

Agenda of: April 25, 2024

Staff: Tim Canavarro/Jessica Araiza

STAFF REPORT:

APPLICATION FOR RENEWAL OF RIVER USE PERMIT

APPLICANTS:

Outfitters that held River Use Permits in 2023. California Watersport Collective, Rock-N-Water, WET River Trips, and Tributary Whitewater Tours.

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 River Use Permits and, 2) approves three-year River Use Permits for applicants meeting the standards of the Streams and Rivers Commercial Boating Ordinance Chapter 5.48. Therefore, permit #24, #55, #08, #01, #11, and #50 are recommended for a three-year renewal.

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

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 the Planning Commission approve three-year River Use Permits for outfitters: California Watersport Collective (RUP #24), Rock-N-Water (RUP #55), WET River Trips (RUP #08), and Tributary Whitewater Tours (RUP #01 #11 # 50).

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 the Planning Commission for a three-year term which last occurred on April 8, 2021.

An annual review of permittees' river use plans performed by the El Dorado County River Program is ongoing. 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 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 proposed 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)

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.

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 (location of ingress, egress, rest stops, lunch stops, camping or other planned non-emergency stops). All private property locations must have a Special use Permit 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. Planed safety measures that meet the standards of Section 5.48.120
- K. Applicants must provide a copy of the water flow notice required by RMP Element 6.2.9.3
- L. Proof of liability insurance
- M. Boat logo or identification

DISCUSSION:

The standards for river use plans in Section 5.48.070 are largely ministerial. The County may use considerable judgement 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 judgement.

RECOMMENDATION:

The following permits were approved in 2021 by the Planning Commission and will be in the third year of their three-year permit term in 2024. Therefore, staff recommends the Planning Commission approve three-year River Use Permits to the following applicants:

<u>Outfitter Name</u>	<u>Permit Number</u>
California Watersport Collective	#24
Rock-N-Water	#55
Tributary Whitewater Tours	#01, #11, #50
WET River Trips	#08

ATTACHMENTS

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