

To: Clerk of the Board, El Dorado County, edc.cob@edcgov.us

Subject: Public comment for Coloma Lotus Advisory Committee meeting, April 2, 2026

Agenda item 26-0583, Committee to receive, discuss and file an update from the River Management Plan Ad Hoc Committee.

Attached: Exhibits 1 - 4

From: Emmett Cartier

Thank you for the opportunity to comment on the discussion item for the update of the El Dorado County River Management Plan (RMP). I would respectfully suggest that Coloma Lotus Advisory Committee discussions of the RMP update proposals should include, for community deliberations and subsequent advisory roles to responsible agencies, committees, commissions, and Board of Supervisors:

- The expired status of the 2019 Joint Powers Agreement (JPA) between State Parks El Dorado County for administration of commercial boating outfitter permits at Marshall Gold Discovery State Historic Park (MGDSHP) on state lands and federal lands at Folsom Lake State Recreation Area (FLSRA) under managing partner agreement with the U.S. Bureau of Reclamation (Reclamation).
- The lack of a jurisdiction or role of county ordinances and RMP policies or regulations in relation to other state and federal lands along the river corridor, including U.S. Bureau of Land Management (BLM), California Department of Fish and Wildlife (CDFW), and likely the State Lands Commission (SLC).
- The State Parks' reported switch underway from current 'grandfathered' concession permits, with or without county administration and coordination, to a different concessions permit system compliant with state Public Resources Code 5080 and a Request for Proposals pending within the next year with provisions for existing commercial outfitters uncertain and yet to be determined.
- The FLSRA/ASRA 2012 MPA requires Reclamation approvals for each concession and subcontract, with little room for discretionary State Parks permits, and none for county permits.
- State Parks current 2019 concessions permits for concessions on all forks of the American River under month-to-month 'hold-over' by letter pending the compliance update with or without the JMP with the county.
- The dwindling numbers of commercial outfitters and consolidation of river use permits from purchases of former companies, with only 20 of the original 80 (approximately) permits and diminishing or leveling amounts of commercial river uses.
- Viability of commercial outfitters under various other uncertainties on the forks of the American River including the roles of State Parks permits for use of Tahoe National Forest lands at the access at Oxbow Powerhouse on the Middle Fork River, and the Eldorado National Forest downriver, subject to change in recent recognition of land ownerships, ASRA GP/RMP and MPA coverage, and jurisdictional authorities.
- Lack of county planning for the Middle Fork and North Fork American River partly within El Dorado County, mostly within on federal Reclamation lands in Auburn State Recreation Area (ASRA), but also including substantial reaches of private lands across the river channels. The lower North

Fork American River extends into FLSRA in the vicinity of the 'Rocky Bar' whitewater park constructed at the American River Pump Station in a joint project between Reclamation and Placer County Water Agency. Roads exist to the pump station (paved from Pacific Avenue in Auburn, partly paved from Cool via Salt Creek) and at the Birdsall Road access paved as far as China Bar parking area. Additional potential access may be recognized at Sliger Mine Road to Cherokee Bar and Spanish Bar on the spur road near Sliger Mine, to relieve perceived or actual congestion on roads. The lower North Fork at the Confluence has been made safer by removal of the former Highway 49 bridge debris, and the warning sign for boaters has been taken off the bridge. New bridges were built on Ponderosa Way (\$6 million) and pending on Yankee Jims Road (\$55 million) on the North Fork in Placer County which may help relieve demands for similar reaches of the South Fork. County funding and cooperation could help with the line items in the State Parks/Reclamation ASRA 2020 GP/RMP for bridges at Greenwood crossing and China Bar for improved access to the Middle Fork. Although county roles in management were not recognized in the GP/RMP for the North and Middle Forks, county roles for access roads were key public comments including in Spanish Dry Diggins, and the programmatic CEQA/NEPA allows all available community participation for implementation.

