




Tech Comments on Agenda Item 26-0262, Feb. 26, 2026

From Lime Parfait <limeparfait@gmail.com>

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Dear Planning Commission,

Please accept the attached technical comments for Commission review and discussion of the proposed extension of several commercial rafting company permits under the El Dorado County River Management Plan, in Agenda Item 26-0262 on Feb. 26, 2026.

I hope this information helps the Commission with their important reviews of this and other such permits under the circumstances of an updated RMP, pending necessary further approvals by responsible agencies, and the need for further CEQA review of the 2001 EIS for the RMP.

I plan to attend the Planning Commission meeting on Feb. 26 by Zoom in case there may be some questions or clarifications needed.

Thank you for your consideration.

Emmett Cartier

Technical Memorandum: Agenda Item 26-0262, February 26, 2026

To: El Dorado County Planning Commission

Date: February 22, 2026

Subject: Technical Comments on Commercial River Use Permit Renewals (2026–2029)
and River Management Plan Update

Honorable Commissioners,

As the Commission considers the renewal of 11 permits for four commercial rafting outfitters (Action Whitewater Adventure, American Whitewater Expeditions, H2O Adventures, and River Runners), I submit the following technical concerns regarding the current regulatory framework and the transition toward the proposed River Management Plan (RMP) update. Note that the RMP is pending update with numerous important 'update' revisions to be determined and approved, after the current permits have expired and are subject to renewals. Selected comments on the CEQA status and structure of administrative discretion of the RMP are added as Appendix D for convenient reference as needed.

I. Replacing the "Carrying Capacity" Model

The current reliance on fixed "Carrying Capacity" (CC) limits as the primary management tool for the South Fork of the American River is increasingly viewed in professional recreation management and environmental planning as a flawed proxy for resource protection. (Notably, the subjective 'thresholds' of boat and boater counts for potentially 'triggering' additional actions (remaining to be determine in scope) have not been exceeded in any year to date, so the additional actions have not been 'triggered' by actual counts.)

- **Arbitrary Thresholds:** Fixed CC caps often rely on historical snapshots of use rather than dynamic ecological or social impact data.
- **Barrier to Equity:** By treating "User Days" as a finite, capped commodity, the County inadvertently grants a de facto monopoly to legacy permit holders. This prevents the entry of innovative, underserved, or community-based operators who could enhance public access without necessarily increasing environmental degradation.
- **Recommendation:** The Commission should signal a shift from Capacity-Based Management to Impact-Based Management (e.g., *Limits of Acceptable Change* or *Visitor Use Management Framework*), where permits are conditioned on specific behavioral and stewardship outcomes rather than raw headcounts.

II. Addressing Expired Permits and "Regulatory Limbo"

It is noted that several permits have reached their expiration prior to this renewal hearing. Given that the RMP is currently slated for a comprehensive update, granting a standard three-year renewal under "unclear terms and conditions" creates a legal and operational vacuum.

- The Problem: Renewing for three years under the *old* RMP may "grandfather in" outdated standards, making it difficult to apply new equity or environmental requirements once the updated RMP is reviewed and ratified. Also, approvals of existing commercial rafting activities have not yet been approved by responsible federal and state agencies; State Parks concessions are pending replacement by an RFP process; and a JPA between State Parks and El Dorado County is pending federal approval.
- The Solution of Provisional Extension: Rather than a full permit renewal, I recommend a Short-Term Provisional Extension (12-18 months) for the four outfitters pending renewals. This ensures:
 1. Fairness to Operators: Existing businesses can maintain their 2026 season bookings and staffing plans.
 2. Regulatory Flexibility: It allows the County to synchronize all commercial permits with the *updated* RMP terms as soon as they are finalized, ensuring all operators are held to the same modernized standards of equity and stewardship simultaneously.

III. Transitioning to an Equitable Allocation System

To resolve the tension between existing permittees and the goal of public equity, the updated RMP should decouple permit "privilege" from historical longevity.

- Proposed Condition: Any extension or renewal granted today should include a "Re-opener Clause," stating that the permit is subject to modification based on the upcoming RMP's equity and access findings.
- Diversified Access: Moving away from a "capped" system allows for a "Qualified Provider" model. If an outfitter meets rigorous safety and stewardship criteria, the focus shifts from *who* they are to *how* they serve the public.

Conclusion

The Commission has a unique opportunity to bridge the gap between the sunset management era and a more equitable, impact-focused future. By granting a limited-term extension rather than a multi-year renewal, the Commission protects the local economy while preserving its authority to implement necessary reforms in the upcoming RMP. Additional background information and discussion is provided for reference as needed in the attached.

Respectfully,

Emmett Cartier, M.S.

Background reference information for discussion

Introduction

For the Planning Commission, the matter of approving and permitting commercial river boating has different challenges than for most land-use oversight. The navigable river was affirmed as open to the public for boating and fishing up to the high-water mark (low or high marks, depending on circumstances and subject to a process of determination) by the 1976-1979 court case in response to the initial closure of the river to boating by El Dorado County ordinance. Each boater and fisherman on the river has a stake and interest in the law and its application, as does the community as a whole. The Commission must consider many diverse aspects of the complicated setting of recreation and land uses that have become increasingly intermingled, such as with certain resort owners also holding most of the commercial boating permits.

Conflicts and impacts from rafting business have been alleged since the 1970s, partly by land managers due to the reputation for early outfitters to protest proposals for water project developments. Outfitters sought to protect their river recreation setting and prevent inundation of the Stanislaus River through the 1970's, until the lake filled and spilled in the record-setting runoff of 1983. State water rights were withheld, pending determination of beneficial uses for the water (perhaps more than for environmental and recreational protests), holding back the filling of the federal reservoir under even after the dam was completed in 1978. The controversy resonated with movie and television stars promoting river recreation, while groups favoring the dam construction and filling of the reservoir staged their own protests. A rafting guide famously chained himself to a hidden rock to help prevent flooding of the scenic and historical canyon of the Camp Nine run to Parrots Ferry Road bridge.

Many Camp Nine outfitters then moved on to the nearest popular Class III river, the South Fork American, and gradually also discovered the fine Class IV runs on the Middle and North Forks of the American River. Soon, about 80 outfitters operated in El Dorado and Placer Counties. At that time, major water projects were still proposed on the South Fork (e.g., SOFAR Project) and authorized – but not funded – on the North and Middle Forks of the American River (Auburn Dam and Reservoir). Some environmentally-oriented outfitters offered paper and pens to clients on lunch breaks in the canyons to write their legislators in protest of the dam projects that would harm the river environment. Other outfitters just set up small operations in existing campgrounds and ran small trips, or drove turbo-diesel buses with up to 42 passengers from Southern California or the Bay Area for weekend trips on the river.

It may be helpful to recall the wider historical setting in which initial permit systems were transferred from about 40 former *BLM* permits on the Stanislaus River, and outfitters added operations on the South Fork American River. (A more specific history of the county permit system will then be reviewed in particular).

People ex rel. Younger v. County of El Dorado (1979): “In 1975, 30 commercial rafting organizations spent approximately 21,000 commercial user days navigating the river. Private user days amounted to about 14,000.” El Dorado County banned all boating on the South Fork American River in 1976, which soon resulted in litigation. The navigability of the was ascertained, even where the bed and banks are privately owned, by the court judgement in case of People ex rel. Younger v. County of El Dorado (1979) <https://law.justia.com/cases/california/court-of-appeal/3d/96/403.html> (excerpted in Appendix C)

President Jimmy Carter famously included the Auburn Dam on his "hit list" of federal water projects to be cut, targeting it in 1977 shortly after taking office. The project was labeled a "boondoggle" due to environmental concerns, cost-effectiveness, and seismic safety issues following the 1975 Oroville earthquake.

The Supreme Court case California v. United States, 438 U.S. 645 (1978), regarding the filling of the New Melones Dam, was decided on July 3, 1978. The Court held that, under Section 8 of the Reclamation Act of 1902, the federal government must abide by state water law conditions unless they are inconsistent with congressional directives.

In the midst of these apparent conflicts about water management and river recreation, El Dorado County became involved with management of the increasing numbers of commercial whitewater boating outfitters, using a combination of land zoning authority and Harbors and Navigation Code § 660 was invoked with a Special Use Area designation on the popular reaches of the South Fork American River for ‘health and safety.’ The current set of rules in the El Dorado County River Management Plan continues to adapt the original governmental purposes to the modern setting with appropriate administrative processes.

Concerns regarding El Dorado County potentially restricting access or banning boating on the South Fork American River were active around January 2001, when American Whitewater flagged potential "passive access reductions" on the river. The issue focused on maintaining public access to the waterway, which is considered a public trust resource.

‘Carrying Capacity’ Applications in Question

The notion of limited environmental ‘carrying capacity’ became popular in park and recreation management during the advent of commercial boating in California. It derived partly from the field of range management, where livestock are quite practically limited in space and time for access to the scarce resources of forage in an enclosed setting. Many references were made to the ‘tragedy of the commons’ popularized in the late 1960s, modeling competition for commonly shared resources of value to the community. Even while that approach was explored in the literature of recreation and park management, critics pointed out the unequal uses of the concept to discriminate against selected groups in the competitive process. Land management agencies tended to modify the approach to identify ‘limits of acceptable change’ where a baseline is set to measure and monitor actual social conflicts or environmental impacts as they potentially develop. However, in the case of river management on the forks of the American River, special interest in carrying capacity came from pro-dam managers seeking to disparage recreation activities that might undermine the potential for water project

developments. Reclamation hired consultants to prepare studies, then draft plans, to restrict commercial boating outfitters in particular, as presumably in conflict with noncommercial boaters, other recreationists, and the river environment. An 'Interim Resources Management Plan' was developed for Auburn SRA in 1992 to fulfill obligations for a management reference, stating an overall goal to "not encourage recreation." The most extensive discussion was regarding whitewater boating in generally pejorative terms for potential river impacts and user conflicts. Numerous restrictions were proposed for the draft plan to be developed further in controlling commercial boating. Indeed, the numbers of boats and users had increased dramatically over a relatively short time frame, up to about 80 outfitters in the narrow canyons with limited access routes. Managers felt overwhelmed with the rapid increases in special uses for guides and outfitters. Governmental systems took many years to plan, design, and develop access sites and facilities to suit the large buses, equipment trucks and trailers, and large groups of visitors involved on the rafting trips. State Parks managers have stated that the current system of restricting whitewater boating concession derives from the 1980s references, although the legacy concessions were not instituted in compliance with state Public Resources Code requirements. Now, State Parks plans to inaugurate procurement procedures for the whitewater outfitting concessions using a request for proposal approach to meet their laws within the next year. How the current outfitters might be accommodated remains to be determined, but so far an outcome with current concession uses is not assured.

Countering the concept of 'carrying capacity' for more fairness and equity among recreational users of public lands, parks and rivers

1. The "Wealth Bias" Argument

One of the strongest criticisms is that carrying capacity limits often transition into "Pay-to-Play" systems.

Commercial vs. Private Split: Many agencies (like El Dorado County) split capacity between commercial outfitters and private boaters. Critics argue that commercial caps favor those with high disposable income, while private lotteries create a "scarcity of opportunity" for those who have the skills but not the money or the luck.

Market Commodification: When permits are capped, they become valuable commodities. This can lead to a "recreational elite" where only those who can afford rising outfitter fees or expensive gear have access to the resource.

2. The Shift to "LAC" (Limits of Acceptable Change)

Critics often argue that "Carrying Capacity" is a flawed, static number. Instead, they push for the Limits of Acceptable Change (LAC) framework, as developed and favored by the U.S. Forest Service.

The Concept: Rather than asking "How many people can fit?", LAC asks "What conditions do we want to maintain?" or "What is it that we don't want changed?"

The Argument: If users are educated in "Leave No Trace" and impact-mitigation, a river can handle 500 people with less damage than 50 uneducated users. Capacity limits are seen as a "lazy" management

tool that ignores the potential for better user education and infrastructure. Behavior management via educational and training standards towards a 'river ethic' (e.g., similar in concept to Aldo Leopold's 'land ethic') is ultimately more effective in achieving management objectives, than are either the promulgation of unenforceable regulations or sanctions after the impacts occur.

In particular, the County requiring company owners sign a form to the effect the guides for the outfitter will comply with RMP rules of behavior remains inadequate and ineffective in accomplishing goals for compliance and public 'health and safety'.

(Notably, Dr. Glen Haas, who is listed in the bibliography for County RMP documents, was instrumental in the development of the LAC approach as well as the WROS and WALROS processes for planning and zoning lands for recreational management.)

