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1 I. GRAND CANYON NATIONAL PARK

2 1. President Theodore Roosevelt, by presidential proclamation, reserved land in
3 the Grand Canyon of Arizona as Grand Canyon National Monument on January 11, 1980.
4 President Roosevelt stated in the proclamation that the Grand Canyon of Arizona “is an
5 object of unusual scientific interest, being the greatest eroded canyon in the United States,
6 and it appears that the public interest would be prompted by reserving it as a National
7 Monument.” SAR 010131.
8

9 2. Grand Canyon National Park (“Grand Canyon”) was established on February
10 26, 1919.” SAR 005627.

11 3. Over the “years the park has been enlarged and its boundaries revised.” SAR
12 010131. Congress has recognized that the Grand Canyon “is a natural feature of national
13 and international significance . . . [and] recognized the need for ‘further protection and
14 interpretation of the Grand Canyon in accordance with its true significance.” SAR
15 010131.

16 4. The Grand Canyon is an “outstanding national treasure.” SAR 005627. In
17 designating the Grand Canyon, “Congress gave protection to the most complete record of
18 geologic history to be found anywhere in the world, and to the Colorado River – the most
19 challenging whitewater river in the United States.” SAR 005627. “As well as being a
20 natural phenomenon, the Grand Canyon is also a unique in its cultural resources; the area
21 has been trod by human feet for the past 4,000 years, and contains more than 2,000
22 known archeological sites. The park’s more than one million acres harbors over a
23 thousand plant species and 400 species of wildlife.” SAR 005627.
24

25 5. The Grand Canyon “is to be managed to preserve and protect its natural and
26 cultural resources and ecological processes, as well as its scenic, aesthetic, and scientific
27 values [and] provide opportunities for visitors to experience and understand the
28

1 environmental interrelationships, resources, and values of the Grand Canyon without
2 impairing the resource.” SAR 010132.

3 6. On October, 1979 Grand Canyon National Park was listed as a World Heritage
4 Site because it is considered “an area of outstanding scenic, cultural, biological, and
5 recreational resources . . . a natural wonder which is probably visited by more people from
6 all over the world than any other single place in the United States.” SAR 0005626. As a
7 World Heritage Site, the Grand Canyon joins “the priceless trust of universal treasures by
8 the World Heritage Program.” SAR 005627.

9
10 7. The Grand Canyon, a natural marvel of immense canyon and the world
11 renowned Colorado River, is the largest and possibly most diverse wilderness on the
12 Colorado Plateau.” SAR 010272.

13 II. THE COLORADO RIVER CORRIDOR IN THE GRAND CANYON

14 8. The “Colorado River in Grand Canyon provides a unique combination of
15 thrilling whitewater adventure and magnificent vistas of a remarkable geologic landscape,
16 including remote and intimate side canyons. AR 104600.

17 9. The 277-mile river corridor is home to unique and abundant natural and cultural
18 resources, including diverse wildlife, threatened and endangered species, hundreds of
19 archeological sites, caves, and natural soundscapes. For these reasons, a river trip
20 through the Grand Canyon is one of the most sought after backcountry experiences in the
21 country, and nearly 22,000 visitors run the river annually. AR 104600.

22 10. In 1970, “as required by the Wilderness Act of 1964, the [Grand Canyon]
23 submitted a Preliminary Wilderness Study Report that recommended that the Colorado
24 River be included [as wilderness] and the use of motors phased out.” AR 00861.
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1 III. 1970 -1973: THE PARK SERVICE RELEASES THE FIRST RIVER
2 MANAGEMENT PLAN AND IMPACT STATEMENT FOR THE COLORADO
3 RIVER CORRIDOR

4 The 1972 River Use Plan

5 11. On December 11, 1972, the National Park Service (“Park Service”) released a
6 River Use Plan for the Colorado River corridor in the Grand Canyon. SAR 000712.

7 12. In the River Use Plan, the Park Service calls for the phase out of motorboat
8 use of the Colorado River by 1977. SAR 000721. The Park Service based this phase out
9 decision “on some preliminary sociological study results.” Id.

10 13. In addition to phasing out motors by 1977, the 1972 River Use Plan
11 establishes strict standards for commercial boating, establishes a carry out policy for
12 waste and trash, calls for the completion of “ecological and sociological studies of the
13 river and its environment, and announces plans to “recommend the status of potential
14 wilderness for the Colorado River now, and achieve wilderness management standards in
15 1977.” SAR 000706.

16 14. For commercial use, the River Use Plan allowed up to 89,000 commercial
17 visitor use days. SAR 000706. The goal of the Park Service “will be to achieve an annual
18 visitor/use/day (commercial and private) level of 55,000 by the 1977 use season. This
19 will also include a setting a maximum of 100 people leaving from Lees Ferry per day in
20 parties whose maximum will be 30 persons.” SAR 000707.

21 15. For non-commercial use, the River Use Plan allowed up to 7,600 non-
22 commercial use days. SAR 000707. The Park Service will allow “only one private party
23 [to] depart each day from Lees Ferry. All private party use must be by advance
24 reservation with the National Park Service, Grand Canyon National Park.” SAR 000708.

25 The February 13, 1973 Draft Environmental Impact Statement

26 16. On February 13, 1973 the Park Service released a Draft Environmental
27
28

1 Statement for “Proposed Establishment of Visitor Use Limits on the Colorado River
2 through Grand Canyon National Park.” SAR 000913.

3 17. The goal of the Draft Environmental Statement is to “provide an opportunity
4 for a quality, white water, wilderness experience, and at the same time, to protect the river
5 environment from degradation.” SAR 00915. To achieve this goal, the Draft
6 Environmental Statement calls for a reduction in the number of user days and the
7 elimination of motors by 1977. SAR 000929

8 18. In the Draft Environmental Statement, the Park Service states that “use of
9 motors pollutes the river with gasoline and oil, the air with smoke, and assaults the senses
10 with sound and should be eliminated as soon as possible from the river environment.
11 Their elimination will also qualify the river to be officially included in the wilderness
12 areas of Grand Canyon National Park.” SAR 000917.

13 19. The Park Service states that “[c]urrent levels of noise, congestion, pollution of
14 air and water, litter, and other environmental insults will all be lowered by the proposed
15 action [to lower user days and eliminate motors.] The propose[d] elimination of
16 motorized trips will signal a marked improvement in the attitude of management’s
17 approach to the river wilderness, as well as having a positive environmental impact.”
18 SAR 000929.

19
20
21 Political Controversy

22 20. The Park Service’s decision to phase out motorboats in the Colorado River
23 corridor by 1977 to protect and preserve the wilderness resource and reduce the amount
24 of user days to commercial operators “caused some controversy.” SAR 001033.

25 21. Congressman Steiger “urged the [Park Service] to study the issue prior to any
26 other action regarding the removal of motors from water craft on the Colorado.” SAR
27 001034. In response, the Park Service decided to “have a study conducted on the use of
28

1 motors on the river – the parameters of such a study to be agreed upon by the NPS and the
2 boat concessionaires” and to “determine the feasibility of eliminating the use of all motors
3 over 20 or 25 horse power immediately or in the near future.” SAR 001035.

4 22. In 1973, a lawsuit (Western River Expeditions, Inc. v. Morton) was filed by
5 the river concessioners to challenge the Park Service’s plan to phase out motorboat use of
6 the Colorado River corridor. AR 000861. As a result of the lawsuit, “the NPS director
7 deferred the decisions made in the [River Use Plan] and directed the Park to conduct
8 research to determine social and ecological carrying capacity, and the impacts of motors.”
9 AR 000861.

10
11 IV. 1973-1978: THE PARK SERVICE CAREFULLY STUDIES AND EVALUATES
12 HOW BEST TO MANAGE THE COLORADO RIVER CORRIDOR IN THE
13 GRAND CANYON

14 23. “By July [1974], the Colorado Research Program was underway. A total of
15 [29] studies were done to gather data for the development of a comprehensive river
16 management plan.” AR 000861.

17 The “Twenty-Nine” Studies

18 24. Approximately twenty-nine “ecological and social studies” on the carrying
19 capacity of the Colorado River corridor and the use of motorized boats were completed in
20 the mid-1970s. SAR 001787 (listing all twenty-nine studies); SAR 003715 (synthesis of
21 all twenty-nine studies).

22 25. The twenty-nine studies reveal that oar and motor trips are “equally safe” and
23 that the impacts to the Colorado River corridor’s wilderness character from motorized
24 uses are significant. SAR 004587 (safety); SAR 001040 (safety); SAR 004573-90
25 (impacts).

26 26. In 1973 a study entitled “Sound-Level Evaluations of Motor Noise From
27 Pontoon Rafts in the Grand Canyon” was published. SAR 001157. The study found that
28

1 “[m]otor noise . . . masks the natural sounds in the Canyon and, in contrast, its almost
2 unnatural quiet. Although no effects on the boatman’s ability to function can be
3 demonstrated, the noise levels border on those which have been shown to adversely affect
4 performance of tasks of this type. For these reasons, it is recommended that the use of
5 outboard motors in the canyon be either discontinued or substantially curtailed.” SAR
6 001161.

7
8 27. The studies reveal that noise from motorized use of the Colorado River is
9 inconsistent with wilderness values and adversely impacts the natural sounds of the
10 Colorado River corridor. SAR 001449 (“An Analysis of the Motor-Row Conversion Issue
11 of Colorado River Float Trips”); SAR 004049 (“Motors and Oars in the Grand Canyon.
12 River Contact Study Part II”); SAR 002644 (“Findings, Conclusions, Recommendations,
13 and Implications for Management: River Contact Study Final Report”); SAR 003715
14 (synthesis of research); SAR 002102 (draft environmental statement); SAR 003670
15 (“Environmental Management of the Colorado River within the Grand Canyon”); SAR
16 005918 (“Contrasting recreational experiences: Motors and oars in the Grand Canyon”).

