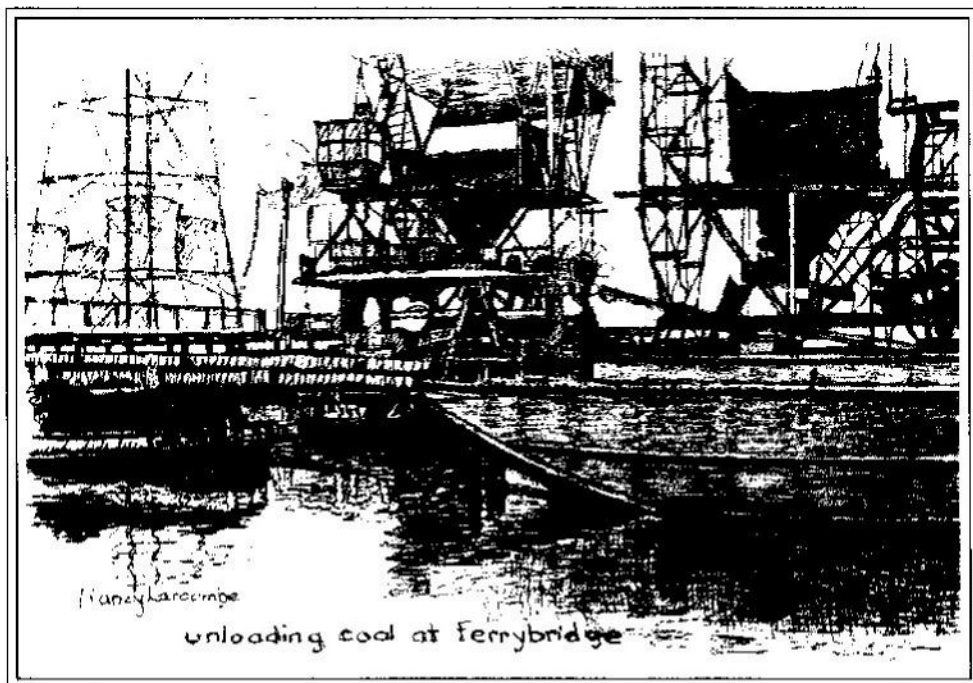




NATIONAL ASSOCIATION OF BOAT OWNERS

Issue: 4/99



Nancy Larcombe

unloading coal at Ferrybridge

Nancy Larcombe

Would you like to see your picture, sketch or photograph on the cover? Contact the Editor if you have something suitable.

NABO News

Editorial

Well, we're back from our long trip, having seen lots of NABO stickers and met lots of members. Thank you all for your kind words; I'm glad to know that so many of you enjoy the magazine.

Lots of meaty articles for you to get your teeth into this time and I would like to draw your attention particularly to the centre pages of this issue where you will find a copy of NABO Constitution with all the amendments made at the last AGM.

Talking of AGMs, make sure that you keep 20 November free for NABO - details, such as venue, in the next issue.

Our Membership Secretary tells me that our 3,000 for 2,000

campaign has got off to a rather slow start. Come on, all you members - this is a way to cut your boating costs! Just think about it - if you enrol a member then you get your NABO membership extended by six months - a whole £5 saved and you've still got the cover of NABO around you.

Boaters need NABO more than ever at the moment with red diesel rearing its head once more; continuous cruising licencing by another name; channel dimensions; cycling; BSS and end of garden moorings, just to list a few of the subjects on which NABO is prepared to help, advise and fight.

You don't need a membership form, although we'll print another in the next issue, just write to the address in Birmingham below with the name & address of the new recruit, your name and the £10 subscription. You know it makes sense!

Wendy

Published by
National Association of Boat Owners

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CHAIRMAN'S COMMENT

Chairman's Comment
There has been a lot going on lately so I'm going to jump from

topic to topic even more than usual. Here goes.

BW's New Membership Scheme

There is a full and quite objective report on this in this issue of NABO News. A few personal thoughts:

- ◆ The scheme was a government idea initially, and has its full support so it will go ahead regardless of what we think. Many members will remember that user groups gave the same idea a thumbs-down a couple of years ago. It is now being presented in a way that makes opposition impossible - like being against motherhood and apple pie, as they say in America. The marketing campaign will be massive and many individuals and organisations without much experience of BW will respond favourably. All we can realistically hope to do is influence the detail.
- ◆ The scheme will cost quite a lot of our money, at least in its early stages. But it isn't about raising money in the future so much as about numbers and influence. BW will be able to go to government and say we have the support of 50,000 (or however many) enthusiastic members. At present, it represents a few thousand boaters

who mostly don't like it very much, rather fewer small businesses which like it even less and rather more anglers who would rather fish somewhere else. The Minister knows this, and wants BW to have more power to its elbow.

- ◆ The combination of scheme and trust looks at first glance as if it could duplicate many of the IWA's activities. I think David Fletcher means it when he says that it is not intended to threaten existing organisations. However there is bound to be competition for members and donations, and BW's scheme will have more and slicker PR resources. So the IWA may decide to re-position itself somewhat, and emphasise its differences from the scheme.
- ◆ I do not believe many boaters will want to join, nor for that matter many active Canal enthusiasts. Mistrust of BW simply runs too deep.
- ◆ Existing waterway user groups in future may have less influence than now, because BW could put more weight on consultation with its own members. It is therefore even more important for boaters to join and support NABO and other user groups, and for the user groups to work together.

