

Decision Record

John Day River Study Environmental Assessment

NEPA Register Number DOI-BLM-OR-P040-2008-0159-EA
Prineville District Bureau of Land Management, Prineville, Oregon

Introduction

The Prineville District of the Bureau of Land Management (BLM) has responsibility for managing the 147-mile John Day Wild & Scenic River from Service Creek to Tumwater Falls in north-central Oregon. The BLM manages the river in partnership with the John Day Interagency Planning Team comprised of the Confederated Tribes of the Warm Springs Reservation, local counties, and the State of Oregon. Together these partners are working to preserve the river's resource health and a quality visitor experience into the future.

In 1988, under the Omnibus Oregon Wild & Scenic Rivers Act the BLM was charged with the preparation of a river management plan that addresses resource protection, development of lands and facilities, and user capacities on the Wild & Scenic portion of the John Day River. Under the Wild & Scenic Rivers Act, BLM manages the designated portions of the John Day Wild & Scenic River to protect and enhance the Outstandingly Remarkable Values (ORVs) for which the river was designated. In response to this direction the BLM completed the 2000 John Day River Management Plan Environmental Impact Statement (EIS) and 2001 Record of Decision (ROD) for this EIS. Together these documents are referred to as the River Plan. (Full references for documents discussed in this Decision Record can be found in the John Day River Study Environmental Assessment [EA].)

The River Plan directed the BLM to use a Limits of Acceptable Change (LAC) analysis to determine appropriate boating use levels for Segment 2 (Clarno to Cottonwood) and Segment 3 (Service Creek to Clarno) of the John Day Wild & Scenic River (River Plan ROD, p. 17). In 2006, the BLM completed this analysis, called the John Day River Study (also referred to as the LAC Study), which established a long-term plan to monitor conditions and suggested ways to maintain river conditions. The River Plan also set the recreation setting character and the Desired Future Conditions for Segments 2 and 3 (River Plan EIS, p. 138). Based on River Plan direction, the John Day River Study further defined the Desired Future Conditions for Segment 2 as a *semi-primitive, non-motorized river* recreation setting and Segment 3 as a *roaded natural* recreation setting, which correspond with *backcountry* and *front country* settings respectively under the newer BLM Benefits-Based Recreation terminology. The John Day River Study also identified indicators to measure the Desired Future Conditions and standards that define minimum

acceptable conditions. Desired Future Conditions (DFCs) are discussed in detail in the EA, pp. 39-42.

The DFCs and corresponding standards for campsite availability are designed to assure that suitable boat-in campsites on BLM land are sufficient to accommodate each overnight boating group in a separate site, with enough distance between each site to allow for a reasonable amount of privacy and solitude for each group. The DFCs and corresponding standards for encounters per day are designed to manage for a quality experience in which Segment 2 boaters experience few - no more than 6 - encounters per day with other boating groups and Segment 3 boaters experience a moderate number - no more than 15 - encounters per day with other boating groups. In 2008, the John Day River Study and its recommendations were circulated for public review and comment.

The BLM prepared and circulated the John Day River Study Environmental Assessment (EA) to analyze a range of alternatives to reduce crowding on Segment 2 (Clarno to Cottonwood) and Segment 3 (Service Creek to Clarno) of the John Day Wild & Scenic River by spreading the number of daily launches more evenly between May 20 and July 10, when the majority of boating use occurs. The BLM released the EA for public comment in August 2010. Details of and rationale for the BLM's decision selecting an alternative from the EA are included below.

Decision

Selected alternative

After a thorough review of public input on the EA, I have decided to adopt all actions under Alternative 2, as described in Chapter 2, pp. 18-22 of the EA, and summarized below.

Actions:

The BLM will require the following Rules of Conduct year-round for use of public lands located within the John Day Wild & Scenic River Corridor from Service Creek to Tumwater Falls to protect and enhance the river's Outstandingly Remarkable Values:

- a. You must follow all fire restrictions; fireworks are strictly prohibited.
- b. When allowed, campfires must be contained in a metal fire pan or on a fire blanket that protects the ground from scarring and ash. All ash and unburned contents of the fire must be removed and carried out of the river corridor. Within a developed recreation site, a campfire may be contained in a permanent campfire grill provided by the BLM for that purpose.
- c. You must not gather, cut, burn, or destroy any standing wood, either dead or alive, found within the river corridor..
- d. An approved portable toilet must be carried and used by all members of an overnight boating group, and the contents disposed of properly. Toilet contents and human waste disposal bags may not be dumped into any BLM vault toilet or any other facility not developed and identified especially for that purpose.

- e. Each group of boaters traveling and/or camping together must obtain the required Special Recreation Permit (SRP) prior to launching, regardless of time of year, trip distance, trip duration (including day-use trips), launch site or take out point (BLM, state or private land).
- f. You must not violate any term or condition of a BLM boater registration, Special Recreation Permit (SRP), contract, special-use authorization, or approved operating plan.
- g. You must not operate or travel by boat with a group that exceeds the maximum group size of 16 persons.
- h. You must not launch a boat, take out a boat, or camp in an area designated as closed to such activity.

The BLM will implement the following actions within Segments 2 and 3 of the John Day Wild & Scenic River corridor between Service Creek and Cottonwood during the dates specified below:

1. The BLM will require each boating trip leader to obtain a SRP for their boating group in the following manner, depending on the desired launch date:
 - a. For boat launches during the Primary Boating Season of May 20 to July 1¹, the BLM will require each boating group to reserve and obtain a SRP in advance through the National Recreation Reservation Service (NRRS) via phone or website. The NRRS website will display a calendar showing the number of SRPs issued and the number of SRPs still available by date. SRPs will be released in phases through NRRS to accommodate shorter and longer lead times for trip planning. Canceled SRPs will be made available to other applicants through NRRS.
 - b. For boat launches outside of the Primary Boating Season of May 20 to July 10, the BLM will require each boating group to obtain a SRP at the launch site boater registration station on the day of the launch. In future years, the BLM may provide the option for boating groups to obtain a SRP either at the launch site or on-line, or the BLM may require that SRPs be obtained on-line.
2. The BLM will allow a maximum of nine boat trip launches per day in **Segment 2** during the Primary Boating Season of May 20 to July 1. This applies to all boat trips, of any distance or duration, from any launch point.
3. The BLM will allow a maximum of 19 boat trip launches per day for overnight trips in **Segment 3** during the Primary Boating Season of May 20 to July 10. This includes up to nine launches per day from Muleshoe and Service Creek combined, and up to ten total launches per day from Twickenham, Priest Hole and Lower Burnt Ranch combined.

o ¹ The Primary Boating Season is initially defined as May 20 to July 10. The BLM will periodically review and potentially adjust start and end dates, if conditions change, to better correspond with dates when the majority of boating occurs. Adjustment in length and timing of the Primary Boating Season during which permits are required (initially May 20-July 10) in response to changes in boater use patterns, timing of spring runoff, fishing conditions, weather or other factors (EA p. 21)

4. The BLM will allow a maximum of 24 launches per day for day-use boat trips on **Segment 3** during the Primary Boating Season of May 20 to July 10 (except launches at Priest Hole Recreation Site, as described below).
5. The BLM will allow an unlimited number of day use launches year-round for trips taking place solely adjacent to Priest Hole Recreation Site (a distance of one river mile between River Mile 136.5 and 137.5) in **Segment 3**. The BLM will require SRPs for day-use launches within this zone which may be obtained on-site at the Priest Hole boater registration station year-round, rather than through NRRS as described above, even during the Primary Boating Season.
6. If the BLM acquires the Clarno East launch site, the BLM will allow an unlimited number of day use launches year-round for trips taking place solely between Clarno East and Clarno Bridge (a distance of 3.9 river miles, between River Mile 109.1 and 113) in **Segment 3** on a trial basis. SRPs for day use launches within this zone will be required and will be available on-site at the Clarno East boater registration station, rather than through NRRS as described above, even during the Primary Boating Season of May 20 to July 10. If boaters do not obtain the required SRP and BLM is unable to mitigate this problem, unlimited day-use launches within the Clarno East zone may be discontinued during the Primary Boating Season (see monitoring section, p. 5).
7. The BLM may consider increasing by up to two, the number of overnight launches allowed per day during the primary boating season of May 20 to July 10 (with possibly a corresponding decrease in day use launches), if the number of suitable campsites located within 15 miles of a primary launch point (where campsite bottlenecks occur) increases as a result of land acquisition, recreational easement, or campsite rehabilitation, provided the following standards are met (Chapter 3 of the EA is incorporated by reference, and contains additional details on recreation setting descriptions):
 - a. **Segment 2** provides a *semi-primitive, non-motorized river or back country* recreation setting. Daily onriver encounters would not exceed seven other boating groups, or up to 15 other boating groups in locations with vehicle access. Distance between suitable campsites is at least 300 feet. (See EA, pp 101-103)
 - b. **Segment 3** provides a *roaded natural river or front country* recreation setting. Daily onriver encounters would not exceed 15 other boating groups, or up to 30 other boating groups in locations with vehicle access. Distance between suitable campsites is at least 175 feet. (See EA, pp 101-103)
8. The BLM may temporarily reduce the number of launches per day during the primary boating season of May 20 to July 10 in emergency situations including but not limited to flood, fire, insect infestations, or health and safety concerns.
9. The BLM will exempt federal, state and county agencies from boat launch limits when operating trips for official purposes such as river ranger patrols, law enforcement, weed spraying, fish surveys, etc.

Implementation and monitoring

The BLM will monitor the physical, social and managerial indicators identified in the John Day River Study (2006). Indicators for social conditions include the number of encounters among different groups while boating on the river each day, and the amount of camp-to-camp solitude or separation between different groups of boaters while at their respective campsites. Physical

indicators include the amount of litter, fire rings, tree damage and human waste at campsites. Managerial indicators include the number of launches compared to the number of suitable campsites available in a particular reach of river.

A corresponding standard or threshold is set for each indicator, defining the amount of change that can occur while retaining desired conditions. The standards serve as “triggers” which alert managers to an unacceptable change in conditions. If monitoring indicates that standards are being approached or exceeded, then river managers can apply management actions to help prevent or mitigate unacceptable effects.

