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Forbidden Waters

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FORBIDDEN WATERS
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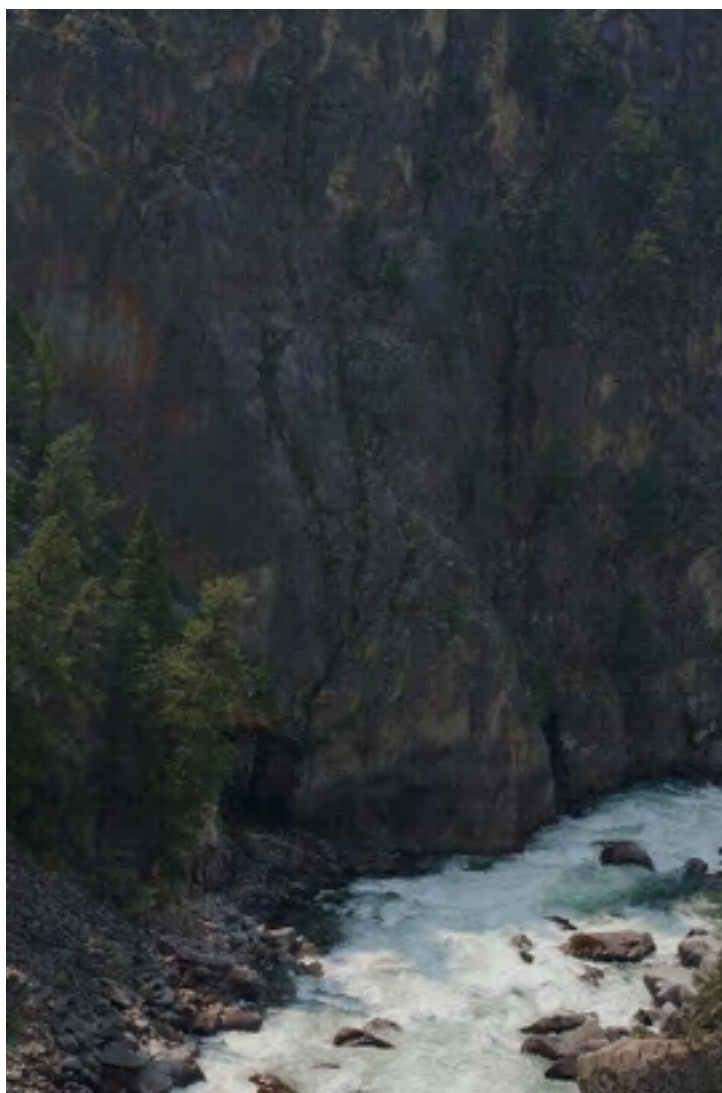
Forbidden Waters

by Will Freihofer

Since 1950, Yellowstone National Park has encompassed one of the largest river systems with a complete ban on boating in the world. Despite the prohibition, generations of kayakers have been unable to resist the world-class whitewater of the Black Canyon of the Yellowstone River, and today advocates on both sides of the issue press the Park Service to determine if visitors will ever legally wet a paddle on the thousands of miles of rivers and streams in the first National Park.

The boulder-ridden Black Canyon of the Yellowstone River is formidable in low water, but a spring flow of ten thousand cubic feet per second is loud as hell banging down it. A hiss from a distance and a spitting turmoil up close, the din of powerful whitewater can be both heard and felt as it reverberates off dark cliff faces. The walls look charred in the afternoon shade, and as the roar echoes it thickens, seeming to inherit a sort of texture in the process.

In June of 2009 Troy Nedved found himself leaving the bank, knees nestled in a whitewater kayak. He bobbed in the thin plastic shell, boat poised on a small patch of calm water on the verge of the fray. Downstream, boulders shrugged the icy flow from their shoulders, and pockets of chaotic water sent flecks of frothy white skyward from behind horizon lines of falling water. Tall haystack waves exploded, gathered themselves, and reformed.



Boating has been banned on Yellowstone's rivers for 60 years, but Nedved and three companions have permission today. This makes them the first group to legally paddle on one of the finest kayak runs in the United States or the planet – depending on who you talk to – but nobody is having any fun.

