

From:
To:
Subject: Re: "Moorings" further important information
Date: 20 May 2013 14:58:49
Attachments: [Pleasure-and-Profit-from-Canals-Keith-Boyfield-1990.pdf](#)

Dear Matt,

Is there a limit to the number of documents I can submit? As this one will be of major importance to the investigation and should be overlooked. I last saw it about 7 years ago. It was like finding the light switch in a dark cellar.

To briefly explain. It was published in 1990 by the Centre of Policy Studies and written by a Keith Boyfield. Someone has now copied it to the web, which breaches copyright without a doubt. However the importance of the onlined ideas and the uncanny resemblance to the changes made to British Waterways and its activities since the 1990s, I believe far outweighs any copyright issues.

This resemblance of BW (CRT) today, is not a carbon copy as there has been slight changes in the execution, but the basic direction fits, and the major elements exist. (BWD) British Waterways Developments who, since the mid 90s have entered into partnerships to develop waterside land like Paddington Basin, Tottemhale Hale (Hale wharf), Brentford Dock etc. Under names like "ingloo" and others. I have often heard the complaint from people opposing these planning applications "British waterways is the developer on the application. This is a conflict of interest, as they are also the statutory consultee! "Such BWD partnership activities was suggested by Boyfield.

Then there is the new Canals and Rivers Trust, which seems to have very similar responsibilities as the Trust that Boyfield came up with.

It should be noted that when this document has been mentioned to the likes of the Inland Waterways Association the response is "This was dealt with and rejected!!" But the uncanny resemblance of the way that British Waterways has engaged in developments and the sudden rush to become the Canals and rivers Trust, makes me think that it was not as "dealt with" and "rejected" as people in these waterways campaign groups may believe and inform your London Assembly investigation.

Regards

--

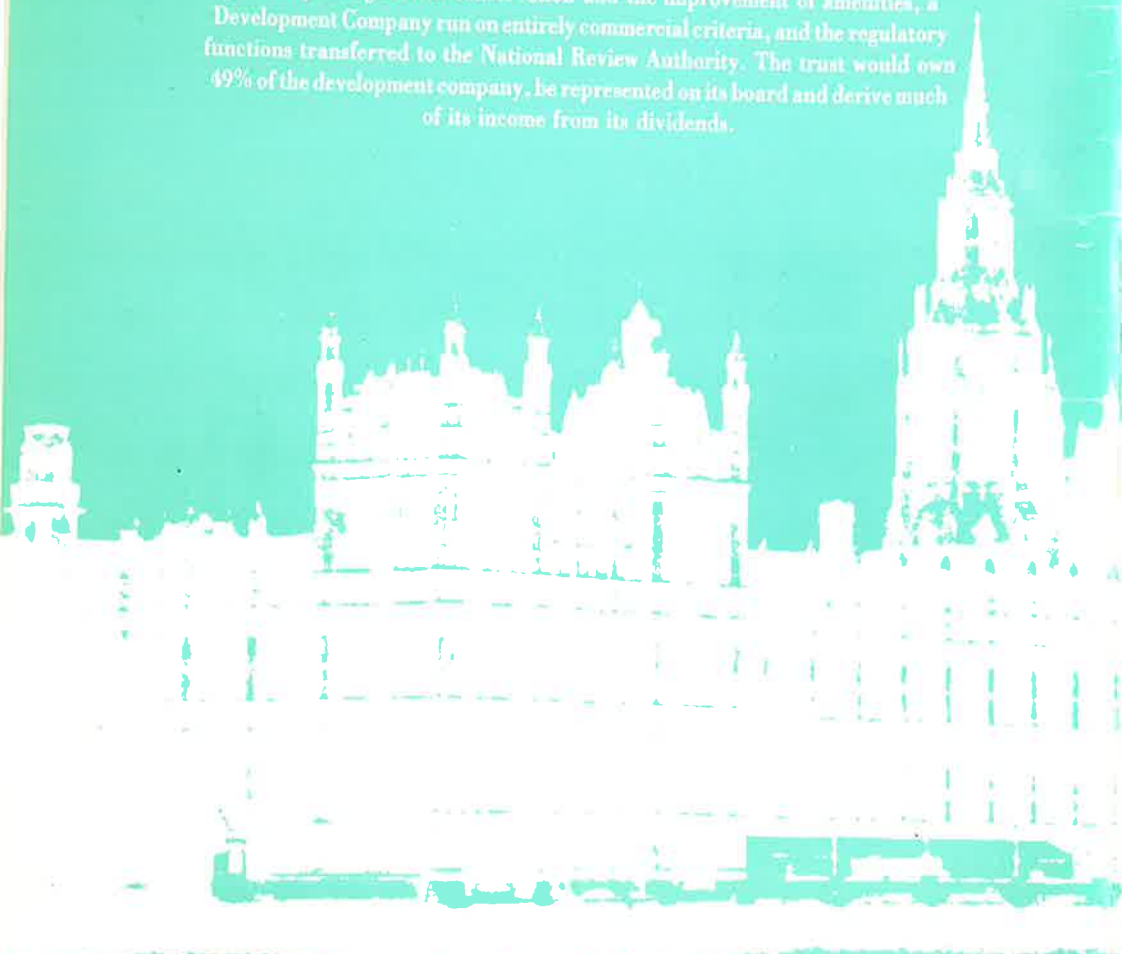
Marcus Jones

J&M Marine Services
www.jm-marine.net



Two thirds of British Waterways' income is provided by government. Although BW has lately tried hard to increase its revenue, both through joint ventures in development projects, and by raising its charges to anglers, cruising boats, moorings etc. to more realistic levels, prospects of straightforward privatisation must be slight, given the great shortfall in the income which BW generates for itself. Keith Boyfield, a Research Fellow of the CPS Nationalised Industries'

Study Group, proposes that BW should be split into three parts: a Trust primarily charged with conservation and the improvement of amenities, a Development Company run on entirely commercial criteria, and the regulatory functions transferred to the National Review Authority. The trust would own 49% of the development company, be represented on its board and derive much of its income from its dividends.





Policy Study No 118

Pleasure and profit from canals

a new plan for British Waterways

Keith Boyfield



CENTRE FOR ¹⁵⁶ POLICY STUDIES

4593.



Policy Study No 118

Pleasure and profit from canals

a new plan for British Waterways

Keith Boyfield

CENTRE FOR POLICY STUDIES

8 Wilfred Street, London SW1E 6PL
1990

The author

Keith Boyfield is a Research Fellow of the Centre for Policy Studies. A graduate of the London School of Economics, specialising in government, he was awarded a Social Science Research Council Studentship to conduct research into the performance of nationalised industries. He has served as personal assistant to The Rt Hon. Tom King MP and The Rt Hon. Lynda Chalker MP. He is now a partner in the consulting practice, Boyfield Morse & Letwin. His previous publications for the Centre include *BL: Changing Gear, Put Pits into Profit* and *The Property Services Agency – A Case for Demolition*.

Acknowledgement

This study was prepared for the Nationalised Industries Study Group of the Centre for Policy Studies. Support towards research was provided by the Institute of Policy Research and the Martin Landau Foundation.

The Centre for Policy Studies never expresses a corporate view in any of its publications. Contributions are chosen for their independence of thought and cogency of argument.

ISBN 1-870265-51-3

© Centre for Policy Studies, October 1990
Printed in England by G.Donald & Co. Ltd.
Unit 2, 54 Kimber Road, London, SW18 4PP

Preface

Conflicts between amenity and development are familiar, and all but inevitable. On the one hand there are those who wish to conserve, which tends to cost money; on the other, those who are keen to develop and make money. These conflicts are seen in a limpid form in the case of British Waterways. No one will deny the pleasure that the 2000-odd miles of canals and rivers give to those millions who walk, who cruise, who fish along their banks and towpaths. Nor can anyone shirk the fact that their maintenance costs far more than any possible revenue to be gained from such uses. Nor, again, can anyone be blind to the possibilities for commercial development in many of the basins and stretches of water.

How, then, to reconcile some at least of the conflicts? Should a single body, as now, be charged to do so – departments fighting their different corners, and falling back on the exchequer to rescue them from their failure to make ends meet?

This is the question which Keith Boyfield addresses. He proposes to establish a Trust whose principal duty is to conserve the great 'linear park' which we can all enjoy; and a Development Company to profit from the splendid opportunities for the building of residential, recreational and commercial complexes; and to transfer BW's regulatory functions to the National Rivers Authority. The split raises new problems. Their solving, however, should help to enhance the environment, regenerate the inner cities, and reduce the drain on the exchequer.

Director of Publications

Contents

	<i>Page</i>
Introduction	5
1. British Waterways' recent performance	7
2. BW's current strategy	12
3. Unscrambling British Waterways – a three-way split	20
4. Some thoughts for future directions	25
Summary of recommendations	29
Appendices	30

Introduction

British Waterways (B.W.) has, for many years, been the backwater of the nationalised sector – one of the very few remaining public corporations based on the Morrisonian model. Originally nationalised in 1947, it was established as a separate public corporation by the 1962 Transport Act. British Waterways is responsible for about 2000 miles of navigable waterways, mostly canals but with some stretches of river navigation. All the canals were built in the late eighteenth or early nineteenth century.

British Waterways includes 1,549 locks, 60 tunnels, 397 aqueducts, 4,763 bridges and 89 reservoirs. It also owns Sharpness harbour. It employs a workforce of some 2,500, two thirds of whom are categorised as manual.

Its activities can be split into three broad categories:

- (i) Commercial
 - Collection of freight tolls and dues
 - Port facilities
 - Estate management
 - Land drainage & abstraction
- (ii) Non (or semi-) commercial
 - Maintenance of canal banks, bridges, tunnels etc. and dredging
 - Property development
 - Wildlife conservation
 - Industrial archaeology
 - Pleasure craft boating
 - Angling
 - Amenities for walkers, riders, etc.
 - Museums
 - Recreational development
- (iii) Regulatory
 - Water quality
 - Pollution control
 - Navigation rights

This pamphlet argues that these activities are too diverse for any single body, whether public or private, to perform satisfactorily. It recommends that British Waterways should be

split into three separate bodies: one following wholly commercial criteria; the second concentrating on leisure amenities and conservation; and the third a regulatory agency¹, to oversee the these two new organisations.

1. B.W.'s existing regulatory functions should be transferred to the National Rivers Authority (responsible to the Secretary of State for the Environment).

1

British Waterways' recent performance

When originally established, B.W. was set a mixed bag of objectives, some outright commercial, and others more in the nature of general exhortations to promote the use of waterways for leisure, recreation and amenity. The goals often and inevitably conflicted. B.W. has never seen itself as a purely commercial profit-maximising enterprise, nor as a purely heritage trust. This is the root of its dilemma.

B.W. has never turned in a profit since its inception. As can be seen from figures 1 & 3, B.W.'s income amounts to about a third of its expenditure. It currently loses £45.5m a year. In 1989/90, self generated income amounted to £24.1m while expenditure totalled £70.6m. The shortfall of £46.5m was made up by government grants.

Figure 1				
B.W.'s costs structure (£mn)				
	1989/90	1988/9	1987/8	1986/7
Waterways operating + maintenance	54.2	47.9	46.6	46.8
Other operational costs	3.1	3.7	5.7	5.5
Administration	8.2	7.5	7.4	7.4
Restructuring costs	—	0.5	0.5	0.1
Irrecoverable VAT	1.2	2.1	1.6	1.6
Interest	1.1	2.0	2.9	2.9
Extraordinary items:	2.8	1.9	—	—
new computer systems				
Closure costs – freight – carrying fleets				0.6
Total costs	70.6	65.6	64.7	64.9

Source: British Waterways' Report & Accounts.

Unfortunately the break down above, reproduced from B.W.'s *Report & Accounts*, casts little light on its activities. For instance, no definition is given of 'administration' and 'other

operational costs'. What is abundantly clear is that B.W.'s biggest cash drain is maintenance; this item represents more than 70 percent of total outgoings, and has been equivalent to the annual shortfall made up by the taxpayer in recent years. What are termed restructuring costs relate to redundancy and severance payments – the Board has pared its payroll from 2,983 in 1986/7 to 2,492 in 1989/90.

Despite this pruning, the Board's total labour costs seem to have kept more or less level in real terms.

	1989/90	1988/9	1987/8	1986/7
Engineering dept*		24,036	22,227	21,676
Freight division*		1,478	2,488	2,536
Leisure & tourism division*		1,387	1,071	1,024
Estates dept*		1,301	1,305	1,296
Finance dept (inc. data processing)	1275	1,261	1,303	1,146
Personnel dept	803	703	637	606
Central charges and shared services	867	1,354	1,598	1,495
Total	33,436	31,520	30,629	29,779

Source: British Waterways' Report and Accounts (Note 6, 88/89).

*N.B. The figures in the latest 1989/90 accounts do not correlate precisely with previous years.

It will be seen that about three quarters of these costs are attributable to maintenance and operation of the waterways system. In contrast, the estates department, which is B.W.'s main income generator, accounts for only 4 per cent of direct employment costs.

The next figure shows the sources of B.W.'s income.

	1989/90	1988/9	1987/8	1986/7
Freight tolls and dues	1.2	1.1	1.1	1.0
Other freight activities	1.5	1.7	1.3	4.3
Leisure uses	5.9	5.4	4.8	4.4

Estate management	12.8	9.5	7.6	7.3
Water charges	2.7	2.2	2.4	2.6
Total	24.1	20.8	20.6	19.6

Source: British Waterways' Report and Accounts.

Observe that the Board derived about half its total income from its property interests. Lately the Board has pursued an aggressive strategy towards development. In various joint ventures with private sector property developers it has boosted its income by leasing off land, and negotiating leases on both new and refurbished buildings. And it has established a small headquarters team to instigate major property developments.

Notwithstanding all this activity – the Board currently has 200 development schemes in various stages of progress – it should be noted that some observers believe that its land and property portfolio is still greatly undervalued in the accounts. The open market valuation placed on B.W.'s property holdings doubled when its professional advisors, Weatherall Green & Smith undertook a revaluation in 1988. It must, however, be borne in mind that this is a somewhat rough and ready valuation based on only modest research.

B.W. points out that a great deal of confusion results from the failure to distinguish between the value of those sites which are derelict and those which have been fully developed. In the 1988/89 report & accounts, Weatherall Green & Smith estimate B.W.'s non-operational land and property holdings to be worth £210m. The Board estimate that the total developed market value is worth nearer £2 billion. However it also points out that to develop these sites would require a capital injection of around £1.5 billion.

So long as British Waterways remains in the public sector doubts will continue about the accuracy of the valuation of its land and property holdings.

What is undeniably the case is that the value of B.W.'s land and property portfolio depends upon what entrepreneurs are allowed to do with it.

The second biggest source of income (summed up in the category 'leisure use of waterways') are the combined fees and revenues derived from pleasure craft, hire boats, anglers' fishing

permits and the money generated by museums and information centres. Income from anglers amounted to £312,000 in 1988, 29 per cent more than in the previous year. It is generally agreed that more money could be raised from this source; for example, the Government has accepted the Environment Select Committee, suggestion that the present average charge for fishing is too low. Thus it has stated that:

'We agree with the IWAAC and the IWA that – initially – £1 per rod would be a very reasonable charge: as the fishery improves, it should be possible to increase charges further without discouraging the fishermen.'²

About 25,000 boats use the canal system, producing an income of £3,571,000 for the Board. In 1988, as part of a phased increase, the Board increased its fees and charges for boat licenses and registration certificates by an average of 8 per cent while mooring charges rose by an average of 9 per cent. But, in market terms, rentals may still be much underpriced. Mooring charges are around £1,500 a year in Little Venice, a part of central London where the neighbouring houses change hands for £1 million and more. Demand for such moorings far exceeds supply!

The third most important source of income is freight tolls and dues. The Board of B.W. believes that this will not produce much growth. Consequently, it has wound down its freight transport business on the grounds that it could not invest the sums required to make such activities profitable. The sale of B.W.'s remaining storage depots and ship wharves' businesses in April 1988 to Pointbid plc signalled the withdrawal of B.W. as a major freight operator.

Water charges are the final source of revenue. B.W. at present collects nearly £3m a year from the interested industries, including the newly privatised water utilities which abstract water from the canal network. B.W. could earn much more if it charged for essential drainage services; indeed, the Chairman estimates that it might be as much as £25m a year. But difficulties in measuring the value of these services have so far discouraged progress on this front. B.W.'s plea for a proper service fee for

2. Government Report to the House of Commons, Cmd. 967, session 1988/89, p.5.

its drainage services was backed by the Parliamentary Select Committee in its report in 1989, and the Government has indicated that it is sympathetic:

'... while precision is not possible, it would be feasible to produce a worthwhile approximation of the value of land drainage which the B.W. provides, and we recommend that the service fee ... should take this into account.'³

3. Parliamentary Select Committee on the Environment, session 1988/89, Fifth Report, HC 237.

BW's current strategy

The blunt fact is that the income which BW derives from the various users of the waterways system has been, still is, and is likely to remain, insufficient to meet the cost of maintaining its 200 year old network.

BW's present strategy to address this dilemma places great emphasis on property development. The present chairman sees the future as chiefly determined by what use can be made of its portfolio of land and property assets. British Waterways is keen to maximise its revenue from property development; its recent efforts to this end have attracted considerable press comment. Within the next three years the Board is seeking to self-generate at least two-thirds of its total income, thus reducing its need for government support. In broad terms it aims to generate about 55 per cent of its income from property with 25 per cent deriving from leisure and tourism; it is hoped the remaining 20 per cent will stem from other activities such as freight and water charges.

In February 1989 *The Sunday Times* pointed out that British Waterways was sitting on some extremely valuable property, particularly in London. These include 'the Board's planned office redevelopment around Paddington Basin . . . valued at £350m, its housing scheme now under way at Limehouse basin at around £250m', and 'Europe's largest redevelopment . . . the goods yards north of King's Cross', where the Regent's Canal Basin is at the heart of the £2 bn project.

It is also worth noting that in many places, BW owns narrow strips of land on both sides of a canal with derelict land immediately behind. If BW had the financial muscle to negotiate development of the entire site, it could make a lot of money.

Outside London, BW has recently participated in a number of major property developments, many of which are in the heart of our old industrial towns, e.g.

- Leeds Canal Basin
- Gas Street Basin, Birmingham
- Gloucester Docks
- Coventry Basin

- Milton Keynes
- Bowling Basin, Glasgow

The strategy of the Board to develop its property interests is clearly right. Only a few years ago, British Waterways had a poor reputation for negotiating property deals with the private sector. However, more recently it has begun to build up a team of skilled negotiators to work on major property developments. It has also begun to appoint professional advisors such as lawyers and chartered surveyors to help it on specific projects.

As part of this new initiative British Waterways has established joint venture companies with private sector partners to develop specific sites. For example, it has formed Limehouse Development Ltd with Hunting Gate Homes to develop the Limehouse Basin site. Similarly, it has established Gloucester Docks Management Company with Pearce Developments and Gloucester City Council to maintain the refurbished Gloucester Docks.