- Lack of CEQA review for any of the many incremental and cumulative changes to the RMP from county actions and environmental settings since the RMP FEIR was finalized in 2001. This lapse poses an threat to ongoing use of river permits at all times under the current system.
- Options for merging the present county/state/federal permit system to Limits of Acceptable Change rather than the notion of 'carrying capacity' used in the current permit system. The 2001 FEIR 'white paper' discussed both systems but favored LAC rather than the 'carrying capacity' notions popular with anti-boating factions. LAC focuses on accomplishing management goals rather than subjective, arbitrary and capricious numerical limits of recreationist in space and time, based on livestock in limited pastures. For example, LAC as used by other agencies asks, "What is it that we don't want changed, or toward what conditions would changes be preferred?" In the field of Range Management, prescriptions of animal stocking numbers are supplanted by measurements of residual dry matter of forage for future uses as an indicator of environmental health after grazing.
- County interpretive and educational information could be more respectful in characterizing river boater than as found on the web pages for Henningsen Lotus County Park, which indicates (for examples) that rafting guides may rinse daily at the river's edge, and the average kayaker drives an Acura from the Bay Area. *Towards that end, some sample grade school lessons planning is attached for reference to the RMP setting.*

Exhibit 1. Narrative of the recent history and status of the river boating concession permits

- January 26 - State Parks denied me an option of applying for a commercial boating permit for interpretive touring or fishing trips on the lower North Fork American River and Class II reach of the Middle Fork American River. Mr. Erik Hernandez, State Parks Senior Concessions Program Manager, said any **permit opportunity was denied** on the basis that: "The Concessions office has not accepted any new Concessionaires since these contracts went on holdover and .will not accept any new concessionaires until the upcoming RFP process comes out." [See 'holdover' month-to-month.]
- January 28 - State Parks held a drawing from a paper bag for start dates and time of day on the North Fork and Middle Fork, even though allocations exceeded the diminished number of outfitters left (15 on the Middle Fork, 11 on the North Fork) for applying for the number permits - based on unapproved a 1987 draft whitewater management plan. Outfitters attended, State Parks staff posted results on a wall of the ARD Community Center in Auburn. I met Mr. Hernandez at the end of the public draw meeting, and asked what information may be provided on the **pending RFP** for concessions for whitewater boating. He had no information on the process or the prospects of new or existing boating concessions on the forks of the American River or anywhere else in State Parks. Outfitters I chatted with did not know about the pending revisions in the concession program coming in the next year or so, and did not realize the drawing from a paper bag might be the last one to occur, or that there would be an RFP process which may or may not include their companies.
- March 10 - State Parks sent an email (attached set) to outfitters on the South Fork American River to the effect that the 2019 **Joint Powers Agreement (JPA)** with El Dorado County for management of two State Parks locations, Marshall Gold Discovery State Historical Park and Folsom Lake State Recreation Area (on federal Reclamation lands), was not in effect, so annual \$300 fees that the outfitters had paid to the County would be refunded, and instead should be paid to State Parks for direct management. Perhaps the 'administrative error' in the system included the lack of required federal Bureau of Reclamation approval of the JPA under the 2012 Managing Partner agreement with State Parks for recreation operations at Folsom Lake SRA and Auburn SRA. The JPA was approved by El Dorado County Board of Supervisors for an extended three years, pending State Parks approval. But how can the state really allow the County to pretend to manage state lands much less federal lands at Folsom Lake most of the river being in BLM ownership after many donations from land trusts? The federal jurisdictions have their own Code of Federal Regulations (42 CFR for BLM, 43 CFR for Reclamation) that manage the lands in plenary authority, and the active management plans for these agencies do not include any County roles or responsibilities. In fact, BLM letters were quite critical of County RMP pretenses for river corridor management in the 2001 FEIR under CEQA. Since then, BLM acquired substantial acreages along the river corridor and prepared separate management plans along with the 2006 Sierra Resources Plan. NEPA has not been done for any County roles it claims for federal lands, including the JPA. The RMP falsely claims that other agencies 'defer' to county roles.

