

# **Quarterly Whitewater Commission Meeting Minutes**

## **September 15, 2010**

Location: Adventures on the Gorge  
1 Ames Heights Road  
Lansing, WV 25862

In Attendance: Lt. Col. Jerry Jenkins, DNR; Don Beyer, private river user; Doug Cooper, private river user; Matt Knott, River Riders; Chris Ellis, private river user; Brian Campbell, Adventures on the Gorge; Jerry Cook, ACE; Mark Lewis, WVPRO; Skip Heater, New & Gauley River Adventures; Richie Cantrell, Cantrell Canoes & Rafts; Rob Dobson, West Virginia Adventures; Heather Johnson, River Expeditions; Rick Johnson, River Expeditions; Tim Barton, Alpine Ministries; Don Striker, National Park Service; Jeff West, National Park Service; Lt. Larry Case, DNR; Kelly Crago, DNR

### **Approval of June 16, 2010 Minutes**

Brian Campbell motioned to approve the minutes recorded from the June 16, 2010 quarterly Whitewater Commission meeting. Jerry Cook seconded the motion, and the Commission accepted.

### **Crowding at Cunard**

Tim Barton is concerned about crowding issues at the Cunard River. Crowding seems to occur between 8:30 and 11:00 am at the put-in. Barton suggested the following:

- Eliminate trip talks at Cunard parking lot,
- Eliminate passing out guest gear at Cunard parking lot,
- Remind trip leaders to not allow standing on sidewalk,
- Do not allow boats to be placed on concrete, even in the express area,
- And paint a line and footprints to indicate walking area and direction.

(Refer to “Cunard Commercial Parking and Launch Area.”) Barton argued that the crowding is bad customer service and wondered if it is time to set license allocation limits or at least schedule trip times per Outfitter for the Cunard.

National Park Service officer Don Striker offered his opinion that it would be easier for the Outfitters to continue self-regulating the area. He stated that letting an agency step in would most likely lead to “heavy handedness” from officers that the Outfitters might regret.

Mark Lewis reported that the General Management Plan has recently been “fast-tracked” and so may be on the schedule by December. He and Striker agreed that it would be best to try to handle the congestion via WVPRO. NPS will work with WVPRO and have something lined up by the start of next season. The Commission will take no action at this time.

### **Recent Citations**

- Agenda item 5a asked, “Do field officers use their discretion in issuing tickets or are they ordered by the DNR to do so?” Lt. Col. Jenkins answered that orders do come down from the DNR Law Enforcement Headquarters office sometimes. However, in the case of most citations, HQ alerts the appropriate district office if an Outfitter is not in compliance.
- Agenda item 5b asked if user fee payments are to be postmarked or received in the office by the fifteenth of every month. The HQ office allows the payments to be postmarked by the fifteenth so that Outfitters do not have to account for holidays, mail being lost, and etc. If the payment is postmarked by the fifteenth of the month, an Outfitter is not considered out of compliance.
- Agenda item 5c addressed the possibility of an online payment system. It was noted that the DNR Licensing section utilizes an online payment system which would give the Law Enforcement section a starting point for research. Brian Campbell motioned to have the DNR look into the option. The motion was seconded by Jerry Cook, and the Commission accepted.

The issues above prompted a discussion regarding the high cost of a late payment citation. Changing the ticket fee would entail a re-opening of the Code. The Commission decided it would be more reasonable to attack changing the cost when a more imperative issue requires opening the Code.

### **E-mail Reminders from DNR Whitewater**

Currently, each Outfitter enters monthly user numbers in an online form that, when submitted, sends an e-mail to the DNR Whitewater account. When Kelly Crago receives each report, she forwards the e-mail to the appropriate Outfitter with the text, “In receipt of your user numbers for –insert month-. Please remit payment, postmarked by –insert month- 15, 2010.” Skip Heater suggested that the DNR issue an additional e-mail by the 14<sup>th</sup> of every month reminding Outfitters who have not paid their monthly user number fees to do so by the 15<sup>th</sup>.

Brian Campbell questioned the necessity of the action, considering the response sent by Kelly now. Some Commission members agreed with Campbell, and some agreed with Heater. Kelly suggested that although she would be willing to search for and e-mail each Outfitter that hadn’t paid, it might be more efficient to send a general reminder e-mail to all Outfitters alerting them to make sure they had submitted numbers and payments for the month.

Tim Barton motioned for the DNR to issue a general e-mail to all Outfitters reminding them to submit numbers and payments for the month. The e-mail shall be issued one business day before the due date. Don Beyer seconded the motion, and the Commission accepted.

### **Transferring Control of the Whitewater Industry from DNR to NPS**

Rob Dobson suggested that the DNR transfer control of the Whitewater Industry to the NPS due to the appearance of a lack of DNR resources. Dobson would like to see officers on the river observing river users during the trip rather than at put-ins and take-outs. He believes that the DNR does not have the resources to do so and, at the very least, suggested teaming up with NPS.

The Commission and NPS stated that transferring control would require a State Law. NPS said that they would not mind helping the DNR with certain aspects of the industry. Don Beyer asked about the current relationship between the DNR and NPS. Lt. Larry Case answered that the agencies have a working relationship maintained through communication. In the past, they have used those lines of communication to help each other with law enforcement.

Doug Cooper expressed his disinterest in more regulators of the industry. Cooper believes that the perceived lack of DNR resources would also seem evident in the NPS' takeover. He stated that the NPS would most likely have to hire people to execute the new duties.

Jerry Cook attested to his pleasure with the current workings between the commercial river users, private river users, Whitewater Commission, and government agencies. He said that he doesn't see a need to fix something that isn't broken. Dobson maintained his opinion that the DNR could utilize the NPS more in order to increase law enforcement on the river.

