



## Commercial Use Authorization Program Changes and Commercial Service Day Allocation Alternatives

### Background

The Sequoia and Kings Canyon National Parks (SEKI) Wilderness Stewardship Plan and Final Environmental Impact Statement (WSP) and the Extent Necessary Determination (END), approved on May 17, 2015, establishes limits on commercial services in wilderness.

The commercial service day (CSD) limits in the WSP require SEKI to develop a system of allocations for non-stock and stock based commercial services in wilderness. SEKI has identified three alternatives for allocating CSDs. Following the public meetings and a 30-day public comment period, SEKI will select an alternative to implement beginning January 1, 2018.

As part of this shift to an allocation-based system, SEKI is also introducing a number of important planned changes to its commercial use authorization (CUA) program. SEKI plans to implement these CUA program changes regardless of which CSD allocation alternative is ultimately selected.

The purpose of this document is to inform the public of planned CUA program changes and proposed CSD allocation alternatives. Public comment will be accepted until June 23, 2017. Comments can be submitted at [http://parkplanning.nps.gov/SEKI\\_WildernessCUAS](http://parkplanning.nps.gov/SEKI_WildernessCUAS).

### Commercial Use Authorization (CUA) Program Changes

1. **Authorized Activities:** The following activities are eligible for a CUA in SEKI.

|          | Service Type: Wilderness  |          | Service Type: Front-country                   |
|----------|---|----------|---|
| Activity | Guided Day Hiking   | Activity | Guided Day Hiking                             |
|          | Guided Backpacking (Overnight)  |          | Guided Nordic Activities (Snowshoeing/Skiing) |
|          | Guided Mountaineering   |          | Guided Fishing Instruction                    |
|          | Guided Backcountry Ski Mountaineering   |          | Guided Photography Instruction (workshop)     |
|          | Guided Nordic Activities (Snowshoeing/Skiing)                                     |          |   |
|          | Guided Fishing Instruction  |          |   |
|          | Guided Photography Instruction (workshop)   |          |   |
|          | Guided Pack and Saddle Stock Services   |          |   |
|          | Guided Portering (Dunnage/Gear Transport), starting in 2018, west side entry only |          |   |

## **2. Wilderness CUA Application Process**

Applications for a CUA to operate in wilderness within SEKI in 2018-2019 will only be available during a designated 'open season' - beginning July 17, 2017 and ending October 20, 2017. CUAs for commercial services in wilderness will be authorized for a 2-year period, January 1, 2018 thru December 31, 2019.

Applications for front-country CUAs (not operating in wilderness) will continue to be available year-round, and authorized for up to a 2-year period.

Applicants may apply for multiple activities within one of the two Service Types - wilderness or front-country - and pay a single non-refundable application fee. Applicants for both Service Types must apply and pay a separate non-refundable application fee for each Service Type. Wilderness and front-country CUAs are not interchangeable, businesses must obtain a CUA for the type of trips they are advertising and/or planning to operate.

Each commercial entity may be issued one CUA permit for a given Service Type. The Applicant certifies that applicant is not: (1) if an individual, in the direct employment of another Applicant submitting a proposal for the CUA ("Competing Applicant") or of any entity that controls, is controlled by, or is under common control with the Competing Applicant; or (2) if a corporation or other legally recognized entity, does not control, is not controlled by, or is not under common control with a Competing Applicant.

Transitory use of front-country areas by CUA holders as a means to enter and exit wilderness areas authorized under a wilderness CUA is acceptable and does not require a separate CUA for front-country travel. Advertisement or operation of distinct commercial trips in Wilderness or front-country requires separate CUAs.

The information for the 2018-2019 CUA 'open season' will be updated on the Parks' website in mid- June, with actual application materials posting prior to July 17, 2017.

## **3. Fees**

SEKI will move to the National Park Service (NPS) Market Price method for collecting fees starting with the 2018 CUA application cycle. SEKI will charge a non-refundable application fee and assess a fee based on a percentage of gross receipts earned from use in the park.

