



## Association of Salmon Fishery Boards

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22 September 2011

Dear Sir/Madam

### **Water Use Licence CAR L 1014578 (River Tyne, Sandy's Mill) – Appeal by Scott Officer**

I refer to SEPA's letter of 1 September giving notice of the appeal relating to water use licence CAR L 1014578 (River Tyne, Sandy's Mill). Together with the licence variation notice and grounds of appeal.

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 statutory powers of regulation, management and enforcement in relation to salmon and sea trout fisheries. The Association and member Boards work to create the environment in which sustainable fisheries for salmon and sea trout can exist.

We note the terms of the variation notice served by SEPA and ASFB wishes to confirm its support for the terms of the licence variation to require the installation of a fish pass at the aforementioned weir.

The River Tyne has well documented problems with fish passage due to a range of both redundant and working weirs. These weirs inhibit the passage of migratory salmonids, thus affecting the distribution and population size of these species within the Tyne catchment. Electro-fishing survey data does confirm that adult Atlantic salmon do have very variable success in populating the upper reaches of the Tyne catchment and associated tributaries. Of particular importance to ASFB and the Forth DSFB are secondary problems created where fish migration is impeded by barriers and these fish are subjected to illegal fishing activity. From the perspective of the Forth Board, this necessitates ongoing enforcement patrols, enforcement and ultimately prosecution casework where appropriate, stretching already limited local resources. The weirs on the Tyne, both individually and cumulatively, present ongoing problems from an ecological, legal and enforcement perspective. The limited distribution of migratory fish affects the classification status of the waterbody and we understand that the aim of the variation is to require the implementation of local measures to assist in restoring the Tyne to good ecological status.

We are aware that the Restoration Fund is available to assist in a range of actions to restore waterbodies to good ecological status, however in relation to weirs, we understand that to meet the qualifying criteria for assistance, the structures must be redundant, and hence not within the CAR regulatory framework. Provision of adequate fish passage at working structures such as Sandy's Mill Weir, where ownership and active use is clearly defined in a licence, should rightly fall within the scope of CAR where the legal responsibility for compliance with licence conditions lies with the owner of the structure.

We are unaware of the project referred to circa 2006/07, referred to in paragraph 4 of the appellant's letter. The 7 weirs on the main stem of the Tyne were viewed and assessed by a consultant engineer in 2009, as part of a collaborative project between RAFTS/Forth Fisheries Trust & ELAA – this project aims to consider all barriers on the Tyne, and make recommendations for remedial action to restore fish passage, regardless of whether the relevant site is regulated by CAR. Where there are barriers that are subject to CAR, we support variations to the relevant licences which require the resolution of identified fish passage problems.

In addition, and having reviewed the appellant's submission, we are unclear as to the actual grounds of appeal claimed. There does not appear to be any statement where the need for the construction of a fish passage is denied nor is there any case made that to install such a pass would be disproportionately expensive to achieve. We understand that the actual design and location of the fish pass required in the licence review would need to be approved by SEPA to ensure that it is technically competent but that the actualities of these are for the owner of the structure to consider and propose to SEPA. As such we see no evidence of SEPA making any specific demand as to the design or location of the pass; other than to confirm that a fish pass is required.

We therefore support the licence variation proposed by SEPA and would request that the notice of appeal be rejected by Scottish Ministers.

Yours faithfully,

A handwritten signature in blue ink, appearing to read 'Brian Davidson', with a long horizontal flourish extending to the right.

Brian Davidson  
Operations Director