17
18 28. In terms of impacts to the wilderness experience (a key component of
19 preserving wilderness) studies show that overall “non-motorized trips are more pleasing
20 to the visitor.” SAR 004607. Reasons “given suggest that oar travel is seen as more
21 consistent with a natural or wilderness experience.” Id.

22
23 29. Passengers “who had experience with both motor and oar trips preferred the
24 oar trip. They enjoyed the slower pace, could relax; they become more aware of natural
25 sounds in the canyon; they were able to observe more closely the unique features along
26 the river and more easily ask questions of their guide.” SAR 004607.

27
28 30. The studies reveal there “is a strong indication that *almost all* those who have
had the opportunity to experience both motor and oar trips prefer oar trips over motor

1 trips.” SAR 004602.

2 31. In one study – referred to as the “motor-oar experiment” – a combination
3 motor/oar trip was devised on which passengers could experience both modes of
4 transportation. SAR 005918. Two “trips, one motor and one oar, were scheduled to leave
5 Lee’s Ferry so they would meet halfway through the Canyon. There passengers left one
6 set of boats and switched to the other, then continued to the debarkation point (Diamond
7 Creek, mile 225). The combination trip took 9 days, 5 ½ by oar power and 3 ½ by motor”
8 Id. To determine “overall trip preference,” the researchers asked passengers “which type
9 of trip they would choose for another river, which they would recommend to a friend, and
10 which better enabled them to experience the canyon, and which they liked better overall.”
11 SAR 005919. In response, 79 to 91 percent chose the oar trip while 4 to 6 percent chose
12 the motor trip. People with both kinds of experiences *clearly preferred oar travel.*” Id.

14 32. Studies show that oar trips (non-motorized) are as safe or safer than motorized
15 trips. AR 092572 (showing lower risk of fatality on oar-powered rafting trips).

16 33. In 1976 “six workshops were held for public input on Colorado River
17 management issues. By September 1976 the draft research findings were available for
18 management review.” AR 000861.

20 34. The twenty-nine studies found that the impacts to the Colorado River
21 corridor’s natural soundscape and wilderness character from motorized use are serious
22 and severe. SAR 004573-90.

23 The 1976 Master Plan for Grand Canyon

24 35. In August, 1976 the Park Service issued a Final Master Plan for Grand
25 Canyon National Park. SAR 002342.

26 36. The 1976 Master Plan outlines the overall objectives and proposals for
27 managing Grand Canyon National Park and states that the “goals for management of the
28

1 Colorado River in the Grand Canyon will be to perpetuate the wilderness river-running
2 experience, and to attempt to mitigate the influences of man’s manipulation of the river.”

3 SAR 002367

4 37. The Master Plan states that “mechanized access below the rims [of the Grand
5 Canyon]” will be limited. SAR 002352.

6 38. A year after adopting the Master Plan, the Park Service reiterated its decision
7 to “ban motor use” in the Colorado River corridor to achieve the Master Plan’s goals.

8 SAR 003026; SAR 005244 (calling for the phase out of motorized boats).

9 39. The Park Service’s decision to ban motorized use of the Colorado River
10 corridor was based on consideration of “relevant National Park policies, wilderness
11 proposals, the park master plan, interpretation, noise, and research, as well as other
12 considerations . . .” SAR 001444.

13 40. The Park Service stated that the “goals for management of the Colorado River
14 in the Grand Canyon as stated in the Master Plan are to perpetuate the wilderness river-
15 running experience and to attempt to mitigate the influences of man’s manipulation of the
16 river. To achieve this, all visitor use of this portion of the river will be without motors,
17 and more nearly like the experience of earlier explorers.” SAR 003026.

18 41. According to the Park Service, “a three-year study of the river with public
19 participation has shown that visitor appreciation, understanding, and enjoyment of the
20 Grand Canyon will be enhanced by [non-motorized] . . . use” of the Colorado River
21 corridor. SAR 003026

22 42. As early as 1976, the Park Service found that “motorized boat use is not
23 necessary for the use and enjoyment of this area but is a convenience which enables the
24 trip to be made in less time and permits the use of large boats, accommodating larger
25 groups. This use is inconsistent with the wilderness criteria of providing outstanding
26 groups. This use is inconsistent with the wilderness criteria of providing outstanding
27 groups. This use is inconsistent with the wilderness criteria of providing outstanding
28 groups.

1 opportunities for solitude and for a primitive and unconfined type of recreation.” SAR
2 005804.

3 The 1977 Wilderness Recommendation

4 43. In February, 1977 the Park Service issued a Final Wilderness
5 Recommendation. SAR 002678.

6 44. The 1977 Wilderness Recommendation included “two hundred seventy-seven
7 miles of the Colorado River” – including the entire River corridor from Lees Ferry to
8 Diamond Creek – within Grand Canyon National Park as potential wilderness. SAR
9 002723.

10 45. In 1977 Wilderness Recommendation, the Park Service states that “the river
11 passes through some of the most scenic and primitive land remaining in this country.”
12 SAR 002723.

13 46. In the 1977 Wilderness Recommendation, the Park Service states that
14 “motorized boat use is not necessary for the use and enjoyment of this area but a
15 convenience which enables the trip to be made in less time and permits the use of large
16 boats, accommodating larger groups. This use is inconsistent with the wilderness criteria
17 of providing outstanding opportunities for solitude and for a primitive and unconfined
18 type of recreation. It is proposed that the river corridor be designated a potential
19 wilderness addition, pending finalization of the river management plan.” SAR 002723.

20 47. In the 1977 Wilderness Recommendation, the Park Service notes the
21 “response from individuals and organizations has been overwhelmingly in favor of the
22 current [wilderness] proposal. Only 14 individuals out of 501, and 2 organizations out of
23 38, wanted less land designated as wilderness. A total of 431 individuals and 25
24 organizations recommended that hand-propelled, rather than motorized, craft be used on
25 the river and that it be included as wilderness. Some 286 individuals and 25
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1 organizations would further enlarge the area recommended for immediate wilderness by
2 including all areas proposed as potential wilderness.” SAR 002693-94.

3 48. The Park Service notes that “13 companies [engaged in commercial river
4 trips] were in favor of retaining motors, while 9 companies favored wilderness
5 designation for the river and the elimination of motorized craft.” SAR 002694.

6 49. The Park Service states that the designation of the Colorado River corridor as
7 potential wilderness “will further protect one of the world’s most awesome natural
8 wonders and ensure that future generations of Americans will have the same opportunities
9 that we enjoy to witness its spectacular beauty.” SAR 002814.

10 50. The Park Service states that “studies over the past several years show that the
11 use of motorboats on the Colorado River within the park is incompatible with overall
12 visitor enjoyment and the resource management objectives of the park.” SAR 002814.

13 51. The Park Service noted that the decision to ban motorboat use of the Colorado
14 River corridor “was made . . .to comply with a Congressionally mandated wilderness
15 recommendation.” SAR 002815.

16 52. The 1977 Wilderness Recommendation “was held in abeyance by the DOI
17 Legislative Counsel pending completion of the river management plan.” AR 00086.

18 53. In January, 1978 the Park Service released a draft Colorado River
19 Management Plan and Environmental Impact Statement for public review and comment.
20 AR 000862.

21 V. 1979-1980: THE PARK SERVICE RELEASES A NEW COLORADO RIVER
22 MANAGEMENT PLAN AND EIS CALLING FOR THE PHASE OUT OF
23 MOTORBOATS TO PROTECT THE RIVER’S WILDERNESS CHARACTER

24 54. Following completion of the twenty-nine studies, a draft and final
25 environmental impact statement, a public comment period, “seven public meetings,” and
26 review of the 1977 Wilderness Recommendation, in December, 1979 the Park Service
27
28

1 signed a final Colorado River Management Plan (“CRMP”). AR 000862.

2 The CRMP/EIS

3 55. The objective of the Final CRMP is to provide a “wilderness river-running
4 experience in which the natural sounds, silence, sights, and full beauty of the can be
5 experienced, relaxed conversation is possible, and the river is experienced on its own
6 terms.” SAR 004857.

7 56. “To accomplish this objective, the use of motorized boats from Lees Ferry to
8 Separation Canyon will be phased out over a 5-year period.” SAR 004857. Motorized
9 boats will be phased out by 1985. SAR 004858.

10 57. The Park Service sought to improve visitor’s “wilderness experience” by
11 eliminating motorized boat use. SAR 004610.

12 58. The Park Service states that “[s]tudies over the past several years show that
13 the use of motorboats . . .is incompatible with overall visitor enjoyment and resource
14 management objectives.” SAR 002814.

15 59. The Park Service determined that the use “of motorized watercraft . . .will be
16 phased out over a 5 year period. This will achieve the objective . . . to make available the
17 high quality wilderness river-running experience.” SAR 005244.

18 60. In the CRMP, the Park Service states that the plan to eliminate motorized
19 watercraft use of the Colorado River corridor, “rather than representing an elitist choice
20 among the possible means of enjoying the Grand Canyon, . . .is a plan to preserve and
21 make available the fullness of the unique experience which the Colorado River through
22 the Grand Canyon offers to the river runner. Among other provisions of the plan, the
23 elimination of motor use will enhance the experience of wilderness without appreciably
24 changing the demographic characteristics of river users or their total number.” SAR
25 005242.
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1 61. In the EIS for the CRMP, the Park Service notes that “[p]ollutants added to
2 the river as a result of motorized travel include approximately 5,750 pounds of petroleum
3 residue annually, as well as gasoline from leaking tanks and oil spills.” SAR 004598.

4 62. In the EIS, the Park Service notes that “[m]otorized whitewater river trips are
5 currently available on other sections of the Colorado River system, as well as on other
6 western whitewater rivers.” SAR 004619.

7 63. In the CRMP, the Park Service increases the annual use of the Colorado River
8 corridor “both in numbers of people and user days.” SAR 005244.