Nonetheless, as long as it remains within the nationalised sector, British Waterways will find obstacles in the way of raising the required amounts of capital for any major property development. True, the arrangements have recently been relaxed somewhat. Up till this year British Waterways had to spend almost all the money it received from government within a single financial year, not being allowed to carry forward more than £1 million in unused income to the next financial year. Following the Government's approval of the board's integrated business plan earlier this year, British Waterways is now authorised to retain up to £5m of its own self-generated income on the understanding that it will be used for specific projects within the Board's forward investment programme. Though the difficulties associated with government borrowing are less onerous than they were, British Waterways still suffers from the inevitable constraints dictated by its public sector role.

British Waterways has persuaded the Government to maintain broadly its level of grant funding whilst at the same time allowing it to retain the income it generates from its commercial activities. As stated in its response to the select committee inquiry, the 'Government recognises that the Board needs to be able to respond speedily and flexibly to development

opportunities and accepts that the Board needs greater freedom of action if it is to be able to derive maximum advantage from its property holdings' (para 18).

The Government has thus accepted the management's argument that the business requires more 'up-front' investment if the level of grant is ever to be substantially reduced in the longer term.

Until now, the Board's role in property development has effectively been confined to selling the freehold land which development companies then exploit. Its share of the profits from such property schemes has accordingly been modest. Only in the private sector will the Board's property development arm be able to maximise the very great potential which still remains.

The Board claims that it is not in the business of property development on its own, preferring to see itself 'as a partner with the private sector where our particular expertise in the managing and upkeep of water can be useful to that joint venture'⁴.

This approach seems unduly restrained. Surely it is far better to set up a designated, private sector vehicle to exploit fully the derelict land and property which has been in BW's ownership for nearly half a century: one which is free to recruit a team of property managers able to borrow capital in the international market place.

Associated British Ports, since it has been in the private sector, has shown how successful a previously nationalised concern can be, once it is allowed to exploit its property assets in a serious commercial manner. The company, which is the largest ports group in Britain, is involved in an extensive programme of property development, estimated on completion to be worth over £800 m. In 1988 50 per cent of ABP's pre-tax profits was derived from property activities, while in 1988/89 they contributed £18 m towards pre-tax profits of £57.2m. It has recently established a new subsidiary, Grosvenor Waterside, to redevelop run-down derelict sites in ports such as Cardiff, Hull and Plymouth.

ABP's innovative example is one which British Waterways could profitably follow.

4. *Source.* Ibid – reference 3.

The maintenance backlog

The principal challenge facing BWB is how to tackle its £200m maintenance backlog; despite the fact that in the financial year 1988/89 61 maintenance projects were undertaken by the Board, ranging in cost from £50,000 to £1.2 million – a total of £24.5 million. BW's inability to keep pace with the need to maintain the canal system in proper repair must be counted as its greatest failure. As long ago as 1975 a report by Peter Fraenkel & Partners warned that arrears in maintenance would cost £60m to put right. Since then things have steadily deteriorated, despite a government grant of £8m p.a. towards maintenance arrears since 1983/84.

Why has this situation been allowed to develop? The principal trouble is BW's inability to create more self generated income; which in turn has made British Waterways ever more dependent on the Treasury. But the levels of grant received from central government have been insufficient to keep pace with the needs of maintenance. And then there is the Board's own lamentable labour productivity record. It is not only anecdotal evidence which supports this latter criticism: there are also the detailed findings of a Monopoly and Mergers Commission inquiry in 1987⁵. This exposed the fact that, until recently, BWB had no uniform criteria for measuring maintenance standards and tasks, and so had no means of measuring out-turn performance against properly based targets. Moreover, the MMC:

'found serious shortcomings in BWB's formal appraisal of maintenance projects; in particular it needs to take more account of the usage or projected usage of the waterways, to analyse costs and benefits in money terms, and to use discounting to compare costs or benefits which occur at different times in the future.'⁶

In view of these criticisms it is not surprising that the MMC concluded that:

'BW's situation was one which does not seem to have given its staff much confidence in the future of the

5. Cmd. 124.

6. Para 2.15.

the waterways, or a strong sense of purpose to improve the running of the business.' (para. 2.10)

The present management has been trying to address these shortfalls. But why are not more outside contractors used? On specific maintenance projects, the MMC pointed out that:

... 'we do not think the BWB should take each decision on an ad hoc basis, as it does at present: it should take decisions for each category of work on the basis of comparisons of in-house and contractors' costs' (para. 2.14)

Figure 4 beneath shows how great has been BW's failure to recoup sufficient income to enable it to maintain the canal network. Income raised from direct canal users contributes only about a fifth of the cost of upkeep. Now the Board's waterways are divided into three categories: commercial, cruising and the remainder. Only the first two of these need to be maintained to such a high standard they can be used by commercial or pleasure craft. It is worth noting that the MMC thought that the rigidity of this threefold classification had led to BW's failure to respond more effectively to the need for improving the management and maintenance of the waterways system.

Figure 4
BWB waterways costs and revenues

Category	Length (miles)	Operational costs		Gross revenue	
		Total £000	Per mile £000	Total £000	Per mile £000
Commercial	350	13,658	39	2,824	8
Cruising	1,100	27,795	25	6,234	6
Remainder	500	6,771	14	1,044	2
Total	1,950	48,224	25	10,102	5

Source: Parliamentary Select Committee on the Environment, session 1988/89, Fifth Report, HC 237.

Conclusion

There seems to be no reasonable prospect of British Waterways transforming itself into a profitable enterprise in the short term,

say within five to ten years. As the Environment Select Committee inquiry pointed out:

'Given the history of the system, it is unlikely that the Board can ever run its affairs on a wholly commercial basis. Much of the value of the canal network to the community at large lies in its land drainage functions and unquantifiable environmental benefits. It is therefore inevitable that the BWB will continue to rely on public funds for a significant proportion of its annual turnover'.⁷

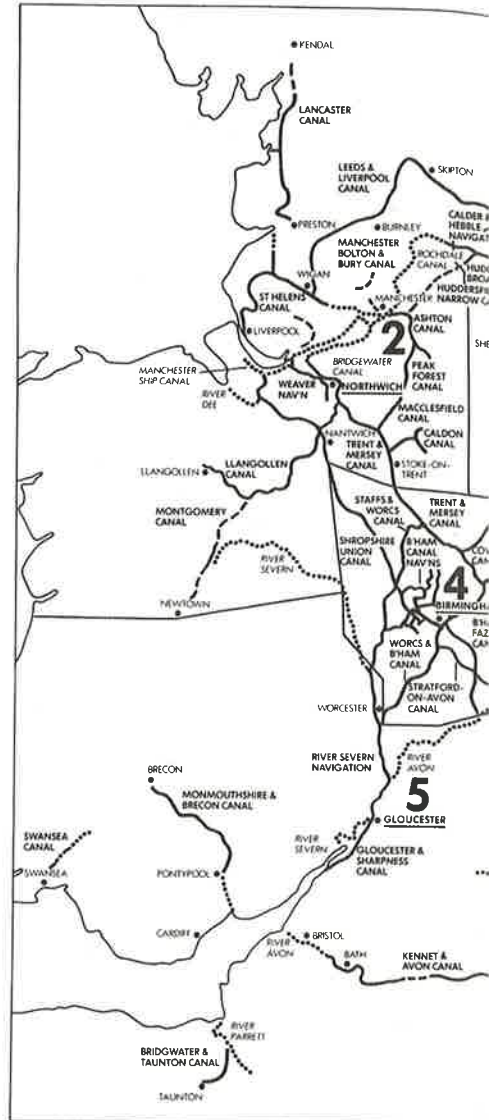
It is unlikely that any private sector concern would wish to buy BWB in its entirety – even a major property development company such as Trafalgar House – given the substantial losses incurred and the maintenance backlog of BWB, and having regard to the pay-back times sought in major property development schemes. Moreover, the private sector would not be enticed by the statutory obligations which any government is likely to enforce on a commercial owner.

A straightforward privatisation would, then, hardly be a success. The Treasury cannot look on the sale of British Waterways as a future major contributor to Exchequer funds.

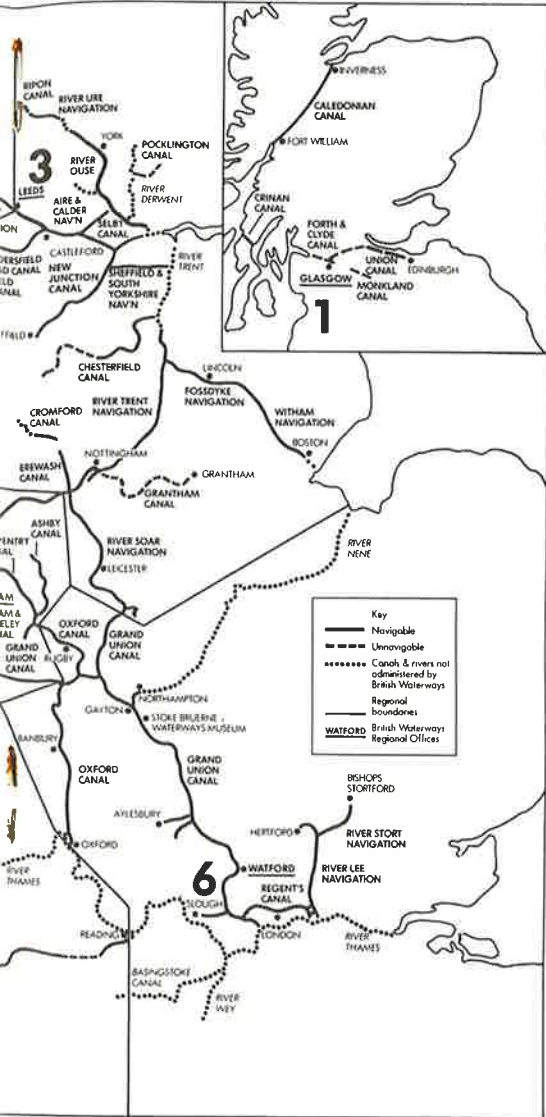
7. Parliamentary Select Committee on the Environment, session 1988/89, Fifth Report, HC 237.

The Water

Source: British Waterways' Report & Accounts 1989/90



ways Network



Regions:

- 1** Scotland
- 2** North-West
- 3** North-East
- 4** Midlands
- 5** South-West
- 6** South-East

Unscrambling British waterways – a three way split

Even if the Chairman's new management team do succeed in boosting income and cutting costs, it is difficult to see how the Board as at present constituted could ever run on a commercial basis, given the maintenance backlogs, the Treasury restraints and the other difficulties outlined above. It is hard to fault the Environment Select Committee's view that BWB will 'continue to rely on public funds for a significant proportion of its annual turnover'.⁸

That is not to say that the Select Committee report is necessarily right. The potential wealth locked up in the Board's portfolio of land and buildings might, if managed in the right hands, be able to earn enough to allow the Government to float BWB in the private sector. Certainly the Government should not neglect this possibility. The rest of this pamphlet, however, will suppose that such straightforward flotation is not practicable, and focus on an alternative option.

As explained in Chapter One, the root of BWB's problem is that it has been charged with fulfilling a series of often conflicting objectives. It is supposed to be part custodian of the national heritage, part leisure amenity, part commercial freight operator and part property developer. It is not surprising if one body is unable to attain all these goals.

A recommended approach

First, it is recommended that a new company should be formed, called, let us say, British Waterways Developments (BWD). BWD would be charged with exploiting BWB's land and property interests, both on its own and with private sector partners. Appropriate dividends from this commercial company (placed in the private sector) would be channelled into a Trust whose principal duties would be to improve amenities and maintain the canals. Establishing a separate company to exploit BWB's

8. Ibid.

property assets would focus attention on their precise development value and give a clearer idea of their true worth. Free of the maintenance and amenity obligations placed on British Waterways, a majority 51 per cent stake in BWD could be sold by the Government to a private sector company or consortia (or float 51 per cent of the shares on the stock exchange). The closest parallel to such a public offering is probably Associated British Ports, whose land and property assets have underpinned its success since privatisation.

It is suggested that BWD would be responsible for the following activities, from all of which profit can be hoped for:

- property management
- property development
- land drainage and abstraction
- freight
- hotels
- restaurants, bars and other leisure developments

Second, the Government should establish a Waterways Trust, modelled on the lines of the National Trust (and perhaps in association with the National Trust), which would be responsible for the other activities currently undertaken by BWB which are not primarily commercial, namely:

- maintenance of the canal system (banks, bridges, tunnels, etc)
- amenity services for anglers, boaters, walkers and riders (e.g. information centres, museums, picnic sites, etc.)
- nature conservation programmes
- conservation programmes related to industrial archaeology

The Waterways Trust would have a 49 per cent stake in BWD. Thus, the Trust would have a vested interest in the commercial success of BWD, but, at the same time, its representatives on the board would seek to ensure that any commercial activities such as property development, would be sensitive to the amenity aspect of the canal network. Half of the dividend income generated from BWD's property and other commercial interests would be channelled into the Trust to help maintain the canal network and improve amenities.

It is further recommended that the Waterways Trust should be devolved to local level, perhaps utilising BW's present

management structure based on 28 canal networks. One of the prime objectives should be to try and enlist the support and interest of voluntary amenity groups. Just how successful canal trusts can be is exemplified by the Kennet & Avon Trust which has raised £2.5m towards the canal's £4m restoration. This voluntary commitment is also long term – Commander Nicholas Wright, the general secretary of the Kennet & Avon Trust has affirmed that:

'We will continue to raise funds for improvements.

We see ourselves as very much the guardian of the canal, although it is owned by British Waterways'.

(The Daily Telegraph, 7 May 1990)

Local authorities are also prepared to recognise the amenity role provided by canals in the form of hard cash. Among those authorities contributing to the restoration of the Kennet & Avon canal are Wiltshire, Berkshire, Reading, Newbury, West Wiltshire, Wansdyke and Bath City. According to press reports these authorities have committed themselves to a grant of £300,000 a year for canal maintenance.

It may prove useful to establish a pilot study whereby a stretch of canal is managed by an autonomous trust. The South Stratford Canal is a candidate for such a trust. It has recently been transferred to British Waterways and is undergoing a major restoration, beginning at Stratford upon Avon. Inevitably the success of such trusts will depend on the leadership of particular individuals but a national umbrella Trust might well be able to forge a successful relationship with voluntary organisations, local authorities and central government agencies such as the Training Commission, and potential commercial sponsors.

The Waterways Trust should be governed by a Council. Some council members might be appointed by government while others could be nominated by national institutions such as the Nature Conservancy Council and the Ramblers' Association, and the rest elected by members. The Trust would receive a dowry to help it meet short term losses and tackle BWB's accumulated maintenance backlog of £200 million. Although outside the public sector, it might get government grants or 'service fees' for activities such as restoration of bridges and tunnels. Other possible sources of income are given in Appendix 2.

Third, BW's regulatory functions relating to water management, land drainage, water quality, effluent discharges, fisheries and navigation rights should be transferred to the newly established National Rivers Authority. Government Ministers recognised that the overlap with the NRA would have to be reckoned with when the Water Bill privatising the ten water authorities of England and Wales was proceeding through Parliament.

In respect of one regulatory matter, Lord Hesketh, the then responsible minister, told the Commons select committee on the environment that:

'We would not rule out reviewing the division of responsibility between the NRA and BWB on navigation matters in a few years' time when the immediate tasks of the BWB and the NRA to establish themselves, respectively, as a fully commercial business and a regulatory body, have been successfully accomplished'.⁹

The National Rivers Authority is responsible for water quality and pollution control; river management and other resources, granting licenses for abstraction and land drainage; promoting conservation and improving amenities and the navigation functions formerly undertaken by the Anglian, Southern and Thames Water Authorities.

BW's regulatory functions are prescribed under the Transport Act 1962, the Transport Act 1968, and the Water Resources Act 1963, Section 131 of which governs the issue of abstraction licenses for canals owned or managed by BW. The British Waterways Act 1983 sets out BW's powers to regulate and manage inland waterways, e.g. registration of pleasure boats, recovery of charges and statutory authority to obtain information on vessels using the canals; the Wildlife and Countryside Act 1981 deals with notification of Areas of Special Scientific Interest. There are also a number of other Acts of

9. Hansard, House of Commons, page 136.

Note: The Government has now promised to review navigation rights within the next three years.

Parliament which affect BW's regulatory responsibilities, for example, the Ancient Monuments and Archaeological Areas Act 1979.

Advantages of proposed split

Such a split should help managers to get on with these two distinct activities – one wholly commercial, the other a public service amenity. Historically, the gulf between the two cultures on the BWB has been wide – witness the Chairman's exasperated comment to the Commons Select Committee on the Environment, 'If we are to become a commercial organisation, we ought to be judged more on financial matters – on money! There seems to be an overdue emphasis on other parameters'¹⁰

The suggested split acknowledges this gulf. Establishing a separate property development company should also enable the Trust to attract professionally competent managers, without problems over paying appropriate remuneration to them. (The Board has encountered considerable difficulty in holding on to its key staff, particularly on the property side, like many public corporations, it is reluctant to pay market rates.)

One possible model of the relationship between the proposed Waterways Trust and British Waterways Development is sketched in Appendix 1.

10. Op cit, Page 51.

Some thoughts for future directions

However British Waterways is restructured in the future (one thing is certain, it will not remain as it is), there are considerable opportunities to make better use of our inland waterways inheritance. This final chapter outlines some ideas for the way in which greater use can be made of this under-utilised resource. These suggestions encompass commercial, recreational and leisure uses.

Freight

B.W. does not operate boats itself; all waterborne transport is undertaken by private sector concerns. The Board, however, is responsible for promoting freight transport by canal, and it collects tolls based on the type of cargo and the distance carried.

Much more consideration should be given to exploiting the freight potential of our navigable waterways. For example, there is scope for upgrading some of our rivers through dredging to make them better suited to commercial traffic. The Government might wish to pursue the suggestion of the National Waterways Transport Association and carry out a series of feasibility studies on improving navigable waterways so that they can accommodate larger vessels, particularly those with a sea-going capability.

An example of the contribution which canal-borne freight can make is the recent improvement of a section of the Sheffield and South Yorkshire Navigation between Rotherham and Doncaster. A £16m improvement programme undertaken between 1979 and 1983 allows barges up to 700 tonnes dwt. to navigate this stretch of canal carrying coal, oil and other minerals. Funding for this improvement came from the Government, the EC European Development Fund and the local authority.

For all practical purposes commercial freight operations are limited to the wider canals and navigable rivers; the original inland canals dating back to the eighteenth century have no real commercial future as far as freight is concerned. Nonetheless, considerable scope for such initiatives exist on the East Coast and in the Midlands. The River Nene is one example.

Such a policy would obviously be environmentally attractive because it would help remove bulk cargoes from our congested road network. If the Government introduces a 'carbon tax' on road haulage, as has been hinted¹¹ carriage by water will become financially more attractive.

Coal is currently the predominant cargo carried by waterway both in terms of volume and value. In 1988/89 1.9 million tons was carried by boat, but nearly all of this was accounted for by the power stations at Ferrybridge on the Aire and Calder Navigation.

