

Agenda of: April 23, 2020

Staff: Chelsea Edman and  
Vickie Sanders

**STAFF REPORT:**                    **RIVER USE PERMIT APPLICATIONS**

**APPLICANTS:**                    Outfitters that held River Use Permits in 2019

**REQUEST:**                        Your Commission approves three-year River Use Permits for applicants meeting the standards of the Streams and Rivers Commercial Boating Ordinance Chapter 5.48.

**LOCATION:**                         The project area is located in western El Dorado County, within the South Fork of the American River (South Fork) corridor, between Chili Bar Dam and Salmon Falls.

**SUMMARY RECOMMENDATION**

Recommend the Planning Commission approve three year River Use Permits for applicants meeting the standards established in the Streams and Rivers Commercial Boating Ordinance Chapter 5.48. Staff recommends that the Planning Commission approve a three-year River Use Permit for four outfitters: River Runners, Inc. (RUP #05), American Whitewater Expeditions, Inc. (RUP #45, 40, 34), Action Whitewater Adventures of California, Inc. (RUP #63, 13, 28, 44, 67), and H2O Adventures, LLC. (RUP #72). These permits were last approved at the April 27, 2017 Planning Commission meeting and therefore are expiring.

**BACKGROUND**

Permitted river use is one of the primary whitewater recreation activities managed by the County through its River Management Plan (RMP). Many of the RMP's provisions for River Use Permits (Permits) remain unchanged from the 1984 River Management Plan. The overall number of Permits has changed since 1984 but the number of river use days (user days) has stayed the same since 1988. Permits will be issued by your Commission for three-year terms which last occurred April 27, 2017, April 12, 2018, and March 14, 2019. Staff conducts an annual review of permittees' river use plans on an ongoing basis. Permit holders must comply with several application and operating requirements annually. In addition, commercial river use is subject to additional conditions and restrictions on river use through the RMP's carrying capacity strategy.

The Board adopted Ordinance 4594, the Streams and Rivers Commercial Boating Ordinance Chapter 5.48, which governs the process by which the County issues Permits (Exhibit A). The Board also adopted Resolution No. 033-2002, which set the minimum liability insurance coverage to \$1,000,000 combined single limit per occurrence for bodily injury and property damage.

Ordinance Chapter 5.48 identifies the application provisions in the ordinance that are consistent with the policies of the 2018 updated RMP. Applicants must provide a river use plan that documents all important aspects of their propose operations: landowner/agency permission for all ingress, egress, camping and other land uses, parking facilities, customer shuttle operations, compliance with health standards for food, water and waste, safety measures, and insurance coverage. Your Commission's decision to approve an application for a Permit will be based upon the standards for the river use plan established in Ordinance Chapter 5.48.070.

### **PERMIT ISSUANCE PROCEDURE**

Ordinance Chapter 5.48.050 describes the County's procedure for issuing River Use Permits. Applicants must submit an application consisting of an application fee and a river use plan that conforms to the standards of Ordinance Chapter 5.48.070. County River Program staff reviews the applications for compliance with the standards for a river use plan and County business license requirements. This staff report contains staff's conclusions and recommendations on whether an application's river use plan meets the standards of Ordinance Chapter 5.48.070.

### **CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)**

The County has defined River Use Permits as discretionary permits in Ordinance Chapter 5.48.030.D. CEQA Guidelines §15357 requires that discretionary projects be subject to CEQA, requiring an analysis of the environmental factors that would be potentially affected by the approval of Permits. The initial evaluation by the County sought to determine whether the program 2001 Environmental Impact Report (EIR) for the RMP could be used as the environmental document for the approval of River Use Permits. The initial evaluation's Discussion section described the analysis undertaken to determine that the potential environmental effects from the approval of Permitted River Use were within the scope of the project analyzed by the EIR. The analysis concluded that all potentially significant effects from the approval of River Use Permits were addressed.

The County made the following findings in its initial evaluation pursuant to CEQA Guidelines §15162 and §15168 (c) (2):

1. The approval of River Use Permits is within the scope of the project described and analyzed for the River Management Plan.
2. Although the approval of River Use Permits could have a significant effect on the environment, all potentially significant impacts have been avoided or mitigated pursuant to the River Management Plan.
3. No new effects could occur from and no new mitigation measures would be required for the approval of River Use Permits.
4. No further environmental document is required.

