

STAFF REPORT:**APPLICATION FOR RIVER USE PERMIT USER DAY
ALLOCATIONS TRANSFER****APPLICANT:**

Michael Juarez, Action Whitewater Adventure

REQUESTS:

Planning Commission 1) Pursuant to CEQA Guidelines Section 15162 and subsection 15168(c)(2), finds that River Use Permits were an activity analyzed for potential environmental effects within the scope of the project in the 2001 Program Environmental Impact Report (EIR) for the RMP, that all potentially significant effects from the approval of River Use Permits were addressed by the EIR, and that no new environmental document is required for the approval of the transfer of River Use Permit user days; and 2) approve the transfer of 17 weekend user day allocations and 15 weekday user day allocations from River Use Permit 13 to River Use Permit 28.

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 RECOMMENDATIONS

Staff recommends the Commission approve the request from Action Whitewater Adventure (AWA) to transfer 17 weekend user day allocations and 15 weekday user day allocations from River Use Permit (RUP) 13 to River Use Permit (RUP) 28.

BACKGROUND

El Dorado County River Management Plan (RMP) contains Element 6.2.1.4 (Exhibit A) which describes the guidelines and procedures for the transfer and consolidation of River Use Permits. Permitted river use is one of the primary whitewater recreation activities managed by the County through its RMP. Although River Outfitter companies and their respective allotted user days have changed since the inception of the program, the overall number of river use days (user days) has stayed the same since 1988. The discussion section will include a checklist of compliance with RMP Element 6.2.1.4, River Use Permit Transfers, and a record of the River Use Permit user day allocations being transferred.

DISCUSSION:

AWA holds RUP 13 and RUP 28 and is requesting the transfer of 17 weekend user day allocations and 15 weekday user day allocations from RUP 13 to RUP 28. This will change the weekend and weekday user day allocations for both permits as noted in the tables below. The reduction of user day allocations will not result in RUP 13 becoming a flex permit.

River Use Permit Allocations

The permits and user day allocations for Action Whitewater Adventure are contained in the tables below:

Action Whitewater Adventure - Permit 13		
	Current	Proposed
Weekend User Day Allocation	32	15
Weekday User Day Allocation	22	7
Memorial Day- Labor Day Weekend Allocation	N/A	N/A

Action Whitewater Adventure - Permit 28		
	Current	Proposed
Weekend User Day Allocation	65	82
Weekday User Day Allocation	25	40
Memorial Day- Labor Day Weekend Allocation	N/A	N/A

Transfer Requirements

River Management Plan Element 6.2.1.4 requires that for the transfer of a portion of a River Use Permit, the Planning Commission consider whether the request meets the following:

- 6.2.1.4.1.1 The buyer and seller negotiate and settle privately on the selling price of that commercial outfitter's business and inventory, excluding the South Fork River Use Permit. The River Use Permit shall have no value assigned to it in the transaction.

This section does not apply.

- 6.2.1.4.1.2 The seller and buyer submit a Letter of Intent stating that the seller wishes to sell his business and transfer the River Use Permit to the buyer. The letter shall include the River Use Permit numbers and names of outfitters involved. This letter shall be delivered to County Parks and Trails Division. With the Letter of Intent, when requested by the County, the buyer and seller shall include an inventory of equipment and other assets that shall be transferred along with the River Use Permit.

The request letter (Exhibit C) indicates the intent of AWA to transfer user days from RUP 13 to RUP 28. The request meets this requirement.

- 6.2.1.4.1.3 County Parks and Trails Division shall review the proposed transfer and forward a staff recommendation along with conditions to the Planning Commission. A transfer fee, set by the Board of Supervisors, will be paid to the County by the new permit holder.

Staff recommendation to the Planning Commission is contained herein. The request meets this requirement.

- 6.2.1.4.1.4 Permit holders with outstanding violations may not be allowed to transfer a permit until the violations are resolved.

AWA is in good standing and has no outstanding fees or unresolved violations with El Dorado County. The request meets this requirement.

- 6.2.1.4.2.1 The transfer of a portion of a River Use Permit can only be authorized between two commercial outfitters that each holds a valid County River Use Permit.

This section does not apply.

- 6.2.1.4.2.2 The transfer of a portion of a River Use Permit must specifically state what portion of the weekday and weekend capacity is to be transferred.

As noted in the request (Exhibit C) AWA is requesting to transfer 17 weekend user day allocations and 15 weekday user day allocations from RUP 13 to RUP 28. The request meets this requirement.

- 6.2.1.4.2.3 Two outfitters may form a partnership and merge their individual permits. The Planning Commission must approve mergers, and transfer fees shall apply. Partnerships or merged permits may be dissolved through approval of the Planning Commission. Transfer fees shall apply for applications to dissolve merged permits.

This section does not apply.

- 6.2.1.4.2.4 The permittees' past history of river use, violations, complaints, and other operating characteristics will be carefully considered prior to approving any transfer of permit capacity. In general, the County wishes to allow partial transfers only to those outfitters who have exhibited the highest level of expertise and commercial management and have operated without violations or infractions.

AWA has held RUP 13 and RUP 28 since 2017 and has no unresolved violations or complaints. The request meets this requirement.

FINDINGS:

1. The transfer of 17 weekend user day allocations and 15 weekday user day allocations from River Use Permit 13 to River Use Permit 28 meets the standards required by the River Management Plan Element 6.2.1.4.

California Environmental Quality Act (CEQA) Compliance

CEQA Guidelines §15168, Program EIR, section (c)(2), states:

"If the agency finds that pursuant to Section 15162, no subsequent EIR would be required, the agency can approve the activity as being within the scope of the project covered by the program EIR, and no new environmental document would be required. Whether a later activity is within the scope of a program EIR is a factual question that the lead agency determines based on substantial evidence in the record. Factors that an agency may consider in making that determination include, but are not limited to, consistency of the later activity with the type of allowable land use, overall planned density and building intensity, geographic area analyzed for environmental impacts, and covered infrastructure, as described in the program EIR."

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, Subsequent EIRs and Negative Declarations, and §15168, Program EIR, section (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.

Likewise, the transfer of user days does not change the amount of commercial river use allowed by the County's River Management Plan and no further environmental document is required.

RECOMMENDATION:

The Commission approves the transfer of 17 weekend user day allocations and 15 weekday user day allocations from River Use Permit 13 to River Use Permit 28.

EXHIBITS

Exhibit A	El Dorado County River Management Plan - Element 6.2.1.4
Exhibit B	Chapter 5.48. - Streams and Rivers Commercial Boating Ordinance
Exhibit C	Letter of Intent from Applicant