3. Historical Inequity and "Grandfathering"

Many permit systems are based on Historical Use Patterns.

The Critique: Agencies often assign permit quotas based on who was using the river in the 1970s or 80s (when many ordinances, like 3463, were drafted). The initial South Fork American River rafting outfitters were 'grandfathered' into acceptance via permits and persisted in policy as vested rights and privileges.

Equity Gap: This systematically excludes demographic groups who were historically marginalized or did not have access to outdoor recreation during those decades. By "locking in" those numbers, the government is essentially preserving a historical demographic snapshot that may lack diversity. *(Note: the advent of Groupon and its use for discounts with online marketing has reportedly increased the representation from formerly underserved groups in commercial rafting on the South Fork American River, while undercutting market competition for the same clients by other established outfitters in recent decades.)*

4. Displacement and "The Funnel Effect"

Strict capacity limits don't reduce total environmental impact; they simply displace it.

Displacement: Because the South Fork of the American River outfitter use is capped, and access is restricted by zoning, users are pushed to less-regulated, more sensitive rivers that lack the infrastructure (toilets, marked trails) to handle them.

Equity Issue: This often pushes lower-income or local users out of their own "backyard" waters into more dangerous or less accessible areas. E.g., access at Highway 49 bridge; Class IV rivers nearby; or to steep creeks with potentially-hazardous waterfalls (and more private land concerns) such as Weber Creek.

5. Social vs. Biological Capacity

There is a distinction between Biological Capacity (how much the dirt/water can take) and Social Capacity (how many people you see before you feel "crowded"). *Past 'studies' and draft plans have even suggested impacts may occur to the environment, as well as to safety and health, when a raft bumps into a rock.*

The Argument: Critics argue that "crowding" is a subjective, middle-class aesthetic preference.

Equity Counter: Using "solitude" as a management goal can be elitist. Prioritizing the "wilderness experience" of a few over the "access rights" of the many is seen by some as a violation of the democratic nature of public lands.

Potential Alternatives to a 'Carrying Capacity' Approach to Recreation Management

These preferred concepts are often proposed in place of hard caps on visitor use numbers:

<u>Preferred Concept</u>	<u>Description of Alternative Practice</u>
Adaptive Management	Adjusting numbers based on real-time data rather than fixed 1984 limits.
Infrastructure-First	Increasing capacity by building better 'hardened' or accommodating sites (ramps, toilets, trails, parking) rather than banning users. Note that state grants are available for many recreational boating features.
Weighted Lotteries	Giving preference to first-time users or underrepresented groups/outfitters to help ensure equity.
Zoning	Creating "High-Use" and "Primitive" zones rather than a blanket cap on the entire river. E.g., the federal and state Wild and Scenic River Acts designate recreational, scenic, or wild reaches of the overall WSR as supported by studies.

Background of Evolving Circumstances of the El Dorado County River Management Plan

The El Dorado County River Management Plan (RMP) has described **land ownership** somewhat vaguely, often overlooking the roles and responsibilities of federal and state agencies in managing land and river resources—even while achieving the stated RMP goal of expanding public acreage. Land trusts bought ranches from willing sellers for donation to the U.S. Bureau of Land Management (BLM) to ensure better public access and landscape conservation. Today, a continuous trail runs along the entire river corridor from Highway 49 near Coloma to Folsom Lake, offering hiking, biking, and equestrian opportunities in addition to river boating access. The BLM presence increased dramatically since its 2004 'a river management plan' seemed to incorporate local citizen input and recognize county planning for river boating management (BLM 2004), but federal plans have not incorporated County regulations.

The transition from private ranches to public land has generally benefited recreational activities, such as commercial and noncommercial boating. In the past, outfitters would coordinate with private landowners for lunch stops. Now these lunch sites in the river corridor are **managed by federal government** processes, allowing wider commercial and noncommercial use of beaches and gravel bars during boating trips. Additional road access and day-use amenities—like tables, shelters, and portable restrooms—have been developed at convenient riverside stops.

River management strategies have shifted from dealing with scattered BLM 'Public Domain' parcels—often isolated former mining claims with some remnant mineral interests—to **overreaching County**

jurisdiction of river recreation on the increasingly federal corridor, especially by permit terms and conditions for commercial rafting outfitters. The RMP cites authority for both land zoning and public health and safety for the rules. Certainly, many large outfitters now operate additional camp and access facilities on parcels per County zoning, acquired over several decades. Facility improvements on both public and private lands now serve commercial boating groups comfortably, compared to when remote access was the norm. Amenities now feature flush toilets and steel sinks now, rather than the former ammo can ‘groovers’ and plastic wash buckets. Modern self-bailing rafts allow more paddlers per guide than earlier basket boats with rowing frames and piles of semi-dry bags for camping gear.

These changes have encouraged **new recreational use patterns** that reduce conflicts between user groups or private landowners. Concerns for potential exponential commercial growth that had led to tighter restrictions have faded, thanks to circumstances including better access, equipment, and guide training. State Parks built the Salmon Falls parking lot for 100 vehicles including buses in 1990 and expanded the Low Water Staging Area for large-scale commercial rafting takeout in 2005. That huge new Salmon Falls takeout left the narrow trail at Skunk Hollow for noncommercial access at Folsom Lake. Reliable river flows from favorable FERC hydropower relicensing have helped stabilize boating schedules and reduce crowding, so trips started at different times and places along the river rather than just at Marshall Gold SHP. These factors obviously reduced boating congestion, and notions of recreational ‘carrying capacity’ became irrelevant.

On top of that, **substitute boating opportunities** on the Middle and North Forks American River helped absorbed demand, especially with summer hydropower flows negotiated for the new Middle Fork FERC license since 2012. Access there also improved, and some outfitter bases relocated towards Placer County. Outfitter numbers on the South Fork have declined since the original management planning, with some consolidation of about 80 concession permits in the 1980s to about 25 today, while about 57 permits for the Auburn State Recreation Area dwindled to 15 for the Middle Fork and 11 for the North Fork American River as of the latest drawing for start dates and times on January 28. The trend has reached the point where outfitter permits are below the nominal allocations for commercial rafting outfitter access under strict terms and conditions of permits that were never actually approved under State Parks concessions rules in the Public Resources Code. Note also that State Parks plans to bring their concession permits into compliance within the next year, using a Request for Proposal system that has not yet specified how existing outfitters might be accommodated for Auburn and Folsom Lake SRAs and Marshall Gold Discovery SHP.

Moving forward, river recreation planning should adapt to reflect substantial shifts in usage patterns and focus on better **coordination among state and federal agencies**, rather than chasing outdated visitor density ‘trigger’ thresholds that have never been reached and probably never will be. Group size limits and boat density standards should be reconsidered, shifting instead toward comprehensively monitoring visitor use and evaluating any remaining potential impacts or conflicts, by location and time. If any conflicts or congestion may still be attributable to adverse user behavior, then that behavior needs to be addressed. So far, we have only data for boat numbers at selected rapids, which have not exceeded the standard selected for a ‘carrying capacity’ limit.

Educational initiatives should continue and expand to address negative behaviors if they arise, and enforcement against illegal trespassing on private lands should persist in protecting landowner privacy. Reviewing historical trends can help put past surges or declines in recreation into context—for instance, many outfitters moved to the South Fork American River after the Stanislaus River canyon was suddenly flooded by New Melones Reservoir in 1983 (by natural events but contrary to state water rights over federal dam operations).

The following section focuses on one particular aspect of the County management of the river corridor: the growing importance of clarifying federal land ownership and jurisdiction for crafting County regulations that appropriately address actual public health and safety needs within legal authorities across various segments of the river’s total mileage.

Reference **limited scope and authority**, Subject 1: El Dorado County “Ordinance No. 3463, Page 2

Section 3. Chapter 12.72 is hereby added to Title 12 of the El Dorado County Ordinance Code to read as follows:

CHAPTER 12.72, SPECIFIC USE REGULATIONS FOR THE SOUTH FORK OF THE AMERICAN RIVER

12.72. 010 Purpose The purpose of this chapter is to protect the public's health, safety and welfare by designating the South Fork of the American River as a special use area and requiring the registration of persons, who, for non-commercial purposes, float or otherwise traverse all or any portion of the South Fork of the American River from Chili Bar Dam to the confluence of the Folsom Lake State Recreation Area. The registration requirement is necessary to ensure that persons who float the South Fork of the American River are aware of the locations of private lands, public use areas, approved human sanitation methods, including the locations of public toilets, approved solid waste disposal methods and locations, emergency procedures and other necessary safety rules. This chapter is therefore proposed to regulate recreational travel on the South Fork of the American River to ensure the safety of the users and the health and welfare of the community. ...”

and Subject 2: El Dorado County Ordinance 4528, Definitions:

“5.50.030 Special-Use Area.

The portion of the South Fork of the American River between Chili Bar Dam and **the confluence of the Folsom Lake State Recreation Area** is hereby designated as a special use area pursuant to California Harbors and Navigation Code section 660. (Ord. 4596, 3-19-2002)”

As described, the location of the special use area designation by El Dorado County appears to end at the ‘confluence with’ or start of Folsom Lake SRA, which is a designation by the California State Parks and Recreation Commission for jurisdiction of the California Department of Parks and Recreation (CDPR) for management of federal lands under a managing partner agreement (MPA) with U.S. Bureau of Reclamation. As mapped by the CDPR, Folsom Lake SRA includes lands of the South Fork American River upstream from, and often within the bed of Folsom Lake as the water levels fluctuate seasonally.

California Harbors and Navigation Code § 660 generally applies on federal land within California, particularly regarding the regulation of vessels on "waters of the state". However, its application is subject to federal supremacy, meaning state regulations apply only to the extent they do not conflict with federal laws, regulations, or exclusive jurisdiction over specific federal property.

Key aspects of application of County ordinance or other regulations on Federal Land may include:

- "Waters of the State": Section 660 allows for state/local regulation of vessels on waters within California, including many areas adjacent to federal land.
- State-Federal Interaction: While the state can regulate, federal agencies (like BLM, National Park Service, or Reclamation) often adopt federalized rules (33 CFR, 36 CFR, or 43 CFR) that take precedence over local or state ordinances.
- Safety & Compliance: California peace officers have authority to stop and board vessels on waters subject to state jurisdiction to enforce state laws, which often include federal, state, and local requirements.

Limitations:

- Exclusive Jurisdiction: If the federal government has exclusive jurisdiction over a specific area (e.g., a secured military dock), state laws might not apply. (Note that exclusive jurisdiction is not likely to be considered by responsible agencies as applicable for BLM and Reclamation lands for the South Fork American River, but the status of the jurisdiction may be subject to review and potential adjudication for particular purposes. Legal analysis may be appropriate prior to asserting the roles of federal and local agency jurisdictions regarding permits for commercial boating, concessions, and allocations of use.)
- Conflict: If a local or state regulation under Harbors and Navigation Code § 660 conflicts with federal maritime law or federal management plans (e.g., for a Wild and Scenic River status), the federal law controls.
- Both BLM (2006) and Reclamation (2010) have comprehensive resource management plans in effect for respective federal lands along the South Fork American River in El Dorado County.

In effect, recreational visitors and commercial outfitter concessions must comply with both California Harbors and Navigation Code § 660 and federal boating regulations when operating on federal land in California.

The El Dorado County River Management Plan (EDCRMP), adopted under the authority of California Harbors and Navigation Code § 660 (as well as referencing county zoning authorities), applies to the South Fork of the American River, including areas flowing through Bureau of Land Management (BLM) and Reclamation federal land.

References by the EDCRMP or other documents to additional authorities for regulating commercial outfitters under police powers of local agency zoning cannot apply on federal lands.

Key details regarding the jurisdiction claimed by El Dorado County include:

- **Unique Management Structure:** While BLM owns several large land parcels of original Public Domain (or reverted mining claims) and acquired/donated lands along the river (such as lunch spots with Phoenix toilets), El Dorado County claims to act as the primary governing agency for commercial and non-commercial whitewater recreation in the designated segment between Chili Bar Dam and Salmon Falls Road.
- **Authorization:** The Board of Supervisors first designated this section as a special use area pursuant to HNC § 660 in 1984, with subsequent adoptions (most recently in 2002), allowing the County to regulate boat traffic, safety, and commercial activities.
- **Scope of Application:** The RMP governs the 20.7-mile segment of the river, managing commercial and non-commercial boating, purportedly including on BLM parcels, to ensure public health, safety, and welfare.