- Since then, I have been trying to work with respective boards, committees, commissions, etc. to help understand and clarify the different situations for the Auburn SRA and the South Fork American River in El Dorado County. Outfitters are apparently somewhat afraid of the processes involved in both settings, but going along with whatever they are told is the current regulation.
- El Dorado County is in the process of 'updating' (increasing and consolidating) regulations for its **River Management Plan** on a five-year interval since 1984 based on notions of 'carrying capacity' with 'thresholds' of boater counts at rapids, so that if any exceed 300 in a two-hour rolling period, then additional (undetermined) County restrictions would be developed for "all" recreation use on the river. At the same time, the RMP update proposes to add nonprofit/noncommercial boating to the counts toward triggering the 'threshold' of 'carrying capacity' to trip more regulatory pretense by the County over the entire river corridor. This follows the 1970s ban on boating that was overturned for the public highway that is the river corridor, in another fashion of arbitrary, capricious, and illegal regulations by El Dorado County with cooperation from State Parks. Basically, the County has little authority under Harbors and Navigation Code 660 for regulation of the rivers as a 'special use area', and no authority for zoning the state or (increasing areas of) federal lands. An epic land and recreation fraud has developed, with State Parks in the middle of it, and public/private and both commercial or nonprofit outfitted boaters are at increasing risk for recreation opportunities on navigable public highways on the rivers in Placer and El Dorado County. The pick list of County boards at: [County of El Dorado - Calendar](#) **Some public comments are linked in each meeting agenda for Planning Commission, and the Parks and Recreation Committee.**
- State Parks' Division of Boating and Waterways lists four nonprofit outfitters on the South Fork American River as recipients of annual Aquatic Center grants for their operations. This is obviously a loop for increased noncommercial/nonprofit boating that could impact the County RMP regulations, and lead to greater restrictions. Programs of nonprofit and college recreation programs are virtuous and promote safety better than the arbitrary regulations of State Parks and El Dorado County on river lands, but it is odd that one hand does not know what the other hand is doing. Overall, it is not a good look for State Parks or the County to have roles in the failed County RMP and increasing regulations that do less than the nonprofits are doing for public safety and recreational opportunities. [Aquatic Center Grant Program](#)
- I compared about 25 different maps for the South Fork American River corridor and all of them are deficient in some key ways. A link to state Fish and Wildlife lands is at: [Biogeographic Information and Observation System \(BIOS\)](#), which shows state lands at Weber Creek as part of an interagency Pine Hill Preserve, but not recognized on any river maps. County maps do not mention or show Reclamation ownership of lands at Folsom Lake or the river downstream from Weber Creek. How does the County know what to manage for State Parks under the JPA pending State Parks ratification for the three-year extension, despite the one-year timeframe for bringing State Parks concessions into compliance with PRC 5080? The map exhibit in the RMP has been updated, but remains inadequate, and was not covered for the current mapping by the 2001 FEIR.

Exhibit 2. Summary of RMP Carrying Capacity Management (AI referenced)

The [El Dorado County River Management Plan \(RMP\)](#) uses a "dual focus" carrying capacity system to regulate commercial and private boating. This system relies on two primary indicators to measure river use and trigger management actions if thresholds are exceeded.

1. Primary Carrying Capacity Indicators

- **Boat Density:** This metric measures the concentration of vessels at specific bottlenecks to ensure boater safety and prevent overcrowding.
 - **Threshold: 300 boats** within a rolling **two-hour period**.
 - **Measurement Locations:** Key rapids including **Meatgrinder**, [Troublemaker](#), **Fowlers Rock**, and **Satan's Cesspool**.
 - **Counting Rules:** Two kayaks or paddleboards are typically counted as **one boat** for density purposes.
- **Total Daily Boaters:** This measures the absolute volume of people on the river per day to manage environmental impacts and community conflicts.
 - **Thresholds:** Historically, these were set based on record high usage years (like 1996). For the **Chili Bar run**, the limit is approximately **2,100 boaters** per day.
 - **Inclusion:** Counts include paying passengers, commercial guides, trainees, and non-paying guests.



