

Public Comment # 37
Bos R CUJ. 1-9-23

From: Ken Hower <ken.hower@rubicontrailfoundation.org>
Sent: Sunday, January 8, 2023 9:34 PM
To: BOS-Clerk of the Board; Kim Dawson
Subject: Agenda Item #37 Pulled From Consent
Attachments: Clerk of the Board Letter 017-2023.pdf; RES 015-2013-1.pdf; Exhibit C, saved from edcgov.us.pdf

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Kim,

Please look at the attachments and letter requesting that Agenda Item #37 be pulled from the consent calendar for the January 10, 2023 agenda.

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Regards,
Ken Hower
President - Rubicon Trail Foundation



Rubicon Trail Foundation

P.O. Box 2188 Placerville, CA 95667

1-888-6RUBICON (678-2426)

**To enhance the future health and use of the Rubicon Trail,
while ensuring responsible motorized year-round trail access.**

A 501(c)3 Non-Profit Educational Foundation.

January 8, 2023

To the Clerk of the Board of El Dorado County,

Please enter the following comments regarding Item 37 into the record for January 10, 2023, Board of Supervisors meeting.

We request that Item 37 be pulled from the consent calendar and discussed publicly based on the following.

In 1887 the El Dorado County Board of Supervisors, as part of the 1886 Mining Law, asserted the RS -2477 rights of the public to travel on the Rubicon Trail, making it a county-claimed public road. The Board of Supervisors re-asserted those rights in 1989. This means the Rubicon Trail is not in the county road inventory but has a legally different status. Part of that status is that the Rubicon trail cannot be closed.

In 2012, in response to the 2009 California Water Board Cleanup and Abatement Order, El Dorado County asked the US Forest Service for an easement, which triggered a National Environmental Policy Act (NEPA) process. This was done for several reasons such as defining the trail corridor, constructing several bridges, placing toilets on the trail, and construction of erosion control measures to protect the environment. As part of the easement process, an agreement was struck (known only as "Exhibit C", attached) in which El Dorado County agreed to monitor water and erosion on the trail and limit access to the trail if necessary to protect it. This gave the County the authority to control access to the trail, but ONLY under specific circumstances.

In response to that easement agreement, on February 12, 2013, the El Dorado County Board of Supervisors passed Resolution 015-2013 (attached) giving authority to the Director of the Department of Transportation to close road segments leading to the trail to accomplish this. The resolution was crafted this way because County Counsel, at the time, knew the Rubicon Trail could not be legally closed. The Rubicon Trail's status has not changed. This resolution followed the process outlined in the NEPA Easement Agreement. It is the product of a clear and well-thought-out process vetted by the public, codified in federal law, and agreed upon by the appellants to the process.

This foundation has already sent a letter objecting to the temporary closure in place since December 30, 2022. We question the legality of the current closure, the legality of adopting Resolution 017-2023, and the legality of treating the Rubicon Trail as a County Road, regarding legal status, or by using Road Fund to repair it.

Ken Hower, President

John Arenz, Director



In Register

RESOLUTION NO. 015-2013

OF THE BOARD OF SUPERVISORS OF THE COUNTY OF EL DORADO

Resolution to Authorize the Director of Transportation, or Successor, to Order Temporary Road Closures Within the Crystal Basin Area of El Dorado County

WHEREAS, the El Dorado County Board of Supervisors wishes to protect the health and safety of persons using county roadways, and

WHEREAS, the Board of Supervisors recognizes that changing road and weather conditions may necessitate the restriction of public access in order to provide such protections, and

WHEREAS, the California Vehicle Code, Section 21101 et seq., provides for the adoption of rules and regulations by local authorities to temporarily close roads for specific purposes, and

WHEREAS, the California Streets and Highways Code, Section 942.5, allows the Board of Supervisors to restrict the use of, or close any county highway whenever the Board considers such closing or restriction of use necessary: (a) for the protection of the public; (b) for the protection of such county highway from damage during storms; and (c) during construction, improvement, or maintenance operations thereon, and

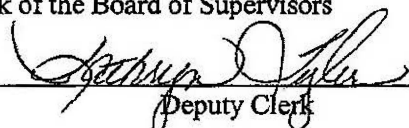
WHEREAS, the California Streets and Highways Code, Section 942.6, allows the Board of Supervisors to delegate such authority to the Road Commissioner / Director of Transportation.

