

## **MEMORANDUM TO THE BOARD**

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### **CHIEF EXECUTIVE'S REPORT – JANUARY 2009**

#### **1. HEALTH & SAFETY ISSUES AND RISK**

##### **1.1 Annual Health and Safety Management Report**

The Annual Health and Safety Report is attached at Appendix 1.

The three major issues during the year were the implementation of Minimum Safety Standards, the increase in reportable accidents and audit findings of poor compliance with standards and procedures.

We have taken action to overcome all these areas of concern and we believe we shall be able to demonstrate improvement over the coming months.

The Audit Committee has taken particular interest in the level of non-compliance, particularly in safety related matters. I have been asked to provide a monthly report on management actions to achieve significant change in compliance.

Further details are contained in the Appendix.

#### **2. STAKEHOLDER RELATIONS**

##### **2.1 Relations with Defra**

On the 25 November the Minister came on a boat trip to the Olympic site and our new lock. We called into see David Higgins of the ODA. The Minister was impressed with the size and scope of our project and I think with our close relationship with the ODA.

The Chairman and I also met the Minister for an hour in his office to talk through our emerging Strategy and Operational Efficiency Programme. The Minister was very engaged and positive about helping us achieve our aims.

##### **2.2 Operational Efficiency Programme**

The Chairman and I met with Gerry Grimstone in early December. He was open and keen to assure us the review was not just about removing assets but also about considering new ways to operate.

A formal Steering Committee is now in place comprising Shareholder Executive, Treasury, Defra and BW. Shareholder Executive are in the chair. We've had a site visit to Leeds, Wakefield and Sheffield to ensure Shareholder Executive and Treasury understand what the outputs are from our property portfolio.

We've had a subsequent meeting where we gave further information on what is within the portfolio and what its full purpose is within BW.

## **2.3 Scotland**

During November Steve Dunlop, Director, Scotland attended an Institute of Directors dinner at which John Swinney MSP, Cabinet Secretary for Finance & Sustainable Growth talked to a small group of business leaders in Edinburgh about Government policy and strategy going forward. BWS achieved an excellent profile at this dinner. Steve also met Stewart Maxwell MSP, Minister for Communities and Sport to discuss the BWS contribution to regeneration across Scotland together with Margaret Horn from our Scottish Government sponsor team. In addition Steve met Michael Matheson MSP, member for Falkirk West, to update him on the HELIX project.

During December Steve accompanied Tony Hales and Campbell Christie to a reception hosted by Speaker Michael Martin following the State Opening of Parliament. This reception enabled engagement with a broad range of MPs, in particular, it was encouraging to hear, in discussion with Alistair Darling MP, that he watches with interest BW's progress in developing the canal corridor within his constituency in Edinburgh. A follow up meeting with Alistair Darling has been requested.

## **2.4 Wales**

We have undertaken a number of public relations events in Wales to build relationships within the Welsh Assembly Government and promote Waterways within Wales.

Most notable was a meeting between Wales First Minister Rhodri Morgan, BW Board Member John Bridgeman and Julie Sharman. Matters discussed included funding of the Monmouthshire & Brecon Canal repairs and restoration; restoration of the Swansea, Neath and Tennant Canals; The World Heritage Site Bid at Pontcysyllte Aqueduct and issues facing the Montgomery Canal.

Of significance too was a meeting between Minister for Heritage Alun Ffred Jones and Julie Sharman where similar matters were raised. We are hoping that the Minister will be involved in the reopening launch of the Monmouthshire & Brecon Canal.

Other events/meetings include the third meeting of the Strategic Action Group for the Monmouthshire & Brecon Canal; a successful dinner hosted by John Bridgman with key stakeholders (head of Visit Wales, HLF Wales, CADW) to develop Johns' relationships in Wales as board member for Wales; a dinner at the Welsh Politician of the Year Award ceremony; and photo call attended by a large number of Assembly Members at the quarterly Welsh Assembly cross Party Group on Waterways in support of the World Heritage Site Bid.