Bye-bye Bernard

Bernard Henderson leaves BW on 9th July. He will have departed by the time you read this. During his five and a half years as its Chairman, he introduced many changes to BW. Some, like better internal organisation, a more business-like approach, a customer charter, and listening to users (albeit somewhat unwillingly) were undoubtedly good. Some, like choosing David Fletcher for Chief Executive and instituting massive price increases for boaters, have been more controversial.

Bernard was always clever often charming and amusing; occasionally irascible. His replies to users' concerns could be cunningly worded to the point of being deliberately misleading. However he enjoyed meeting and talking to people (even from NABO - most of the time!) and he genuinely enjoys the waterways.

I wish him a "good road" on his travels - especially as he won't have all those chaps in green overalls smoothing his path now

Boat Licence Increases

BW has written to consult us on licence fee increases for next year. This is the third year of the 7% plus inflation increases imposed in 1997 for 1998, 1999 and 2000. (At the time BW wanted to bring in two annual increases of 10% plus

inflation. After vigorous protest, it spread them over three years, and agreed to limit increases in 2001 and 2002 to inflation.) We have again pointed out the impact of these increases on our members, many of whom are being driven away from the waterways, and asked BW to introduce discounts for young and retired boaters. We have also objected to a proposed restriction on the length of trailable boats which would penalise owners of some popular craft.

Dredging

London Regional Manager Mark Bensted proposed navigable channels for London's canals which fell far short of their original profiles. After prolonged discussion with representatives of NABO, the IWA, and the Dutch Barge Association, he has agreed to revise them in line with national policy. Thank you, Mark.

Meanwhile, the neighbouring manager, Matthew Routledge of Grand Union South, says, "I'm sure users would want two miles dredged to a lesser depth than to have one mile dredged to original profile". Not only is Matthew flouting BW's national policy, it is definitely NOT what his users want. His boss, Chris Mitchell, will no doubt remember the GUS and Southern Region meetings at which users forcibly expressed

their wish to have greater depth of dredging even if it meant taking more time to do it - and he and Peter Coyne agreed this. So Matthew is going back on agreed local, regional and national policy. A brave decision, but he may run into some opposition.

Other Waterways

The DETR has published a consultation draft of its Code of Practice on Conservation, Access and Recreation. This dull-sounding document is very important because it gives guidance to the Environment Agency and other statutory bodies ("water and sewage undertakers" as they are called) on matters they should (read "must") consider when carrying out their duties in respect of conservation, access and recreation (including navigation). The three are listed in that order because that is the order of priority implicit in the paper. There is an anti-navigation bias in parts of the draft, as can be seen from the sentence "The relevant bodies should take steps to protect wildlife and landscape from any harmful effects of navigation". Although it admits the Environment Agency "also has a general duty to promote the use of inland and coastal waters and associated land for recreational purposes", there is no guidance on the desirability of balancing or attempting to

reconcile different objectives. Naturally, we are formulating our response.

The Clerk to the Middle Level Commissioners has written to us regarding their proposed navigation bye-laws. He says, "it would be the intention to seek powers to close the navigation for short periods for other activities". Other activities include fishing matches! He goes on to say that he believes this would be consistent with the Association of Inland Navigation Authorities' strategic aims and would follow the wording of the Anglian Water Authority Act which makes a similar provision for the Nene and Ouse navigations. Well, it isn't consistent with AINA's strategic aims as we understand them, and when was the last time the Nene was closed to navigation because of a fishing match. This is definitely an unwarranted restriction on navigation, and we shall be fighting.

Threats from Europe

The seventh draft of the Recreational Craft Directive is nearly complete, and contains waterway craft with vintage or vintage-style engines and people who care about them. The directive will probably go before the European Parliament in the autumn, so unless something

changes dramatically or Britain gets an exemption, we will need to start a 'Save Our Diesel Engines' campaign and get people to write to their MPs and MEPs in September or October. We'll keep you up-to-date on developments.

Meanwhile, the draft Directive on energy taxation (which would harmonise fuel taxes across Europe and thereby make our diesel subject to duty and VAT) has been amended to exempt all diesel fuel used for navigation on tidal waters, but craft on inland waterways are excluded from the exemption. The distinction is unrealistic and unenforceable in the UK, and we would be particularly penalised as UK tax rates on diesel are more than double those of most EU states. I understand, however, that the Directive has attracted so much criticism from various member states that it is unlikely to become law.

Planning Failure

Waterway groups were disappointed to learn at a recent Parliamentary Waterways Group that planning guidance will not be strengthened to support canal-side heritage. Member groups had lobbied Richard Caborn MP Minister for Planning to create a planning guidance statement specifically for waterways, part of a

series which are being re-drafted and include papers on recreation freight transport, the environment, sport, etc. We felt that such a document was needed because many local planning authorities are not aware of the impact of modern development on waterways, or if they are pay it little concern. We had also asked that if it was not considered appropriate to draft one specifically for the waterways, then the others should include specific references to waterways in them. Our requests have largely been ignored. However Mr Caborn said that if planning approvals were granted that contravened the guidance issued by the DETR (which covers waterways, even if this isn't very clear) then we should write to him. Why are we concerned? Because of the steady re-development of wharves and canal-side structures which frequently leaves them as sterile toy-town exhibition pieces if they exist at all. How many wharves in Birmingham are still usable today? How many will be wanted in future? If you think not enough is done to protect these, write to Mr R Caborn MP at the House of Commons and ask him to strengthen his department's planning guidance notes.

