

To: Fiona Hepburn  
Marine Scotland  
Salmon and Recreational Fisheries Team  
Area 1B North  
Victoria Quay  
Edinburgh EH6 6QQ

18<sup>th</sup> August 2015

Dear Ms Hepburn,

**Scottish Government Intention to Introduce a Licensing System for the Killing of Wild Salmon Together with an Associated Carcass Tagging Scheme**

1. In response to the Scottish Government's consultation which closed in April 2015, the Spey Board replied that it believed that a licencing and carcass tagging scheme for the killing of wild salmon by rod & line fishing was unnecessary, inappropriate and unworkable. The introduction of such a scheme for fish killed by commercial net fisheries would, however, have significant conservation benefits. That said, the Board suggested that a more pragmatic and achievable system which could apply to both rod & line as well as to net fisheries could be similar to that currently in operation in Norway. We commended this to the Scottish Government and said we would be keen to work closely with it to explore such an opportunity.
2. Subsequently, the Scottish Government announced on 23<sup>rd</sup> July its intention to prohibit the killing of salmon out-with estuary limits through regulations and to introduce a licensing system for the killing of any wild salmon in Scotland, together with an associated carcass tagging scheme. There is no clarification of what it is that the Scottish Government is proposing for the rod fishery and how it will operate. This makes constructive comment almost impossible and leaves the Board with no option but to OBJECT to the totality of the current proposal. Furthermore we do not understand the background. The European Legislation - the Habitats Directive and the Water Framework Directive - have been in force since 2003. Since then the Spey has undergone two rounds of Site Condition Monitoring, with the consequent reporting to both the Scottish Government and to Europe. As far as we are aware, there have not been any significant negative comments to either of these reports. However, if there has been any reaction from Europe, either to the situation with Salmon stocks in Scotland generally, or on the Spey specifically, we would like to be made aware of it. Indeed if it is the latter, and indicated that the SFB was not managing the Spey rod fisheries in a responsible way such that Scottish Ministers were not fulfilling the international obligations for which they are accountable, it would be reasonable to have expected the Government to have informed us.
3. The Spey Fishery Board (SFB) AGREES with the general provision to prohibit the killing of salmon out-with estuary limits. These proposals are entirely appropriate, in line with international best practice and are to be welcomed. However, the control of mixed stock fisheries should not be combined with and confused by controls on rod fisheries, which would be unnecessary, inappropriate and unworkable given the existing control

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measures, both voluntary and by law, that limit the killing of rod-caught Salmon. The Spey Board therefore has to OBJECT to the proposals to introduce a licensing system for the killing of any wild salmon in Scotland, together with an associated carcass tagging scheme.

4. Since 2004, the SFB has recommended a voluntary policy of Catch & Release for salmon and sea trout fishing throughout the River Spey district. When it was introduced, it aimed to establish a release rate of 50% of the fish caught. The numbers released have grown steadily, year-on-year, and in 2014 achieved a release rate of 92% for all salmon caught. For a river system as large as the Spey, this is a highly creditable result. This meant that of the 4,563 salmon and grilse caught last year, only 364 were killed, the remainder being released back into the river to spawn. This number is biologically insignificant and does not warrant further control measures. The number of fish caught in 2014, and thereby the run of fish that year, was remarkably low. Catches on the River Spey over the last 10 years have varied between 11,578 and 4,563. However, there is no reason to believe that the release rate of 92% would be reduced by more fish being caught in the river. Indeed, preliminary results for 2015 bear this out, with 2,680 fish caught between February and June (against 1,683 for the same period last year) and yet the release rate for this period has climbed to 94% this year from 91% last year. So the SFB therefore believes that the rod fishery is already providing adequate conservation measures for its salmon stock.

