



## FINDING OF NO SIGNIFICANT IMPACT

### Personal Watercraft Use

#### Pictured Rocks National Lakeshore

The National Park Service (NPS) has prepared an environmental assessment (EA) that evaluates a range of alternatives and strategies for the management of personal watercraft (PWC) use at Pictured Rocks National Lakeshore in order to ensure the protection of park resources and values while offering recreational opportunities as provided for in the park's enabling legislation, purpose, mission, and goals. In accordance with the National Environmental Policy Act of 1969 (NEPA), NPS is taking action to adopt special regulations to manage or discontinue PWC use within park units.

In May 1998 the Bluewater Network filed a petition urging the NPS to initiate a rulemaking process to prohibit PWC use throughout the national park system. In response to the petition, the NPS issued an interim management policy requiring superintendents of parks where PWC use can occur to close the unit until the rule was finalized. The Park Service envisioned the servicewide regulation as an opportunity to evaluate impacts from PWC use before authorizing the use. On March 21, 2000, the NPS issued a regulation prohibiting PWC use in most units and required 21 units, including Pictured Rocks, to determine the appropriateness of continued PWC use.

In response to the PWC final regulation, Bluewater Network sued the NPS, challenging the National Park Service's decision to allow continued PWC use in 21 units while prohibiting PWC use in other units. In response to the suit, the NPS and the Bluewater Network negotiated a settlement. While 21 units could continue PWC use in the short term, each of those parks desiring to continue long-term PWC use would promulgate a park-specific special regulation. In addition, the settlement stipulates that the NPS must base its decision to issue a park-specific special regulation to continue PWC use through an environmental analysis conducted in accordance with the National Environmental Policy Act. The NEPA analysis at a minimum, according to the settlement, must evaluate PWC impacts on water quality, air quality, soundscapes, wildlife, wildlife habitat, shoreline vegetation, visitor conflicts, and visitor safety.

On April 22, 2002, PWC use was discontinued at Pictured Rocks National Lakeshore. Since PWC was discontinued, Pictured Rocks National Lakeshore has identified a preferred alternative that reinstates PWC under a special regulation with management restrictions.

The purpose of the EA was to evaluate the effects of authorizing a special regulation to address the use of PWC within the park boundaries. Three alternatives concerning the use of PWC at Pictured Rocks were evaluated, which included two alternatives to continue PWC use under certain conditions: alternative A would allow PWC use as previously managed under a special regulation, and alternative B would allow PWC use under a special regulation with management restrictions. In addition, a no-action alternative was considered that would prohibit all PWC use within the national lakeshore.

## PREFERRED ALTERNATIVE

The NPS preferred alternative is a modified alternative B. Alternative B was modified after extensive review of the environmental analysis and public comment. Under the modified alternative B, the following stipulations would apply:

- PWC would be allowed to operate on the waters of Lake Superior within the boundaries of Pictured Rocks National Lakeshore from the western boundary of the lakeshore up to the east end of Miners Beach.
- PWC use would be allowed under the following conditions:
  - Personal watercraft may only be launched from a designated launch site at Sand Point, and may be beached at Sand Point Beach.
  - PWC users may beach their craft on Miners Beach.
  - PWC users may not launch or operate in any other area of the lakeshore.
- The superintendent may temporarily limit, restrict, or terminate access to areas designated for PWC use after taking into consideration public health and safety, natural and cultural resource protection, and other management activities and objectives.
- PWC use would be restricted at specific locations during the permitted use of ethnographic resources. Boat patrols would be conducted in the vicinity of the ethnographic resource use in order to reduce the potential for PWC-related intrusion into the ceremonial activity.
- PWC users would continue to abide by Michigan's Personal Watercraft Safety Act of 1998 (Public Act 116) and related regulations. Specific state regulations that are incorporated as part of this alternative include:
  - Timing restrictions: Personal watercraft can only be used between 8:00 a.m. and one hour before sunset.
  - Age restrictions: Children 7 or younger on a personal watercraft must be accompanied by a parent or guardian; children under the age of 12 cannot operate personal watercraft; children between 12 and 14 may operate personal watercraft if they obtained a boating safety certificate prior to January 1, 1999.
  - Wake restrictions: PWC operation on Lake Superior cannot occur within 200 feet of the shore unless operating at a slow, no-wake speed and traveling perpendicular to the shore.
  - Location restrictions: PWC operation on Lake Superior cannot occur within 200 feet of the shore unless operating at a slow, no-wake speed and traveling perpendicular to the shore.
  - Depth restrictions: Personal watercraft cannot operate where water depth is less than 2 feet, unless operating at a slow, no-wake speed.
  - Dangerous behavior: Personal watercraft cannot be operated within 150 feet of other watercraft, and users are required to observe restrictions related to speed, wake jumping, and other actions, which would be enforced per state regulations.