Discussion:

The El Dorado County RMP does not reference the Reclamation lands acquired and withdrawn from the Public Domain for the Folsom Lake project. The reference to County jurisdiction downriver to Salmon Falls Road does not consider the original intent and ordinance definition of County jurisdiction only to the ‘...confluence of the Folsom Lake State Recreation Area...’ While the County manages the recreational or commercial outfitter boating user regulations (commercial, non-commercial, institutional trips), federal, state (Marshall Gold Discovery State Historic Park), and private lands exist along the river. The RMP serves as the implementation plan for only *County policies* aimed at minimizing environmental impacts on these lands, or health and safety conditions. However, the County plan does not necessarily supersede or fulfill federal management roles and responsibilities on the substantial areas of BLM and Reclamation lands. Some further review is needed of the respective land management plans and governing regulations in effect for federal properties within the river corridor.

For the U.S. Bureau of Reclamation (Reclamation) lands and facilities (such as parts of the Folsom Lake State Recreation Area), 43 CFR Part 423 (Public Conduct on Bureau of Reclamation Facilities, Lands, and Waterbodies) also applies.

Here is the breakdown of how these jurisdictions interact:

- **Concurrent Jurisdiction:** While El Dorado County acts as the primary manager for commercial boating and non-commercial river recreation in this corridor, the land itself is federal. Therefore, users must comply with 43 CFR § 423.20(a), which requires following all applicable Federal, State, and local laws.
- **Federal Authority:** 43 CFR governs public conduct, including camping (§ 423.33), vehicles (§ 423.28), and *special uses* (§ 423.21) such as commercial boating outfitters.
- **Reclamation Control:** Reclamation reserves the right to control, restrict, or close areas, even if they are within the scope of the County's RMP.

- Conflicts: If a conflict arises between local (County) rules and federal regulations (43 CFR), the federal regulation (43 CFR) prevails on Reclamation land.

In practice, El Dorado County must fully coordinate its RMP with each of the federal agencies involved, but federal 43 CFR regulations remain in effect for public conduct on BLM and Reclamation land.

Thus, commercial rafting permits issued by El Dorado County may apply on the South Fork American River within lands managed by the U.S. Bureau of Reclamation (Reclamation). However, because the Reclamation retains ownership of these lands, federal regulations, including 43 CFR, also still apply. In turn, State Parks manages recreation activities and facilities at Folsom Lake SRA using both the state Public Resources Code and federal CFR under a managing partner agreement with Reclamation. Each of these respective jurisdictions should coordinate fully in planning and implementing their respective regulations. So far, the County plans and regulations do not seem to adequately recognize and consider the jurisdiction of Reclamation on federal lands along the lower reach of the South Fork American River. In fact, the U.S. Bureau of Reclamation is not mentioned in most planning and reference documents for the EDCRMP.

Key Details on Jurisdiction and Permitting:

- County Authority: El Dorado County manages the River Management Plan (RMP) and serves as the primary permitting agency for commercial and private boaters between Chili Bar Dam and Salmon Falls Road.
- Federal Land: While the County issues permits for commercial outfitters for purposes of the California Harbors and Navigation Code section 660, much of the public land, such as specific lunch spots, belongs to the Bureau of Land Management (BLM), and the final reach of the river to a fluctuating Folsom Lake is on land acquired or withdrawn and managed under Reclamation oversight, including the noncommercial takeout at Skunk Hollow and the commercial rafting takeout at Salmon Falls parking area.
- State Parks imposes its additional state PRC laws within Reclamation lands in Folsom Lake State Recreation Area, as well as at state-owned lands in Marshall Gold Discovery State Historic Park in Coloma.
- 43 CFR Applicability: Because the lands are federal, 43 CFR regulations regarding the use of land, facilities, and waterbodies (e.g., 43 CFR Part 429) apply. Commercial operators must follow both County-specific rules and federal regulations for using these areas.
- Agency Coordination: The County RMP and its restrictions are designed to align with federal, state, and local requirements, with input from a local committee that includes representatives from the boating community, landowners, and relevant agencies.

In summary, commercial boating outfitters must comply with El Dorado County's rafting regulations (including obtaining their permit), but federal laws governing the use of Bureau of Reclamation land still take precedence on federal property.

Federal regulations apply to commercial rafting or outfitting on Bureau of Land Management (BLM) land along the South Fork American River, specifically through the requirement of [Special Recreation Permits](#) (SRPs) for commercial, organized, or competitive activities. While El Dorado County manages much of the river recreation use for public health and safety, the BLM mandates that commercial operators, particularly those using BLM-managed sites like the Dave Moore Nature Area, Cronan Ranch, Greenwood Creek access, and scattered parcels, adhere to federal permitting standards. The BLM manages these areas for public safety and resource protection, requiring strict standards for commercial, outfitter-guided trips. For commercial operators, securing a valid BLM Special Recreation Permit is necessary to legally operate on BLM-owned land parcels along the river. BLM (2004, p 14) stated that, for commercial uses of federal lands, "... a Special Recreation Use Permit must be obtained from the BLM. These uses could include commercial ... guided Whitewater rafting tours..."

[El Dorado County commercial rafting permits](#) still apply to the South Fork American River, including extensive reaches managed by the BLM and Reclamation. The County considers itself the primary permitting agency, regulating commercial outfitters across various land jurisdictions—including BLM land, [California State Parks](#), and private property—along the 21-mile stretch from [Chili Bar Dam to Folsom Lake](#). The depiction of County roles and responsibilities is not necessarily binding on state and federal agencies, but opportunities for cooperative management remain readily available.

Commercial rafting on the South Fork American River on BLM and Reclamation lands requires compliance specifically with [43 CFR Part 2930 \(BLM Special Recreation Permits\)](#) and [43 CFR Part 429 \(BOR use of land/waterbodies\)](#). [BLM Special Recreation Permits \(43 CFR 2930\)](#), authorized under the Federal Land Policy and Management Act (FLPMA), are required for commercial, competitive, or commercial-related recreation on BLM-managed land. [BOR Use Authorization \(43 CFR 429 & 423\)](#) governs commercial use of land and waterbodies to prevent unauthorized occupancy or extraction of resources, ensuring federal safety and land management standards are met. Operators must obtain a Special Recreation Permit from the BLM (often via a multi-year process) to operate on BLM land, with additional requirements for BOR-managed areas.

For example, County regulations such as for "Quiet Zones" in specific reaches are designated where noise restrictions apply, enforced to balance user experience and private land ownership, may be authorized under concurrent jurisdiction with federal agencies, although less appropriate on the more remote federal land parcels that have no private residences nearby. Rather, federal agencies can implement noise regulations under separate jurisdictional procedures.

In general, El Dorado County's zoning powers do not apply to activities conducted by the federal government on land owned or leased by the U.S. Bureau of Land Management (BLM) or the U.S. Bureau of Reclamation (USBR).

The El Dorado County Zoning Ordinance explicitly states that its provisions do not apply to the activities of the federal government on federally owned or leased land. This setting suggests key considerations available for planning and management should include:

- **Federal Preemption:** Under federal law, the federal government generally maintains immunity from local land-use controls unless Congress has explicitly waived that immunity or a specific memorandum of understanding (MOU) exists between the County and the federal agency.
- **Cooperative Management:** While zoning does not apply to the federal agencies themselves, the BLM and Reclamation developed management plans that are intended to complement County plans or interests to ensure consistent management of the river corridor. BLM (2004) stated,

In 1996, El Dorado County initiated a planning process to update their 1984 South Fork American River Management Plan. At that time, the BLM made a decision to delay planning for the public lands within the river corridor until El Dorado County completed their plan. The BLM's intention was to wait, then produce a Federal plan that complemented the County plan. Since there is more private land, subject to County regulations, than Federal land along the South Fork. [sic]

The 2004 BLM river 'a management plan' mentions prospective cooperation with El Dorado County without actual policies in effect, and it was superseded by a newer Sierra RMP in 2006.

- **River Management Plan:** El Dorado County does exercise specific regulatory authority over whitewater recreation (both commercial and private) and private land uses or access on the South Fork American River through its [River Management Plan](#), which sets operational rules for boaters regardless of land ownership.

The [El Dorado County River Management Plan \(RMP\)](#) applies to whitewater recreation on the South Fork American River, including stretches passing through [Bureau of Land Management \(BLM\)](#) and Bureau of Reclamation (USBR) lands.

While the County generally lacks zoning power over federal activities, it maintains authority over the activity of river recreation under the following framework:

- **Public Health and Safety:** The RMP operates as an exercise of the County's police power to regulate recreational activities for public health, safety, and welfare. These regulations (such as [Personal Flotation Device \(PFD\) requirements](#) and group size limits) apply to the individuals and commercial outfitters using the waterway, rather than to the federal land itself.
- **Parallel Jurisdiction:** Even without a formal memorandum of agreement (MOA) for County management of federal lands, both the County and federal agencies exert jurisdiction over the same space. For example, the BLM issues its own permits for commercial outfitters using BLM land, while the County requires those same outfitters to comply with the RMP and County Code Chapter 5.48.
- **Navigable Waterway:** Under California law, the public has a right to use navigable waters (like the South Fork) for recreation. The County regulates this usage to prevent congestion and environmental impact, monitoring boat density at key spots like [Fowler's Rock](#) and Troublemaker Rapid.

- Adaptive Management: The RMP is updated annually (most recently in progress for the [2026 season](#)) to coordinate safety and environmental goals across the 20.7-mile stretch, regardless of whether a parcel is state, federal, or privately owned.

The U.S. Bureau of Land Management (BLM) issues Special Recreation Permits (SRPs) for commercial uses on the South Fork American River, specifically under [43 CFR Subpart 2932](#).

These permits authorize business entities to operate on federal public lands and waters when they meet the federal definition of commercial use, which includes making a profit, receiving compensation for services, or engaging in paid advertising.

Specific Commercial Permits and Requirements

The BLM issues these permits to ensure safety and resource protection through the [Mother Lode Field Office](#):

- Commercial Whitewater Outfitting & Guiding: This is the primary permit type issued for the South Fork. Any entity charging a fee to lead rafting, kayaking, or tubing trips on river segments passing through BLM land must hold an SRP.
- Commercial Filming and Photography: Permits are required for professional filming or photography ventures on federal lands that use actors, models, or sets, even if the primary activity is river-based. Commercial photography on a small scale has largely been exempt from regulations on federal lands. Note that permit requirements for commercial filming have changed substantially with the 2025 Explore Act, compared to the prior federal regulations in effect since 2000: <https://www.blm.gov/sites/default/files/docs/2026-02/BLM-EXPLORE-Act-Title-III-SRP-FAQs.pdf>
- Commercial Vending: This applies to any mobile or fixed-site sales occurring on BLM-managed banks or access points.
- Organized Group and Competitive Event Permits: While not always "commercial" in the traditional sense, if a group charges a fee that exceeds actual expenses, it requires an SRP under the same 43 CFR 2932 regulations.

Under federal law, these commercial permits require:

- Insurance: Applicants must obtain [property damage and public liability insurance](#) naming the U.S. Government as additionally insured.
- Operating Plans: Outfitters must submit a detailed plan of operations, including safety protocols and emergency procedures.
- Fee Payments: Permittees pay a commercial fee, typically a percentage of gross receipts or a per-user day fee, to the [BLM](#).

The BLM Sierra Resource Management Plan (RMP) recognizes the El Dorado County River Management Plan (EDCRMP) as a vital cooperative framework, but it does not formally "surrender" federal authority to the County. Instead, the BLM treats the County's plan as a foundational document for managing the river corridor. The relationship is characterized by cooperative management rather than a delegation of powers. Here is how that recognition works in practice:

Recognition of the "River Management Plan" (RMP)

The Sierra RMP (specifically the Record of Decision) identifies the South Fork American River as a Special Recreation Management Area (SRMA). Within this designation, the BLM explicitly states its intent to coordinate with El Dorado County to ensure that federal management actions are consistent with the County's 1984 RMP (and subsequent updates).

Management Objectives and Consistency

The BLM's Sierra RMP aligns itself with the County on several key regulatory fronts:

- **Carrying Capacity:** The BLM respects the boater carrying capacity limits (boat density) established by the County to prevent overcrowding and environmental degradation.
- **Commercial Operations:** The BLM requires commercial outfitters to comply with both the federal 43 CFR 2930 regulations and the County's commercial ordinances. The BLM generally will not issue an SRP to an outfitter who is not also in good standing with the County's permit system.
- **Special Use Area:** The BLM recognizes the river corridor as a "Special Use Area" where County ordinances regarding camping, fires, and sanitation are enforced by County sheriff's deputies even on federal land, through a cooperative law enforcement agreement.

