



# THE Tweed FOUNDATION

A Tweed Foundation Paper

## SECTION 1: INTRODUCTION - Fisheries Management on Tweed, its background and present day structure

*"There must be government in all society – Bees have their Queen, and stag herds have their leader; Rome had her Consuls, Athens had her Archons - and we, Sir, have our Managing Committee."*

*St. Ronan's Album, Sir Walter Scott, 1823*

**( A ) The origins of the River Tweed Commissioners (RTC):** Fisheries Management on the Tweed really begins in the year 1805, when a private committee of Salmon fisheries proprietors (including Sir Walter Scott) began to meet to consider fisheries problems and improvements and to supplement an earlier group set up in 1781 to enforce the 18th century legislation which had begun in 1771 with laws to regulate "the mouth" of the Tweed (Calderwood, 1909). A private Act of Parliament was secured in 1807 which formalised this committee and the first meeting of "Tweed Commissioners" took place at Cornhill on the 1<sup>st</sup> of August, 1807. The reasons that stimulated the formation of the private committee of 1805 (called "*The Western Association of Noblemen and Gentlemen for procuring due observance of the Laws respecting Fisheries in the River Tweed*") are given on the first few pages of their first minute book. These tread very carefully around the sensibilities of those involved in an earlier attempt to have the legislation enforced: -

*Memorial for the Subscribers, Proprietors, Occupiers or otherway interested in the fishings of the River Tweed or Rivers or Rivulets running in to the same*

*A respectable association of Noblemen and Gentlemen having sometime ago been formed for putting into execution the two statutes passed in the years 1771 and 1775 relating to the said fisheries and more especially for the avowed purpose of procuring a safe return to the sea of the spawn, fry or young brood from the waters of the Tweed, Teviot, Ettrick, Gala & co. during and after closetime*

*The memorialists are fully sensible of the exertions and steady attention of the association to the objects they have in view. At the same time, the Memorialists perceive there are two Branches of the Enactments which have not been fully attended to; and being more interested as Proprietors & co. in the fisheries of the upper Districts of the Country, they do now associate themselves for the three following purposes and they trust that in doing so they will not give offence but*

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*rather meet the approbation of their neighbours who do not find it convenient to be of their number*

*1st For the express purpose of enforcing a strict observance of the act regarding the Period when the river is to remain open and unmolested, namely from 10 o'clock on Saturday night to 2 o'clock on Monday morning and*

*2nd For obtaining a free course for fish thro' such Caulds, Dams or Damheads as are already erected or hereafter may be made in the River Tweed or other rivers connected with it.*

*3rd For the Protection of the water in close time and preservation of the young fry and for the discovery and prosecutions of Poachers and offenders of every description against the regulations of the acts of Parliament in the cases provided.*

*As to the first object of the memorialists in this association themselves they from their observation have a conviction that however plenty the fish may be in the return from the sea, a very inadequate proportion indeed and scarcely any of those new run are enabled to reach the upper streams of Tweed even in the highest floods such as the flood of Lammas last - This need not be a matter of much surprise when the Memorialists are informed that no fewer than fifteen thousand Salmon, Gilses & co. were shipped from Berwick for London in the course of one week and that too at a time when the Metropolis was very much thinned of its inhabitants, the Parliament not sitting and when the heat of the season must have destroyed a great number of the fish in the course of such a voyage.*

*In regard again to the requisite Broaches in Caulds, the second object of the Association. It is evident from the 4th Section of the first of the Acts Noted that a power is held in them to enforce a due observance in this particular. In doing this the proprietors and others more interested in these erections may with confidence rely that as little will be done prejudicial to their Mills and Weirs and other Water Works as it is possible consistent with the letter and spirit of the laws.*

*Melrose 1st August 1805*

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The report to this meeting showed that Melrose Cauld required a slap near the north bank. The two caulds at Rutherford and Makerstoun had no slaps. Kelso Cauld was reported as being *level on the top throughout* and totally impassable except in the highest floods. Woden Cauld had no slap and it was the practice of the fishermen to note fish going over the face of the cauld and trap them behind. Directions were given for slaps to be made in all these, the proper places to be ascertained with the help of experienced fishers. The committee then, very politely, showed that it meant business by referring to an ancient right to forcibly demolish caulds that are barriers to Salmon :-

*"The Association observe that where these requisitions are not complied with it has been anciently customary to proceed to pull down the Cauld via jacta as was sanctioned by the Court of Session in a case betwixt the Duke of Roxburgh and the Earl of Home that occurred about forty years ago. But they do not apprehend that it can be necessary to take any measures except notifying to the gentlemen to whom these Caulds belong that the Act 1489 Cap 15th required an opening of four feet in the mid stream or channel."*