9 64. In the CRMP, the Park Service increased the user days for commercial
10 concessionaires from 89,000 to approximately 115,500 during the five year phase out
11 period. AR 00862; SAR 005246. A user day is “any person in any part of the canyon for
12 any part of the day.” SAR 005244.

13 65. In the CRMP, the Park Service also increased the applicable river use ceilings
14 in order to accommodate growing demand for self-guided access, which had increased
15 from 7,600 to approximately 54,450 potential user days. AR 00862; SAR 005246.

16 66. In the CRMP, the Park Service allocated approximately 73% of the total
17 number of user days available to the commercial concessionaires and approximately 27%
18 of the total number of user days available to public non-commercial river-runners
19 annually. SAR 005251.

20 67. In the CRMP, the Park Service states that “to reduce crowding and congestion,
21 keep related resource impacts at an acceptable level, and provide a quality river-running
22 experience, the number of people launching is set at a fixed level of 65 per day for the
23 summer season of 183 days. This includes two groups of 25 commercial passengers and
24 one group of 15 non-commercial trip participants.” SAR 004510.

1 68. In the EIS, the Park Service determined that “[r]apid irreversible physical and
2 ecological changes are occurring in the riparian resources of the Colorado River as a
3 result of the present visitor use levels and patterns. The irreversible changes are not
4 necessarily a simple function of the total number of visitors, but more importantly, of use
5 patterns and activities.” SAR 004573.

6 69. In the EIS, the Park Service determined that “motor and oar trips were
7 perceived as equally safe.” SAR 004587.

8 70. In the EIS, the Park Service determined that there “is strong indication that
9 almost all those who have had the opportunity to experience both motor and oar trips
10 prefer oar trips over motor trips.” SAR 004602.

11 71. The Park Service notes that “[r]esearch has indicated that non-motorized trips
12 are more pleasing to the visitor . . . Reasons given suggest that oar travel is seen as more
13 consistent with a natural or wilderness experience.” SAR 004607.

14 72. In the EIS, the Park Service states that “[u]nnatural sounds will continue to
15 intrude upon the quiet of the canyon and create a disturbance for many users. Noises
16 from low-flying aircraft, helicopters, and subsonic and supersonic airplanes are
17 superimposed upon and mask the natural sounds.” SAR 004613.

18 73. The CRMP established a waiting list for persons applying for permits required
19 to access the Colorado River for non-commercial watercraft recreation and monitoring
20 programs to continually assess changes in resource conditions and indicators such as
21 visitor congestion, public demand, and visitor expectations. SAR 005253; SAR 005258.

22 74. The Park Service states in the CRMP that its decision to phase out motorboat
23 use of the Colorado River corridor by 1985 (over a 5 year period) “will achieve the
24 objective of . . .mak[ing] available the high quality wilderness river-running experience
25 which is inherently offered by the unique nature of the Colorado River through the Grand
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1 Canyon. This is also the objective the Grand Canyon National Park Master Plan for the
2 Colorado River corridor, and corresponds with the park wilderness proposal.” SAR
3 005244.

4 75. The Park Service states that its decision to phase out motorboat use in the
5 CRMP is “based on the extensive Colorado River Research project for the Grand Canyon
6 and considers public input from the two series of public meetings on river management.”
7 SAR 005244.

8
9 The 1980 Update to the 1977 Wilderness Recommendation

10 78. In 1980, the Park Service updated its 1977 Wilderness Recommendation. SAR
11 005746.

12 79. The 1980 Wilderness Recommendation includes a proposal to designate
13 980,088 acres within the Grand Canyon for preservation as wilderness. AR 104820. The
14 proposal also includes an additional 131,814 acres of the Grand Canyon as “potential
15 wilderness,” including the entire 226 mile stretch of the Colorado River, from Lees Ferry
16 to Diamond Creek (the upper gorge) and an additional 51 miles from Diamond Creek to
17 Lake Mead (hereinafter “Colorado River corridor”). AR 104823; SAR 005770
18 (Wilderness Recommendation).

19
20 80. The Colorado River corridor was “identified as a potential wilderness due to
21 the existing motorized raft use.” AR 104820.

22 81. The Park Service notes that motorized boat use is “inconsistent with the
23 wilderness criteria of providing outstanding opportunities for solitude and for a primitive
24 and unconfined type of recreation.” SAR 005804. The “river corridor would become
25 wilderness upon phase-out of the use of motors.” AR 104820.

26 82. The Park Service determined that motorized use of the Colorado River is a
27 non-conforming use. SAR 005804. Non-conforming uses are “contrary to the definitions
28

1 of wilderness [but are] . . . considered of a temporary nature which, once removed, should
2 not preclude” wilderness designation). SAR 014841.

3 83. The Colorado River corridor qualifies as “potential wilderness” because
4 motorboat use can, and will, be phased out. SAR 005770; SAR 005804.

5 84. On September 11, 1980, the Director of the Park Service sent a memo to the
6 Assistant Secretary for Fish and Wildlife and Parks confirming that the “Colorado River
7 is recommended as potential wilderness. Under the River Management Plan, motorboat
8 use will be phased out by January 1, 1985, at which time the river is recommended for
9 wilderness designation.” SAR 005770.

10 VI. 1980-1990: THE PARK SERVICE ABANDONS THE FINDINGS OF ITS
11 TWENTY NINE STUDIES, EIS, CRMP, AND WILDERNESS
12 RECOMMENDATION

13 85. In March, 1980 the Mountain States Legal Foundation, on behalf of nine
14 concessioners and 51 private citizens, filed a suit against the Secretary of Interior
15 (Andrus) challenging the portions of the CRMP directing elimination of motorized rafts.
16 AR 00862.

17 The Hatch Amendment

18 86. In November, 1980 the “Hatch Amendment” was added to the one-year 1981
19 Department of Interior Appropriations Bill. SAR 005901.

20 87. The Hatch Amendment prevented the use of appropriated funds to implement
21 a management plan for the Colorado River which “reduces the number of user days or
22 passenger launches for commercial motorized watercraft excursions, for the preferred use
23 period [May 1 through September 30], from all current launch points below that which
24 was authorized for the same period in calendar year 1978.” AR 000862; SAR 005901.

25 The Hatch Amendment caused the Mountain States Legal Foundation lawsuit to be
26 dismissed. AR 000862.
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1 88. On December 23, 1980 a number of Senators, including Orrin Hatch, sent the
2 Park Service Director a letter directing that the current CRMP be “amended by the most
3 expeditious methods which are legally defensible to accommodate the 1978 level and
4 pattern of commercial, motorized watercraft access.” SAR 005901.

5 89. The Hatch Amendment “only precluded enactment of the plan for the one-year
6 life of the appropriation bill.” SAR 006552.

7 The 1981 Revisions to the CRMP

8 90. On March 3, 1981 the Park Service held a meeting regarding how to revise the
9 CRMP in response to the Hatch Amendment. SAR 006032. The Park Service decided
10 that “no additional NEPA documentation is required” to revise the CRMP.
11

12 91. The Park Service stated that they have “a political commitment to issue a
13 revised (or amended) plan in a timely manner.” SAR 006035.

14 92. The Park Service did not see “a need for extensive public meetings” before
15 amending or revising the CRMP. SAR 006040.

16 93. The Park Service determined that the “Hatch figures should be the basis of the
17 plan until adequate research can prove revised figures are needed.” SAR 006044.

18 94. In response to the Hatch Amendment, the Park Service determined that the
19 “overall philosophical approach of the [CRMP] has to be rewritten to reflect the choice of
20 motors or oars and the river experience as opposed to wilderness per se.” SAR 006047.
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22 95. In response to the Hatch Amendment, the Park Service determined it would
23 need to “eliminate the Wilderness Experience subheading” in the CRMP. SAR 006047

24 96. In response to the Hatch Amendment, the Park Service determined it would
25 need to “eliminate [the] Phase out Motorized craft” heading in the CRMP. SAR 006047.

26 97. The Park Service concedes that the “revisions to the 1980 CRMP were
27 “politically driven . . . [and] done in the absence of additional public involvement” or
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1 NEPA compliance. SAR 011283.

2 98. Virtually all references to wilderness management in the 1980 CRMP were
3 deleted in the 1981 revision. SAR 006067.

4 99. The 1981 revisions to the CRMP were made without any input from the public
5 or scientific community or National Environmental Policy Act (“NEPA”) compliance.
6 SAR 006067.

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8 100. The Park Service responded to the one-year Congressional appropriations bill
9 – the Hatch Amendment – by revising the CRMP in 1981 and reversing its decision to
10 eliminate motorized use of the Colorado River. AR 104602.

11 101. A new, revised CRMP was finalized in December, 1981. AR 104602. The
12 revised CRMP “retained motorized use and the increase in user-days that had been
13 intended as compensation for the phase-out of motors, resulting in more motorized use of
14 the river.” Id.

15 The 1989 Revisions to the CRMP

16 102. In 1989, the Park Service revised the CRMP, once again, to address
17 increasing resource impacts caused by the 1981 revisions to the CRMP. SAR 007522.

18 103. The 1989 revision to the CRMP was intended to “supplement existing
19 management guidelines and directives . . . [and] serve to update and revise the 1981
20 [CRMP].” SAR 007526.

21
22 104. The Park Service’s 1989 CRMP notes that review of the 1981 CRMP
23 indicated a need to provide equal means for the public, non-commercial sector to access
24 its permit allocation in light of a 77% increase in the non-commercial waiting list since
25 1981. SAR 007526

26 105. The 1989 CRMP retained the commercial and non-commercial user day
27 allocations established in 1979 but added 38 non-commercial launches in the summer so
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1 that non-commercial river runner use approached its allocation capacity. AR 000863.

2 106. The 1989 CRMP retained use levels and use periods established in previous
3 plans. AR 000863.

4 107. The 1989 CRMP retained motorized use of the Colorado River corridor.
5 SAR 007526.