This alternative would allow unrestricted PWC use along the Lake Superior shoreline within the western end of the park, covering approximately 8 miles of shoreline. The numbers of personal watercraft would not be restricted. Alternative B is the lakeshore's preferred alternative and the environmentally preferred alternative.

#### **ADDITIONAL ALTERNATIVES CONSIDERED**

As noted above, the EA evaluated three alternatives concerning the use of personal watercraft at Pictured Rocks:

*Alternative A* would continue PWC use as previously managed under a special regulation.

*Alternative B* would continue PWC use under a special regulation with additional management restrictions. A modified alternative B has been identified as the preferred alternative.

*No-action alternative* would discontinue all PWC use within the National Lakeshore.

#### **ENVIRONMENTALLY PREFERRED ALTERNATIVE**

The environmentally preferred alternative is determined by applying the criteria suggested in the National Environmental Policy Act of 1969 (NEPA), which is guided by the Council on Environmental Quality (CEQ). The CEQ provides direction that "[t]he environmentally preferable alternative is the alternative that will promote the national environmental policy as expressed in NEPA's Section 101," which will:

- fulfill the responsibilities of each generation as trustee of the environment for succeeding generations;
- assure for all generations safe, healthful, productive, and esthetically and culturally pleasing surroundings;
- attain the widest range of beneficial uses of the environment without degradation, risk of health or safety, or other undesirable and unintended consequences;
- preserve important historic, cultural and natural aspects of our national heritage and maintain, wherever possible, an environment that supports diversity and variety of individual choice;
- achieve a balance between population and resource use that will permit high standards of living and a wide sharing of life's amenities; and
- enhance the quality of renewable resources and approach the maximum attainable recycling of depletable resources.

The environmentally preferred alternative is alternative B. Alternative B will satisfy the majority of the six requirements detailed above. In the long term, this alternative will help visitors enjoy a beneficial use by allowing access to the National Lakeshore amenities by PWC users while accommodating passive outdoor recreationists and meeting resource management objectives. This alternative would accommodate recreational opportunities for visitors while protecting sensitive natural and ethnographic resources. Alternative B is designed to meet the National Park Service's general prohibition on PWC use for the protection of park resources and values while providing access to the National Lakeshore by PWC operators.

Based on the analysis prepared for PWC use at Pictured Rocks National Lakeshore, alternative B is considered the environmentally preferred alternative by best fulfilling park responsibilities as trustee of sensitive habitat; by ensuring safe, healthful, productive, and aesthetically and culturally pleasing surroundings; and by attaining a wider range of beneficial uses of the environment without degradation, risk of health or safety, or other undesirable and unintended consequences.