BW MEMBERSHIP SCHEME

BW launched its new membership scheme proposed at a combined public relations blitz and consultation exercise on 17 June. The event held (appropriately) at London Zoo was to hype its "Partnership With the People" as BW calls its marketing - sorry - consultation document. Further consultation will take place at user meetings up and down the country and we are promised BW persons will conduct canal-side surveys as well. What follows is a quick summary of the document. The words are mostly BW's..

The proposal is for BW to establish a membership scheme

allied to a charitable trust. The membership scheme would be open to all members of the public and voluntary organisations with an interest in the waterways. BW says the membership scheme "would enhance BW's performance, increase accountability by enabling it to develop a more direct relationship with a wider spectrum of the public using its waterways, and provide increased support for, and involvement in, the waterways." It says it "wants to extend the opportunity for involvement to the millions of people who care about and value the nation's environment

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and heritage.” It goes on to identify three major themes which it believes “will capture people’s interest and provide a focus for greater involvement”; leisure and education; “a living heritage network”, and waterway wildlife. It says, “Although some of these themes are already being developed particularly by dedicated canal enthusiasts, we believe there is the potential to do much more and attract greater numbers to use and value the waterways”

The list of possible membership benefits includes a “handbook to help people discover and enjoy the waterways”; a newsletter; discounts on waterway-related products and services; special offers for anglers, boaters and cyclists; “opportunities to participate in an events programme”; an education programme, and a volunteer programme. The subscription level would depend in part on the package of benefits to be offered, but is likely to bear some relationship to those of “comparable organisations” such as the National Trust, English Heritage, and the RSPB quoted as £24-£30 for an individual and £38-£50 for a family. Existing waterway related organisations would be invited to affiliate which would entitle their members to a discount on individual membership. BW also

says that if the scheme attract sufficient numbers, for example 100,000 members, it might be invited to elect a member who would be nominated to the Board of British Waterways.

BW admits “there may be initial start-up costs associated with the scheme which would need to be funded by British Waterways at the expense of other activities.” In other words, BW must pay for it until it is self-financing. When asked, BW Chief Executive was unable to give an estimate of the likely cost, as they don’t yet know what sort of a scheme they will end up with. It is intended however that subscriptions will eventually cover the scheme’s costs and, if possible, generate a surplus that can be used “for promoting waterway projects which would not otherwise proceed”. The DETR has confirmed that any such surplus would not be offset against BW’s Treasury grant (although that could conceivably change under a different government if the surplus were substantial)

The charitable trust offers financial advantages which can make an important contribution to sustaining and indeed enhancing much of the recent impetus towards restoration of derelict waterways and their environs. Its objects would be:

♦ to help conserve the natural and built environment of the Inland waterways in the UK for the benefit of the public

♦ to promote the restoration, development and use of the inland waterways for navigation and commerce

♦ to provide facilities for leisure and recreational use of the waterways

♦ to educate the public about inland waterways and their history.'

The trust and the BW membership scheme would complement each other in that many of the trust's projects could be expected to be associated with British Waterways and be of interest to people in the membership scheme. The

membership scheme might help to raise money and to promote such projects, and members might be given preferential access to them.

The trust could take responsibility for projects where a charitable vehicle separate from British Waterways would be useful for involving other stakeholders, raising funds and providing a degree of independence'. It could acquire a waterway not managed by BW, or hold a BW-managed one on a long-term lease (subject to BW and government agreement). Its remit would extend to all UK waterways, not just those belonging to BW. It could raise money from other trusts, foundations, companies and individuals. It would not operate a membership scheme but would

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concentrate on promoting projects and raising funds through activities such as appeals for specific projects. Examples quoted include; the restoration of derelict waterways; preserving waterway traditions, crafts and skills; restoration of historic boats; sponsoring architectural prizes; creating wildlife reserves, developing a network of "sensitively designed flagship sites", visitor centres, living history theatre programmes, and floating classrooms, measuring biodiversity, funding tree banks, increasing waterway access to waterways for people with disabilities, etc, etc.

The trust would be an independent body, managed by a Board of Trustees. BW "believes that it is vital to foster a close harmony between the trust and British Waterways, in particular by means of some BW nominated trustees to ensure the trust is well supported and flourishes." They suggest they might nominate the chairman and two other trustees. The other trustees would be selected to reflect the interests of the trust where the trust carried out an activity on a BW canal or river, the relationship between British Waterways and the trust "would be governed where necessary by contract". BW also suggest that the existing

Waterways Trust, which has taken responsibility for the waterway museums at Ellesmere Port, Gloucester and Stoke Bruerne, as well as for fundraising appeals for the restoration of the Forth & Clyde canal and the Anderton Lift, could serve as a vehicle for this new trust.

David Fletcher said the scheme is aimed at the public, not "just" the boater. He said the proposals will not threaten existing organisations. But he also said the scheme will raise money for all waterways, not just BW's, and will do so "more professionally", so existing fund-raising organisations may find they have to struggle to compete.