In fact, Nedved would really rather not be here today. It's not the crashing water downstream he regrets – he can handle himself just fine in this kind of turbulence. The problem is that there's a Montana Boy Scout somewhere in this river, and Nedved is here to find him. The rest of the troop from Helena is on the bank, watching – as several of them were when a game of rolling logs into the river beneath 15-foot Knowles Falls went bad, clipping the boy's leg and sending him tumbling into the current.

The scout was last seen with his head above water as he was swept around the bend downstream, so off Nedved and his crew go. They wind their way through the turmoil, punching wave after wave towards an eddy at the darkened mouth of an airplane hangar-sized cave.



It will be in vain.

Two days of searching will yield a pair white tennis shoes, but the boy's body still hasn't turned up to this day.

Nedved has the sort of wide, square jaw usually found on middle linebackers. He has run the Black Canyon three times at the request of the Park Service, each trip made in hopes of recovering bodies from its waters. Whitewater kayaks with skilled boaters inside them are valuable assets to any rescue on fast moving water. "I guess I have that skill set, so that's why I've been used a few times," says Nedved.

"In my situations I wasn't there for enjoyment, but you certainly take a look at it from that perspective," says Nedved. Later, less urgent trips down the canyon have offered more time for him to look around and try to briefly imagine paddling it for fun.

"You could actually look at it from a boater's perspective, and the run is without a doubt a classic, runnable whitewater kayaking run," Nedved says. "It's very beautiful, very pristine and very remote."

Only criminals could have given Nedved first-hand advice on navigating the Black Canyon. But these, as it turns out, are not in short supply.

Since the emergence of recreational whitewater boating in the 1970's, dozens - maybe hundreds - of expert boaters have have played hide and seek with the National Park Service by attempting clandestine runs on the Yellowstone River between Tower Junction and the Park's North boundary at Gardiner, Mont.

Most successful sneaks of the Black Canyon are in the late summer and early autumn, when low flows and fewer hikers, anglers and horseback riders make it more manageable to navigate unseen. But even in perfect conditions illegally running a class V canyon is not for the casual boater. Kayakers often paddle in the dark, hoping to maximize river miles and minimize exposure wherever possible. Getting out to scout rapids before running them is a luxury rarely taken.

The majority have made it through undetected, making it to the calmer waters of the Yellowstone beneath the turbulent canyon as it bends past Electric Peak and the town of Gardiner. They pass under the Gardiner bridge in full sight of its fall traffic, home free on boatable water managed by the State of Montana.

Some are not so lucky.

The list of whitewater boaters who have been caught illegally paddling in the park includes some big names in the small world of whitewater kayaking. Idaho big-water pioneer Rob Lesser was arrested with Bob McDougall and boater-philosopher-author Doug Ammons in 1986. Ammons published an account of the trip detailing his three-man team's bust by Park Service helicopter.

It appeared while the group was scouting Hell Roaring rapid, and at first Ammons didn't notice the "whup" of its blades over the sound of the water. They ran the stretch anyway, the helicopter following them down the canyon blaring commands from a megaphone. The rotor's torrent threatened to tear their paddles from their hands. In a cheeky move Ammons put his hand to his ear for an "I can't hear you" gesture to the aircraft and was blown over. He rolled back upright and kept paddling.



Finally apprehended while scouting another rapid downstream, the group's boats were locked in a park jail cell while the paddlers were charged with illegal trespass in a national park. The kayakers left with court dates. Their boats were locked in a jail cell for over two years.

Yellowstone's violent geologic past is what makes it such a destination for kayakers. The park's boundaries loosely define the rim of an enormous volcanic crater. The magma chamber beneath the intersection of Wyoming, Montana and Idaho has swollen the park to 7,000 feet above sea level and winter storms stack so much snow on its raised plains and peaks that plowing is futile. Each spring that water descends from the Yellowstone Plateau, swelling the more than 600 streams and 11 rivers on its way to two oceans. There are over 350 waterfalls 15 feet or taller in the park, including two drops totalling over 400 feet in the Yellowstone's Grand Canyon. The gradient created by the caldera's steep shoulders makes it the sort of park a whitewater boater might build.