The "Memorandum of Understanding" (MOU) History

There is no current MOA found for the *management* of federal lands, but there has historically been a strong MOU for Law Enforcement and Emergency Services between local and federal agencies.

- Under the California Supplemental Rules (which the BLM adopts), federal rangers and County sheriffs share jurisdiction.
- The BLM recognizes the County's role as the primary manager of the water surface, while the BLM manages the land-based facilities (like the Cronan Ranch or Dave Moore Nature Area).

Because the BLM is a federal agency, it maintains "preemption" in specific areas where federal mandates might clash with local zoning:

- **Mineral Rights:** The BLM retains authority over mineral extraction on federal lands, which County zoning cannot strictly prohibit.
- **Wildlife Management:** Federal Endangered Species Act (ESA) requirements on BLM land take precedence over County-level recreational or management preferences.

Summary Table: Jurisdiction Comparison

Feature	El Dorado County Authority	BLM Authority
Water Surface	Primary (Safety, Flow, Density)	Supportive (Special Rules)
Commercial Permits	Mandatory County License	Mandatory Federal SRP
Land Use/Zoning	No (on federal parcels)	Primary (Sierra RMP)
Law Enforcement	Penal Code & River Ordinances	Federal Regulations & CFRs

The BLM [Sierra Resource Management Plan](#) is the governing federal document for BLM lands along the river. It states that the BLM will "work with El Dorado County to implement the South Fork of the American River Management Plan."

The U.S. Bureau of Land Management (BLM) is not required to prepare a [National Environmental Policy Act \(NEPA\)](#) document for the [El Dorado County River Management Plan \(RMP\)](#) itself, as the RMP is a local government action, not a federal one. However, NEPA documentation is required for any specific federal actions the BLM takes to implement or coordinate with that plan on federal lands. The BLM must conduct NEPA analysis (such as an Environmental Assessment or a Determination of NEPA Adequacy) in the following scenarios related to the river corridor:

- Issuance of Federal Permits: Every time the BLM issues or renews a Special Recreation Permit (SRP) for commercial rafting under [43 CFR Part 2930](#), BLM must ensure the action complies with NEPA.
- Federal Land Projects: If the BLM proposes physical improvements (including any land disturbance) on the river—such as new restrooms, parking lots, or trailheads at sites like Cronan Ranch—these projects require NEPA review even if they align with the County's RMP.
- Adopting Management Blueprints: While the BLM recognizes the County RMP, any formal adoption of its strategies into the Sierra Resource Management Plan (the federal "blueprint") requires a comprehensive Environmental Impact Statement (EIS).
- Categorical Exclusions: Minor actions, such as renewing an existing permit with no changes in use, may sometimes be fast-tracked using a Categorical Exclusion (CX) if the BLM determines the action has no significant environmental impact.

Coordination vs. Adoption

The BLM necessarily coordinates with El Dorado County to resolve inconsistencies between federal and local plans. While this coordination does not require a unique NEPA document, the resulting federal decisions (like setting boat density limits on federal stretches) must be backed by the environmental analysis found in the Sierra RMP's original EIS.

Federal decisions regarding the management of BLM land on the South Fork American River are backed by the environmental analysis in the BLM Sierra Resource Management Plan (RMP) and its associated Final Environmental Impact Statement (FEIS).

While a unique NEPA document is not created for every coordinated action with the County, the foundational authority for federal actions rests on that original analysis. Here is how that support functions:

- **Tiering of Decisions:** The BLM uses a "tiering" process where site-specific actions (like issuing a Special Recreation Permit) "tier" back to the broader analysis already completed in the Sierra RMP/FEIS.
- **SRMA Designation:** The Sierra RMP designates the South Fork as a Special Recreation Management Area (SRMA). The FEIS analyzed the impacts of high-density recreation and established that managing the river through a "collaborative framework" (implicitly including the County's plan) was the Preferred Alternative for protecting resource values. Lands under this SRMA designation total [nominally] 6,365 acres. However, that BLM SRMA designation does not reference whitewater boating or commercial outfitting on the river, and does not mention roles of El Dorado County, State Parks, or Reclamation in any actions or authorities in the Federal Register posting.
- **Boat Density as a Proxy:** The BLM RMP and EIS did not analyze the "carrying capacity" of the river corridor. If the BLM supports the County's boat density limits, it is perhaps acting on the FEIS's conclusion that congestion management is necessary to prevent potential degradation of "Outstandingly Remarkable Values" such as water quality and wildlife habitat. However, the recognition of such OHVs would depend on eligibility determination and/or ultimate designation as a national Wild and Scenic River, which has not been proposed for the South Fork American River. The Sierra RMP states briefly on page 1-5,

“Heavy demand for boating has led to congestion-related conflicts. There is a need for rafting, beginning kayaking, and expert kayaking opportunities. Rapids, lunch and camping areas, parking areas, and put-in and take-out locations are all seeing increased demand and the need for thoughtful planning and conflict resolution.”

Reference was also made to capacity for OHV uses on the BLM lands, but not to a specifically designated capacity for any recreational activity. Also, the BLM lands had relatively little incidence of congestion, compared to State Parks facilities at Marshall Gold Discovery SHP and Folsom Lake SRA. Some of the small, scattered BLM parcels in the upper reaches of the South

Fork had been used with or without permits as some of the only public land available prior to later enforcement, management, and ranch acquisitions. Notably, the circumstances relating to past boating congestion have largely been mitigated over recent decades by numerous improvements in access facilities and changes in management and operations. E.g., rafting groups from 80 outfitters used the narrow walkway from Folsom Lake at Skunk Hollow, with large turbodiesel buses jammed with equipment trucks and trailers in the small parking lot, prior to the development and later expansion of suitable facilities at the Salmon Falls access. Also, State Parks removed commercial trip launches at Coloma after visitor demand was dispersed with the opening of the Henningson-Lotus county park downriver in Lotus.

- Documentation of NEPA Adequacy (DNA): Instead of a new full-scale analysis, the BLM often completes a DNA. This is a brief federal document stating that a proposed action (like setting a new seasonal limit) was already sufficiently analyzed in the original Sierra RMP EIS and therefore may require no further study.
- Supplemental Rules: To enforce specific limits on federal stretches, the BLM publishes Supplementary Rules in the Federal Register. These rules cite the Sierra RMP as the underlying authority, ensuring the legal "backing" of the original environmental analysis.

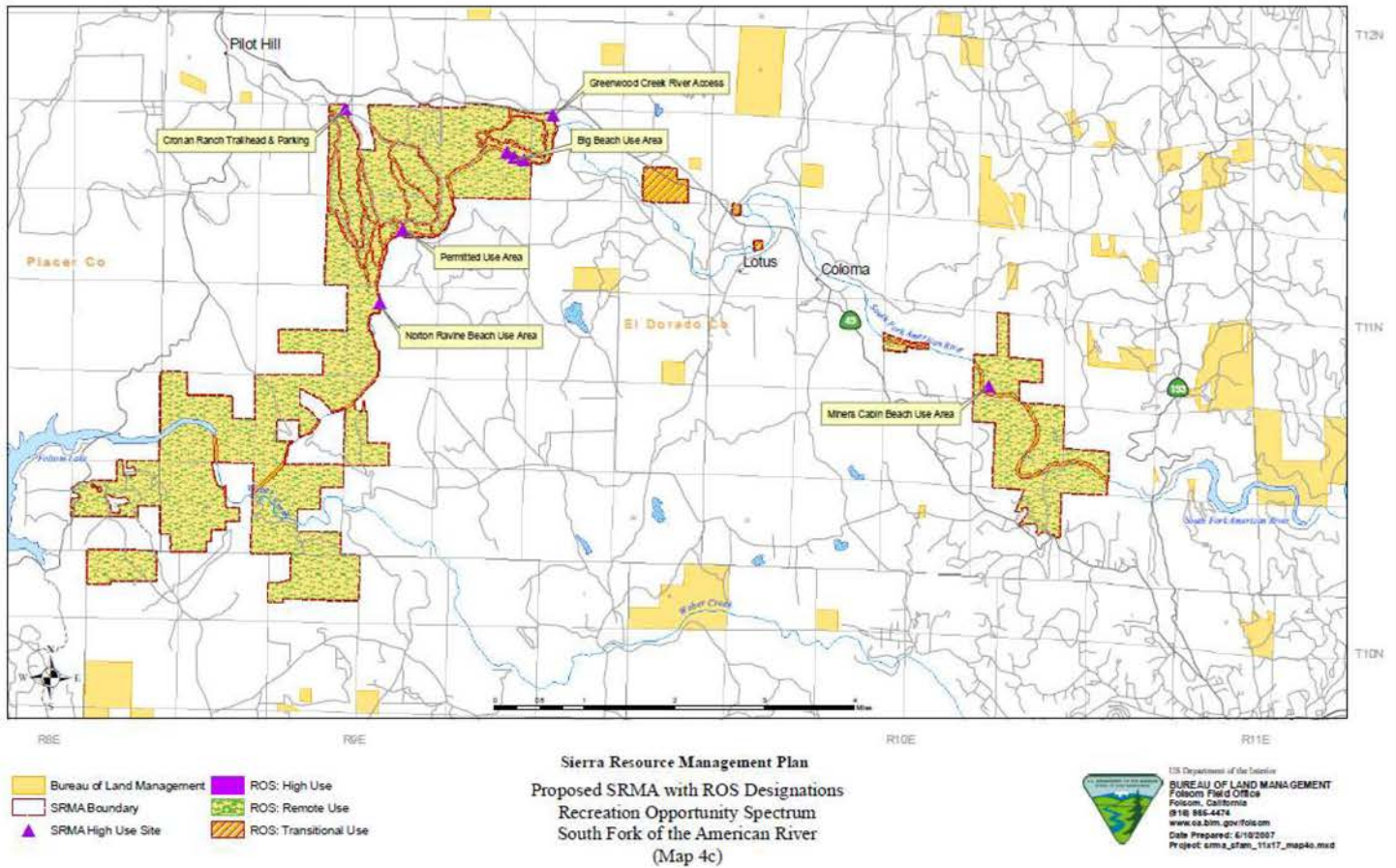


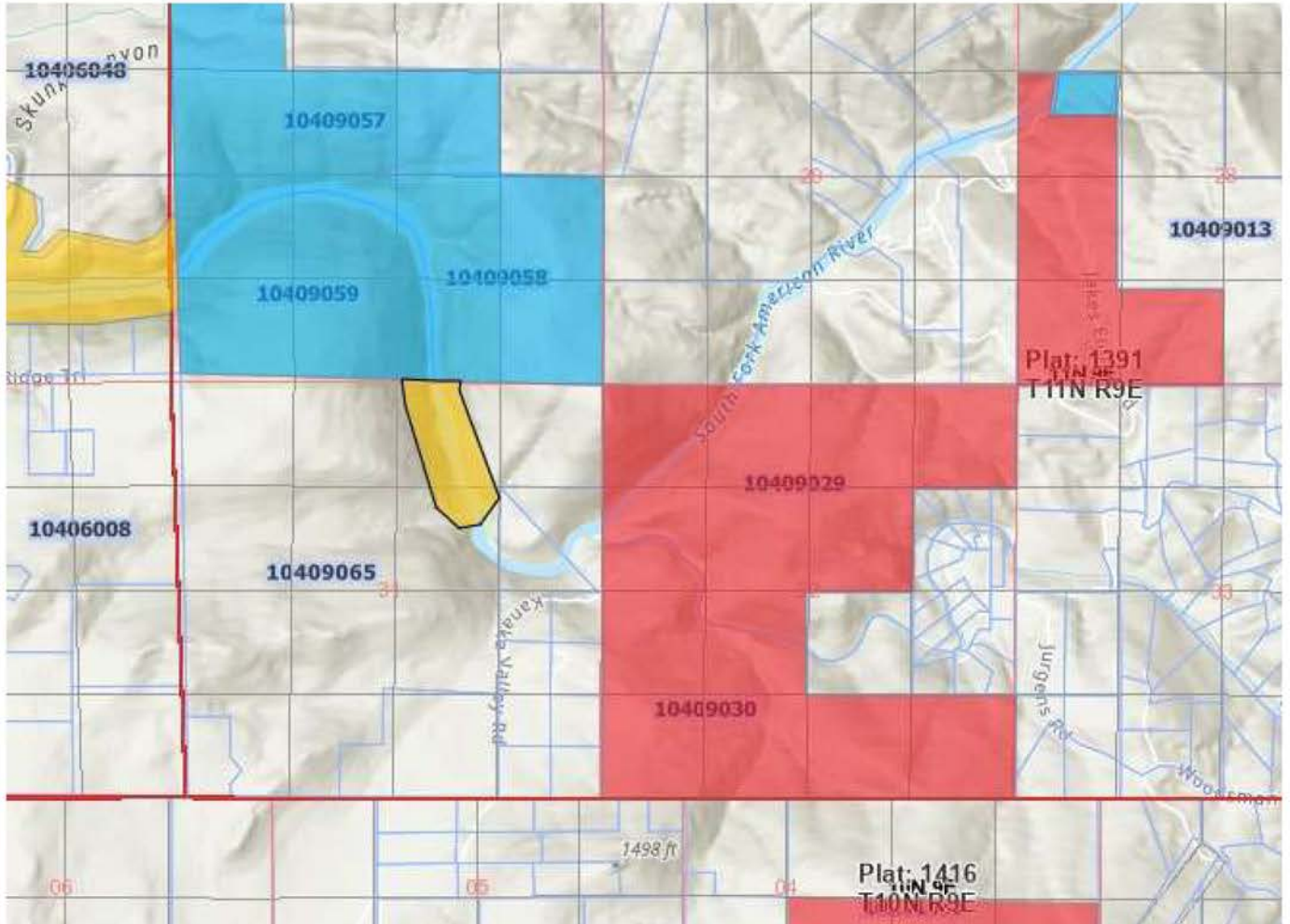
Figure 1. 2007 BLM Sierra RMP, page 391,
 and updated in digital format at [South Fork American River | Bureau of Land Management](https://www.blm.gov/sites/blm.gov/files/documents/files/Maps_California_south-fork-of-the-american-river-map.pdf)
 and external map at https://www.blm.gov/sites/blm.gov/files/documents/files/Maps_California_south-fork-of-the-american-river-map.pdf

