Ymatebion i'r Ymgynghoriad y Pwyllgor Cynaliadwyedd ar Ymchwiliad i Fynediad i Ddŵr Mewndirol yng Nghymru

—

Consultation Responses to the Sustainability Committee Inquiry into Access to Inland Water in Wales

Ymatebion a gafwyd cyn 18 Medi 2009
Paratowyd Medi 2015
Cyfrol 5 o 5

—

Responses recieved prior to 18 September 2009
Prepared September 2015
Volume 5 of 5

Cynulliad Cenedlaethol Cymru
National Assembly for Wales

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Ar 15 Gorffennaf 2009 cytunodd y Pwyllgor Cynaliadwyedd y cylch gorchwyl a ganlyn ar gyfer ei ymchwiliad i fynediad i ddŵr mewndirol yng Nghymru:

– i archwilio'r sefyllfa bresennol ar gyfer mynediad i ddŵr mewndirol yng Nghymru a gwneud argymhellion.

Cyhoeddodd y Pwyllgor alwad am dystiolaeth ysgrifenedig, a gaeodd ar 18 Medi 2009. Derbyniwyd 491 o ymatebion yn ystod y cyfnod ymgynghori a daeth tua 100 arall i law ar ôl y dyddiad cau (ac felly na chawsant eu hystyried gan y pwyllgor).

Mae'r ddogfen hon, a baratowyd ym mis Medi 2015, yn cynnwys y 491 o ymatebion gan y cyhoedd a dderbyniwyd erbyn y dyddiad cau ar gyfer yr alwad hon am dystiolaeth ysgrifenedig. Oherwydd y nifer fawr o ymatebion maent wedi'u cyhoeddi fel cyfres o 5 llyfryn sy'n cynnwys hyd at 100 o ymatebion yr un i wella'r hygyrchedd i'r wybodaeth hon.

Mae adroddiad y Pwyllgor ac ymateb Llywodraeth Cymru i'r adroddiad hwnnw ar gael ar wefan y Cynulliad.

Mae'r holl ymatebion yn cael eu cyhoeddi yn yr iaith y cawsant eu derbyn ynddi.

At ddiben cyfeirio mae'r llyfryn cyntaf yn cynnwys rhestr o'r 491 o ymatebion

On 15 July 2009 the Sustainability Committee agreed the following terms of reference for its inquiry into access to inland water in Wales.

– to examine the current position for access to inland water in Wales and to make recommendations.

The committee issued a call for written evidence, which closed on 18 September 2009. 491 responses were received during the consultation period and approximately a further 100 were received after the closing date had closed (and were, therefore not taken into account by the committee).

This document, prepared in September 2015, contains the 491 responses from the public that were received by the closing date of this call for written evidence. Due to the large number of responses they are published as a series of 5 booklets containing up to 100 responses each to improve the accessibility to this information.

The Committee's report and the Welsh Government response to that report can be found on the Assembly website

All responses are published in the language in which they were received.

For reference the first booklet contains a list of all 491 responses received

Cyfrol 1 – 001 – 099

Cyfrol 2 – 100 – 199

Cyfrol 3 – 200 – 299

Cyfrol 4 – 300 – 399

Cyfrol 5 – 400 – 491

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Volume 3 – 200 – 299

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Cwestiynau i'r ymholiad i fynediad i ddyfrffyrdd mewndirol

01. Beth yw eich diddordeb yn y mater o fynediad i ddyfrffyrdd mewndirol

– Perchennog tir

– Defnyddiwr hamdden

– Pysgota

– Defnyddiwr ar gyfer hamdden ar ddŵr (ee canŵio, rhwyfo ac ati)

– Arall (rhowch fanylion)

02. A ydych yn aelod o sefydliad sy'n gysylltiedig â'ch defnydd o ddŵr?

– Os ydych, pa sefydliad/au?

03. Pa ddarn/ddarnau o ddŵr yr ydych yn berchen arnynt/eu defnyddio/eu rheoli?

Hawliau cyfreithiol

04. A ydych yn fodlon bod eich hawliau cyfreithiol yn glir ac wedi'u diffinio'n dda?

05. A allwch amlinellu'n gryno eich dealltwriaeth o'ch hawliau cyfreithiol dros y darn/darnau o ddŵr yr ydych yn berchen arnynt/eu defnyddio/eu rheoli

06. A hoffech weld unrhyw newidiadau i'ch hawliau cyfreithiol?

– Os byddech, pa newidiadau yr hoffech eu gweld?

07. A ydych yn ymwybodol o unrhyw ddeddfwriaeth sy'n bodoli mewn gwledydd eraill y gellid ei defnyddio yng Nghymru?

Cytundebau gwirfoddol

08. A oes gennych unrhyw brofiad o gytundebau gwirfoddol ar gyfer mynediad i'r darn/darnau o ddŵr yr ydych yn berchen arnynt/eu defnyddio/eu rheoli

– Os oes, amlinellwch yn fyr y cytundebau sy'n bodoli a'ch profiad o sut y maent yn gweithredu.

09. A hoffech weld unrhyw newidiadau i'r cytundebau gwirfoddol?

– Os byddech, pa newidiadau yr hoffech eu gweld?

10. A ydych yn ymwybodol o unrhyw drefniadau gwirfoddol sy'n bodoli mewn gwledydd eraill y gellid eu defnyddio yng Nghymru?

A allwch chi amlinellu'n fyr yr hyn yn eich barn chi yw'r materion allweddol ar gyfer mynediad hamdden i ddŵr mewndirol yng Nghymru a sut y byddech yn hoffi eu gweld yn cael eu trin.

Questions for the access to inland waterways inquiry

01. What is your interest in the issue of access to inland waterways

– Land owner

– Recreational user:

– Fishing

– User for waterborne recreation (e.g. canoeing, rowing etc)

– Other(please specify)

02. Are you a member of an organisation related to your use of water?

– If yes, which organisation/s?

03. Which stretch/es of water do you own/use/manage?

Legal rights

04. Are you happy that your legal rights are clear and well defined?

05. Can you briefly outline your understanding of your legal rights over the stretch of water/s that you own/use/manage

06. Would you like to see any changes to your legal rights?

If yes, what changes would you like to see?

07. Are you aware of any legislation that exists in other countries that could be used in Wales?

Voluntary agreements

08. Do you have any experience of voluntary agreements for access to the stretch of water/s you own/use/manage

– If yes, please briefly outline the agreements that exist and your experience of how they operate.

09. Would you like to see any changes to the voluntary agreements?

– If yes, what changes would you like to see?

10. Are you aware of any voluntary arrangements in other countries that could be used in Wales?

Please can you briefly outline what you think are the key issues for recreational access to inland water in Wales and how you would like to see them addressed.

400.N S Morgan, Merthyr Tydfil Angling Association

http://www.mtaa.co.uk

Many thanks for inviting the fishermen to attend the above meeting on Access to Water held at the above show. This is Merthyr Tydfil Angling Association's response as you requested

Water rights are a complex issue and for the Canoeists to say that they have a right to use any water they please goes against all the principles and laws that have governed water rights over the years. Although water falls from the sky free the minute it is impounded or forms streams it becomes subject to all manner of restrictions on how it can be used. These vary from statutory laws that govern Abstraction and discharge, to Fishing rights that have been bought and sold over many years, in each case payment is involved. The following statement by Val Lloyd :'Access should not be based on the vagaries of permissions bestowed or ability to pay, but on the fundamentals of equity and social justice' and 'the rivers of Wales are a natural 'gift' that everyone should have the right to enjoy'. While not disagreeing with her statement the ability to pay part will, if unfettered access be given to canoeists, be equally relevant to Anglers.

Anglers have to pay for permits to fish rivers ponds lakes and streams and canals as well as a Rod licence to the Environment Agency. Even on areas of river covered by Navigation Rights the Environment Agency charges fees. Boats using these rights aiso need identification. It should also be remembered that navigation rights were imposed in those far off days to enable Goods to be moved in a cost effective and quick mode to towns that had the benefit of a river passing by. The claim by the canoeists that they take nothing is getting increasing irrelevant as Anglers are being encouraged to practice more and more catch and release. In other words we do not take anything from the water.

TILC seems morally and legally unfair that a Small group of people who are heavily funded as a sport now wish to take for granted what anglers have achieved by hard work and their own investment. This investment also includes the maintenance of the river benks the removal of fallen trees (this is work we now have to carry out due to Cuts in Environment Agency budget) and recently with the advent of the Rivers Trusts (formed mainly by fishermen) the onerous task of combating invasive weeds ie knotweed. We do not see other water users or proposed users keen to offer finance or voluntary help on the scale the angling fraternity does. The facilities currently run by the canoe governing Body and the new one due to open soon on the River Ely that runs into Cardiff Bay can only be used if payment is made.

Since the tum of the last century when must angling rights were either owned by the Crown or the Lord of the Manor, anglers, and in particular in Wales, Angling Associations, have spent large sums of money on the purchase of fishing rights. The result of this is that voters over a large spectrum are now able to enjoy fishing at very reasonable cost making angling the largest participant sport in the country. Anglers have been called feudal by the canoeists, but are we, when we have opened up so much of our waterways for all classes of people by breaking down what was undoubtedly one hundred years ago a rich mans preserve.

We are open to negutiatiun to allow canoeing and other water sports access but feel this access must not be at the expense of present users. One of our main fears are the people who buy a small piece of land abutting a river and then run very lucrative businesses with no thought other than for themselves. They think nothing of sending large quantities of Rafts and canoes down a river or stream with total disregard for any other water user. They also charge substantial sums to people who use their facilities.

The people who are pushing for a change in the law are experts in the field of canoeing, capable of handling all circumstances that a wild river can throw at them. They are only a small minority as far as canoeing is concerned and increasingly those canoeists who do not belong to Canoe Wales or the BCU are getting fed up with their attitude. There have been an increased number of fatalities associated with canoeing this year alone, one can only imagine the amount of fatalities that will occur on a regular basis should unsupervised free for all access be allowed. The push for open access does not seem to assess the health and safety aspect. Who will be available to supervise and look after the totally inexperienced people who will be encouraged to go canoeing, wild swimming, gorge walking,?

Griff Rhys Jones in his recent programme went out of his way to show the merits of canoeing. What was not shown however or mentioned was all the backup he had in case an accident or incident occurred and it would be interesting to see the risk assessment that the BBC had to carry out before embarking on the programme.

The new complaint regarding access being put forward by canoeists is that no one will enter into agreements with them. This claim is totally untrue as they are now refusing to enter into any agreements. This is only true of the small amount of people who are represented by Canoe Wales. Angling is known to be and recognised by the Sports Council for Wales as the largest participant outdoor sport. The turnover generated from Angling into the Welsh economy is over £150 million with 1,500 jobs and Environment Agency figure show that £63 million of this gross total remains in Wales. These are proven facts and not fictitious figures that are being bandied about by Canoe Wales.

Many people including Canoeists believe the Environment Agency stock the rivers for the anglers. This is totally untrue and has never happen even historically in the days of the old River Boards.

The petitions committee did not even scratch the surface in it's deliberations on access to water. We hope that your committee will be more proactive, investigate all claims made by the canoeists, and make sure that all the bodies that represent the countryside are invited to make representation personally on this matter.

401.David Addis

401.1. What is your interest in the issue of access to inland waterways

Recreational kayaker

401.2. Are you a member of an organisation related to your use of water?

WCA

401.3. Which stretch/es of water do you own/use/manage?

I kayak upon Welsh rivers

401.4. Are you happy that your legal rights are clear and well defined?

NO, I don't have a full understanding of my rights and where they apply

401.5. Can you briefly outline your understanding of your legal rights over the stretch of water/s that you own/use/manage

Im allowed to paddle anywhere unless there is an agreement on the river. Not fully sure who makes the agreements though.

401.6. Would you like to see any changes to your legal rights?

If yes, what changes would you like to see?

YES, I would like a similar access to the Scottish access laws.

401.7. Are you aware of any legislation that exists in other countries that could be used in Wales?

The Scotland access laws would be beneficial, but I understand that due to their terrain and the remoteness of many of the rivers it may not work exactly the same in Wales and England.

401.8. Do you have any experience of voluntary agreements for access to the stretch of water/s you own/use/manage

No

If yes, please briefly outline the agreements that exist and your experience of how they operate.

401.9. Would you like to see any changes to the voluntary agreements?

If yes, what changes would you like to see?

Yes, I don't believe that voluntary agreements work and I do not feel part of the decision making.

401.10. Are you aware of any voluntary arrangements in other countries that could be used in Wales?

In the French Alps, after a certain time kayakers agree to not paddle on rivers so that fishermen can have access.

Please can you briefly outline what you think are the key issues for recreational access to inland water in Wales and how you would like to see them addressed.

Access to the rivers through other peoples land.

402. C Evans

I am an angler of some 60 years experience on the River Rheidol as a member of the Aberystwyth Angling Association (AAA) and have limited experience on the R Ystwyth I also have considerable knowledge of Welsh agriculture from my pre-retirement occupation as an advisory scientist in what was MAFF.

I am deeply concerned about the demands for free access by paddlers to inland waters and their flagrant disrespect to the law and the property of others in Wales. Also that their action and mannerism appear to be supported by public funded bodies that should be aware of the present laws referring to our inland waters. This law has worked well in the past and there is no need for change but respect for the law would be appreciated.

In a letter I received from the WAG last April I was informed that "our overall aim is to improve public access to Wales' superb water resources (rivers, lakes, reservoirs and canals) for healthy recreation and benefit of all recreational users". I take this to mean what it says and unless the WAG intends to treat the Discrimination Laws in the same manner as indicated above all and sundry will have the right to free access to surface waters in all of Wales In some European countries where this is the law the public have the right of access through anyone's property-even gardens- to gain access to a river.

The water flows in the River Rheidol are controlled by the hydro-electric (HE) company sited on it. When the HE plant was built (c1960) it was to provide power during the peak demand periods (10--4pm) of that era. Today there is no such peak demand and the HE now generates when instructed by its HQ with complete disregard to other river users, the time of day and the duration of very high flows

After generating they revert to "compensation" flow rates that often mean hardly any flow at all. The view gained by the AAA members is that to the company any water that does not pass through the generators is money lost. All discussions with the AAA and aspects of H&S are ignored. The anglers are aware of the hazard and it is highlighted in the club rules. To open this river to all would be madness. The HE will not even erect signs to warn the public that may camp or picnic nearby. The company refuses to let anglers know their generating practice as "it's commercial in confidence" The flow rates can vary from about 2cumecs to over 22cumecs within the hour, but in practice the warning is much shorter as one does not notice the change in flow until it becomes obvious and often too late to respond.

The Rheidol has some 6 SSSIs and has much valued wild life. Anglers walk the banks quietly with least disturbance to wild life and often retrace their tracks. Canoes on the other hand burst on the scene and cannot go backwards.

During their migration salmon and sewin have long rest periods. However any shadow passing over them during this period will cause an immediate panic and I have observed on many occasions For this to happen during the spawning season would be disastrous.

The club occasionally allow Scout Troops access to certain pools. Unfortunately locals and other campers seem free to do the same afterwards but without any supervision. It's not unusual to find small infiatables lodged in riverside trees. A year or so ago the local weekly paper extolled the virtues of a local school boy for rescuing his friend who got into difficulties canoeing on the RheidoL It did not report that he was canoeing without permission

The present change in animal preference from sheep back to cattle as the result of adjustments after Foot and Mouth, Bovine TB and purple tongue will be an increase in riverside fields carrying cattle and

there will be a need for fences to be erected across the smaller rivers to prevent animals from straying as cattle, unlike sheep,are not afraid of water. God help the paddlers!!

I beg the you will examine carefully all aspects of river management, its wild-life and the health and safety of potential users and as in all walks of life some of them will be occasionally silly.

403.Liam Roseblade

403.1. What is your interest in the issue of access to inland waterways

Recreational kayaker

403.2. Are you a member of an organisation related to your use of water?

none

403.3. Which stretch/es of water do you own/use/manage?

I kayak upon Welsh /English/ Scottish rivers

403.4. Are you happy that your legal rights are clear and well defined?

NO, I don't have a full understanding of my rights and where they apply

403.5. Can you briefly outline your understanding of your legal rights over the stretch of water/s that you own/use/manage

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403.6. Would you like to see any changes to your legal rights?

If yes, what changes would you like to see?

YES, I would like a similar access to the Scottish access laws.

403.7. Are you aware of any legislation that exists in other countries that could be used in Wales?

The Scotland access laws would be beneficial, but I understand that due to their terrain and the remoteness of many of the rivers it may not work exactly the same in Wales and England.

403.8. Do you have any experience of voluntary agreements for access to the stretch of water/s you own/use/manage

No

403.9. Would you like to see any changes to the voluntary agreements?

If yes, what changes would you like to see?

Yes, I don't believe that voluntary agreements work and I do not feel part of the decision making.

403.10. Are you aware of any voluntary arrangements in other countries that could be used in Wales?

In the French Alps, after a certain time kayakers agree to not paddle on rivers so that fishermen can have access, I believe some rivers may have this provisional agreement already in Wales

Please can you briefly outline what you think are the key issues for recreational access to inland water in Wales and how you would like to see them addressed.

Agreements for thoroughfare through other peoples land; kayakers are largely a respectful group of people

404.Philip Thomas, Cardiff Canoe Club

404.1. What is your interest in the issue of access to inland waterways

Recreational kayaker

404.2. Are you a member of an organisation related to your use of water?

none

404.3. Which stretch/es of water do you own/use/manage?

I kayak upon Welsh /English/ Scottish rivers

404.4. Are you happy that your legal rights are clear and well defined?

NO, it seems to be a very grey area that leads to frequent disagreements between different water users.

404.5. Can you briefly outline your understanding of your legal rights over the stretch of water/s that you own/use/manage

In my understanding providing I do not directly trespass on land, finding a non conflicting entry and exit to water, I am well within my rights to use the water.

404.6. Would you like to see any changes to your legal rights?

If yes, what changes would you like to see?

YES, having used many of the UK inland waterways, I feel that the Scottish system appears to benefit all types of inland water users. I feel that the explosion in outdoor activity groups demonstrates a public interest in using inland waterways, of which the current access situation limits.

404.7. Are you aware of any legislation that exists in other countries that could be used in Wales?

The Scotland access laws appear to be a good grounding for any new legislation governing the use of waterways within Wales and England.

404.8. Do you have any experience of voluntary agreements for access to the stretch of water/s you own/use/manage

Yes.

If yes, please briefly outline the agreements that exist and your experience of how they operate.

In relation to the river Usk – the previously agreed access was very limiting to almost all water users, restricting public access to the cold winter period.

404.9. Would you like to see any changes to the voluntary agreements?

If yes, what changes would you like to see?

No, I believe that voluntary agreements do not have a place in the future of inland water access as they are exactly what has led to the confusion and limitation relating to access, and so the conflicts between water users.

404.10. Are you aware of any voluntary arrangements in other countries that could be used in Wales?

In some areas of the French alps, there appears to be open water access up until 18:00 where fisherman take sole usage of the rivers.

Please can you briefly outline what you think are the key issues for recreational access to inland water in Wales and how you would like to see them addressed.

Agreements for thoroughfare through other peoples land; kayakers are largely a respectful group of people.

405. Jonathan Williams, Swansea

405.1. What is your interest in the issue of access to inland waterways

User for waterborne recreation (e.g. canoeing, rowing etc)

Keen recreational kayaker and canoeist.

405.2. Are you a member of an organisation related to your use of water?

Welsh Canoe Association member.

405.3. Which stretch/es of water do you own/use/manage?

I am a regularly user of rivers in South Wales, in particular the Tawe river and tributaries such as the Afon Twrch and the Upper Clydach (by Pontardawe), and the Neath drainage with the Mellte, Nedd Fechan, Clydach Brock (by Resolven) and Dulais rivers.

Other rivers paddled in the last 2 years include:

– Sawdde (near Llandeilo)

– Cothi (near Llandeilo)

– Nant Gawr (by Bynamman)

– Taff (by Pontypridd)

– Upper Tywi (near Llandovery)

– Ystwyth (to the East of Aberystwyth)

– Tryweryn (at the National Canoe centre near Bala)

– Glaslyn (by Porthmadog)

– Conwy (by Betws y Coed)

An online guide to the Welsh rivers for canoeists can be found at:

http://www.canoewales.com/Guide/riverguide/walesmap.htm

405.4. Are you happy that your legal rights are clear and well defined?

No, I am unsure of my legal rights in respect of access to rivers and river banks.

405.5. Can you briefly outline your understanding of your legal rights over the stretch of water/s that you own/use/manage

I understand that I am allowed to canoe along rivers as long as I do not disturb spawning salmon. (Salmon and Freshwater Fisheries Act 1975)

By choice I try not to disturb river beds, especially any gravel banks that spawning fish may use.

I understand that I do not always have a right of access to rivers due to privately owned land. When accessing rivers I am sure to use rights of way or to ask permission from the land owner.

405.6. Would you like to see any changes to your legal rights?

Yes

If yes, what changes would you like to see?

I would like clarification of my legal rights of access. I would like free and unhindered access to inland waters, as long any risks of environment harm are minimised. I would like such legislation to be based on science rather than political pressure based on single group interests (from either kayakers or anglers).

405.7. Are you aware of any legislation that exists in other countries that could be used in Wales?

Access legislation and regulation in Scotland seem to be more consistent with access for all to the countryside.

405.8. Do you have any experience of voluntary agreements for access to the stretch of water/s you own/use/manage

Yes

If yes, please briefly outline the agreements that exist and your experience of how they operate.

Voluntary access agreements have previously existed on the Tawe river, where throughout the summer fishing season canoeists and kayakers voluntarily agreed not to visit the river. However, these arrangements were not satisfactory, as often at the times when the river was in condition to paddle (i.e. at a suitably high river level, following heavy rain) the access agreement suggested that paddling was not allowed.

Furthermore it is a frequent experience to be challenged by anglers on stretches of water and when loading and unloading canoes from vehicles near rivers. Often the anglers will claim that canoeists have no legal right to visit the river, but there does not seem to be any legal precedent to suggest that this is the case. As a kayaker I have experienced verbal abuse from anglers. Friends have received threats of physical violence, and I have heard stories of kayakers' car being damaged as a result of animosity between kayakers and anglers.

405.9. Would you like to see any changes to the voluntary agreements?

If yes, what changes would you like to see?

I would like to see voluntary agreements, based on seasonal access availability, for canoeists and kayakers to be revoked. In place of these agreements I would like to see a code of practice for water users which suggests the areas which kayakers should avoid due to spawning fish – this would of course have to take into account river levels and the spawning seaon. If this knowledge was disseminated kayakers could plan their trips accordingly, so as to avoid damaging fish stocks.

405.10. Are you aware of any voluntary arrangements in other countries that could be used in Wales?

The Norweigan model seems to have some benefits as the relationships between kayakers and anglers are much better. There is a lot more mutual respect as well.

Please can you briefly outline what you think are the key issues for recreational access to inland water in Wales and how you would like to see them addressed.

Anglers seem to view access to rivers as being their sole right. Other members of society are not welcome.

When challenging anglers as to why they object to kayakers, a common response is that they pay for rod licences for their use of the river. They never acknowledge that many kayakers support the Environment Agency through (a) tax contributions and (b) membership of membership organisations such as the Welsh Canoe Association.

The prevailing attitude of anglers seems to be entirely selfish, i.e. this is our river, you are not allowed here.

Greater mutual understanding is required from both sides – it is clear that there is currently a lack of mutual understanding between kayakers and anglers. A code of practice (perhaps a degree of legislative/regulatory support) in regard to avoiding damage to spawning fish stocks, might help to clarify the situation in Wales.

NB: I have attached 2 additional documents which I would like to be considered by the inquiry committee.

i)A letter from Ray Lockyer of Pontardawe and Swansea Angling Society, address to myself.

ii)My written response to Mr Lockyer.

Pontardawe and Swansea Angling Society Ltd

Reg'd Office 8 Bwllfa Rd Ynystawe Swansea SA6 5AL Registered in Wales No 6736638

Secretary and Life President

Ray Lockyer 8 Bwllfa Rd Ynystawe Swansea SA6 5AL Tel 01792 844014 Email rhl@pasas.org.uk

Mr.J.Williams
31 Seaview Terrace,
Swansea,
SA1 6FF.

22nd July 2009

Dear Sir

CANOEING ON THE RIVER TAWE

Our Treasurer (and Director), Phil Jones, tells me that he spoke to you at about 19:30 on Friday 17th July 2009 about canoeing on the River Tawe. He said that he would arrange for me to write to you and the other three accompanying you. I would be grateful if you'd pass the contents of this letter on to your companions.

You were preparing to enter the water at Glais, where the river bed and all rights are owned by Vale Inco Ltd. Phil explained that, as an ordinary member of the Angling Section of the Vale Inco Sports and Social Club, he was not in a position to challenge your use of their water, especially as you claimed to have had permission in the past from Vale Inco groundsmen. Your use of their water is not a matter for us but we'll let the Vale Inco Angling Section know about your visit and it would be remiss of us not to tell you that our understanding is that no-one is allowed access to the water alongside the nickel refinery (below Glais Bridge) on health and safety and security grounds. You can find more about Vale Inco at www.inco.com/global/clydach.

Above and below the Vale Inco water, however, we own river bed and all the rights that go with such ownership. Where we don't own river bed and/or fishing rights ourselves, we lease them from the owners and in this way we control access to most of the river above and below Vale Inco's property - from Ynysmeudwy to Morriston. This is why Phil spoke to you, just in case you were thinking of travelling downstream.

Phil tells me that you obviously knew about the current campaign about access, that you mentioned the Welsh Canoeing Association, that you claimed that the law relating to navigation on rivers is unclear and that there is no legal precedent. We are aware of the misinformation which is being put about by various canoeing bodies. In fact, the law relating to navigation on inland waters in England and Wales is settled - no general public right to navigate in non-tidal rivers exists in England and Wales. The Appendix attached below is a copy of a legal opinion which we have obtained. Please note particularly the last paragraph, which explains that in the case of Rawson and Others v Peters (1972) 116 SJ 884; 225 EG 89, CA, Lord Denning in the Court of Appeal ruled that canoeists can be held liable for interference with fishing rights, even if nobody is fishing at the time and even though no obvious damage has been done. In that case damages were awarded against the canoeists and the owners were allowed to seek an injunction to prevent further trespass.

You shouldn't assume that repeated canoeing in the area of a weir does no damage, even in high water. Such

structures provide an obstruction to the upstream migration of fish and the time when a spate is abating (like Friday evening) is often the time when sea trout and salmon are trying to negotiate such obstructions and migrate upstream. We wouldn't want this interfered with in any way. It's actually an offence under the Salmon and Freshwater Fisheries Act 1975 if any person "uses any contrivance or does any act whereby salmon or trout may be scared, deterred or in any way prevented from freely entering and passing up and down a free gap at all periods of the year". There's also good reason to believe that, if migratory fish are scared into leaving a piece of water, it can act as a deterrent to fish coming behind them - a sort of "indian sign" that all is not as it should be, which can damage the fishing potential of a piece of water for a very long time. So you'll see that it is simplistic to claim that canoeing does no harm.

Our policy is that canoeing is not normally allowed on the water which we control. If responsible canoeists were to put reasonable proposals to us, we would obviously consider them. But in the absence of prior permission canoeing is not allowed on our water. We'd be grateful if you would acknowledge this and ensure that you and your companions refrain from using our waters.

This letter is sent recorded delivery.

Yours faithfully

R.H.Lockyer B.Sc.

Company Secretary & Director
8 Bwllfa Road,
Ynystawe,
Swansea,
SA6 5AL

Appendix.

LEGAL OPINION

THE LAW OF NAVIGATION ON FRESHWATER IN ENGLAND AND WALES

The current position of the law is settled in that **no** general public right to navigate in non-tidal rivers exists in England and Wales.

While the public has the right of navigation in tidal waters (e.g. Gann v Free Fishers of Whitstable (1865) 11 H.L.Cas; Blundell v Caterall (1821) 5B & Ald. 268), this depends on the presumption of the Crown's ownership of the land beneath the water. This presumption is rebuttable and there are some instances where the tidal riverbed is under private ownership. (As is the case with much of the River Tawe.)

The presumption of rights of navigation on tidal rivers contrasts with the very limited right on non-tidal rivers. The default position is that there is no such general right of navigation. Above the flow of tide the land beneath a river or stream is privately owned so that while the public can acquire navigational rights over such waters they cannot have them as of right.

It has been held that rights of navigation on inland waterways are not analogous to rights of way on land (Wills' Trustees v Cairngorm Canoeing and Sailing School (1976) SLT 162 and AG ex rel Yorkshire Derwent Trust and Malton Town Council v Brotherton [1992] 1 All ER 230).

Acquiring rights of navigation
Post-Wills Trustees, the public acquisition of a right to navigate on a non-tidal waterway cannot be based on the usual arguments used for "immemorial user" for rights of way on land. The basis of a public right of navigation in a non-tidal river should be treated as being in a legal class of its own.

Of course, as is well recognised, a public right of navigation may also arise through statute. This is the most common way in which such rights arise.

No right for use of banks
Even in the situations where the public has a right of navigation in a non-tidal waterway (whether by grant, statute or immemorial user), this does not necessarily include the right to moor or to make use of the banks of the waterway in gaining access to or leaving the waterway. In A-G ex rel Yorkshire Derwent Trust and Malton Town Council v Brotherton [1992] 1 All ER 230, L Jauncy commented, *obiter,* that ". . .the public have no right to use the bed or banks of the river other than perhaps for anchoring in an emergency and for landing at a place where they are entitled so to do".

Therefore, to moor and access the river in such circumstances, canoeists would need the permission of the owner of the river bank to avoid trespassing.

Remedies for the owners of fishing rights
In Rawson and Others v Peters (1972) 116 SJ 884; 225 EG 89, CA, the plaintiffs (claimants) owned fishing rights on the River Wharfe but did not own the bed or bank. They claimed an injunction and damages against defendant canoeists for interference with their rights. The case was heard at the Court of Appeal where Lord Denning decided that it was possible for an action to lie against the canoeists without proving damage to the fishing although this was not, strictly speaking, trespass to land in the usual sense. Nominal damages were awarded, with liberty to apply to the County Court for an injunction. This case leaves fishing clubs with the remedy of an injunction against canoeists to restrain them from trespassing where there is no right of public navigation.

Thursday 17th September

Dear Mr Lockyer,

RE: CANOEING ON THE RIVER TAWE

It was a matter of great interest for me to receive your letter, dated 22nd July 2009, of which I kindly acknowledge receipt. As you suggested, I have indeed taken the opportunity to share the letter with my three companions who accompanied me on 17th July at the Glais weir on the River Tawe.

Setting aside the legal situation for the moment, the aspect of your letter which we find to be the most unacceptable is your assertion that the River Tawe is "our river" and the numerous references to "our water". This would seem to typify the attitude of some members of the angling community who find the idea of sharing access to a river as an incomprehensible concept - a selfish mindset which seeks to exclude all others who might seek to enjoy the many and varied benefits of experiencing river life at river level. As such I have attached your original letter and this written response, to my response to the National Assembly for Wales's inquiry into access to inland water[1].

Rivers are natural resources, which as such ought to be open to all who wish to responsibly benefit from them. As canoeists (or kayakers, as the jargon sometimes dictates) we seek access to inland waterways in a manner which is fair and equitable to all. In the 4 years that I have lived in Swansea I have enjoyed the rivers of various watersheds, in particular those draining the Tawe, Neath and Afan valley systems. Interactions with anglers on these rivers have been incredibly varied: from friendly chats; to civilised discussions about access; to less friendly encounters where my friends and I have been sworn at; and at the most extreme where threats of physical violence have been voiced by anglers towards kayakers. I should add that some of these extreme examples have occurred when I have been involved in supported guided youth groups. The majority of encounters are quite polite and civilised, as they were when I met with your colleague Phil Jones, however, these are tarnished by the more extreme experiences which understandably contribute to a confrontational atmosphere.

I take issue with your viewpoint that migratory fish can be issue signals to each other – please do reply to this letter and let us know if you can reference any peer reviewed, independent, scientific papers to prove otherwise. At present the only relevant documentation I can view on this would appear to be a study by the Environment Agency on *"The Effects of Canoeing on fish stocks and angling"* which would seem to contradict your point of view.[2]

In relation to your legal arguments, I would point out that there would seem in little in the way of substantial legal precedent since 1972.[3] Additionally the lack of any prosecutions, failing to result in fines or any other sanctions against canoeists, for the use of inland water (as opposed to trespass) would seem to highlight that the legal situation is far from straightforward. The Environment Agency as a modern enforcer of regulatory

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[1] National Assembly for Wales. Sustainability Committee - Inquiry into access in inland water in Wales. 24 June 2009.
Available from:
http://www.assemblywales.org/bus-home/bus-committees/bus-committees-third1/bus-committees-third-sc-home.htm

[2] Environment Agency R&D Technical Report W266 – The Effects of Canoeing on Fish Stocks (Angus and Hendry) Bristol: 2000.

[3] Lord Denning judgement, Court of Appeal case: Rawson and Others v Peters (1972) 116 SJ 884; 225 EG 89

Damages of 50p were awarded. More recent research into the effect of kayakers on spawning beds would suggest that the judgement is dubious to say the least.

environmental law enacts its powers in a highly discretionary manner, one which is proportional to environmental risks. It is my understanding that the Environment Agency is currently reviewing the scientific evidence of the impact of canoeist on migratory fish and as kayakers we keenly await the results.

In relation to the Salmon and Freshwater Fisheries Act 1975[4] I would again take issue with your highly selective quote: - if any *person "uses any contrivance or does any act whereby salmon or trout may be scared , deterred or in any way prevented from freely entering and passing up and down a free gap at all periods of the year"* – surely this particular quote could also be used against anglers? I would suggest that there are better sections of the statue from which you might quote, that is should you wish to distort a statue which was originally intended to prevent industrial dredging of rivers beds by construction companies wishing to source cheap aggregates and infill materials.

I would also like to take the opportunity to highlight the Environment Agency's guidance to river bailiffs[5]. This EA guidance document suggests that Bailiffs, many of whom act of behalf of angling clubs historically to prevent poaching, should only ask canoeists to leave the water if *"there is a real risk of disturbing spawning fish or spawning beds"*. It is my understanding that no fishing goes on during the spawning season. As kayakers we would appreciate if your club might follow the guidance issued, as a matter of club policy, and do not attempt to enforce a policy of no kayaking when a) you have no legal rights of enforcement to do so, and b) the legal situation is far from clear.

As canoeists we are willing to take into consideration the wishes of other river users. Previous voluntary access agreements have failed due to failings on both sides. We would like to see a situation whereby canoeists are allowed free access so long as this doesn't interfere with spawning fish or their spawning beds. This would be based on science rather than single group interests, and would be dependent on rivers levels and spawning seasonality variations, tailored to individual river catchments to as not to interfere with spawning fish. We would like to see this situation appear though reasonable and facilitated negotiation between angling groups, the Welsh Canoe Association, and the Environment Agency.

Yours sincerely,

J Williams M.Eng

[4] Salmon and Freshwater Fisheries Act 1975.

[5] Guidance for Environment Agency Fisheries Bailiffs – Canoeing and Fisheries. EAS/3001/4/1. 1999.

Canoe England response to:
National Assembly for Wales Sustainability Committee

Inquiry into access to inland water in Wales **18 September 2009**

Canoe Wales together with Canoe England, Canoe Association of Northern Ireland and the Scottish Canoe Association are the respective UK national bodies for canoeing. They form the British Canoe Union (BCU) that represents canoeing interests through coaching, competition and campaigning for increased access to Britain's waterways for canoeists.

The BCU represents the interests of all who go canoeing, including over 450 affiliated clubs and 145 approved centres. The vast majority do so under a watchful eye of one of the 11,000 BCU Qualified coaches or as part of an affiliated organization. Canoeing is a sport and recreation with Olympic disciplines that requires access to water as the natural resource for the pursuit.

Canoe England endorses the principle of rights to access inland waters with responsibilities to respect the environment and the activities of others; and recognises the Land Reform (Scotland) Act 2003 as an exemplar of suitable modern legislation. Scotland legislated to enshrine a public right to inland waters. Elsewhere in the world where there is an accepted right to inland waters.

The Canoe Wales submission to the Sustainability Committee to establish public rights to inland waters in Wales is fully supported by Canoe England.

The unsatisfactory degree of public rights and uncertainty of access to inland waters in Wales and England can be assessed by reference to:

> "Water based sport and recreation: the facts", University of Brighton that determined more that 96% of inland waters in England and Wales had disputed public rights. (Canoe England disagrees that there is not an unmet demand for access). .
>
> historic research by Douglas Caffyn "The Right of Navigation on Non-tidal Rivers and the Common Law". This paper argues that in common law there is a public right on all non-tidal rivers.

Andy Green
Head of Access and Environment
Canoe England

407.Graham Stradling

My interest in access to water is both as a recreational canoeist, and as a course angler

I am a member of the BCU and Canoe England.

I have kayaked for over 30 years and in that time I have had the opportunity to enjoy the following rivers,

- River Dee
- River Tryweryn
- River Severn (all sections)
- River Wye (all sections)
- River Usk
- River Llugwy
- River Conway

I have been an angler for a slightly longer period, although I have fished less then I have paddled, the river I have fished have not been welsh rivers other then the Severn.

With respect to canoeing I do not believe that the legal rights are clear. The law is unclear as to whether the general public may navigate all rivers. Magna Carta was clearly drafted on the understanding that rivers were available as navigations but this law has been gradually repealed but not replaced with any clear statutory clarification.

Many people understand that legally one can paddle some 4% of rivers in Wales, I have suffered verbal abuse and threats from these people and been threatened that I may be sued for trespass if I paddle any of the other 96% of rivers in Wales.

I believe that the legalities should be clarified in that water, as a natural resource belongs to everyone and therefore there should be no legal restrictions on the use of rivers in Wales. There are better models of law and understanding in almost every country I have paddled in. I feel the need to emphasize the point that the right of way is along the river, it doesn't include the right to cross peoples land to get to the river, this needs to be from public access land or by negotiation with the land owner. Scotland - the Scottish Land Reform Bill provides a sensible balance of rights and responsibilities. I have also canoed and had no access issues in France, Germany, Austria, Italy, Spain, Norway, Sweden and the United States and I see no reason that Wales (and England) are the only countries where the law is interpreted against navigation. I have had discussions with anglers who believe that the population density in Wales is what makes it a special case, but I believe that this means more then anything that we need a clear right and responsibility. I think the concentration by some on this being a canoeing versus angling issue is also very wrong there are impacts here on other water users such as wild swimmers, to the everyday group of kids or family and kids playing in a river, to more rare river users such as coracle owners and so on (I have met some on the Usk).

After 30 years of paddling and 50 years of our governing body trying to clarify rights through voluntary access agreements, some anglers are now trying to promote voluntary agreements. The difficulty with agreements is that they only apply in law between the parties to them, they cannot be

imposed on third parties and particularly on those who are not members of organisations negotiating them. Access agreements have been difficult to negotiate always biased towards land owners and fishermen and all it takes is a single land owner to have a change of heart and the whole agreement can fall apart. This is clearly why a set of well defined legal rights and responsibility needs to be made. These could include such things as a clear system of gauges as to when a river is viable for canoeing or not and so on. These must be based on clear environmental grounds.

For canoeing, no agreements now exist in Wales, as the WCA has pulled out of all Voluntary Agreements as, after years of wasted negotiation, recent Government studies have shown that they cannot provide the necessary water resources needed for water sport. The 'Brighton Report' should be ignored for its conclusion that the negotiations resulted in improved access whereas actually they resulted in less access agreed.

The executive summary of this report was profoundly flawed, and had results for some of the case study removed.

Voluntary agreements have a single place, they should only be used when short term exclusive access is required to stretches of water, for example when a championship fly fishing event or other watersports competition is taking place. This would be to temporarily restrict the general right of access. This approach appears to work in Scotland, these temporary agreements have worked well for the likes of angling competitions.

50 years of negotiation has resulted in a pitiful 4% of the linear waters ways in England and Wales where adjoining land is in private ownership being opened up via agreement. Voluntary agreements are restrictive in nature, usually permit use of small sections of rivers only and are for short periods of the year. Canoeing, Kayaking and Wild Swimming continue to enjoy growing numbers of participants for which sustainable access to water is essential to allow participants and rural economies to continue to benefit from what is a low environmental impact, high health promotion activity.

I do not believe that further access to water can be delivered by utilising the same methods that have failed again and again.

I feel that a solution can only be achieved with a mechanism of access similar to that of the Scottish Land Reform Bill. Legislation is required to enshrine and enhance the right of access to the water, and provide clear roles and responsibilities for user groups in relation to the preservation of the environment.

Prior to the introduction of the Land Reform Bill, many parties were concerned about what it's effects might be, since it's introduction all concerns have been shown to be unfounded and people from all walks of life are able to share and enjoy the Water and environment, responsibly and without conflict.

408.Mr Ezra Watts

I am a canoeist and am unhappy about the lack of access to rivers in Wales. Rivers are a natural heritage and should be enjoyed by everyone not just a minority of wealthy landowners.

I am happy to share rivers and would welcome adoption of the land reform act in Scotland, for application in Wales.

I am a member of the University of West of England Canoe Club and regularly paddle rivers around the Brecon Beacons and Snowdonia.

409. Sarah Houle

Do Welsh Canoe Union have:-

01. Comprehensive membership to enable them to enforce rules

02. Do they have a Code of Conduct enforceable if members break this by withdrawing their right to canoe. Fishermen have been abused verbally and canoeists have deliberately caused a disturbance to the fishing.

03. The owners and tenants pay large sums to maintain the rivers and towards environmental schemes; would the canoeists be prepared to do so also

04. This would mean that they had to have a licence and also carry comprehensive insurance against accidents and ensure that owners were indemnified.

05. There would have to be restrictions out lining of access; i.e. in fishing season and a complete ban on the spawning areas.

06. Some waters already have access, so code of conduct etc. would enhance these. On other voluntary agreements have been agreed - some local clubs agreed these but were vetoed by the W.C.U

07. Existing owners would require compensation for depreciation in the value of their interests.

08. Surely a policy to encourage voluntary agreements is the way forward as any legislation is likely to be extremely complicated and still require good will even then

Virginia,

PSA response to SC(3) - AIW140. I have commented on the arguments raised.

Regards

Steve Maskell

SC(3) - AIW140

Sustainability Committee

Inquiry into access to inland water in Wales

Dear Members,

I write on behalf of the above i.e. myself, my wife, our daughter and her family to express our views as anglers and to request that these views are taken into account when any debate on access to inland waters takes place in the Assembly. My daughter and her family live in Bethesda, the address from which I write this letter as I am currently teaching my two grandsons to fish in nearby lakes and rivers. My wife and I are both members of the Teifi Trout Association and fish the River Teifi regularly. When fishing the Teifi we have been alarmed at the behaviour of canoeists and rafters who take delight in disrupting licence paying anglers who are pursuing their hobby. It is to be hoped that interested parties can in the long term come to mutual agreement about sharing such wonderful amenities such as rivers and lakes. At present we are more than happy that we understand our legal rights on the stretches of water where we fish and would not wish to see any changes to those rights.

