

american whitewater

March/April 1993

SPECIAL

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Public
Access
Policy

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american whitewater

Journal of the American Whitewater Affiliation

C O N T E N T S

Volume XXXVIII, No. 2

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FORUM.....

The Aquanaut

I am about to divulge something that I haven't told a soul.

A real secret. Not a dark one, mind you. Not a morbid confession. But a revelation, nonetheless.

Actually, it's something that I'm rather proud of. But I've been very reticent to go public. I know what can happen if you boast about such things.

I'm not superstitious. Really, I'm not.

But as my mother used to say, "Pride goes before a fall." And, "God does not always strike with a stick."

But, what the hell... I'll take my chances. Here it is...

I didn't swim last year!

Not even once!

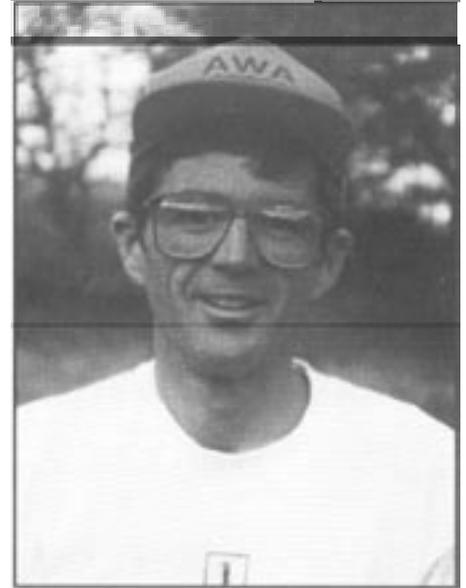
For the first time in my twelve year kayaking career I made it through a calendar year without a single swim.

This might not sound like a big deal to you, but to me it represents a monumental milestone.

You see, I have a longstanding and colorful history of aquatic misadventures. Ask any of my friends; they'll be more than happy to tell you. God knows, they've got the ammunition. They can, and gladly will, recount in exquisite and painful detail every swim I ever made. (Of course, none of them can remember any of their own!)

The fact is, during my first seasons on the rivers, I accepted swimming as a way of life. And believe me, back then I wasn't alone.

You see, unlike most Pittsburgh boaters, I did not hone my skills on the



class II and III waters of Slippery Rock Creek and the Lower Yough. No... I learned to paddle on the Cheat one early spring. It was class IV (we thought it was class V back then... the guide book said so); it was very cold, and the level fluctuated tremendously from weekend to weekend.

I had only experienced moving water two times before I naively survived the Cheat the first time. Admittedly, I had learned to roll in a pool the preceding winter and, to my credit, I did manage to right myself quite a few times on those maiden voyages. But, unfortunately, I didn't manage to roll quite a few times too.

During that first spring, I swam every rapid major rapid on the Cheat... several times. It didn't worry me... other folks were swimming right be-

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side me. During that era lots of boaters **learned** in the school of hard **knocks**. Not everyone mastered one class of whitewater before graduating to the next.

You young 'uns might not believe it, but there was a lot more swimming going on then than there is now. Take Pillow **Rock** on the Gauley, for instance. I remember that during the fall of my first year of boating (yes, I paddled.. and **swam...**the Gauley and the Upper **Yough** that first year) roughly one out of five boaters were deposited, **sans** boat, in the **pool** at the base of Pillow.

There was an established ritual to **running** Pillow. First you scouted.. nervously watching a few other fools take a thumping. Then, when your anxiety level had reached a **peak**, you gave **it** your best shot... and got your butt **kicked**. **Finally**, you sat on the rocks and cheered as a bunch more people got trashed (**This** was the best part.) The same ritual was repeated at

Sweet's Falls. It would have happened at Iron R i g too, but hardly anyone ran Iron R i g **back** then. (It used to be Class VI! The guide book said so.)

Over the years probably no one **fished** me out more than the legendary **CI** paddler, Dean Tomko. Each time he solemnly and patiently reiterated what I came to think of as **Tomko's Law...** "No matter how bad **t h i i** seem, no matter how exhausted, or breathless, or cold, or miserable you are, it will only get worse if you get out of your boat." Nine times out of ten Dean was right.

Well, eventually, I got better and I swam less frequently. But I never gave it up entirely. I clung to my aquatic tradition like an obstinate toddler unwilling to give up his blankey. I still managed to humiliate myself several times a season. That I had started to view my swims as disgraceful indicates that I was making some progress. But, as I swam less frequently, my swims became increasingly more spectacular,

often reaching epic proportions.

Recirculation in gigantic hydraulics became a recurrent theme. Big Nasty at eight feet. Greyhound at five. **An** unnamed monster on Quebec's Magpie that held me for nearly five minutes... and brought me as close to drowning as I ever want to come.

But pinning in awkward places was another of my waterloos. The chance that this would happen seemed to be directly proportional to the calibre of the company I was keeping. The more of the **Friendsville** elite that were paddling nearby, the greater the **likelihood** that I would screw up. So it was two years ago at First Island on the Big Sandy. Snyder, Coleman, **Regan**, Zbel... they all witnessed that fiasco.

The same crew observed my closest call last year. I was paddling the Upper **Yough** at a juicy 2'6" during the early spring and I thought I was alone. (Yes, Charlie, I know, that was really stupid.) I lost my line at Triple Drop and found myself side surfing the hole **at** the bottom. I had made this mistake before and never had much trouble extricating myself from the monster's grasp. But on this occasion I was **paddling** my new, short, high volume creek boat; and it settled into the hole like a mean old clucker hen into her nest.

I surfed that sucker for three or four minutes, desperately trying every maneuver in my repertoire to break free. The water was ice cold and I was totally exhausted. I had **just** about resigned myself to defeat, **knowing** full well this meant that I would be flushed **boalless** through the next rapid, National Falls. This was going to be decidedly unpleasant, and I stole a glance downstream in contemplation of my fate.

That's when I spotted them... the Big Dogs of **Friendsville**, sitting in the eddy below National, enjoying the spectacle. Now you might imagine that under the circumstances I would be relieved, knowing that they would be there to deal with the carnage of my impending yard sale. Well, let me tell you, nothing could be further from the truth.

All I could think was, "Oh, no! Don't make an ass of yourself in front of them again."

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FORUM

I decided to give it one last, desperate try, flipping intentionally and extending my body and my paddle into the backwash. After three or four centuries the terrible **pounding** in my ears **diminished** and the violent pummeling of my body ceased, and I realized that I was free. But my troubles weren't over; I still had to roll.

And I had practically no strength and even less breath. The only **thiii** had going for me was the fear of mortification. And that was enough. It took three **tries**... and it was sloppy as hell... but I managed to right myself.

And were they all impressed? Hell, no!

In fact, one of the things that I've noticed about swimming is that the really, really good boaters aren't uptight about it at all. When you tackle class V and VI water on a regular basis, an occasional swim is inevitable. The truly hot boaters that I know joke about their debacles. Of course they only

swim in rapids with names like Gorilla and Big Splat and **Bodysnatcher** and Do or Die, whereas I have been known to get into trouble in rapids with names like Dimples and Donut and Piddley. Somewhere there is a rock garden named Heidi's Petunia Patch, and, with my luck, someday I'll swim it.

But when I do, I won't pretend that it didn't happen. It's the insecure wannabees who try to deny their swims and get flustered when someone mentions them (and, believe me, there is always someone around who will.)

One of my paddling mentors, **Wic Walker**, once consoled me after a humiliating swim by saying that, "If you don't swim once in a while, you're not pushing yourself hard enough." (Walker's Law)

And, after my first swim free season, that's the one thing that worries me. Maybe in my advanced age I've

become too cautious. Maybe my swim free season was not a function of skill, or even luck, but a function of impending **wussydom**.

That's a terrible consideration... but it's burden that I probably won't carry for long. You see, I've already had a number of close calls **thiii** year, and I have a **sneaking** suspicion that my streak is about to end.

Like I said, I'm really not superstitious. It's just that I know that by writing **thiii** article I have sealed my fate.

Boasting about not swimming is almost as dangerous as laughing when someone else swims or loading your boat onto the roof of a shuttle vehicle backwards.

And so, sadly, by the time you read **thiii**, yours truly, the **Mark Spitz** of the whitewater world, will almost surely be back in form!

Bob Gedekoh

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PURPOSE.....

The American Whitewater Affiliation (AWA) is a national organization with a membership of over 1300 whitewater boating enthusiasts and more than 50 local canoe club affiliates. The AWA was organized in 1961 to protect and enhance the recreational enjoyment of whitewater sports in America.

EDUCATION: Through publication of a bi-monthly journal, the AWA provides information and education about whitewater rivers, boating safety, technique, and equipment.

CONSERVATION: AWA maintains a national inventory of whitewater rivers, monitors potential threats to whitewater river resources through its "River Watch" system, publishes information on river conservation, works with government agencies to protect and preserve free-flowing whitewater rivers, provides technical advice to local groups regarding river management and river conservation. AWA also gives annual awards to individuals to recognize exceptional contributions to river conservation and an annual "hydromania" award to the proposed hydroelectric power project which would be most destructive of whitewater.

EVENTS: AWA organizes sporting events, contests and festivals to raise funds for river conservation. Since 1986, AWA has been the principal sponsor of the annual Gauley River Festival in Summersville, West Virginia, the largest gathering of whitewater boaters in the nation, other than international racing events.

SAFETY: AWA promotes paddling safety, publishes reports on whitewater accidents, and maintains both a uniform national ranking system for whitewater rivers (the International Scale of Whitewater Difficulty) and the internationally recognized Safety Code.

ORGANIZATION AND PURPOSES: AWA was incorporated under Missouri non-profit corporation laws in 1961 and maintains its principal mailing address at PO Box 85, Phoenicia, NY 12464. AWA has been granted tax exempt status by the Internal Revenue Service under section 501(c)(3) of the Internal Revenue Code of 1954. The charter includes the following purposes: encourage the exploration, enjoyment, and preservation of American recreational waterways or man-powered craft, protect the wilderness character of waterways through conservation of water, forests, parks, wildlife, and related resources; promote appreciation for the recreational value of wilderness cruising and of white-water sports.

PROFESSIONAL STAFF: Except for membership services and the Executive and Conservation Directors position, all AWA operations, including publication of the bi-monthly magazine, are handled by volunteers.

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LETTERS

Intervention or not

December 28, 1992

Dear Sir:

Let me take this opportunity to thank you for the opportunity to discuss your editorial in the November/December issue of *American Whitewater*. I would like to take this opportunity to clarify that, on both the Gauley and the New River, on lands owned by the National Park Service, we are not denying access to private boaters to Class V or any other class of whitewater. I would also like to clarify that Park

Rangers working on the Gauley and the New have not and **will** not threaten to arrest highly skilled, competent whitewater kayakers who are utilizing state of the art life jackets which may or may not be Coast Guard approved. However, that is not to say that if a Ranger observes someone who is a total novice doing something with inadequate equipment and, thus, placing themselves and perhaps others in danger or jeopardy would not intervene. In such a case, the Ranger has a high obligation, both legally and morally, to intervene. However, as outlined above, this obligation is

not extended to highly-qualified, competent squirt boaters.

During our conversation, you made several references to the Park Service's planning efforts and input (or possibility of input) and/or the lack of input from private boaters. For your information, I have taken the liberty to add your name to our mailing list. In the future, you **will** be advised by our planning office of all public meetings and related-to-park development. In addition, you should receive a copy of all planning documents as they are produced. Hopefully, this **will** allow you and/or your organization

the opportunity to establish firmer communication lines with those members of the Park Service that are charged with planning development for both the Gauley and the New River.

In closing, let me, once again, thank you for the opportunity to comment on your recent editorial. As I commented on the phone, my office is always open to you or any member of your group who would like to stop by and discuss challenges, opportunities, and/or problems associated with the Park Service and its development and/or management of the Gauley and New Rivers.

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Sincerely,
 Bill Blake
 Chief Ranger
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Editor's Reply

The rangers who have attempted to deny access to class 5 water in West Virginia worked for the state at Blackwater Falls and Tygart Valley State Parks. Those threatening to arrest squirt boaters for using non Coast Guard approved floatation worked for the West Virginia DNR. My editorial did not state, and I did not mean to imply, that National Park Rangers were involved in these specific

issues. If my comments were misunderstood, I am sorry.

I stand by my observation that there has been increasing tension between private boaters and the National Park Service at the New and the Gauley. I must say that, during our recent conversation, Mr. Blake seemed to genuinely want to communicate and work with private boaters regarding this situation. I hope that those readers who are dissatisfied with the management of the New and Gauley will contact him.

I stand by my statement that National Park

Service officials have prohibited kayakers from paddling rivers in Yellowstone and Glacier.

Bob Gedekoh

New techniques needed

Dear Editor:

1992 was unquestionably a terrible year for the rafting industry in West Virginia. As most whitewater enthusiasts know there were rafting fatalities on all three of the rivers with commercial rafting operations. The West Virginia Department of Natural Resources regulates operations on the New, Cheat

and Gauley Rivers. In 1992, the number of guests allowed on the New and Gauley was changed so as to create more parity between the licenced outfitters. Did this create an unsafe environment?

Let's examine the incidents and try to find some common factors in the rafting fatalities on the New, Gauley and Cheat Rivers. All three fell into the most common statistical parameters. The victims, as in the majority of all rafting fatalities, were middle-aged women. All three were ejected from their rafts and then carried by the current downstream into entrapment. Most guides would agree that women seem to respond to their commands more readily than their male counterparts. So why did these women perish?

Perhaps they followed instructions too well. Before each trip a safety orientation is given to all paddlers. It is almost universally stated that once a paddler is out of the raft they should float on their back with their feet up, pointed downstream. This eliminates any possibility of the swimmer trying to stand up in fast moving water and possibly entrapping their feet. This is the single most common form of entrapment and it is very difficult to effect rescue.

Since two of the scenarios involved high water, foot entrapment was highly unlikely. The third took place where the cur-



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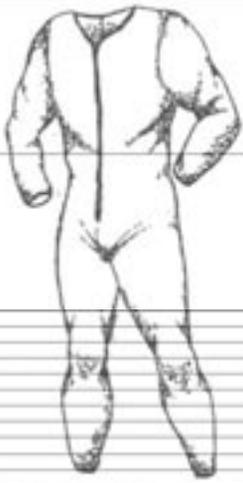
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LETTERS

rent took her directly to a very large undercut rock. If these individuals had swum aggressively back to the nearest raft or shore, taking a more active role in their own rescue, all three incidents might have been avoided. Anyone who has tried swimming while in the previously mentioned position knows it's an exercise in futility. It's a strong possibility that the instructions they received were a large factor in their deaths.

Because of West Virginia's consistent water flow and easy access for millions of whitewater enthusiasts, it is emerging

as the nation's and world's leader in the whitewater industry. As such, it's time the various businesses that comprise this enterprise set aside their differences and create an atmosphere of cooperation. This will not only enhance the experience, but also make a safer environment for everyone concerned. Unless the owners can find a way to overcome arrogance and greed, the status quo will remain unchanged. Maybe these unfortunate incidents will shock the owners out of their current mind set of us against them. Then maybe the

industry at large can meet in a spirit of cooperation and rethink standards that obviously need change.

What is desperately needed on these large volume rivers is some rescue techniques that can be realistically expected to effect rescue. One of the more well known swift water rescue schools came to the New River not long ago. They found that the techniques developed on smaller rivers were nearly impossible to implement on this large volume river. Days two and three of the course were subsequently moved

to the nearby Meadow River, where they then completed their course and conferred certificates of completion to those that satisfactorily finished the course. Hopefully their graduates realized that most of the techniques wouldn't work in their work environment, the New River. When are techniques that will work on these types of rivers going to be developed and taught? Some type of boat rescue is the most reasonable method that could be used and techniques expanded on.

We owe it to ourselves and those that place their trust in us to develop safe and sound methods of prevention, and when necessary, rescue. We must all find ways to prevent another year like 1992.

Theodore J. Vandell

(Mr. Vandell is a video kayaker on the New and Gauley Rivers.)

Editor's note:

I am no expert on whitewater rescue techniques or the intricacies of the rafting business, but I would like to offer the following observations.

Whitewater rafting is an inherently dangerous activity, and, in spite of the best intentions and efforts of the outfitters, there are always going to be mishaps. That is why all commercial raft customers sign a detailed waiver before embark-

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ing on river trips. Individuals who are not willing to accept this risk should stay off the river. These people can get their whitewater thrills on the raft rides at amusement parks, where the rafts ride on hidden tracks and the water current can be turned on and off with the flick of a switch,

Having said that, I agree that the outfitters should do everything they can to make commercial raft trips as safe as possible. During the past several years foot entrapments and head injuries have caused several deaths on commercial rafting trips; facing downstream and keeping one's feet up reduces these risks. However, as Mr. Vandell points out, particularly when water levels are high, aggressively swimming for a safe haven may be a better choice. But can an unsophisticated, frightened raft customer be expected to rationally decide which of these options is best in a given circumstance?

A number of companies that I respect have exceptionally competent safety kayakers along on all their high water trips. Often these individuals are able to tow swimmers to safety, or at least stay by their side and coach them until they are out of trouble.

As for the competitive atmosphere in the rafting business, it is, of course intense and sometimes unpleasant.

But during my years on the river, I can't think of any instances where I thought it caused the outfitters to imperil their customers. During a number of mishaps that I have observed, I have been gratified to see the outfitters put aside their differences and cooperate to effect a rescue.

Bob Gedekoh

Thief! Thief!

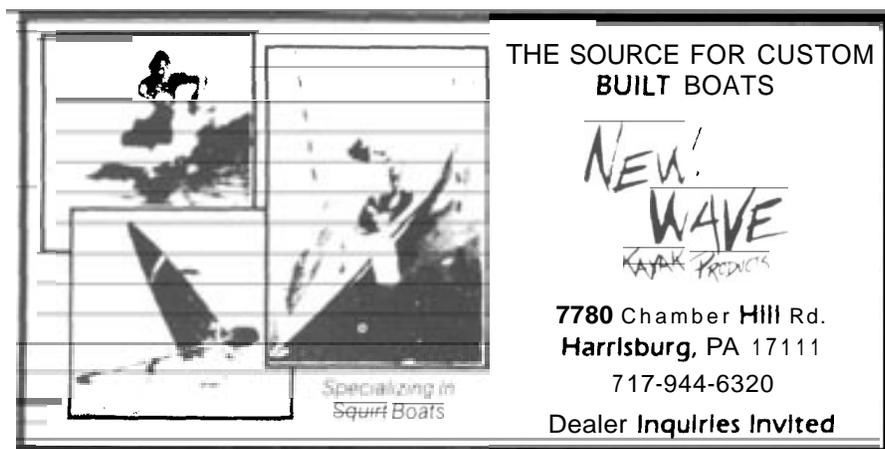
Dear Editor.

While we were enjoying a winter holiday on

the Smith River, some worthless trash stole our squirt boats. With the intent of discouraging this type of slimy behavior, I would ask that boaters keep an eye out for a red New Wave Bigfoot with a yellow and purple Yin-Yang symbol on the stem and a gold New Wave Projet that fades to red near the edges. They also took a friend's Werner breakdown paddle. Positive identification can be made by looking for my name (Pam Esmon) on the New Wave tag in the Bigfoot, or the original owner's name (Jeff Holcomb) written in

the bottom of the Projet. Since the Bigfoot was less than six months old, you can imagine how my heart yearns to exterminate boat thieves everywhere. If you have any news of these boats, please call 510-222-1535. There is a meager reward.

Sincerely,
Pam Esmon



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"Money from developed nations continues to be used by the World Bank to destroy precious and irreplaceable natural resources."



Chile's Bio Bio endangered by Dams funded by World Bank

World Bank Funds Bio Bio Dams Despite AWA's Pleas

The International Finance Corporation (IFC), an arm of the World Bank, has voted to fund a \$465,000,000 dam on Chile's Bio Bio River. The Pangué Project is the first of six dams proposed for Chile's world renowned whitewater river.