NOW, THEREFORE, BE IT RESOLVED, that the Director of Transportation, or successor, is authorized to order the temporary closure of Ice House Road and Wentworth Springs Road within the vicinity of the Rubicon Trail when conditions exist that warrant such closure to comply with the Clean-up and Abatement Order R5-2009-0030 as issued by the State of California Water Quality Control Board Central Valley Region and to be in conformance with the easement granted by the United States Forest Service for the Rubicon Trail (Doc No. 08/14/2012, 20120040283). The necessity for a specific closure, the appropriate location of the closure, and the duration of the closure shall be determined by the Director of Transportation, or successor, based upon the condition of the subject road and surrounding roads and the actual or expected weather conditions. The Director of Transportation will provide a road condition report describing any closure activity under this Resolution to the Board of Supervisors within 1-year of initial adoption.

PASSED AND ADOPTED by the Board of Supervisors of the County of El Dorado at a regular meeting of said Board, held the 12 day of February, 2013 by the following vote of said Board:

Ayes: Briggs, Santiago, Mikulaco, Veerkamp, Nuttin.
Noes: None
Absent: None

Attest:
James S. Mitrishin
Clerk of the Board of Supervisors

By: 
Deputy Clerk

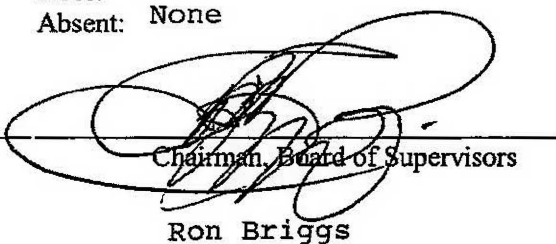

Chairman, Board of Supervisors
Ron Briggs

Exhibit C Stipulations

A saturated soil management strategy would be used to address motor vehicle use during the wet season.

The County will conduct monitoring on the Rubicon Trail to assess the effectiveness of the Saturated Soil Water Quality Protection Plan (SSWQPP); and to meet the County's goals of minimizing Trail erosion, and to reduce and capture contaminants and vehicle-caused sediment.

Monitoring to determine if a closure is necessary would begin on December 1 and continue until June 1. The monitoring period may be extended or shortened depending on conditions that may vary from year to year. Monitoring would include remote (office) monitoring and field (observations and measurements) monitoring. Remote monitoring would be conducted from the office to determine if field visits are warranted. Historic and current climatic (temperature and precipitation) data and hydrologic data (e.g. USGS, SMUD: stage height, discharge) would be used to make the field visit determination. When field visits are necessary, observations and measurements taken in the field would be used to determine if a closure is needed based on the potential for adverse impacts to water quality (e.g. contaminant rinsing, turbidity, sediment delivery) or active mechanical erosion.

The monitoring shall be documented and the results will be analyzed and assessed by the County and the Forest Service within seven (7) calendar days of monitoring. If the monitoring by the County demonstrates that the goals of the SSWQPP are being met, then the County will continue its maintenance and monitoring. If the monitoring demonstrates that saturated soil conditions exist and water is flowing on the trail at an amount capable of rinsing contaminants from vehicle components and capable of transporting sediment generated from mechanical tire action on the road within the Wentworth Springs Campground, Post Pile grade, Ellis Creek Tie Intersection, Walker Hill, Soup Bowl, Winter Camp, or Little Sluice areas; then the County will close the Rubicon Trail to public motorized vehicle use. When field monitoring by the County determines that the above conditions no longer exist then the County will lift the closure.

If the above monitoring is not conducted, the County will close the trail to be consistent with the Travel Management seasonal closure.

An annual monitoring report including the documentation and assessment shall be provided to the California Regional Water Quality Control Board for the Central Valley Region and to the Eldorado National Forest.

The standard, routine, and traditional operations and maintenance activities will be in conformance with an existing road maintenance agreement, such as the *Forest Road Agreement between the U.S. Department of Agriculture, Forest Service and El Dorado County*, dated October 6, 1992.

From: Pearse Umlauf <pearse@jeepjam.com>
Sent: Monday, January 9, 2023 11:38 AM
To: BOS-Clerk of the Board
Cc: Vickie Sanders; Josh Hall; Chris Prince; Chris Prince
Subject: Item # 37 -- Rubicon Trail Closure (IN SUPPORT)

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Dear El Dorado County,

My name is Pearse Umlauf, President & CEO of the MASOR, Inc / Jeep Jamboree USA. Jeep Jamboree USA is the world's largest Jeep adventure company. We host guided trips on the Rubicon Trail during the summer months (June – September). Our founder, Mark A. Smith, started the first-ever guided trip on the Rubicon Trail back in 1953, known as the Jeepers Jamboree.

MASOR is a partner in Rubicon Trail Partnership, which owns over 1,000+ acres on the Rubicon Trail between the Granite Bowl & Spider Lake. I'm personally a shareholder in Rubicon Soda Springs, Inc., which owns another 420 acres known as Rubicon Springs.