CUA Holders are required to remit annual payment of the fee based on gross receipts at the end of each calendar year. Gross receipts earned in the park will be reported on the Annual Report (*NPS Form 10-660*) due each year in January. Failure to pay assessed fees will result in revocation of the CUA. The non-refundable application fee will be deducted from the percentage of gross receipts fee. If the gross receipts fee is less than the non-refundable application fee, then the gross receipts fee does not apply.

"Gross receipts" means the total of all revenues received for services performed within SEKI. Revenue generated outside of the park is not subject to reported gross receipts for purposes of the Annual Fee.

|  |   |
|--|---|
| <b>Annual Fee:</b> The non-refundable application fee acts as credit towards the following |   |
| For gross receipts between \$0.01 and \$250,000.00   | 3% of gross receipts  |
| For gross receipts between \$250,000.01 and \$500,000.00                                   | 4% of gross receipts in addition to the prior amount            |
| For gross receipts over \$500,000.01   | 5% of total gross receipts in addition to the two prior amounts |

#### 4. Guide Qualifications:

SEKI will introduce additional changes in requirements for wilderness CUA holders beginning in 2018.

|   |
|---|
| <b>Minimum Qualifications for All Activities:</b>   |
| <p>Guides must be at least 18 years of age and physically capable of hiking and/or packing in the high alpine or wilderness environment.</p> <p>Guides must be trained in basic safety and resource protection, “Leave No Trace” principles, park rules and regulations and in the requirements of the CUA conditions.</p> <p>It is recommended that all guides obtain Food Handling training and certification.</p> <p>Guides must possess previous relevant outdoor experience and have traveled and/or camped in areas to be guided prior to guiding it.</p> <p>All guides must possess a valid basic first aid certificate plus adult CPR. Wilderness First Aid or Wilderness First Responder certification is recommended.</p> |

| <b>Proposed Additional Qualifications Per Activity:</b> |  |
|---|--|
| <b>Activity</b>   | <b>First-Aid</b>   |
| Guided Backpacking                                      | <p>A valid Wilderness First Responder certificate plus adult CPR will be required of all <b>Lead</b> guides who undertake overnight trips in SEKI wilderness.</p> <p>A valid Wilderness First Aid certificate plus adult CPR will be required of <b>all</b> guides.</p>                      |
| Guided Pack and Saddle Stock Services                   | <p>A valid Wilderness First Responder certificate plus adult CPR will be required of all <b>Lead</b> guides/packers who undertake overnight trips in SEKI wilderness.</p> <p>A valid Wilderness First Aid certificate plus adult CPR will be required of all <b>Lead</b> guides/packers.</p> |
| Guided Day Hiking                                       | A valid Wilderness First Aid certificate plus adult CPR will be required of all <b>Lead</b> guides.  |
| Guided Nordic Activities (Snowshoeing/Skiing)           | A valid Wilderness First Aid certificate plus adult CPR will be required of all <b>Lead</b> guides.  |
| Guided Fishing Instruction                              | A valid Wilderness First Aid certificate plus adult CPR will be required of all <b>Lead</b> guides.  |

|   |   |
|---|---|
| Guided Photography Instruction (workshop) | A valid Wilderness First Aid certificate plus adult CPR will be required of all <b>Lead</b> guides.   |
| Guided Portering (Dunnage/Gear Transport) | A valid Wilderness First Aid certificate plus adult CPR will be required of all <b>Lead</b> guides.   |
| Guided Mountaineering                     | No change to current qualifications: A valid Wilderness First Responder certificate (or greater) plus adult CPR will be required of <b>all</b> guides who undertake trips in SEKI wilderness. |
| Guided Backcountry Ski Mountaineering     | No change to current qualifications: A valid Wilderness First Responder certificate (or greater) plus adult CPR will be required of <b>all</b> guides who undertake trips in SEKI wilderness. |

Travel in SEKI has inherent risks and CUA holders assume complete responsibility for their own safety and that of the staff, volunteers and clients under their care. Rescue is not a certainty. Wilderness users should be in good physical condition and should be able to survive on their own by taking the necessary precautions and equipment. Guides should evaluate the fitness of their clients and adjust trip plans to accommodate fitness levels.

