



How to assert your right of navigation on unregulated watercourses.

By Andy Biddulph

The Copyright and all moral rights of the author are asserted.

This work is licensed under the Creative Commons Attribution-NonCommercial-ShareAlike 3.0 Unported License. To view a copy of this license, visit <http://creativecommons.org/licenses/by-nc-sa/3.0/>.

Attribution [Victory by Andy Biddulph; to be found on <http://andybiddulph.co.uk/>]
The proforma letters, contained herein, may be used without attribution.

I am not a lawyer or a person qualified to give legal advice but then no one has to be. All the arguments that could be set against us have already been decided by Parliament, the House of Lords, or the High Court. We only have matters of fact to assert.

Contents

Introduction	3
Stage 1	4
Stage 2	9
Stage 3	13
Appendix 1 Ecohazards	17
Appendix 2 Legal stuff	18
Appendix 3 Reporting	19

Introduction

We have won the access campaign, comprehensively and decisively on all unregulated watercourses, as proved by my action in Dovedale. The only thing left to do it roll out the victory throughout England and Wales.

There is only one of me so I can not do it for you but I can give you the tools to do it yourself on your desired bit of flowing water. I have done it in Dovedale simply by asserting our rights. It was as easy as that. The only caveat is that this applies to watercourses where there has never been a Navigation Act. As we gain more experience, I will publish advice on regulated watercourses. Until then regulated watercourses are best left to the experts because the devil is in the detail of the exact wording of Acts of Parliament. If you do want to work with experts on your local patch then contact andy.biddulph@yahoo.com

We have won because there was no real opposition, only sound and fury signifying nothing. The real battle was with ideas and fears planted in my mind by the fishermen and landowners who wanted the British people to believe their rights no longer existed. As this house of cards collapsed, I have been constantly amazed to find nothing whatsoever to support those beliefs.

People are put off asserting their rights by the fear of being sued. Before anyone can sue you they have to prove some harm to themselves. In the initial stages when the paper war is being fought there is no possibility of them claiming any actual harm. Once you actually exercise your PRN then they may think they can make some sort of claim.

1. Trespass. Only the riparian owner could do this not fishermen. Fishing rights are only a *profit a pendre* not a physical object that could be trespassed upon. To bring an action for trespass they would have to show that you had no right to be where you were. They would have to produce legislation or the exercise of statutory powers to show that the PRN had been extinguished. But you would not be canoeing if they had been able to produce these documents. They could bring no case. If they tried they could not just put you before a court. They would have to go through PD-PAC procedures first. During which you ask for the documentation showing the PRN has been extinguished. They then have 14 days to produce it. If they are perverse enough to continue then you apply to get the matter struck out since it has no basis in law and is simply vexatious.
2. Fishermen may try to use Rawson v Peters. They would have to prove some actual disturbance of fish which research by the National Rivers Authority and the EA says does not happen in the ordinary course of canoeing. Only gross misbehaviour on your part could allow such an action to succeed. They would also have to show that the PRN had been extinguished otherwise they would just have to put up with the disturbance as Lord Denning is stated as saying in relation to this case.
3. Fishermen may claim you have broken a contract by contravening some access agreement. A contract requires consideration on both sides. They would have to prove that fishermen had powers to control navigation. Fish Legal has failed to produce legislation or case law to support their assertions on this matter. The public have no powers to rescind their rights, so no one may do so on their behalf. A canoeing organisation would be acting in *ultra vires* in making and agreement unless it can be shown that the PRN has been extinguished.

The chances of being sued are less than the chance of being struck by lightning. Pursuing an action against you would be a suicide mission since they would lose the confusion concerning the law they have created to hide behind.

Stage one Get your facts.

The first thing to do is to find out if there has ever been a navigation act for the river you want to paddle. There is a list in Douglas Caffyn's [Master of Law thesis](#)

If your river is not on that list then it probably comes under the category of unregulated watercourses to which this handbook currently applies.

The next question is, does the water flow? To be absolutely sure it is watercourse there must be a stream. Some backwaters which are connected at only one end to the stream and through which there is no flow may not be a watercourses.

If it is an unregulated watercourse then

1. The public right of navigation exists as a matter of fact and only needs to be asserted.
2. The Environment Agency has no remit for navigation.
3. Natural England has no powers whatsoever concerning navigation.