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2. Implementation and Exceedance Actions

The RMP establishes a "twice in one season" rule: if either the density or daily boater threshold is exceeded more than twice in a single season, the County must implement **mitigation measures**.



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- **Austerity Measures:** Actions may include restricting launch times, reducing the number of commercial permits, or tightening group size limits.

- **Incremental Response:** Management actions are designed to be implemented incrementally to regain the established thresholds.



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3. Historical Evolution and Amendments

- **1984 Initial Plan:** Established basic operational rules and the first set of capacity guidelines after the 1979 court ruling protected public navigation.
- **2001 Update:** Formalized the current **300 boats per two hours** density threshold and expanded regulations to "institutional" and large private groups.
- **2018/2025 Updates:** While the RMP has been updated to streamline data collection and remove redundant tasks, the core carrying capacity thresholds and exceedance actions have remained largely unchanged for over two decades.



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4. Group Size and Commercial Constraints

To maintain these capacities, the RMP enforces specific operational limits:

- **Group Limits:** Standard groups are limited to **7 boats** and **56 people**.
- **Launch Intervals:** Groups must maintain at least a **five-minute gap** between launches to prevent "stacking" at rapids.

Exhibit 3. River Permits as Regulatory Property (AI referenced)

Granting a government permit can create significant property value, even when subject to numerous terms and conditions. In legal and economic terms, this is often described as "regulatory property".



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Here is a breakdown of the concepts, with a brief analysis inspired by Charles Reich's *The New Property*.

1. Government Permits as "New Property"

When the government gives a person or business a permit, it is often handing out a valuable benefit—what Charles Reich called "**largess**".



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- **Creating Value:** Even with many strings attached, a permit creates value because it usually gives the holder a special right that others don't have, such as the ability to operate a business, use public land, or build a structure.
- **Examples:**
 - **FCC Licenses:** Allows a company to use specific airwaves for radio or TV.
 - **FERC Licenses:** Permits companies to operate hydroelectric dams.
 - **Liquor Licenses:** Limits competition, making the license itself valuable.
 - **Building Permits/Zoning Changes:** Can exponentially increase land value.



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2. Strings Attached and Administrative Processes

These grants are rarely unconditional. The government often mandates:

- **Environmental Protection:** Rules on how land/water must be treated.
- **Public Safety/Health Standards:** Inspection requirements before, during, and after construction.
- **Performance Metrics:** Requirements to provide a service to the public in exchange for the license.



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3. Fair Administration vs. Arbitrary Implementation

To prevent officials from acting unfairly (being "arbitrary or capricious"), several mechanisms are used:

- **Administrative Procedure Act (APA):** A law that requires agencies to follow fair, transparent rules for decision-making.
- **Judicial Review:** Courts can overturn agency decisions if they are not based on a reasonable, "hard look" evaluation of facts.
- **Nollan/Dolan Standards:** Supreme Court rulings establishing that permit conditions must have an "essential nexus" (logical connection) and "rough proportionality" to the impact of the project.



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4. Application to Rafting Businesses

This regulatory approach is both helpful and challenging for rafting businesses:

- **Suitable:** Permits (like U.S. Forest Service commercial use permits) protect the river environment from overcrowding, ensuring a better experience for customers. They create a stable business environment by limiting the number of competitors.
- **Not Suitable:** Strict, bureaucratic, or slow permit renewal processes can prevent businesses from expanding or reacting to changing market demands, making them dependent on government whim.



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5. Analysis: The New Property (Grade-School Level)

Imagine a playground where the government owns all the swings, slides, and soccer fields.

- **Old Property:** You own your own soccer ball. The government can't take it away without a very good reason.
- **New Property (Reich's View):** The government lets you use their soccer field, but they can say "You must wear a blue shirt," "You can only play on Tuesdays," or "If you yell, you can't play anymore."
- **The Problem:** Because you rely on the government to have fun, you are afraid to complain about the rules because they might kick you out. Reich said this makes people too dependent on the government.
- **The Goal:** Even though the government owns the playground, it should be treated like your own soccer ball—they shouldn't be able to take your turn away just because they feel like it (fair rules).



