

## **MEMORANDUM TO THE BOARD**

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### **CHIEF EXECUTIVE'S REPORT – MARCH 2008**

#### **1. STAKEHOLDER RELATIONS**

##### **1.1 Scotland - Meetings with Politicians**

On 18 February, Cabinet Secretary for Finance & Sustainable Growth, John Swinney MSP, toured some of West Dunbartonshire's regeneration areas including Bowling Basin and Dumbarton Harbour. The Director, Scotland together with BWS partners, West Dunbartonshire Council and Local Enterprise shared the vision to create a regeneration project that will transform the Strathleven corridor and West Dunbartonshire. The proposed Lomond Canal linking Loch Lomond to the River Clyde would bring investment, improve the environment and greatly protect the area from the risk of flooding. Whilst still at the early feasibility stage, the partnership is focusing on the delivery of this long term project and John Swinney was supportive of the partnerships aspirations.

The Director, Scotland and Campbell Christie met with Councillor Tim McKay, who has been appointed the Canal Champion to advocate and promote the Union canal as a leisure amenity and waterspace to be enjoyed by local communities and visitors to Edinburgh. City of Edinburgh Council has set up the Edinburgh Canal Development Group as an advisory group with BWS as a member.

##### **1.2 British Waterways Scotland Group**

The British Waterways Scotland Group met at the Crinan Canal on 5/6 March followed by a public meeting for the Ardrishaig community. A new partnership to progress development plans in the area surrounding the Crinan Canal was unveiled.

The Ardrishaig Masterplan, developed in partnership with Ardrishaig's Community, Argyll and Bute Council, HIE Argyll and the Islands and British Waterways Scotland, provides a development framework which will guide the redevelopment of Ardrishaig's waterfront. Integral to the plan is the opportunity to enhance the built environment, maximising residential, business, leisure, tourist and yachting potential.

An announcement from the Scottish Government regarding the appointment of Campbell's successor is expected shortly. The recruitment of replacement BWSG members is ongoing and a shortlist of candidates is being discussed.

##### **1.3 Visit of HRH the Prince of Wales**

H.R.H. The Prince of Wales visited Burnley on 21 February, with BW represented by Tony Hales, Richard Curtis and Ian Easby. The Royal Party travelled along the Leeds & Liverpool aboard a Foulridge Cruises vessel, which afforded Tony and Richard an opportunity to showcase the proposed development of Finsley Gate Wharf in addition to outlining our broader strategy for the future of the waterways.

## **1.4 Chinese Delegation**

West Midlands made a presentation to a delegation from Yangzhou province in China when they came to Birmingham as part of a European visit. With a canal system of their own, the delegation was interested in how waterways had contributed to regeneration in Birmingham.

## **1.5 Curdworth Eco-town**

Consultants promoting the new Curdworth *eco-town* adjacent to BW's Fradley site have been in contact with the waterway. (*Eco-towns* are a national planning initiative launched by the Prime Minister to help resolve the UK's burgeoning housing number requirements). The development would involve building up to 5,000 dwellings.

## **2. MARKETING & CUSTOMER SERVICE**

### **2.1 Mooring Tender Trial**

We have issued a preliminary scoping paper on the consultation to give boating stakeholders the opportunity to help us shape the consultation programme. We intend to consult on the broad questions of "how should BW set the price of its moorings?" and "how should vacancies be allocated?". The consultation paper will then lay out our assessment of the costs and benefits of the full range of feasible options for each.

To the end of February, 106 vacancies had been tendered attracting an average of 3.2 tenders each (an improvement on the 2.5 recorded last month).

### **2.2 Marketing boating holidays**

We are planning to extend our consumer marketing to run a small test marketing campaign for boating holidays in partnership with leading boat operators, Hoseasons, Blakes and Drifters. The test activity will run in mid-Summer 2008 and will be reviewed in time for the results to inform trade marketing budgets for 2009.

## **3. STRATEGIC PEOPLE ISSUES**

### **3.1 Leadership Development**

Five leadership development centres have now been completed and one more will take place late in March. When completed around 70 senior managers and others with potential will have completed the Centre for High Performance Development (CHPD) diagnostic processes. The preparation of personal development plans will be a key part of the forthcoming senior management performance & development review process.

### **3.2 Employee Recognition**

The annual National Customer Service Award was presented by the Chief Executive to North West waterway operatives and brothers Anthony and Michael Bush for their excellent response to a boating customer in difficulty.