#### **WHY THE PREFERRED ALTERNATIVE WILL NOT HAVE A SIGNIFICANT EFFECT ON THE HUMAN ENVIRONMENT**

As documented in the EA, the NPS has determined that the preferred alternative (modified alternative B) can be implemented with no significant adverse effects to water quality; air quality; soundscapes; wildlife and wildlife habitat; aquatic fauna; threatened, endangered, or special concern species; shoreline vegetation; submerged aquatic vegetation; visitor experience; visitor safety; cultural resources; the socioeconomic environment; and National Lakeshore operations and management. As defined in 40 CFR §1508.27, significance is determined by examining the following criteria:

***Impacts that may be both beneficial and adverse. A significant effect may exist even if the Federal agency believes that on balance the effect will be beneficial:*** The settlement between NPS and Bluewater Network requires the NEPA analysis to evaluate PWC impacts to water quality, air quality, soundscapes, wildlife and wildlife habitat, shoreline vegetation, visitor conflicts, and visitor safety. PWC with two-stroke engines discharge a gas-oil mixture, which consists of hydrocarbons and polycyclic aromatic hydrocarbons, into the water, resulting in adverse effects on water quality. At Pictured Rocks National Lakeshore, hydrocarbon discharges to water are expected to decrease considerably over the next ten years due to mandated improvements in engine technology.

The 2002 and 2012 threshold volumes to meet ecotoxicological benchmarks for water quality are extremely small in relation to the volumes of water available, indicating that these pollutant loads will result in concentrations well below the ecotoxicological benchmarks. Consequently, negligible to minor adverse impacts to water quality, with minor to moderate adverse phototoxic effects on aquatic life, are expected in 2002 and in 2012.

Continuing PWC use at Pictured Rocks west of Miners Beach will result in negligible adverse impacts to human health for all airborne pollutants. PWC-related air quality impact levels will range from negligible to moderate adverse.

Personal watercraft noise may be more disturbing than other motorized vessels because of rapid changes in acceleration and direction of noise. Eliminating PWC use east of Miners Beach under alternative B will result in minor beneficial impacts to soundscapes. Within the designated use area, PWC noise will be heard frequently but will not be overly disruptive to visitors because of the high degree of activity that occurs within the area, resulting in a moderate adverse impact in this area.

Due to the low habitat productivity and lack of colonial wildlife along the lakeshore, as well as the low number of personal watercraft in use, impacts to wildlife and wildlife habitat from PWC activity will be negligible at most locations. Impacts from PWC to wildlife and threatened and endangered species will be limited to interactions with wildlife farther than 200 feet from shore, or to PWC landing on shore. Closing the eastern portions of the lakeshore to PWC use will have negligible beneficial impacts.

PWC use will be prohibited within the Grand Sable segment, where potential piping plover habitat exists; therefore, there will be no effect on the plover. In addition, alternative B will have no effect on the

Canada lynx, gray wolf, Lake Huron tansy, or Pitcher's thistle, and may affect, but is not be likely to adversely affect, the bald eagle, common loon, and peregrine falcon.

Impacts to vegetation east of Miners Beach will be negligible and beneficial since PWC users will no longer have access to shoreline areas. Continued PWC use in other segments will have negligible adverse impacts to sensitive shoreline vegetation over the short and long term, with no perceptible changes in plant community size, integrity, or continuity.

PWC users will be limited in their location of operation and could notice a slight increase in the density of use in the vicinity of Sand Point. As a result they will experience moderate adverse impacts. Restricting PWC use east of Miners Beach will have negligible beneficial impacts on the experiences of most other visitors in the short and long term, with long-term moderate beneficial impacts on those visitors desiring backcountry experiences with natural quiet. The level of PWC use will remain relatively low at lakeshore locations. When related to other visitor activities, PWC use will not appreciably limit the critical characteristics of visitor experiences.

***Degree of effect on public health or safety:*** Implementation of the preferred alternative will result in negligible to moderate effects on public health and safety. The preferred alternative will have negligible to minor adverse impacts to water quality for all human health and ecotoxicological benchmarks analyzed. Impacts to air quality for carbon monoxide and other pollutants of concern will be negligible to moderate and adverse. The preferred alternative will maintain existing air quality conditions and will not result in an impairment of air quality.

PWC use would be discontinued east of Miners Beach, resulting in a shift of PWC use from the eastern portions of the National Lakeshore to the western portion of the lakeshore. No conflicts would occur east of Miners Beach. PWC user/swimmer interactions would increase slightly in the Sand Point segment and the western one mile of the cliffs segment because of a shift in PWC use from other locations. Impacts from PWC would be perceptible to a relatively small number of visitors at localized areas, primarily at the Sand Point launch. Short- and long-term, negligible to minor adverse impacts to visitor safety is expected in the Sand Point area and the western one mile of the cliffs segment.