Now make a list of those opposed to canoeing. The most likely culprits will be fishing clubs and rivers trusts set up by fishermen, large landowners, and wildlife trusts which may be influenced by fishing interests. This list need not be exhaustive. Anyone who objects when you go canoeing can be served with the Common Law notice when they do.

At this stage you are fighting the paper war. Win this before canoeing then you will be in a better position to use the criminal justice system if there is any physical attempt to prevent you exercising your rights. No one can sue you for writing letters and the preservation of a public right of navigation is a legitimate aim [*Rowland v EA*]

To complete stage one serve the legal notice (page 5) on all those opposed to canoeing. This is best done by recorded delivery, although an e-mail with attachment will do. **Scan a signed copy of the notice and keep the file safe** for when you report that they have failed to show you the legislation or exercise of statutory powers.

Wait for the sky to fall in.

Meanwhile, if you are able, monitor any fishing club forums and look out for any encouragement for criminal activity. This includes any suggestions of attacks or harassment on canoeists. If you find any print off screen shots and the Home Office advice (page 7) and make a complaint at your local police station. If the police response is inadequate report the matter to the police complaints department. You want to come away with a police log reference number at least.

This tactic is to ensure your own safety and establish the idea among fishermen that they are subject to the rule of law.

Legal notice to be served on those opposed to canoeing.

Under the Common Law of England

Notice of right of navigation

This notice asserts that there exists and has existed since time immemorial a public right of navigation over all unregulated watercourses which are physically navigable. The fact of navigation being sufficient to demonstrate this right. The preamble to the statute (1472) 12 Edward IV, c 7 *An Act for Wears and Fishgarthes* affirms that Magna Carta affirms the pre-existing public right of navigation on all rivers, which may only be extinguished by legislation or exercise of statutory powers. For the **<name of watercourse>**, no such legislation or exercise of statutory powers exists.

Unless you can show within 28 days of the date of this notice that the public right of navigation on the **<name of watercourse>** has been extinguished by legislation or the exercise of statutory powers, it will be assumed that there is no legal impediment to the exercise of the public right of navigation and anyone may canoe on the **<name of watercourse>**, from **<upstream end>** to **<downstream end>** without let or hindrance.

This notice is issued by

<Your name and address>

to whom all enquiries may be made.

Signed

This **<day>** day of **<month in words>** in the year **<year>**

Example of an actual notice

Under the Common Law of England

Notice of right of navigation

This notice asserts that there exists and has existed since time immemorial a public right of navigation over all unregulated watercourses which are physically navigable. The fact of navigation being sufficient to demonstrate this right. The preamble to the statute (1472) 12 Edward IV, c 7 *An Act for Wears and Fishgarthes* affirms that Magna Carta affirms the pre-existing public right of navigation on all rivers, which may only be extinguished by legislation or exercise of statutory powers. For the River Teme and its tributaries, no such legislation or exercise of statutory powers exists.

Unless you can show within 28 days of the date of this notice that the public right of navigation on the river Teme or its tributaries has been extinguished by legislation or the exercise of statutory powers, it will be assumed that there is no legal impediment to the exercise of the public right of navigation and anyone may canoe on the Teme, from its source to its confluence with the Severn, and on any of its tributaries without let or hindrance.

This notice is issued by

Andrew Frederick Biddulph,
96 Napier Street,
Burton-upon-Trent,
Staffordshire
DE14 3LL

to whom all enquiries may be made.

Signed

This 28th day of May in the year 2013



Home Office

Direct Communications Unit

2 Marsham Street, London, SW1P 4DF

Switchboard: 020 7035 4848 - Fax: 020 7035 4745 - Textphone: 020 7035 4742

E-mail: public.enquiries@homeoffice.gsi.gov.uk - Website: www.homeoffice.gov.uk

andy.biddulph@yahoo.com
Mr Andy Biddulph

Reference: T17901/12

10 December 2012

Dear Mr Biddulph,

Thank you for your e-mail of 24 November responding to mine (T14411/12) about the display of material on a website encouraging behaviour on the waterways that may harm others. One of our officials has investigated this matter and has tendered the following advice.

