

6/21/2017

Edcgov.us Mail - Comments on Agenda Item #4 June 22, 2017

PC 6/22/17

#4
3 pages

Charlene Tim <charlene.tim@edcgov.us>



Comments on Agenda Item #4 June 22, 2017

hilde schweitzer <hilde@amriver.us>
To: Char Tim <charlene.tim@edcgov.us>

Wed, Jun 21, 2017 at 8:31 AM

Please accept the following comments regarding Item #4 on the June 22, 2017 Agenda:



Planning Commission Meeting June 22 RMP.pdf
47K

Planning Commission June 22, 2017 meeting

Agenda Item 4: WORKSHOP - Chief Administrative Office, Parks Division requesting a workshop to discuss proposed changes to the El Dorado County River Management Plan

Comments: Hilde Schweitzer

Please accept the following comments regarding the proposed update to the River Management Plan and the Executive Summary associated with the Plan:

I am not opposed to the BLM managing the South Fork American River. BLM currently owns and manages approximately 6368 acres of land adjacent to the river including 14 miles of river frontage. Some familiar areas close to Coloma are Dave Moore, Greenwood, Magnolia, and Cronan Ranch that many use and enjoy free of charge. BLM provides and maintains a minimum of 10 vault or composting toilets on these properties, used by river runners, both commercial and private, as well as hikers, bikers, and equestrians. They regularly patrol the river and service their facilities. They also have a comprehensive River Management Plan for the river corridor that was a collaborative process between many and varied user groups and stakeholders. They have a proven track record of managing other rivers across the United States and have access to funding that the County does not. Allowing BLM to manage use of the river could decrease the current liability and litigation potential and cost of litigation defense that the County is exposed to through its involvement in river management. Given the cost, liability, and enforcement issues associated with managing the South Fork it might be in the best interest for the County to have an MOU with other Agencies to take over management on the South Fork.

If the county decides to continue its role in managing the river, I suggest several changes be made to current management practices, many of which are not included in the proposed River Management Plan for 2017.

Both the Executive Summary and the Plan update suggest dissolving the River Management Committee (RMAC) and add the responsibilities and duties of RMAC to the Parks and Recreation Committee. To suggest dissolving the only committee (RMAC) that deals directly with the County's management of the river shows a complete lack of understanding of how the river management process works. RMAC has both historical and real time knowledge of the management of the river and has served El Dorado County since the inception of management on the river at no expense to the County. The makeup of the RMAC consists of a broad range of stakeholders that have varied interest in the river. To transfer the duties and responsibilities of the RMAC to 5 individuals with a Bricks and Mortar knowledge base of conventional "parks" is troubling. I challenge the statement made by the Consultant that "This committee has done some very good and dedicated work since its inception in 1984, but has evolved into more of a community-focused, rather than River-focused organization." The RMAC is nothing if not a River-focused committee.

Comments relating directly to the Proposed RMP and changes:

I understand that the focus of the new Plan is oriented toward the management of the Commercial user on the river, but any future Plan needs to manage all users of the river, and include analysis of impacts of all types of users when it certifies the Plan under CEQA.

The proposed Plan does not account for the changing demographics of Commercial use on the river, nor does it take into account the recent FERC relicense for SMUD and PGE which guarantees year-round water on the river. It continues to encourage the consolidation of river permits creating Commercial companies that each own hundreds of user days for weekend use.

In 1984 when the original Plan was adopted, the largest single permit holder had 254 users. In 1988, the Plan was revisited and the largest size permit was reduced to 173 users. Today, there are companies with permit sizes of 327, 307, 301, 228, and 198 user days. These large permits create a different use pattern of the river that has never been included in any CEQA analysis. The proposed Plan also allows for an 8% additional "guest" allowance for each permit, further increasing the potential impact to the river and surrounding property owners.

The proposed Plan is too vague in terms of monitoring the river use. It states: "Carrying Capacity Monitoring - To determine use levels and boat densities in order to identify carrying-capacity threshold exceedance associated with Element 7, County Parks and Trails Division will perform p e r i o d i c boater and boat counts at Troublemaker, Meatgrinder, Folwer's, Satan's Cesspool rapids and in the middle section between Marshall Gold Discovery State Historic Park and the Highway 49 Bridge in Coloma at a specific location to be selected by the Parks Division."