5. The voluntary Catch & Release Policy on the Spey has been very successful; probably more so than was ever envisaged when it was instigated. The potential for giving individual beats the opportunity to apply for a licence to kill fish would almost certainly undermine the current release percentage and result in more fish being killed. This runs contrary to the aim of these measures, which is focussed upon conservation. It would also be completely unenforceable, which is one of the important criteria in distinguishing between “good law” and “bad law”. Indeed, it is hard to see the Police diverting resources to apply it.

6. We understand that Marine Scotland Science is currently calculating an estimated annual “harvestable surplus” of salmon for each river district in Scotland. The starting point for this calculation will probably be the five year average of fish caught by each river within the district. However, this in itself may have unintended consequences. Salmon catches can vary considerably around the average on a year-by-year basis. Therefore, in some years, the quota might not be achieved and, in others, the quota might be less than that which could be taken. Ironically, in poor years, it may lead to more fish being killed, and certainly to a higher percentage of the returning fish being killed, precisely the opposite of the intended purpose for which the quotas will be introduced.

7. We understand that Rivers designated as Special Areas of Conservation (SACs) will be treated differently, in that the kill licence will be based upon the previous five-year average of fish killed. This is numerically flawed and would mean that the average would reduce each year and never result in allowing a higher number to be taken. Effectively it will result in the introduction of mandatory total Catch & Release over a period of time, which the SFB believes is unnecessary and financially damaging.

8. It would be iniquitous if the “harvestable surplus” were to be calculated on the five-year average of each beat, rather than the river as a whole. Having established the harvestable surplus on a river basis, the correct way of allocating this among beats is by way of their catch and not by the historical record of the numbers of fish killed on any beat. To do otherwise would be to reward those beats that have historically not practiced Catch & Release as avidly as others.

9. The Board OBJECTS to the proposal that licences should limit the number of fish that may be killed because there is no accurate mechanism for calculating the runs of fish for a coming season and thereby the number of fish that may be killed. Furthermore, such a proposal does not allow for a proactive corrective action in response to an unexpected problem that might occur in the number of fish within the runs. The SFB is also unaware of any proper, ground-truthed way of establishing how many salmon are required to reach conservation limits, especially given that different stock components are present within a River the size of the Spey.

10. The Spey Board supports the development of a carcass tagging scheme for fish intended for sale. At the moment, fish caught in net fisheries around England and Wales are required to be tagged before they can be sold. However, no such requirement currently exists for fish caught around Scotland. In this respect, fish caught illegally around England and Wales can be sold in Scotland on the basis that they are Scottish fish because their origin cannot be traced. The SFB therefore AGREES with the creation of a carcass tagging system for Scotland for net-caught fish, which would bring us into line with measures currently in existence in England and Wales and ensure that the origin of all fish caught and for sale around England, Wales and Scotland could be traced. It would also significantly assist with law enforcement.

11. The SFB does not believe that such a carcass tagging scheme should be necessary for rivers already practising a high level of catch & release and thereby OBJECTS to proposals to do so. It is currently illegal to sell a rod-caught fish and there is a danger that the introduction of a carcass tagging scheme may create a perception that there is the right to kill fish. In this respect, there would be an adverse impact on fish conservation,

rather than a positive one. We also cannot see how such a scheme could be made workable for the plethora of rod & line fisheries around the Spey catchment, let alone around Scotland. Here on the Spey, with multiple individual fishing owners and 9 angling associations in operation, we consider that it would be wholly inoperable in practice.

12. The Board reiterates that it AGREES with the general provision to prohibit the killing of salmon out-with estuary limits. These proposals are entirely appropriate, in line with international best practice and are to be welcomed. However, the control of mixed stock fisheries should not be combined with and confused by controls on rod fisheries, which would be unnecessary, inappropriate and unworkable given the existing control measures, both voluntary and by law, that limit the killing of rod-caught Salmon. The Board therefore OBJECTS to these unwarranted proposals insofar as they relate to rod & line fisheries, because there is no conservation reason for them in light of the highly successful voluntary system that is already in place.

Yours sincerely,

Roger Knight  
Director