The American Whitewater Association has voiced profound disappointment in the IFC's decision. According to AWA Director Pope Barrow, the project still faces widespread opposition in Chile, as well as a barrage of legal actions; but the IFC's decision will make the effort to protect the Bio Bio more difficult.

Despite pleas by leaders of the Pehuenche Indian tribe and Chilean environmentalists, who came to Washington, D.C. several times last year to ask for a more thorough environmental analysis of the project, the IFC refused to delay processing the loan.

The AWA has supported environmentalists and native rights groups in Chile in their efforts to protect the Bio Bio from the six dams planned by the gigantic Chilean electric company, Endesa.

"The Chileans put up a good fight," Barrow said, "but their arguments fell on deaf ears. European and Japanese World Bank representatives seem willing to fund dam construction on any river anywhere in the world with barely a glance at the environmental consequences. Money from developed nations con-

tinues to be used by the World Bank to destroy precious and irreplaceable natural resources."

"The fundamental problem," Barrow said, "is that IFC member nations always rubber stamp decisions made by IFC staff. The staff has little concern for environmental harm or impacts on indigenous populations. IFC loan officers make their careers by pushing money out the door to pour concrete, not by encouraging projects which protect the environment or improve the lives of native peoples."

The Bio Bio, located in central Chile, is the last refuge of the 5,000 Pehuenche Indians. The Pehuenche have lived in the Andean river valley for centuries, depending for their livelihood on harvesting pinion nuts from the rare Arcuaria tree. Jose Antolin Curriao Pincholet, a traditional Pehuenche Indian leader, met with IFC officials earlier last year to voice the Indians' concerns. He explained that the proposed hydro-power dams, together with the roads and associated development, will bring the traditional way of life of his tribe to an end.

But the Bio Bio is not only important to native people according to Barrow. "It is also an ecological treasure, a world famous recreational attraction, and a rich storehouse of biodiversity."

Chilean scientists predict that the dams will devastate toregion's ecosystem, ruin downstream water supplies and damage fisheries.

"The downstream impacts are not being seriously considered by the IFC," complained Juan Pablo Orrego, General Coordinator for Grupo de Accion por El Bio Bio (GABB). GABB is a Chilean organization which has taken the lead in opposing the dams.

Opposition to the dams is growing in Chile. Several thousand protesters marched on Endesa's of-

fices in Santiago in December to show their support for the Pehuenche in their battle to stop the project.

Three lawsuits have been filed in Chilean courts by environmentalists, Indians, farmers and fishermen. Fernando Dognac, Chile's leading public interest lawyer, is arguing one of the cases before the Court of Appeals in Concepcion. He expects the Court to declare Endesa's use of the river illegal under Chile's constitutional guarantee of a right to a clean environment and under provisions of Chile's water code, which prohibits harm to water users located downstream. ■

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*At random:
Wendy Wilson,
Liz Paul and
Marti Bridges*

During their free time, Wendy Wilson, Liz Paul and Marti Bridges challenge monstrous whitewater in kayaks, paddling rivers where one wrong move could turn a thrilling ride into a killing swim.

But these strong-willed women regularly face an even greater challenge—trying to reform the male dominated water establishment in Idaho. It is an intimidating establishment, made up of farmers, ranchers, dam builders and bureaucrats. As the front line team for Idaho Rivers United, the three women are trying to bring more equity to the way water is managed in Idaho. In doing so, they are bucking more than a century of tradition.

"Changing the water establishment is harder than running a whitewater river," says Wendy Wilson, 35, founder and Executive Director of Idaho Rivers United. "After running a river, at least you have a sense of accomplishment. But in fighting to protect rivers, the most you get is a stay of execution. The developers always come back for one more try; you never know what's around the next bend."

Idaho's bevy of free flowing whitewater rivers and placid blue ribbon trout streams deserve protection, Wilson says. "Idaho's remaining free flowing rivers are too spectacular to be dammed, di-

verted and destroyed just because people aren't willing to change business as usual," she says.

"There's enough water to go around for everyone, including fish and wildlife. We just have to find innovative ways to make sure rivers serve everyone's needs."

Idaho's rivers carry tremendous volumes of water, fueling the largest per capita water use in the nation. In average years, the Snake River yields 36 million acre feet of water, the equivalent of 36 million football fields filled to the depth of one foot.

But the same values that draw hordes of recreationists to Idaho's rivers attract hydro developers. More than 50 dam proposals, large and small, are pending for Idaho's mountain streams at any one time. Waterfalls and rapids look like falling greenbacks to hydro developers.

"I find the hydro developers the most aggravating because they have this blind ambition to capture a river and make it do their will," Wilson says. "We can work with farmers and irrigators and find common solutions, but hydro developers are tough. Once they get a federal licence, they won't give you a pint."

Idaho Rivers United isn't against all dams, Wilson points out. Idaho already has a number of dams that provide multiple public

Women Spearhead Fight to Save Idaho's Rivers

**"Changing the
water
establishment is
harder than
running a
whitewater
river."**

benefits on the Snake, Boise and Payette rivers. But due to the extent of development in Idaho, and the scenic quality of the free flowing rivers that remain, the group wants the public to take a hard look at new proposals before they are approved.

"We want our rivers to work for **all** Idahoans- not just the farmers and the hydro developers," she says. "We're not preaching something that's radical; we're just trying to bring the system into balance."

Wilson, Paul and Bridges are strong minded professional women who expect to be treated with equality and respect. They are intelligent, and they know Idaho water policy inside out.

Even so, Wilson says some hydropower engineers and irrigators assume that they are ignorant. She's heard comments like, "Well, little lady, I guess you didn't know that this water is our livelihood."

"They think our ideas are completely off the wall because we are girls," Wilson continues. "We're looking for innovative ways to accommodate all river users. We're rocking the boat and people are bound to get upset."

IRU's strength lies in building grass roots coalitions to win protection for the state's rivers. The group has lobbied the Idaho Water Resource Board (all eight members are male) and the Legislature (three fourths of the 126 members are male) to win protection

for the Payette and the South Fork Boise Rivers.

Wilson and Paul worked with the Friends of the Payette to marshal hundreds of volunteers and used every trick in the political trade to push a protective bill for the Payette River through the Idaho Legislature in 1990. It was the biggest environmental victory ever achieved in the prodevelopment Legislature.

State Senator Laird Noh, the Re-

publican Chairman of the Resources and Environment Committee, said that IRU is a force to be reckoned with. "They represent one of the saviest, capable political organizations in the state," he said. "They've displayed a unique ability to work with a wide variety of groups and not take such a hard line that they're alienating the other groups."

Last year, IRU assisted recreation, fishing and wildlife advocates

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CONSERVE

in pushing a state protection plan for the Henrys Fork Basin in eastern Idaho.

The measure cleared the state Senate, but lost by four votes in the Idaho House,

Paul, 35, is IRU Associate Director and Organizational Whip. She says it is difficult to convince older men that it may be possible for Idaho's rivers to serve all users. "A lot of the decision making

power lies with men the age of my father. It's hard to come face to face with them and tell they've got to change their ways."

Like the challenge of running a steep drop, she says, "You just have to gather your wits and go for it—take the plunge."

Bridges, 38, the Water Policy Director and newest member of the IRU team, has been dealing with the "good ole boy" network in water matters for 15 years as a former U.S. Soil Conservation Service District Conservationist. At times, she says, farmers may listen more to a woman than a man because their egos don't clash as two men's egos would."

"I may not be looked upon as their equal, but I still don't get into these ego games that men would," she says. "We can talk about ways of looking at things they hadn't thought of before in a non-threatening way."

Paul says IRU's challenge would be equally tough for men because it's a challenge to the status quo. "If

"The guys in their 60s and 70s are polite and treat you with respect, but the guys in their 50s just don't know what to think. We're not like their mothers, we're not like their kids... they just don't quite know what to think."

we were men espousing the same ideas, they wouldn't necessarily receive a better reception," she says. "It's not the messenger; it's the message."

But standing toe to toe with the men can be intimidating. "We're working in an environment where women have less credibility and respect," Paul says. "There's an unspoken attitude that women shouldn't be out working on serious issues like water appropriation."

Bridges maintains the generation gap explains some of the difficulty they have faced in making inroads. "The guys in their 60s and 70s are polite and treat you with respect, but the guys in their 50s just don't know what to think. We're not like their mothers, we're not like their kids... they just don't quite know what to think."

Like many professional women in today's society, Wilson, Paul and Bridges balance family, fun and work. Wilson and her husband, Phil, have a 2 year old son. She was pregnant during much of the

fight to save the Payette.

I felt pretty vulnerable," Wilson recalls. "Sometimes I felt like I should have been home knitting booties instead of being an activist. It was helpful when older women came up to me and said, "Way to go; you make me proud."

Paul's husband, Scott, is also an active boater. Bridges is single with a young Tibetan man staying in her home as part

of the U.S. Tibetan Resettlement Project in Boise. She and her border collie, "Cashmere", and cat, "Frank", are among 25 families in Boise providing a place of residence for Tibetans.

As IRU continues to grow, Bridges says the group will become more effective and experienced, just as she, Wilson and Paul have become accomplished kayakers over time.

"When you're running Class 5 rapids, you hit a lot of holes and you have to react quickly or get trashed. Your reaction is largely based on how many holes you've hit before."

"Last year when we worked on the Henrys Fork bill, we were cruising through the Legislature and we ran into some major big-time holes. We weren't ready and we got beat."

"This year, we remember the holes and we'll be able to handle them better. We're scouting out the best route to avoid the holes, before we take the plunge." ■

NATIONAL RIVERS COALITION - 1992 REI RIVER GRANTS

During the past five years, the REI funded National Rivers Coalition, in which the American Whitewater Affiliation plays an active role, has continued to provide seed grants to organizations working on critical and diverse river projects.

In 1992, a total of \$60,106 was dispensed through 87 grants in the following categories:

- ▼ Rivers threatened by hydropower licensing and relicensing, including funding for four citizens to attend a hydro workshop;
- ▼ Support for 11 lobbyists working on various river issues;
- ▼ Promotion of Omnibus Wild and Scenic bills in Arizona, Washington and West Virginia;
- ▼ Financial backing for over twenty state legislative and grassroots conservation efforts; and
- ▼ Work on many Wild and Scenic River designations, including sponsorship for 10 attendees to a Citizens Training Workshop.

Through four meetings in the last year, Coalition members (AWA, American Rivers, American Canoe Association, River Federation, River Network, Sierra Club, National Audubon Society, Wilderness Society, and the National Wildlife Federation) have provided valuable grants to grassroots river groups, many of which have had direct and positive impacts on our whitewater rivers and streams. A short listing of some of the whitewater related groups which received grants includes: West Virginia Rivers Coalition, New York Rivers United, Friends of the Arkansas, Idaho Rivers United, and New England FLOW. Rivers such as the Kennebec and Penobscot (ME), Tuolumne, Yuba and American (CA), and the Gunnison and Arkansas (CO) were all benefited by this resource.

One of the most important aspects of the National Rivers Coalition is that it provides needed start-up support for groups and organizations which are just beginning to get off the ground. Many of the AWA's affiliated clubs and other whitewater defense projects fit this bill. During 1993, funding also will be provided for developing new or stronger state laws, including improved access laws.

The first meeting of the new year will be held in early April; if you would like information on how to apply for funding, or to find out the deadline for applications, please call Rich Bowers (AWA) or Suzi Wilkins (American Rivers) at (202) 547-6900. ■

AWA Opposes Proposed Coast Guard PFD Regulations

For years boating organizations, including the AWA, have been trying to get the regulations changed which govern the use of PFDs for whitewater (for example, certification of European design quickwater rescue vests). So, in November, when the Coast Guard announced that it was considering a change in these regulations, one would assume that the AWA would be happy, right?

Wrong! As a result of apparent bureaucratic ineptitude, the new regulations make even less sense than the old, especially in regard to whitewater recreation. The vague language of these new regulations (CDC-02-045) makes it next

to impossible to determine exactly what the law will be. But one thing is certain. The new regulations continue to combine and equate the safety needs of whitewater boaters with those cruising on motor boats, house-boats, and the Queen Mary.

The withdrawal of current exemptions will force all boats over 16' in length to carry Type IV floatation (seat cushions). This will effect tandem canoeists and downriver racers, and might apply to other craft down to 10', depending on how one interprets the language. All in all, whitewater boaters

will not be well served by the new regulations. Imagine being trashed in a hole and having your buddies throw you a seat cushion!

The inconsistent language included in these new



regulations could also empower the states to exceed Coast Guard standards. Boaters could potentially face 50 separate sets of life jacket restrictions and rules.

This is of considerable concern to those familiar with the ongoing battle between squirt boaters and the West Virginia DNR about what constitutes an appropriate PFD.

Finally, these new rules ordain that U.S. whitewater team members must wear full floatation during training, but that foreign boaters may wear whatever is approved in their home country. Taken to its illogical conclusion, this means that while our team trains for the '96 Olympics in Atlanta wearing high-floats, foreign team members could train on our streams in slab-vests. Lucky for our team that there is an exemption for actual racing events! The question is, how quickly can they adjust?

The AWA has provided the Coast Guard with a set of comments; we will continue to provide coverage of this situation as it develops. ■

1993 - A NEW YEAR FOR AWA CONSERVATION

by Richard J. Bowers,
Conservation Program Director

1992 was a banner year for the AWA's conservation efforts. In March, I was hired to direct the AWA Conservation Program, becoming the first full-time employee for the AWA. During my first year in this position most of my time was spent working on the large slate of hydro-relicensing projects; but other important river issues also commanded my attention.

Since mine is the only position in the country which specifically and exclusively addresses whitewater recreation/conservation efforts, it

was a niche which needed to be filled. This was obvious by how quickly this niche got swamped with work!

I spent the first ten months initiating communications with various other organizations involved with river work, both by phone and by traveling to areas with crucial whitewater resources. This included talking with local boaters, federal and state agencies, conservation groups, power companies, and the Federal Energy Regulatory Commission (FERC). Besides discussing specific river topics, I was successful in getting our program recognized as an active, knowledgeable

and nationwide player in river conservation.

During this period, the AWA was able to:

- ▼ Play a major role in coordinating a nationwide efforts to develop a coherent national relicensing program, including the formation of several coalitions of local paddlers and boating clubs.
- ▼ Request 22 additional studies for relicensing with the FERC, each of potential whitewater recreation interest.
- ▼ Have the FERC require nine separate boating studies and/or site visits (to date) to address pos-

sible whitewater releases. Many of these studies are on-going, with many whitewater tests to be completed during the upcoming boating season. The AWA either participated in or coordinated each of these tests with other boating organizations.

- ▼ Intervene in 28 hydro relicensing interventions. This includes 14 group interventions, to whom the AWA provided recreational technical assistance and representation.
- ▼ Host the first Pan-American Rivers Seminar in conjunction with the 1992 Gauley River Festival.



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- ▼ Weigh in on legislative issues such as the Energy Bill, National Park Service - River and Trails funding, and the Auburn Dam proposal.
- ▼ Participate in drafting the AWA access policy.

Much of the work initiated in 1992 will continue through this year. But the AWA also intends to expand its conservation agenda during the next year. This will include strengthening our financial base as well as expanding the scope of issues we can effectively address.

Throughout the past year, the Conservation Program worked to represent whitewater boating interests nationally. To be more

successful at this in the new year, the AWA will look to broaden this representation by 1. increasing membership, especially affiliated club members, 2. communicating more with these clubs, and 3. working in closer concert with our network of regional coordinators. We are determined to work effectively on even more whitewater recreation and river conservation issues in 1993.

Besides continuing with the hydro-relicensing projects started last year, and addressing future relicensing, several important whitewater concerns are already on the horizon. The following is a brief view of things to come:

1993 Legislation Impacting Whitewater Recreation

- ▼ The reauthorization of the Clean Water Act will impact recreation interests through the State 401 process. The AWA has linked up with other river interests to address this, seeking to reintroduce language which would give the states authority over the placement of new hydro projects.
- ▼ Reauthorization of the Endangered Species Act will also impact on recreation. The AWA will monitor this to assure that river access is not affected by irresponsible interpretations.
- ▼ Specific river legislation will also be on our agenda. The Payette Wild & Scenic bill was introduced on January 6th, and last year's failed Lower Salmon Scenic and Recreational Rivers Act should be re-introduced. West Virginia, California, and Washington will continue to push for Omnibus river protection packages. The AWA will re-address permanent protection for the Savage River in MD.

Upcoming hydro projects impacting whitewater

- ▼ Five dams proposed by the Turlock Irrigation District for the CLAVEY RIVER (CA), FERC No. 10081.
- ▼ An Environmental Impact Statement is being developed for the MOKELUMNE River (No. 137) and Devils Nose (No. 8144) projects, MOKELUMNE RIVER, (CA).
- ▼ A final Environmental Assessment has been released regarding the ANIMAS-LAPLATA project (CO), and found to be "inadequate and incomplete" by the Environmental Protection Agency. ■

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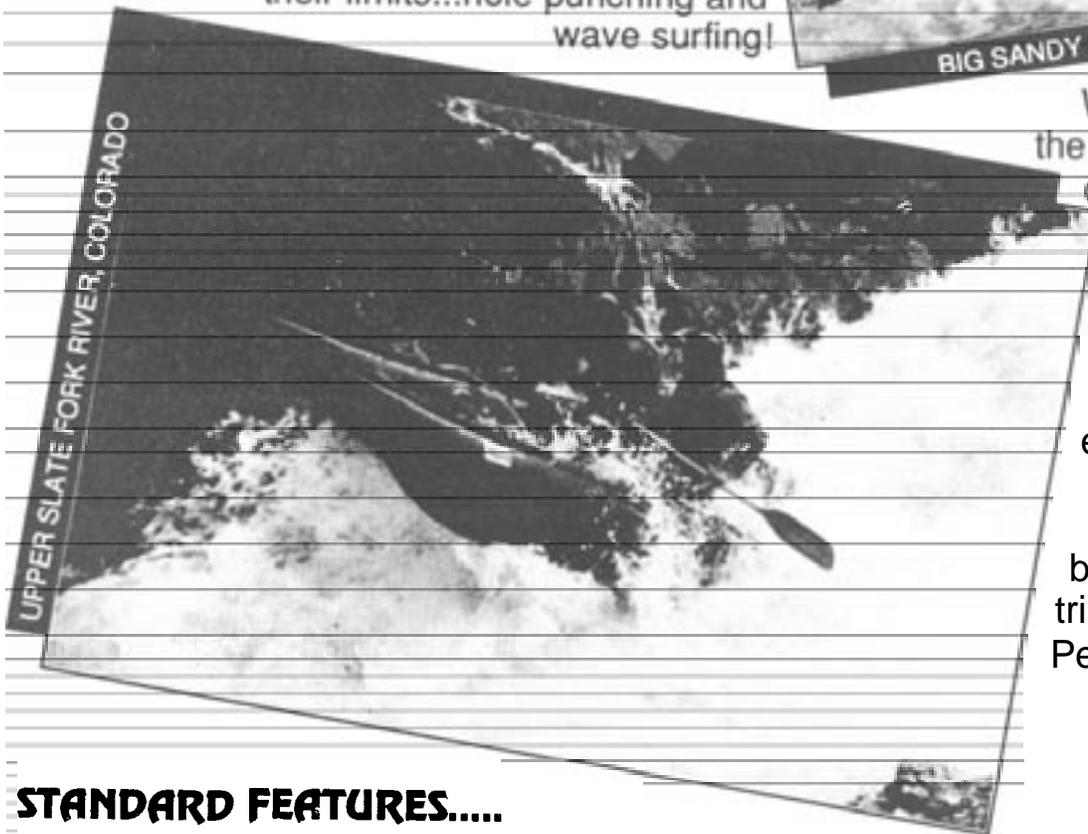
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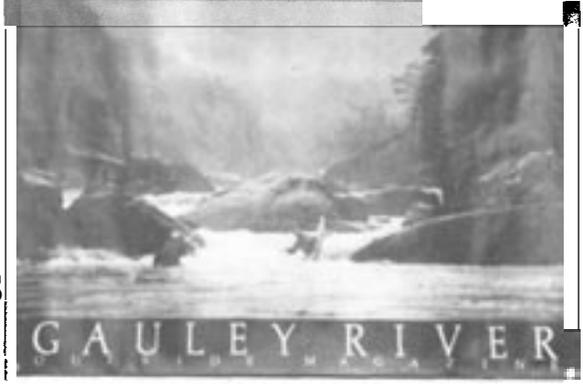
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BATTLE

CONTINUES OVER

YOUGH USER FEE

by Debbie Patz

Western Pennsylvania paddlers are continuing their efforts to overturn the user fee and restore free access to the Youghiogheny River at Ohiopyle State Park. Here's an update:



Will the lower Yough always be accessible to the next generation.

