

NITH DISTRICT SALMON FISHERY BOARD
MINUTES OF
BOARD MEETING
HELD AT BUCCLEUCH & QUEENSBERRY HOTEL, THORNHILL, DUMFRIESSHIRE
ON
18 JANUARY 2024 AT 10 AM

PRESENT

1. Percy Weatherall – Chairman
2. Tom Florey – Angling Representative
3. Raymond Mundle– Angling Representative
4. Ivor Hyslop – Dumfries & Galloway Council
5. Robbie Cowan – Caerlaverock Estate
6. Anna Ferguson – Buccleuch Estates
7. David Kempzell – D&GAA
8. Nick Wright – Closeburn Castle Fishings
9. Peter Landale -Dalswinton
10. Tom Brown – Haff Netter Representative

MEMBERS OF THE PUBLIC ATTENDANCE

James Hunter-Paterson
Mike Keggans
Alun Grant

IN ATTENDANCE

Roderick Styles – Clerk
James Henderson – Fishery Director (FD)
Deborah Parke – Nith Catchment Fishery Trust (FB)

The Chairman opened the meeting by welcoming all present. The Chairman also spoke about the recent death of John Charteris, former Board Member, who had given good service to the Board for many years.

1. APOLOGIES

Richard Gladwin, Peter Hutchison.

2. DECLARATION OF FINANCIAL INTERESTS

There were none.

3. BOARD MINUTES OF THE MEETING OF 12 OCTOBER 2023

The Chairman referred to the draft Minutes, confirming that they had been circulated among Board members and asked if there were any comments on them. There being none, the Chairman asked that the Minutes be considered approved. There being no dissenting voice, the Minutes were considered to be duly approved.

4. MATTERS ARISING

1) Board Staff

The Clerk advised that it had been the wish of the Fishery Director to engage in employment on a Contract of Employment the student Fishery Biologist Shalom Inioluwa Oyeneke, who had been engaged on placement with the Trust through NatureScot in 2023. However, when negotiations with Ms. Oyeneke had been commenced on the terms of a possible Contract of Employment, she had disclosed that she was present in this country on a student visa, due to expire in November 2024. Upon enquiry it had become clear that in order for her to enter into a Contract of Employment steps would have to be taken to regularise the position of both the Board as employers and her as an employee concerning visa requirements.

According to initial research undertaken, the Board would have to apply to become a Sponsoring Employer, a process, which upon investigation is complex and detailed and which would take an estimated eight weeks to process through the Home Office. If the application was unsuccessful for whatever reason, then depending upon the reasons for failure of the application, the Board would either have to appeal the Home Office decision or, if competent, wait a further six months before applying again.

Assuming a successful application, the Board would be issued with a sponsoring licence. The Board would then have to abide by strict protocols in connection with employment of Ms. Oyeneke. It would appear that the post of Fishery Biologist would have to be advertised and Ms. Oyeneke deemed to be the potential employee most suitable for the Board's requirements.

The Board would have to pay at least the amount of minimum salary prescribed by the Home Office. Home Secretary James Cleverly had very recently made announcements in respect of a change in UK Government policy on non UK nationals seeking work visas to enter and work in the UK, one of which was to increase the minimum salary threshold to in excess of £37,000, although subsequent publicity on the subject seemed to indicate that he may change his position on this figure. In any event, the matter of minimum salary to be paid in such circumstances was unclear and not fixed upon. Assuming that the Board decided to apply to the Home Office to become a Sponsoring Employer and the application was successful then Ms. Oyeneke would then have to apply for a Tier 2 or skilled employee visa. The Board would have to issue to Ms. Oyeneke a Certificate of Sponsorship as part of the process of her application. Assuming that Ms. Oyeneke application was successful then she would be issued with a skilled worker visa, which would apparently last for a period of five years. Ms. Oyeneke could then apply for residency towards the end of that five year period.