## 5. Reporting

CUA Holders are required to complete monthly and annual reporting as outlined in the Conditions of Permit. CUA Holders are required to submit monthly Visitor Use Statistics (VUS) by the 15th of each month. This information includes the number of trips taken and the number of visitors served, but may also include other relevant trip information pertinent to resource management such as where trips took place, the primary destination and report of commercial or non-commercial use.

All CUA Holders must submit VUS reports via email to [seki\\_concessions@nps.gov](mailto:seki_concessions@nps.gov). A separate report form will need to be submitted for each CUA Service Type, for each month of operation.

Commercial use that occurs along the NPS SEKI boundary must be reported as it pertains to entry and use occurring into the park. However, de minimis entry into SEKI – entry that is so trivial or minor that it does not merit consideration as entry into the park - is not required for CSD reporting purposes. SEKI considers the Mountaineer's Route to be de minimis entry.

## 6. Authorization Compliance

Violations of the authorization terms may result in either a citation or warning by and at the discretion of field staff. Citations may subject the commercial operator to penalties as prescribed by law or regulation. Warnings do not carry criminal penalties, but are official notice of non-compliance. Either warnings or citations may result in actions against the provider's authorization, including suspension of the authorization or exclusion from doing business in the park. The holder must comply with all of the conditions of the authorization, including all exhibits, amendments, application requirements, and written or verbal directives from the Superintendent.

## 7. New Activities

|   |  |
|---|--|
| Guided Portering (Dunnage/Gear Transport) | Developed; anticipated implementation 2018; service only allowed from west side as it is prohibited in US Forest Service lands |
| Guided Climbing                           | Not in development; anticipated implementation in 2020   |
| Guided River Running                      | not in development; no anticipated date for implementation   |

## 8. Commercial Service Day (CSD) Limits

The WSP set limits on the total number of CSDs available for commercial use in SEKI wilderness. SEKI will begin allocating and tracking CSDs for both stock and non-stock activities starting in 2018. Commercial services will only be allowed in wilderness up to the CSD limits.

A commercial service day (CSD) is defined as “all or part of a day spent by a client of a commercial service provider on NPS-managed lands” on page B-6 of Appendix B of the WSP.

|   | <b>Stock</b> | <b>Non-Stock</b> | <b>Total</b> |
|---|--------------|------------------|--------------|
| <b>Wilderness-Wide (WW) CSDs:</b><br>Can be used anywhere/anytime except in MWMA during wilderness permit quota period.             | 2,860        | 4,110            | 6,970        |
| <b>Mount Whitney Management Area (MWMA) CSDs:</b><br>CSDs that can be used in MWMA during the wilderness permit quota period or WW. | 500          | 930              | 1,430        |
| <b>Total</b>  | <b>3,360</b> | <b>5,040</b>     | <b>8,400</b> |

Wilderness wide: The Wilderness wide (WW) area was designated by the WSP. The Mount Whitney Management Area (MWMA): The Mount Whitney Management Area (MWMA) has been designated by the WSP. A map of the MWMA can be found on page B-48 of Appendix B of the WSP.

## Wilderness Public Use Restrictions

For more information on Wilderness Public Use Restrictions, including wilderness permits, trail information, minimum impact restrictions, and stock requirements visit <https://www.nps.gov/seki/planyourvisit/backpacking.htm>.

## Extent Necessary Determination (END) Commercial Service Day (CSD) Allocation Alternatives

SEKI is seeking public comment on the following three CSD allocation alternatives.

