

The National Park Service (NPS) just released the proposed Colorado River Management Plan (CRMP) and its associated environmental document, the Final Environmental Impact Statement (FEIS). Private boaters have made huge gains in the plan. The decisions contained within, and the secondary decisions about permit transition that will be made in the next few months, will impact river-runners for a decade or more. But that's only if it is implemented right away -- delays could put off our gains for years to come.

#### Brief Review

Five years ago, the National Park Service threw up its hands, concluded that the river-running community could not cooperate, and halted work on revision of the Colorado River Management Plan. GCPBA sued, and the resulting settlement spurred renewed activity on the part of the NPS.

GCPBA conducted a number of membership surveys in an effort to find out what issues were most important to our members. Our surveys revealed a variety of interests in what a new management plan should offer non-commercial boaters.

Environmental and social goals were often mentioned, but the most important reason for our organization's existence, GCPBA membership stressed in their survey responses, was getting equitable access to the Colorado River in Grand Canyon.

Over the next 5 years, GCPBA and the outfitters, first tentatively, then productively, managed to cooperate on recommendations that in large part have become core elements of the plan.

#### CRMP Summary

So, how did GCPBA members and the private boating community fare in the new plan? The following are notable changes:

- \* There is a 97% increase (from 3,571 to 7,051) in the number of private boaters able to access the river each year.
- \* The total number of non-commercial annual launches is more than doubled -- from 240 to 503.
- \* The total number of summer private launches is 185, a 43% increase.
- \* A new launch category of 8-person trips is established, which greatly increases the number of private launches and use in the summer season (by 6,710 additional user-days), increases the ability of private boaters to utilize their 50% of the yearly allocation, encourages smaller trips permit holders historically have felt pressured not to run because of the scarcity of opportunity, and allows more efficient use of campsites.
- \* The total number of shoulder season (spring/fall) private launches is 199, a 105% increase.
- \* Private boaters finally get approximately the same use as commercially guided trips. Commercial use is capped at current levels, but there is a near doubling (from 58,048 to 113,486) in the total user-days allocated for private trips. Non-commercial use is not capped and, depending upon per trip load factor may exceed 115,500. This ratio of approximately 50/50 will remain in place for the life of the plan.
- \* There is a 52% increase (from 51,889 to 79,399) in the number of user-days allocated for private trips in the prime March-October season.
- \* Winter use is expected to increase by about 1,855 people per year, and all of it is noncommercial use.

From an environmental/social perspective there are gains as well.

- \* The maximum number of people on the river at any time is reduced from 1,095 to 981.
- \* Launches are spread more evenly over seasons and the maximum number of daily launches is reduced from 9 to 6, favorably impacting crowding issues on the river.
- \* Motor use is cut back from 9 months of the year to 5 --.

#### Permit Plan

The permitting plan has the following features:

- \* The current wait list is eliminated and a weighted lottery is created for the issuance of permits.
- \* Expanded use of the alternate trip leader concept should serve to reduce cancellations.
- \* Lottery application procedures will contain elements that insure that only serious applicants are entering the lottery.
- \* Each applicant is given one additional chance for each year (up to five years) they had not won the launch lottery and not participated in any part of a Lee's Ferry to Diamond Creek river trip.

### Transitioning From the Wait List

All current list members of the waiting list will be given multiple options for a transition into either an actual trip date or a new eligibility category, within 6 months after the plan is implemented. Within 5 years (by 2011), a large percentage of current wait list members would have had the opportunity to schedule and take their trips.

- \* Low-number people will get a chance to schedule directly.
- \* People with higher numbers will a chance to combine their numbers and get a permit based on their aggregated waiting period.
- \* Those unready to schedule can move into the lottery (with an extra chance for each year they had been on the existing wait list PLUS any other extra chances they had accrued) or just leave the list for a refund.

### Potential Complaints

Although GCPBA thinks, in general, that the Park Service paid gratifying attention to our suggestions during the planning process, some things about the plan are drawing complaint.

- \* The current waiting list provided long-term certainty that an applicant would get a launch, if he or she lived long enough. That certainty goes away with the list itself. While GCPBA advocated a multiple path access system which included both a lottery and a reservation system GCPBA hopes and expects that the new system will provide real trips to real people a lot sooner than the current wait list does.
- \* Many boaters liked longer trips than the shortened trip lengths proposed in the FEIS.

On the other hand:

- \* the increased trip opportunities more than overbalance this issue,
- \* there are actually some trip-length increases in shoulder seasons, and
- \* if a longer trip is a high priority, it still is possible to do 25 day trips in the winter.
- \* Permit holders must be 18 at the time of trip, and the practice of putting children on the list will disappear with the list itself.
- \* A non-refundable fee structure will be employed. This should have the effect of making sure that lottery applications are real, not dummy, and scheduled trips will either take place, or if for some reason go unused, be returned to the pot immediately.
- \* The plan does not address wilderness designation for the river corridor. While it is tempting to wish all issues could be addressed at once, NPS planning for wilderness is a separate issue and was never part of this effort.
- \* The charge has been made that the NPS proposal simply throws a bunch of user days into the private pool, irrespective of environmental or social consequences.
- \* The number of trips launching per day has been reduced which should reduce the number of daily contacts, crowding at attractions and campsite competition. Additionally camping tends to occur at regular points ~ the number of campsites has remained constant- there is no evidence that expanded use in shoulder seasons will lead to the creation of more campsites and therefore more trailing, etc.

