

Dear Committee Members

Thank you for the invitation to attend the meeting on 12 November, and the opportunity to make a further submission.

Having read the transcript and watched the recording of the session, I see that I misunderstood the opening question, which I took to refer to my personal understanding of the wider legal situation. The misunderstanding about the Chairman's reference to the 'Bates paper' arose from that, and subsequent questions did not provide the opportunity to return to that paper.

I apologise for any confusion, and have set out below the situation relating to this paper.

Please feel free to contact me if you have any queries.

Yours sincerely

Pam Bell.

NRA (National Rivers Authority) is the old name for what is now the Environment Agency.

The NRA paperⁱ submitted in evidence is applicable only to the Wye. Regardless of the legal status of rivers in Wales generally, the Wye is distinct in that statute exists giving a right of navigation over the whole river and its tributaries. In 1992, NRA commissioned legal opinion, which is given in the NRA paper, and as far as I am aware, this opinion has not been tested or rebutted. The NRA paper concludes that there is an arguable case for the existence of a statutory right of navigation. It should be noted that the Wye Navigation Act (2002) does not affect existing rights. I understand that in law a navigation right, exercised reasonably, is superior to all other rights.

Given the arguable case for a pre-existing superior navigation right, it must be questioned why a publicly funded Welsh Assembly Government endorsed programme has set out to restrict navigation for the benefit of another use.

My written evidence included my opinion that the Welsh Assembly Government programme for the Wye and Usk restricts navigation for the

benefit of angling, and is not based on environmental protection. In support of this statement, I refer to the following:

- (i) Letter from the NRA dated August 1992ⁱⁱ, which sets the level at which the whole of the Usk and its tributaries can be paddled without environmental damage, during the spawning season; while leaving it to angling interests to decide on when or if canoeing is to be allowed.
- (ii) Wye Navigation Act (2002) sets no minimum levels for navigation.
- (iii) Verbal comment of an Environment Agency officer at a meeting on 10/11/09 of the Wye Navigation Advisory Committee: **“The levels [for the Wye] were set not to protect the environment but to keep paddlers off the river when fishing may be taking place.”**

I also refer to the letter taken from an Angling web siteⁱⁱⁱ, apparently from WyeUsk Foundation to anglers, which suggests that the motivation for the programme was not to improve opportunities for navigation, but to restrict navigation and pre-empt the enquiry. I acknowledge that I have no means of authenticating this letter, but it has remained unchallenged on the web site for two years, was still present at time of writing (18/11/09) and is submitted in good faith.

I would also like to draw attention to papers by Ravenscroft et al (2006)^{iv} and Church et al (2007)^v which show that my personal experiences of trying to negotiate access by voluntary agreement in Wales are typical of what has happened in England; which is the only other country I am aware of which relies on voluntary agreement to provide public access, and which has also put large sums of public money into an ‘exemplar’ programme on carefully selected target rivers. The ineffectiveness of this approach is demonstrated by Ravenscroft (2006), particularly section 5.

Finally, on a positive note, the committee asked about examples of good practice from other countries. It has already been stated that New Zealand acted to restore public rights to the rivers when it received the powers to do so on becoming independent. I have just come across the New Zealand ‘Wild Rivers’ website^{vi} which shows what can be achieved when all interested parties take

ownership of the rivers on the basis of stakeholders with equal rights and associated responsibilities.

For clarity and convenience, I attach all the documents referred to here, including those already submitted in written evidence.

ⁱ **NRA Evidence.pdf** Report by the NRA Regional Solicitor, *Report on the Legal Status of Navigation on the River Wye*, , April 1992.

ⁱⁱ **NRA_Safe_Usk_Levels.pdf** *Letter from the NRA concerning the Usk Agreement*, 28 August 1992.

ⁱⁱⁱ **WyeUsk Foundation Letter.pdf** *A message from the Chairman of the A.C.A. and Chief Executive of the Wye and Usk Foundation*, 19 November 2007. Downloaded 26/02/08.
<http://www.completefisher.com/forum/viewtopic.php?t=6904&postdays=0&postorder=asc&start=15>

^{iv} **Ravenscroft et al, 2006, Putting Pilot Voluntary Canoe Access Agreements in Place.pdf** Final Report, University of Brighton (Brighton 3).

^v **Church, A. et al, 2007.pdf**, Negotiating Recreational Access Under Asymmetrical Power Relations: The Case of Inland Waterways in England, *Society and Natural Resources*, 20:213–227, Taylor and Francis.

^{vi} **New Zealand Wild Rivers.pdf** Printout from New Zealand ‘Wild Rivers’ website <http://www.wildrivers.org.nz/wild-rivers> Downloaded 18/11/09.