6 108. The Superintendent of the Grand Canyon stated that the 1989 revision to the
7 original 1980 CRMP “did not provide a rationale to explain the incongruity of motorized
8 rivercraft being used with the river corridor’s potential wilderness designation. We can
9 only state that the 1989 [Revision] was developed in response to the perceived regional
10 political environment at that time. The [Revision], however, is clearly contrary to the
11 instructions provided by the Wilderness Act and the Service’s own management policies
12 concerning the use of motorized equipment within wilderness and the responsibility of the
13 agency to administer potential wilderness areas so as not to degrade their wilderness
14 values.” SAR 011066.

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16 109. According to the Park Service’s Wilderness Coordinator, “[a]lthough [the
17 Hatch] amendment to a single year appropriations bill conflicted with wilderness
18 considerations specified in the Grand Canyon Enlargement Act and the Wilderness Act,
19 the Park Service drastically modified the proposed Colorado River Management Plan to
20 accommodate the Hatch Amendment language.” SAR 008255.

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22 VII. 1990-2000: THE PARK SERVICE RENEWS ITS EFFORTS TO PROTECT THE
23 COLORADO RIVER CORRIDOR’S WILDERNESS CHARACTER AND
ANNOUNCES PREPARATION OF A NEW RIVER MANAGEMENT PLAN

24 110. On June 25, 1990 the Park Service’s Chief of Resource Management drafted
25 a memorandum to the Superintendent of the Grand Canyon. SAR 007653. In the memo,
26 the Park Service notes that the 1989 CRMP “does not address wilderness constraints.
27 Several current activities, particularly crowding and congestion, helicopter exchanges at
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1 Whitmore, and the administrative use of motorboats appear to contradict the intent of
2 wilderness management policy. The appropriateness of continued existing use levels of
3 concessionaires' motorboats will probably be decided by Congress." SAR 0077653.

4 111. On October 22, 1991 the Park Service's Wilderness Coordinator sent a memo
5 to the Superintendent regarding the attainment or non-attainment of wilderness values in
6 the proposed wilderness areas, including the Colorado River corridor, in the Grand
7 Canyon. SAR 008033.

8 112. The Park Service's Wilderness Coordinator notes that the "legal obligation to
9 protect wilderness resources is based upon Public Law 93-620 . . .and the specific
10 requirements of NPS Management Policies regarding proposed wilderness . . .Although
11 the goals of the 1976 Master Plan and the 1979 Colorado River Management Plan
12 (CRMP) called for management of the river corridor as wilderness, subsequent CRMPs
13 have excluded wilderness as a management consideration. The result has been an
14 incremental erosion of wilderness resources, particularly the experimental aspects . . .
15 Consequently, the NPS has not fulfilled the agency's responsibilities of wilderness
16 protection, resulting in degradation of wilderness values along the Colorado River in
17 Grand Canyon National Park. Since 1977 (the wilderness recommendation deadline
18 specified by Congress) these impacts to wilderness values include: (1) a 76% increase in
19 the total number of visitors; and a 67% increase in total user-day allocation; (2)
20 Approximately 500% increase in helicopter exchanges with no environmental compliance
21 on impacts to the visistor experience or GRCA natural and cultural resources . . .(3)
22 Installation of cable cars at three locations and other 'semi-permanent' devices . . .(4)
23 Exacerbation of crowding through implementation of 'user-day pools' for the commercial
24 and a 'double-launch' schedule for the private users . . .(5) Non-compliance with NPS
25 'minimum tool' policies for proposed wilderness. . .(6) Impacts of large numbers of river
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1 runners on backcountry hikers at beaches and attraction sites . . .[and] (7) Continued
2 experimental impacts resulting from aircraft use over the proposed wilerness of GRCA.”
3 SAR 008033-34.

4 113. The Park Service’s Wilderness Coordinator states that “the Park Service is
5 required to manage all proposed wilderness (potential and recommended/study) as
6 Wilderness.” SAR 008034.

7 114. On March 6, 1992 the Park Service’s Wilderness Coordinator drafted a
8 memorandum about the Park Service’s wilderness management policy. SAR 008127. In
9 the memo, the Park Service states that the “Colorado River was recommended as
10 potential wilderness, based on the assumption that the existing nonconforming use, in this
11 case motorized concession trips, would be eliminated in 1985. The Park Service
12 recommended that at the time the nonconforming use was eliminated, the river [would]
13 become designated wilderness.” SAR 008127.

14 115. The Park Service states that they are to manage all potential wilderness areas
15 like the Colorado River corridor “as wilderness.” SAR 008128. The Park Service also
16 states that it is to “seek to eliminate the temporary conditions that precluded wilderness
17 designation.” SAR 008128.

18 116. On March 25, 1992 the Superintendent of the Grand Canyon sent a
19 memorandum to the Park Service’s Wilderness Coordinator. In the memo, the
20 Superintendent states that the Colorado River corridor remains a “potential addition to the
21 Grand Canyon wilderness.” SAR 008133. The Superintendent states that the “non-
22 conforming use identified in the 1980 Wilderness Recommendation was motorboat use
23 that was to be phased out by 1985. Since 1980, additional non-conforming uses that
24 contradict the intent of wilderness management policy have either developed or
25 increased.” SAR 008133. These “non-conforming uses consist of . . .cable crossing for
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1 research purposes, increases in motorized traffic, increases in helicopter exchanges, non-
2 emergency administrative use of motorboats, and exacerbation of crowding and
3 congestion through user day pools.” SAR 008155.

4 The 1993 Update to the 1980 Wilderness Recommendation

5 117. In 1993, the 1980 Wilderness Recommendation was updated to reflect
6 boundary adjustments and address the dispute over the motorized use of the Colorado
7 River corridor. SAR 008274. The Colorado River corridor was included in the 1993
8 Wilderness Recommendation as “potential wilderness.” SAR 008289.

9 118. In the 1993 Wilderness Recommendation, the Park Service notes that “the
10 current levels of motorized boat use probably contradict the intent of wilderness
11 designation [and] . . . is inconsistent with the wilderness criteria of providing outstanding
12 opportunities for solitude and for a primitive and unconfined type of recreation.” SAR
13 008307.

14 119. The 1993 “Final Wilderness Recommendation was . . . submitted to the
15 director. As far as we know, it was never forwarded to the Secretary.” AR 000864.

16 120. On May 10, 1994 the Superintendent of Grand Canyon sent a memo to the
17 Regional Director of the National Park Service regarding clarification of the Hatch
18 Amendment on Park management. SAR 008664. In the memo, the Superintendent states
19 that the “Colorado River is recommended as ‘potential wilderness’ and, according to NPS
20 Policies . . . should be managed as wilderness until the wilderness legislative process is
21 completed.” SAR 008664. The provisions in the Hatch Amendment “appear to contradict
22 the intent of the 1964 Wilderness Act . . . and the 1975 Grand Canyon Enlargement Act.
23 As far as we know, the Hatch provisions have not been specifically repeated in
24 subsequent appropriations bills or other legislation.” SAR 008664.
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1 1994 Wilderness Task Force

2 121. On September 3, 1994 the Park Service's "Wilderness Task Force" published
3 a "Report on Improving Wilderness Management in the National Park Service." SAR
4 008713.

5 122. In the Report, the Park Service notes that under the Wilderness Act, "no
6 commercial enterprise is allowed . . . however, commercial services (e.g., guide services)
7 can be permitted to the extent necessary for realizing purposes of wilderness recreation."
8 SAR 008725.

9 123. In the Report, the Park Service states that "generally, with exceptions
10 authorized for emergency or minimal administrative needs, no use can be made of motor
11 vehicles or motorized equipment or motorboats (the pre-existing use exception for the
12 Forest Service does not apply to the Dept of Interior units)." SAR 008725.

13 124. On September 26, 1994 the Superintendent sent a memo to the Division
14 Chiefs on the status of wilderness in the Grand Canyon. SAR 008756. In the memo, the
15 Superintendent states that he will "manage park lands according to the 1993 Wilderness
16 Recommendation. This means lands which were 'recommended for immediate
17 designation' will be managed as defacto wilderness and lands which were 'recommended
18 for designation as 'potential wilderness' will be managed as potential wilderness." SAR
19 008756.
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21 125. On November 4, 1994 the Director of the Park Service issued a memo to all
22 Superintendents on implementing the recommendations of the 1994 Wilderness Task
23 Force Report. SAR 008765. The Director stated that "NPS areas under study or
24 recommended to Congress for wilderness designation must be planned and managed as
25 wilderness unless such time as Congress decides otherwise." SAR 008766.
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27 126. On November 14, 1994 the Park Service prepared a paper on the history and
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1 interim of wilderness management for the Grand Canyon and the Colorado River. SAR
2 008767. The Park Service notes that throughout “the 10 year wilderness and river
3 management planning process, river running concessionaires consistently opposed the
4 removal of motors on the river, primarily for economic reasons. The larger motorized
5 craft provided significantly higher profitability through a lower staff-customer ratio, a
6 shorter trip, and a resulting higher economic value userday. While concern for safety was
7 given as a principal reason for continuing motorized use, this argument was
8 unsubstantiated.” SAR 008775.

10 127. The Park Service notes in its November 14, 1994 paper that the “Hatch
11 Amendment was a successful backdoor attempt to circumvent a legitimate public
12 involvement process for economic benefit of a special interest group, the river
13 concessioners.” SAR 008776.

14 Special Directive 95-2

15 128. On February 1, 1995 the Director of the Park Service issued Special
16 Directive 95-2 to “reemphasize and clarify” the Park Service’s obligations with respect to
17 managing potential wilderness areas such as the Colorado River corridor. SAR 009148.
18 In the Special Directive, the Director notes that it is “the policy of the NPS that land
19 classified [as potential wilderness be] . . . managed so as not to impair its wilderness
20 characteristics until Congress decides the fate of these areas.” SAR 009148.

22 129. Pursuant to the Special Directive, all “planning for these areas must be
23 oriented toward ensuring the preservation of their wilderness character.” SAR 009148.
24 All potential wilderness areas “will be managed under the provisions of the Wilderness
25 Act and NPS policies to maintain wilderness characteristics and values until Congress
26 decides on the potential for inclusion in the National Wilderness Preservation System.”
27 SAR 009150.