For those people that commit acts of violence, there are criminal offences which are punishable by law. The Crown Prosecution Service (CPS) provides legal guidance to prosecutors and caseworkers in relation to these criminal offences which include the definition of an offence and sentencing guidelines. This guidance can be found under the Legal Guidance section on the Crown Prosecution Service (<http://www.cps.gov.uk/legal/>). You may wish to look at the following: Offences against the person and Homicide.

You may also wish to look at Part 2 of the Serious Crime Act 2007 which includes a number of inchoate offences. These allow people who assist another to commit an offence to be prosecuted regardless of whether the underlying substantive offence is actually committed or attempted, and include:

- Section 44: Intentionally encouraging or assisting an offence;
- Section 45: Encouraging or assisting an offence believing it will be committed;
- Section 46: Encouraging or assisting offences believing one or more will be committed.

You may wish to read the CPS guidance for these offences (http://www.cps.gov.uk/legal/h_to_k/inchoate_offences/#Guidance) as well as the relevant legislation (<http://www.legislation.gov.uk/ukpga/2007/27/contents>).

Generally, if an offence is illegal off-line then it is considered to be illegal on-line and if you

witness a crime then you should contact your local police force. The issue you raise regarding the Reading and District Angling Association website forum is a matter for the police, rather than the Home Office, as the police have the statutory power to arrest a person who is involved, or suspected of being involved, in a criminal offence.

If you (or the canoeist who drafted the letter you saw on the Reading and District Angling Association website) are not satisfied with the level of service you receive from the police then there is a formal complaints process which can be followed. Details of the complaints process is set out on each police force's website. To find details of your local force, please use the following link: http://www.police.uk/?view=force_sites.

Yours sincerely,

Lee Sheen
Direct Communications Unit

Stage Two the scary lawyer's letter.

You could get something like this. It is all bluff and bluster. There is no legal basis for any of it. It is designed to intimidate. They can not do anything to you because all you have done so far is serve them with a legal notice.

The only issue is the existence of legislation or the exercise of statutory powers which may have extinguished the public right of navigation.

They have three options

1. Present documentation to show the legislation or exercise of statutory powers.
2. Agree that a public right of navigation exists.
3. Do nothing and at the end of 28 days they have no lawful means to interfere with canoeing.

Respond using the letter (page 10) If they have not made any threats delete the word threatening.

If they persist, without showing documentation to show the PRN has been extinguished or they have a right to interfere with navigation, (legislation or case law where it is clearly stated that fishing rights also includes a right to control navigation, none exists) then the letters may constitute the criminal offence of harassment and should be reported to the police and the [Solicitors Regulation Authority](#).

Eventually they will stop sending these letters and begin advising their clients that there is nothing they can do. This will be the end of the bubble blown by the Angling Trust. They are going to look rather silly when this happens.



Please quote the reference number below when contacting the office:

Our ref: WR/adv.1562

4 October 2011

Mr A F Biddulph
96 Napier Street
Burton on Trent
Staffordshire
DE14 3LL

Dear Mr Biddulph

Your request to navigate on the river Dove between Tutbury and the river Trent

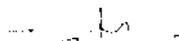
Fish Legal is a not-for-profit membership association of riparian owners, angling clubs, and individual supporters across the UK. In England we are the legal wing of the Angling Trust and in this instance we write to you on behalf of our member club, the Burton Mutual Angling Association ("BMAA").

I refer to your letters dated 8 September 2011 and 26 September 2011 to BMAA, in which you appear to request permission to navigate along the Dove. Please take note that BMAA own fishing rights on the river Dove between Tutbury weir and the river Trent. You are not permitted to navigate here otherwise than in accordance with the access agreement settled with the local Burton BCU. A copy of the terms is enclosed for your reference, but they are also displayed on BMAA's website.

There is no general public right of navigation on inland waterways such as the Dove. The river in question has not been designated under an Act of Parliament as navigable by the public, there is no other specific grant by the owners of the river for this purpose and it is not recognised as having been navigated by the public from time immemorial.

Should you navigate along the river without permission or in breach of the provisions of the access agreement it would constitute trespass. You may also be subject to civil proceedings should you interfere with BMAA's enjoyment of their fishing rights.