BW says it needs to hear from all of us regarding its proposals, and wants our written responses by 19 November 1999. As the scheme does not require primary legislation, only the DETR's approval, BW think a scheme could be up and running next year. NABO will be responding, and I invite all members to let Council know your views so they can be taken account of and if possible incorporated into our reply. Members might also wish to comment directly (by letter to David Fletcher at Willow Grange, Watford).



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PSEUDONYM'S View from the Council

This meeting saw us at Newark, where a few of us recouped some of our licence money by being entertained at B.W's and Newark District Council's expense. We thoroughly enjoyed Newark Water Festival both meeting old members and recruiting new ones. Peter Foster was able to attend and it was good to see that he is fit again.

The regional reps' reports continue to be both far ranging and interesting. The London report covered cycling; dredging; waterways code; Millennium holiday; fishing and the river Chess. Sustrans want a 2.5mtr wide track and are willing to pay for it. London region seems to have its own interpretation on the dredging agreement and is now looking again at figures following our objection. The waterways code is to be placed in all the notice boards in the region. Hurrah!, lets hope ALL canal users read it. BW would like boaters phone no's, so that they can contact them for help, in an emergency over the Millennium holiday. That one certainly had a mixed reception. Have BW really got a problem with computerised locks and water flow devices? Or do they want to sell the numbers for marketing? After their attempt to get our email

addresses by asking us to register our views over the net I remain cynical. BW want to reserve 50mtrs of canal, south of Slapton, as a designated fishing area and suggest we walk the Chess rather than boat it. Our successes in this area include getting BW to lease out the dry dock at Bulbourne to an operator who will make it available for short term dry docking. Again at Bulbourne, BW are assisting mooring by putting in rings. BW have promised to remove an overhanging tree at Tring and all top gates being replaced this year (except Cowley) are to have gate paddles fitted.

The report from the Midlands included the news that the income from Fibreway is £6m for the first year and £20m in the second. Where is this being spent? We had a laugh about the installation of paddle gear locking devices on the BCN. Apparently boaters are getting halfway up the flight, finding they can't get any further without a key and then calling BW out at all hours. BWs answer - lock one side only.

Prepare for tears from the children. The project for the Rosie & Jim complex in Brum has died BW are now planning to use the

site themselves. There is concern on the tidal Trent that narrowboats are cruising with their front doors open. A dangerous undertaking on any river. Pedalos and rowing boats are being made available for hire so do keep a look out. The BSS will not apply in Hull marina (taken over by BW) due to its use by sea going boats. Peter Foster is trying to get height gauges at all bridges. These are becoming more necessary due to the increasing flow on the rivers caused by buildings and roads all channelling off their water. A fishing problem was noted. Clear water is encouraging cormorants. Less fish less fishermen.

On the Shroppie people are being charged for mooring after 48hrs. Make sure that the moorings are clearly marked and if not refuse to pay. BW must give a mix of moorings and find somewhere for you to moor if the category you need is full. Also ask for their help to open difficult locks & bridges. It's the quickest way of getting improvements.

On the BCN BW have a lorry with a remote controlled bucket available to clear bridge holes. Call BW if you need this facility.

End of garden moorings are a sore subject. You only have a fighting chance if you have "historic rights" such as on the Macclesfield. It's

also worth checking your deeds as BW may have registered the ransom strip at the end of your garden erroneously.

As a final thought rare weeds have more rights on the waterways than we do. Happy Boating.

A Personal View

Whatever has happened to courtesy on our canals and rivers? Helping one another, thinking of others?

Nowadays boats only seem to slow down if they see you are on your boat - it's too late then!

Helping the boat in front at locks, especially if you have a big crew and they are on their own, or a couple, means everyone gets through the locks more quickly.

What has happened to the tradition of the canals?

Ropes should be near at hand, But not in the way of arms, legs or the propeller.

Buckby cans and mops should be in front of the chimney at the rear of the boat, chained to prevent loss and standing on a piece of wood to protect the paintwork. Fenders are not needed on the side of steel boats and they can be dangerous in locks.

I love my garden, but I leave it at home - one tub of flowers or herbs is OK but some boats are over the top!

The working boats were kept as clean as their working lives allowed.

Christine Denton

REGIONAL REPS

Midlands

Atherstone Flight May Closure

Having personally experienced the inadequate notification of the flight closure to boaters, I wrote a letter of complaint to Mr. Stephen Goode, Waterway Manger. I have received a reply accepting that my criticisms were fully justified and apologising for the failure to inform cruising boaters. Procedures for effective boater notification are being considered and the subject will be discussed at the next **Consultative Meeting**.

Bumping Blocks

Be aware that a number of locks on the Trent and Mersey in Staffordshire and the Lower Staffs & Worcs Canals do not have bumping blocks (the heavy board blocks below the top cill). The danger being, that where the blocks should be, there are holes in the brickwork. Sandon, Trentham and Aston, in particular, have large fender trapping holes, sometimes hidden by falling water. It is now recommended, following the tragedy on the Leeds & Liverpool, that you have weak ties on your fenders in both vertical directions.

I have written to Mr. Roger Herrington, Waterway Manager, requesting that warning notices are placed on the locks in question as an interim measure until the blocks are replaced.

Deep Locks, Short Pounds

Having witnessed a hire boat slide back down a lock cill like a lifeboat being launched and hitting the bottom gates with a horrendous bang. Please be careful in short pounds. When there are

other willing, but inexperienced helpers around, it is easy to miss a paddle that has not been fully closed. As happened in the incident I witnessed.