The realization that a county government lacks **deference** from state and federal agencies—and has no valid interagency agreements—shifts the analysis of commercial rafting regulations from a single-tier permit system to a **complex jurisdictional conflict**. This scenario suggests the county may be overstepping its "police power", creating a significant legal and operational risk for outfitters.



Clear Creek County

To finalize your analysis, add the following key components:

1. Jurisdictional Authority & Preemption

- **Federal Supremacy:** Since federal lands (managed by the [Bureau of Land Management \(BLM\)](#) or Bureau of Reclamation) have their own Special Recreation Permit (SRP) systems, a county permit that conflicts with federal management plans may be preempted.
- **State Public Trust Doctrine:** In California, the state holds the water and submerged lands in trust for the public, and navigable rivers have fee-title ownership of bed and banks which may need to be delineated. If the county is regulating state-owned riverbeds without a delegated authority or [Interagency Agreement](#), its authority is legally vulnerable.



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2. Legal Vulnerability: Ultra Vires Actions

- **Lack of Delegated Power:** A county only has the powers granted to it by the state constitution or legislature. If there is no "valid agreement" or statute granting the county power over state/federal lands, its permit system may be considered *ultra vires* (acting beyond its legal power).
- **Absence of Deference:** Without formal "deference" (where one agency agrees to follow another's rules), the county cannot enforce its standards on lands it does not own or manage.



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3. Regulatory Duplication & Conflict

- **"Double Permitting":** Analysis should highlight the burden of "double permitting," where an outfitter must satisfy two sets of potentially contradictory rules (e.g., different safety equipment

requirements or launch times). Even using federal or state lands for lunch stops may require a Special Use Permit in addition to a county permit for commercial boating.

- **Permit Fees as Illegal Taxes:** If the county charges fees for use of federal/state land without providing a specific service or management role, these fees could be challenged as [unauthorized possessory interest taxes](#) or illegal exactions.



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4. Operational Risk for Outfitters

- **Enforcement Immunity:** Outfitters might be operating under a county permit that provides no legal protection if a federal or state ranger decides the activity violates their specific land-use plans.
- **Liability Insurance Gaps:** Many insurance policies require compliance with all "valid" government regulations. If a court finds the county permit is invalid for those specific river miles, it could jeopardize an outfitter's coverage in the event of an accident.

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Summary Table: Regulatory Gaps

Issue	Reality with No Deference	Impact on Analysis
Land Authority	County is essentially "trespassing" on federal/state jurisdiction.	County regulations are likely unenforceable on those reaches.
Compliance	Outfitters must follow BLM and Reclamation rules first.	County rules are secondary or irrelevant.
Fees	County lacks "quid pro quo" for use of non-county land.	High risk of legal challenge for fee recovery.

Exhibit 4. Sample 4th Grade Lesson Plan for River Permits

Teacher Guide: The South Fork American River Permit Controversy (Updated)

This guide provides historical context, key legal precedents, and corrected jurisdictional data for the 4th-grade lesson "The New Gold Rush."

1. Historical Context: The 1970s "Rafting War"

In the mid-1970s, a surge in recreation led El Dorado County to pass an ordinance (1976) banning all downstream rafting while exempting fishing and swimming.

- **Legal Landmark:** In **People ex rel. Younger v. County of El Dorado (1979)**, the California Court of Appeal struck down the ban. The court ruled the river is a "public highway" under the state Constitution and the county cannot totally prohibit navigation.

2. The Permit System as a "Monopoly"

Following the 1979 loss, the county implemented a **River Management Plan (RMP)** in 1981. They created a permit system that initially granted rights only to existing outfitters who could prove prior use.

- **Restricted Entry:** For over 40 years, the county has not issued new permits. This created a finite market where permits are traded privately for high values (often hundreds of thousands of dollars) because they are essentially permanent business licenses.
- **The pretext of the county permit system** was for 'health and safety' of visitors and residents, also stated as preventing trespass and littering. Water agency officials also said they did not want more boaters to oppose water projects on the river.
- **Enforcement against trespass** has been difficult with changing flow volumes and channel alignments, but boaters can navigate the river or use part of its bed even across private lands. Landowners still complain of occasional trespass and litter on their riverside properties.

