

## ALTERNATIVE CONSIDERED BUT DISMISSED FROM DETAILED EVALUATION

### INTRODUCTION

During public scoping for this planning effort, an alternative was suggested by boating advocacy groups to allow nonmotorized boating on designated wild and scenic river segments where this activity is currently prohibited. These include the Snake River and lower Lewis River segments in Yellowstone National Park; the Pacific Creek and Buffalo Fork segments in Grand Teton National Park; and the Gros Ventre River segment along the boundary between Grand Teton National Park and the USFWS National Elk Refuge.

The National Park Service and U.S. Fish and Wildlife Service eliminated this alternative from detailed evaluation because it conflicts with long-standing parkwide and refuge-wide management and regulations established under the general statutory authorities of the National Park Service and U.S. Fish and Wildlife Service, and these long-standing restrictions protect and contribute to the values for which these particular rivers were designated; thus, eliminating these restrictions would be inconsistent with the purpose of this planning effort. The following describes each of these reasons in turn.

### Conflicts with Existing Regulations

Grand Teton and Yellowstone national parks and the National Elk Refuge have been managed under long-standing parkwide and refuge-wide regulations that prohibit boating on both undesignated and designated wild and scenic river segments.

- 36 CFR 7.13(d)(4ii) Yellowstone National Park

- Vessels are prohibited on park rivers and streams (as differentiated from lakes and lagoons), except on the channel between Lewis Lake and Shoshone Lake, which is open only to hand-propelled vessels.
- 36 CFR 7.22(e)(2-3) Grand Teton National Park
  - (e) Vessels. (2) Hand-propelled vessels may be used on Jackson, Jenny, Phelps, Emma Matilda, Two Ocean, Taggart, Bradley, Bearpaw, Leigh, and String lakes and on the Snake River, except within 1,000 feet of the downstream face of Jackson Lake Dam. All other waters are closed to boating. (3) Sailboats may be used only on Jackson Lake.
- 50 CFR 25.21(a) National Elk Refuge
  - (a) Except as provided below, all areas included in the National Wildlife Refuge System are closed to public access until and unless we open the area for a use or uses in accordance with the National Wildlife Refuge System Administration Act of 1966 (16 USC 668dd-668ee), the Refuge Recreation Act of 1962 (16 USC 460k-460k-4) and this subchapter C. See 50 CFR 36 for details on use and access restrictions and the public participation and closure process established for Alaska national wildlife refuges. We may open an area by regulation, individual permit, or public notice, in accordance with section 25.31 of this subchapter.

The Wild and Scenic Rivers Act does not preempt more protective measures but instead is intended to enhance what is already protected. Section 10(c) of the Wild and Scenic Rivers Act states the following:

The lands involved shall be subject to the provisions of the chapter and the Acts under which the national park system or national wildlife system, as the case may be, is administered, and in the case of conflict between the provisions of this chapter and such Acts, the more restrictive provisions shall apply (16 USC 1281[c]).

The intent of the act and of a river designation is thus to enhance existing protection—it should in no way alter preexisting restrictions imposed under NPS or USFWS authorities to protect park or refuge resources, nor do any other provisions of the Wild and Scenic Rivers Act or the Craig Thomas Snake Headwaters Legacy Act suggest that previously prohibited forms of boating should be allowed on newly designated wild and scenic rivers. Moreover, Congress determined these rivers to be worthy of inclusion in the national wild and scenic rivers system with the existing boating closures already in place.

Whether river segments are currently open or closed to boating has been determined over many years under a variety of authorities, policies, and planning processes independent of the WRSA planning process. Reevaluating the existing regulations and restrictions would require significant review and potential revision of existing policies and plans, as well as additional planning and other processes well outside the intent of the Wild and Scenic Rivers Act and the river designations. It thus does not meet the purpose and need for this planning effort and is beyond its scope.

## **EXISTING RESTRICTIONS CONTRIBUTE TO THE PROTECTION OF VALUES FOR WHICH RIVERS WERE DESIGNATED**

The Wild and Scenic Rivers Act provides that uses allowed on a designated river must be consistent with the protection and enhancement of the values that caused it to be designated. Section 10(a) provides

Each component of the national wild and scenic rivers system shall be administered in such manner as to protect and enhance the values which caused it to be included in said system without, insofar as is consistent therewith, limiting other uses that do not substantially interfere with public use and enjoyment of these values. In such administration primary emphasis shall be given to protecting its esthetic, scenic, historic, archeological, and scientific features. Management plans for any such component may establish varying degrees of intensity for its protection and development, based on the special attributes of the area (16 USC 1281[a]).

For these rivers, the long-standing boating restrictions described above have protected and contributed to the values for which the rivers were designated. Removing these restrictions and allowing new boating would not only be contrary to the more restrictive existing park and refuge management requirements, but also the direction provided in section 10(c) (as explained in the previous section).

Substantial boating opportunities already exist throughout the Snake River Headwaters and therefore the public interest at large is currently being served. At this time, 351 miles of the total 410 miles (86%) of designated wild and scenic rivers within the entire Snake River Headwaters are open to nonmotorized boating. As such, these remaining 14% of rivers provide an opportunity to experience

solitude and the wild nature and scenery of these areas without the sights or sounds that recreational watercraft would present. These values contributed to the designation of these portions of the rivers and must be protected. While boating advocates commented that allowing these activities would expand their opportunities, other members of the public requested that recreational uses remain the same so as not to affect the natural setting and scenic qualities of these river segments.

### **Recreational Boating would Conflict with the Mission of the National Elk Refuge and National Wildlife Refuge System**

The U.S. Fish and Wildlife Service eliminated this alternative from detailed evaluation because this new boating use would conflict with the “wildlife first” mandate of the national wildlife refuge system (NWRS). The National Wildlife Refuge System Improvement Act of 1997 (16 USC 668dd, 668ee) establishes a hierarchy of refuge use priorities and requires secondary uses to be compatible with primary refuge purpose and the conservation mission of the national wildlife refuge system. Nonmotorized boating is not considered a wildlife-dependent use and is not listed among the six priority public uses named in the act, and it

would conflict with National Elk Refuge purpose and the NWRS mission.

The National Elk Refuge was established in 1912 as a “winter game (elk) reserve” (37 Stat. 293, 16 USC 673), and the following year Congress designated the area as “a winter elk refuge” (37 Stat. 847). In 1927, the refuge was expanded to provide “for the grazing of, and as a refuge for, American elk and other big game animals” (44 Stat. 1246, 16 USC 673a). This river corridor is a heavily used ungulate winter range, a spring and fall migration corridor for elk and bison, and vital year-round habitat for moose; therefore, it is a priority for management as wildlife habitat over nonwildlife-dependent recreational uses. Under authority 50 CFR 25.21, the National Elk Refuge will continue to maintain the existing boating closure within the Gros Ventre River corridor for the benefit of priority wildlife species.

### **CONCLUSION**

For the reasons described above, the National Park Service and U.S. Fish and Wildlife Service have eliminated this alternative from detailed evaluation because it conflicts with existing regulations and resource management requirements, it is outside the scope of this planning effort, and it conflicts with the mission of the National Elk Refuge.