See also on these BLM web pages with references to processes for permits for commercial uses:
 Special Recreation Permits

- [Permit Information and Application \(2930-1\)](#)

The Reclamation map below should also be considered for comparison with County and BLM maps of federal lands along the lower South Fork American River, and respective roles and responsibilities:

Figure 2. Hospital Bar Parcel and Vicinity
Folsom Lake State Recreation Area, excerpted from Reclamation Tessel GIS map



Yellow = acquired, managed by Reclamation
Blue = withdrawn, managed by Reclamation
Red = relinquished / restored (to public domain/BLM)

Parcel ownerships and boundary alignments may be subject to change with land acquisitions, disposals, and revised surveys. Any potential discrepancies that may be found among depictions by BLM, Reclamation, State Parks, or El Dorado County of federal lands can be resolved in current planning by references to Master Title Plats and Federal Register notices of withdrawals and revocations of the withdrawals.

BLM and Reclamation necessarily consider their agency roles in managing the river, lands, resources and recreation differently than does the County draft RMP, which should be more closely reflected in the revised County RMP. The 2007 BLM Sierra RMP provides on Page E-23:

“2. Status of land ownership, current use, and local zoning.

The South Fork American River segment begins at the Chili Bar put-in, just downstream of Highway 193, and traverses downstream approximately 22 miles to Weber Creek at the terminus of Folsom Reservoir. BLM manages 8.8 miles of riverfront property containing 2,122 acres of public land (38%) within the half mile wide boundary of the river. The South Fork American River planning area contains 5,580 acres of public lands that are connected to the public lands within the half mile wide boundary. Public land managed by BLM, El Dorado County, or the State totals nearly 40% of the land in the half mile wide corridor. ...”

“BLM has worked cooperatively with El Dorado County and California Department of Parks and Recreation in managing whitewater boating on the South Fork American. In order to manage up to 150,000 boaters [sic], BLM developed camping and picnicking areas in remote segments of the canyon to encourage the public to use public lands and facilities rather than trespass onto private lands. BLM has also issued title to El Dorado County for federal lands adjacent to Henningsen-Lotus Park for a boating put-in/take-out area. BLM and El Dorado County jointly patrol the upper and lower segments of the river. BLM maintains three remote composting toilets as well as numerous picnicking and camping areas and put-in/take-out facilities. The California Department of Parks and Recreation manages picnicking and put-in facilities at Marshall Gold Discovery State Historic Park and two take-out facilities at Salmon Falls. A majority of commercial operators lease or own property to provide camping, picnicking, and put-in/take-out facilities for their clients. Commercial operators take 50,000 to 100,000 visitors each year down the South Fork American River.

BLM has recently completed a community based river management plan for the South Fork American....”

The 2007 BLM Sierra RMP, Page E-24:

“Management of public lands and waters along the South Fork American was addressed in BLM’s 2004 South Fork American River Management Plan (SFARMP) and by El Dorado County’s 2001 South Fork American River Whitewater River Management Plan.”

The 2007 BLM Sierra RMP, Page E-25:

For a prospective proposal for Wild and Scenic River status for the South Fork American River, BLM states,

“4. Federal Agency that will administer the Wild and Scenic River Segments

For the South Fork American River, current management would continue with strong cooperation among the federal, state, and local river management agencies. BLM would administer the WSR

segment in conjunction with its partners from El Dorado County and California Department of Parks and Recreation. El Dorado County would continue to be the lead agency in managing the whitewater boating activity on the river, and the California Department of Parks and Recreation would continue to manage the Marshall Gold Discovery State Historic Park and two take-out facilities near Salmon Falls. BLM plans to pursue development of a Memorandum of Understanding between the three agencies that outlines this river management partnership.”

The 2007 BLM Sierra RMP, Page 3-2:

“BLM manages recreation on the following rivers: South Yuba, North and South Forks of the American, Mokelumne, lower Merced, and a portion of the Tuolumne. Permits are issued to private concessionaires to conduct whitewater rafting trips.”

The 2007 BLM Sierra RMP, Page 3-49:

“BLM issues an assortment of special recreation permits for commercial, competitive, and special area uses as well as for organized groups and special events. Special recreation permits are required for specific recreational uses of BLM lands and waters. These permits help manage visitor use, protect natural and cultural resources via special stipulations, and provide a mechanism to accommodate commercial recreational use.”

To enforce specific recreation management policies on the South Fork American River, the BLM relies on Supplementary Rules published in the Federal Register. These rules provide the legal "teeth" to enforce the objectives analyzed in the Sierra RMP and the County's River Management Plan on federal lands.

The specific publication that governs the South Fork American River is:

70 FR 40393: "Supplementary Rules for Public Lands in the Mother Lode Field Office, California."

Federal Register/Vol. 75, No. 92/Thursday, May 13, 2010/Notices 26981

[See also reference to the BLM “2004 South Fork American River Management Plan (Section 2)” online at [The_South_Fork_American_River_-_a_management_plan_\(IA_southforkamerica00unit\).pdf](#) and BLM’s related Environmental Analysis (CAL 80-03-25) for NEPA.]

South Fork American River Special Recreation Management Area [lands under the SRMA]

T. 11 N., R. 10 E., Secs. 22, 26 (SW 1/4), 27, and 34 (Miner’s Cabin parcel); T. 11 N., R. 10 E., Sec. 21; T. 11 N., R. 10 E., Sec. 18 Lots 5 and 6 (Parcel C); T. 11 N., R. 10 E., Sec. 18 NW 1/4 NE 1/4 NW 1/4 (Ponderosa parcel); T. 11 N., R. 9 E., Sec. 12, Lots 1 to 9 (Dave Moore Nature Area); T. 11 N., R. 9 E., Secs. 3, 10, and 11 (Greenwood Creek parcel); T. 11 N., R. 9 E., Secs. 4, 8, 9, 15, 16, and 17 (Cronan Ranch); T. 11 N., R. 9 E., 29, 28, 21, and 20 (Norton Ravine parcel); T. 11 N., R. 9 E., Secs. 30, 31, 32; T. 10 N., R. 9 E., Secs. 4 and 6; T. 11 N., R. 8 E., Sec. 36 (Pine Hill Preserve); MDM.

The following rules apply to the South Fork American River Special Recreation Management Area:

[Special regulations relating to commercial boating concessions are not found in this RMA, but other regulations include, for example, for Cronan Ranch: “Deer hunting is allowed only during the summer open season with bows and arrows and during the fall open season with smoothbore shotguns and slugs.”]

“The interim final supplementary rules do not pertain specifically to commercial or governmental entities of any size, but to public recreational use of specific public lands.”

The Federal Register notice explicitly states that these ‘supplementary rules’ were developed to:

1. Implement the decisions of the BLM 2007 Sierra Resource Management Plan.
2. Provide for public safety and resource protection.
3. Ensure consistency with local government regulations (e.g., El Dorado County) where those regulations align with federal management goals.

Enforcement Authority

Under 43 CFR 8365.1-6, a person who violates these supplementary rules may be tried before a United States Magistrate and is subject to a fine, imprisonment (not to exceed 12 months), or both. This is the mechanism by which a BLM Ranger can cite an outfitter for exceeding the daily boat density limits established by the RMP, if the county ordinances or RMP were to be incorporated into BLM planning in some fashion.

The BLM does not have carrying capacity references in the Sierra Resource Management Plan (RMP). Reclamation also does not have a similar reference to whitewater boating capacity in the GP/RMP for Folsom Lake project lands.

The Folsom Lake State Recreation Area (SRA) GP/RMP, managed jointly by California State Parks and Reclamation, addresses whitewater boating concessions primarily through its management of the "lower section" take-outs and aquatic recreation zones.

El Dorado County’s RMP generally differs from the BLM's approach for river management and coordination among responsible agencies in the following ways:

- **Take-Out Control vs. Land Management:** While the BLM coordinates with the County to manage the *river corridor* and address boat density throughout the upper and middle sections, State Parks/USBR coordination focuses heavily on access control. For example, during the COVID-19 pandemic, the closure of Folsom Lake take-outs effectively halted commercial "lower section" trips (Lotus to Folsom Lake), regardless of County river ordinances or RMP operations.
- **Concession vs. Permit Models:** The BLM uses a Special Recreation Permit (SRP) model that has been presumed to explicitly adopt El Dorado County’s boat density and passenger limits as federal requirements (70 FR 40393: "Supplementary Rules for Public Lands in the Mother Lode Field Office, California."). In contrast, State Parks/Reclamation management in the Folsom Lake

SRA is oriented toward a General Plan framework that categorizes the river confluence and lake entry as "high-intensity" or "developed" recreation zones, which are managed through state concession contracts rather than just County-aligned permits. Yet neither BLM nor Reclamation lands, planning, environmental documentation, and other policy documents, specifically recognize authority or jurisdiction for the County's River Management Plan (RMP) within the federal lands.

- **Joint Federal-State Jurisdiction:** The Folsom Lake SRA GP/RMP is a joint EIR/EIS document, meaning it satisfies both state (CEQA) and federal (NEPA) requirements simultaneously. Because State Parks manages the Reclamation-owned land through a formal 2012 managing partner agreement (MPA), the County's River Management Plan (RMP) is treated as a "boundary" document - the RMP ends exactly where the Folsom Lake SRA begins.
- **Adaptive Management Coordination:** The County's annual river reports highlight that when State Parks opens or closes lower-section facilities, it dictates whether commercial outfitters can complete their trips. The BLM coordination is more "active" in daily operations (e.g., shared river patrols), whereas the Reclamation/State Parks coordination is more "facility-based" (e.g., managing the Salmon Falls and Skunk Hollow take-outs).

Summary of Coordination Styles:

Feature	BLM Coordination	USBR/State Parks Coordination
Primary Focus	Resource protection & boat density.	Access point & facility management.
Legal Tie	Federal SRPs adopt County RMP limits.	Joint EIR/EIS defines land-use zones.
Take-Outs	Primarily wild or undeveloped.	Highly developed/structured settings.

The management of commercial rafting at Folsom Lake State Recreation Area (SRA) involves a complex intersection of federal, state, and local law. Because the land is owned by the U.S. Bureau of Reclamation but managed by California State Parks, the legal framework differs significantly from the BLM's "cooperative" model.

