

In this issue	
CBOA new President appointed	3
South West Initiative	7
Profile: Myton Law	9
CRT CEO takes the helm	10
“Reasonable endeavours” analysis	13

## Port of London Authority wharf compulsory purchase

In September, The Secretary of State for Transport confirmed the Port of London Authority's (PLA) application to purchase Orchard Wharf in Tower Hamlets.

The case for the 'compulsory purchase' of the wharf was heard at a public inquiry. The Inspector said the PLA demonstrated Orchard Wharf was navigationally viable, and well placed to supply London's growing construction sector.

This was despite the wharf being unused for 15 years. The final design for Orchard Wharf is being developed and will be submitted for planning approval.

PLA director of planning and environment, James Trimmer, said:

“Over the last five years we've seen the use of the river through London to move freight grow from two million tonnes a year to five million tonnes in 2013. That kind of growth is only possible if you've got the wharves on which to handle the cargo. That's why the Mayor's policy of safeguarding wharves is so important. The Inspector found the case for us to buy the wharf compelling.

“We can now focus on getting Orchard Wharf back into use. This is part of our wider

strategy to increase use of the river through diversifying the PLA's commercial activities.”

The following month the PLA also reported that the two listed cranes at Battersea Power Station were being dismantled and removed. This is to allow the former power station's wharf to be used for transportation of spoil from the Northern Line Extension tunnelling works by river rather than road. The cranes will be fully restored off site at Tilbury and returned to adorn the site after the works are complete.

The cranes, believed to have been installed in the 1950s and were decommissioned in 1983, were used to unload coal into rail hoppers over the conveyors that fed the Power Station. Up to 240 tonnes of coal per hour could be handled.

We also hope that significant amounts of materials can be brought in and out of Battersea wharf by river during reconstruction of the site.



## From the Chairman



We were all very much saddened by the loss of our President Sonia Rolt, aged 95, last October. Much has been written about her – including an Appreciation on our website - but suffice to say that as well as being a leading figure in the campaign to preserve and promote the waterways generally she was genuinely interested in the concept of using the waterways to carry freight, and we were proud to have Sonia as our President from the formation of CBOA (as CNOA) in 1992. As reported elsewhere in the News we have a new President. We are delighted that prominent transport professional Dr David Quarumby CBE, chairman of the CRT Freight Advisory Group, has accepted our invitation to act as President for the next three years. I know David will wish to be as active within CBOA as his other activities will allow, and to get out and about around the waterways. We warmly welcome him on board!

We continue to play our part in promoting freight by waterway by either taking the lead in various initiatives or by taking part in discussions and consultations. Current activities include, of course, the continued work of the CRT Freight Advisory Group, through its Steering Group, as it develops and promotes the case for the Trust's 'Priority Freight Routes' with an inland waterway terminal (or port) in Leeds on the Aire & Calder Navigation, and greater use of the South Yorkshire Navigation and Yorkshire Ouse for freight. As part of this work CBOA has supported the Trust's planning application for phase 1 of the proposed terminal in Stourton in Leeds as an aggregates wharf, and is

helping to develop a strategy working towards a joint approach between CRT, port operators and others to promote and facilitate the carriage of general cargoes and even containers on these waterways. CBOA officers are working with CRT and others to organise a trial movement of containers up the Aire & Calder Navigation. Talking of containers – the Liverpool – Manchester 'shuttle' continues to grow; the number of containers being shipped via the Manchester Ship Canal increased from 3,000 in 2009, to about 25,000 this year, and Peel hopes that will rise to 100,000 by 2030. Plans for Port Salford are now coming to fruition with new ports also to be built at Wirral, Ince, Bridgewater and Warrington.

As is well known CBOA has endorsed Leeds Planning policy to protect wharves as part of the Minerals and Waste Strategy. Thanks are due to those many members who have written to Leeds City Council in support - a fact noted and appreciated by planner Max Rathmell in an excellent presentation at the recent FTA Freight by Water seminar in Wakefield, which CBOA supported of course. While on the subject of wharf protection CBOA is also supporting Rotherham Council's initiative and helped identify additional wharves and sites that should be safeguarded. The Port of London Authority has, of course, been active in this regard for some time, and recently acquired two wharves, which have customers waiting to use them!

CBOA has not, however, forgotten the other waterway routes! We are, for example, currently working with port operators and other interested parties in the Bristol Channel to see how a freight terminal could be developed near Worcester and, following a meeting with a major port operator, our South West Representative, Patrick Moss, has produced an excellent document in support of this to help take the initiative forward. On the Trent Navigation, we are working with the Canal & River Trust and supporting a major aggregate company, Bretts, as it seeks to develop a quarry at Shelford and barge considerable tonnages to Nottingham for distribution. On the smaller waterways we have been in discussion with the Canal & River Trust regarding the potential for a discounted licence fee for narrow boats that are laid out of use but available for

carrying. We have also advised on the potential for removal of materials from a site on the London canals and for taking materials to a major waterside development in the Black Country. CBOA Vice-Chairman John Jackson (and Jenny) hosted CRT Chief Executive Richard Parry as he spent a day steering and generally helping to work narrow boat 'Roach' well loaded with coal. We are delighted to learn that Richard greatly enjoyed and acquitted himself well!

Although CBOA's main purpose is not to act as an 'agency' for operators (we don't have the resources needed to do that) we have, on our website, an 'enquiry' option and we always follow such leads and provide such advice and assistance that we can. Talking of the website – this was set up some years ago by Peter Hugman and has served us well. Our work with the Crown Estate in developing and promoting inland waterway carriage of marine aggregate led to an offer from them to 'refresh' our website and make it even more 'user friendly'. We are grateful to Crown Estate's

Kevin O'Shea for his help with this and to Paul Ayres for taking the project forward. The website address remains the same ([www.cboa.org.uk](http://www.cboa.org.uk)) and hopefully the 'new look' will be in evidence by the time this News is published. Why not visit the website and let us know what you think?