British Waterways is already looking at the possibility of building up this potentially important freight market. Much greater use could be made of packet boats carrying coal and other bulk cargoes to inland ports and power stations. Such an option may well prove attractive to the newly privatised electricity generators, who are likely to want to import coal from the continent and elsewhere.

There are six major solid fuel burning power stations located on British Waterways canals. They are all potential customers. There is a seventh potential customer at Eggborough, just a few miles from the Aire and Calder and currently the subject of a feasibility study for cutting the first new canal since 1890. National Power has commissioned this study to examine the prospects for opening a new commercial canal to carry 5.5 million tonnes of coal a year by barge from Gascoigne Wood colliery to its power station at Eggborough.

BWB's potential market is lucrative, as can be seen below. At present water transport accounts for only 6 per cent of the coal transported to the seven power stations listed below. There is a lot of potential to improve this market share.

**BWB's POTENTIAL FREIGHT MARKET:
MAJOR POWER STATIONS LOCATED ON CANALS**

<i>Power Station</i>	<i>Gen. Co.</i>	<i>Waterway</i>	<i>Annual Tonnage</i>
Ferrybridge B&C	Power Gen	Aire & Calder	5 m
Cottam	"	Trent	4m
High Marnham	"	Trent	2m

11. *Policies against Pollution – the Conservative record and principles*, Nicholas Ridley, CPS, 1989.

Thorpe Marsh	National Power	SSYN	2m
Drax	"	Ouse	8-9m
West Burton	"	Trent	4-5m
Eggborough	"	New cutting from Aire and Calder	4-5 m

There are also other bulk cargoes which could be moved by water-borne transport. An example is the oil used as a start-up fuel in power stations. In 1988/89 64,000 tonnes of fuel oil was moved by barge to four power stations, which represents a market share of 32 per cent. British Waterways is confident that this market share can be improved. Other cargoes which could be borne by water are cereals, chemicals and fertiliser.

Urban regeneration

Canals have an important role to play in the regeneration of our urban centres. Once renovated, waterways can serve as civilised focal points of towns and cities. A splendid example is the colour and charm of the Gas Street Basin in the very urban setting of downtown Birmingham. Many of these improvement programmes have been supported by the Government's Urban and Employment Creation Schemes. For example, six miles of canal towpath have been attractively restored as part of the Birmingham Inner City partnership programme, at a cost of £3m. Unshackled from public sector constraints, British Waterways Developments would be freer to forge joint ventures with other private sector partners, Urban Development Corporations and local authorities.

New initiatives adopted by the Manchester Ship Canal Company point the way. Having now bought out Manchester City Council's interest in the company, Mr John Whittaker, the Manchester property developer who has acquired the company, is keen to exploit the company's land assets. The Ship Canal has won Department of Environment approval for a major out-of-town retail and leisure development on a 300 acre site adjacent to the canal and next to the junction of three motorways. This site alone is estimated to have a likely eventual worth of £200m.

Another example of a waterway with scope for improvement is the Oxford Canal. Following public pressure about its state of neglect, British Waterways recently launched a proposal to

upgrade a 1¾ mile stretch of the canal which winds its way through the centre of the city. The plan involves proposals for landscaping canal banks, building a harbour for residential moorings and waterside homes, a mixed use development on the site of the old canal basin (now a car park), adjacent to Nuffield College, and a new hall of residence at Keble College.

These plans, drawn up by BW's Environmental Service Unit at Hillmorton, Rugby, are so far only proposals, but they give an indication of the potential contribution which could be made by this canal corridor which has unfortunately been allowed to become so extremely shabby.

Heritage and access

British Waterways is sometimes referred to as a linear national park, 2000 miles long. BWB is responsible for 1549 locks, 60 tunnels, 1715 listed buildings, 130 ancient monuments, 397 aqueducts, and 50 sites of special scientific interest. The Board is fond of recounting this inventory list but it is surprising to learn that it has only just launched a national survey to record, measure and evaluate the landscape, heritage and ecological treasures for which it is responsible. Up till now it has had only a vague appreciation of the character of its estate. The survey will be recorded and updated on computer so that it provides an instantly accessible tool for management; it is supposed to be completed within two years.

The survey is likely to prove an indispensable guide and might well uncover some forgotten treasures. Peter White, the Board's chief architect, compares the canal network at times to a secret garden waiting to be explored. In many instances this is very true. Because of previous neglect, parts of the canal system are very inaccessible, especially by foot. Much more could be done to make the canal system more accessible to the public, whilst taking care not to destroy the romanticism which for many is its greatest appeal. In practical terms this calls for the construction of car parks, picnic sites and information centres which harmonise with their environment and maintain the character of the waterway.

Summary of recommendations

- (1) There is no serious prospect of privatising British Waterways as a single business.
- (2) There is little point in continuing to run British Waterways as a nationalised industry with a statutory obligation to pursue a set of conflicting goals.
- (3) British Waterways should be split into three separate bodies, reflecting the differing functions it is currently asked to perform. It is recommended that the Government should:
 - establish a Waterways Trust (along the lines of the National Trust) to maintain the canal system and improve leisure and recreational amenities;
 - set up a public limited company (British Waterways Developments plc) to develop the commercial potential of BW's property assets and freight business;
 - transfer BW's regulatory functions to the National Rivers Authority.
- (4) The Waterways Trust should hold 49 per cent of the equity in British Waterways Developments plc. This would give the Trust a vested interest in supporting the commercial success of BWD and provide it with a valuable stream of dividend income. It should also help to ensure that property sites are developed in a manner sympathetic to the waterside environment.
- (5) The Waterways Trust should seek to develop its own trading activities such as pleasure boating, angling, museums and shops, etc. whilst also vigorously exploring the opportunities for commercial sponsorship. Where appropriate, the Trust should negotiate service fees with central government, local authorities and Urban Development Corporations for the amenities and water drainage services it provides.
- (6) More could be done to promote commercial freight, especially on the East Coast. There may be great opportunities for boats transporting coal to power stations in the East Midlands. This would help to reduce traffic congestion and the environmental damage caused by heavy lorries.

Appendix 1

A model for the relationship between the Waterways Trust and British Waterways Developments

It would of course be possible to do without any Development Company; and simply to identify all the sites suitable for development and either sell them outright or engage in joint ventures of some sort. This would be to carry the present course of action to its conclusion. But it would also be to neglect the way in which development and amenity are, and should remain, interwoven. Developments which paid no regard to the interests of fishing or holiday cruising or walking or historical association etc. would find little favour with the public. And it would also neglect the other commercial activities, such as freight, which might be better developed by a separate company oriented towards business rather than amenity.

To set up a company in which a Trust had a large minority of any equity, and on whose board it was represented, is both to provide some income for the Trust and some safeguard for amenity.

The objectives, then, behind the recommended split are twofold: first, to realise on behalf of the taxpayer the value of the Board's commercial activities and potential; second, to lay a foundation for improving amenity and leisure facilities. But there will be difficulties in establishing the exact nature of the relationship, if one is to steer between conflicts of interest on the one hand, and a 'cosy' relationship on the other. Among the questions which would need to be answered are:

- (1) Should the Trust or the Development Company own British Waterway's present land and property holdings?
- (2) Would the Development Company have a monopoly right to develop land and property currently owned by British Waterways?
- (3) How would land be assigned to the Development Company for development purposes?
- (4) What are the merits of franchising the toll rights to British Waterways' commercial canal network?
- (5) What would happen if the Trust was unable to raise

sufficient income to maintain the canal system?

The list is not exhaustive, but it shows some of the major problems to be settled prior to denationalisation. Taking each issue in turn:

1. Ownership

On balance, it would probably be better to transfer BW's assets to the proposed Trust, which would be responsible for the maintenance of the entire canal system. British Waterways Developments' commercial success would hinge on the specialist services it could offer in developing property sites, property management and promoting the freight business. The company would of course be free to diversify into related fields and promote its services overseas, following the successful example set by Associated British Ports.

2. Exclusivity

On the other hand, the Development Company would not enjoy an exclusive monopoly right to develop the Trust's property sites. Initially, the Trust would agree with BWD a 'dowry' of sites for property development. These properties would be assigned to the Development Company on long leases and the Government would seek to recoup the market value of the sites when it floated the Development Company on the stock market. Such a flotation would be open to review by the National Audit Office which should ensure that the taxpayers' interests are safeguarded.

3. Allocation of leases

Henceforth, the Trust would offer leases on its land and properties on a competitive tender basis; and its relationship with the Development Company would be at arm's length. Firms who felt that their bids had not been fairly considered would be able to take their case to the Office of Fair Trading in the normal manner.

The Trust would have an incentive to develop its land – holdings since this would boost its dividend income from

the Development Company. However it would also be free to negotiate contracts with other developers who put forward attractive schemes which also promise to provide a long term income for the Trust.

The Trust would therefore operate along lines similar to those of private Trusts, such as the Grosvenor Estate and the Duke of Devonshire's Estate.

The Development Company's future prosperity will inevitably depend on the ability of its staff to initiate successful property development projects, both with the Trust and other partners, and to operate BW's other commercial activities such as freight. If it fails to achieve commercial success, it will be in the same position as any other struggling property development company, and may risk takeover. The reason for establishing a specialist private sector developer, however, is to see the company capitalise on its initial dowry of sites and expand its activities both in Britain and abroad, thus providing a growing dividend income for the Trust.

4. Franchising

BW earns over £1 million a year from toll revenues. There is probably considerable scope for boosting this income, particularly from power generators. BW's freight activities should be transferred to the new Development Company on a franchise basis. It is envisaged that freight revenues might serve as a so-called 'cash cow' to develop other aspects of the company's business.

The Government may wish to consider franchising freight tolls. In order to guard against any anti-competitive tendencies and to encourage innovative management it may prove attractive to assign set period franchises for the right to collect freight tolls. Effective franchising can realise many of the benefits of competition, even where there is a single supplier at any given time, because when the franchise comes up for renewal the existing franchisee has to compete with other potential operators. Such a policy has been adopted in the case of the new channel tunnel link; it has also been in operation for such businesses as

motorway service stations and ITV broadcasting for many years.

5. Long term viability of the Trust

Sceptics may ask, 'What happens if the Development Company fails and the Trust is unable to raise sufficient income to meet its responsibilities for maintaining and improving the canal system?'

It would probably have to go with a begging bowl to the Government. An unsatisfactory conclusion – but at least a policy would have been tried which stands a fair chance of success. As things stand, British Waterways cannot be transferred outright to the private sector. It will continue to be a burden on the taxpayer, pursuing a host of conflicting objectives.

However through a combination of government service fees, local authority amenity grants, the money it is able to raise through its own trading activities, commercial sponsorship and the dividend income to be expected from the privatised Development Company, the likelihood is that the Trust will be able to cover its costs. (It certainly will not by maintaining the status quo.)

It is surely a more attractive idea to maintain our canal system through a Trust rather than under the aegis of an outmoded and commercially disastrous nationalised corporation. The amenities should be preserved and enhanced; the developments should make money, accruing eventually into the pockets of popular shareholders.

Appendix 2

Potential sources of income for the Waterways Trust

Some canals are always likely to incur a loss. Under the Transport Act 1968 and the British Waterways Act 1983 500 miles of canal, corresponding to 26 per cent of the entire network, are classified as 'remaindered'. The Board is statutorily obliged to maintain these 'remaindered' waterways only insofar as to ensure that they meet minimum public health and safety standards. In order to restore these stretches of canal to full navigation or 'cruising' standard, the Department of Environment insists that the riparian local authorities agree with the Board appropriate long term grants to pay for the additional cost of maintenance.

Under the scheme proposed here responsibility for the maintenance of canals such as the Kennet & Avon or the South Stratford upon Avon Canal would fall on the Trust. It would be mandated to raise finance through a combination of voluntary, government and local authority support. It should also vigorously explore the opportunities for commercial sponsorship of towpaths, information centres and noticeboards, etc.

Financial sponsorship could be attracted from those companies manufacturing or marketing products and services to boaters, walkers, riders, and cyclists. Examples are:

- hiking equipment manufacturers
- manufacturers of outdoor clothing
- specialist footwear manufacturers
- suppliers of saddles, harness and riding clothes
- picnic equipment
- camping equipment
- photographic equipment and supplies
- map and guidebook publishers

Local businesses are also another potential source of sponsorship as are companies with special reasons to demonstrate their concern for the environment, because their activities or products are believed to cause pollution, eg oil companies, mining companies, chemical producers. Another source of sponsorship might be those companies concerned with health and leisure in general, eg. pharmaceutical manufacturers,

From:
To:
Subject: RE: Project to investigate canal moorings
Date: 24 May 2013 11:33:54
Attachments: [image001.jpg](#)

Dear Matt

I am writing to inform you how the boats moored on the Richmond side of the River, opposite The Lensbury, have had an impact on our Watersports Centre. Below are a few of the things that have happened over the last couple of years;

- The owners of the boats on many occasions drink to excess and consequently get into arguments and use abusive language very loudly and even get into fights
- Music is played very loudly for long periods of time
- Fireworks have been set off during the daytime from the boats
- The boats have been seen mooring on our land and filling their water tanks using our water supply
- Many of our members have asked about where they dispose of their toilet waste, i.e. do they just chuck it overboard. Not being able to answer this question has led to parents not booking their children onto our courses as they do not want their children in the river with the uncertainty surrounding this issue.
- In the summer months some of the owners swim in the river and interfere with the courses we set our clients to sail, they endanger themselves and our safety boats have to move the course set and the boats using it

If i can help further with anything please contact me

Many thanks

Mark Hughes

The Lensbury Watersports Centre

Jenny Jones AM
Greater London Assembly
Co City Hall
By E-mail to: to

Simon Robbins
London Secretary
National Association of Boat Owners
(NABO)

www.nabo.org.uk

06 June 2013

Dear Jenny

London Assembly investigation into waterway moorings

Thank you for your letter of 08 May inviting ours comments.

I conscious that most of what I have written below is context or background rather than any suggestion about solutions. The difficulty is as you will gather that

1. The problem is poorly defined and there is a lack of good evidence on many points. Much of what is said on this subject is in my view based on hearsay.
2. There is such a wide diversity of mooring arrangements in London that finding common ground or policy is difficult. This is made more difficult as there are three principal navigation authorities.
3. In the case of the River Thames there is limited scope from intervention on the question of numbers of moorings as riparian rights generally apply.
4. In the case of the Canal and River Trust (CRT) there is more scope for intervention as in many cases CRT are also the riparian landowner.
5. However CRT's position means that some matters are arguably being driven more by commercial motives rather than a genuine concern to manage the waterways better for all.
6. There is a history going back decades of CRT not investing in infrastructure in proportion to the increasing numbers of craft on its waters and the increase in the proportion of those craft used residentially.

The following narrative is therefore as I say largely comment on how NABO views the present situation.

DEMAND AND SUPPLY OF MOORINGS

Navigation Authorities and General Regulation of Boating

It may be helpful to consider matters in terms of the respective navigation authorities and their geographical responsibilities, which in effect divide jurisdiction into three distinct and largely mutually exclusive geographical areas. The three principal authorities in London and their areas of responsibility are:

- **Port of London Authority (PLA)** – Tidal Thames.
- **Canal and River Trust (CRT)** - Canals and the Rivers Lee and Stort.
- **Environment Agency (EA)** - for the River Thames navigation upstream of Teddington Lock.

It should be noted that there are a few locations where none of the above or hybrid arrangements apply but these are rare exceptions.

The existence of three principal navigation authorities means that there are three broad regulatory frameworks, depending on which waterway you are on, each slightly different in some aspects.

Even within a given navigational jurisdiction, the 'rules' about using and mooring boats come from a variety of different sources which were not developed in tandem and which in some cases seem to contradict each other, hence:

- There are different statutory and secondary rules and regulations compared between Navigation Authorities, both concerning the licensing of craft and control of moorings, set out across various pieces of legislation and policy.
- Navigation authority permissions and conditions applicable for creating and managing moorings including fees or charges (if any) due to the navigation authority for any licences and permissions to run moorings also include significant variations in detail and in approaches to implementation, pricing and valuation.

Beyond this the navigation authorities' powers and responsibilities are specific and various but some relevant matters are not their responsibility but rest with third parties. The most notable examples are:

- the local planning and building control system administered by individual boroughs. There are differences in the application and interpretation of specific requirements, if any, of local planning conditions from mooring site to site and borough to borough and similar variations in the approach to the land valuation methods applied to moorings for council tax and/or business rate.
- environmental protection including responsibility for noise and other nuisance is principally split between boroughs and the Environment Agency, though other agencies may have very specific involvement in given situations.

- criminal matters usually remain under the purview of the local Constabulary, in most parts of London, The Metropolitan Police, though British Transport Police and The City of London force also have significant input.
- The 'usual' complexities of London government apply and specific agencies will have relevant responsibilities.

Sometimes inconsistent enforcement of policies by parties also means that notwithstanding (or perhaps in part because of the overall regulatory complexity), there is considerable variation in the practical observance and application of and similar variance in respect of compliance with the various regulations depending on where you moor your boat.

The differences while confusing to the newcomers to the subject, become more understandable because the administration of the waterways by three different navigation bodies over a wide geographical area in large part reflects the different histories and natures of those waterways and the historical administrative arrangements that have evolved, in the case of the river Thames for over 1000 years, in the case of the canals for over 200 years. For example The PLA in particular has to take a different approach because the PLA's core business is not leisure and residential navigation in central London but the successful management of some of the nation's most significant international sea-ports further down the Thames Estuary.

Conclusions

- **From the outset there is no single baseline from which to refer when considering the problem of mooring facilities on a pan London basis. There is much difference or perhaps more positively, much diversity in boating in London.**
- **Over 20 years' personal experience in this area suggests that as a consequence of this diversity a case by case approach with reference to the relevant regulations but taking account of diverse local circumstances is often the only practical and equitable way forward.**

PROPERTY AND MOORING RIGHTS

It is important to note the structure of land ownership and management underlying moorings provision. In the simplest cases a four-way, largely hierarchical relationship is typical.

The Riparian Landowner – the person with effective ownership of the land adjacent to a mooring and/or the canal or river bed. They usually have absolute rights of permission to moor on or adjacent to their land.
The Navigation Authority - the body responsible for overall management and regulation of the collective waterspace. Regulations are usually specific and most commonly any intervention relates to specific positive duties and powers, most commonly relating either to maintaining general public and navigational safety and immediate environmental protection of the waterway.
The Moorings Operator – the person running a mooring site day to day.
The Boat Owners/Boat Operators - as the mooring customer/end user

As I will go on to discuss below, in some cases some of these parties may be the same person.

Long term moorings versus temporary/visitor moorings

For practical purposes it is essential that the diversity of mooring arrangements is made clear. There is also a wide diversity of craft types which each throw up different issues around design and use.

Extreme caution must be applied when trying to define the types of moorings by use because the uses of individual boats and berths change from time to time and different uses frequently occur within a single site. Being mobile structures, the use of an individual boat may also change from time to time.

However a useful starting point is to split moorings into 'long term' or 'permanent' moorings and temporary short term moorings, often called 'visitor moorings'.

'Long Term moorings' generally refer to moorings where the boats berthing there are semi-permanent occupiers of that site, typically with annual and usually renewable contracts with the moorings operator. The site has a degree of permanence and so do many of the boaters mooring at that site.