Lock, Bridge and Length Judging

I have agreed to judge the Midlands & SW Region Lock, Bridge and Length Competitions. At a meeting with the organisers I made it quite clear that I would judge the competition as a user representative and use the exercise to comment on features that are relevant to us. I believe that we should use every opportunity to meet BW Staff. Getting out and voicing our concerns can sometimes be more constructive than tapping word processor keys. This opportunity gives me ready access to staff, from the gangs on the track to senior management.

Winter Stoppages 1999/2000

Winter stoppages for relining, with no Christmas/New Year opening have been scheduled for the Hopwas and Long Itchington Embankments. Both are major and essential works and open periods would not be practical. However, I understand that Birmingham maybe a popular venue for the Millennium celebrations and I will request that the timings of the Coventry/Oxford route stoppages will accommodate visitors from south of Long Itchington. I will also ask for the provision of safe and secure moorings north of the closure for those wishing to visit Birmingham for the Millennium.

Surveys on Shropshire Union Embankments.

Major investigation works are scheduled for the Shropshire Union this winter.

Pages 15, 16, 17 and 18 are missing!

Breaches below the canal walls are becoming more common and more difficult to stop.

Stourport River pontoons

Pontoons at Stourport to assist boaters locking on and off the river the are still being considered. The provision of piling suitable to accommodate the position and significant changes in river level are being investigated.

Sanitary Stations

New sanitary stations are being built at Compton (S&W) and Weaton Aston(SU). Both will have card operated self pump outs. Difficulties have been experienced with Autherley Junction and its status will be reviewed. Four further card operated self pump outs are to be installed, suggested locations, Market Drayton, Stourport, Penkridge and Kinver.

BCN Bridge Holes

A lorry with a remotely controlled bucket is available to clear bridge holes on the BCN.

David Green, Waterway Manager, is keen to see good use made of the equipment and boaters are being encouraged to call out BW if they encounter a problem.

Birmingham Jewellery Quarter

£400,000 of engineering and environmental work is to be carried out between Saturday Bridge and Newtown Road Bridge on the Birmingham & Fazeley Canal, below the Farmers Bridge Flight. Birmingham City Council, Groundwork, ERDF, English Partnership and BW are funding the work

Perry Barr Flight

Flight reopened, eleven new gates with plastic paddles fitted and culverts cleared.

Progress on installation of BCN Paddle Gear Locking Devices

A minor disaster at the moment. The need for a key has not been adequately recognised. Boaters, without a key, have progressed partway through a flight before being confronted by locked paddles. BW has been called out at all hours to unlock. As an interim measure the locking devices have been removed from one side. I trust that no NABO members have been caught out? NABO News No 1/99 gave full details.

Yet Another Marina

Those of you who have been through the Atherstone Flight recently would have noticed that the old Baddesley Coal Wharf at Lock No.6 is being dredged for yet another marina. I have questioned BW on the positioning of so many marinas on the Coventry Canal and the water supply implications. They tell me that they have to be satisfied that sufficient water will be available before they agree to the planning permission. As someone who moors on the Ashby Canal, which in many places lacks adequate water at the best of times. I hope they got their sums right. I am not against marina developments. However, I believe that they should be strategically placed to make best use of the waterways and water availability.

John Stephens

END OF GARDEN MOORINGS - Where are we now ?

Few of British Waterways' policies have provoked as much anger as that of charging for so-called 'end of garden' moorings. Users simply do not think it fair to be charged a mooring fee when BW does not own the land the mooring is on nor provide the moorings. This article sets out the bases on which BW makes the charge and the options available to the boat owner.

This term "end of garden mooring" in fact covers moorings on most canal side land not owned by BW, including a farmer's field or a privately owned wharf. It does not include those cases where BW own or have been allowed to claim a "ransom strip" - a twelve or fifteen foot strip of land along the canal edge.

On some canals, particularly the southern Grand Union, BW's Estates Department have been assiduous in claiming these, even going so far as filing claims with the Land Registry for strips on land it does not own. The Land Registry, perhaps believing that any government owned body must make honest and truthful claims, has registered them without informing the true owners of the land. Some owners have later had to take legal action against BW to assert their rights. (We are aware of three specific cases where this

has occurred and have been told of others).

If a boat is moored against a BW "ransom strip" its owner has to pay BW a mooring fee based on the mooring matrix. But if a boat is moored against canal-side land owned by anyone else, BW may charge an end of garden mooring fee. This is calculated at 50% of the cost of the nearest comparable BW owned moorings, using the lowest bollard score on the mooring matrix.

The law and the regulations

The legal basis for charging for moorings is contained in Section 43(3) of the 1962 Transport Act. It says, "Subject to this Act... the Board shall have power to demand, take and recover such charges for their services and facilities, and to make the use of those services and facilities subject to such terms and conditions, as they think fit" Section 17 of the British Waterways Act 1995 reinforces BW's powers. It provides that, "... the Board may refuse relevant consent (a houseboat certificate, a licence, or a pleasure boat certificate) in respect of any vessel unless... either

- (i) the Board are satisfied that a mooring or other place where

the vessel can reasonably be kept and may lawfully be left will be available for the vessel whether on an inland waterway or elsewhere; or

(ii) the applicant for the relevant consent satisfies the Board that the vessel to which the application relates will be used bona fide for navigation throughout the period for which the consent is valid without remaining continuously in any one place for more than 14 days or such longer period as is reasonable under the circumstances."

