

WHITEWATER COMMISSION QUARTERLY MEETING JUNE 23, 2005

MINUTES

The quarterly meeting of the Whitewater Commission was held on Wednesday, June 23, 2005, at the Holiday Inn, Oak Hill, West Virginia. The following individuals were in attendance:

WHITEWATER COMMISSION MEMBERS

Frank Jezioro, Director, Division of Natural Resources (Presiding)
Randall Ballard
Ray Church
Bill Garten
Eddie Lilly
Jerry Cook
Matt Knott
Cal Hite

DIVISION OF NATURAL RESOURCES

Jena Kay Webb, Law Enforcement Section (Recording Secretary)
Lt. Larry Case, Law Enforcement Section
Sgt. Barry Kaizer, Law Enforcement Section
John McGinnis, Law Enforcement Section
Kelley Goes, Attorney General's Office, DNR Legal Representative

PUBLIC

Chris Dragan, Wildwater Expeditions
Len Hanger, Songer Whitewater
Rob Dotson, WV Adventures
Karen Calvert, Rivers II, Inc.
Eric Pories, WVPRO
Kristen Mahaffey, WVPRO
Jeff Proctor, Class VI
Brian Campbell, The Rivermen
Richie Cantrell, Cantrell Ultimate Rafting
Dave Holloway, Alpine Bible Camp
Benjy Simpson, Passage to Adventure
Aaron Chadband, Boy Scouts of America

Tim Main, Butts Tubes, Inc.
Rick Johnson, Extreme Expeditions
Heather Johnson, Extreme Expeditions
Mark Lewis, North American River Runners

CALL TO ORDER

The meeting was called to order by Director Jezioro at approximately 1:00 p.m.

APPROVAL OF MINUTES

Commissioner Lilly made a **MOTION** to approve the minutes of the March 15, 2005 meeting as submitted. The motion was seconded by Commissioner Cook and was passed.

PUBLIC COMMENT

Jeff Proctor, Class VI River Runners, stated that he would like to ask the Commission if it would be possible to include the meeting agenda along with the memo announcing the meeting time and place so that the outfitters would be familiar with what was going to be on the agenda and discussed and they could have time to talk to the commissioners for their input. He also stated that he would like to see the minutes of previous meeting minutes posted on the website.

Heather Johnson, Extreme Expeditions, stated that she would like to ask the Commissioners to carefully consider the user fee that was up for discussion as well as the trout stocking. Ms. Johnson stated that those are sensitive issues for the outfitters that belong to WVPRO, and that it would be more fair if the trout stocking fees were collected through each whitewater outfitters through the Gauley license fees rather than trying to access the fee from WVPRO because WVPRO has no recourse to collect the monies and that would be equitable to all the Gauley River outfitters.

Brian Campbell, The Rivermen, stated that he was a member of the LAC Sub-Committee for over 10 years and seems as though the last five to six years, it seems like every year we are battling DNR Purchasing to get contracts approved in a timely manner, which has led directly to numerous years of no contracts for the studies that the LAC Committee has laid out so we have gaps in data. Yesterday Lt. Case sent around an e-mail from the contractor Marshall University with the history of data and it seems that thought some years when the contract has been issued it has been within 60 day or so of the contract period so that the work that was approved and authorized and funded never got completed. Mr. Campbell stated that he didn't know if Marshall was actually paid for the work and the work was not completed or if they didn't complete the work and they weren't paid, it sure seems to me that we should be able to get the purchasing problem solved so that the contract could be issued in a timely manner, that it is well specified that the contract specifies that it is a year with which the contract period covers and independent of what the dates of the contract are they should be required to complete the work that was specified in the contract. I didn't know if this was a purchasing issue, a contract administration issue or if it is a problem with the contractor, but we have got to have this data. Every time we have a LAC meeting we cannot seem

to locate any reports that is suppose to come from the study so if we are going to continue the program I think we need to get the contracts issued timely and there needs to be appropriate administration of the contract so that the work is completed and then the reports are presented to the LAC Committee and/or the public and on the web-site in a timely manner. There is a process now to turn it into to a web-page system so that we no longer need the contractor and I highly recommend that we move forward on this.

DISCUSSION OF USER FEE CHANGE

After a lengthy discussion pertaining to the monthly user fees, Commissioner Lilly made a **MOTION** to lower the monthly user fee from fifty cents back to thirty-five cents per person, effective July 1, 2006. Commissioner Church seconded the motion and the motion carried.