### Alternative 1: Unlimited CUAs, Hybrid CSD Allocation

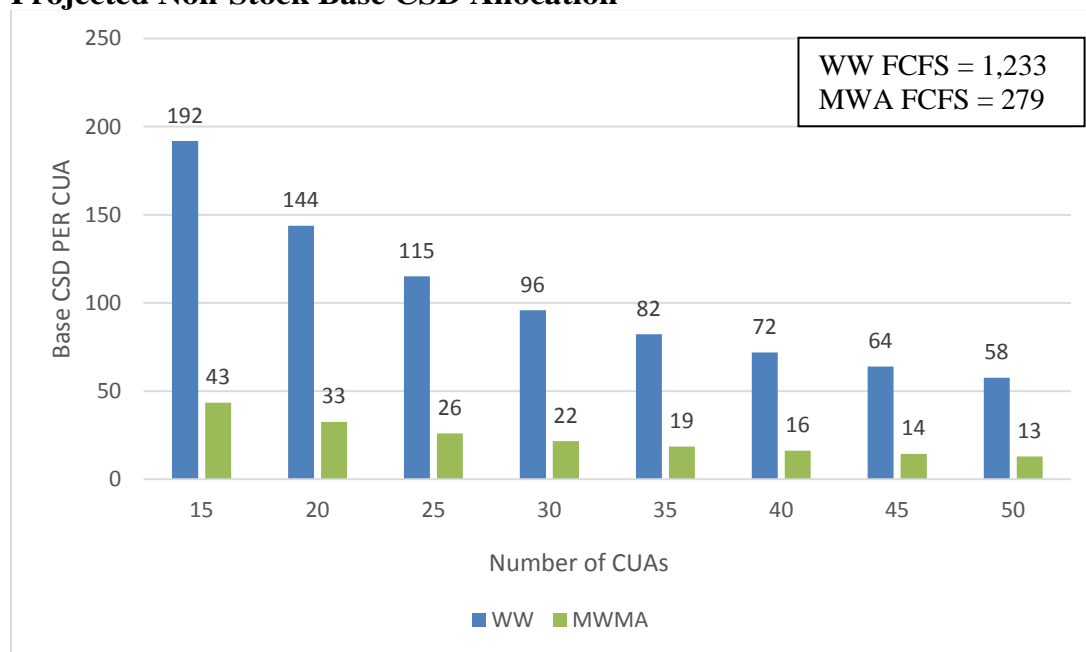
Under this alternative, CUAs are available to all minimally qualified applicants. Applicants indicate requested CSD allocations: Wilderness wide (WW), Mount Whitney Management Area (MWMA), or both. CSDs are allocated in two ways, using a hybrid allocation model that combines a base allocation with a more dynamic first-come, first-served allocation. Each qualified CUA holder receives an equal base allocation for each relevant CSD category, equal to 70% of CSDs divided by the number of CUA holders. The remaining 30% of CSDs are available on a first-come, first-served (FCFS) basis.

The FCFS CSDs are open for CUA holders with confirmed bookings whose base allocation is already exhausted. Any unused CSDs are pooled for redistribution to CUA holders

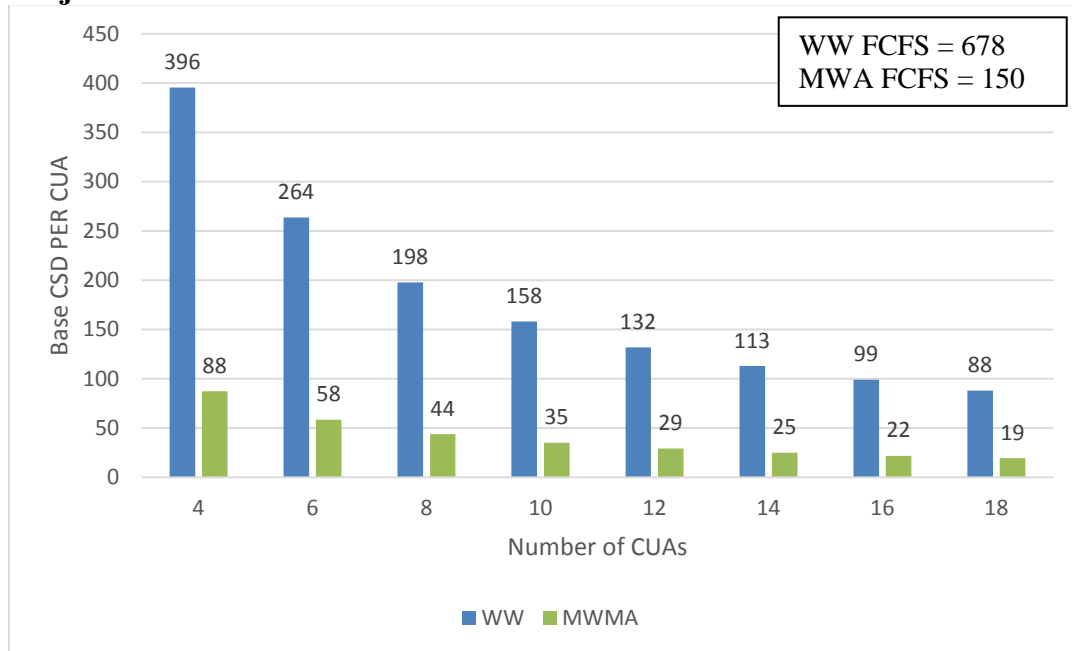
The total number of base CSDs allocated to each CUA holder in 2018 is contingent on the total number of CUAs let. Base CSDs are allocated in equal share to each CUA holder who requests an allocation in a given category, so the more CUA holders the smaller the number of base CSDs allocated to each CUA.