The Park Service has expressed concern that increased visitation will lead to damage of more archeological sites. The potential is there; hopefully user education can mitigate that effect. Educational efforts have been successful in the past, most notably in the disposal of human waste and trash.

\* While group sizes for outfitter trips are somewhat smaller and guides are now counted, group sizes are still not equal. But use is. Some members of the GCPBA Board had a theoretic view that private trips should be able to have the same size groups as outfitter trips, but for most it never went beyond theory. Faced with the actuality that no one was much interested in running a 36-person trip and particularly since private boaters are being offered equal use, this seems a minor loss.

\* While motors are not phased out, their use is cut from 9 months to 5.5. Opinions on this varied strongly, even within the GCPBA Board, with some thinking that "in a perfect world" there would be no more motors, and others noting that for those who can't afford the luxury of a longer trip, for trips with aged parents and small children, a motor rig maybe a useful option.

What really convinced the Board to agree with the outfitters about continued motor use was the modeling effort we undertook using the Grand Canyon River Trip Simulator software. Simulation after simulation made it clear that without motors, use would have to be cut way back, and/or inter-party encounters would go way up. Such encounters would be more frequent and of longer duration. See Waiting List, Vol 6, No.2 Winter 2002-3, Can Canyon Use Be Expanded? for a more complete analyses.

\* There isn't a common "chokepoint" - point of entry - into the river access system, i.e., outfitter passengers and non-commercial boaters still go through separate systems and there are still separate commercial/non-commercial allocations. The Board analyzed lots of techniques for doing this (in fact, GCPBA's new President, Dave Yeamans, spent months on the systems and mathematical analysis for these procedures) and concluded there were lots of ways this could happen, and all of them would involve huge hassles for both private boaters and the outfitters' passengers, and huge bureaucratic hassles for the NPS river office. Any of these systems, given enough effort, money and time, could have been made to work. Any of them would have (sort of) "measured demand." The conclusion was that a 50:50 split that was comparatively easy to administer was something worth attaining. If private boaters could get that "and they have" it was worthwhile to give up a theoretic allocation-free scenario, with guaranteed hassles and no guarantee of even ending up at the 50% level.

\* Each person is permitted only one commercial or non-commercial GC river trip per year. If this helps bring demand back toward supply, even GCPBA's most ardent repeater, ex-president Ricardo, is square with it. Not very happy, but square. The "no repeat" rule will be implemented in 2007.

## GCPBA Position

At the time the GCPBA Board decided to sue the Park Service to force it to restart the planning process, it was an act of last resort. When GCNP Superintendent Robert Arnberger halted the river-planning process, it was clear private boaters would have to live under the old plan for the indefinite future.

With a 20-year waiting list, it seemed no possible outcome could be worse for private boaters than having to live under the plan for another 20 ~ 30 years. The GCPBA Board believes that the proposed plan is far better than the status quo. The new plan has a few nits that some individual Board members dislike, but in general, the Board could hardly be more pleased. The canyon experience is going to become much more available for GCPBA members and the larger river running community. With the scheduling and launch changes, a private trip is going to be a better experience.

## Potential Litigation and Consequences

While the compromises that are an inevitable consequence of efforts to obtain greater overall access will be deemed acceptable by most, ours is a society that seemingly defaults to litigation mode.

Those who are dissatisfied with the balance struck by the NPS in the FEIS have cast the specter of litigation over the scene. Not-so-subtle intimations of a planned lawsuit against the NPS are being bandied about freely. Thus the question suggested by the title of this article -- Will Another Lawsuit Help Or Hinder private boaters in obtaining expanded access to the Grand Canyon?"

Let's cut to the chase. Further legal disputes centering on the provisions of the FEIS are not in the interest of the private river community in general.

A wide and disturbing spectrum of possible outcomes exists. A large portion of the private boater community could remain foreclosed of any opportunity to enter the pool of people seeking to lead a Grand Canyon trip. The wait list has been closed for two years. If implementation of the FEIS were adversely affected by litigation over the FEIS, it's not likely that the GCNP would re-open the list. Therefore, private boaters currently not registered on the NPS wait list, most likely, will still be prevented from joining the list.

The litigation process could have further unintended consequences. For example, if a trial court agreed with some aspect of a legal challenge, there would be an appeal. The court of appeals could disagree with the trial court. All of this could produce years of delay in attaining the access levels the FEIS plan provides.

Importantly (and not mentioned by those contemplating litigation) a reconfigured FEIS may not incorporate the numerous gains now available to private boaters. It is entirely possible that the conditions imposed upon the NPS in any decree or settlement could be detrimental to private boating interests -- wiping out the major access gains the FEIS forecasts.

There is the other potential no one is talking about. Depending on the exact nature and final outcome of the lawsuit, it is possible that one interpretation of a court ruling would be reduced access for private boaters.

Finally, even if litigation is not targeted directly at the private boater community's interests, the law of unintended consequences could strike with a vengeance. Litigation involving any of the parties could adversely impact private boaters in other ways as yet unknown.

These very real possibilities raise a critical question, are those contemplating litigation ready to expose all private boaters to some unknown, serious, adverse outcomes?

It's time to reflect on how far private boaters have come in our battle for fair and timely access for all who wish to experience a Grand Canyon river trip. We, the GCPBA Board, as well as many of our members and many in the larger river running community see great promise in the NPS proposal. It's our opinion that any lawsuit that seeks to stop implementation of this plan would be a major setback, potentially depriving river runners of those gains that the community has sought for many years.