

WHITEWATER COMMISSION QUARTERLY MEETING SEPTEMBER 20, 2006 MINUTES

The quarterly meeting of the Whitewater Commission was held on Wednesday September 20, 2006, at Ace Whitewater, Oak Hill, West Virginia. The following individuals were in attendance:

WHITEWATER COMMISSION MEMBERS

Frank Jezioro, Director, Division of Natural Resources (Presiding)
Betty Cutlip, Division of Tourism
Cal Hite, National Park Service
Jerry Cook
Matt Knot
Bill Garten
Eddie Lilly

DIVISION OF NATURAL RESOURCES

Jena Kay Webb, DNR Law Enforcement Section (Recording Secretary)
Lt. Larry Case, DNR Law Enforcement Section
Major Jerry Jenkins, DNR Law Enforcement
Lt. Col. David Murphy, DNR Law Enforcement
Will Valentino, Legal Counsel for DNR
Keith Wilson, Budget Officer, Division of Natural Resources

PUBLIC

Tom Shriver, Hawks Nest State Park
Greg Wells, Adventurous Seasonal Pursuits, LLC
David Hughes, New River Academy
Eric Pories, WVPRO
Brian Campbell, Rivermen
Richie Cantrell, Cantrell Ultimate Rafting
Tim Barton, Alpine Ministries
Mark Lewis, North American River Runners
Johnathan Danz, Wildwater Expeditions
Jeff Proctor, Class VI River Runners
Bodie Beitz, Wildwater Expeditions
Tim Main, Butts Tubes, Inc.
Susie Hofstetter, Songer Whitewater
Imre Szilagyi, Appalachian Wildwater
Valerie Ritter, New River Academy

CALL TO ORDER

The meeting was called to order by Director Jezioro at approximately 2:15 p.m.

APPROVAL OF MINUTES

Commissioner Lilly made a **MOTION** to approve the minutes of the June 21, 2006 meeting as submitted. The motion was seconded by Commissioner Knott. A short discussion followed pertaining to Commissioner Garten's question as to whether a proxy vote could be used to have a quorum when voting on a motion or if a proxy vote could make a motion or second a motion. Director Jezioro stated that DNR would get back to him with an answer. The motion was voted on and passed.

PUBLIC COMMENT

David Hughes, New River Academy stated he wanted to address the Commission in reference to New River Academy. New River Academy is a high school with eleven students and six paid teachers. Teachers and students kayak each day after school. The Academy is asking for permission to be able to paddle the New and Gauley Rivers with their students.

Lt. Case stated that if someone is doing a whitewater expedition as defined in the regulations and if there is monetary profit or gain involved, they have to be covered by a Commercial Whitewater Rafting License. If the paddling program is part of the student's tuition, it is our opinion that the school would need to be covered by a commercial rafting license. Lt. Case also stated that he spoke with Mr. Hughes and Lt Case was under the impression that New River Academy has been running the river under one of the commercial licensed outfitters in the area.

Mr. Hughes stated that the Academy had run a camp during the summer for junior high students, who were paying for the camp, and had used a licensed commercial outfitter to be able to hold the camp and run the river; there will be no other camps. The high school students are paying private high school tuitions and New River Academy is a nationally accredited school. New River Academy takes their students all over the world doing outdoor activities.

Lt. Case asked Mr. Hugh who takes the students paddling. Mr. Hughes stated that the teachers take the students paddling, but they are paid to teach high school courses and are not paid to take the students kayaking.

Director Jezioro asked Mr. Hughes to send the DNR information pertaining to New River Academy functions and copies of the employment contracts for their teachers. The DNR will need to study this information before a decision can be made as to whether or not they will need a commercial whitewater rafting license.

DISCUSSION ON TROUT STOCKING AGREEMENT

Director Jezioro read a statement prepared by Bret Preston, DNR Wildlife, pertaining to the trout stocking agreement. DNR and Gauley River Outfitters have cooperatively partnered in a fall trout stocking following the whitewater releases since

1990. More recently a late spring stocking has also occurred as a result of an additional whitewater release day that may occur during Bridge Day Celebration. The outfitters have agreed to purchase trout and rent a helicopter to stock the Summersville Lake tail waters and further down into the gorge to the Meadow River. These stockings are designed to mitigate for lost fishing days on the Gauley. The stockings have enhanced fishing and provided outstanding fishing opportunities into the summer and fall months. Currently, there is no agreement for trout stocking. DNR has provided a draft revised agreement that provides for spring and fall stockings. The outfitters, through WVPRO, are making a good faith effort to cooperatively work toward an agreement with DNR.