But Yellowstone was not built. It was formed by molten rock, water and time, the result of a long and complex history.

The park's policies are not so different.

The park banned the use of boats on its rivers in 1950 to cut down on fishing as Americans flooded National Parks after World War II. At the time, tourists crammed onto bleachers to watch bears feed on garbage and roadkill and visitors were routinely injured – or worse – in confrontations with grizzlies and black bears. Jackie Robinson was in his third year with the Brooklyn Dodgers, and whitewater boaters – those few, odd souls – were few and far between.

Today, they're much easier to find and for Kevin Colburn, that's progress.

Colburn is the stewardship director for American Whitewater, a national non-profit that represents whitewater boaters - kayakers, rafters, canoeists, stand-up paddleboarders, and anything else that floats – by advocating for the protection, restoration and management of rivers throughout the country. His salary is paid largely through donations and annual dues from AW's 4,500 some members. Tall and calm, he *looks* patient.

Seeing as he's trying to change six decades of federal park policy from his basement, he'd better be.

His home office is adorned with a large maps of Montana and Idaho, both of which are scattered with arrows pointing at the thin blue veins of their waterways. Each marks a trip he's made on one craft or another. Besides kayaks, Colburn has increasingly found himself inside a miniature inflatable boat called a packraft. They're light, pack small and are quick to inflate with

a simple plastic bag – perfect for hiking in and floating out of remote drainages. For him, it's not as much a question of what to paddle as where, and asking if he would like to paddle any of Yellowstone's rivers is close to rhetorical.

"Yellowstone is the largest block of rivers in the country that is prohibited to paddling. It's an anomaly in the entire National Park system," says Colburn. "Our use – paddling – is a low impact, great way to experience nature," he adds.

On a Montana morning in May he's heartily applauding at a boat launch crowded with 50 people. He's dressed as he often is for work: yellow drysuit, sprayskirt, and lifejacket.



A group of government agencies and non-profit organizations worked together to remove the Milltown Dam in 2008, and after five years of remediation efforts and the removal of tons of toxic sediment from mining, a newly floatable stretch of river is opening just outside Missoula, Mont. Many of those responsible are there to celebrate that this stretch of the Clark Fork River is open for the first time in 106 years.

Colburn stands out in the crowd of wader-wearing anglers. A bottle of champagne is popped, and people load into rafts and drift boats to experience the stretch for the first time. Colburn pushes his red kayak into the current while a camera from a local TV station films.

A few miles downstream the spring flow has jammed a tree perpendicular to the river's current, and Colburn eddies out above it and gets out onto the cobbled bank. The boats behind him could use help guiding their boats safely through it from the shore. It's an automatic response for Colburn – helping people go boating is his job.



He updates river reports, monitors flows levels, visits with state and federal officials and comments on management plans. Dam removals, like the one here on the Clark Fork, are one of his favorite parts of his job.

Battles over access – like American Whitewater's 30-year on-again, off-again fight over boating in Yellowstone – are the part he likes least. They're drawn out, contentious, and expensive.

But Colburn doesn't shy away from pushing for answers. He submitted a Freedom of Information Act request to the Park Service to understand what the boating ban in Yellowstone really looks like when it comes to enforcement. Among other documents, he asked for a list of citations issued for boating within the park. He received a stack of pages painted black, every name and instance redacted except two father-son canoe trips. These are precisely the sort of trips Colburn thinks deserve a hard look from the Park Service for appropriateness.

The rise of whitewater boating as a sport and American Whitewater as an organization brought the first official challenge the ban in the '80s. Since then, they have submitted various proposals to allow for limited boating opportunities within the park. On the first page of a failed 1998 effort, an oversized and bolded black box halfway down the page makes the group's intentions clear: "Opening the Black Canyon of the Yellowstone River for whitewater recreation is American Whitewater's highest priority," it reads.

Colburn would love to kayak the Black Canyon, but today his preferred battlefield is found on the southern end of the park near Jackson Hole, Wyo., where the headwaters of the Snake and Lewis rivers spindle their way up onto Yellowstone's plateau. They're pristine and remote, and since 2009 they've been protected under the Wild and Scenic Rivers Act.