Yours sincerely


William Rundle
Solicitor

Enc.



Anyone who claims that canoeing has devalued their property should be referred to Lightman J.'s judgement on this matter in *Rowland v EA*, that such loss of property value is lawful and in pursuit of a legitimate aim, i.e. the preservation of a PRN.

Text in reply to scary lawyers letter

Public right of navigation on the <name of river>

Dear <solicitors name>,

Thank you for your threatening letter of the <date of letter>

The contents of which will be ignored until such time as you can present legislation of the exercise statutory powers which may have extinguished the public right of navigation on the <name of river>.

Yours sincerely

You might get a brush off like this. It is a complete nonsense.

Interference with a PRN is a public nuisance and only the Attorney General can bring action. We are not bringing such an action.

We are not attempting to create or establish a PRN.

We are asserting that a PRN exists as a matter of fact. No special legal authority is needed to assert a fact. Indeed, the whole matter is out of the courts since *Rowland v EA*.

FACT 1 We know with absolute certainty that a common law PRN existed between 1297 and 1472 because King Edward IV and his Parliament told us so.

FACT 2 The PRN could only have been extinguished by legislation or exercise of statutory powers which would be found in the public record. Do they exist, yes/no?

No special authority is needed to assert an easement and it a routine matter.

Dear Mr Biddulph,

As promised I have forwarded your correspondence to the Duchy of Lancaster's office.

They have confirmed that they are not aware of having received your notice or anything similar.

As it is unclear to them by what legal authority you claim to be entitled to serve it I have to advise you that the Duchy does not accept the validity of your notice.

Yours sincerely

Jonathan Morgan-Smith

Dear Mr Morgan-Smith,

My legal authority for serving the notice is that of a British citizen. O'Hagan J. [Murphy v Ryan 1868] informs me that a public right of navigation is an easement. A British citizen, having good reason to believe an easement exists, may give notice to the owner asserting that easement. Indeed, this is a routine matter.

When I first contacted the Duchy, you were appointed as their agent to respond to me. Service of a notice on a person's appointed agent is the service of the notice on that person. So there can be no question that the Duchy has not been served with a valid notice.

Following *Rowland v EA* the extinguishment of the PRN affirmed by the 1472 Act may be determined as a matter of fact by examining the public record. The Duchy has three options,

- 1) Present the legislation or exercise of statutory powers and thus shoot me down in flames.
- 2) Fail to find the legislation or exercise of statutory powers and agree to the PRN.
- 3) Do nothing. At the end of the 28 day period the PRN is asserted by default and I will make this result public knowledge.

I look forward to your reply.

Andy

A more common response would be like this.

This is just stonewalling. It only shows the solicitor has read the commentaries. The notice asserts a matter of fact. If facts have no legal meaning or effect then we are in a sorry state of affairs.

They try this sort of bluster because it normally works on those that do not know what they are doing. Compare this to the Fish Legal response on page 9.

Try an answer like this which goes to the heart of the matter and shows that the Law Lords always decide in our favour.

They may object that the Wills Trustees case was decided under Scottish law but the words, “of the common law of nations,” and, “not confined to any one time or place,” clearly demonstrate by the use of plain English that Lord Wilberforce's judgement is intended to apply universally. None of the other Law Lords dissented.

There are only a limited number of things they can throw at us to try and stonewall. If anything novel comes up send me a report at andy.biddulph@yahoo.com and I will take a look at it. This handbook may always be a work in progress.

There is an additional argument for the Queen's estate. It has been argued that if the soil is vested in the crown then that is *prima facie* evidence of a PRN.

Dear Mr Biddulph
Duchy of Lancaster Needwood Survey: River Dove – Right of Navigation

We corresponded in June about the "notice" you sent asserting a public right of navigation over the River Dove. I have discussed this correspondence with the Duchy's solicitor and his advice can be summarised as follows:-

- in English law there is no public right of navigation over non-tidal rivers and, consequently, there is no public right of navigation over the River Dove;
- the "notice" you sent asserting such a right has no legal meaning or effect.

Whilst the Duchy, as a riparian owner, has the right to control and permit access to parts of the River Dove, it has no plans to allow access to canoeists. In the absence of that permission, any attempt by canoeists to access the Duchy's parts of the River will be a trespass and will be treated as such by the Duchy.

