

SALMON FISHERIES BYELAWS: RIVERS DART AND TEIGN

Date: 3 February 2005

Issue

1. Confirmation of Environment Agency byelaws for the rivers Dart and Teign.

Recommendation

2.. You are recommended to agree to confirm the proposed byelaws which:

- shorten the netting season by one month at the end of the season – when the catch is primarily salmon;
- impose mandatory catch and release (C&R) for salmon in the rod fishery for the last month of the rod-fishing season.

Timing

3. Urgent. The consultation period formally ended in October 2004 (although the Agency has considered further letters from objectors during most of November), and I would like to write to the Environment Agency and the objectors as soon as possible informing them of your decision.

Financial Implications

4. There should be no cost implications unless these byelaws (or, less likely, the lack of them) are judicially reviewed, in which case there will be the cost of defending the case.

Background

5. The Agency's submissions (attached without byelaws) provide fairly detailed background on this and we could provide more if desired.

Discussion

6. No one seriously disputes that action needs to be taken to reduce exploitation on both these rivers; even if exploitation were reduced to zero, it is unlikely that stocks would recover to Conservation Limit (CL) levels in the medium term. We and the Agency acknowledge the limitations of the data sets and the stock assessment methodology but believe that application of the precautionary approach precludes doing nothing until more reliable data is available. It may well be, as objectors claim, that the salmon run on both rivers in 2003 was the best for fifteen years, but one good year does not buck the trend, which is firmly downwards.

7. The byelaw proposals might have proved slightly more acceptable to rod fisheries interests if more had been done about nets, which take the majority of the actual catch. In a perfect world, the Agency might have proposed closure of the net fisheries, or a restriction to the netting season to that part of the year (essentially April/May) at which it is feasible to enforce C&R for salmon in the net fisheries while allowing sea-trout to be taken. A closure byelaw would provoke a storm of protest and its confirmation by Ministers would almost certainly be challenged in the Courts. Shortening of the season to cut out salmon netting altogether might eventually have to be considered, but we and the Agency thought that other options should be tried first. The hope was that the prospect of reducing Net Limitation Orders (NLOs) on both net fisheries might encourage netsmen to look for compensation from the rod fisheries interest and that the majority might leave the net fisheries. We had agreed in principle to part-fund net buyouts on both rivers but the proposed buyout for the Dart fell apart because an insufficient number of the 13 netsmen were prepared to sign up to it and there was no interest (from the nets or the rods) in a buyout on the Teign. Reducing NLOs would be of no immediate value and, since a decision to proceed with them in the face of objections from the netsmen would oblige Ministers to set up a Public Inquiry at some cost to the Agency, the Agency believes that there is no point in proceeding with the NLOs as advertised. Further work needs to be done on how exploitation in both the rod and net fisheries can be further reduced and it would be appropriate to reconsider the terms of NLOs in that context; in any event, new NLOs will be needed before the end of 2005, when the current capping NLOs run out.

8. Nevertheless, the perception that the nets have got off lightly while the rod fisheries are being disadvantaged is hardly borne out by the facts. The Rod fisheries are being asked to endure a month's mandatory C&R; they argue that the application of C&R on a voluntary basis is high in both fisheries, so the loss of fish resulting from mandatory measures cannot be great. The anglers can still fish, they just cannot keep any salmon they catch. They can keep sea-trout, which is one of the principal reasons why people fish the Teign in September. The nets, on the other hand, lose a month's fishing, not just for salmon but also for sea-trout. If mandatory measures are to be imposed upon the nets (and we agree that they must be) then some form of mandatory measure must be imposed on the rods for the sake of equity. The Agency might have considered alternative mandatory measures, carcass tagging, bag limits, as the rod fishery interests have suggested; but such measures are not available to the Agency under current legislation.

9. Since none of those who have objected to these byelaw packages has formally withdrawn the objection, there must be some prospect that one or other of the objectors may seek judicial review of any decision to confirm the byelaws. We and the Agency believe that the conservation case is very strong and that any legal challenge raised is unlikely to be successful. The measures contained in this package are insufficiently robust to promote stock recovery and it is the Agency's firm intention to conduct a further stock status review this year and to make further proposals for adoption in time for 2006. It is to be hoped that the process can result in a set of measures which will command more support than does the current one, but even if that is not the case, proposals for more restrictive measures are inevitable.

Conclusion

10. Whatever action we take will provoke criticism from some quarter. Fish II and CEFAS are firmly of the opinion that we cannot simply ignore the parlous state of salmon stocks on the Dart and Teign and that the Agency's byelaw package, despite its inadequacies, is the only means to hand to address the problem in the very short term. More robust measures will be essential and it is desirable (though not essential) that a consensus should be reached on these if possible.

11. Despite the controversial nature of these measures, there is no real doubt that they are necessary. The Agency recognises that the measures are now inadequate, principally because of the collapse of the buyout negotiations on the nets, and will review them in the course of the current year and bring forward new proposals. If you agree to confirm this package of byelaws, I will write to the Agency endorsing the need for more robust action (without specifying what that action might be) and expressing the hope that the Agency can persuade all relevant interests that the new measures proposed are in the long-run interests of fish and fisheries conservation and should therefore be supported. At the same time I will write to objectors, advising them of your decision and the grounds on which it was made.

12. I should be happy to discuss.