We would like to put to you the following additional points if we may;

1. We think we are right in saying we believe from information we have that allowing paddlers unlimited access to Welsh rivers is likely to be unlawful with respect to the Salmon and Freshwater Fisheries Act (1975) which protects spawning fish and, in the case of salmon and sea trout their redds,from disturbance.

2. Paddlers like to assert they have little or no access to running water in Wales yet they have free navigation on some 25% of rivers via the considerable tidal reaches.

3. We believe the Welsh Canoe Association has withdrawn from a number of voluntary agreements in order to claim poor access rights.They continue however to give ingress and egress points on their website which in effect incites illegal trespass.

4. The WCA appears quite intransigent, refusing to compromise in its insistence on unfettered access to all waters, everywhere. We believe anglers and paddlers in the long term will have to debate, discuss,compromise and reach agreement on co-existence on inland waters.

5. To reward current trespass by changing the law seems wrong and the prospect alarms riparian owners and angling clubs.

6. The financial contribution by anglers, be they Welsh or any other nationality is huge whether it be from an Environmental Agency (EA) Licence (currently £68 p.a.), angling club subscriptions (I pay £100 p.a.), shops,accomodations, caravan sites etc. In addition the volunteers who devote their labour to improve water habitat and wildlife, water quality deserve praise and fair treatment.

7. When paddlers say licences and subscriptions are to pay for fish taken from rivers they ignore all coarse anglers who return 100% of their catch and a large proportion of game anglers who now practice catch and release (to help improve fish stocks). Paddlers pay zero except of course those that pay commercial enterprises for trip in a canoe or raft!

Comment [E1]: See this is where the problem lies. Both sides are happy with the current situation. I am happy because I have a right to use rivers that are considered public rights of way. The law needs to be clarified so confrontations are mimimised.

Comment [E2]: Please follow link to show that this is not the case - http://www.songofthepaddle.co.uk/ea_guidance.pdf

Comment [E3]: Misguiding use of statistics. 25% of the numbers of rivers and not the length of rivers where it is nearer to 2%. As shown here - http://www.riversaccess.org/pages/pv.asp?p=rac18&fsize=0

Comment [E4]: Voluntary access agreements were restricting the right to paddle. So not in the interest of the canoeing governing body.

Comment [E5]: The obvious way forward is for the law to be clear and understood by all. This would minimise confrontations as everyone understands the situation. How long have we been trying to achieve what he recommends?

Comment [E6]: Floating on the river is not trespass in the same way that walking on a footpath is not. We are asking for laws to be clarified and access is for all not the few.

Comment [E7]: Rivers are a resource for us all. Just like the mountains and beaches. The upkeep of which should, and is, be paid centrally. So as it is a resource for all collecting funds should fall within ... [1]

Comment [E8]: Untrue see above. Paddlers do not need to pay money because they do not need to employ people to check the fishermen with regard to poaching.

8. Golf courses are commercial enterprises and are rightly excluded from the CRoW Act. Rivers should be excluded for the same reason.

9. In the hopefully unlikely event that the law is changed, riparian owners and angling clubs would quite rightly demand considerable compensation for the reduction in value of their assets and the derogation of their leases.

Finally let me say that I have fished since my father took me at the age of 5 to our local canal. 60 years on and I have never written a letter like this;my strength of feeling is very high. I trust the Sustainabilty Committee of the Welsh Assembly will read my points and find them, along with I'm sure many other anglers' opinions persuasive enough to maintain the status quo on access to inland waterways and encourage dialogue and by dialogue voluntary agreements to prevail.

Yours Faithfully,

Ray Prince Christine Prince Robert Davies Lynn Davies Huw Davies Rhys Davies

Read more: http://www.assemblywales.org/bus-home/bus-committees/bus-committees-third1/bus-committees-third-sc-home/inquiries_sd/sc_3_-access_to_inland_water_-_main/sc_3_-access_to_inland_water_-_responses/sc_3_-aiw140.htm#ixzz0RfJge5H0

Comment [E9]: Irrelevent. Golf courses do not come under the definition from the 2000 CRoW Act to describe 'areas of mountain, moor, heath and down' and thus are not covered in the act. Rivers are not either and hence we are having this debate now. Golf courses are in my mind equivalent to gardens and cannot be counted as 'open land'. Rivers are also a natural resourse and should be handled in a similar way to what the CRoW act covers.

Comment [E10]: The law does not need to change because paddlers already have the right to travel on public rights of way. So this argument has no standing. Furthermore I think this endevour would actually increase the value of their assest by stopping any arguements and helping the environment. Would they give you money for doing this? Clearly not.

Page 1: [1] Comment [E7] Elise 20/09/2009 10:02:00

Rivers are a resource for us all. Just like the mountains and beaches. The upkeep of which should, and is, be paid centrally. So as it is a resource for all collecting funds should fall within taxes.

Paddlers also have needs and would pay money for the same things, eg pubs and hotels, as is mentioned in this piece.

River clean ups by paddlers are an easy enjoyable way of doing good for the environment. If these can be arranged for more rivers the rivers in Wales would look even more impressive than they do now. The easiest way to clean a river is to be on it and float the rubbish out.

411.Martin Bloomer

My name is Martin Bloomer, I am a part owner of Trostrey fishing on the River Usk between Usk and Abergavenny Gwent and have been so for 50 years. I have, therefore, vast experience of fishing on the River Usk and also experience of both fishing on the River Dee and River Wye.

I have great reservations about canoeists having open access to the waterways in Wales.

01. Fishing is one of the biggest participation sports in the country.

02. Fishermen have taken the trouble to acquire/secure fishing rights in order to pursue their hobby.

03. Canoeists do not seem to adopt a similar approach but now seem to want to be given the right to do so at no cost over other people's property

04. We do not at the moment have major problems with canoeists on our stretch of the Usk which is generally slow running, however, we subscribe to the long standing agreement reached by the Wye and Usk Foundation and formerly by United Usk Fishermen that the canoeists usually have access in the closed season and when the water is very high. The canoeists seem now to be withdrawing from that agreement probably sensing that they may secure unfettered access.

05. Large scale canoeing and fishing do not mix. Part of fishing's enjoyment is quiet solitude and access over the water which will not be enhanced by large numbers of canoeists passing by.

06. Fishermen, even if they own the fishing rights, pay a licence fee to the Environment Agency and I do not believe that the canoeists pay any licence fee or make any contribution to the Environment Agency for the use of the water.

07. I also go finishing in Scotland which results in a contribution being made to the local economy in that locality as I tend to stay in one place while fishing and contribute to the Local Economy

08. I have had experience of canoeists passing by me when I am fishing in Scotland on the River Dee and it disturbed my fishing greatly. 11 canoeists came past, 9 of them co–operated and tried not to disturb my enjoyment but 2 didn't and went through the pools. They also climb over rocks etc. I have no doubt that the free access for canoeists would not specifically include such rights but who is going to police it.

09. Scotland is a larger country and less populated than Wales and I believe less affected by open access canoeing but even then there are problems as illustrated above. Are visitors going to keep going to Wales to fish if their enjoyment is ruined by canoeists or will they go somewhere which respects private property?

10. If the Assembly feel minded to grant such access I trust that they will pay compensation to owners as they are, in fact, acquiring a right over private land; the landowners should be compensated.

11. In any event I believe that the canoeists' should be required to contribute to The Environment Agency for their use and enjoyment of the waterways.

12. River owners maintain the rivers in all aspects at their cost. Do the canoeists make similar contributions?

I trust on reflection that the Assembly will not proceed down this route as I believe it will lead to a deterioration of the fishing in Wales and a reduction in the number of fishermen visitors

If the canoeists wish to have access to the river they should show a willingness to negotiate to secure their enjoyment of the own rights and not expect to be given such rights by the State.

412.John Tomloinson, Birmingham University Kayak Club

President of Birmingham University Kayak Club

412.1. What is your interest in the issue of access to inland waterways

Recreational kayaker

412.2. Are you a member of an organization related to your use of water?

Birmingham university kayak club

412.3. Which stretch/es of water do you own/use/manage?

I kayak upon Welsh /English/ Scottish rivers

412.4. Are you happy that your legal rights are clear and well defined?

NO, because the law is unclear and this leads to confrontational encounters with other members of the public, usually of the fishing community.

Do you have any experience of voluntary agreements for access to the stretch of water/s you own/use/manage

If yes, please briefly outline the agreements that exist and your experience of how they operate.

no

Please can you briefly outline what you think are the key issues for recreational access to inland water in Wales and how you would like to see them addressed.

I would like to see a similar law as in Scotland, in which the people have the right to roam upon rivers. This would remove the possibility of confrontation, and allow the people of the UK to really enjoy the natural resources readily available to them in Wales.

413.Stephen Maskell

I am an experienced paddler and enjoy both kayaking and canoeing. I am a member of the WCA, which I find useful for keeping my coaching status current and being informed of the latest developments within paddling.

I have paddled all over Wales and will not list all the rivers here because it adds nothing to the debate. I also have paddled in eight countries outside of Wales.

The topic of ones legal rights to be on a river is an ugly and tricky one. The reason for this is the lack of clarity of the law and different users have different interpretations of this law and hence conflicts occur. I hate this lack of clarity and ask the National Assembly for Wales to provide this guidance.

It is my belief that I have the right to paddle on any river in Wales. Note the use of the word 'belief'; this is what I believe to be true because I cannot find any evidence to the contrary. Admittedly I cannot find any evidence, aside from The Right of Navigation on Non-tidal Rivers and the Common Law by Douglas Caffyn, backing up my beliefs either and hence the need for clarification. I will briefly outline the justifications for my beliefs.

Rivers have for eons been public rights of way, you just need to look into the history of the typically Welsh coracle to highlight this. Nothing has changed so logically they are still public rights of way.

Of course we can look at it from another way by asking the rhetorical question 'who owns the river?' or beach, mountain, nature, the air we breathe, and so on. The answer, of course, is that these natural gems belong to us all. In that case we are allowed to enjoy them.

Just because a river runs across a persons land does not mean they own the water otherwise logically it is theirs to do what they want with or even sell. This would be the same as claiming ownership of the air on a property and hence the airspace above. I know this sounds silly but so is claiming ownership of a natural resource and objecting to people using public rights of way.

I know there are other views out there and, having read a few of the responses you received as part of this consultation, you are aware of them too. I was writing a much longer paper which addressed all the reservations you received, further justified my position and backed up the suggestions that I shall make later in this letter, but it was more a collection of thoughts rather than a polished document so I felt that it would not have helped your enquiry. If you want the longer version let me know.

Having discussed the current situation let us look briefly at the changes I want made. As discussed I believe I have access rights to every river in Wales and do not want that to change. But I do want the law clarified so that I never run the risk of being shouted at for enjoying a legal and relaxing, or might have been was it not for the confrontation, afternoon of boating.

Pure open access, in the way that exists in Scandinavia, would also work in Wales. But think that the needs of the Welsh countryside differ to those of Sweden or Finland. So as part of the new era of equal access for all I would like a centralised database which includes information about the wildlife, history of the area, safety concerns for the paddler, current water levels and any special environmental concerns. Regarding environmental concerns that I want listed I am thinking of, for example, guidance on fish spawning for the river in question with recommendations such as:

> To paddle the x section of River x between the dates of x and x inclusive the river level should be above x. This is due to the delicate spawning grounds of the x.

That way working both to educate all users, I say users because this potential website would appeal to more than just paddlers, and to actively improve the environment because the paddling community would respect the recommendations.

Thinking of the environment - is there a better way of monitoring the river than by those travelling along it? And the best way to clean a river is from a boat. I have been lucky enough to be part of a river clean up when I lived in Cumbria. This annual event attracted a large number of boaters who travelled downstream together picking out all the rubbish along the way. It was enjoyable, very social and for a good cause. I would love it for a lot more of these events be organised perhaps even canoe clubs could 'adopt' a river.

Returning to the legislation in place in other countries. I have paddled all over the world and nowhere, except England, which has the same situation as Wales, have, I met the hostility that I have experienced in my home country. To highlight this I refer you to the link below, which summarises the access situation in other countries far more eloquently than I ever could.

https://www3.northyorks.gov.uk/n2cabinet_laf/reports_/20081120_/13accesstowater/13accesstowater.pdf

You were also interesting to hear my thoughts on voluntary access agreements. Well simply put they do not work. The key is in the name 'voluntary' if people choose not follow the agreement they do not have to. They are not legally binding and thus useless.

Recently, after the WCA had rescinded all voluntary access agreements, I was paddling a river in South Wales and was challenged because I was breaking the voluntary agreement that was made with the local canoe club that, I may add, I was not a member of. This made absolutely no sense being shouted at for breaking an agreement I had never made. And highlights well the problem with attempting to make voluntary agreements work. The other problem with voluntary agreements is that they weaken the right to paddle rather than strengthen it.

The best voluntary access I have seen, and that is not to say I support it, is on the Glaslyn in North Wales where it clearly states on a plate at the get in what the agreement is. This makes sense because the 'rules' are available for all to see. But it is still not legally binding.

Agreements tend to include dates and levels of when paddling is allowed and to me it is better to say that paddling is allowed at all times and have recommendations based on environmental concerns as outlined above. That way there is a clear reason why paddling should not be undertaken rather because it is which riles up kayakers.

Currently there are no voluntary access agreements in Wales, or at least none negotiated by the governing body. So there are no restrictions on paddling and therefore no need to change the law to restrict paddling further. As shown above I would like the law clarified so everyone knows where we stand and that it is a clear equal access policy.

I am not aware of any voluntary agreements existing in other countries. They are not necessary and totally alien to paddlers from outside of the UK. If you want to base the law on a model in use in another country Scotland's situation is similar to the Welsh one and gives fair access to all users.

To conclude I will briefly cover a few of the other, or the more pertinent, factors in this debate.

– Wales is a real haven for paddling and attracting kayakers into the country would benefit the economy and especially the rural communities where the majority of boating is to be had.

- The law needs to be simple and advertised so there is no ambiguity and confrontations are made a thing of the past.
- Rivers are a natural resource belonging to us all and not only for the minority. They should be open for recreation and this right should be underwritten in law. The important thing is equality and this is achieved with an access for all policy.
- Closing the rivers to recreation is the equivalent to closing the countryside.
- To make Wales attractive for travelling boaters it needs to have a policy to access that people from other countries can understand.
- Paddling is good exercise and part of a healthy lifestyle. This needs to be promoted and allowed to develop in this time of increasing obesity and related health complications.
- With the new Olympic standard slalom course being built in Cardiff there is real possibility of Welsh athletes competing at the highest level. Even Olympic athletes needs to start somewhere and if there is nowhere to practice then Wales has no hope of getting gold at future games.
- Environmental concerns are the only justification for a river not being open all the time and people will understand if there is a legitimate and publicised, on a reputable and neutral website, reason not to paddle.

Anyway I have made it clear of my views, you have a lot to think about and I trust you to come to a wise judgement on this delicate debate.

414.Mike Clark

414.1. What is your interest in the issue of access to inland waterways

User for waterborne recreation (e.g. canoeing, rowing etc)

I am a regular kayaker and canoeist, keen to share the resources and environment of our rivers with all parties

414.2. Are you a member of an organisation related to your use of water?

Llangollen Canoe Club

414.3. Which stretch/es of water do you own/use/manage?

I do not own or manage any stretch of water but do use many of the Rivers in North Wales for kayaking.

The River Dee runs past my house(Glyndyfrdwy), about 200meters away, which I use as a kayaker, all the way down to Llangollen.

414.4. Are you happy that your legal rights are clear and well defined?

Not when being scowled at by fisherman! Access does seem to be a muddled issue.

414.5. Can you briefly outline your understanding of your legal rights over the stretch of water/s that you use?

I believe I am allowed to use the rivers as a thoroughfair, though I must not access the bank/shore of private land (that would be tresspass)

414.6. Would you like to see any changes to your legal rights?

They need to be clarified

If yes, what changes would you like to see?

Logical and fair sharing of the rivers and waterways:I think that periods when it is important for Kayakers to have access (lots of water!) usually are not of interest to fishermen

414.7. Are you aware of any legislation that exists in other countries that could be used in Wales?

I believe Scotland has an equitable access system

414.8. Do you have any experience of voluntary agreements for access to the stretch of water/s you own/use/manage

No, I just go when I feel like it and try not to annoy anyone!

Please can you briefly outline what you think are the key issues for recreational access to inland water in Wales and how you would like to see them addressed.

The rivers are a fantastic recreational resource. If I can draw a parallel with the access agreements to the Countryside, The Countryside (particularly the moors) are shared with all manner of people from shooters to hikers and picnicers!.Ok I would draw the line in letting motor vehicles all over the countryside, but the gentle use of the Countryside is of benefit to everyone (especially local

business')...and the Rivers and waterways are part of the Countryside...so make the law the same...its easier that way!

415.Chris & Sue Pierce

Interest in Issue:

My interest in the issue is that I work in Outdoor Education in Wales. I am also a recreational Canoeist/Kayaker and a fisherman too! I have been fishing on Welsh rivers for as long as I can remember (over 30 years) and involved in Canoeing for around 16 years. I enjoy all aspects of the outdoor environment and have been involved in educating young people and adults in the Outdoors for over 15 years.

Organisation Member:

Canoe Wales, and currently hold a Rod Licence and local fishing permit!

I use:

Currently - Mainly the Rivers Usk and Wye. But also other rivers and Inland and Coastal waters throughout Wales. I have also paddled throughout the UK and Europe and New Zealand.

Legal Rights:

I would like to see more legal access and egress points on rivers that are appropriate to ensure access for all users. I believe that this would effectively enable more sustained use and reduce the effects of having very busy sections of some rivers.

I believe I understand the legal rights of access on some rivers but not on all.

Could the approach in Scotland be applied effectively in Wales? Would it be possible to try?

Voluntary Agreements:

I do have experience of some voluntary agreements and can see where information on river levels is useful for all user parties. I am aware of the agreements on the Wye and Usk.

How sustainable are voluntary agreements? What about access throughout the year in appropriate places and venues. What about access to lakes and reservoirs?

Issues:

I would like to see long term sustainable access. I would also like to see appropriately balanced views that are correct with regards to the environment, economy and fishery.

416.Andrew Thomas

I would like to bring to your attention a growing problem that myself and fellow anglers are having on the River Teifi and other rivers across Wales and that is of canoeists and rafters coming down unannounced and spoiling our past-time. You may ask, how do they spoil our past-time?

The fact is that salmon and sewin which we are lucky to have in this part of Wales and world renowned for are a very shy and easily disturbed fish.

The Teifi is not a big river by any means. One canoe is bad enough but lately the figure has increased tremendously rendering our past-time pointless. Unless you are a fisherman it's hard to explain the damage their canoeing is causing.

I have a lot of friends who visit the Teifi Valley purely to fish or rather they used to! After experiencing canoe disturbances they no longer bother. As you are probably aware visiting anglers bring a huge amount of revenue to the Teifi Valley and this is slowly declining year on year due to this problem and my fear is that revenue will disappear completely in the not too distant future.

I am aware the reasons the canoeists and rafter want to use the Teifi as it is a beautiful area to paddle in. But to turn up unannounced in such large numbers is irresponsible. People have often travelled long distances to fish the Teifi to hopefully catch a fish but have been met by upturned rafts and canoeists floating downstream having disturbed all the fish, which is heartbreaking.

We are not a bunch of tweed clad toffs with large bank balances but generally hard working people who wish to fish in peace, having purchased the relevant permits and licences – is that too much to ask? We have seasons we adhere to; why not the canoeists and rafter too which do not clash with our peak seasons?

Before any final decisions are made please take into account the above comments.

417.Alfred Pope

Wye and Usk Foundation Trustee

Chairman Salmon and Trout Association Bristol and West Branch

Member Tweed Foundation and Atlantic Salmon Trust

I am an riparian owner with others of approx 1 1/2 miles double bank of the Upper Wye near Erwood. I fully the support the excellent work of the Wye and Usk Foundation in arranging a voluntary agreement for canoe access on the Upper Wye. In the main this works extremely well in the majority of cases. However on rare occasions canoeists choose to fish illegally from their canoes as they do not have the permission of the riparian owner, even though they hold a 7 day salmon licence. Such a case was reported to the EA a few months ago.

I would add that it has become extremely difficult for people to fish some of the beats around Ross on Wye due to extremely heavy canoe traffic. A number of canoeists are fishing illegally, are landing on private land, lighting barbecues and leaving rubbish. There has even been a canoeing stag party of some 40 men whom spent the night camping and barbequeing on someones fishing hut, which was smouldering the next morning. The Wye is as you are aware a Special Area of Conservation, and it is therefore important that canoeists respect the beautiful surroundings and the wildlife therein.

418.John Hicks, Powys

A letter appeared in the County Times on August 24th from Rachel Evans, Director of Wales Countryside Alliance seeking responses to the call by Canoe Wales for open access to all rivers and inland waterways in Wales. I feel compelled to write and try and give you what I hope is a balanced perspective of the situation that has developed in recent years from the viewpoint of a concerned fisherman in your area of Montgomeryshire.

Angling is a varied, complex and expensive sport enjoyed by several million people in the U.K. It can be subdivided into three main groups, coarse, game and sea fishing, each with their own diverse tackle, techniques, environment and target species. Each branch of angling will have it's own particular concerns about free and open access to our rivers. In the media recently, in the context of this debate, the implication has been that anglers have unlimited access to rivers which is of course untrue. Anglers are constrained by the limits of the fishing rights, whether these rights are owned by riparian owners, clubs, individual fishermen, small syndicates, or land managers. Typically each varies in length from one hundred yards to half a mile of single bank fishing, although a very few of the very large clubs and associations own many miles of fishing rights scattered across various locations throughout the U.K.

We as fishermen have been very concerned over the last few years about the increasing activities and numbers of the canoeists and the impact that their activities has on our sport . This is where it is important to differentiate the varying levels of disruption that canoeing can create within different aspects of angling. Trout, seatrout and salmon are classed as game fish while chub, roach, perch, tench etc. are classed as coarse fish. Coarse fish, as a generalization, tend to favour slower river flows, backwaters, and canals while game fish prefer streamier, faster flows. The other differentiation is that coarse and game fish have a different spawning or 'closed' seasons . While game fish spawn over the winter months coarse fish spawn in the late Spring. Coarse and game fishing activity is governed by these spawning periods, and fishing for each species on rivers during their respective 'close' season is not allowed. Salmon and seatrout are migratory fish which migrate to sea as small immature fish. At sea they feed on things like sandeels and rapidly attain the proportions and weight that we associate with these fish, returning usually to their rivers of origin to spawn It can also be claimed that in general game fish are livelier, more nervous of and more sensitive to unfamiliar activity such as movement than their coarse fishing brethren. Because of their differing methods of fishing game fishermen tend to be on the move while coarse fishers are less mobile and fit the more idealized picture of fishermen, by non fishers, as sitting still all day watching a float bobbing around.

Anglers are very active environmentalists. It is in their best interest that the fishing environment is well looked after, and they have a particular concern for the welfare of the fish population of the rivers.often providing an early warning of any problems . It is surprising how ignorant the public often are of what fish exist in their local rivers and a complete lack of interest in those fish, despite having a knowledge and concern for birds and warm blooded wild mammals generally.

I am a game angler and I can only comment on my particular specialization in respect of the problem of anglers and canoeists on rivers based on my personal experience. In Montgomeryshire we've had increasing problems with canoeists for a few years because of it's proximity to the urban conurbations of the Midlands and ease of access from Manchester and Liverpool. In the last few years canoes have become smaller, lighter, more portable and more affordable, leading to a proliferation of the craft on our rivers with seemingly little or no enforced rules to control their activities. The anglers feel frustrated, impotent and unable to counteract this threat to their pastime. They cannot rely on

support from those who have the authority to enforce the existing rules such the police or the Environment Agency water bailiffs. It's a state of affairs where one group gets away with anarchy while the other has to stick by the rules and pay for that privilege Fishermen would not have a problem with canoeists acquiring canoeing rights to their own stretches of river, subject to the same market conditions and costs that fishermen have, and also be subject to a system where canoes have to be registered and licensed so that individual canoeists can be held accountable for their actions, bearing in mind that canoeing has an infinitely greater disruptive impact on fishing than fishing has on canoeing.

In recent years I've seen a marked decline in fishing on the upper Vyrnwy and Banwy, and this can be directly attributed to the increase in canoeing activity on these rivers. Fishing friends and acquaintances from the Midlands tell me that they are not prepared to go to the effort and expense of travelling to this area, as in their experience their fishing is likely to be disrupted by canoeists. Indeed several have ceased fishing altogether on rivers.

We are not talking here of just one or two canoes coming down the river, but organised groups of up to twenty canoes at a time. While this does not happen every day it happens often enough to make it uncomfortable and unsettling for anglers knowing that there is a good chance of it occurring On one particular Saturday morning I saw, within the duration of about twenty minutes, two separate flotillas of twenty canoes at Broniarth bridge in Meifod. One of the groups had a mini bus and trailer parked at the entrance of the rugby club car nearby which had a large picture of a canoeist on the side of the minibus and a website address. It turned out that this Outdoor Activities group had centres all over the U.K., France, Spain, and even Portugal, with the nearest centre being in Shropshire, where presumably this particular group came from. This is fairly typical of what happens. The organised canoeing groups are making a great deal of money from their activities while contributing nothing for the use of the rivers, have no responsibility for the environment of those rivers and contribute nothing to the local community, at the same time devaluing the fishing rights and destroying the anglers' sport. There is apparently no control over the setting up of these centres or who runs them .

Fishing rights here in this part of Montgomeryshire do not command the high prices of more well known rivers like the Dee, Towy, Teify and Dovey, but what value they do have is rapidly being eroded On the better known, more prestigious, Welsh rivers protection from canoeists has been due, to a large extent, to their high market values and revenue generation in contrast to the river Vyrnwy and some of the lesser known rivers, which makes these lesser rivers more vulnerable to the canoeists. Even so riparian owners, land managers, and fishing clubs will be hit hard by the devaluation because the fishermen will stop fishing and as a consequence the value of fishing rights will be negligible. Farmers, fishing clubs and others who have a monitory interest in the fishing rights as real estate will lose a great deal of money. As an example I can relate the experience of a local farming friend who about four years ago was approached informally by a large fishing club that wanted to lease his fishing rights on the river Vyrnwy. He thought that he might be able to make as much money by selling day tickets himself and renting out a converted barn as holiday accommodation with fishing thrown in. When I talked to him last year he asked me what had happened to all the fishermen as he did not sell one fishing ticket during the previous season. He's now even approached the same fishing club, but they say that they are no longer interested in getting any more fishing on the Vyrnwy.

I once watched two salmon lying side by side while I ate my lunch sitting on a very high bank above a pool on the river Wnion near Dolgellau. The pool was unfishable from my side, the water was gin clear so that I was able to observe each small movement the fish made. After some time a blackbird flew from one side of the river to the other, and as it's shadow passed over the fish they immediately bolted into the depths of the pool. I returned several times during the next hour and a half , but the

fish did not return to their lie, illustrating just how profoundly and easily they could be disturbed. Imagine what effect even one canoe will have on migratory fish whose biggest natural predators at sea have been seals, not dissimilar in silhouette to a canoe viewed from below! In this area there is no right of access for the canoes, but they use road bridges as illegal access points and exit points. Canoeists will travel miles in one morning and though their passage through a pool may take only a few minutes at the most, it is sufficient to upset the fishing effort for a considerable period of time. During their journey downstream this effect will be replicated many times leaving a lot of disgruntled fishermen in their wake who will invariably pack away their gear and go home.

I go fishing to get away from it all, to enjoy the peace and quiet of the countryside, the wildlife and of course to catch the occasional fish, not to have unpleasant altercations, so I'm always polite and avoid confrontation whenever possible. I've had my fishing disrupted so many times by groups of canoes that I now do a round trip of seventy miles to fish on the river Dee, despite having acceptable fishing available to me free within walking distance of my home in Meifod. I find myself less and less inclined to go fishing even though I've paid for a salmon licence and fishing association membership. In fact I've fished the river Dee only once so far this season because the potential is always there for my day to come to a premature end, and I return home frustrated, disconsolate and angry rather than refreshed and happy.

I think control and legislation is the only answer, and canoeist organizations should have to take more proactive responsibility for the behaviour of their members instead of condoning their disruptive and illegal activities as they have done in the past. Until this is done we can expect to see a constant haemorrhaging of anglers from the river banks.

I hope this gives a flavour of what a local anglers feels about the situation. Free unlimited access to canoes and other potential river users would spell disaster and I, and the vast majority of anglers, would hang up our fishing gear for good

419.Robert Melvin, Crickhowell

419.1. What is your interest in the issue of access to inland waterways?

Ownership of Dan-y-Parc Fishery, River Usk, Crickhowell.

419.2. Are you a member of an organisation related to your use of water?

Dan-y-Parc Fishery supports or subscribes to: The Salmon & Trout Association; The Atlantic Salmon Federation; The Wild Trout Trust; International Otter Survival Trust; The Sand Martin Trust; Game & Wildlife Conservation Trust; The RSPB; The World Wildlife Fund; The United Usk Fishermen's Association; The Wye & Usk Foundation; The Angling Trust; Fish Legal.

419.3. Which stretch/ es of water do you own/ use/ manage?

Ownership; use for game fishing purposes and management of Dan-y-Parc Fishery, River Usk, Crickhowell. (1.5 miles length of river with both banks)

Legal rights

Our legal rights at Dan-y-Parc Fishery, River Usk are clear and are well-defined by the conveyance deed and the survey plan of the fishery.

We are aware of legislation that applies to river access in England and Scotland

Voluntary agreements

From 1985 to 2000 Dan-y-Parc Fishery was bound by the agreement dated 29 March 1984 between the United Usk Fishermen's Association and The Welsh Canoe Association (now Canoe Wales). We found that this agreement worked very well for canoeists and fisherman alike.

Please can you briefly outline what you think are the key issues for recreational access to inland water in Wales and how you would like to see them addressed.

- Consider equitable arrangements for recreational access. The most practical solution to shared access would be to encourage canoe access outside the salmon and trout fishing season (ie from 18 October to 2 March). This is the time when high water conditions for canoeing are generally considered to be at their best due.

No less important, the risk of damage caused by canoe users to fish, flora and fauna will be at its lowest outside the game fishing season.

- Remove the confusion that has arisen over 'spate clauses' during the fishing season. A canoeist may start canoeing at the agreed minimum water level, but the water level may drop below the agreed level within a short period afterwards.

- Recognise that angling makes an important contribution to the local economy.

The River Usk provides game angling of the highest quality available in Great Britain and attracts anglers from far afield. This season Dan-y-Parc Fishery includes annual members from Sandwich (Kent); Lymington (Hants); Richmond and Fulham (London); Banbury (Oxon); Norwich (Norfolk); Chelmsford (Essex); Bath (Somerset); Guildford (Surrey); Newmarket (Suffolk); Solihull (Warwicks); Malvern (Worcs); Shrewsbury (Salop); Wotton-u-Edge (Glos); and Bristol. Each member who does not live locally needs to find hotel or B&B accommodation to stay overnight for one or two days each week while fishing during the eight month fishing season and also to buy food and drink; clothing, fuel, tackle and other goods during their stay.

Dan-y-Parc Fishery employs a river keeper from Pontypool and annually employs local tradesmen and builders to maintain its property. Expenditure by our members and also by the fishery itself represents a significant annual contribution to local businesses. If the existing quality of game fishing is either threatened, or reduced, or disturbed in any way, our members will not return to fish the Usk and the local economy will no longer benefit from the income generated.

– Ensure that the flora and fauna of the rivers are fully protected. Dan-y-Parc Fishery in common with other Usk fisheries is within the SSSI and the SAC. It is essential that provision of additional access does not further disturb the fish, flora and fauna of the river Usk. At Dan-y-Parc for example an otter holt has been established for about eight years; the otters and their young are frequently to be seen and the BBC has asked for consent to film them. At low water levels, salmon have been photographed spawning in the shallows upstream of our Rheld pool in October/ November and it is important to understand that spawning is not confined to Usk tributaries alone. Families of sand martins live in their thousands along the soft soil river banks along Dan-y-Parc from March to September each year.

90918sustres3

Sustainability Committee's inquiry into access to inland water in Wales
Response by Garth Roberts

Contents

90918sustres3

Sustainability Committee's inquiry into access to inland water in Wales
Response by Garth Roberts

1. **My present interests** are in fisheries and general river management. I own fishing rights and I am Secretary/Trustee to The Carmarthenshire Rivers Trust.

2. **I own fishing rights** along two meadows of the lower river Towy. I have considerable experience associated with fishing, fisheries and river management, initially on the rivers Wye and Dovey, subsequently mainly along inland waters in West Wales but also regionally and in the coastal waters of Wales (and Libya).

3. **Present and past organisational memberships include,**

1950 -53. Builth Wells Fishing Association.

1957 – 91. Teifi Trout Association.
(Committee Member & Membership Secretary 1966 -68: 1981 – 1989).

1968 -70. The Tobruk Lampouka Sea Angling Club.

1981 to date. The Salmon & Trout Association.
(Water Resources Officer Dyfed branch 1981 - to date).

1982 -2008. Carmarthenshire Fishermens Federation (CFF). Honorary Secretary.

1984 to date. Atlantic Salmon Federation (ASF of Canada). Life Member.

1985 – 89. Welsh Water Authority (WWA). Honorary Bailiff 1985 – 89.
(West Wales Local Consumers Advisory Committee (LCAC) 1985 – 89.
Regional Fisheries Advisory Committee (RFAC) West Wales 1985 -89.

1986 to date. South West Wales Wildlife Trust. Member.

1986 -96. National Rivers Authority (NRA).
Regional Fisheries Advisory Committee (RFAC) 1989 -94.
Local Fisheries Group (West Wales) – Chairman 1989 -94.

1996 -2008. Environment Agency Wales (EAW) 1996 – 2008
Local Fisheries Group (West Wales) – Honorary Secretary 1996 -2008.

2007 to date. The Carmarthenshire Rivers Trust 2007 – to date. Trustee & Secretary.

I have a scientific background, with early retirement through disablement.

3.1. As CFF's Honorary Secretary, I led a number of successful projects maintaining and bettering local rivers, their ecologies and fisheries, including,

1986 Litigation against a polluter,

1986 – 91 Working with WWA and NRA on fish radio-tracking schemes;

1992 and 96 Carmarthen Eastern Bypass - Direct involvement in river planning.

1992/4 Facilitated Llynyfan Hatchery.

1994 Forced abandonment of proposed landfill site.

1998 - 99 Towy valley aerial surveys.

1999 CFF donated £10,000 and raised £27,000 towards EAW fish tracking equipment.

2001 The Towy rod-fishery closed voluntarily during the FMD Outbreak.

2004 - 08 Collaboration with EAW's upper Towy liming experiments.

2007/08 CFF raised £88,000 'in-house' to buy out 6 of 9 Towy Estuarial Seine net Licences.

2007 Created the independent Carmarthenshire Rivers Trust (CRT), now a Charity also working for local rivers, already with a number of successful projects completed.

3.1.1. The CFF represents the interests of angling clubs, associations, syndicates, fishery owners and concerned individuals, owning or leasing fishing rights along 90% of the Towy and on some larger tributaries, on the rivers Taf, Teifi, Eastern Cleddau, Usk, and elsewhere in Wales and England. In excess of 11,000 anglers.

4. Legislation

I am content that my legal rights are clear and well defined. My understanding of the Law is as follows:

4.1. Common Law - Riparian Rights

4.1.1. Carty & Payne (1998) describe the word 'riparian' as a adjective used to describe the owner of land bordering a river or lake. He enjoys riparian rights as a result of his ownership of such land. Riparian ownership is a fundamental tenet of English and Welsh law. The judgment of Lord Wensleydale in *Chasemore v Richards* (1859) provides a concise definition of riparian rights.

> *"It has been settled that the right of enjoyment of a natural stream or water on the surface ex jure naturae belongs to the proprietor of the adjoining land as a natural incident to the right of the soil itself; and that he is entitled to the benefit of it ... He has the right to have it come to him in its natural state in flow, quantity and quality, and to go from him without obstruction"*

4.1.2. Gregory M. (1967) states,

> *Riparian Rights. Land on the banks of a river, or other water, is known as riparian land, and its owner a riparian owner. Rivers very commonly form boundaries between properties in different ownerships, and because of the legal presumptions in favour of riparian owners fishing rights are most usually owned through the proprietorship of land adjacent to the river. In addition to fishing rights, the riparian owner has certain other rights which derive entirely from his ownership of riparian land, for example rights of access to, and use of, the water.*

4.1.2. Gregory M. (1967 cont)

The owners of fishing and riparian owners must exercise their rights with reasonable consideration for each other. The riparian rights are presumed at law to go with the riparian land whether or not the landowner also owns the soil of the neighbouring water, or the fishing ('Lyon v. Fishmongers Co. 1876).

The basic right of the riparian owners is to receive the water flowing through his land undiminished in quantity or quality, and to take and use it for any purpose not inconsistent with the similar rights of other riparian owners (Mason v. Hill 1833).

If an Act of Parliament authorises any interference with riparian rights, this may be done only to the extent that is necessary for a reasonable exercise of the statutory powers (Edinburgh Water Trustees v. Sommerville & Son 1906).

His references to anglers apply equally to canoeists.

"Highways by waters. If a public right of way adjoins a river bank, may anglers fish from it? The answer is, no. All public rights of way are highways, and although every member of the public is entitled to use a highway, he may only use it for the purpose of passage—or—as the lawyer loves to put it, "for the purpose of passing and re-passing". The Highways Act, 1835, defined "highways" to be "all roads, bridges (not being county bridges), carriageways, cartways, horseways, bridleways, footways, causeways, churchways and pavements" (s. 5). Angling is permissible from none of them. The fact that a public right of way leads to a water does not give the public the right to fish if they have not the fishing rights in the water. The public may only use a highway in a reasonable manner, and a member of the public may not take advantage of his right to use a public way in order to interfere with anglers who are lawfully fishing. In this respect it should be noted that although the public have the right to use a highway, the soil remains in the ownership of the landowner. The same presumption arises in respect of highways as it does regarding the ownership of the soil of rivers1—namely, that the owners of land adjoining each side of a highway own the soil to the centre line of it, and if a landowner owns the land on both sides of the highway, he owns the entire highway, subject to the public's right of passage. The soil of a highway, though, does not necessarily belong to a private owner,

because the Ministry of Transport or the highway authority may have purchased the land outright. Where the highway is privately owned—which will usually be so in the case of footpaths and bridleways—an unreasonable use of it by a member of the public will be a trespass against the occupier of the land."

4.1.3. Bedell (2006) provides a brief layman's guide stating,

"Under English law all land, including the bed of a river or lake, belongs to someone e.g. private individual, local authority. It is usually necessary to obtain permission for access to such land or water for fishing or canoeing. If this has not been obtained, access constitutes a legal trespass, whether or not the owner actively enforces his rights.

There is no ownership of the flowing water and all may reasonably use it, provided that they have both a right of access to it and a right to use it for their permitted purpose. Where such rights do not exist, the water may be used for angling, canoeing, swimming, and so on, only with the consent of the owner e.g. fishing licence or an access agreement for canoeing.

4.1.3. Bedell (cont 2006)

In the case of England and Wales the Crown owns the bed of a river up to the limit of the tidal reach. Beyond this point the bed of a river is in private hands, sometimes as a separate legal tract (say where it is owned by a fishing club) but more usually by the adjoining landowners each owning to mid-stream. Those landowners are free to decide to what use to put their part of a river unless there exists a public right of navigation created by immemorial user, an express grant or statutory authority such as a Navigation Act.

There is clear legal authority in support of this approach culminating in the ruling of the House of Lords in The Attorney-General ex rel Yorkshire Trust v Brotherton [1991]. Whether or not there has been mis-interpretation of ancient authorities that is where the law currently stands on the matter".

4.2. The Common Law relating to watercourses is becoming increasingly intertwined with the criminal legislation as pressure mounts for greater use of waterways. The laws of trespass are reinforced by various criminal legislation including the Anti-Social Behaviour Act 2003 which builds on measures already available in the Criminal Justice and Public Order Act 1994, including anti-social behaviour orders in the Crime and Disorder Act 1998, and the Criminal Justice & Police Act 2001. For instance, offences against Section 5 of the Public Order Act 1986 can be committed even when swearing and are punishable by a Level 3 fine in the magistrates' court.

4.3. Sport is managed in Britain by UK Sport, the overseeing body that operates in accordance with the Council of Europe's European Sports Charter 1993, reaffirmed by the Third Summit of Heads of State and Government of the Council of Europe *(Warsaw, 16-17 May 2005**).***

4.3.1. The Sports Council of Wales (SCW), is required in its Royal Charter, paragraph 2 (j) specifically to :

to encourage and support the adoption of the highest ethical standards among persons or teams from Wales participating in sport and physical recreation.

4.4. Anglers, as well as being required to meet those standards of ethics, in practice they are also strictly regulated by current legislation and observance of the common laws of riparian ownership. Angling takes place on tidal and inland waters in England and Wales under the provisions and byelaws of the Salmon and Freshwaters Fisheries Act 1975, through a **licensing system**, regardless of whether or not those waters are publicly navigable. For instance, most tidal waters are navigable as are the lower (English) reaches of the river Wye, but there are no other navigable inland waters in Wales.

4.5. Environment Agency Fishing licences in 2009 cost, according to quarry and period, day, week or season, from £3.50 up to £70.00 for a season's salmon, sea-trout etc.. Many riparian rights are now owned or controlled, especially in Wales by angling clubs who have acquired their rights from large private estates, sometimes at considerable expense. Prices range from around £12 - £20/day to £200+/season. Those fisheries still under private control offer more exclusive facilities. All fisheries generate substantial revenues especially to local economies.

4.6. There is no licensing system for individual canoeists but there are some facilities. For instance, Tryweryn National Whitewater Centre offers 8 km of controlled flows for canoes, kayaks at prices ranging from £7/day to £160/season, with rafts from £28 for 40 minutes. Llandysul Paddlers Canoe Centre (LPCC) charges £25/day with club membership for £20/season. Canoe Wales (CW) and LPCC are each Registered Companies Limited by Guarantee; both are in receipt of substantial public funding from SCW, EAW and from Local Authorities. A £12 million Olympic canoe slalom course is under construction in Cardiff Bay.

5. Changes in my legal rights are not necessary but if any access agreement, made nationally or locally is to be successful, there must be some intervention and encouragement by WAG for better enforcement of the laws of trespass and use of the Anti-Social Behaviour Act 2003 which builds on measures already available, the Criminal Justice and Public Order Act 1994, including anti-social behaviour orders in the Crime and Disorder Act 1998, and the Criminal Justice & Police Act 2001. For instance, offences against Section 5 of the Public Order Act 1986 can be committed even when swearing and are punishable by a Level 3 fine in the magistrates' court.

5.1. If changes to the legislation, allowing access for navigation, are considered necessary, it is essential that some form of identification is made mandatory, together with clear disciplinary procedures.

5.2. I am not aware of any existing legislation elsewhere, immediately suitable for adoption in Wales. In my lay-opinion, that created in Scotland was ill-conceived in concept, rushed through incomplete with little consideration of its overall impact. The resulting legislation provides no solution to the problem of undisciplined canoeists, in fact apparently makes it much worse. Reports suggest a significant harmful effect on fisheries and associated interests on some Scottish rivers.