In 2016 there was no monitoring in the middle section of the river, an area that has shown tremendous usage growth in the last decade. There were a total of 10 boat density counts reported for 2016, all done at one location on the lower section, none were done in the middle or upper sections. The proposed Plan does not specify how counts should be documented, how many per year are required and leaves not doing them like in 2016 an option.

The proposed Plan is also based on questionable past number counts as a base. The Outfitters self report use numbers and these numbers are only spot checked by Staff by reviewing photos taken by a company that makes it's living photographing river users (conflict of interest at best, incomplete at worst). Staff has also allowed the transfer, borrow, or renting of user days among Outfitters which further clouds who is actually booking or running the trip. There are no real time use numbers, no way to deal with complaints or violations as they happen, and little or no means to resolve conflicts between user groups, landowners, and other Agencies.

As someone who has been involved in the RMAC (8 years as Private Boater Representative, 4 as President) since 1991, is a signatory to the UARP FERC relicense for both PGE and SMUD, and a riparian landowner in the middle section of the river I am frustrated with how little the river has been managed in the past by El Dorado County and am concerned with the future management of the river given this proposed revision to the River Management Plan.

Thank you for the opportunity to comment,
Hilde Schweitzer

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Edcgov.us Mail - FW: public comment for tomorrow's Planning Commission meeting, Item 17-0659



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#4
Charlene Tim <charlene.tim@edcgov.us>
10 pages

FW: public comment for tomorrow's Planning Commission meeting, Item 17-0659

Karen Mulvany <kmulvany@gmail.com>
To: charlene.tim@edcgov.us

Wed, Jun 21, 2017 at 3:12 PM

From: Karen Mulvany [mailto:kmulvany@gmail.com]
Sent: Wednesday, June 21, 2017 3:10 PM
To: 'planning@edcgov.us'
Subject: public comment for tomorrow's Planning Commission meeting, Item 17-0659

Attached is public comment for tomorrow's Planning Commission meeting, Item 17-0659

Thank you,

Karen Mulvany

2 attachments

-  **2017 0621 RMP comments to Planning Commission.pdf**
68K
-  **Resolution065-2002.pdf**
363K

To: Planning Commission
Re: Item 17-0659 Planning Commission; Public Comment on River Management Plan Update
From: Karen Mulvany
Date: June 21, 2017

Many people do not appreciate how unique the South Fork of the American (SFA) is. It is the most popular whitewater run in California, probably the western United States. Yet unlike virtually all other popular whitewater runs, the SFA runs largely through private lands. The combination of public use and private interests, plus the commercial use of the river, sets this complex environmental, recreational, and economic ecosystem up for conflict. Yet, as I have often commented at River Management Advisory Committee (RMAC) annual meetings, the existing system works surprisingly well.

In no small part, this is due to the extraordinary talents and deep expertise of the RMAC members, who are unpaid volunteers. It is also attributable to the unique skill set of the River Manager, Noah Triplett, and the River Patrol staff who intercept hundreds of uneducated tubers, boaters, SUPs, and surfers on the river each year, preventing untold numbers of accidents. Yet it is also due to the very existence of the RMAC, notably the venue it affords to work things out. This is now under undue threat.

I am a private boater and a riverfront property owner that has been kayaking the South Fork of the American since the early 90's. Professionally, I have worked as a Wall Street analyst, consultant to public turnaround companies, and Executive VP of a public company responsible for strategic planning. These experiences inform my comments below.