This alternative favors operators wanting to conduct trips that require a small to medium-sized CSD allocation, and new market entrants. Possible downsides include a decrease in the number of CSDs available to any single operator from current levels and continued growth of CUA applicants will further deplete the base CSD allocation.

### Projected Non-Stock Base CSD Allocation



## Projected Stock Base CSD Allocation



To qualify for a CUA and be issued a base CSD allocation, complete applications must be received by the application deadline. Complete applications that meet minimum qualifications for authorized activities receive a base CSD allocation. Applicants can accept the base CSD allocation, a lesser allocation or reject the CSD allocation and forfeit the CUA application.

## Alternative 2: Limited CUAs, Hybrid CSD Allocation

This alternative allocates CSDs similar to alternative 1 (above), but incorporates a limitation on the number of CUAs available for stock and non-stock services. Under this alternative, SEKI limits the number of CUAs to levels consistent with the average number of CUAs operating during the time of the END analysis, 2010 through 2013. Applicants indicate requested CSD allocations: WW, MWMA, or both under a single CUA.

Alternative 2 allows a total of 30 wilderness CUAs. Eighteen (18) non-stock CUAs (of which up to 10 may convey a MWMA CSD allocation), and 12 stock CUAs (of which up to 4 may convey a MWMA CSD allocation). Approximate CSD allocations are provided in the tables below assuming that all CSD allocations are awarded. Base CSDs equal 70% of total CSDs available in a given category divided by the number of CSD allocations, and the FCFS pool is the remaining 30%.

| Total Non-Stock CUAs = 18     | WW    | MWMA |
|-------------------------------|-------|------|
| CSD Allocations Available     | 18    | 10   |
| Base CSDs per Allocation      | 160   | 65   |
| First-come, first-served CSDs | 1,233 | 279  |

|                               |           |             |
|-------------------------------|-----------|-------------|
| <b>Total Stock CUAs = 12</b>  | <b>WW</b> | <b>MWMA</b> |
| CSD Allocations Available     | 12        | 4           |
| Base CSDs per Allocation      | 132       | 88          |
| First-come, first-served CSDs | 678       | 150         |

If more (qualified) applications are received than the number of CUAs and/or MWMA CSD allocations available, applicants will compete for the award of a CUA and/or MWMA CSD allocation through a 3-step process.

1. The first stage represents an initial qualification. The initial qualification is conducted to ensure that specific requirements for each authorized activity are met and all of the required information has been provided. If the application is determined by NPS to be complete and meet the minimum qualifications as set forth in the Applicant Appendices, the CUA application passes the initial qualification and moves to a second stage.
2. The second stage is the qualification round. The Superintendent will select the best applications (from among the qualified applications) on the basis of a narrative explanation outlined in the applicant's Operating Plan that provides the Park with the strongest demonstration of (1) resource protection, and (2) safety and responsiveness to customers and park visitors.
3. The third stage is the CSD allocation round. CSDs are allocated using the same hybrid CSD distribution as Alternative 1. Each selected application receives an equal base allocation for each relevant CSD category, equal to 70% of CSDs divided by the number of CSD allocations. The remaining 30% of CSDs are available on a first-come, first-served basis. Applicants can accept the base CSD allocation, a lesser allocation or reject the base CSD allocation and forfeit the CUA application.