This issue of the CBOA News coincides with the Multi-Modal Exhibition at the NEC, 28<sup>th</sup>-30<sup>th</sup> April, at which we will have a stand, hopefully shared with the Canal & River Trust. Do visit the stand and say 'hello'. If you can, attend the presentations to be given by John Dodwell and myself as part of the session 'Freight by water - opportunities and how to make the shift' which takes place between 13.30 and 14.30hrs on Wednesday 29<sup>th</sup> April in the seminar area of Multimodal 2015 in halls six, seven and eight, of the Birmingham NEC.

Thank you for your support.

David Lowe.

## UK News

### CBOA appoints new President

The Commercial Boat Operators Association is pleased to announce the appointment of Dr David Quarmby CBE as President to succeed the late Sonia Rolt.



**Dr David Quarmby CBE** has had a long career in policy, planning, management, operations and research, mostly in transport and logistics, with 39 years' board level experience in government, public agencies

and the private sector. For the past 19 years he has had an extensive portfolio of chair and/or board appointments in transport (railways, buses, roads and most recently waterways), in tourism, in food retailing, and in transport research and consultancy. He is currently leading a two-year study, on behalf of a charitable foundation, developing a vision for England's major road network to 2040.

David is chair of the Canal and River Trust's Freight Advisory Group (FrAG) and led the development of a policy for waterborne freight and the commercial waterways, since adopted by CRT in 2014. He is a now member of the CRT's Freight Steering Group, created to take forward the proposals for Priority Freight Routes.

David has advised many organisations, including the Airports Commission, and has carried out special assignments for government and various bodies: he led the Winter Resilience Review of England's Transport Systems in 2010.

Prior to 1996, he was a main board director and Joint MD of Sainsburys; up to 1984 he was a board member and MD Buses at London Transport after a period as

director of research and then chief planning officer. In the 1960's he was an Economic Adviser at the Ministry of Transport.

David is a native of Yorkshire, born in Halifax and brought up in Huddersfield; he took degrees at Cambridge and Leeds Universities. David is no stranger to the inland waterways – with his wife and family – and often with friends – David has enjoyed over 20 narrow boat holidays over the years. He and his wife live in London, with his four daughters, their husbands and eight grandchildren all living nearby.

CBOA Chairman David Lowe said “We are delighted that David has agreed to take on this role for three years. I know he will wish to be more than a ‘figurehead’ and will be getting out and about on freight boats and barges of all sizes, on the various UK waterways used for water freight. David’s expertise and wisdom will be of great benefit to the Association as it seeks to support its member companies and the navigation authorities in the drive to attract more tonnage to the inland waterways.”

### **Multimodal April 2015**

Multimodal is the UK and Ireland’s premier freight transport, logistics and supply chain management event, now in its eighth year. This exhibition houses all sectors of the logistics industry, at one event under one roof. Cargo owners, shippers and suppliers can all meet and find how to move their freight more efficiently.

At NEC, Birmingham, Tuesday to Thursday 28<sup>th</sup> – 30<sup>th</sup> April 2015. <http://multimodal.org.uk/>

CBOA will be there, and we will be pleased to meet you on the stand.

### **FTA – Making Use of Water Freight**

In November, the Freight Transport Association released ‘Making use of water freight: A guide for shippers’ during the FTA Freight by Water event held in Wakefield that explored water freight opportunities in the north of England.

As well as an introduction to water freight, the document is aimed at shippers of goods who might be considering water freight as a part of their supply chain solution. It covers the evaluation of how to consider potential opportunities, and the factors to be considered,

as well as giving background on how the UK water freight industry operates. The fact that more freight travels by water than by any other means, although most of this is by sea, is thought provoking where estuarial ports are concerned.

Issues covered include how it can benefit your company, the services available, key factors for possible water freight use, case studies, how the industry operates and others.

For more information or to request a copy of the document please contact the FTA on 01892 552255 / 07818 450425 or email [press.office@fta.co.uk](mailto:press.office@fta.co.uk).

### **Harmonisation of Boatmaster qualification**

There is further action on increased harmonisation of the Boatmaster qualification, which CBOA believes will also have an impact in the UK.

A working discussion document was produced on 19th January 2015, in which it is hoped that the operational level standard will be finalised during February 2015, so that it can be incorporated in the proposal to the European Commission. The aim appears to harmonise standards across all EU countries and all its navigations including the Rhine.

Several European organisations are involved as a Joint Working Group (JWG), including the European Skippers Organization (ESO) of which CBOA is a member.

The JWG agreed on seven chapters of professional competencies:

1. Navigation
2. Cargo handling, stowage and passenger transport
3. Controlling the operation of the ship
4. Marine engineering and electrical, electronic and control engineering
5. Maintenance and repair
6. Communication
7. Safety, health and environmental protection

and at the following levels of responsibility:

1. Management level
2. Operational level

An interesting paragraph in the Introduction states “...that it (the competence tables) is restricted to the

description of the professional competences applying to levels of responsibility of inland navigation personnel and does not interfere with the existing national curricula as set out by the Ministries of Education of the EU member states.”

The tables following then lay out the required knowledge or abilities in each of the seven competencies as listed above.

### UK domestic waterways freight – 2013

*The following two reports have been kindly provided by CBOA member David Hilling.*

#### 2014 freight analysis

Very late in 2014 the official 2013 statistics for UK domestic waterborne freight appeared. Overall, it has been adversely affected by the economic climate but the different types of movement were showing varying responses.