1. Why does RMAC exist?
 - a. The Court found in its 1995 Bernard v. El Dorado County decision that the county had erred in making river permitting a ministerial, rather than a discretionary, process.
 - b. After exhaustively reviewing 15 alternatives to satisfy the court order, the BOS determined that the RMAC alternative best fulfilled the discretionary process requirement established by the court.
 - c. See sections 1.2 – 1.4 of the standing 2001 RMP at http://www.edcgov.us/Government/EMD/Rivers/River_Mgmt_Plan/Sec01-RMP-Final-1204.aspx

2. Does Parks staff have any legal standing to usurp RMAC's legal power to recommend River Management Plan updates to the Planning Commission and The Board of Supervisors?
 - a. Board Resolution 065-2002, dated March 12, 2002, vests RMAC with the power to recommend updates and amendments to the River Management Plan (RMP). See: <https://www.edcgov.us/BosBoardsCommissionsPdfUploads/Executed%20Resolution%20065-2002.pdf>
 - b. Parks included a number of earlier Board Resolutions in its submission to the Planning Commission (PC), but did not include this one. Notably, this is the only board resolution cited in the county's RMAC website at http://www.edcgov.us/EMD/Rivers/River_Advisory_Committee.aspx.

K. Mulvany Public Comment Item 17-0659 Planning Commission 06/22/2017

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- c. Note that the 2002 BOS Resolution delivers no power to Parks or any administrative staff to overrule RMAC recommendations for the RMP, or to separately submit Parks recommended changes to the RMP for consideration by the Planning Commission.
- 3. In compliance with the RMP, RMAC has made prior attempts to submit its recommended RMP updates to the Planning Commission:
 - a. On 3/28/2013, the Planning Commission directed Parks to proceed with RMAC's submitted revision to RMP. See:
https://www.edcgov.us/Government/Planning/PCagendas/2013/03-28-2013_minutes.aspx
 - b. For this update, RMAC had drafted and submitted to the Planning Commission an RMP amendment focusing on institutional permitting. RMAC had held many public input meetings on this update at zero county or River Trust Fund cost, and had itself drafted the plan update, relying on committee expertise rather than consultants. The Planning Commission directed Parks to proceed with the RMAC's recommended RMP update with a CEQA initial Study and appropriate CEQA document and return to the Commission.
 - c. Parks did not proceed with the Planning Commission directive. Instead, Parks signed a \$61,000+ contract to hire a consultant to update the RMP. Parks did not issue an RFP for this contract, nor did it advise RMAC of its decision to use River Trust Funds to pay a consultant for an RMP update.
 - i. This consultant had worked on the 2001 RMP update and had ultimately run bills exceeding \$500,000.
 - ii. The stated goal cited in multiple recent Annual River Reports was to maintain River Trust Fund balances at its year end level of approximately \$200,000 (about one year's worth of river program expenditures), while continuing to spend substantially all of the outfitter fee contributions to fund standing river programs. The financial commentary in the Annual Reports made it clear that there were no extra funds in the River Trust Fund to cover consulting fees.
 - iii. Because the RMAC did not know that consulting expenses would be charged against the River Trust Fund, it did not know that standing river management programs would be jeopardized by the Parks decision to hire this consultant.
 - d. At multiple levels, these Parks actions conflict with the BOS Resolution cited in 2a.
- 4. The Parks RMP Update process has been deeply flawed, and strikingly out of compliance with normal processes employed in county plan updates:
 - a. The Parks consultant stated publicly that he had collected input privately from multiple sources for the RMP Update, but he declined to name his sources and stated that he had promised each contributor that the input would remain confidential
 - i. He privately solicited input from paid county staff, promising confidentiality.
 - b. He privately solicited input from RMAC members one at a time, violating the serial meeting prohibition of the Brown Act.

- c. At no time prior to publishing his RMP Update recommendations did the consultant solicit public input on the RMP.
 - i. At the first public input meetings after the consultant update was published, both held on June 3, 2015, dozens of people attended and spoke, uniformly objecting to the consultant's proposed elimination of the RMAC.

- d. The Parks recommendations to eliminate RMAC are based upon the consultant's assertion that conflicts among the parties represented by RMAC committee members have disappeared. There is ample evidence that the opposite is true.
 - i. While asserting that there are no more conflicts, the consultant in his plan update nonetheless identified a failure to address the new conflicts posed by increasing new river users, namely inner tubers.
 - ii. RMAC meeting audio recordings clearly illustrate that conflicts continue to exist, but that the ability to exchange information and discuss possible solutions face to face in the RMAC meetings works as a conflict resolution venue.