6.. Voluntary Agreements for canoe access to private property.

6.1. Government has stated categorically that access for canoeing must be arranged by local agreement. Persistent deliberate trespass by some canoeists, perceived by many to be incited by the CW, magnifies fears of nuisance and is a major contributory factor of why few agreements have been achieved.

6.2. The following posting by a canoeist on an internet Angling Forum discussion typifies their attitudes towards voluntary agreements.

> *"……Already we have de facto opened up shared access to the resources that we seek as there is next to nothing anyone can legally do to stop us accessing waterways. Are you going to take out an injunction against us for trespass? I really don't think so. Call the police? They have no power in civil trespass. Threaten us with the law and we will ignore you. Threaten us with violence and we will call the police and they have a duty to take action…. You can forget about us paying to use the river in the same way that you do, we're not going to…….. We cause far less damage than a hill walker, take nothing (apart from your solitude), need nothing, and so, to reiterate, will not pay. That you are in a fee paying situation is irrelevant.".*

6.3. Canoe Wales (CW previously WCA)

It seems that in the years since CW received public funding to appoint an 'Access Development' Officer, no new access agreements have been made while those on the Usk and upper Wye have actually been torn up by CW. News that Wye & Usk fisheries interests were discussing agreements with other canoe parties were greeted with contempt by users of the canoeists' "Rivers Guidebook" website forum.

6.3.1. The Letter from Pam Bell, access officer for the then WELSH CANOEING ASSOCIATION (WCA) – now Canoe Wales (CW), regarding access to a Welsh river

> *As I stated in my reply, would not be able to re-sign the agreement in its present form.*
>
> *WCA policy is that canoeing should be enabled where the activity would be environmentally benign and should not take place where these is a valid and demonstrable reason for restricting it on environmental grounds. These grounds will vary in time and place, to be determined by scientific criteria.*

6.3.1. The Letter from Pam Bell (cont)

For this reason, we no longer enter into agreements which restrict canoeing purely on the basis of dates. You ask in your tester about the sanctions WCA has in case of a breach of our environmental policy by members or others.

Paddlesport is enjoyed by a wide range of people, and cannot be considered, as an activity undertaken only by members of the governing body or clubs. It is not appropriate or feasible for the WCA to attempt to control the recreational paddling public by means of sanctions, any more than organisations such as the Ramblers' Association or British Cycling could control the actions of the public who walk or ride bikes for recreation. WCA believes that our role is to provide technical expertise arid advice, along with education.

For this season WCA considers the way forward to be clear legislation which enshrines everyone's rights and responsibilities in all areas of countryside access. Action against those who infringe environmental legislation is a matter for the law. I hope this clarifies WCA's position, and look forward to hearing from you.

(Signed Pam Bell)

Regional Access Officer, Usk and Wye Catchment; Director, WCA.
cc Ashley Charlwood, WCA National Access Development Officer

6.4. In November 2006, the CFF was **authorised** by its members to investigate the viability of setting up **a canoe club for the Towy**. When we visited the local community in the upper Tywi valley seeking support for our proposed canoe club, all we received were complaints about trespass, bad behaviour. foul language, vandal damage - and discourses on 'flying canoes' at Llyn Brianne reservoir.

6.4.1. Llyn Brianne.

The highly dangerous practice of kayaking down the steep (1:3.6m) 270m overflow ramp involved kayaks travelling at speeds of over 45 mph, hitting 'stopper' waves at the bottom, sending them spinning and cart-wheeling out of control. Several injuries have been caused when the fragile craft smashed into the side walls. Warning signs have repeatedly been vandalised or torn down.

My 2007 letter to Minister Jane Davidson on CFF's, and Dwr Cymru's behalf, seeking her support was rebuffed in her reply, best described as *unsympathetic.*

Two years later, DwrCymru are still seeking additional Byelaws to prevent such irresponsible behaviour. The attached photographs were downloaded from the internet.

7. Other Examples of Trespass –

Many instances of trespass by canoeists are reported, locally and elsewhere, especially on the Internet. My attempts to reason 'on line' with canoe interests, inviting agreements, have been in vane, ending largely with invitations, translated to mean "Go away!". Only recently, after working together with local canoe interests, pressurising local and government departments, my access suggestions were refused - by the very person I had some years ago recommended taking his canoe to the river Wye.

7.1. River Towy at Dolauhirion 7th January 2007. The attached photograph demonstrates the vulnerability of inexperienced canoeists in such incidents which of course occur on privately owned property. Three out of a total of six unsupervised canoeists are depicted in difficulties, in what is described as a 'starter' grade stretch of the upper Towy(Grade 2 – 3).

7.1.1. CFF's then Chairman Gethyn Thomas who took the photograph below described what happened next:

> *"The first batch of six canoeists soon came down stream and they landed just below the bridge, but not before getting into trouble in the rapids just above the bridge, suggesting inexperience - as indicated in photographs taken at the time. I approached them with courtesy, trying to make polite conversation. I explained that we are considering setting up some sort of canoe club with help from other bodies such as EAW and WAG. They told me to, quote, "Fxxk off!" because they knew through the WCA exactly where and when they could 'put in and pull out'.*
> *The group was not affiliated to any canoe organisation although they used the WCA websites for their access information. I then politely pointed out to them that the river did not have any navigation rights and they were trespassing. They again told me to "Fxxk off!" and soon departed after loading their canoes on their van.*

Novice canoeists R Tywi at Dolauhirion (Grade 3) 7 January 2007.

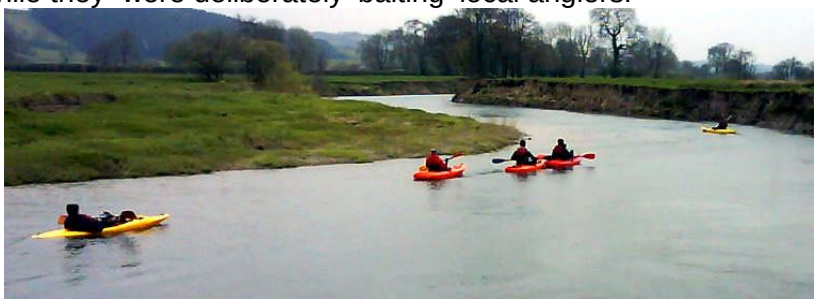
7.2. A typical Canoe Related Incident occurred on the River Teifi at Cenarth 28th July 2007.

7.2.1. Abstract from my full 2007 report.

Canoeists* in a canoe and kayak flotilla travelled down the Teifi from Llandysul to Cenarth, on 28th July 2007, after receiving advice from the Welsh Canoe Association's Local Access Officer. They caused disturbance to anglers en route and argued with others at Cenarth. The incident typifies the situation across the Principality where some canoeists are perceived to be testing the common law while seemingly indifferent to the rights of others in the countryside. There were insurance and duty of care issues involved. The canoeists later compla`ined about their treatment to CW, and reported the incident on their Rivers Guidebook website. During the resulting forum discussion, there was considerable criticism of the angling/fisheries interests involved – and generally of those not involved. The TTA members were variously described as "*drunk"* and "*threatening, inebriated local inbreds"* and likened to the "*BNP"*.

7.3. The Teifi and Towy are "Special Areas of Conservation" (SAC) protected under the articles of the EU Habitats Directive, with salmon an included Teifi designated species. Sea-trout are a Biodiversity Priority Species. Operations carried out within, or adjacent to SACs are subject to conditions specified for each Area (CCW 1998). It has not been my experience that on the Towy, CCW has much enforcement inclination. Cenarth Falls are defined as 'obstructions' under the Salmon and Freshwater Fisheries Act (1975) Pt II Para 12.

7.4. April 2008. Towy Near Halfway. Unidentified trespassing canoeists were photographed while they were deliberately 'baiting' local anglers.



Trespassing canoeists (1) on the Towy at Halfway. April 2008. (CFF).

Trespassing canoeists 2) on the Towy at Halfway. April 2008. (CFF).

Trespassing canoeists (3) on the Towy at Halfway. April 2008. (CFF).

8. Governance of Sport

8.1. **Sport** is managed in Britain by UK Sport, the overseeing body that operates in accordance with the Council of Europe's European Sports Charter 1993, reaffirmed by the Third Summit of Heads of State and Government of the Council of Europe *(Warsaw, 16-17 May 2005**).***

8.2. **The Charter defines sport as**

> *"Sport means all forms of physical activity which, through casual or organised participation aim at expressing or improving physical fitness and mental well-being forming social relationships or obtaining results in competition at all levels."*

8.3. **The European Convention** on Spectator Violence and Misbehaviour at Sports Events and the Anti-Doping Convention have been signed by the UK Government.

8.4. **The Code of Sports Ethics** acts as a complement to the Charter. It is based on the principle that

> *"ethical considerations leading to fair play are integral, and not optional elements, of all sports activity, sports policy and management, and apply to all levels of ability and commitment, including recreational as well as competitive sport".*

8.5. **Fair play** is defined as much more than playing with the rules. It incorporates the concepts of friendship, respect for others and always playing within the right spirit. Fair play is defined as a way of thinking, not just a way of behaving. It incorporates issues concerned with the elimination of cheating, gamesmanship, doping, violence (both physical and verbal), the sexual harassment and abuse of children, young people and women, exploitation, unequal opportunities, excessive commercialisation and corruption.

8.6.. **Under the terms** of their devolved powers in the UK, the Sports Councils are required to observe common guidelines and collaborate when recognising particular sports and their particular governing bodies. Each recognised body being required to meet standards. A body can be challenged for supremacy, or should it be perceived to be failing to meet an acceptable standard, it can be subject to review or even replacement (Appendix D. UK Sport Guidelines).

8.7. **The Board of UK Sport** recently reviewed its policy on sanctions (UK Sport Board Minutes 20/06/07/Para 12.1).

> *Introducing paper UKS 40 2007, PS advised that Board endorsement was sought for an enhancement of the collaborative approach across UK Sport in its relationship with NGBs, by moving to an alignment of sanctions policies in the event that an NGB remained in breach of its obligations.*

8.8. **The Sports Council of Wales (SCW),** is required in its Royal Charter, paragraph 2 (j) specifically to :

> *to encourage and support the adoption of the highest ethical standards among persons or teams from Wales participating in sport and physical recreation.*

8.9. **The CFF's** earlier complaints to the Sports Council of Wales (SCW) regarding the activities of CW's publicly funded Access Development Officer were also rebuffed and CFF invited to refer their complaints to the Public Service Ombudsman - the SCW's Chief Executive denying all responsibility.

8.9.1. **SCW's stance** is contrary to UK Sport Guidelines, and fails to meet the requirements of its Royal Charter, paragraph 2. in particular,

> (j*) to encourage and support the adoption of the highest ethical standards among persons or teams from Wales participating in sport and physical recreation.*

9. **Other Effects**

9.1. **The general impacts of** disturbing wildlife and fisheries are well documented, particularly with reference to the spawning areas of salmon, sea trout and trout. The importance is not widely appreciated, however, of the possible variation in their actual extent in differing catchments and of disturbance in limited stream areas, or for different reasons.

9.1.1. For instance, on the Towy, spawning salmon and sea trout are recorded in large numbers using the main river at least as far downstream as Llandeilo (Todd 2002). It seems that winter duck shooting is practised in places along the entire main river. The tributaries of rivers in West Wales and their respective wild life remain undisturbed by anglers throughout the year, with the possible exception of some larger lower reaches. It is important that the status is maintained.

9.2. Olfaction

Spawning fish are nearing exhaustion, even terminally so particularly in salmon – (>90% single spawners). Olfactory disturbance can exert significant effects on such fish. Olfaction ion may be the most important sense controlling many aspects of the life cycle of the Atlantic salmon. Pheromones detected through its olfactory system are important in controlling both behaviour and physiological processes and they also play a role in synchronising reproduction and social interactions (Potter & Dare 2003). Human interference in fish passage has been shown to have significant effects on the olfactory senses. Ferguson & Williams (2004) investigating methods of improving fish ladder passage in the Columbia River Dam, observed that,

> *"….any human odour in collection facilities can cause fish to delay. For example, a worker's hand in the ladder for a few minutes can stop adult migrations in the ladder for hours".*

While a lone canoeist may have no impact, a group or successive groups in a river channel could well be cause for concern.

9.3. Diseases and Alien Species

Where ever anglers or canoeists have access to rivers, there is a minute but ever present danger from the introduction of diseases and alien species. Trespassing canoeists are not regulated. During the last FMD outbreak, rivers across West Wales were closed for fishing voluntarily by angling organisations.

9.3.1. Gyrodactylus Salaris – a tiny leech-like parasite that can survive out of water for several days. In Norway, catastrophic losses of Atlantic salmon were seen following the introduction of *G. salaris* to the country in the 1970s. (Fisheries Research Service 2007). Anglers and canoeists are travelling, particularly to Norway in ever increasing numbers. Fishing tackle must be disinfected before-hand or on the spot at the cost of about £15 and cannot be taken from one river to another. Canoeists are flying plastic kayaks back and fore by EasyJet. Although there is some disinfection on entering Norway, there is nothing on return to UK. There is no restriction on where they are going to, or coming from. Unlike anglers, canoeists whilst ignored by the authorities visit rivers across UK. Rivers such as the Teifi and Tywi supplying potable water cannot be treated by Rotenone or aluminium sulphate (Rotenone is now banned by EU).

An Outbreak of GS on any river supporting a potable water supply would enforce an immediate closure of its fishery. There is at present, even in Scotland, no mechanism for controlling canoeists or anyone else – except anglers, to prevent use of rivers. There is no method of identifying anyone in the countryside - except anglers.

9.3.2. Didymo – "Rock Snot" (Didymosphenia geminata) a rampantly growing fungus, said to be endemic in many countries, but is now spreading rapidly in other countries, especially New Zealand and North America. Most Didymo blooms reported occur either in lake-fed rivers or in regulated rivers (below dams), ie., generally stable flows.

Once a colony is established, fast currents are likely to enhance growth by promoting transfer of nutrients to the cells at the mat surface. It can flourish and choke riverbeds, gravels and abstraction intakes. It is said to be spread by anything wet or damp, particularly by anglers' felt sole waders and unless completely dry for 2 days, survives out of water for up to one month - unless disinfected – using similar methods to that for GS (Kilroy 2004).

10. Points of Concern and Recommendations.
The hostility of potential beneficiaries of access associated with the CW suggests that anyone seeking canoeing partners should do so among those with allegiances elsewhere than the CW. To have any hope of success, an access agreement will depend on the active support of all the statutory agencies

10.1. A Board of Inquiry could be convened in accordance with UK Sport Guidelines to investigate the propriety of CW with specific reference to their relationships and attitudes towards other recognised sports; their guidance to members and the public.

10.2. The Welsh Assembly Government (WAG), UK Sport and SCW, together with the BCU should address with urgency the problems associated with the CW that are clearly obstructing attempts to improve relationships between the two sporting disciplines.

10.3. Consideration could be given by SCW to the creation of a suitable replacement for CW.

10.4. Our present legislation is built on the Common law - Case Law – the traditions of the countryside, and is accepted as such – otherwise leads to anarchy. The principles of land/property ownership and its uses are fully established and recognised by nearly all. In sport, all the different disciplines own or rent their respective venues, either collectively or individually - and respect those ethical boundaries – with the exception of some potential navigators by water (and off-road).

10.4.1. Our inland rivers are land corridors that happen in most cases to be open, but can and are sometimes fenced off, particularly in tributaries. Their usage is clearly defined in the common Law. The rivers of Wales support valuable fisheries. Over the years, the rights to those most fishings have been acquired from the old feudal landowners and are now owned or leased by angling associations and clubs – of ordinary people. Moneys are raised by subscription and donations. Substantial funds are often involved. One Towy Club was created by members giving up their redundancy payouts. The CFF buyout of nets in 2008 was only made possible by funds donated by virtually all concerned including the larger land owners.

There is a sense of belonging.

It can truthfully expressed that it is our river - water ownership issues are recognised and are irrelevant. If canoeists wish to use our property, they too must also be made to 'belong'. There are parts of every river where access by canoe could be agreed - for known members.

Trespassing canoeists on the Lower Towy (Roberts 1992)
(Note bow-wave disturbance from just two small craft)

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17. GUIDELINES ON THE RECOGNITION OF A GB/UK NATIONAL GOVERNING BODY

421.Sandra Bishop, Afon Teifi Caravan Park

What is my interest in the issue of access to inland waterways

I am the proprietor of the largest caravan and camping parks on the river Teifi and one of the largest touring parks in Carmarthenshire. My husband and children have all fished the river. My husband is a former Secretary of the Teifi Trout Association and a former Chairman of the Teifi Fisheries Federation.

I am concerned that any change in the current law would be detrimental to the tourism and farming industry of rural Carmarthenshire and Ceredigion

The two most important "industries" in these areas are farming and tourism. Farming in Wales has for many years produced some of the lowest farming incomes in the UK. Many farmers are able to supplement their income by letting out the fishing rights on their land. Some have sold these rights or may sell these rights in the future to produce a considerable windfall income. This additional income would be placed in jeopardy if access is granted for canoeing / rafting etc. Angling interests such as Associations would not offer to rent at current rental values if at all. They would certainly not be interested in purchasing such rights.

Tourism, in particular angling tourism, would decline dramatically. On my own caravan / camping park, over 50% of static caravan owners are anglers who would not have purchased those caravans had it not been for the fishing on the river Teifi. Over 20% of touring caravans using the park are also anglers fishing the river. This 20% is disproportionate, as is the static caravan use, to the amount they spend in the area as many are retired and spend most of the angling season here. Consequently they may spend up to half of their disposable income in the area. Fifteen years ago it was estimated that anglig brought in over £2million pounds / annum to the Teifi valley. This would be considerably more today, and this is only the "first" spend at local shops / garages /public houses etc in the Newcastle Emlyn / Cardigan area. An example sticks in my mind of one elderly angler from London who took four years to catch his first Teifi Salmon. He estimated that having bought both car and caravans in the area, together with his spending over four years, that Salmon cost him over £70,000! Most of these anglers have stated that they would no longer purchase angling licences or permits if the access sought by canoeists / rafters were to be granted. Angling for salmon, and in particular, sea trout, require a degree of peacefulness. Canoeists and rafters in particular, rarely pass through the water quietly. In many instances rafters are often jumping in and out of the rafts to cause as much disturbance as possible.

Given that the river Teifi is approx 70 miles long (and obviously no toilet facilities), I have had,in the past, illegal canoeists etc, pulling in on my land (business premises) and using it as toilets in full view of families on holiday.

The angling rights of the Teifi Trout Association would today, be worth over £2million, paid for by the anglers themselves. Canoeists have always had the opportunity to purchase stretches if water as anglers have had to do. Their attitude has been that if they can secure access on a small stretch of water then they are free to travel the length of the river. Anglers have always accepted that a permit to fish is only a permit to fish on a particular stretch of water. Why should canoeists etc be any different?

The canoe lobby has always hyped up their importance to the economy. At one time, I believe the Llandysul Paddlers were stating that they were having 19,000 visitors a year. That's over 50 per day, every day of the year! These numbers do not reflect in the spending in the area. Also, if they are

receiving that many visitors, why do they receive the financial support of the Carmarthenshire County Council? Another example was the so called British Rafting Championships, where a Councillor on Carm.CC was stating that caravan and Camping Parks were filling up. At that time of year most Parks were closed and I certainly received no enquiries! In the 19 years I have been here, I have only had a handful of canoeists stay, other than those intent on sea canoeing. Of those challenged for trespassing on my land, it was clear that they were all day trippers from England (Manchester and Bristol in particular), filled their cars with fuel there, bought sandwiches there, caused chaos on the river and then drove home. Probably not a penny spent in Wales, other than the proverbial!

Which stretches of water do you own / manage?

I own approx 500 yds of river bank and under current law own river bed halfway into the river. Again, under current law, other than any rights previously sold, I have the sole benefit of use of that land and the space above it up to what is defined as airspace. Increasingly, over the past few years, canoeists and rafts have illegally used my land.

Legal rights

As pointed out above. My legal rights are clear, well defined and have been clarified by the then Highest Judge in the Land, Lord Denning. Further judgements have also been made against canoe activity in other High Court Cases. The attitude of the Canoe Lobby is to put two fingers up to the legal activities of anglers and landowners and try to change the law by breaking it. It is disappointing that the Assembly, which was supposedly set up to govern Wales for Welsh people, is taking so much notice of a petition, partly online signed by many outside of Wales

Voluntary Agreements

My husband, whilst Secretary of the Teifi Trout Association with other Officers tried to make agreements with two of the main transgressors on the Teifi. They were offered access from mid October to April and turned it down.They were also offered access at other times for scioal occasions, again rejected. In particular the Llandysul Paddlers had a legal agreement with a Mr Loue Thomas who owned waters at Llandysul and apparently reneged on the agreement after they had received funding from Carm CC.

Canoeists already have access to long stretches of tidal water, inland lakes and the sea. There is currently no reason to change the law as plenty of water is available to them. They have the same opportunity as other users to purchase rights. The rural economy of Wales should not be placed at risk by the demands of those (many from outside the Principality) who do not wish to fund their own activities, and rafting operations who operate for profit.

422.David Addis

422.1. What is your interest in the issue of access to inland waterways

Recreational kayaker

422.2. Are you a member of an organisation related to your use of water?

WCA

422.3. Which stretch/es of water do you own/use/manage?

I kayak upon Welsh rivers

422.4. Are you happy that your legal rights are clear and well defined?

NO, I don't have a full understanding of my rights and where they apply

422.5. Can you briefly outline your understanding of your legal rights over the stretch of water/s that you own/use/manage

Im allowed to paddle anywhere unless there is an agreement on the river. Not fully sure who makes the agreements though.

422.6. Would you like to see any changes to your legal rights?

YES, I would like a similar access to the Scottish access laws.

422.7. Are you aware of any legislation that exists in other countries that could be used in Wales?

The Scotland access laws would be beneficial, but I understand that due to their terrain and the remoteness of many of the rivers it may not work exactly the same in Wales and England.

422.8. Do you have any experience of voluntary agreements for access to the stretch of water/s you own/use/manage

No

422.9. Would you like to see any changes to the voluntary agreements?

If yes, what changes would you like to see?

Yes, I don't believe that voluntary agreements work and I do not feel part of the decision making.

422.10. Are you aware of any voluntary arrangements in other countries that could be used in Wales?

In the French Alps, after a certain time kayakers agree to not paddle on rivers so that fishermen can have access.

Please can you briefly outline what you think are the key issues for recreational access to inland water in Wales and how you would like to see them addressed.

Access to the rivers through other peoples land.

423. Louise Beetlestone

423.1. What is your interest in the issue of access to inland waterways

I canoe and kayak both recreationally and as a coach on lakes, canals and rivers in North Wales.

423.2. Are you a member of an organisation related to your use of water?

I'm a member of Canoe Wales (formerly the Welsh Canoeing Association).

423.3. Which stretch/es of water do you own/use/manage?

I canoe and kayak on lakes, canals and rivers like the Ogwen and Conwy mainly in the North Wales area.

Legal rights

I believe that if there is no voluntary access agreement in place then I should gain permission from all landowners along the banks of the waterway which I wish to use.

I would like to see changes to this law because it's impractical to seek and gain permission from landowners as it's difficult to identify and contact landowners who are likely to deny permission for fear of liability.

I'd like to see everyone's legal rights change to allow access to rivers. To make this a practical arrangement any legislation should consider the following points:

- points of access to/from the road or car park at more than one point so that a journey could be made downstream
- where rapids occur it might be necessary to inspect a safe route, provide safety cover and maybe to portage if needed on the day
- allow a small group of people onto the river so as to provide safety cover for one another
- should allow a professional to guide and coach a person or group of people who wish to be guided and/or progress their skills.

I've paddled in many countries, including France, Switzerland, Germany, Spain, Austria and Canada, where access to rivers is the norm, England and Wales being the only places I've paddled where this is not so. The area with most relevance to Wales is Scotland where the majority of rivers also need to be in spate like those of Wales. Legislation in Scotland allows access to rivers by non motorised craft similar to that of the crow act to the mountains.

I also understand that being able to access the rivers of Wales would come with responsibilities to the river environment and landowners. I would only canoe or kayak when there is sufficient depth of water in the river so that I could navigate downriver without causing any damage to the riverbed and I would only access the bank for the purposes of safety or emergency when not at an agreed access point to minimise use of the bank. I'm also aware that there may be exceptional environmentally sensitive areas where access may be denied or restricted.

I believe that changing the law to allow access to inland waterways would bring benefits to the local economy by encouraging visitors into many areas of Wales.

Voluntary agreements

I make use of the few voluntary agreements in North Wales which have come about as there is usually just one landowner. For example, the Afon Glaslyn where the land is owned by the National Trust. Simple gauges are used to indicate a sufficient depth of water needed before navigation is allowed. This arrangement works well as I have no wish to paddle the river when there's not enough water. The Afon Treweryn where access is allowed when there's a release from the dam. I'd like to see these agreements backed up by law and reciprocated on all rivers in Wales.

424.Geraint Anderson

424.1. What is your interest in the issue of access to inland waterways

I am a recreational user who regularly kayaks and sometimes canoes.

424.2. Are you a member of an organisation related to your use of water?

I am a member of the Cardiff Canoe Club, and whilst at university in Aberystwyth from September 2005 July 2009 I was a member of the Aberystwyth University Canoe Club. I am also a member of the Welsh Canoeing Association.

424.3. Which stretch/es of water do you own/use/manage?

I use rivers throughout Wales, mainly white water however I am also a qualified instructor and teach beginners on flat water. I like to paddle a variety of rivers and the challenges of paddling a river that I have not been to before are far greater and more exciting than paddling a river I have done many times before regardless of their difficulty.

Legal rights

My legal rights are not well defined. This can be seen by both sides of the debate quoting separate laws which contradict each other. As far as I am aware I have a right to paddle any inland waterway regardless of whose land I float over. As the land owner doesnt own the water then I am free to use it to pass over their land, just like an aeroplane can pass above some ones land unhindered. The main access problem of kayaking is getting to a river. If I am free to walk along public land, a foot path, or a road bridge then I am free to use these to gain access to a river.

The changes that I would like to see would be equivalent to the situation in Scotland. In Scotland the law is very clear that you can use a river as a right of way. Due to this I have never had a problem with access while paddling there. Unfortunately this is not the case in Wales where people are generally confused about access.

Such is the access situation in Scotland that every year my university club organise a ten day kayaking trip to the Highlands where we undoubtedly contribute a lot to the local economy. In four years of being at university we have never run a similar trip closer to home, even though the rivers of South Wales are very similar in nature to the rivers of Fort William. This is only due to the atrocious access in Wales. The access situation in England is similar to Wales, and like Wales it does not work.

Voluntary agreements

Although the fishermen claim that negotiated access works, clearly time has proven that it does not. Since I started kayaking over 15 years ago I have never seen an example of successful negotiated access. An example of an access agreement was the River Dee where we were allowed three weekends a year. During these weekends kayakers would arrive at Llangollen in their hundreds. This brought the problems of overcrowding, we certainly couldnt be inconspicuous. In recent years the agreement has fallen apart and kayakers use the river when we want. Now the occasional small group pass quietly by mostly unnoticed. In the course of a year the same number probably use the river but they are spread out evenly.

I have kayaked in eight different countries and the situation in Wales and England is unique. Whilst in Norway I stayed at a campsite which was full of kayakers from all over the world. One night we sat talking about the kayaking in our own countries and planning our next adventures. Surprisingly everyone there had heard of Wales as a world class destination for white water but none of them had

any desire of coming here. Along with the stories of incredible rivers and stunning scenery they had also heard the stories of terrible access.

Some fishermen regard the rivers as their property and to paddle it somehow infringes on their enjoyment. It is not right to keep such a valuable natural resource for only one group. If the mountains were closed to all but one select group then Wales would surely suffer. We are like hikers, the only difference being that we do not even leave our footprints.

425. Nathaniel Rice

What is your interest in the issue of access to inland waterways

Recreational kayaker

Are you a member of an organisation related to your use of water?

none

Which stretch/es of water do you own/use/manage?

I kayak upon Welsh /English/ Scottish/Norwegian/French/Swedish/Canadian rivers

Are you happy that your legal rights are clear and well defined?

NO, it seems to be a very grey area that leads to frequent disagreements between different water users.

Can you briefly outline your understanding of your legal rights over the stretch of water/s that you own/use/manage

I don't know any legal rights, I don't seem to have any right to access the water.

Would you like to see any changes to your legal rights?

YES, I would like to have rights to access the waterways of wales

Are you aware of any legislation that exists in other countries that could be used in Wales?

The Scotland access laws appear to be a good grounding for any new legislation governing the use of waterways within Wales and England.

Do you have any experience of voluntary agreements for access to the stretch of water/s you own/use/manage

Yes.

If yes, please briefly outline the agreements that exist and your experience of how they operate.

All other rivers in all other countries (other than England and wales) have open access to the rivers, France has a closed period after 6pm, Norway has open access all day, Scotland has open access. None of them have a problem between kayakers and fishermen

425.1. Would you like to see any changes to the voluntary agreements?

Yes, The voluntary agreements are what cause the problem. There needs to be a standard agreement controlling all rivers so that people understand their rights

425.2. Are you aware of any voluntary arrangements in other countries that could be used in Wales?

In some areas of the French alps, there appears to be open water access up until 18:00 where fisherman take sole usage of the rivers.

Norway you can access the rivers at any time.

Please can you briefly outline what you think are the key issues for recreational access to inland water in Wales and how you would like to see them addressed.

Agreements to allow kayakers the right to access rivers from public land such as footpaths etc, and agreed access locations

426. Andrew Boothman

426.1. What is your interest in the issue of access to inland waterways

I am a recreational kayaker and canoeist. I am a qualified kayak coach (voluntary), and as such bring small groups of paddlers from Midland Canoe Club (based in Derby) to enjoy the natural heritage in Wales as well as trips to various parts of England, Wales and Scotland. I have also kayaked in France, Germany, Austria & Slovenia.

426.2. Are you a member of an organisation related to your use of water?

Canoe England (the national governing body for paddlesport in England) and Midland Canoe Club (a community club).

426.3. Which stretch/es of water do you own/use/manage?

I use many different stretches of water according to the competence level of the group I am leading and the water levels. Rivers in Wales that I have paddled on include the Dee, Tryweryn, Vyrnwy, Gam, Twrch, Elwy, Dulas, Twymyn, Banwy and Usk.

Legal rights

I do not believe that the legal situation regarding access to waterways is clear or well defined in England or Wales, unlike Scotland and most other European countries.

It is my understanding that there is confusion between rights outlined in the Magna Carta that have never been rescinded and an interpretation of rights based on what is deemed to be 'navigable' or a 'navigation' made in the early 19th century.

I further understand that there is no criminal law that restricts the passage of unpowered craft specifically.

I would certainly like to see a change to the rights of everyone who wishes to responsibly use our natural heritage. In a modern democratic, equal, society, I believe all (non-powered) water users should have equal rights to access water for their chosen, legal, pursuit. For this to work, there must be defined responsibilities and codes of conduct laid down, based on mutual respect.

The Land Reform Scotland Act 2003 provides, in my view, a very sound means of achieving this. Other options exist, such as in France & Slovenia, whereby usage by different water users is governed by time-bands, but I believe the Scottish example gives the best opportunities to all water users.

Voluntary agreements

I am aware of various voluntary access agreements that currently exist in England & have previously existed in Wales.

My experience of these is that they are/were largely unsuccessful.

I understand that there are currently no access agreements in place that are supported by Canoe Wale (the National Governing Body for paddlesport in Wales), and there are very few that give year-round access (subject to genuine environmental issues including minimum water levels) in England. One rare exception is that for the Greta (Keswick) in the Lake District.

Please can you briefly outline what you think are the key issues for recreational access to inland water in Wales and how you would like to see them addressed.

I believe the first key issue is to base any further assessment in this inquiry on an assumed position of equality for all non-powered water users, based on responsible usage. Is non-powered access to water much different to non-powered access on land, and the equality that that provides since the introduction of the Countryside & Rights of Way Act? I believe it is not, but it is clear to me that the Welsh Assembly also need to make that decision.

From many of the other submission to this inquiry, there are obviously many concerns, and indeed many perceived threats, particularly by those who have believed that they have absolute rights to water usage in the past - but those can only be assessed objectively and fairly based on the above assumption of equality.

There are many issues which can easily detract from the core discussion / decision of equal opportunities to access water, including fees charged (by government agencies and individuals), insurance, responsibilities for environmental protection, provision of facilities, criminal law regarding fishery protection, etc. To my mind, one of the biggest challenges to be faced by the enquiry committee will be to maintain a clear view and direction through these non-core issues. I wish you strength and perseverance in your further work.

427. Hazel Wheatley

I am a canoeist with UWE Canoe.

I would like fare access to rivers in Wales.

I would like the same law application as the Land reform act in Scotland to apply to Wales.

428. Suzanne Howell

428.1. What is your interest in the issue of access to inland waterways

Recreational kayaker

428.2. Are you a member of an organization related to your use of water?

Birmingham university kayak club

428.3. Which stretch/es of water do you own/use/manage?

I kayak upon Welsh /English/ Scottish rivers

428.4. Are you happy that your legal rights are clear and well defined?

NO, there is too much confusion between groups of river users. The current rules can be interpreted to suit need and so need clarification.

428.5. Can you briefly outline your understanding of your legal rights over the stretch of water/s that you own/use/manage

In my understanding providing I do not directly trespass on land, finding a non conflicting entry and exit to water, I am well within my rights to use the water. I also understand that owning fishing rights to a river does not mean that this group have the rights to sole access to the river.

428.6. Would you like to see any changes to your legal rights?

YES, having used many of the UK inland waterways, I feel that the Scottish system appears to benefit all types of inland water users. I feel that the explosion in outdoor activity groups demonstrates a public interest in using inland waterways, of which the current access situation limits. I hope that these rights will be well researched so that limitations to access reflect real concerns with environmental damage.

428.7. Are you aware of any legislation that exists in other countries that could be used in Wales?

The Scotland access laws appear to be a good grounding for any new legislation governing the use of waterways within Wales and England.

428.8. Do you have any experience of voluntary agreements for access to the stretch of water/s you own/use/manage

Yes.

If yes, please briefly outline the agreements that exist and your experience of how they operate.

In relation to the river Usk – the previously agreed access was very limiting to almost all water users, restricting public access to the cold winter period.

428.9. Would you like to see any changes to the voluntary agreements?

No, I believe that voluntary agreements do not have a place in the future of inland water access as they are exactly what has led to the confusion and limitation relating to access, and so the conflicts between water users. Access agreements need to be universal and so in the interest of all groups.

428.10. Are you aware of any voluntary arrangements in other countries that could be used in Wales?

In some areas of the French alps, there appears to be open water access up until 18:00 where fisherman take sole usage of the rivers.

Please can you briefly outline what you think are the key issues for recreational access to inland water in Wales and how you would like to see them addressed.

Agreements for thoroughfare through other peoples land.

Clear rules regarding fishing rights and better understanding of the impact of kayaking on the environmental. I would like to see good access to prevent bank erosion and more level markers, with a better understanding of the effect of kayaking on spawning beds.

429. Michael Horswill, UWE Canoe Club

This response is on behalf of the University of the West of England Canoe Club, based

in Bristol.

429.1. What is your interest in the issue of access to inland waterways?

UWE Canoe is approaching its thirtieth year, having originally formed as Bristol Polytechnic canoe club.

It provides recreational canoeing opportunities to students and alumni of the university and makes use of many rivers across the UK and Europe.

429.2. Are you a member of an organisation related to your use of water?

The club is affiliated to the BCU through Canoe England.

429.3. Which stretch/es of water do you own/use/manage?

The club and its members have canoed many Welsh rivers. The majority of the trips include the rivers Wye, Usk, Dee, Llugwy, Tryweryn.

429.4. Are you happy that your legal rights are clear and well defined?

No, they are not clear or well defined.

429.5. Can you briefly outline your understanding of your legal rights over the stretch of water/s that you use?

The clubs British Canoe Union affiliation give access to canals. Members have made use of the Llangollen canal in North Wales and the Brecon and Mommouthshire canal in South Wales.

Bristol Harbour Master also gives our members free access to the Bristol Docks waterways. The law is unclear for rivers in England and Wales and often there is attempt to use application of inappropriate law especially regarding trespass to prevent access to rivers.

429.6. Would you like to see any changes to your legal rights?

Yes.

If yes, what changes would you like to see?

We would like well-defined legal access for all users to all rivers in Wales.

429.7. Are you aware of any legislation that exists in other countries that could be used in Wales?

The Land reform act in Scotland allowing all users fare share of access to rivers. In France there are time limits allowing angling during the early morning and twilight period and canoeing during the main section of the day.

429.8. Do you have any experience of voluntary agreements for access to the stretches of water you use?

Yes.

If yes, please briefly outline the agreements that exist and your experience of how they operate?

Access agreements, and more importantly agreements with restriction, have prevented the club from venturing onto many Welsh rivers and the agreements previously in place served only to allow canoe access during the closed fishing season, regardless of the water levels.

Voluntary agreements do not allow for a fare standing in negotiation for those involved in creating the agreement. The fisheries have historically dictated the agreement, often with restrictions, and the canoeing governing body has been forced to accept pitiful amounts of access. Also voluntary agreements fall over the moment one landowner or fisheries along a water course rejects the agreement, for canoeing purposes this can cause the loss of an entire river system.

429.9. Would you like to see any changes to the voluntary agreements?

Yes.

If yes, what changes would you like to see?

Voluntary agreements do not work, they should no longer be used to establish river access.

429.10. Are you aware of any voluntary arrangements in other countries that could be used in Wales?

Voluntary agreements are not required in other countries because the law gives clarity and in respect of canoeing activities the National Governing Bodies give a clear code of conduct for use of rivers to ensure environmental concerns are taken into consideration.

Please can you briefly outline what you think are the key issues for recreational access to inland water in Wales and how you would like to see them addressed?

Key issues for recreational access are:

Lack of clear legal guidance for general river users.

Anglers and fisheries continuing to claim exclusive rights to rivers. Including use of "No Canoeing", "No Walking", "No swimming" signs.

Threats made by anglers/fisheries to other users including claims of trespass and inappropriate use of environmental laws.

Misinformation promoted as excuse to restrict users from rivers.

To address the issues we would like to see:

Clear legal guidance giving access for all users to rivers. The Land reform act in Scotland would be the obvious choice for adoption in Wales.

A fare share of the natural resources of rivers for amicable use by all users.

The conduct of those who have made threats, caused damage to vehicles, thrown rocks etc. should be addressed immediately with public disprovable by the fisheries and angling representatives and direct steps taken to curtail the actions of those involved.

Information provided by the Environment Agency for Wales to identify key areas of environmental concern and where appropriate, through discussion with Canoe Wales, set low level markers for canoeists.

The promotion of low impact recreational use of rivers in order to help preserve rivers and their entire Biodiversity.

430. The Outdoor Swimming Society (OSS)

1. The Outdoor Swimming Society (OSS) is a not-for-profit organisation whose objectives are to promote and facilitate outdoor swimming in the United Kingdom. The OSS has over 5,500 members, resident across the UK and overseas.

2. The OSS strongly supports the recommendation of the Petitions Committee to implement a new statute that would ensure that everyone has access to inland water in Wales, on an equal footing, to be supported by enforceable codes of conduct to ensure that the interests of all water users can be properly respected.

Why do we need legislation in this area?

3. The legal position concerning access to inland water under the laws of England and Wales is fundamentally in need of reform. The laws governing rights of access to (and restrictions on the use of) inland water are immensely complex and piecemeal, being derived from a combination of very old case law, miscellaneous statutory provisions and local byelaws. Perhaps more importantly, there is a great deal of uncertainty about what the law actually permits, even where legal advice is obtained.[1] Much of the case law is contradictory and unclear as to its scope. There is uncertainty as to whether laws relating to commercial uses apply to recreational uses, and whether laws relating to certain types of access to inland water (for example, rights of navigation) extend to other types of access (for example, swimming).

4. In short, the current legal position in Wales is uncertain, inaccessible and confused. It is near impossible for members of the public to know whether or not they have a legal right to swim in many of our rivers and lakes.

5. The National Assembly for Wales now has an opportunity to introduce a clear and coherent legal basis for access to inland water which reduces the scope for conflict and which allows for the interests of all water users to be properly respected.

6. The National Assembly for Wales has the benefit of learning from the equivalent steps taken in Scotland, via the implementation of the Land Reform (Scotland) Act 2003 and its application to inland waters. We note that evidence has already been taken on the position in Scotland and in particular on how this change has revolutionised access to inland water in Scotland. OSS members have strongly welcomed the increased clarity of access to inland water that now exists and have embraced the opportunities to use Scottish inland waters for recreational purposes.

Benefits for Wales and the Welsh

7. Outdoor swimming has always been a popular recreational activity but in the last few years it has witnesses a renaissance as individuals rediscover the joys of swimming in the rivers, lakes and lochs of the UK.

8. This new interest in outdoor swimming is reflected in a range of media, from the publication of high-profile books on outdoor swimming,[2] newspaper articles, television programmes,[3] radio

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[1] The uncertainty and confusion in relation to the current legal position is excellently illustrated by Revd Douglas Caffyn in his publication *The Right of Navigation on Nontidal Rivers and the Common Law* (October 2004).
[2] See, in particular, *Wild Swim* by OSS founder Kate Rew (Guardian Books, 2008 & 2009) and *Wild Swimming* by Daniel Start (Punk Publishing, 2008).
[3] For example the recent BBC series *Rivers* presented by Griff Rhys Jones.

programmes and podcasts.[4] The OSS itself has attracted 5,500 members since it was formed just three years ago.

The recent introduction to the Olympics of the open water 10k swim, and the success of British athletes in the event, has attracted great publicity and interest in outdoor swimming. Similarly the rapid rise in popularity of triathlon over recent years has further boosted interest in outdoor swimming.

Numerous mass-participation outdoor swims are now held on an annual basis, such as the Great North Swim (a one-mile swim at Lake Windermere, which attracted over 5,000 swimmers this year). Dedicated holiday companies now exist for individuals who wish to take part in outdoor swimming in the UK and overseas, whose swimming holidays are frequently fully booked months in

advance.[5]

9. Implementing these proposals would bring a range of benefits for Wales and the Welsh.

10. The health benefits of swimming are very well documented. Encouraging greater use of inland waters for swimming will help to keep the Welsh fit and healthy. Participating in swimming outdoors also results in strong feelings of wellbeing and vitality.

11. Clarifying and simplifying access rights will also bring financial benefits to Wales. Given the huge popularity of outdoor swimming and the wealth of beautiful inland waters in Wales, greater numbers of swimmers from elsewhere in the UK will wish to travel to Wales to swim in its inland waters. The benefits to the tourism industry in Wales will be clear and significant.

Negotiated rights of access

12. The OSS does not agree with the alternative suggestion that negotiated rights of access to water would be sufficient to avoid having to clarify the laws relating to rights of access to inland waters.

13. The nature of outdoor swimming is such that it is not feasible to negotiate rights of access at each location that individuals wish to swim. While this may be a form of solution for a small number of permanent outdoor swimming clubs, the vast majority of swimmers engage in outdoor swimming on a more ad hoc basis. As a result, if it were necessary to negotiate individual rights of access with a series of property owners before swimming could take place, then people would simply choose not to travel to Wales to participate in swimming. This is not a workable solution to the current problem.