	2001	2009	2012	2013
Internal	4.3	3.3	3.7	5.3
Coastwise	8.8	6.6	5.5	5.5
One-port	7.0	4.1	3.5	3.1
Foreign	33.4	27.9	30.5	29.2
TOTAL	53.5	41.4	43.2	43.0

(Million tonnes)

It would seem that coastwise, one-port and foreign movements with inland waterway penetration are still below levels of earlier years but the internal, barge traffic is above previous levels and this is a trend that must be welcomed. Particularly impressive is the 2012/2013 jump from 3.7 to 5.3 million tonnes an increase accounted for by just two regions – Thames/Kent and Lancashire. In both of these regions, special factors are providing impetus for growth and possible examples of approaches, which other areas might adopt to encourage waterborne freight.

On the Thames the movement of 1.8 million tonnes of Crossrail tunnel spoil was the significant factor but there has also been healthy growth in aggregates movement to waterside concrete batching plants and construction sites. Wharves at Beckton, Barking and Northfleet were also employed on movement of

Crossrail spoil to the large RSPB reclamation at Wallasea Island on the Crouch river. At the peak, some five coasters operated shuttle services to Wallasea.

In the North West Peel Ports now controls the ports of Liverpool, Manchester and the linking Manchester Ship Canal and this is providing considerable potential for the integrated development of waterborne freight. The introduction in 2007 by Tesco of a tug/barge system for the movement of containerised wine imported through Liverpool for bottling at Manchester provided a powerful demonstration effect, other firms have seen the advantage of water transport and the original 160 TEU barge has been replaced on several occasions most recently with a 360 TEU seagoing ship. There is active development of Port Cheshire at Ellesmere Port and Salford is to become a tri-modal inland facility. While on the MSC grain and scrap still provide traditional bulk barge traffic the move into containers and other general cargo certainly provides an example other areas might follow – South Yorkshire most obviously.

#### Life in Father Thames yet?

The recent impressive increase in freight traffic on the Thames certainly prompts the question – will it last? Crossrail’s main tunnelling will be completed early in 2015 with emphasis shifting to fitting out of tunnels and stations. The rail-hauled excavated material from the western tunnels moved by rail to Northfleet for onward movement by coaster to Wallasea Island has finished. Barking jetty is still used by several coasters for road-hauled spoil from shaft and station developments along the eastern tunnel line. This traffic will not last long.



1,000 tonne-plus barge serving floating concrete batching plant at Wood's Wharf, London (D Hilling)

While Crossrail's activities involving water transport are winding down rejection by the High Court of four judicial reviews has cleared the way for Thames Water's Tideway Tunnel (CBOA News, Autumn/Winter 2013) to get under way. This 25 km tunnel will generate as much as 4.8 million tonnes of material to be moved by water from 11 construction sites along the river. Tideway Tunnel's published transport strategy has placed commendable emphasis on the use of river transport, the provision of suitable wharves and the possible use of some of these for continued use for routine maintenance when the tunnel is in use. While there may be a time lag, once started and for some years this will compensate for the loss of Crossrail traffic and the tunnel for the Nine Elms/Elephant and Castle Northern line extension will add to this.

Waterborne freight is greatly influenced by fluctuations in building activity and there are numerous developments planned along the river with considerable potential for outward movement of demolition and excavated material and inward movement of aggregates and other construction materials. Canary Wharf provided an example of just this as did adjacent Wood Wharf with further plans for the latter site. In its early stages the redevelopment of the Battersea Power Station site is already generating traffic of both kinds and the work on the adjacent Nine Elms redevelopment will add to this. There are planning proposals for redevelopments at Convoy's and Enderby's wharves, several Silvertown sites and numerous sites further downstream. The extent to which water transport will be used depends very much on the pressure put on and responses of the project contractors.

It is well to remember that over time the Thames has been very important for moving people as well as goods. Transport for London reports that for the 2013/4 financial year 8.4 million passengers were carried, the summer of 2014 showed an increase of 25% on the previous year and 12 million are estimated for 2020. The

number, variety, size and speed of the passenger craft is eye-catching and not as dependent on tide times as the much smaller number of freight craft.

The poet and writer John Masefield called the Thames "the great street paved with water." Signs are that Father Thames is far from dead and the recent surge in the use of his street will continue.

## Regional News

### Work boats in Leeds

Work boats were used to ferry materials from a central Leeds wharf up to the site of the new Leeds station southern entrance adjacent to the junction of the Aire & Calder Navigation and the Leeds & Liverpool Canal.



Work boats in Leeds (D. Lowe)

### Merchant Navy medal award

Captain Len Clarke was honoured to receive the Merchant Navy Medal in a presentation at Warrington Town Hall last week. He is in illustrious company as in 2014 only five Captains received the award, two of which were to the Captains of Cunard Queen Mary II and Queen Elizabeth.

Len first went on the river Mersey as a young lad with his father who was Captain of the J. Fairclough & Sons motor barges Pater and Panary.

He began work at 15 as a deckhand with John Harker's barges on the Mersey and was promoted

Captain when he was 21. In 1975 he moved to Allied Mills at Bank Quay Mill Warrington and became Captain of their newly acquired motor barge Humber Trader. This traded with Panary bringing wheat cargoes from Liverpool up the Mersey and Manchester Ship Canal. The boats then locked down again through Walton Lock and back into the Mersey for the final leg of the trip to the mills at Warrington. In 1984, Allied Mills sold out their rights to use Walton Lock to the MSC, enabling MSC to close the lock, although a legal right of access to the derelict lock still exists.