While formal security of tenure is rare, in practice most operators and mooring customers have good long term relationships and contracts are routinely renewed.

Many boats concerned will be navigable and will move off the mooring from time to time, to 'go cruising' but will usually return to their 'home berth', variously after a few hours, days or weeks. Others boats are in effect static structures that rarely navigate except perhaps for maintenance purposes, but this group is relatively small in number.

Residential versus non-residential moorings.

Within long term moorings there is also an important distinction between residential and non-residential use of the mooring, although in some instances the boundaries are blurred.

Crudely it is accepted that to live on a long term mooring as a main or principal home for any extended period, that berth and the mooring needs to be subject to Planning Permission or Permitted Use rights for residential use.

Another important factor to take into account is that the assumed need for Local Planning permission for residential use at long term 'residential' berths means, among other things, that there are significant numbers of residentially used boats which could if closely examined be found to be in breach planning regulations. For example British Waterways, now CRT, for many years took a blind eye approach to residential use of non-residential moorings. Some private operators have taken a similar approach.

Housing in London is unusually expensive and it is understandable that there is a high level of residential use of long term moored boats regardless of whether a mooring is formally residential or not. However the diversity of arrangements is, if not a challenge, then certainly a source of confusion for many policy makers and regulators if the local context is not carefully enough understood.

In turn planning enforcement is equally variable or perhaps better described as 'flexible' in its operation. Ultimately of course this is a matter for the relevant local authority not the navigation authority, though clearly the navigation authority often has an interest in compliance.

The boundaries around use versus planning regulations are often further blurred in that individual boats may be lived on at some times and not others. A small but significant example is boats used as 'pied a terre' accommodation during the week but where the boater has a principal home elsewhere. Is that a residential or a leisure mooring?

There is no doubt for instance some local authorities take the view that tolerating established residential boating activity even if on the borders or just outside of strict planning control rules or other regulations, is preferable to enforcement action, particularly if that enforcement action might give rise to new re-housing obligations towards individual boaters.

We do not condemn this at times confusing and inconsistent situation nor do we see any huge urgency for reform, because the current state of affairs is born of reality and pragmatism. Indeed if the activity in question is causing no harm or detriment to others, regulation or enforcement may well be disproportionate, especially given that in the extreme it could lead to cases of homelessness. See [Moore vs British Waterways, \[2013\] EWCA Civ 73, \[2013\] WLR\(D\) 59](#)

Visitor Moorings

In practice these tend to be organised short term moorings intended for use while a boat is breaking from actual navigation. In general these are places where boats berth for a few hours or overnight,

through to staying a couple of weeks but in the course of going to and from somewhere else, often a permanent long term 'Home mooring'.

On the Thames navigations where riparian rights often exist, these moorings may well be subject to a daily fee, typically a few pounds a day.

On the canals by and large these moorings are free.

Other Temporary Moorings

This is by default any area of the canalside where mooring is allowed for a break in navigation but where there is no formal mooring established. Here boats may remain temporarily for a period of up to 14 days. We will come back to this point below.

Conclusions:

There is a huge diversity in mooring arrangements in London from an overnight stopover through to permanent residence, which are subject to different regulations and circumstances almost as diverse as the total number of moorings available.

SUPPLY: THE THAMES VERSUS THE CANALS

The situation on the CRT's water is significantly different to the other two authorities.

Most of the comments above still apply but it is important before going further to understand that CRT's circumstances are unlike the other two authorities (EA and PLA) because much of the land and towpaths adjacent to CRT waterways is under their sole ownership and control. In the diagram above CRT are in most cases both riparian landowner and the navigation authority. This means their relationship with boaters and mooring operators is much more significant and powerful, some would say intrusive, than on other navigations.

In addition and as a consequence;

- CRT are significant commercial moorings operators, running both directly managed moorings and moorings indirectly through their subsidiary, British Waterways Marinas Limited. They are a significant player in the overall provision of long term moorings. This at time extends into other navigation authorities; in London they also have control of several significant historic docks that connect directly to PLA water and these are in general run as commercial moorings.
- The PLA and the EA by contrast do not in general have such a direct commercial interests in moorings. This reflects the fact that they are not riparian landowners in the same way or to the same extent as CRT.
- Even where a third party operator in CRT's domain controls day to day management of a mooring, (be it permanent/long term or occasionally visitors moorings), those operators are almost without exception under trading conditions with obligations towards CRT and usually have a direct financial ties/dues to CRT. CRT has largely unregulated sole rights to refuse or grant essential licences and other permissions to permit these operators to conduct their business.
- Apart from being active in the direct market, CRT also have a huge influence on price as they directly influence major parts of the 'independent' operators' costs where those operators exist on the waterways they manage. It is arguable that many 'private' providers on CRT waters are not independent of, but are in fact agents of CRT.
- CRT's unique position as the effective riparian owner of large parts of the navigations they have responsibility for means they are also directly and almost exclusively responsible for visitors' moorings on these waterways. The use of these moorings is in turn, and for historical reasons which I will describe below, statutorily regulated and the legislation in essence assumes a right to moor in a given place for up to 14 days if no other restriction applies and it is safe to do so.
- Although the number of licensed boats on CRT waters has increased by some 10,000 in the last decade the number of long term moorings has actually decreased in this period and the number of Visitor Moorings has decreased. There has been a large growth in Marina developments but few of these new marinas have been created in the London area. Thus

pressure, price and competition on available moorings in the London area has increased dramatically.

- The regulatory legislation is also such that anyone in dispute with CRT may in the extreme face the ultimate sanction of being excluded from the *whole* CRT network as a result of what is typically a local dispute. There are a significant numbers of instances where CRT and its predecessor in title, British Waterways, has invoked this draconian sanction, though in fairness it should be pointed out that they they have few other sanctions available. CRT's attempt to widen its 'tool box' in this respect is presently a source of national contention which I will outline later.

Although CRT do not like the suggestion, they in effect have a virtual monopoly on mooring activities on *their* waterways.

Beyond this there is a separate conflict of interest. CRT's effective riparian ownership of large amounts of waterside land on their network and in particular the so called 'ransom strip', means there are frequent conflicts of interest when it comes to land use. Moorings are not always commercially attractive when alternatively commercial property development deals on waterside land can be done and you will be aware of the better known instances of conflict in this regard over the last decade and longer in London and elsewhere, where boaters were displaced by BW for commercial property development:

- Paddington Basin
- Goodsway Moorings in Kings Cross
- Various examples in Brentford most notably Nigel Moore/Ridgeway Motors

In contrast on the river Thames, the banks are rarely owned by the navigation authorities (PLA and EA) and in the main either the Common Law riparian rights of the landowner have primacy when it comes to land use on non-tidal waters, or formally on tidal waters the Crown often has formal ownership of the sea-bed . The landowner's interest in running moorings or the absence thereof is therefore the primary determinant as to whether they wish to allow moorings in their purview.

The navigation authorities for the Thames therefore have much more limited ability or financial interest to influence the supply of and demand for moorings compared to CRT, other than to regulate existing and proposed moorings within their respective regulatory frame works.

They also contrast CRT in another way; There are, perhaps in part as result of the absence of a wider commercial interest, relatively clearer rules on mooring development and in general, provided a riparian owner is prepared to tick the necessary boxes, neither EA or PLA has unfettered power to restrict mooring development, other than those powers deemed necessary to maintain safety of navigation in common and to ensure environmental protection. There are established independent dispute resolution mechanisms outside formal litigation, where the parties cannot agree. For instance where planning permission is applied for, our experience is that PLA and EA take a neutral view compared to CRT, provided that their statutory environmental and safety requirements are addressed.

CRT on the other hand are partisan to the extent that as indicated above they nearly always have an actual or potential commercial interest in moorings and at times that has been seen to create a conflict with their supposed public stewardship duties.

In summary,

- **EA and PLA take a generally neutral and essentially regulatory role when it comes to moorings, but do not often have the rights or any significant direct financial interest to significantly influence the supply of moorings overall.**
- **CRT by contrast has almost total control over mooring management and development and usually in addition have direct financial and commercial interests in such matters on their waterways as they are usually the riparian owner as well as the regulatory body. There is often from boaters a feeling of a conflict of interests. Based on my experience I think it is fair to say that unless they see a commercial gain to CRT that is not in conflict with other commercial interests, new moorings are not in general encouraged or permitted.**
- **Support for new moorings in CRT's case is therefore always highly qualified.**

NABO'S RELATIONSHIP WITH CRT

NABO's interests and certainly the majority of time and thought we give to moorings matters are dominated by the national activities of the Canal and River Trust, formerly British Waterways.

This contrasts sharply with our relationships with the other two authorities. We have differences from time to time with the PLA and EA but in general we find that these can be resolved through reasoned discussion and mutual compromise. There is no doubt in my mind that the lack of a commercial interest as riparian owners when compared to CRT, as I have described it immediately above these organisation's relative neutrality, makes these relationships easier and more transparent on all sides.

(I must however mention that during the last few years there has been some contention between some PLA boaters and PLA over the charges due under the River Works Licences scheme. Those involved included a small number of NABO members, but also others. They have formed their own local body to represent their interests, OPLAC. NABO and OPLAC have mutual associate membership and I have invited OPLAC to offer comments on their situation to you. It should however also be pointed out that a resolution to most of the issues has been reached to the credit of all parties.

See <http://www.oplac.org/>)

Sadly it must be declared that NABO did not have what we would call a happy or trusting relationship with BW and indeed was formed over twenty years ago in response to what we felt then and now is an at times cavalier attitude towards its boating customers.

Many of the issues still remain in play following the transfer of these engagements to the CRT. Although there has been a change of responsibilities and governance recently, the underlying issues

and policies in question that were the source of our disagreements, are still in the main being pursued, largely un-amended as we see it, in direct continuance from BW policy.

In particular we have a serious and longstanding dispute with BW and now CRT about their attempts at re-interpretation of the extent of their legal powers to take enforcement action and also about some of the specific methods they propose applying to these issues. It should be pointed out that this is a consistently contentious national policy area for CRT and ourselves and the wider boating community and has been so for over two decades.

The most current CRT proposals are summarised at:

<http://canalrivertrust.org.uk/media/library/2153.pdf>

However the substance of this paper has a much longer history: See River Lee and Stort 2011 and 2009 Moorings consultations: <http://www.britishwaterways.co.uk/consultations>

The extent and seriousness of the differences between NABO and CRT about their proposed new rules for visitor mooring management is reflected by the fact that we have on two recent occasions obtained Counsel's opinion about these matters and are in continuing dialogue with our solicitors about certain matters. We are determined to provide quality advice for our members whose boating activities on CRT water may be adversely affected if the measures CRT are proposing are fully implemented.

CRT have conceded that they have 'red lines' on these matters but while they maintain this position there is limited scope for further dialogue with them on some issues.

Despite these difficulties and a frequently unhappy relationship with BW historically, we continue to participate and engage in their consultation processes even if on CRT's side, some of the issues we raise are in effect still taboo.

The issues under dispute are directly relevant to this enquiry and in particular the circumstance of boaters who do not have permanent moorings. However matters are likely impact on all boaters who use CRT waters.

'Continuous Cruisers'

The term Continuous Cruiser is a colloquial term and although widely used is without real legal meaning. It is also peculiar to the CRT's waters. That said there are numbers of boaters who could be described under this title on the other navigations, though they are far less common.

The term arises from a provision that boaters successfully lobbied for during the passage of the Private Bill that became the 1995 British Waterways Act. Although events are from over 20 years ago I can comment with confidence as I was involved at that time. The fact of BW being effective riparian owners as well as the navigation authority lies at the heart of this matter.

The then British Waterways were obliged to concede on an initial proposal to require all boats on their navigations to have a long term mooring.

- It was felt that the measure was motivated more by ideas of revenue generation rather than any rational policy to better manage the waterways for all.
- It was argued by many that this proposal was unfair and discriminatory and that a number of boaters could and indeed did successfully co-exist with the rest of the boating and waterways community without a long term mooring, living for often extended periods, in some case many years, as in effect an itinerant or semi nomadic sub section of the wider boating community. In the House of Lords committee it was repeatedly shown by the numerous petitioners against the Bill that BW were grossly over egging any problems such boaters caused to the point of discriminatory misrepresentation.
- There were other groups of boaters who would take a mooring for say half a year, then move about for say half year then tie up again for say six months and so on, often on a seasonal basis. There are numerous variations on this theme. The proposal requiring all boaters to take a mooring for all twelve months of the year, even though the mooring might be unused for substantial amounts of time was therefore felt to be unfair, in effect an inappropriate blanket proposal.
- It was also pointed out that boats come and go from then BW waters onto other navigations. The proposals failed to take this into account and there had to be a mechanism for boats with or without a home mooring on another navigation to continue to use BW waterways for navigation subject to the general terms and conditions.
- BW had in addition sought to criminalise not having a long term mooring if you used your boat for any substantive residential use. It was strongly argued by opponents that the proposals, if approved, and when compared to the then as now lack of availability of long term residential moorings, would make a large number of boaters in a wide variety of individual circumstances who presently lived on the waterways legitimately homeless and/or criminalise them. The word 'outlaw' is in my view not wholly inappropriate.

The circumstances and rhetoric of that time have unpleasant resonance with the current day arguments of CRT.

The other theme that most stood out to the legislators during the passage of the Bill that became the 1995 Act was one I have already mentioned above; that the patterns of private boating use are so diverse that regulation except 'de minimis' was practically impossible.

Again there are complexities in the detail but the nub of what Parliament elected to do was to reject BW's proposals almost wholesale. Beyond this Parliament also obliged the primary legislation to include a provision that, provided a boater stays in one place for no longer than 14 days, all else being equal, BW are required to offer them a boat licence if a few other conditions are also met, (principally, payment of a licence fee, that the boat complies with current safety regulations (in effect a Boat MOT) and carries appropriate third party insurance).

This takes us to the heart of the present issues. In effect CRT are obliged to allow all comers who have valid insurance and a safety certificate to receive a licence after payment of the appropriate

fee. In short there is an effective right of public access to CRT waters and having a long term mooring is not a requirement. The absence of that requirement is as I have indicated a statutory protection.

Consequently CRT has limited control over number of boats on their system and hence numbers have consistently risen in most years since 1995. Within this, the proportion of craft that do not have a home mooring has also risen.

However it is important to understand that continually cruising is not synonymous with residential boating. There are no clear figures on what proportion of continuously cruising boats are in use as a main or principal home. However it is likely that a majority of boats licenced using the no home mooring option are in substantive residential use. CRT may have estimates of the numbers.

In our experience it is the case that residential continuous cruisers are no more likely to come to the attention of CRT than non-residential boats. Indeed the fact that the boat is a person's home tends in our experience to make the boater more respectful and considerate of other boaters and the wider community than otherwise. Put most crudely inappropriate behaviour is a case of 'cutting one's own throat'.

More on NABO's concerns

More recent attempts to harden the interpretation of these rules, indeed some would say attempts to take up powers parliament expressly refused the then BW, are a current source of serious dispute between NABO and BW now CRT. Although CRT characterise these matters as being applications of their general powers related to alleged abuse of the continuous cruising, they intend and indeed are we believe are legally obliged to apply new rules and regulations universally.

There are therefore a number of proposed matters around 'enforcement' activity that our Counsels' opinions suggest are challengeable as unlawful or ultra vires and we are presently reviewing that advice to take account of the transfer of engagements to CRT. However it seem clear that CRT are the inheritors of BW powers and that the transfer of engagements is unlikely to have changed practical duties, obligations and protections substantively.

Again the detailed issues are complex but we continue to dispute the legality of three main proposed new measures.

- The legality and efficacy or not of CRT adopting a new system of penalty charges for boats that have been deemed to overstay visitors moorings.
- The legality and efficacy or not of CRT imposing new rules about how often a navigating boat can return to a visitor mooring and how that location is lawfully defined: the proposed rule would again be subject to penalty charges for alleged breaches.
- The legality of the proposed Roving/Community Moorings permit which appear to us to amount to CRT accepting payments from boaters to temporarily waive statutory rules and the associated threat of enforcement action for not as CRT define it complying with the proposed rules above and others.

It is necessary to set these matter out because it seems to us that CRT are insisting that acceptance of these contentious matters are being put forward as pre-conditions of CRT taking other non-regulatory actions to better manage moorings nationally. NABO wholly rejects this sort of moral blackmail. In particular we say that if other measures clearly within CRT's existing powers were properly and consistently adopted these draconian measures would not be necessary.

We recognise that there will always be those that act outside the social "norms" of behaviour and outside of the existing regulations but believe that they are very much the minority. We do not see sufficient evidence of the scale or seriousness of the problems a few individuals may cause as being sufficient to warrant draconian and we say controversial re-interpretation of the existing regulations for all.

Conclusions:

NABO believes that CRT is obsessed with pursuing controversial and uncertain powers while failing to adopt non-controversial solutions. We can only conclude that this obsession is motivated either by incompetence or an agenda to increase revenues from boaters or perhaps a bit of both.

WHAT NEEDS TO BE DONE

The answers is to this are well documented, ironically at CRT and BW's request, in that there have been three national consultations on CRT moorings management in a little over three years. The responses to these consultations set out clear and consistent measures that boaters and others believe could and should be implemented.

See responses to the national (2009/10) and Lee and Stort (2011) consultations.

<http://www.britishwaterways.co.uk/consultations>

Also the most recent SE Moorings consultation. <http://canalrivertrust.org.uk/about-us/consultations/completed-consultations>

Many respondents ourselves included have expressly requested

- an increase in overall numbers of visitors moorings
- an increase in support facilities, in particular refuse, water and sewage points,
- a programme of bankside dredging in to make more locations where visiting boats can physically berth,
- application of local management solutions in genuine partnership with stakeholders rather than the hammer-to-crack-a-nut attempts to change national policy.

To the best of my knowledge BW and now CRT have done little on these persistent and consistent requests to physically manage existing resources more effectively, but instead seem more interested

in enforcement and we suspect income generation. There is a huge degree of consensus about what needs to be done from service users. These suggestions these have simply not been acted on by CRT.

Evidence based policy

One of our longstanding concerns is about the apparent obsession with enforcement as opposed to making physical improvements, is that there is lack of evidence based policy making on CRT's part: <http://liveaboard-forum.blogspot.co.uk/2013/05/canal-and-river-trusts-first-major.html>

Their predecessor British Waterways has similar form. <http://liveaboard-forum.blogspot.co.uk/2010/02/ka-complaints-another-perfect-balanced.html>

For instance the only substantive current complaint we are aware of concerning noise and atmospheric pollution in the London area is the case at Noel Road in Islington. We challenge all concerned to produce other substantive examples of problems elsewhere.

There is therefore on NABO's part a sense of a storm in a tea cup, and certainly as above that simple uncontroversial solutions are being ignored in the case of CRT

TFL TOWPATH WORKS

I would finally like to raise one matter which I believe the GLA group can directly influence. TFL has as you know and with some controversy, been funding improvement works to towpaths, principally from the benefit of cyclists. I will not rehearse again all the past controversy on this and the feeling that aspects of this programme work have been of detriment to other canal users.

