

F.A.O. Meriel Singleton,
Deputy Committee Clerk

Mr Mike Bates AM,
Chair,
Sustainability Committee,
National Assembly for Wales,
Cardiff Bay,
CARDIFF
CF99 1NA

26th October 2009

Dear Mr Bates,

SUSTAINABILITY COMMITTEE INQUIRY INTO ACCESS TO INLAND WATER

Thank you for inviting Dŵr Cymru Welsh Water to submit evidence to the National Assembly for Wales' Sustainability Committee's inquiry into access to inland water.

About Dŵr Cymru

Dŵr Cymru is a statutory water and sewerage undertaker that supplies over three million people living and working in Wales and some adjoining areas of England. We are owned by Glas Cymru, a single purpose, not-for-profit company with no shareholders.

The Committee will appreciate that our overarching priority is to provide our customers with a continuous, high quality supply of drinking water and to take away, to treat and then dispose of their wastewater. These services are vital to public health and to the environment, so the quality standards we are required to meet are set in a large body of national and European legislation.

Dŵr Cymru also recognises the importance of ensuring that the essential public services that we provide are affordable for all our customers, especially for those on low incomes.

Dŵr Cymru owns some 90 reservoirs and surrounding land, so we are a major landowner in Wales. Our reservoirs are the source of the vast majority of our drinking water supplies so are very important to the health of the population and to the economy of Wales.

Our duties and policy in relation to access and recreation

As a statutory water and sewerage undertaker, Dŵr Cymru has specific duties with regard to access and recreation on our lands and waters under the Water Industry Act 1991 and other statute (listed in the Annex to this letter).

We have adopted the following policy which outlines how we will balance our access and recreation duties with our other statutory obligations;

“We are committed to providing appropriate access and promoting recreational use at our landholdings for the public in so far as there is no significant risk to health and safety, risk of pollution or damage or harmful impact to wildlife.”

Our more detailed Strategy which expands on this policy is set out in the Annex to this letter.

Actions to encourage the public to enjoy our land and water

Reservoirs and their surroundings can provide a valuable public amenity to benefit the community. They have the potential to give considerable enjoyment, offer opportunities for healthy exercise and can help to bolster local tourism. Through our operating partners, Dŵr Cymru proactively manages over 2,500 hectares of land based at 26 reservoir sites throughout Wales for public access and recreational use. We are proud of our record of encouraging the people of Wales to enjoy the land and water assets entrusted to our company: for example, last year some 900,000 visitors were recorded at our major sites.

Dŵr Cymru annually produces leaflets setting out the facilities and activities, including those designed for particular sports, that are available at specific sites. The 2009 leaflets we published, *“A guide to recreation around the reservoirs of Wales”* and, *“A guide to fishing the reservoirs of Wales”* may be accessed from this internet address:

<http://www.dwrcymru.com/English/community/recreation/index.asp>

There are visitor centres at our Llyn Brenig, Elan and Llys-y-frân reservoirs. Facilities at these centres to attract visitors include adventure playgrounds, picnic facilities, cafes and gift shops. They also contain information about the wide variety of outdoor activities that can be pursued at many of our sites which include mountain bike routes, bike hire facilities, nature trails and bird hides.

Our leaflets also explain that a number of water sports are promoted at suitable sites, including sailing, canoeing, sail boarding, water skiing and sub-aqua diving. We have a number of conditions, e.g. in relation to personal insurance, that we require of those wishing to use some of our watersports facilities.

Eleven of our sites are directly managed as trout fisheries and two as coarse fisheries. Indeed, we manage the single largest group of still water trout fisheries in the UK. We

have a fleet of 130 fishing boats and all stocked trout are reared at our own fish rearing units at Llyn Brenig, Llwyn On and Llys-y-frân reservoirs.