An invitation to a Royal Garden Party has been accepted by Monmouth & Brecon Operations Supervisor Kevin Philips and his wife. Kevin was first on the scene during the autumn 2007 breach and subsequently co-ordinated many of the early emergency response actions.

### **3.3 Employee Survey**

Our annual survey of employee attitudes, satisfaction and motivation is underway. All our people are invited to complete an online or hard copy questionnaire and results will be available during April. As in previous years most questions allow tracking of performance in a range of key metrics.

### **3.4 Senior management changes**

- Group Accounting Manager, Shared Services Centre. I am pleased to report that an internal promotion has resulted in Paul Ashwell commencing in post.
- Restoration Manager, Technical Department. Martin Clarke who has project managed the Liverpool Link and Manchester, Bolton & Bury Canal restorations has submitted his resignation. He is leaving to join Jacobs technical services consultancy as Regional Director North for Development Infrastructure. Jim Stirling is reviewing how we can best proceed in managing these projects to a conclusion.

## **4. LEISURE**

### **4.1 IWA Festivals 2009**

Two East Midlands sites have been selected for IWA Rally's in 2009. A National Rally will be held at Red Hill Marina on the River Soar in August and a Campaign Rally is to be held on the Chesterfield Canal in May. The Business Unit team are beginning to plan for the operational input required.

### **4.2 London – Mooring Customers**

Letters have been sent out to all of London mooring customers informing them of our intention to enforce the clause in our mooring agreements that bars the transfer of boats on moorings when the boat is sold. Customers were invited to respond with comments and details of any premiums paid when purchasing their boat. A large number of responses have been received either directly or via the Regent's Canal Boat Owners Association (RCBOA) who are representing approximately 100 customers. An initial exploratory meeting has been held with RCBOA to discuss the implications of the letter recently sent out. The meeting was amicable and beneficial with information regarding historical precedent being provided by RCBOA. A meeting with BW Legal Department has been scheduled for beginning of March to discuss a way forward.

### **4.3 Café at Fradley**

A lease for the café at Fradley will soon be finalised with the tenant taking occupation before Easter if possible. A sign has been erected at Hatton café site advertising a similar lease offer.

### **4.4 Anderton Boat Lift**

The refurbishment of the Boat Lift exhibition will be completed for reopening to the public on the 7<sup>th</sup> March.

### **4.5 Clarence Dock, Leeds**

Work is nearing completion on the fit out of the leisure and residential moorings. Planning permission for the latter has now been obtained. It is anticipated that the tendering process for the first moorings will begin in March.

Leeds City Cruisers will be the first B2B customer to take up moorings at Clarence Dock. From 21 March they intend to run a daytime water taxi between Clarence Dock and the City Centre. In the evenings, the boat will be available for private conference/dining hire.

#### **4.6 Stoke Bruerne Destination Improvements**

Following the success in securing a £250,000 grant from Northamptonshire Enterprise Ltd (part of EMDA) the Business Unit funded further essential works to the total value of £500,000. These works include high quality towpath upgrades, car park resurfacing, access path improvements (to DDA standards) toilet facility upgrades and some interpretation. These high profile enhancements will be complete by end March 2008.

#### **4.7 Fishing Rights purchase at Tring Reservoirs**

Terms have been agreed between the Business Unit and Tring Park Estate (current owners of the sporting rights) to purchase the sporting rights, completion is likely before the main fishing season starts in April. This, along with exploration of potential car parking expansion, on land also owned by Tring Park Estates, will add control and future income streams to BWs interests in the Tring Reservoirs complex.

Discussions with wildlife groups will shortly ensue to broaden their involvement in this important SSSI, which, going forward may include a wildlife centre.

### **5. RESTORATION/REGENERATION**

#### **5.1 HLF Award - Sustrans**

The Connect 2 funding could deliver works of £1.4m to the East Midlands Business Unit. The Big Lottery award is worth £700k and Leicestershire County Council and partners will provide £700k.

Agreement in principle has been reached about which parts of the project will be delivered by the partners. We expect to have further meeting with the County Council this month to discuss financial contributions, access licences and transfer of maintenance obligations to the Council for Thurmaston Lock and River Wreake footbridges.

The project is important insofar as the Soar has had little or no external funding investment and contains bridge structures which are regularly the subject of complaints by disabled people and which would not be improved in the foreseeable future without the intervention of third parties.