Summary

14. In conclusion, the OSS strong supports the proposals to clarify and simplify rights of access to inland waters in Wales, supported by an enforceable code of conduct to ensure that everyone's interests are properly respected. We consider that the Land Reform (Scotland) Act 2003 provides a useful blueprint, to be modified as appropriate in Wales. This will bring significant benefits to Wales in:

– bringing tangible health benefits to Welsh swimmers, as well as feelings of wellbeing and vitality;

– reducing conflict between different water users resulting from the current complex and uncertain legal position; and

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[4] The Guardian has recently filmed and released a series of video podcasts on outdoor swimming through its website.
[5] See www.swimtrek.com . Swimming holidays include the Lake District, the Thames, the River Wye in Herefordshire, the Norfolk Broads and the Isles of Scilly.

– increasing the numbers of visitors to Wales, thereby supporting the Welsh economy.

We therefore strongly encourage the National Assembly for Wales to implement the proposal.

431.Graham Wilford

I have been closely involved with rivers for the last 40 years or more. In particular from 1990, I was a Member of the Yorkshire Regional Rivers Advisory Committee of the National Rivers Authority until the NRA became part of the Environment Agency and continued in an advisory capacity with the latter's North East Region until 2005.

As a result of the above, I have seen at first hand the conflicts which arise between the various river users' interests.

It has always dismayed me that the freedom to enjoy the pleasures of the nation's rivers by small unpowered craft such as canoes and small boats, has been able to be thwarted by the adjoining landowners. The nation's rivers are a national asset which should be available to be enjoyed by all by such means. Having spent many, many holidays in Wales, the inability to enjoy the rivers of Wales has been a regular source of frustration.

I am familiar with, and have made use of, the rights of access granted under the Countryside and Rights of Way Act 2000 in England and Wales and have found that the predictions of dire consequences that would arise from giving the public access to large areas of the countryside have not materialised. I believe this experience is relevant to the current debate concerning access to inland water, where dire predictions are once again forecast of the consequences of such legislation.

I am also aware of the recent legislation granting access to inland waters in Scotland, which again has been beneficial and without the dire consequences coming to fruition.

Could I appeal therefore to the Welsh Assembly to be bold and legislate to grant the public access to small unpowered craft. Rivers are a national asset to which the public can rightly expect to have access. Simply appealing for the various user groups to work together for the good of all has not proved to be successful in significantly improving access to rivers, because the cards are heavily stacked in the riparian owners' favour. The suggested legislation is necessary to break that situation.

432.Alan Greenhalgh

In support of greater access to the rivers of Wales

Presently anglers have more or less exclusive use of the rivers and are reluctant to lose any part of that. Nationally the general consensus is for greater access to the countryside. The position of anglers must be treated sympathetically but they must give some ground and the decision to do so cannot be left solely in their hands. Their current monopoly of all aspects of the rivers to serve their own limited use is untenable. The defence of their position is largely based on speculative arguments and a degree of exaggeration. I speak as an amateur canoeing coach, a lover of the countryside and as an occasional angler. I address briefly some of the main arguments below.

Environmental Damage

The anglers claim there will be all manner of environmental damage. Canoeing must be one of the most benign means of accessing the countryside available. The moment after a group of canoes has passed a location there is no mark or evidence that they have ever been there. It is not in our interest nor is there any need to trample vegetation or scare wildlife. As most visits to a river are tours we are by definition passing through. We rarely touch the banks and any wildlife will hide as we pass and is only disturbed for a moment. We are not attracted to shallow rivers where we have to scrape over gravel. The impact of a wading, lingering angler catching fish is likely to have a much greater impact on his environment.

I watch fish and note that a disturbed fish at most only moves a few yards upstream or downstream before returning to its original location. If it were any thing else the progressing canoeists would end up herding great shoals of fish in front of them.

It is hard to imagine that a floating canoe can be more detrimental than a wading angler standing on bullheads, crayfish and the occasional redd (alevins stay in the stones well into the fishing season and redds can occur anywhere) then taking a single mature salmon and so removing a huge potential of viable eggs or milt. I don't say that anglers are detrimental only that canoeists are less so.

Canoeists are attracted to the sport in large part for the appreciation of the countryside. Once anglers engage amicably with canoeists they may be pleasantly surprised that our care for the environment is as great, if not greater than theirs and that we wish to preserve for its own right alone.

Disease

Claims that we will spread disease such as Gyrodactylosis seem to be over dramatic. This is potentially a serious problem but is no more attributable to canoeists than to anglers and so far neither are guilty. The primary danger is the importation of infected fish. Canoeists do have their part to play and to this end it can only benefit all to be inclusive. Anglers alienate canoeists but if they brought them on board then there would more likely be a unity of spirit to avoid the risk of infestation. Anglers assume that canoeists have no environmental interest but this is far from the truth.

Pollution

Anglers are definitely missing a trick. Canoeists are so well placed to observe pollution incidents. We tend to cover several miles in a day and are possibly more sensitive to pollution than the angler as we tend to get a lot wetter and so prone to illness. If only the anglers would be less excluding they could reap great benefits.

Poaching

One of the more imaginative arguments is that poachers will masquerade as canoeists to gain access to the water. There is no reason why they can't do this already except that they would be sitting targets in a boat on the water with no means of escape. Believers of this view should try sitting in a modern kayak and seeing how many fish they can fit around themselves – not many. They could also try to make their 4mph escape from a bailiff in a canoe that will then require two to carry (even without fish) to a car. The average canoeist can spot the fake instantly and again as we cover several miles in a trip we are ideally placed to spot dubious activities or illegal nets. We have no desire to see endangered species poached and are just as keen to see the poachers and polluters stopped as anyone. Anglers should welcome the significant extra vigilance that canoeists can bring.

Solitude

I appreciate that part of the delight of angling is solitude. I too enjoy the tranquillity of a river. Allowing access will not turn every river into a high street. If you look at the few places available to canoeists at present it can be seen that even they are not heaving with people. Divide such numbers by the hundreds of miles of river and there will still probably be more anglers per mile than canoeists on any one day. Indeed a mainstay of anglers' argument is their large numbers.

As to the disturbance to the fish there is no reason to think that a passing canoe is worse than a loitering, wading angler. It is often thought that some stirring of the fish may encourage bites. Possibly the biggest disturbance and alarm to fish is the fight as one is played in for several minutes.

Payment

If there were any costs to be incurred in allowing access to the water then perhaps some form of fee or licence should be considered. This may be akin to requiring a fee from ramblers as they pass over cattle pasture and grouse moors. The general view is that the ramblers are not licensed or policed. Arguably there is much more cost attached to the maintenance of the pathways, styles and signs but ramblers are not charged. Canoeists will require no such extensive infrastructure.

Anglers frequently complain about the lack of bailiffs to curtail poaching. Canoeists will be free extra eyes and reporters. Sharing the water is a small price to pay for such a great benefit.

Contribution to protection of the river

Anglers frequently proclaim their custodian role of a river and that no such role is played by canoeists. This is a bit like a gardener in his private walled garden wondering why he alone has to cut the grass all the time. Let us have access and only then complain if we don't pull our weight.

Income

Anglers imply that if a canoeist paddles down a river then millions will be lost to the Welsh economy. The figures they quote presumably include the predominant number of coarse anglers who will be mostly unaffected by increased access. There is no evidence that anglers won't adjust to shared use of the river. Will their pleasure be so blighted by the occasional passing of a canoe that they give up on Wales? Perhaps a very few will leave to fish in other countries but I think not as England and Wales are the only countries who entertain this angling exclusiveness. I would hope that on the contrary anglers will adjust to this slight change and that there will be a slight increase in canoeist numbers who will bring their accompanying expenditure. Already with the limited access available canoeists bring in revenue with the companies, shops and cafes that already exist. The tourist board show wonderful pictures of canoeing and proclaim it as an attraction. At present they could be criticised for miss-selling.

Agreements

Voluntary agreements are a mask to avoid any reasonable access. There is no reasonable prospect of success when, to gain access to just a few miles of river, we have to negotiate with numerous landowners and angling clubs. None of them have any interest in sharing their current sole possession. We can only plead for access (we have no negotiating leverage) and may gain some limited route along a river after many years only for it to by blighted by one interested party in the middle changing their mind and cancelling out all the negotiating work. The Government have realised that negotiated agreements are not viable for rambling access to the countryside or for access to the coastline. If the government want to persist with agreements they must appoint an arbiter who has the power to enforce an agreement on both sides. The trial run by Brighton University sponsored by the Government only succeeded in reducing the access it set out to increase and this was in relatively easy rivers. In my own line of work I occasionally encounter compulsory purchase and I know that the Government, even with full time expert staff assisting and money to offer, will not rely on negotiating voluntary agreements for any reliable way forward.

Limitations

As a compromise to the anglers I agree that boaters should not be allowed to run amuck. There are irresponsible canoeists as with all interests. Also there are definite areas that should be avoided at certain times of year. Commercial exploitation should be controlled. Limitations could well be implemented through BCU registration. This would probably be as effective as a rod licence. I think canoeists will be happy to abide by a ruling imposed by an impartial arbitration on both sides. I think fairness is all most of us crave.

Sport and social enrichment

I help run a canoe club. We pride ourselves in marshalling the youthful exuberance and channelling it in a constructive, disciplined way. We train many young (and not so young) people every year. All canoe clubs do this and it is a tremendous social benefit. It is our perennial frustration that we cannot take them from the beginnings of the sport on a lake to the next stage on a river not only to sample the excitement but to appreciate the wealth of the countryside. Anglers do the same but to a much lesser degree.

Where countries like Austria and Switzerland excel in the winter Olympics due to their natural advantage of so much snow by contrast Wales produces few, if any, international slalom paddlers even though it abounds with whitewater. This must surely amuse onlookers from outside the British Isles.

I am now in my mid 50's and regret that I may never paddle freely down the rivers. I feel akin to those who sought the freedom to roam the fells but were opposed by the land owners. Their sense of injustice led to the Great Trespass. I do not propose any great trespass as I believe we live in more enlightened times. I feel sure that, as with 'the right to roam', that all parties will soon adjust and the initial misgivings will seem a distant myth. I am in an invidious situation. I have perhaps another six or seven years of paddling left in me. I can only live once. With all the prevarication of the angling fraternity I am strongly tempted to ignore the hostility and suffer the abuse of the anglers and paddle anyway. I believe I would be committing no great crime and would be causing no damage of any kind and no significant nuisance. Alternatively am I to wait until the presently unassailable dominance of the anglers is overcome by years of ineffective negotiations for voluntary agreements? Even with an overseeing arbiter negotiated agreements would take years as the anglers have no interest in change. They are driven, quite naturally, by a fear of change. Such change has been recognised for the whole

public with the right to roam. It seems bizarre that the same principles don't bring Wales into line with the rest of the world by extending 'the right to roam' principle to cover access to rivers.

433.Farmers' Union of Wales | Undeb Amaethwyr Cymru

The Farmers' Union of Wales welcomes this opportunity to contribute to the Sustainability Committee's inquiry into Access to Inland Water in Wales, with particular reference to the effect of the proposals on landowners in Wales.

433.1. What is your interest in the issue of access to inland waterways?

The FUW represents farmers and landowners in Wales, many of whom either own land abutting an inland waterway, own the actual bed of the waterway, manage the fishing rights to the waterway or have environmental obligations to protect the banks of a waterway under the terms of an agri-environmental agreement and or statutory designation.

The Union is also concerned at the impact any increased, unmanaged access to inland waterways will have on adjacent farmland as it is aware of several incidences of trespass across farmland where users wish to reach or leave an inland waterway.

The Union totally opposed to a statutory approach to access to inland waters as it believes there are major farm management issues associated with any such proposal, given the amount of inland water within Wales.

433.2. Are you a member of an organisation related to your use of water?

Whilst the FUW recognises that many members will be individually involved with relevant organisations related to water use, the Union is not formally associated with any such organisation.

433.3. Which stretches of water do you own or manage?

The FUW represents the interests of a wide range of landowners who manage all types of inland water, whether it is lake, river, stream or brook.

433.4. Are you happy that your legal rights are clear and well defined?

Whilst it is accepted that no one owns flowing water, in Law, all land including river beds, streams and lakes are owned, whether by private individuals or public bodies, and this land would have no presumptive rights of access without permission or dedication.

Any public right of way along the banks of an inland waterway allows the right of passage to individuals, but anglers and others need to obtain permission from the landowner for fishing or other recreational activities, or it is deemed legal trespass.

The ownership of the land also brings responsibilities and these would include, not obstructing or diverting the flow of water, responsibility for ensuring that no pollution leaks from the land and the expectation that the land itself is likely to flood periodically (increasingly over recent years).

The landowner is also responsible for any debris arising from a flood event and generally takes on the responsibility for maintaining the riverbanks and surrounding fencing.

Many inland waterways in Wales are subject to some form of conservation designation, such as SSSI, SAC's etc which may carry higher management obligations for the land manager.

433.5. Can you briefly outline your understanding of your legal rights over the stretch of water that you manage?

As outlined above.

433.6. Would you like to see any changes to your legal rights?

During the course of its internal consultation on the issue of access to inland waterways, many members raised concerns that whilst there were a number of issues pertaining to the use of waterways by recreational users, it was inevitably the adjacent land access issues that created particular concern, given the increasingly litigations society we live in and the recent publicity associated with livestock and public Rights of Way.

The FUW strongly believes that if the Assembly is seeking to improve access to any part of the countryside and want to encourage landowners to participate in voluntary arrangements, it must seriously consider ways in which to reduce the liability burden on farmers.

If yes what changes would you like to see?

Whilst recognising that it is beyond the scope of the Welsh Assembly Government at this time, the Union would like to see a review of liability in respect visitors using the countryside.

433.7. Are you aware of any legislation that exists in other countries that could be used in Wales?

The FUW is aware of the Petition's Committee evidence from Scotland and also the Countryside Council for Wales (2007) 'Managing Recreation on Inland Waters in Wales: a Review of Approaches', which outlined a range of policy measures across a number of countries and the strengths and weaknesses of these approaches.

The Union believes that many of the legislatory approaches accross Europe and indeed Scotland, fails to consider the population density, high levels of environmental and designations and the significant investment by anglers and others in the conservation of inland waterways in Wales.

433.8. Do you have any experience of voluntary agreements for access to the stretch of waters you own?

The Union has many members who are involved with voluntary agreements on rivers around Wales.

Feedback from members suggest that the process has worked well on the whole and that working in partnership and increasing dialogue will prove far more constructive than the introduction of blunt policy instruments which will foster resentment and conflict between all parties.

If yes, please briefly outline the agreements that exist and your experience of how they operate.

The Union would direct Committee to the more detailed responses from individuals and organisations such as the Wye Foundation and National Trust for more detailed information on how voluntary agreements work in practice.

433.9. Would you like to see any changes to the voluntary agreements?

The FUW believes that negotiations for voluntary agreements must reflect the particular circumstances of the water body concerned.

It is also important to ensure that all relevant parties are involved in discussions to ensure that any agreement reflects any commercial and environmental priorities identified for that particular waterway.

433.10. Are you aware of any voluntary arrangements in other countries that could be used in Wales?

There have been a number of examples particularly in England and the FUW is aware that the Environment Agency website contains detailed advice on voluntary agreements and this should be encouraged more widely.

Please can you briefly outline what you think are the main issues for recreational access to inland water in Wales and how you would like to see them addressed?

The Union is aware that this current Inquiry stemmed from a petition to the Petitions Committee on 10th April 2008, calling for a 'statutory right of access to and along non-tidal water'.

Despite the Minister's response to the petition which sought to promote consensus building via practical action rather than pursuing legal options, the Petition Committee recommended that 'a further inquiry be carried out with a view to bringing forward legislation in this area'.

The FUW is totally opposed to the introduction legislation and believes that Committee need to carefully consider the impact any statutory right of access will have on the day to day management of livestock farms, conservation and the economic contribution of angling to the rural economy.

The FUW is not opposed to water based activities, indeed it has members involved with diversified enterprises that encourage canoeing, Kayaking etc, through voluntary agreements, provision of infrastructure and access points to and from the water body.

However the FUW is disappointed to note that in order to campaign for a statutory right of access, the main canoeing associations are purported to encourage canoeists not to participate in voluntary agreements.

This raises concern that unregulated activities increase the chances of trespassing, disrupting activities such as angling and also could cause damage to environmentally fragile areas of the riverbanks, which are ultimately the responsibility of the landowner in terms of cross compliance and environmental liability.

The FUW is aware that the Assembly wishes to encourage outdoor leisure activities to improve the general health and well being of the public. Anglers contribute financially to obtain management of the fishing areas they maintain, an economic survey undertaken in 2000 concluded that fishing generated over £75 million to the Welsh economy and the Assembly's own Wales Fisheries Strategy highlights the importance of fishing to the economy.

Many farmers are also actively involved in their local angling associations and much voluntary time, effort and resources are put in by individuals to maintain and enhance the environmental value of the areas they manage.

Similarly, landowners may incur costs in maintaining waterways which abut their property, therefore it would seem only equitable that recreational users who do not wish to be party to voluntary arrangements, should be required to pay a license fee to the Environment Agency, to help them maintain the resource they enjoy.

This method would provide revenue to the Welsh economy, provide security for landowners that licensing comes with a code of practice, which would highlight the need to access or leave waterways on designated rights of way and provide all users a stake holding in waterways which would act as justification to preserve and enjoy.

434.Nigel Brauton

I am a Kayaker, lucky enough to live in Wales.

I enjoy many of the South Wales rivers including; the Neath, The Ogmore, The Usk, The Ewenny, The Mellte, The Hespte and many many more.

Kayaking is a much misunderstood sport. It is not just the realm of adrenaline junkies that some would like to believe. Most of the paddlers I know enjoy a good rapid to get the pulse racing but equally enjoy the thrill of seeing a Kingfisher flash by or a trout leap from the water. The rivers of Wales are beautiful and being able to travel along them gives a perspective of that beauty that few think to enjoy.

There is a darker side to kayaking in Wales though. I have been threatened with physical violence on a number of occasions by those that would like to keep those rivers to themselves. Only recently, at the Ogmore, a group of us were told by an angling club bailiff that he would call his fishing friends and have them throw rocks at us if we got on the river to paddle. We did not paddle the river that day as threats to our vehicles were also made. A young girl from Barry was with us that evening and this was her first visit to the river Ogmore (her local river). Instead of enjoying this much underrated river she was left shaken and upset by our encounter. This type of incident is particularly bad in Wales. I also paddle in England and these incidents are rarer there.

This is almost certainly due to the WAG's agreement to air the issue of river access as has been done in Scotland.

Let us consider the Fisher folk's position:

"If Access for all were granted there would be endless disruption to the day's fishing." To be frank this is ridiculous even on the most popular rivers in Wales it is rare indeed to bump into any other paddlers. Of all the rivers I have paddled in Wales (during the fishing closed season) I have only ever seen other paddlers using the same river a couple of times (both times on the Usk). Kayaking just isn't that popular.

"Paddling disturbs the fish." This is a strange one. Why are only English and Welsh fish affected? When paddling on the continent fishermen wave and are extremely friendly to passing river users.

Who hasn't seen people fishing in a canal? If canal boats don't ruin their days silent kayak won't.

"Paddlesport disrupts spawning grounds" Kayakers and Canoeists want to float in fact it's pretty much what the sport relies on. Being on the water ddoes not dissturb spawning grounds (the EA's own report confirms this).

"Fishermen pay and paddlers don't" This is the big gun as far as fishermen are concerned. But what do they pay for? They pay for a access to private land to use the banks. They pay a rod license fee to the EA to keep banks, and rivers in good order and the rivers stocked. What would kayakers be paying for? Fish they have no interest in taking? Banks they do not wish to use? As for keeping rivers in good order over 40% of the EA's money comes from the taxpayer.

Now consider the kayaker's point of view what do they want? They want to float down the river enjoying its features and enjoying its natural splendor. Why should anyone have to pay to do that?

If I were responsible for considering this bill I'd suggest that all those voting on it go and visit a Welsh river.

Stand by its banks and watch the river go by. Truely watch it. Consider how long the water has been making that journey and how it has changed our landscape and shaped our lives. Protected us. Provided for us.

Then consider the situation.

One group want to dictate when we can visit the river. One group want to say what parts of it we can see. One group want to have only access and rights to the river.

How, in 2009, and beyond can that be acceptable? To fish? Just so they can fish?

435.George Stephenson

RE: 'Right to Paddle', open access to all rivers and inland waterways in Wales

I wish to add my voice in support of the campaign mentioned above.

The British Government has over the past few years become concerned about obesity in young children and adults. Canoeist cover a wide age range, from children aged about 8 years to senior citizens of 80plus years and all ages in between. The sport is taken up by girls and boys, woman and men, even teenage girls (one of the most difficult groups to motivate to take up exercise), paddle regularly.

Although canoeing and fresh air does not in itself "cure" asthma, it strengthens the lungs, and once our son started canoeing, greatly reduced the amount of chest infections/asthma attacks, he regularly suffered before.

Unfortunately the lack of access limits the variation of 'water' the skilled paddler needs to progress and extend him/her. This leads to some "honey-pots" such as Llangollen being at times over subscribed with paddlers, while on other rivers there is not a canoe to be seen. There are many rivers in Wales and an open access policy would spread the use, thereby lessening the "over use" of some stretches of river which antagonizes other river users such as the fishermen.

Some elements of the canoeing sport, is an Olympic discipline, our young paddlers now need to come from South Wales to North Wales to paddle for their training and competitions (majority are in N Wales). The river Treweryn and the Dee at Llangollen again become over subscribed, or closed to other paddlers or rafters, while competitions are in progress.

To further their training all white water paddlers have to go abroad to experience "bigger" water, while there are many rivers/ experiences to be found in Wales which are "closed" to them due to lack of access This makes canoeing at competition level an expensive hobby/sport.

Canoeing Clubs often loose their experienced paddlers due to lack of variety of available rivers, adults travel to Scotland, leaving the junior members to paddle the Dee or the Treweryn yet again. This is the stage where youngsters are lost to the sport, if they are not competitive but enjoy being on the water with their friends, there is nowhere new for them to go. In S Wales there are one or two rivers with "white water" where there is access, the same in the north, forcing people to travel long distances if they do not live near either of them.

The open access to rivers works well in Scotland and has not led to undue difficulties between canoeists and fishermen. Scotland is the place to go Fly-fishing in Britain and is also one of the best canoeing places in the UK.

Conservation and canoeing are not diametrically opposed to each other, if the reliance on so few rivers is reduced, by having open access to all, the need of large groups congregating at a few spots (play boating) is greatly reduced. Most paddlers enjoy being out in the countryside, seeing the wildlife and enjoying the fresh air, and do not wish to damage nature.

In Bala and Llangollen canoeing has brought lots of business to the shopkeepers, hotels, B&B's, campsites in the towns. This financial gain need not be limited to these few places, with "open access" this financial gain can be spread al over Wales.

Wales is known in the UK and abroad for its mountains, castles and spectacular coast line.

Why not add its beautiful “accessible” rivers to the list.

436.Mrs Astrid Inglis

My interest in the issue of access to inland waterways, As a landowner and fishing

I am a member of UUFA, AST (Atlantic Salmon Trust), Salmon and Trout Association (S and TA). Fish Legal and the Loge Isle Foundation

I own ¾ mile at Buckland on the Usk between Talybon Bridge & H******

I am quite happy with my legal rights, at the moment.

My understanding of my legal rights on the water which I own, fish and manage, is that I can fish between March 3 and October 17

I do have long experience of voluntary agreement over access to the stretch on the Usk between Talybont bridge and H*******. This has worked very agreeably in the past. From October 18 until March 3 the river is accessible for all canoists.

In Summer when the river is low, there are a number of places where the canoes get stuck on the gravel.

Once the Canoe season starts, there are often over 100 people all getting into the river at much the same time. I feel if the river was open to all at any time of the year, the fishing would be totally ruined. If this was the case, would the Welsh Assembly Government compensate us for completely de-valuing our fishing rights?

I have fished in New Zealand and Chile and Southern Ireland but I do not know their regulations.

I feel that access for recreation to inland water must be as it stands at the moment. A few canoeists quietly going down the river would be no problem to any fisherman – but universities colleges, outdoor persuite centres have many boats and some get into difficulties when the instructor has to paddle back to get them etc. this would completely ruin a fishing day, disturbing wildlife and nesting birds.

Fishing people contribute a huge amount to the welfare of rivers, canoeists contribute nothing.

Fishing is a sport and recreation for thousands of visitors to Wales. Let us work together and keep the access agreements as they are.

437.Llain Activity Centre

I urge the committee to follow the road of using legislative powers to give everyone wide-ranging statutory rights of access to inland water, rivers and the associated banks throughout Wales. This would be the only way to achieve a shift from the current position – any voluntary agreements are doomed to fail – either because they are so restrictive e.g. the current position on the River Teifi of 2 days access per year or because of the entrenched beliefs of angling associations who believe they "own the river" and the rights to use it because they pay for it. The Welsh Canoeing Association have for years tried to negotiate access rights with little success.

I see the Welsh Assembly as a devolved political institution, able to deal with local issues and reach outcomes that befit a modern European country, forward looking and thinking. This approach would give access similar to the position reached in Scotland. Despite scare-mongering and the tales of doom and gloom the Land Reform Act has worked. It has built on the traditions in Scotland (and in Wales) of access and the responsible right to roam and the outcome is a modern approach to access which is among the best in Europe.

As a canoeist I would responsibly use the access rights to further engage in my passion of canoeing the rivers of Wales. Getting out into the countryside and taking part in low-impact hobbies and interests is surely something we should be encouraging.

Perhaps, more importantly, as the owner of a business which promotes canoe sports, the right of responsible access would encourage tourism, develop our business, create revenue and jobs, surely this is a priority for the Welsh economy and in particular the rural areas of Wales. I sincerely hope the committee can see the relevance and importance of the above arguments and make the courageous decision to create a new modern forward thinking approach to access.

438.D M Rees

What is your interest in the issue of access to inland waterways

Land owner of farm land and the ½ river bed of 1.5 miles of the Rivers Usk and Cray

Which stretch/es of water to you own/use/manage?

1.5 miles of single bank, river bed of River Usk and River Gray at Pantysleallog Farm

Can you briefly outline your understanding of your legal rights over the stretch of water/s that you own/use/manage

Any access to the river can only be the permission of the owner. As with the fishing access must be negotiated and payed for

Would you like to see any changes to your legal rights?

No

Please can you briefly outline what you think are the key issues for recreational access to inland water in Wales and how you would like to see them addressed

It is entirely wrong to attempt to erode the rights of the landowner.

Please remember also the rivers Usk and Cray are subject to SSSI and that imposes significantly on any variation in Public Access.

If canoeists want access to Private land they must negotiate it and pay for in the way the anglers do.

439.Kathy Lewis

439.1. What is your interest in the issue of access to inland waterways

439.2. Are you a member of an organisation related to your use of water?

If yes, which organisation/s?

439.3. Which stretch/es of water do you own/use/manage?

2 Small Streams

439.4. Are you happy that your legal rights are clear and well defined?

Yes

439.5. Can you briefly outline your understanding of your legal rights over the stretch of water/s that you own/use/manage

Legal owenership of stream banks and ownership of half stream beds with neighbours

439.6. Would you like to see any changes to your legal rights?

No

If yes, what changes would you like to see?

439.7. Are you aware of any legislation that exists in other countries that could be used in Wales?

No

439.8. Do you have any experience of voluntary agreements for access to the stretch of water/s you own/use/manage

No

If yes, please briefly outline the agreements that exist and your experience of how they operate.

439.9. Would you like to see any changes to the voluntary agreements?

If yes, what changes would you like to see?

Yes, if they can be managed to deliver access more effectively and satisfy demand

439.10. Are you aware of any voluntary arrangements in other countries that could be used in Wales?

No

Please can you briefly outline what you think are the key issues for recreational access to inland water in Wales and how you would like to see them addressed.

There are stretches of waterways with no access along the banks. How would access be achieved, and would new rights of way have to be created across private land to reach inland water? In Wales many streams run through narrow valleys, woodlands, gardens, farmland, and through property both commercial and private. The model in Scotland is not appropriate in Wales, the terrain is different except in mountainous areas and there are fewer completely wild areas of low population. Some streams are very small and shallow, would all of these be included? The potential for environmental

damage is greatest where inland water is shallow and narrow. Clearing away obstacles such as overhanging branches and natural debris from streams in order to facilitate canoeing etc could have a detrimental environmental effect. I think it is only practical to include certain stretches of rivers that have obvious value for recreational activities. These could have points of access and be managed accordingly both for environmental and safety reasons. People can be unaware of some of the dangers of using waterways. River swimming for example could be dangerous for unsupervised children. Some areas of water are also polluted.

Although canoeists are very keen to extend access, and there should be some negotiated extension of access in certain areas, it is necessary to take into account the differing interests and rights which exist, and not create legislation which mostly benefits one group at the expense of others.

440.Anonymous

440.1. What is your interest in the issue of access to inland waterways

Land owner – Owner of fishing rights

Fishing

440.2. Are you a member of an organisation related to your use of water?

No

440.3. Which stretch/es of water to you own/use/manage?

Usk River on Graiggoch. Sennybridge

Please can you briefly outline what you think are the key issues for recreational access to inland water in Wales and how you would like to see them addressed

As a fisherman I buy my licence to enable me to use any stretch of water including that of which I have sole rights to. I do not think it is fair for other organisation and recreational users to be able to access the same stretch of water free of charge. Fishermen are not permitted to use the rivers at certain times of year to enable the fish to spawn in peach. Why then are other water persuits allowed to use the said rivers at this time?

441.Stuart Fullwood

I writhe with regard w the proposed inquiry into the access of inland waterways in Wales

I am an angler who fishes the Afon Teifi for both Salmon and Sewin throughout the season. I belong to the Llandysul Angling Association which' has fishing rights along the banks of the river Teifi for several miles. I fish for Salmon and Sewin on all the beats the association has riparian rights over.

I have little knowledge of the legal rights of access but I am aware that a voluntary access agreement did exist between the Llandysul Angling Association and the Llandysul Paddlers for a stretch between the old road bridge at Pontwelly on the river Teifi.

I would be happy if the legal rights were better defined and that no grey areas existed. I am aware that canoeists and rafters have the rights of navigation 011 most rivers up to the mean high water limit throughout England and \Vales. and that in Scotland access is granted to virtually .all navigable waterways.

I personally would like to think that the Sustainability Committee would consider not giving unrestricted access 10 canoeists and rafters for the following reasons:

- Many areas in the upper reaches of your rivers are used by migrating Salmonids for the purpose of spawning: lheseareas are very sensitive 10 dismrbance during and after fish have spawned. (Some areas of main rivers .are 'also used by spawning fish).To .give unrestricted access to these areas would cause inconceivable damage to fish stocks in the future. This would be in breach of the Salmon and Freshwater Fisheries Act of 1975.
- Most anglers pay for the right to fish through a levy imposed by the Environment Agency and by paying subscriptions to fishing clubs and associations. Some of this money is used by both parties for the up-keep and maintenance of the rivers and banks. Canoeists and rafters pay little or nothing towards keeping your rivers clean.
- Angling based tourism in Wales must contribute far more too many local economies than canoeing and rafting ever could. To allow unrestricted access to canoeists and rafters would in my opinion be very detrimental to the angling related tourist industry.

I would like to see an agreement reached by all the parties that would allow access to canoeists and rafters via locally agreed access agreements and that these agreements were made enforceable under law and that under no circumstances were spawning areas to be disturbed and that any infringement be punished under crown law.

Many thanks for taking the time to read this letter.

442.Paul E. Bowen, Crickhowell & District Angling Society

Chairman on behalf of Crickhowell & District Angling Society

I write on behalf of the Crickhowell & District Angling Society which owns / rents / leases approximately 9 miles of the River Usk and its tributaries. Many of our members are resident in your constituency.

We have read the minutes of the meeting of the WAG Petitions Committee on 4th December 2008, which gave the Petitioners, Welsh Canoeing Association, a full hearing. We are aware that the task ofthe Petitions Committee is to listen to petitions and not to make any judgement as a court, enquiry or tribunal would do. For this reason we, and others, feel that it is high time that our strongly-held opposing views are put to you, and the Petitioners evidence tested. This is not the first time the Petitioners have appeared before your Committee.

We realise that, regardless of the rights and wrongs of this issue, it is a political issue. This is why we are writing to you. The Petitioners have clearly decided that neither the well-established and relatively simple existing laws of the land, nor the voluntary access agreements, are sufficient for their purposes and no doubt their decision must be an ideological one. This is why they seek to rubbish the existing law and the existing voluntary agreements.

Without dealing in detail with the Petitioners statement (which in places is incomprehensible) we would like to comment on the various general themes raised by them as follows:

1) 'Governing Body'. The Petitioners claim to be the 'National GoverningBody' of their sport. The term usually denotes a body given powers to control its business or profession e.g. The Governing Body of the Church in Wales, The British Medical Association, The Welsh Rugby Union, The Football Association, The MCC, The Bar Council, The Law Society etc. The term is not appropriate for a simple voluntary association whose only sanction is to expel members and who cannot bind a dissentient minority. The Petitioners have arrogated the phrase to their Association presumably to give a false impression of authority. We trust that WAG is not taken in by the use of this phrase.

2) 'Lack of Clarity' of existing law. The existing law. which the Petitioners find so obscure and burdensome, is not intended to work in the interests of trespassers. The concept of trespass is quite simple, quite natural, and easy to understand. Most householders understand it instinctively without the benefit of any legal advice. There are specific crimes connected with trespass in special circumstances e.g. armed trespass, trespass on dams and weirs and theft but no-one is claiming that canoe trespass on ordinary inland waters is a crime. It is surprising therefore that all the complaints about the existing law are coming from the wrongdoers and not the injured parties who, on the whole, and because of the cost of going to law and the specific nature of the remedies provided by the law, do not complain. In the Derwent case of 1991 the House of Lords did clarify the law relating to the acquisition of rights of navigation stating that a waterway is not a highway as generally understood. The problem of trespass and a multiplicity of riparian and rights owners can be solved with a bit of goodwill (and no ideology) on both sides as has been, and still is being, demonstrated on several Welsh rivers. On the Upper Usk for example the access agreement originally entered into with the Petitioners in 1984 worked well for the Petitioners. Not once were canoe clubs or individuals refused conditional but free permission for 22 years during the fishing close season, all for the cost of a postage stamp. The quoted responses of EA Wand Wye Navigation Authority to this problem on the

Afon Glaslyn and Upper Wye are, as would be expected, an accurate statement of the present law in so far as they are quoted.

3) History. Most of most Welsh rivers are too tumbling and rough to have allowed any form of navigation other than for private fisheries with nets (now an illegal means of fishing except by special license). Boats were simply not strong enough. The history of canoeing I kayaking on Welsh rivers really starts with the invention and development of strong fibre glass and plastics after the 1960s. This, combined with the great increase in leisure time, car ownership, and the fashion for personal health and outdoor pursuits to give us the present situation. Isaak Walton in the Compleat Angler written in the 17th century recorded the beginning of the leisured pursuit of fishing as opposed to commercial fishing. The evidence of the trouble and expense undertaken in the construction of canals parallel to many (mostly but not all east flowing) Welsh rivers demonstrates that there was no navigation or right of navigation on those rivers in the 18th century for the reason that navigation was not then feasible on those rivers. Navigation was even less feasible on all other Welsh rivers. We doubt if those who drafted the Magna Carta or Llewellyn the Great envisaged the coming of canoes or kayaks, or indeed unlimited leisure time.

4) Statistics. It is enough to say that we are sceptical of the figures given. No references are given. In the case of game-fishing licences, we have noticed that with the reduction in numbers of Environment Agency Enforcement Officers (river bailiffs) in recent years that the number of people who laugh in your face if you ask them for their game-fishing licence has greatly increased. We do not doubt that an accurate figure for issue can be given but this figure is just the tip of the iceberg. As far as the canoe I kayak numbers given are concerned we wonder how these have been collected except on the Treweryn. Even where access agreements are in force, it is impossible to calculate the numbers actually canoeing as there is no central record. Even ifthere were, there would still be an appreciable number of canoeists who enjoy, and are determined on, beating the system anyway. It would be wrong to assume that all who canoe / kayak, do so completely voluntarily. There are large numbers of groups of school age children and service recruits who pass down the river under instruction and under some sort of order of their teachers or officers. Certainly the shouting of these 'leaders' is quite a noticeable and disturbing feature of their passage.

5) 'Polarised view against access for canoeists'. This is the same view as the view of the mugged viewing the mugger and is inevitable when one person seeks to take away (even by 'stealth' as is boasted) from another something that he treasures and has paid for. It is wrong to think that all anglers are on the river to kill fish and for no other reason. In the hectic modern world where even the countryside is intensively farmed the river is a ribbon of peace and soothing by itself for the anglers and the majority of tourists who come to rural Wales for passive enjoyment. How much the tourists appreciate the sight of pristine rivers and lakes is difficult to say but this view of Wales is certainly one fostered by the Welsh Tourist Board and many individual tourism businesses. 'Get away from it all' doesn't ring true when confronted by a river full of less than quiet canoeists I kayakers and their brightly coloured craft and their accompanying cars and buses blocking narrow country roads. This peacefulness is something that tourists and anglers in Wales actually expect to see in Wild Wales and to pay for directly or indirectly. Conservationists have not yet said much in this debate but anyone who knows the rivers of Wales will have seen the formations of water birds flushed from long stretches of river valleys by groups of canoeists coming downstream over many miles. Birds are the most obvious symptom of the disturbance but, of course, everything from human residents to wild animals and river life are disturbed. It is another example of the noisier form of life ever driving out the quieter as no quiet place is left unvisited.

We also wonder whether Welsh farmers are yet aware of the fact the Petitioners seek a right of access to and over all inland waters in Wales. Even though this must seriously be a negotiating position. nevertheless, we intend to alert the farming unions to the Petition. Every Welsh farm is likely to contain some form of 'inland water' either within or on their boundary. As Wales is predominantly a stock rearing area many of these inland waters are fenced across to prevent straying. Even the CROW Act 2000 (Schedule 2) bans interfering with fences to enclose livestock without reasonable excuse. Is canoeing to be a reasonable excuse?

To conclude, we would say that although the right to roam under the CROW Act 2000 - the exemplar put forward- is generally reckoned to have been a success, this is because it enshrined in the law the de facto access that had been enjoyed over common land at least for many years previously, and because it affected only land extensively farmed. There is no doubt though that the CROW Act did take away from the farming community generally, and without compensation, something of actual value, namely the ability to refuse access to CROW Act land. The farming community were the losers on that occasion but we are all the losers when what belongs to everybody belongs to nobody. Isaak Walton quoted a 'wise' friend who said 'that which is everybody's business is nobody's business'. It appears from the Petition that statutory access is sought on behalf of all water-based sports, and indeed the public generally. Add to these the possible arrival of beavers and their camp followers and the use of the rivers as a convenient rubbish tip and we have the prospect of a multiplicity of competing interests incompatible with each other. The water environment is simply too fragile and constrained to sustain them all without anarchy. It is a feature of the current interest in the rural environment that ownership or occupation of it is ignored and scarcely mentioned, yet it is the owners or occupiers who bear the restrictions imposed by designations such as SSSI or SAC. It seems that this omission is deliberate in pursuit of an end, where the countryside and its owners and occupiers are collectivised in pursuit of a Brave New World. Nobody has told the angry Snowdonia farmer who, like any countryman, has been brought up to respect his neighbours' boundaries instinctively, that the canoeists, gorge walkers etc are part of that Brave New World and which his government are promoting and funding in the interests of the urban population and their so-called Breathing Spaces. Their Breathing Space is our fishing rights and land, and their activities greatly affect all our members.

443.Anonymous

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444.Anonymous

444.1. What is your interest in the issue of access to inland waterways

– Recreational user

– User for waterborne recreation – Kayaking / Canoeing

444.2. Are you a member of an organisation related to your use of water?

If yes, which organisation/s?

– British Canoe Union

– Canoe Wales

444.3. Which stretch/es of water do you own/use/manage?

444.4. Are you happy that your legal rights are clear and well defined?

No

444.5. Can you briefly outline your understanding of your legal rights over the stretch of water/s that you own/use/manage

Few clear legal rights. Access mostly by implied consent

444.6. Would you like to see any changes to your legal rights?

Clearly defined rights in law

If yes, what changes would you like to see?

Right of access to land and inland water for recreation / passage

"Right to roam"

444.7. Are you aware of any legislation that exists in other countries that could be used in Wales?

Similar rights of access to those in Scotland

444.8. Do you have any experience of voluntary agreements for access to the stretch of water/s you own/use/manage

Yes

If yes, please briefly outline the agreements that exist and your experience of how they operate.

A number of rivers have agreements either to paddle from November to March or specific days e.g. weekends

444.9. Would you like to see any changes to the voluntary agreements?

Yes

If yes, what changes would you like to see?

Right of responsible access to all land and inland water in Wales

444.10. Are you aware of any voluntary arrangements in other countries that could be used in Wales?

No

Please can you briefly outline what you think are the key issues for recreational access to inland water in Wales and how you would like to see them addressed.

Right of access to land and inland water for informal recreation/passage. Effectively a 'right to roam' over land and water.

This would require legislation to achieve

This access must be properly managed to safeguard environmental and conservation concerns e.g. Numerous voluntary bans over climbing crags during bird breeding seasons exist, managed by the national organisation (BMC).

Access to only be at own risk

445.Lord Rowlands CBE

I have received a copy of Mr Gary Davies' letter to you re: Access to Inland Waterways in Wales.

I was the President of the Association during its formative years, and have maintained a close connection.

The Merthyr Angling Association is a remarkable success story, building from humble beginnings to the point that it could host for the very first time the Home International Angling Competition.

They have painstakingly developed the Taff and expanded into the Usk

It is, frankly, an outrageous concept that canoeist clubs can have unfettered free access to waters that Angling Associations have committed funds, time and expertise to develop.

I do hope that your Committee will appreciate fully this case.

446.Clive Easton

I own 3i4 mile of the river Wye north of Llanwrthwl and am deeply concerned about the effect that canoeing and canoeists are having both on the river and the breeding cycle of Salmon in particular.

I have read the minutes of the meeting of the WAG petitions Committee on the 4th Dec 08, which gave the petitioners, Welsh Canoeing Association, a full hearing. I am aware that the task of the petitions Committee is to listen to petitioners yet not make any judgement as a court, enquiry or tribunal would do. For this reason both myself and my neighbours who also hold riparian rights on this stretch of the river feel that it is high time that our strongly held opposing views are put to you, and the petitions evidence tested. This is not the first time the petitioners have appeared before your committee.

I realise that, regardless of the rights and wrongs of this issue, it has also become a political issue. This is why I am writing to you, as will my neighbours. The petitioners have clearly decided that neither the well established and, relatively simple existing laws of the land, nor the voluntary access agreements, are sufficient for their purposes. No doubt their decision must be seen as an ideological one. This is why they seek to challenge the existing law and existing voluntary agreements.