Humber Trader and Panary were sold by Allied and Len became Owner/ Captain of Humber Trader. He began trading to Frodsham for Frodsham Lighterage, later Viaduct Shipping, carrying wheat for Nelstrop's Mill. After Humber Trader moved to Yorkshire, he continued in the grain trade to Frodsham as Captain of Panary, his Father's old boat. In 2013 after a phenomenal 59 years on the river, he retired from commercial barging.



The motor barge Panary with Len at the helm (Viaduct Shipping)

However he can still be regularly seen afloat on the River Weaver and narrow canals aboard his immaculately maintained classic motor boat *Jacqueline*.

The medal citation reads, **CAPTAIN. J.L. CLARKE**, lately Master **PANARY** (Viaduct Shipping) for services to lighterage on the Mersey and to historic vessels on Merseyside.

### South West Initiative

In January, CBOA Member Patrick Moss produced a stimulating paper on the potential freight possibilities on the larger waterways in the southwest.

Following a summary of the waterways available and lock sizes, he outlined the opportunities as follows:-

"Given all this, the logical way forward for increased use of the Severn is a regular traffic from the Bristol Channel Ports including ABP ports at Cardiff and Newport, the Port of Bristol and the Sharpness dock, to a distribution depot/end user in Worcester below Diglis Lock (and vice versa). The distance from Cardiff to Worcester by road is around 85 miles; from Avonmouth to Worcester is around 60 miles. Barges of at least 400 tonnes capacity (equivalent to 17-20 lorries) could reach Worcester.

To run a regular traffic, wharf facilities and storage would be required at Worcester below Diglis Locks. When Diglis basins were redeveloped, an agreement was reached that replacement wharfage would be provided below Diglis Lock on the river – however this was never done. Whilst the opportunity for funding from the developers of Diglis Basin has now passed, there is

still an option for a wharf and depot to be created if funding can be found, this in turn requires a realistic possibility of traffic hence a recent, and most promising initial meeting with a major port operator and this paper.

There may be future opportunities for containers but these are unlikely to be the baseline traffic that justifies a facility at Worcester, more that once a facility is provided it would be desirable if it

could handle containers.

The next step for CBOA is to follow up contacts with port operators in Bristol and South Wales and for discussions with the handlers responsible for traffics to establish the tonnages and viable destinations for these cargoes. Following this, it is suggested that a workshop is held in Cardiff to discuss the way forward. We are looking to progress these discussions over the spring to report to the next committee meeting or the one after."

### Largest ship to enter the Thames

In October, the 397-metre-long, 56-metre-wide *Edith Maersk* docked at DP World London Gateway, the UK's new deepwater container port, 30 miles from the city centre. With a draught of 16 metres the ship carries up to 15,500 TEU (twenty-foot equivalent units) and is deployed on Maersk Line's AE2 (Asia-Europe 2) service.



Opened the previous November, the six new berths at London Gateway will add 3.5 million TEU to the nation's port capacity to meet the infrastructure demand resulting from the growth in ship size.

### CRT plan to develop Stourton Wharf, Leeds

The Canal and River Trust have submitted a detailed planning application in December for the development of Stourton Wharf in Leeds. This is part of a plan to create an inland water transport terminal in Leeds located east of the city, and south of Skelton Grange Road.



Humber Princess loaded with Exol oil (M. Slater)

The wharf is to provide a facility for storage and distribution of aggregates, importing the aggregates by the Aire and Calder Navigation.

Although as the planning Transport Statement says, some 10,000 lorry journeys per annum are expected from the wharf. These journeys will of course eliminate longer lorry journeys if the material is carried by lorry from further afield, so reducing road mileage considerably. The report shows that the lorry movements will not cause congestion on the nearby roads. Up to 10 people are anticipated to work on site.

CBOA applauds this initiative from the CRT, and it has written to support the planning application. The target determination date for the planning application is the 24<sup>th</sup> March.

### Oil traffic in focus

Oil deliveries to Rotherham continue on a regular basis and recently Richard Parry, CEO CRT, visited Exol Oils along with (the then) shadow minister for transport, Mary Creagh, and Whitaker's Operations Manager (Humber) Glenn Stones.

Richard said that Exol managers

were extremely enthusiastic about the barging operations and stressed its contribution to the success of their operation in Rotherham.

## Profile: Myton Law

Myton Law is a specialist shipping, transport and insurance law firm that was formed in January 2010 from which time it has been a Member of the CBOA.

Providing specialist advice in all areas concerning businesses operating in those sectors Myton Law, which is based in Hull and has an office overlooking the River Humber, is well placed to assist other members of the Association. It has an extensive knowledge of the industry and is particularly alive to the issues affecting the carriage of freight on the UK's estuarial and inland waters.

We employ specialist lawyers with national reputations in their respective fields and regularly advise and assist a number of local and national freight boat owners and operators and those who operate workboats, tugs and offshore wind farm crew transfer vessels.

We also act for hull and liability insurers, port operators, ship builders and repairers, and transport and logistics companies.

As a small, niche law firm we pride ourselves on being different. We are modern with a "can do" approach and we are committed to plain talking and seeking pragmatic and cost effective solutions to our clients' needs. We understand the importance of costs control and are always transparent about our fees.

The company has 8 specialist lawyers who are able to advise and assist members of the Association in relation to casualty incidents, cargo disputes, and all other aspects of commercial litigation and dispute resolution (including recovery actions, insurance problems and technical/engineering disputes), as well as health & safety matters.

In addition, Myton Law can provide support in non-contentious commercial and company matters, including commercial supply chain, distribution, outsourcing and fuel supply agreements and ship repair and build contracts, company constitutional matters, sales and acquisitions share issues and share capital reorganisations, new ventures and shareholders' agreements.