Brian Campbell stated that there were four standing sub-committees within the Whitewater Commission. The sub-committees consist of the Regulations Sub-committee; LAC Sub-committee, which has to do with the studies on crowding and other issues; the Budget Sub-committee; and the Tourism Sub-committee, which has not been functioning because the commissioners have decided not to fund any commercial activities lately. Mr. Campbell also stated that he thinks it is important that the sub-committees stay functioning; and the Regulation Sub-committee should study the issue discussed previously concerning New River Academy and bring a recommendation back to the Whitewater Commission.

Director Jezioro stated that by the next Whitewater Commission quarterly meeting, the new commissioners should be appointed and in place.

Eric Pories commented on the trout stocking by stating that WVPRO, the outfitters and DNR have been meeting for about a year and a half discussing the renewal of the trout stocking agreement. The outfitters have a number of concerns with the way the agreement is currently structured. Currently WVPRO administers, collects the money and does all the administration for the trout stocking arrangements. There is no agreement between WVPRO and the DNR. The agreement is between specific Gauley River Outfitters and the DNR provides the trout for stocking. Many of the outfitters with current licenses were not originally signed onto those agreements and refuse to contribute. The original agreement provided that all the licensees would divide the cost equally. Many of the smaller outfitters do not consider this arrangement to be an equitable way to pay for the stockings. WVPRO has been working with the Gauley River Outfitters trying to come up with a different arrangement that would be equitable, enforceable, and easier to administer, so that some outfitters are not left paying the bill for outfitters who are not contributing, even though they still have equal access to the additional release dates provided in the current agreement.

Mr. Pories stated that, historically, a release schedule was established for the Gauley on Saturday and Sunday for three weekends, followed by two weeks of straight release. This is part of the agreement which has transitioned to the current Friday through Monday release for five weekends, followed by a Saturday and Sunday release on the sixth weekend. This transition is the reason for the tripling of the Gauley customers since the initial agreement, and has dramatically improved and enhanced the Gauley release season. Mr. Pories stated that it is much easier to book weekend trips

than mid-week trips. The agreement for outfitters to fund additional trout stockings was negotiated because the new release took away fishing days late in the season.

WVPRO would like to submit a recommendation that the Regulations Sub-committee consider changing the agreement to include an additional thirty cents per user to be paid by Gauley River commercial customers, in addition to the basic whitewater user fee of thirty-five cents. Most Gauley River Outfitters agree that this would be a more equitable way to pay for the trout stockings. The recommended change would also include some enforcement authority. WVPRO recommends DNR collect the additional thirty-cent fee and then contract with WVPRO to continue to provide the scheduling, coordination, purchasing and administration of the stocking program as it has been done in the past. WVPRO requests that the Commission assign the Regulations Sub-committee to investigate this recommendation.

Director Jezioro stated that it would take a rule change to put this recommendation into effect and the Regulations Sub-committee would be the committee to make a recommendation to the Commission.

Commissioner Lilly requested to be assigned to chair the Regulations Sub-committee since the former chairman, Commissioner Ballard, is no longer a member. After a short discussion, the decision to appoint a new chairperson for the Regulations Sub-committee was tabled until the new commission is seated.

WVPRO will resubmit their request to change the agreement to the commission after the new commission members have been seated.

BENEDUM GRANT – DISCUSS DEVELOPMENT STUDY & RESEARCH PROJECT

Eric Pories, WVPRO, handed out Attachment A to all Commission members and proceeded to explain the study cost and funding strategy to the commission. Mr. Pories asked the Whitewater Commission to consider contributing up to \$35,000 to help fund the whitewater portion of the study, which was one of the main reasons the Whitewater Study and Improvement Fund was created. This would be an appropriate use of Whitewater Commission money. The study will be statewide in scope and will use data and customer information from all rivers. The Focus Group Studies will ask questions about all rafting regions. The actual whitewater study will take approximately ten weeks. If the whitewater contribution is approved today, that portion of the study will be completed by December or early January. The results of the whitewater portion of the study will be available to help the industry reinvigorate their market.