Alternative 2 authorizes the NPS to review rates charged by CUA holders for recreational services rendered under the terms and conditions of the CUA to ensure competition in the marketplace.

Selected applicants receive 2-year CUAs. Operators with unsuccessful submissions do not operate in SEKI in 2018-2019, but have an opportunity to re-apply for the 2020 season

This allocation favors highly qualified operators wanting to conduct trips that require a medium-sized CSD allocation, while allowing room for highly qualified operators to augment their base allocation with FCFS CSDs. This alternative limits market entry. Possible downsides include a decrease in the number of CSDs available to any single operator from current levels, and difficulty for smaller and/or newer operators to remain in or enter the market. Upsides include greater base CSD allocations for successful CUA applicants when examined against a potentially unlimited pool of CUAs, combined with a dynamic FCFS marketplace that enhances competition.

#### **First-Come, First-Served (FCFS) CSD Pool for Alternatives 1 and 2**

FCFS CSDs will be awarded in the order requests are received until the pool is exhausted. A maximum daily limit of FCFS CSDs will be issued to each CUA holder in order to ensure the FCFS pool is available to the widest number of CUA holders within the calendar year. There is no limit on the total number of FCFS CSD allocated to any one CUA holder within



the calendar year. If a CUA holder requests more than the maximum daily limit of FCFS CSDs, the SEKI concessions office will award up to the maximum (if available), and carry the remaining requested CSDs forward to the following day.

The FCFS CSD pool for 2018 will open at 8am PST on April 2, 2018 and will close for MWMA at 4:00 pm on September 19, 2018. The FCFS CSD pool for WW will open at 8am PST on April 2, 2018 and will close at 4:00 pm on December 12, 2018. Open and close dates for the 2019 FCFS CSD pool will be published in December of 2018.

CUA holders are required to submit a FCFS CSD Pool Request along with a list of Verifiable Clients via email to [seki\\_concessions@nps.gov](mailto:seki_concessions@nps.gov). The FCFS CSD Pool Request must clearly demonstrate that the CUA holder has exhausted its base allocation, and is requesting a specific number of WW and/or MWMA CSDs for Verifiable Clients for the current calendar year. FCFS CSD Pool Requests will be processed in the order they are received as CSDs become available. CUA holders will be notified of the status of their FCFS CSD Request via email from [seki\\_concessions@nps.gov](mailto:seki_concessions@nps.gov).

**Mount Whitney Management Area (MWMA) CSDs FCFS Pool:**

- Maximum individual CUA holder daily request 50 CSDs.
- Open at 8am PST on April 2, 2018 and will close at 4:00 pm on September 19, 2018.
- All remaining CSDs in the pool after the closing date will revert to the WW FCFS Pool.

**Wilderness-Wide (WW) CSDs FCFS Pool:**

- Maximum individual CUA holder daily request 100 CSDs.
- Open at 8am PST on April 2, 2018 and will close at 4:00 pm on December 12, 2018.
- All remaining CSDs in the pool after the closing date will expire.

The number of CSDs requested, distributed, and that go unused will be used to inform future allocation percentages between base allocations and the FCFS pool.

If an individual contacts a guide company, but does not hire the company for a specific use in WW or MWMA area on specific date(s), then requesting additional CSDs and entering their information on a verified client list is misrepresentation, which may result exclusion from the FCFS CSD pool.

**Redistribution of CSDs:**

CUA Holders are strongly encouraged to return unused and un-booked CSDs to the FSCS pool for redistribution. CSDs are non-transferrable amongst CUA Holders. CSDs from cancelations or group size reductions may be returned via email to [seki\\_concessions@nps.gov](mailto:seki_concessions@nps.gov). Returned CSDs will be made available when the FSCS pool opens April 2, 2018. All unused CSDs allocated to a CUA which is terminated by the CUA holder will be redistributed to the FSCS pool.

### **Alternative 3: Limited CUAs, Fixed CSD Allocation**

This alternative limits CUAs similar to alternative 2 (above), but incorporates the assignment of fixed CSD allocations for available CUAs. Under this alternative, CSDs allocations are divided into a high-use level and low-use level across use categories (non-stock and stock) and CSD type (WW and MWMA). SEKI maintains the 3-step process for competitive selection of qualified applicants in the same manner as alternative 2.