- e. The RMP recommendations publicly submitted by the consultant did not include a financial analysis, which was part of his contracted Statement of Work with Parks.
 - i. After many months of stymied requests from RMAC, Parks staff ultimately conceded that the consultant had completed a financial analysis, but it had been withheld from the RMAC and the public. It has never been publicly disclosed.
 - ii. RMAC attempted to obtain a River Trust Fund budget from Parks in order to ascertain the financial status of the fund, to which program expenses are not charged in real time but reconciled once a year at fiscal year end. Parks presented RMAC with financials that failed to include all of the consulting fees, which Parks was unable to explain, as was ultimately discovered and documented during the RMAC meeting on 4/11/2016.

- 5. On February 23, 2016, the consultant made a presentation on the RMP Update to the Board of Supervisors. The BOS meeting audio, which can be heard at http://eldorado.granicus.com/MediaPlayer.php?view_id=2&clip_id=761,item_16-0032, is worthy of note for the Planning Commission for the following reasons:
 - a. Supervisors Veerkamp, Novasel and Frentzen explicitly expressed their preference for retaining local control of South Fork American (SFA) River management, versus transferring control to State or Federal entities.
 - b. In response to questioning, the consultant stated that there had been no effort to tap other funding sources such as SMUD special revenue fund or grants to address the funding shortfall at the River Management Trust. Four supervisors (Veerkamp, Novasel, Frentzen, Mikulako) encouraged staff to explore other revenue opportunities, including tapping SMUD funds or TOT fees. Supervisor Mikulako expressed surprise that RMP elements had been unaddressed due to RMT underfunding while the SMUD special

revenue fund had not been tapped. There were several acknowledgements of the SFA's economic importance to the county, and its international stature. One supervisor (Novasel) volunteered her belief the river was being well managed.

- c. To the extent that the central issue in the RMP update may actually be about funding, the BOS did identify opportunities to address funding gaps.
6. In the fall of 2016, RMAC held a series of public meeting during which the committee reviewed the consultant's RMP revisions in real time, discussed changes, accepted public comment, and finalized its proposed changes to the RMP and delivered those to staff.
 - a. This was an inclusive and public plan update process.
 - b. Parks staff elected not to attend these meetings.
7. In Conclusion:
 - a. No other county in California has a South Fork of the American River. It is the most popular whitewater destination in California, if not the Western United States. Unlike every other park resource that EDC Parks manages as an expense center, the river is a significant contributor to the county economy. It requires a combination of commercial, whitewater recreational, business, real estate, environmental and community expertise to appropriately manage this complex yet uniquely valuable resource.
 - b. The county has been sued twice over river management. Since the RMAC was formed, the county has not been sued. This is not evidence that conflicts have disappeared, but it is evidence that RMAC has worked.
8. Recommendations:
 - a. I respectfully request that the Planning Commission focus exclusively on the RMAC revisions to the RMP, per the BOS Resolution #065-2002.
 - i. While clearly there are and will be additional issues that are deserving of attention in the RMP, RMAC can address these in future focused, sequential updates as it attempted to do with its institutional permit update.
 - b. Please recommend to the BOS that it restore the location of the RMAC meetings to the Lotus Coloma Valley, per the Brown Act (section 54954(b) of the CA Government Code). It was not appropriate for Parks to move the meeting away from RMAC's area of jurisdiction, over the objections of each RMAC member and the public. The RMAC cannot appropriately fulfil its mandate in a remote meeting location. RMAC meetings historically took place in the Lotus Fire Station, but could take place in the Henningsen Lotus Park Pavilion where the Parks Department held its HLP Plan Update public meetings.