Three boat-ins were held during 1992 at Ohiopyle. These events served to attract media attention and for alert park visitors to the problems at Ohiopyle. Two boat-in dates have been set for 1993 -- Saturday, April 3, and Saturday, July 17. Informational picketing will be conducted at the park both days from 9 a.m. to 2 p.m.

April 3 was selected because it is the first day that the fee will be collected during the 1993 season. July 17 was chosen to encourage a massive show of support from as many paddlers as possible. To encourage participation, New Wave has graciously donated a kayak to the cause. All paddlers who volunteer at least four hours of informational picketing between the hours of 9 a.m. to 2 p.m. on Saturday, July 17, will be eligible to win the boat.

The media will be invited to attend the July 17 boat-in; a big turnout will be crucial in bringing attention on this issue.

* Meanwhile, the coalition of paddlers is working to overturn the fee through the channels of Pennsylvania state government. The paddlers, including representatives of the American Whitewater Association, Three Rivers Paddling Club, and Keystone River Runners, are working to petition the agency that has authority to review fees for Pennsylvania state parks.

The petition presents these points, among others:

The current fee is discriminatory because it is only applied to private boaters. Private kayakers, canoeists and rafters are strictly



day users of the park. They use the same facilities as all other day users, including bicyclists, hikers and picnickers. If a fee is charged for day use, it should be applied equally to all -- or to none. Therefore, the petition recommends the elimination of the private boater user fees.

The petition also addresses the reservation system as follows: If Ohiopyle State Park needs a fee reservation system to control river traffic, the fee should apply strictly to phone-in reservations and should be limited to the amount required to provide the service. Walk-ons should not be charged.

In addition, the petition states that no reservation fees or quotas should apply to any weekday use. Historical statistics clearly show that weekday use has never exceeded and in most cases does not even approach the established quotas.

The state's review group is scheduled to meet in March to consider some fee revisions. The

Ohiopyle situation may come up for discussion -- or it may not. The coalition has announced their determination to push for a ruling.

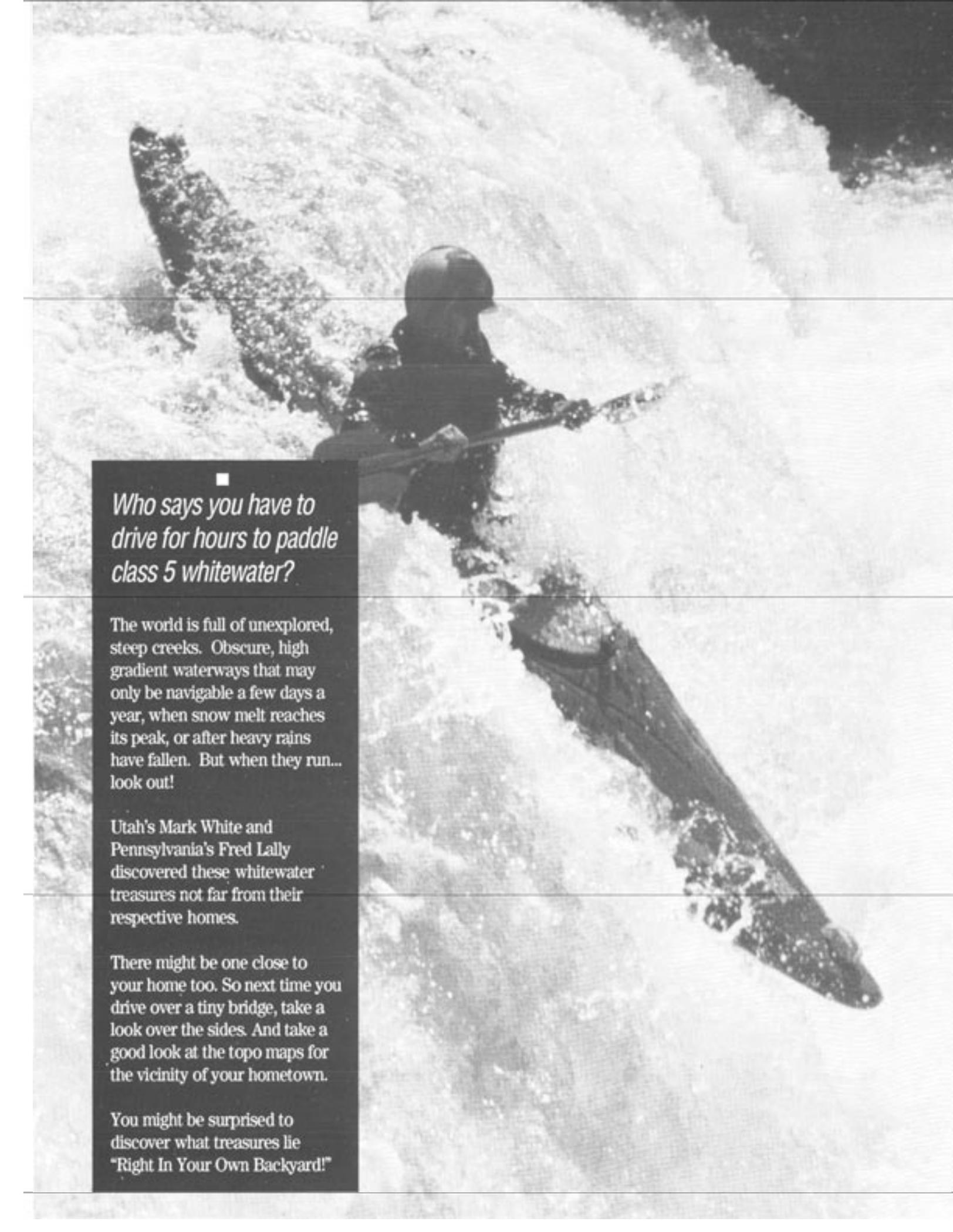
* As a result of the boycott at Ohiopyle State Park during 1992, there was a 30 percent reduction in river usage by experienced boaters. The state has responded to the boycott by issuing an open threat to reduce the spots allocated to private boaters on the river. The coalition maintains that this threat "clearly demonstrates the prevailing attitude of park management toward private hard boaters and their concerns -- This is our river, and we don't want you on it!"

The relationship between private boaters and the park administration at Ohiopyle has deteriorated to an all-time low. A number of paddlers have reported instances of harassment, suspicion, and even threats of arrest. At least two paddlers received citations for breaking the park's "rules" -- the first because he didn't sign the after-hours sign-in sheet and the second because he rafted to the Bruner Run take-out after 3 p.m. Both paddlers have taken their cases to court.

Last year, the state bureaucrats predicted that opposition to the user fee would be insignificant and short-lived. The western Pennsylvania boaters maintain that "We're not that easy."

Stay tuned.

For more information, contact AWA Regional Coordinator Barry Tuscano at (412) 676-4713, Tom Irwin at (412) 537-6363 or Debbie Patz at (412) 459-8631 ■



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MINING UTAH'S HIDDEN TREASURE

The Sixth Water

by Mark H. White
photos by James Kay

Utah has the dubious distinction of being the nation's second driest state. A kayaker living in Salt Lake City is much like a mountaineer living in Kansas; central to everything, but close to nothing.

Left: "Who says Utah doesn't have any class 5?" Taking the plunge on the Sixth Water.



In the mid eighties El Nino gave us lots of water. The dessert creeks overflowed; the irrigators had all they could use and we were literally able to paddle down Main Street. But, alas, the last six years have been dry.

Very dry.

For what seems an eternity a handful of dedicated whitewater junkies and I have been driving to Idaho, Colorado, California and Wyoming to score our paddling fixes. In the process, we have seen some great country and kayaked some wonderful rivers. But having a worthy backyard run of our own seemed an unattainable dream.

Then we discovered Sixth Water!

It was an unseasonably cold and rainy September morning as Gary Nichols, Roy Piskadlo and I motored past the Brigham Young University campus. The sun was just peeping over the horizon and the windshield wipers slapped to the rhythm of the radio.

While I juggled the steering wheel and a steaming cup of coffee,

Boofing a drop on Utah's Sixth Water

**Sixth Water is one
of Utah's finest
kayak runs and
definitely its most
technically
demanding.**

Gary described our destination... a small, steep creek. Several boating seasons before, Gary had authored the River Runner's Guide to Utah. He had been quite thorough in his research, locating quite a few out of the way creeks, but, somehow, a

little run named Sixth Water had dodged him. In fact, even though it was located a mere 90 minutes south of Salt Lake City, it had eluded all other serious river prospectors.

Although Gary certainly knows the ingredients which create a classic kayak run, I remained skeptical. After all, it had been a hot, drought ridden summer and the Diamond Fork watershed is aquatically anemic anyway. How could the canyon cradle a demanding whitewater river; let alone one that had never been run?

But, by the end of the day, my doubts were transformed into delight. Sixth Water is one of Utah's finest kayak runs and definitely its most technically demanding.

In terms of the area, Sixth Water drains a relatively small watershed. And, back when Mother Nature tended the river, it was a tiny creek, flowing only in the spring and early summer. But, in 1915, a three and one half mile pipe was installed underground to carry irrigation water from the Strawberry Reservoir to

the farming community of Spanish Fork. As a consequence of this enhanced flow, provided by the Central Utah Project, Sixth Water was transformed into a premiere whitewater stream.

At our put-in a dull grey sky delivered a steady drizzle, converting the clay road into a ribbon of grease. It was so humid it almost seemed tropical. A wispy fog floated like a phantom above the water. The greenery that arched over the river completed the picture; it looked like Costa Rica. This lush setting was certainly not a typical Utah landscape.

We discovered that the Sixth Water pipe was spewing out a respectable 450 cubic feet per second, plenty to pad the rugged river bed. But, in spite of this flow, we quickly decided not to run the first quarter mile. As the water blew out of the tunnel, it madly crashed down a constricted rock alley stepped with a number of jagged ledges. The topos indicate that the river drops at the terrifying rate of 800 feet per mile here. Peer pressure be damned, we shouldered our boats.

Someday, no doubt, some adrenalin crazed kayaker, armored like a knight and sporting a full face helmet, will probably attempt this cascade in a blunt Euro-boat. But, for now at least, the first quarter mile of Sixth Water lies beyond the means of the current crop of state of the art hair boaters.

It had been a number of years since a hard core whitewater run had been discovered in Utah, so we were understandably thrilled to be able to pioneer, then name, the challenging drops that followed. And since the river lies in a region of intense religiosity, the rapids seemed to beg for monikers with spiritual foundations.

We christened the ~~initial~~ cascade, the one that we chose to por-

tage, the "Unborn Soul". If and when some daring hair boater navigates this rapid, he or she are free to chose a new name.

Not far downstream a vertical six foot pour over introduces lucky boaters to the surreal pool-drop character of the Sixth Mile. We named that ledge the "Visitor's Center", after the point of entry to the Mormon Tabernacle. Visitor's Center typifies the nature of the next two miles.

The highly photogenic, ten foot, "Baptism Falls" lies just down-

The topos indicate that the river drops at the terrifying rate of 800 feet per mile here.

Muscling through a powerful stopper on the Sixth Water



stream. "Mission Call" is a dangerous diagonal ledge hole capable of shoving inadequately aggressive boaters into a tangled mess of willows. Roy spent a few tense moments communicating with his Creator here, because he had not taken his Mission Call very seriously!

Boaters should tithe at "Ten Percent Falls", another intricate rapid, which lies a few miles downstream.

"Sister Jensen's Green Jello Surprise" is one of Sixth Water's most intense drops. It comes without much warning; we were forced to snare micro eddies to avoid bombing blindly over the initial horizon line. This is a sinister drop, seemingly designed to vertically pin unwary boaters.

But, from above, one portion of the pool at the base of the plunge appeared deep enough to accommodate a plummeting kayak. Of course, we could have climbed down and tested the depth of the water, but somehow that didn't seem to fit the style of our first descent.

And so, with these "unwritten rules of style" in mind, I decided to go for it. All went well, so Roy and Gary decided that they too wanted a heaping helping of Green Jello Surprise. With our appetites for adventure satisfied, we said thanks to Sister Jensen and headed downstream.

Our next stop came at the Celestial Gorge, which definitely contains the run's most difficult,

high-stakes rapids.

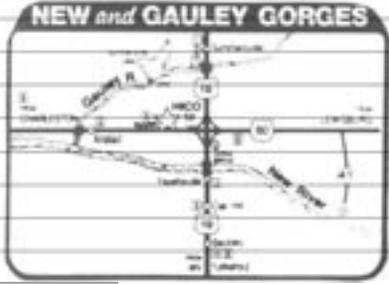
Running the Celestial Gorge is akin to walking a six inch plank a hundred feet above the ground. The moves are relatively easy, but the consequences of a mistake would be substantial.

Only those who have repented the sin of sloppy technique should test their worthiness by running "Pearly Gate Falls" and entering the Celestial Gorge. Through the Celestial Gorge, and for the remaining two miles, Sixth Water drops at an enjoyable 280 feet per mile. This section features nearly continuous boulder-filled rapids; many of these are congested with fallen trees. Because of the steep, serpentine nature of the river, we were forced to take turns scouting from shore, run-

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ring the river in increments of about 50 yards.

"Its pretty clean... but catch the eddy on the left. There's a log wedged in the chute," the man on the bank would shout. Then the two remaining in their boats would follow his instructions and run the rapid. By the time the scout would climb back into his boat and run the drop, one of the others of our team would be out scouting the next rapid.

We were forced to portage three log jams during the last mile. Admittedly, walking a rapid did not sit well with the spirit of our self imposed "style", but there simply was no other way to get over, under or around the logs. The persistent rain rendered our portages wet, muddy

and slow.

Exhilarated but exhausted, we stood at the take-out, ankle deep in gooey red mud. As we devoured our Power Bars in the rain, we excitedly relived the day.

"Remember that one that curved to the left and squeezed between the wall and..."

"Yeah... that was great! But how about that one that..."

This conversation raged the whole way home.

I have been kayaking for seventeen years, but that day remains one of my most memorable. Yes, Sixth Mile was intense, but the intrigue ran a lot deeper than that.

At last Utah had it's very own Class V run. And my two buddies and I had been lucky enough find it!

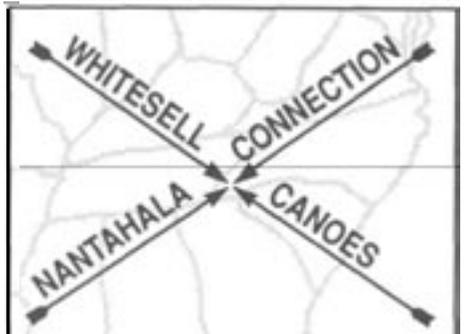
Finding the Elusive Sixth Water

Six miles up Spanish Fork Canyon, turn left towards Diamond Fork. It is ten miles to the Three Forks parking area, the take-out for the Sixth Water. To reach the put-in, continue up the one lane paved road another six miles. Then, take the single lane four wheel drive dirt road that heads off to the right for seven more miles. Several spurs leave this road, stick to route that shows sign of more traffic, until you reach the river. Then hit the water and hang on! ■



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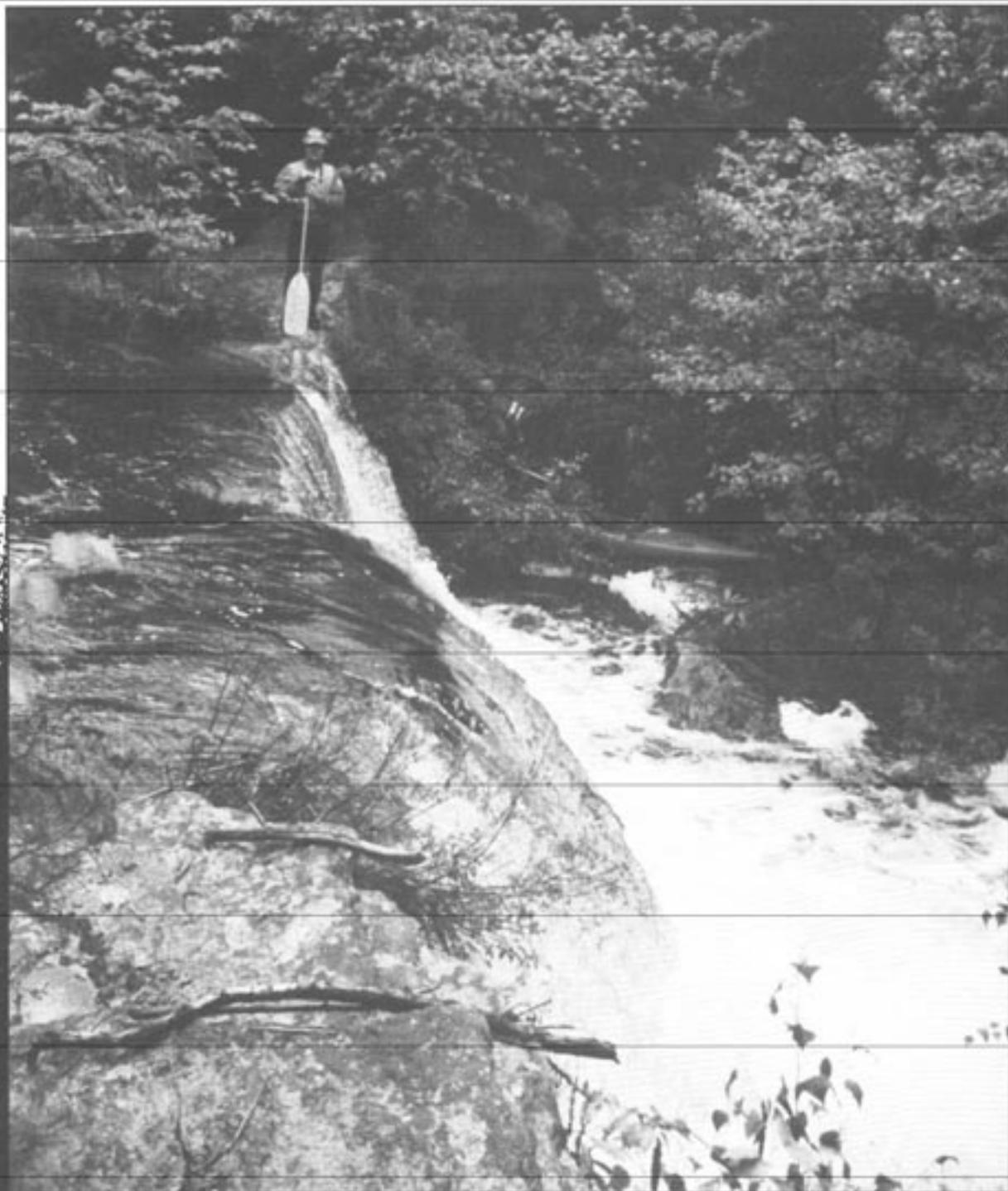


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*Goerge Peterson and Bob Allen
check out small waterfall*

POCONO LOCO

by Fred Lally
photos by Fred Lally and Bob Allen

I was climbing back into my boat after peering over the brink of a nine foot drop, when I glanced up at Bob Allen. Bob was facing me, his left hand discretely against his chest, index finger pointing to the right. Had I missed something in the latest issue of American Whitewater? Was this some new river signal?



It only took a few seconds to figure it out; Bob was pointing to a man on the stream bank. A man with a hostile demeanor, waving his arms in the air. He clearly intended to have words with us.