The BLM will continue to monitor boating use year round to detect changes in use patterns and potential effects on Outstandingly Remarkable Values.

If the BLM acquires the Clarno East boat launch, the BLM intends to implement an unlimited day-use provision in the Clarno East zone on a trial basis, the BLM will closely monitor boating use to ensure all boating groups obtain a permit and that boaters do not make overnight trips using day-use permits. If problems develop that BLM is unable to mitigate, the unlimited day-use provision in this zone may be discontinued during the Primary Boating Season of May 20 to July 10.

The BLM and ODFW will continue monitoring fish populations and boating use year-round in multiple river segments. The BLM may consider, in a separate planning process, additional limits on recreation use outside the Primary Boating Season or outside of Segments 2 and 3 if necessary to protect the ORV for fish in the John Day Wild & Scenic River. Monitoring of this and other ORVs will continue into the future.

Rationale

The actions proposed by this EA are guided primarily by the Wild & Scenic Rivers Act (PL 90-542) and the John Day River Plan. The Wild & Scenic Rivers Act requires that the ORVs of scenery, recreational opportunities, fish, wildlife, geologic, archaeological, historical, botanical, and ecological be protected and enhanced. The potential for effects of the proposed actions analyzed in the EA to ORVs other than recreation was considered but eliminated from further analysis because current resource specific monitoring indicates that the current level of recreational boating use is not showing measurable effects to other ORVs or to other recreational activities in the river segments covered by this EA. Management actions specified under this decision will reduce boating use from current levels which will be consistent with protecting and enhancing each of the ORVs. Monitoring of ORVs will continue into the future to ensure compliance with the Wild & Scenic Rivers Act.

To comply with the WSRA and the John Day River Plan the BLM must act to ensure that boating use patterns do not degrade the outstandingly remarkable recreation value on the John Day Wild & Scenic River by prescribing boater capacities for Segments 2 and 3, and managing boating use within those capacities. This action is needed in order to maintain the Desired Future Conditions for Segments 2 and 3, including the ability of each boating group to secure

their own suitable campsite each night, and to maintain standards for the frequency of onriver encounters between boating parties.

In addition to meeting the requirements of the Wild & Scenic Rivers Act and the direction of the John Day River Plan, the EA described two purposes on page 10:

- A. Continue to provide high quality non-commercial and commercially-guided recreational boating opportunities to the public on Segments 2 and 3 of the John Day River.
- B. Provide reasonable access for boaters to high quality recreational boating opportunities that are consistent with Desired Future Conditions for recreation setting character in Segments 2 and 3.

Alternative 1

Alternative 1 was not selected because it would not meet the purpose and need for action as both non-commercial and commercially-guided boaters would continue to experience low quality boating opportunities if they float the river on peak use days due to lack of available campsites and crowding. Although access to boating opportunities would continue, the quality of those boating opportunities on peak use days would not meet the Desired Future Conditions for recreation setting character for Segments 2 and 3 that were established in the River Plan EIS (pg. 138) and further defined in the John Day River Study, because the standards for campsite availability and encounters per day would continue to be exceeded (EA p. 58). If no action is taken to set a capacity for boating use, boating use levels are expected to continue to increase at the current rate of 4% per year, resulting in more days each year in which standards for campsite availability and encounters per day are exceeded (EA. p. 57). Crowding would be expected to continue to increase and the quality of recreational boating opportunities during the primary boating season would be expected to continue to decrease.

The Desired Future Conditions and corresponding standards for campsite availability in which suitable boat-in campsites on BLM land are sufficient to accommodate the number of overnight boating groups (as set in the John Day River Study, p. 40, and updated in the EA, pp 27-28, 104) would not be met on peak use days as the number of boating groups would continue to exceed the supply of available campsites. Boaters would continue to have a difficult time finding a suitable campsite on the first night of their trip, and would continue to resort to camping on private land, sharing a campsite with another group, or pioneering a new campsite (EA p. 58). Pioneering of new campsites is not an appropriate practice in Segments 2 and 3, where boaters have already self-selected the suitable campsites that meet their needs through years of prior use.

The Desired Future Conditions and corresponding standards for encounters per day in which Segment 2 boaters experience few - no more than 6 - encounters per day with other boating groups and Segment 3 boaters experience a moderate number - no more than 15 - encounters per day (as set in the John Day River Study, p. 36 and updated in the EA, pp. 28-29, 101) would not be met on peak use days as boaters would continue to have more encounters per day with other boater groups than they expect, and more than is comparable with the Desired Future Conditions being managed for on each river segment, resulting in a decline in the quality of their boating experience compared with past John Day River trips.

In addition, Alternative 1 would not meet the requirements of the Wild & Scenic Rivers Act because it would not protect and enhance the ORV for Recreation Opportunity, one of the values for which the river was designated, and it would not set a user capacity for the river which protects river values as required by the Act (EA p. 59).

Alternative 2

Alternative 2 was selected because it meets both the purpose and need for action and the requirements of the Wild & Scenic Rivers Act to protect and enhance the ORVs by providing higher quality recreational boating opportunities (EA pp. 60-61) with fewer restrictions on the boater's onriver experience compared to Alternative 3 (EA p.63, 67-68), while still allowing reasonable access to the river for most groups. The potential for effects of the decision to ORVs other than recreation was considered but eliminated from further analysis in the EA because current resource specific monitoring indicates that the current level of boating use is not showing measurable effects to other ORVs or to other recreational activities in the river segments covered by this EA (p. 8). Management actions specified under this decision will reduce the intensity of boating use on peak use days, from current levels which will be consistent with protecting and enhancing each of the ORVs.

Alternative 2 is in conformance with John Day River Plan (2001) which directed the BLM to use a Limits of Acceptable Change (LAC) study to determine appropriate levels for boating use for Segments 2 and 3 of the John Day River.

Alternative 2 meets the purpose and need for action to continue to provide high quality non-commercial and commercially-guided recreational boating opportunities to the public on Segments 2 and 3 of the John Day River and to provide reasonable access for boaters to high quality recreational boating opportunities that are consistent with Desired Future Conditions for recreation setting character in Segments 2 and 3. Alternative 2 strikes a balance between access to the river and protection of resources, and Alternative 2 is designed to ensure that the standards for the indicators of campsite availability and encounters per day are met, and correct and reverse the downward trend that has been observed for these indicators on peak use days (EA p. 58, 61).

Alternative 2 prescribes the number of boating groups allowed to launch each day in Segments 2 and 3 between May 20 and July 10, based on 70% of the number of suitable campsites in the 15-mile reaches below primary launch points, allowing each boating group the opportunity to find a campsite without the need to share a campsite with another group, camp on private land, or pioneer a new campsite. Aligning the number of boating groups with the number of available first-night campsites should relieve some of the pressure expressed by boaters who currently feel they need to "hurry to find a camp" while on the river (EA p. 61).

The number of launches per day prescribed in Alternative 2 also meets the standard for encounters per day with other boating groups while on the river, which is a measure of a quality boating experience (EA. p. 44, 61). It is BLM's expectation that boaters will be able to visit the river, even on a holiday weekend, and know that the number of other boating groups they encounter will have an upper threshold rather than being completely unpredictable (EA p. 57, 62). Alternative 2 will assure that boaters have the opportunity for a high quality boating experience on Segments 2 and 3 of the John Day River in future years by allowing the number of

launches to increase, but spreading existing and new launches more evenly throughout the boating season (EA p. 64. 66).

I acknowledge that there are tradeoffs between allowing fewer overnight launches each day during the Primary Boating Season in order to manage for a high quality onriver boating experience with the freedom to choose a campsite while on the river (Alternative 2), and no restrictions on layovers, and allowing more boating groups to access the river but with first night campsite reservations and restrictions on layovers (Alternative 3). I decided it would be better to manage for a higher quality experience once boaters are on the river, even if it meant providing a few less launches per day.

I acknowledge that not all boaters will be able to obtain a permit for their first choice launch date, but anticipate that ample open dates will be available to those boating groups who have flexibility to select another launch date. Boaters who don't have the flexibility in their schedule to choose a different launch date or don't wish to obtain an advance boater permit will have the option to boat another river segment or boat outside of the May 20 to July 10 time period.

Alternative 2 will require each boating group to obtain a Special Recreation Permit (SRP) for use of a Special Area as allowed under 43 CFR 2932.11 and Federal Register 2932.13, which will be necessary in order for BLM to manage a capacity on boating use that is fair and equitable to all boaters. Alternative 2 will also implement Rules of Conduct for Segments 2 and 3 of the John Day Wild & Scenic River Corridor year-round, including continuing the current maximum boating group size of 16 persons. These Rules of Conduct will help to protect and enhance the river's Outstandingly Remarkable Values now and into the future. See the EA, pp. 64-65 for rationale specific to each Rule of Conduct.

Alternative 2 will allow unlimited day-use launches within a Priest Hole zone (between River Mile 136.5 and 137.5) where a boating group may register on-site at the boater registration station instead of reserving and obtaining a boat launch permit in advance. Monitoring of use patterns in this area identified a tradition of local users and car campers who regularly launch at Priest Hole launch site and boat downriver up to one mile, depending on river flow. The BLM believes this is a legitimate use that can be accommodated while still meeting the purpose and need of this environmental assessment for the larger river area. (EA p. 31.)

If the BLM acquires the Clarno East launch site, Alternative 2 will allow on a trial basis, unlimited day-use launches within a Clarno East zone for trips taking place solely between Clarno East and Clarno Bridge (between River Mile 109.1 and 113), where a boating group may register on-site at the boater registration station instead of reserving and obtaining a launch permit in advance. Monitoring of use patterns in this area identified a tradition of local users who regularly launch a boat to fish (sometimes each evening) and drift from zero to four miles, depending on river flow. The BLM believes this is a legitimate use that can be accommodated while still meeting the purpose and need of this environmental assessment for the larger river area. The BLM will closely monitor use in the Clarno East zone to ensure that boaters obtain the required SRP, and that users do not make overnight trips using day-use permits. If problems develop that BLM is unable to mitigate, the unlimited use in the Clarno East zone may be discontinued. Although the BLM did not specifically analyze the effects of allowing unlimited

day-use launches within a Clarno East zone, the effects are expected to be the same as those analyzed for allowing unlimited day-use launches within a Priest Hole zone.