### **6. CORPORATE SOCIAL RESPONSIBILITY**

#### **6.1 Merlyn Reece Gardens**

A successful partnership between BW, Leeds City Council and Aire Valley Regeneration has created a new landscaped community space (and improvements to BW land) at Knostrop Flood Lock on the River Aire, Leeds. The facility includes a seating area with interpretation of the history of the Aire & Calder Navigation at the heart of the Aire Valley Regeneration Area. The opening ceremony will be conducted in April by Lady Reece and Hilary Benn MP.

## **7. PROPERTY**

### **7.1 Rochdale Canal**

We have agreed to grant the rights to oversail the Rochdale Canal and construct a bridge crossing at Albion Street in Manchester by virtue of the agreement with Property Alliance Group which must be complete no later than 5<sup>th</sup> October 2008. This will result in a premium of just over £1m being paid to British Waterways, of which £822k will remain with us, the rest being paid to Town Centre Securities as part of the deal done with them for the transfer of the Rochdale Canal Company to TWT. This consideration is guaranteed and will be accrued for in this financial year.

### **7.2 Thrupp Operational Yard**

Following a South East Business Unit review of operational property needs Thrupp Yard on the Oxford Canal was highlighted as too restrictive for BW's needs. A new tenant has been secured, Oxfordshire Narrowboats, who will be opening as a hire boat centre (this year) and subsequently develop a visitor centre/coffee shop at the location.

### **7.3 Water Space Strategy, London Docklands**

The water space strategy work undertaken by Sir Terry Farrell for British Waterways and referred to in my last report has been given to planners from the London Borough of Tower Hamlets. The work was well received with positive comments being made. Collaboration with the Council is continuing with the aim being to achieve a formal status for the strategy such as SPD.

### **7.4 New Docklands Light Railway Station**

The construction of the new South Quay DLR station on the Isle of Dogs has commenced. The station will open to the public in summer 2009 and will provide a transport gateway into the dockside developments currently under construction around Millwall Inner Docks. We are also discussing commercial opportunities related to the new station with DLR and those around the adjacent Harbour Island development with the owners. These initiatives will fit in with the proposed water space strategy mentioned above.

## **8. LEGAL AND REGULATORY ISSUES**

### **8.1 Waterways Ombudsman**

The Waterways Ombudsman Committee (on which BW has minority representation) met earlier this month and appointed Hilary Bainbridge to serve as the Ombudsman for a second term of three years. The rules of the Scheme permit such an appointment without competition on one occasion only. The reappointment was proposed by Ann Davies (BWAFA appointed member of the Committee) and seconded by Michael Reddy (independent member of the Committee) and carried unanimously. At the same meeting, Professor Jeffrey Jowell QC was reappointed by the Committee as its chairman.

The Ombudsman reported that her workload had declined considerably in recent months with only one complaint received by her in the third quarter of her reporting year. BW's complaint statistics suggest that new complaints are moving through system and such a very low level will not be sustained. Nevertheless the rate of conversion of complaints from stage one to stage two of the internal complaints procedure, and then from stage two of the ICP to the Ombudsman does appear to be declining overall at present.

## **8.2 Planning Bill**

During the Commons Committee stage of this Bill, following representations by BW, Alun Michael MP raised in the debate on the provisions concerning the proposed Community Infrastructure Levy (CIL) the position of waterways as potential beneficiaries.

The CIL proposals (which replace the earlier proposals for Planning Gain Supplement) were not included in the pre-legislative consultation but first appeared on publication of the Bill. Most of the legislative regime for CIL will be contained in regulations, but we have concerns that the enabling provisions in the Bill leave in doubt whether the improvement or enhancement of existing infrastructure affected by development will qualify for payment from the CIL as well as the provision of new infrastructure.

The intervention of Alun Michael at Committee stage resulted in a commitment by the Minister to review the position and the Minister has since written that official guidance will make clear that existing infrastructure may benefit. Since however such guidance does not have the force of law we are seeking the advice of Counsel as to whether it is still preferable to seek an amendment to the Bill at the Lords committee stage.

## **8.3 Upper Lode Lock – Diving Fatality**

The inquest into the death of David Moore in October 2004 when diving at Upper Lode Lock (River Severn) in support of a lock gate replacement project is now to be heard in May this year and is expected to last for 8 days. We have now had sight of the experts' reports into the incident commissioned by the Coroner. These place primary responsibility for the death of David Moore on the diving contractor and dive supervisor.