1 The 1995 General Management Plan

2 130. In 1995, the Park Service issued a General Management Plan (“GMP”) for
3 the Grand Canyon. SAR 010126.

4 131. Pursuant to the 1995 GMP, the Park Service is to “protect the natural quiet
5 and solitude” of the Grand Canyon and “manage areas meeting the criteria for wilderness
6 designation as wilderness.” SAR 010138.

7 132. The GMP “treats all proposed wilderness areas as wilderness” and states that
8 the Park will be managed in accordance with the Park Service’s “1993 wilderness
9 proposal.” SAR 010147; SAR 010188.

10 133. With respect to the Colorado River corridor, the GMP directs the Park
11 Service to “protect and preserve the resource in a wild and primitive condition” and
12 ensure that all management plans for the Colorado River be “consistent with NPS
13 wilderness policy requirements.” SAR 010138; SAR 010188.

14 134. The Park Service’s GMP states that all actions and all future plans such as
15 “the Colorado River Management Plan . . . will be consistent with NPS wilderness policy
16 requirements.” SAR 010188.

17 135. In May, 1996 the Park Service’s resource management specialist and
18 wilderness coordinator for the Grand Canyon published a paper on wilderness
19 management at the Grand Canyon. SAR 010272. In the paper, the resource management
20 specialist states that the Park Service’s “extensive public review process [for the
21 Colorado River] and the existing NPS planning documents” do not permit motorized uses
22 to continue. SAR 010275. The Park Service’s policies state that “[p]ublic use of
23 motorized equipment or any form of mechanical transport will be prohibited in wilderness
24 except as provided for in specific legislation.” SAR 016142; SAR 007300. The Park
25 Service also states that strict interpretation of the Wilderness Act supports pre-1965 use,
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1 not subsequent motorized levels, as established use. Id. The Park Service notes that total
2 river use was “about 550 people” in 1964. SAR 010275.

3 136. In 1995, the Park’s wilderness coordinator wrote that, noncommercial
4 boaters represent “a broad spectrum of the ‘general public’ which has a much more
5 difficult time obtaining a river trip than the commercial passenger who can generally
6 purchase a trip for the summer season.” SAR 009145.

7 Notice of Intent to prepare a new CRMP

8 137. In 1998, the Park Service announced its intent to revise the 1989 CRMP.
9 SAR 010585.

10 138. The new, revised “Colorado River Management Plan will attempt to bring
11 the Service back into compliance by addressing wilderness management responsibilities
12 and the need to accommodate the public within this world class resource.” SAR 011066.

13 139. On March 13, 1998, the Park Service received an e-mail regarding how to
14 make the permit allocation for the Colorado River corridor more fair and equitable. SAR
15 011158. The e-mail notes that “[c]ommercial pricing is too high. This has limited its
16 demand and created excess supply. Private costs are so low they create truly infinite
17 demand far above the available supply. . . The commercial owners are monopolists who
18 control their prices (the NPS is supposed to review them but has no rewards system for
19 keeping prices low). These owners . . . have been given a very rewarding situation with
20 no effective controls so they price to keep demand below supply knowing there won’t be
21 any competitors. Their customers then become an elite cross section of America who can
22 best afford their services at any price. The commercial sector milks those who can afford
23 to pay, denying access to those who can’t, through high prices. Naturally, their affluent
24 customers don’t want to be inconvenienced. Naturally, they don’t want to launch on
25 weekends to minimize their lost earnings and use helicopters to speed up their trip. Those
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1 who aren't doctors, lawyers, or other highly paid professionals then must seek out and
2 find the private sector to acquire access." SAR 011158.

3 140. The e-mail also notes that as "more and more people become familiar with
4 private non-commercial rafting they recognize it as a great bargain and everyone wants a
5 piece of it. This demand manifests itself in a huge backlog of people on a wait list who
6 want to organize a low cost private trip because it is the only way they can go.
7 They have no other option because they can't afford a commercial trip. The question
8 during this CRMP review becomes which sector best serves the public while protecting
9 the resource. The answer seems obvious. The private sector is the most egalitarian, it is
10 the people's boating. Unfortunately, it also has the least connections and support in
11 Congress and the Administration. Why are we surprised that the commercial sector,
12 which serves the movers and shakers, has the best access to politicians and can even
13 intimidate the NPS?" SAR 011158.

15 141. On October 12, 1998, the Park Service issued a "Issue and Policy Analysis"
16 on the protection of wilderness suitability and the use of motorized rafts on the Colorado
17 River within Grand Canyon National Park. SAR 011281. In this analysis, the Park
18 Service states that the authority in section 4 (d)(1) of the Wilderness Act with respect to
19 established uses "was not extended to the Secretary of the Interior." SAR 011286. The
20 Park Service determined that in "the absence of a document motor-phase out plan, the
21 continuation of the "Potential Wilderness" classification for the river corridor in the Park
22 Wilderness Recommendation was not consistent with the intent of the Wilderness Act to
23 prohibit motorized use in National Park Wilderness areas, nor was it consistent with NPS
24 policy to seek to eliminate public uses that would be inconsistent with future Wilderness
25 designation. The failure of the NPS to remedy this problem has continued and intensified
26 the outstanding issue of the use of motors within the area included in the Grand Canyon
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1 National Park Wilderness Recommendation.” SAR 011287.

2 142. The Park Service notes that the “Colorado River Management planning
3 process conducted between 1976 and 1979 culminated in a publicly supported plan to
4 phase out the use of motors on the river by 1985. The largest Grand Canyon river
5 concession outfitters who prefer to offer only motorized river trips were not in favor of
6 this plan and were able to convince Senator Hatch to attach a rider to the FY1981 Interior
7 Appropriations Bill. This action together with similar pressures from Secretary of
8 Interior, convinced the NPS to rewrite the plan and drop all wilderness dependent
9 provisions.” SAR 011288.
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11 143. The Park Service notes that it “was unfortunate that the many citizens that
12 supported the motor phase out during the public involvement process were not allowed
13 the opportunity to equally affect the political process.” SAR 011288.

14 144. The Park Service notes that the “newly formed Grand Canyon River
15 Outfitters Association (GCROA), has strengthened the ability of the outfitters to [a]ffect
16 the political process.” SAR 011288.

17 145. On October 26, 1998 the Superintendent drafted a memo to the Associate
18 Director of Park Operations and Education. SAR 011416. In the memo, the
19 Superintendent states that section 4 (d)(1) of the Wilderness Act, which creates special
20 provisions for the Secretary of Agriculture to allow motorboats under certain conditions
21 “clearly does not convey the same authority to the Secretary of Interior. Departmental
22 and NPS policy require that NPS areas recommended for wilderness be managed as
23 designated wilderness until such time as Congress acts on the recommendation.” SAR
24 011416.
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26 Director’s Order 41

27 146. In 1999, the Park Service Director issued Director’s Order 41: Wilderness
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1 Preservation and Management (Director’s Wilderness Order) in order “to provide
2 consistency and accountability” among Park Service wilderness management programs,
3 “clarify policies and establish specific instructions and requirements” regarding
4 wilderness management, and “guide Park Service efforts in meeting the letter and spirit of
5 the Wilderness Act.” SAR 013520.

6 147. Director’s Order 41 adopts Reference Manual 41. SAR 012314.

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8 148. Pursuant to Director’s Order 41, the Park Service is to “ensure that
9 wilderness resources are afforded maximum protection” by administering and
10 “protect[ing] the wilderness resource.” SAR 013523. With respect to potential wilderness
11 areas such as the Colorado River corridor, the Park Service is to manage such areas “as
12 wilderness to the extent that existing nonconforming uses will allow; temporary (non-
13 conforming) uses will be eliminated as soon as practicable in keeping with National Park
14 Service authorities and budgets.” SAR 013524.

15 **VIII. 2000-2005: THE PARK SERVICE ABANDONS ITS PLAN (ONCE AGAIN) TO**
16 **PROTECT THE RIVER’S WILDERNESS CHARACTER, PHASE OUT**
17 **MOTORBOAT USE, AND PREPARE A NEW RIVER MANAGEMENT PLAN**

18 149. On February 23, 2000 Grand Canyon Superintendent Arnberger announced
19 that the Park Service would immediately cease all work on a revised CRMP. SAR
20 014305.

21 150. Superintendent Arnberger justified his decision to cease all work on a new
22 CRMP on “the inability to resolve several . . . issues prior to resolution of the park’s
23 Wilderness Recommendation, and lack of available fiscal and human resources to
24 complete a comprehensive planning effort.” SAR 014305.

25 151. The Park Service took the position that “motor use will continue on the river
26 and user allocation will not change greatly.” SAR 014306.

27 152. On March 6, 2000 the Grand Canyon Private Boaters’ Association (GCPBA)
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1 wrote Superintendent Arnberger expressing their “deep disappointment in and strong
2 disagreement with your decision to abandon the public participation process. The
3 difficulty of decisions to be made should not warrant the abdication of the responsibility
4 to make the decisions.” SAR 014317.

5 153. After the Park Service refused to prepare a new CRMP, GCPBA and other
6 plaintiffs filed a lawsuit in 2000 to compel preparation of the new CRMP. In 2002, the
7 Park Service settled the case by agreeing to reinstate the CRMP planning process. AR
8 000805.

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10 154. On April 5, 2000 the Deputy Wilderness Program Coordinator drafted a
11 memo to Craig Sheldon, Office of Legislative Affairs regarding the authorization for Park
12 Service “potential wilderness.” SAR 014841. In the memo, the Park Service explains that
13 “non-conforming uses” are uses that do not comport with wilderness management. Non-
14 conforming uses are “contrary to the definitions of wilderness included within the
15 Wilderness Act.” SAR 014841. Such uses are “considered of a temporary nature which,
16 once removed, should not preclude the final designation of the areas as wilderness.” Id.
17 This is why the Park Service’s regulations establishing “potential wilderness generally
18 provide for the conversion of these areas into ‘designated’ wilderness . . . [once] the non-
19 conforming use has been terminated or extinguished through authorized procedures.”
20 SAR 014842.