## **2.5 Stourbridge Canal Re-opening**

The formal re-opening of the breached Stourbridge Canal has taken place. The repair was carried out within 100 days of the breach occurring and in budget (£650k). The opening was carried out by the Chairman and Linda Waltho MP, deputy minister for the region. The MP for the actual breach location (Sir Patrick Cormack MP) was not available due to illness. Media coverage included a live interview with Tony Harvey (General Manager for the West Midlands) on local radio and all was upbeat about the way BW had tackled the work.

### 3. MARKETING & CUSTOMER SERVICE

#### 3.1 Media & Communications

Stories worked on during this period include: license fee announcement; license evasion clamp-down; wildlife survey results; water-cooling initiative; winter safety press release; and ministerial visit to Prescott Lock.

We have agreed a four page (spread over 2 days) *Focus Report* on inland waterways with *The Times*. This will be published on 28 and 29 January. Its content will emphasise the success of the waterways to date and showcase the importance of the integrated property portfolio as part of our current success and future plans.

#### 3.2 Customer Service

##### 3.2.1 Customer Service Report

The customer service report is now prepared three times each year, at the end of periods four, eight and twelve. A head line summary report to end November 2008 can be found in the current orange book on page 5. The comments below summarise key points from the report:

**Volume of visitors & visits** – both up year to date by 3% & 5% respectively. One reason is that the *Yours to Enjoy Campaign* is showing positive results

**Complaints** – The Waterway Ombudsman has not found against BW so far this year. Overall volume of complaints is down and 95% of complaints are dealt with within fifteen days. The average response time for second level complaints dealt with by directors is almost three times that for first level complaints because of the need to familiarise and the extensive files at second level.

**People standards 82% (Aug to Nov) & 78% (Year to Nov)** 9% improvement on the previous period represents good progress. The impact of name badges, some improvements in telephone answering and better acknowledgment of customers are beginning to show through

**Safety standards 93% (Aug to Nov) & 91% (Year to Nov)** 3% Improvement over previous period. March 2009 is the target date for completion of some elements of the minimum safety standards. Others have target completion dates in 2010, therefore 100% cannot currently be achieved..

**Performance standards 65% (Aug to Nov) & 67% (Year to Nov)** Down 13% on the previous period. The quality of written correspondence, e mail / telephone call response times and dog bins / emptying are the main reasons for poor performance. These are all areas for urgent line management attention

**Customer satisfaction** – Green light from holiday boaters, amber for towpath users and visitors to destinations. Note the red light poor score from Boat Owners which is due to a combination of factors including unpopularity of the mooring tender trial and lock bollard installation, poor service in boat licensing, licence fee increases and the knowledge that BW maintenance and works programmes are under resourced. Significant improvements in boat licensing are well advanced.

##### 3.2.2 Customer contact centre & issuing boat licences

Two linked projects with the twin objectives of improving customer service and saving money are underway.

An appraisal of the benefits of developing a single customer contact centre is being done by a small project team which will make recommendations to directors. Recent customer feedback suggests that a centralised process for dealing with customer enquiries, comments and notifications could be a positive step to take and one that could take huge advantage of SAP CRM, which is currently being piloted in Scotland and the boat licensing / Watford customer service teams.

Linked to this is an appraisal of methods by which customers apply for and renew their boat licenses. Only 19% of all boating customers currently use the online option - around 54% of eligible customers at this time. Developments in the boat safety scheme will shortly make its safety certificate data base available to read securely on line and this will increase the capacity for web renewals via waterscape.com very considerably. There are close comparisons to DVLA's road fund licence systems, and MoT certificates albeit at one thousandth of the scale.

### **3.3 Marketing**

#### **3.3.1 Increasing visitor numbers - 2009 Marketing Campaign**

In total, 16 destinations (growing from 10 in 2008) will be covered in this year's marketing campaign. The new destinations are: Banbury, Brentford, Inverness, Leeds, Reading and Newbury.