Many of our reservoirs are leased to local angling clubs. We have a cooperative arrangement with the Wye and Usk Foundation which sells fishing permits for various sites in South East Wales on our behalf. Fishing competitions, organised by external clubs or groups, are hosted at a number of our sites throughout the year, including events to raise funds for charity (e.g. in May we sponsored the fifth Charity Fly Fishing Competition at Llandegfedd reservoir, in aid of Cancer Research Wales,). The World Fly Fishing Championships have previously been hosted at Llyn Brenig. We are committed to enabling access to our sites by disabled members of the public. Our facilities range from special boats for disabled anglers and sailors, to paths and viewpoints accessible to wheelchair and other ambulant disabled visitors. Wheelchair accessible boats are available on all major sites.

We are always keen to encourage greater use of our sites and we are exploring a number of ideas that will allow development of third party facilities and activities at our sites. Some of these are seeking to secure capital funding via charitable and other grant funding bodies, however, in the current economic climate, progress is now more challenging than it was a number of years ago.

Overall, the cost of providing access and recreation is substantial. In 2008/09 the operating cost of this function to Dŵr Cymru was in the region of £2.2m, of which only £1.3m was recovered in charges and income from other associated activities such as forestry etc. Over recent months we have observed a noticeable decline in income which may be an indication of harder times ahead.

Health and Safety

Although we wish to encourage recreational access, we also recognise that our reservoirs contain many hidden dangers including extremely deep and cold water (even in summer), strong undercurrents and numerous underwater hazards. When deciding which activities to encourage where, Dŵr Cymru must be very mindful of our responsibilities under health and safety legislation which extend to all visitors to our sites as well as our own employees. Legal duties may also include those who have gained access unlawfully, i.e. trespassers. Some of the relevant legislation is listed in the Annex to this letter.

Managing health and safety requires judgement about the extent of the risk and evaluating the various options for removing or limiting that risk. For example, after undertaking health and safety assessments, Dŵr Cymru has placed many notices near reservoirs warning of the dangers associated with the asset (e.g. of drowning and thin ice) and has provided life saving appliances at relevant locations. Where public access is inappropriate for safety reasons, barriers such as fencing have been put in place.

Through the industry's trade association, Water UK, Dŵr Cymru has worked with the Health and Safety Executive to update the industry-wide guidance on "Public Access to Open Reservoirs". This document describes in more detail the sorts of issues that water companies need to take into account when assessing the potential risks associated with access to their reservoirs and the possible actions that can be taken to mitigate those risks. A copy of this guidance is attached to our submission to the Committee.

In certain cases we have to consider introducing byelaws. For example, following a number of well publicised cases of people kayaking down the spillway at our tallest dam, Llyn Brianne, we are now introducing a byelaw to prohibit this extremely dangerous practice.

Drinking Water Safety Plans

As mentioned above, our overarching priority is to provide our customers with a continuous, high quality supply of drinking water. Within this context we have Drinking Water Safety Plans which operate at catchment, treatment and distribution level. At a catchment level this is about ensuring that contamination risks are removed or minimised. This means for example that use of petrol in boats is strictly controlled (minimal quantities for fishing and rescue boats only) and that car parking is well away from the water body. Any request for a new activity to take place on a reservoir will be assessed for drinking water safety in a similar way to that for Health and Safety.

Conservation

Many of our sites are designated in recognition of their conservation importance. For example there are Sites of Special Scientific Interest (SSSIs) at our Llyn Alaw, Llyn Brenig, Llandegfedd and Llys-y-frân reservoirs. As well as SSSIs, our Elan Valley estate includes Special Protection Areas under the European Birds Directive, Special Areas of Conservation under the European Habitats Directive and a National Nature Reserve. We have provided hides at a number of our sites to enable members of the public to view, without disturbing, the spectacular flocks of birds that visit our reservoirs at certain times of year.

We believe that delivery of our conservation duties generally takes precedence over our duties with regard to access for recreation. As a simple example, access to Llandegfedd reservoir is curtailed in the winter months so as to provide an undisturbed habitat for overwintering birds in the SSSI.