(It also has similar subsections on boat standards and insurance.)
Early in 1996 BW produced a

document with the catchy title of "British Waterways Act 1995, Section 17 (3) (c) - Moorings - Principles of Implementation". This defines "mooring" as follows: "A mooring or other place where vessels can reasonably be kept and may lawfully be left shall be defined as being either:

- (i) A mooring berth within a boatyard, marina, lay-by or similar off line facility for which a right to moor can be shown; or
- (ii) An on-line mooring berth rented from British Waterways (or its authorised lessee or licensee operator) and including so called "end of garden" moorings

DEREK PEARSON

FENDER AND CHIMNEY MAKER

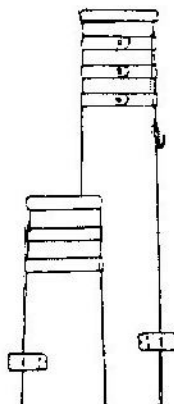
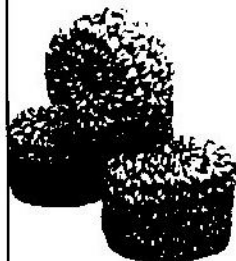
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Startops End

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complying with the criteria in paragraph 3.3.10 of the British Waterways' Leisure and Tourism Strategy (1993); or

(iii) A riverbank mooring berth which is not in the ownership of British Waterways and does not infringe any bylaw or similar regulation, prejudice the safety or amenity of those using the waterway, create navigational problems or impede or restrict the day-to-day operational management of the waterway; or

(iv) Some other place off BW's property which can reasonably and lawfully be used to keep the vessel; or

(v) In the case of trail boats which are actually in use as trail boats, the licensee's home address. In the case of (i), (ii), (iii) and (iv) the mooring shown must be appropriate to the locality of the waterways on which the vessel is most often present."

Paragraph 3.3.10 of the Leisure and Tourism Strategy says: "Existing permanent on-line moorings will be regarded as suitable providing the use of the mooring does not infringe any by-law or similar regulation, prejudice the safety or amenity of those using the mooring or waterway, create navigational problems or impede or restrict the day to day operational management of the waterway. Such moorings

must however have minimal facilities to support the use of the site and the site itself will not have been set aside by British Waterways for other users or uses.

Finally, British Waterways' Boat Licence & Permit Conditions (1997) states in paragraph 8: "The licence does not allow you to moor your boat in any waterway except for short periods ancillary to cruising. If you wish to moor to, on or over British Waterways' land or water, you will need a Mooring Permit. The licence does not give a right to moor that is enough to comply with the requirement in the British Waterways Act 1995 for the Boat to have a mooring." When you sign a licence application form, you are deemed to be accepting BW's Conditions, which have been drawn up using its powers under the 1982 Transport Act.

Legal challenges

A case was brought in the County Court about five years ago challenging BW's right to charge for end of garden moorings. At that time, paragraph 8 of the Licence Conditions did not exist. Nevertheless the judge found in favour of BW, although his reasoning was obscure. The case was not taken to appeal. Our legal advice is that the present Licence & Permit Conditions would make a

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Name
Address
Post Code

Craft Details

Name		Type	
Age	Value	Length	Beam

Hull Construction: Steel
 G.R.P.
 Wood

Use of Craft: Private Pleasure
 Residential
 Commercial

Engine Diesel
 Petrol
 Steam
 L.P.G.

Inboard
 Outboard

HP. _____

Maximum speed of craft (M.P.H.) _____

Normal Mooring _____

Cruising range required: inland non tidal
 inland with coastal use

U.K. Coastal
 Breste/Elbe

No Claims Discount

What percentage No Claims Discount are you able to transfer? _____ %

In the past five years have you sustained any losses or had a proposal or renewal for marine insurance rejected? YES / NO

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and your quotation will be forwarded to you for your consideration

similar case unwinnable today.

More recently a company called Swan Hill Developments won a case in the High Court and the Court of Appeal concerning the rights conferred on riparian land owners in the original Grand Junction Canal Act of 1793. The courts found these rights were not extinguished by subsequent legislation and therefore exist today. As a result the company did not have to pay BW some very hefty access fees. We believe the case is going to the House of Lords, and BW has said it is determined to challenge in court anyone attempting a similar argument. Even if the company wins, the precedent may not apply to an end of garden mooring charge, because of the other legislation and regulations involved.

Another case was taken to the Waterway Ombudsman on BW's right to impose these charges. (A full report appeared in the March 1999 issue of Waterways World, on which the following is based). The complaint was that BW were guilty of maladministration in demanding payment for a mooring knowing that rights under an 18th century Enabling Act still existed and that they were not entitled to such payment. The Act in question was either the one that was considered by the courts in the Swan Hill Developments case, or very similar. The Ombudsman found in BW's

favour, because the wording of the rights in the Act referred to an off-line mooring as including a place for boats to "turn, and pass by each other", and the mooring in question did not meet all of these criteria. He did however accept that the rights in the Act could be exercised for non-freight purposes (i.e., by pleasure craft), that a landowner could licence those rights in return for payment, and that they were not superseded by the 1982 Transport Act (all contrary to arguments used by BW). So the case hinged on the characteristics of that particular mooring, and the finding did not support BW's charging policy.