Without dealing in detail with the petitioners statement (which in places is incomprehensible) I would like to comment on the various general themes raised by them as follows.

1) "Governing Body". The petitioners claim to be the "National Governing Body" of their sport. This term usually denotes a body given powers to control its business or profession e.g. The Governing Body of the Church in Wales, The British Medical Association, The Welsh Rugby Union, The Football Association, The MCC, The Bar Council, The Law Society etc. The term is not appropriate for a simple voluntary association whose only sanctions is to expel members and who cannot prevent them from continuing inappropriate behaviour and who cannot bind a dissentient minority. The petitioners have arrogated the phrase to their Association presumably to give a false impression of authority. We tmst that WAG is not taken in by the use of this phrase.

2) "Lack of Clarity" of existing law. The existing law, which the petitioners find so obscure and burdensome, is not intended to work in the interests of trespassers. The concept of trespass is quite simple, quite natural and, easy to understand. Most householders understand it instinctively without the benefit of any legal advise. There are specific crimes connected with trespass in special circumstances e.g. armed trespass, trespass on dams and weirs (you may recall such a recent event by canoeists) and theft but no-one is claiming that canoe trespass on ordinary inland waters is a crime. It is surprising therefore that all the complaints about the existing law arecoming from the wrongdoers and not the injured parties who, on the whole and, because of the cost of going to law and the specific nature of the remedies provided by the law, do not complain. In the Delwent case of 1991 the House of Lords did clarifY the law relating to the acquisition of rights of navigation stating that a waterway is not a highway as generally understood. The problem of trespass and a multiplicity of riparian owners rights can be solved with a bit of goodwill (and no ideology) on both sides as has been, and still is being, demonstrated on several Welsh rivers. On the upper Usk for example the access agreement originally entered into with the petitioners in 1984 worked well for the petitioners. Not once were canoe clubs or individuals refused conditional but free admission for 22 years during the fishing closed season, all for the cost of a stamp. The quoted responses of EA Wand Wye Navigation Authority to this problem on the Afon Glaslyn and Upper Wye are, as would be expected, an accurate statement of the present law in so far as they are quoted.

3) History. Most Welsh rivers are too tumbling and rough to have allowed any form of navigation other than for private fisheries with nets (now an illegal means of fishing except by special licence). Boats were simply not strong enough. The history of canoeing on Welsh rivers really starts with the invention and development of strong fibreglass and plastics after the 1960's. This, combined with the great increase in leisure time, car ownership and, the fashion for personal health and outdoor pursuits give us the present situation. Isaak Walton in the Compleat Angler written in the 17th century recorded the beginning of the leisured pursuit of fishing as opposed to commercial fishing. The evidence of the trouble and expense undertaken in the construction of canals parallel to many Welsh rivers demonstrates that there was no navigation or right of navigation on those rivers in the 18th century for the reason that navigation was not then feasible on the river. Navigation was even less feasible on all other Welsh rivers. I doubt that those who drafted Magna Carta or Llewellyn the Great envisaged the coming of canoes or indeed unlimited leisure time.

4) "Statistics" It is enough to say that I and my neighbours are sceptical of the petitioners figures given and are reference less. In the case of game fishing licences we have noticed that with the reduction in numbers of river bailiffs in recent years that the numbers of people who laugh in your face if you ask them for their game fishing licence has greatly increased. We do not doubt that an accurate figure for issue can be given, but this figure is just the tip of the iceberg. As far as the canoe / Kayak numbers given are concerned I wonder how these have been collected except on the Trweryn. Even where access agreements are in force it is impossible to calculate the numbers actually canoeing as there is no central record. Even if there were I suspect there would still be an appreciable number of canoeists who enjoy and are determined on beating the system anyway. I again refer as an illustration, the canoeists who illegally persisted to use the Welsh Water sluices last winter. It would also be quite wrong to assume that all who canoe do so voluntarily. There are large numbers of groups of school children and service recruits who pass down the river under instruction and under some sort of order of their teachers/Officers. Certainly these groups often attempt to maintain their position by paddling back upstream time after time, together with the shouts of their leaders is a quite noticeable and disturbing feature of their eventual passage.

5) "Polarised view against access for canoeists" This is the same view as the opinion of the mugged viewing the mugger and is inevitable when one person seeks to take away (even by stealth as is boasted) from another something that is treasured and paid for. It is wrong to think that all anglers and riparian owners are on the river to kill fish and for no other reason. Quite the reverse. It is an issue of protecting fish stocks and in particular securing the fragile growth of Salmon which is in every ones interest as it is for Wales in general. In the hectic world where even the countryside is intensively fanned the river is a ribbon of peace which so benefits the-environment. How much tourists appreciate the sight of quiet and cared for rivers and lakes is difficult to say but this view of Wales is certainly fostered by the Welsh Tourist Board and many individual tourist agencies. "Get away from it all" doesn't ring true when confronted by a river full of less than quiet canoeists and their. brightly coloured craft together with accompanying cars and buses with trailers blocking roads and or sight lines. Conservationists have not yet said much in this debate but everyone who knows the rivers of Wales will have seen the fonnations of water birds flushed from long stretches of river valleys by groups of canoeists coming downstream over several miles. Birds are the most obvious symptom of the disturbance but, of course, everything from human residents to wild animals and river life are disturbed. It is another example of the noisier form of life ever driving out the quieter as no quiet place is left unvisited.

I also wonder whether Welsh Fanners are yet aware of the fact the petitioners seek a right of access to and over all inland waters in Wales. Even though this must seriously be a negotiating position never

the less I intend to alert the fanning unions to the petition. Many Welsh farms are likely to contain an "inland water" either within or on their boundary. As Wales is predominantly a stock rearing area many of these inland waters are fenced across to prevent straying. Even the CROW Act 2000 Schedule 2 bans interfering with fences to enclose livestock without reasonable excuse. Is canoeing to be a reasonable excuse?

To conclude, I would say that although the right to roam under the CROW Act 2000, (the exemplar put forward) is generally reckoned to have been a success this is because it enshrined in the law the de-facto access that had been enjoyed over common land at least for many years, and, because it affected only land extensively farmed. There is no doubt though that the CROW Act did take away from the farming community generally and without compensation, something of actual value, namely the ability to refuse access to CROW Act Land. The fanning community were the losers on that occasion but we are all the losers when what belongs to everybody belongs to nobody. Isaak Walton quoted a "wise friend who said "that which is everybody's business is nobody's business." It appears from the petition that statutory access is sought on behalf of all water based sports and indeed the public generally. The water environment and improving fish stocks is simply too fragile and constrained to sustain all interests without anarchy. It is a feature of the current interest in the mTal environment that ownership or occupation of it is ignored and scarcely mentioned yet it is the owners who bear the restrictions imposed by designation as SSSI or SAC. It seems that this omission may be deliberate, in pursuit of an end where the countryside and its owners are collectivised in pursuit of a brave new world. Nobody has told the angry Snowdonia fanner who has been brought up to respect his neighbours boundaries instinctively, that the canoeists, gorge walkers etc are part of that new world which his government are promoting and funding in the interests of the urban population and "their" breathing spaces.

447.The New Dovey Fishery Association

Letter addressed to Ms Eleanor Burnham AM – Liberal Democrat Shadow Minister for Sport

The New Dovey Fisheries Association have been made aware that canoeists organisations are trying to persuade AM'S to alter the law allowing access to Welsh rivers for their members. It is alleged that you stated:-

> "I am very proud to say that the Welsh Liberal Democrats are committed to changing current legislation in order that Wales' most diverse and valuable natural resource can be enjoyed responsibly by everyone" and "Until the access rights to Welsh waterways change, the potential for our most diverse and precious natural resource will continue to go untapped" and "The current situation restricts access for many people throughout Wales, particularly paddlesport enthusiasts...".

The New Dovey Fisheries Association (NDFA) wish to make the following representations for your consideration.

1. The NDFA since its formation in 1929 have managed and improved fishing and access arrangements to the river which has resulted in the creation of a very popular amenity for locals, visiting anglers and tourists; the latter being able to purchase a day ticket from outlets locally.

The NDFA employ two full time river keepers to manage and administer the facility provided. A comprehensive stocking policy serves to maintain and increase fish stocks. These are bred and reared by a local company.

2. Recently owing to the major works being carried out on the river bank/railway embankment by Network Rail, NDFA had to obtain a valuation of their 15 mile stretch of river. The expert valuer employed confirmed a value of 2.6 million pounds.

3. In several parts the river, at times, is very shallow and is considered unsuitable for use by canoeists. There are also other obstacles such as farm boundary fences running into the river or sometimes constructed across the whole river where there exists a boundary between two neighbouring farmers.

4. In your statement you maintain that a "precious natural resource will continue to go untapped". That is a most unfortunate statement in view of the fact that by the actions and efforts of a democratically elected management committee the NDFA have in fact tapped what is a wonderful local resource which is regularly used to its full capacity by local and visiting anglers and tourists as explained.

5. It is inevitable that the use of the river by canoeists will result in a depleted fish stock and breeding will be interfered with. Fish have to be very carefully managed and new stocks have to be introduced at particular times of the year and at particular ages all of which calls for limiting any disturbance to the environment naturally and artificially created in and immediately surrounding the river.

The NDFA are certainly of the opinion that canoeist organisations would not fully appreciate the very fine balance that exists between the management of this natural habiat and the disturbance that can be created by a lack of appreciation for the habitat created. This factor came to light in the negotiations that took place between the NDFA and Network Rail recently when Network Rail had to concede that disturbance can lead to a total destruction of fishing habitat created naturally and artificially.

6. Local businesses and services fully appreciate the contribution this well managed local facility makes to the local economy. Anyone attempting to disturb and prejudice this amenity would not only be very unpopular with local anglers and tourists but also by owners of businesses locally.

If the Welsh Liberal Democrats wish to remain committed to changing current legislation as is alleged the NDFA would invite you to think again and consider these very valid representations that are being made to you.

Should you wish to have any further information regarding the fish catches, breeding programme, number of anglers and day tickets sold the NDFA would be very happy to oblige.

448.Lembit Opik MP

I'm writing regarding the current situation as it pertains to canoeing in the waterways of Mid Wales.

I'm concerned of talk about a "blanket access" fi-o canoes. While I cannot believe this is really the intention of the Welsh Assembly Government, you can imagine that the idea is very distressing to anglers and those involved in fishing in our rivers and their tributaries.

In essence, there's every reason to believe that canoeists and the fishing fi-aternity can co-exist. However, this cannot be achieved by give in one side or the other unfettered access to a shared resource - namely the rivers themselves. As such, I'd be gratehl for clarification regarding what the actual situation is in regard to the committee's deliberations. Also, what is the best way fro the fishing community to formally make their position known to the committee?

I'm personally very happy to assist in this dialogue process. What is or paramount importance to me is that a £70 million a year industry is not compromised at a time when fishing and angling are one of the areas of grat importance to the Mid Wales economy.

449.Max Coventry, The Welsh Rivers Preservation Society

Further to our previous correspondence and our brief talk at the Royal Welsh Show, I hope the Committee has been receiving good numbers of written submissions from those in Wales with an important interest in this matter. I will be sending in written evidence, on behalf of the Welsh Rivers Preservation Society, in the next few weeks.

Looking ahead, I understand that this autumn you will invite selected respondents to Cardiff, so they can explain their position in more detail, pass on their knowledge of specific river systems where appropriate and be questioned about this by members of your committee. I have circulated a list to fishery owners, angling clubs, hoteliers, bailiffs and so on, of around fifteen organisations which would seem to represent both their views generally as well as the particular experiences of those in different parts of the country. Once there is general acceptance of the names on this list I will pass it on to yourself and Ms Hawkins.

Although I'm sure that some of these bodies will be on your short list already, - the CLA, NFU, FUW, WSTAA etc - there are some others, which, if not flagged up, might slip through the net - the Atlantic Salmon Trust, Dee Fishery Association, Fish Legal, even the Welsh Rivers Preservation Society and so on. You may not be aware quite how widespread the feeling was, amongst the angling fraternity and riparian owners, that the Petitions Committee collection of their verbal evidence was 'skewed' in favour of those pressing for a change in the law. I actually drew up an analysis of the Petitions Committee report which seemed to me to support that feeling and also gave weight to the view that their report reflected this evidential bias.

As this is such an important matter for those involved, I'm sure we can all agree that it is really essential that no party should be able to complain about biased collection of evidence when your report is produced. With this in mind, I would be grateful if you could confirm that about fifteen respondents to give verbal evidence to the Committee in Cardiff, covering the fishery owners/angling clubs/ hotelslbailiffs etc side of things, sounds about right to you.

I know you have a bus which can travel round taking recorded and video evidence from witnesses. This would not be suitable for these main 'organisational' respondents - but I would happily supply another, much longer list, of individuals, who J know would want to give evidence from difference parts of the country in this way!

450.Anonymous

450.1. What is your interest in the issue of access to inland waterways

User for waterborne recreation

I also manage an outdoor centre which relies on access to waterway for paddlesport

450.2. Are you a member of an organisation related to your use of water?

If yes, which organisation/s?

Welsh Canoeing Assoication

Also, Association of Heads of Outdoor Education Centres

450.3. Which stretch/es of water do you own/use/manage?

We aum to use all waterways in Wales. Reservoirs, canals, River Wye, River Severn, River Honddu, Teifi, Monnow etc

450.4. Are you happy that your legal rights are clear and well defined?

No

450.5. Can you briefly outline your understanding of your legal rights over the stretch of water/s that you own/use/manage

For all rivers in Wales I assume that there is a right to paddle down the water but not always for access

450.6. Would you like to see any changes to your legal rights?

Yes – clearly established rights of access year round with multiple access points

If yes, what changes would you like to see?

The rights of general public + canoeists protected

450.7. Are you aware of any legislation that exists in other countries that could be used in Wales?

France seems to be much more modern and even in Scotland there is calm generally

450.8. Do you have any experience of voluntary agreements for access to the stretch of water/s you own/use/manage

River Usk – but in name only as not enforceable. No one wants the burocracy of a booking system

If yes, please briefly outline the agreements that exist and your experience of how they operate.

Administered through lawyers – achieve nothing

450.9. Would you like to see any changes to the voluntary agreements?

Yes – replace them with clear rights of access

If yes, what changes would you like to see?

A set of understandings or codes not one off agreements

450.10. Are you aware of any voluntary arrangements in other countries that could be used in Wales?

I don't but know that in Wales we have evolved into the most restricted and anti-canoeing country in the world.

Please can you briefly outline what you think are the key issues for recreational access to inland water in Wales and how you would like to see them addressed.

The fundamental problem is that fishing and shooting interests have dominated to the extent that access to natural river courses of Wales aren't seen as a right for anyone. Outside the fishing season when canoeists would have very little effect on anyone or thing these interests again stop access. It's a selfish stance "I have possession – you go elsewhere" The 'right to roam' bill established rights in open country where it had little effect on others. The right to use waterways is the way forward where it has no major effect. Also multiple access points on rivers.

451.Mr Alan Lewis, Rhayader & Elan Valley Angling Association

With regard to the petition submitted by the WCA (Now known as Canoe Wales) we refute the claims made to the petitions committee as follows:

- Under both English/Welsh and Scottish common law water is classified as private and riparian owners, whilst they do not own the water, have the right to utilise any water above or below their land, this includes the right of navigation. There is no confusion, lack of clarity or ambiguity over access to water or the terms on which canoeists or other water users can gain legal access, these are clearly laid down in law and understood.
- Exclusions in the Scottish Land Reform Act 2003 require agreement for access from landowners if over a 90 day period the public are admitted on payment of a fee. The rivers of Wales are, in general, available to all on payment of a fee. There is therefore no difference in the laws of England & Wales and those of Scotland with respect to water based recreation, i.e., agreement must be sought before taking part, such activity is at the riparian owner's discretion.
- The WCA have clearly failed to negotiate legal access due to their 'no compromise' intransigent stance, by doing so they make themselves victims and then complain they receive unfair treatment. The WCA have failed to make a case for access rights using the appropriate routes and are now attempting to force the issue by ignoring common law rights and encouraging civil disobedience.
- The WCA in their submission makes little reference to the environmental impact of uncontrolled access by large numbers of paddlers on the enclosed ecosystems which make up most of these relatively small Welsh rivers. Large numbers of canoeist have a significant impact on the ability of fish to spawn successfully. This situation would not be tolerated for nesting birds on the endangered list and yet the WCA seem to consider disturbance of spawning areas to be acceptable. It is quite misleading to compare the much larger rivers of Scotland and Scandinavia with the smaller spate rivers of Wales The fauna and flora of relatively small rivers comes under proportionately greater pressure from similar sized groups of paddle sport enthusiasts.
- Canoeists give the entirely false impression that they have little or no access to running water in Wales. All tidal stretches are open to navigation up to the tidal limit (and with the very large tidal reach in Wales this can be a significant proportion of the river). The reason why there are not more agreements, so as to allow more 'up-river' paddling, is simply because the WCA will not accept conditions to their access. Not only does this refusal to compromise stop other agreements from being reached, it means that the WCA have withdrawn from existing agreements (such as that which was in place on the Usk), which were working perfectly well, for over twenty years in some cases.

We are not against the lawful recreational use of water by others; however, consideration must be given to the rights of existing users and the environmental impact of such activity. We object to any water user flouting or disregarding the law in any way but particularly in relation to access, navigation and the protection of fresh water fish, molluscs, nesting birds and other wildlife.

The existing law provides for the WCA and other organisations reaching negotiated agreements for access to rivers at times when this will not interfere with other users or impact on the environment at

sensitive times and we would be happy to participate in this, however this has to be achieved against an underlying acceptance by all parties that they recognise and abide by the existing law.

452.John Coombs

I would like to add my views to the many other letters you have received from anglers protesting against the unfettered access to all waters demanded by the Welsh Canoe Union and the British Canoe union.

Both of the canoe organisations had for many years extremely good access agreements with land owners and clubs on many rivers within Wales. These access agreements were for many years and seemed to work extremely well for all water users. Unfortunately the BCU and the WCU both deemed these access agreements to be useless and tore them up and demanded free access to all waters within the Principality. Had they re-negotiated them perhaps the situation we are in at the moment would not have occurred.

I have been a member of a fishing clubs for many years; I am now 67 years of age and have been fishing since the age of 4. As long as I can remember I have always had to purchase a rod licence (monies from which go to the Environment Agency via the Government) and if I wished to fish a river then I would have to purchase a day ticket to fish this water from the riparian owner be that a club, local land owner or an Association. If I did neither I could be prosecuted under the theft act as a poacher.

Canoeists wish to be able to paddle at will without any permissions or thought of access and egress to rivers and streams and to paddle when conditions suit them and not any other water users. They also wish to paddle along rivers that have no right of navigation, but are owned by many different organisations and people.

What most concerns me about the above is how those people stand if an accident should occur within the boundaries of their property. Would the canoeists have the right to sue the owners of the property? Should a fatal accident happen to a canoeist would the riparian owner carry responsibility towards the accident because it occurred within the realms of their property? Do canoeists have public liability insurance? If canoeists do not belong to a club or a governing body do they have the right to sue a riparian owner if an accident does occur? As an angler who is a member of an angling club I have public liability insurance provided by the club.

I along with many anglers would not object to canoeists using rivers, but only with agreed access agreements with full insurance in place should an accident occur that protects not just the canoeist but also the riparian owner of the water. I would also like the canoeists to pay the same fee or slightly lesser to the Environment Agency the same way they pay to access British Waterways Waters.

453.Dr John Elfed Jones, CBE, D.L

I beg to submit some comments on the issue of canoeing on the rivers in Wales. In 1983184 when I was Chairman of the (then) Welsh Water Authority the question of canoeing on the rivers of Wales was disscussed by Welsh Water Statutory Committee responsible for advising the Authority on inland aquatic recreation in the Welsh Water area.

Canoeists had been seeking free unrestricted access to all rivers in Wales and anglers had been opposed to such an arrangement. The Statutory Committee took advice from enviromental specialists and riparian owners representatives.

The conclusions arrived at were:

01. Some of the larger rivers in Wales (Dee, Severn, Wye etc) were perfectly suitable for canoeing but in a controlled manner, (see 3 below).

02. Most of the smaller rivers were not suitable for canoeing for enviromental reasons.

03. There was a need for control measures on canoeing on the selected rivers to be intoduced. These control measures should mirror the controls under which anglers fished viz :

a) Each canoe would be licenced annually and the monies thereby gained be used to improve the aquatic enviroment.

b) formal arrangements with riparian owner for access and egress on the selcted rivers should be in place.

c) Some defined periods during the year would be 'Closed Season' for canoeing.

Angling representatives reluctantly accepted the views of the Committee; the canoeing representatives rejected the concusions of the Committee and an impasse ensued with nothing being done and festering agro manifesting itself annually.

I believe the conclusions of Welsh Water's Statutory Committee twenty five years ago made eminent sense then, and make equally good sense today.

I hope the above has been of some help in your difficult deliberations.

454.Myddleton Angling Club

On behalf of Myddleton A.C I would like to register our strongest objection to the proposal to allow the rights to canoe on all waters in Wales.

Our objections are as follows -

04. Fishing rights are in law can be bought and sold often at considerable cost and owners are entitled to have them without interference from others.

If people wish to interfere with these rights compensation should be paid.

The current proposals do not address this.

05. There will be disturbance to fish and other wildlife by rafts of canoeists coming down the river especially on the smaller rivers. Fishermen are regulated as to close seasons to prevent disturbance to spawning fish. There is no proposal to regulate canoeing.

06. Anglers pay large sums of money for peace and tranquility, which will be ruined by canoeists who are unlicensed and unregulated.

My own club has suffered greatly from the opening of a public right of way with disturbance from dogs and persons swimming in the river with no thought for anglers.

It is suggested that the Scottish rights of access have been a success. They have not. In addition Scottish rivers are mainly of an upland variety, wide and far away from centers of population. This is not so in Wales where there is potential for large numbers of people to canoe.

07. Rivers should continue to be private. They are excluded from the right to roam legislation. There is of course no reason to prevent canoeists renting or having access agreements to water.

08. A number of our members have said they will not be going to Wales sewin fishing if these proposals become law.

455.DD Mathews

Having read, listened to and taken account of as much information as possible on the above subject, including that given by your Welsh Assembly representatives (WA) at the Royal Welsh Show. I now see no alternative other than ask you to note my feelings and misgivings on what is a very contentious issue.

Like a lot of the people who will no doubt contact you, I am a part of a syndicate who own fishing rights on the Taff at Abercynon, (We have had a fair amount of poaching on this stretch with no Policing support from the EA) and I am also a member of the Teifi Trout Association where we are now being pressurised by not only the canoeists but by the Assembly who to my mind have little or no understanding of the actual situation or underlying feelings of all Anglers. Note here that I am not a land owner rich man etc; I have worked hard all my life in Industry and have had to pay for my pleasure both financially and health wise and ask for fair play.

I know my Legal rights and have no wish to see them changed without due consideration and then only after fair and constructive negotiation as should be the case in any democratic society. Consider what has happened over the last couple ofyears, canoeists and rafters being enticed to break laws, or in some cases not knowing the law, and pull out of voluntary agreements. Obviously they no longer want to negotiate or even enter into negotiation. In fact on the Teifi I believe commercial rafting is taking place, this is not only breaking the law (certainly when the raft leader tells those in the raft to ignore anything the anglers say) this type of commercial adventure be licensed and policed by the DTI. This cannot happen in that the Law will be broken by the Government itself, also in a case such as this under Health & Safety Policy risk assessment comes into play.

Allowing access to rivers without strict Laws, Policing and Agreements will be unlawful under the Freshwater Fisheries Act 1975. By condoning or supporting the Welsh Canoe Association (WCA) proposals the Assembly itself may be acting outside the law which leads to anarchy. Canoeists have given statistics which need to be seriously checked. There is approximately 25% of free navigation on most tidal rivers which is already open to the WCA and others.

The WCA through its web site are giving access and egress points on rivers which again invites trespass. These people will not accept restrictions and riparian owner's rights and we as anglers have to endure trespass by them. Now it would appear that it is the intention of the Welsh Assembly to support their application and reward them for unlawful behaviour.

We as anglers put a significant amount of work and finance into Welsh Rivers and their habitat, this has been brushed aside by WCA & WA committees. Note that overall income to the Welsh economy from angling is £140m Quoted by your agency not us. The W A sent a team to Scotland where the Scotland Land Reform Act 2003 gave open access to rivers and this team believes, after a very short visit that this will work in Wales, absolute rubbish, Scotland is a foreign Country and its Parliament is playing down the troubles north of the border. According to reported sources there is an open war zone on the upper Tay river through commercial rafting(which our rivers are not big enough to take) making angling virtually impossible.

Let's take a quick look at the Griff Rhys-Jones scenario, through giving his opinion on how canoeists should act towards anglers he virtually proposed violence, intimidation etc; (Anarchy and Terrorism) he successfully promoted his TV "Rivers" programme very well but it again incited unlawful behaviour. I wonder what would happen if we as anglers wanted to fish where he moors his Yacht, I have little doubt that we would be prosecuted for trespass. Goose and Gander comes to mind.

Should the Law be altered as canoeists wish we believe that riparian owners, angling clubs and others would be in their right to sue the W A for the reduction in value of their assets and the derogation of leases and rights. Alternatively should any law be passed without negotiation and the implementation of rules and regulations agreed by all parties, together with the licensing of the canoeists all in line with what applies to anglers, we as anglers should withhold our license payments, fish where we like, and break the law and then be granted what we wish by the Welsh Assembly.

Please consider the contents of this letter and your proposals and especially what any alterations to the law could incite. I believe that anglers may be open to just agreement through constructive negotiation. Think what could happen to the Welsh Economy and how anglers from other Countries, who input into our economy through fishing some of the finest rivers in the world, will corne to view Wales, my Country, if the Welsh Assembly gets this wrong.

456.John Seel

I am writing in reply to your invitation to give views on the matter of access to inland water in Wales. I am the licensee of the above Inn located in the Village of Cenarth, our business like many others is supported mainly by tourism generated by Anglers.

The river Teifi Valley is an important ecological site supporting varied Wildlife including Otters, Red Kites and what I believe is the only self sustaining populations of Salmon and Sea Trout in Wales. As you are probably aware Angling is subject to close seasons to protect spawning migratory fish, and to prevent disturbance of the river bed which is against the law when fish are spawning. Free unfettered access to this ecosystem would spell disaster for the migratory fish populations, wildlife and the management on this water resource. Banks, pathways and adjoining land are maintained at a cost to their respective Landowners, or people such as angling clubs who have purchased Fishing rights or landfor their own usage. Our Local Fishing Club the Teifi Trout Association looks after some 23 miles of river, it provides low cost fishing for Tourists, the disabled and youth, and has purchase spawning streams for the sole purpose of protecting them from disturbance.

I could continue for many pages but I will finish up with a few bullet points for which I hope you will take note.

I believe that any access to inland water in Wales

- Must be controlled.
- Must be with the consent of Land and leaseholders, and must respect their rights.
- Must not disturb or interfere with Wildlife or live stock.
- Must always Respect other users of the Area.
- Must be carried out in a sustainable manner, leaving sensitive areas and some river systems protected and free from disturbance.
- Must contribute to cost the maintenance of access, and river, land and bank management.
- Must be covered by adequate insurance for public liability

Possible Solutions

- That Like Angling Clubs, and some other water users, that interested parties purchase, lease or buy land or rights to pursues their activities.

I will finish by saying that any unchecked access agreement would result in anarchy. If free access given to any particular group would other users continue to abide by the Trespass laws, rules, pay licence fee's or even bother to purchase land or rights, or even look after it any more.

457.Max Coventry, The Welsh Rivers Preservation Society

I see that Val Lloyd AM copied you in to her letter to me on 11 June. I therefore though I should do the same with my reply. It seems to me that many of the points which I raised within her (in my letter ***) will be directly relevant to the consideration of the sustainability committee

Letter to Val Lloyd AM – dated 22 June 2009

Thank you for your letter of the 11th June.

As you say, I sent a letter to the Chair of the Sustainability Committee enclosing a careful analysis of the above report. You claim that I have "either misunderstood, or deliberately misrepresented .. " this report, but I am unclear whether you have had a copy of my analysis and are referring to that, or are simply making a response to my letter. In case the latter, I now enclose a copy ofthe WRPS evaluation, which I think merits close scrutiny.

I now cover the main points in your letter:-

(1). You claim that the range of witnesses were "balanced" but what I found very strange was that, rather than concentrating on problems in Wales, you chose to go to Scotland to hear how the Scottish land Act was working. Differences in law, culture, geography, population distribution as well the physical and biological differences in the rivers involved between Wales and Scotland were all either ignored or brushed aside. Of course Scottish officials were keen to praise their own work - the point is that the major differences between the two countries made such evidence irrelevant.

In my letter of the 31 st January this year I asked the Petitions Committee to come to north Wales on a fact finding visit. You chose not to do this, stating that it was a matter of " ...existing resources" (your letter 10th February 2009). Yet, if you had decided to limit your attentions to this country, then presumably the trip to Edinburgh could have paid for several visits to north Wales. If you had done this then your Committee could not have failed to learn more about the nature of these problems in this country and I should have thought would have been more likely to have produced a report more relevant to Wales.

I give just two illustrative points to demonstrate this :-

(a). You state in the report (para.45) that **"the Scottish Canoe Association (Canoe Scotland) told us that anglers pay for taking fish out of the water whereas canoeists ... do not contribute in that way .. "**. This statement is unqualified and no other point of view is given leaving readers to conclude that you believe it to be true. Very likely therefore it will have influenced your conclusions. Yet - as I make clear in my analysis - it is demonstrably untrue. I'm sure if you had come to north Wales you would have been given the evidence to show what a falsehood this is.

(b). You state in the report (para.I8) that on the River Conwy **"agreements are still unresolved after 20 to 30 years"** and say nothing more about this river. However, if you had visited the Conwy, as I asked, you would have found out that there are two agreements already in operation on the river, which have been in place for years and which, together with the long tidal reach give access to canoeists to about half the river system already! Furthermore, you would have found out that the reason why there is no agreement on the remaining half of the river is because the Welsh Canoeing Association (Canoe Wales) refuses to negotiate with the association of riparian owners and fishing clubs involved (copy letters available if required).

I therefore hope you can see from the above examples (and you will read more in my evaluation) why I was absolutely right to state that the "skewed selection of both fact finding visits and respondents have resulted in confused and poorly informed conclusions and recommendations" .

(2). **You say that your report was "underpinned by legal advice .. "** but there is no sign of this in the report whatsoever! The underlying established legal position - that it is a trespass to use private rivers above the tide without the prior permission of the owner is never even stated in the report. You recommend a change to the law without even establishing what the law is!

You simply repeat, time and again (paras. 6, 10, 48 etc) the assertions of some respondents that the current law is unclear, so that anyone reading the report without prior knowledge would conclude that this is the case. But any solicitor dealing in riparian matters would have told you that the law is crystal clear: it is a trespass to use private water without permission. However, you chose to ignore this and make no mention of this basic underlying fact.

The report states that there are problems of 'access management'. If a group of people decided to enter your back garden every weekend and, whilst doing little damage, had a barbeque which stopped you being able to mow your lawn, would you say: "this is clearly a problem of access management"? I doubt it! I think you would say: "this is a problem of trespass" yet the parallel is almost exact. [It is actually worse on rivers because they are run as businesses-something else you don't take into account at all].

Not only do you not set out what the law state, you do not mention anywhere that breaking this law is a trespass. You constantly allude to this problem in the way of it being a general confusion and aggrevation on the rivers when - if you had established clearly what the law states in the first place it would have been clear: the problem is one of constant trespass, with those infringing the law making no attempt to arrange prior permission for legal access. Not only is this law breaking ignored completely in your report, even worse, nowhere is there the least criticism of it.

For a government body whose members are voted in by and paid for the electors of this country, to produce a report on this subject yet not condemn the widespread law-breaking which is at the heart of the problem, seems to me to be shocking. So when I stated in my letter to the Chair of the Sustainability Committee that there was a "lack of proper research into the existing legal position", I hope that after considering both the above and further points raised in my analysis, you will agree with me that this was a significant understatement.

(3). **You say we were "offered the opportunity to submit a counter petition".** Well, I hope the opportunity is always open to us (and anyone else) to petition the Welsh assembly government and the Petitions committee in particular. However, a petition on this matter from our point of view would look rather strange - it would simply be to uphold and respect the law! But surely, it goes without saying, that this is what government is tasked to do anyway.

I would be grateful if you could carefully consider the above and also the further points raised in my evaluation where I also indicate what would be an equitable solution to the problem. Could you please either show me where I am wrong, or otherwise withdraw your assertion that I have "misunderstood, or deliberately misrepresented" your report.

458.Vice Admiral Sir Iwan Raikes KCB, CBE, DSC, D.L

With reference to your letter of 21 July 2009 as chariman of the Sustainability Committee. I have the following comments on the terms of reference and submit them through the Clarke to the committee as requested for its inquiry into access to inland water in Wales

Interest in the issue of Access

I am a landowner at the above address which includes a short stretch of the bank of the River Usk.

Streches of Water

Until recently I have owned fishing rights on the Usk at Aberysiwr, Aberbran, Penwern and Scathrog. All these rights are now owned by my son XXXXXXXXXXXXXXXXXXXXXXX

Membership of organisation to use of water

I am a member, and was the Chairman for many years of the United Usk Fishermans Association (U.U.F.A)

Legal Rights

I am well satisfied that my rights were clear and well defined. These rights covered access and in some cases ownership of the river bed, all covered in the deeds of ownership, also the right to fish for trout, salmon and others in season. These rights are perfectly clear to me. There are also local rules.

I have nor had any need to change these rights.

I would not like to see any changes.

I do not know of, or wish to use any legislation extant in other countries. There are local rules within the U.K. which I am happy to abide by

Voluntary Rights

Yes. I have considerable experience of these on the Usk.

For many years I, as Chairman of the UUFA successfully promoted a wish for co-operation concerning the use of the river and we have all enjoyed fishing and canoeing using our own agreed rules for our mutual pleasure.

I claim to have been one of the first with a friend, to have canoed down the Usk in about the year 1938 aged about 16 or 17 years. I have also fished in it from the age of 8 to 80 years.

Wales is a long county and conditions are very different from one end to the other. A local agreement is the only sensible working arrangement for enjoying the pleasures available.

Let us not waste money or time working out and enforcing anniversary laws wastefully employing people who should be working on more important matters. Let us use some common sense without rancour.

459.R. D. Halstead, RFCA Calder Catchment Group

I am informed that the Assembly is shortly to consider an application by the Welsh Canoe Union for unlimited, free access for all paddlers on all Welsh rivers.

As secretary of the Calder Catchment Group of anglers, representing over 1,000 participants, I have been asked to contact you to put the Angler's point of view on this matter, as we are by far the most numerous users of the rivers, and also the only ones who contribute financially, through payment of a licence fee, in effect, to the government.

We do not seek to prevent access on suitable rivers, but this should be by mutual agreement between all users. Users should have to make statutory payment for the privilege as anglers have to do. Canoeists, kayakers and rafters, in general cause more disturbance to wild life and habitats than any other users. River heights and sizes should be considered.

Visiting anglers and their families contribute far more to the economy than canoeists ever could; please do not discourage our custom,

460.Usk Town Water Fishery Association

Chris Brain, Hon. Sec. Usk Town Water Fisher Association

Our Interest.

Our interest in the issue of Access to the Inland Waterways of Wales exists as Fishery Owners and Anglers although we also see ourselves as custodians and guardians of the precious riverine environment on part of the river which as a whole is properly accorded SAC status. We provide Brown Trout Fishing for the general public by issuing permits at modest cost.

Organisation Membership.

The Usk Town Water Fishery Association is a member of the following bodies.

– The Welsh Salmon and Trout Angling Association.

– The Salmon and Trout Association.

– The United Usk Fishennens Association.

– Angling Trust and Fish Legal.

– The Wild Trout Trust.

I am a member of the Country Land and Business Association and through my personal involvement serving on committees of the United Usk Fishermens Association, Usk Local Fisheries Group of Enviromnent Agency Wales and as a Trustee of the Wye and Usk Foundation, the Usk Town Water Fishery Association has close and active links with those organisations.

460.1. Ownership of Water.

Usk Town Water Fishery Association owns in perpetuity the exclusive double bank fishing rights on the River Usk extending upstream from Llanbadoc Church just below Usk over a length of about 3915 yards (or almost two and a quarter miles) to a pool named the Garcoed in the parish of Llancayo.

The Association acquired the Fishery through purchase at Public Auction on 27th July 1921 when it was sold as one of five Lots formerly part of The Crown Fishery extending downstream to Newbridge on Usk.

Legal Rights.

We are happy that the Legal Rights are well defined and are of particular significance is the fact that the Fishery is a Several Fishery as confirmed by the Deeds. We clearly understand that as a Several Fishery the ownership of the bed of the river is presumed to be vested in the owners of the Fishery (confirmed by the legal case of Hanbury v Jenkins[1901 h 2331]), which actually involved the adjacent Fishery which sold as Lot 2 in the auction sale already referred to.

The location of our Fishery is a good many miles upstream from any tidal influence and consequently under present law it is absolutely the case that there is no right of navigation. We are also conscious that Part 1 of the CROW Act 2000 does not create a right of navigation over non tidal waters. It would be relevant to recite a dissertation in this regard but we are aware that the matter has been eloquently covered in a submission by the Crickhowell and District Angling Society with which we would align ourselves in order to save repetitive reading on the same topic.

Although legislation exits in other countries (and in the UK particular reference is consistently made to the Scottish situation), we cannot comprehend how it could be thought feasible to compare Wales with Scotland owing to the difference in scale (again this topic is adequately covered by Crickhowell and District Angling Society and in other representations).

Voluntary Agreements.

Our membership of and association with bodies such as the United Usk Fishermens Association and the Wye and Usk Foundation has provided us with an insight of the potential for voluntary access agreements. We have knowledge of the Agreement between the United Usk Fishermens Association and the Welsh Canoe Association which held between 1984 and 2006 when the latter chose to withdraw to promote a militant and aggressive policy of encouraging canoeists to break the law. Historically down here at Usk we have not experienced much attempted user by canoeists but noticeably over the last eighteen months or so, doubtless owing to encouragement by the militant faction, we have witnessed more activity.

In the absence of any dependable body possessing the will, desire or ability to regulate canoeists (in contrast to the regulation of Anglers by the Environment Agency and long established Angling Associations which work in partnership with the Environment Agency) it would superficially seem that the only logical solution might be to appoint a public body to supervise canoeing activity.

Voluntary agreements, which in principle are laudable, can only work with the trust and cooperation of those involved and that has been very seriously undermined by the stance adopted by the canoeing lobby.

A legislative change based on an idealistic concept of all rivers being available as of right to any person to use as they see fit would verge on lunacy. In the angling context there is no doubt that without the regulations and codes which prevail linked to the management of Fisheries by those acting in a responsible manner, then Fisheries would have long since been ruined by "fishennen" who would abuse them to the point of over exploitation. There will always be "bad apples in any bag" and that can apply to Angling, Canoeing or any other activity.

Changing the present law to provide free and unconditional access will doubtless result in a "free for all" with conflict and anarchy present on the river banks. While anglers traditionally enjoy a deserved reputation as being quiet and generally too complacent for their own good, there is no doubt that many will be disposed to "biting back". Upholding law and order in the widest context becomes evennore difficult in the United Kingdom today and any change giving rise to confrontation should sensibly be avoided.

The Salmon and Trout Association has expressed views for voluntary canoeing access agreements provided certain issues are addressed and it worth reminding ourselves of those. They would include:

- The adoption of an enforceable code of conduct.
- A unique marking system on canoes and other water craft to allow easy identification.
- Equitable payment for use of the resource.
- An acceptable national form of registration and third party insurance cover.
- Provisions to protect fragile environments and habitats, particularly in SSSIs, SACs and cSAC, including fish spawning and juvenile areas and nesting bird sites.

- Acknowledgment that canoes and other water craft should not be pennitted in small streams and on non navigable rivers.
- Consideration given to controlling of the increasing use of rafts, which is already seen as a Health and Safety issue in Scotland.
- Acknowledgment that the unique situation in Scotland, where open access is permitted, has little relevance to Wales, where population density is far greater and the rivers tend to be smaller than in Scotland.
- Acknowledgment that water borne diseases and parasites (e.g. Gyrodactylus salaris) can be transferred between river catchments by canoes (the same as on angling equipment) and that this issue cannot be addressed in the context of an unregulated activity.

We would consider these views bear merit and are worthy of support.

461.Lee Watts

AAPGAI casting instructor

I am writing to you with regard to the proposed free access that canoes and other watercraft are hoping to obtain on our welsh rivers. I am a game angler who has fished the South Wales rivers for 30 years. I am also a mountain bike guide and at 36 years old I appreciate the full spectrum of outdoor pursuits whatever the activity (I am not the stereotypical tweed wearing landed gentry).

I would like to draw your attention to the following facts:

As a game angler I MUST pay an annual license fee of £75 to the environment agency along with club and syndicate fees for sections of water which amount to over £500 per season.

The rod licence and annual fees impose restrictions on when, where and how I my fish.

As a club member and game angling casting instructor/guide I make substantial voluntary contributions (in kind and cash) to maintain our precious lakes, rivers and waterways both in and out of season. In doing so I improve the habitat for fish and wildlife and pay towards hatcheries to support fish stocks.

If I continue to carry out the above. it gives me permission from the EA, clubs and riparian owners to cross land. use the banks and fish the waters.

Whilst Scottish rivers are large enough with enough flow to accommodate canoes (just like the lower wye), Welsh rivers are spate rivers which increase and decrease in flow and water volume rapidly with rainfall. Flotillas of canoes grinding across gravel beds and riffles in the typical summer low water levels do irreparable harm to the underwater eco system.

It would seem that the canoeists and others who want to have completely FREE access to our waterways (which we as game anglers have cared for for centuries) would like us to continue to keep the waters of Wales clean, tidy and in good order for them to do as they like 24/7,365 days of the year. We have fishing seasons for a reason! Canoeist don't pose disruption to our waters in the off season, when the rivers are also more suited to their activity which is why they are allowed to use specific waters outside of the game fishing season. Having said this, how a canoe performing rolls and grinding its hull over salmon redds i sn't at best i nterferi ng with salmon (illegal) and at worst destroyi ng ferti l ized eggs is the \-\iinter months is beyond me.

I compare the canoeists demands as like somebody turning up in your garden, altering your plants, letting their dog chase your cat and ruining you day whilst also expecting you to pay for the privilege! It has to be bared in mind that this scenario \yould he repeated through the day as each group (flotilla) ,'lltcrs and leavcs your garden.

Game anglers are law abiding folk who are regulated and licensed up to the hilt. If canoes are to be given free unfettered access to the land and water of Wales, I for one will not be buying EA rod licences and large riparian owners fees to enjoy my hobby. Why should I when canoeists don't?

462.Crickhowell and District Angling Society

Submitted by Paul Bowen, Chairman

We have an interest in the issue of access to the inland waterways of Wales as :

– Fishery owners

– Landowners

– Riparian owners

– Anglers (recreational users)

Our fishing club is a member of the following organisations:

– Welsh Salmon & Trout Angling Association

– Salmon & Trout Association

– Atlantic Salmon Trust

– Wild Trout Trust

– United Usk Fishermens Association

– Angling Trust and Fish Legal.