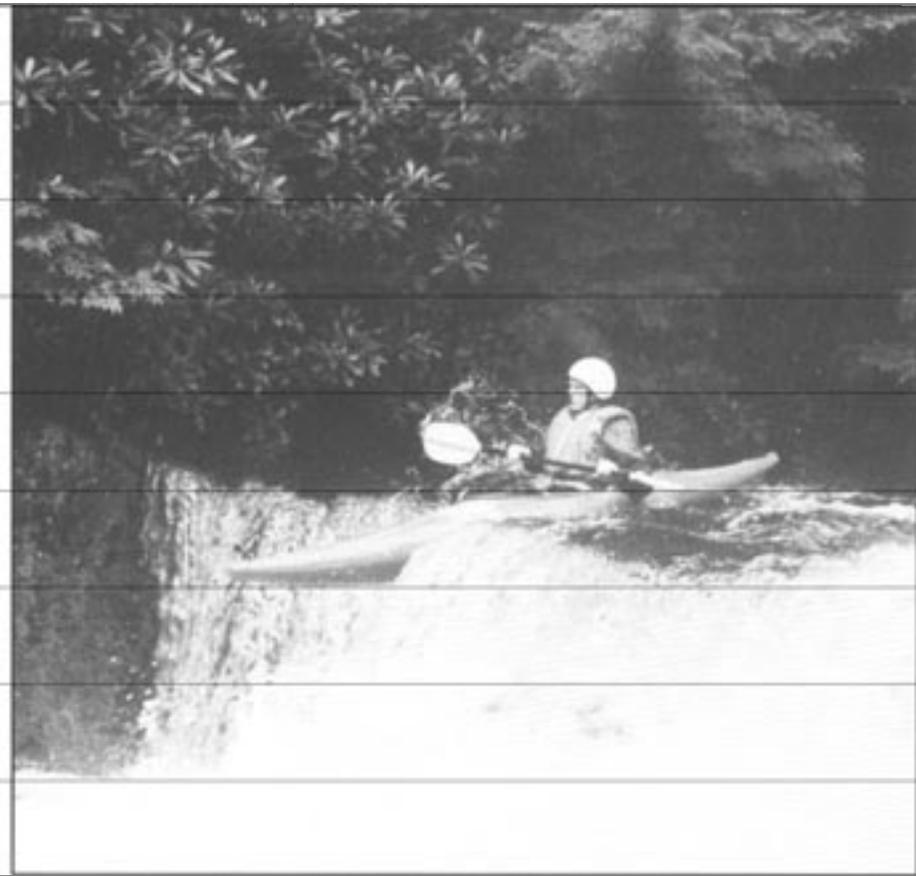
Yes... We were paddling in the Poconos again!

Only a few weeks before George Peterson and I had attempted to put on Quakake Creek, a small tributary of the Lehigh. There we were rebuffed by an irate landowner who threatened to do "some body work" to my car and "didn't know what might happen to us if we paddled down this creek!"

Confronted with such hostility, I had to remind myself that we were still in Northeastern Pennsylvania, not in Deliverance country. It felt like we were somewhere in the Twilight Zone, at any moment I expected Rod Serling to step out of the woods and start his monologue. At any rate, on that occasion we gave up and opted to run another branch of the same creek, one where the locals seemed a bit more hospitable.



Fred Lally slides over small ledge drop on Mud Run



And now, only two weeks later, this scenario seemed to be repeating itself. George was beginning to think that the two of us should not paddle together... it seemed we attracted pests!

I quickly paddled the falls, then eddied out and greeted the hostile landowner, who was, at least at first, quite irate that we had trespassed on his property while scouting. After a few minutes he settled down, admitting that his biggest concern was that we would "lead hordes of people from New Jersey down the stream... invading my land and privacy".

I didn't say so, but I couldn't see that was much of a concern. Actually I was a trifle offended, having lived in New Jersey for a few years myself.

We assured him that we were there only for our own enjoyment and that scouting was necessary only because we were new to the creek. Somewhat reassured, he told us what we could expect ahead... steep rapids, waterfalls and more private property... complete with security guards!

We peeled out and paddled downstream, looking for George and his HD-1. George had paddled off, calmly pretending that he had not seen our "friend. After running a couple of steep drops we found him, waiting in the pool at the base of a river wide falls.

Bob and I ski jumped off the right side of the ledge into the pool and grinned at one another. This was turning out to be a great run!

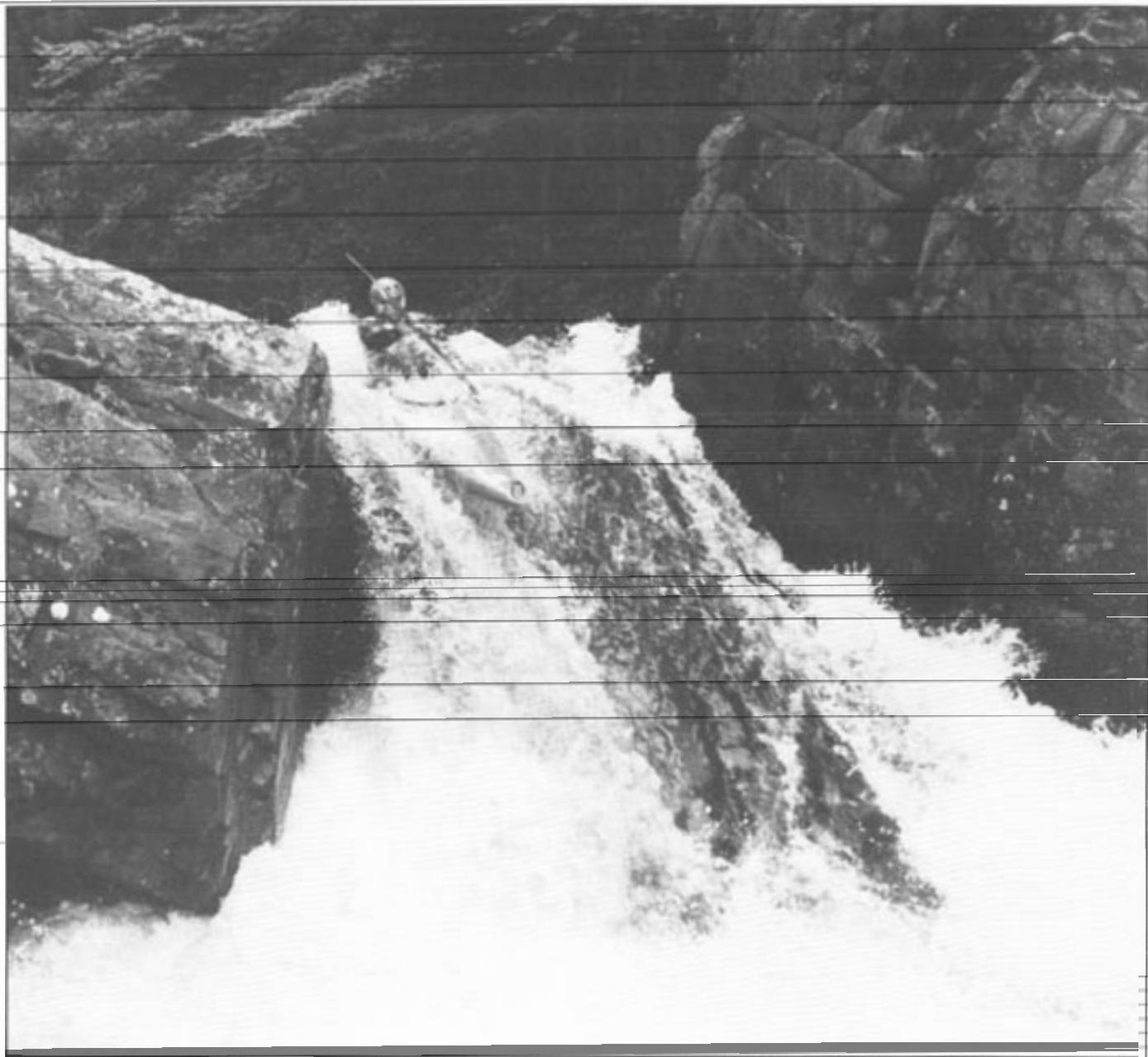
It seemed to be every bit as good as many of the streams in West Virginia, and, it was only an hour away from my house.

Meanwhile, the "friendly" landowner wasn't taking any chances. He hiked along the stream, "escorting us through his property. We teased Bob about the loud "ka-thunk" his boat had made when he boofed the first ledge upstream. This must have been the noise that attracted the landowner's attention. How else could he have known we were there?

After one more tricky, boulder congested drop, we apparently reached the property line, because our "escort" stopped and waved goodbye. For a time the stream was less intense, but after passing under a Pennsylvania Turnpike bridge, the gradient steepened. A number of class 3 and 4 drops, in close succession, kept us busy.

As we rounded a bend we spotted Bob, who had taken the lead, signalling for us to catch an eddy. Just downriver were some massive outcroppings of sandstone. We climbed out of our boats and scrambled over these rocks to see what lie beyond.

We found ourselves staring at a gigantic double drop; each portion was at least twenty feet high.



The first was a straightforward plunge into a hole. Then... a couple of boat lengths later... was a steep slide into a nasty hole. The hole was bounded on the left by a ledge that jutted out from the side, constricting the outflow into a recirculating eddy on the right. Eventually, this all emptied out into what appeared to be a safe pool. But between the two drops there was no pool, only fast moving highly aerated water.

Bob ran both drops, although there were a few tense moments when he nearly got sucked over the

second drop in the wrong place. George walked the dog while his canoe ran the second drop on a leash. The hike was class 5; class 6 with a boat.

I put in at the bottom of the first drop and ran over the second ledge, only to go for an extended surf that included a window shade at the bottom. Fortunately, Bob was ready with his throw rope.

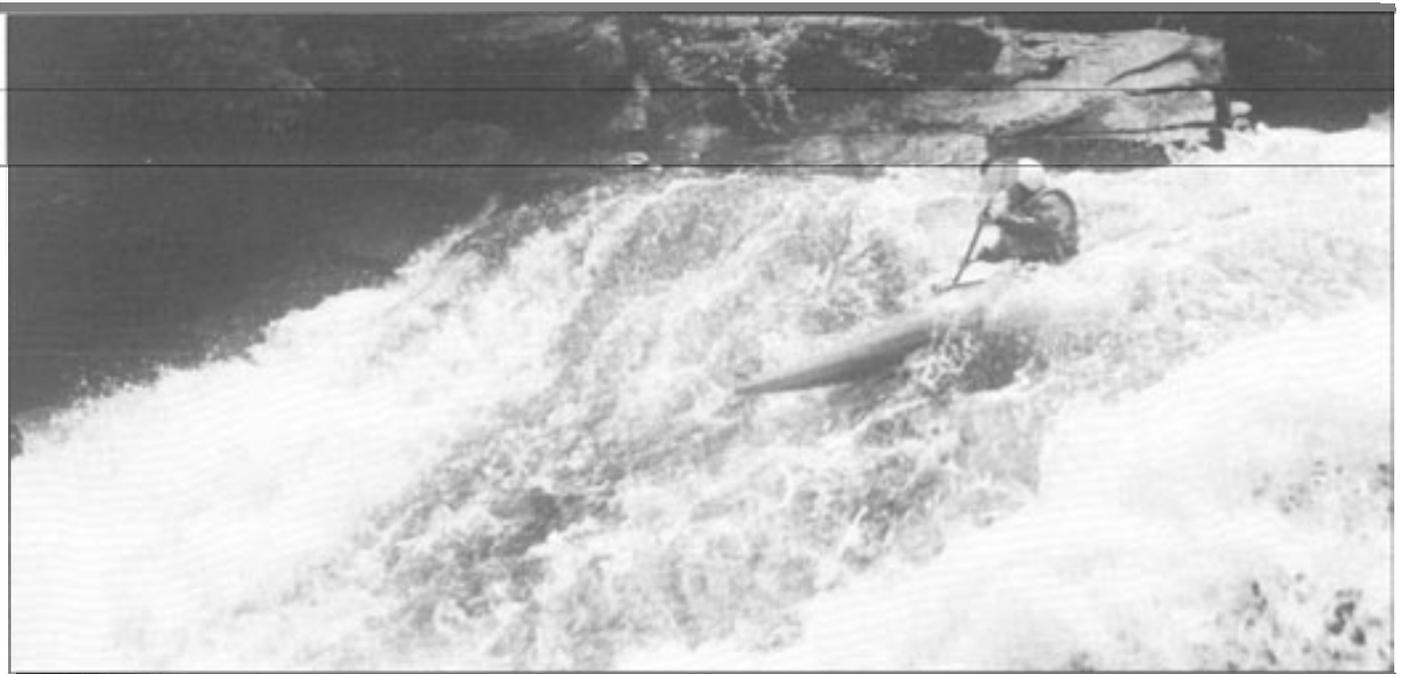
Bob suggested that we name this drop the "Mother of Krakatoa" in homage to a similar drop on the Lower Blackwater in West Virginia.

After paddling one more rapid-



Bob Allen powers over the first of 2 steep drops

POCONO LOCO



concave horseshoe shaped ledge that featured another tricky hole—we spotted a sign hanging over the stream.



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POCONO LOCO

But where were we supposed to go? We couldn't go up- the walls were vertical. We couldn't go back- that would mean trespassing on our old "friends" property again.

We guessed that George was okay-- after all, he was in a canoe, and that apparently was not prohibited! Perhaps we could let him lead the way; we would draft inconspicuously behind.

And so we continued on. Fortunately, we did not run into anyone.

But others who have paddled this creek have since informed us that sometimes there are confrontations with armed securityguards.

What are they protecting? A beautiful trout stream with numbered fishing spots replete with chairs and tables. At this point the banks of the stream resemble a nicely mowed lawn.

We were probably spared the harassment because it was well past the opening day of trout season and threatening to rain.

Class 3 whitewater punctuated by an occasional ledge continued from this point to the junction with the Lehigh.

At the end of the day we concluded that Mud Run may be one of the best creeks in Pennsylvania. Not only are the scenery and the

rapids outstanding, but the stream does not necessarily require a deluge to attain a navigable flow. The creek has its origin in the Pocono plateau, a region full of wet lands that no doubt buffer the rate at which water runs off. And so, a couple of inches of rain should do the trick.

The put-in lies along route 903. We chose to take out at Rockport, after paddling a few miles on the Lehigh.

Confrontations with landowners seem most likely during trout season, so, if you are paddling Mud Run then, take along a lawyer! Unfortunately, trespassing on the riverbanks is an inevitable consequence of the need to scout and/or portage several of the rapids on Mud Run.

But the potential intrusion from paddlers is essentially negligible since Mud Run does not have adequate flow to paddle most of the time. No one can argue that we, as boaters, need to respect the rights of landowners and to disturb them as little as possible. But, for the future of the sport, we need to band together when these access issues arise and assert our right to paddle these streams. ■

POCONO LOCO



Left: Fred Lally heads down the second part of the double drop on the Mud Run

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CHANGES IN ATTITUDES

by Charlie Walbridge

It's not easy to explain the increase in whitewater fatalities we've seen during the past decade. When I began paddling in 1968 deaths among experienced paddlers were unheard-of. The first private boater fatality I wrote (or heard) about was a foot entrapment at a slalom race in October, 1975. The second was a death on the Gauley of a well-known expert kayaker in July, 1977.

Until the 80's one reported death per year was the norm; some years there were none. By the mid-eighties I began to expect several fatal accidents each year; as we enter the 90's we're creeping into

double figures. Eastern commercial rafting has a similar record. There was a single fatality on the New River in 1971 and no more until a double drowning on the Black River in 1985. We now usually hear of several each year.

The increasing number of paddlers can account for some, but not all, of this increase. With growth has come more river knowledge, better equipment, and improved paddling skills. The increased difficulty of the rivers being attempted probably plays some role; places which were once the exclusive playground of elite experts are now being visited by boaters of average ability.

But the biggest change in the past ten to fifteen years has to do with the casual approach that many of us take to river running. This is especially true of high-water runs.

During the early and mid 70's the Southeast was one of my favorite places to paddle. I spent many New Years and Washington's Birthday weekends chasing water down steep creeks in the Tennessee Plateau and Smokey Mountains. Running at about 100 feet per mile, they defined the cutting edge of the sport. As time passed it became harder to return. The fierce winters of the late 70's were followed by the drought years of the early 80's. Folks I used to paddle with moved on to other things, and I started skiing again.

But this year, with good weather and water coinciding perfectly, my wife and I followed the road south.

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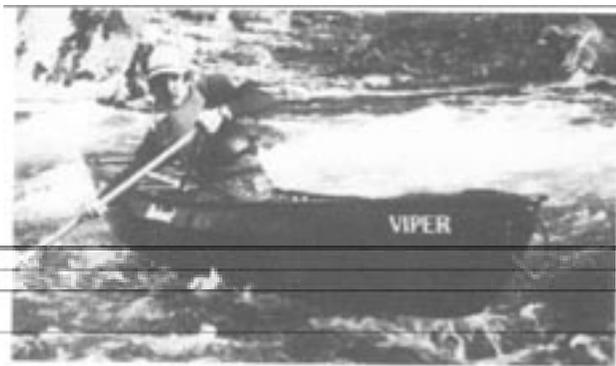
— Jeff Richards (Winner 1992 Ocoee Rodeo)

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For me it was a chance to run rivers that I hadn't seen in a decade. The boaters I met showed just how the sport has changed

The TVA's 800 number (800 238-2264), arranged through the considerable efforts of AWA Director Joe Greiner, gives an excellent profile of water conditions. First we ran the Doe River Gorge, complete with a bike shuttle featuring a steep climb and nasty dogs. That much hadn't changed a bit! The last time I saw the Doe, it was about a foot past the recommended upper level. This time, hovering at six inches above zero, it was steeper, but much less pushy.

Winding our way through boulder drops and lifting the nastier places I was struck, as always, by the beauty of the place, as well as by the

rocky rapids which gave it an evil reputation. In the 70's our gear was home-made and prone to failure. Cracked hulls and blown-out footbraces on steep rivers were common. But modern roto-molded boats make these events rare, even on rocky, abusive streams, allowing rocks to be smacked with impunity.

The that evening we drove over the crest of the Smokies to Wilson's Creek. The water looked low, but we were assured by local paddlers that it was boatable. I remembered a time years ago when a group of us, warming up for a shot at Linville Gorge, got thrashed and humbled on this river! But these guys lived close by and had the river wired. They drifted casually into "Ten Foot Falls"

without any explanation or fanfare, negotiating the drop with hand signals. In a rapid called "Boat Buster" (which we used to call "Can Opener") one of them took a "boof" line which avoided the sharp, nasty rock entirely. We hadn't learned this technique back then; it opens up a lot of possibilities. At "Staircase" the group took a line which we would have never tried in the old days. It was fine. With "the boys" showing us the way, we proceeded to run a number of drops which I had previously portaged.

Later we encountered Lee Belknap, an AWA director who knows the Wautauga as well as anyone. With the level a low -10" on a sunny New Year's day it seemed like a good

time to get re-acquainted. I remembered a stress-filled run in '74 which featured more water and a running argument with Jack Wright over whether he really knew where "The Falls" were. But Lee did what I've done many times over the years; he guided us by stopping above the major drops and carefully explaining the moves ahead. With the exception of the Falls and one other rapid (a nasty left turn against an undercut which Lee cleverly neutralized with a boof move) we did no scouting or carrying, and had a fast, trouble-free run.

We swung south to the Little River of Tennessee, passing through the Las Vegas-quality light shows at Gatlinburg and Pigeon Forge. The water, as usual, was low but entertaining

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enough. I'd heard that people were now running the Sinks; we'd passed up this 12' waterfall in '71 because the main chute lands on solid rock. This drop, formerly reserved for the certified crazies, has become more popular since the discovery of a deep, clean chute on the far right. Lee hit the line cleanly as I watched with the National Park crowd from shore.

But some things don't change. At the end of our run lurked "The Elbow", a hard left turn grinding against some nasty-looking undercut rocks. Years ago I'd blundered through this mess blindly at much higher water, chasing a pair of swimming kayakers. I was not at all pleased with that run, and vowed to scout the next time! One look, and we

carried the drop.