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22 155. On December 1, 2000 the Park Service adopted Director’s Order 47:
23 Soundscape Preservation and Noise Management. SAR 016067.

24 156. In 2003, in preparing a new CRMP, the Park Service stated that “the
25 continued use of [motorized] equipment within [the Colorado River corridor] violate[s]
26 the letter and intent of the Wilderness Act and NPS management policies and director’s
27 orders addressing wilderness.” AR 000813.

1 157. In preparing a new CRMP, the Park Service noted that “the cumulative
2 impacts of related actions may result in impairment to resources even though the effects
3 associated with a single event might not constitute impairment.” AR 023178.

4 158. In preparing a new CRMP, the Park Service noted that “[n]early 11,000
5 commercial passengers currently put-in or take-out at the Whitmore helipad (mile 187)
6 via helicopter shuttles from the rim.” AR 024083.

7 159. In preparing a new CRMP, the Park Service notes that helicopter passenger
8 exchanges at Whitmore, *by themselves*, severely impact the River’s wilderness character
9 and create “dramatic contrast” to the river-running experience. AR 024083. The adverse
10 impacts from helicopters include noise, physical impacts (downwash from rotors blows
11 sand and gear), visual impacts, congestion, safety risks from low flying aircraft, camp
12 competition for sites near the helipad, and creation of an artificial end to the trip. AR
13 024087.

14 160. In the Quartermaster area (between Diamond Creek and Lake Mead)
15 “approximately 600 to 800 helicopter flights per week land and take off at 15 helipads.”
16 AR 017319.

17 161. In preparing a new CRMP, the Park Service notes that they have *huge*
18 cumulative effects from such things as Glen Canyon Dam and overflights, for example,
19 that when you add such cumulative effects to the impacts of the CRMP actions all the
20 alternatives end up with the same overall impact (i.e., major).” AR 015344.

21 162. In preparing a new CRMP, the Park Service noted, in a February 17, 2003
22 memo that the “NPS has no current authority to allow motorized equipment use within the
23 Colorado River corridor except that which is might be ‘necessary to meet minimum
24 requirements of the administration of the area for the purpose of [the Wilderness Act]. By
25 any measure, the current concession operations using motorized equipment exceeds that
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1 which is needed to meet established ‘minimum requirement’ tests. The continued use of
2 this equipment within wilderness violated the letter and intent of the Wilderness Act and
3 NPS management policies and director’s orders addressing wilderness.” AR 00813.

4 163. The Park Service also noted in the February 17, 2003 memo that section 4
5 (d)(1) of the Wilderness Act does not apply to the Secretary of Interior. AR 00813. The
6 Park Service states that it “would be a major tactical mistake on the part of the NPS to
7 attempt to adopt any of the section 4 (d) language and apply it to the Colorado River
8 Management Plan without stating that the Congress would need to provide specific
9 authority to do so.” AR 00813.

10 164. In preparing a new CRMP, the Park Service states that the “[s]econd to last
11 sentence of the response should be rewritten to read ‘ . . .the determination presented in
12 the EIS (impairment) . . .is expected to occur from motorized recreation under any of the
13 alternatives.’ My point is that I would like to see this response rewritten to better clarify
14 the limited scope of the impairment determination in the CRMP, and to not have a great
15 influence (or precedent) on future aircraft use planning documents and potential
16 impairment determinations.” AR 005821.

17 165. In preparing a new CRMP, the Park Service notes in terms of wilderness
18 impacts, the Park Service can consider “Wilderness Act provisions/goals, Opportunities
19 for solitude, Lack of motors, Zoning - bottlenecks/attraction sites, Generators – including
20 blowers, blenders, Power Point presentations, ice cream makers, stereos. . .” AR 010032.

21 166. In preparing a new CRMP, the Park Service notes that “I spoke with Laurie
22 Domler regarding the question of whether or not Wilderness Character should be an
23 impact topic The answer is Yes. . . .at one time prepared [a] wilderness affected
24 environment section . .It was incorporated into Chapter 1. Politics got the best of us?” AR
25 001003.
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1 167. In preparing the new CRMP, the Deputy Wilderness Program Coordinator
2 wrote: “The NPS has no current authority to allow motorized equipment use within the
3 Colorado River Corridor except that which might be “necessary to meet minimum
4 requirements of the administration of the area for the purpose of [the Wilderness Act].”
5 By any measure, the current concession operations using motorized equipment exceeds
6 that which is needed to meet established “minimum requirement” tests. The continued
7 use of this equipment within wilderness violated the letter and inten[t] of the Wilderness
8 Act and NPS management policies and director’s orders addressing wilderness.” AR
9 000813.
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11 168. The Park Service has stated that it must address “[h]ow ‘necessary and
12 appropriate’ is the current concession allocation level” and the “National Park Service
13 preference for motorized concession operations.” SAR 009145; AR 000334 (planning
14 document for CRMP).

15 169. In its internal planning document for the CRMP, the Park Service determined
16 it needed information on the “relative demand for motor trips vs. oar trips” and “relative
17 demand for different types of use over different seasons within the year (i.e. commercial,
18 noncommercial, educational, research, etc.)” AR 000354-355 (emphasis original).

19 170. The Park Service stated that the “primary user group that most needs access,
20 and constitutes a broader range of economic levels, is the private [public] user.” SAR
21 011162.
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23 171. Members of the public who have the financial means and inclination to gain
24 river access by paying for a private commercial trip are assured a trip down the river.
25 SAR 011158 (commercial trips are priced to keep demand below supply); SAR 011161
26 (“the [split allocation commercial] access system favors the affluent); SAR 9145 (a
27 commercial user can generally go in the summer she chooses).
28

1 172. Public comments demonstrate that people take commercial trips down the
2 river because they cannot gain access through the noncommercial permit system. AR
3 033403 (“At present, some companies allow clients to bring their rafts or kayaks;
4 however they do not allow passengers on these boats and do not allow non-owners to
5 paddle kayaks. However, there is a definite demand for these services within the
6 paddling community. For instance, A[merican] W[hitewater]’s President Barry Tuscano,
7 as well as other board members, have hired commercial outfitters to let them tag along in
8 their personal kayaks or rafts since they could not get a private boater permit.”); AR
9 027553 (“I would like to let you know that I signed up with a rather expensive outfitter so
10 I would be able to get to paddle the Colorado River through the Grand Canyon. I feel that
11 the commercial outfitter is my only chance to get to run the river while I am still young
12 enough to paddle it. I believe there ought to be many more opportunities for private
13 boaters than the current system allows.”); AR 027700 (“I have pretty much written it off
14 as impossible due to the 10 year waiting list to get in unless you pay thousands of dollars
15 to a guide company.”); AR 039423 (“This summer I organized a group of 21 canoeists
16 and 3 kayakers on a commercial raft supported trip paddling the Grand Canyon. It is my
17 second such trip, the last being 1999. I had to wait 3 years to get this commercial trip
18 organized. I have been on the private trip waiting list since 1999. If it goes as it has
19 been, it looks like I’ll be 65 before I can organize a trip of my choosing down the
20 canyon.”); AR 039452 (“Eliminate commercial outfitters offering ‘kayak support trips.’
21 Kayakers have a huge and unfair loophole in the system. They are literally buying private
22 access to run their own boats. If kayakers can do this, why can’t rafters buy ‘rafting
23 support trips?’”); AR 040394 (“I’ve twice payed to kayak this river – I hope to have my
24 waiting list number come up before I’m too old to paddle – or I die while waiting!”); AR
25 040946 (“With commercial companies, we didn’t have to wait for years for a permit.”).
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1 173. Many members of the public would like a chance to take a noncommercial
2 trip down the Colorado River through the Grand Canyon and because of the preference
3 given to commercial users, they fear that they will never have the opportunity. AR
4 027512, 027543, 027933.

5 174. The Park Service received many comments about the inequity in access for
6 the public and the impairment of their experience when motorized boats are in the Grand
7 Canyon. AR 027590

9 IX. THE 2005 CRMP, FEIS, AND RECORD OF DECISION

10 The Final Environmental Impact Statement (“FEIS”)

11 175. In November, 2005 the Park Service released a Final Environmental Impact
12 Statement (“FEIS”) for a new Colorado River Management Plan (“CRMP”). AR 014555.

13 176. In the FEIS, the Park Service states that the cumulative effects of the
14 management of backcountry toilets, trails and facilities . . . would have adverse, localized,
15 short term, year-round impacts on wilderness character.” AR 105828.

16 177. In the FEIS, the Park Service states that cumulative impacts are “described
17 for each alternative for natural and cultural resources and visitor use and experience.” AR
18 105818. The FEIS includes two non-motorized alternatives. AR 109601.

19 178. In the FEIS, the Park Service states that “[m]otorboat use introduces
20 contaminants such as hydrocarbons and burned and unburned fuel and motor oil” to the
21 Colorado River corridor. AR 105321.

22 179. The Park Service’s “wilderness character” section of the FEIS was not
23 included in the draft EIS (“DEIS”) which was submitted and circulated for public review
24 and comment. AR 001003.

25 180. The wilderness section of the FEIS was only added “[i]n response to
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1 comment” on the DEIS. AR 105207.

2 181. In the FEIS, the Park Service commits to managing the Colorado River
3 corridor “as potential wilderness in accordance with NPS Management Policies.” SAR
4 104821.

5 182. In the FEIS, the Park Service determined that its continued authorization of
6 motorboats, generators, and helicopter passenger exchanges in the Colorado River
7 corridor does not “result in the impairment of the [Grand Canyon’s] natural soundscape.”
8 AR 105424.