We also have very close working relationships with organisations such as: Environment Agency (Wales), Wye & Usk Foundation, Countryside Council for Wales, Brecon Beacons National Park Authority, various local authorities and numerous other official bodies.

Primarily, we are a game angling club (fishing for salmon, trout and sea trout) and we currently own / rent / use / manage nearly 9 miles of fishing rights in the River Usk catchment. The fishing rights, and in some instances adjoining land, are located in the counties of Powys and Monmouthshire andextend on the main River Usk from Crickhowell downstream to Pant-y-Goitre. On the main River Usk we own the Red Barn Fishery (Abergavenny), Glangrwynne Court Fishery (Glangrwynne), Bullpit Meadow Fishery' (Crickhowell), Glan-yr-Afon Fishery (Crickhowell) and the Legar Waters (Crickhowell). We also own fishing rights on one of the main tributaries of the River Usk, the River Grwynne, from Llangenny bridge downstream to its confluence with the main river at Glangrwynne. Our Society currently rents the Home Beat of the Pant-y-Goitre Fishery on the River Usk at Pant-y-Goitre and the fishing rights adjoining Lower cadfor Farm on the main River Usk at Llanfoist, Abergavenny. For ease of reference I have enclosed a detailed schedule of all the assets that we own for your perusal. When these assets were last professionally valued (in 2005), on an informal basis, they were conservatively valued at £750,000. These assets have gradually been acquired by our members since our Society was formed in the late 1960s.

Our Society is quite happy that our legal rights are clear and well defined at the present time. You will see that HM Land Registry have granted us title absolute for all the fishing rights and land that we own on and adjoining the main River Usk. We still hold unregistered title and deeds and documents relating to our fishing rights on the River Grwynne, a major spawning tributary of the River Usk. The terms of our various rental agreements are also fully understood by our Trustees / Officers / Committee / Members. Furthermore, we are fully conversant with the all current laws relating to fishery issues and to inland navigation on the inland waterways of England and Wales.

The current position regarding the law of navigation on freshwater in England and Wales is fully explained in the statement issued on 12th May, 2009 by the Angling Trust, a copy of which is enclosed for ease of reference. The same information is also freely available to members of the Country Land and Business Association, various farmers unions, etc.

In both England and Wales primary legislation is required to increase navigation rights, as there is currently no ability to extend a CRoW type approach to the inland waterways or the bank sides. Under English law all land, including the bed of a river or lake, belongs to someone (e.g. private individual, fishing club, corporate body, local authority, etc.}.It is usually necessary to obtain permission to access such land or water for fishing or canoeing, etc. If such permission has not been obtained, access constitutes a legal trespass, whether or not the owner actively enforces his rights. There is no ownership of the flowing water and all may reasonably use it, provided that they have a right of access to it and a right to use it for their permitted purpose. Where such rights do not exist, the water may be used for angling, canoeing, swimming, and so on, only with the consent of the owner (e.g. by them issuing a fishing permit / licence or issuing an access agreement for canoeing).

Landowners, riparian owners, fishery owners and anglers throughout England and Wales are extremely concerned that the governing bodies of canoeing and other paddle sports are frequently mis-stating the law on navigation on rivers in England and Wales and thereby encouraging conflict.

The members of our Society, and anglers throughout England and Wales, are quite happy with our legal rights at the present time and we are vehemently opposed to the canoeists and other paddle sport enthusiasts being granted free and uninterrupted access to the inland waterways of Wales. We consider it abhorrent that the National Assembly for Wales, via the Sustainability Committee, is even considering the legislative changes that the canoeists are demanding. As far as the vast majority of anglers and landowners in Wales are concerned this whole matter should not have progressed further than the Petitions Committee stage, overseen by Val Lloyd AM and her colleagues. Dr.John Powell, University of Gloucester, was quite right when he stated that there would be extremely strong landowner and fishery interest opposition to any proposed legislative changes regarding the inland waterways of Wales.

Earlier this year Val Lloyd AM and her colleagues on the Petitions Committee, after hearing evidence from the petitioners, the Welsh Canoeing Association (now Canoe Wales), were of the opinion that the current situation regarding rights to the inland waterways in Wales were confusing, untenable and unworkable and that there should be the same right of public access as there is in Scotland. We, and anglers throughout Wales, could not disagree more with those observations. It is the canoeing bodies who have clearly decided that neither the well-established and relatively simple existing laws of the land, nor the various voluntary access agreements, are sufficient for their purpose and their decision is purely an ideological one. This is why they seek to rubbish the existing law and the existing voluntary agreements. It seems incredulous that the members of the Petitions Committee were taken in by the representations made by the petitioners (Welsh Canoeing Association) and that collectively they took on board the mis-stated legal position and all the other mis-information supplied by them and that they subsequently referred the matter to your Sustainability Committee to undertake a full inquiry into access to the inland waterways of Wales, at no doubt considerable taxpayers expense. The petitioners should have been asked to verify and prove all the information supplied to the Petitions Committee. The existing law, which the canoeing bodies find so obscure and burdensome, is not intended to work in the interests of trespassers. The concept of trespass is quite simple, quite natural and easy to understand. Most householders and landowners understand it instinctively without the benefit of any legal advice. It is surprising therefore that all the complaints about the existing law are coming from the wrongdoers and not the injured parties Who, on the

whole, and because of the cost of going to law and because of the specific nature of the remedies provided by the law, do not generally complain. The problem of trespass and a multiplicity of riparian and rights owners can be solved with a bit of goodwill (and no ideology) on both sides as has been, and still is being, demonstrated on several Welsh rivers (e.g. River Usk, River Wye, etc.). On our local River Usk, for example, a voluntary access agreement originally entered into with the Welsh Canoeing Association (WCA) in 1984 by the United Usk Fishermens Association (UUFA) worked particularly well for the WCA. (This agreement has been taken over by, and run by, the Wye and Usk Foundation since 2007). Under the old UUFA voluntary access agreement not once were canoeing clubs or individuals refused conditional (but free) permission for 22 years during the fishing close season, and all for the cost of a postage stamp. The canoeists and other paddle sport enthusiasts have now chosen to walk away from, or rescind, such agreements.

The Petitions Committee stated that they thought that there should be the same right of public access as there is in Scotland. We totally disagree with this comment. The 'Scottish Experiment' is still unproven and historically the law, and rights of way legislation in particular, has progressed differently in Scotland than in England and Wales. The Land Reform (Scotland) Act 2003 (LR(S)A) established statutory rights of access to land and inland water for outdoor recreation and the Scottish Outdoor Access Code (SOAC) provides guidance on the responsible use of these access rights. The statutory right of responsible access only commenced on 9th February, 2005, so the whole process is very much in its infancy in Scotland. The emphasis on responsible use of the outdoors will require considerable education of its users and the general public as a whole. The Scottish authorities have estimated that it will be many years before the rights and responsibilities of the users are fully understood and complied with. The writer can speak from personal experience of problems and conflict ariSing on numerous Scottish rivers and lochs going back many years, having fished on them since a boy in the mid 1960s. Many of our members can relate similar problems on the Scottish rivers and lochs that they fish regularly. Many of the Scottish rivers are very wide and much bigger generally than many of the rivers in Wales, and theoretically problems and conflicts should not arise, but they do. On the Scottish rivers in particular, the right of open access causes problems and conflict at certain 'hotspot' locations and where the river is confined. The scale of use is also critical. These conflicts have been particularly aggravated by commercial users (e.g. rafting companies, outdoor pursuit companies, canoe / raft hire companies, etc.) utilising rivers and coming into contact with fishermen. The fishery owners, fishing clubs / organisations and ordinary anglers are particularly resentful in these 'hotspot' areas that their legitimate, paid interests are being damaged by the commercial activities of bodies which have been granted free right of access under the SOAC. Believe me when I say it causes terrible problems. The problem is exacerbated on the generally much smaller Scottish rivers, especially in the north and west of the country. Similar problems would undoubtedly arise on the vast majority of the generally much smaller Welsh rivers, and this must not be allowed to happen under any circumstances. The Scottish authorities are desperately trying to find local solutions to the problems that have arisen as a result of the open access arrangements. However, to date, regrettably, their efforts have been mostly unsuccessful. There is very real disruption to the fishing from this type of conflict, and little that the authorities - desperate to achieve agreement - can do to ensure that this type of situation is resolved. It could be argued that what is needed is a strengthening of the access code. There is also a very strong need for ongoing education of the public, a resource Implication / issue that was perhaps not fully appreciated when the Act was conceived.

DrJohn Powell, University of Gloucester, mentioned the Scottish Land Reform Act In his report to the Countryside Council for Wales in 2006/2007. He commented that legislative change would be necessary to bring in this approach in Wales but he thought that it would not necessarily solve the

access problem, which would stili require negotiation and management of conflicting activities wishing to utilise the same stretch of water. Dr.Powell recognised that there would be strong landowner and fishery owner opposition to such proposals being introduced in Wales. He also emphasised that the situation in Wales was totally different to that of Scotland, as there were more landowners and fishery owners in Wales and the Welsh rivers tend to be much smaller and shorter in general than Scottish rivers.

Believe me when I say that Scottish landowners, fishery owners and anglers do not tolerate irresponsible use of the natural resource by other users, or misbehaviour by other users, who have been granted open access to their land or waters under the SOAC and LR(S)A. I have witnessed some extremely ugly scenes over the years.

There are numerous legislative differences, especially rights of access differences, between Scotland and England and Wales. The lower network of paths, combined with Scotland's low population density and less intensive land use means that the access rights created under the Scottish Land Reform Act are not directly transferable to other countries (e.g. Wales) which have markedly different existing access arrangements, population density and land use. It is clear, even at this early stage, that the case for greater access in Scotland is unproven. The rights created in England and Wales under the CRoW Act are not widely used, and government statistics clearly show declining numbers of people visiting the countryside for all sorts of outdoor activities. The 'Scottish experiment' - undertaken in a country where the pressure on land and water are much less, and the population density much lower - shows that issues of conflict and responsible behaviour cannot be resolved by the creation of a simple code; that increased rights do not mean increased responsibility; and that as landowners and fishery owners have known for centuries, to maintain the land and waterways in stewardship for the future requires long term vision; the management, and if necessary the denial, of conflicting interests; and the economic resources with which to undertake this management. It must always be remembered that access is never 'free'. It is paid for by someone. Nor is access a 'right'. It is a privilege, and one to be used responsibly, with due regard for those who make their living from the land or waterways and the environment around. Free, unfettered access devalues this privilege and makes its responsible use harder to enforce. Therefore, we could not disagree more with the comments attributed to Vallloyd AM and her team on the Petitions Committee.

Sweden (and some other Scandinavlan countries) is a country that is frequently quoted as offering unrestricted open access to the countryside but this is not even comparable with the situation in England and Wales. Sweden is a country of some 173,731 sq.miles, which with a population of 9 million people (Statistics Sweden), equates to an average of just 5 head / sq. mile. Compare this to the situation in Scotland, England and Wales, based on figures from the 2001 census:

– Wales - 801Ssq.miles - population 2.9million - 351 head I sq.mile.

– Scotland - 31510 sq.miles - population 5.06 million -160 head / sq. mile.

– England - 50352 sq.miles - population 49.13 million - 975 head / sq.mile.

Again, the writer can speak from personal experience of problems / conflict on many French rivers. In France there are rights of access to all waters in the State domain and common-sense rules and 'agreements' are applied to privately owned water. However, conflicts arise on a regular basis between a multitude of different water users (e.g. anglers, canoeists, rowers, motor boaters, swimmers, divers, ornithologists, etc.).

In U.S.A. and Canada there are various schemes in place to allow access to their inland waterways, and these include canoe trails and zoning schemes. The canoe trails are very similar to the voluntary access agreements currently in place on a number of rivers in Wales and England (e.g. River Usk). They enable access and egress points to be established on identified stretches of rivers, provide suitable facilities for the facility users and they enable the authorities to manage conflict situations and protect sensitive or protected habitats. Time zoning and area zoning schemes operate in some areas of north America. Time zones limit particular users use at set times (e.g. seasonal) and are used to protect sensitive habitat areas at key times of the year and to keep conflicting users apart (e.g. anglers and canoeists / rafters / other paddle sport enthusiasts). Time zone schemes are very popular in many states in the USA. Area zoning allocates certain areas of waterways to be used by particular users. Area zone schemes are hard to police / enforce. Canoe trails and time zone arrangements could be made to work in Wales. However, economic factors would come into play because the schemes in north America have required substantial investment to bring them to fruition.

Our Society has considerable knowledge and experience of voluntary access agreements on the waters that we own I use /manage in the River Usk catchment. Since 1984 there has been a voluntary canoeing access agreement in place on the River Usk and we have always been happy to promote it and allow canoeists access over the waters that we own / use / manage. For ease of reference I am enclosing a copy of the 'Access Agreement for Canoeing on the River Usk', between the Welsh Canoe Association and the United Usk Fishermens Association (UUFA), that ran extremely successfully from 1984 until 2007. Full details of the current access agreement in place on the River Usk, established in 2007 and jointly negotiated by BOPA, Countryside Council for Wales, Environment Agency (Wales) and the Wye and Usk Foundation, can be found at:

www.wyeuskfoundation.org/navigation

Currently, under this new voluntary access agreement the owners of the River Usk have granted canoeists access to the River Usk between Sennybridge and Crickhowell on the following terms;

- Access and navigation is permitted from 18th October to 2nd March (inclusive).
- Spate conditions: Additional access is available outside these dates when water heights are above the red mark on the gauges. (Full details in this connection are on the website).
- Canoeists must proceed generally in a downstream direction.
- Canoeists are responsible for their own safety, insurance and are liable for any damage they may cause.

Negotiations are currently taking place with the fishery owners / landowners / riparian owners / anglers on the River Usk to see if it would be possible to extend this scheme to cover the River Usk from Sennybridge all the way downstream to the tidal waters above Newport.

Generally, the old UUFA scheme and the current Wye & Usk Foundation (WUF) voluntary access agreement have worked extremely well, as they have on other Welsh rivers where similar agreements are, or have been, in place. Most of the canoeists have not caused the fishery owners / landowners I riparian owners / anglers too much trouble at all, as long as they have stuck to the agreed arrangement. However, as in all walks of life, you always get a small minority of idiots who spoil things for the majority. Unfortunately, that scenario has arisen far too often in the last couple of years. Regrettably, a small percentage of the canoeists have extremely militant tendancies. The River Usk fishery interests / landowners / riparian owners I anglers were dismayed to learn that the officials running the various canoeing bodies / organisations have walked away from the negotiating table

and decided not to abide by existing voluntary access agreements, or have looked to rescind existing voluntary access agreements, and instead have gone down the road of trying to get their demands met via legislative change. Such actions only lead to a lack of trust between the interested parties and major problems and divisions can arise. What has particularly outraged the local fishery interests / landowners / riparian owners / anglers is the fact that since walking away from the locally broke red canoeing agreement the local access officer(s) for Canoe Wales has been actively encouraging canoeists to break the terms of the existing voluntary access agreement and to canoe on parts of the river where no access agreement is in place or at times outside the terms of the agreement. This is basically inciting their members, and non-members in many instances, to blatantly break the law of the land. We do not know what they hope to achieve by taking such childish actions. Quite frankly, it is a despicable course of action, totally unacceptable and is merely fanning the flames for open conflict. This problem has even been highlighted in the national media of late. Griff Rhys Jones, the well known television personality, recently announced, prior to the launch of his new BBC TV series, 'River Journeys', most Irresponsibly, that canoeists 'should disturb as many fishermen as possible'. Legal proceedings should be taken against any individuals calling for such action or carrying out any flagrant breach of the law of the land.

Most fishery interests / landowners / riparian owners / anglers on the River Usk are quite happy for the existing voluntary canoeing access agreement to carry forward in the future. The WUF access agreement is still in place for the senSible, responsible canoeists to use. Most of the canoeists we come across on the river are not linked to any of the canoeing bodies / organisations. Furthermore, they say they have no plans to become involved with them and they do not agree the actions taken by, or recommended by, some of the officials running these bodies / organisations. Anglers are governed by strict rules and regulations and bye laws, have to purchase rod licences from the Environment Agency and permits from the various fishery owners before they can start fishing and have to adhere to laid down close seasons. The canoeists pay nothing for the existing voluntary access agreement in place on the River Usk and they do not at the present time have to pay for any permits, licences or pay any other fees to use the inland waterways of Wales. That is totally wrong and inequitable.

Thousands of Welsh anglers and Welsh residents have recently been signing a petition to pledge their support for the existing laws covering the private ownership of Welsh rivers above the tide and insisting that these laws should be maintained and respected in the future. They believe that canoeists and anyone else who want to use the inland waterways of Wales should enter into access agreements with the landowners / riparian owners / fishery owners and be prepared to pay for their enjoyment of the use of such assets, in the same way that anglers do. I am lead to believe that this petition will be delivered to the Senedd on Tuesday, 22"d September, 2009 by representatives from the Federation of Welsh Anglers and the Welsh Salmon & Trout Angling Association, amongst others.

The members of our Society have bought all the fishing rights and land that we own in the River Usk catchment over many years at a considerable financial cost. It also costs us a considerable amount of money each year to rent additional waters to fish and to maintain the waters that we own / use / manage in the Usk catchment. Many of these costs nowadays are to meet stringent requirements laid down in 'management agreements' that we have with the likes of the Countryside Council for Wales for the maintenance and protection of the various species of fauna and flora covered under the Special Area of Conservation (SAC) and SpeCial Site of Scientific Interest (SSSI) status that the River Usk and its tributaries enjoy. We are the guardians of the aquatic environment. We also have to cover numerous Health and Safety and insurance issues, again at considerable cost to the members of our Society. All this has been achieved by the hard work and support of our membership over many years;

since our inception in fact. The canoeists and other paddle sport enthusiasts contribute absolutely nothing towards the upkeep of any of waterways that they are demanding to have free and unfettered access to, and use of, and they do not plan to contribute anything at any stage in the future.

What outrages anglers, and other water users, is the demand by the canoeists and other paddle sport enthusiasts that they be allowed free and unfettered access to, and the use of, all the inland waterways of Wales throughout the entire year. As mentioned previously, we have bought most of our fishing rights and this has involved a considerable financial outlay. We also pay thousands of pounds each year to rent additional fishing rights for use by our members. We need peace and quiet and lack of disturbance to enjoy our sport and we pay for that privilege. We have 170 members in our Society at the present time and our membership is made up of both sexes, all age groups and people from all sorts of differing backgrounds. Our adult members pay an annual subscription to our Society of £70 and that allows them to fish every day of the game angling seasons on any of our waters. Senior citizens and junior members pay a reduced annual subscription of £40. We also have a limited access permit available for junior anglers at a cost of just £6 per season. We have deliberately kept our subscriptions as low as possible to make the fishing affordable for our many senior citizen and junior members and because of the high unemployment in our catchment area. In fact we have not increased our annual subscriptions since 1992. If our members choose to fish on any waters not owned by our Society then they have to pay the owner of the fishery concerned for a suitable permit to fish their waters. New members joining our fishing club pay a one off joining fee of £125 to cover administration costs, etc. Another reason we have tried to keep our annual subscriptions as low as possible is because all anglers in England and Wales over the age of 12 have to purchase a rod licence from the Environment Agency before they can fish for freshwater fish, eels, trout or salmon in England, Wales or the Border Esk in Scotland. Various rod licence fees apply depending upon the type of fishing you plan to undertake and depending upon the length of time you wish to fish (e.g. annual licence, 8day licence, day licence, etc). The fees vary considerably and for ease of reference I am enclosing a copy of the leaflet published by the Environment Agency which shows all the fees that apply for the period ending 31st March, 2010. You will see that the most expensive licence is a full, annual rod licence at a cost of £70 that allows an angler to fish for salmon and sea trout in any of the areas specified above, as long has he / she has permission from the fishery owner to have access to, and be allowed to, fish on their water. The canoeing lobby are being totally unreasonable and unrealistic when they demand that they be allowed free and unfettered use of all the inland waterways of Wales and not have to pay any licence fees, permit fees or any other associated costs to be able to enjoy their sport. How many other sports are available totally free of charge? The canoeists and other paddle sport participants often state that they take nothing from the river or waterway. So what. Neither do most anglers nowadays, nor a golfer from a golf course or a spectator at a rugby / football / cricket match etc. and they pay handsomely for the privilege of pursuing their chosen sports. You cannot use any of the sporting facilities at your local leisure centre free of charge. It is totally iniquitous that the canoeing organisations charge their members or users fees to use their own facilities but expect to be able to use the assets and facilities of everyone else completely free of charge. You can understand why the fishery interests / landowners / riparian owners / anglers are so angry that the National Assembly for Wales is even considering acceding to the demands of the canoeing lobby. We will not give up our assets and rights without a considerable fight.

Anglers have to abide by strict close seasons. Our fishing rights are run purely as game fisheries. Anglers on the River Usk can fish for trout between 3rd March - 30th September and for salmon between 3rd March -17th October and pay for the privilege. The fishery interests / landowners / riparian owners / anglers on the River Usk have granted a voluntary canoeing access agreement to

the canoeists and full details of this can be found above. The Welsh Canoeing Association, who are now known as Canoe Wales, have chosen to tear up this agreement and walk away from the negotiating table. It is impossible for canoeing to take place on the River Usk and most other rivers in Wales throughout the entire year. The rivers are generally far too small, shallow and confined to allow the sports to take place side by side. There is bound to be conflict. Numerous craft travelling over shallow, confined waters will destroy any hopes of successful fishing for possibly many hours. If their passage coincided with the only fly hatch of the day on a trout or grayling river, for example, then the angler's day could be ruined and he would enjoy no sport at all. This happens on an all too frequent basis. We have witnessed this on our own waters in the last couple of years when illegal canoeing activity has been taking place outside the agreed access period and outside the area covered by the voluntary access agreement that is in place for the River Usk. At the present time most of our waters are not even in the area of the river covered by the agreement.

We, and most fishery interests / landowners / riparian owners / anglers, feel that the best way forward, throughout Wales and not just on our local River Usk, is through an enforceable code of conduct and locally negotiated / brokered voluntary access agreements. Legislative change is most definitely not the way forward. The Environment Agency, who have statutory duties in this sphere, also concluded in their report to Richard Caborn (then Minister of Sport) and Barry Gardiner (then at Defra) on 3rd October, 2006, entitled' Putting Voluntary Canoe Access Agreements in Place', that canoe access agreements, successfully negotiated at local level, was the best way forward in the future. It is impossible to take a 'one size fits all' approach to dealing with this matter. Every river catchment and waterway throughout Wales (and England) is different and all the local factors have to be taken into consideration before any access agreements can be finalised and put in place. On 10th February, 2009 Jane Davidson (Minister for Environment, Sustainability and Housing at the National Assembly for Wales) wrote to our local AM, Nick Ramsay, regarding the matter about access to the inland waterways of Wales. In her correspondence she stated: 'The Assembly Government is keen to encourage more voluntary agreements to facilitate access by a wide range of users to rivers, lakes and reservoirs in Wales. In recent new agreements on the Wye and Usk rivers, for example, designated access and egress points are publicised and clearly marked for users. Canoeists and canoeing clubs are able to access the rivers on a responsible basis and at certain times of the year (normally outside the fishing season)'. Jane Davidson went on to say that to unlock further opportunities the Welsh Assembly Government is providing over £400,000 per annum for three years for practical water access projects under the Welsh Access Recreation Fund - or Splash - to enable schemes to be set up for people to be able to enjoy the extensive, wonderful waters of Wales in a safe, responsible and sustainable manner.

Many fishery interests /landowners / riparian owners / anglers on rivers throughout Wales, including many members of our Society, support the views expressed by the Salmon and Trout Association for voluntary canoeing access agreements, provided they address the following issues:

– The adoption of an enforceable code of conduct.

– A unique marking system on canoes and other water craft to allow easy identification.

– Equitable payment for use of the resource.

– An acceptable national form of registration and third party insurance cover.

Provisions to protect fragile environments and habitats, particularly in SSSIs and SACs and cSAC, including fish spawning and juvenile areas and nesting bird sites.

Acknowledgement that canoes and other water craft should not be permitted in small streams and on non-navigable rivers.

- Consideration given to controlling the increasing use of rafts, which is already seen as a Health & Safety issue in Scotland.

- Acknowledgement that the unique situation in Scotland, where open access is permitted, has little relevance to Wales, where population density is far greater and the rivers tend to be smaller than in Scotland.

- Acknowledgement that waterborne diseases and parasites (e.g. Gyrodactylus salaris) can be transferred between river catchments by canoes (the same as on angling equipment), and that this issue cannot be addressed in the context of an unregulated activity.

From personal experience on the River Usk, we know that voluntary canoeing access agreements can work. However, in the future we feel that all users of the waterways must be licensed and regulated and that all water users should contribute to the management and conservation budgets of the relevant facilities and waterways that they are using. No sport should be allowed to impact adversely on the environment or its dependent species and no incoming sport or activity should be allowed to impact on the enjoyment of any established activity without the express agreement of all the interested parties. As Or.John Powell stated at the Royal Welsh Showground on 21st July, 2009, voluntary access agreements are effective with dealing with local situations, as they differ so much from place to place, and they can be tailored to suit local requirements and when negotiated at local level they are more likely to be sustainable. He observed that long term agreements were more beneficial. His investigations have revealed that short term agreements can worsen some situations and lead to mistrust and ultimately the break-up of such agreements.

Any voluntary access agreements that are drawn up should be based on mutual understanding and ways must 'be found to develop consistent, evidence-based, approaches to evaluating and setting up such agreements. The agreements must encourage all the users to respect the needs of:

- Local communities and residents.

- Other individuals and groups enjoying their leisure activities.

- Farming, forestry, fisheries, aquaculture and other countryside based commercial activities.

Other observations that we feel should be considered by the Sustainability Committee during their inquiry are:

1. Considerable investment will be necessary to set up many voluntary access agreements in Wales. Does the National Assembly for Wales and/or the local authorities have such funding available in the current economic climate?

2. Liability issues need to be fully addressed.

3. What level of compensation would be paid to fishery interests I landowners / riparian owners if statutory rights of access and navigation were introduced? This potentially would require enormous amounts of public funding and would the taxpayers / general public be getting value for their money by setting up such projects?

4. We feel that the report from the Petitions Committee is extremely narrow in its viewpoint, hopelessly flawed and biased in the extreme. This is a very poor place to start your consultations. We

hope that the Sustainability Committee will consult widely and come up with a far more balanced conclusion.

5. Please thoroughly investigate a/l the socio-economic factors. Anglers and angling tourism is a major contributor to the Welsh economy. This is a well known fact and already thoroughly researched by the National Assembly for Wales (see reports and consultation documents from the likes of the Welsh Tourist Board, Environment Agency (Wales), Countryside Council for Wales, National Parks Authorities, Local Authorities, etc.). If the canoeists and other paddles sport participants are given open access at all times of the year to the inland waterways of Wales then it will most definitely drive anglers off the waters. This could have major implications for the Welsh economy, especially in rural areas, and could be disastrous in the current economic climate, and in the long term. There are many more anglers visiting and fishing in Wales than canoeists visiting and paddling on the waterways. The figures quoted by the canoeists are often gross overestimations anyway. Accurate angling data is much easier to collect from the various agencies involved in controlling the sport. It must also be remembered that the vast majority of anglers fishing on the waterways of Wales are local people. Visiting anglers make up a relatively small percentage of the angling facility users, but they still contribute enormously to the Welsh economy, and in particular in the rural communities that they tend to visit. Fishing activity in Wales is very much dominated by the local population whereas canoeing activity is undertaken to a much larger extent by visitors from outside Wales. We see this on our local River Usk. You rarely speak to local canoeists. They are mostly day visitors from places such as London, Home Counties, Midlands, West Country, etc. and generally they do not stay in the area or contribute much to the rural economy of the Usk valley.

6. We urge you to look extremely closely at, and conSider, all the environmental/ conservation issues and the impact that increased canoeing and other paddle sport activities could have on the often fragile and unique ecology on many Welsh rivers. Great care must be taken to ensure the preservation and protection of the many rare species found in waterways covered by the numerous SSSI/ SAC sites throughout Wales. Detailed consultation with the likes of the CCW, wildlife trusts, RSPB, BTO, etc. will be essential as we know that they have many reservations about the possible increased access on many of the protected inland waterways in Wales.

We could not disagree more with the comments made by Val Lloyd when the Petitions Committee launched its report into the petition received from the Welsh Canoeing Association, when she said: 'Access should not be based on the vagaries of permissions bestowed or ability to pay, but on the fundaments of equity and social justice' and 'the rivers of Wales are a natural 'gift' that everyone should have the right to enjoy' and that 'we believe there should be the right of non-motorised access to inland water in Wales as there is in Scotland'.

We feel that we have covered the key issues for recreational access to inland waterways in Wales, as requested in your questionnaire, and stated how we would like to see them addressed.

To conclude, in our opinion, to go down the statutory route and make legislative change would be a dangerous one. Locally negotiated voluntary access agreements are definitely the best way forward for the inland waterways in Wales. Fishery interests / landowners / riparian owners / anglers throughout Wales will be outraged if the National Assembly for Wales accedes to the requests / demands of the canoeing lobby.

463.Gwilym Hughes

Please find herewith a total of 80 'Anglers' signatures who agree with the 'Support for Welsh Rivers', campaign by the Welsh Salmon and Trout ASSOCiation and the Federation of Welsh Anglers.

These signatures follow a casual discussion and request for support by me over a two week period in a small area of the River Dee Catchment in North Wales.

The fine details of the reasons for this support is adequately covered in other correspondence that I have read and is at your hand from other sources.

I urge you to support the view that access is through local agreements only, and if so, that these agreements are policed and are paid for through a 'Licence' Fee to the Environment Agency, similar to the fishing licence. Access then to be. arranged with each of the Riparian owners, at a cost similar to that levied on Anglers, for their use of the water.

I urge you to find in favour of 'locally' negotiated access agreements' only

N.B. Signatures are held by the National Assembly for Wales but not published in this document

Wording of signed petition

Pleidiwn ni sydd wedi arwyddo isod ein cefnogaeth i'r deddfau i wneud a pherchnogaeth breifat afonydd Cymru uwchben y llanw, ac ystyriwn y dylid cynnal a pharchu'r rhain. Tybiwn y dylai canw-wyr ac eraill sydd eisiau defnyddio'r dyfroedd hyn ymrwymo gerbron cytundebau mynediad gyda pherchnogion glannau afonydd a bod y barod i dalu am eu mwynhad 0 ddefnyddio'r asedau hyn fel y gwna pysgotwyr.

We, the undersigned, pledge our support to the laws covering the private ownership of Welsh rivers above the tide and consider that these laws should be maintained and respected. We think that canoeists and others who want to use these waters should enter into access agreements with riparian owners and be prepared to pay for their enjoyment of the use of such assets in the same way that anglers do.

464.Andrew Smith

With regard to the petition submitted by the WCA (Now known as Canoe Wales) we refute the claims made to the petitions committee as follows:

- Under both English / Welsh and Scottish common law water is classified as private and riparian owners, whilst they do not own the water, have the right to utilise any water above or below their land, this includes the right of navigation. There is no confusion, lack of clarity or ambiguity over access to water or the terms on which canoeists or other water users can gain legal access, these are clearly laid down in law and understood.
- Exclusions in the Scottish Land Reform Act 2003 require agreement for access from landowners if over a 90 day period the public are admitted on payment of a fee. The rivers of Wales are, in general, available to all on payment of a fee. There is therefore no difference in the laws of England & Wales and those of Scotland with respect to water based recreation, i.e., agreement must be sought before taking part, such activity is at the riparian owner's discretion.
- The WCA have clearly failed to negotiate legal access due to their 'no compromise' intransigent stance, by doing so they make themselves victims and then complain they receive unfair treatment. The WCA have failed to make a case for access rights using the appropriate routes and are now attempting to force the issue by ignoring common law rights and encouraging civil disobedience.
- The WCA in their submission makes little reference to the environmental impact of uncontrolled access by large numbers of paddlers on the enclosed ecosystems which make up most of these relatively small Welsh rivers. Large numbers of canoeist have a significant impact on the ability of fish to spawn successfully. This situation would not be tolerated for nesting birds on the endangered list and yet the WCA seem to consider disturbance of spawning areas to be acceptable. It is quite misleading to compare the much larger rivers of Scotland and Scandinavia with the smaller spate rivers of Wales. The fauna and flora of relatively small rivers comes under proportionately greater pressure from similar sized groups of paddle sport enthusiasts.
- Canoeists give the entirely false impression that they have little or no access to running water in Wales. All tidal stretches are open to navigation up to the tidal limit (and with the very large tidal reach in Wales this can be a significant proportion of the river). The reason why there are not more agreements, so as to allow more 'up-river' paddling, is simply because the WCA will not accept conditions to their access. Not only does this refusal to compromise stop other agreements from being reached, it means that the WCA have withdrawn from existing agreements (such as that which was in place on the Usk), which were working perfectly well, for over twenty years in some cases.

We are not against the lawful recreational use of water by others; however, consideration must be given to the rights of existing users and the environmental impact of such activity. We object to any water user flouting or disregarding the law in any way but particularly in relation to access, navigation and the protection of fresh water fish, molluscs, nesting birds and other wildlife.

The existing law provides for the WCA and other organisations reaching negotiated agreements for access to rivers at times when this will not interfere with other users or impact on the environment at sensitive times and we would be happy to participate in this, however this has to be achieved against an underlying acceptance by all parties that they recognise and abide by the existing law.

465.Peter Medlicott

May I first of all introduce myself. My name is Peter James Medlicott of the above address and I have since 1964 been an active member of the Rhayader Angling Association and als0 the Elan Valley Angling Association both of which merged and are now collectively known as Rhayader & Elan Valley Angling Association (I will refer to this throughout as "the Association").] am Vice Chairman of the Association and Senior Vice Chairman of the Welsh Salmon & Trout Angling Association. When I joined the Association rivers an (1 waters were used by the generosity of the riparian owners for a nominal rent and over the years money has been raised and water purchased as and when it became available. The Association now owns a 16 acre lake and also the river bed in part and fishing rights in another part for approximate 6 miles of the Wye (which consists partly of single bank and partly of double bank) and about 1 ;/2 miles of the Elan (again partly double banked and partly single bank) and fishing rights in the Marteg. All these waters were paid for by the Association for the benefit of all anglers who may visit the area and have a licence to fish. They can purchase a day or season ticket on the waters if they so wish with concessionary rates for OAP's and Youth anglers.

From time to time while I have been a member of the Association. the Association has had to deal with a considerable canoe problem during the angling season although we did have an agreement with one canoe club allowing it to use the water "out of season". This did work well but unfortunately there were "cowboys canoeists" who used the water with unmarked canoes and were basically untrained and undisciplined in their sport. Unfortunately there has not been an agreement for canoes for some time on our waters.

I have been watching with interest Griff Rhys Jones with his tours of rivers of England and Wales on television and his somewhat derogatory comments about anglers. The one remark that sticks in my mind is when he remarked with words like "what harm is there with one canoeist paddling down the river avoiding any angler. The short answer to that must be possibly none but unfortunately they do not "paddle" down the river singularly but there are usually quite a few of them at one time and they deliberately paddle around pools and around anglers who are lawfully fishing. This does of course cause a considerable amount of stress and not only that but very often will disturb the pool and the river possibly for the rest of the day. Although I have no first hand information on this particular point I understand that in Scotland a lot of the rivers have been taken over by commercial concerns who hire out canoes and anything else that floats. These centres have developed on some of the Welsh waters and I have heard of one at Llandysul (I believe they are called the Llandysul Paddlers) who advertise for people to go down the rivers and over land and waters which they do not own and have no permission to use. It cannot be right that the clubs who have gone to a lot of trouble to provide a facility for members of the largest participating sport to enjoy their sport to be disrupted by others who have no rights on the water and think they should have the right for 365 days of the year free of charge. In Griff Rees Jones' television programme it also came out that he had to change into his wetsuit "discretely" in his car in a public place. This was mentioned during the meeting at the Royal Welsh and is an important point. Not only will car parks have to be placed at the head of a canoe run but also at the bottom and then there is the question to be asked "where is the end of the canoe run"? If canoeists are to be allowed unlimited access will those car parks be built at the public expense for the use of canoeists benefit or other people as well and where will they be put i.e. at intervals of a mile or two miles down the stream and so on.

The commercial use of the water was referred to at the meeting at the Royal Welsh and also as to whether charges should be made and Licences or Permits issued for the use of the water. I believe the canoeists are insisting they should have access free of charge at any time of the year but the use

of anglers using the water is of course restricted during the fishing season as directed by the Environment Agency and quite frankly I cannot see why canoeists or anyone else who wants to use the water should not be so limited. Most rivers close for game angling on the 17th October and do not open again until 1 st March (I am not qualified to comment on course angling as I am afraid I do not go course fishing). During the months from late October through to March is when I would have thought the water was perfect for canoeists to use the rivers after entering into an agreement with the fishery owners and those who own the fishing rights and rivers. Commercial bodies could also be a problem as they would be looking for day visitors for the summer and would presumably demand access at any time to the detriment of the anglers who are treated as if they have no interest at all in the waters. I also understand the scottish waters are considerably larger than the welsh rivers and although the problems of multiple use is not apparently a major problem nonetheless it does arise and fights do break out from time to time especially at low water. Canoes and angling are two users but there is nothing to stop raft racing and little Johnny sailing his boat on the river not to mention those keen walkers who come to the river, strip down to their trunks, put their clothes in a water proof bag and swim across the river and then get dressed on the other side. I am sure they and any other bathers would complain about canoes pestering them in the river but then if everyone was allowed to use the river how could they be stopped. It is also important to consider the safety angle. It must surely be unfair for the owner of the river to be responsible to make sure that the river is safe for canoeing, rafting, swimming or anything else. If the river was used by agreement a simple condition that it is used by that person entirely at their own risk (which is the common practice with angling although most reservoirs now will not allow you on the water unless you are wearing a life jacket) would put the onus of any injury or death entirely on the river user who would have to do the health and safety checks and take all precautions (short of damaging the trees banks and bed of the river). What was suggested at the Royal Welsh was that arrangements for access to National Parks and Mountains etc., was working well but this does not really apply here as the risk using a footpath is to my mind totally different to a risk involving water especially as canoeists want the water as rough as possible! There have unfortunately been fatalities in this area and it is not right for riparian owner to be responsible.

The canoeists say that they do not have the use of much water. I believe there is a considerable stretch of the Wye going past Clyro which is navigable as is quite a lot of the River Severn although I do not know whether or not a navigational permit is needed on these waters. They should however be made to pay to use the water if it is proposed to allow them to have free access and for the water to be policed to ensure that they do pay. I cannot see why canoeists (who are after all despite what they say trespassing at the least) and others using the water should not pay for their sport as anglers, footballers. cricketers. tennis players. bowling club players or any club you wish to mention does in order to maintain their sport).

Finally. I would add and I am sure you will appreciate that acquiring the waters has involved some angling clubs around the Principality in incurring financial burdens (whether with a loan or being committed to payment of rent) and any decrease in angling permits could put clubs into financial difficulties. Also the above are my personal views and the Association has responded separately.

466.John R Anthony

I enclose the following evidence regardmg the access for canoeists and others to privately owned stretches of rivers above the tidal reaches in Wales.

Firstly, I have just discovered that you are taking evidence on this issue and make a complaint that this has not been made more widely public, I have therefore only had opporturuty to prepare this evidence over the last 24 hours. This is not adequate time to collect names for a petition WhICh I enclose with the evidence. Ifl had known about the issue earlier I would have presented many hundreds of names.

I am a member of a fishing association Cym Deithas Genweirwyr Gwalia Cyf, I also take an annual lease of a stretch of the river Ogmore for £2,500 annually and organise a syndicate of 10 fishers to fish that private stretch of water called the Angel Pool syndicate. 1 also am a riparian owner of 3 different stretches of the river Ogmore and defended my right of fishing on these stretches in a High Court of Chancery civil action on 17th March 2000 against another organisation. I was awarded exclusive rights to the fishing in the court judgements.

All of the fishing with which I am involved, occurs in the river Ogmore near Bridgend. The fishing is mainly for sea trout and salmon I represent the 10 fishers in the Angel Pool syndicate who are all We1s~ voters I do not know the numbers of the members of the Cym Deithas Genweirwyr Gwalia Cyf, but I am sure they are Welsh Voters. I allow many friends, as demonstrated by my petition, to fish the waters ID which I have an interest. All the names in the petition are Welsh voters.

My legal rights are clear and well defined and I have High Court of Chancery court judgements to show

I have the sole exclusive right to fish my waters. Obtaining these court judgements cost a significant

amount of money in a court action which lasted twelve years to prove these rights.

I repeat again, I pay £2500 every year to another private riparian owner, and organise a syndicate of 10 fishers called the Angel Pool Syndicate.

I do not want to see any change in my legal rights and the people whom I represent do not want a change in the present Jaw. If I had longer to prepare for this evidence I would have significant numbers of Welsh votes on the petition.

In the past I have experienced problems with canoeists who attempted to bleak a verbal agreement, by attempting to canoe during the fishing period when I had given them permission to canoe only outside the fishing period and after the spawning period.

I also recently saw a raft with 8 children setting off from Abergarw Bridge on the river Ogmore in August this year when the river was in full flood. The children were all under 10ys old and accompanied by 3 Instructors from Cardiff Council outdoor activities!. The river was incredibly high in spate and travelling at 35miJes per hour. If any of the children had slipped out of the raft they would have been drowned or seriously injured. I was so worried that I called the Environment Agency who were shocked that anyone could think of rafting 8 small children down the river in ifs dangerous condition. The Environment Agency contacted the Police who sent two officers to wait for the raft

downstream. The flood had caused trees to uproot and fall across the river and the raft was incredibly lucky not to be impaled and swept under one of the trees.

I would be happy to have voluntary agreements with canoeists so that there is control over where and when they canoe and proper health and safety measures are in place. Canoeists should not go anywhere near the spawning grounds in Nov or December nor risk their lives when the river is in full spate.

The river Ogmore is a smal1 river and not very deep during its normal flow. Most of the stretches that I fish are less than 40 feet across bank to bank. The majority of rivers in Wales are small in comparison to other countries i.e. Scotland. The Environment Agency has been attempting to promote sea trout fishing in Wales for tourism. The sea trout is very easily disturbed by any commotion in the river, far more so than salmon. Uncontrolled access by canoeists would destroy valuable fishing tourism, as the fish would be panicked and rapidly be moved downstream by the action of the canoes and paddles in the water. Angling tourists would not pay to come to fish rivers that would be subject to this interference.

Over the years there has been poaching on the stretches that I control, the main form is for poachers in wet suits to disturb the river by wading/swimming and herd the fish downstream towards a waiting net strung across the river. Many pools can be emptied of their fish by this technique. Confirmation of this activity can be obtained by the Environment Agency. At the moment if I see a person in a wet suit in the river I assume that he is poaching. If there is uncontrolled access for canoes into rivers then in smaller rivers such as the Ogmore it will be a poaching charter. The poachers will just need to go through a pool in a canoe, using their paddles to herd the fish downstream into a waiting net This would apply to many rivers in Wales. If canoeing is sanctioned, uncontrolled, this form of poaching would be very easy to carry out

Disturbance of the spawning grounds by canoes in Nov-Dee would be catastrophic for the spawning and ultimately the actual survival of the migratory fish. Dr Graham Harris has done a PhD in the life cycle of the sea trout and he will confirm the seriousness for the survival of the species if this occurs. I believe that Dr Harris will give evidence to your committee.