RESOLUTION NO. 065-2002

OF THE BOARD OF SUPERVISORS OF THE COUNTY OF EL DORADO

A RESOLUTION OF THE EL DORADO COUNTY BOARD OF SUPERVISORS AMENDING RESOLUTION NO. 170-2001 RELATING TO THE RIVER MANAGEMENT ADVISORY COMMITTEE

WHEREAS, the County of El Dorado has in 2001 adopted an updated River Management Plan; which is a plan for the management of whitewater recreation activities and supporting land uses on the South Fork of the American River; and

WHEREAS, said plan calls for the establishment of a standing committee to advise the County on appropriate measures for the Plan's implementation and to make recommendations on amendments to the Plan and related matters; and

WHEREAS, it is desirable for said committee to be formally established and to be representative of a broad base of interests concerning the river; and

WHEREAS, those interests should include representatives from the Coloma-Lotus communities, the overall County of El Dorado, and agencies that share management responsibilities over whitewater recreation on the South Fork of the American River; and

WHEREAS, the federal Bureau of Land Management has declined the County's invitation to participate in the standing advisory committee;

NOW, THEREFORE, BE IT RESOLVED BY THE EL DORADO COUNTY BOARD OF SUPERVISORS that there is established a River Management Advisory Committee whose membership, role, conduct and by-laws shall be reconstituted in accordance with the following:

I. EXISTING COMPOSITON OF RMAC REPRESENTATIVES AMENDED

The composition of RMAC as established by Resolution No. 170-2001 is hereby rescinded and abolished.

II. COMPOSITION OF REPRESENTATIVES

There shall be established a RMAC that shall consist of seven members or representatives to be appointed by majority vote of the Board of Supervisors upon nomination in the manner specified in Section III. below.

- A. Business Representative. There shall be one business representative who shall be an owner or operator of a business in the Coloma-Lotus area. The business representative shall not be a permitted outfitter on the South Fork of the American River.
- B. Outfitter Representative. There shall be one outfitter representative who shall be an owner or operator of a business possessing a valid River Use Permit for the South Fork of the American River.
- C. Non-commercial boater Representative. There shall be one non-commercial boater representative who has an appropriate background to represent non-commercial interests and regularly uses the river for whitewater recreation. The non-commercial representative shall not have a financial interest in any outfitting business nor derive their primary income from any aspect of commercial outfitting.
- D. Landowner/Resident Representative. There shall be a landowner/resident representative who shall be an owner of residential property or a resident on property that is within the project area of the River Management Plan. This representative shall not have a financial interest in any outfitting business nor derive their primary income from any aspect of commercial outfitting.
- E. California Department of Parks and Recreation Representative. There shall be a representative from the Gold River District who has responsibilities for the management of recreation on state park lands along the South Fork of the American River.
- F. Members-at-Large. There shall be two public members-at-large who shall not own or reside on any property within 1000 feet of the South Fork American River and who shall be free from any material financial relationship to tourist-recreation businesses along the river corridor.
- G. The Airports, Parks and Grounds Manager or his/her designee shall serve ex officio as secretary to the RMAC. The responsibilities of the secretary include posting the meeting notices as required by law, and preparing the agenda and minutes for the committee's meetings.

III. **NOMINATION AND APPOINTMENT**

- A. Candidates for outfitter, non-commercial boater, business, member-at-large and landowner/resident vacancies shall be solicited by the Clerk of the Board of Supervisors who shall post a notice of vacancy in the County Administrative Center and in at least one conspicuous public location in the Coloma-Lotus area. The notice shall state the type of vacancy, and nominations shall be accepted for not less than 20 days after posting.

- B. Nominations for the State Parks representatives shall be forwarded to the District IV Supervisor from the agency manager.
- C. The Board of Supervisors shall make appointments at any regularly scheduled Board meeting. In the event that there are insufficient nominations for membership, the Board of Supervisors may make any appointment it deems in the interest of the public.

IV. APPOINTMENT TERM AND CONDITIONS

Representatives, or members, shall serve for four-year terms.

A member shall be removed from the committee for cause if the Board of Supervisors finds he or she no longer meets the qualifications for the position to which he or she was appointed.

The General Services Director shall report to the Board of Supervisors if the outfitter representative is in violation of any ordinance, regulation or condition related to his or her River Use Permit.

