

## Is my San Juan River trip commercial?

A river trip is non-commercial if there is a bona-fide sharing of expenses. There shall be no fees, charges, or other compensation collected from individual participants in excess of actual costs or expenses incurred. By contrast a trip is commercial if anyone on the trip makes a profit, receives a reimbursement or salary, receives rental for use of equipment, or supports, in any part, other programs or activities from amounts received from passengers. Accordingly, fund raising trips are commercial and sponsors will have to arrange for an existing commercial launch from a **permitted guide**. If you have questions about whether or not your trip is commercial, please contact the BLM Monticello Field Office at (435) 587-1544 for more information. **Note: Most university or school affiliated groups (classes, outdoor programs, student clubs, etc...) are considered commercial.**



### Why the concern?

Operating under the guise of non-commercial boaters, illegal outfitters are stealing carrying capacity from the private sector for their own profit. They compete unfairly with legitimate outfitters by avoiding use fees, insurance requirements, and the need to comply with standards of the industry. Their guides may or may not be qualified and their equipment may or may not be safe.

### What is the definition of commercial use?

The Code of Federal Regulations (Title 43, Subpart 2932) defines commercial use as follows:

Commercial use means recreational use of the public lands and related waters for business or financial gain.

(1) The activity, service, or use is commercial if –

- (i) Any person, group, or organization makes or attempts to make a profit, receive money, amortize equipment, or obtain goods or services as compensation from participants in recreational activities occurring on public lands, led, sponsored, or organized by that person, group, or organization;
- (ii) Anyone collects a fee or receives other compensation that is not strictly a sharing of actual expenses, incurred for the purpose of the activity, service, or use;
- (iii) There is paid public advertising to seek participants; or
- (iv) Participants pay for a duty of care and expectation of safety.

(2) Profit-making organizations and organizations seeking to make a profit are automatically classified as commercial, even if that part of their activity covered by the permit is not profit-making or the business as a whole is not profitable.

(3) Use of public lands by scientific, educational, and therapeutic institutions or non-profit organizations is commercial and subject to a permit when it meets any of the threshold criteria in paragraphs (1) and (2) of this definition. The non-profit status of a group or organization does not alone determine that an event or activity by such an organization is noncommercial.

### What are actual expenses?

Actual expenses means money spent directly on the permitted activity. These may include costs of such items as food, rentals of group equipment, transportation, and permit or use fees. Actual expenses do not include the rental or purchase of personal equipment, amortization of equipment, salaries or other payments to participants, bonding costs, or profit.