## **RIVER USE PERMIT APPLICATION STANDARDS**

This section lists the elements and standards of staff's review of Permit applications as established by Ordinance Chapter 5.48, River Management Plan Element Six, and other applicable County ordinances.

- A. *Application fee*
- B. *Business License*
- C. *Unsecured Property Tax*
- D. *Names, mailing address, and location of place of business*
- E. *If place of business is located outside County, the name of the local agent within the county who will be available in the event of emergencies or other problems.*
- F. *Full description of activities proposed to be conducted under the permit.*
- G. *Land use requirements (locations of ingress, egress, rest stops, lunch stops, camping or other planned non-emergency stops). All private property locations must have a Special use Permits that allows commercial boating activity. Permits or authorization is required for the use of County, state or federal lands. Section F requires written authorization for use of all lands by an applicant.*
- H. *Parking facility requirements for employees, clients, guests and commercial vehicles. Section F requires written authorization for use of all lands by an applicant.*
- I. *Shuttle transportation requirements*
- J. *County Health Permit requirements*
- K. *Planned safety measures that meet the standards of Section 5.48.120.*
- L. *Applicants must provide a copy of the water flow notice required by RMP Element 6.2.9.3.*
- M. *Proof of liability insurance.*
- N. *Boat logo or identification*

## **DISCUSSION:**

The standards for river use plans in Section 5.48.070 are largely ministerial. The County may use considerable judgment in imposing conditions to mitigate impacts, including the implementation of the carrying capacity related actions.

Staff has inferred that discretion includes imposing reasonable conditions on a Permit's approval based on professional judgment.

**Status of Permits not included in recommendations for approval**

Two River Use Permits are not issued to outfitters and are retained by the County

- River Use Permit #36
- River Use Permit #02

The following permit for W.E.T. River Trips was approved at the April 12, 2018 Planning Commission meeting and will be in their third year of their three year permit term in 2020. The permit for Rock-N-Water, Inc. was approved by the Commission on October 11, 2018. The permit for RaftCalifornia.com was approved by the Commission on July 26, 2018. Due to the staggered dates of the approval on these permits, staff will elect to have all three of these permits come before the Commission for a three year renewal in April 2021.

<b><u>Outfitter Name</u></b>	<b><u>Permit Number</u></b>
CLWW, LLC dba W.E.T. River Trips	#08
Rock-N-Water, Inc.	#55
Tributary Whitewater Tours, LLC dba RaftCalifornia.com	#01, 11, 50

The following permits were approved at the March 14, 2019 Planning Commission meeting and will be in their second year of their three year permit term in 2020. These permits will come before the Commission for a three year renewal in March of 2022.

<b><u>Outfitter Name</u></b>	<b><u>Permit Number</u></b>
All Outdoors Rafting, Inc.	#10, 49, 52
Sierra Nevada College	#18
Sierra Whitewater, Inc.	#19, 74
Rise Up River Trips, LLC.	#20
Whitewater Excitement Unlimited, Inc.	#23, 30, 43
California Canoe & Kayak, Inc.	#24
Associated Students, CSU Chico, Adventure Outings	#27
American River Touring Association, Inc. (ARTA)	#32
Current Adventures Kayak School	#33
Associated Students Inc., CSU Sacramento, PEAK Adventures	#38
Beyond Limits Adventures, Inc.	#48, 25
Tahoe Whitewater Tours	#60, 59
Motherlode River Trips, Ltd.	#68, 51, 61
O.A.R.S. West, Inc.	#70, 14, 58
Outdoor Adventures, UC Davis	#75
Environmental Traveling Companions (ETC)	#79

**RECOMMENDATION:**

The following permits were approved at the April 27, 2017 Planning Commission meeting and therefore are expiring.

Staff's recommendation is that the Planning Commission approve a three-year River Use Permit for the following applicants:

<b><u>Outfitter Name</u></b>	<b><u>Permit Number</u></b>
River Runners, Inc.	#05
American Whitewater Expeditions, Inc.	#45, 40, 34
Action Whitewater Adventures of California, Inc.	#63, 13, 28, 44, 67
H2O Adventures, LLC.	#72

**ATTACHMENTS**

Exhibit A	Streams and Rivers Commercial Boating Ordinance Chapter 5.48
Exhibit B	River Management Plan Element 6, Outfitter Requirements
Exhibit C	River Use Permits and User Day Allocations