As an additional suggestion, Campbell mentioned that the NPS does a great job of hiring college-degreed, former whitewater guides. He said that practice might be good for the DNR to consider. Lt. Case and Lt. Col. Jenkins said that the DNR continues to actively train officers in whitewater procedures. The Law Enforcement section tries to send officers to Outfitter meetings for discussions and is always looking for an opportunity to do so.

### **Sub-Committee Report**

Brian Campbell updated the Commission on his sub-committee's actions. Chip Short, a former State employee who does computer work on the side, is working on the online reporting systems. He has done some work on the Trip Leader Reporting site. Kelly Crago has been attempting to keep track of Chip's hours and completed tasks, but has had some difficulty provoking responses from him.

Campbell also addressed the need for a current study of injury reporting, since the last one was done in 2003. The sub-committee and the DNR have a list of University-based bidders, and DNR Procurement employee Angela Negley can help set up the Requisition for Proposal. The sub-committee hopes to have something to report by the next quarterly.

### **Budget**

Matt Knott of River Riders submitted the following budget for the Commission's review:

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<b>Whitewater Study and Improvement Fund</b>		
Budget v Actual Fiscal Year 2011		
July 1, 2010 to June 30, 2011		
	Budgeted	YTD 09/13/10
Beginning Account Balance	\$135,000	\$134,258
Revenue July 1 2010 to June 30, 2011	\$60,000	\$8,734
Gauley Fund July 1 2010 to June 30, 2011	\$7,000	\$181
Investment Earnings	\$2,000	\$19
Total Available	\$204,000	\$143,192

Anticipated Disbursements:		
DNR personnel & Benefits	\$64,844	\$370
Annual Increment	\$1,800	\$0
Miscellaneous	\$44,834	\$0
Gauley Stocking	\$23,522	\$0
Sub-total Expenses	\$135,000	\$370
Miscellaneous	\$69,000	\$142,822
(contingency fund) = INVESTMENTS + Cash w/ treasurer		
Total Estimated Expenditures for FY 2011	\$204,000	\$143,192

#### Notes about Gauley Fund

FY 2009 Income \$14534 Expenses \$8565

FY 2010 Income \$11360 Expenses \$4649

#### Notes about DNR personnel

Money is allocated to all DNR officers for portion of time working on whitewater

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DNR accounting created the above budget and supplied it to Knott. The numbers on the budget are rough guesses, but Knott advised the Commission to refer to the five notes at the bottom. In response to the questions from the last quarterly meeting regarding how much money has come in and how much has been spent, Knott advised the Commission to refer to the FY2009 and FY2010 notes. He said to change Gauley Fund FY2010 Expenses to \$8696.

The spring stocking of the Gauley was skipped due to a lack of funds. Campbell said that the stocking budget had been based on high gas and trout costs at the time. When they attempted to organize the spring stocking, they found that the allocated funds had somehow been sucked into the main account, which led to the skipped stocking. The October stocking is on schedule.

Mark Lewis agreed to work on what was budgeted and what was spent.

### **Bond Interpretation**

Rick Johnson questioned the new interpretation handed down by Will Valentino regarding the Outfitter and Guide Surety Bond. Valentino recently interpreted the Code as requiring one bond per license. In the past, the interpretation had been that one bond per Outfitter was needed. Johnson wondered if the bond is a performance bond, wouldn't the previous interpretation be correct? Also, since the old interpretation has been upheld for so many years, would historic use take precedence over new interpretation?

Lt. Case questioned the purpose of a surety bond for outfitters and guides and also wondered why hunting and fishing outfitters would have different requirements than whitewater outfitters.

Although Valentino was not present, Lt. Col. Jenkins said that the Code is the Code. Whether the interpretation is "new" or not, the Code must be upheld as it is written.

### **Boating Reports**

Lt. Case introduced the "West Virginia Boating Accident Report" to the Commission. He said that the form needs filled out if a commercial boating accident occurred wherein the

injured party sought additional medical help. The form is to be filled out in addition to the “Whitewater Rafting Injury Report.” If an officer investigates the accident, he or she fills out the WV Boating Accident Report. If an officer does not investigate, the Outfitter is responsible for making sure the DNR receives both reports. Kelly will send the report to all Outfitters via e-mail. Its necessity is in effect as of now.

### **Autopsy**

Mark Lewis met with the Medical Examiners Board regarding the desire for an autopsy when the cause of death is not obvious. Lewis was told that the ME investigating the recent Cheat fatality did not do an autopsy based on false information given to him. Lewis related the Outfitters’ and Commission’s concern that autopsies are performed, especially when specifically asked for. The Board discussed the issue and said it would re-educate the county MEs on autopsy protocol as needed. Also, the Board would be willing to discuss putting a Rule in writing if the problem persists.

The Board asked Lewis to pass on their concern regarding the importance of careful wording of publicity. The members used the Cheat fatality as an example, stating that instead of using the word “drowning”, a news release should have more accurately labeled the cause of death as “under investigation.”

Lewis said that if an Outfitter has a record of requesting an autopsy at some point and never got one, that he can help them follow up on the issue.

### **Unknown Sign**

Doug Cooper questioned the appearance of a “Riding Whitewater Strictly Prohibited” sign at Kanawha Falls. He asked who placed it. None of the DNR or NPS officers present were familiar with the sign, but Lt. Col. Jenkins offered to follow up on it. Cooper gave Jenkins a picture he had taken of the sign.

### **Next Quarterly Meeting**

The next meeting will tentatively be held on Tuesday, December 14, 2010 at 1:00 pm in the South Charleston DNR office.

### **Adjournment**

Tim Barton motioned to adjourn the 2010 third quarterly Whitewater Commission meeting. Chris Ellis seconded the motion, and the Commission accepted.