3. Plans to Limit Boating

- The **River Management Plan** is due for updates every five years through committees and commissions for approval by the Board of Supervisors. The pending update proposes increasing the authority of county staff in commercial permit administration.
- **Permit terms** include group sizes, number of boats, and following laws already on the books for safety and ethical behavior. Outfitters and guides are held responsible for boaters on trips. Noncommercial boaters are not limited in all the same ways, but only five nonprofit or college groups have outfitter permits and other applicants are denied. Standard groups are limited to 7 boats and 56 people. Groups must maintain at least a five-minute gap between launches to prevent "stacking" at rapids, purportedly for boater safety and convenience. A 'quiet zone' extends about seven miles along the river through developed areas county ordinance for noncommercial boaters, and also under the RMP and permits for commercial boaters, to allow no noise that can be heard more than 50 feet away.

- **Carrying Capacity** was discussed as a management concept for limiting recreation use within acceptable levels. Subjective levels were set for maximum use that would supposedly prevent litter and trespass and provide for safety. The 'Carrying capacity' concept was borrowed from livestock management in confined spaces and time frames. A separate county ballot measure proposed to limit commercial rafting by imposing a 'carrying capacity' failed in county voting.
- **Threshold limits** were set for boat numbers. If more than 300 boats were counted at certain rapids within any two-hour period, then additional county restrictions would be developed for "all" river recreation. Two kayaks or paddleboards are typically counted as one boat for density purposes. For the Chili Bar run, another limit is approximately 2,100 boaters per day including paying passengers, commercial guides, trainees, and non-paying guests. The RMP establishes a "twice in one season" rule: if either the density or daily boater threshold is exceeded more than twice in a single season, the County must implement 'mitigation measures' with further restrictions on "all" river users. The threshold limits were never exceeded even after several decades of boating. The proposed 2025 RMP update would add nonprofit groups to the threshold counts at rapids, which might help trigger additional regulations for "all" river visitors.

3. Understanding Possessory Interest Tax

The "River Tax" in the student text is a **Possessory Interest Tax**.

- **The Logic:** Under California law, if a private entity has exclusive and durable use of tax-exempt public property (the permit for commercial boating on the river), that use is taxable as if it were real estate.
- **The Controversy:** In **Scott-Free River Expeditions v. County of El Dorado (1988)**, the court affirmed that commercial rafting permits constitute a "taxable possessory interest". This treats the public "right to float" as a piece of private property for tax purposes.

4. Jurisdictional Roles (Lands vs. Hydropower vs. Consumptive Water Rights)

Critics say the **Joint Powers Agreement (JPA)** between El Dorado County and **California State Parks** ignores federal authority for lands and resources, including for approval of concessions on federal lands. Fees charged by El Dorado County for the annual river permits were refunded because the 2019 JPA expired, so State Parks asked concessions in March 2026 to pay fees to State Parks instead, pending correction of administrative errors including lack of approval by federal partner Bureau of Reclamation.

- **Bureau of Reclamation (USBR):** The USBR owns **Folsom Lake** and releases water into the **Lower American River** for water supply, but the USBR has **no water rights upriver from Folsom Lake**. State Parks manages recreation at Folsom Lake by 2012 management agreement, subject to federal approvals such as for each outfitter or concession. USBR conveys EID's non-federal water under contract, and even gave federal dam facilities, lands and water rights at Sly Park Reservoir to EID in 2003.
- The **BLM** must follow federal laws to manage its original 'public domain' plus former private ranch lands that were donated. The federal laws preempt local and state laws, but some local rules may be incorporated by agreement. No agreement has been made for county roles on BLM lands.