Alternative 2 will allow BLM to consider an increase of up to two additional launches per day per river segment, if the number of suitable campsites within 15 miles of a primary launch point (where bottlenecks occur) increases as a result of land acquisition, recreational easement, or campsite rehabilitation, provided standards can be met for campsite availability and encounters per day. Also Alternative 2 will allow BLM to temporarily reduce the number of launches per day if the number of suitable campsites decreases in an emergency situation (flood, fire, insect infestation, or health and safety concern, etc.)

Alternative 3

Alternative 3 was not selected because although it would meet the purpose and need for action and meet the requirements of the Wild & Scenic Rivers Act to protect and enhance the recreation ORV, implementation of Alternative 3 would place more restrictions on the boater's onriver experience than Alternative 2. It is my intention to accomplish the purpose and need in a manner that imposes the least restrictions necessary on the boater's experience.

Alternative 3 would have allowed 30% more overnight launches per day in Segment 2 and 3 than Alternative 2, but to accomplish this, boaters would 1) need to reserve their first night campsite in advance, 2) not have the opportunity for campsite layovers within 15 miles of a launch point, and 3) be required to keep all watercraft in their boating group within 15 minutes of the lead boat. The BLM believes that allowing fewer launches per day in Alternative 2 will result in an adequate number of campsites available to service all boating groups without the need for these onriver restrictions. The BLM does not want to unnecessarily restrict the freedom of boaters to make spontaneous decisions about how far to travel in a day, where to camp at night, and how members of a boating group may travel downriver, which are considered by many boaters to be important aspects of a quality river experience. Rather than impose restrictions that could reduce the quality of the onriver boating experience, I decided it would be better to manage for a higher quality experience on the river even if it means that fewer boating groups would be allowed to launch each day.

Other alternatives considered

As described in the Rationale section above, the EA analyzed two other alternatives: Alternative 1, a no action alternative in which no boater capacities were prescribed (EA, pp. 18-19), and Alternative 3, which prescribed boater capacities with reserved first night campsites (EA, pp. 22-23).

Compliance

The proposed action and alternatives are in conformance with the Two Rivers Resource Management Plan (1986), as amended by the John Day River Plan (2001). The John Day River Plan includes the following language:

Page 17: Continue Limits of Acceptable Change (LAC) study...to determine appropriate use levels in all areas where visitor use has potential to adversely impact the desired

future condition of resource values and/or the quality of visitor experience. Through the LAC study, determine appropriate levels for boating use for Segments 2 and 3...

Page 18: If the LAC study determines that boating use is above acceptable levels, mandatory limits on boat launching for overnight trips or day use may be imposed for the days during which acceptable levels are exceeded. This would require boaters to participate in a limited entry permitting process if they wish to launch when actual use levels are above desired levels.

Page 18: If it is determined that limits are necessary...use will be allocated through a limited entry permit system. Trip permits would be allocated through...a common pool reservation system to all users in the same manner.

Page 138: The John Day River Plan set the recreation setting character and the Desired Future Conditions (DFCs) for Segment 2 and 3. Based on River Plan direction, the John Day River Study further defined the DFCs and identified indicators to measure the DFCs and standards that define minimum acceptable conditions (John Day River Study).

The actions proposed in the EA are guided by the Wild & Scenic Rivers Act (WSRA, PL 90-542) and the John Day River Plan (2001). The WSRA gives the BLM the authority to regulate boating use. BLM policy for management of "recreational" Wild & Scenic Rivers (WSR) also states that public use and access may be regulated and distributed where necessary to protect and enhance recreational river values (USDI Bureau of Land Management 1992; BLM Manual H-8351 at .51c2h). BLM policy for recreation permit administration recognizes that a permit system for individual use of Special Areas may be necessary in order to protect resources and achieve the management objectives of the special area (USDI Bureau of Land Management 2006b; BLM Manual H-2930-1 at 12, 22 and 43 CFR 2932.11). The John Day River Canyon from Service Creek to Tumwater Falls was identified as a Special Management Area in the 1986 Two Rivers Resource Management Plan Record of Decision (pp. 26-28).

A small portion of Spring Basin Wilderness is located within the WSR boundary in Segment 3, and two-thirds of Segment 2 flows through BLM Wilderness Study Areas. The BLM recently updated their wilderness characteristic inventory for those public lands within Segments 2 and 3 which are not already designated as Wilderness or identified as WSAs. The inventory update found portions of 3 inventory units located within Segments 2 and 3 to possess wilderness characteristics. The Wilderness Act provides direction for the management of designated Wilderness and the Federal Lands Policy and Management Act and the BLM Interim Management Policy for Lands under Wilderness Review (IMP, USDI Bureau of Land Management 1995) provide direction for management of Wilderness Study Areas. The EA decision is consistent with the Wilderness Act, the Omnibus Act that established Spring Basin Wilderness Area and the IMP, and the decision will maintain newly identified wilderness characteristics identified in the recent wilderness characteristic inventory update. The EA decision is expected to have a positive effect on wilderness resources because it is expected to result in increased opportunities for solitude (EA, p. 78).

Finding of no significant impact

A draft, unsigned Finding of No Significant Impact (FONSI) was circulated with the EA for public comment. The signed FONSI is attached below in Appendix A. The FONSI summarizes the context and intensity of effects from the alternatives described in the EA, and concludes that the effects of the actions would not be significant.

Public involvement

In July 2008, public comments were solicited during a public review of the John Day River Study (also referred to as the LAC Study) and its recommendations. A letter was sent to approximately 1,500 parties including John Day River trip leaders, adjacent land owners, and managing agencies directing them to a BLM website where on-line comments were taken. The letter also explained how to receive a paper copy of the John Day River Study and how to provide comments by mail.

The BLM received 29 public comment letters during the scoping period. Respondents reported evidence of crowding and overuse by boaters on Segments 2 and 3, such as lack of available campsites and high numbers of encounters with other boating groups. Overall, responses reflected considerable (but not universal) support for limiting boater numbers during the Primary Boating Season in order to protect the quality of recreation resources and experiences.

Scoping comments are summarized in Appendix B of the EA.

On August 27, 2010 the BLM posted the EA and draft FONSI on the internet, and sent letters and emails to 2,700 people notifying them that the EA was available for a 30-day comment period. A summary of these comments and the BLM response is included below in Appendix B.

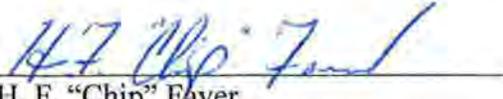
Appeal procedures

This decision constitutes my final decision and may be appealed to the Interior Board of Land Appeals, Office of the Secretary, in accordance with the regulations contained in 43 CFR, Part 4 and the enclosed Form 1842-1. If an appeal is taken, your notice of appeal must also be filed in this office (3050 N.E. Third Street, Prineville, OR 97754) within 30 days from receipt of this decision. Your notice of appeal must be sent certified mail. You have the burden of showing that the decision appealed from is in error.

If you wish to file a petition (request) pursuant to regulation 43 CFR 2801.10 or 43 CFR 2881.10 for a stay (suspension) of the effectiveness of this decision during the time that your appeal is being reviewed by the Board, the petition for a stay must accompany your notice of appeal. A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of the notice of appeal and petition for a stay must also be submitted to each party named in this decision and to the Interior Board of Land Appeals and to the appropriate Office of the

Solicitor (see 43 CFR 4.413) at the same time the original documents are filed with this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

This decision is in effect immediately and will remain in effect while appeals are pending unless a stay is granted.


H. F. "Chip" Faver
Field Manager, Central Oregon Resource Area

12-30-2010
Date

Attachments

Attachment 1, FONSI

Attachment 2, Response to Comments

Attachment 3, Form 1842-1

Finding of No Significant Impact

John Day River Study Environmental Assessment

NEPA register number DOI-BLM-OR-P040-2008-0159-EA

US Department of the Interior, Bureau of Land Management

Prineville Field Office, Oregon

Introduction

The Bureau of Land Management (BLM) has completed an Environmental Assessment (EA), No. DOI-BLM-OR-P040-2008-0159-EA that analyzes the effects of two action alternatives to reduce crowding on 118 miles of the John Day Wild and Scenic River, in north-central Oregon. The EA is attached to and incorporated by reference in this Finding of No Significant Impact (FONSI).

Two action alternatives (Alternatives 2 and 3) and a no action alternative (Alternative 1) were analyzed in the EA. The action alternatives each prescribe a maximum capacity for boating use on Segment 2 (70-miles, Clarno to Cottonwood) and Segment 3 (48-miles, Service Creek to Clarno) of the John Day Wild & Scenic River. The actions would apply each day during the primary boating season, between May 20 and July 10, when the majority of boating use occurs.

The Council on Environmental Quality (CEQ) regulations state that the significance of impacts must be determined in terms of both context and intensity (40 CFR 1508.27).

Context

The proposed action would apply to 118 miles of the John Day Wild and Scenic River between Service Creek and Cottonwood Bridge administered by the BLM. The river was designated as a Wild and Scenic River by Congress in 1988, which gives it national importance. The John Day River is identified by the State of Oregon as a State Scenic Waterway. Regionally, portions of the John Day River system provide habitat for special status anadromous fish species. The John Day River does not have international importance.

Intensity

I have considered the potential intensity and severity of the impacts anticipated from implementation of a Decision on this EA relative to each of the ten areas suggested for consideration by the CEQ. With regard to each:

1. **Would any of the alternatives have significant beneficial or adverse impacts (40 CFR 1508.27(b)(1))?** *No.*

Rationale: Based on the analysis contained in the attached EA (pages 57-80), none of the alternatives would have significant beneficial or adverse impacts on the human environment. None of the environmental effects discussed in detail in the EA are considered significant, nor do the effects exceed those described in the John Day River Management Plan Environmental Impact Statement (EIS), 2001.

2. **Would any of the alternatives have significant adverse impacts on public health and safety (40 CFR 1508.27(b)(2))?** *No.*

Rationale: The proposed action would not impact public health and safety. The project area is not located near any populated rural or urban area. There are no known hazardous waste sites in the project area.