The General Services Director shall notify the Board of Supervisors if any member fails to attend four consecutive regular committee meetings. The Board of Supervisors shall thereupon declare the membership vacant for cause. Vacancies shall be filled in the manner specified in Section III.

A member may be removed from the committee without cause by an order declaring the membership vacant. The order must be approved by a four-fifths vote of the Board of Supervisors.

V. POWERS AND DUTIES

The RMAC provides a forum for the discussion of river use issues, ideas or conflicts among persons or groups with an interest in the South Fork of the American River. The committee may make recommendations to both the County Planning Commission and the Board of Supervisors on matters related to whitewater recreation and campground development along the river.

A. RMAC SHALL BE ADVISORY TO THE BOARD OF SUPERVISORS ON THE FOLLOWING MATTERS:

1. Administration of the River Management Plan and Plan Update by the County.
2. Implementation of the River Management Plan Update.
3. Amendments to the River Management Plan and Plan Update.
4. Ordinances or regulations relating to private or commercial activities on the South Fork American River.
5. Use of the River Trust Fund.

6. Other matters referred by the Board of Supervisors.
7. Nothing in this resolution shall require that comments or recommendations from RMAC be a prerequisite for a decision by the Board of Supervisors on any matter.

B. RMAC SHALL BE ADVISORY TO THE PLANNING COMMISSION ON THE FOLLOWING MATTERS:

1. Amendments to the River Management Plan and Plan Update.
2. River Use Permits
3. Special Use Permits for campgrounds, river accesses, and similar recreation facilities adjacent to the South Fork of the American River.
4. All discretionary applications within 1/4 mile of the center of the South Fork of the American River between Chili Bar reservoir and Folsom Lake.
5. Nothing in this resolution shall require that comments or recommendations from RMAC be a prerequisite for a decision by the Planning Commission on any matter.

VI. CONDUCT OF MEETINGS

The RMAC shall establish a schedule for regular meetings and may schedule special meetings at its discretion. All meetings shall be conducted in accordance with standard parliamentary procedure. Notice shall be provided and in all other way meetings shall be conducted in compliance with the Ralph Brown Act, as amended. The attendance of four members is required for a quorum. A quorum is required for the official transaction of business.

VII. ORGANIZATION

- A. Officers. At the first committee meeting each calendar year, RMAC shall elect a chair and vice-chair, who shall hold office for a term of one year or until the election of their successors. No officer shall serve more than two consecutive terms in the respective office.
- B. By-laws. RMAC may develop by-laws for the committee, provided the by-laws do not conflict with this resolution and are approved by the Board of Supervisors.

VIII. FISCAL SUPPORT

Members of RMAC shall not be considered as agents of the County and shall serve without compensation. RMAC shall be eligible for clerical support necessary for preparation, reproduction and distribution of meeting agendas and minutes. These support costs shall be paid by the River Trust Fund to the extent such funds are available. The Director of General Services or his/her designee shall be considered the fiscal officer for RMAC and shall approve all charges and requests for funds.

IX. COMMUNICATIONS

RMAC shall forward all official communications and recommendations in written form to the Planning Commission or Board of Supervisors. Recommendations and communications shall include the date of the meeting, the number of representatives in attendance and the roll call vote of the committee. The Planning Commission or Board of Supervisors may waive the requirement for written communication at its sole discretion.

Passed and adopted by the Board of Supervisors of the County of El Dorado at a regular meeting of said Board, held the 12th day of March, 2002, by the following vote of said Board:

Ayes: DUPRAY, BAUMANN, BORELLI, HUMPHREYS, SOLARO

ATTEST
Dixie L. Foote
Clerk of the Board of Supervisors

Noes: NONE
Absent: NONE

By: Margaret E. Moody
Deputy Clerk

David A. Solaro
Chairman, David A. Solaro
Board of Supervisors

I certify that the foregoing instrument is correct copy of the original on file in this office.

Date: _____
Attest: Dixie L. Foote, Clerk of the Board of Supervisors of the County of El Dorado, State of California

By: _____
Deputy Clerk