Watchers were then instructed to observe whether the fisheries between Berwick and Coldstream observed the weekly slap. A further, and now forgotten, problem for Salmon was also raised at these early committee meetings, that of the intakes for irrigating water meadows: -

*The Association was further informed that the Water Meadows in the County altho' a valuable improvement in agriculture are attended with great destruction to the Smolts and young fry of the Salmon which get in to the sluices and are destroyed there in immense numbers. The Association would therefore recommend that the main sluice of each Water Meadow should be fitted with an iron grate such as will prevent the inconvenience complained of and thereby prosecution unnecessary.*

Walter Scott was appointed as one of the seven to be made a committee to superintend execution of the resolutions.

Once the statutory Commissioners started work in 1807, access for the upstream migration of Salmon was one of their major concerns (as it still is for the present day Commissioners). A stone-mason was appointed in 1810 as an "*Inspector of Caulds*" who was to act from Coldstream upwards, constructing "slaps" in caulds under the authority of a quorum of the Commissioners, and at the same meeting that appointed him it was also minuted that : "*The Commissioners hereby declare that they will neither regard trouble nor expense to ensure the free run of the fish, whether by destruction of caulds or other ways in the river*"(Minute Book 1805-1821 p. 67). By 1812, the bailiffs, when examined, were able to report "... *that with*

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*the exception of the Cauld near Teviot Bridge they were all in such a state as to allow the free run of the fish" ( Minute Book 1805-21 p. 83).* This was, however, an overly optimistic report as became apparent. The opening up of the caulds was also unpopular with some and there are records of newly made slaps being filled in again with the connivance of the local proprietor, such as at Makerstoun Cauld in 1811. Enforcement of close periods for nets was also an issue as in those pre-railway days. The towns along the Tweed had their clocks at different times so the weekly close period did not start at the same instant in every district. The Commissioners had to resolve that: -

*In breaking the weekly close time offenders having often urged the difference of time by clocks, the Commissioners are of opinion that the hour must be regulated by the clock of the District Town where the offender resides and the meeting recommends to the Commissioners in each District to see that no improper use is made of the clocks with reference to the Close and Open hours of fishing. (Minute Book 1805-21 p. 70)*

Which appears to show that there was some fear of "clock-tampering". The importance of the Smolt run was recognised even at this early date, two of the Bailiffs being employed to act "*in the smolt as well as in the annual close time*" in 1812 ( Minute Book 1805-21 p. 82).

Further Tweed Acts followed in 1830 and 1836, but all were repealed by the Act of 1857. This set up "*a comprehensive scheme for the management and protection of the salmon fisheries in the district*" (Anon. 1896) and also prohibited "fixed engines" (stationary nets) and "*noxious matters and rubbish being placed in the river*". Another Tweed Act of 1859 made some minor alterations but otherwise the RTC had the form that it retained till the Tweed Act of 1969 enlarged the Council to include representatives of local authorities, angling clubs and other interests. The pre-1969 "Tweed Acts" never seem to have been particularly popular – Calderwood (1909) summarised this by saying "*From time to time loud outcries have been raised against these Tweed Acts, and at intervals efforts have been made to end them. Without doubt we are now nearer the realisation of these efforts, No section of the community on Tweedside seems particularly anxious to maintain the Acts*". The only major change between 1857 and 1969 was the removal of the power of the Commissioners to prosecute for pollution, which was transferred to the Tweed River Purification Board when it was set up (under the Rivers [Prevention of Pollution] Act 1951) in 1954. Until that time, the RTC Police Committee dealt with pollution as well as with poaching and caulds.

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As well as this Police Committee the RTC also had an Experimental Committee from 1852 to 1875 which was charged to "*collect information regarding the habits and nature of the different kinds of salmon frequenting the rivers and the adjoining sea-coasts*" as "*They believe that on this subject much uncertainty, not to say ignorance, prevails, which, for the sake of the public interests, it is desirable to have removed*" (RTC 1867). This committee undertook the marking of Salmon and Trout and reported on this annually from 1861 to 1866. One of their findings was that the "Orange-fin" or "Silverwhite" (local names for what would be called Sea-trout smolts today) actually grew to be "Whitling or Bull-trout" (=Sea-trout) after having passed through a stage then known as a fish called the "Blacktail" (Anon 1876). Though this may seem obvious today, there was great confusion in the past about the life-histories of both Salmon and Sea-trout which took many years to work out and then even longer to be generally accepted by the angling public.

