

GROUP AND COMMERCIAL USE ON THE APPALACHIAN TRAIL

Issue: The continuing saga of attempts to address commercial and group use of the A.T.

Background: The 1981 *Comprehensive Plan for the Appalachian Trail*, on pages 6 and 7, states:

“Commercial endeavors designed to profit from visitor use are not an acceptable component in the Trail corridor.”

“Management actions will discourage activities that would degrade the Trail’s natural and cultural resources or social values, such as...groups which by their size or commercial interest generate use which is inconsistent with the concept of a simple footpath.”

Commercial use has been discussed without resolution for at least six years – at the Knoxville partnership meeting and in the *Knoxville Follow-up Report*, and at meetings of the regional management committees, Trail and Land Management Committee, Executive Committee, and Board of Managers.

In addressing the issue in April 1996, several board members noted an overlap between commercial use and overuse. Allowing commercial outfitters and guides could result in competition with traditional users for use of overnight facilities. Some suggested that allowing outfitters and guides would provide an opportunity to educate users in minimum-impact backcountry-use principles and practices. Others suggested developing a system of group overnight sites as a means of providing for both uses or using the Limits of Acceptable Change process (LAC) to define limits and thereby establish a means to control overuse. Other Board members, however, felt that allowing commercial use could generate use that is inconsistent with the concept of a simple footpath. Several others felt that allowing commercial enterprises on the A.T. would have a chilling effect on volunteers.

In 1997, the Trail and Land Management reviewed a preliminary draft policy but concluded discussion by acknowledging that more information was needed about what constituted commercial use, whether agency partners were currently allowing it, and whether or not it could be prohibited or regulated, conducted an informal survey (MP-6, 11/97), and discovered that, while most parks and forests are aware of the commercial-use references in the *A.T. Comprehensive Plan*, commercial use is occurring and growing.

Formation of a Task Force – The Commercial Use Task Force was established in January 1998 by ATC Chair Dave Field, and held three meetings last year. Members of the task force are: Theresa Duffey (chair), Eric Olson, Marianne Skeen, Chris Wolfe, Brian Fitzgerald, Laurie Potteiger, Mike Dawson, Don Owen, Bob Gray, Rita Hennessy, and Ginny Williams (USFS). Field, Dave Startzell, Pam Underhill, and Bob Proudman are *ex officio* members, although all four participated in all or part of the meetings.

The initial focus of the meetings was commercial use by outfitters and guides, since these uses appear to be increasing and are, without agency permits, technically illegal. However, it became clear to the group that those particular commercial uses not only have philosophical implications, but resource implications as well. It was decided that the task force should consider the much broader issue of group use, including both commercial and noncommercial group use of the A.T.

During those first meetings, the task force reviewed the legislative history of the A.T., along with agency policies, regulations, and guidelines pertaining to group and commercial use of federal lands. After many hours, the task force recognized that ignoring the commercial-use issue is not a legally appropriate alternative for the agencies. Nationwide, regulations for both park- and

forest-system lands *require* regulation of commercial activities.

Just What Are the Legal Requirements? – To clear up those legal questions, agency lawyers from both the National Park Service and the U.S. Forest Service met with staff representatives of the task force on June 2, 1998. Their mission was to identify the legal requirements and options that the NPS and USFS can take on the Appalachian National Scenic Trail to deal specifically with the commercial-use issue. Liability to the United States government is the driving force behind regulating commercial activity; a failure to regulate is an open invitation to lawsuits if, for example, a client of a commercial outfitter were injured and unable to collect an insurance claim from what essentially is an unregulated and unpermitted outfitter. It was also recognized that the limited staff of ATPO and ATC could not manage a permitting program for the entire A.T. Rangers on national parks and forests could presumably manage permits for their respective areas, but the feasibility of permitting on ATPO and state lands remains unresolved. The idea of a joint regulation, allowing commercial use of the Trail by outfitters and guides *without* a permit (but with stipulations on group-size limits, required insurance, *etc.*) was discussed and may be pursued further. However, that begs the original conundrum: If we adopt a blanket policy to *allow* commercial use without permits, are we inviting a greater number of users and increasing the problem of overuse? Under pressure from both uses (group and commercial), how do we maintain the concept of a simple footpath?