With regard to rivers, it is not for Dŵr Cymru to comment on the sometimes competing interests of different users such as the angling and canoeing communities. However, we do feel that the need to conserve protected species should be recognised in the debate. Many of the major rivers in Wales are Special Areas of Conservation under the European Habitats Directive, e.g. the Rivers Wye, Usk, Cleddau, Teifi, Dee etc: these rivers have important fish populations as supporting features. Some of these species are not meeting the Directive's objective of Favourable Conservation Status because fish populations are not considered

sufficiently abundant. We think the impact of various activities, be they paddling or fishing etc, on these protected species should be properly assessed before permissions are granted.

I hope that this letter will contribute to your understanding of the issues and I look forward to meeting you on the 5th of November.

Yours sincerely,

PAUL HENDERSON
Strategic Regulation Manager
Dŵr Cymru Welsh Water

ANNEX

Statutory duties relating to recreation and access

As a statutory water and sewerage undertaker, Dŵr Cymru has specific legal duties with regard to access and recreation on our lands and waters. These are summarised below

- Section 3 of the Water Industry Act 1991 (as amended) set out requirements for us, in formulating or considering any proposals relating to our functions, to
 - have regard to the desirability of preserving for the public any freedom of access to areas of woodland, mountains, moor, heath, down, cliff or foreshore and other places of natural beauty
 - have regard to the desirability of maintaining the availability to the public of any facility for visiting or inspecting any building, site or object of archaeological, architectural or historic interest; and
 - take into account any effect which the proposals would have on any such freedom of access or on the availability of any such facility.
- Section 3 of the Water Industry Act 1991 (as amended) also imposes the following duties on us:-
 - To take steps that are reasonably practical and fits with our function to ensure that our water or land is made available, in the best manner, for recreational purposes.
 - To take into account the needs for persons who are chronically sick or disabled when making our water or land available for recreational purposes.
 - We are not required to provide recreational facilities free of charge.
- Birmingham Corporation Act 1892, covering the reservoir in Elan Valley places duty on us to have regard to the public desire to enjoy the natural beauty of the area.
- The Water and Sewerage (Conservation, Access and Recreation) (Code of Practice) 2000 provides practical guidance on how we should undertake our duties under Section 3 of the Water Industry Act. Although strictly speaking the Code does not appear to apply to Wales based water companies, we refer to it as guidance to deliver our Access and Recreation Policy and Strategies.

Statutory duties relating to Health and Safety

Section 3 of the Health and Safety at Work etc. Act 1974 requires employers to conduct their undertaking without risk to the public, but this requirement is qualified by what is 'reasonably practicable'. This requires judgement about the extent of the risk and the cost of various options for removing or limiting the risk.

The Management of Health and Safety at Work Regulations 1999 require employers to make an assessment of the risk to the health and safety of those who may be affected by their work or business. This will include the general public.

Legal duties may also extend to those who have gained access unlawfully, i.e. those trespassing. The Occupiers Liability Act 1957 requires water suppliers to provide protection when it is reasonable to do so.

DCWW's Access and Recreation Policy and Strategy

Our Policy confirms that,

“We are committed to providing appropriate access and promoting recreational use at our landholdings for the public in so far as there is no significant risk to health and safety, risk of pollution or damage or harmful impact to wildlife.”

We have expanded our Policy in the following Strategy,

“To achieve our Access and Recreation Policy, we will

- Have regard to the desirability of preserving public access to places of natural beauty and areas of archaeological interests within our landholdings.
- Where reasonably practicable, ensure that the water and land in our ownership is made available for appropriate recreational activities.
- Take into account the recreational needs of local people and wider communities prior to allowing or introducing new recreational use on our land and water.
- Consult with appropriate national and local user groups and other interested stakeholders when considering whether to allow and/or introduce new recreational use on our land and water
- Provide, where practical, access to meet the needs of disabled people.
- Ensure that an appropriate health and safety risk assessment is undertaken prior to allowing or introducing new access and/or new recreational use on our land and water.
- Appropriately implement the statutory Code of Practice on Conservation, Access and Recreation, in delivering our obligations on access and recreation under the Water Industry Act 1991.
- Review our Access and Recreation Policy and Strategies regularly to ensure continuous commitment.”