## **8.4 Tringford Reservoirs – Blue Green Algae Prosecution**

The prosecution of BW by the EA in connection with the escape of blue-green algae and/or deoxygenated water from the Tringford reservoirs to the Grand Union canal in August & September 2005 will now take place over two weeks in December 2008. Both BW and the EA have submitted extensive expert evidence to the court though it is likely that the outcome will turn on legal arguments as to whether the reservoirs and canal they serve are one "controlled water". An adverse outcome would have very considerable operational implications for BW

## **8.5 Malicious Damage to Rochdale Canal – Imprisonment**

A farmer with land adjacent to the Rochdale Canal has on several occasions maliciously damaged the canal using his JCB (causing closure and costly repair) in furtherance of a dispute with BW over the compulsory purchase of land by the local authority for the purpose of the canal's restoration. BW inherited the obligation to pay compensation on taking over the restoration. Notwithstanding proper offers of compensation, and offers to submit to arbitration and alternative dispute resolution (in addition to the available statutory processes) the farmer has repeatedly caused substantial damage.

In March 2007 BW obtained an injunction against the farmer which has been breached twice (in April 2007 and January 2008). On the first occasion a suspended sentence of imprisonment was imposed for contempt of court – following the second occasion the farmer was at the end of February, on application by BW, sentenced to three months imprisonment.

We have now been approached by members of the farmer's family who seek to come to a final settlement with BW whilst the farmer is in prison. The Customer Operations Director and Legal Director will be meeting family members later this month to try and find a sustainable resolution to this long standing dispute.

## **8.6 Crossrail**

We have lodged a petition on the Crossrail Bill with the House of Lords. The petition seeks to address a number of issues affecting British Waterways along the route of the proposed system. A matter of particular concern is extent of navigable water remaining alongside the station in North branch Dock on the Isle of Dogs when the station box is completed and temporary works removed. We are discussing these matters with Canary Wharf Contractors Ltd, who will be constructing the station, and they are seeking to address our concerns. We are scheduled to appear before Select Committee in the Lords on 8<sup>th</sup> May, should matters remain unresolved.

## **8.7 Corporate Manslaughter and Corporate Homicide Act 2007**

The Corporate Manslaughter and Corporate Homicide Act 2007 will come into force on 6 April 2008, across the UK. The Act sets out a new offence ('corporate manslaughter' in England and Wales; 'corporate homicide' in Scotland) for convicting an organisation where a gross failure in the way activities were managed or organised results in a person's death.

An organisation will be guilty of the new offence if the way in which its activities are managed or organised causes a death and amounts to a gross breach of a duty of care to the deceased. A substantial part of the failure within the organisation must have been at a senior level.

It is the organisation itself that will face prosecution, not individuals. Prosecutions against individuals can continue to be taken under other (existing) law where there is sufficient evidence and it is considered by the Crown to be in the public interest to do so.

An organisation guilty of the offence will be liable to an unlimited fine (probably a percentage of turn-over - sentencing guidelines are expected in autumn 2008). The Act also provides for courts to impose a publicity order, requiring the organisation to publicise details of its conviction and fine. Courts may also require an organisation to take steps to address the failures behind the death (a remedial order).

Ministry of Justice guidance states "The Government expects that cases of corporate manslaughter/homicide following a death at work will be rare as the new offence is intended to cover only the worst instances of failure across an organisation to manage health and safety properly."

## **9. CORE WATERWAY**

### **9.1 HMS Kellington**

After lengthy discussions, BW and Stockton Borough Council have brokered a deal with the MOD who have agreed to use some of their 'training budget' as works in kind, to facilitate the reduction and removal of the mine-sweeper from the Tees. It will be moved to the BW events car park where it will be broken up and finally removed. Stockton Borough Council have also agreed to help fund the project. All parties (including the EA) have agreed to work on a project plan which will deal with this longstanding issue. The contractor, Able UK, will work for free and keep the salvage.

## **9.2 Fire at Camden Canal Market**

The fire at Camden Canal Market on the 9<sup>th</sup> February 2008 has resulted in closure of the market area to the east of the road bridge but fortunately has not caused damage to the towpath or canal infrastructure. BW London staff were in attendance during the morning of 10<sup>th</sup> February and the canal and towpath were closed for a while although the canal was reopened in the afternoon of the 10<sup>th</sup>. It was not necessary for the fire brigade to abstract water from the canal to fight the fire.

## **9.3 Annual Lockage Report**

The Annual Lockage Report which summarises the network usage of our locks is attached.

**ROBIN EVANS**