Kelley Goes, DNR Legal Representative, stated by statute the Commission has to approve all rules promulgated by the Director of the DNR, and since this rule has to go on file for public comment before next week, the Commission needs to approve the following language. This rule will be promulgated by the DNR before next week, the language relates to 58CSR12-5.2 and the language currently reads. The fee is fifty cents (50¢) per customer. That will be the language that will be changed. The second sentence states, if the trip exceeds one day then the fee shall be collected for each day, or part of a day, of the trip.

Commissioner Lilly made the **MOTION** to approve the rule promulgated by the Director of the DNR, stated in the above paragraph and Commission Knott seconded the motion and the motion carried.

DISCUSSION OF OUTFITTERS GETTING MEETING AGENDA BEFORE MEETING

Director Jezioro stated that meeting agendas would be mailed to each outfitter prior to the quarterly meeting and Commissioners should send all agenda items to his office by the deadline stated in the memo that will be sent out by Jena.

DISCUSS COMMERCIAL OUTFITTER RENTING EQUIPMENT FOR THE PURPOSE OF A WHITEWATER EXPEDITION ON WEST VIRGINIA RIVERS

After a lengthy discussion pertaining to renting of equipment by commercial whitewater outfitters it was determined that Commissioners Lilly and Cook would meet with Lt. Case and Kelley Goes to discuss language for the proposed rule change. Richie Cantrell will be ask to submit in writing how economically devastating it would be if this change was not submitted as an emergency rule and the rule will be submitted with the summarization to support the request for emergency rule status from the Secretary of State. It will be a simple language change, to permit a certain area of the river not require trip leaders just like kayaking.

Commissioner Garten made a **MOTION** to create a Sub-Committee consisting of Kelley Goes, Lt. Larry Case, Eddie Lilly, and Jerry Cook to meet and draft the rules related to rental equipment and then the Commission will vote to approve those rules. The motion was seconded by Commissioner Church and the motion carried.

REVISION OF THE NATIONAL PARK SERVICE, NEW RIVER GORGE MANAGEMENT PLAN

Cal Hite gave an overall synopsis of the revision of the National Park Service, New River Gorge Management Plan and advised the Commission and Whitewater Outfitters that they would be notified as to how they would help with the revision plan.

DISCUSS PARTICIPATION IN CRITICAL RESPONSE PLAN

Eric Pories stated that 37 outfitters and employees went through a day long critical response management training seminar and that there was going to be another seminar on July 31st and would like support and participation from the DNR.

Director Jezioro stated that the DNR would support and participate in the training process.

DISCUSS TROUT STOCKING FEES

After a lengthy discussion pertaining to trout stocking fees, Director Jezioro stated that the agreement between the DNR and the Gauley River Outfitters is to provide for the stocking of the water with trout and the payment for the fish and helicopter time is a matter between only the Gauley River outfitters who signed the agreement. DNR has no enforcement authority upon individuals who do not pay for their portion of the fee for the fish. Gauley River outfitters were given a better worded agreement by Kelley Goes, DNR Legal Representative, and the DNR has never been informed by the outfitters if this agreement is acceptable.

LAC SUBCOMMITTEE REPORT

Commissioner Ballard stated that since the last meeting there was nothing to report since there were no annual reports available for the 2003 or 2004 at this time. As discussed earlier in this meeting the members of the LAC Sub-Committee will get together and discuss the cost and details of the on-line trip leader reports and will report back at the September meeting.

BUDGET SUBCOMMITTEE REPORT

Commissioner Knott stated that (Attachment A) shows budgeted versus actual for fiscal year 2005.

After a brief description of the proposed budget for fiscal year 2007 (Attachment B) by Chairman Knott, Commissioner Ballard made a **MOTION** to accept the proposed budget for fiscal year 2007, version 2. The motion was seconded by Commissioner Lilly and the motion carried.

TOURISM SUB-COMMITTEE REPORT

Commissioner Church stated that in the last 5 years the whitewater rafting numbers have declined from 249,000 in 2000 to 211,000 in 2004. Tourism is trying to come up with some ideas on how to better market the whitewater rafting industry.

OTHER BUSINESS

There was no other business to discuss.

NEXT MEETING DATE AND PLACE

The next meeting will be held on the 3rd Wednesday in September, and everyone will be notified of the place and time.

A **MOTION** to adjourn was made by Commissioner Church, was seconded by Commissioner Cook and passed. The meeting adjourned at approximately 3:00 p.m.