**( B ) Present day legislation and management structure:** As said above, a major reform in the structure of the River Tweed Commissioners was made under the Act of 1969 when representatives of interests other than Salmon fishing were brought into the management of the fisheries. This Act was consolidated with all the other Tweed fisheries legislation in 2006 to form the "Tweed Order", which also changed the name of the River Tweed Commissioners to the River Tweed Commission.

## THE RIVER TWEED COMMISSION (R.T.C.)

The River Tweed Commission is charged under The Scotland Act 1998 (River Tweed) Order 2006 ['The Tweed Order'] with "*the general preservation and increase of Salmon, Sea Trout, Trout and other freshwater fish in the River Tweed and its tributaries, and in particular with the regulation of fisheries, the removal of nuisances and obstructions and the prevention of illegal fishing*". The area of jurisdiction extends eight kilometres out to sea and includes the coastline between Cockburnspath and Holy Island. Powers are granted to the Commission by this and other Acts of Parliament to help fulfil these duties. Map 1.1 at the end of this section shows the area that now comes under the jurisdiction of the RTC.

The R.T.C. is the only Scottish "Fishery Board" charged with the general preservation and increase of trout and other freshwater fish, as well as Salmon and Sea Trout and the representation on the controlling Commission

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includes representatives of the interests of freshwater fishing associations and clubs and of other persons concerned with the use of the waters of the River Tweed.

**THE TWEED COMMISSION:** The governing body is the Commission which consists of 81 members. 38 of these are elected each year by the Fishery Proprietors and 43 are appointed by the local authorities (Scottish Borders Council and Berwick Upon Tweed Borough Council) of which 23 are from local angling clubs and 20 from independent interests. The Commission levies an annual assessment on the Owners of all Fisheries, which is used to employ Water Bailiffs and provide the necessary back-up equipment and administration. The budget in 2007 was £602k. The Commission meets four times a year, in March, June, September and December.

**THE TWEED COMMITTEE:** The Chairman of the Commission is assisted and advised by a Committee drawn from members of Commission, which is broadly intended to represent different interest in the River. The current Committee role and structure have been established by common agreement/practice, for operational convenience. The membership of the Committee - a maximum of 12 and a minimum of 8 - are intended to be representative of (as far as possible):- Lower, Middle & Upper Tweed and main tributaries fisheries; Netting interests; Angling Associations; Non-proprietary Commissioners and The Tweed Foundation. The Committee meets four times a year, between Commission meetings.

The Tweed Order makes provision in relation to the Tweed District as follows:

- (a) Defining the Tweed district and Estuary limits of the River Tweed;*
- (b) Providing for the establishment of the River Tweed Commission, with powers to administer salmon and freshwater fisheries in the district for the purposes of protection or improvement of the fisheries, preservation of salmon and freshwater fish, and stocking of the district with salmon or freshwater fish;*
- (c) Defining permissible methods of fishing for salmon and freshwater fish, and defining offences and penalties where there is non-compliance;*
- (d) Making provision for weekly and annual close times for fishing;*

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- (e) Detailing offences relating to the sale, purchase and possession of salmon and trout; in relation to the disturbance or destruction of juvenile salmon and spawning beds, the balance between property rights in the bed of a river and conservation of juvenile salmon has been changed in favour of conservation, but provision is made for proprietors to obtain permission to undertake necessary works;*
- (f) Defining exemptions from certain offences or acts if done for scientific or other purposes;*
- (g) Enabling Scottish Ministers to make Orders in relation to the regulation of fisheries and for the conservation of salmon;*
- (h) Giving powers to water bailiffs and police constables to enforce the provisions of the Order;*
- (i) Providing for the making of protection orders, where appropriate, to make it an offence to fish for freshwater fish without legal right or written permission;*
- (j) Giving powers to wardens to enforce protection order provisions;*
- (k) Providing for the licensing and regulation of salmon dealers;*
- (l) Providing powers to the River Tweed Commission to prosecute in the courts in England and Wales;*
- (m) Making provision for the application of the Order to the Crown.*

Each year the Commission sets a budget that it requires for the management of the River and it then values the registered fisheries, imposing an assessment on them in proportion to their individual values. This is essentially a tax paid to the RTC to fund the management of the river and in 2007 this was £44.23 per Salmon and £8.85 per Sea-trout for rod caught fish and £0.93 per Salmon and £0.31 per Sea-trout for net caught fish, based on the average catch of the previous five years. In 2007 this raised an assessment of £602k of which £101k (17%) was paid to the Tweed Foundation for research and conservation. As it can be seen from this it is the Salmon fishery that funds the management of the river, though the legal responsibilities of the RTC extend to all freshwater fish species.