3. **Would any of the alternatives have significant adverse impacts on unique geographic characteristics such as cultural or historic resources, park lands, prime and unique farmlands, wetlands, wild and scenic rivers, designated wilderness or wilderness study areas, or ecologically critical areas (ACECs, RNAs, significant caves) [(40 CFR 1508.27(b)(3))?** *No.*

Rationale: Alternatives 2 and 3 would not have an effect on unique geographic characteristics such as cultural or historic resources, park lands, prime and unique farmlands, wetlands, designated wilderness or ecologically critical areas. Alternatives 2 and 3 would have a beneficial effect on the John Day Wild and Scenic River and several wilderness study areas, but the effects would not be significant.

4. **Would any of the alternatives have highly controversial effects (40 CFR 1508.27(b)(4))?** *No.*

Rationale: While there is controversy about which alternative would be preferable, there is not controversy regarding the effects related to the alternatives.

5. **Would any of the alternatives have highly uncertain effects or involve unique or unknown risks (40 CFR 1508.27(b)(5))?** *No.*

Rationale: There are no predicted effects on the human environment that are considered to be highly uncertain or involve unique or unknown risks. The BLM has implemented similar actions on the Lower Deschutes River, also located within the Prineville District, where a similar permit system has been implemented and is operating successfully. The environmental effects to the human environment are fully analyzed in the EA.

6. **Would any of the alternatives establish a precedent for future actions with significant impacts (40 CFR 1508.27(b)(6)? No.**

Rationale: None of the alternatives would establish a precedent for future actions with significant effects or represent a decision in principle about a future consideration.

7. **Are any of the alternatives related to other actions with potentially significant cumulative impacts (40 CFR 1508.27(b)(7)? No.**

Rationale: The interdisciplinary team evaluated the possible actions in context of past, present and reasonably foreseeable actions. Significant cumulative effects are not predicted to occur. A complete disclosure of the effects of the project is contained in the EA.

8. **Would any of the alternatives have significant adverse impacts on scientific, cultural, or historic resources, including those listed or eligible for listing on the National Register of Historic Resources (40 CFR 1508.27(b)(8)? No.**

Rationale: The proposed action and alternatives would not adversely affect districts, sites, highways, structures, or other objects listed in or eligible for listing in the National Register of Historic Places, nor will it cause loss or destruction of significant scientific, cultural, or historical resources.

9. **Would any of the alternatives have significant adverse impacts on threatened or endangered species or their critical habitat (40 CFR 1508.27(b)(9)? No.**

Rationale: The alternatives would not affect endangered or threatened species or their habitat. The area included in the proposed action supports a threatened fish species; however the BLM does not anticipate a measurable difference in effects between alternatives.

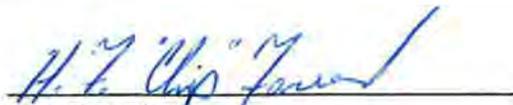
10. **Would any of the alternatives have effects that threaten to violate Federal, State, or local law or requirements imposed for the protection of the environment (40 CFR 1508.27(b)(10)? No.**

Rationale: Implementation of the alternatives would not violate any known Federal, State, Local or Tribal law or requirement imposed for the protection of the environment. State, local, and tribal interests were given the opportunity to participate in the environmental analysis process.

Finding

On the basis of the information contained in the EA, the consideration of intensity factors described above, AND all other information available to me, it is my determination that: (1) implementation of Alternative 2 or 3 would not have significant environmental impacts beyond those already addressed in the John Day River Management Plan EIS, 2001; (2) Alternative 2 and 3 are in conformance with the Two Rivers Resource Management Plan; and (3) neither Alternative 2 and 3 would constitute a major federal action having a significant effect on the

human environment. Therefore, an EIS or a supplement to the existing EIS is not necessary and will not be prepared.

A handwritten signature in blue ink, appearing to read "H. F. 'Chip' Faver", is written over a horizontal line.

H. F. "Chip" Faver
Field Manager, Central Oregon Resource Area

12-30-2010
Date

Attachment 2 – John Day River Study Environmental Assessment Response to Comments

The following list provides a summary of substantive comments received by the BLM and a response to each. A substantive comment is one that suggests a reasonable alternative (or mitigation) not already considered, or suggests that the analysis of effects is flawed in a specific way (e.g. inaccurate information, or missing information or research.) In addition to the substantive comments, there were comments that indicate the need for additional clarification, offer suggestions on implementing the Proposed Action, or pertain to issues that are outside the scope of this EA. Those responses that provide additional information or help to clarify important issues are also included here.

Comment: It is not clear which objective the proposed alternatives are intended to address—restricting boater access or providing boater access.

Example text from letter:

[CL 19] Is BLM interested in providing more river access to overnight floaters...or restricting river floating in these river segments?

Response: The Purpose and Need for Action is to ensure that boating use patterns do not degrade the outstandingly remarkable recreation value on Segments 2 and 3 of the John Day Wild & Scenic River by maintaining Desired Future Conditions (DFCs) for 1) the ability of each boating group to secure their own suitable campsite each night, and 2) the frequency of onriver encounters between boating groups. The BLM assumes that, ideally, most boaters would prefer to select a campsite at their leisure each day without having to compete with other boaters, and would prefer to rarely see other boating groups over the course of their trip. But to achieve these “ideal” conditions only a very small number of groups could launch each day, which would almost certainly displace a substantial number of boaters during times when demand for access is highest. Thus, in order to meet the purpose and need while still allowing for reasonable access to the river, the BLM must strike a balance between allowing unlimited access and restricting access to a level that would be required in order to provide “ideal” social conditions for boating at all times. The BLM believes that each of the action alternatives would provide a reasonable balance between these competing objectives.

Comment: The BLM is proposing boater capacities for the entire Primary Boating Season (May 20-July 10). But weekdays are rarely crowded. Since overcrowding is generally limited to weekends and holidays, the BLM should set boater capacities only on those days.

Example text from letters:

[CL 4] Require a permit on weekends only, and leave weekdays unpermitted. ...even if some weekend users shift to weekdays, the weekdays probably won't fill up.

[CL 12] The [BLM] should consider an option of weekend permits only, to spread user impacts off peak days and holidays.

[CL 19] If [the] BLM has to restrict the public in [Segment 2], start by limiting launches from Friday through Sunday, during the proposed restricted river access dates.

[CL 19] One option the BLM has is to implement...launch restrictions on weekends and holidays first, rather than the entire float season.

[CL11] I hope that...[BLM isn't] trying to fix something that isn't broken... although I do believe there should be limited numbers [of boaters] on Memorial Day and maybe a few peak weekends.

Response: The BLM is required to protect and enhance the Outstandingly Remarkable Values (ORVs) for which the John Day Wild and Scenic River was designated, including recreation. Currently, the Recreation ORV is under the most stress on weekends and holidays, but the number of weekday launches has also increased. Boating use on Segments 2 and 3 grew at an average of 4% per year between 1998 and 2008.

The BLM is proposing the same boater capacities for all days of the week. All boaters would be required to obtain a permit in advance, regardless of the day of week they wish to launch, but competition for weekday launches would likely be less than for weekends or holidays. As long as the supply of launch opportunities on weekdays remains greater than demand, weekday boaters would be minimally affected by the boater capacity prescriptions, and the effects of the new proposed alternative to set boater capacities only on weekends and holidays would be similar to effects already analyzed. If demand for weekday launches continues to grow, the proposed boater capacities would protect the quality of the boating experience on weekdays as well as on weekends and holidays.

Comment: The BLM did not consider differences in boating group size when developing alternatives and analyzing their potential effects.

Example text from letters:

[CL 24] We [have] only one or two persons on the river at a time...smaller [groups] have fewer impacts and more [campsites] can be used.

[CL 2] During my +12 trips on the river, guided trips had the larger quantity of personnel per group. In your EA, it appears that private trips and guided trips are assumed equal. This is not the case. I am not against guided trips, but they need to be measured as having a higher impact to the river than the average private trip. There are many 1-4 person private trips, with 1 or 2 boats- while there are zero guided groups in this category.

Response: The potential social and ecological effects of boater use to the John Day River are a function of several factors, including 1) the total number of boating groups sharing the river at any one time, 2) the size of each boating group, and 3) the behavior of individual boaters.

The Purpose and Need for Action is to ensure that boating use patterns do not degrade the outstandingly remarkable recreation value on Segments 2 and 3 of the John Day Wild & Scenic River by maintaining Desired Future Conditions (DFCs) for 1) the ability of each boating group to secure their own suitable campsite each night, and 2) the frequency of onriver encounters between boating parties. A quality boating experience includes the ability of each overnight boating group to obtain their own suitable campsite. For this to happen, the number of boating groups cannot exceed the number of suitable campsites. BLM concluded that prescribing capacities that limit the number of boating groups launching per day (along with managing encounters per day) would effectively meet the Purpose and Need for Action. Since each boating group uses one campsite per night, regardless of group size, allowing additional small group launches would not result in more campsites being available for use. Small campsites that showed signs of use by boaters were included in the inventory of suitable campsites, and included when calculating launch numbers.

The BLM already caps group size at 16 persons. Most suitable campsites have been in use for many years, with well-established mooring areas, food preparation areas and tent sites. When groups of 16 boaters or less utilize these suitable campsites, the additional incremental impacts related to group size are generally negligible. The BLM acknowledges the potential for oversized groups (larger than 16 persons) to cause unacceptable impacts to campsites, and unacceptable social impacts (encounters) while on the river, which is why the size of a single boating group is capped at 16 people.

Educating all boaters about Leave No Trace skills is an ongoing priority for BLM, in order to protect the river corridor and improve the experience for other boaters. Monitoring from

1998-2010 has shown that the cleanliness of camps fluctuates with the behavior of individual boaters but that campsite cleanliness is gradually improving and cleanliness standards are generally being met. The BLM concluded that boaters are not presently causing serious or lasting ecological impacts, especially when they utilize established, suitable campsites. (One exception is damage and destruction of campsite trees caused by limb cutting- a matter of individual boater behavior not related to group size.)