It is fundamental that any canoeing on Welsh rivets is controlled and licensed by the Environment Agency. The main remit for the Fishery part of the Welsh Environment Agency is to maintain and develop the migratory fish species in the Welsh rivers. To that end anglers have to pay for a fishing licence from the Environment Agency to promote and help improve migratory fish stocks. It would be fundamentally unfair for canoeists and others to have free access to be in the water disturbing the fishing in small rivers. If the canoeing is controlled, i.e. each canoe to display a current licence from the Environment Agency, not to be allowed on smaller rivers during the fishing season, no canoeing anywhere near the spawning grounds, voluntary access agreements with riparian owners of fisheries and pay for the enjoyment of the use of such assets in the same way that anglers do. Failure to pay for a fishing licence is a criminal offence punishable in the courts. The same should apply to canoeists/rafters if they do not pay for a similar licence and their equipment confiscated which can occur to the fishel1l1an.

The title of your committee is the Sustainability Committee ,you therefore have a very responsible deliberation to ensure that the migratory species of fish i.e. sea trout and salmon are not endangered by the actions of canoeists interfering with the spawning of fish in Wales.

If canoeing/rafting is uncontrolled, I fear my experience of the 8 children in a mil hurtling down a swollen river in full spate will be repeated with a tragic outcome. On health and safety grounds at certain times people/children must be regulated. A similar analogy would be a beach flying a red flag to warn of the dangers for swimmers and boaters entering the water and patrolled by lifeguards preventing people endangering themselves and others. The Environment Agency need to control the actions of the canoeists/rafters. If lives are lost whilst canoeing/rafting inappropriately, or people die because a tree on the bank has been uprooted and caused a fatal obstruction to the path of the canoe/raft; whose fault will it be? In our society it is possible to sue anyone. The person organising the fatal river jaunt? The landowner whose tree has fallen into the river which should have been cleared before the fatal run? . The person who gave permission for access to the river? The Environment Agency for not clearing the river of obstacles? The list is endless and all could be sued at once.

I take a pride in looking after the stretches of river of which I have been fortunate to be custodian. The High Court of Chancery court action cost hundreds of thousands of pounds to pursue to Court Judgements. If the law is changed then quite rightly very large amounts of compensation from the Welsh Assembly will be required to compensate in the reduction in value of the assets.

“To change the law to allow unrestricted access on welsh rivets would be a direct parallel to allowing the 'right to roam' on golf courses. These areas were specifically excluded from the Crow Act as they are commercial enterprises-but so are rivers.”

467.John Ross – Jones

I am the owner of Plas Hail Hotel and a riparian owner of a moiety of the River Lledyr. Rather than repeating well rehearsed and organised argument contained and referred to in two excellent letters from the Conwy Valley Fisheries and Conservation Association and from the Welsh Rivers Preservation Society dated the 5th and 7th instants respectively I would only endorse all the comments, facts, remarks and other matters contained therein.

There has to be an equitable balance between the rights to use waterways and the needs of the environment to say nothing of nuisance and unruliness. I have approximately 400 metres of River and I have found quite objectively that the vast majority of those using canoes have absolutely no respect for landowners or for the River itself. We have had the emergency services here on two major incidents when inexperienced operators have hurt themselves badly by attempting to canoe over the falls and the fast ravine waterway herein. The Australian Olympic team who won a silver medal at the last Olympics were highly competent and as a matter of interest well behaved and courteous. What professionals are not.

We regularly suffer trespass to our land and a very rude response when questioned. They often block our Hotel, park in the narrow lane or even have the effrontery to park up in our car park and disappear for the day. On occasions I have had violence threatened. Many deposit their rubbish all over the place and frankly compared with those who ride horses and simply ramble they are truly a disgrace. Bikers come here and are always polite and courteous.

They really are a scar on the landscape and certainly disturb the fish in the pools they traverse many of which are very shallow.

I have been an easy going person all my life and believe give and take but their whole culture appears to be one of gung-ho and disrespect.

I therefore whole heartedly back the excellent submissions made by the organisations herein before mentioned and beg you to show common sense in coming to your decision. In short they have miles and miles of good waterway to navigate safely and without disturbance to landowners, animals and fish.

468.Max Coventry

We have corresponded about this and I am in receipt of your letter of the 12th February. I understand that as Chair of the Sustainability Committee, you have now been asked by the Petitions Committee to conduct a consultation.

Both myself and other members of this society were in touch with Val L10yd AM and other Petition Committee members during their initial inquiry. However, when their report was published we read it with a mixture of concern and -frankly -disbelief. I mean no disrespect to anyone when I say that -in my opinion -the lack of proper research into the existing legal position and the skewed selection of both fact finding visits and respondents has resulted in confused and poorly informed conclusions and recommendations.

To back up that statement, I enclose an analysis of the Petitions Committee report, which we think both yourself and other Sustainability Committee members should take into account before considering whether their recommendations should carry any weight.

There are two other factors which I think you should be aware of, both of which took place after the report came out, as below.

(a). I have shown the report to different groups of riparian owners and keep hearing the same thing. If the Assembly passed a Bill which put into place the recommendations of the Petitions Committee then large scale compensation would be required for the resulting loss of value of both assets and income. A land agent representing one riparian owner said that if fair compensation was not part of the Bill then he would have no hesitation in taking the Welsh Assembly Government to the European Court.

(b). An 'in principle' offer has recently been made by the Conwy Valley Fisheries & Conservation Association to the Welsh Canoeing Association I Canoe Wales proposing an agreement for the whole of the river above the tide which is not currently covered by existing agreements. This has been rejected by the WCA/CW, copy letters enclosed.

Annex

An evaluation of this report by the Welsh Rivers Preservation Society (WRPS)

This evaluation is divided into the following sections:

1. Note -why the views of the WRPS are relevant
2. Underlying weaknesses -lack of prior research and skewed collection of evidence
3. Factual inaccuracies -identification of such inaccuracies by numbered paragraph
4. Confused conclusions & flawed recommendations -resulting from the lack of research and the imbalance in selection of case studies and respondents
5. An equitable solution to the problem -the WRPS supports the establishment of voluntary agreements, of a sort which are fair to all sides, within the present legal system.

1. Note

The WRPS is an independent grouping of riparian owners, hoteliers, bailiffs, fish farmers, solicitors, anglers and similar. Experienced members of the society are able to bring detailed knowledge of Welsh rivers to bear upon these problems and make appropriate suggestions which can lead to a resolution. The society believes that the present legal position, with the rivers in private ownership above the tide, is the one best placed to protect the unique ecology of these rivers.

2. Underlying weaknesses in the research and accumulation of evidence for the report

(a). There seems to have been no advice taken to determine the actual legal position to do with access to inland water at present. Members of the Committee, instead of examining the legal position or taking advice from a solicitor who deals with these matters, have simply accepted as being correct the claims of some respondents that there is a lack of clarity in the law (paras. 6, 10, 48 etc). This supposed lack of clarity is then used by canoeing representatives as a bogus reason to argue for new laws and these arguments are accepted by the Committee (paras. 48, 50, 55) presumably because members do not realise that the current law is perfectly clear.

Solicitors and land agents with experience in rural land matters and specifically in riparian law, will confirm that there is a right of navigation along the tidal reaches of rivers, but above the tide, where rivers are privately owned, it is a trespass to go on this water without the prior permission of the owner. [The only rare exception to this is where an Act of Parliament has granted a right of navigation above the tide, which in Wales only applies to part of the River Wye]. The fact that the riparian owner does not own the actual water is irrelevant: someone in a boat on such water is trespassing in exactly the same way as he or she would be if the water were not there. It's because of this straightforward legal position that for many years angling clubs have been coming to agreements with riparian owners to use their water. There is absolutely nothing to stop canoeing clubs (or anyone else) coming to similar agreements with riparian owners.

(b). We recognise that this inquiry resulted from a petition by the Welsh Canoeing Association (now known as Canoe Wales) and as such we understand that it was reasonable to ask officers of that body to put their case verbally in detail without hearing the arguments of those with different Opinions. However, once the inquiry was set up, we think that -so as to try to get a balanced view of things - representations from all sides should have been heard in about equal measure. An analysis of the number of witnesses interviewed by the Committee, in the light of the organisations they represented, does not indicate that this was the case.

There would seem to be even more of an imbalance in favour of supporters of a change in the law if the Minutes of the Committee's visit to Edinburgh are taken into account. We consider that this skewed collection of evidence, in favour of 'pro-open access' respondents, is a major weakness of the report.

(c). The WRPS urged the Petitions Committee to visit the River Conwy in north Wales (our letter 31.1.09) so that members could see at first hand the problems associated with constant trespass by canoeists, but also see how, on parts of the river, voluntary agreements can work well. Unfortunately this invitation was declined, the reason given being that it was not possible "within ... existing resources" (letter from Chair of the Petitions Committee, 10.2.09).

Clearly, however, these resources did allow for a Committee visit to Edinburgh, where, understandably, government officials praised their own work in the shape of the Scottish Land Reform Act. However, neither the significant differences between Scottish and Welsh rivers (and the

ecology of these rivers), nor differences in the legal systems of the two countries, nor differences in population densities and their distance from the rivers (leading to a greater or lesser density of canoeists on rivers) were clearly or in sufficient detail explained to Committee members at this meeting.

We think that the determination of the Petitions Committee to look at the position in Scotland, rather than examine problems and possible solutions here in Wales, unduly skewed the Commissions conclusions.

3. Factual inaccuracies and misunderstandings identified in the report

The numbers given below refer to paragraphs in the report.

(18). The assertion that, on the River Conwy "agreements are still unresolved after 20 to 30 years" is a bizarre statement when, in point of fact, there are two agreements operating on different parts of this river which have been in use for some years. These two existing agreements, together with the very long tidal stretch, give canoeists access to something like 40% to 50% of the 'canoeable' length of the river.

(45). The possibility that canoeing organisations should pay for access under voluntary agreements is dismissed out of hand on the strength of the assertion by the Scottish Canoeing Association that: "anglers pay for taking fish out of the water, whereas canoeists ... do not contribute in that way ... ". This is demonstrably wrong. It is a fact that there are some rivers in Scotland (and probably soon in Wales) where the taking of salmon is not permissible at any time during the season -but anglers still pay riparian owners for the right to fish and put any salmon back if caught. Also there are already parts of the fishing season in Wales when all salmon if caught must be returned to the water (this is the case for instance any time before 16th June), yet anglers pay riparian owners for the right to be able to fish at those times.

In fact, over the last few seasons, over half of all the salmon and sewin caught by rod and line in England and Wales were released anyway -and the percentage of released fish is increasing. Anglers do not pay riparian owners for the right to take fish, they pay for the enjoyment of being able to use someone else's asset. It would be very strange if canoeists were not prepared to do the same.

(46). To call the rivers of Wales a "gift" may be poetic, but, from a legal, administrative and governmental point of view is just plain wrong. Members of the Committee did not seem to appreciate that rivers are also run as businesses -they are commercial enterprises. Riparian owners let out stretches to tenants (usually angling clubs) who pay an annual rent which comes from the subscriptions of thousands of local members of these clubs. This was exactly the reason why golf courses were specifically excluded from the Countryside and Rights of Way Act.

(48). It seems perverse that the Committee, one the one hand "accept that voluntary agreements can work" but then, on the other, dismiss them because "they can take some time to secure". In fact, the problem with these agreements is not that they take time to put in place, it is that the WCA has been withdrawing from them. For instance, there was a perfectly good agreement on the River Usk, which gave the members of the WCA the right to paddle that river within certain reasonable conditions, which was in operation for over twenty years. That agreement was rejected by the WCA in January 2007.

4. Confused conclusions and flawed recommendations of the Report

Some of the Petitions Committee's conclusions have already been critically examined. There are however some other significant omissions leading to (in our opinion) mistaken conclusions as detailed below.

The Committee state that "the current situation in Wales is untenable" (para.50). In our view, if the situation is untenable it is because of the constant trespass by canoeists on private waters. Instead of condemning such trespass, the Committee seeks to condone it by advocating a change in the law to reward those who break the law at the moment! Incredibly, nowhere in the report is such trespass criticised in any way.

The Petitions Committee think that the Scottish Land Reform Act can be used as the basis for a Welsh model (paras.51 & 55) without apparently having any appreciation of the significant dissimilarity between the Scottish and Welsh situations. Apart from the underlying legal disparity between the two countries, there seems to be no understanding of the important differences in the behaviour of sewin (sea trout) and salmon. Most anglers go to Scotland (or used to) to fish for salmon, but anglers from all over the UK and Europe come to Wales (and spend their money here) to fish for sewin. The much greater wariness of sewin and the proportionately greater affect of groups of canoeists paddling overhead has not been addressed at all.

Nor has the widely varying distances in major conurbations and centres of population to Scottish and Welsh rivers been addressed. The rivers in Scotland which are probably most like Welsh rivers are those spate rivers of the north west Highlands. These are a very long way from Glasgow and Edinburgh. The rivers of north Wales in particular are only about an hour and a half's drive from Manchester and Liverpool. This means that if a Scottish style 'free for all' law was imposed upon Wales, such rivers would be likely to have far more canoeists / rafters / gorge walkers etc then the equivalent Scottish ones. The proportionally greater impact on the ecology of these Welsh rivers does not seem to have been considered at all by the Committee.

Furthermore, the Salmon and Freshwater Fisheries Act, which protects spawning salmon and sewin (and their redds) from any sort of disturbance seems not to have been included in the considerations of the Committee at all. This is an extremely relevant piece of legislation which should have played an important part in the Petitions Committee's inquiry. If voluntary agreements are put in place on rivers then the Environment Agency has confirmed that it is ready to help to implement this Act in the process of drawing up of such agreements.

The Petitions Committee seem to have been caught up in the enthusiasm of Scottish officials for their own work. We think that it would have been more sensible -and a more balanced report probably produced –if members had looked more closely at problems and possible solutions here in Wales.

5. An equitable solution to the problem

The WRPS is clear that voluntary agreements between the WCA/CW and groups of riparian owners/angling clubs is the way to resolve this problem. Such agreements used to work well - as mentioned one was in operation on the River Usk for over twenty years. For about six months of the year there is little or any fishing on Welsh rivers; it is during these months that agreements could allow canoeists to enjoy their past-time. In our experience, either the Environment Agency Wales or the River Trusts can helpfully act as 'honest brokers' to bring both sides together. Of course, there would need to be negotiations to do with the exact dates between which canoeing could take place, as well

as other provisions depending on the character of each river system ¬but that is in the nature of such agreements!

Unfortunately a few years ago the WCA started withdrawing from such agreements and refused to countenance new ones. We maintain that this was done so as to put pressure on Assembly Members to change the law in their favour. In our opinion, the current intransigent position of WCA/CW management is at the root of the current problem. The WCA/CW claims to be "the National Governing Body for Paddlesport", so why will it not enter into normal access agreements in the same way as anglers -or anyone else who uses the rivers above the tide -is prepared to do ?

469.Osprey Fly Fisher's Association (Incorporating Pontypridd and District Angling Society)

As Secretary of the Ospreys Fly Fishers Association I wish protest, on behalf of our 100 plus members, at the proposal that the Inland Waters in Wales should be made freely available to all and sundry.

Our Association was set up nearly forty years ago, and during that time we have managed to purchase or lease fishing rights on the Taff, Rhondda, Clydach and the Usk, access to these stretches has been arranged with the appropriate landowners where necessary, and we strive to maintain a good working relationship with them.

In conjunction with other bodies such as the Environment Agency and the Rivers Trust Association we are continually looking at ways to improve conditions along the river, trying to get rid of Japanese Knotweed for example.

That the rivers in this part of South Wales have improved to such an extent that anglers from other parts of the Country are eager to come and fish our rivers is due largely to the determined efforts of the fishing fraternity, involving a great deal of time and effort from dedicated volunteers, to say nothing of the expense incurred, readily given by our members.

We cannot accept the view that rivers should be a free natural resource available to all as and when they wish, for whatever purpose they wish, such an attitude would inevitably lead to friction with landowners, farmers and riparian owners, I would urge the Committee therefore to reject the proposal.

470.Mark Ryan (PDF to be attached)

471.Glaslyn Angling Association

The following is the submission to the inquiry into Access to Inland Water in Wales on behalf of the Glaslyn Angling Association. We make our submission representing 110 members of welsh anglers. The Association is against unrestricted access to all water sports on the rivers of Wales. Allowing paddlers unrestricted access to Welsh rivers is likely to be unlawful with respect to the Salmon and Freshwater Fisheries Act which protects spawning fish and in the case of salmon and seatrout red from disturbance. The Glaslyn Angling Association was formed 106 years ago by local people from Porthmadog, Penrhyndeudraeth and Beddgelert area. The Association purchased the fishing rights and right of access to the river Glaslyn from Porthmadog to Beddgelert. from the Tremadog Estates in 1967. Our members of our association have worked for long hours over many generations looking after our river banks and regenerating the habitat. The bottom reaches of the river Glaslyn is a SSSI area with an abundance of over winter birds and rare wild life through out the year. The river mouth is enclosed by an embankment and tidal doors therefore there is no access to the sea. The river attracts a large number of visitors who come to fish for sea trout and salmon. We have season, weekly and daily tickets available for visiting anglers. In Gwynedd clubs and associations have joined together in a unique exchange permits system so that anglers can fish different local waters. An agreement has been made between the Glaslyn Angling Association, National Trust and the Welsh Canoe Association. The agreement allows canoes to go down river from Llyn Gwynant, to above the Aberglaslyn Pass in the upper regions of the river 20th March to 1st October during the fishing season. During the closed season from 18th October to the 19th March they are allowed to paddle down from Uyn Gwynant down the Aberglaslyn Pass exiting just after the bridge on the left hand side. Water marker heights have been placed at different places on the river banks to prevent canoeists from canoeing down river when the water level is low. This is to safe guard the spawning sea trout and salmon. Unfortunately these markers are ignored by some canoeists and the spawning beds are destroyed on a number of occasions. The agreement has been broken many times with paddlers going down the Aberglaslyn Gorge when anglers are fishing during the fishing season. This is a highly dangerous situation. The attitude of some canoeists is really aggressive and abusive and do not heed the rules. They seem to think no rule apply to them and have disregard for others. We have a problem with canoes trespassing in the lower reaches of the river Glaslyn. No agreement has been made with the paddlers in this region of the river Again they will not listen to the Association Bailiffs who confront them. When the Welsh Canoe Association is contacted about these incidents the reply is 'they do not belong to us' . Associations and clubs have worked hard over a fast number of years and paid a lot of money for the privilege of being able to go fishing. We must purchase an Environment Agency rod license and association permits before we are allowed to go fishing. The canoe situation seems very unfair as this sport is completely free. Canoeing and rafting should only be allowed through agreement with the association who lease or own the fishing rights of every river in Wales. A form of registration needs to be in place so that the canoes can be controlled as too many canoes at one time disturb the fish and spawning will not take place. The canoeists should also pay the association or clubs for the privilege of paddling down their rivers.

472.A Furley

I would like to take this opportunity to comment on the proposed issue of unlimited access to inland waters.

If the lawwerealtred in any way it would have a disastrous effect on the fisheries of Wales.

It would take away riparian rights that have safeguarded owners for hundreds of years. Fishing rights are classed as property and a asset to those who has them and should be guarded so.

People who rely on income from anglers such as guest houses, hotels, farms offering bed and breakfast would certainly lose money as anglers would not want to visit Wales and have their holidays ruined by people disturbing waters they are about to fish. Would the government compensate for loss of revenue.

The revenue generated though fishing into the Welsh economy as reported by the Welsh Assembly Government website is 120 million pounds per year, this amount would fall dramatically.

The Environment Agency who rely partly on money from licenses to carry out fish habitat and restoration work would also suffer.

One of my main concerns are if free and unlimited access to all rivers in Wales were allowed how would the Welsh Assembly Government monitor the movement of canoes between rivers and countries in regards to the spread of any disease that affect fish populations .

When anglers visit other countries all fishing gear must be disinfected before fishing in Wales.

My other concern is the disturbance of fish reds, not all fish spawn in the headwaters of a river if the river is at low flow, so they must spawn lower down this could be many miles down stream and would be at great risk from canoeists traversing over these spawning areas.

On a number of occasions this year canoeists have traversed the Ogmore river, when J spoke to these people and asked if they had permission of access the reply was that access had been given to them by the Welsh Assembly Government, if this is so the W. A. G must now issue a statement withdrawing this permission as the law as it stands does not allow navigation rights on private inland waters.

Finally members of fishing clubs with leases on the river Ogmore are loosing patience at the way canoeists are flouting the law and showing no respect for riparian rights or for the sport of fishing.

Questions for the access to inland waterways inquiry

472.1. What is your interest in the issue of access to inland waterways

Land owner Land owner

Recreational user

Fishing Fishing

User for waterborne recreation e.g. canoeing, rowing etc.

No

472.2. Are you a member of an organisation related to your use of water.

If yes which organisation.

Garw Valley Angling Association.

472.3. Which stretches of water do you own fuse/manage.

Waters belonging to Bridgend County Council Waters belonging to Mrs H Price Abergarw Farm.

472.4. Are you happy that your legal rights are clear and well defined.

Yes

472.5. Can you briefly outline your understanding of your legal rights over the stretch of waters that you own/use/ manage.

Anyone traversing over private waters without permission are committing an offence of nuisance to a fishery.

472.6. Would you like to see changes to your legal rights

No

472.7. Are you aware of any legislation that exists in other countries that could be used in Wales.

None

472.8. Do you have any experience of voluntary agreements for access to the stretch of water you own/use/manage.

None.

472.10. Are you aware of any voluntary agreements in other countries that could be used in Wales.

None

Please can you briefly outline what you think are the key issues for recreational access to inland waters in Wales and how you would like to see them addressed.

@ Allowing paddlers free access to Welsh rivers is likely to be unlawfull with respect to the Salmon and Fisheries Act 1975 which protects spawning fish and, in the case of salmon and seatrout their redds from disturbance. B To change the law to allow unrestricted access on Welsh rivers would be a direct parallel to allowing the right to roam on golf courses. These areas were specifically excluded from the CRoW Act as they are commercial enterprises, but so are rivers. C If the law is altered as canoeists wish, riparian owners and angling clubs would quite rightly require large amounts of compensation from the Welsh Assembly [or the reduction in value of their assets and the derogation of their leases respectively.

473.R S L Price

I have recently been made aware of the proposal to make all rivers free for access by canoeists. would like to register my objections to this proposal on a number of grounds.

As a member of an angling club with a number of beats on the rivers Tywi, Cothi, Loughor and Usk which we have purchased or leased from the landowners, I find the prospect of having our fishing disturbed by canoeists appalling. Wales is renowned for its high quality game fishing attracting tourists from far and wide. Unlike other areas in the U.K., we have developed a network of clubs which enable local people to access top quality fishing at affordable prices. These clubs also offer people from outside the locality and visitors, access through membership or day/weekly permits.

The Assembly are well aware of the financial benefits to the Welsh economy of this tourism. Open access to all rivers by canoeists would have a disasterous effect on the quality of their fishing experience. Fishing clubs annually contribute large amounts towards habitat conservation and conservation of fish stocks. Many operate catch and release schemes and members freely volunteer their time and effort to maintain their beats to preserve and improve the quality of their fishing.

Anglers pay annual license fees and suffer increasing restrictions on when and how they can fish. Members pay directly or through their clubs for permits to fish specific waters. They also contribute large amounts in cash or kind voluntarily to maintain their beats on the rivers. Canoeists do not contribute anything. Their presence is a major disruption to anglers enjoyment, and would undoubtedly lead to unpleasant confrontations between the two parties.

Canoeists who negotiate privately owned stretches of water are guilty of trespass. Many of the club association waters are physically separated across the river by various means eg barbed wire stock fencing. Canoeists who encounter these risk serious injury. If they choose to land on the banks and negotiate them on dry land they are guilty of trespass as is the case when they cross private land to gain access to the water. If this proposal is adopted I fear that many more obstacles will appear to deter their presence.

Finally I would implore the committee to see sense and nip this proposal in the bud. It would be detrimental to the enjoyment of countless thousands of anglers in order to pander to the demands of a small minority of canoeists. With an election coming shortly you should know where the majority of the votes lie.

474.The Angling Trust

The following statement sets out the Angling Trust's position on navigation of inland waterways.

The Angling Trust is the national body that represents cdl anglers and notes that it is settled law that there is no general public right of navigation on any inland waterway -see Appendix 1.

The Angling Trust confirms its support for the Government's and the Environment Agency's position, that the way forward, for increased access for other waters users, is by the creation of voluntary access arrangements. Angling Trust is keen to promote voluntary access agreements on all rivers where this is appropriate

The Angling Trust understands that it is not always appropriate that either angling or canoeing takes place on every day throughout the year.

The Trust does not advocate navigation or canoeing agreements on rivers:

I) Where there is potential for environmental damage to the river;
II) On those small rivers where there is likely to be a significant risk of conflict between paddlers and anglers;
III) On those where riparian owners, whose permission needs to be sought in law for access agreements, would suffer unreasonable interference with the enjoyment of their property

In setting up access agreements, it is important to draw attention to the difference between permission to gain access across land to a river (for launching etc) and permission to navigate. Clearly both are needed to allow access agreements to work well in practice.

The Angling Trust is very concerned that governing bodies of canoeing are frequently mis-stating the law on navigation on rivers in England and Wales and thereby encouraging conflict. This makes the commissioning of voluntary access agreements less likely or even impossible. However, this will not stop the Angling Trust continuing to promote access agreements as the way of increasing access for canoeists in line with Government and Environment Agency policy.

The Angling Trust therefore encourages riparian owners and anglers to look at rivers where there have been successful arrangements for canoe access and government or local authorities to fund and facilitate such arrangements. As a means of by-passing any intransigence at a national level, the Angling Trust particularly supports the drawing up of agreements between local riparian owners, angling clubs, local canoeists and outdoor centres.

Where statutorily protected areas such as Special Areas of Conservation, Sites of Special Scientific Interest or similar are likely to be affected, Natural England, the Countryside Commission for Wales or any National Park authorities should be consulted. The Angling Trust would also expect the Environment Agency in England and Wales to advise on fishery protection aspects of any proposed agreements.

As well as contributing approximately £3.5 billion to the UK economy each year all freshwater anglers in England and Wales are obliged to purchase a rod licence together with a permit to fish any waters. The £25 million revenue from anglers' rod licences contributes to the fisheries work of the Environment Agency in England and Wales, enabling it to pursue its statutory duty to maintain, improve and develop fisheries, as well as its other functions in relation to pollution control and conservation.

The Angling Trust's legal arm, Fish Legal, will advise members on proposed access agreements, including standard conditions, insurance, liability, signage, the provision of information and enforcement.

Appendix 1

THE LAW OF NAVIGATION ON FRESHWATER IN ENGLAND AND WALES

Introduction

The current position of the law is settled in that no general public right to navigate in non-tidal rivers exists in England and Wales.

While the public has the right of navigation in tidal waters (e.g. Gann v Free Fishers of Whitstable (1865) 11 H.L.Cas; Blundell v Caterall (1821) 5B & Aid. 268L this depends on the presumption of the Crown's ownership of the land beneath the water. This presumption is rebuttable and there are some instances where the tidal riverbed is under private ownership.

The presumption of rights of navigation on tidal rivers contrasts with the very limited right on non-tidal rivers. The default position is that there is no such general right of navigation. Above the flow of tide the land beneath a river or stream is privately owned so that while the public can acquire navigational rights over such waters they cannot have them as of right

It has been held that rights of navigation on inland waterways are not analogous to rights of way on land (Wills' Trustees v Cairngorm Canoeing and Sailing School (1976) SLT 162 and AG ex rei Yorkshire Derwent Trust and Malton Town Council v Brotherton [1992] 1 All ER 230).

Acquiring rights of navigation

Post-Wills Trustees, the public acquisition of a right to navigate on a non-tidal waterway cannot be based on the usual arguments used for "immemorial user" for rights of way on land. The basis of a public right of navigation in a non-tidal river should be treated as being in a legal class of its own.

Of course, as is well recognised, a public right of navigation may also arise through statute. This is the most common way in which such rights arise.

No right for use of banks

Even in the situations where the public has a right of navigation in a non-tidal waterway (whether by grant, statute or immemorial user), this does not necessarily include the right to moor or to make use of the banks of the waterway in gaining access to or leaving the waterw;1V. In A-G ex rel Yorkshire Derwent Trust and Malton Town Council v Brotherton [1992J 1 All ER 230, L Jauncy commented, obiter, that "...the public have no right to use the bed or banks of the river other than perhaps for anchoring in an emergency and for landing at a place where they are entitled so to do".

Therefore, to moor and access the river in such circumstances, canoeists would need the permission of the owner of the river bank to avoid trespassing.

Remedies for the owners of fishing rights

In Rawson and Others v Peters (1972) 116 SJ 884; 225 EG 89, CA, the plaintiffs (claimants) owned fishing rights on the River Wharfe but did not own the bed or bank. They claimed an injunction and damages against defendant canoeists for interference with their rights. The case was heard at the Court of Appeal where Lord Denning decided that it was possible for an action to lie against the

canoeists without proving damage to the fishing although this was not, strictly speaking, trespass to land in the usual sense. Nominal damages were awarded, with liberty to apply to the County Court for an injunction.

This case leaves fishing clubs with the remedy of an injunction against canoeists to restrain them from trespassing where there is no right of public navigation.

475.Clwb Godre'r Mynydd Du

I am the secretary of the above club and am writing on behalf of my members as they are very concerned as to some of the proposals put forward by the Welsh Canoeing Association and the petitions committee.

Our club is now about a hundred strong with most of our members being from the locality. It was formed in the early fifties by a group of mostly miners and factory workers to allow affordable sport to local people. Over the years after tireless work from its volunteers we have raised enough funds to purchase and rent fishing rights in the Loughor and Towy catchments.

Over the years we have seen our rivers evolve from polluted industrial drains to valuable ecosystems. much of the work done to save our rivers has been done by angling clubs using their own funds and with little or no net financial gain.

The Carmarthenshire fishermen's Federation and all the clubs affiliated to it spent in excess of £120.000 in the last year on habitat improvement they have also funded a salmon hatchery to improve fish stocks on the river Towy with anglers spending their own time and money to source brood stock for that hatchery.

The proposal by canoeists to be given free access to all rivers in Wales is both morally and ecologically wrong.

The canoeists claim that they have no access to any waters in Wales however navigation ~ allowed on all tidal waters which on some waters is about a quarter of their length.

Local voluntary access agreements have been in place for years where anglers have tried to work with canoeists to give access to all parties. however many canoeists. on the advice of the WCA have withdrawn from these agreements to give WAG the false impression that no access exists -a cynical and deceitful attempt to manipulate the evidence in their favour.

Canoeist seem to think they should have free and unrestricted use of rivers -anglers pay on many levels to enjoy their sport: they pay permit fees to the riparian owner for the right to be on the river and then a licence fee to the Environment agency for the right to fish. many anglers also pay membership to conservation bodies to try and avoid damage to the river ecosystem.

After paying all fees and licences anglers are further restricted on when they can fish and what fish may be taken: this is to protect the fish and ensure they are left undisturbed during their breeding cycles - why should canoeists be exempt from all this. contrary to the salmon and freshwater fisheries act of 1975?

Anglers don't pay to be able to take fish (which canoeists constantly maintain); they pay for the enjoyment of using someone else's asset. This is proved by the fact that coarse fishing clubs who return 100% of their catch still pay an annual rental to the riparian owner. Their members would think it very strange if they were given this water for free.

Riparian rights are property -they are expensive and like all property in Britain they are protected by law. If I buy a house I don't expect to wake up in the morning to find a total stranger in my bath. or lighting a bonfire on my front lawn. the trespass acts are clear and they apply the same to rivers as to

any other property. the law is clear on this -it is trespass to go on a river above the tide which is in private ownership without the owners permission.

To change the law to allow unrestricted access on Welsh rivers would be a direct parallel to allO\ving the 'right to roam' on golf course. These areas were specifically excluded from the eRo W Act as they are commercial enterprises -but so are rivers.

The canoeists and now the Petitions Committee point to Scotland where the Scottish Land Reform Act (2003) gave open access to rivers and say that this would work in Wales. We believe it would not work and that it would be quite wrong to impose something similar here for the following. and many other reasons:

- Scottish rivers are on the whole much bigger than Welsh ones, so a group of maybe ten rafts going down a river say 3m wide is bound to have a much greater ecological em~ct than if the river is 10m wide:
- the numbers of major conurbations (Liverpool. Manchester & Birmingham) a couple of hours away from north & mid Wales is much greater that similar sized urban areas to the Scottish Highlands. so far more canoeists/kayakers/rafters/gorge walkers would access smaller rivers;
- The main game fish in Scotland. the salmon. is much less wary than sewin, which are so important to Wales both economically and culturally. Anglers from England and mainland Europe will not come to Wales and support local economies ifbig sea trout have been scared by canoeists above them and are therefore uncatchable.
- The amount of trouble there has been on Scottish rivers since the Land Reform Act was passed has been grossly downplayed. We hear from one correspondent that the upper Tay is "nothing but a war zone" with commercial rafting companies making angling virtually impossible.

If WAG allow unrestricted access to rivers it is only right that the owners be compensated for the loss of their private enjoyment of that property and the subsequent devaluation of their property -is it right to spend vast amounts of the taxpayers money in this way?

Angling is the largest participant sport in the British Isles. angling tourism is an important part of the Welsh economy: anglers are also heavily involved in conservation and ecological work on rivers.

Welsh anglers make up a substantial number of assembly voters -the majority of canoeists do not even live in Wales. and put very little into the local economy I hope this will be taken into consideration by the committee when they come to a decision.

476.Michael Devaney (PDF to be attached)

477.RSL Price, Afan Valley Angling Club (PDF to be attached)

478.Mr P.K Jones (PDF to be attached)

479.Lawrence Jones, Welsh Canoeing Association

The WCA board, in the light of recent research, membership wishes and angler representations has issued a directive that "access agreements" are unsustainable and ineffective mechanisms for managing recreational canoeing. The board have issued a mandate not to enter into such arrangements and are undertaking an audit of the existing arrangements in place.

We now recognise that due to the size and scope of paddling activity in Wales that it is incongruent for the Welsh Canoeing Association to be providers of access.

It is clear from the complaints that we have received from your association that some canoeists are in breach of the existing agreement. We also note that this also true from the in respect of some angling practitioners. It is frustrating for us that we are unable to create meaningful agreements for the benefit of all parties.

Therefore the Welsh Canoeing Association is writing to terminate its current agreement with your association for canoeing.

As we recognise that paddling will continue to take place along the rivers of Wales, we are prepared to offer resources to help secure funding for any improvements that may be beneficial to allow this to continue (items such as fencing, styles, signage and car parking). We also offer our technical expertise in allowing you to consider realistic mechanisms for managing water-based activity, in co-operation with other partners and National Governing Bodies.

We are very grateful for your co-operation during the agreement to date and hope that you will be able to find an appropriate way to manage activity on your land in the future.

If we can be of any further help. please do not hesitate to contact Ashley Charlwood on 01341 422692 (direct), who has responsibility for helping organisations such as yours in providing opportunity for canoeing.

480.Andrew Budden

I am writing to express my alarm at Welsh Assembly proposals to give equal access for canoe users on Welsh Waters throughout the year.

Firstly, as an angler I pay substantial monies as part of a licence fee to the Environment Agency for the rights to fish the waters. Also, I pay substantial moneys for the rights to access land so I am allowed to fish. Canoeists and fishermen during the fishing season are incompatible as canoeists on rivers disturb and can ruin the chances of catching fish on rivers. This can only lead to increased friction between anglers who pay for the right to fish and canoeists who do not pay a bean to go on the rivers.

Also, my licence fee pays towards the maintenance of rivers and fish stocks. Any reduction in the number of fishermen, especially on rivers such as the Towy which is THE prime sea trout river in Britain can do nothing but harm local tourism industry who rely heavily on anglers from the UK to come and fish the river. Much needed tourism will therefore be ruined as who would pay for prime fishing on a river which is plagued by canoeists during the fishing season?

Also I would wish to draw your attention to the fact that canoeists have the sea to use and are quite able to buy up fishing rights much the same as fishing clubs can, and have their members canoe the areas that they have bought, excluding fishermen from the land if they so wish.

Many rivers in Wales are prime fishing areas, and its only the fisherman that's helping the stocks of sea trout and salmon being maintained. If you allow canoeists to use the river, many fishermen would not use the waters that are commonly used by canoeists, thereby reducing the money going into conservation. Netting will return to the estuaries and sea trout and salmon stocks will inevitably suffer.

Giving such rights to a sport that does nothing for conservation, river management, the Tourist industry (more fishermen than canoeists) and pays nothing into either the Environment Agency coffers or substantially less into the economy is sheer madness.

If my fishing is ruined by canoeists, I will either consider moving clubs so that I pay less for my permit, demand a reduction in my fishing licence and will make sure that this issue is predominant in my thoughts when voting. My fishing is suffering enough as it is now what with the weather, let alone when these people canoe down prime fishing waters -waters where i've paid a lot of money to fish.

481.Eurig Davies (PDF to be attached)

482.John Baylis (PDF to be attached)

483.D Emyr Jenkins

I am an angler. a member of three angling clubs and a countryman. I object to the proposals put forward by the Welsh Canoeing Association and the petitions committee with regards to free and unhindered access to Welsh waters.

Over the years we have seen our rivers evolve from polluted industrial drains to valuable ecosystems, much of the work done to save our rivers has been done by angling clubs and riparian owners.

The proposal by canoeists to be given free access to all rivers in Wales is both morally and ecologically wrong.

The canoeists claim that they have no access to any waters in Wales however navigation ~allowed on all tidal waters which on some waters is about a quarter of their length, there are also many voluntary access agreements on suitable rivers in the principality.

Local voluntary access agreements have been in place for years where anglers have tried to work with canoeists, however many canoeists. on the advice of the WCA have withdrawn from these agreements to give WAG the false impression that no access exists -a cynical and deceitful attempt to manipulate the evidence in their favour.

Canoeist seem to think they should have free and unrestricted use of rivers --anglers pay on many levels to enjoy their sport: they pay permit fees to the riparian owner and then a licence fee to the Environment agency for the right to fish. After paying all fees and licences anglers are further restricted on when they can fish and what fish may be taken: this is to protect the fish and ensure they are left undisturbed during their breeding cycles -why should canoeists be exempt from all this. contrary to the Salmon and freshwater fisheries act of 1975 ?

Studying canoeing websites and some canoeist's behaviour on the river bank makes it perfectly obvious that without some form of control (which they seem to object to) anarchy would rule on the river bank with property and valuable fish spawning grounds being damaged.

Riparian rights are property -they are expensive and like all property in Britain they are protected by law the trespass acts are clear and they apply the same to rivers as to any other property. the law is clear on this -it is trespass to go on a river above the tide which is in private ownership without the owners permission. 10 change the law to allow unrestricted access on Welsh rivers would be a direct parallel to allowing the 'right to roam' on a golf course. These areas were specifically excluded from the CRoW Act as they are commercial enterprises -but so are rivers,.

The canoeists and now the Petitions Committee point to Scotland where the Scottish Land Reform Act (2003) gave open access to rivers and say that this would work in Wales. I believe it would not work and that it would be quite wrong to impose something similar here for the following reasons: -Scottish rivers on the whole are much bigger than Welsh ones. so a large group often rafts going down a river 3m wide would have a much greater ecological impact than if the river is 10m. -The main game fish in Scotland. the salmon. is much less wary than sewin. which are so imp0rtant to Wales both economically and culturally. Anglers from England and mainland Europe will not come to Wales and support local economies if big sea trout have been scared by canoeists above them and are therefore uncatchable.

Angling is the largest participant sport in the British Isles. angling tourism is an important part of the Welsh economy: anglers are also heavily involved in conservation and ecological work on rivers. I hope this will be taken into consideration by the committee when they come to a decision -giving any river user uncontrolled. unlicenced and cost free use of the river IS not a fair. workable or sustainable concept.

484.Paul Hughes

I should be grateful if Welsh Assembly Sustainability Committee would take the following views into consideration when undertaking their enquiry into the petition recently submitted by the Welsh Canoeing Association.

I am a keen angler and a member of four game fishing clubs that are based in North Wales. The rivers I fish on a regular basis are the Dee, Clwyd, Elwy, Alyn, Conwy and Cledwen. The clubs have agreed fishing rights with the relevant riparian owners and this includes access to and from the river. I accept that conoeing clubs, or individual canoeists, are at liberty to enter into similar agreements with a riparian owner if they wish to use a river. The law as it stands is quite clear on this issue and I see no reason to change it.

My principal objections to allowing paddlers completely free and unfettered access are:

- Significant damage could be caused to spawning salmon and sea trout, and their redds. This is the reason that there is a closed season for fishing and any fish caught outside this period that have reached sexual maturity, or are recovering from spawning, must be returned unharmed.
- Anglers fishing on Welsh rivers pay an annual licence of £68 to fish for migratory fish and the main target species is sea trout. These are notoriously wary fish and if disturbed it is often many hours before they can be caught. Sea trout fishing generates significant revenue for the local economy and this could be in jeopardy if fish have been scared by the action of canoeists and are therefore uncatchable.
- Riparian owners should maintain the right to receive income from their asset through permitting any lawful activity. This could be through fishing clubs, fishing syndicates, outdoor pursuits groups or canoeing organisations. Many riparian owners undertake work to maintain their section of river and access to it, as do numerous fishing clubs/syndicates. To permit canoeists free and unfettered access to all rivers would make it almost impossible to manage the asset effectively and remove a valuable source of income from landowners. As previously stated, canoeists are welcome to negotiate sole or shared access rights with riparian owners, so why should any river user expect to be given prefen3ntial treatment?

On a personal note, although my primary residence is in England I have a second home in Wales and I spend approximately six weeks a year there with my family. i also travel to Wales a minimum of one day a week throughout the fishing season and spend money in the local economy in so doing. In addition, the membership fees I pay to Welsh fishing clubs goes into the local economy through payments to riparian owners or procuring fishing related services. If canoeists are given free and unfettered access to Welsh rivers and this has a negative impact on my fishing, I will have to reconsider the time I spend in Wales. For information, the cost of fishing in northern England is comparable to that of fishing In Wales and it would be no further for me to travel for a days fishing. I would have to consider the merits of maintaining a second home in Wales If I were not getting the use from it.

485.National Farmers' Union Cymru

NFU Cymru responds on behalf of 25000 farmers, managers, partners and countryside members in Wales. Many would be owners or occupiers of land that abuts waterways and are the actual owners of the river or lake bed.