Alternative 3 allows a total of 30 wilderness CUAs. Eighteen (18) non-stock CUAs (of which up to 10 may convey a MWMA CSD allocation), and 12 stock CUAs (of which up to 4 may convey a MWMA CSD allocation). Approximate CSD allocations at high and low-use levels are provided in the tables below assuming that all CSD allocations are awarded.

| <b>Total Non-Stock CUAs = 18</b>        | <b>WW</b> | <b>MWMA</b> |
|---|-----------|-------------|
| High Level CSD Allocations Available    | 3         | 1           |
| CSDs per High Use Allocation            | 685       | 465         |
| Low Use Level CSD Allocations Available | 15        | 9           |
| CSDs per Low Use Allocation             | 137       | 51          |

| <b>Total Stock CUAs = 12</b>            | <b>WW</b> | <b>MWMA</b> |
|---|-----------|-------------|
| High Level CSD Allocations Available    | 3         | 1           |
| CSDs per High Use Allocation            | 414       | 350         |
| Low Use Level CSD Allocations Available | 9         | 3           |
| CSDs per Low Use Allocation             | 113       | 50          |

Applicants may only apply for one use level in a given CSD category. High-use levels will provide for a high level of business activity, while low-use levels will provide for limited business activity. If fewer (qualified) applications are received than the number of CUAs available, the remaining CSDs will be distributed equally among CUAs in their respective high-use and low-use levels or redistributed to the FCFS Pool as described below.

Applicants can accept the CSD allocation, a lesser allocation or reject the CSD allocation and forfeit the CUA application.

Alternative 3 authorizes the NPS to review rates charged by CUA holders for recreational services rendered under the terms and conditions of the CUA to ensure competition in the marketplace.

Selected applicants receive 2-year CUAs. Operators with unsuccessful submissions do not operate in SEKI in 2018-2019, but have an opportunity to re-apply for the 2020 season

This allocation favors highly qualified medium to large-sized operators wanting to conduct a volume of trips that require a large-fixed CSD allocation. It also allows for smaller highly qualified operators to receive a fixed CSD allocation and benefit from any redistributed CSDs in the FCFS CSD Pool. Possible downsides include difficulty for smaller and/or

newer operators to remain in or enter the market, and the potential for medium to large-sized operators to not receive a high use level CSD allocation and lose all business opportunity in SEKI.

### **First-Come, First-Served (FCFS) CSD Pool for Alternative 3**

SEKI maintains the FCFS CSD Pool in the same manner as alternatives 1 and 2; however, there is no allocation of CSDs to the FCFS Pool from the total of available CSDs. The FCFS Pool is a clearinghouse for relinquished or redistributed CSDs.

### **Considered but Dismissed: Limited CUAs, Lottery CSD Allocation**

A separate alternative to use a lottery system to award CUAs to qualified applicants was considered, but dismissed by the NPS. If SEKI limits CUAs, it will do so based on applicant qualifications, which are directly reflective of the visitor and resource protection values of the NPS, not on chance, which could result in less qualified operators receiving CUAs – an outcome that is not in the interest of the visiting public or the NPS.

## **Management and Analysis**

SEKI will monitor and analyze the implementation of the selected alternative for managing commercial services in wilderness. If warranted, SEKI may take additional actions consistent with the management directions in the WSP in regards to the management of commercial services in wilderness. In all cases, appropriate environmental compliance and public involvement will occur, as necessary, when corrective actions are taken. Possible adjustments may include, but are not limited to:

- The number of commercial service providers may be limited.
- The total number of CUAs issued for each commercial service category- Stock or Non-Stock, may be set not to exceed specified levels. In the event SEKI receives more qualified applications for CUAs in a given service category than are available, a competitive process will be used to select the commercial service providers.
- Future CUA cycles may see CSD allocation models that replace the initial, selected model.
- Category III concession contracts may replace CUAs for some or all wilderness commercial services.
- Approved activities, if found incompatible with resource and wilderness protection, visitor enjoyment, and / or safety, may be suspended or terminated.