Yours sincerely

Jonathan Morgan-Smith
Director

Dear Mr Morgan-Smith,

Duchy of Lancaster Needwood Survey: River Dove – Right of Navigation

Thank you for your letter of the 9th July 2013.

It appears that the Duchy's solicitor has not served you well, merely dipping into the commentaries and finding a restatement of the doctrine first stated by one Humphrey Woolrych in 1830. English law is to be found in legislation and case law not in comments about the law, as Lord Denham said, “When in pursuit of truth, we are obliged to investigate the grounds for law, it is plain, and has been proved by recent experience, that the statement and restatement of a doctrine, - the mere repetition of the *cantilena* of lawyers, can not make it law, unless it can be traced to some competent authority and it be irreconcilable to some clear legal principle” [*O'Connell v R* 1844] In addition to the errors in the derivation of the Woolrych doctrine listed by the Rev. Dr. Caffyn,

http://www.caffynonrivers.co.uk/resources/cms/pdf/1_7_ch_5_the_commentaries.pdf,

it was at the time of its first statement in contradiction to the legislation then in force, the 1472 Act for Wears & Fishgarths, and so, by the absolute sovereignty of Parliament, contrary to English Law. The Woolrych doctrine is not supported by any case law, *Bourke v Davis* having been declared misleading by the House of Lords [*AG v Brotherton* 1990.] Furthermore, it is in direct contradiction to current case law, “I have referred to these cases drawn from different systems of law, to support the existence of a rule, which is really one of the common law of nations, resting ultimately upon facts and needs, not confined to any one place or time, that the use of a river, according to its natural quality or capacity, for downstream floating is recognised by law,” Lord Wilberforce [*Wills Trustees v Cairngorm Canoeing and Sailing School Ltd.* 1976]

Since you have failed to show the public right of navigation, affirmed by ancient statute and supported by current case law has been extinguished, it exists as a matter of fact. To bring any action for trespass you would first have to establish that the PRN has been extinguished and only legislation or the exercise of statutory powers may do that, not a discredited comment in a commentary.

Yours sincerely

Stage three After the sky did not fall in.

At the end of 28 days send the letter (page 14) to all those to whom you sent the notice or their solicitors if they employed any. The paper war has been won and the PRN asserted. **Send a report for inclusion in the national register of asserted PRs see page 19.**

We are now into *real politic* and things could get interesting. First a few legal points. The public right of navigation makes the river and its environs a public place. Any action that would be unlawful in the street is also unlawful on the river. This includes any form of harassment and the use of foul language, which is a breach of the peace for which the citizen has the power of arrest [*Howells v R 1980*] Canoeists are encouraged to use the criminal justice system to curtail such antisocial behaviour. Putting up with it will only perpetuate the criminality of those opposed to canoeing.

The river has much in common with a highway. On a highway or a place where there is a right to roam only a police officer may stop you, question what you are doing, or ask you to identify yourself. Such a person should produce a warrant card and give you time to note their details.

The Environment Agency has no remit concerning navigation except where they are the statutory navigation authority so their water bailiffs have no powers over you and in any case they are required to present their ID. Water bailiffs only have powers in relation to the regulation of fishing.

There are persons who may claim to be some sort of fishery officials. They have no legal status. Any attempt to question you or prevent you from going about your lawful business may be a criminal offence. Their actions and car registration should be reported to the police.

Any group or persons carrying weapons or behaving in a threatening manner with the intent to prevent you from going about your lawful business in a public place are committing a breach of the peace or behaving in a manner likely to cause a breach of the peace and the police (999) should be called immediately. This is not optional there is a duty to report breaches of the police

There is no objective evidence that canoeing disturbs or is harmful to fish or fish stocks (EA advice to water bailiffs and their Technical Report W266.) Anyone making such a claim should be referred to this EA documentation. However, please note **ecohazard 1** (Appendix 1). If you are crunching through gravel between November and March you may be doing harm. One is expected to exercise one's rights in a responsible manner.

Natural England has no powers in relation to a public right of navigation (Wildlife and Countryside Act) even if your exercise of a PRN was disturbing wildlife. Anyone claiming to restrict your navigation on the basis of this Act should be politely informed of this fact and reminded that *ultra vires* (beyond their powers) actions may create a liability.