However NABO has from many years complained that some of these works are adversely impacting the shortage of visitor moorings. This occurs because where there were previously soft surfaces, where boaters could put down mooring pins and moor temporarily, there are now hard surfaces. This means that the places where it *is* possible to moor are fewer and more heavily used, in effect squeezing demand into a smaller space.

We have long advocated that if these works are to go ahead, consideration must be given to including mooring rings within the works so that boaters are not effectively excluded from mooring along extended stretches of towpath, places where they have previously moored without contention.

I would ask that TFL consult directly with organisations such as NABO and the IWA about all future schemes and includes an impact assessment in all future funding that more fairly considers the needs of all other towpath users, apart from cyclists.

I have raised this point on numerous occasions with BW/CRT and at times had derisory responses including words to the effect of 'we don't want to do that because that lets boaters gather there'. It seems perverse that a navigation authority has such a hostile view of its principal paying customers. I am disappointed to report that attempts to raise this through the Waterways Commission have been ineffective.

I would be happy to discuss matters further or to elaborate on any of the points in this letter in due course

Yours sincerely

Simon

Simon Robbins

NATIONAL BARGEE TRAVELLERS ASSOCIATION

EVIDENCE FOR LONDON ASSEMBLY INVESTIGATION INTO WATERWAY MOORINGS

1. Introduction

1.1 The National Barge Travellers Association (NBTA) is a volunteer organisation formed in 2009 that campaigns and provides advice for itinerant boat dwellers on Britain's inland and coastal waterways. This includes anyone whose home is a boat and who does not have a permanent mooring for their boat with planning permission for residential use. The NBTA is the only national organisation in Britain dedicated to upholding and defending the rights of itinerant boat dwellers. This consultation response addresses issues regarding the Canal & River Trust waterways within London.

2. Issues around mooring rules and enforcement - mooring rights, rules and time limits, and how they are administered and enforced; also the extent and pattern of breaches of overstaying or other breaches of mooring rules.

2.1 Boat dwellers without permanent moorings on Canal & River Trust (CRT) waterways

Boat dwellers are entitled to live on their boats and cruise the CRT waterways without a permanent mooring by virtue of s. 17(3)(c)(ii) of the 1995 British Waterways Act. They are not permitted to stay in one place for more than 14 continuous days unless a longer stay is reasonable in the circumstances. The law does not specify any particular cruising pattern, minimum distance or prohibition on returning to the same place. They are frequently referred to as 'boaters without home moorings' or 'continuous cruisers'.

In December 2012 there were 4,498 boats on CRT waterways licensed without a permanent mooring out of a total of 33,112 licensed boats. There are no verifiable figures but the NBTA estimates that around 60% to 70% of boats without permanent moorings are people's homes, amounting to between 2,698 and 3,148 on the whole of the CRT's 2,000 miles of waterways. At an average boat length of 47 feet, if all of these boats were placed end to end they would occupy at most 28.2 miles of waterway. Estimates based on small-scale surveys carried out by boaters' groups show that each liveaboard boat is occupied by an average of 2.1 adults and children. The total number of licensed boats on CRT waterways is in the region of 35,000. Therefore boat dwellers without permanent moorings own less than 10% of the boats on CRT waterways. This begs the question why a minority - 3,148 boats out of 33,112 - are being labelled as such a problem.

2.2 Section 17(3) of the 1995 British Waterways Act

s. 17(3) of this Act states:

- (3) Notwithstanding anything in any enactment but subject to subsection (7) below, the Board may refuse a relevant consent in respect of any vessel unless—
- (a) the applicant for the relevant consent satisfies the Board that the vessel complies with the standards applicable to that vessel;
 - (b) an insurance policy is in force in respect of the vessel and a copy of the policy, or evidence that it exists and is in force, has been produced to the Board; and
 - (c) 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 in the circumstances.

In the years since 2004, the enforcement of s. 17(3)(c)(ii) of the 1995 British Waterways Act has become increasingly restrictive and draconian, and increasingly different from the enforcement and test for compliance originally proposed by BW and intended by Parliament. This has had an adverse impact on the lives of boat dwellers without permanent moorings, putting them in constant fear of losing their homes and compromising their ability to find and maintain employment, send their children to school, access health care, maintain access to postal mail, and maintain family and social relationships with people in the settled community, especially with non-resident children.

Before 1995, British Waterways (BW) had sought legislation that would compel every boat to have a mooring, with criminal penalties at the highest level for anyone caught living on their boat without a residential mooring and a houseboat certificate. Parliament considered that BW's original proposals were draconian and excessive and so BW was forced to agree to a clause permitting boat owners to use and live on their boats on its waterways without a permanent or "home" mooring. According to a boat dweller who was closely involved with the passage of the Bill through Parliament as an adviser, BW did nothing in the years immediately after 1995 and then began to look for ways to circumvent this provision around 2001.

2.3 Unlawful enforcement and erosion of the right to live on a boat without a permanent mooring by CRT.

To assume that any problems that boat dwellers encounter as a result of the enforcement of s.17(3)(c)(ii) by CRT will be solved by providing them with permanent moorings that they can legally live on will not address the real problem which is that CRT (and BW before it) is restricting and eroding the right of boat licence holders to use and live on their boats without a home mooring. They need assistance from the London Assembly to uphold and defend this right and they need protection against unlawful enforcement that could result in the loss of their homes.

The right to use and live on your boat without a home mooring is enshrined in s.17(3)(c)(ii) of the 1995 British Waterways Act. This entitles boat licence holders to stay for up to 14 continuous days in any one place, or longer if it is reasonable in the circumstances. It does not stipulate any specific cruising pattern, minimum distance or 'no return within' period beyond this. It does not require boats to be on a 'progressive journey'. It does not prohibit boats from remaining within a specific geographic area. It merely requires boats to be used 'bona fide for navigation'.

Parliament intended that the test for whether boats are complying with s.17(3)(c)(ii) of the 1995 Act should be whether the boat has stayed for longer than 14 continuous days in one place without a longer stay being reasonable in the circumstances. Parliament specifically rejected any requirement for a 'no return within' period or a 'progressive journey'. This is recorded in the Minutes of Evidence of the Select Committees that scrutinised the British Waterways Bill between 1991 and 1994. These minutes are available for public inspection in the Parliamentary Archives and in the House of Lords Select Committee Special Report on the British Waterways Bill (1991).

The rights of boaters without home moorings are being eroded by a succession of increasingly draconian restrictions. They are expected to comply with movement requirements and pay daily overstaying charges that go beyond what the law requires of them and that are at odds with what Parliament intended. In particular, CRT enforcement is focused on the distance that boats without

home moorings travel, regardless of the fact that this is not the correct test for compliance with s. 17(3)(c)(ii). If they do not comply, they face having their homes seized by the charity, losing not just their homes but the only asset that they own.

Boat dwellers without permanent moorings are subject to intensive surveillance of their homes by CRT to track their boat movements. This is a disproportionate effort and expense compared to the numbers of boats without permanent moorings. Instead of using the test for compliance with the law that Parliament intended, CRT tracks the distance that boats without home moorings travel, and threatens to terminate boat licences if it considers that the boat has not travelled far enough. This means that boaters are being forced to travel in a way that makes it difficult to get to work and for children to get to school. This puts them in a position where they can be forced to choose between keeping their homes, or losing or giving up their homes in order to stay in their jobs and maintain their children's education. Sometimes they will be pressurised by CRT to take a mooring that they do not want, do not legally need, cannot legally live on and cannot necessarily afford. In London the demand for moorings exceeds the supply, which means that even if boat dwellers accept that they are forced to take a mooring, they have great difficulty finding one.

Focusing enforcement of s.17(3)(c)(ii) on the distance that boats without home moorings travel does not reduce overstaying on moorings, indeed boats with moorings are just as likely to overstay according to a 2011 study by the National Association of Boat Owners (NABO). If CRT was to enforce s.17(3)(c)(ii) in the way that Parliament intended, by taking action against boats that stay longer than 14 continuous days in any one place without that longer stay being reasonable, this would eliminate overstaying by all but a small minority, leaving a manageable caseload for the enforcement team. However, CRT and BW officers have stated publicly that enforcing the 14-day rule does not produce an income and therefore it is not a priority.

CRT publicly misrepresents boat dwellers without home moorings as exploiting a loophole in the law and having a 'free ride'. The reality is that they are legitimate users of the waterways, and that boaters who pay extra for moorings receive extra services and benefits in return.

2.4 CRT's Guidance for Boaters Without a Home Mooring

In 2004 British Waterways published *Mooring Guidance for Continuous Cruisers*. This set movement requirements such as a 'progressive journey' that were above and beyond what was set out in s.17(3)(c)(ii) of the 1995 British Waterways Act. It was adopted into the boat licence terms and conditions in 2008 without any consultation with waterway users. Following a case in Bristol County Court in 2011, BW was forced to modify this to make it less stringent, but it still sets movement requirements that go beyond the 1995 Act. It was republished in October 2011 as *Guidance for Boaters Without a Home Mooring*. This is now subject to legal challenge in the Court of Appeal.

2.5 Recent actions by CRT

Recent policies of CRT have focussed on the need to 'reduce the numbers' of boats without home moorings in particular areas of the waterways, such as in London. However, the standard canal and river licence entitles boaters to travel where they choose on CRT waterways. There is no legal mechanism whereby CRT can limit the number of boats of any kind that navigate in a particular area, as long as they have a standard canal and river licence. Boat owners may also license their boats using the rivers-only licence which costs less and only entitles the boat to navigate on rivers where CRT is the navigation authority, such as the Rivers Lee and Stort. This licence exists because of the Public Right of Navigation on all navigable rivers. A rivers-only licence does not preclude a boat being licensed under s.17(3)(c)(ii) of the 1995 Act.

CRT has recently proposed a so-called 'community mooring permit' or 'roving mooring permit' that it claims would allow boaters without permanent moorings to continue to 'pursue their chosen lifestyle' travelling within a specific geographic area without facing enforcement action, regardless of the fact that the movements of their boats already comply with the law, as stated above. This community or roving mooring permit would cost around the same price as the cheapest moorings in the area. This amounts to demanding money with menaces.

CRT is also proposing 'local mooring strategies' that seek to define the travel patterns that a boater without a permanent mooring must follow in order to comply with s.17(3)(c)(ii). To prescribe such a travel pattern would also be unlawful, because doing so would set movement requirements that are above and beyond what is required by s.17(3)(c)(ii). These movement requirements are likely to also be in excess of the requirements set out in the *Guidance for Boaters Without a Home Mooring* (which is subject to legal challenge as stated above).

In some locations CRT is proposing overstaying charges for visitor moorings of £25 per day. These charges are not lawful. Firstly, no specific authority has been granted by Parliament to CRT to impose either a charge or a penalty for a violation of the time limits on visitor moorings. Secondly, the level of the charge at £25 per day bears no relationship to any proper charge for the use of the waterways nor to the actual loss or costs associated with overstaying. It is therefore in the nature of a fine or penalty. It is unreasonable in amount because the purpose as stated in the consultation document is to deter overstaying. The consultation does not explain how the £25 per day extended stay charge has been arrived at, stating only that it reflects the costs of keeping visitor moorings available without any explanation of how this has been arrived at. The fixed daily element is inconsistent with this because the costs of enforcement cannot increase in this way and cannot realistically be considered to do so. The charge is fixed at a level to make it impossible to stay for any extended period. It amounts to £9,125 per annum compared to an average annual mooring fee of around £2,000. This makes it a fine and not a charge, and BW conceded in 2009 that it does not have the power to levy fines for overstaying. It is therefore outside the powers in s.43 of the 1962 Transport Act and any inclusion in the terms and conditions of the boat licence of a requirement to pay such charges does not bring these charges within the powers available to CRT under s.43 of the 1962 Transport Act.

The 1962 Act allows for charges to be made for services and facilities and this is clearly intended to cover reasonable payment for those services. However, the charge must relate to the value of what is provided or other associated costs incurred by CRT. As regards the use of land the value is the value of the occupation or the consequential damages (see the judgement in *MOD v Ashman* [1993] 25 HLR 513).

In some road traffic cases, local authorities have been permitted to apply excess parking charges (see for example *Crossland v Chichester DC* [1984] RTR 181) but the statutory power there was different and conferred a general power in relation to use rather than a power to charge for services and facilities. A charge of that kind is still subject to the requirement that it be reasonable.

CRT and BW have asserted that they may levy such charges simply by virtue of their rights as landowner. This is misleading because a body exercising statutory powers cannot rely on the common law rights of a landowner to empower it to levy such charges (see for example the judgement in *Swan Hill Developments v British Waterways Board* [1997] EWCA Civ 1089). However, in such cases, the charging regime is a matter of contract between CRT and a licence holder. The overstaying charge is a liquidated sum payable in the event of breach of contract and the amount must be a genuine pre-estimate of loss (see for example the judgement in *The Paragon* [2009] 1 CLC 379).

CRT and Inland Waterways Association (IWA) (an organisation that is opposed to the interests of boat dwellers without permanent moorings) have recently joined forces to attack the right to live on a boat without a permanent mooring and to demonise the boaters who exercise this right. CRT and the IWA have labelled these boat dwellers 'continuous moorers', have published misleading information about their legal rights, and state that they are a problem. The CRT has refused to stop using derogatory terms about boat dwellers without home moorings or to correct inaccurate information about them on its web site. The IWA controls 75% of the private boater representation on the CRT Council

The IWA has recently proposed that boats without permanent moorings should buy a special permit to remain within what it refers to as the 'London control zone' including waterways under the control of the Environment Agency and the Port of London Authority. The IWA proposes that this permit should cover the entire area bounded by Marsworth on the Grand Union Canal; all of the Grand Union Canal branches south of Marsworth; Hertford and Bishops Stortford on the Lee and Stort Navigations; Hampton Court on the upper Thames, and the tidal Thames within London. If implemented, this would be entirely unlawful, because the only permit that boaters require by law to remain within this area is the standard canal and river licence of they are on CRT waterways or an Environment Agency navigation licence.

In this context we wish to draw the attention of the London Assembly to the recent Court of Appeal judgement in *Moore v British Waterways* [2013] EWCA Civ 73 in which it was found that Mr Moore's boat was lawfully moored and CRT/ BW did not have the legal power to seize it. Although CRT claims that this judgement only applies to the location in Brentford where Mr Moore's boat was moored, this is not correct. The judgement has implications for every public body and for all organisations that exercise statutory powers. It confirms that unless there is express statutory prohibition for a specific action, the citizen has a common law right to carry out that action. However, despite this judgement, many boaters without home moorings do not have the skills to resist the threats and bullying of CRT/ BW, and many will be pressurised into paying for these so-called community or roving mooring permits and overstaying charges.

2.6 The consequences of enforcement action by CRT

Enforcement of s.17(3)(c)(ii) of the 1995 British Waterways Act can lead to termination of the boat licence. Once a boat licence is terminated, this means that the boat is unlicensed and CRT has the power to seize and sell it or require its removal from the entirety of its waterways, under s.8(2) of the 1983 British Waterways Act. When obtaining an order under s.8(2) of the 1983 Act, CRT (and BW before it) also obtain an injunction preventing the boat owner from ever keeping a boat on CRT waterways again. In other words, for a breach of movement rules that go beyond what is stated in the 1995 British Waterways Act, a boater may lose their home, lose the only asset that they own, and be evicted for life from 80% of Britain's inland waterways. This is a disproportionate remedy.

2.7 Violation of the Article 6 rights of boat dwellers without permanent moorings

CRT recently conceded that it cannot lawfully specify a minimum distance that boaters without home moorings must travel in order to comply with s. 17(3)(c)(ii) of the 1995 British Waterways Act. In a background paper for a meeting on 28 November 2012, in response to a question "why can't you make it simpler and just tell us how far it's necessary to move?" that had been raised before the meeting, Sally Ash, CRT Head of Boating, stated: "We would if we could but it'd be wrong and we'd be going beyond our powers".

Every year, large numbers of boat dwellers without permanent moorings receive enforcement

notices from CRT (and BW before it) as part of the 'Continuous Cruising' enforcement procedure stating that they have not travelled far enough to comply with s. 17(3)(c)(ii) and that they are consequently at risk of having their boat seized by CRT/BW because the boat has remained between two specific places over a period of (usually) three months. However, the majority of these boaters have complied with s. 17(3)(c)(ii) and have travelled to a different place every 14 days. At no point in the process are they told how far they must travel or what they must do to comply with the law.

To inform a boat dweller that the movements of his or her boat are not sufficient to comply with the law but not to tell them how far they must travel in order to comply, is a violation of their rights under Article 6 of the European Convention on Human Rights. To threaten to seize or require the removal of their home as a consequence is a violation of their rights under Article 8 of the European Convention on Human Rights. The judgement in *Moore v British Waterways* [2013] EWCA Civ 73 is also relevant to this issue. The judgement confirmed the principle that the law must be written and enforced in such a way that the citizen is capable of knowing when his actions are unlawful. The enforcement of s.17(3)(c)(ii) as it is currently carried out by CRT fails this test.

2.8 Sick, disabled and injured boaters and age and disability discrimination issues

s. 17(3)(c)(ii) of the 1995 British Waterways Act states that a boater without a home mooring is entitled to stay longer than 14 days in a place if it is reasonable in the circumstances. "Reasonable" and "circumstances" are not defined in the Act, and nor does the Act set a limit on how much longer a boater can stay in one place. Sickness, injury, pregnancy, bereavement, illness of a family member not resident on the boat, hospitalisation and ongoing medical treatment are some of the reasons that boaters do stay longer than 14 days.

However, in practice CRT and BW have made it extremely difficult for many boaters to exercise this right to stay as long as they need in one place to recover from illness, operations or injury or to obtain medical treatment for the length of time that they need it. Many boaters have been bullied and forced to move their boats when they have not been fit to do so and when moving the boat has resulted in them being unable to do shopping, to get water, to empty their toilets, to see their doctor or specialist, to get deliveries of gas for cooking or to get deliveries of coal for heating. In other cases, boat dwellers have made temporary arrangements to be cared for by other boat dwellers who have travelled to moor next to the person requiring the care. In some such cases, CRT enforcement staff have bullied the carer into moving their boat, leaving a vulnerable person without the care that they need.

The bullying of sick and injured boaters has caused immense distress to those who have not chosen to overstay but are simply not well enough to move their boats, or who need to be moored in a place where they do not have to walk across a plank to get on and off the boat because of their illness or injury. s. 17(3)(c)(ii) does not require the boater to seek permission for a longer stay, it merely requires that this longer stay is reasonable. In some cases boaters have been told to provide medical certificates to prove that they are ill and to prove how long they will take to recover. Being unable to provide a medical certificate means either that the boater is forced to move the boat when they are not fit to do so, or that enforcement action is taken against them which could result in them losing their home. In some cases, charges are made for medical certificates for submission to bodies other than an employer. In other cases, boaters have been told not to bother getting a medical certificate but to move their boats anyway, regardless of the illness or injury.

Sick, injured, disabled and pregnant boat dwellers and their carers need protection against being forced to move their boats when they are not fit to do so and when moving the boat will result in the loss of care, exacerbation of illness or injury, and loss of access to essential services such as shops,

sanitary facilities, water and medical care.