1. Specific Stipulations in the Folsom Lake SRA General Plan/Reclamation Resources Management Plan:

The Folsom Lake SRA General Plan/RMP treats whitewater rafting take-outs (primarily at Salmon Falls and Skunk Hollow) as specific "management zones." The stipulations include:

- Commercial Use Permits (CUPs): Unlike the BLM's SRPs, State Parks issues specific Commercial Use Permits or concession contracts, even for uses on the federal lands as provided in the 2012 MPA. These permits require outfitters to pay per-person take-out fees (often referred to as "head taxes") that go directly to the State Park fund to maintain the facilities.
- Shuttle Operations & Staging: The GP/RMP mandates that commercial shuttles must use designated "loading zones" to prevent congestion with private boaters and hikers. In peak season, State Parks can limit the number of commercial vehicles allowed in the Salmon Falls parking lot at any one time. (In recent decades, State Parks requires outfitter concessions to use the Salmon Falls takeout, and refers noncommercial boaters to the nearby Skunk Hollow access originally used for take-outs by all commercial boaters with inadequate space and inherent congestion for large groups and buses.)
- Operational Capacity: While the El Dorado County RMP sets the "on-water" density, the Folsom SRA GP/RMP sets the "land-side" capacity. If the parking lots at Skunk Hollow or Salmon Falls reach capacity, State Parks has the authority to divert or delay noncommercial or commercial boating take-outs, regardless of the County's daily boat limits. (Note for comparison that Dr. Glen Haas, one of the bibliographical authors cited in the County RMP, was a consultant in implementing a "Water and Land Recreation Opportunity Spectrum" - WALROS – for subjectively-determined 'carrying capacity' approach - for the 2010 Folsom Lake SRA GP/RMP.)
- Resource Protection: The state/federal GP/RMP includes "Special Protection Zones" for the Valley Elderberry Longhorn Beetle and sensitive raptors. Commercial outfitters are stipulated to stay within developed trails and ramps to avoid impacting these federal/state protected species.

Legal Comparison: Folsom Lake SRA GP/RMP vs. El Dorado County RMP

The application of law at Folsom Lake SRA is more restrictive than on BLM land because it must satisfy **both** the federal Reclamation Act (and other CFR) and the California Public Resources Code.

Feature	Folsom Lake SRA (State/USBR)	El Dorado County RMP
Primary Law	Federal: 43 CFR Part 423 & State: Title 14 CCR	County Code Chapter 5.48
Zoning/Land Use	Federal/State Preemption: County zoning does not apply.	Applies to private parcels only.
Take-Out Fees	Set by State Parks (CCR § 4301).	County "River Trust Fund" fees (per guest).
Permit Source	State Parks Commercial Use Permit.	County Commercial Outfitter Permit.
Enforcement	State Park Rangers (Peace Officers) & USBR.	El Dorado County Sheriff (River Patrol), BLM Ranger.

Conflict of Laws: When County Power Stops

The Folsom Lake SRA General Plan establishes a jurisdictional boundary that is much firmer than the BLM's:

- **Federal/State Supremacy:** While the BLM "adopts" County limits into its federal rules to simplify management, State Parks and USBR view the SRA as a self-contained unit. If the County RMP suggests a change (e.g., increasing passenger counts), State Parks is not obligated to allow that increase if their General Plan (backed by a joint EIR/EIS) determines the land-side facilities cannot handle it.
- **Proprietary Authority:** Because USBR land at Folsom Lake is acquired or "withdrawn" for a specific project (Folsom Dam/Reservoir, American River Division, Central Valley Project), the federal government exercises proprietary jurisdiction. This means they have the rights of a landowner to exclude or charge for access, which overrides the general "navigable water" public access rights that the County RMP manages elsewhere.
- **The "Gap":** There is often a coordination gap at the confluence where the river meets the lake. The County RMP generally, purportedly, stops its management (per various references) at Folsom Lake

SRA, Salmon Falls Road, or the high-water mark of Folsom Lake (approx. 466 ft elevation), at which point the County presumes that the Folsom Lake SRA General Plan/Resource Management Plan becomes the sole governing document. Notably, the actual boundary of the Folsom Lake SRA is upriver near Hospital Bar Rapid, just downriver from Weber Creek and Bouncing Rock Rapid, where even BLM has mistakenly attempted to enforce special use permits on lands that have been withdrawn for project purposes by Reclamation for its jurisdiction.

While the BLM generally refers to its role as a partner to the County in the river management, the Reclamation/State Parks land role under the CFR, GP/RMP, and MPA acts more as a landlord. They allow the County RMP to function nearby, but their own General Plan/RMP dictates the fees, shuttle movements, and facility access rules that can override County preferences.

Current Status of Interagency Coordination

A 2019 'joint powers agreement' (JPA) or subcontract with State Parks and El Dorado County has not apparently been approved by Reclamation as required under the 2012 State Parks/Reclamation managing partner agreement, and remains invalid, even though re-approved recently by the Board of Supervisors and re-sent to State Parks for execution for an additional period of three years.

State Parks reportedly plans to change its system for commercial concession permits, including for whitewater boating, to reflect the requirements of Public Resources Code (PRC) such as for requests for proposals. The State Parks concessions program manager has stated recently that the revised concession process will be implemented within the next year, but did not provide specifics as to how the changes towards state legal compliance will affect current outfitters or river boating operations. So far, apparently, none of the State Parks permits for whitewater concessions have been allocated under PRC, and remain subject to potential challenges that could disrupt operations and services in El Dorado County.

Need for Further Visitor Data

The volumes and patterns of recreational boating uses over the decades should be delineated more completely for historical reference to the apparent trend of fewer commercial outfitters and visitors on the South Fork American Rivers. Estimates of boating visitation range unreliably from less than 30,000 to more than 120,000 boaters per year. In any case, the dwindling numbers of whitewater outfitters reflect trends in recreation uses that are contrary to early planning presumptions of exponential growth needing heavy governmental controls.

Boat Safety and Enforcement Grants Available

The California Department of Boating and Waterways sponsors an annual grant program for funding safety and law enforcement equipment for responsible agencies relating to boating, including river boating management. El Dorado County has not apparently been awarded a grant from this program in recent years. Other grants related to boating facilities and safety programs are also available to government agencies and entities including some nonprofit organizations. Opportunities may be available to enhance safety training and public education, as well as to fund key safety equipment that

has cost County budgets derived from fees on outfitters and other visitors to the river. The County and BLM had previously used state grant programs to install toilets along the river corridor parcels in the 1990s, and grant provisions may vary from year to year.

Selected references

California Department of Boating and Waterways. Annual grants programs for funding law enforcement and safety equipment for managing agencies. [Boating Safety & Enforcement Equipment Grant Program \(BSEE\)](#)

California Department of Parks and Recreation. [Folsom Lake State Recreation Area & Folsom Powerhouse State Historic Park Road & Trail Management Plan](#). Final. January 20, 2023. [Final_FLSRA_RTMP_508.pdf](#)

California Department of Parks and Recreation, and US Bureau of Reclamation. [Final General Plan and Resource Management Plan](#). Folsom Lake State Recreation Area. 2010. Also: EIS/EIR. [FLSRA_GP_RMP_Vol1_Final_Plan.pdf \(SECURED\)](#), [FLSRA_GP_RMP_Vol2_EIR_EIS.pdf \(SECURED\)](#)

United States. Bureau of Land Management. [Sierra Resource Management Plan and Record of Decision](#). Published: 2008. <https://archive.org/details/sierraresourcema00unit>

United States. Bureau of Land Management. [The South Fork American River – a Management Plan](#). 2004. [The_South_Fork_American_River_-_a_management_plan_\(IA_southforkamerica00unit\).pdf](#)

Whittaker, Doug, Ph.D. and Bo Shelby, Ph.D. [Allocating River Use: A review of approaches and existing systems for river professionals](#). Prepared by Confluence Research and Consulting. Prepared for River Management Society, with funding support from Bureau of Land Management, United States Department of Interior. July 2008. [allocating river use-jan 2009.pdf](#)

Appendix A

The EDCRMP commercial outfitter river rafting permit allocation system is criticized for being "frozen in time" and inequitable for a the popular South Fork American River.

The commercial outfitter river rafting permit allocation system is often described as being "frozen in time" because the majority of permits, particularly on popular Western US rivers, were historically locked in based on use levels from the 1970s and 1980s, making it difficult for new outfitters to enter the market and for allocations to reflect modern demand. (River Management Society, Whittaker and Shelby, 2008.)

Critics, including private boaters and new operators, argue this system is inefficient and unfair for several reasons:

- **Historical Legacy:** Many current commercial allocations are based on "historic use" patterns established decades ago, which do not reflect current market demand, demographic shifts, or modern environmental conditions.
- **Barrier to Entry:** It is nearly impossible for new commercial companies to obtain permits on high-demand rivers, as existing permit holders often hold, sell, or renew the same spots for years, acting as a "closed shop".
- **Imbalance with Private Access:** While commercial outfitters have secured, consistent, and "frozen" allocations, the private (non-commercial) sector often faces competitive, low-odds lotteries (e.g., 2% chance in some cases) to access the same rivers.
- **Slow Agency Adjustment:** Federal land management agencies (NPS, USFS, BLM) have been slow to reallocate or increase the total number of permits due to the complexity of managing environmental impacts and the political, legal, and financial weight of established commercial interests.
 - **Misaligned with Environmental Changes:** The allocations do not quickly adapt to changing river conditions, such as the decline of certain species (e.g., Bull Trout) or the increase in overall river traffic over the past 30–50 years. (River Management Society.)

While some systems have moved toward more equitable, weighted lotteries for private users, the fundamental allocation split between commercial and private use has remained remarkably rigid. (River Management Society.)

Excerpts from relevant sources

Based on excerpts from: Whittaker and Shelby, 2008: [allocating river use-jan 2009.pdf](#)

South Fork American River Overview

- Comprises Chili Bar, Coloma, and the Gorge, totaling 19 miles.
- Typical boatable flow range is 800 to 3,500 cfs.

- Whitewater difficulty rated Class III+; managed by El Dorado County.
- Limits on commercial outfitters' daily users; approximately 70% commercial use.
- 42 commercial outfitters with group size limit of 56. [In 2026, stated by staff as 25 outfitters with group size limit proposed to increase to 63 in draft updated EDC RMP]

Legal Challenges to Allocation Systems

- Non-commercial boater groups often challenge split allocation systems and permit transfers.
- Key cases include Wilderness Public Rights Fund vs. Kleppe, which upheld agency discretion in allocation but required fairness in splits.
- The legality of commercial-only capacities has been affirmed, allowing agencies to reserve decision-making for future allocations.

Stakeholder Opinions on Allocation Approaches

- Various organizations, including America Outdoors and American Whitewater, express differing views on allocation systems, with some supporting split systems and others advocating for common pools.
- The Grand Canyon Private Boaters Association favors non-commercial access, while the Grand Canyon River Outfitters Association supports existing commercial allocations.
- Surveys indicate a preference for reservation-based systems and weighted lotteries among non-commercial boaters.

Research and Monitoring Needs for Allocation Systems

- There is a need for standardized reporting on allocation systems to improve comparisons and effectiveness.
- A national survey of private boaters could provide insights into preferences and barriers in allocation systems.
- Monitoring the financial health of outfitters and user preferences is essential for understanding the impacts of allocation decisions.

Overview of River Use Allocation [first sections, taken out of order as generalities]

This document reviews river allocation systems in North America, focusing on the complexities of managing river use amid increasing demand. It aims to provide river professionals with insights into effective allocation strategies and their implications.

Importance of Capacity and Allocation

- Distinction between carrying capacity (use limits) and allocation (who gets to use).

- Capacity defines acceptable use levels to prevent resource degradation.
- Allocation systems distribute limited access once capacities are established.

Approaches to River Use Allocation

- Split allocation: Different systems for commercial and non-commercial users. [EDCRMP case]
- Common pool: All users compete equally without sector distinction.
- Adjusting split: Initial split based on historical use, with future adjustments based on demand.

Mechanisms for Allocating River Use

- Primary mechanisms include pricing, reservations, lotteries, and on-site queuing.
- Secondary mechanisms address cancellations and no-shows through call-in systems and waiting lists.
- Merit systems allocate use based on specific criteria or needs.

Categories of River Use

- Commercial use involves paid trips with guides; non-commercial is DIY trips.
- Outfitted use refers to rentals without guides; charter trips are group contracts with outfitters.
- Administrative and educational trips may fall outside standard categories, complicating allocation.

Preparing for Allocation Decision-Making

- Proactive planning is essential to avoid controversy when implementing allocation systems.
- Establish clear capacities and monitor demand to inform allocation strategies.
- Engage stakeholders early to agree on allocation goals and frameworks.

Evaluating Allocation Systems

- Allocation goals include equality, equity, and efficiency.
- Fairness in distribution is crucial, balancing contributions and outcomes.
- Different allocation methods can address varying user needs and promote fairness.