The 1968 act requires agencies responsible for stretches of rivers protected under it to produce a management plan for the waterway, including determining allowed activities and capacities.

Yellowstone's draft plan was released in May of 2013 and is 444 pages long. The three pages considering boating as a form of recreation are listed under the heading, "Alternative Considered But Dismissed from Detailed Evaluation."



In Yosemite, the Wild and Scenic Rivers process on the Merced River has compelled the Park Service to reconsider their restrictions on boating. Representatives from the Park Service and American Whitewater floated the Merced in May, and new regulations are being considered to permit additional floating within the park. "They've had strict limits," says Colburn, "but they're fully considering easing those limits on paddling."

It took Yellowstone three years to come up with the plan. Comments were allowed for 30 days, but Colburn's first reaction to the park is simply, "They're out of touch."

For him, paddling boats on Yellowstone's rivers is not so different from hiking alongside them, and he feels the use should be studied and managed the way so many others are throughout the Park System. "I think it deserves a hard look," says Colburn.

But if paddling in Yellowstone is low impact, getting caught under the current system is the opposite. Fines can reach thousands of dollars and cameras, cars and equipment can be impounded.

A student at Montana State University in Bozeman had his textbooks and notes locked in his impounded vehicle after failing to evade the Park Service on a run. It hurt his coursework, but he was lucky enough to have a professor that understood perfectly, having been arrested at the Tower Junction put-in some 20 years earlier for attempting the same thing.

Jerry Johnson had both of his kids in whitewater kayaks by the time they were five. His mouth slants to a wry smile as he admits to his run-in with the Park Service.

A professor of Political Science at Montana State University specializing in tourism and natural resource management, Johnson has been kayaking for 40 years. A contemporary of Ammons, Lesser and McDougall, he sits on his porch in Bozeman, Mont. blinking in the sharp winter light.

"Things having to do with Yellowstone National Park are pretty important to me, both personally and professionally," he says.

Johnson and his son have both stood before court for attempting to kayak in Yellowstone. "It's probably not something that most father-son teams want to repeat, but it is kind of a fun little historical quirk in the kayak world I guess," he says.



Johnson's son, Erik, might be called a professional kayaker, though the extent to which such a thing exists remains up for debate. Nicknamed "Chompers," Erik's toothy grin has been seen by some of the world's most famous rapids in kayak movies for years. His father would like to run the Black Canyon with him – legally.

Jerry Johnson says he understands the National Park Service's resistance to adding boating as a recreational activity, but is quick to add its unwillingness to consider the use has stemmed from long-past decisions rather than supporting evidence.

“They’ve simply not been very flexible in learning about new paddling technologies, paddling skills, and the impacts – or the the lack of impacts – that kayakers have on the river corridor,” says Johnson. “I think they simply don’t want to go there with another ‘thing’ going on in Yellowstone Park. There’s a lot going on there already.”

But as to whether they should reverse the ban, Johnson is split. He sees no reason to open any of the park’s major visible waterways to boating, but thinks it could be responsibly allowed on the 20 miles of the Yellowstone River upstream of Gardiner through the Black Canyon. For Johnson, legalizing a small number of permitted trips on that stretch would provide an exceptional resource to whitewater kayakers hoping to experience its combination of seclusion, scenery and steep rapids.

“Let’s come up with a logical and reasonable management plan that can accommodate protecting the resource and also accommodate a very small number of passionate visitors to the park – which is what they’re there for,” he says.

Johnson thinks that some of the park’s reluctance to add boating as an activity stems from concerns about managing a potentially high risk activity on steep rivers. Drowning is already the leading non-vehicular cause of death in National Parks, though the majority of incidents do not involve boaters.

Johnson suspects Yellowstone’s mentality towards boating has its roots in a 60-year-old incident just upstream from where he was arrested trying to put onto the Black Canyon. Three drunk men went for a walk along the Yellowstone River upstream of Tower Junction. Two came back, and the third’s mother wanted him found.



Park Rangers called for the help of John Craighead, a grizzly bear researcher in the park. Craighead and his identical twin Frank have a long history in Yellowstone, having been the first researchers to use GPS collars to monitor large mammals worldwide. Their recommendations were instrumental in the listing of grizzlies under the Endangered Species Act in the 70’s. They knew bears. They also knew rivers.