The average boating group size in 2009 in Segments 2 and 3 was five persons for non-commercial trips and seven persons for commercial trips. Group size was not found to be a distinguishing characteristic between these two types of boaters that would produce a notable variation in results if analyzed separately. Commercial permittees are closely monitored for compliance with permit stipulations, including group size limits. Failure to comply may result in probation, suspension, or cancellation of their permit. The BLM acknowledges the need for increased enforcement of the 16-person group size limit as it pertains to scout, church and school groups who make up the majority of the oversized groups currently observed or reported on the river.

Comment: The BLM seems to have compared the John Day River to the Deschutes River when developing the Proposed Action (Alternative 2). The BLM should carefully consider how John Day River characteristics and boaters differ from those on the Deschutes before adopting a similar boater permit system.

Example text from letter:

[CL 12] While the John Day is compared to [the] Deschutes for purposes of proposing a permit system, the two rivers are very different in floating season and user trips...before adopting a similar [to the Deschutes River] permit system, the [BLM] needs to compare both rivers and their relative recreation markets, users, daily, weekly and monthly user levels, group sizes, commercial and non-commercial types, and current impacts.

Response: The alternatives presented in the EA were carefully tailored to the unique characteristics of the John Day, including the highly seasonal nature of river flows and use, and differences in access, experience type and boater use patterns between Segments 2 and 3. These characteristics are described in the EA on pages 33-41. In developing and analyzing the alternatives, the BLM relied on 10 years of extensive data collected from Segments 2 and 3 of the John Day River including boater use statistics, campsite monitoring, field observations and boater surveys. Socio-economic data used in the analysis is specific to the John Day River counties where available, or from the best available data for the adjacent region.

As noted in the EA (p. 13), the 2001 John Day River Plan (Record of Decision, p. 18-19) specified that in the event that boater capacities are prescribed for the John Day River, trip permits would be allocated to non-commercial and commercial boaters through a first-come, first-served common pool reservation system to all users in the same manner. The River Plan decision required that the common pool system be operating successfully on the Lower Deschutes River prior to implementation of a similar common pool allocation system on the John Day River (EA, p. 14). The BLM reviewed the Deschutes allocation system, including an independent evaluation report, as part of research conducted for the John Day River Study EA. Other than the type of system used for allocating permits, which was previously decided and is therefore outside the scope analysis in this EA, the BLM is not aware of any similarities between the alternatives in the EA and the current Lower Deschutes permit system that would lead to a need to compare the use characteristics of the two rivers.

Comment: The BLM should address crowding on the John Day River by managing the number of individual boaters, not the number of boating groups.

Example text from letters:

[CL 24] [Managing number of groups instead of numbers of boaters] isn't fair for the smaller groups.

[CL 7] [Paraphrased] Under the Proposed Action, as few as 9 individual boaters (floating solo w/ one permit each) or as many as 144 boaters (9 launches X 16 people) could launch in a single day. In the first instance, boaters could easily be displaced. In the latter instance, the river would be crowded. Instead of managing boating groups (as BLM proposes) managing boater numbers would allow an ideal maximum number of boaters (e.g. 50) to launch per day, and would be more effective at providing quality experiences because only a few large groups could launch per day before the cap on boater numbers was reached. There would usually be enough campsites for each group because there would likely be some large groups launching each day that would use only one campsite, leaving the other campsites available for smaller groups.

Response: The BLM considered prescribing a capacity for the number of individual boaters (EA p. 30-31) instead of the number of boater groups but decided that this approach would not effectively address the Purpose and Need for Action, which is to ensure that boating use patterns do not degrade the outstandingly remarkable recreation value on the John Day Wild & Scenic River. Crowding in Segments 2 and 3 of the John Day River is indicated primarily by the

lack of a sufficient number of suitable first night campsites to accommodate each overnight boating group in their own site on peak use days during the Primary Boating Season. Thus, the BLM proposes to manage boater use by using the number of suitable campsites in the 15-mile reaches below primary launch points to determine the number of groups that are allowed to launch each day.

Addressing crowding on Segments 2 and 3 of the John Day River by setting and enforcing capacities for boating groups would directly mitigate the problem of campsite availability. Simply managing boater numbers with no consideration of the number of groups would not. In addition, the existing 16-person group size cap would remain in effect under the Proposed Action. Thus, the BLM is proposing to manage both group numbers and boater numbers. The BLM believes it is unlikely that as few as 9 or as many as 144 people would launch on any given day. In 2009, the average size of boating groups in Segments 2 and 3 was five people. Under the Proposed Action for Segment 2, on a day when all 9 launch opportunities were utilized, an estimated 45 boaters would launch if the average group size remained unchanged. The BLM acknowledges that on any given day, more or fewer boaters may launch, and that the Proposed Action may result in an increase in average group size over time. If monitoring indicates that the Proposed Action is not adequately mitigating crowding among boating groups, the BLM may consider modifications to the EA through an EA Amendment.

Comment: The BLM could reduce crowding by reducing the maximum boating group size, rather than implementing boater capacities and a permit system.

Example text from letter:

[CL 12] The [BLM] should...consider a limit on group sizes as an alternative to a permit system. 43 groups of 5 people on Segment 3 per day is a whole lot different from 43 groups of 16.

Response: Reducing the maximum group size would not effectively address the Purpose and Need for Action, which is to ensure that boating use patterns do not degrade the outstandingly remarkable recreation value on the John Day Wild & Scenic River. One of the primary indicators of degraded experience quality is crowding. Crowding in Segments 2 and 3 of the John Day River is indicated primarily by the lack of a sufficient number of suitable first night campsites to accommodate each overnight boating group in their own site on peak use days during the Primary Boating Season. If the maximum boating group size was reduced, the number of overnight boating groups that launch each day could still exceed the number of suitable first night campsites. Competition for campsites and instances of boaters using

unsuitable campsites or pioneering new sites would not be reduced and in fact could increase if the result was a larger number of smaller boating groups.

Since the average size of Segment 2 and 3 boating groups has remained constant over time at five people, the BLM concluded that continuing to allow groups of up to 16 persons the opportunity to launch would not result in unacceptable levels of crowding. If monitoring indicates that the Proposed Action is not adequately mitigating crowding among boating groups, the BLM may consider modifications to the EA through an EA Amendment.

Comment: The BLM should consider an alternative that would shift between Alternatives 2 and 3 (i.e. with and without campsite reservations) based on the expected demand for boat trip launching on a given weekend.

Example text from letter:

[CL 9] [The BLM should consider]...[camp]site reservations on 3-day weekends and Father's Day weekend. This [would] allow for greater use on the major weekends, and yet allow flexibility the rest of the period covered by the [EA]. Would need to ban layovers on the day prior to those...weekends.

Response: Alternative 3 stipulates that overnight boaters would reserve their first-night campsite and would not be able to layover at this campsite, while Alternative 2 does not include these stipulations. The BLM also considered a "hybrid" of these alternatives, in which campsite reservations and the "no layover" stipulation would be required on some launch days but not others. The BLM concluded that a system in which campsite reservations and a "no layover" provision were in effect for some days but not others would be confusing for boaters and overly complex to implement.

Comment: Optimal river flows for boating vary in timing from year to year, so enforcing boater capacities only when flows are at or above a certain level would more realistically reflect actual conditions. The agency should allow boaters to float without restriction after the river gets lower, to allow boaters to access the river without having to compete for a permit, because few boaters actually want to go under low water conditions.

Example text from letter:

[CL 19] [Because] this river varies in CFS [river flows measured in cubic feet per second] I suggest that any restrictions on launching be based on a range of CFS and not calendar dates. Some years the river [flows] could be high enough to allow a longer season...other years it will be shorter. The public looks frequently at websites that show river CFS, so if BLM set the CFS level when permits are required, the public could access that flow [information] via the internet. If launches are restricted by calendar date...allow the public to float without...restrictions after the river gets lower, to allow some boaters to access the river without competition.

Response: The BLM acknowledges that the period when John Day River flows are optimal for boating varies somewhat from year to year with the amount of snowpack, timing of runoff and other factors. As noted in the EA (p. 6), the Primary Boating Season would be initially defined as May 20-July 10. These dates encompass all dates for which the BLM has data showing that the number of overnight launches in a day exceeded the number of suitable first-night campsites. The BLM believes that redefining the Primary Boating Season every year or regulating launch numbers strictly according to river flow levels would be confusing for the public and difficult to implement, due to fluctuating river flows and changes from one year to the next. For example, rapid fluctuations in river flow commonly occur due to thunderstorm events, which could result in day to day uncertainty for boaters and BLM regarding whether flows were above or below levels that would trigger boater capacity regulations. But the BLM also notes that the Proposed Action would include the option to review and adjust the start and end dates for the Primary Boating Season if conditions so warrant.

While the proposed boater capacities would be the same for all days of the Primary Boating Season, the BLM acknowledges that demand for access may taper off in late June and early July in some years, depending on river flow levels. During this time, as long as the supply of launch opportunities remained greater than demand, boaters would be minimally affected by the boater capacity prescriptions. But if river flows remained in the optimal range for boating and demand for launches continued to be strong, the proposed boater capacities would continue to protect the quality of the boating experience.

Comment: The EA does not discuss how boat trip launches from Thirtymile Creek would be addressed under the Proposed Action.

Example text from letters:

[CL 27] I did not see reference to launching at Thirtymile Creek in Segment 2. Would this continue to be an option under a permit system?

[CL 23] [Management of] Segment 2 is a bit more complex [than indicated in the EA] because of the potential for launching from private lands. The [purpose of the Proposed Action] would not be achieved if 9 groups launch at Clarno and [over the next 2 days] 18 groups launch at Thirtymile Creek...the first groups that launched at Clarno would be in the middle of a cluster...created by [the proposed] action. Segment 2 would need to be divided and managed as it is used; as a river that has public and private boat launches that are many miles apart."

[CL 16] All [Segment 2] launches do not take place from Clarno. Many take place from Thirtymile [Creek]. The BLM needs to revisit the [Segment] 2 write-up and work out something that continues to provide alternatives for those [who] would prefer a shorter trip. The BLM should also consider the differing campsite needs for those [launching at] Thirtymile vs. Clarno.

