

vary from park to park. NPS Management Policies states that “* * * the laws do give the Service the management discretion to allow impacts to park resources and values when necessary and appropriate to fulfill the purposes of a park, so long as the impact does not constitute impairment of the affected resources and values” (1.4.3). NPS Management Policies provide further that, “* * * preserving park resources and values unimpaired is the core, or primary responsibility of NPS managers * * *. In cases of doubt as to impacts of activities on park natural resources, the Service will decide in favor of protecting the natural resources.” (4: 1).

The Organic Act and the other statutory authorities of the NPS vest us with substantial discretion in determining how best to manage park resources and provide for park visitors. “Courts have noted that the Organic Act is silent as to the specifics of park management and that under such circumstances, the NPS has broad discretion in determining which avenues best achieve the Organic Act’s mandate * * *. Further, the NPS is empowered with the authority to determine what uses of park resources are proper and what proportion of the park resources are available for each use” *Bicycle Trail Council of Marin v. Babbitt*, 82 F.3d 1445, 1454 (9th Cir. 1996), quoting *National Wildlife Federation v. National Park Service*, 669 F. Supp. 384, 390 (D. Wyo. 1987). In reviewing a challenge to NPS regulations at Everglades National Park, the court stated, “The task of weighing the competing uses of Federal property have been delegated by Congress to the Secretary of the Interior * * *. Consequently, the Secretary has broad discretion in determining how best to protect public land resources.” *Organized Fisherman of Florida v. Hodel*, 775 F.2d 1544, 1550 (11th Cir. 1985), cert. denied, 476 U.S. 1169 (1986).

Over the years, NPS areas have been impacted with new, and what often prove to be controversial, recreational activities. These activities tend to gain a foothold in NPS areas in their infancy, before a full evaluation of the possible impacts and ramifications that expanded use will have on the area can be initiated, completed and considered. PWC use fits this category.

PWC use is a relative new recreational activity at Lake Mead NRA. PWC, primarily stand-up models, were first observed on Lakes Mead and Mohave in the mid-1970s. In the 1980s, the first sit-down models were available with one- or two-person capacities. During this

time, PWC were manufactured by four companies, the first PWC magazines were published and the typical cost of a PWC was \$6,600.

From the mid-1980s through the 1990s, sales grew rapidly, then leveled off starting in the mid-1990s. According to visitor use surveys in 1993, the use of PWCs at Lake Mead NRA during this time constituted 15% of the boats on the water at any one time. A rapid increase in PWCs was observed in 1994, when their use jumped to 30% of the boats on the water at any one time.

Today monitoring shows that PWC use constitutes 35% of the boats on the water at any one time. There are 11,000 PWC registered in Clark County, Nevada and thousands more in the region surrounding Lake Mead NRA. The highest densities are observed in the urban interface areas of Lake Mead and in the southern portions of Lake Mohave.

Changes to the Final Rule

Some changes have been made in the Lake Management Plan/Final Environmental Impact Statement. Five percent of the park waters will be managed for primitive and semiprimitive recreational settings. This is an increase of three percent over the acreage in the draft rule. PWC use is prohibited in primitive and semiprimitive zones.

Bonelli Bay in the southern portion of the Virgin Basin was added to the semiprimitive zone on Lake Mead, as was the Lake Mead confluence with the Muddy River. These two areas account for the increased acreage in the semiprimitive zoning over the draft plan. The Overton Wildlife Management Area boundary defines the semiprimitive area of the Muddy River confluence and it is presently managed during the waterfowl hunting season as a flat wake area. This revision prohibits the use of PWC in the Overton Wildlife Management Area year-round.

The recreational zoning in Black Canyon has been modified to allow additional boating access for five days per week during the peak boating season between Memorial Day and Labor Day each year. During this period the canyon will be managed as rural natural zone with no special speed or horsepower restrictions. PWC use in the canyon is authorized during this period. The remainder of the year Black Canyon will be managed for semiprimitive conditions with a 65-horsepower maximum. As proposed in the LMP/DEIS, Black Canyon will be managed as a primitive setting two days per week (Sunday and Monday) year round.

In response to comments from the States of Arizona and Nevada, the proposed 100-foot flat wake zone around the entire lakes has been revised to a 200-foot flat wake zone around beaches occupied by bathers, around boats at the shoreline and a person in the water or at the shoreline. This revision is more closely aligned with existing Nevada boating law and allows the NPS to move toward the goal of providing unified boating law for the interstate waters of Lakes Mead and Mohave.

There are a number of actions that will require subsequent rulemaking in the implementation of the Lake Management Plan. This rule has been tailored specifically to address PWC operation in response to the general regulation in 36 CFR 3.24 prohibiting PWC use except by special regulation. The National Park Service focused specifically on PWC to prevent or minimize the period that PWC use would be restricted at Lake Mead NRA. It is the National Park Service’s intention to move ahead with the additional rulemaking that will apply the flat-wake rule to all watercraft and to implement other aspects of the approved Lake Management Plan (LMP).

Discussion of Economic Effects of PWC Use

From an economic perspective, both alternative C (the continued use of PWC in 95% of Lake Mead and other restrictions as presented in this rulemaking) and alternative D, which would permit all two stroke engines and PWC in all of Lake Mead, resulted in the highest quantified net benefits, with alternative D resulting in a slightly higher amount of net quantified benefits. However, the National Park Service chose alternative C because certain costs could not be quantified in the net economic benefits. Those costs, relating to non-PWC use, aesthetics, ecosystem protection, human health and safety, congestion, or non-use values, would likely be greater for alternative D than for alternative C. Given that the quantified net benefits of alternatives C and D are already similar (*see* the table below), further inclusion of these non-quantified costs could reasonably result in alternative C having the greatest level of net benefits. Therefore, based on these factors, alternative C was considered to provide the greatest level of net benefits.

Benefits

Alternative A, the no action alternative, represents the baseline conditions of this rulemaking. Under that alternative, all PWC use would be