John Craighead has said that the proudest achievement of his life was the passage of the Wild and Scenic Rivers Act, and indeed he and his brother wrote much of it. The two ran wilderness survival camps for Korean War pilots in the 50’s, and paddled Idaho’s many powerful rivers in Navy survival rafts in their free time. On this day in 1950s, Craighead, like Nedved a half-century later, was the best resource the Park Service had to lead a river search on violent

whitewater.

The day after the man's disappearance a small group of women stood with friends high above the Yellowstone River on the Tower Junction Bridge. The group watched the upstream bend with keen interest for the rescue party – two small orange rafts carrying their husbands.

The first to come into view was upside down.

"My dad's boat flipped," said Harry Reynolds III. His father, Park Ranger Harry Reynolds Jr. was a close friend of the Craigheds, and shared a raft with Ted Hackett on the search. "Ted got smashed into a rock," the son recalls, adding it knocked him unconscious and badly injured his back. "It's pretty rough water down there, and I don't think it had ever been done before."

The second raft would eventually round the bend with all four of the party onboard, but the scare and Hackett's injuries left a mark in the Park Service, Johnson says. Introducing rescuers to risk on rivers was not a scenario they were anxious to repeat.

"It's like any other bureaucracy," Johnson says. "They take on this culture based on history and myth – the stories of the tribe, the management tribe."

"I think a lot of it goes back to that failed rescue," Johnson says.

Tim Reid is no stranger to sketchy rescues. His first jobs with the Park Service involved technical rock rescues in Rocky Mountain and Yosemite National Parks. "I figured out that they would pay me to climb," says Reid.

Now Chief Ranger for Yellowstone National Park, Reid remembers hanging from iconic

3,500-foot granite face of Yosemite's El Capitan as the crackle of ranger's megaphones rang from below. Those rangers were not there to catch climbers – instead they were pointing them out to tourists clustered on the valley's floor.



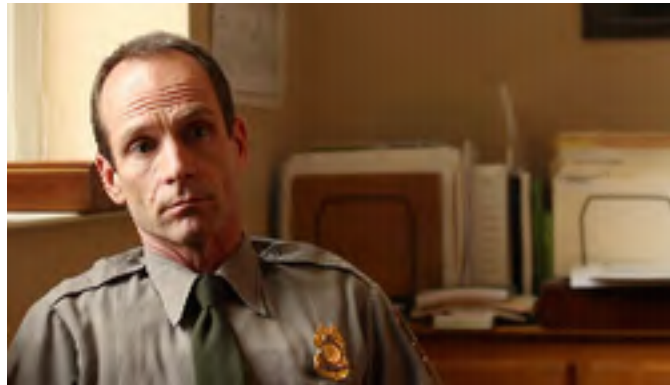
Yosemite's history with rock climbing is very different from Yellowstone's with boating. Camp 4, the iconic rock-climbing campsite tucked in the Merced Valley, is listed on the National Registry

of Historic places for its role in the history of the sport. Climbers are not an eyesore to park management – they're an attraction.

Kayakers in Yellowstone behave more like drug-smugglers. Reid knows all about their their night runs and boats spray-painted with camouflage, but he's not particularly interested in the challenge of catching them – at least not any more than in catching elk antler-smugglers, invasive weeds or drunk drivers.

The number of annual visitors to Yellowstone National Park sits around three million, and an often quoted (if difficult to confirm) factoid holds that only three percent will get 100 yards off paved trails and roadways. Many still manage to make Reid's radio bark with problems of one sort or another. They crash cars, harass wildlife, get lost and fall into rivers. There are forest fires, floods and rescues, and the whole mess is Reid's professional concern. He's the one who called Nedved to ask whether he felt comfortable trying to find a Boy Scout in the Black Canyon during high water.

Reid leans back as he swivels in his chair, eyes working the room over to find his copy of the park boating regulations. His tie is pinned to his starched shirt front.



Outside the office is a school bus windshield-sized whiteboard showing the organization of his department – 80 some names arranged in a sort of bracketed pyramid with Reid's name at the top.