Many rapids and rivers don't seem as hard as they did back then. My favorite example is Shoulder Snapper Falls on West Virginia's Tygart River, a 7' high, river-wide ledge. In 1972 most people carried it; at the base of the main chute was a "Killer Hole". The drop was then called "Sweet's Retreat" after an epic pinning, shoulder dislocation, and swim suffered by many-time National C-1 Champion John Sweet. Sweet's skill was legendary, and that story discouraged almost anyone. A few experts tried a low water line which requires a paddler to catch a tough mid-stream eddy above the "killer hole", ferry to the far shore, and slip over a scrapy ledge into a rather aggressive reversal.

But one day Mark Kuskie, an aggressive, up and-coming young kayaker, missed the eddy and dropped into the alleged "killer hole" backwards! He was flushed out so fast that he flipped and swam!

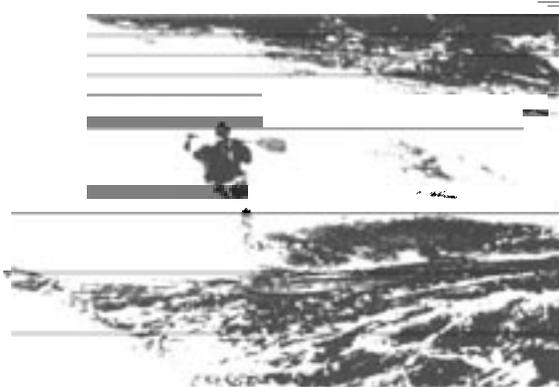
A sixteen-year-old Jim Snyder caught the same eddy, looked over the edge, and followed him down. The next day Jim talked me into trying it, assuring me that the hole, viewed from the eddy, was clearly a washout. Now everyone is running the ledge, even at low levels when "Wright's Rock" makes high-impact pitoning a real possibility. It's hard to remember now what all the fuss was about!

So our gear is better, and we're better trained. We read water better, and use easier and safer lines developed through the combined experiences of hundreds of paddlers. First-timers are kept clear of trouble, guided by boaters who've made the run dozens of times. But in the 70's our ignorance kept us safe. We

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saw danger everywhere, and we entered every river and rapid prepared for trouble.

Few people had run the tougher rivers more than once or twice before, so each run was like an exploratory. Eddy scouting was a new and radical concept then; we exchanged leads constantly, moving from eddy to eddy and side to side, probing the river. Regular slalom racing taught us a lot about **paddling** precisely; we learned to read the water and to run no **drop blind**. Major drops were scouted and treated with the respect; people frequently carried. We were pioneers of a sort, and pioneers learn to be very careful.

Times change. Many of the **runs** which seemed "on the edge" are considered by today's paddlers to be Class IV, and rapids considered extremely dangerous are now thought to be an easy flush. Water levels once thought to be "really high" are now "great". I still remember a strong group of paddlers who backed away from the Cheat River Canyon at 4.5' because it was "too high"! When we **finally** ran it at that level years later it was with considerable respect; now it's a casual "fun level".

The stuff being run today stymied the best paddlers of the 70's; North Carolina's infamous Green River Gorge was "run" by several N.O.C. employees in '74 but never recommended because of excessive portages and copious poison **ivy**. But as yesterday's exploratory becomes today's classic, the mystery disappears, and along with it goes the fear of the unknown that kept us alert.

Freewheeling modem paddlers, armed with precise knowledge of rapids

and water levels, often lose some of the respect which characterized our runs. This more casual attitude can result in a letdown in the wrong place, permitting those small mistakes that lead to serious trouble. The rapids aren't any easier than what I encountered in the 70's, and although gear

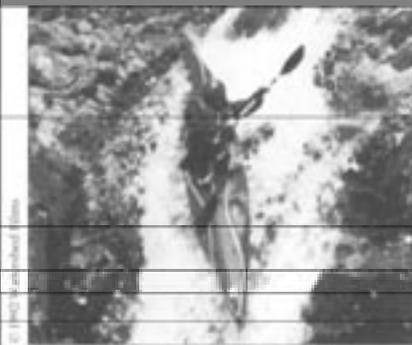
and knowledge has improved, the consequences of error remain. And while we **thought** we were going to die when we messed up, nowadays the chance of serious injury or death in rapids considered extreme or dangerous is much higher.

In 1992 let's rediscover our caution. Make sure

your gear is right and your group well prepared. **Run** each river as though you've never seen it before. **If** you know the river well, fight against the complacency that comes to all of us all in familiar places. And no matter how much fun you're having, never ever forget what you are dealing with. ■

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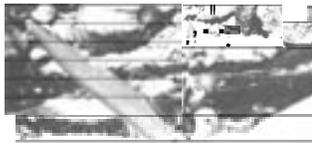
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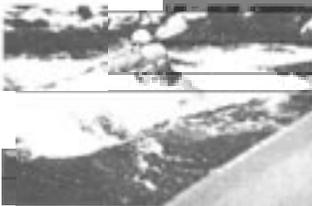
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Those of us who volunteer our time to the AWA are understandably proud of it. The document represents a coherent, carefully considered review of the diverse river access problems plaguing recreational boaters across the country. It also offers practical suggestions and guidelines that could provide solutions. Although in many respects it is politically sensitive, it is not inflammatory. It should serve to focus the attention of the whitewater community on access issues. And hopefully, as an official policy statement of the American Whitewater Affiliation, it **will** provide ammunition to the hundreds of whitewater activists working to develop and maintain access to rivers and streams all across the country.

Reviewing the finely polished product, it is hard to believe that it was prepared so quickly. The decision to produce the document was made at the AWA Board meeting at the 92 Gauley Festival. Incredibly, the committee charged with the responsibility of drafting the

It's long, it's complicated and it doesn't make for easy reading. It certainly isn't our usual fare.

But it is important. Very important.

In fact, it is probably the most important document the AWA has produced since the publication of the first whitewater safety code.

I'm talking about the

Public Access to Rivers and Streams for Recreational Boating,

published in its entirety in this issue.



document completed their work in less than four months. This reflects upon the seriousness and urgency of the access situation, as well as on the commitment and dedication of the volunteers who created and perfected the final draft.

A trio of well-known and respected river conservationists served as the nucleus for the committee that created the document: Pope Barrow, Ric Alesch and Rich Bowers. Others who contributed significantly to the project were Bob Glanville, Pete Skinner, Tom Christopher and Lee Belknap. Their contribution in terms of time, energy and expertise was enormous, and they deserve the gratitude of every whitewater boater in the United States. Next time you see one of them on the river...shake his hand.

Now take your time and read it carefully. You might even want to tear it out and save it. Someday soon you may find yourself in the middle of a whitewater access battle. If so, we hope this official policy statement by the AWA will come in handy as you fight the good fight.

"Tygart River, Valley falls: Rangers deny access citing safety concerns"

PUBLIC ACCESS TO RIVERS AND STREAMS FOR RECREATIONAL BOATING

Prepared by the
**American
Whitewater
Affiliation**
January 14,
1993

Introduction

River access has been a controversial issue at least since Roman times. The Institutes of Justinian, ancient English judicial opinions, the Northwest Ordinance, the obscure "equal footing" doctrine, and theories enunciated by the Supreme Court in 1870 in the case of *The Daniel Ball* still influence the law in this country.

In recent times, river use and the controversies surrounding river use, have been changing. No longer are fishing rights, the right to dig for clams in the streambed, the right to build docks, or the right to float logs downstream, the sole focus of conflict and controversy. Recreational use and enjoyment of rivers for floating, sport fishing, kayaking, and canoeing have become popular pastimes for many people and have spawned their own unique brands of controversy.

In the context of whitewater sports, advances in equipment, technique, and skills have been arriving at an exponential rate. Boaters are now organizing regular competitions on river segments which 10 years ago were viewed as cascades of almost impossible difficulty — Gore Canyon on

the Colorado, Great Falls on the Potomac, and the North Fork of the Payette in Idaho.

Meanwhile, rivers are becoming more populated and river side lands more developed. There are more dams and diversions, more timber and mining operations, and more homes being built along river banks as ranches and farms are carved up in the nation's seemingly inexorable slide towards urbanization and suburbanization. With more recreationists on the river, and more projects for power generation, irrigation, flood control, and drinking water supply, and more people using stream side lands for everything and anything, the possibilities of conflict continue to grow. To make matters worse, the litigious inclinations of the American public show no signs of abating.

Confusion over the rights and obligations of boaters versus the rights and obligations of landowners and other river users is matched by the uncertainty about the proper role of government river managing agencies. How responsible should those agencies be for the safety of those who undertake risk-taking recreational activities on public lands? What rules are needed to protect rivers and riverine

areas from environmental damage? What agency policies are best to insure fairness between competing river user groups? Who should pay for facilities and services provided to make river access possible? What if those facilities are used by sightseers and hikers as well as river runners? What obligations do water project developers have to make up for the destruction of recreational opportunities when dams are built or licensed by the government?

There are difficult public policy issues which affect the opportunities of whitewater boaters to pursue their sport.

The American Whitewater Affiliation has prepared this paper to clarify our own policies about these issues and to give government agencies, other river user groups, and the general public a better idea of what whitewater recreationists (at least those in the American Whitewater Affiliation) think.

We hope that placing these policies on the table for public debate will contribute to a resolution of conflicts, ultimately leading to a better and more enjoyable relationship among river users and river managers - and to a better relationship with rivers by all concerned.

General Policy Statement

The American Whitewater Affiliation seeks to assure rights of public access to rivers and streams for recreational use by human-powered water craft.

Policies on Critical Access Issues:

GOVERNMENTAL LIMITS ON RIVER ACCESS

1. Fees for Access to Rivers.
2. Limits to Control Carrying Capacity and Allocate Use Among Different Groups
3. Limits on Access for Safety or to Avoid Liability
4. Access to Whitewater Affected by Water Projects.
5. Bans on River Access for Environmental Protection.

PRIVATE LIMITS ON RIVER ACCESS

6. Access Points on Private Land.
7. The Right to Boat on Streams Through Private Lands.

1. Fees for Access to Rivers.

AWA Policy:

No fees should be imposed on kayakers, canoeists, or rafters merely to travel on a river or stream.

Fees imposed on boaters for the use of public lands* (including use to gain access to a river) should be identical to the fees paid by all other users of the public land area unless these fees offset costs of special river access facilities and services needed by boaters to obtain safe access to the river. Any such special access fees should be adopted only after notice to, and input from, the boating public.

Annual permits for public land entry should be available on-site in addition to single visit entry fees.

*Note: This statement applies only to fees for access through public lands. Access through private lands is covered in item #6. Access at water projects is covered by item #4.

Explanation:

Federal, State, and local fees on river travel by small self-guided human-powered boats are unnecessary and unjustified by any public policy. State and local fees on travel by water on rivers navigable under Federal law may even be unconstitutional as an unreasonable burden on commerce, a violation of the Federal navigational servitude (*Montana v. United States*, 450 U.S. 544 (1981)), a violation of the right to travel protected by the privileges and immunities clause (*Edwards v. California*, 314 U.S. 160 (1941)), or a combination of two or more of these three theories.

Even on streams which have the physical capacity to float small craft but which are not navigable as a matter of Federal law, State and local government fees and other restrictions on the public recreational travel on the stream may be invalid under State law. (*Hitchmgs v. Del Rio Woods Recreation and Parks District*, 55 Cal. App.3d 560, 127 Cal. Rptr. 830 (1st Dist. 1976).

The use of public lands, including river access points, may be subject to the payment of general entrance or user fees, but it is discriminatory to impose fees on boaters using public lands if lesser fees, or no fees, are charged to other users of those lands. Both groups benefit from the same or similar facilities and services and have similar impacts on the area's natural resources.

If special facilities or services are needed for boater access or for some other legitimate purpose uniquely

"Lower Youghiogeny, Ohioyle Falls: Breaking the Law"

related to recreational boating use, special fees on boaters may be reasonable. Safe parking needed exclusively for boaters at a heavily used river may, for example, be such a situation. Boaters do not object to fees offsetting the costs of minimal facilities and services needed and used only by them. However, these situations are rare.

On rivers where special fees are imposed for boater access, self-guided boaters, and the local and national groups which represent them, should be included in the planning and implementation of the fees. Public comment should be solicited and these user groups should be specifically notified. The reasons for the fee and the costs of any facilities funded by the fee should be fully articulated to the affected public before the fee is adopted.

Self-guided boaters typically need and desire only the most minimal river access facilities. Extensive or elaborate facilities for river access (especially those in the sensitive riparian zone) are not justified and should not be constructed for the benefit of, and at the expense of, a user group which does not need or desire them.

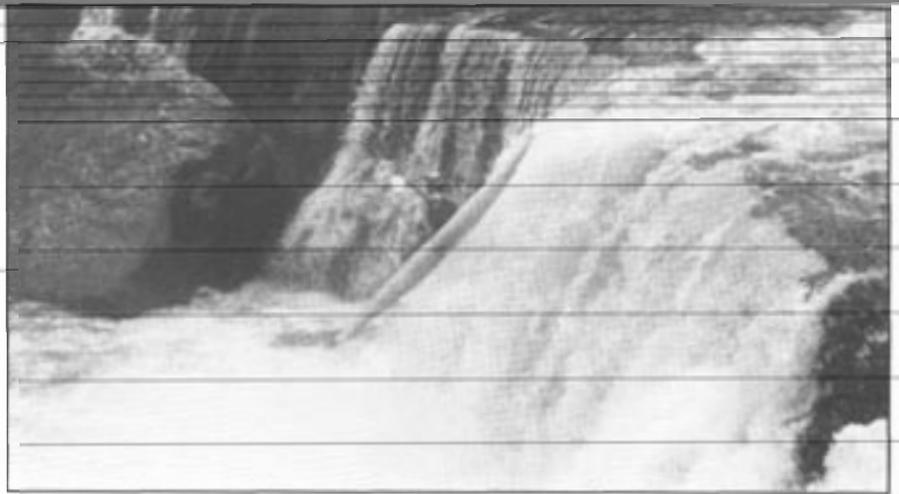
Unnecessary access services are also objectionable, especially if funded by fees. Reservations, for example, together with reservation fees, would be acceptable only if all of the following conditions are met:

(1) The river is so heavily used that reservations are necessary to provide boaters who drive long distances with a reasonable assurance of finding slots available.

(2) A reasonable portion of the total self-guided river use is not subject to prior reservation so that slots remain available for "standby" users without payment of reservation fees. (This is necessary to provide a balance between frequent or local users and more distant "planned users.")

(3) *All* unused reservation slots are available to standby users on a first come-first served basis without payment of reservation fees.

Annual permits are more cost effective for the regulatory authority, less burdensome for the boater, and do not discriminate against local users as much as do single visit access fees. Single visit fees are more appropriate for occasional infrequent visitors. Both single visit permits and annual permits should be readily available on site at convenient times; annual permits should also be available by mail.



Case Studies:

Lower Youghiogeny

In 1992, on the Lower Youghiogeny River, where the access is controlled at Ohioyle State Park in Pennsylvania, the Bureau of State Parks and Department of Environmental Resources began imposing a \$2.50 "reservation fee" on private boaters as a condition of their access to the river. This fee is in addition to a \$1.25 mandatory shuttle fee.

This fee is essentially an access fee, despite the name "reservation" fee. Boaters must pay regardless of whether they call ahead to reserve a launch time or simply show up to paddle the river on a "stand-by" basis. Boaters must pay for reservations even during low use periods. Local boaters who want only to paddle a mile of river as a morning workout must pay the same fee as people boating the entire river on a weekend trip. No fees are imposed on other park users who use the same facilities (changing rooms, restrooms, trails, parking) as do the boaters.

The Lower Yough fees embody almost every objectionable characteristic of the wrong kind of river access fees. They are labelled as a reservation fee but are actually an access fee. They clearly discriminate against paddlers. The fees do not benefit boaters, or river-related resources, or pay for facilities or services provided to boaters. The fees were implemented without warning to, or consultation with, national and local boating organizations whose members bear the full brunt of the fees. The fees discriminate against local boaters since no annual permit is available and fees are collected even during some off peak time periods.

Genessee River

On the Genessee River in Letchworth State Park, New York, a 4.5 mile class II-III run, boaters are required to pay a \$5.00 permit fee to access the river (more than \$1 per mile!). In addition to this fee, boat-

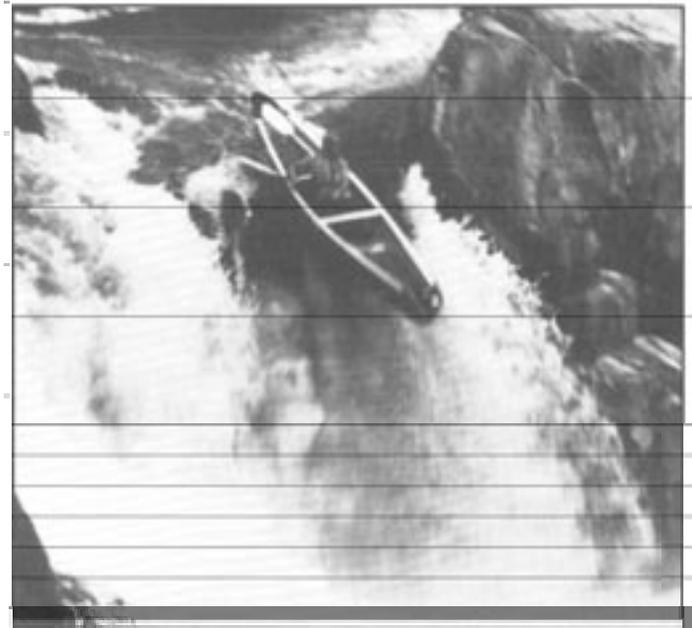
ers must also sign a variety of waiver forms, depending on river levels, and at an arbitrary "high level" the river is closed to boating. Boaters must also certify their skill level at each increased river level. Until boaters protested, they were even required to submit a permit application 5 days in advance of their trip!

This permit/fee is subject to **all** of the same problems as the permit/fees at the Lower Yough, combined with a level of excessive regulatory red tape unmatched anywhere else. Management policies at the Gorge also violate the policy explained in item #3 below (relating to regulations for boater safety). The Letchworth Gorge is the classic example of regulatory overkill, funded by an exorbitant and unnecessary fee.

Great Falls, Potomac River

At Great Falls National Park in Virginia, and at other National Parks and State Parks, a daily entrance fee is collected by the National Park Service at the gate from all park visitors, including those entering merely to gain access to the river. An annual park entry permit is also available on site or by mail for \$10. These fees are the same for river users as for picnickers and other users. The daily fees are not collected on low use days when fee collections would not generate enough revenue to justify fee collection costs. AWA does not object to these park entry permits and fees at Great Falls National Park, except that AWA believes that fee revenues should be dedicated to management, maintenance, and protection of park lands and not be used as general revenues.

No fee is charged by the State of Maryland in connection with the lifetime registration required for boaters to run the falls. (See item #3 below.)



Top: "Genessee: Fees and red tape" Bottom: "Potomac River, Great Falls: Access for boaters negotiated by AWA members"

2. Governmental Limits to Control Carrying Capacity and Allocate Use Among Different User Groups

AWA Policy:

Mandatory limits on recreational river use should not be adopted unless a clear need is demonstrated after less restrictive voluntary alternatives have been attempted.

Rationing of limited access should be fair. When separate quotas for commercial and self-guided groups are adopted by river management agencies, they should provide both user groups **with** similar opportunities to gain access to the river.

To reduce disparities in river access opportunities, new methods of allocating use between commercial and self-guided groups should be tried on a limited ba-

sis, and if proved workable, adopted on a wider basis. However, new allocation schemes which undermine the financial viability of commercial operations are not considered workable.

On regulated rivers, river management quotas for separate groups can become increasingly unfair over time unless they are periodically updated to adjust to changes in demand levels among the different user groups.

All segments of the boating public should be represented fairly on any advisory committees appointed to address river management issues. In **making** management decisions, including decisions to control river traffic, river managing agencies should solicit and re-

spond to public comments and justify their decisions in writing.