2.9 Disability, age and sex discrimination

A number of older boat dwellers without home moorings have suffered strokes and heart attacks, or have become less physically fit and strong due to the normal consequences of ageing. Others need ongoing treatment for chronic conditions. Some are registered disabled. Many of these boaters find it increasingly difficult to comply with s. 17(3)(c)(ii) due to their disabilities or lack of physical strength. Some are no longer able to moor their boats anywhere that a plank is needed to get on and off the boat, but can only moor their boats where they can get the boat right up against the bank before stepping off. This means that they are limited in the places that they can travel to. This puts them at risk of enforcement action for not travelling far enough. This also applies to pregnant women, who after a certain stage of pregnancy are unable to walk across a plank safely and therefore also need to moor against hard standing.

Many older and disabled boat dwellers have been subjected to enforcement action, threats and bullying. For example, a boater who was recovering from a stroke and who had been moored in or near a particular place was told to travel to a place about 25 miles away or face having his boat seized. A number of disabled boat dwellers in this situation have been pressurised or bullied into taking moorings that are non-residential, thus putting themselves at risk of planning enforcement action. Boat dwellers without home moorings who are older, pregnant or disabled need protection from unlawful age, sex and disability discrimination.

2.10 Bad weather, waterway conditions and safety

Staying longer than 14 days in one place is reasonable when weather conditions, lack of water or flooding make it unsafe to move a boat. According to the Safety Of Life At Sea regulations of the International Maritime Organisation, it is the sole responsibility of the skipper or master of a boat to decide whether it is safe to travel, and nobody has the power to interfere with that decision. This decision involves assessing the strength, fitness and experience of the skipper and the crew to travel in such conditions. However, many boat dwellers have received enforcement notices after overstaying in conditions that they decided made it unsafe for them to travel. Some boat dwellers with disabilities or mobility difficulties can only move their boats when a second person is available to act as crew. Some boat dwellers with small children need a second person to help move the boat so that the children can be kept safely inside the boat or can be kept safe while travelling on the deck.

2.11 Mechanical problems

Staying longer than 14 days in one place is also reasonable in cases of mechanical breakdown. However, many boat dwellers have experienced difficulties as a result of enforcement action against them following mechanical problems. Some boat dwellers without home moorings are on low incomes and do not have the money to pay for unexpected repairs immediately but have to wait until they have saved enough. Others work full-time. To carry out the necessary repairs following a breakdown needs either time, money or both. Many boaters on lower incomes have old boats for which engine parts are harder to obtain and sometimes have to be made specially. Finding parts for old engines or having them made can take considerable time. This can be a problem even for boat dwellers who are not short of money. In addition, it is difficult to find affordable dry docking, craning and boatyard space for those repairs that require the boat to be lifted out of the water. Not all dry docks and boatyards permit a boater to live on their boat while it is being repaired, so the boater may need to find somewhere else to stay. Many boat dwellers have had enforcement action taken against them while they are in the process of carrying out repairs following mechanical

breakdown. They need protection from enforcement action while carrying out repairs. They also need affordable boatyard and dry dock facilities where DIY repairs are permitted and where it is possible to continue living on the boat while the boat is being repaired.

3. Mooring supply - the numbers of moorings available on London waterways, whether residential moorings, visitor moorings or others; also any recent gains or losses of moorings; and affordability of moorings.

3.1 Access to 14-day moorings

In 2011 BW proposed reducing the amount of 14 day mooring space in London by converting large areas of the towpath into 7-day moorings. This was dropped following considerable opposition but CRT is now proposing significant reductions in the amount of 14-day mooring space available in the majority of its waterways in favour of 24 hour or 48 hour 'visitor moorings' for hire boats and leisure boaters. This proposal is accompanied by the imposition of charges for overstaying and no return within limits. CRT does not have the legal powers to either enforce these time limits or to force boaters to pay these charges. However, as with the enforcement of s. 17(3)(c)(ii), boaters will undoubtedly be bullied by CRT into paying these charges using the threat of having their boat seized. Boaters without permanent moorings are already entitled to moor for 14 continuous days in any one place on the towpath, so again this is an attempt to force boaters to pay for what they are already entitled to do. Boat dwellers without home moorings need to be able to moor for 14 days in any one place and they need protection against the loss of 14 day mooring space.

3.2 Better maintenance of the waterway

Many parts of the CRT waterways in London are unsuitable for mooring boats because of a lack of dredging and bank maintenance. In particular, many areas of towpath have been concreted over without installing mooring rings, making it impossible to moor boats (using the normal method of hammering mooring pins into the ground) on large stretches of London's waterways. This has caused an unnecessary concentration of moored boats in particular areas that either have mooring rings or are not concreted over.

If the necessary remedial and maintenance works were carried out, large distances of waterway would be opened up for mooring and there would be more places where liveaboard, leisure and hire boaters could moor their boats. This would eliminate any congestion that occurs due to the lack of space where it is physically possible to moor a boat. This would also make it easier for boat dwellers without permanent moorings to moor in places where they need to be.

3.3 Sanitary and rubbish disposal facilities

The provision by CRT of drinking water, sanitary and rubbish disposal facilities on the waterways in London compares very badly to provision on other CRT waterways. There are fewer water taps, rubbish and sewage disposal facilities per mile on London's waterways than almost any other CRT waterway area. Boaters in London also report constant problems of broken water taps and sewage disposal facilities and unacceptable delays to the repair of essential facilities. Boats tend to moor near facilities because boaters need to use them; if there were more facilities, the number of boats moored in particular areas would level out so that there was a more even distribution of boats around the waterways in London.

3.4 Housing Benefit

Many boat dwellers, both with and without permanent moorings, have had considerable difficulty

obtaining housing benefit. There is case law that states that Housing Benefit can be paid for a mooring fee and for the boat licence fee even when the boater does not have a home mooring and does not spend all of their time in one local authority area. However, it is a statutory requirement under s. 17(3) of the 1995 British Waterways Act not only to have a boat licence but also to have annual third party insurance and a Boat Safety Scheme (BSS) certificate examination every four years. Boat dwellers have applied for Housing Benefit to cover the costs of the compulsory insurance and BSS certificate with varying degrees of success. Insurance and BSS certificates should also be covered by Housing Benefit under the same regulation as the boat licence fee because they are periodic payments that are required by statute "in respect of, or in consequence of, use and occupation of the dwelling". The relevant case law is CH 0844 2002, CH 0318 2005 and CH 4250 2006 (reported as R(H) 9/08).

Not all boat dwellers without permanent moorings are eligible for Housing Benefit. Many are working and earn more than the qualifying limit. However many of these will also be paying off the personal loan or marine mortgage that they bought their home with. If they wanted a mooring they would not have any spare income for mooring fees and would not qualify for Housing Benefit. Others are retired with savings and pensions that enable them to live on their boats without a mooring but not to cover the cost of a mooring. Their savings and income mean that they do not qualify for Housing Benefit. Others do not wish to claim welfare benefits, preferring to remain independent and live within the limit of their wages or pensions.

4. Overcrowding, congestion and overstaying at moorings and associated facilities and on the waterways

4.1 BW's 2012 study of congestion

Boat dwellers without permanent moorings occupy less than 10% of the boats on CRT waterways. If all of these boats were placed end to end they would occupy at most 28.2 miles of waterway. This begs the question why a minority - 3,148 boats out of 33,112 - are being labelled as such a problem. In March 2012 BW produced a report on congestion that identified the following statistics:

Of the top 20 lockage sites, none were in London; London was 7th out of 11 waterway regions for lock usage; none of the the top three most congested areas were in London (they were Hurlston/Llangollen, Fradley and Braunston/Napton). The highest occurrences of boaters being affected by congestion were in North Wales and Borders and Central Shires waterway regions.

The report stated that:

"The data shows that there is no significant evidence of growing congestion or significant concern amongst private boaters or hire boaters about the subject." and

"Congestion on the canal system has been raised as a potential issue both by the trade and the IWA. The concerns seem to stem from the formation of the BW Marinas Unit and the increase in applications for new marinas on the canal network". In other words, congestion was not an issue in London and it was not caused by boat dwellers without permanent moorings.

4.2 Safety

In the year to May 2013 there was a steep increase in the number of boat dwellers in London who have been victims of crime on the towpath including burglary of boats; attempted burglary and vandalism; muggings and assaults. Where the perpetrators have been identified, almost all of these have not been boat dwellers. Before the recent rise in such crime, certain areas of the waterways in London were not considered safe to moor boats in alone, or not considered safe to moor boats in at all. For reasons of personal security, boat dwellers do not moor their boats in isolated places in

London and moor in groups, not alone. Thus, reducing crime will also reduce the perception of congestion in London.

The presence of occupied, moored boats on the waterways increases the security of all users of the towpaths whether they are boaters, walkers, anglers or cyclists. Many areas of London's waterways have benefited from the presence of liveaboard boats in increased safety and security on the towpath. This is especially important for women users of the towpath.

4.3 Facilities

The provision of more water taps, sewage disposal and rubbish disposal facilities would mean that the number of boats moored in particular areas would level out so that there was a more even distribution of boats around the waterways in London.

4.4 Defining a successful waterway

The canals in were built for use by boats. To seek to reduce the numbers of boats of a particular status using the canals in London is not consistent with the purpose and use of the canals. The balance of boat traffic may have changed from commercial to leisure and residential over time, but a busy waterway is a successful waterway. A waterway in a large city that is not used by occupied boats is likely to become an unsafe crime hotspot. Visitors to the waterways are attracted by the variety and vibrancy of boat traffic and the community who live on and use those boats.

5. Air and noise pollution - the environmental effects of engines, generators, stoves etc, including how the rules governing these are applied and enforced.

5.1 Enforcement powers and their use and misuse

CRT has enforcement powers in the Boat Licence Terms and Conditions and General Canal Byelaws 1965-1976 that cover noise pollution and nuisance. Schedule 5 (4)(b) of the boat licence terms and conditions prohibits the use of engines and generators between 8pm and 8am when the boat is stationary. Byelaws 39 and 31 prohibit causing nuisance and the obstruction of and damage to the towpath. However, CRT rarely uses these enforcement powers. To the best of the NBTA's knowledge, no prosecutions under the Byelaws have been brought in the last five years and no enforcement of the condition regarding running engines and generators has been carried out by CRT.

The 1993 Clean Air Act applies to boats on the inland waterways. Its application to boats depends on an objective assessment of whether the boat is emitting 'dark smoke' as defined by a Ringelman chart. Where a Smoke Control Order is in force, enforcement is by local authorities. CRT is not authorised to enforce the Clean Air Act 1993, and yet it has sent enforcement letters to boaters regarding smoke from solid fuel stoves wrongly citing the 1956 Clean Air Act and in areas where a Smoke Control Order is not in force.

6. Any views on steps that responsible bodies could take to address these issues

6.1 Prejudice

The NBTA believes that the problem that has been identified is the result of prejudice and a lack of understanding among local authorities, statutory bodies and house dwellers of the rights and entitlements of boat dwellers, especially boat dwellers without permanent moorings. It is essential in addressing any perceived problem to determine whether the problem is real or perceived; who

first identified it and raised it as an issue with the London Assembly; who benefits from the identification of the problem; who benefits from any proposed solutions, and whether there is a disproportionate adverse impact on any specific group of people. Solving perceived problems can only result a waste of money, time and resources. The London Assembly should examine this issue very closely and in the context of the s.149 of the 2010 Equality Act.

6.2 Proposed measures to remedy genuine problems

The following measures are steps that responsible bodies should take:

Provision of education about the rights and entitlements of boat dwellers to house dwellers, local authorities and other enforcement agencies.

Endorsement and facilitation of the right of boat licence holders to live on a boat without a permanent mooring and the legitimate nature of living on a boat without a permanent mooring.

No further reduction in the amount of 14-day mooring space in London.

Use of existing enforcement powers against noise and nuisance such as General Canal Byelaws 39 and 31 and Schedule 5 (4)(b) of the boat licence terms and conditions.

Fair and consistent enforcement of s.17(3)(c)(ii) in the way that Parliament intended, by taking action against boats that stay longer than 14 continuous days in any one place without that longer stay being reasonable.

Creation of new areas of mooring space on the towpath by means of bank maintenance, dredging and remedial work to remove concrete.

Provision of affordable boatyard and dry dock space where boat dwellers can carry out their own repairs or have repairs carried out while continuing to live aboard.

Provision of more water taps, sewage disposal and rubbish disposal facilities evenly spaced around London's waterways and faster repairs to facilities when they break down or are damaged.

National Barge Travellers Association
31 May 2013

Moorings Review London.

I have lived on a narrow boat for two years in and around London, but also cruising and working along the canals between Leeds and London, the Thames between Oxford and London, and the Kennet and Avon. I am prepared to discuss any information put down here with the Review verbally if that helps.

- **The London canals exhibit the same pressures as every other part of London.** Canal towpaths are very heavily used by joggers, cyclists, walkers and tourists as well as boaters. Every square inch of canalside land seems to be owned by developers and marinas are private and too expensive for the liveaboard community. The disappearance of the 'public realm' written about in this weekend's Observer Newspaper by Will Hutton is particularly severe along London's canals. In essence a multiplicity of recreational users have been funnelled by developers and lax planning into the insanely narrow space of the towpath and alongside this absurdly narrow space are hundreds of people setting up home.
- **Cost is crucial** – be clear that if you were radical enough you could solve the liveaboard pressure on moorings overnight. Every liveaboard boat in London could be accommodated in Limehouse basin. But Limehouse (from where I write this) is silent and half empty with a charge of approx. £9000 per annum to live on a narrowboat there. The picture-boards around the basin eulogise the days when narrowboats filling with cargo were rafted right across the basin and further eulogise the sense of community that existed then despite much poverty. Limehouse is now the diametric opposite – silent, wealthy and surrounded by expensive gated apartments. I mention this only because there is absolutely no shortage of canal space for all the current liveaboards in London. Different boroughs and their boundaries compound the issues around finding more moorings where people might stay rather than overstay. **My view is that C&RT do not have either the expertise or the willingness to negotiate on behalf of boaters the complex issues of residential boat licences across London. City government could be a great help with this.**
- Those people 'setting up home' are the liveaboard boaters who come in for a lot of flak for smoke and noise etc, not surprising because most of the time they're doing it under someone's front window. There will always be complaints from residents about someone in this situation. Boats do not attract a wider percentage of antisocial layouts than the population average but individually in this situation they have a disproportionate effect.

What to do?

- **1. Understand that offering moorings at £9000 a year and upwards is not offering moorings.** I personally would pay the winter mooring rate year round and think that approx £4000 per annum would be fair. That is not a general view because many of the liveboard boaters I come across are students trying to reduce their student loan debts or increasingly, a byproduct of austerity, people who cannot afford homes in London and who are trying to hold down full-time jobs or studies on very low incomes. Be clear that my suggested mooring fee would not include any facilities at all, simply a right to moor on the towpath and I would travel in the boat to the nearest current disposal point for water/rubbish disposal etc.
- 2. Use the extensive canal length in the Olympic site for new moorings.** At present the Olympic site looks horribly like a nascent posh gated community. A sterile tribute to 24 hour surveillance 'for your safety and security.' Surely a good Olympic legacy would be cheap housing in the form of canal moorings? At the moment it looks well on the way to being a set for another dystopian JG Ballard novel. **Don't let this happen.**

Replace the hundreds of mooring rings that have been removed to discourage mooring and allow it again (ie between Broadway Market and Limehouse.)

3. Anarchy has been allowed to develop with the mooring situation due to bad management. Currently C&RT chooses to 'police' the most difficult aspect of boating from their point of view, the overstaying of 14 day mooring. This is ludicrous and expensive. They could stop all their towpath policing by doing the following.

Double the number of moorings in London by doing (2)

Stop any new London based continuous cruising licences on a temporary basis. There has been a big increase in liveboard boating in London over the last ten years. This should stop until a real system has been worked out to accommodate London boaters. Accommodate all liveboard boaters on the towpath somewhere and start the future from there.

4. **Clean socially responsible liveboard boating requires decent technology.** This requires some investment but is unavoidable. There is a (smaller than various interested parties make out but nevertheless it is there) problem with smoke from chimneys and a bigger one of the running of engines to charge batteries.

The use of smokeless fuel should be a legal requirement and engine running should also be legally enforced. Excessive engine running at a mooring is always due to knackered batteries which are expensive to replace. Some way of helping the collective purchasing of solar panels should be encouraged. Households have been heavily incentivised to invest in solar. Why not boaters?

Many boats are also floating junkyards of felled trees and paraphernalia and the idea of a clean and clear roof should be enforced. And nothing at all on the towpath.

Smoke, noise and a clean boat with a clear roof would be easy to enforce. Start with these.

- **Continuous cruisers and moorings are not the biggest problem** – it is astonishing how well the boating community copes with few facilities, hopeless moorings, theft, occasional violence and general prejudice from riparian householders. **THE BIGGEST PROBLEM IS THE ANTISOCIAL BEHAVIOUR OF A SMALL MINORITY OF CANAL USERS.** These people, who cause all the complaints from other users of the towpath and people who live alongside it, could be made to act responsibly if only C&RT and / or other authorities enforced the things that can be easily enforced, as above, rather than continually obsessing about overstaying at moorings.

- **THE FUTURE is not about mooring problems** because the mooring problem is easily dealt with, but about dealing with complaints from other canal users which are all about noise, anti-social behaviour and smoke. These can be dealt with in turn by having :
 1. Electric charging points at every sanitation station and the number of sanitation stations doubled. **PUT ANY NEW SANITATION STATIONS NEXT TO A ROAD WITH ELECTRIC CAR CHARGING SPACES SO THAT CARS CAN USE THE POINTS AS WELL AS BOATS.**

 2. All boats living continuously in London should be electric. For the moment every all-electric boat should pay a zero licence fee and be able to stay anywhere for as long as they like. Any further incentive to get people to convert would pay huge dividends to local communities. A decent battery bank, solar panels and charging points would entirely eliminate engine noise on moorings. **BE CLEAR THAT ELECTRIC BOATING OVER SHORT LONDON DISTANCES IS NOW TECHNICALLY ACHIEVABLE AND THERE ARE COMPANIES CONVERTING CANAL BOATS ALL THE TIME. BUT THE INITIAL INVESTMENT IS ABOUT £10,000.** There is a step-change needed here and help with grants etc could create that step change. I can recommend a company to make a presentation if you wish.

 3. All planning applications to be forced to cater for at least 30ft of open space between the canal towpath and new build. It is easy to think that it is too late for this but my view is that it is even more crucial because of the little space that is left. This space is not for boaters but for everyone. The route to conflict is privatisation of public space while pretending that the space is still public.

 4. This will raise a smile I suspect but The technology for composting toilets on boats is available, again the prices are high at the moment but they should become mandatory in London after a five year period of encouraging people to convert. This would save on the expensive sanitation stations. This is asking a lot of the boating community – all toilets in London wherever they are should be composting given that the water saved would literally save London's water supply- but worth encouraging.