9 183. In the FEIS, the Park Service states that “motorized raft use” is a “temporary,
10 non-conforming or incompatible use.” AR 104820. “The river corridor would become
11 wilderness upon phase-out of the use of motors.” Id.

12 184. The FEIS states, the “Colorado River was identified as potential wilderness
13 due to the existing motorized raft use.” AR 104820.

14 185. In the FEIS, the Park Service finds that the “Grand Canyon’s natural
15 soundscape is considered a disappearing resource that requires restoration, protection, and
16 preservation.” AR 104728-29.

17 186. In the FEIS, the Park Service admits that there continues to be a “significant
18 adverse effect” on the Grand Canyon’s “natural soundscape” that will not be alleviated by
19 its decision to authorize motorboats, generators, and helicopters in the Colorado River
20 corridor. AR 105424.

21 187. The Park Service’s own “criteria” for defining impairment is an action that
22 causes an “unacceptable [noise] disturbance” or results “in sound pollution that intrudes
23 upon the tranquility and peace of visitors” results in impairment. AR 023176-77.

24 188. In the FEIS, the Park Service states that “no impairment of park resources or
25 values is expected to occur from activities associated with river recreation under any of
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1 the alternatives.” AR 105066. The natural sounds of the Grand Canyon are considered to
2 be “an inherent component of the scenery, natural and historic properties, wildlands, and
3 recommended wilderness that constitute the bulk of the park (94%)” and a “key
4 component of the wilderness river experience.” SAR 016067.

5 189. In the FEIS, the Park Service provides a partial list of actions that may
6 cumulatively impact the Grand Canyon’s natural soundscape. AR 105286; AR 105394.

7 190. In the FEIS, the Park Service concedes that its authorization of motorboats
8 will “contribute to the overall cumulative effects of noise on the park’s natural
9 soundscape.” AR 105424; AR 105423-24.

10 191. In the FEIS, the Park Service acknowledges that noise intrusions to the
11 natural soundscape of the Park are “adverse, localized, and regional” and that, when
12 viewed in combination with other sources of noise intrusions (i.e., aircraft overflights)
13 would be a “significant adverse effect” on the Colorado River corridor’s natural
14 soundscape.” AR 105424.

15 192. In the FEIS, the Park Service concedes that “impacts to wilderness character
16 . . . will be detectable and measurable during most of the year, but more apparent during
17 the higher mixed-use period, at the frequently visited areas and passenger exchange points
18 along the river corridor.” AR 109612.

19 193. In the FEIS, the Park Service states that “[f]or visitors seeking outstanding
20 opportunities for solitude or a primitive and unconfined type of experience [i.e, a
21 wilderness experience], the impacts would be adverse and of moderate intensity during
22 the peak use motorized periods.” AR 105829.

23 194. In the FEIS, the Park Service justifies its decision to authorize motorized use
24 of the Colorado River corridor by stating that such uses are only a “temporary or
25 transient” disturbance of wilderness and are “established uses” pursuant to § 4 (d)(1) of
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1 the Wilderness Act that do not preclude wilderness designation. AR 104822.

2 195. In the FEIS, the Park Service failed to analyze and consider the overall,
3 combined effects from all noise intrusions on the Park’s natural soundscape. AR 105394;
4 AR 105423-24.

5 196. In the FEIS, the Park Service never assessed how its authorization of
6 motorboats, generators, and helicopter exchanges in relation to other past, present, or
7 future actions occurring in, above, or adjacent to the Colorado River corridor impair the
8 Park’s natural soundscape. AR 105394; AR 105423-24.

9 197. In the FEIS, the Park Service defines the term “wilderness character.” AR
10 104822. Wilderness, “in contrast with those areas where man and his works dominate the
11 landscape, is hereby recognized as an area where the earth and its community of life are
12 untrammelled by man, where man himself is a visitor who does not remain.” AR 104822.
13 Wilderness areas are undeveloped lands that retain their “primeval character [and]
14 influence with permanent improvements or human habitation . . . [g]enerally appear to
15 have been affected primarily by the forces of nature, with the imprint of man’s work
16 substantially unnoticeable” and provide “outstanding opportunities for solitude or a
17 primitive and unconfined type of recreation.” AR 104822-23.

18 198. In the FEIS, the Park Service states that the baseline condition upon which
19 impacts are to be measured, is the natural sound of the Colorado River corridor in the
20 absence of human-caused noise, i.e., the flowing water and rapids of the River, wind,
21 storm activity, wildlife activity, and other natural sound generation such as rock and mud
22 slides. AR 104728; SAR 016069-72 (defining the natural ambient sound level or baseline
23 condition).

24 199. In the FEIS, when evaluating the impairment to the Grand Canyon’s natural
25 soundscape in this case, the Park Service failed to apply the proper natural ambient sound
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1 level or baseline standard. AR 104729.

2 200. The FEIS states that “the service provided by commercial concessioners,
3 which enable thousands of people to experience the river in a relatively primitive and
4 unconfined manner and setting (when many of them otherwise would be unable to do so),
5 are necessary to realize the recreational and other wilderness purposes of the park.” AR
6 104606.

7 201. The FEIS states that “since visitors who wish to raft on the Colorado River
8 through the Grand Canyon possess neither the equipment nor the skill to successfully
9 navigate the rapids and other hazards of the river, the [Park Service] has determined that
10 it is necessary and appropriate for the public use and enjoyment of the park to provide for
11 experienced and professional river guides who can provide such skills and equipment.”
12 AR 104606.

13 202. In the FEIS, the Park Service measured its authorization of motorized
14 activities against “natural ambient sound levels . . . in the presence of audible human-
15 caused noise including aircraft overflights.” AR 104729.

16 203. In the FEIS, the Park Service notes that “[a]ircraft overflights have an
17 adverse, long-term, major cumulative effect on the park’s natural soundscape. Even if all
18 river-related noise was removed from the park, the park would still experience adverse,
19 major effects from aircraft overflights independent of [the] river management plan.” AR
20 105423.

21 204. In 2007, the Park Service estimates that over 24,000 people will use the
22 Colorado River corridor. AR 109592.

23 205. The Park Service has stated that commercial motorized uses of the Colorado
24 River are not necessary for the public to realize the recreational or other wilderness
25 purposes of the park. SAR 005804 (motorized boats are unnecessary); SAR 005100
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1 (special needs groups can access the river on oar-powered trips).

2 206. Even for special needs groups, the Park Service has found, since at least the
3 late 1970s, that “[o]ar-powered rafts [] provide safe trips for aged, handicapped, and
4 young people.” SAR 005100.

5 207. Eliminating motorized trips would not sharply reduce recreational
6 opportunity and use. SAR 011164.

7 208. Evidence in the record shows that commercial motorized uses of the
8 Colorado River are not necessary for the public to realize the recreational or other
9 wilderness purposes of the park. SAR 002647 (study for NPS finding that “eliminating
10 motor . . . trips would not appear to exclude any specific group”); AR 092571 (passengers
11 on self-guided and commercial trips range in age between 10 and 82 years old).

12 209. Even for administrative resource trips, Park Service experts have said that
13 motorized boats are unnecessary: “There is no reason to use motors, other tha[n] to
14 placate the motor heads.” SAR 011163

15 210. Park studies have demonstrated that most people prefer smaller groups on the
16 river and when commercial passengers took an experimental combination “motor-oar”
17 trip, “92% reported that oar trips better enabled them to ‘experience the Grand Canyon
18 environment.’” AR 106062.

19 211. In the FEIS, the Park Service never links the amount of commercial services
20 authorized with a finding that the amount is essential. AR 104555.

21 212. The Park Service failed to identify in the ROD or FEIS any specific amount
22 of commercial services that meet its finding of “necessary and appropriate” commercial
23 services. AR 104555; AR 109590.

24 213. The only specific discussion of the necessity or propriety of commercial
25 services is found on three pages of the FEIS. AR 104605-07. This discussion was not
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1 included in the DEIS. Id.

2 214. The FEIS's analysis of the allocation system does not account for what level
3 of commercial services are necessary and appropriate. AR 104614-17.

4 215. User-days and numbers of passengers are a function of the launches per day,
5 group sizes and trip lengths. See AR 104645-46 (key trip variables).

6 216. The FEIS caps commercial user-days at 115,500, finding that approximately
7 17,606 passengers will take a commercial trip annually, but allows for an increase in
8 commercial motorized use. AR 104646-47; AR 109593.

9 217. One way in which the Park Service provides greater commercial access is by
10 allowing 32 people on each commercial trip during the summer season and 24 people
11 during the shoulder season, in contrast to 8 and 16 people for noncommercial trips. AR
12 104646.

13 218. Motorized trips make up roughly 75 percent of the allocated commercial use.
14 AR 104647.

15 219. In the FEIS, the Park Service's methodology for estimating use levels for all
16 of its alternatives was premised upon actual launch data between 1998 and 2003. AR
17 106088. The range of alternatives was developed by setting separate limits for the
18 different variables (such as launches per day, group size limits, trip length) for each type
19 of trip. Id. The Park Service does not disclose how it arrived at these separate limits. Id.

20 220. The Park Service never factored into its analysis the relative demand for
21 commercial and noncommercial trips and methods for fairly allocating use between those
22 two user groups. AR 023285 ("because we do not have and cannot obtain concrete data
23 on relative demand from user groups, we can expect a lawsuit both if we change and if
24 we do not change the allocations."); AR 105716 (speculating that it would cost the Park
25 around \$2.5 million to conduct a demand study).
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1 221. How to fairly allocate use between commercial and noncommercial users
2 was one of the primary issues raised during public scoping for the CRMP. AR 104591.

3 222. The FEIS does not cap noncommercial user days, but estimates they will
4 reach 113,486 per year for an estimated 7,051 passengers. AR 104647. These estimates
5 are based upon allocating noncommercial use primarily in the less-preferred winter
6 season and in the shoulder seasons of spring and fall and by reducing the trip length for
7 noncommercial oar-powered trips in order to increase the number of launches. AR
8 104647; AR 109593; AR 065795 (summer is preferred and winter is not).