Efficiency and Allocation in Economics

- Efficiency maximizes resource use by distributing goods to those who value them most.
- Market-based economies rely on price mechanisms, but fairness and information access are critical.

Pragmatic Goals of Stakeholders

- Stakeholders prioritize simplicity, efficiency, and flexibility in allocation systems.
- Goals include minimizing exploitation of the system, ensuring business stability for outfitters, and equal procedures for different user groups.

Split Allocation Systems Overview

- Split allocation divides access between commercial and non-commercial sectors, often based on historical use.
- Issues include unequal access, limited competition, and potential conflicts between user groups.

Common Pool Allocation Systems

- Common pool systems distribute access uniformly, treating all users equally.
- Advantages include demand responsiveness and market competition, while disadvantages involve administrative complexity and fairness issues for commercial tour trips.

Adjusting Split Allocation Mechanisms

- An all-user registration system could assess demand and adjust allocations between sectors.
- Benefits include improved information on trip preferences and market-based incentives for outfitters, but it may increase administrative complexity and uncertainty.

Advantages and Disadvantages of Reservation Systems

- Reservations provide control over scheduling and can lead to lower cancellation rates, as seen on the Green River.
- Complex management and understandability issues arise, making it cumbersome for users.
- Long wait times can hinder spontaneous trip planning and may favor those who plan ahead.

Overview of Lottery Systems

- Pure lotteries allocate permits equally among applicants, encouraging group applications but discouraging spontaneity.
- They are easy to administer but provide poor odds for high-demand rivers, leading to frustration among users.

Weighted Lotteries and Points-Based Auctions

- Weighted lotteries adjust probabilities to favor unsuccessful applicants, promoting fairness.
- Points-based auctions reward users for time spent on waiting lists, but they can complicate group dynamics and increase group sizes.

Secondary Distribution Systems for Permits

- Secondary systems redistribute unused permits from cancellations, aiming to maximize utilization and serve specific user groups.
- Methods include waiting lists, supplemental lotteries, call-in reservations, and on-site queuing, each with distinct advantages and challenges.

Allocation Systems Overview

- The text discusses allocation systems for river use, focusing on full and partial allocation systems.
- It highlights trends in the establishment of use limits and the impact of these systems on river access.

Historical Development of Allocation Systems

- Half of full allocation systems were developed in the 1970s; 24% in the 1980s, 17% in the 1990s, and 8% in the 2000s.
- Unlimited rivers saw dramatic use increases in the 1970s and 1980s, peaking in the 1990s.

Application and Distribution Dates

- Most lotteries for non-commercial sectors have application deadlines around January 31.
- The Grand Canyon's lottery is unique, held well in advance of trip dates.

Lottery Success Rates

- Success rates for noncommercial permit lotteries vary significantly, from 3% on the Middle Fork Salmon River in Idaho to 62% on the Alsek/Tatshenshini in Alaska.
- Applicants can improve their odds by applying with multiple individuals.

Fees and User Charges

- Application fees range from \$0 to \$25, with a median of \$6.
- User fees vary widely, with a median of \$12.50 per person per trip.

Group Size Limits and Management

- Most rivers have group size limits; the median for non-commercial trips is 16 and for commercial trips is 25.
- Eleven rivers have different limits for commercial and non-commercial sectors.

Appendix B

Passive Access Reductions on South Fork American (CA) - American Whitewater

*Public comment in 2001 letter to El Dorado County from nonprofit organization American Whitewater
January 18, 2001*

In January 2001, American Whitewater Regional Coordinator Mike Bean alerted El Dorado County officials that boaters are strongly concerned about the spectre of reduced access opportunities on the South Fork American. Access is being reduced through passive controls and agreements, which allow commercial access but limit or deny the public's ability to get to and from the river.

{Mailed January 17, 2001}

Craven Alcott, El Dorado Parks and Recreation Manager
3000 Fairlane Court, Suite 1
Placerville, CA 95667
530/621-5864 or 621-5598

Dear Ms. Alcott,

In the summer of 1999, the Special Use Permit (SUP) for American River Resort (ARR) was amended on a trial basis to permit South Bay and American Whitewater Expeditions commercial access to the South Fork American River. First, I have reservations about promoting a large number of commercial rafts to park in the eddies at the bottom of Troublemaker, a technical class III+ rapid known for swimmers. Ideally these eddies should be kept empty to allow rescue of swimmers and recovery of gear before being carried into a number of rocks in the middle of the river channel just below the two eddies used by the new commercial take-out. A much safer location for the commercial take-out would be a hundred yards upstream of the rapid on river left. It is also my understanding that no new commercial put-ins or take-outs were allowed under the County's 1984 River Management Plan. If this is true, then why was the River Management Plan ignored in this case?

Second, a clause was added to the ARR SUP prohibiting private boater day use. For a number of years, private kayakers have paid to use ARR as an early take-out for the upper (Chili Bar) run. The take-out was especially useful in winter when the days are shorter. Some residents have complained about the number of boaters in the quiet zone and the nuisance caused by kayakers taking out at the Highway 49 bridge. Allowing kayakers to take-out before the 49 bridge minimizes both of these impacts. The impacts of kayakers using ARR as a take-out are minimal especially in the winter months. I remember just a few years ago when Coloma Resort welcomed kayakers to their facilities as a day use take-out. I was recently told their SUP prevents boater day use as well. I'm confused by what appears to be a move by the County to restrict public access to the river while increasing commercial access. It would be one thing if the owners of these permitted properties did not want the day use business, from my experience, they welcome the extra cash as do other local business that rely on private boaters.

So for these two reasons, I must suggest that you consider retracting the changes to the ARR SUP and allow take-outs at ARR by private boaters especially in winter and early spring. I would also ask that you consider changing the SUP for Coloma Resort to allow take-outs by private boaters.

Michael Bean

American Whitewater Regional Coordinator, Gold Country Paddlers River Access Committee

1310 Scott Road

PO Box 364

Coloma, CA 95613

530.295.1286

Appendix C

(Reference of case of South Fork American River navigability, including data on early commercial rafting.)

PEOPLE YOUNGER v. William Center and American River Recreation Association, Intervenors and Appellants. (1979) [PEOPLE YOUNGER v. William Center and American River Recreation Association, Intervenors and Appellants. \(1979\) | FindLaw](#)

Court of Appeal, Third District, California.

The PEOPLE of the State of California ex rel. Evelle J. YOUNGER, Attorney General, California Department of Navigation and Ocean Development and California State Lands Commission, Plaintiffs and Appellants, v. The COUNTY OF EL DORADO, the Board of Supervisors of El Dorado County, William V.D. Johnson, Lloyd R. Kutter, Franklin K. Lane, Thomas L. Steward, W.P. Walker, Members of the Board, Richard F. Pacileo, Sheriff of El Dorado County, Terrence M. Finney, District Attorney of El Dorado County, Defendants and Respondents, William Center and American River Recreation Association, Intervenors and Appellants.

No. Civ. 17987.

Decided: August 27, 1979

George Deukmejian, Atty. Gen., N. Gregory Taylor and Jan Stevens, Asst. Attys. Gen., Richard M. Frank, Deputy Atty. Gen., for plaintiffs and appellants. Noble Sprunger, County Counsel, Kronick, Moskovitz, Tiedemann & Girard, Edward J. Tiedemann, Janet K. Goldsmith, Sacramento, for defendants and respondents. R. Frederic Fisher, Harry Pfeifer, Lillick, McHose & Charles, San Francisco, for intervenors and appellants.

May a county ban all rafting and boating on a section of a navigable river highly suited to and much used for such recreational activities? Under the circumstances here presented it may not.

The South Fork of the American River in El Dorado County between Chili Bar Dam and Salmon Falls, a distance of about 20 miles, is in question. Because of its location, flow, lack of obstructions, and the variety of challenges presented by its “runs,” it is one of the two most popular whitewater rafting areas in California. When dam construction on the Stanislaus River is completed, there will be no comparable river for rafting in the state. The popularity of this segment of river has increased dramatically in recent years. In 1975, 30 commercial rafting organizations spent approximately 21,000 commercial user days navigating the river. Private user days amounted to about 14,000.

The raft trip usually takes two days. Most of the land on both sides of the river is privately owned and access to the water is limited. Property owners along the river complain of noise, litter, pollution and unsanitary conditions caused by the rafters, as well as of trespassing and fire danger during overnight stops.

On August 10, 1976, the El Dorado County Board of Supervisors adopted an ordinance making it unlawful “to float, swim or travel in said waterway by any artificial means.” Fishing or swimming “in a lawful

manner, use of the public areas, and exercise of property rights by private owners were declared exempt. Violation of the ordinance was pronounced a misdemeanor punishable by a fine up to \$500 or six months in jail, or both.

Plaintiff promptly (on Aug. 20) filed suit against county officials to enjoin enforcement of the ordinance and to declare it invalid. Representatives of the commercial rafting organizations moved intervene as plaintiffs on August 27. The trial court granted the intervention but denied a preliminary injunction. We stayed enforcement of the ordinance pending trial on the merits. Plaintiffs then moved for summary judgment. After the trial court issued an intended decision denying the motion, the parties agreed to submit the matter for decision on the merits based on the pleadings and documents in the record. The trial court found the ordinance established a special-use area and sanitation and pollution control pursuant to Harbors and Navigation Code section 660 and entered judgment for defendants. This appeal followed.

Plaintiffs contend we must reverse because the ordinance is preempted by state law, and violates common law, constitutional and statutory rights of navigation, and the equal protection clause of the federal and state constitutions. Defendants claim the ordinance is valid as a reasonable, non-discriminatory exercise of the county's police power. Neither party contests the court's finding that the disputed section of the river is navigable.

As asserted by defendants, the critical issue is whether the challenged ordinance is a reasonable exercise of the county's police powers. Harbors and Navigation Code section 660 limits these powers to enactment of measures pertaining to "time-of-day restrictions, speed zones, special-use areas, and sanitation and pollution control" which do not conflict with other state laws.

The ordinance is neither a permissible special-use area designation nor a reasonable sanitation and pollution control measure. On its face, it is an absolute prohibition against boating by the public. The record shows that the affected section of the river is not a significant fishing stream, and partly because of restricted access, fishing is light. Swimming in whitewater areas without such artificial means as lifejackets is obviously neither popular nor safe. Thus the ordinance effectively bans virtually all public use of the river.

However laudable its purpose, the exercise of police power may not extend to total prohibition of activity not otherwise unlawful. (*Frost v. City of Los Angeles* (1919) 181 Cal. 22, 183 P. 342, (ban on supplying water less pure than purest available); *San Diego T. Assn. v. East San Diego* (1921) 186 Cal. 252, 200 P. 393 (ban on operation of hospitals treating infectious or contagious diseases within city limits).) Courts are especially sensitive to infringements upon constitutional rights under the guise of exercise of police power. (See *Scrutton v. County of Sacramento* (1969) 275 Cal.App.2d 412, 421, 79 Cal.Rptr. 872.) The public's right to access to navigable streams is a constitutional right. (Cal. Const., art. X, § 4; *Marks v. Whitney* (1971) 6 Cal.3d 251, 98 Cal.Rptr. 790, 491 P.2d 374.)

The trial court relied on an Attorney General's opinion that an ordinance banning motorboat operations on a portion of American River in Sacramento County established a special-use area (45 Ops.Cal.Atty.Gen. 122 (1965)). Its reliance was misplaced. While we express no opinion as to the

correctness of the analysis or conclusion in that opinion, we distinguish a situation in which exclusion of power boats from an area better suited to “non-power” uses (*id.*, at p. 123) protects the environment and fosters other recreational uses from the present situation in which all forms of “travel by artificial means” are excluded from an area ideally suited to such activity. The El Dorado County ordinance is not a special-use area designation; it is virtually a no-use area designation.

While obviously effective to eliminate pollution and sanitation problems, the ordinance goes too far. The county contends use prohibition is the only way to eliminate pollution and sanitation problems. But the logical extension of this hypothesis is the prohibition of all industry, agriculture, and even human habitation, the effect of which would be to eliminate pollution entirely. The public has a right to use river; it has no right to pollute the river. Reasonable regulation is in order; use prohibition is not. The problems of pollution and sanitation in our increasingly crowded state are difficult and complex, calling for imaginative and sophisticated solutions. But total prohibition of access is an impermissible solution. The ordinance is invalid because it denies the constitutional right of the public to use of an access to a navigable stream.

The judgment is reversed with directions to enter judgment for plaintiffs enjoining enforcement of the ordinance in question.