Further details of Myton Law's services and personnel can be found on its website [www.mytonlaw.co.uk](http://www.mytonlaw.co.uk)

If members of the Association have any actual or potential legal problems they are encouraged to contact Myton Law for assistance. No issue is too big or too small and a friendly response is guaranteed.

Please contact Scott Yates for further information or assistance – [scott.yates@mytonlaw.co.uk](mailto:scott.yates@mytonlaw.co.uk) or 01482 382082.



## Aggregate company supports water transport in Nottinghamshire

During the latter part of last year, Nottinghamshire County Council carried out an Additional Consultation on sand and gravel provision throughout the county. This followed an earlier Consultation a few months previously where CBOA had supported and provided input. CBOA recommended that several wharves listed in this original Consultation on the River Trent were noted and recommended as suitable for using water transport. Bearing in mind the closeness of the wharves to the Trent, support for water transport in the draft Consultation appeared rather weak.

In the Additional Consultation, several consultees had submitted comments, one of which was from Brett Aggregates who strongly supported the use of water transport from the site at Shelford West. In a partial loop of the river, site access by road for lorries would be difficult and also obtrusive to Shelford village.

With the receiving wharf being a batching plant at Colwick east of Nottingham, Brett proposed that 40% Nottingham's aggregate supply to north of the river could be supplied from Shelford West. If Shelford were not utilised, then aggregate would have to be transported by road to Nottingham from much further north in the county, with significantly increased detrimental environmental effects. The 40% figure is because the rest of the demand is south of the river would mean town river bridge crossings with lorries, with unloading at Colwick on the north bank.

## River Thames Waterways Plan Consultation

The River Thames Alliance (RTA) set out in its consultative document for a 'Waterways Plan', a proposal to reflect the policies and aspirations of RTA members. The RTA issued the document to its members on the 31<sup>st</sup> January, the closing date for comments and questions being the 3<sup>rd</sup> April.

The consultation document sets out seven major issues, suggests how they might be addressed. The issues envisaged are Flood Risk Management, Environment, Planning Policy, Tourism and Marketing, Navigation and Moorings, Sport and Recreation and

Education. The aim is to develop the policies to deliver a sustainable River Thames for the period of the new plan – 2015 to 2021.

The RTA intends to hold a conference with members later in the year to draft the final version of the plan.

Although freight does not appear to be mentioned, there is no reason why it should not be included; if any CBOA members have an issue they wish to be included.

Since March 2014 the RTA has been a member's organisation financed by subscriptions. Prior to 2012, it was financed and managed by the Environment Agency steered by a representative Managing Committee.

The RTA web site is <http://newrta.org.uk>

## Thames Tunnel to proceed

In January a High Court ruling rejected applications for four judicial reviews by opponents of the Thames Tideway sewerage tunnel. Refusal by the judge was based on them being out of time and of having no relevance. Planning consent was gained last October, and now the project can go ahead.

CBOA News previously reported on the water freight potential of this project in previous CBOA News issues 15 Autumn/Winter 2014, and 13 Autumn/Winter 2013.

## CEO takes the helm

Richard Parry, the CEO of Canal & River Trust, joined Jenny and John Jackson for a day aboard their narrow boat *Roach* on the 2nd January. *Roach* was loaded with 19.5 tonnes of pre-packed coal for customers on the Shropshire Union Canal and beyond. Richard joined them at their yard at Awbridge on the Staffordshire & Worcestershire Canal and accompanied them to Brewood on the Shropshire Union Canal.

Richard took the helm almost immediately, and steered *Roach* for most of the day. He was not shy to use a windlass, or to help with the odd coal delivery to passing boaters.

The first part of the journey took in the five locks between Awbridge and the summit level at Compton, and passed through the site of the recent dredging works at Wightwick. These works were occasioned by the build up a scour, which is caused by deposits from an incoming drain with an un-maintained silt-trap. Richard

agreed that regular attention should be given to such areas where re-occurring problems prevail, even to the extent of carrying out regular clearing of the catch-pit even though the ownership of the catch-pit is in doubt.



Richard Parry, CRT CEO steering narrow boat Roach (J. Jackson)

Many topics were discussed as the day progressed, and dredging was certainly one of them. John ventured his well aired opinion that the current practice of profile dredging is flawed; that soft silt and mud does not stay profiled, but self levels. As with most of the topics discussed, Richard listened to the points raised, and understood the concerns, but he clearly has to consider all views expressed by users in concert with those of his own team.

Water levels were good on the day of the trip, with water running over all weirs, so no serious problems of depth were encountered until the stop-gate narrows beyond Wolverhampton Boat Club on the Shropshire Union Canal. This obstacle was negotiated by backing

off and running at it three or four times. All agreed that action is needed here. John also made the point that passage is not so good along the canal when water levels are just on weir, and worse when the levels are low, and that this situation should be taken into account when deciding the depth of dredging to be undertaken.

The poor design of the recently fitted tail-bridge handrails was discussed, as was the recent fitting of catches to the pawls on the lock gear. John is of the opinion that these catches replace one problem (the flying off of windlasses when a user is not concentrating), with another of equal seriousness (the inability, in an emergency situation, to wind down a paddle with one hand whilst holding up the catch with the other).



Richard Parry with Jenny Jackson on board narrow boat Roach

Supervision of contractors and the checking of depths after works have been completed were also discussed. This conversation resulted from the underwater obstruction encountered in Compton Bridge, the scene of recent works to the overhead water-main.

The Winter Stoppage Program was discussed at some length, in particular the desirability of continuing involvement of CBOA in the planning process.

Importantly, Richard re-iterated his desire to see carrying continue on all canals, from large scale freight on the commercial waterways, to fuel delivery boats on the narrow canal system. He impressed John and Jenny with his enthusiasm for all aspects of the Inland Waterways, and his ability to appreciate the views of all users.