Response: Under all alternatives, the public would continue to be able to launch from a number of private launches which are not all described in the EA, provided they had permission of the landowner, and successfully obtained the required BLM launch permit in advance. Since the BLM does not control boater access at Thirtymile Creek, and cannot assume that such access will continue to be available in the future, the agency provides no additional management direction for boaters launching from Thirtymile Creek, beyond the stipulations that would apply to all overnight boating groups within Segment 2 regardless of their launch or take out point. As noted on p. 21 of the EA, the capacity for all boat trip launches in Segment 2, for trips of any distance or duration from any launch point would be set at 9 launches per day. This would include all launches from Clarno, Thirtymile or any point on BLM, state, or private property in Segment 2, or any overnight trips traveling into Segment 2 from upstream.

The launch scenario posed in Comment Letter 23 (nine launches from Clarno on one day, nine launches per day from Thirtymile on each of the next two days) would be no more likely to occur under the Proposed Action than it would be under the No Action alternative. Conditions below Thirtymile Creek could potentially be more congested under the No Action alternative as there would be no limit on the number of daily launches from either Clarno or Thirtymile. However, the BLM believes that the scenario posed, while technically possible, would be unlikely to occur in actual practice under any alternative.

Comment: We believe the Proposed Action (Alternative 2) will reduce boating use on Segment 2 and thus cause us to lose income derived from fees charged to boaters for use of the road on our property to access the launch point at Thirtymile Creek. It will also reduce income for John Day River outfitter/guides and shuttle services.

Example text from letters:

[CL 22] The proposed action to limit the number of launches to 9 per day will cause this ranch to lose needed income" [from fees charged to access launch site at Thirtymile Creek via road that traverses our property]. In addition to our personal loss of access fees, [the proposed action would] affect the income of guide and shuttle services in Gilliam and Wheeler counties. One solution may be to list Thirtymile as a private launch site on the scheduling and marketing site where permits will be issued.

Response: In all alternatives, the BLM would continue to accommodate launches from private property, provided permission were obtained from the landowner and the trip leader successfully obtained the required launch permit in advance. The proposed boater capacities in Alternatives 2 and 3 do not differentiate how many of these daily launches could take place from private property. The BLM did not consider exempting launches from private property from boater capacities as this would not meet the Purpose and Need for Action which is to ensure that boating use patterns do not degrade the outstandingly remarkable recreation value on the John Day Wild & Scenic River.

The EA analyzed a full range of alternatives for managing boating use and analyzed the effect of each alternative to local economies if boaters who were unable to obtain their first choice launch date simply did not boat (EA, pgs. 71-77). The BLM estimated that under a "worst case" scenario, i.e. if all boaters displaced from their first choice launch date simply decided not to boat, about \$64,000 in regional income and a maximum of two jobs would be lost under Alternative 2, and about \$13,000 in regional income and less than one job would be lost under Alternative 3, compared to Alternative 1. However, most boaters who were unsuccessful in obtaining their first choice launch date would be expected to boat on another date (EA pp. 64, 72), and if they did so, annual boating use levels would not be expected to drop much, if at all, but would be spread more evenly throughout the season.

Both Alternatives 2 and 3 allow room for growth in launch numbers, as both alternatives allow more launches during the Primary Boating Season (May 20 – July 10) than currently occur. Over the course of a boating season, shuttle businesses would likely still run a similar number of shuttles as in past years, and boat rental companies would likely rent a similar number of boats, but the trips would be spread more evenly across the boating season rather than being compressed into a handful of very busy, hectic days. Similarly, boaters who utilize local businesses such as retail shops, restaurants and motels would still do so, but the business would be spread more evenly across the boating season, so these businesses might be able to accommodate more total demand.

In short, the overall goal of the Proposed Action is to redistribute boating use more evenly across the boating season and accommodate anticipated future increases in demand for access

to the river while still maintaining and improving boating experience quality. However, BLM does acknowledge that a boater who has no flexibility in their trip date may not be able to get a permit on the date they are available to boat and could be displaced. Likewise, a commercial client may not be able to obtain a launch permit for their first choice launch date, and if they have no flexibility to change trip dates, their potential guide may lose the opportunity to provide a guided trip to this client. Overall however, maintaining and improving the quality of John Day River boating experiences should also help maintain demand from commercial clients and the fees they are willing to pay.

Comment: The BLM is managing Segment 2 of the John Day River as Wilderness when in fact it is not so designated.

Example text from letters:

[CL 19] [Segment 2] is not designated Wilderness but BLM is managing this river segment [for a more primitive experience] like it already is wilderness. If the Wilderness Study Areas [in this segment] ever become Wilderness, then BLM will do a management plan. If more restrictive launches are needed, that would be the time to do that. Since [Segment 2] is not a designated Wilderness area, it seems reasonable to increase the launches by 2 or 3 per day.

Response: As described in the EA (pp. 39-42), the John Day River Plan set the recreation setting character and the Desired Future Conditions (DFCs) for Segment 2 (USDI Bureau of Land Management 2000, p. 138). Based on River Plan direction, the John Day River Study further defined the Desired Future Conditions for Segment 2 as a semi-primitive, non-motorized river or back country recreation setting and identified indicators to measure the DFCs and standards that define minimum acceptable conditions (see pp. 6-10, and table on pp. 11-24). Although Segment 2 does not contain any designated Wilderness Areas, two-thirds of the river miles in Segment 2 pass through Wilderness Study Areas. Public input received during this planning process indicates that boaters place a high value on opportunities for solitude and other aspects of a primitive river experience. (See the EA, Appendix B, "Summary of Public Comments on the John Day River Study", pp. 84-86.)

The BLM currently manages Segment 2 to provide a *semi-primitive, non-motorized* recreation experience (EA p. 40) and would continue to do so under the Proposed Action. If portions of the John Day River were designated as Wilderness, the BLM would complete a management plan for the wilderness area, and river miles included in designated Wilderness may be managed to provide a *primitive* recreation experience. This could involve different standards

for experience quality indicators such as the number of encounters per day with other boaters and maximum group size. While much of the public land within the Segment 2 river corridor has wilderness characteristics as indicated by the three Wilderness Study Areas present there, the BLM is not currently managing the river as if it were already designated as Wilderness. The BLM believes that managing for a *semi-primitive, non-motorized* recreation experience in Segment 2 is reasonable and meets its statutory guidance as well as the expectations of most boaters.

Comment: The BLM should allow for an increase in capacities for overnight boating groups if more campsites become available through acquisition of additional public lands or arrangements with private landowners.

Example text from letters:

[CL 19] The final plan should be designed to increase launches/day if more land is acquired where boaters can camp, or arrangements are made with private landowners to utilize campsites on their lands.

[CL 15] Acquisition of new public land may result in the presence of many more suitable campsites. Instead of placing an absolute cap of 2 on the possible number of additional launches [we] encourage BLM to incorporate sufficient flexibility in its determination of launch prescriptions to reflect the number of suitable campsites at a given time (with consideration to encounter rates).

Response: The Proposed Action includes the stipulation that river managers could increase the number of daily launches by a maximum of 2 launches per segment per day as a result of land acquisition, recreational easement, or campsite rehabilitation, provided that standards for onriver boating encounters are not exceeded (EA p. 22).

In order for an increase in boater capacities to be considered, additional suitable campsites would need to be located within 15 miles of a primary launch point where campsite bottlenecks occur. Public land acquisitions in any reach could increase boating experience quality by providing boaters with more options for campsites, but such acquisitions would not automatically be used as rationale for increasing boater capacities.

Comment: Since day boaters do not use any campsites, the BLM should not include day boaters in the boater capacity proposed for the Twickenham to Burnt Ranch reach in Segment 3.

Example text from letter:

[CL 19] Day floaters from Twickenham to Burnt Ranch Rapids should not be counted as part of [the boater capacity prescribed for this reach]. A percent of floaters [launching at Twickenham] won't camp and are focused on fishing for the day.

Response: The BLM acknowledges that many boaters in the river reach described float only for one day or less and do not camp. For this reason, as indicated in the description of the action alternatives (EA pp. 19-25) the BLM considered and developed capacities for overnight and day boaters separately. That is, on Segment 3 where day use boating occurs, separate capacities are prescribed for overnight and day boaters. The number of proposed day use launches does not impinge upon the number of proposed overnight launches – each allocation stands alone. In Segment 3, the BLM is proposing capacities for overnight launches to meet campsite availability standards, and capacities for day use launches to meet standards for encounters per day.

Comment: If the BLM implements a provision for boater campsite reservations, how do they intend to keep campsites accessible by vehicle from being used by car-campers and open for boaters?

Example text from letter:

[CL 10] There are a lot of roads into Segments 2 and 3, how are you going to keep those camps clear for a floater that has stated that's where he is camping?

Response: As noted in the EA (p. 28, 100) a suitable campsite is defined as one where vehicle use is not the primary form of access. Thus, campsite reservations (if implemented) would not include campsites that are used regularly by car campers.

Comment: As incentive and compensation to landowners who allow public access to their land along the river, the BLM should provide these landowners with their own launch date (or dates) to use if they so choose.

Example text from letter:

[CL 19] Private landowners who allow public access to the river, or who allow the public to use their land for camping could be allowed to have one or two launch dates if they wanted to float [as]...compensation for providing public opportunities for camping.

Response: The BLM may consider an increase of up to two additional launches per day per river segment, if the number of suitable campsites within 15 miles of a primary launch point (where bottlenecks occur) increases as a result of land acquisition, recreational easement, or campsite rehabilitation, provided that standards can be met for campsite availability and encounters per day (EA p. 23). Decisions concerning a potential land or easement acquisition would be addressed through a separate planning process.

Comment: The John Day River boater capacity prescriptions and permit system are being implemented for the first time. Conditions on the river may change over time. Thus the BLM should incorporate flexibility into its final decision to allow for adjustments to the system if experience or evidence shows that it could be improved or if conditions on the river (e.g. number of campsites) change.

Example text from letters:

[CL 19] Whatever management actions BLM finally decides on, please ensure there are mechanisms...that allow BLM to make adjustments to actions that don't work, or need adjustment. It would be helpful to all river floaters if BLM would publish an annual report on how the proposed river launch [capacities] are working and adjustments the BLM is making to ensure the public has access to this river, while managing its resources.

[CL 24] Trying the new [management action] should be [treated as an] experiment...use patience, listening and tweaking not...a be-all, end-all. That happens too often.