Mr. Pories stated that it is possible that only \$25,000 would be needed; however, he was asking for \$35,000 to assure all costs would be covered for the study. Director Jezioro stated that he would check with purchasing to clarify the law but if the dollar amount for the study was over \$25,000 it would have to go out for bid.

Keith Wilson, DNR Administration, handed out Attachment B, explaining current expenditures and revenue in the Whitewater Study and Improvement Fund.

After a lengthy discussion concerning this study and its funding, Commissioner Cook made a **MOTION** to provide up to \$35,000, contingent on purchasing requirements, for the whitewater specific portion of the economic study. Commissioner Knott seconded the motion and stated that, for the record, he wanted to be sure that the study reflects the entire state. There was no further discussion and the motion passed.

LAC SUBCOMMITTEE REPORT

Discussion of Commercial Whitewater Rafting License Applications

Blackwater Outdoor Center – Tygart River License

Adventurous Seasonal Pursuits, LLC – Cheat River License

Commissioner Cook stated that the LAC met to discuss two applications for Commercial Whitewater Licenses: Blackwater Outdoor Center's Tygart River application and Adventurous Seasonal Pursuits application.

The only items lacking on the Blackwater Outdoor Center's Tygart River application was the put-in and take-out areas, which is required by regulation to show that they have access to the river. The LAC Sub-committee recommends that the Commission grant a license for the Tygart River to Blackwater Outdoor Center.

Adventurous Seasonal Pursuits has asked for a license on rivers that are outside the study zone areas and the Commission does not need to approve a license for these areas. However, for the rivers in the study zones on the Tygart and Cheat Rivers, the LAC Sub-committee recommends further study on this request. Since there are no current statistics showing there are more people running the Cheat narrows than the canyon, and the fact that the Narrows is a very short section and a low water summer section, the Sub-Committee believes there should be a little more input before another license is issued on the Cheat. There are already 12 licensed companies to run the Cheat. Eight outfitters have reported users and four of them have not reported users. The LAC Sub-committee recommends that outfitters on the Narrows section of the Cheat be interviewed and that Mr. Wells, with Adventurous Seasonal Pursuits, contact other outfitters to determine if they would be interested in selling their Cheat license

Director Jezioro asked Mr. Wells if he had any comments to make on the recommendation.

Mr. Wells stated that what he wanted to do was in conjunction with a lot of hiking and extended backcountry outings, some of which are done for Snowshoe and for Tom Bryant of Greenbrier Adventure Camp. Mr. Well's also stated that starting out, at the most, there would only be a couple of trips per year on the Cheat Narrows. Everything else would be done on the Upper Cheat River.

Director Jezioro told Mr. Well's that there would be a decision made on his license application as soon as possible and he would be notified.

After a lengthy discussion pertaining to Mr. Well's license application and at the request of the commission, Mr. Well's stated that he would re-submit his application for West Virginia Rivers that are outside the whitewater study zone.

BUDGET SUBCOMMITTEE REPORT

Commissioner Knott stated that since the Commission had voted to contribute between \$25,000 and \$35,000 from the Whitewater Study and Improvement Fund for the whitewater specific portion of the economic study, the 2008 budget beginning balance would be decreased. The beginning balance would be approximately \$70,000.

TOURISM SUBCOMMITTEE REPORT

Betty Cutlip, representing The Division of Tourism, commented briefly on activities pertaining to the division.

OTHER BUSINESS

Lt. Case asked the commission and outfitters their opinion on what should be done with about fifty boxes of old whitewater paperwork that was in storage. There was a brief discussion and the decision was made to keep all accident reports and training records, but other old information could be destroyed.

NEXT MEETING DATE AND PLACE

The next meeting is scheduled in December and everyone will be notified of the time and place.

A **MOTION** to adjourn was made by Commissioner Garten and seconded by Commissioner Lilly. The meeting was adjourned at approximately 4:00 p.m.