Both parties enjoyed the day, and agreed that it had been a useful exercise.

## In the Press

### Sutton Weaver Bridge open

In September, the Chester Chronicle reported that the Sutton Weaver Swing Bridge is about to reopen after £4.5m restoration. While the 88-year-old bridge was undergoing repair, a temporary bridge being used for road traffic. Only smaller craft such as narrow boats could pass underneath during the works the Chester Chronicle said. A new bridge deck is now in place.

Canal and River Trust project manager Andy Johnson was reported as saying "Although the newly painted bridge certainly looks impressive, much of the project has been devoted to repairing the bridge structure itself. The bridge now has a completely new deck and beneath the bridge we have carried out extensive refurbishment of the unique buoyancy tank structure on which the bridge swings."

Everyone involved is rightly proud of this iconic, riveted historic waterway structure with its gleaming new paintwork. Barge traffic can now pass once again.

### Kellingley incinerator approved

North Yorkshire council have approved the plan to build an incinerator at Kellingley Colliery on the banks of the Aire and Calder Navigation, the Pontefract & Castleford Express reported in February. However, the local residents are not best pleased with the decision.

## Overseas News

### Inland Waterways & Shipping Conference

This event in Rotterdam on 28-29 April will focus on freight traffic and cargo flow trends, identify key trade corridors, congestion reduction, cargo handling efficiency, design innovations with Liquid Natural Gas (LNG) fuel options and more. There will be expert speakers from European Shippers' Council and others.

As we are a supporting association, there will be a **20% discount** for any CBOA members to attend, and one **complimentary pass** available for a CBOA member. Please contact the Chairman David Lowe to obtain the registration number for the complimentary pass or the 20% reduction.

Please see their web site

<http://www.informamaritimeevents.com/FKT2889CBOAWL> for more details.

### Not all is on the flow with EU water freight

The mighty Rhine waterway has over the years been steadily increasing its potential. However, other waterways are not keeping pace with the changes in freight patterns. This was an article in World Cargo News highlighting this concern.

In Central Europe, waterways such as the Danube for example have 10-20% of traffic to that of the Rhine. Some of the reasons for the ebb of traffic are low water in dry seasons, flooding in wet seasons and low air draft.

However, another cause identified is the shortage of cargoes or tonnage. It is thought that more efficient and cost effective shipping methods are required, together with reduced dwell times at ports and better handling will improve water freight tonnage.

### Capacity efficiency improvements

To this aim, several universities and logistics firms are working together to design a new Class V container barge, Class V is the "Large Rhine" standard, 1.5kt-3kt. In a research project worth €1.8M, a three-high, four-wide container barge is envisaged with a maximum capacity of 168TEU. With 110m loa, 11.4m beam height 8.2m, it will have a service speed of 13km/hr. This is

more than twice the typical Danube barge capacity, and fuel consumption is thought to be 30% less. A Liquid Natural Gas/Electric (LNG) propulsion unit is at the stern, with the wheelhouse at the bow.

A factor against renewing fleets is of course the low amortisation rate and longevity of existing craft. To tackle this, it is proposed that new shallow drafted LNG pusher tugs should be introduced to work with existing dumb barges, in addition to adapting existing tugs and self-propelled barges to make them more efficient.

### Propeller efficiency improvements

However not too small a draft can be employed, as this would mean too small a propeller for efficiency producing less thrust and/or greater fuel consumption. The propeller size and pitch can be calculated for best efficiency using for example the Bp- $\delta$  method (Power Factor–Advance Coefficient), which incorporates propeller slip and advance of the body of water under the stern through which the propeller runs.

In addition, by having an adjustable propulsion tunnel, means the captain can gain greater fuel efficiency by selecting the optimum tunnel length depending on the engine speed and so shaft power delivered; from stream conditions and whether going against or with the flow.

The benefits of having the propeller in a tunnel or a 'ducted propeller' have been known for some time. This has the best efficiency at speeds up to 12 knots, so it is seen to be suitable for barge or tug operation (at higher speeds than this, the drag of the duct outweighs the benefits of the thrust increase). The typical stationary, or 'static bollard pull' thrust increase can be up to 40%. Under way, the thrust increase can be 10-15%, or alternatively an 8-10% saving in fuel for a given speed.

In addition to the improved environmental impact, use of LNG should provide up to a 15% cost reduction. Some vessels in Romania and Germany are undergoing a refit to LNG at present. A 60<sup>3</sup>m LNG fuel tank is apparently required on a Class IV barge (classified as max 85m x 9.5m x 2.5m; 1kt-1.5kt) for a round trip from Basel-Rotterdam, but the trip is over 1500km. Upgrading waterways to Class IV standard will be costly, and for France the prized Class IV Seine-Nord project between the Oise and Escaut (Scheldt) is long awaited.

### Seine-Nord project progress

The project now seems to be moving forward and in January, the French Ministry of Transport announced that France has submitted a grant application in Brussels to build the 106km Seine-Nord Canal.

France hopes to qualify for a European contribution of 40%, which is "essential" for the construction of the new Seine-Scheldt connection.

On 6<sup>th</sup> February, The departments of Nord Pas de Calais, Somme and Oise have signed a letter of intent to finance Seine-Nord. The four departments are prepared to contribute together 500 million Euros to the construction of the new canal. The total construction cost is estimated at over 4.5 billion Euros. A new project company will manage the new Seine-Scheldt connection, composed of representatives of the State and the relevant local authorities and public bodies. It is envisaged that construction will begin in 2017 and that the extensive channel between the Seine and Scheldt will be completed in 2023.

Construction of the project is expected to create at least 10,000 jobs and operation of the canal to add around 50,000 industrial, logistics and transport sector jobs by 2050.