Rules that totally ban any recreational user group from a river segment at all times in favor of other recreational users should never be adopted.

On some extremely crowded rivers with commercial use limits and no noncommercial use limits, the commercial use limit should not be set at such a high level as to create safety hazards due to congestion. These hazards become a de facto limitation on access by self-guided boaters.

Explanation:

Two basic principles should guide river access regulations adopted to control carrying capacity: (1) Avoid unnecessary regulation of access, and (2) recognizing that rivers are public resources, regulations should be fair to various segments of the public.

Unnecessary regulation of access:

A major benefit of river recreation is to allow individuals to escape from their regulated, structured everyday lives and enjoy the freedom of the outdoors. Excessive regulation undermines this benefit. Information and education may be more than sufficient, and will always be more cost effective and less controversial than complex and detailed regulatory controls. For example, telephone hot lines or similar means of providing boaters with information about crowded conditions, voluntary reservation systems, and other indirect controls (such as those used in wilderness areas) may be effective in reducing peak use to acceptable levels. For these reasons, river managers should always use less burdensome management alternatives before resorting to use limits.

As use increases on popular whitewater streams, it becomes increasingly difficult to protect the resource and to insure that the experience of the recreational public is not degraded by overcrowded conditions. This is especially true of rivers managed to protect wilderness values. When demand for river use exceeds the carrying capacity (supply), something has to give. This normally means that river use must be rationed in some manner.

Fairness:

Rivers are public resources. Therefore, if river use is to be limited and rationed among potential users, the rationing scheme should allocate available river use fairly.

Traditional approaches to limiting river use often involve designating commercial and self-guided boaters as separate groups and establishing a separate quota for each based on existing use patterns at the time the

quotas are initially established. A "split" allocation system was first adopted on the Grand Canyon and later followed on other rivers due to a "misunderstanding of the management decision adopted on the Grand Canyon. (S. Bates, Recreation use Limits and use Allocation on the Lower Deschutes River, 1992).

AWA does not endorse or oppose split allocation systems in principle. Nor are these systems advocated or opposed by commercial boating interests. They are a management technique adopted by government agencies for convenience of administration. However, members of each user group often view split allocation systems, as they are now implemented, as unfair to each group for different reasons.

Split allocation systems essentially create two queues of people waiting for access to a public natural resource. Fairness dictates that members of the public in both queues should be entitled to a roughly equivalent opportunity to gain access to the river. Neither queue, in other words, should be radically longer than the other.

Split allocation systems become unfair when no adjustments are made over time. This is because the relative balance between commercial demand and demand for self-guided trips may dramatically change over time. The failure to adjust split allocation quotas to changing demand levels can create large imbalances between river access opportunities available to the different groups. The change can favor commercial users or self-guided boaters. It is a two-edged sword.

For example under a hypothetical split allocation system which sets both commercial and self-guided use quotas at 50% based on an existing 50-50 use pattern, if demand for self-guided trips increases more rapidly than commercial demand, it will become increasingly difficult for self-guided boaters to obtain a river permit than for commercial boaters. On the other hand, if commercial demand rises faster than demand for self-guided trips, the system will eventually provide disproportionate access opportunities for self-guided boaters.

If commercial and self-guided boaters are to be subject to rationing of river use with separate quotas, river managers should devise methods to adjust the quotas to keep supply and demand for both types of trips in reasonable balance over time. However, these methods will be acceptable only if they allow commercial rafting industries to operate successful and stable business operations.

Split allocation systems often have other problems. For example, they sometimes count the number of boats rather than people. This kind of split should be avoided because it has a built-in bias against small boats, like kayaks and canoes. In addition, split allocation systems should provide for the reallocation of unused slots so that those slots are not wasted. Many self-guided trips cannot use the full trip allocation (some-

times as high as 24 persons). The unused slots should be reallocated, not forfeited.

In some situations, even unregulated users can be unfairly excluded by the quotas set for regulated use. For example, if commercial use limits are set so high as to occupy the entire physical carrying capacity of the river, self-guided trips are effectively denied access to the river. This has recently begun to occur on a few popular rivers with exceptionally high levels of commercial use. If government agencies take on the responsibility of regulating commercial use (or both commercial and noncommercial use) on these rivers, they should ensure that commercial use levels are not set so high as to create safety hazards.

It is unfair to require self-guided boaters to search for low-use time periods or to go to other rivers because commercial use occupies the river's full physical carrying capacity. Rivers are public resources which should be fairly shared among all members of the public.

On rivers with extremely heavy commercial traffic, a regulatory approach which would enhance safety and fairness would be to provide launch "windows" (periods of time, including a portion of "prime" river time) during which commercial traffic congestion will be limited to levels which do not effectively exclude self-guided boater use.

Case Studies:

Smith River

Although frequently used in land management contexts, even for wilderness areas, voluntary systems to manage visitor traffic are seldom seen in river management. However, on the Smith River in Montana, boaters can call a voluntary reservation system to announce intended launch date and size of their party. The person administering the voluntary reservation system passes this information on to later callers who can then adjust their launch date to avoid crowding. (For a more detailed description of the system, see the article by G.

Baxter in *Western Wildlands*, Vol. 16, p.38 (1991)). This approach should be more extensively used in river management.

Grand Canyon

The first split allocation system was established at the Grand Canyon of the Colorado River. The split allotment formula allocates 68% of the use to commercial trips and 32% to self-guided boaters. The allocation system has not been adequately adjusted since its initial establishment many years ago, despite a continually changing pattern of noncommercial versus commercial

boater demand. At the present time, self-guided boaters pay \$25 to get on a 10-year waiting list to obtain a launch date. Commercial access may be obtained with a much shorter wait (sometimes only a few months or weeks) for those willing to pay at least \$1,000 for their trip.

Although self-guided boaters consider this system to be unfair, it has been upheld by the courts as within the range of agency management discretion. (*Wilderness Public Rights Fund v Kleppe*, 608 F.2d 1250 (9th Cir. 1979))



"Middle Fork of the Salmon: Annual lottery determines access"

Rogue River

Split allocation systems have also been upheld on the Rogue River despite protests from private boaters that the 50-50 split between self-guided and commercial users was arbitrary and violative of equal protection. (*United States v Garren*, 893 F.2d 208 (9th Cir. 1990))

Middle Fork of Salmon, and Selway Rivers

Other strictly regulated western rivers, such as the Middle Fork of the Salmon and the Selway in Idaho, also have annual lottery systems. Demand for space on these rivers far outstrips available permits. For self-guided trips demand greatly exceeds supply even where self-guided quotas are larger than quotas for guided trips. On the Selway self-guided trips have

79.5% of the total allocation and on the Middle Fork self-guided trips have 56% of the total allocation. Yet self-guided boaters typically try year after year without success to get a permit for these rivers. For those who can afford it, a slot on a guided trip can usually be obtained a few months in advance.

The supply and demand problem is exacerbated by agency rules which provide that unless a trip uses its full allocation (24 persons on the Middle Fork), the unused slots are forfeited. This results in large percentages of unused river slots. In 1991, for example, 55% of the self-guided slots and 35% of the commercial slots were unused on the Middle Fork. The failure to reallocate these slots means that, on average, 12 slots are wasted on every self-guided trip on the Middle Fork.



Top: "Middle Fork of the Salmon: Private boaters' permit allocation questioned"

Middle: "Selway River: Access by lottery: odds are one in thirty!"

Bottom: "Gauley River: Cooperation by virtue of Congressional mandate"

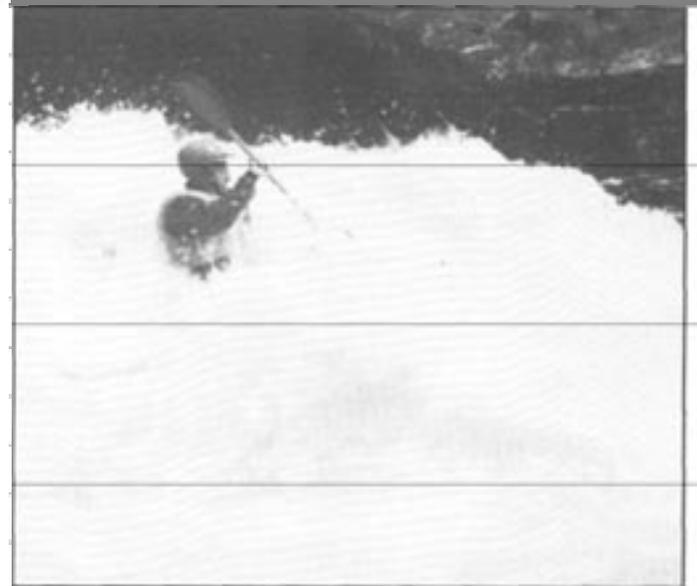
Westwater Canyon

Split allocation systems are also sometimes used on day trip rivers like Westwater Canyon in Utah where rules have been changed over the last 10 years, without public input, making it increasingly difficult to get a self-guided permit.

Gauley

On the Gauley River in West Virginia, commercial river use levels during the 22 day fall draw down have been increased several times by the State legislature without any input from noncommercial boaters and without any consideration of the effect on noncommercial boaters. Although noncommercial boaters are not subject to a use limit, commercial raft traffic is now so high at prime periods on the Gauley as to make it hazardous for kayakers and canoeists to be on the river at the same time as commercial raft trips. Collisions between rafts and kayaks are common, and a typical commercial raft may weigh in excess of 2,000 pounds.

Although kayakers and canoeists frequently seek out windows of lower than average use (late in the day im-



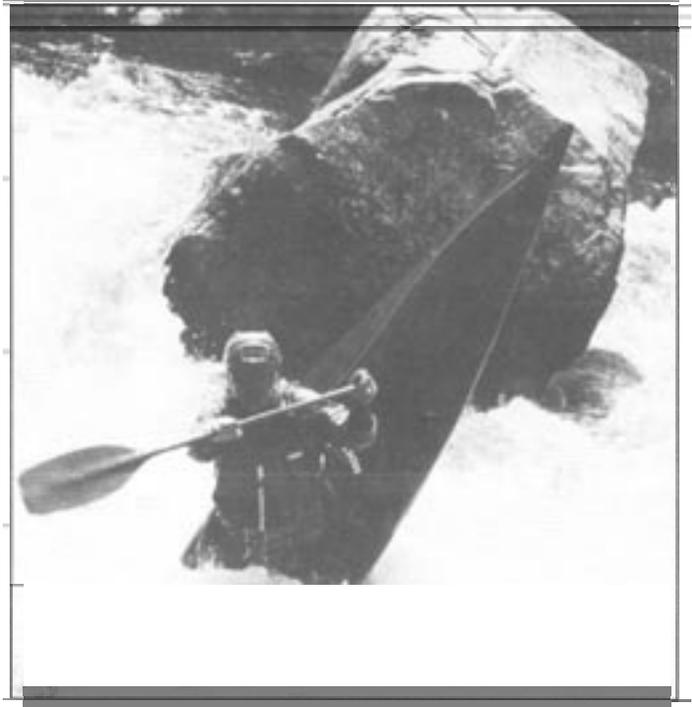
mediately prior to the time at which the water is turned off), this is usually extremely inconvenient and often impossible.

Upper Youghiogheny

A similar situation is beginning to occur on the Upper Youghiogheny in Maryland during 2-hour releases. Only commercial use levels are subject to a quota, but the quota for commercial rafting has been increased several times by the Maryland DNR and is now at a level at which- if fully utilized- no space would be available on the river for noncommercial boaters unless they are willing to run rapids in extremely close proximity to rafts. The situation is especially dangerous in drought periods when the Upper Yough becomes virtually the only whitewater river with class IV -V rapids anywhere in the region and both commercial and noncommercial river runners converge in large numbers on that river.

Arkansas

Brown's Canyon on the Arkansas has become so crowded with commercial rafts that noncommercial kayakers, rafts, and canoeists are avoiding the run. The Arkansas River Management Plan appears to endorse this effect as "self-regulation".



"The Upper Yough: Quiet now , but they used to shoot at boaters"

3. Limits on Access for Safety or to Avoid Liability

AWA Policy:

Limits on river access to protect whitewater boaters from hazards perceived by government agencies to be associated with whitewater boating are generally unwise and unnecessary.

Signs, warnings, and other educational efforts are more effective than river access closures in reducing the exposure of inexperienced individuals to whitewater for which they are unqualified.

An exception to the policies stated above exists on some extremely crowded rivers with commercial use limits. On those rivers the commercial use limit should not be set at such a high level as to create safety hazards due to congestion.

Explanation:

Unregulated whitewater boating has been remarkably free of fatal injuries in comparison to other sports. Paddlesport is today one of the quickest growing sports in the nation, with a 33% growth from 1983-1987. Many of these participants are engaged in whitewater paddling.

Despite this remarkable track record, whitewater boating is generally acknowledged to be a sport with some degree of inherent risk, like skiing, rock climbing,

etc. This level of risk is accepted by participants in the sport and the liability for injury is assumed by those participating in the sport .

Under a number of legal doctrines (sovereign immunity, assumption of risk, etc.), whitewater boaters are barred from holding the government liable for injuries they sustain while participating in the sport. Their safety in whitewater- and at access points- is their own responsibility.

However, any government agency which assumes the responsibility of judging the qualification of persons participating in sports such as whitewater boating could also assume legal liability for boater injuries.

Therefore, it is unwise for government agencies to assume this responsibility. Decisions about what to run and when to run it are best made by those who will experience the consequences of their decisions.

Agencies which have not attempted to assume these responsibilities have not been held liable for injuries to boaters on rivers under their management authority. For example, in *Harmon v United States*, (532 F.2d 669 (1975)) the U.S. Forest Service was found not liable for death of rafters on the Middle Fork of the Salmon River in Idaho. The decision was based on the discretionary function exemption of Federal Tort Claims Act. (Government liability cases are generally not based on land-owner liability reduction laws since most of those spe-

cifically exclude government agencies from coverage. For a discussion of landowner liability laws see item #6.)

Warnings by sign or brochure and other educational efforts means are the most effective tool government agencies have to reduce improve the safety of inexperienced individuals who encounter whitewater. Police-style restrictions normally require more manpower than is usually available, and inexperienced government employees are seldom able to d i s t i n g u i s h between people who are capable of handling whitewater and those who are not. Agency attempts to restrict all access to challenging whitewater often penalize experienced paddlers without improving safety for the general public.

AWA remains committed to educational efforts to improve whitewater boating safety.

Case Studies

Colorado State Law

Under Colorado State law, county sheriffs had the authority to close whitewater rivers to all floating use during periods they deemed unsafe. In one extreme case, the sheriff typically attempted to close all rivers in the county during the entire spring run-off season. The Colorado Whitewater Association successfully lobbied the State legislature to adopt an exemption for properly equipped whitewater boaters.

Great Falls of the Potomac

Lying just 14 miles outside of Washington, D.C., the Great Falls of the Potomac attracts tens of thousands of

visitors each year, making this one of the major natural attractions on the east coast. The Falls, dropping some 65 feet in just a quarter-mile, also offer an excellent expert boating resource. Despite the degree of difficulty and the proximity to a large population center, no paddler who has knowingly attempted Great Falls has ever been killed or seriously injured. On the other hand, many hikers, "rock hoppers", and fishermen have fallen (without life jackets) into the river above the falls and suffered injury or death.

The National Park Service initially banned all whitewater boating at Great Falls and imposed fines on violators. Signs warning the general public of dangers were nonexistent. These policies antagonized whitewater boaters but were not effective in diminishing the death toll from drownings.

The AWA and local whitewater groups worked out an agreement with the National Park Service (which controls both banks of the Falls), and the Maryland Department of Natural Resources (which controls the waters in the river) allowing whitewater access to the Falls. This agreement was embodied in Maryland DNR rules (effective Sept. 4, 1989) and in informal NPS policy. In deference to NPS fears of encouraging inexperienced park visitors to attempt to run the falls, paddlers agreed to a restriction on running the Falls after 9:00 a.m. or before 5:00 PM when the park is likely to be crowded.

In addition, under the agreement, a simple one-in-a-lifetime registration must be filed (at no cost) with the State of Maryland. This registration contains an acknowledgement by the paddler that he or she assumes the risk of paddling a Class VI rapid, including the fact that rescue may be impossible. Although the



registration form is not available on site (which would be desirable), it is easily obtained by mail from the State or from AWA.

AWA also strongly encouraged the NPS to post large warning signs at strategic locations with artistic dramatization of the hazards to "rock hoppers". Eventually, after initial resistance, the NPS agreed to install signs (although the text and illustrations were prepared without consultation with boater groups).

The approach used at Great Falls has been generally successful. However, AWA recommends that on site registration be facilitated as well as registration by mail. AWA also questions the need to limit boater access to particular time periods. The warning signs could also have been improved by greater consultation with local expert boaters. Nevertheless, this is an example of how intelligent and cooperative public land management can be used to enhance recreational opportunities, reduce conflict with user groups, and improve public safety.

Niagara Gorge

The Niagara Gorge run below Niagara Falls, New York, starting at Whirlpool Rapids State Park, contains some of the most exhilarating whitewater in the United States. The controversy regarding access to whitewater in the Niagara Gorge has been going on for years. Over the years, boaters have been charged with disorderly conduct when apprehended after running the Gorge.

In 1987, AWA efforts opened the door to legal boating for one fall season, and several runs took place. In more than 50 canoe and kayak descents of the Gorge, not one boater has been killed or seriously injured. Nevertheless, on November 10, 1987, the New York State Department of Parks, Recreation and Historic Preservation amended its regulations to close the Gorge to all whitewater boating. Public comment on the proposed regulations uniformly opposed closure of the Gorge to boating, and the agency acknowledged that it lacked the expertise to evaluate these comments.

These regulations, conceived in fear (of liability) and implemented in ignorance of the potential impacts of whitewater recreation, remain in effect, resulting in the loss of legal access to one of the world's most exciting whitewater recreational opportunities with no discernable public benefit. Similar concerns led to imposition of a high water boating prohibition by the same agency on the Genesee River. (See the discussion under item #1.)

Left: "Niagara Gorge: You can't touch this"

4. Access to Whitewater Affected by Water Projects

AWA Policy:

The owners and operators of water projects should be required to provide free and unhindered passage for the noncommercial recreational boating public through lands owned or controlled by the project owner or operator. This includes providing free and unhindered public passage around the project from waters upstream of the project to waters downstream of the project.

Project purposes (as specified in legislation or in Federal licenses) should recognize downstream recreation as a legitimate use of all Federal water projects.

The public right of access should be limited only to the extent necessary to protect structures, machinery, and other property associated with the project and to protect the public from those structures and machinery or for environmental reasons."

Recreational boaters are personally responsible for their own safety on the water and water project operators should not be authorized to determine whether boaters are qualified or properly equipped. Warning signs and other efforts to notify the recreational public of dangers and hazards in the area are strongly encouraged.**

No fee should be imposed on the recreational public for the use of recreational facilities constructed and maintained pursuant to a FERC hydropower licensee and all licenses should expressly provide that in no case **will** any fee or charge be imposed on boaters who merely enter or leave the river without using facilities of the licensee (other than a road or trail).

*Environmental access restrictions at water projects should be subject to the policies set forth in item #5.

**Safety and liability issues are dealt with in item #3.

Explanation:

Rivers and streams are a public resource most of which are subject to a public right of passage for commercial or recreational purposes (See #7 below). A hydroelectric power license granted by the FERC authorizes a private individual, company, or other entity to appropriate to their own use and profit, a segment of a particular river or stream. Likewise, other water projects adversely impact the recreational public in order to provide irrigation, flatwater recreation, flood control, or some other local benefit.

Many of water projects severely impact or degrade preexisting whitewater recreational opportunities. As

partial compensation to the public for the loss of these recreational opportunities, these projects should, at a minimum, assure free and unhindered public access through project lands for commercial and noncommercial recreational canoes, kayaks, rafts, and similar human-powered boats.