 5. Simplest of all – with regard to mooring : make it mandatory for boats to display a 'welcome to moor alongside' sticker on the side of their boat so that rafting up becomes the recognised norm. And to show how precise you need to be with these things do NOT

make the stickers like car stickers that must be stuck on the inside of a window. It should be sticky backed. This is because boats with portholes have no spare window space for stickers, they need all the light they can get.

My background to contributing the above.

- I pay C&RT just over £800 a year for a licence and approx £2000 a year for a winter mooring for six months in London, October to March. That winter mooring is simply permission to moor to the public towpath in Victoria Park. A look at crime statistics for the winter in this area will show you just how difficult living there was. Muggings, theft and boat break-ins were numerous. I have personally suffered theft , (crime ref 4207760/12 at Bethnal Green Police Station.) There was no close access to the towpath where the residential moorings were allocated and so to reach my boat I had to scale two fences, often in pitch dark. There is no lighting or CCTV there. It was a violent, fearful and unpleasant place to be and appalling value for money. Nevertheless it is all there is and I will go back there if possible. The only thing that made it bearable was the solidarity of other boaters and a real willingness on the part of the local police to understand our problems. C&RT seemed entirely absent.

The Political view from the cut.

- The reduction in the canal budget alongside the change from BW to C&RT is putting huge pressure on the latter. Their relationship with canal users, particularly liveaboards is not good because of many issues arising from this. On a purely subjective basis it is impossible to speak to someone who can make a decision. The only face to face communication many boaters have with C&RT is with enforcement officers ticketing overstayers. This leads to a dysfunctional relationship between the boating community and C&RT. A lazy retreat into legal language happens very quickly on both sides. There is also seemingly a bias in various C&RT committees towards IWA members. The IWA is essentially the body of the canal holiday industry and a conflict has been allowed to develop between that industry and liveaboard boaters in some parts of the country, (essentially people who have paid very considerable sums of money to hire a boat for a week do not want to find the 'best' moorings taken by people living on the water.) On a personal level I invest about £3000 per annum in the Canal and River Trust and feel that I am perceived only as a problem in return.
- With regard specifically to London there is a body of opinion within the canal world that is biased against London in all the usual ways. Boats outside London rarely have to raft up alongside other boats or be subjected to such intense scrutiny by other towpath users. Visitors often fear violence, immigrants, feral gangs, etc etc. You can actually read nonsense such as 'you should wear a crash helmet when navigating between Little Venice and Limehouse and never stop overnight between the two.' Visitors expect clean clear visitor moorings and would see a boat on its own moored up as filling that mooring whereas a London boater would ask to moor alongside that other boat and 90% of the time that would be fine. The demographic of canal boaters across the country is also very different. Out of

London they tend more to the elderly and retired, within London it is a much much younger boating population. Wealthy retirees in their £100,000 narrowboats genuinely fear the rather more anarchic and younger scene in London. What they really want from visitor moorings in London is to be separated from London. **Do not pay too much attention to comment on London's canals from other parts of the country.**

CONCLUSION

Plan long term having created a temporary mooring solution.

Plan green because that will get many boaters onside.

Remember that most people love seeing boats moving around on the canals and rivers.

Foreign tourists particularly are fascinated by narrowboats.

Try and remember that under extreme pressure those living on boats are a model for getting along on very little while crammed together in sometimes fairly unpleasant places. They are a vital and colourful part of London's uniqueness and will respond well to being acknowledged as such rather than being castigated as a problem.

They are so used to being the latter that they'll probably die of surprise at being treated as responsible members of society and solve all your problems !

From:
To:
Subject: Evidence - London Assembly inquiry into waterway moorings
Date: 03 June 2013 13:15:45

Dear Mr Bailey

I would like to draw your attention to the video in the link below which was produced by Wiltshire Council. Though it focuses on liveaboard boaters in Wiltshire, it is relevant to the situation of all liveaboard boaters on the Canal and River Trust's waterways including in London. I believe that local authorities within London will find it extremely helpful and informative. I would be grateful if you could treat it as evidence for your inquiry.

The video is 30 minutes long and can be viewed here

<http://www.youtube.com/watch?v=CYSBn5xABEc>

The relevant contact within Wiltshire Council is Peter Dunford,
peter.dunford@wiltshire.gov.uk

Many thanks,

Panda Smith
Liveaboard boater

.

.

.

.

From:
To:
Subject: RE: Evidence - London Assembly inquiry into waterway moorings
Date: 03 June 2013 14:30:19

Dear Mr Bailey

Thank you for your reply.

I know Wiltshire is very different from London in terms of noise levels, but boaters, Canal & River Trust and the local community have collaborated to set a pilot 'Quiet Mooring Zone' on a particular stretch of the canal where local residents were experiencing problems with noise from moored boats.

See <http://kanda.boatingcommunity.org.uk/quiet-mooring-zone-kicks-off-at-honey-street/>

I hope that you will accept this as evidence for the inquiry.

Many thanks,

Panda Smith

Sent: 03 June 2013 13:16

To:

Subject: Evidence - London Assembly inquiry into waterway moorings

Dear Mr Bailey

I would like to draw your attention to the video in the link below which was produced by Wiltshire Council. Though it focuses on liveaboard boaters in Wiltshire, it is relevant to the situation of all liveaboard boaters on the Canal and River Trust's waterways including in London. I believe that local authorities within London will find it extremely helpful and informative. I would be grateful if you could treat it as evidence for your inquiry.

The video is 30 minutes long and can be viewed here

<http://www.youtube.com/watch?v=CYSBn5xABEc>

The relevant contact within Wiltshire Council is Peter Dunford,
peter.dunford@wiltshire.gov.uk

Many thanks,

Panda Smith
Liveaboard boater

.

.

.

.

Dear Mr Bailey,

I am writing in response to your investigation into moorings on London's waterways on behalf of the Poplar Dock Community Association (PDCA), which represents a community of ninety boats moored in Poplar Dock Marina. Poplar Dock is one of two marinas operated by British Waterways Marinas Ltd (BWML) in London, and is situated off the tidal Thames.

There is a serious problem with the supply and management of moorings in the London area. The two main contributing factors to these problems are the chronic shortage of and increasing demand for moorings in the London area, and the complete lack of any legal rights or protection for those people living on boats. The combined effect of these two issues mean that, particularly in London, marina and mooring operators are free to a large extent to do as they please.

Shortage of Moorings

There is a severe shortage of moorings, particularly residential moorings, in the London area. British Waterways in their 2012 Market Area Report for London concluded that “the supply of moorings has not greatly increased, consequently demand pressure on moorings, particularly those in central areas, remains very high.” On the level of demand for moorings in London, they wrote that “Most London sites are currently at maximum occupancy, indicating that demand is strong....The demand for moorings, particularly those in central areas and notably residential berths, continues to be exceptionally strong.”

Security of Tenure

The boating community have no legal rights of security of tenure. In the lease agreement between BWML and CRT (who own the land at Poplar) there is a clause that explicitly prohibits BWML from extending “any rights of security of tenure” to berth holders in the marina, even though they offer residential as well as leisure mooring contracts.

In a consultation into security of tenure by the Office of the Deputy Prime Minister in 2004, 96% of the residential boaters that responded opted for the introduction of legislation to provide greater security to boat-owners, when presented with a choice as to how to best address the issue.

Another factor in this regard is that of the short-term nature of mooring contracts. The consultation document confirmed this, stating that “most agreements for residential boat mooring are short term, with limits of 1 to 5 years”. In Poplar Dock, BWML only issue annual mooring contracts, despite advertising “long term” and “residential” moorings. On one exceptional occasion, BWML did offer three-year contracts but subsequently tried to terminate them after only two years in order to move customers onto contracts with higher fees.

The short length of mooring contracts means that at the point of renewal each year, berth holders are subject to arbitrary price increases, unilateral introduction of new contract terms, and the risk that a contract might not be renewed. Given the shortage of moorings in London and long waiting lists for alternative moorings, boat-owners can effectively be held to ransom as there is nowhere else to moor at short notice, the fact notwithstanding that residential boaters as with other types of residents are for the most part committed to living long-term in a specific location.

Arbitrary Price Increases

The Residential Property Tribunal Service covers flats, houses, maisonettes and mobile homes, but explicitly does not cover boats. For caravans and mobile homes, recent legislation means that if the caravan owner does not agree to a fee increase, the site operator must justify to a court that the increase can be directly linked to inflation and/or site improvements before it can be applied.

By contrast, BWML are currently phasing in a 92% planned increase in mooring fees for residential moorings in Poplar Dock (on top of consistently above-inflation historic annual increases), and there exists no avenue by which to challenge the level of these increases, nor any process or mechanism by which to determine what constitutes a fair price. There is no predictability or transparency for determining future mooring fees and this current increase is despite a pledge made last year by the chairman and CEO of BWML's parent company (then British Waterways) before a Parliamentary select committee that they were “not intending to raise licence fees or berthing charges over the projected period [15 years].”

Unfair Contract Terms

There are numerous conditions that are placed upon berth holders that you would not find in any other form of rental agreement. Some examples of clauses in our mooring contracts include:

- The right for BWML to terminate any mooring contract at 28 days notice without reason
- Clauses in their residential licence agreement specifying who may or may not occupy or make use of the boat
- A requirement to gain permission from BWML in order to run a small business from home
- A requirement to gain permission from BWML in order to rent out rooms in your own home
- A requirement to gain permission from BWML should you wish to sell your boat, and now a restriction that the boat can only be sold via a broker that BWML have specified. It should be noted that legislation now exists that prevents caravan site operators from interfering with the sale process.

In summary, we would like to see:

- More moorings, particularly residential moorings, to be developed in London
- Longer-term mooring contracts to become more widely available
- Regulation of the marina and mooring industry, with transparent and predictable mechanisms for determining mooring fees and an independent body to adjudicate on what constitutes fair pricing
- Equality with mobile home owners and legislation to extend the same rights of security of tenure to boat-owners

From speaking with other boaters and berth holders' associations, I know that these issues are not just isolated to our marina. If you wish to discuss any of these issues in more detail in person or otherwise, we would be more than happy to do so.

I look forward to hearing from you.

Kind regards,
Rufus Thompson-Cox
Vice-chair, PDCA

Residential Boat Owners' Association Response to the London Assembly Investigation into Waterway Moorings

The Residential Boat Owners' Association (RBOA), founded in 1963, is the primary national organisation supporting those who choose to live on boats throughout the United Kingdom. Our members live on a wide variety of craft (including canals, rivers, coastal moorings and tidal estuaries) and encompass widely differing life styles, from being permanently moored to cruising extensively.

The RBOA supports all those who live afloat, provided they do so legally and responsibly, respecting the waterways environment and other waterway users. We encourage safe and well maintained residential boats and we support sustainable, low carbon footprint, life styles.

RBOA recognises the need for a wide range of moorings, both short and long term, to satisfy the differing needs of residential boaters. We work closely with navigation authorities, local authorities and the private sector to encourage greater provision of marinas and smaller mooring basins; these should include basic moorings with minimal servicing to satisfy those who need affordable options in locations that meet their personal needs.

The RBOA has worked unstintingly to encourage a greater understanding and acceptance of residential boating amongst planning authorities, and encourages a percentage of residential berths in all new mooring developments. National government, too, has recognised through a statement by the former Housing Minister, that residential boats can provide a small but useful contribution towards housing provision.

Regarding the Greater London area, the RBOA acknowledges the particular pressures brought about by the cost of housing for sale or rent in the region and the difficulties that some people have in finding affordable accommodation. We are of course concerned that living on boats may be seen as a cheap option, resulting in poorly controlled numbers of boats moored in on-line locations (e.g. along the towpath or offside bank). This could be to the detriment of the general waterway environment and a discouragement to visitors and tourists coming to London by boat.

Boat ownership is not an inexpensive option if craft are to be kept in safe and acceptable condition and does require a degree of commitment and knowledge.

The RBOA is committed to continue working with Canal & River Trust (CRT), Environment Agency (EA), Port of London Authority (PLA), GLC and others to establish additional residential moorings where possible. We recognise that high land values may mitigate against large new marinas being established in London but we believe that there is considerable potential in the regeneration of existing commercial wharfs and basins for small to medium sized residential mooring developments. Local dockland presents great opportunities for moorings. Some have already been established, but there remains considerable potential for more.

Moorings Supply and Demand

We hold no statistics covering mooring demand but it is a well acknowledged fact that there are insufficient residential moorings in the Greater London area and beyond. Those that do exist tend to be far more costly to rent than elsewhere in the country. Annual mooring fees as high as £17,000 or more per annum are not unheard of. These facts, combined with an increasing number of boats without home moorings, are a recognised challenge we have yet to overcome.

Air and Noise Pollution

It is rare for residential craft to create noticeable issues of noise or air pollution. A few unthoughtful boaters inevitably do run engines or generators without consideration for neighbours but most tend to respect others, turn engines off before 20.00 hours and are inclined to burn smokeless fuels.

Overcrowding

See notes under Moorings Supply and Demand.

Mooring Rules and Enforcement

It is unavoidable that some pressure will exist at “honey-pot” sites. However, our experience is that most residential boaters would rather keep a low profile, moor away from designated visitor locations and be left alone to enjoy the special lifestyle they have chosen. Furthermore, CRT and EA have recently committed considerable additional resources to deal with those boaters that are seen to openly abuse the mooring stay limits.

Additional Steps to Further Reduce Moorings Abuse

The number of people wishing to live afloat will eventually stabilise – living afloat is not like living in a floating apartment and the need for constant self-control over the usage of water, gas, etc. coupled with the requirement to self-manage human effluent puts many off quite quickly.

It is the RBOA view that no additional rules are necessary to deal with moorings abuse. If navigation authorities properly enforce using the powers they already hold, the perceived problem of overstaying will be overcome. This combined with the creation of additional residential and long stay moorings (across the price range) would achieve satisfactory results for all.

May 2013

From:
To:
Subject: Mooring Investigation
Date: 13 May 2013 15:00:54

Dear Matt Bailey,

My name is Michael Shefras MBE and I chair the River Thames Alliance Mooring Group (RTA) which has a been in existence for over six years.

Our aim is to endeavour to improve the management of mooring facilities on the Non-Tidal Thames starting upstream of Teddington and continuing up to Lechlade.

There is a growing problem of itinerant moorers' taking up many moorings which were designed for overnight or short stay whilst the boater enjoyed the facility of the area.

The RTA has in its membership the majority of the Local Authorities who are each side of the river and many of the landowners who also own the land on which boats use. Richmond is a member and is the first down river Authority. RTA is supported by the Environment Agency and I am surprised that I have not heard about your work from the EA?

We have had annual meetings including users and providers, the last being held on 5 March, 2013. This meeting was specifically for the providers with the objective of managing moorings throughout the length of the non-tidal Thames. Work was based on 'Zero Tolerance' of moorers who overstay on Environment Agency moorings. The principal aim is to move this work right up the river so that all the many authorities work from the same 'hymn sheet'.

Of course it is not just those who are recreational boaters but we have to encompass the problem of those who chose to live aboard as it is sometimes the only way to find reasonable accommodation. Some of these would like their moorings legitimised but there are others who just want to "squat" without making any contribution to the costs.

As such I am very interested in working further with you as you develop your program.

Regards

**Michael Shefras MBE
Chair of the River Thames Alliance Mooring Group
Chair of Association of Thames Yacht Clubs
Coordinator of Thames User Group (Navigation)**

From:
To:
Subject: Mooring availability in London
Date: 04 June 2013 13:54:33

Dear Matt,

I wanted to respond to the London assembly investigation into moorings in London. I have lived on a boat in the london region for nearly seven years and know the mooring in Angel that this centres on, so feel that I am in a position to comment in this investigation.

I am concerned that this investigation is focused against a very small group of people, amongst which many are low earners who are trying to live in London in a sustainable way. This in conjunction with the 'roving mooring permit' being brought in on the grand union seems like an attempt to price people off the water. This will result in people being pushed out of their homes and made homeless.

If there is a perception that London has reached a limit and cannot sustain any more boats then any solution shouldn't be to financially price people who have been living in this way for many years off the canal, neither should it be to harass people that have decided to make this lifestyle choice through fines or any other technique. Personally, I think that there is a better need to manage boats at moorings like Angel and Broadway Market. A solution might be to bring back the wardens that were previously at central london moorings, someone who was responsible for making sure that boaters weren't doing things that caused friction, like running generators late at night.

I have always tried to leave the towpath tidy and maintain a cordial relationship with those that live next to the canal. It is unfortunate that some people have complained and generally would like to resolve this issue, any solution though can't be one that makes people homeless or persecutes a small community that is trying to live in a small, socially communal and sustainable way.

I hope that this helps,

Robert Darcy

Response to London Assembly investigation into waterway moorings

I have lived in Islington for twenty years and during the last 3-4 years I have seen a rapid increase in the numbers of residential boats mooring on the Regent's Canal in the Islington area. This has greatly impacted on my enjoyment of what used to be a peaceful and healthy place to relax, take exercise and as a route to East London. The canal between Angel and Victoria Park now often has an almost continuous line of double and triple moored boats moored with their generators pounding away and fires polluting the air, particularly in winter. The towpath is often used as an extension of their homes with chairs and debris from DIY activities scattered in the way of walkers. No extra facilities seem to have been provided for removal of their refuse, so rubbish is often dumped on the towpath for considerable periods of time attracting vermin.

As my property abuts the canal towpath at Islington Visitor Moorings, I am directly affected on a daily basis. This last winter has been unbearable with my family and myself often having to endure evenings sitting in smoke filled rooms and waking in the night thinking there is a fire. We cannot open windows for fear of letting in more smoke. The noise from the generators of up to nine boats moored in close location vibrates through the house both day and night. With warmer weather now we are often unable to use our garden because of the noise and fumes from the generators. Needless to say I am extremely concerned for our health and that of my neighbours.

The Islington Visitor Mooring, designated 'a site of metropolitan importance for nature conservation' by Islington Council, has been particularly badly affected as the narrow gully where it is located traps the air and noise pollution created by the fires and generators from the large numbers of boats allowed to moor there. It then drifts directly into homes and gardens producing a considerable health risk for residents and is very unpleasant for visitors. Generator noise is amplified by the nature of the culvert and vibrates through the houses. Even though boats have a limit of a seven day stay they often stay for many more weeks exacerbating the overcrowding. Genuine visitors are often not able to find space or use the facility. There is an 8pm-8am restriction on the use of generators but this is often disregarded as is the restriction to the use of smokeless fuels. Even if the boats were keeping to the regulations I am sure they still pose a huge threat to the health of residents. The hours of vibration and noise from generators are extremely stressful and the smoke and fumes from fires and generators drifts directly into the houses because of their close vicinity. Using smokeless fuel lessens some of the pollutants but is still a health threat. (see <http://www.smfrancis.demon.co.uk/atnvolvs23health.html>)

This location is not suitable for residential boats. In 1992 an application by British Waterways for 8 residential moorings at IVM was refused by the Department of the Environment because it would "result in over-intensive use of the canal and would be detrimental to recreational and leisure users of the water area and visitors to the public open space" (ref-APPV5570(A/91/196370)). At present there are usually 12-17 boats, mostly residential and with no services provided for them.