There would be cost implications for both the Board and Ms. Oyeneke. The Board would have to pay to the Home Office a fee of around £600. In addition a fee would have to be paid for Miss Oyeneke application. Given the specialist nature of this area of law, it would be advisable for the Board to

engage a specialist in the field of immigration law to make the application, because it appeared to be clear that there are pitfalls that could be encountered in connection with the process, which could result in failure of the application to become a Sponsoring Employer. This would incur additional professional fees and outlays for the Board.

The matter was considered by Board members. The decision was made that with reluctance, the Board would not make application to become a Sponsoring Employer because of the cost, uncertainty of success of application and the uncertainty in respect of changing Government policy on worker's visas and salary to be paid, together with the implications of meeting compliance responsibilities in respect of being a Sponsoring Employer.

2) Dumfries Biosphere Proposed Upper Nithsdale Habitat Project

FD reported upon his having attended a meeting of various bodies, including the Council, SEPA, Scottish Land and Estates and others in connection with the possibility of conducting habitat enhancement projects in the Nith catchment. The Biosphere Project leader wanted to map out the relevant area and have plotted on it past and present habitat enhancement schemes carried out by the Board, together with areas of the catchment where such work might be carried out under the proposed habitat enhancement scheme. Specialist computer software would be used to carry out the mapping for the project. Landowner details would have to be obtained and landowner consent given.

Tom Brown asked if Nith Life had been present at the meeting. FD replied that they had attended the latter part of the meeting, although it had become apparent that they would play a small part in the organisation and taking forward of any future project under the proposed scheme.

3) Hatchery Information Sheet

The Clerk referred to the draft paper that had been prepared and circulated for consideration and the reasons for its production. Mike Keggans had on behalf of UNAC put questions to the Board at the last meeting about the possibility of stocking of brown trout and salmon into the river system, the use of existing hatchery facilities and the operating of an additional hatchery in Upper Nithsdale, which had been addressed at the last Board meeting, with the Board having provided a subsequent written response to Mr Keggans on the subject. Since then, on the same subject of hatchery operations and the Board's attitude towards them, one angler had written to the Trust, a constituent had contacted Councillor Ivor Hyslop, who in turn had contacted FD and a Social Media string had developed, all raising various concerns about the apparent lack of effort or interest on the part of the Board in hatchery operations and apparent ignorance of any stocking of juvenile salmon undertaken by the Board, despite the subject being publicised on the Board's website. While all responses had been similar, there were differences in the nature of the enquiries made and the Board's policy on hatchery operations, which had required careful and time consuming effort to answer

individually. The Clerk advised that he thought that an efficient way to deal with any such future enquiries would be to have the draft paper approved and published on the Board's website, so that any enquirer could be referred to the paper for answers on the subject. David Kempzell confirmed that he had sent the first Social Media comment on the related string which had generated comment on hatchery and stocking, but that he was well aware that the Board operated a hatchery. Board members agreed to the principle and reasons for the production of the draft paper and to its being posted on the Board's website. David Kempzell stated that he would be willing to post on the social media string the webpage link to the paper.

5. RIVER REPORTS: NITH FISHERY MANAGEMENT PLAN QUARTERLY REPORT

FD referred to the Quarterly Report circulated. He advised that the team were busy writing up reports in respect of consultancy work. The Quarterly Report detailed most of the information on what activities had been undertaken by Board and Trust staff in the last quarter. The catch statistic returns were provided in the quarterly report and showed that 391 salmon and 550 sea trout had been declared as having been caught and returned.

The Chairman asked for any questions on the Quarterly Report. Mike Keggans asked about work and its potential effect on the Euchan Water. FD reported on the proposed wind farm development at the top of the river system affecting that area. There had been proposals for the introduction of a culvert which would require provision for a fish rescue operation by Board and Trust staff.

Mike Keggans asked if there were any fish found in the Euchan Water. FD replied yes, trout. Mike Keggans asked if fish numbers were down in the Euchan Water. FD replied that there were only trout. He had electrofishing data on the Euchan Water stretching back thirty years or so. It had been one of the tributaries that had been stocked with juvenile salmon at one time, but that there were none now, since stocking operations had ceased. FD reported that trout spawning takes place at the very top of the Euchan Water, but that the bedrock riverbed characteristics of the Euchan Water were not conducive to supporting juvenile fish in any numbers.