Services (such as parking, shuttles, and camping) for the recreational public are also sometimes part of the mitigation required for the construction of water projects. No charge should be imposed on the recreational public in connection with these facilities. These facilities should be provided by the project owner or operator as compensation to the public for the loss of recreational opportunities which, in the absence of the power project, would be available to the public on the free flowing stream in its natural condition.



"Kennebec River: A fee to paddle the river"

AWA seeks to ensure that all water projects with downstream whitewater provide free access and access-related facilities and services to the recreational boating public. This may include the construction of roads, trails, and/or boat ramps in some cases. However, AWA will request that facilities and services provided be kept to a minimum.

The access provided at FERC-licensed projects should include access through all lands owned or controlled by the project owner/operator whether those lands are within the project boundary or not. Otherwise, the project operator could defeat public access by purchasing the only take-out downstream and refusing public access at that location.

No other restrictions (such as certification of ability, special equipment, etc.) should be imposed on noncommercial boaters accessing a river at water projects, except for restrictions reasonably necessary to protect the machinery and equipment (transformers, generators,

power lines, etc.) at the project site and to protect the public from injury associated with that machinery and equipment.

Water project owners and operators are not liable for the injury or death of whitewater boaters who obtain river access through project lands. Federally operated water projects are subject to the "discretionary function" exemption of the Federal Tort Claims Act referred to in item #3. Private owners of land at other water projects which provide public access without fees are covered by landowner liability reduction laws described in item #6.

Whitewater boaters are aware that their sport entails some personal risk of injury and accept that risk as their personal responsibility. The AWA Safety Code states that "individual paddlers are ultimately responsible for their own safety, and must assume sole responsibility for ...the decision to participate on any trip...the selection of appropriate equipment [etc.]"

Case Studies:

Kennebec River

The Central Maine Power Company (CMP) is the licensee of a power project (the Harris Station Facility) on the Kennebec River in Maine. Article 7 in the license for that project contains the following condition:

So far as is consistent with proper operation of the project, the licensee shall allow the public free access, to a reasonable extent, to project waters and adjacent project lands owned by the licensee for purpose of full public utilization of such lands and waters for navigation and recreational purposes, including fishing and hunting and shall allow to a reasonable extent for such purposes, the construction of access roads, wharves, landings, and other facilities on its lands the occupancy which may in appropriate circumstances be subject to payment of rent to the licensee in a reasonable amount; Provided that the licensee may reserve from public access such portions of the project waters, adjacent lands, and project facilities as may be necessary for the protection of life, health, and property...

CMP interpreted this license condition to authorize them to impose fees (initially \$5, then reduced to \$1) on boaters who seek access to the river, even those not using any other services provided at the site (such as camping, parking, etc.).

Although this license condition clearly disallows fees for river access, the Federal Energy Regulatory Commission has creatively interpreted the language in a letter to CMP. FERC stated that fees did not violate Article 7 and were consistent with the Commission's regulations in 18 CFR 2.7. FERC did not distinguish river access from other "services" provided at the site and stated that "The Commission will not object to licensees and operators of recreational facilities within the boundaries of a project charging reasonable fees to us-

ers of such facilities in order to help defray the cost of constructing, operating, and maintaining such facilities."

Since language similar to the language of the CMP Article 7 quoted above appears in Article 18 of the standard terms and conditions included in original licenses and new licenses (relicensing) since 1975 (Form L-6), all recreational user groups should intervene in licensing proceedings to insure that Standard Article 18 is deleted from all new licenses in favor of alternative provisions, consistent with the fee access policy stated above.

Sacandaga River

The Niagara Mohawk Power Corporation ("NIMO") operates the Stewarts Bridge Dam on the Lower Sacandaga River in New York, upstream of a 3.5 mile long section of class II-III whitewater. The company licensed several commercial outfitters to run river trips through this section, but officially closed the river to non-commercial boaters.

As part of a system-wide recreation plan, NIMO proposed a complex and expensive plan to provide for whitewater recreation on the Lower Sacandaga (Proposed Sacandaga Whitewater program, prepared Environmental Design & Research, August 1992). If adopted, this plan would have regulated river access use through a River Manager, to be compensated by fees paid by river users. Access would be limited to one

location, highly structured with a mandatory shuttle bus, and governed in various ways by the River Manager who would be responsible to check paddlers for equipment safety and competence and who would require all paddlers to sign a liability waiver.

AWA notified NIMO (P. Skinner to G. Schoonmaker, Sept 17, 1992) that AWA considered this to be illegal and also objected to almost every aspect to the Sacandaga Whitewater Program as it applies to non-commercial boaters. The New York Department of Environmental Conservation supported AWA's position, and NIMO revised its program to remove unnecessary and costly restrictions on non-commercial boater access and to make it clear that non-commercial boaters were free to enter the Sacandaga from upstream and from public road crossings.

Gauley River

During the early 1980's the Army Corps of Engineers refused to cooperate with whitewater boating interests who requested adjustments in fall drawdowns from the Summersville Dam on the Gauley River in West Virginia. The Corps argued that downstream recreation was not a project purpose and that the project purpose of providing recreational benefits was satisfied by recreational opportunities at the lake. The issue was only resolved when Congress enacted specific legislation asserting that downstream whitewater recreation was a project purpose.

5. Bans on River Access for Environmental Protection.

AWA Policy:

AWA supports reasonable government rules clearly needed to protect rivers and their environment. However, whitewater boating is a low impact non-consumptive activity with few major adverse environmental consequences. Therefore, environmental protection regulations temporarily barring (or otherwise restricting) whitewater boating access should be imposed only after full public review, should be clearly demonstrated to be necessary based on valid scientific data, and should impose only the minimum restrictions necessary to protect the resource. Permanent bans should never be necessary.

[Note: The closely related issue of user quotas are dealt with in Policy Item #2. This policy statement covers all governmental requirements limiting boater access for environmental reasons, including FERC licenses, rules on public lands, and regulations applicable to rivers flowing through private lands.]

Explanation:

AWA is committed to educating the public (particularly the boating public) about environmental issues associated with rivers and to fostering environmentally sound use of rivers and streamside lands. AWA also seeks to preserve the wilderness and scenic qualities of remote wild rivers, including those designated for Federal or State protection under various programs (such as the Wilderness Act and the Wild and Scenic Rivers Act).

In furtherance of these objectives, AWA will support reasonable government rules which are clearly needed to protect the ecological health of rivers or to protect fisheries, sensitive wildlife, endangered species, or other critical environmental resources, including, under some circumstances mandatory limits on use. (See AWA Policy Item #2).

Non-consumptive human powered recreational river use, however, rarely causes significant environ-

mental harm, especially day trips. Even overnight trips have minimal impact on the environment if use levels are not excessive, if wildlife is not hunted or disturbed, and if camping is sensitive to the riparian environment and human waste is removed.

Governmental regulation of boating, especially prohibitions on access, on the basis of environmental concerns should only be used as a last resort and adopted after full public review. Even temporary bans on access should be adopted only when clearly demonstrated to be necessary based on scientific knowledge and valid concerns related to serious adverse environmental consequences.

Permanent river closures for resource protection reasons should never be necessary since whitewater use can be controlled in less severe ways (limits on numbers, camping restrictions, or seasonal closures) to avoid unacceptable impacts. Land managers should never close areas to boating because it is easier than managing use. Instead, governmental land managers should be willing to work with the boating public to make sure that environmental rules accomplish their stated objective without excessive and unnecessary restrictions on public access.

Case Studies

Yellowstone River

Rivers in Yellowstone National Park are closed to boating, even though fishing is permitted, and power-

boating is allowed on Yellowstone Lake and other major lakes in the park. The reason for this general closure has never been adequately articulated or subjected to public review. The Grand Canyon of the Yellowstone offers a challenging class 5 run. It is sometimes boated at risk of arrest, but attempts to open the river to non-commercial river use have been rebuffed with the stated reason of wildlife protection concerns.

Little River, Massachusetts

The Water Commission for the town of Springfield, Massachusetts has eliminated access to the four mile, class III-IV Little River ostensibly to ensure public health and safety at the Cobble Mountain Reservoir (Springfield water treatment). However, the whitewater segment lies over two miles below this reservoir. In addition, the water supply reservoir is shielded from the whitewater resource by a municipal hydroelectric project and the diversion dam associated with this facility. After many attempts at communication, boaters have still been given no solid reasons for this restriction.

The Little River is a good example of a governmental ban on river access for environmental (and safety/liability) reasons which lacks any basis in reality.

Ichauwaynochaway River

On Southwest Georgia's Ichauwaynochaway River, the Ichauway Plantation, the Joseph W. Jones Ecological Research Center, and the Woodruff Foundation persuaded the state to close the river to boating for "ecological purposes". Any ecological considerations are vague, as the plantation is also a hunting reserve for a large Georgia Corporation.

Relicensing

Some hydro-developments with bypassed river segments have reported the presence of federally listed or endangered species growing in these areas as a result of the dry conditions of the river bed during the last 50 to 80 years. These species are not native to the river bed, but rather are "exotic" species which survive there due to the unnatural dewatered conditions. In several situations the Corps of Engineers, for example, at the John Flannagan Dam on the Russell Fork in Virginia), dam operators have argued that flow restoration to historic river levels may be detrimental to these species. At the same time, these dam operators express great resistance to undertaking scientific flow studies to determine if episodic elevated flows for recreational purposes would have any harmful effect on these species. This is a cynical effort to prevent whitewater use, minimum fishery flow requirements, and restoration of the original "baseline" river ecology.



"Colorado River, Grand Canyon: Ten year wait for private boaters"

6. Access Points on Private Lands

AWA Policy:

When crossing private property, or parking on private property, is necessary to gain access to a whitewater river, boaters should respect private property rights and obtain the landowner's permission.*

At popular whitewater rivers, AWA supports efforts by public agencies to acquire, with the landowners consent, legal access rights and parking areas for the recreational public at both ends of whitewater runs. Where public agency purchase is not possible, AWA will assist canoe clubs and nonprofit land trusts to acquire or lease the necessary access and parking rights. Improvements at access points should be the minimum necessary to facilitate river use and should be sensitive to effects on the riparian zone.

* Lands at a water development project are an exception to this policy. Those lands are addressed in item 4. The right to merely float on the surface of a river that passes through private lands, and to portage around obstructions, is a separate issue, dealt with in item 7.

Explanation:

No boater has a right to use private property at river put-in and take-out points without the permission of the landowner. Permission can be obtained either by informal agreement or more formal methods (such as lease or acquisition.) Private landowners are, in most cases, fully within their rights to deny public access to rivers where boaters must cross their land to get to or from the river or where boaters must park on their property. Boaters should respect these rights and always obtain permission to use private property.

There are few exceptions to this rule. In some cases, a road that a nearby landowner considers to be privately owned may actually be a county road by reason of traditional use and a history of county maintenance. In other cases a right may have developed by continuous use that is open and adverse for a certain number of years. Both of these rights can be difficult to prove and will normally require court action.

Sometimes access agreements can be negotiated by AWA or by local boating clubs with landowners. Liability is often a landowner concern. However, at least 44 States now have laws limiting landowners liability when they allow public access for outdoor recreation WITHOUT charging fees. AWA will make available to any boater or stream side landowner a copy of the applicable State law. Typically these laws provide that landowners will be liable only for "wanton" or "willful" acts

resulting in injury to recreational visitors, not for mere negligence.

Because of these laws, AWA considers any release of liability in favor of a water project owner or operator to be unnecessary and fees to be counterproductive. In many States a release **will** be invalid if it benefits the owner of a "place of amusement or recreation" who charges a fee or other compensation for use of facilities. (e.g. Section 5-326 of the NY General Obligations Law). Where fees are not an issue, AWA will provide boaters or landowners with a sample liability release form which may be used to provide an even greater level of protection assurance to concerned landowners.

In some instances landowners have requested that those seeking access to a river through their property name the landowner as an additional insured on a policy of general liability insurance. Although some local boating clubs have managed to obtain this kind of policy, the expense and level of legal sophistication is difficult to come by. AWA will assist boaters in dealing with this issue in instances where it is raised by a streamside landowner.

Voluntary landowner access agreements are, of course, subject to cancellation. For example, the land may be acquired and the new owner may not be amenable to continued use by boaters. The best long-term solution, therefore, involves acquisition of access rights in some form. Where possible these rights should be acquired and managed by public agencies for the benefit of the recreational public. In some cases AWA, alone or in cooperation with other groups, may need to acquire legal access rights and parking privileges through lease or purchase. In some cases local boating clubs, with assistance from AWA and others, may be able to manage the lease or acquisition. In other cases a private non-profit group, such as the Trust for Public Lands or the Nature Conservancy, may be interested.

AWA **will** seek donations to establish a river access fund to lease and purchase critical river access points. Ideally, the lands and rights acquired by the fund will be resold to a public agency to free up funds to acquire access in other areas.

Physical improvements at access points should be the minimum necessary to facilitate river use. Basic gravel roads, parking, and primitive sanitation facilities are normally all that is needed. Extensive paved parking areas and high standard facilities are usually not necessary except in areas of extremely heavy use. All riverside access should be as sensitive as possible to

the ecological and scenic values of the riparian zone, with physical "developments" placed at an appropriate distance from the river.

"The Watauga: Conservation Groups lose opportunity to purchase purchase take-out"



Case Studies:

Arkansas River

Boaters for many years used a put-in known as the "Number One Campground" in Colorado to gain access to the world-class "Numbers" section of whitewater on the Arkansas River. The Colorado White Water Association (CWWA) had secured permission from one landowner in the area but a couple of years ago a second landowner who owns adjacent property declared the access roads to be private. CWWA with assistance from AWA has been working to resolve this issue through possible legal action and public land acquisition.

Upper Youghiogeny

For many years landowners at the put-in on the Upper Youghiogeny River refused boater access to the river. Boaters attempted to establish legal rights to use the right of way at the bridge which crossed the river; however, local courts held that the right-of-way next to the bridge could be used only for road maintenance and not for river access. After years of controversy, a rafting company purchased a large field at the put-in site and then resold the land to the Natural Lands Trust. The Natural Lands Trust, in turn, resold the land to the State of Maryland which maintains the area as a boater put-in with a gravel parking lot and primitive changing room. This has been an ideal solution to what was once a very ugly access problem for whitewater boaters.

Watauga River

At the Watauga River in Tennessee, lands which provided an ideal take-out site were available for sale for a period of more than a year. AWA was interested in purchasing the lands, but did not have the funds needed to do so. An effort was made to interest several large land trusts in purchasing the site. However, none of these organizations was able to move quickly. Consequently, the land was sold to a private individual and access rights for boaters remains uncertain.

Gauley River

At one of the popular take-out areas on the Gauley River in West Virginia, parking along the road by private boaters began to cause so much congestion that local residents could not get to and from their houses. AWA joined with the West Virginia Rivers Coalition in 1992 to rent a field adjacent to the take-out from a local farmer to be used for parking. Signs were posted requesting boaters to park in the field. The project was successful, with almost 100% of the boaters parking in the field, clearing the road of all parked cars.

7. The Right to Boat on Streams Flowing through Private hands.

AWA Policy:

The public should have the right to travel in canoes, kayaks, and other recreational water craft on the waters of all rivers and streams reasonably susceptible of passage even where a private entity owns the shorelines and the stream bed.

The public should also have the right to portage around obstacles in the river (such as dams or waterfalls) to the extent reasonably necessary to continue downstream so long as the portage is temporary, takes the most direct and least intrusive route, and does not damage the property of the stream side landowner.

Any other use of private stream side lands by boaters is permissible only with the consent of the landowner.

Explanation:

The policy expressed above is consistent with traditional use and with modern judicial opinion in many States. However, the right of recreational boaters to travel by boat down whitewater streams depends on a confusing and inconsistent body of case law which differs from State to State. The legal issues are often mis-

understood by stream side landowners and by boaters alike, causing unnecessary and harmful conflict between boaters and landowners. In a few States, court cases have restricted customary recreational river use on rivers flowing through private lands.

To further resolution of these problems, AWA provides educational materials to the general public about the laws governing the rights of recreational river users and stream side landowners. AWA has a substantial collection of articles and educational information regarding this issue which is available to boaters and to the general public.

AWA will encourage boaters to be respectful of private property rights. However, where property owners attempt to prevent boating on boatable streams, AWA may pursue and/or support litigation to establish the public rights of access.

AWA recommends litigation to resolve this issue only in strategically selected cases in which there is a high probability of obtaining a favorable precedent protecting the public right of passage for recreational boating.

In States where judicial decisions have established a public right of passage consistent with the AWA policy, AWA will seek the adoption of State laws to further clarify and guarantee this right. The statutory provisions should provide a clarification of existing legal rights so as not to be inconsistent with respect for private property rights and so as not to result in an unconstitutional "taking" of private property.

Case Studies:

Van Duzen River

A stream side landowner on the Van Duzen River near Eureka, California, attempted to prevent passage by boat on the river through his property on the theory that he owned the bed of the river. In *Bess v County of Humboldt* 5 Cal. Rptr. 3rd 399 (1992), the court held that, under California State law, if a river was susceptible of navigation as a highway for public passage at the time California came into the union, a public right of passage existed without regard to ownership of the stream bed. The case also held that the ability of present day small water craft (which are similar to water craft in use at the time of Statehood) to navigate the river was evidence that the river was navigable at the time of Statehood.

Beaverhead and Dearborn Rivers

In Montana, in recent cases involving the Beaverhead River and the Dearborn River, where a public interest group sought an injunction to prevent the closure (by fence and cable) of the river to boating, the State court recently held that any surface waters in the State that are capable of recreational use may be so used by the public without regard to stream bed ownership or navigability for non-recreational purposes (Montana Coal-

ition for *Stream Access v Curran*, 210 Mont. 38 (1984) and *Montana Coalition for Stream Access v Hildreth* 211 Mont. 29 (1984)). Those cases also held that the public could cross private property to portage around barriers in the water so long as that portage was done in the least intrusive manner possible, avoiding damage to the adjacent owner's property.

Moose River

On the South Branch of New York's Moose River in 1992, 5 people (2 canoes and 1 kayak) paddled downstream crossing through property owned on both banks by the Adirondack League Club, a private club. The banks were posted. The boaters got out of their boats at several places where the water was too shallow to paddle, but were careful to stay on lands below the high water mark. The boaters were sued for trespass. The case is now pending before the New York courts. The Sierra Club Legal Defense Fund is defending the boaters.

Sacandaga River

The Niagara Mohawk Power Company has attempted to prohibit boater access to the Lower Sacandaga River by portage around the company's dam at Stewart's Bridge. The New York State Department of Environmental Conservation has taken the position that the public has the right to navigate on that river and to portage around the dam by crossing NIMO land, following the "most direct and least intrusive route that is possible". (Sept. 18, 1992 letter from NYDEC to Gary Schoonmaker, Niagara Mohawk Power Co.)

"Moose River: Access and flow successfully negotiated by whitewater boaters"



Video Features Maryland's Racing Scene

by Bob Gedekoh

■
Ask the average recreational boater to name the state that she most associates with whitewater. Typical responses will likely be: West Virginia... Colorado... North Carolina... Idaho... California...

Ask a whitewater racerhead the same question, and you might be surprised by the answer. More than likely she will respond by naming Maryland.



■
Man made course at Pepco Power Plant in Dickerson, Maryland...where our team trains.

Maryland!

■ Yes... Maryland! Home of the Orioles and the Chesapeake Bay. But, more than that... over half of the members of the 92 U.S. Olympic team had their roots in Maryland.

■ Many are natives of the area, while others have relocated there to take advantage of the unique training environment that exists in the portion of Maryland that adjoins Washington, D.C.

■ Maryland's pivotal position in the world of whitewater racing is highlighted in *Olympic Whitewater, Maryland's Quest*, a video produced and directed for Maryland Public Television by Charles Bokor, a well-known and accomplished mid-Atlantic kayaker.

■ Copies of the video, which premiered on public television stations, are now being sold by Mary-



land Public Television at (800) 373-6154 for \$29.95.

The video focuses on the antecedents to the 92 Olympics in Barcelona, specifically the training and competition that produced the U.S. Team. A number of aspects of this process are presented in detail, in a fashion intended to capture the interest of both members of the general public and whitewater buffs.