Yellowstone National Park predates the states of Wyoming, Idaho and Montana. The park is responsible for its own courts, police, snow plows and ambulance service among much else. These jobs are listed in descending order of administrative importance from Reid, the names written in dry-erase marker.

Boaters are not the only group to make the request for access a steady refrain. “There's more and more activities – and then derivative spins on core activities,” says Reid. “ I think it's a great thing.” But it also creates new challenges.

Recent years have brought requests for a range of new sports to Reid's park. Skiers harnessed to compact car-sized kites - snowkites - have taken a liking to the park's western boundary. There, between Big Sky and West Yellowstone, heavy snowfall and high winds make for sketchy driving and great snowkiting. They whip across fields within the park boundary near a notoriously dangerous roadway.

Reid leans into his computer screen to point at ski tracks leaving the lip of U.S. Route 191's shoulder as a ramp to send themselves skyward over the road – trouble for motorists, kites, and Reid. The sport has been banned within park boundaries for the same reason that snow

biking – another activity that entails exactly what it sounds like with the help of oversized tires – hasn't been allowed. There simply is not an existing management plan. No plan means it's banned.

"Our charter is not to accommodate everything that comes down the pipe," says Reid.

He doesn't feel it's his or anyone else in uniform's job to go out and find activities to permit.

"It's for that activity to prove that it belongs," he says. If there's a coin flip between public use and preservation, Reid says the service knows where to lean. "We'll always err on the side of conserving the resource," he says.



Each park superintendent and staff make their own rules for management of permissible activities. Some have had long relationships with highly visible sports on iconic landmarks – like the rock climbers in Yosemite or rafters in the Grand Canyon. Canoes, kayaks and fishing trawls glide on Yellowstone Lake's frigid waters. In adjacent Grand Teton National Park the Jenny Lake Ranger Station maintains a website detailing 10 routes to the top of the almost 14,000 foot Grand Teton. Bring at least 60 feet of rope, they say.

But for every allowed sport there are banned ones, and paddlers aren't the only of such groups to show their displeasure with Park Service regulations by disobeying them. Even staged demonstrations by disgruntled outdoor aficionados are nothing new. In 1999 a group of five BASE jumpers intended to leap from El Capitan in Yosemite to demonstrate the safety of their sport. They used older, cheaper equipment than usual, knowing it would be forfeited when they were arrested at the bottom. The arrests were to be the first step in a plan to legally challenge Yosemite's ban on the sport, but only three of the five would make the leap.

The fourth jumper, 60-year-old Jan Davis from Santa Barbara, Calif. failed to deploy her parachute, falling to her death in front of 150-some spectators as her husband filmed. The fifth walked back down to the valley floor. BASE jumping remains illegal in Yosemite.

But where are advocates like Colburn or the Yosemite protesters arguing for a new use, there are also ardent opponents.

Mark Pearson thinks boats do not belong on Yellowstone's rivers, and he doesn't have a problem with the park getting sued to prove it.

“[T]he park service gets challenged on practically any major decision they make,” says Pearson, conservation director at the Greater Yellowstone Coalition, the largest conservation organization dedicated to the 20 million acre ecosystem including and surrounding the world’s first national park.

For Pearson, the park’s mission is to preserve the area as a natural resource, only providing means for human recreation when it doesn’t disturb the conservation task. It’s hard for him to see how allowing and managing for new recreational activities could help.



“There’s no conservation benefit,” Pearson says. This has been the rallying call for his organization. The Greater Yellowstone Coalition has challenged the park service to restore grizzly bears to the Endangered Species list and to reduce and further regulate the number of snowmobiles allowed in the park during the winter.

Pearson feels Yellowstone’s popularity means its managers do not need to find new ways to draw users to the park: there’s enough already, and pointing fingers arguing over whose favorite activity is the most environmentally degrading is a losing exercise. For him, Yellowstone’s boating bans is a heartening testament, one tangible way for the Park Service to champion what he holds as the most important part of their charter: preservation.

Pearson owns a raft himself, but doesn’t want his access extended into park boundaries.