In practice, the River Tweed Commission retains responsibilities for the policing and administration of the River and has delegated the scientific aspects of stock management to The Tweed Foundation. The Foundation's remit not only covers that of the old RTC Experimental Committee of the 1860's but also has the broader aim of advising the RTC on fisheries

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management matters. In order to be able to do this, the Foundation has to undertake :

- (A) Studies on the stock structure of Salmon and Trout to find out how many of these there are and what areas of the catchment they occupy.
- (B) Surveys & Assessments of fish habitat quantity and quality
- (C) Monitoring of juvenile populations of Salmon and Trout
- (D) Analysis of catch records to show trends and to find the environmental or other causes for these
- (E) The determination of exploitation rates of the commercial stocks
- (F) Monitoring of adult populations with fish counters and traps

and other investigations into many facets of fish biology and ecology, as can be seen in the Management Plan for the Foundation (Part 7 of this document). The Commission has also devolved the "increase" part of its remit to the Foundation, which essentially means improving the quantity (through the removal of obstacles) and quality of the fish habitats of the catchment.

## THE TWEED FOUNDATION

The Tweed Foundation is a Trust with Charitable status, set up by the River Tweed Commission in 1983, to promote the development of Salmon and Trout stocks in the Tweed River System.

The Foundation is regarded as being at the forefront in bringing a more professional, scientific approach to salmonid management. It is engaged in an extensive programme of biological research, monitoring and habitat restoration with the aim of protecting Tweed's valuable fish stocks and maximising the river's natural productivity.

The Foundation's affairs are regulated by a board of Trustees. The River Tweed Commission's Chairman and Treasurer are also automatically Chairman and Treasurer of the Foundation. Funding of the Tweed Foundation's activities comes from a variety of sources: a contribution from the R.T.C., membership (£101k in 2007), donations (from private individuals and other charities, etc.) and through various grants - most notably from the European Union's Objective 5(b) programme (from 1993-1999), Scottish Natural Heritage, the Heritage Lottery Fund and, most recently, the European Union's Conservation of Atlantic Salmon in Scotland LIFE project (for the Foundation's Gala fish counter) and the Scottish Borders Leader +

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Programmed (for the Tweed Trout & Grayling Initiative). The budget in 2007 was £327k.

**( C ) Management Structure :** This is shown in Diagram 1.1 below. The R.T.C. officials, marked with an asterisk, are appointed by the Commission. The Biologist is appointed by the Foundation Trustees. The Director, who also performs the statutory duties of Clerk to the Commission, is responsible for the overall direction and day-to-day management of the two organisations, delegating the supervision of policing and bailiffs to the Superintendent and the scientific aspects of improvement of fish stocks to the Foundation's Biologist.

Diagram 1.1 : Tweed & Eye Fisheries District Management Structure, 2007

## RIVER TWEED COMMISSION

**Chief Commissioner:**  
Andrew Douglas-Home

**Treasurer:**  
Jennifer Lovett

**Clerk:**  
Nick Yonge

**Superintendent:**  
Tony Coleman

**Bailiff Inspector:**

**Water Bailiffs (7)**

## THE TWEED FOUNDATION

**Chairman:**  
Andrew Douglas-Home

**Treasurer:**  
Jennifer Lovett

**Director:**  
Nick Yonge

**Biologist:**  
Dr. Ronald Campbell

**Assistant  
Biologist**  
James Hunt

**Trout & Grayling  
Biologist:**  
Kenny Galt

*(Temporary Assistants)*

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**( F ) Fisheries Management & wider conservation issues :** The inclusion of wider interests in the Tweed Council and the designation of much of the Fisheries District for other conservation interests raises the question of how different, possibly competing, interests with different priorities and economic significances can be managed together within a very complex system such as a river and its catchment. The view has therefore been taken that all interests are best served in the long run if the river is looked at as a whole and managed for its health as a whole rather than as a group of sectional interests, each looking to protect and promote the "bits" of the river or catchment of most importance to its particular interest. Basing management on the health of the river and its catchment as a whole, promoting and defending the whole diversity of natural (or, at least, semi-natural) habitats rather than particular types that are supposed to be "good" for particular life-cycle stages of one species or another avoids placing too much reliance on the very incomplete knowledge of the process by which fish eggs change into the fish that anglers' want : Essentially, the approach is to set the stage and allow the fish to act naturally, as they evolved to do. This also (in general) removes conflict between fisheries management and the wider conservation and biological interests which also have a place on the river. There is also, however, the general question of species that actually benefit from human mismanagement - and there are almost invariably a few species that do so, however gross that mismanagement might be. The approach adopted on the Tweed to this question is that losses to those species that benefited from mismanagement are outweighed by the benefits to the whole river and its complex of species if human mismanagement is reduced or stopped.

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