Peter Landale asked what was happening with any future projects in the system. There was no mention of them in previous Minutes and nothing was mentioned in the Agenda for the meeting. FD replied that following the NatureScot Nature Restoration feasibility study, proposed projects on the Laggan Burn and the Crawick Water were being developed, all previously raised and agreed to by the Board and as mentioned in the Quarterly Report. A CAR licence was required for the removal of an impassable obstruction on the Laggan Burn. Peter Landale asked about the availability of base statistics in these waters prior to commencement of any work, stating that these were required in order to show any measurable change or improvement after the work had been completed. FD responded that he had considerable data on both proposed project sites.

6. SAPROLEGNIA PHD PROJECT

The Chairman referred to the approach made by FMS to have Board's financial support for the proposed funding of a student carrying out PHD work on Saprolegnia, which was having a serious effect on some rivers throughout Scotland, as advised at a previous Board meeting. FD explained about Saprolegnia, the effect that it had on salmon, problems with the disease and the proposed project to carry out research on it over the next few years. Many Boards had agreed to provide funding and FMS were additionally looking for external funding support. The Nith Board had supplied £5,000 of funding for the first year. A student had been identified to carry forward the project. FD will supply water samples from the catchment to be taken and sent on to the student for analysis on a fortnightly basis.

The Chairman reported that the AST smolt tracking project had come to an end and that funding and effort previously spent on it had similarly ended.

FD reported that on the subject of smolt trapping, it was his intention to try to trap and count the whole smolt run out of various spawning nursery tributaries within the river system, starting with the Crawick Water in 2024. A Fyke Net will be used to trap the entire smolt run on the Crawick Water. Peter Landale enquired if this would entail using mark recapture techniques. FD responded that this would not be the case on the Crawick Water as the entire run could be counted. However, if trapping on the mainstem Nith, this method would be employed.

Peter Landale stated that he was pleased that this project was being taken forward. He stated that if the project was carried out over the course of few years and further investigation was undertaken as regards the environmental and other conditions off the tributaries from which the descending smolts were trapped then it may become possible to identify and implement suitable habitat enhancement work to improve the watercourses and resulting smolt runs. He stated that if it can be established that a salmon run has gone from a tributary but that its habitat might be enhanced and improved then there may be scope for permitted limited stocking of juvenile fish to try to improve the situation. It was important that a smolt stock assessment was carried out in order to try to identify what problems might exist.

Raymond Mundle referred to the River Carron stocking project, with scientific involvement undertaken identification of problems and then dealing with stocking, having regard to the fish genetics of the river system.

Mike Keggans stated that salmon returns on the river system had dropped from 4,000 per season from not so many years ago to 400 this season. He asked at what point could a river system be defined as having been "wiped out". Peter Landale stated that compared with the Carron, the Nith had many more tributaries. The Board has to understand that smolt numbers have to be investigated and habitat and environmental problems identified before it may be justified to carry out limited stocking.

David Kempself asked if hatchery operations could be reinstated if a complete environmental audit investigation justifies it. FD replied that all suitable available improvement methods would be considered.

7. OPEN DAY FOR SALMON FISHING

It was agreed that the opening ceremony would take place on Monday 27 February on the Boatford Beat.