9
10 223. All commercial users will be able to take their river trips in the summer and
11 shoulder seasons, but over one-quarter of the annual noncommercial users will be forced
12 to take a winter trip in order to float the river. AR 104647.

13 224. In the past, only an average 318 noncommercial passengers per year have run
14 the river in the winter. AR 104632. The Park Service estimates that 1,855 noncommercial
15 passengers will now want to run the river in the winter. Id.

16 225. For summer trips, the FEIS estimates that an additional 387 noncommercial
17 passengers will be able to run the river. However, the majority of the theoretical increase
18 in noncommercial passengers comes in the winter with an estimated 1,537 additional
19 passengers and in the shoulder season with an estimated 1,556 additional passengers.
20 Compare AR 104647; AR 104632. Thus, nearly 89 percent of the estimated increase in
21 noncommercial passengers annually is allocated to the winter and shoulder seasons, while
22 the commercial users maintain the majority of their allocation in the summer. Id. (91,909
23 of 115,500 commercial user days in summer season).

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25 226. The FEIS's discussions of alternatives and carrying capacity do not address
26 what level of commercial services are necessary and appropriate. AR 104617-22; AR
27 104645-46.
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1 227. The Park Service limits and allocates use in a split allocation system between
2 commercial and noncommercial user groups, providing the majority of the allocated use
3 to motorized commercial use. AR 104645-47.

4 228. Commercial outfitters do not always launch the maximum number of trips
5 allowed per day, do not always launch at the maximum group size and do not always take
6 the maximum trip length. AR 106089.

7 229. Other evidence also supports the fact that a commercial passenger can
8 generally take a trip in the year she wants. See AR 000370, 000392-393.

9 230. There is no evidence in the FEIS that commercial river runners have had to
10 wait to obtain access through the concessioners' user days. AR 104555.

11 231. Commercial river travelers are a select group with high incomes and
12 educational levels. SAR 002646.

13 232. A commercial motorized trip down the river costs approximately \$300 per
14 day. AR 092571. Studies show that “[f]orty seven percent of commercial passengers
15 have a household income over \$100,000 while only 12% of the national population have a
16 household income over \$100,000. The household income of self-guided boaters i[s] very
17 close to the national average.” Id.

18 233. Members of the public who are not already on the noncommercial waitlist
19 and who cannot afford to pay a commercial outfitter and/or do not wish to take a
20 commercial trip, have no guarantee they will be able to take a trip down the Colorado
21 River, ever. AR 104700 (the new permit system would favor those who have been
22 unsuccessful in obtaining a permit in prior years, but does not guarantee a permit); AR
23 109609 (noncommercial demand has exceeded supply of permits since 1973); AR 105715
24 (“Based on the exponential growth of the waitlist, demand undeniably exceeds supply.”)

25 234. Under the old permit system, a member of the public (a trip leader) would
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1 wait between 10 and 20 years to obtain a permit to take a non-commercial trip down the
2 river. AR 104697.

3 235. At the time of the FEIS, there were approximately 8,000 trip leaders on this
4 list who were waiting to obtain a permit, and roughly 1000 new applicants each year. Id;
5 AR 1009609. Based on an average group size of 13, these 8,000 trip leaders represent
6 approximately 104,000 members of the public who would go down the river on permits
7 for noncommercial trips. SAR 009145.

8 236. Under the new system, the Park Service estimates that over half of the
9 waitlist applicants will receive a launch date within ten years and in twenty years, the
10 majority of the waitlist will have successfully obtained a launch date. AR 105732.

11 237. The FEIS finds that “noncommercial groups generally believe their
12 proportion of the overall allocation is unfairly small,” while “[c]ommercial users
13 generally believe their allocation is either appropriate, somewhat below where it should
14 be, or slightly higher than it needs to be.” AR 105715.

15
16 Record of Decision

17 238. On February 17, 2006 the Park Service signed its Record of Decision (ROD)
18 for the CRMP adopting the preferred alternatives in the FEIS – Modified Alternative H
19 for the Lees Ferry to Diamond Creek or “Upper Gorge” segment of the Colorado River
20 corridor and Modified Alternative 4 for the Lower Gorge segment of the Colorado River
21 corridor. AR 109592.

22 239. The ROD authorizes the use of motorboats, helicopter passenger exchanges,
23 and generators in the Grand Canyon’s Colorado River corridor, a potential wilderness
24 area. AR 109592.

25 240. The ROD allows motorized use of the Colorado River corridor during the
26 popular summer season (over 5 ½ months), helicopter passenger exchanges, and an
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1 increase in the maximum number of annual users of the Colorado River. AR 109592.

2 241. Pursuant to the ROD, commercial motorized use of the Colorado River
3 corridor will increase. AR 109593.

4 242. Pursuant to the ROD, commercial users will be able to take their river trips in
5 the summer and shoulder seasons, but over one-quarter of the non-commercial users will
6 be forced to take a winter trip in order to float the Colorado River in the Grand Canyon.
7 AR 109592-93.

8 243. The ROD allows motorized use of the Colorado River from April 1 until
9 September 15 and creates a non-motorized window from September 16 until March 31.
10 AR 109592.

11 244. The ROD allows for an increase in the estimated yearly passengers on the
12 Colorado River to totals of 24,657. AR 109593.

13 245. Before the 2006 ROD, an average of 18,891 commercial passengers took
14 trips down the river annually, while 3,570 noncommercial passengers took trips. AR
15 104632 (no action alternative). Commercial use was capped at 115,500 user-days and
16 noncommercial use was capped at 54,450 user days annually. AR 104632. Of the
17 commercial passengers, 14,487 took motorized trips, accounting for 74,260 user-days.
18 AR 104632.

19 246. Pursuant to the ROD and CRMP, the public gains access to travel down the
20 river by either: (1) applying for a non-commercial permit through the lottery system and
21 coordinating a public river trip; or (2) paying a commercial concessioner, which already
22 has guaranteed allocated use of the river, to take people on a commercial trip down the
23 river via motorized or non-motorized raft. AR 109593.

24 247. Pursuant to the ROD, the number of total launches per day in the summer
25 season would be decreased from nine to the current average of six. Commercial motor
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1 trip and oar trip group sizes would be decreased from the maximum of 42 to the current
2 average of 32 people in the summer and 24 people during other times. Non-commercial
3 trip group sizes would remain at 16 people for a standard trip and a new small group size
4 of 8 was also added to reduce campsite competition along the river. AR 109592-93.

5 248. Pursuant to the ROD, even though the maximum number of river trips at one
6 time would be reduced from 70 to 60 trips and the maximum number of people at one
7 time would be reduced from 1,095 to 985, commercial motorized use is expected to
8 increase to an estimated 76,913 user days. AR 109593.

9 249. The ROD eliminates the waiting list for non-commercial permits and
10 replaces it with a weighted lottery system. AR 109610 -11. Under the new system, trip
11 leaders on the old waitlist would obtain launch dates within 10 to 20 years. Id.

12 250. The CRMP allows all recreational passengers to take one trip per year. The
13 hybrid weighted lottery system for noncommercial use gives preference to those who
14 have not taken a river trip in the last four years. AR 109595; AR 109599.

15 251. The ROD contends that the CRMP FEIS analyzed the types and level of
16 commercial services that are necessary and appropriate for the Colorado River through
17 the Park. AR 109596.

18 252. In the ROD, the Park Service claims that non-commercial use will increase
19 under the revised CRMP, but that claim is based primarily on the Park Service's
20 assumption that non-commercial river users will want to float the Colorado River in the
21 winter season in greater numbers than they do today. AR 109593.

22 253. The ROD allocates roughly 60% of the user days for summer and shoulder
23 river trip seasons to commercial concessionaires. This means that during the preferred
24 summer and shoulder river trip seasons, roughly 77% of recreational river users will be
25 paying, commercial users and roughly 23% of recreational river users will be non-
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1 commercial. During the winter, no commercial users will be on the river, but according
2 to the Park Service, 1,855 non-commercial river runners may take a winter trip each year,
3 even though in the past only approximately 318 people have done so. If any user wants to
4 float the Grand Canyon without the noise and distraction of motorboats, they will be
5 forced to do so in the winter season. AR 109592-93.

6 254. The ROD and FEIS do not base its allocation between commercial and non-
7 commercial users on the best available information regarding river use and demand. The
8 CRMP and ROD's apportionment of use is inequitable in terms of overall use, group size
9 and timing of use. AR 109592-53.

10 255. The ROD allows helicopter exchanges at Whitmore to accommodate
11 commercial river trips. An estimated 3,635 commercial passengers will be transported by
12 helicopter to Whitmore to begin their river trips. An estimated 5,715 commercial
13 passengers will be transported by helicopter at the end of their river trips at Whitmore.
14 AR 109592-54.

15 256. The ROD authorizes the use of generators in the Colorado River corridor for
16 "emergency situation and inflating rafts" and "other purposes." AR 109597.

17 257. In the ROD, the Park Service states that "[i]mpacts to the natural conditions
18 (except soundscape) and undeveloped character will be of minor intensity." AR 109612.

19 258. In the ROD, the Park Service states that "[f]or visitors seeking outstanding
20 opportunities for solitude or a primitive and unconfined type of experience, the impacts
21 will be adverse and of moderate intensity during the peak-use motorized periods, with
22 beneficial and negligible impacts during the longer nonmotorized use period with smaller
23 group size." AR 109612-13.

24 259. In the ROD, the Park Service states that no impairment or derogation to the
25 Grand Canyon's resources or values is allowed. AR 109611; AR 003247.

1 260. The Park Service did not make a finding in the FEIS or ROD that
2 commercial *motorized* use of the Colorado River corridor is necessary or appropriate for
3 the public to realize the recreational and other wilderness purposes of the river. AR
4 109590; AR 104555.

5 Respectfully submitted this 25th day of May, 2007.

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