[CL 21] [Alternative] 2 appears to be best at this time, but the [boater capacities] should be flexible to allow changes if there is too much negative impact on endangered fish.

Response: The BLM acknowledges that monitoring and experience gained with the boater capacity prescriptions and permit system over time could provide valuable insight into ways the system could be made more efficient. The BLM also acknowledges that conditions on the river (e.g. land ownership, demand for access, boater use patterns) could change over time. In the EA, the BLM analyzed several adjustments that could be made in the future to boater capacities and the permit system, if conditions so warrant. For example:

- Adjustment in length and timing of the Primary Boating Season during which permits are required (initially May 20-July 10) in response to changes in boater use patterns, timing of spring runoff, fishing conditions, weather or other factors (EA p. 21)
- Adjustments in boater capacity prescriptions by a maximum of 2 launches per day as a result of land acquisition, recreational easement, or campsite rehabilitation, provided that standards for onriver boating encounters are not exceeded (EA p. 22)

Appendix C of the EA (pp. 99-104) describes indicators and standards for Desired Future Conditions (DFCs) for boating encounters, camp-to-camp solitude and campsite availability, and also monitoring methods that would be used to compare existing conditions at any point in time with DFCs. Appendix C further describes possible management actions that could be taken if monitoring shows DFCs are not being met. Managers would have some latitude to make adjustments to a boater permit system without further NEPA analysis, while other changes may require an amendment to this EA.

Comment: We disagree with BLM’s conclusion that John Day River boating does not have effects on endangered fish in the river that are substantial enough to be considered in this EA. The BLM should explicitly acknowledge, analyze and mitigate the effects of boating and boat-based fishing on endangered fish.

Example text from letters:

[CL 21] Although the BLM considered the impact to endangered fish to be outside the scope of this EA for boating limits, the two issues are too closely related to be considered separately. Undoubtedly each alternative will have some impact to the fish and their habitat. Large numbers of boaters fishing extensively in the spring months for smallmouth bass would certainly have some incidental hooking of both adult and juvenile Endangered Species Act (ESA) listed steelhead and salmon. Additionally, extensive boating and camping would have some impact to the riparian zone critical for ESA-listed fish survival.

[CL 21] The EA (p. 37) states, ‘Steelhead are not present in the John Day during primary boating season.’ However, the National Marine Fisheries Service steelhead monitoring station near Rock Creek is reporting substantial steelhead passage throughout the year, including the primary boating season described in the EA as May 20 through July 10.

[CL 21] With the information [BLM has] regarding the numbers of boaters who voluntarily filled out permits in the past and the availability of scientific fish research conducted on the John Day, the number of [boater] permits allowed should be adjusted to protect native fish.

Response: The issue of boating recreation impacts on salmon and ESA-listed summer steelhead was considered but eliminated from detailed analysis because the differences between Alternatives 1, 2 and 3 are not expected to produce measurable effects on these fish. The BLM is not aware of measurable effects to these fish populations from boating use in Segments 2 and 3 of the John Day River.

The BLM acknowledges that there are likely to be a few steelhead present in Segments 2 and 3 during the Primary Boating Season (May 20 – July 10), although the majority of steelhead smolt have migrated out of these river segments prior to May 20, and adult steelhead are not yet present in fishable numbers during this time period. Most anglers boating Segments 2 and 3 during the Primary Boating Season are not targeting steelhead, but are focused on fishing for bass. Some incidental hooking of steelhead by bass anglers may occur, however, the BLM does not have the jurisdiction to adjust fishing regulations. Oregon Department of Fish and Wildlife (ODFW) manages fish populations and controls fishing regulations in the State of Oregon.

The effects to riparian vegetation from boating use are localized and make up an extremely small percentage of the total river miles of riparian vegetation in these river segments. At the current unlimited level of boater use, substantial riparian recovery has occurred within Segments 2 and 3. As noted on p. 8 of the EA, the presence of riparian willow increased seven-fold over the past 15 years (the EA incorrectly stated the time period as 10 years), and Potential Future Condition (PFC) ratings for riparian vegetation completed in 2008 indicated that the vast majority of reaches in Segment 2 and 3 are either in an upward trend or at PFC. BLM monitoring data collected along 58 miles of river in Segment 2 (River Mile 40.5 to River Mile 98.5) between 1995 and 2008 measured a 195 acre increase in riparian vegetation which equates to an average of 3 acres of new riparian vegetation per river mile (USDI-BLM, Smith, Anna K., John Day River: Watching a River Recover, Presentation to River Management Society, Spring 2010). These improvements are attributed primarily to changes in grazing management addressed in the 2001 John Day River Plan.

Comment: John Day River fishing regulations should be adjusted to ensure that boaters who are fishing do not adversely impact endangered fish.

Example text from letters:

[CL 15] An additional limit- that of restricting bait type permitted by anglers to flies and lures (i.e. artificial bait) – is also appropriate. This measure would reduce mortality of any wild, threatened species of fish such as steelhead that were caught and released.

Response: The Oregon Department of Fish and Wildlife (ODFW) manages fish populations and controls fishing regulations in the State of Oregon. The BLM does not have the jurisdiction to adjust fishing regulations.

Comment: The BLM should charge John Day River boaters a fee to help cover costs of river management, and to provide boaters who have obtained a permit an incentive to notify BLM if they decide not to utilize their permit.

Example text from letters:

[CL 12] What is the incentive for private rafters to comply with a BLM request to notify BLM if they decide not to float after getting a launch date? [The] BLM should design a system for river access where the river floater pays a deposit of \$50 or \$100 to float and if the floater doesn't show up, the BLM keeps the money for river management. If they do show up, BLM returns the money.

[CL 5] [The BLM should assess a] boater fee- such as per person, per boat, or per day.

Response: The BLM agrees that there may need to be an incentive in the permit system for boaters to cancel their permits if they decide not to float. Charging fees is an administrative action related to implementation of the boater permit system that does not require detailed analysis in an EA. The BLM will consider this and other related comments as it designs and implements the boater permit system.

Comment: Cattle grazing has substantial impacts on boating recreation. The BLM should do more to reduce these impacts.

Example text from letters:

[CL 2] We do not understand why the BLM continues to push for removal of fire rings, use of portable toilets, limited entry, etc. and then let cattle run unimpeded through campsites as well as in the very narrow green zone near the river. On the John Day River cattle are the #1 cause of riverside and canyon degradation. Cattle are the #1 cause of unsatisfactory river experiences. Cattle are the #1 cause of pollution to the river.

[CL 15] The EA...states that [cattle] grazing is not affected by the presented alternatives, nor are the actions pertinent to grazing. However, as evident from the compiled scoping comments in Appendix B, grazing does have an impact on many boaters' recreational experience on...the John Day River. In addition to degrading the riparian vegetation and the quality and cleanliness of campsites, grazing in riparian areas has detrimental ecological effects. [We] urge the BLM to increase its efforts to keep cattle out of the riparian areas included in this EA, which will improve a boater's wilderness experience.

[CL 26] I like cows and horses, but not where I'm going to camp and cook.

Response: The BLM acknowledges that cattle grazing can affect boaters, but this EA is focused on ensuring that boating use patterns do not degrade the outstandingly remarkable recreation value on the John Day Wild & Scenic River. Grazing in the river corridor was addressed primarily in the 2001 John Day River Plan and Record of Decision (EA p. 15). The John Day River Study developed a Desired Future Condition (DFC), indicators, standards and potential management actions for grazing as it relates to boater campsites. For more information on the "Livestock Grazing" indicator, including the complete list of possible management actions please see the John Day River Study (full text -pg. 30) located at <http://www.blm.gov/or/districts/prineville/plans/johndayriverstudy/johndayriver-docs.php>. As noted on p. 8 of the EA, the presence of riparian willow increased seven-fold over the past 15 years (the EA incorrectly stated the time period as 10 years), and Potential Future Condition (PFC) ratings for riparian vegetation completed in 2008 indicated that the vast majority of reaches in Segment 2 and 3 are either in an upward trend or at PFC. BLM monitoring data collected along 58 miles of river in Segment 2 (River Mile 40.5 to River Mile 98.5) between 1995 and 2008 measured a 195 acre increase in riparian vegetation which equates to an average of 3 acres of new riparian vegetation per river mile (USDI-BLM, Smith, Anna K., John Day River Watching a River Recover, Presentation to River Management Society, Spring 2010). These improvements are attributed primarily to changes in grazing management addressed in the 2001 John Day River Plan.

Comment: Trees are a key campsite attribute that provide boaters with shade, wind protection and privacy screening. The BLM should require boaters to bring and carry their own firewood, rather than attempt to gather it at campsites. This would reduce the loss of campsite trees to boaters who cut them for firewood.

Example text from letter:

[CL 9] Would like to see a requirement [that boaters bring their] own [fire]wood or charcoal, with local wood, or heat-processed [wood] preferred. This will help eliminate the denuding of

wood along the river, and processed product will help with invasive or non-local insect issues in the future.

Response: The BLM agrees that destruction of campsite trees by boaters who cut them for firewood is an ongoing problem. As noted in the EA (p. 15-16), tree destruction is a matter of individual misbehavior that is not related to boating use levels and is thus outside the scope of this EA. However, the BLM carefully monitors the condition of campsite trees as part of the John Day River Study monitoring plan, and intends to take the necessary steps to keep the condition of trees within the standard identified for this indicator. The John Day River Study includes possible management actions (which include requiring boaters to bring their own firewood) that can be taken if necessary to protect campsite trees.

For more information on the "Trees" indicator, including the complete list of possible management actions please see the John Day River Study (full text -pg. 29) located at <http://www.blm.gov/or/districts/prineville/plans/johndayriverstudy/johndayriver-docs.php>

Comment: The BLM should require that day boaters carry a portable toilet just as overnight boaters currently do.

Example text from letter:

[CL 9] "Recommend that the portable toilet requirement be inclusive for all day and overnight trips. [Boaters are] not always near [toilet] facilities on the day trips."

Response: Human waste is one indicator of cleanliness that the BLM monitors as part of the John Day River Study monitoring plan. The BLM notes that campsite cleanliness is generally improving, and will take the necessary steps to keep conditions within the standard identified for this indicator. The John Day River Study includes possible management actions that can be taken if necessary to improve cleanliness in the river corridor, including requiring day boaters to carry a portable toilet.