If anyone points out a salmonid spawning ground to you, navigate to avoid it or minimise disturbance. They can not stop you navigating but it is good environmental practice to respect such sites. It is a criminal offence to disturb spawning salmonids but to prove an offence would require there to be a deliberate disturbance of a particular fish, not canoeing in general.

Now go and canoe, take a phone for the police and witnesses in case any criminal activity is used against you. Take plenty of photos and tell local canoeing clubs what you have done or write a river guide like the one I did for Dovedale

Letter after 28 days

Public right of navigation on the <name of river>

Dear < name> ,

Since you have failed to present the necessary legislation or exercise of statutory powers, the public right of navigation on the <name of river> exists as a matter of fact. This right is the superior right because it existed since before the notions of private ownership of the soil of a river and private fishing rights entered the minds of men. Fishing must give way to navigation and riparian owners may not obstruct navigation.

Furthermore, the <name of river> . is a public place, having many features in common with a highway, although in separate category from highways. This means that anything that is unlawful in the street is also unlawful on the navigation. This applies to public order offences, breach of the peace, use of barbed wire, offences against the person and harassment. The rule of law applies and the criminal justice system will be used to ensure that this is observed.

I trust there will be no unfortunate incidents which would require police involvement and that there will be a learning to share founded on good manners and common courtesy.

Yours sincerely

The thug element are dangerous but easy to deal with. What is more difficult to handle will be the subtle appeals to some sort of moral high ground.

Posted by Robo11 on the Song of the Paddle forum.

“To answer your question [Are there special users of the street that other users must tiptoe round?], yes there are. There are special users of the pub I attend too. It would be very badly done to sit in a chair used by a local elder, or insist on a drink out of his pint pot hung on a hook waiting for him. The British standard of respect isn't yet dead, and it should be extended by the incoming paddlers to the old guard fishermen or landowners. Not surprisingly this way of life worked for thousands of years. “

Before reading on, say what is wrong with this. If you can't you may be vulnerable to the standard tactics used to handle threats such as the one you have posed.

Out in the sticks, there are local hegemonies (power structures) which pay scant regard to the rule of law posited by the state. These elders form a sort of geriatric post code gang. Just like the street gangs, respect means recognising their power. It is a law of small societies that the sociopath rises to the top. Hunter-gatherer societies avoided this because everyone was equally armed and dangerous so dominance could not be achieved by manipulation and fear. These elders are highly skilled manipulators and are used to their will been seen as a social imperative by all around them. The Reggie Cray doctrine, “If everyone is frightened of you, you can do what you like.” prevails. The very thought that people they don't control may come onto their turf and do new things will get their enlarged amygdalas firing on all cylinders. That's neuroscience for panic. Their strategies are easy to predict. To soothe their inflamed amygdalas they must either bring you into their power structures or destroy you. The latter risks confrontation with the state so the first try will be to manipulate you into accepting their norms.

The tactics will be subtle and variable. Having more tricks than a cartload of monkeys, they will try whatever they think will work. The common feature will be some sort of emotional bypass of reason. **Take another, closer look at Robo11's post. Take a marker pen and mark the the disjoints of logic, then write down a list of the emotional triggers. Take a good look at how they interact.**

The only defence against this sort of manipulation is to have your doctrine fully prepared and stick to it no matter how reasonable deviation from your doctrine may appear at the time. The doctrine is the safe place to retreat to if you are getting battered in the fray. There is no shame in retreat into doctrine neither is it cowardice, lack of intellect, childish, or any other negative epithet the manipulators may use to push your buttons. The manipulators are better at social interactions than you are. If you were as good as them you would be the manipulator. If you are stuck just keep repeating your doctrine. Let it become a mantra. Shut your minds to the siren voices. The doctrine is the only way it can be. Keep on repeating it until it sinks in that whatever they say or do the doctrine will not change. If you feel bad about sticking to your doctrine then it is a sure sign that the manipulators are getting to you. Man up and keep stating the doctrine. I could not have brainwashed you or manipulated you into accepting this doctrine because there are no emotional triggers, it is based on fact and logic, and you have all the time in the world to check it out for yourself. They may say that my claiming that I have not brainwashed you is proof that I have because if I intended to brainwash you I would have to say I had not, but this just shows how convoluted it can get.