The 'yours to enjoy' creative approach will continue with a mix of doordrops, outdoor activity, train advertising, PR and new for this year we will be using buses (outside rear and side panels) in Milton Keynes, Newbury and Stoke. We will also continue to re-brand our company vehicles.

To reduce costs research is being scaled back this year but we will continue to test the effectiveness of the campaign through our ped counter data and some research we are able to do at low cost through 'Step check' the company that validates the door drops.

#### **3.3.2 Future marketing strategy**

Work is starting to flesh out the marketing concepts presented to the Board as part of the strategic review paper in November. Part of the service provided by our agency, McCann Erickson, is monitoring of future trends. Their latest work, a report on reaction to the economic downturn, titled *Moodier Britain*, is to form the basis of a 'blue sky' discussion this month between the agency and the marketing team. Tony Hales and Robin Evans will also take part.

#### **3.3.3 Annual meeting**

The 2009 annual meeting has been confirmed for Tuesday 6 October at Austin Court in Birmingham.

### **3.4 Internal communications**

#### **3.4.1 Strategic Review**

A detailed strategic review internal communications plan and timeline has been produced. Communications will include: staff briefings, a DVD, a booklet for every employee which will include information on the new strategy along with structure charts and details on the consultation process, director visits to every business unit and an e-mail and text messaging service for staff to send in their questions and comments.

## **4. STRATEGIC PEOPLE ISSUES**

### **4.1 Vacancy Management Process**

We have introduced a Vacancy Management Process from 1 December to contain employment costs. All recruitment has to be authorised by Directors.

### **4.2 Pensions**

The revised BW Pension Fund Trust Deed that enables implementation of the SMART pension provisions agreed by the Board at its meeting in March 2008 (minute 08/32 refers) was executed under the rule for urgent Board business following the agreement of the Chairman and Executive Directors in Committee.

## **5. LEISURE**

### **5.1 Licence enforcement**

The results of the National Boat Check were published just before Christmas. The evasion rate reduced from 10.4% in November 2007 to 6.8% in November 2008.

### **5.2 New Marinas**

New expressions of interest are still being received in spite of the economic climate. The next three months will be crucial in indicating whether those with planning consent do in fact move to construction. The New Marinas Unit is already operating with a temporary reduction in staffing and we are keeping costs under close review.

### **5.3 Operator Licences**

A project has been launched to improve the structure and fairness of boat licensing for businesses (eg hireboats or trip boats) . A consultative group representing all relevant trade sectors has been established to inform the development of new standard terms.

### **5.4 Boating holidays**

There is serious concern within the hire boat trade about prospects for business in 2009. We will be developing, jointly with the trade, the hireboat marketing campaign outlined in the November board report to try to improve the situation.

### **5.5 Standedge**

Visitor income increased by 4.8% over the season. The final week of the season saw a children's' book fair and children's' arts and crafts sessions and ended with a Halloween event. November saw a new volunteer start at Standedge, Liz Hartley, who joined the team and has begun to help us organise events for the 2009 season. Plans continue on the changes to the tunnel operation and new work with the National Trust on the "Marsden Moor Heritage Trail" will see Standedge as a gateway from Marsden village onto the moors. Tenders have been received for our tunnel improvement works and these are being considered prior to submission of the "spend to save" appropriation request.

## **6. LEGAL AND SECRETARIAT ISSUES**

### **6.1 Subsidiary and JV Constitutions – Company law changes**

Certain provisions of the Companies Act 2006 came into force last autumn that require new procedures to be observed in the management of potential conflicts of interest of directors serving on the Boards of limited companies.

Most BW subsidiaries or JVs have potential for serving directors to have interests that conflict with the interests of the company. The most obvious is BW Pension Trustees Ltd where trustee directors are appointed by specific constituencies and also may themselves be beneficiaries. Directors of JVs are avowedly serving to represent the interests of partners notwithstanding their director duties to the JV company itself.