For more information, including the complete list of possible management actions please see the John Day River Study (full text -pg. 33) located at <http://www.blm.gov/or/districts/prineville/plans/johndayriverstudy/johndayriver-docs.php>

Comment: The BLM did not consider impacts caused by boaters who cannot obtain a permit to boat on Segments 2 or 3 and shift their use elsewhere such as Segment 4, Kimberly to Service Creek.

Example text from letter:

[CL 12] The Kimberly to Service Creek segment has more population and ranching operations than the lower two segments, and less public land for [boater] stops. The [BLM] should assess the impacts of displaced use on river users and landowners from Kimberly to Service Creek.

Response: The BLM expects that most boaters who are unable to obtain a permit for their first choice launch date on Segments 2 or 3 would try to obtain a permit for a different date, rather than a different river segment. Some boaters may not have the flexibility to shift to a different date and may instead shift their use to a different river segment, such as Segment 4, Kimberly to Service Creek. Access to Segment 4 is available in many places along Highway 19 via Oregon Department of Transportation (ODOT) Rights-Of-Way. While boating use on Segment 4 has increased in recent years and BLM expects this trend to continue, the difference in increase between Alternatives 1, 2 and 3 is not expected to be measurable. Therefore, this issue was not considered in detail in the EA. The BLM intends to place new signs at public/private boundaries in Segment 4 to help reduce instances of boaters inadvertently trespassing onto private lands, and will continue to monitor boating use and will work cooperatively with ODOT and Wheeler County to address issues that may arise in the future.

Comment: Requiring that commercial outfitters camp only in designated commercial campsites that they pay to develop would eliminate most competition for campsites, and the need for boater capacities or campsite reservations.

Example text from letter:

[CL 27] Commercial outfitters...unfairly dominate the best campsites by sending an advance party early in the morning to rush down the river to claim a site early in the day...I believe that commercial outfitters should only be allowed in designated commercial camps which they pay to develop. If this were done there would be no need for reservations, and Alternative 1 would be the appropriate alternative.

Response: As noted in the EA (p. 30) the decision not to develop new recreation sites was made in the John Day River Plan. The BLM also notes that competition for campsites can occur between two or more non-commercial boating groups as well as commercial and non-commercial groups. Also, commercial boating groups comprise less than 15% of all boating use in Segments 2 and 3. Thus, development of separate commercial campsites would not eliminate campsite competition, or the need to set capacities for boating groups.

The BLM acknowledges that conflicts on the river between commercial and non-commercial boating groups, and between two or more non-commercial groups, have occurred over the issue described. Alternative 3 analyzed the option of requiring that all boats in a single boating group remain within 15 minutes travel time of each other while on the river. The decision maker is free to select one of the alternatives analyzed or select a combination of alternatives.

Comment: The BLM is focusing on availability of first night campsites, whereas the real issue is the lack of sufficient last night campsites. If a boating group is targeting a campsite close to the take-out point, and that campsite is already occupied, there may not be another available campsite above the take-out point.

Example text from letter:

[CL 23] In my experience the first night camp has never been an issue of concern [in Segment2]. The last night camp is a much more serious matter as there might not be another [available campsite] until the take out.

Response: The BLM acknowledges that availability of campsites in the reach above take-out points can be an issue. By establishing capacities for the number of boating groups that would be on the river at any one time, Alternative 2 or Alternative 3 would each reduce competition for campsites in this reach. The planned acquisition by Oregon Parks and Recreation Department of the former Murtha Ranch property and transition of this property into Cottonwood Canyon State Park are expected to result in improved camping opportunities in this reach over time due to planned restoration efforts.

Comment: The BLM should improve facilities for boaters, especially launch ramps.

Response: Although this EA does not address facilities improvements, the BLM acknowledges that adequate facilities such as launch ramps and toilets at put-in and take-out are a necessary component of the overall boating experience, and will carefully consider all comments regarding infrastructure for John Day River boaters.

Comment: Suggestions related to implementation of the boater permit system for administering the boater capacities proposed in this EA.

Response: Several comments offered suggestions for the design of a boater permit system that would be needed to implement the boater capacities proposed in Alternatives 2 or 3 of the EA. The BLM appreciates the comments received and acknowledges that there are a range of options available for the design, implementation and refinement of a boater permit system. If the EA Decision is to implement Alternative 2 or 3, the BLM will carefully consider all comments related to implementation of an equitable and easy to use boater permit system.

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

INFORMATION ON TAKING APPEALS TO THE INTERIOR BOARD OF LAND APPEALS

DO NOT APPEAL UNLESS

1. This decision is adverse to you,
- AND
2. You believe it is incorrect

IF YOU APPEAL, THE FOLLOWING PROCEDURES MUST BE FOLLOWED

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|---------------------------------|--|
| 1. NOTICE OF APPEAL..... | A person served with the decision being appealed must transmit the <i>Notice of Appeal</i> in time for it to be filed in the office where it is required to be filed within 30 days after the date of service. If a decision is published in the FEDERAL REGISTER, a person not served with the decision must transmit a <i>Notice of Appeal</i> in time for it to be filed within 30 days after the date of publication (43 CFR 4.411 and 4.413). |
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| 2. WHERE TO FILE NOTICE OF APPEAL..... | Prineville District Office, 3050 NE Third Street, Prineville, Or 97754 |
| WITH COPY TO SOLICITOR..... | U.S. Department of the Interior, Office of the Regional Solicitor, 805 SW Broadway, Suite 600
Portland, OR 97205 |
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| 3. STATEMENT OF REASONS | Within 30 days after filing the <i>Notice of Appeal</i> , file a complete statement of the reasons why you are appealing. This must be filed with the United States Department of the Interior, Office of Hearings and Appeals, Interior Board of Land Appeals, 801 N. Quincy Street, MS 300-QC, Arlington, Virginia 22203. If you fully stated your reasons for appealing when filing the <i>Notice of Appeal</i> , no additional statement is necessary (43 CFR 4.412 and 4.413). |
| WITH COPY TO SOLICITOR..... | |
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| 4. ADVERSE PARTIES..... | Within 15 days after each document is filed, each adverse party named in the decision and the Regional Solicitor or Field Solicitor having jurisdiction over the State in which the appeal arose must be served with a copy of: (a) the <i>Notice of Appeal</i> , (b) the Statement of Reasons, and (c) any other documents filed (43 CFR 4.413). If the decision concerns the use and disposition of public lands, including land selections under the Alaska Native Claims Settlement Act, as amended, service will be made upon the Associate Solicitor, Division of Land and Water Resources, Office of the Solicitor, United States Department of the Interior, Washington, D.C. 20240. If the decision concerns the use and disposition of mineral resources, service will be made upon the Associate Solicitor, Division of Mineral Resources, Office of the Solicitor, United States Department of the Interior, Washington, D.C. 20240. |
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| 5. PROOF OF SERVICE..... | Within 15 days after any document is served on an adverse party, file proof of that service with the United States Department of the Interior, Office of Hearings and Appeals, Interior Board of Land Appeals, 801 N. Quincy Street, MS 300-QC, Arlington, Virginia 22203. This may consist of a certified or registered mail "Return Receipt Card" signed by the adverse party (43 CFR 4.401(c)). |
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| 6. REQUEST FOR STAY..... | Except where program-specific regulations place this decision in full force and effect or provide for an automatic stay, the decision becomes effective upon the expiration of the time allowed for filing an appeal unless a petition for a stay is timely filed together with a <i>Notice of Appeal</i> (43 CFR 4.21). If you wish to file a petition for a stay of the effectiveness of this decision during the time that your appeal is being reviewed by the Interior Board of Land Appeals, the petition for a stay must accompany your <i>Notice of Appeal</i> (43 CFR 4.21 or 43 CFR 2801.10 or 43 CFR 2881.10). A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of the <i>Notice of Appeal</i> and <i>Petition for a Stay</i> must also be submitted to each party named in this decision and to the Interior Board of Land Appeals and to the appropriate Office of the Solicitor (43 CFR 4.413) at the same time the original documents are filed with this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted. |
| | Standards for Obtaining a Stay. Except as other provided by law or other pertinent regulations, a petition for a stay of a decision pending appeal shall show sufficient justification based on the following standards: (1) the relative harm to the parties if the stay is granted or denied, (2) the likelihood of the appellant's success on the merits, (3) the likelihood of immediate and irreparable harm if the stay is not granted, and (4) whether the public interest favors granting the stay. |
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Unless these procedures are followed, your appeal will be subject to dismissal (43 CFR 4.402). Be certain that all communications are identified by serial number of the case being appealed.

NOTE: A document is not filed until it is actually received in the proper office (43 CFR 4.401(a)). See 43 CFR Part 4, subpart b for general rules relating to procedures and practice involving appeals.

(Continued on page 2)

43 CFR SUBPART 1821--GENERAL INFORMATION

Sec. 1821.10 Where are BLM offices located? (a) In addition to the Headquarters Office in Washington, D.C. and seven national level support and service centers, BLM operates 12 State Offices each having several subsidiary offices called Field Offices. The addresses of the State Offices can be found in the most recent edition of 43 CFR 1821.10. The State Office geographical areas of jurisdiction are as follows:

STATE OFFICES AND AREAS OF JURISDICTION:

Alaska State Office ----- Alaska
Arizona State Office ----- Arizona
California State Office ----- California
Colorado State Office ----- Colorado
Eastern States Office ----- Arkansas, Iowa, Louisiana, Minnesota, Missouri
and, all States east of the Mississippi River
Idaho State Office ----- Idaho
Montana State Office ----- Montana, North Dakota and South Dakota
Nevada State Office ----- Nevada
New Mexico State Office ---- New Mexico, Kansas, Oklahoma and Texas
Oregon State Office ----- Oregon and Washington
Utah State Office ----- Utah
Wyoming State Office ----- Wyoming and Nebraska

(b) A list of the names, addresses, and geographical areas of jurisdiction of all Field Offices of the Bureau of Land Management can be obtained at the above addresses or any office of the Bureau of Land Management, including the Washington Office, Bureau of Land Management, 1849 C Street, NW, Washington, DC 20240.

(Form 1842-1, September 2005)