8. ANNUAL BUDGET

The Chairman addressed the Board on the circulated documents of draft Budget, the Clerk's notes on it, the additional Briefing Note and the appearance of the revised draft Budget that had been circulated by the Clerk. The Clerk explained that he had been in discussion with the Board's accountant. As explained in the Briefing Note, it had been felt to be more appropriate to strip out of the draft Budget reference to Consultancy Income and Refund of Dues in order to get to the basis of the core income that the Board could generate from Assessments and the true cost of carrying out the Board's functions. The Consultancy Income was additional income generated by FD and his team. If FD and the team were to suddenly become unable to earn Consultancy Income then the Board would have to revert to relying on Assessment Income alone. The footnotes to the revised draft Budget showed the amount of projected Consultancy Income that the Board could hope to earn in the forthcoming financial year and the Refund of Dues shown in the footnote showed what had been given by way of refund/rebate of Assessments in the previous year. Last year, the Board had agreed that the Refund/Rebate would be based on a figure of 75% of the gross Assessment paid in year 2022. Since then, inflation and interest rates had risen substantially, the Board had engaged a Fishery Biologist and there had been a revaluation of all salmon fisheries. Taking all of this into account, in order to meet the projected expenditure provided for in the revised draft Budget, the rate in the £ would have to be £2.31 to reach a break even position. The Board had approximately £350,000 at bank. Having regard to the position of funds held in the bank and to what FD could identify as being on the books for the generation of Consultancy Income for the forthcoming year, the Board could then decide if a refund/rebate on Assessments could be given for 2024 and if so, what amount.

The Chairman proposed that having regard to the amount of Consultancy Income that had been and would be generated it would be his view that the Board should offer a 75% refund/rebate on gross projected assessments for the forthcoming year, which would amount to a refund of approximately £200,000 in round figures. David Kempell stated that the increase in the rate in the £ was of serious concern to him on behalf of his club members. Income from membership was dropping. His club could not continue to pay Assessments at the proposed rate in the £. The Clerk referred to the proposed refund/rebate and stated that while it was necessary to reflect the true cost of running the Board by fixing the rate in the £ at what it would take to reach a break-even point without taking account of Consultancy Income and refund/rebate of dues, this was necessary for presentation purposes to keep in line with good accountancy and business practice. The refund/rebate had been given for many years and could be given again, should the Board decide at the meeting to give it. Standing the fact that all Boards raised assessments from the rateable values of salmon fisheries and that salmon fisheries must surely be reducing in value because

of the lack of returning salmon and resulting decrease in angling effort, the finance model for funding fishery boards was effectively broken. Until such times as the means by which all salmon fishery boards were funded changed there would be future difficulties for the Board, unless the Board continue to earn Consultancy Income to subsidise its activities. Peter Landale stated that he agreed with the Clerk's comments. He said that it would be necessary to seek alternative sources of funding. The Board needed to identify projects for the Board to undertake, so that the Board could seek funding for the conduct of the projects. In this way the Board could build into the cost of taking forward these funded projects the cost to the Board of labour, equipment, etc. This would hopefully permit the Board to reduce its costs in these areas. The Forth District Salmon Fishery Board operated in this way. Mike Keggans stated that he believed that it was necessary to show the true cost of running the Board in the manner that had been shown in the revised draft Budget. Ivor Hyslop stated that he agreed with the manner in which the revised draft Budget had been presented and that the Board should proceed with approving the draft Budget and the amount of refund/rebate.

After further discussion, the Chairman asked for approval of the draft Budget and the proposed percentage refund/rebate of 75% of gross assessments. There being no objection or counter proposal made, the Chairman stated that he considered that the Budget and the rebate/refund of 75% of gross assessments to be approved.