***Unique characteristics of the geographic area such as proximity to historic or cultural resources, park lands, wetlands, wild and scenic rivers, or ecologically critical areas:*** The preferred alternative will not impact unique characteristics of the area including park lands, prime farmlands, or wild and scenic rivers because these resources do not exist in the project area.

Most of the wetlands in Pictured Rocks National Lakeshore are outside the PWC use areas, with the exception of two wetlands that abut the Lake Superior shoreline. The wetland at Sand Point is less than 100 acres in size and has the vegetation characteristic of an unforested bog. There is no observable impact to wetlands or other shoreline vegetation in this area. Continued PWC use in the area near the wetlands would have negligible adverse impacts, with no perceptible changes in plant community size, integrity, or continuity. The wetland at Au Sable Point is less than 150 acres in size and is characteristic of a coniferous bog. PWC will not be allowed in this area; therefore there will be no impacts to this wetland by PWC.

***Degree to which effects on the quality of the human environment are likely to be highly controversial:*** As discussed earlier, the EA was written under NEPA as a result of a settlement between the NPS and Bluewater Network. The impetus of the lawsuit was the result of studies in Everglades National Park on PWC use. Studies showed that PWC use resulted in damage to vegetation, adversely impacted shorebirds, and disturbed the life cycles of other wildlife.

There were no other highly controversial effects identified during either preparation of the EA or the public comment period.

***Degree to which the possible effects on the quality of the human environment are highly uncertain or involve unique or unknown risks:*** There were no highly uncertain, unique or unknown risks identified during either preparation of the EA or the public comment period.

***Degree to which the action may establish a precedent for future actions with significant effects or represents a decision in principle about a future consideration:*** The preferred alternative neither establishes a National Park Service precedent for future actions with significant effects nor represents a decision in principle about a future consideration.

***Whether the action is related to other actions with individually insignificant but cumulatively significant impacts:*** Cumulative effects were analyzed in the EA, and no significant cumulative impacts were identified.

***Degree to which the action may adversely affect districts, sites, highways, structures, or objects listed on National Register of Historic Places or may cause loss or destruction of significant scientific, cultural, or historical resources:*** The majority of the historic structures and cultural landscapes within Pictured Rocks National Lakeshore are either outside the study area or in areas already experiencing heavy visitor use from both land and water vehicles. Consequently, the impacts resulting from the proportionately low number of PWC users are extremely difficult to distinguish or quantify. All of the National Lakeshore is within the limits of the Alger Underwater Preserve, which consists of submerged cultural resources such as shipwrecks. The average distance of these wrecks from shore is 320 feet with an average depth of 12 feet. PWC users will continue to have access to these sites in the Sand Point segment and the western one mile of the cliffs segment, but not east of Miners Beach. The low numbers of PWC users within the lakeshore will have minor adverse impacts on potentially listed archeological resources west of Miners Beach due to possible illegal collection and vandalism. PWC use restrictions east of Miners Beach will result in long-term beneficial impacts to the use of ethnographic resources. PWC use will be restricted during the permitted use of ethnographic resources by Native Americans. Boat patrols will be conducted in the designated PWC use area during the permitted use of ethnographic resources to monitor and restrict PWC use that could intrude on ceremonies resulting in short-term, minor, adverse impacts.

A letter was sent to the Michigan State Historic Preservation Office (SHPO) regarding the proposed project on July 26, 2005, and concurrence with the EA was received on August 15, 2005. Therefore, compliance with Section 106 of the National Historic Preservation Act was completed on August 15, 2005.