Section 175 of the Companies Act 2006 provides that in general directors of companies must avoid conflicts of interest but that requirement is not infringed where the directors of the company in question collectively authorise the conflict. Such authorisation may not be given if the company constitution prohibits it and it is considered best practice to explicitly enable boards to give such authorisation in company constitutions. Accordingly it is intended to amend the constitutions of all BW subsidiaries and associated companies (including JVs) enabling directors of those companies to authorise service as a director notwithstanding the existence of an interest that actually or potentially conflicts with the interests of the company.

The amendment will be by various written resolutions each of which will require signature by an appointed corporate representative of British Waterways Board. The Board are RECOMMENDED to pass the resolution at Appendix 2 to this report which appoints the Secretary to the Board as its corporate representative for that purpose.

### **6.2 Board Evaluation**

The Chairman and the Legal Director (as Secretary to the Board) have been considering the appropriate methodology for Board Evaluation as required by the Combined Code for Corporate Governance. The last evaluation of Board effectiveness was conducted by an external evaluator (Professor Stuart Timperley) and this year it is considered appropriate to return to evaluation by questionnaire, albeit with a brand new template questionnaire. As before, Board members will be asked to return their questionnaires to the Secretary of the Board who will hold them on a strictly confidential basis and will consolidate and anonymise all returns before any circulation to the Chairman and Board members.

Subject to the demands of the HM Treasury OEP exercise, it is intended that the evaluation exercise will be timed so that the results can be considered, at least on an initial basis, at the March Board meeting.

### **6.3 Brentford – Adverse Possession Litigation**

There has been a history of numerous attempts of asserting claims of adverse possession of BW property in the Brentford area, each of which have implications for operations and/or development potential. Surrounding developers have, in a number of instances, paid significant sums to 'buy out' persons asserting such possession where the property claimed overlaps BW and adjoining property. Such actions have been unhelpful to BW.

In December last year judgment was handed down in the latest High Court action and BW was, as in earlier cases, successful in having the adverse claim dismissed. Once again, the value of archive material was a key component in the successful outcome to the case. The legal costs incurred are very considerably less than the amounts paid in settlement by adjoining land owners.

The same litigant, in a separate case, is seeking to assert free rights to moor and use boats on the lower River Brent section of the Grand Union Canal by reference to the Grand Junction Canal Act 1793. The case is due to come to trial in the last week of January.

#### **6.4 Birkenburn Reservoir - Scottish Environment Protection Agency (SEPA) Prosecution**

As reported to the Board previously, BW Scotland, whilst carrying out essential maintenance on 11 October 2007 at its water supply reservoir for the Forth & Clyde Canal, Birkenburn Reservoir near Kilsyth, unintentionally failed to comply with a condition of a Water Use Licence. As a result of these activities, for a short period, silt was released downstream into the Garrell Burn.

Following the incident, British Waterways Scotland co-operated fully with SEPA and did its utmost to mitigate the impacts with a clean-up operation. BWS believed that there was no long lasting detrimental impact on the environment. However, SEPA reported the incident to the Procurator Fiscal and BWS pleaded guilty to the charge of failing to comply with a condition of a Water Use Licence. At the hearing on 23 December 2008 the Sheriff expressed the view that this was “not the most serious incident” and that he characterised it as a “one-off technicality” resulting in a purely nominal fine of £500.

As custodians of the Scottish Canal network, BWS is seeking to work more closely with the SEPA to ensure best practice for our operations going forward.

### **7. RESTORATION/REGENERATION**

#### **7.1 The Helix**

The formal review led by the professional advisers procured for the HELIX project has been completed and submitted to the BIG Lottery for consideration. The detailed review has ensured that the project accords with the committed capital funding of £40.5m and demonstrates best value to deliver the HELIX within cost and programme. A presentation by the HELIX partnership to the BIG Lottery to seek their endorsement to the scheme that is more deliverable, more aligned with outcomes and community commitments and offers enhanced levels of engagement is scheduled for 15<sup>th</sup> January.