1. NFU Cymru believes that the way forward on the issue of access to inland water in Wales must be through sensible managed voluntary access between two agreed ingress and egress points on a river or lake. There should be no question of allowing a statutory right of access to inland water in Wales.
2. What is important to our members and should not be overlooked by the committee is the access to and from rivers and lakes and how this would be dealt with in the first place before even considering access onto the water itself. Such access if permitted would clearly have a potentially adverse effect on our members' farming and other activities particularly if this is 24 hour unlimited access.
3. We would also point out that it is essential that the conservation value of rivers and lakes should be taken into account as part of this inquiry. Many Welsh rivers are sites of special scientific interest and the owners and occupiers have statutory responsibilities to protect these interests. This may not only be in the river itself but on adjoining river banks and land.
4. Our members also have major concerns about potential increased liabilities that changes to the law would bring. In particular there is a real risk of creating hotspots where potentially large numbers of unmanaged users who are not members of any association would congregate on these rivers and lakes, who would control such activities?
5. The following paragraphs briefly summarise a number of other concerns that NFU Cymru have over access to inland water in Wales and believe that the committee should also take into account as part of this inquiry.
6. A river will have multiple owners from source to the mouth and opposite banks more often than not have different owners and occupiers.
7. Farmers, landowners and occupiers have generally worked amicably and constructively with angling interests to allow access. Unfortunately the experience in general of our members is that the same cannot be said for relationships with canoeists. There are many reports of trespass, abuse towards members and blocking of gateways.

NFU Cymru Consultation Response

1. The Committee will also be fully aware that Wales is a small country with a large population swelled by visitors at certain times of year and what may be able to be achieved in terms of access in some other countries without these same pressures would not be possible in Wales.
2. NFU Cymru President, Dai Davies wrote to the Minister for the Environment, Sustainability and Housing, Jane Davidson on the 20th May 2009, regarding access to water for paddle sports in Wales. In her reply dated the 15th June 2009 the Minister referred to your inquiry but also said, "At this stage, however, the Welsh Assembly Government's view is that new legislation in this area would be both complex and controversial. Instead I favour an approach based on supporting practical action to improve public access to Wales' superb and extensive water resources (rivers, lakes, reservoirs and canals) for healthy recreation – and for benefit of all recreational uses."
3. NFU Cymru would agree with this approach to an extent but would point out that it is improving public access that is the point not necessarily increasing access. Getting things right through negotiated voluntary agreements is the way forward regardless of how difficult

they may be to get in the first place. If a river is unsuitable or access points are not available by negotiation for access for paddle sports then it should not be used for such a purpose.

4. Many Welsh rivers are short spate rivers and therefore totally unsuitable for access for such recreational use. Access for emergency services must also be a major consideration.
5. The Minister pointed out in her letter to NFU Cymru on the 15th June the complex nature of any legislation that would be required to increase statutory access to inland waters in Wales. NFU Cymru is of the firm belief that an act similar to the Land Reform Act 2003 (access section) as operational in Scotland would not work in Wales. The National Assembly for Wales' powers in relation to granting access is not entirely clear, and it may be that this issue is currently a matter for UK Government.
6. Experience shows that having a statutory right of access will not work particularly if the code of conduct that goes with that access is unenforceable. Whilst significant resource may be available to initially set up a statutory right of access history tells us that subsequent problems are often ignored and resources are not available to properly enforce legislation, it is our members who would bear the costs and have to deal with these subsequent problems.
7. To conclude NFU Cymru is firmly of the view that access to inland water in Wales should be dealt with through voluntary agreements between landowners, riparian owners and those seeking access to Water. We trust that our views as the major representative organisation of farmers and landowners in Wales are taken into account as part of this inquiry and are happy to provide further information on any of the issues touched upon within this paper.

486.Jonathan Williams

486.1. What is your interest in the issue of access to inland waterways

Land owner

Recreational user:

Fishing

User for waterborne recreation (e.g. canoeing, rowing etc)

Keen recreational kayaker and canoeist.

Other(please specify)

486.2. Are you a member of an organisation related to your use of water?

If yes, which organisation/s?

Welsh Canoe Association member.

486.3. Which stretch/es of water do you own/use/manage?

I am a regularly user of rivers in South Wales, in particular the Tawe river and tributaries such as the Afon Twrch and the Upper Clydach (by Pontardawe), and the Neath drainage with the Mellte, Nedd Fechan, Clydach Brock (by Resolven) and Dulais rivers.

Other rivers paddled in the last 2 years include:

Sawdde (near Llandeilo)

Cothi (near Llandeilo)

Nant Gawr (by Bynamman)

Taff (by Pontypridd)

Upper Tywi (near Llandovery)

Ystwyth (to the East of Aberystwyth)

Tryweryn (at the National Canoe centre near Bala)

Glaslyn (by Porthmadog)

Conwy (by Betws y Coed)

An online guide to the Welsh rivers for canoeists can be found at:

http://www.canoewales.com/Guide/riverguide/walesmap.htm

Legal rights

486.4. Are you happy that your legal rights are clear and well defined?

No, I am unsure of my legal rights in respect of access to rivers and river banks.

486.5. Can you briefly outline your understanding of your legal rights over the stretch of water/s that you own/use/manage

I understand that I am allowed to canoe along rivers as long as I do not disturb spawning salmon. (Salmon and Freshwater Fisheries Act 1975) By choice I try not to disturb river beds, especially any gravel banks that spawning fish may use.

I understand that I do not always have a right of access to rivers due to privately owned land. When accessing rivers I am sure to USI~ rights of way or to ask permission from the land owner.

486.6. Would you like to see any changes to your legal rights?

Yes

If yes, what changes would you like to see?

I would like clarification of my legal rights of access. I would like free and unhindered access to inland waters, as long any risks of environment harm are minimised. I would like such legislation to be based on science rather than political pressure based on single group interests (from either kayakers or anglers).

486.7. Are you aware of any legislation that existis in other countries that could be used in Wales?

Access legislation and regulation in Scotland seem 1[0 be more consistent with access for all to the countryside.

Voluntary agreements

486.8. Do you have any experience of voluntary agreements for access to the stretch of water/s you own/use/manage

Yes

If yes, please briefly outline the agreements that exist and your experience of how they operate.

Voluntary access agreements have previously existed on the Tawe river, where throughout the summer fishing season canoeists and kayakers voluntarily agreed not to visit the river. However, these arrangements were not satisfactory, as often at the times when the river was in condition to paddle (i.e. at a suitably high river level, following heavy rain) the access agreement suggested that paddling was not allowed.

Furthermore it is a frequent experience to be challenged by anglers on stretches of water and when loading and unloading canoes from vehicles near rivers. Often the anglers will claim that canoeists have no legal right to visit the river, but there does not seem to be any legal precedent to suggest that this is the case. As a kayaker I have experienced verbal abuse from anglers. Friends have received threats of physical violence, and I have heard stories of kayakers' car being damaged as a result of animosity between kayakers and anglers.

486.9. Would you like to see any changes to the voluntary agreements?

If yes, what changes would you like to see?

I would like to see voluntary agreements, based on seasonal access availability, for canoeists and kayakers to be revoked. In place of these agreements I would like to see a code of practice for water

users which suggests the areas which kayakers should avoid due to spawning fish -this would of course have to take into account river levels and the spawning season. If this knowledge was disseminated kayakers could plan their trips accordingly, so as to avoid damaging fish stocks.

486.10. Are you aware of any voluntary arrangements in other countries that could be used in Wales?

The Norweigan model seems to have some benefits as the relationships between kayakers and anglers are much better. There is a lot more mutual respect as well.

Please can you briefly outline what you think are the key issues for recreational access to inland water in Wales and how you would like to see them addressed.

Anglers seem to view access to rivers as being their sole right. Other members of society are not welcome.

When challenging anglers as to why they object to kayakers, a common response is that they pay for rod licences for their use of the river. They never acknowledge that many kayakers support the Environment Agency through (a) tax contributions and (b) membership of membership organisations such as the Welsh Canoe Association.

The prevailing attitude of anglers seems to be entirely selfish, i.e. this is our river, you are not allowed here.

Greater mutual understanding is required from both sides -it is clear that there is currently a lack of mutual understanding between kayakers and anglers. A code of practice (perhaps a degree of legislative/regulatory support) in regard to avoiding damage to spawning fish stocks, might help to clarify the situation in Wales.

NB: I have attached 2 additional documents which I would like to be considered by the inquiry committee.

Document 1.A letter from Ray Lockyer of Pontardawe and Swansea Angling Society
Document 2.My written response to Mr Lockyer.

Document 1

CANOEING ON THE RIVER TAWE

Our Treasurer (and Director), Phil Jones, tells me that he spoke to you at about 19:30 on Friday 17th July 2009 about canoeing on the River Tawe. He said that he would arrange for me to write to you and the other three accompanying you. I would be grateful if you'd pass the contents of this letter on to your companions.

You were preparing to enter the water at Glais, where the river bed and all rights are owned by Vale Inco Ltd. Phil explained that, as an ordinary member of the Angling Section of the Vale Ineo Sports and Social Club, he was not in a position to challenge your use of their water, especially as you claimed to have had permission in the past from Vale Inco groundsmen. Your use of their water is not a matter for us but we'll let the Vale Inco Angling Section know about your visit and it would be remiss of us not to tell you that our understanding is that no-one is allowed access to the water alongside the nickel refinery (below Glais Bridge) on health and safety and security grounds. You can find more about Vale Inco at **www.inco.com/global/clydach**.

Above and below the Vale Inco water, however, we own river bed and all the rights that go with such ownership. Where we don't own river bed and/or fishing rights ourselves, we lease them from the owners and in this way we control access to most of the river above and below Vale Inco's property - from Ynysmeudwy to Morriston. This is why Phil spoke to you, just in case you were thinking of travelling downstream.

Phil tells me that you obviously knew about the current campaign about access, that you mentioned the Welsh Canoeing Association, that you claimed that the law relating to navigation on rivers is unclear and that there is no legal precedent. We are aware of the misinformation which is being put about by various canoeing bodies. In fact, the law relating to navigation on inland waters in England and Wales is settled -no general public right to navigate in non-tidal rivers exists in England and Wales. The Appendix attached below is a copy of a legal opinion which we have obtained. Please note particularly the last paragraph, which explains that in the case of Rawson and Others v Peters (1972) 116 SJ 884; 225 EG 89, CA, Lord Denning in the Court of Appeal ruled that canoeists can be held liable for interference with fishing rights, even if nobody is fishing at the time and even though no obvious damage has been done. In that case damages were awarded against the canoeists and the owners were allowed to seek an injunction to prevent further trespass.

You shouldn't assume that repeated canoeing in the area of a weir does no damage, even in high water. Such structures provide an obstruction to the upstream migration of fish and the time when a spate is abating (like Friday evening) is often the time when sea trout and salmon are trying to negotiate such obstructions and migrate upstream. We wouldn't want this interfered with in any way. It's actually an offence under the Salmon and Freshwater Fisheries Act 1975 if any person "uses any contrivance or does any act whereby salmon or trout may be scared, deterred or in any way prevented from freely entering and passing up and down a free gap at all periods of the year". There's also good reason to believe that, if migratory fish are scared into leaving a piece of water, it can act as a deterrent to fish coming behind them -a sort of "indian sign" that all is not as it should be, which can damage the fishing potential of a piece of water for a very long time. So you'll see that it is simplistic to claim that canoeing does no harm.

Our policy is that canoeing is not normally allowed on the water which we control. If responsible canoeists were to put reasonable proposals to us, we would obviously consider them. But in the absence of prior permission canoeing is not allowed on our water. We'd be grateful if you would acknowledge this and ensure that you and your companions refrain from using our waters.

Appendix.

LEGAL OPINION

THE LAW OF NAVIGATION ON FRESHWATER IN ENGLAND AND WALES

The current position of the law is settled in that no general public right to navigate in non-tidal rivers exists in England and Wales.

While the public has the right of navigation in tidal waters (e.g. Gann v Free Fishers of Whitstable (1865) 11 H.L.Cas; Blundell v Caterall (1821) 5B & Ald. 268), this depends on the presumption of the Crown's ownership of the land beneath the water. This presumption is rebuttable and there are some instances where the tidal riverbed is under private ownership. (As is the case with much of the River Tawe.)

The presumption of rights of navigation on tidal rivers contrasts with the very limited right on non-tidal rivers. The default position is that there is no such general right of navigation. Above the flow of tide the land beneath a river or stream is privately owned so that while the public can acquire navigational rights over such waters they cannot have them as of right.

It has been held that rights of navigation on inland waterways are not analogous to rights of way on land (Wills' Trustees v Cairngorm Canoeing and Sailing School (1976) SLT 162 and AG ex rei Yorkshire Derwent Trust and Malton Town Council v Brotherton [1992] 1 All ER 230).

Acquiring rights of navigation

Post-Wills Trustees, the public acquisition of a right to navigate on a non-tidal waterway cannot be based on the usual arguments used for "immemorial user" for rights of way on land. The basis of a public right of navigation in a non-tidal river should be treated as being in a legal class of its own.

Of course, as is well recognised, a public right of navigation may also arise through statute. This is the most common way in which such rights arise.

No right for use of banks

Even in the situations where the public has a right of navigation in a non-tidal waterway (whether by grant, statute or immemorial user), this does not necessarily include the right to moor or to make use of the banks of the waterway in gaining access to or leaving the waterway. In A-G ex rel Yorkshire Derwent Trust and Malton Town Council v Brotherton [1992] 1 All ER 230, L Jauncy commented, obiter. that " ...the public have no right to use the bed or banks of the river other than perhaps for anchoring in an emergency and for landing at a place where they are entitled so to do".

Therefore, to moor and access the river in such circumstances, canoeists would need the .permission of the owner of the river bank to avoid trespassing.

Remedies for the owners of fishing rights

In Rawson and Others v Peters (1972) 116 SJ 884; 225 EG 89, CA, the plaintiffs (claimants) owned fishing rights on the River Wharfe but did not own the bed or bank. They claimed an injunction and damages against defendant canoeists for interference with their rights. The case was heard at the Court of Appeal where Lord Denning decided that it was possible for an action to lie against the canoeists without proving damage to the fishing although this was not, strictly speaking, trespass to land in the usual sense. Nominal damages were awarded, with liberty to apply to the County Court for an injunction. This case leaves fishing clubs with the remedy of an injunction against canoeists to restrain them from trespassing where there is no right of public navigation.

Document 2

It was a matter of great interest for me to receive your letter, dated 22"d July 2009, of which I kindly acknowledge receipt. As you suggested, I have indeed taken the opportunity to share the letter with my three companions who accompanied me on 17th July at the Glais weir on the River Tawe.

Setting aside the legal situation for the moment. the aspect of your letter which we find to be the most unacceptable is your assertion that the River Tawe is "our river" and the numerous references to "our water". This would seem to typify the attitude of some members of the angling community who find the idea of sharing access to a river as an incomprehensible concept -a selfish mindset which

seeks to exclude all others who might seek to enjoy the many and varied benefits of experiencing river life at river level. As such I have attached your original letter and this written response, to my response to the National Assembly for Wales', inquiry into access to inland water.

Rivers are natural resources, which as such ought to be open to all who wish to responsibly benefit from them. As canoeists (or kayakers, as the jargon sometimes dictates) we seek access to inland waterways in a manner which is fair and equitable to all. In the 4 years that I have lived in Swansea I have enjoyed the rivers of various watersheds, in particular those draining the Tawe, Neath and Afan valley systems. Interactions with anglers on these rivers have been incredibly varied: from friendly chats; to civilised discussions about access; to less friendly encounters where my friends and I have been sworn at; and at the most extreme where threats of physical violence have been voiced by anglers towards kayakers. I should add that some of these extreme examples have occurred when I have been involved in supported guided youth groups. The majority of encounters are quite polite and civilised, as they were when I met with your colleague Phil Jones, however, these are tarnished by the more extreme experiences which understandably contribute to a confrontational atmosphere.

I take issue with your viewpoint that migratory fish can be issue signals to each other -please do reply to this letter and let us know if you can reference any peer reviewed, independent, scientific papers to prove otherwise. At present the only relevant documentation J can view on this would appear to be a study by the Environment Agency on "The Effects of Canoeing on fish stocks and angling" which would seem to contradict your point of view.

In relation to your legal arguments, I would point out that there would seem in little in the way of substantial legal precedent since 1972.' Additionally the lack of an) prosecutions, failing to result in fines or any other sanctions against canoeists, for the use of inland water (as opposed to trespass) would seem to highlight that the legal situation is far from straightforward. The Environment Agency as a modern enforcer of regulatory environmental law enacts its powers in a highly discretionary manner, one which is proportional to environmental risks. It is my understanding that the Environment Agency is currently reviewing the scientific evidence of the impact of canoeist on migratory fish and as kayakers we keenly await the results.

In relation to the Salmon and Freshwater Fisheries Act 1975'1 I would again take issue with your highly selective quote: -if any person "uses any contrivance or does any act whereby salmon or trout may be scared, deterred or in any way prevented from freely entering and passing up and down a free gap at all periods of the year' - surely this particular quote could also be used against anglers? I would suggest that there are better sections of the statue from which you might quote. that is should you wish to distort a statue which was originally intended to prevent industrial dredging of rivers beds by construction companies wishing to source cheap aggregates and infill materials.

I would also like to take the opportunity to highlight the Environment Agency's guidance to river bailiffs5. This EA guidance document suggests that Bailiffs. many of whom act of behalf of angling clubs historically to prevent poaching, should only ask canoeists to leave the water if "there is a real risk of disturbing spawning fish or spawning beds ". It is my understanding that no fishing goes on during the spawning season. As kayakers we would appreciate if your club might follow the guidance issued, as a matter of club policy, and do not attempt to enforce a policy of no kayaking when a) you have no legal rights of enforcement to do so, and b) the legal situation is far from clear.

As canoeists we are willing to take into consideration the wishes of other river users. Previous voluntary access agreements have failed due to failings on both sides. We would like to see a situation

whereby canoeists are allowed free access so long as this doesn't interfere with spawning fish or their spawning beds. This would be based on science rather than single group interests, and would be dependent on rivers levels and spawning seasonality variations. tailored to individual river catchments to as not to interfere with spawning fish. We would like to see this situation appear though reasonable and facilitated negotiation between angling groups. the Welsh Canoe Association, and the Environment Agency.

487.Pontardawe and Swansea Angling Society (PDF to be attached)

488.Andrew Peate

Wales and England are currently the only countries in Europe which do not have a fair and equitable system to allow access to inland waters.

In Wales we are blessed with many great rivers which should be enjoyed by the nation.

In Europe the rivers are used by a wide variety of craft without causing damage to the environment or conflict with fisherman. In Scotland both fishermen and canoeists share the rivers with their rights to access protected by law whilst in Wales and England the law is so old and muddled that nobody seems to be able distinguish who is in the right.

In many rivers such as the Wye both fishermen and canoeists have traditionally enjoyed the river and the landscape with no conflict existing in the area, are the fish somehow different in the Wye? If it can work here why not other rivers.

In the UK Environmental Officers use canoes to examine rivers where a delicate environmental system exists and where any land based access would damage the eco systems present.

It is time for Wales to join Scotland and the rest of Europe in giving greater access to inland waterways for the many and not just a privileged few.

489.Gary Owain-Ashbrook

In the first instance, I vehemently object to any form of statutory rights of access on inland water in Wales on moral grounds in that my family is now fourth generation legal and rightful landowner, the land being freehold and free of any encumbrances. As riparian owner. as part of the land borders the River Aled, in some cases both sides of the river, it is wholly immoral and against all principles for the family to forfeit existing rights, enjoyment and indeed security, thus relinquishing the prerogative to decide taken away by unknown persons who decide to claim a right to take from others that which they don't have. This being achieved through a third party which can, again immorally, alter, to suit existing laws and regulations and to make new which in effect erodes or takes away the rights of ownership and impose responsibilities which hitherto were not necessary. Thus, the whole concept of land ownership is brought into question. As CI consequence, the following issues (not all by any means) will undoubtedly arise, many of which will create complex legalities.

Currently, within legal constraints, I have control over my land, that is I decide whom or what will transverse the land and when. This would include the river bed. How is the river to be accessed and exited? In the case of tiredness, becoming lost or just had enough or predetermined end of trip or rendezvous how does the 'canoeist reach the highway? What about a 'friend' leaving the public highway and crossing my land to meetfhelp the craft user? Would a canoeist(s), bearing in mind there are several types of canoe, differing from a kayak, and without doubt, a wide range of 'water crafts' (to include a large rubber inner tube or Lille"), behaves inappropriately, how can he/she be identified? Depending on the misdemeanour 'I have to decide criminal or civil or criminal proceedings. Neither I nor family would be able to relax and enjoy in peace what is ours because of disturbance, fear of intimidation or worse. Safety and security would be jeopardised. Is the 'canoeist'all that he/she appears to be or is it subterfuge -criminal activities? Whether on my land or in close proximity to my house/outbuildings or in a parked vehicle on the road there will always be an 'explanation' related to the river activities.

Regarding the management of the river and its environment will demands be made if is not 'canoe user' friendly? Will then the management be dictated by the canbeists et al and who will pay? On this theme, what about the disturbance to the habitat and Jrildlife? What about the landowner's livestock?

'Compensation culture' is now unfortunately, an inherent part of the society in which we live. A major concern, amongst others, is the problem of responsibilities and liabilities, damages and compensation relating to both sides of this intended legislation. This can range from a damaged water craft, personal injury from, for example overhanging branches, chased by the landowners livestock to damaged fences, in-lamb ewes disturbed, the list is endless. The real and genuine issues and concerns are numerous, the aforementioned being neither detailed nor definitive. In conclusion, the intended legislation, for that is what it will be, will be demands instigated by persons who want for their own gains at the expense of others, that to which they are not entitled, rightful and legal ownership severely eroded if not taken away; riparian management, the cooperation and effective working relationship between riparian land owners, Environment Agency and other appropriate statutory bodies becoming confounded and management in disarray. This to the detriment of conservation and the environment. Any legislation. by virtue of its objective, will be complex with untold 'grey areas', creating a wide range of varying responsibilities and indeed. liabilities Titigation. compensation involving protracted battles in both civil and criminal actions.

Any proposed changes to the current situation regarding access to inland waterways in Wales based upon the demands of the Welsh Canoeing Association, individual canoeist and other similar users, I believe is in principle, fundamentally flawed in that it is an infringement on the Human Rights of riparian land owners, notwithstanding other landowners who would be affected, totally immoral, against sound principles, ethics and judgement, and indeed, perhaps the legality is questionable. The whole ultimately becoming a 'free-for-all'.

I sincerely trust you will support unequivocally any moves to block statutory rights of access on Welsh rivers and associated legislation.

490.Denbigh and Clwyd Angling Club

I am the Chairman of the Denbigh and Clwyd Angling Club and, as such, represent the views of the Committee and of 200 fishing members. We have approximately 46kms (26 miles) of fishing available to us, in and around the Vale of Clwyd, most of which is on the River Clwyd.

We have concerns over the possibility of unrestricted access to our rivers for a variety of reasons, some of which I shall list below. I will not elaborate on each point for the sake of brevity, detailed arguments can be debated at a later date and in a more suitable forum than a letter or e-mail can provide!

Angling directly and indirectly creates many millions of pounds of revenue for Wales, exact figures are available from the Welsh Assembly Government (WAG) and the Environment Agency Wales (EAW). Although anglers do not want to stand in the way of 'progress' we feel that anything which may harm the status quo must be scrutinised very carefully and from all points of view. Some points to consider are:-

- The Salmon is an endangered species and deserves our help in maintaining stocks. The Eel and Sea Trout (Sewin) too require careful monitoring and support.
- The River Clwyd has recently moved from the 'Probably at Risk' to 'Probably not at Risk' category for Salmon due to the intervention of our anglers. (Contact Andy Schofield at EAW for confirmation and details)
- The River Clwyd has recently been granted a two-week extension to the Season (all fish caught will be returned to the River) purely as an attempt to gather scientific data about Salmon stocks and we hope this will be repeated and further extended in the future. (Again, contact Andy Schofield at EAW, for details.)
- We are actively involved in a range of schemes to improve habitat for all indigenous wildlife.
- Agriculture and Horticulture. A major contributor to our economy and the improvement and restoration of ecosystems. Unrestricted access will mean other users of the river will need access across farmland. Have riparian owners been consulted and have equitable arrangements been agreed with them?
- Climate change resulting in rising sea levels, flooding and the erosion of river banks etc. Draught and other extreme conditions are becoming more prevalent. All make the Salmon's complex life-cycle more perilous.
- 'Natural' diseases of trees etc. which reduces cover for fish and contributes to bank erosion.
- Water-abstraction may be an area which would need a radical rethink.
- Pollution from a variety of sources.
- The spread of disease e.g. Foot and Mouth Disease.
- Roads and Highways. Increased traffic, often with trailers etc. would have to be catered for, parking arrangements in narrow lanes would have to be made available, have the local authorities been consulted? Illegal parking in inappropriate locations would cause obvious and untenable problems for a rural community. Presumably boats etc. would have to be dragged across farmland causing distress to livestock and damage to crops and disturbance to nesting birds and other creatures?

Our partners, the Environment Agency Wales have an impossible task. They are charged with the responsibility of being the guardians of our most valuable resource, the natural environment. Whilst

also having to cope with dwindling resources ie personnel due to financial restrictions and the ever-more onerous requirements of legislation, Health and Safety and a widening of their responsibilities to unprecedented levels and so on.

Access to rivers in Wales would have to be regulated adding yet another layer of bureaucracy and - worse- a consequent, probable reduction in people 'on the ground' trying to cope with the further demands of their expertise and time.

Loss of value. This Club, like many others, owns and rents pieces of river. As anglers we are, probably, the most licensed and regulated members of society trying to exercise our right to take part in a natural , healthy and eco-friendly hobby. We pay dearly for this right and if others have free access to our paid-for resource we would expect compensation as individuals and as clubs and indeed, as landowners.

Poaching, you will - no doubt- have read the response to this enquiry from the Campaign for the Protection of Welsh Fisheries.(www.cpwf.co.uk) Their Response is far more detailed and comprehensive on the issue of poaching than this one, however, as a Club we fully support their objections to the Enquiry and acknowledge, as you must, that free, unregulated, access to rivers will a) make poaching much easier and b) open-up areas, previously inaccessible to poachers.

Poachers are an inventive group using a range of equipment, materials, technology and chemicals hitherto unimaginable! All methods employed by the poacher cause unnecessary pain and distress to these wonderful wild creatures, resulting in a slow and agonising death regardless of size of fish or time of year (spawning etc.) and to other animals who all form part of the delicate balance of a river system.

In conclusion, I would like to return to my statement about the endangered species - the Salmon. Their life-cycle is the stuff of fiction in reality, it is complex and the chances of survival are - naturally-slim. Their spawning takes place in the rivers of their birth assuming that conditions are favourable (these conditions too are highly variable and complex), we humans are a higher order of animal, surely it is our duty to to give them a fair start in life! It is, therefore, imperative that a holistic view and resultant policy be the outcome of your enquiry and that our views and objections be taken into consideration.

491.Parc Cenedlaethol Eryri/Snowdonia National Park

Dogfen 1

Diolch i chi am y eyfle i ymateb i ymehwiliad y Pwyllgor Cynaliadwyedd ynghyleh mynediad at ddwr mewndirol, ae am ymestyn y dyddiad eau o'r 18 fed o Fedi er mwyn eaniatau ar gyfer amserlen eyfarfodydd y Fforwm. Ystyriodd y Fforwm holiadur yr ymehwiliad yn ei gyfarfod ar y 7fed o Fedi, ae mae'r ymateb manwl isod.

Ymateb Fforwm Mynediad Lleol y Gogledd:

491.1. Beth yw eich diddordeb yn y mater o gael mynediadat ddyfr ffyrdd mewndirol?

Mae Awdurdod Pare Cenedlaethol Eryri yn gweinyddu dau Fforwm Mynediad Lleol, un yn y De a'r llall yng Ngogledd y Pare Cenedlaethol. Fe'i sefydlwyd yn unol a'r Ddeddf Cefn Gwlad a Hawliau Tramwy 2000, a'u pwrpas yw eynghori'r awdurdodau lleol, gan gynnwys Cynulliad Cenedlaethol Cymru, Cynghorau Gwynedd a Chonwy, Cyngor Cefn Gwlad Cymru, ae Awdurdod y Pare Cenedlaethol ar welliannau mynediad yn eu hardal hwy,

Mae aelodaeth y Fforymau yn gytbwys rhwng "rheolaeth tir" a diddordebau "hamddena", ae mae'r Fforymau, er eu bod yn eael eu gweinyddu gan Awdurdod Pare Cenedlaethol Eryri , yn annibynnol o'r Awdurdod, Mae barn y Fforwm Gogleddol a Deheuol yn amrywio yehydig, ae felly fe'i eyflwynir ar wahan.

Beth yw'r materion allweddol sydd a wne/o mynediad hamddena at ddwr mewndirol yng Nghymru a sut ddy/id ymdrin a'r materion hyn yn eich barn chi?

Yr oedd eonsensws:

- Mae materion sy'n codi o ganlyniad i fynediad at ddwr mewndirol yn peri pryderon i dtirfeddianwyr a phreswylwyr sydd a diddordebau eyfredol pysgota.
- Bydd sefydlu pwyntiau Mynediad ac Ymadael, sydcl wedi cael eu cynllunio a'u hariannu yn iawn, yn mynd yn bell i leihau effeithiau niweidiol gwell mynediad ar gyfer tirfeddianwyr, preswylwyr, hawliau pysgota presennol a chadwraeth. Gall cyfleusterau ar gyfer canwyr ddarparu cyfleoedd i amaethwyr arall!˜yfeirio. Oylai Fforymau Mynediad Lleol chwarae eu rhan yn natblygiad pwyntiau mynediad ac ymadael, ac ar unrhyw waharddiadau a chyfyngiadau.
- Oylid sicrhau fod digon o adnoddau ariannol ar gael ar gyfer cytundebau a chyfleusterau mynediad.
- Oylai canwio fod yn amodol fod digon o ddwr -fel sy'n wir gyda Chytundeb yr Ymddiriedolaeth Genedlaethol ar y Glaslyn -gyda !˜wybodaeth glir yn ei le ac ar wefannau.
- Oylid sicrhau fod hawliau a chyfrifoldebau yn glir ac fe ddylid cyflawni hynny trwy raglen addysgu'r cyhoedd a dylid cynhyrchu codau ymddvgiad -dylid rhoi'r pwyslais iawn ar yr angen i barchu diwylliant lleol a synwyrusrwydd.

Yn ychwanegol, cododd y pwyntiau a ganlyn yn ystod y drafodaeth, er nid oedd pawb yn cytuno yn gyfan gWbl gyda rhain:

- Yr angen am drwyddedu / daliad ar gyfer defnydd hamddena
- o ran gorfodi unrhyw god ymddygiad -cyfrifoldeb pwy fyddai hyn?

- Efallai y dylai afonydd a llynnoedd gael eu harchwilio er mwyn ystyried a ydynt yn addas ar gyfer hamddena, a dylid penderfynu ar unrhyw amodau mewn perthynas adefnydd, megis lefelau dwr,
- Gwnaeth yr aelod a oedd yn cynrychioli diddordebau pysgota y pwynt yn gryf y bydd yr asedau pysgota presennol yn colli gwerth, ac y bydd mwynhad pysgotwyr yn cael ei effeithio yn niweidiol. Yr oedd o'n credu y dylai pysgotwyr allu gweithredu gwaharddiadau ac eithriadau ar fathau eraill o ddefnydd, ond yr oedd yn derbyn mai dyma oedd barn grWp sydd adiddordeb penodol.
- Yn yr un modd, yr oedd aelodau ar yr "ochr" hamdclena o'r farn fod y sefyllfa fel ac y mae hi yn annerbyniol, a bod angen eglurder i bethau. Ivlae'r rhan fwyaf o bobl yn hapus i gyd -fodoli a byddant yn dilyn codau ymddygiad. Gwnaed cymhariaeth gyda phryderon a oedd yn bodoli cyn y cyflwynwyd Rhan 1 o'r Odeddf Cefn Gwlad a Hawliau Tramwy 2000 -yr hawl mynediad ar droed i Gefn Gwlad agored.

Bydd barn y Fforwm yn cael ei gyfleu i Bwyllgor Cynllunio a Mynediad Awdurdod Parc Cenedlaethol Eryri ar y 7fed o Hydref 2009, ac fe fydd ymateb yr Awdurdod yn cael ei ddanfon ymlaen i chi ar ol y dyddiad hwnnw.

Dogfen 2

Diolch i chi am y eyfle i ymateb i ymehwiliad y Pwyllgor Cynaliadwyedd ynghyleh mynediad at ddwr mewndirol, ae am ymestyn y dyddiad eau o'r 18 fed o Fedi er mwyn eaniatau ar gyfer amserlen eyfarfodydd y Fforwm. Ystyriodd y Fforwm holiadur yr ymehwiliad yn ei gyfarfod ar y 15ed Fedi, ae mae'r ymateb manwl isod.

Ymateb Fforwm Mynediad Lleol y De:

491.2. Beth yw eich diddordeb yn y mater o gael mynediad at ddyfr ffyrdd mewndirol?

Mae Awdurdod Pare Cenedlaethol Eryri yn gweinyddu dau Fforwm Mynediad Lleol, un yn y De a'r llall yng Ngogledd y Pare Cenedlaethol. Fe'i sefydlwyd yn unol a'r Ddeddf Cefn gwlad a Hawliau Tramwy 2000, a'u pwrpas yw eynghori'r awdul"dodau lleol, gan gynnwys Cynulliad Cenedlaethol Cymru, Cynghorau Gwynedd a Chonwy, Cyngor Cefn Gwlad Cymru, ae Awdurdod y Pare Cenedlaethol ar welliannau mynediad yn eu hardal hwy.

Mae aelodaeth y Fforymau yn gytbwys rhwng "rheolaeth tir" a diddordebau "hamddena", ae mae'r Fforymau, er ei fod yn eael ei weinyddu gan Awdurdod Pare Cenedlaethol Eryri , yn annibynnol o'r Awdurdod. Mae barn y Fforymau Gogleddol a Deheuol yn amrywio yehydig, ae felly fe'i eyflwynir ar wahan.

Beth yw'r materion allweddol sydd a wnelo mynediad hamddena at ddwr mewndirol yng Nghymru a sut ddyJid ymdrin a'rmaterion hyn yn ~~ich barn chi?

Yr oedd eonsensws:

- Mae mynediad yn golygu ystod o orehwylion gem gynnwys nofio a chwarae yn yr afonydd a'r llynnoedd, ond yr hyn sy'n eyflwyno'r broblem fwyaf yw hawliau eanwio vs. pysgota.
- Bydd angen peth rheoliad ar gyfer defnyddwyr newydd. Ni ddymunir gweld mynediad at bob dwr yn ddi-rwystr. Oylai'r nod anelu yn y pendraw at ddefnydd cynaliadwy.
- Oylid archwilio afonydd a llynnoedd yn ofalus i ystyried eu haddasrwydd. Gwnaed y gymhariaeth gydag ymarferiad a gyflawnwyd cyn i Hhan 1 o'r Odeddf Cefn Gwlad a Hawliau

Tramwy 2000 gael ei chyflwyno, a oedd yn rhoi'r hawl i'r cyhoedd gael hawl mynediad ar droed i Gefn Gwlad Agored a Thir Cornin Cofrestredig.

- Mae'r sefyllfa gyfredol yn peri problemau eisoes ac mae'n annerbyniol i rai tirfeddianwyr.
- Mae mwy o broblemau yn codi gyda ffensys ar hyd ymyl afonydd, hynny ydi ffensys sydd wedi cael eu codi er mwyn gwarchod cynefinoedd ac er mwyn atalllygredd. Mae mannau yfed ar gyfer gwartheg sy'n rhan o'r ffensy:s hyn yn gallu bod yn beryglus i ganwyr ac i wartheg petai'r ffensys yn cael eu codi l styrbio.
- Mae pwyntiau mynediad ac ymadael wedi eu cynllunio yn dda yn sylfaenol bwysig er mwyn diogelu diddordebau cadwraeth, tirfeddianwyr a physgotwyr.
- Ni ddylai atebolrwydd tirfeddianwyr a meddianwyr ~lynyddu o ganlyniad i'r hawliau mynediad newydd.
- Oylai'r nod anelu at lefelau da o gydweithrediad, acldysg a gwybodaeth yn y pendraw.
- Oylid cael rhaglen ar gyfer addysgu'r cyhoedd a chodau ymddygiad gyd-fynd gydag unrhyw hawliau newydd.
- Fe all fod yn angenrheidiol i warchod ceunentydd afonydd, sy'n cael eu defnyddio yn helaeth iawn gan ganolfannau awyr agored-rhag iddynt gael eu gor ddefnyddio a difrodi'r cynefinoedd a'r rhywogaethau.
- Bydd angen eglurder ynghylch pa sefydliadau fydd yn gyfrifol am bwyntiau mynediad ac ymadael a gorfodi'r cod ymddygiad ac unrhyw waharddiadau ac eithriadau.

Yn ychwanegol at hynny, pwysleisiodd Aelod sy'n cynrychioli hawliau pysgota ei bryder ynghylch y niwed a all ddigwydd i'r incwm sy'n cael ei greu gan bysgota yn yr ardal, a diddordebau cadwraeth (sy'n cael eu cefnogi gan bysgotwyr) a fyddai'n codi yn sgil rhagor o fynediad at afonydd a llynnoedd ar gyfer defnyddwyr newydd. Nododd fod pysgotwyr yn talu am drwydded genweiriol ac aelodaeth clybiau ac mae beilYaicl dwr yn rheoleiddio hyn. Mae ei farn ef yn cael ei barchu gan y Fforwm, ond fe dderbynnir mai dyma yw barn grWp sydd adiddordeb penodol.

Bydd barn y Fforwm yn cael ei gyfleu i Bwyllgor Cynllunio a Mynediad Awdurdod Parc Cenedlaethol Eryri ar y 7fed o Hydref 2009, ac fe fydd ymateb yr Awdurdod yn cael ei ddanfon ymlaen i chi ar ol y dyddiad hwnnw.

Document 1

Thank you for the opportunity to respond to the Sustainability Committee's inquiry into access to inland water, and for extending your deadline of 18th September to accommodate the Forum's meeting timetable. The Forum considered the inquiry questionnaire at its meeting on 7th September, and its response is detailed below.

Response of the North Snowdonia Local Access Forum:

491.3. What is your interest in the issue of access to inland waterways?

The Snowdonia National Park Authority administers two Local Access Forums, one for the South and one for the North of the National Park. They were established in accordance with the Countryside and Rights of Way Act 2000, and their purpose is to advise relevant authorities, including the National Assembly for Wales, Gwynedd and Conwy Councils, the Countryside Council for Wales, and the National Park Authority on improvements to access in their area.

Membership of the Forums is balanced between "land management" and "recreational" interests, and the Forums, although administered by the SNPA, are independent of the Authority. The views of the Northern and Southern Forums differ slightly, and are therefore submitted separately.

What are the key issues for recreational access to inland water in Wales and how would you like to see them addressed?

There was consensus that:

- Issues arising from access to inland water are mainly the concerns of landowners and occupiers and existing fishing interests.
- Access and Egress points, properly planned and resourced, will go far to reduce the harmful effects of improved access on landowners, occupiers, existing fishing rights and conservation. Facilities for canoeists might provide diversification opportunities for farmers. Local Access Forums should be involved in the development of access and egress points, and on any exclusions and restrictions.
- Adequate funding should be made available for access agreements and facilities.
- Canoeing should be dependent on sufficient water --as in the National Trust Glaslyn Agreement -with clear information in situ and on websites.
- Clarity on rights and responsibilities should be achieved through a public education programme and the production of codes of conduct -which should give due weight to the need to respect local culture and sensibilities.

In addition, the following points arose during discussion, though they were not universally agreed:

- The need for licensing/payment for recreational use
- Enforcement of any code of conduct -whose responsibility?
- Possible that rivers and lakes should be audited for suitability for recreation, and any conditions for use, such as water levels, determined.
- The member representing fishing interests made the point strongly that existing fishing assets will lose value, and that anglers' enjoyment will be adversely affected. He believed that anglers should be able to impose exclusions and restrictions on other use, but accepted that this was the view of a particular interest group.
- Similarly, members from the recreational "side" took the view that the existing state of affairs is unsatisfactory, and in need of clarification. Most people are happy to co-exist and will follow codes of conduct. A comparison was made with the concerns which preceded the

introduction of Part 1 of the Countryside and Rights of Way Act 2000 -the right of access on foot to Open Country.

The Forum's views will be communicated to the SNPA Planning and Access Committee at its meeting on 7th October 2009, and the Authority's response will be forwarded to you after that date.

Document 2

Thank you for the opportunity to respond to the Sustainability Committee's inquiry into access to inland water, and for extending your deadline of 18th September to accommodate the Forum's meeting timetable, The Forum considered the inquiry questionnaire at its meeting on 15th September, and its response is detailed below.

Response of the South Snowdonia Local Access Forum:

491.4. What is your interest in the issue of access to inland waterways?

The Snowdonia National Park Authority administers two Local Access Forums, one for the South and one for the North of the National Park. They were established in accordance with the Countryside and Rights of Way Act 2000, and their purpose is to advise relevant authorities, including the National Assembly for Wales, Gwynedd and Conwy Councils, the Countryside Council for Wales, and the National Park Authority on improvements to access in their area.

Membership of the Forums is balanced between "land management" and "recreational" interests, and the Forums, although administered by the SNPA, are independent of the Authority. The views of the Northern and Southern Forums differ slightly, and are therefore submitted separately.

What are the key issues for recreational access to inland water in Wales and how would you like to see them addressed?

There was consensus that:

- Access is for a range of pursuits, including swirnming and playing in rivers and lakes, but canoeing vs. fishing rights poses the biggest problem.
- Some regulation will be necessary for new users. Unrestricted access to all waters is not desirable. The overall aim should be their sustainable use.
- Rivers and lakes should be carefully audited for suitability. The comparison was made with the mapping exercise carried out prior to the introduction of Part 1 of the Countryside and Rights of Way Act 2000, which gave the public the right of access on foot to Open Country and Registered Common Land.
- The existing situation is already problematic and unacceptable for some landowners.
- Additional problems are posed by riverside fencing erected to protect habitat and to prevent pollution. Cattle drinking spots in these fences are potentially dangerous to canoeists and to cattle if fencing is lifted/disturbed.
- Adequate and well planned access and egress poil1ts are of primary importance to safeguard the interests of conservation, landowners and fishermen.
- Landowners' and occupiers' liability should not increase as a result of any new access rights.
- The overall aim should be for good levels of co-operation, education and information.
- A public education programme and codes of conduct will be needed to accompany any new rights.
- River gorges, heavily used by some outdoor education centres may need protection from over use and damage to habitats and species.

- Clarity will be needed as to the organisations responsible for access and egress points and the enforcement of codes of conduct and any restrictions and exclusions.

In addition, the Member representing fishing interests stressed his concern about the potential harm to income generated by angling in the area, and to conservation interests (which are supported by fishermen) arising from increased access to rivers and lakes for new users. He noted that fishermen pay for rod licences and club membership, and are regulated by water bailiffs. His views are respected by the Forum, but it is accepted that they are the standpoint of a particular interest group.

The Forum's views will be communicated to the SNPA Planning and Access Committee at its meeting on 7th October 2009, and the Authority's response will be forwarded to you after that date.