However, this case was originally taken to the previous Ombudsman under the original Terms of Reference. Mr Edell, the present Ombudsman, says they were changed to stop him from investigating any case involving legal interpretation (although BW Chief Executive David Fletcher has told us twice, in public and in front of numerous witnesses, that the Ombudsman's terms of reference have NOT been changed. So there you are. You can believe the Ombudsman or you can believe David Fletcher.) The Ombudsman therefore might not consider another case brought on similar grounds.

Attack and Defence

BW has two ways it can enforce end of garden mooring charges. It can sue for payment under the 1982 Act and the Boat Licence & Permit Conditions. Or it can simply refuse to issue a Licence, citing the 1995 Act, and then take enforcement action against the unlicensed boat. It has the funds and the legal staff and would very probably win either way.

The boat owner with an end of garden mooring who doesn't want to pay BW's charges should consider the following:

- ◆ whether the boat is in fact moored "to, on or over British Waterways' land or water". There are many arms, lay-byes, basins, etc, which are not owned by BW. And if the boat is moored on-line, does BW actually own the bed of that canal? When certain canals were built, the Macclesfield and parts of the Caldon for example, the riparian owners retained ownership of the land, including the canal bed. Do they still? If BW doesn't own the land, can it justifiably argue it owns the water? One would need to study the relevant Enabling Acts, subsequent legislation, and some detailed maps, and might have to go to court if BW doesn't accept your view.

- ◆ Whether the applicable Enabling Act confers special rights

on riparian landowners, and whether the mooring qualifies for them. This may be judged very precisely, as Mr Edell's decision shows. It is vital to read the Act very carefully, and be ready for a fight

- ◆ Whether maladministration is involved, and whether the case qualifies for referral to the Ombudsman under the current terms of reference.

- ◆ Whether a mooring can be found which qualifies under one of the other sections of BW's definition (see above). The mooring arguably then would not be defined as an end of garden mooring.

- ◆ Whether the charge has been calculated correctly. Ask to see proof, by reference to nearby moorings and the mooring matrix. BW has to supply this information.

- ◆ If the boat is only going to be on the mooring for a few months of the year, pay the appropriate proportion for a three month or six month permit

- Become a continuous cruiser. However, as BW are having another go at producing a higher priced licence for them, this may not be a cheaper option at the end of the day.

If none of this helps, there is little option but to curse and pay up!

TOWPATH TELEGRAPH

NEW CHAIRMAN FOR BW

BW and the DETR have announced that Dr George Greener has been appointed Chairman of BW succeeding Bernard Henderson. Dr Greener, age 53 has a business background. He was Chief Executive of Hillsdown Holdings PLC and before that was Chief Executive of Allied Dunbar Assurance and BAT Financial Services. He originally trained as a research chemist.

Dr Greener, who takes up the position on 10 July will receive a salary of £60,000 a year for a three-day working week. His knowledge of waterways is not recorded in the press release.

BW Note 1.

BW clearly don't want anyone to explore the small length of navigable water in the River Chess at Batchworth. They suggested that anyone wishing to explore should do so on foot. When pressed they said that boaters could use the lock with BW assistance - so, use it or lose it!

BW Note 2.

BW are asking for your help in monitoring anti-social cycling. They cannot deal with the matter with sufficient information and you can provide it, I'm sure. Drop a

line to your local BW office addressed to Ian White who is looking after cycling matters for them. I'm certain we can give them what they need.

BW Note 3.

Giving credit where it is due I would like to commend the Poplar Dock Administrator, Sue King. Services provided include - rubbish disposal by BW staff! Hourly security patrols at night by boat.

Altogether very helpful and a complete contrast to usual BW customer relations. Well Done BW, and Sue - thank you!

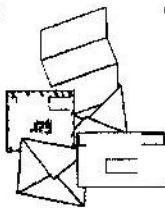
Boat Shows

A warm welcome to all the new members who joined us this year at Braunston. Thank you to all existing members who came to speak to us on the stand, some about problems -including the ex-member, who lapsed after a boat bearing a NABO sticker had gone past at such speed it almost pulled his stakes out!

Thank you also to those who helped on the stand.

Also thanks to those who helped at the Newark on Water Festival in June.

See you all at Worcester!



LETTERS

Dear Editor
**British Waterways
Signs - Apperley
Bridge**

Further to a letter in your April 1999 issue, from David Cragg of Oswestry, criticising British Waterways and the Leeds and Liverpool East waterway in particular, for preponderance of signs.

I will be highly delighted to remove both the signs referred to in Mr Cragg's letter, if he would care to come and patrol the two areas for us, 7 days a week, throughout the year. Even with the signs we have difficulty keeping enough space for genuine customers ie boaters and other stake-holders in the canal system, to enable them to park to attend business meetings.

Regarding the second sign adjacent our maintenance yard entrance, unfortunately, Mr Cragg failed to mention the full contents of the sign, which remind visitors of the reason for no parking, that is to keep a turning area available for the very large, even articulated, vehicles which regularly visit our maintenance yard with vital supplies that are required to maintain the canal.

Yes, we would love to provide a public car park, not of course using

core BW maintenance money in the main (for which we would rightly be criticised) and not in a location that would disrupt our operational base.