Many prominent members of the racing community are featured.

The video includes footage of Jon Lugbill and David Hearn surfing on the Potomac, while reflecting on their early days, when they just boated for the fun of it after school.

The duo, who have dominated the C1 class for more than a decade with more than 19 gold medals won in international competition between them, also discuss the changes in race boat design which they initiated. These modifications allowed them to develop the pivot turn, a technique that revolutionized whitewater racing. During this discussion Lugbill is shown checking out a new boat in the shop of Andy Bridge, another member of the Potomac racing community, who is a master boat builder as well as a wildwater champion.

Lugbill and Hearn credit much of their success to coach Bill Endicott, also a Maryland native, who is also interviewed throughout the video.

After a concise explanation of the rules of whitewater slalom racing, the video focuses on the design and construction of the artificial whitewater course at Dickerson, Maryland. This course has become the favored training site for members of the U.S. slalom team. Located in the outflow of a power generating station and built with the generous support of whitewater enthusiasts from

around the country, it is the only artificial course in the world that features heated water, allowing U.S. racers to train aggressively throughout the winter.

The planning and production of the course, which was supervised by John Anderson and Scott Wilkinson, is thoroughly documented. Footage of the team training at Dickerson is compared with that shot on the artificial courses in Augsburg, Germany (72 Olympics) and at the 91 Pre Worlds in Barcelona.

The video concludes with coverage of the U.S. Olympic team held on Maryland's Savage River, considered the best natural slalom course in the world. Bokor effectively captures the intensity, drama and suspense of this event.

Jamie McEwan and his C2 partner, Lecky Haller, capture third place, earning a spot on the team, thereby sending McEwan back to the Olympics twenty years after he won his bronze medal in Augsburg.

Cathy Hearn and Dana Chladek battle it out for first; Chladek would ultimately return from Spain with a medal.

In her interview Chladek reflects upon the fact that she has been racing all of her life; in fact, her mother competed in the World's during the pregnancy that led to her birth.

Other Maryland boaters who made

the team at the trials on the Savage were the C2 duo of Marty McCormick and Elliot Weintrob and K1 paddler Eric Jackson. The action sequences from the Savage are particularly effective and shot in a thoroughly professional manner. The interviews and narration are carefully integrated into the production in an interesting and informative fashion.

Even though the 92 Olympics are history, this video provides a dramatic reminder of the tremendous personal and communal effort and sacrifice needed to develop the team. *Olympic Whitewater, Maryland's Quest* should make a welcome addition to the video collection of anyone enthused about whitewater slalom racing. ■

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AWA/Dagger Paddle A Thon Slated

Paddlers take your marks. The Second Annual AWA/Dagger Paddle A Thon is once again set for the month of June to raise funds for the American Whitewater Affiliation's Whitewater Defense Project. Paddlers turning in the most dollars for the benefit will be eligible to win one of three grand prizes. Individual prizes will also be awarded. As a added incentive, 25% of the proceeds raised by paddlers from AWA affiliated clubs will be donated to that club following the event.

This year's grand prizes include: for first place, a Dagger canoe or kayak (winner's choice); for second place, a Dagger wooden canoe or kayak paddle; and, for third place, a Dagger Quintas canoe or kayak paddle. Paddlers who raise \$25 or more will be eligible for AWA/Dagger Paddle A Thon T shirts, featuring designs by William Nealy, AWA license plate frames and AWA lapel pins. This is a good way to have some fun and paddle for conservation at the same time. The proceeds will help raise funds for the AWA's Whitewater Defense Project, which vigorously works to preserve waterways in the United States and on the international level," says Joe Pulliam, president of Dagger Canoe company, a co-sponsor of the event.

"We encourage paddling enthusiasts of all levels to join in, and hope that businesses and companies in the community, and in the trade, will also serve as participants, sponsors, or both." Proceeds are tax deductible.

"We would also like to encourage AWA-affiliate clubs to participate in this important fund raiser," says Phyllis Horowitz, executive director of the AWA. "We will once again donate 25% of each paddler's proceeds to their club. In this way, the event offers a great way to raise money for their own club's coffers." Participating clubs must have current AWA Affiliate Club status to qualify for their 25% cut, Horowitz notes.

In last year's inaugural Paddle A Thon, Kerry Deardorff of the Chicago Whitewater Association raised \$456.32 for the benefit, \$114.80 of which went directly back to CWA.

Participation, however, is open to all paddlers nationwide, whether or not they are members of an AWA affiliated club, or any paddling club at all. All an individual boater must do is recruit local sponsors to pledge the amount they are willing to donate for each river hour paddled between June 1 and June 30. Participants then paddle as many hours as possible during the month, log that data on the official entry form and send the form and all sponsor checks to the AWA by July 31, 1993.

Prizes will be awarded after all logs are tallied. Grand Prize winners will be the three paddlers submitting the highest dollar amounts.

The funds raised from last year's inaugural Paddle A Thon totaled \$1864.24. Grand Prize winners were Kerry Deardorff, Illinois; Greg Trenary, Washington, D.C.; and Nancy Cramer, Ohio. Clubs that benefited from the fund raiser last year include the Chicago Whitewater Association, Illinois; Toledo River Gang, Ohio; H.A.C.K.S., Connecticut; Coastal Canoeists, Washington, D.C.; and Western Carolina Paddlers, North Carolina.

To obtain an entry form or for further information about the 1993 Paddle A Thon contact Phyllis Horowitz, executive director, AWA, p.o. Box 85, Phoenicia, New York 12464. (914) 688-5569.

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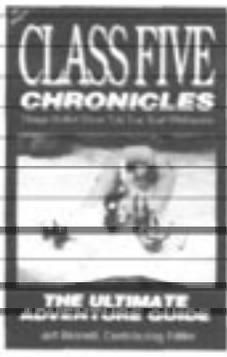
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AWA relies heavily upon the generosity of its members to fund our extensive conservation projects. Donations are made to the Whitewater Defense Project in many ways – WDP gifts made at renewal time, Ender Club and Attainer memberships, contributions made in response to our annual End-of-Year drive, donations made by clubs from event proceeds and other miscellaneous gifts received throughout the year.

Our members never let us down, and 1992 was no exception to this rule. Please accept our thanks at this time for your individual contributions, regardless of amount – AWA's efforts would be seriously limited without them. We would, however, like to take this opportunity to recognize the exceptional support of the following individuals, clubs, businesses and institutions:

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END NOTES

The Heather on the Spill..... by Carla Garrison

I called my cousin Gary as soon as I read the letter. I couldn't wait to hear what he would say.

"You'll never guess who is flying in to go boating with us this weekend!" I announced.

"Boris Yeltsin," he replied.

"No..."

"Mother Theresa," he conjectured.

"Not even close..."

"Paula Abdul," he chuckled wishfully.

"No... but you are getting warmer.

Heather! Heather is coming!"

There was an uncharacteristic silence.

Finally Gary spoke. "You mean Heather... as in your sister, Heather? As in my cousin, Heather? As is Heather Brittainy Garrison?"

"That's the one," I replied. "And catch this! She has taken up kayaking and she wants to paddle the New with us."

"Heather... in a kayak," Gary muttered incredulously. "No... can't be! Doesn't she know she will get her hair wet?"

"Oh... I think she knows," I replied.

She says in her letter that she has a solid roll and that she's been paddling the class IV stuff in the Sierras with some guys from San Francisco. Now she wants to sample some eastern water and to meet o w gang. What do you think?"

Gary paused again and his answer was very, shall we say, considered. "I think there's going to be trouble," was his pronouncement.

"Trouble... whatever do you mean?" I inquired innocently.

"You know damned well what kind of trouble I mean," he replied. The kind of trouble your sister has been causing since puberty."

It was painful, but I had to concede to him. "Yes, I know," I sighed. "But maybe things will be different this time. Maybe Heather has changed."

"Tiger never loses it's stripes," Gary observed wryly.

"But you are still going to come, aren't you?" I inquired.

"Hell, yes," he answered without hesitation. "Heather on the river... with o w crew.. like I said, there's going to be

trouble." And then he started with that devilish laugh of his. "I wouldn't miss it for the world."

Let me tell you about my sister, Heather. For the sake of brevity, I'll just share my cousin Gary's accurate, albeit tasteless, sexist and crass description.

"If Heather were an automobile, she would be a Corvette. If Heather were an outdoor rest facility... she would be made of bricks. If Heather were a fur bearing mammal, she would be..."

Well, you get the picture.

A lot of my acquaintances naturally assume that I am the prettiest woman to ever come from my home town. They're wrong. I'm the second prettiest. There's no use denying it, Heather is better looking.

I don't really mind. You see, I'm far smarter than she. And I'll take brains over boobs any day.

So Heather and I get along Ene. We've each found our niche in the world; I design computers for IBM, while Heather is a Sales Rep for Borden. And believe me, if ever anyone was destined to market dairy products... it is my sister, Heather.

Over the years I have been accused of holding the male gender in contempt. Well, it's true that I think most men are about as bright as a hoe handles. I came to that conclusion during my youth, watching how guys acted around Heather.

Heather could transform Carl Sagan into a blithering idiot.

And, if she could do that, it wasn't hard to predict the effect she would have on the bozos I paddle with.

But let me just share some of the representative highlights of Heather's weekend on the New.

Heather at the Put In.

The old joke that begins with the rhetorical question, "How many ---- does it take to

We rendezvous at Cunard and the boys get their first gander at Heather. Let the games begin!

You've heard

change a light bulb?" Well, let me ask you this, "How many men does it take to unload a 25 pound kayak from the roof of a car?"

Well, if that kayak is Heather's, it takes quite a few. Four, to be exact!

Now Heather's gear must be transported to the banks of the river. But how is this to be accomplished? Let us immediately dismiss from consideration the scenario in which Heather carries it herself. It is far too heavy for that!

No, the boys will lug it for her. But, the problem is, there is scarcely enough to go around. Several minutes of acrimonious negotiations culminate in a fistfight between Joe and C.G. Heather stands by, innocently batting her big baby blues. Jake and Moochie seize this opportunity, snatch the boat and paddle, respectively, and head for the river. Gary and I stand by in silent bemusement.

I feel like I am watching a nature documentary on television, one in which male baboons struggle to establish dominance and win the favors of a receptive female.

Heather surfs Upper Railroad.

Gary, Heather and I spend an hour in the river right eddy watching the boys perform. The aquatics in the hole are

spectacular, but not nearly as fascinating as the ruthless jostling for position that rages in the line. Jake and C.G. come to blows this time, whacking one another with their paddles like knights at a joust.

Finally, after the boys have exhausted themselves, Heather announces her intention to play the hole. The boys are horrified!

"It is far too big!!! Far too dangerous for a...." No, I won't dignify it by repeating it! But, what the hell am I? I've been in that damned hole hundreds of times... at a lot higher levels... and none of them ever showed the slightest concern for my well being!

But Heather, to her credit, will not be

dissuaded. Into the hole she goes. Side surfing, blasting, paddle twirling, cart-wheels, enders...

Yes, Heather puts on quite a show. Unfortunately, the zipper on her PFD just isn't up to the performance. Apparently there is too much pressure from within... with each maneuver it descends a bit further, until suddenly, in the midst of a spectacular pirouette, it explodes, as if dynamite has been detonated.

Heather hits the water with the PFD practically pinning her elbows behind her. Distracted, she drops her paddle and flips.

The Four Stooges take after that paddle like a passel of farm boys at a greased pig race. Down through Railroad they go, fighting over that stick like a school of hammerheads in a feeding frenzy. As a consequence they miss the finale of Heather's performance; she hand rolls, side surfs the hole for a moment, rezipts her PFD, then nonchalantly doggie paddles out of the hole and down through the rapid.

Even Gary is impressed. Yes sir. that's my sister!

Heather runs Lower Keeney.

The boys have decided that Heather must scout Lower Keeney, even though she is paddling better than any of them. They are in such an acrimonious mood that they can not even agree on which line is best. So Heather is instructed to stand on the rocks and watch as they tackle the rapid, one by one. They flock to their boats, vying for the chance to be the Erst to demonstrate their approach to the terrible, fearsome wave train that constitutes Lower Keeney.

As soon as they hit the water, Heather turns to me.

"Carla, I've got a big problem," she confides.

"No. You've got two big problems," I answered with a wink. "But its nothing that a competent plastic surgeon can't fix, given enough time."

She giggled nervously. "No, its not that, Silly. Its something else. I have to... I really have to... pee!"

I look at her incredulously. "So go ahead and pee!" I reply.

"But where?" she demands.

I can't believe she would ask such a thing. "Well, where do you pee when you're boating in California?"

"I don't," she exclaims. "We never stay on the river this long."

"Well, pee in the water. Pretend you're taking a quick dip to cool off."

"In the river!" she protests. "No... I could never do that!"

"Then pee in the woods, up behind those rocks."

Heather looks dubious... and anxious. But she looks desperate, too. After she disappears behind the rocks I can't resist.

"Look out for the poison ivy... and the rattlers!" I shout.

She lets out an immediate squeal, I assume in response to my jest. Only later do I discover the real reason. That ignoramus Gary has crept up behind her and snapped a picture, in a less than flattering pose. He then suggests to Heather that he might be able to persuade the editors of this rag to run that picture as a cover shot.

By the time Heather finishes battering Gary and confiscates his film the boys have finished their runs.

"You missed their lines," I chide her sarcastically. "Now how are you going to survive this menace?"

Heather eyeballs Lower Keeney and yawns. "No big deal, Carla. Ill just follow you." And so she does, spinning into the eddy at the bottom with a dazzling series of squirts.

Are the boys impressed? Damn right they are! Their mouths are gaping so wide that a wood duck could nest in any one of them.

Heather by Night

I decide to retire to the back of the pickup far earlier than usual. The scene around the campfire is just to wierd for me. I have never seen the guys behave this way; and I hope never to see it again. Gary is getting tired of breaking up the fights; next time he says he is going to let them kill one another. That this will happen seems almost certain.

Of course Heather is in the thick things, pretending, as usual, to be totally oblivious to the situation. I remind her that she is welcome to join me in the back of the truck when she becomes bored with these male shenanigans.

It comes as no surprise to me that she does not appear until the next morning. To my knowledge Heather has never slept on anything except a bed, nor do I believe

that she ever will. I do not ask the name of hotel where she spent the night, nor do I ask with whom she spent it. When it comes to little sisters, some questions are best left unspoken.

Needless to say, in the early morning light, Heather is ravishing. She is perfectly coiffed, bubbling with energy and enthusiasm.

I wish I could say the same for the boys. They are not speaking to each other and they look like racehorses that have been run real hard and turned out wet. A quick tally reveals three black eyes, two sutured facial lacerations, five broken teeth and one swollen nose that is decidedly akimbo. Gary is the only male to have survived the festivities unscathed.

Heather, Gary and I powwow and then, when another scuffle erupts, this time between Moochie and Jake, we capitalize on the distraction and disappear. We have decided to paddle the New alone... Sunday is to be a family affair. Heather has seen enough of the boys, and I fear they have seen too much of Heather-the Lorelei of the New.

It is late Sunday night and Heather is about to board her plane. "Tell the guys I'm sorry I couldn't paddle with them today. Tell them that I said they are all very sweet"

"Ill tell them you said they were all a bunch of cupcakes," I reply. "That should ease their pain." I was thinking that a bunch of marshmallows... or weenies... would be a better comparison,

"Heather, before you go, you've got to tell me something. Is it always like this for you on the river?" To my knowledge Walbridge has not reported any murders within California's whitewater boating community.

Heather rolls her eyes and shakes her pretty little head.

"It used to be... with my old crowd," she confides. "But not anymore. Now I only paddle with women... or with guys who are gay. That's the only way I can really enjoy the whitewater."

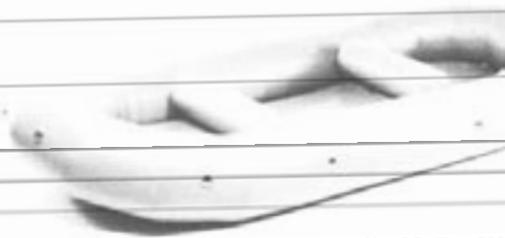
I give her a nod of approval. Heather still has a ways to go, but progress has been made.

"You know, Heather, you are a lot smarter than you look,"

I observe with a grin.

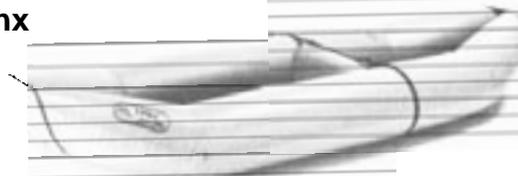
"And you, Carla, are a lot prettier than you think," she replies.

God, I love my sister!



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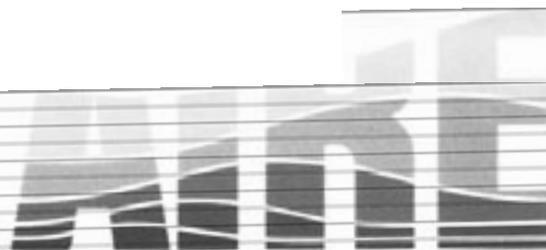
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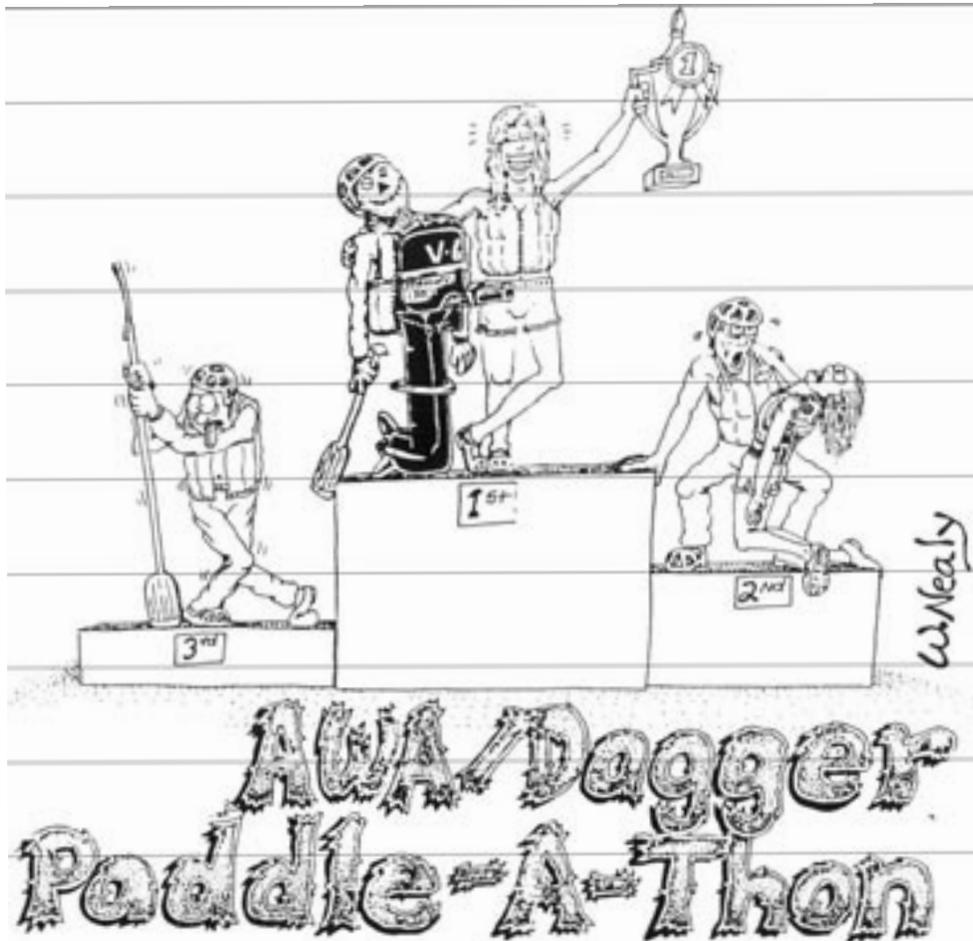
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