of mixed stock fisheries on sea trout. Although the review concludes that sea trout stocks are generally in a healthy state, net fisheries may well be having an adverse impact on individual stocks. Tagging studies suggest that for Scottish East Coast rivers, the entire North Sea coastal waters are potential feeding areas. It should therefore be assumed that, given the scale of the NE Net fishery, that Scottish sea trout stocks are likely to be adversely affected. The genetic work carried out under the Living North Sea project, which aims to assign sea trout to their rivers of origin, will enable the Agency to assess the impact of net fisheries on individual stocks, and it is essential that this work is carried out and the NLO and other measures reviewed in the light of the results.

### **National spring salmon byelaws 1999**

The summary report relating to the order states that: 'In 1999 national byelaws to protect declining stocks of early-running spring salmon were introduced. This had the effect of preventing salmon being captured in the fishery before 1 June in any year. Both T and J nets are allowed to fish in this early part of the season, but must return unharmed any salmon they catch, whereas the drift netting season has been shortened to begin on 1 June, to protect spring fish.' However, we have been informed that, contrary to this assertion, there are a small number of T&J nets which send salmon to Billingsgate Market in the spring. It is therefore clear that spring salmon are indeed killed during this time. We

therefore believe that all netting should be restricted to the 1<sup>st</sup> June to protect early-running salmon and sea trout.

### **Timescales**

We are also concerned at the great level of uncertainty regarding the timescale for reduction in the drift nets. Our understanding, following discussion with the Environment Agency is that the age profile of the netsmen, and the possibility of passing licences to registered partners could mean that the remaining nets could continue for a further 20-30 years. We note that the draft order states that:

4. The Agency shall issue a drift net licence to any applicant who demonstrates to Agency that:
  - (i) they are dependent for their livelihood on fishing *as a fisherman*, and
  - (ii) they held a drift net licence in the area in the year preceding the licence year.

We would seek confirmation that the highlighted text means that the applicant must be actively involved in the process of fishing and cannot simply employ a crew to fish on their behalf. If this is not the case, the draft order should be amended to make sure that this point is clear. Our preferred solution would be the identification of a clear and timely end point to the NE net fishery. As stated above, if the end point was within a reasonable period of time, some organisations would consider contributing to a compensation package or buy-out arrangement.

### **Conclusion**

The report concludes that the NLO, as drafted and has been in existence, complies with NASCO guidelines. This would only be correct if the fishery was actually declining which it is not. As such it does not comply with the guidelines. Option C does not, as the report claims, provide an increasing level of protection to Scottish SAC rivers. The only way this can be achieved is by accelerating the closure of the fisheries by:

- Setting catch limits
- Setting targets for the reduction in the number of drift and T&J nets
- Setting an end date for the final closure of the fishery
- A further round of buy outs with appropriate compensation for closure
- Not allowing any opportunity for transfers to endorsees above and beyond those already available in the drift net fishery (i.e. limited to the end of the current season).

Whilst we welcome the principle of a net limitation order for the North East England Net Fisheries and believe that it is vital that the existing order is updated prior to expiring later in 2012, we wish to object to the Order as currently drafted for the reasons outlined above. We would welcome further discussion in the development of the Order later this year.

### **For further information please contact:**

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