### CBOA for Members

#### Are your endeavours sufficient? – What all captains and operators should know

*CBOA is grateful to Myton Law for providing the following article. Myton Law is a specialist shipping, transport and insurance law firm that was formed in January 2010 from which time it has been a Member of the CBOA. (See Myton Law Profile on page 9).*

You may have come across the terms "reasonable endeavours", "all reasonable endeavours" or "best endeavours", or various alternative forms of these terms in a contract and you may have agreed to use them. But would you be able to explain what they actually mean? Would you consider that such a clause does not in fact place any real obligation on you? If you were unsure you would not be alone. Such terms are frequently used in commercial contracts where a party is unable to commit to an absolute obligation to do something, generally

because the matter is not within the full control of that party. What is perhaps surprising, given their prevalence, is that the law is in fact less than certain on what they mean. Generally speaking, provided the goal of the endeavours is sufficiently certain and there are criteria that can be used to objectively assess whether a party has used sufficient endeavours to achieve it, the courts will enforce such obligations.

The central question to any form of endeavours clause is when has one done enough? As is often the case with the law, the simple answer is it will depend on the facts of the individual case, however some useful general principles can be drawn from decisions of the courts which will be of assistance to anybody dealing with commercial contracts in the course of their work. The recent decision of the High Court in *Dany Lions Ltd v Bristol Cars Ltd [2014] EWHC 817*, a case which arose out of a dispute over the eye watering restoration costs of a classic car provides a useful clarification of the scope of reasonable endeavours which is worthy of note. Bristol Car's case rested on the argument that Dany Lions Ltd had failed to use its reasonable endeavours to enter into a contract with a third party restorer. Before looking at what the court said, it is informative to look at the current position of the law in this area.

### **Best Endeavours**

The courts have said that a party under an obligation to use best endeavours must "leave no stone unturned" and must take "all those steps in their power which are capable of producing the desired results...being steps which a prudent, determined and reasonable [obligee], acting in his own interests and desiring to achieve that result, would take." The High Court has expressly suggested in a relatively recent case that where there are multiple possible courses of action available to achieve the objective you may be required to pursue all of them until exhausted, rather than just one, or some of them. You are likely to be expected to put the interests of the other party before your own in trying to achieve the object and this may require sacrificing a significant amount of time and money. In other words, it is a very high threshold to overcome.

To put it in context, in the case of *Jet2.com v Blackpool Airport Ltd [2012] EWCA Civ 417*, the

defendant, who had agreed to use its best endeavours to promote Jet2.com's low cost services from its airport, was required to handle flights outside of normal operating hours even though it incurred a financial loss in doing so. It should be noted that each case is fact sensitive so it should not be taken as meaning that one would be expected to suffer loss or incur significant expenditure in every case but it is a sobering thought to any commercial enterprise that one may be required to go to such lengths in certain circumstances. You may take some comfort from the fact that the courts have also stated that a party would not be expected to take action resulting "in the certain ruin of the company or...utter disregard for the interests of the shareholders". Small mercies and all that...

### **Reasonable Endeavours**

What can be said with confidence is that it is clearly a lesser obligation than best endeavours. Beyond that, it is difficult to draw too many cast-iron conclusions; however the following points can be made:

- All relevant commercial considerations will be taken into account in determining what amounts to reasonable endeavours in any given case. This may include, for example, the financial and human resources available to the organisation or individual, the impact of a particular course of action on the party required to endeavour (the "obligor") in light of those resources and possibly the impact on the customers or clients, if any.
- The obligor is not required to sacrifice its own commercial interests. However, where the contract specifies certain steps that must be taken as part of the exercise, they must be taken, regardless of the impact.
- As noted above, where there are a number of reasonable courses of action available to the obligor, it has been suggested you would only be required to pursue one of them, rather than all of them.

In the *Dany Lions* case, the judge stated that it was clear that once the obligor had reasonably taken the view that it can do nothing further in terms of reasonable steps to achieve the object, it is no longer required to try.

## All reasonable endeavours

Logic might suggest that this variant sits in between “reasonable endeavours” and “best endeavours” and it is often used with that assumption in mind but a look at the case law on the term shows that the position is probably the least clear of the three. The courts have on different occasions suggested it is indeed a middle ground, also that in terms of how many courses of action an obligor must take it may be more akin to best endeavours and that it “does not always require the obligor to sacrifice its commercial interests”. So in other words, presumably, in many cases or perhaps even the majority, it will.

### So where does this leave us?

Common sense dictates that what is required will very much depend on the facts and in particular the context of the agreement and the resources of the parties involved and for that reason, the courts can be forgiven for providing us with less than absolute guidance. What can be said with certainty is that context is everything in determining just what level of effort is required but that said, always think very carefully before agreeing to use best endeavours to achieve something. An alternative approach is to try to agree upon some clear criteria in terms of how much time and resource is to be deployed and draft them into the agreement, rather than leaving it to the courts to decide what is reasonable.

However you approach endeavour clauses, do not ignore them and certainly do not consider them to be a non-obligation. They are enforceable promises upon which you can be sued and such an oversight could therefore be an expensive one.

## Boatmaster Regulations update

Since consultation and recent DRAFT publication, the amended regulations come into force later this year. Major changes include a new type of licence for restricted tidal waters, additional requirements for specialist operations endorsements and identification of new areas requiring local knowledge endorsements. In addition, errors and ambiguities in the original regulations are resolved. These include, among others, small vessels transiting higher categories of water under specific conditions and the list of low risk

vessels/operations excluded from the regulations.