***Degree to which the action may adversely affect an endangered or threatened species or its critical habitat:*** Consultation under Section 7 of the Endangered Species Act was conducted to determine if any threatened or endangered species exist within Pictured Rocks National Lakeshore. Species listed by the U.S. Fish and Wildlife Service that may occur in the park include the piping plover, bald eagle, gray wolf, Lake Huron tansy, Canada lynx, and Pitcher's thistle. Piping plover critical habitat is present in the eastern portion of the lakeshore where PWC use will be prohibited. There has been no evidence of nesting in the park since 1992. No direct effect on the piping plover is anticipated. PWC may affect, but is unlikely to adversely affect, the bald eagle, common loon and peregrine falcon. PWC use will have no effect on the gray wolf, Lake Huron tansy, Canada lynx, or Pitcher's thistle. Mr. Mike DeCapita of the U.S. Fish and Wildlife Service concurred with the determinations on April 28, 2005.

*Whether the action threatens a violation of federal, state, or local environmental protection law:* The preferred alternative violates no federal, state, or local environmental protection laws.

## **IMPAIRMENT OF PARK RESOURCES OR VALUES**

In addition to reviewing the list of significance criteria, NPS staff determined that implementation of the preferred alternative will not constitute an impairment of the park's resources and values. This conclusion is based on a thorough analysis of the impacts described in the EA, agency and public comments received, and professional judgement in accordance with the National Park Service's *Management Policies, 2001* (December 27, 2000). As described in the EA, implementation of the preferred alternative will not result in major, adverse impacts to a resource or value whose conservation is (1) necessary to fulfill specific purposes identified in the establishing legislation or proclamation of Pictured Rocks National Lakeshore; (2) key to the natural or cultural integrity of the park or to opportunities for enjoyment of the park; or (3) identified as a goal in the park's general management plan or other relevant National Park Service planning documents.

## **PUBLIC INVOLVEMENT**

The National Park Service published a notice of the availability and the proposed rule in the Federal Register on November 15, 2004 (69 FR 65556). The public was invited to comment on the EA for an approximate 105-day comment period that lasted from August 1, 2002, to November 15, 2002, and on the rulemaking for an approximate 60-day comment period that lasted from November 15, 2004, to January 14, 2005. The National Park Service received approximately 600 comment letters regarding the proposed legislation.

## **MITIGATION**

Mitigation measures have been integrated into the preferred alternative, and will be implemented as part of the project. Under the preferred alternative, PWC use will be prohibited east of Miners Beach, which will reduce impacts to all resources within the park. There will be no adverse impacts to water quality east of Miners Beach due to this designation. There will be beneficial impacts to soundscapes, wildlife and wildlife habitat, shoreline vegetation, visitor experience for non-PWC using visitors, and visitor conflicts and safety east of Miners Beach. The PWC prohibition east of Miners Beach will benefit threatened and endangered species that have potential habitat in this area, including the piping plover, bald eagle, Pitcher's thistle, and Lake Huron tansy. The PWC restriction will also have a beneficial effect on cultural resources such as archeological sites and submerged resources. The implementation of boat patrols will limit potential PWC intrusions during the permitted use of ethnographic resources such as ceremonies.

In addition, as part of the preferred alternative, the superintendent may temporarily limit or terminate access to PWC use areas after taking into consideration public health and safety, natural and cultural resource protection, and other management activities and objectives, which will further reduce potential adverse impacts.

**BASIS FOR DECISION**

The preferred alternative does not constitute an action that normally requires preparation of an environmental impact statement (EIS). The preferred alternative will not have a significant effect on the human environment. Negative environmental impacts that could occur are negligible to moderate in intensity. There are no significant impacts on public health, public safety, threatened or endangered species, sites or districts listed in or eligible for listing in the National Register of Historic Places, or other unique characteristics of the region. No highly uncertain or controversial impacts, unique or unknown risks, significant cumulative effects, or elements of precedence were identified. Implementation of the action will not violate any federal, state, or local environmental protection law.

Based on the foregoing, it has been determined that an EIS is not required for this project and thus will not be prepared.

**Recommended:**

James M. Northup  
James Northup  
Superintendent  
Pictured Rocks National Lakeshore

8/18/05  
Date

**Approved:**

Ernest Quintana  
Ernest Quintana  
Regional Director, Midwest Region

9-9-05  
Date