*David Blackburn
Waterway Manager, Leeds and
Liverpool Canal (East)*

Dear Wendy

**Re: Pseudonyms View from
Council (issue 3/99)**

The comment in the above article, on page 17, regarding fire extinguishers may I think cause confusion. To me it reads as though blue extinguishers, previously OK for the Boat Safety Certificate, would have to be changed in favour of red ones for the same boat to get a certificate the next time one is needed.

I phoned BW at Watford, and was told that provided the blue extinguisher has the "kitemark" (or equivalent as specified in the BSS Guidelines) and is serviced yearly in the usual way, this is acceptable for BSS renewal. They say that what has changed is that, following a new EU directive in (?) 1997, all extinguishers are now being manufactured in red, so this colour is what is now required for new boats, whereas blue, as above, for BSS renewals on existing boats, is still OK.

Dear Editor

The application of Council Tax to residential boats is complex, and was inconsistent around the country. As a result, Clive Wren (for RBOA, the Residential Boat Owners Association) and myself (for DBA, the Barge Association), had several lengthy discussions with the Valuation Office (VO, the government body responsible) over almost two years, to clarify the situation and agree a standard approach.

The VO was very co-operative, and this proved to be a worthwhile exercise. The result is Practice Note 7 issued by the VO, which guides local valuation officers in the application of the tax to boats and the decision as to which band a taxable floating dwelling should be in.

You should be able to obtain a copy the Practice Note from your local VO, but be prepared for some head-scratching reading as, despite the best efforts of all concerned, the underlying legislation forces the Note to be rather technical.

For a simpler but less comprehensive summary, visit the "Old News" page of the DBA's web site, www.barges.org.

Further, RBOA will (for a small fee) mail you a somewhat more detailed version.

With respect to your neighbour's

case, you should be aware that it is the "mooring", not the boat, which is subject to the tax. So he is probably right. If he lives at his mooring, he is almost certainly taxable. Moreover, if his boat is not away from the mooring for at least several weeks a year, it is possible that the value of the boat will be included in the banding decision.

Adrian

Dear Wendy

I read your editorial in NABO news and felt rather sad that people grumbled about the content of the news. I think you do an excellent job. I like the meaty articles and I like the fill-ins too. People tend to complain when they don't like what's happening but they tend to keep silent when they like it so at your end you can get a coloured view on what people think.

Keep up the good work - we, the normally silent majority, think you're getting it just about optimum and we look forward to our NABO news with eagerness.

Robert

**Don't forget to check our
Web page**

<http://www.clearlight.com/~nabo>

Dear Editor

The Case of the Jade Green Stain - (a cautionary tale) My apologies to any BW employee given the blame for leaving green paint marks on the stonework above Knostrop Flood Gates. It happened like this.

The Aire below Leeds Lock is improving but not yet dawdle-worthy. It was a typical April day, the snow squalls had eased a bit and there was just enough flow on the river to put an end to 'canal complacency'. As the entrance to the Knostrop Cut came into view so too did a big sand barge, engaged in a futile attempt to tow its unloading wharf upstream while the last of its cargo was being hoisted out.

It was at this point I made my second error of judgement - I underestimated how much the barge's prop wash would affect the wide turn I needed to get a good sightline into Knostrop Cut. My third error was to assume that because there was a barge on the wharf the rest of the fleet would be elsewhere.

I was just able to avoid collision with the fully laden barge blocking my passage through the flood gates, and only made light fender contact with the stonework as I swung our vessel out of his path. The effects of wind, current and wash left us at right angles to our

intended course through the gates and during the tight turn to get in, some of our paint transferred itself to the stonework -sorry!!

My first error of judgement, chronologically that is, was to set off from Leeds without rigging the Marine Band radio and eavesdropping on Ch 74. I might have heard the barge talking to Knostrop Fall Lock and so been forewarned of its presence. On the other hand I might not, as the lock-keeping service for commercial craft on the A & C seemed a bit erratic - it fell to us on our return to work Fishpond Lock for the barge Gladys Lillian !

On the subject of the radio, I was glad it was operational when returning from the Calder and Hebble. The rivers were just passable after a typical April 'shower' and we had to stop at the traffic lights at Castleford. Some folks think the lights don't apply to vessels travelling from Wakefield to Leeds or vice versa without need of the flood lock, but had I ignored them we would certainly have fetched up against a tow of coal pans coming down the Aire. Unfortunately the lock-keeper was so engrossed with penning the coal pans that he must have forgotten us, and it was only by radio that we got the go-ahead to jump the lights. As you cannot tie up anywhere without going through the lights, waiting vessels

have to keep station in a 'tail current' while waiting on the Calder, not the best place to get forgotten. I believe BW are aware of this.

So the moral of the story is to expect a barge at every blind bend of the Aire & Calder, even if you do keep radio watch on 74, especially as I have heard that oil traffic might be coming to Leeds again.

Name & address supplied

Your letters are welcomed by the Editor. Write to me at 3

E-mail:

END PIECES

Whilst at the Braunston Boat Show I came across an old idea updated in a most attractive way.

Ragamuffin Rugs, of Lancaster are making rag rugs in traditional canal patterns of roses and castles. The designs can be personalised with the name of your boat, or any special personal details or dates. Cushion covers and wall hangings are also available and they can also arrange demonstrations, workshops, or sell you the tools to make your own. They are not cheap, but just remember how long it takes to peg a rug!

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