



# TOP TEN MYTHS ABOUT JETSKIS

**Myth 1: The US Coast Guard recognizes Personal watercraft (PWC) as a "Class A motorboat" and regulates PWC accordingly.**

**Reality: The "Class A motorboat" classification has no meaning in regard to Coast Guard regulations.**

- ▶ According to the Commandant of the Coast Guard "the term Class A motorboat has no meaning insofar as Coast Guard regulations are concerned, except with regard to the fire extinguisher regulations."

**Myth 2: Personal watercraft cannot be singled out for regulation; if PWC are regulated, all boats must be regulated.**

**Reality: Government agencies have already singled out PWC for regulation.**

- ▶ In 1995 National Oceanic and Atmospheric Administration (NOAA) banned PWC within the Monterey Bay National Marine Sanctuary. NOAA restricted PWC based on evidence that these vessels harmed the marine environment of the sanctuary. The PWIA sued the Department of Commerce arguing that NOAA's prohibition was unconstitutional because it singled out PWC.

On March 3, 1995 the District of Columbia Circuit Court of Appeals upheld NOAA's PWC restrictions. In *PWIA vs. the Department of Commerce* (48 F.3D 540, 310 U.S.APP.D.C 364) the court found that although NOAA's restrictions did indeed single out PWC, the agency's actions were not "arbitrary and capricious" and therefore constitutional. More importantly, the court ruled that when a resource management agency regulates to protect the environment it does not need "to make progress on every front before it makes progress on any front."

**Myth 3: PWC operators pay licensing and registration fees, therefore they have a right to access public waterways.**

**Reality: Paying a boat license and/or fee is a prerequisite to operating a PWC; it does not guarantee access to public waterways.**

- ▶ On July 9th 1998, the Washington State Supreme Court upheld a local PWC ban in San Juan County, Washington. In *John Weden II et al vs. San Juan County et al* (Docket number 96-2-00376-6) the court ruled that when a PWC rider obtains a boat registration or buys a license it is nothing more than a precondition to legally operating a PWC. Just as purchasing a hunting license doesn't permit

hunting of endangered species, the court made it clear that registration does not confer an unconditional right of access.

## **Myth 4: All PWC-related problems can be attributed to a few "bad apples." Most riders just need to be educated.**

### **Reality: The "bad apples" are using personal watercraft exactly the way the industry markets them to be used.**

- ▶ PWC advocates assert that it is a few aggressive "bad apples" who are spoiling the fun for the responsible riders. Industry advertisements which use words like "hard-charging" "aggressive handling" and "run at full throttle" prove that the bad apples are operating their PWC exactly the way the industry intends them to be used - as high speed, high impact "thrill craft." It is the rare PWC operator who does not rip across public waters in an aggressive and dangerous manner.

Industry's claims about the need for increased education begs the question: if PWC are safe, why the need for education? According to Coast Guard statistics for the years 1990 to 1996, while traditional boating injury accidents held steady or declined nationwide, PWC injury accidents increased three fold! Is the American public to assume that all buyers of conventional boats are practiced boaters, hence the decline in accidents?

Law Enforcement agencies also question the effectiveness of education. Officers, such as those in the Santa Barbara Harbor Patrol, believe that no amount of education can change PWC's "thrill craft" image, and therefore it will have little impact on PWC accident statistics.

## **Myth 5: PWC operators have a constitutional right to ride their personal watercraft on park waters.**

### **Reality: The Supreme Court has repeatedly upheld the Park Service's authority to restrict recreational activities.**

- ▶ The case law surrounding the government's authority to limit access and restrict/prohibit action on public property is extensive. In *Light vs. United States* the Supreme Court found that the Congress has the authority to permanently withhold sections of the public domain. This case upholds the creation of federal reserves such as National Forests, Wildlife Refuges, and National Parks. In the *United States vs. Grimaud*, the Supreme Court ruled that Congress has the Constitutional authority to create federal resource management agencies. In *Organized Fisherman vs. Watt* the court found that the task of weighing the competing uses of federal property has been delegated by Congress to the Secretary of the Interior. As such, the Secretary has "broad discretion in determining what actions are best calculated to protect park or public land resources." In *National Rifle Association vs. Potter* the Court upheld the Park Service's ban on hunting. This time the Court found that nowhere in the legislative history of the Organic Act did Congress contemplate "consumptive" uses of the park System. More important, the court specifically equated the charge to "conserve" in the Organic Act as "preserve."

These cases show unequivocally that federal resource management agencies, such as the National Park Service, are acting within their constitutional authority when they restrict access, and/or prohibit uses on public property.

**Myth 6: Boats are just as polluting as personal watercraft; if PWC are inappropriate for the National Parks then all boats are inappropriate.**

**Reality: Personal watercraft are more polluting than conventional boats.**

- ▶ According to the California Air Resources Board, a typical PWC releases more than two times as much pollution as a conventional marine outboard of comparable horsepower. The Air Board also found that one hour on a typical jet ski produces more smog-forming emissions than a modern car emits in one year. PWC also release more raw fuel than conventional boats based on higher fuel consumption rates. Many 1999 model year PWC burn 14 gallons of fuel per hour, more than any two-stroke outboard. Two-strokes discharge 25-30% of their fuel unburned into the environment, or in this case, 3.5 gallons per hour. This figure exceeds the raw fuel pollution rate of any conventional boat.

**Myth 7: A ban on personal watercraft will lead to a ban on all boating.**

**Reality: Failure to control personal watercraft may lead to severe restrictions on all boats.**

- ▶ No evidence or regulatory trends support this slippery slope theory. Rather, uncontrolled PWC activity may lead regulators to severely restrict all boating. Irwin Jacobs, CEO of Genmar, the largest independent boat manufacturer, supports banning PWC in the National Parks. In a recent article for Boating Industry, Mr. Jacobs stated that he fears the abuse of waterways by PWC users could lead to federal, state, and local governmental agencies passing severe restrictions both on PWCs and more traditional types of craft.

**Myth 8: The American public will accept personal watercraft use in the parks.**

**Reality: A majority of Americans support a total prohibition on PWC activity in the National Parks.**

- ▶ A poll conducted in 1998 by Colorado State University disproves this myth. It found that 92% of Americans support prohibiting or severely restricting PWC use in the National Parks (52% support prohibition, 40% support severe restrictions).

**Myth 9: The average PWC owner is a 41 year old male.**

**Reality: The average PWC operator is much younger.**

- ▶ Recent Coast Guard statistics show that over 70% of the people injured while operating a PWC were under 29 years of age.

**Myth 10: Personal watercraft are critical to Park Service search and rescue efforts.**

**Reality: The search and rescue capabilities of jet skis are overstated.**

- ▶ PWC are being advertised as park-friendly due to their alleged effectiveness during search-and-rescue (SAR) efforts. However, park rangers find the SAR capabilities of PWC overstated. They note that the unstable PWC platform, limited equipment storage space, and PWC's inability to be used at night hinder PWC's search and rescue effectiveness. These rangers also point out that white or aerated water tends to cause PWC engines to lose thrust, a very dangerous problem when attempting a rescue on fast flowing rivers or ocean waves. Parks across the county are concluding that rubber rafts, and conventional motorboats often prove far superior to PWC for SAR operations.