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Robin Evans
British Waterways
By E-mail

Thursday, 10 February 2011

CC: Caroline Killeavy

Dear Robin,

Thank you for meeting my colleagues and me on 24th January. It was a good opportunity to inform you of our experience of hydropower developments and to air our concerns about the process at a strategic level. As we stated at the meeting, the Angling Trust is not against hydrogeneration *per se*, but we do have grave concerns about: the cumulative ecological impact of numerous schemes on single river systems; the impact on riparian fishing rights and the commitment to and timing of consultation with angling clubs and riparian owners affected by such developments.

Ecological Impacts

It might help if we first set out our principal concerns about the ecological impacts of hydropower:

- As we explained at the meeting, nearly all fish species migrate up and down stream during their natural life cycle. The more barriers that are in place, and the more limits on available time windows for migration, the less likely it is that fish will complete their necessary movements to feed or breed. Fish passes are imperfect solutions and are often impassable to one or more species for some or all of the time.
- Many schemes have screens or turbine designs which can and do cause significant physical injury and mortality to fish, and in particular eels.
- All schemes change the flow regime of rivers over varying lengths of the channel. This affects vital spawning habitat for fish (often in weir pools which may be the only suitable habitat for several miles), prevents migration and reduces the wetted area of the riverbed for invertebrates.
- Nearly all the proposed schemes we have reviewed have had inadequate environmental impact studies, many of which have failed even to mention fish.

We believe that developing large numbers of hydropower installations, particularly with the poor standard of environmental protection in the majority of designs seen to date, will have a significant impact on fisheries at a strategic level and may prejudice achievement of the objectives in the Water Framework Directive. The impacts of a hydropower development may be suffered by angling clubs and riparian owners many miles away up or down stream.

Angling Property Rights

The construction of fences, screens, turbine housing, tail races etc. can make it physically impossible for anglers to access the fishing rights which they own or lease and can actually extinguish rights – as will be the case at Sawley Weir on the Trent. The typical location of hydropower installations tend to overlap with the best fishing spots as they are near structures such as weirs.

In addition, changes to the flow regime can have a significant impact on angling amenity and the capital value of fisheries owned and leased by our members. Through our legal arm Fish Legal, we will seek compensation for our members in these cases and if necessary injunctions to stop developments from damaging their property rights.

Consultation with Angling Clubs and Riparian Owners

We have had numerous reports of Angling Clubs and riparian owners, including those owning fishing rights which would be directly and obviously affected by the proposed developments, not being consulted about proposals. Given the many indirect and direct impacts of hydropower on our members property rights, we believe that it is vital that they are *actively* involved at all stages in the development of proposals (including pre-application) and that this is the most likely way of reaching agreement. Where fishing rights are *directly affected*, there should be a basic necessity of asking the club's permission to avoid situations where the developments create an actionable trespass or nuisance.

Proposed Way Forward

1. We suggest that British Waterways requires all present and future proposed hydropower developments to meet the standards of the Good Practice Guidelines proposed by the Agency when they have reached the standard of environmental protection agreed by the Angling Trust and Fisheries Charities. The Guidelines currently proposed are not based on evidence and are inadequate. We cannot rule out objecting to, or taking legal action against proposed schemes that comply with these standards, but we believe that such action would be much less likely.
2. We suggest that you urge developers to seek the input of the angling club(s) which own(s) fishing rights at or near the site in question at the earliest possible opportunity in the design phase (i.e. pre-application) to discuss how the plans might affect physical access to their fishing and the flow regime with a view to mitigating the impact and agreeing compensation arrangements or only proceeding when permission is given where fishing rights are held over the sites.
3. We suggest that all angling clubs and riparian owners on a river system should be invited to comment at pre-planning application stages and before and during the application for licences to impound or abstract for developments which might affect fish stocks or the free migration of fish.

4. The number of impoundments which BW own should require you to consider the cumulative impacts from the outset. The environmental assessments which your partners produce should include adequate surveys of the actual locations, including the weirpools and existing fish migration, instead of the generic ones provided at present.

I believe that if British Waterways were to adopt these policies it would reduce the likelihood and severity of friction and/or legal action between angling interests and hydropower developers/yourselves. I also believe that it would greatly facilitate the achievement of your stated objectives to generate not only renewable electricity that is actually sustainable but also a source of income from hydropower.

Questions for British Waterways

I also have a few questions which I would be grateful if you would answer as soon as you are able.

1. Please could you send us a list of your structures which you are planning to develop for hydropower in the near future? As BW is the developer on these sites there should not be a confidentiality issue with this request
2. Please could you also let me know the approximate number of developments you are planning to complete nationally?
3. Can you confirm that you will not reject applications from River Trusts to install fish passes on weirs on the grounds that such works might jeopardise future hydropower developments? We have had reports of this happening.
4. Can you let me know whether you determine that a Strategic Environmental Assessment is, or is not required for your policy of hydropower development, and why?
5. Please could you send me copies of internal correspondence confirming that your fisheries and conservation teams are content with the design of hydropower developments planned by British Waterways and its partners at Gunthorpe and Sawley? I recall at our meeting you stated that they had been consulted and that they had not raised objections to the schemes.
6. Please could you send me a list of the priority weirs referred to by the Minister in a recent answer to a parliamentary question: "British Waterways is working with the Environment Agency and private sector partners to identify funding for fish passes for another 20 weirs identified as a priority"

I'm not sure if you are aware of the forthcoming CIWEM conference on hydropower on 3 March. This will consider fisheries aspects of hydropower in detail, with presentations from respected fisheries consultants, which we hope will lead to a better balanced Good Practice Guide. It would be very useful if your fishery and conservation staff were encouraged to attend, along with the enterprise teams responsible for hydropower development. I can send you further details of the conference if necessary.

I look forward to hearing from you as soon as you are able to respond. I can assure you that we are not wishing to create undue work or trouble for you or your colleagues, and we remain committed to working closely in partnership with British Waterways on a range of issues. However, I must emphasise what a significant issue hydropower is to us and our members. We believe that unless proper safeguards and consultation arrangements are introduced, these developments have the potential to cause huge damage to fisheries and to our members' property interests.

With all best wishes and many thanks once again for taking the time to meet with us and give this issue your attention.

Yours sincerely,

A handwritten signature in cursive script that reads "Mark Lloyd". The signature is written in dark ink and is positioned below the "Yours sincerely," text.

Mark Lloyd
Chief Executive