We **100%** support El Dorado County's decision to adopt an emergency closure of the Rubicon Trail. The extreme weather conditions are unusual and require leadership from El Dorado County to ensure public safety and minimize environmental damage on the trail. As custodians of the Rubicon Trail, I believe it is the responsibility of every user & user group to support this closure, due to the extreme weather conditions.

Warm Regards,

Pearse Umlauf



Pearse Umlauf
President & CEO
Jeep Jamboree USA
2776 Sourdough Flat
Georgetown, CA 95634-9599
530.308.3777
www.jeepjamboreeusa.com



From: Kim Dawson
Sent: Monday, January 9, 2023 12:43 PM
To: BOS-Clerk of the Board
Subject: FW: BOS Meeting re: Item 37
Attachments: Ltr_ElDoradoCo_BoardofSupervisors_Rubicon.pdf

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Can you please include with public comment. Thanks, Kim

Kim Dawson
Clerk of the Board of Supervisors
County of El Dorado
330 Fair Lane, Building A
Placerville, CA 95667
(530) 621-5393
kim.dawson@edcgov.us

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From: Mike McGarity <emailmcgarity@gmail.com>
Sent: Monday, January 9, 2023 12:39 PM
To: Kim Dawson <kim.dawson@edcgov.us>; BOS-District IV <bosfour@edcgov.us>; BOS-District III <bosthree@edcgov.us>; BOS-District II <bostwo@edcgov.us>; BOS-District I <bosone@edcgov.us>
Subject: BOS Meeting re: Item 37

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Board of Supervisors and Clerk of the Board of El Dorado County,

Please find attached CORVA's request for item 37 into record for the January 10, 2023 Board of Supervisors meeting. We are requesting that item 37 be pulled from the consent calendar and discussed publicly.

Sincerely,

Mike McGarity
President, CORVA

California Off-Road Vehicle Association



California Off Road Vehicle Association

January 08, 2023

El Dorado County Board of Supervisors
330 Fair Lane
Placerville, CA 95667

Re: January 10, 2023 BOS Meeting Agenda item #37. 23-0139

Dear Board of Supervisors,

CORVA represents approximately 1500 members throughout the State of California and advocates for responsible off-highway vehicle recreation on public lands. We are submitting our request on behalf of our members and associated clubs for the BOS to move item 37. 23-0139 from the Consent Calendar to the agenda. The public should have an opportunity to comment on this matter prior to any Board action.

The closure of the Rubicon Trail has been closely monitored since the decision was made to close it on December 30, 2022. At that time the only explanation given was found on the El Dorado County Website:

"As of December 30, 2022, the Rubicon Trail is closed for public safety in accordance with county procedures and a determination was made with the Department of Transportation, the Sheriff's Office, and the Parks Division."

The Board of Supervisors, Department of Transportation, the Sheriff Department as well as the Parks Division are all aware of the strict guideline for the closure of the Rubicon. It can be found in resolution 015-2013: <https://docs.google.com/viewer...> The concern is that the guidelines to close the trail are not being adhered to. The justification to close the trail has not been properly communicated to the public.

It is understood that the weather conditions are severe. Storm after storm has been brutal. It is also understood that the county resources are all stretched to capacity. However, was this closure due to:

1. Saturated soil conditions exist within the traveled way and;
2. Water is flowing within the traveled way of the Trail at an amount capable of rinsing contaminants from vehicle components and;
3. Capable of transporting sediment generated from mechanical tire action on the road.

We ask that before the Board of Supervisors make their decision, that more information is made available to the public. We ask that the Department of Transportation provide proper justification to close the Rubicon in accordance to the "Rubicon Trail Monitoring Protocol" dated July 2013. CORVA was an integral part of the easement process along with the county and the Forest Service, and helped establish the criteria that we have followed to this day to determine when conditions are met to consider closure of the Rubicon Trail.

"Protecting Public Land *FOR* the People Not *FROM* the People"
1735 David E. Cook Way, Ste C, Clovis, California • 93611
mike.mcgarity@corva.org • www.corva.org



California Off Road Vehicle Association

Please allow the public to comment and be included in the decisions that affect the public from accessing the Rubicon in accordance to 015-2013. CORVA is asking for the Board to consider the importance for the enthusiast community to have a voice. CORVA does not want to promote people from traveling in these severe weather conditions, but CORVA has always supported the fact that enthusiasts should have a seat at the table when determining closures to the trail. Especially when it's the Rubicon Trail because we helped se that precedent so many years ago.

Sincerely,

Mike McGarity
CORVA President

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mike.mcgarity@corva.org • www.corva.org