ATC and Clubs Address Real Problems – On July 31, a “Group Use Summit” was held at AMC’s Camp Dodge in Pinkham Notch, N.H. For years, some clubs have dealt with the real day-to-day resource- and social-impact headaches of growing group use on the A.T. and other area trails. Four of the six clubs in New England have developed outreach programs to attempt to educate, *before they get to the Trail*, the hundreds of groups that are now out on the A.T. Each of these programs has been aided by some funding from ATC’s Grants-for-Outreach program. To prosper in the future, they will need additional financial assistance beyond ATC’s modest start-up funding.

Large group use of the A.T. is an on-going issue in New England. In some areas, group use may exceed 40 percent of total use. The clubs that are actively intervening to manage large-group use are the Maine A.T. Club, the AMC White Mountain Program, the Green Mountain Club, and the AMC-Connecticut Chapter. Each program is slightly different in its audience, approach, and focus, but they share common elements, such as the use of seasonal caretakers and ridgerunners to collect group names and addresses; periodic mailings to groups to inform them of Leave No Trace backcountry ethics, to plead for smaller group sizes, and to establish solid stewardship ethics; training opportunities for trip leaders and camp administrators; a voluntary notification/reservation system in which groups can call in their itineraries so that the club can track and warn callers of apparent overloads in the shelter/campsite system; in-field evaluation of each of the groups; and improved coordination with Forest Service requirements, including improving the administration of outfitter/guide permits.

Recent Actions: Another Group Use Summit is scheduled for April as a follow-up to first summit held in July 1998. Also, a workshop will be conducted at Radford ‘99 on Outreach to Large-Group Users. Considerations for the future of these programs would be to expand the group-use management programs to other impacted areas along the Trail, and to establish an adequate and stable funding source to assist clubs in implementing the various programs, which tend to be fairly labor intensive to implement and follow-up on.

The renamed Group and Commercial Use Task Force met in Harpers Ferry on February 19-20, 1999. The meeting addressed management of overnight use, as well its original topic of commercial use.

Overnight Use Management – Much of one day was devoted to a presentation and discussion with

Dr. Jeff Marion, Recreation Ecologist with the U.S. Geological Survey at Virginia Tech. Dr. Marion has many years of experience with overnight and day-use management in the National Parks and elsewhere in the world. He gave an excellent presentation to the task force on identifying visitor impacts and alternative management strategies for management of overnight sites. His presentation and the following discussion were most enlightening. At the conclusion of the meeting, Dr. Marion agreed to conduct a similar workshop at the Radford biennial meeting.

Following the task force meeting Dr. Marion proposed a project that would involve visits to several A.T. overnight sites that are experiencing a variety of use impacts and developing management recommendations for each site. This work would be conducted at minimal cost to ATPO/ATC (basically travel expenses). The Trail and Land Management Committee reviewed this offer at its March 13 meeting, and accepted with enthusiasm. Rita Hennessy was asked by the Committee to pursue this project, and work with Dr. Marion and others to develop a process to select the sites to be evaluated. That process has since been developed and is underway. Please speak to Bob Proudman or the regional representatives for more information.

In addition to this project, there is the possibility of ATC collaborating with Dr. Marion on a book on overnight site management. This volume would be another component of ATC's stewardship series.

Commercial Use – The task force continued to grapple with this seemingly intractable problem.

Some of the difficulty is the result of the agencies' definitions of commercial use, and the fact that the definition used on NPS lands has recently changed. The Omnibus Budget Bill that authorized the FY99 NPS budget contained new direction for the management of commercial operations on NPS lands. This legislation redefined commercial use by exempting non-profit organizations that do not derive taxable income from their operations. Under this new definition many school, church and camp groups would not be required to obtain a permit to conduct services on the A.T., but only on NPS lands. The USFS still defines any entity deriving a profit from fees collected to be commercial, therefore, the two federal agencies' basic definitions are in conflict.

The task force also discussed the current inconsistencies in managing commercial use. Several parks and forests permit commercial use on the A.T., while others do not. Many managers are feeling more and more pressure to permit commercial uses, and staff of the White Mountain National Forest has stated that commercial use on that forest will continue.

Finally, task force chair Theresa Duffey posed the following question to the group: "If a commercial operation complies with or fits within the ATC definition of the Trail Experience, is that use appropriate?" Not surprisingly, given the philosophical nature of the question, the group did not reach consensus. Specific concerns that were raised included: unacceptable resource impacts; impairment of current or future hiker experiences; the inability to deny commercial uses in the future if they are allowed now; the necessity of an assessment to determine if commercial use is meeting a real (rather than perceived) need; and, if allowed, how it would be permitted. Other concerns regarding the permitting issue include the need for tight restrictions, an emphasis on education instead of regulation, and consistent implementation along the entire Trail.