The DOCTRINE is:-

- 1. Where there is a public right no one has any control. The public will exercise their rights as they think fit.**
- 2. The rule of the road on a public right of navigation is that boats go through and everyone else gets out of the way.**
- 3. The public have no powers to rescind their rights. There can be no restrictive agreements. The most anyone can do is advise anyone who would care to listen.**
- 4. You can only advise any restriction for good navigational reasons which must be based on fact and evidence.**
- 5. You can advise on physical constraints on navigation such as water levels and physical hazards. If there is a man between you and the physical constraints you are been manipulated. Take the man out of the equation and see what it looks like then.**
- 6. You can advise on ecological restrictions on navigation such as the ecohazards in appendix 1. If there is a man between you and the ecological constraints you are been manipulated. Take the man out of the equation and see what it looks like then.**
- 7. Good manners and common courtesies affect the conduct of navigation but can not be allowed to restrict the right of navigation.**
- 8. If we allow any limitation on a PRN to account for fishermen's tender feelings then we present them with a moral hazard. Their feelings will become progressively more tender until a universal right of passage becomes one Tuesday afternoon in February. History always repeats itself, if you let it.**
- 9. Canoeists are members of the public going about their lawful business on a public right of way, like cyclists in the street.**
- 10. Physical obstruction of a public right of navigation does not extinguish the PRN and is public nuisance. Obstructions that may cause damage or injury may be criminal offences.**

Appendix 1 Known Ecohazards

Eco hazards

While canoeing is generally harmless to the environment and the Environment Agency's report W266 says canoeing does not affect fish stocks, there are specific situations that could cause harm. Responsible canoeists treat these ecohazards with the same caution as physical hazards to themselves following the usual drill, back up, land, inspect, and if there is any doubt, portage.

So far there is only one class of ecohazard identified.

Eco hazard 1 1

Between November and the end of March wild trout spawn and the eggs and alevins ([trout-lifecycle](#)) remain in the gravel and are vulnerable to disturbance. Crunching through the gravel in this period will definitely damage fish stocks. Anyway who would want to crush these cute little critters, watch the video on the link.

Canoeists should shoot using stern rudder rather than paddle through but **only if you are absolutely certain there is sufficient depth to avoid contact with the bottom.** At least as deep as the full length of your paddle blade is a good rule of thumb. Treat the ecohazard presented by gravel riffles like any other hazard, back up, land, inspect, and if there is any doubt portage.

This applies to all trout streams.

Appendix 2 Additional arguments already won in the courts.

1. **Loss of property value.** The argument was that preserving the PRN would be contrary to the 1998 Human Rights Act and Convention ie the right to own property. Rowland v EA declared this loss of value lawful and for a legitimate aim.
2. **No User.** Rights of passage are presumed to devolve from some user. Lord Wilberforce [*Wills Trustees v Cairngorm Canoeing and Sailing School Ltd*] tackles this issue, “Rivers, with rare exceptions have always been there inviting use by man, and man since long before history has had the means and occasion to use them.” In other words, if it can be used it must be presumed that someone has used it. “The interaction of natural and visible capacity for use with human exploitation thus produces by inevitable process a segregation of rivers of public use and other rivers or streams that have not the character of public use.” If it looks like you can use it then there is a PRN. The capacity for use is sufficient to assume there has been some user. I know of a guy who carries a hand axe found in a canoeable stream on his land. It was made by *Homo Heidlebergis* (like us but a bit shorter and hairier) before the last ice age.

Appendix 3 How to send a report.

Report by e-mail

The body of the report should contain the following

1. The name of the river including the county if there is more than one. (how many Avons are there?)
2. The section of the river.
3. To whom the notice was sent.
4. Response **Accepted, Default, Disputed.**

The files (if using Word use .doc format not .docx. It saves a lot of problems) that should be attached are

1. A scan of the signed notice
2. A copy of your follow up letter
3. Copies of any correspondence if **Disputed**

Send to navigation_rights@btconnect.com CC to andy.biddulph@yahoo.com Subject Asserted PRN

Help is available from andy.biddulph@yahoo.com