PARAs, Associate Justice.

REGAN, Acting P.J., and REYNOSO, J., concur.

Appendix D

CEQA and Administrative Processes for the EDC RMP and Proposed Update

The [El Dorado County River Management Plan](#) (RMP) update requires further [CEQA review](#) (such as a Supplemental or Subsequent EIR) because the 2001 environmental impact report (EIR) is outdated, and the updated plan likely involves significant new information, changes to the project, or changed circumstances. Changes in environmental conditions over the last two decades necessitate an updated analysis of impacts.

Key Considerations for the RMP Update:

- **Significance of Changes:** Any material changes to river usage,, capacity, or regulations since 2001 likely trigger the need for new environmental analysis under CEQA Guidelines.
- **Outdated Information:** A 2001 EIR does not account for modern environmental conditions, increased population pressure, or updated biological, cultural, or hydrological data in El Dorado County.
- **Required Analysis:** The updated plan must analyze current potential significant impacts, mitigation measures, and alternatives to comply with CEQA.

References:

- [California Environmental Quality Act \(CEQA\) | State of California - Department of Justice - Office of the Attorney General](#)
- [CEQA FAQs – PLANNING AND CONSERVATION LEAGUE](#)
- [California Environmental Quality Act \(CEQA\) | CA State Lands Commission](#)

Examples of proposed revisions in the 2018 EDC RMP that affect environmental conditions and require CEQA update to be completed from the 2001 EIR.

The RMP states, “6.1.2.2 The granting of a River Use Permit will not establish any vested rights to an extension or renewal beyond the permit period.” The permit award by the County actually did include the valuable right of renewal for exclusive commercial access to the navigable river for lucrative boating trips. In sum, the various proposed administrative changes to fee collection procedures, administration, and penalties add up to substantial variance from the original form and intent of the EDC RMP and require new CEQA review. Compliance with the 2001 EIS cannot be found by the Planning Commission for the current adapted or proposed redline RMP. Fee collection provisions now add further potential for penalties and may reduce the likelihood for the company holders to retain permits.

Page 40 text would read, “In the event that one or more density exceedance occurs during a day with low-flow releases from Chili Bar Dam (as defined in as less than 5 hours (8 AM to 1 PM) of 1,200 CFS flows per weekend day (Appendix C), the **County may exclude up to two low-flow release days from the count.**” Proposed changes to criteria for administrative determinations for boat density/carrying capacity exceedance are arbitrary and capricious in the potential exercise of

staff discretion by undefined criteria. By what criteria or apparent influences would the County avoid any two dates from the ‘count’ of boats, whether favorable or unfavorable to the implementation of sanctions with further restrictions on the commercial boating permit requirements? Would either favorable or unfavorable counts be excluded, or perhaps one of each type of count result? How would the administrative discretion be structured for consistent and equitable implementation? Also, the extents of potential fee increases, that may result from exceedance of the thresholds, are not specified and remain unclear for any purposes of planning or environmental analysis. As potential penalties or thresholds for capacity exceedances, the fee structure has important impacts for the CEQA analysis required. Would these determinations and decisions become the role of one person, or some group or board of persons responsible for assurances of ethical and equitable implementation?

Level 3 actions to be implemented under the RMP by the County in the potential event of an exceedance of a boat density/carrying capacity threshold included fee increases plus reductions in use and a new permit system “for all river users” to be arranged but unspecified in scope or nature (RMP Pages 48 and 49, highlights added):

7.3.2.2 The County will **reduce outfitter weekend day allocations** and will **assign allocations by river segment** in an amount proportional to past use ratios of the upper and lower reaches by outfitters to ensure that the reduction in use is distributed....

7.3.3.1 In the event that all available management actions to reduce cumulative impacts to less-than-significant levels are implemented and boater daily total thresholds are still met or exceeded, the **County will institute a permit system for all river users**. As with all management actions, the project’s goals of equitability will be a primary consideration during the development of such a permit system.

No discretion is allowed for the proposed potential County action, and the positive or negative impacts cannot be determined. The extent of the uncertainty for potential impacts to ‘all river users’ is unacceptable for planning, management, or environmental documentation under CEQA and other laws.

It is not assured or reasonable to assume for planning or CEQA purposes, given past patterns of recreation use, that any implemented reductions in outfitter allocations for boating recreation uses would likely be “... proportional to past use ratios of the upper and lower reaches by outfitters to ensure that the reduction in use is distributed” as suggested in Section 7.3.3.1.

Excerpts from 2025 ‘update’ revisions to the 2018 EDC RMP (D - Draft River Management Plan Updates (Redline)) as of the presentation for the August 7, 2025 CLAC meeting:

Page 5:

This **2025** RMP update is based on the County’s understanding of what management actions have been found to be logical, supportive of safe river use, effective in minimizing conflicts between river users and consistent with the County’s environmental protection commitments. The following management plan addresses these current conditions by recognizing that some past RMP tasks and monitoring **elements are now unnecessary or, unresponsive to the County’s stated river management goals** ~~or duplicative of work being done by other County departments;~~

governmental agencies or private organizations.

Page 7:

The County has implemented the ~~current~~ RMP, since its adoption in 2001, ~~with minimal no revisions: In 2018, a comprehensive update to the RMP was adopted and began implementation in 2019.~~ Five-year summary reports, required by RMP Section 7.2.2, were not ~~done completed~~ for the 2002 to 2006 time period. The County prepared Five-Year reports for the 2002 to 2006 time period, retrospectively, at the time of the preparation of the 2007 to 2011 report. The RMP report provided a “List of Minor Modifications to the El Dorado County River Management Plan (From the 2002-2006 and 2007-2011 Five Year Summary Reports).” ~~Some of these modifications have been implemented, but the RMP has not been revised to reflect these changes.~~

~~The County will consider any proposed modifications to the RMP and evaluate the need for specific CEQA compliance activities.~~

Page 10:

~~In the fall 2021 SMUD acquired operations of the Chili Bar powerhouse and dam from PG&E.~~

On October 18, 2006, FERC issued a new 40-year license for Project 184. On August 20, 2014, FERC issued a new 50-year license for The Chili Bar Project. ~~In June of 2021 Pacific Gas and Electric Company (PG&E) sold their hydroelectric powerhouse, dam, and reservoir to the Sacramento Municipal Utility District (SMUD) for 10.4 million dollars adding seven megawatts of clean power to SMUD’s renewable power generation supply.~~

Page 33:

6.1.1.1 (2) Any ~~person who or group or institution~~ ~~one~~ that collects a fee or receives other compensation that is not strictly a sharing of actual expenses, or exceeds actual expenses, incurred for the purposes of the activity, service, or use. (See Glossary definition of Actual Expenses.)

Page 34:

6.1.2 Annual River Use Permits - The Stream and Rivers Commercial Boating Ordinance Chapter 5.48 governs River Use Permit application procedures and standards. The ordinance requires any entity conducting commercial trips on the South Fork to obtain a River Use Permit and requires that such entity meet and follow applicable insurance requirements; provides authority to the ~~Planning Commission Parks and Trails Division~~ to approve River Use Permits ~~annually for a three-year term~~; establishes standards for a River Use Permit application, termed the “river use plan”; and establishes a procedure to appeal the decision of the ~~staff Planning Commission~~ to the County ~~Planning Commission Board of Supervisors~~.

6.1.2.1 The term for a River Use Permit issued to an existing, permitted outfitter shall be ~~three years with an annual review of said permit. The provisional term for a permit issued to an outfitter who has been operating for less than one year on the South Fork shall be one year. Transfer of a River Use Permit from an existing outfitter to an outfitter who is not currently operating on the South Fork shall cause the term of the transferred permit to change, if necessary, so it expires as of the next March~~ December 31st. Permits shall be issued by April 1st of each year.

6.1.2.2 The granting of a River Use Permit will not establish any vested rights to an extension or renewal beyond the permit period. [The permit award actually did include the valuable right of renewal for exclusive commercial access to the navigable river for lucrative boating trips.]

Page 35:

6.1.2.2.1 User days cannot be ~~transferred~~; loaned or borrowed. Transfer of user days must be done through the County following the process described in this management plan (section 6.2.1.4.2). User days, as assigned to each outfitter, are not a commodity or an element of their permit that can be traded or purchased or sold among different outfitters. The capacity assigned under each permit is assigned strictly to the permit holder named on the River Use Permit.

Page 36:

6.1.2.3 River Use Permit Transfers --

~~6.2.1.3.8.16.2.1.4.1~~ 6.2.1.4.1 Where an outfitter wishes to transfer a River Use Permit, the following guidelines and procedures shall be used.

~~6.2.1.3.8.16.2.1.4.1.1~~ 6.2.1.4.1.1 County, the buyer and seller shall include an inventory of equipment and other assets that shall be transferred along with the River Use Permit.

~~6.2.1.3.8.26.2.1.4.1.2~~ 6.2.1.4.1.2 County Parks and Trails Division shall review the proposed transfer and approve forward a staff recommendation along with conditions to tPlanning Commission. A transfer fee, set by the Board of Supervisors, will be paid to the County by the new permit

holder.

Page 38:

6.1.3 Maximum Group Size

6.1.3.1 [For safety through rapids, groups of boats travelling together must be limited in number with sufficient separation between groups, regardless of the outfitter or operator.](#) With the exception of Element 6.2.2.6, the number of boats [from one or multiple outfitters](#) in each group on the South Fork will be limited to 7 and will not exceed ~~56~~ [63](#) people (passengers, guests, guides) per group ~~or pod~~. If more than one group is traveling together, each group must have a five minute period between launches from Chili Bar to below Hospital Bar rapid and when launching trips from other put ~~in's~~ and lunch stops in between. On the river each group will then stay out of sight of each other (lead boat cannot see last boat from other group).

6.1.3.2 Rafts in a river trip shall not purposefully integrate into another's group trip in class III whitewater. [Passing should only be done in calm water with consent of the group being passed.](#) [How is language such as 'should be done' enforceable for implementation or suitable for planning or documentation?]

Page 40:

6.1.3.2.1 All Operating Reports [along with user day fees](#) must be submitted electronically no later than the 15th day of the month following the month of operations.

6.1.3.2.2 Where user day fees are received after the deadlines stipulated above, a late penalty charge will be added to the amount due. The current late penalty amount is provided in Appendix C. The late penalty charge cannot be appealed. [If the fees are not received by December 1 of the year within 90-daysr of the initial due date, the fees and fines will be referred to the Treasurer Tax Collector Rrevenue Rrecovery Division for collection, which may result in additional penalties. Non-payment after 30 days constitutes a Class II violation.](#)

6.1.3.2.3 It is a Class I violation to fail to deliver an Operating Report ~~or payment~~ [with the associated user day fee](#) for any month of operation by the required deadline. Each 30 days thereafter the Operating Report is not received

constitutes an additional Class I violation.

[Administrative changes add up to substantial variance from the original form and intent of the RMP and require new CEQA review. Fee collection provisions now add further potential for penalties and may reduce the likelihood for the company holders to retain permits.]

Page 44:

6.1.1.1.1 Should an outfitter receive ~~three~~four violations in any one Class I category or six in any combination of Class I categories, a recommendation of suspension of the River Use Permit up to 10 consecutive days between Memorial Day and Labor Day or revocation of the permit may be considered.

Page 48:

7.1 Boat Density Threshold shall equal 300 boats in 2 hours (based on ¼ -hour increments and a rolling 2-hour period) at Meatgrinder, Troublemaker, Barking Dog, Fowlers Rock or Satan’s Cesspool rapids on two days during any one season. Two kayaks are equal to one boat” for the purposes of determining boat density. In the event that boat counts exceed a “density threshold,” ~~(as defined in Appendix C)~~, the County will implement management actions to address density and associated safety issues on the South Fork as specified in this element. In the event that one or more density exceedance occurs during a day with low-flow releases from Chili Bar Dam ~~(as defined in Appendix C)~~ as defined in as less than 5 hours (8 AM to 1 PM) of 1,200 CFS flows per weekend day, Appendix C, the County may exclude up to two low-flow release days from the count.

Page 49:

7.1 Daily Boater Total Thresholds: Upper Reach - 2,100 boaters on two days during any one season. Lower Reach - 3,200 boaters on two days during any one season. Note: Boater counts shall include all persons in each boat, including outfitter guides. In the event that data collected in a single year indicate exceedance of a “daily boater total” threshold ~~(as defined in Appendix C)~~, the County will implement management actions to reduce total daily boater use levels and [re]allocate use to address potential environmental and other impacts associated with high levels of river use as specified in this element.