#### **7.2 Foxton Locks Masterplan consultants appointed**

British Waterways has commissioned leisure & tourism consultants Britton McGrath to develop a comprehensive framework for achieving the vision for the future of the Foxton Locks visitor attraction over the next 10 years, with a full working boat lift at its heart.

With a six-month timescale, this project will demonstrate the tourism impact of rebuilding the boat lift, present the business case for doing so, and develop the concept to Masterplan level.

## **8. CORE WATERWAY**

### **8.1 Repairs to the Monmouthshire and Brecon Canal**

68% of the 16 mile works length has been rewatered and the towpath is now fully open throughout the canal. All construction areas are now clear with access points reinstated. The canal remains out of water between bridges 98 and 118.

Re-watering will continue through January along with snagging works and site re-instatement. We have begun to organise the movement and craneage of boats from the various temporary storage locations back to the canal.

The forecast total cost for the project is now below £7.3M, within the budget original £7.5M.

### **8.2 West Midlands – Light Aeroplane Crash**

The light aeroplane crash on 2 January which received major coverage in the media caused significant work for the local call out team. The plane crashed into overhead power cables and Network Rail land but passengers' body parts were strewn across an area including the Trent & Mersey Canal which passed nearby/underneath the rail tracks. The Customer Operations Manager and General Manager were quickly alerted and as the incident was relatively low key for BW we managed involvement locally. The canal was closed for around 48 hours.

### **8.3 Lune Aqueduct Leak – Lancaster Canal**

An emergency project was commenced in December following the emergence of significant water leakage from the Lune Aqueduct on the Lancaster Canal. Clay dams were installed promptly and the canal was dewatered to allow a puddle clay repair to be undertaken. This has been monitored over the Christmas period and further works are required to be undertaken in January to complete an effective repair. The canal has remained closed to through navigation at this location during the works.

### **8.4 Freight/Trent Lane Basin, Nottingham**

We are currently dealing with a freight enquiry for use of the wharf at Colwick, and also use of the ISIS owned Trent Lane Basin site. ISIS are considering a short term use whilst the property market improves. This would be on the basis that the temporary arrangement would not jeopardise future development potential or planning status of the land. The BU team will support as the enquiry progresses.

### **8.5 March Haigh Reservoir, Kirklees**

One of the valves that enables water to be released from March Haigh Reservoir failed to work properly over the summer. The valve is required for the safe operation of the reservoir. The water level has now been lowered to minimise the risk. Access is still difficult due to the location of the valve in the bed of the reservoir, however, we are developing appropriate access methods and will investigate the problem during January.

### **8.6 Freight – South Yorkshire**

On the Aire & Calder, Lafarge aggregate traffic has been reduced from about 14 loaded movements per week to four. This is a short term measure in response to the down turn in the economy. ASD Metal Services continue to progress plans to transport steel to Stourton Point Leeds. They have appointed specialist contractors to assist in developing the scheme.



On the SSYN, Waddington's have temporarily suspended business due to claims that BW have failed to maintain the navigation. Other operators continue with little or no problems. Woodfords have completed the limestone movement to Hexthorpe (266,000 tonnes) and are now looking at moving limestone to Swinton.



**ROBIN EVANS**

## APPENDIX 1

**Subsidiary and JV Constitutions – Company law changes****Recommended Resolution**

The Board appoints the Secretary to the Board, Nigel Ian Johnson, as its corporate representative with full authority and discretion, on its behalf, to cast votes and exercise such other rights as the Board has as shareholder of any company incorporated under the Companies Acts for the purpose of approving or opposing any members' resolution of any such company that

- (a) addresses the ability of directors of that company to authorise a situation where a director of that company may have a direct or indirect interest that conflicts with an interest of that company; and
- (b) makes any other associated or consequential provisions.