“It’s nice for the National Parks to be this one last bastion of places where it’s not a sort of anything and everything goes kind of playground – which is the way a lot of our other public lands are headed,” he says. “We’ve got park managers that want to be cautious, that want to say that we don’t necessarily think that our park doesn’t have to be – isn’t required to be – open to every sort of recreation people want to pursue,” says Pearson. “It’s a good role for the park to have.”

But “not open” does not necessarily mean closed – not to a certain sort of boater.

On an August afternoon two dozen or so whitewater boaters have gathered a few miles from the park’s western boundary the way kayakers often do – sandwiched between a two lane road and a river drinking beer.

Ben Kinsella reaches into a jumble of cardboard boxes surrounded by two dozen boaters. Clustered around the cases like a campfire, the crowd cheers as he pulls out a lone bottle. Plastic and Neoprene dry in the Montana sun as Kinsella toasts the crowd, which quickly returns the favor.

Kinsella is not shy about having run the Black Canyon. He filmed it, playing the short movie to cheers from a crowd in Bozeman.

Today, he's not running the Black Canyon, instead joining paddlers from several western states to race down a short stretch of steep, rocky whitewater. Kinsella took second, edged out by a feisty local kid with a mullet. Their gear is scratched, dented and smelly, sun-bleached badges of honor in this circle. A broken paddle has somehow been turned into a pipe, and it passes around the crowd.



This run is a new one – geologically speaking at least. It was formed in 1959 when the hillside above Earthquake Lake was violently shaken and collapsed into the Madison River, killing 28. Across the street from the visitor center a dozen or so dusty cars and trucks are parked in a jumble down by the river. The tops of trees still stick above waterline, reminders



of the Madison River's once unblocked flow from the park plateau down to the prized fishing waters of the calm valley below and to the west. The aftermath of the 7.3 magnitude quake has left the lake to drain into a mile-and-a-half stretch of rocky whitewater. Overturning your boat on it is not recommended, as several dented helmets can attest.

The Madison River downstream of Earthquake Lake is a good run, one that flows into the fall with enough gradient to challenge expert boaters, but Kinsella says it's no Black Canyon.

He ran the canyon one September in a party of four, putting onto the river at first light and paddling out through the town of Gardiner that evening. The crew was constantly on edge for fear of being spotted. "We were super worried about it, that made it more of a class V experience for us," Kinsella said.

The crew walked some of the canyon's stoutest rapids, but Kinsella says most of the canyon is just good old fashioned river fun. "It's nothing crazy, for the most part it's just quality class IV+ whitewater," he says. If it were a permitted, legal run like so many other backcountry rivers in Montana and Idaho Kinsella feels it would become significantly more manageable for experienced boaters. "Removing the risk of being caught would lift the class V veil off a lot of the run," he says.

Voices pique with interest at the discussion of boating in the park, and future runs are proposed as plans quietly made. Not all have paddled within the park, and indeed it's difficult to determine how many have risked it. Some wink and smile, and others are attracted to the conversation.

Hard though it might be to believe, Kinsella is thinking of his unborn children. He has plans for his kids to kayak.

"Oh man, it's my dream to see future generations enjoy it – it's such a resource," Kinsella says. "Put a permit system on it. People go backcountry skiing in there all the time – they get a permit and they're good. It's not the Park Service's job to baby everyone that goes in there."

In the Black Canyon, thousands of years of fast flowing water have smoothed staircases of rock into rocketing flumes, the current's path downstream constantly changing as obstacles are moved and smoothed. In time, even the largest boulders will lose their footing and surrender to the river's unrelenting flow.

But regulations are not rocks, and boaters are not a river.

The Roosevelt Arch has guarded Yellowstone's North entrance for over a hundred years, towering over visitors as they drive, walk or bike their way in or out of the park. Teddy Roosevelt placed its cornerstone himself in a ceremony in April of 1903 in front of a crowd of thousands.

Thousands of canoes, kayaks and rafts have passed through this roughened gateway. Some have been born atop roof racks, testaments of recreational inclination for all to see. These boats are not for rivers. Not here. Not legally.



But not all boats are visible to the rangers stationed a few hundred yards up the road from the arch. Some are hidden, banging in the back of dented trunks, covered by blankets, towels and tarps. They're spray-painted.

Maybe they always will be.