Residents located next to the Islington Visitor Moorings have been requesting that action be taken by C&RT and London Borough of Islington to protect their health and the precious green space for over two years but no efficient action has resulted. In fact the problem has only escalated with boats now allowed to triple park and the resident warden who was located nearby is no longer employed. C&RT has the ability to fine boats for overstay but as the nuisance continues unabated I can only presume that they have not been taking action. Requests under the freedom of information act for information on the numbers of prosecutions have been ignored. C&RT management have not made any of the basic changes we have requested such as a restriction to single mooring and the reinstatement of a residential warden for out of office hours assistance. The LBI environmental health officer Sukky Choongh and local Councillor Martin Klute have made considerable effort to resolve the issues but do not have the power to act against the boaters.

The Canal and River Trust has statutory duties to protect and safeguard the natural environment, landscape, character and built heritage of waterways but at Islington Visitor Moorings it is failing to police the current temporary moorings or even to collect the rubbish. Given the huge demand for limited moorings in this area the present regulations do not sufficiently protect this green space and the residents living adjacent to it. Regulations need to be changed so that the number of boats allowed is restricted to a single mooring of no more than 5 boats with only boats without the need for generators or stoves allowed to stay. If the boats were genuine visitors and the time allowed was 2-3 days, they should be able to manage on the battery power produced on their journey to the location.



Jenny Jones AM
The London Assembly
City Hall
The Queen's Walk
London
SE1 2AA

RYA House
Ensign Way, Hamble
Southampton SO31 4YA
United Kingdom

Tel +44 (0)23 8060 4100
Fax +44 (0)23 8060 4299
www.rya.org.uk

Direct tel: +44 (0)23 8060 4220
Email: gus.lewis@rya.org.uk

1 July 2013

Dear Ms Jones

Investigation into moorings on London's waterways

We refer to the London Assembly's investigation into moorings on the capital's waterways, focusing on the impact of rising boat numbers on canal infrastructure, existing boaters and canal-side properties.

The Royal Yachting Association (RYA)¹ welcomes this opportunity to submit evidence to the investigation and we set out below our submissions in relation to each of the specific issues identified in the Terms of Reference.

1. Mooring supply - number, type and location; changes or trends and reasons for them.

The RYA acknowledges that there is increasing pressure on some mooring locations, particularly in Hackney, Islington, Camden and the vicinity of Paddington Basin. To a certain extent, however, the actual and potential supply of moorings is constrained by the built environment through which the waterways pass.

¹ The RYA is the national body for all forms of recreational and competitive boating. It represents dinghy and yacht racing, motor and sail cruising, RIBs and sportsboats, powerboat racing, windsurfing, inland cruising and personal watercraft. The RYA manages the British sailing team and Great Britain won more sailing medals than any other nation at each of the 2000, 2004, 2008 and 2012 Olympic Games.

The RYA is recognised by Government as being the primary consultative body for the activities it represents. The RYA currently has over 100,000 personal members, the majority of whom choose to go afloat for purely recreational non-competitive pleasure on coastal and inland waters. There are an estimated further 500,000 boat owners nationally who are members of over 1,500 RYA affiliated clubs and class associations.

The RYA also sets and maintains an international standard for recreational boat training through a network of over 2,200 RYA Recognised Training Centres in 20 countries. On average, approximately 160,000 people per year complete RYA training courses. RYA training courses form the basis for the small craft training of lifeboat crews, police officers and the Royal Navy and are also adopted as a template for training in many other countries throughout the world.

It is important to distinguish between visitor moorings, occupancy of which is limited to relatively short periods of time, and permanent moorings, on which boats may be left for much longer periods of time. Similarly, there is a distinction between permanent moorings that may be occupied by boats used for residential purposes and those that may not (e.g. those in some marinas).

The navigation authority for the canal network, the Canal & River Trust (CRT), is acutely aware of the scarcity of supply of both permanent and visitors' moorings in some locations. The CRT appears to be of the view that the availability of visitors' moorings is reduced further by individual boaters overstaying on such moorings and this view is supported by several boaters' representative organisations, although this issue in itself may be caused in part by the lack of availability of permanent moorings.

In our view, more research is required to quantify the scale of the scarcity of supply of moorings.

2. Mooring demand - as represented by the level of vacancies in permanent moorings and the number of continuous cruising licences, availability of mooring points or other evidence of demand for visitor moorings; changes or trends and reasons for them.

The CRT acknowledged in its response to its consultation on visitor moorings in the South East published in May 2013 that it did not have a systematic programme of monitoring visitor moorings. As such, the CRT relied on purely anecdotal evidence in order to support its proposition that boaters were experiencing increasing congestion at visitor moorings on the canal network.

As regards permanent moorings, in 2009 British Waterways published figures for the number of boats on the canal network. At that time, there were approximately 34,000 licenced boats on the canals, of which 90% had a permanent mooring and the remainder were continuous cruisers. These moorings were divided roughly equally between moorings along the line of the canal and moorings off-line, such as in a marina, with the resultant figure being just over 15,000 for the number of on-line permanent moorings available.²

In 2007, BW reported that there were 2,700 people on its waiting list for permanent moorings, although it is not clear what proportion of this number were existing mooring holders seeking to move their boat to a permanent mooring in a different location. Only 8% of moorings at this time had no waiting list.³

Although BW and CRT have since implemented different mechanisms for allocating moorings, including a bidding process, we are not aware of any evidence to suggest that the excess of demand over supply observed in 2007 has been addressed.

² Moorings Policy for BW's Network in England & Wales: Public Consultation Nov '09 – Jan '10

³ Directly Managed Moorings: Pricing and Vacancy Allocation: Public Consultation Summer 2008

In 2008, responses to a survey conducted by BW suggested that 20% of boaters lived on board and for 12% of boaters their boat was their primary residence. BW considered that much of the growth in boat numbers recorded in the five years up to 2009 was due to boats used for residential purposes, as a cheaper alternative to real estate, and that the economic downturn might therefore lead to a continued increase in the number of boats used as a place of residence.⁴

Although we do not have any empirical evidence to support this proposition, we agree with BW's 2009 analysis that the economic climate (combined with the rapidly increasing cost of housing in London) is likely to increase the attractiveness of living onboard a boat. In our view, therefore, a significant factor in the increase in demand for residential moorings is likely to be the lack of affordable housing in London rather than an influx of boaters from outside the capital.

3. Mooring rules and their enforcement – including time limits at non-permanent moorings, the 14-day limit for continuous cruisers by locality, and permanent mooring rights. Information available about the rules. Processes to secure mooring rights. The extent and pattern of overstaying. The role of enforcement officers and wardens.

The CRT is taking steps to address the issue of overstaying on visitors' moorings and, in our view, the efforts of the London Assembly would therefore be better directed at working with CRT to encourage the creation of additional mooring sites (both residential and non-residential) rather than risk duplicating the work of CRT in managing the existing sites.

4. Air and noise pollution – the effects of solid-fuel stoves, diesel engines and generators. Regulations including fuel types and permitted hours of operation. Enforcement, and the roles of responsible agencies.

In our view, it is inevitable that the occupation of moored canal boats might have an impact on those living in nearby houses. It is equally the case, however, that those living in nearby houses might have an impact on those living on board a boat as well as their terrestrial neighbours. Whether or not local residents live in a building or on board a boat, they are all part of the same community. As such, they should all be under the same duty to be considerate of their neighbours and have the same right to expect their neighbours to be considerate to them.

⁴ See footnote 2

The RYA would be keen to be involved in any initiatives that might develop from this investigation and, indeed, any future investigations conducted by the London Assembly into matters affecting recreational boating.

Please do not hesitate to contact me if I can be of further assistance.

Yours sincerely,

A handwritten signature in blue ink, consisting of the initials 'G L' followed by a horizontal line.

Gus Lewis
Head of Legal & Government Affairs

From:
To: _____
Cc: _____
Subject: RE: Moorings and constant cruising in London
Date: 07 June 2013 13:59:37
Attachments: [image001.jpg](#)

Dear Ian,

Firstly, I think I should clarify that I have also worked for CRT so have knowledge from both perspectives and not only as a boater and professional MCA skipper.

The navigation authority has set rules in regards to constant cruising and an enforcement team in place to support this. These rules are plain and simple to follow and common knowledge on the waterways. These rules should ensure that all craft without a home mooring move on a regular basis and abide by the noise control rules re engines etc to protect the local area (smokeless fuels are a different issue due to marine law but I know the local coal boats have removed all house coal and no longer sell it along the Regents but this doesn't stop boaters buying logs and house coal from other sources).

As a waterway to manage, London has always posed different issues to more rural areas and overstaying and the consequential emergence of 'local communities' on the waterways in London has been increasing over the last decade, primarily on the Regents Canal and lower Lee. As I see it there are several reasons for this;

The enforcement teams have prioritised dealing with unlicensed craft and appear not to have the resource to keep on top of the overstaying which has allowed the communities to build up. Living on a boat is far cheaper than renting a property in central London and therefore many new boaters have taken the opportunity to abuse the system and not taken on board any responsibility for preserving the heritage of the waterway. This has been compounded by the huge increase in craft numbers and especially by the popularity of broad beam craft which take up twice the space of a narrow boat but still pay the same license fees.

Property development has also played a big part, do the developers even check what affect the canal has, why put air intakes, for example, at ground level next to a canal where even smokeless fuel 'smokes' until it reaches temperature? Although marine law states boats are exempt from the clean air act all reasonable boaters realise that we now have a situation in London where this is not possible and some sort of new controls need to be agreed.

Finally, and sadly, there is a serious and chronic lack of confidence in the navigation authority. I am now working for several different trip boat operators in the Little Venice /Camden area where there are many issues with the overcrowding and different licensing being allowed. I doggedly report any incident but I know many others don't as the attitude is ' nothing will happen so I won't bother'. This is compounded by

inconsistent and, quite frankly, some very bad decisions being made without consultation with the trade customers that operate. there is also very limited support when things do go wrong and emergency response is required. There are many examples of this and I would strongly suggest you speak with the various operators, if I can help with facilitating that I would be more than happy to.

I could write 'War and Peace' on this but have touched on what I perceive as the major issues, however, I believe there is a workable system in place and it simply needs to be enforced, there was a chance last year to have put this right but it was missed for various reasons but trying to change an already simple and understood system just over complicates the situation and alienates those of us that have lived on the water for years whilst embracing the heritage.

Please do keep me informed as this progresses, I have requested the information from CRT regarding their proposals but as yet have had no reply.

Kind Regards,

Name withheld

From:
To:
Subject: Moorings on London's Waterways
Date: 23 May 2013 00:28:57

Dear Ian,

I am a 'Continuous Cruiser' in London and I wish to express my own views on your current 'investigation' of Moorings on London's Waterways.

Your report 'Moorings on London's Waterways – Proposal for Rapporteurship' to the Health and Environment Committee, dated 17 April 2013 reads:

"Over recent years the number of boats overstaying the permitted period on moorings in the London area has reportedly increased by several hundred."

- How can this be when the total number of Continuous Cruisers in London is 216? (London Boaters Survey 2012).

Also, "there are indications that many boaters are having difficulty finding the moorings they want."

- I have lived on my boat for three years and I have always found the moorings I want in London.

Finally, in response to providing:

"A self-financing permit scheme to identify those people who have permission to keep a boat without a home mooring in the London area , or those who need to spend considerable time moored in the area."

(A Proposal for Reducing Overstaying Boats in the London Area, The Inland Waterways Association 2012),

- How about just letting us continue to live here in the largely happy, friendly and vibrant community that we are?

Yours faithfully,

Simon Elliston
'Intiman"

From:
Sent: 14 June 2013 14:22
To:
Subject: Re: Moorings

Hello Ian

Thanks for getting back to me. I've been out of the country (and I now am again) so I was not aware until recently of your work in this area. I will try to make the key points I want to make but to keep it brief if possible.

I write as a boater whose 'home mooring' has been in Nottingham but who has spent a decent amount of time as a short and longer stay visitor on London's waterways over the past two years. This included periods using marinas as far west as Harefield (September to April 10/11) and continuously cruising the Paddington Arm, Regent's Canal, the Lea Navigation as far as Cheshunt and the Thames. I was moored on Victoria Park during the Olympics.

My narrowboat is currently in Warwickshire. I will be heading - slowly - to London again in about three weeks.

The increase in the number of boats in London, particularly on the Regent's Canal has been dramatic. Mooring spaces that were sparsely populated only 2 years ago - Broadway Mkt - are now chock a block.

There are very limited 'true-visitor' mooring opportunities, all available space being occupied by 'not-really-continuous-cruisers' meaning that for many up country boaters London has become a no-go zone.

There are insufficient moorings, insufficient access to water supply and toilet emptying and nowhere to connect to a shoreline electricity supply. There are not enough bins or any recycling facilities for boaters and C&RT are unable to resource sufficiently non-boater waste removal from the towpaths.

Many of the boats are occupied by (young) people looking for an alternative to high rent prices. Some have bought boats but others are 'hired' in some cases informally and in breach of C&RT licence conditions meaning that they are not insured.

Some are effectively Homes in Multiple Occupation but are not seen or treated as such by Local Authorities (not least since boats need to be moved regularly and in doing so move from one authority's jurisdiction to another).

Boats are subject to the requirements of a Boat Safety Certificate but this is only a once in four years test. Gas and other appliances are not tested as often as they would be if land-based.

The lack of access to shoreline electricity means boaters need to run their engines or in many cases to use generators which often means petrol is being stored on board and generators are being stored inboard to avoid theft.

There is no requirement for smoke or CO detectors to be fitted.

The nightmare scenario is an (uninsured) vessel burning at night - somewhere like Broadway Market, where boats are moored up to four abreast - and that fire spreading to other boats all containing flammable materials.

Many of these issues are compounded by the increasing number of trading boats on the network.

All of these conditions have been exacerbated by some at C&RT turning a blind-eye to a growing problem, initially seeking a provocative enforcement solution and then making a complete mess of their Olympic arrangements. More recent licensing proposals may work better but will not deal with the problem of the lack of amenities or services that are needed by a growing number of boats (this is not a trend that is about to go into reverse).

Either the canals in central London are a legitimate place to live (rather than just to visit) or they are not.

If they are then there is no solution to the current problems without additional permanent, semi-permanent or long-term temporary moorings being created.

There are a number of mooring- suitable locations that could provide significant additional capacity that are currently given over to other use (eg City Basin) or to no or limited boating use (some of the big old Thames docks). I propose a review of the use of all such sites, including the QE Olympic Park.

There is significant potential on the waterways of far east London if timely action is taken to ensure their development is not fettered. I propose that any planning permissions granted for canal-side or navigation-side sites should contain (s106 style) a requirement that and development must include in-line moorings on 75% of the site's water frontage or perpendicular (to the waterway) moorings capable of mooring boats to a total length equal to 100% of the site's water frontage.

I also propose that one London Borough be given lead responsibility for waterways matters such as licensing and safety and ideally to include the transfer of waste management from C&RT.

These would of course not provide an infinite number of moorings or resolve the range of other issues I identify. Measures to ensure network capacity is sufficient or capped and that use is managed appropriately will also be needed.

Thanks for your consideration.

Stephen Barker

From:
To:
Subject: canal moorings rapporteurship
Date: 28 May 2013 17:41:38

Dear Ian,

as a live-aboard boater I would like to give my point of view on your report "Moorings on London's Waterways – Proposal for Rapporteurship".

In your proposal you mention that some boats, referred to as 'live-aboards' have people living on them for 'extended periods'. Actually we live on them as your homes. The legislation does not take into account this fact by making us move continuously but we learned to live with that but the proposal also speaks of there being not enough mooring sites.

I would like to point out that 8 years ago British Waterways bricked over a lot of stretches of grass by the canal which would be used to hammer mooring rings into. By bricking them over no-one can moor there any more. This has led to boats having to moor in specific spots making it SEEM like there may not be enough space in fact there are large stretches where we could potentially moor with just a little thought/finance. There are other stretches where the canal side is too shallow or there are large stones or slabs of concrete under the water making it impossible to moor. Why can't these problems be rectified?

We do not want marina's to live in like boat ghetto's we just want to live the nomadic life we have chosen. I do not care personally if a place is full and I cannot fit my boat in I will just carry on further to somewhere else but I will not pay for the privilege of mooring somewhere to the disadvantage of others who cannot pay therefore I do not agree with the new roving permits C&RT are trying to introduce nor do I agree to being herded into a marina or into areas of towpath where there are no facilities but we will be made to pay.

Many people are of the same mind as me but will not take the time to write. I hope you will take note.

Thankyou

Tracey

From:
To:
Subject: Boater's opinion
Date: 18 June 2013 23:03:49

Dear Sir,

I have a boat on residential mooring at Poplar dock for last 5 years. So I would like to make a comment on residential marina moorings and their management by bwml.

1. Static number of mooring but increase in change of ownership- false reports of new boats being in london

It is hard to get a mooring in London, so most people buy a boat with mooring. I would say rather than new boats coming in like immigrants, the boats with their moorings are changing hands more than ever due to changing economic climate. Since boats in marina are same with new owners, they are calculated as new boats on paper along with new owners and this has been seen as increased demand and has artificially driven up the price of a mooring sky high. Also a number of boat dwellers have left their secure mooring to become continuous cruisers when they were unable to pay the hiked up mooring rent and the same moorings are being sold to new boaters by managements, this allowing a overall increase in boaters.

From being a eco friendly, cheaper and alternative way of life, it has become a expensive way of life with no way out.

The management of the marinas have been dominated by BWML and they have driven up the prices with their domination without concomitant improvement in management and reducing environmental impact.

In the last 5 years, my mooring rent has gone up from £260 per metre to £499 per metre with a new 30% surcharge for wide beam. And in the last 5 years, there have been major sewage overflows from septic tank back into water due to failure of pump and no backup pumps. I have even lodged complaints with the Environmental agency about this.

Secondly, the new moorings created during Olympics are lying empty due to exorbitant prices and non-residential nature... They are too expensive for random leisure boaters.

However the current economic climate and dominance of bwml with their rocketing prices means half the mariners are going away and becoming 'cruisers' and the continuous cruising population has markedly increased. The new rule for continuous cruisers of moving every few weeks is completely against the 'green policy' or eco-friendly principle of water dwellers. Imagine all the continuous cruisers starting their engine every few weeks to move around. The wastage of diesel and release of smoke into already polluted London smog has no rationale behind it apart from punishing the boaters who don't have cash to pay the marina managements.

What is required is:

1. legislation protecting the rights of a boater,
2. Guidelines for marina management akin to landlord-tenancy agreement with reasonable prices to reduce the cruising population and fill the marinas
3. Regulation of environmental standards of the marina managements as they have more impact than individual boaters who love and respect the water they have chosen as home.
4. If the overall number of boats in a area are regulated by local council, it would reduce the environmental impact.
5. The new moorings created during Olympics should be used to reduce cruising population.
6. There is no need for cruising population unless the boater feels like cruising.....this will reduce the environmental impact for sure.
since it is all about financial opportunities for council and canal and riverways trust /bwml, environmental impact has taken a backstep.

This is one opinion of a boater.....

Regards

Uma Bannur