9. OUTSTANDING ASSESSMENTS/COURT ACTION.

The Clerk updated the Board on the matter of the steps being taken to recover Assessments raised against Mr Howie from 2017 and 2018. Mr Howie had failed to pay them. The Board had sanctioned the raising of court action against Mr Howie. A date for the hearing of the case at proof had been fixed. On the morning of the case, the Sheriff had referred the case to mediation. Mediation had failed because of a combination of Covid, lengthy delay in trying to fix a date and means of conducting the mediation meeting. Mr Howie would not undertake mediation at an on line meeting. In the interim, there had been a revaluation of salmon fisheries in April 2017. FMS had then advised all Boards in December 2023 that the Scottish Assessor's Association had reported that old valuation rolls ceased to exist, once a new valuation roll was issued. As a result, negotiations had been attempted with Mr Howie to recover the whole of the 2017 Assessment and a revised 2018 assessment, taking account of the then new valuation roll, also seeking court costs, but being prepared to compromise on interest on the sums sued for, if a sensible settlement with Mr Howie could be achieved. Mr Howie had stated that he would be prepared to pay for the 2017 assessment and the revised 2018 assessment, then reneged on this, then agreed again to pay for them but that he was not prepared to pay court costs, interest or any other cost relating to the conduct of the case against him and that he would settle only if the Board paid him compensation for inconvenience to him arising out of the Board having taken the action that it had against him. All other Board members had paid all of their assessments during the intervening years. There was no good reason for Mr Howie having failed to pay the 2017 Assessment and the 2018 Assessment had been recalculated and asked for. As yet, Mr Howie had offered no reason for his refusal to pay the two Assessments. After discussion, Board

members agreed that all appropriate measures to recover what Mr Howie owed to the Board should be taken and that court action should be taken forward, if necessary.

10. INTIMATION OF TRIENNIAL ELECTIONS.

The Clerk advised that the elections to the Board would be due to take place at the next Board Meeting. Board members were requested to advise if they would be prepared to be re-elected and if it was their intention to stand for election, that they attend the next Board meeting.

11. BOARD LANDROVER

FD advised that he wanted to sell the Landrover and purchase an alternative vehicle, requesting permission of the Board to allow for the new vehicle to be purchased and the Landrover then sold. The price of second-hand Landrovers of the type that the Board has were good and FD hoped to get to a position with the transactions that the cost to the Board would be neutral. Board members agreed to this.

12. TRUST UPDATE.

The Chairman advised that the Trust meeting scheduled for the previous evening had not taken place because it was inquorate. FB reported that there was steady progress with the activities undertaken by the Trust on Future for Fishing, invasive species and other Trust activities.

13. AOB

- 1) Tom Brown advised that since 4 January, there had been direct discharge of trade effluent to the estuary of River Nith because of a failure of the pipeline taking the trade effluent to the tanks at Kirkconnell. Trade effluent was being taken by the tanker load and dumped into the estuary at all states of the tide, rather than on the ebb tide, as was practiced from the tanks. On occasion, this had resulted in the discharged trade effluent being swept up the river by incoming tides. He had raised the matter with SEPA and Scottish Water, who had done nothing. The pipe has now been repaired. The Chairman thanked Mr Brown for drawing the matter to the attention of the Board. The subject of water sampling to detect pollution was raised. Raymond Mundle reported that until SEPA changed its policy on water sampling, prosecution of alleged polluters would not be possible as SEPA insisted that prosecution for pollution events could only take place if SEPA staff had carried out the sampling.
- 2) It was agreed that the Board meeting dates for the remainder of 2024 would be:-
 - 26 April 2024
 - 6 August 2024
 - 25 October 2024.
- 3) FD referred to the projects that he and his team had been developing as specified in the quarterly report and requested that the Board sanction the funding of them from the earmarked funding for environmental and SEPA funds. Board members agreed to this.

- 4) FD requested that he wanted to purchase additional water chemistry analysis equipment which would cost in the region of £4000.00. This request was approved.
- 5) FD advised that there would be follow up publicity generated for the Board from the Extreme E event that had taken place in 2023.
- 6) The Chairman advised the Board that it would be appropriate for Board members to discuss salaries and bonus and so asked that members of the public in attendance leave the meeting. He thanked them for their attendance.
- 7) The Chairman proposed that salaries should be increased by 4% to reflect what was provided for in the draft Budget. Inflation was currently running at 4% and so the suggested budgetary percentage increase of 4% was reasonable. Board members agreed to this.
- 8) The Chairman proposed that for a bonus be paid to Board and Trust staff, given the performance of these staff during the course of 2023, particularly as regards the amount of Consultancy Income that had been raised. There was considerable discussion on the subject. Board members agreed to a bonus to be divided among staff as FD saw fit.

There being no other matters raised, the Chairman formally closed the meeting.