A seven step approach for permitting commercial use has been developed and implemented in some areas. Following identification of an unpermitted activity, land managers should:

- 1) Initiate informal conversations with commercial provider in the field
- 2) Establish formal meeting
- 3) Conduct scoping to identify issues

- 4) Draft an operating plan and/or guidelines with input from the provider
- 5) Finalize plan and assist with submittal of application package
- 6) Issue permit
- 7) Monitor for compliance

The group then reviewed commercial use from both sides, allowed and not allowed, and identified a list of actions that would need to occur under each scenario. If commercial use was allowed, the following actions would be need to be considered:

- Develop uniform regulations between NPS and USFS
- Amend the *Comprehensive Plan*
- Amend forest plans and park general management plans
- Conduct a LAC/VERP analysis as a means of controlling or restricting numbers of permits
- Initiate an outreach program to spread word of the policy change
- Develop a fee structure and administrative process
- Identify the contact point (central or each park/forest)
- Develop the application package
- Develop the process for reviewing and issuing permits or other licenses
- Identify the mechanism for compliance and enforcement

In addition to the above, those task force members who would support some commercial use would only do so if specific criteria were met, including:

- Group size will be restricted
- Trained, qualified leaders (perhaps trained through an ATC-sponsored certification program) will be required
- Clients must be educated for self-reliant use of the Trail, LNT, and other minimum impact behaviors
- Volunteerism, resource protection, and the role of A.T.-maintaining clubs must be emphasized
- Service time on the Trail and a contribution to local clubs to cover pro-rated share of trail maintenance and construction must be provided
- Use must be restricted to designated areas
- Applications must be submitted by specific dates to enable evaluation of those that best meet criteria
- Blackout dates when use levels are likely to be high (e.g., Georgia at start of thru-hiking season) will be in effect
- On-Trail promotion will be restricted
- Shelters will not be used on overnight trips
- The permit cannot be sold, transferred or assigned
- The permit will be relinquished in the event of unacceptable resource damage
- Insurance must be carried that list the United States as an additional insured

Another set of strategies were identified by the task force, if the determination was to not allow commercial use – no outfitters or guides:

- Define “commercial use” from NPS definition in the new legislation (agency direction)
- Develop an approach to deal with lands not administered by NPS or USFS
- Develop uniform regulations for NPS/USFS, and carry to state level, if possible
- Ensure consistent management actions by agency partners
- Educate clubs, ATC, ridgerunners, caretakers, *etc.* with respect to the definitions
- Develop an outreach program applicable to potential clients and providers
- Develop and implement an enforcement mechanism

Recommendations: Task force members agreed that the next step should be a meeting of federal land managers (park superintendents and forest supervisors) to discuss commercial use of the A.T., among other issues. A.T. Park Manager Pamela Underhill is planning such a meeting in conjunction with the biennial meeting at Radford.

The members of the task force were never able to reach consensus on the philosophical issue of commercial use on the A.T. and acknowledged that consensus may never be achievable. However, until such time as there is an effective mechanism for managing commercial use, either allowing it or not, it is the recommendation of the Use Task Force that the issue of commercial use be tabled. The issue cannot be resolved until there is better clarification of the new NPS regulation and its potential impact on the management of the A.T., and there has been an opportunity to consider the results of the federal managers' meeting. However the issue is resolved, the outcome must be enforceable by the agency partners or the resulting ATC policy will be nothing more than a suggested course of action.

The task force further recommends that the information that has been gathered related to group use and overuse be passed on to a new task force or the Trail and Land Management Committee. Every effort should be made to take advantage of the opportunities presented to ATC by Jeff Marion as well as the emerging group-use programs being developed by some of the clubs, to help address existing problems and identify and protect areas that are susceptible to future overuse.

Formal planning efforts, such as the development of a broader planning process to determine the carrying capacity of high-use overnight sites, as well as a tentatively scheduled 1999 trail-wide user survey, may help address these visitor-use issues in a defensible and scientific way. In reviewing the implications, the task force realizes that a decision to manage group and commercial use will require NEPA compliance, public involvement, and possibly revising the 1981 *Comprehensive Plan*, all of which are *major* undertakings for the A.T. project.

Board Action: No formal Board action is required at this time.