The major change is the introduction of a Tier 2 licence that can include Category C & D (tidal etc) waters. These continue to be for specific areas and operations and as such do not require any endorsements. Holders of an interim BML vessel exemption can continue to operate for the validity of the current exemption but must then apply for it to be replaced by a Tier 2 licence. This should be done in good time before the exemption expires.

Existing Tier 2 holders can add all Category A canals upon re-validation if appropriate.

Masters using an accepted alternative to the BML for small vessels will be required to obtain an endorsement or equivalent if undertaking towing and pushing operations, except when operating as a narrow boat pair on Cat A canals. Existing masters who can evidence a minimum of 60 days qualifying service appropriate to towing and pushing operations in the 12 months preceding the Regulations coming into force, will be granted the relevant BML paper specialist operations endorsement(s) without further assessment.

Further details can be found on [ww.gov.uk](http://ww.gov.uk) and search for **Draft BML**.

## Thames Freight Standard

Following CBOA's active involvement in its formation, the standard has now been in force for 18 months and the CBOA continues to represent and assist our members during the current review process.

## Working Time Directive

Historically Inland Waterways Workers have been explicitly exempted from this Directive (though covered in the UK by local regulation) but a new EU directive has now been agreed. Through CBOA membership of the European Skippers Organisation, we became aware that there would be no possibility of amending the Directive.

The CBOA in conjunction with UK representatives of Nautilus International have therefore directed our efforts to ensuring that when the UK regulations are in force they include sufficient flexibility to enable our members and their employees to continue to operate successfully.

## CRT Super Hoover returns

Following a successful trial in 2012, the Canal and River Trust repeated the suction dredging programme in Gloucester Docks.

Suction Dredging removes built up sediment from the dock bed by using a 22-tonne waterborne 'hoover' to suck it up through a floating pipeline. Compared to other methods of dredging, CRT says it allows more control over where the sediment is dispersed and limits the amount of water transfer necessary.

Dredging is essential to keep the docks accessible to deeper draught vessels, including many of those visiting the 2015 Gloucester's popular Tall Ships Festival, for which the larger ships need a depth of four metres to navigate the docks.

The £150,000 project is expected to take three weeks in March to complete, and is part of a national dredging strategy that commits £80 million over a ten year period.

## Assistance to operators

CBOA would like to remind operators about the valuable assistance that is available to them through being a CBOA member.

CBOA has within its ranks a wealth of experience, knowledge and capability that covers many areas. As well as marine operations experience, knowledge of business practice, company finance and consulting work is available from within the organisation. Much of this is within the committee alone, but also via contacts through its members and elsewhere.

So if faced with a fresh problem where advice or support may be useful, please do not hesitate to contact one of the officers listed.

## CRT Index number display

With the risk of repetition, CBOA would like to remind all vessel operators on CRT waters that the vessel's Index number must be displayed on both sides, for CRT staff to identify it for licence checking purposes.

## CBOA NEWS

Views expressed are not necessarily those of CBOA.

Editor: Richard Horne  
Email: [r.horne@cboa.org.uk](mailto:r.horne@cboa.org.uk)  
Tel: 01252 844259

Printer: Ghost Creations

## CBOA officer contacts

### Chairman

David Lowe  
Email: [d.lowe@cboa.org.uk](mailto:d.lowe@cboa.org.uk)  
Tel: 01924 261870  
Mob: 07785 502478

### Vice Chairman, stoppages and maintenance matters

John Jackson  
Email: [j.jackson@cboa.org.uk](mailto:j.jackson@cboa.org.uk)  
Mob: 07885 284812

### Treasurer

Peter Hugman  
Email: [p.hugman@cboa.org.uk](mailto:p.hugman@cboa.org.uk)  
Tel: 01286 872561

### Secretary and Southern Representative

Keith Mahoney  
Email: [k.mahoney@cboa.org.uk](mailto:k.mahoney@cboa.org.uk)  
Mob: 07831 829898

### Parliamentary, regional and local government matters

Tim West  
Email: [t.west@cboa.org.uk](mailto:t.west@cboa.org.uk)  
Tel: 01785 850411

### Marketing/Corporate and Public Affairs

John Dodwell  
07802 961485  
[j.dodwell@cboa.org.uk](mailto:j.dodwell@cboa.org.uk)

### North East Representative

Noel Tomlinson  
Email: [n.tomlinson@cboa.org.uk](mailto:n.tomlinson@cboa.org.uk)  
Tel: 01482 320727

### North West Representative

Mike Carter  
[m.carter@cboa.org.uk](mailto:m.carter@cboa.org.uk)  
Mob: 07831 184495

### West Midlands Representative

Bernard Hales  
Email: [b.hales@cboa.org.uk](mailto:b.hales@cboa.org.uk)  
Mob: 07860 308973

### East Midlands Representative

Les Reid  
Email: [l.reid@cboa.org.uk](mailto:l.reid@cboa.org.uk)  
Mob: 07971 589612

### South West Representative

Patrick Moss  
Email: [patrick\\_moss@rocketmail.com](mailto:patrick_moss@rocketmail.com)  
Mob: 07736 859882

### CBOA Membership

Louise Sliwinski, Robert Wynn & Sons Ltd.  
[enquiries@robertwynnandsons.co.uk](mailto:enquiries@robertwynnandsons.co.uk)  
Tel: 01785 850411

# rolandon



water and sea freight advisory services

Tel | Fax: 020 7231 6247  
[john.dodwell@rolandon.com](mailto:john.dodwell@rolandon.com)  
Rolandon Water and Sea Freight  
Advisory Services  
PO Box 38479 London SE16 4WX

We are one of the leading authorities on moving goods off the road and on to water. Our clients and contacts include industry, national, regional and local government. Water freight can be cheaper than road, it beats urban congestion and is the most environmentally friendly means of bulk transport.