- **Hydropower Agencies:** Releases to the **South Fork** used for rafting are actually made for hydropower by operators through the **Upper American River Project (UARP)**.
 - **SMUD:** Owns and operates the UARP and recently purchased the **Chili Bar Project** from PG&E.
 - **EID:** Operates **Project 184** for hydropower and consumptive use with hydropower rights transferred from **PG&E**.
- **The "Ignored" Federal Agencies:** The county's permit system and JPA are often criticized for fraud in operating as if the county owns the lands and water flow, even though the USBR owns and manages the lands at Folsom Lake (with recreation under prior agreement with State Parks), and the Bureau of Land Management (BLM) owns and manages much of the river corridor,.

Discussion Questions for Students

- **Fairness vs. Safety:** Does limiting the number of companies or visitors protect the environment, or does it just keep prices high by stopping competition?
- **The Power of the Land or Flow:** If: the BLM and Bureau of Reclamation own most of the lands but not water rights upriver; the County has zoning power only for private lands; local power agency SMUD releases flows for electricity under federal FERC license; and EID manages both hydropower and water supply; then who should have the most say in how the river is used for fun?
- **Can granting a government permit create property value,** even with many terms and conditions? What are some other examples of 'largess' granted by government agencies that are important for public services but also often come with 'strings attached' subject to administrative processes? [FERC hydropower licenses, FCC licenses for broadcasts, liquor licenses, building permits, etc.] What structures or mechanisms assure fair and equitable administration of regulations for the business providers and people served, versus 'arbitrary and capricious' implementation? How is this regulatory approach suitable, or not, for rafting businesses?

Suggested Activity: "The Hall Pass Market"

To illustrate **Possessory Interest**, give 3 students "Special Recess Passes" that they can keep forever. Tell the rest of the class they can never get one unless they buy it from those 3 students. Ask the class: "If the principal starts charging those 3 students a 'Pass Tax' because their passes are so valuable, is that fair to the students who *don't* have passes?"

Lesson for 4th Grade Students at the South Fork American River

The New Gold Rush: The Battle for the American River

Long after the 49ers left, a new kind of "gold" was discovered in El Dorado County: **whitewater rafting**. By the 1970s, the South Fork of the American River became one of the most popular spots in the world for adventure. But just like the old days of claim-jumping, a new conflict began between the people who loved the river and the government that wanted to control it.

The Great River Ban

In 1976, El Dorado County leaders tried to do something shocking: they **banned** all rafting on the river. They claimed they wanted to stop noise and litter, but many boaters felt the county was overstepping its power. In 1979, the courts ruled under the state Constitution that the navigable river was a "public highway" that everyone had a right to use.

The Permit "Monopoly"

Since they couldn't ban the boats, the county created a **permit system** in 1981.

- **The Lockout:** The county issued permits to about 80 companies and then stopped. For decades, no new companies were allowed to start, making the old permits worth a lot of money. Since no new permits are allowed, the value of remaining permits increased as the number of outfitters dwindled to 20.
- **The "River Tax":** The county treats these permits like a "property right". Even though the river is public, they charge a **possessory interest tax** on the value of outfitters' permitted 'privilege' to use the water.
- **Decades of Silence:** Large government groups like the **Bureau of Land Management (BLM)** and **California State Parks** managed the land around the river. For over 40 years, they allowed the county to claim management of the river corridor by its own system even though the river belonged to the public.

Trading "Invisible" Property

Imagine if you had a special hall pass that was the only one in the whole school. Other kids would pay you a lot of money just to own that pass! In El Dorado County, these rafting permits became so valuable that companies could get permits only by buying other companies with permits for hundreds of thousands of dollars. Because they are so rare and "last forever" (as long as they are renewed), the government treats them like a piece of land you own. This is why they charge the "possessory interest tax"—they are taxing the *value* of being one of the few allowed to do business on the water.

The Missing Partners

While the County and State Parks made a "Joint Powers Agreement" (JPA) to run the river, they ignored the **U.S. Bureau of Reclamation**. This is a fraud because the Bureau of Reclamation owns the land at Folsom Lake, and the **BLM** owns most of the rest. By leaving them out of the County permit system and JPA, the county ensures that rafting companies break federal laws.

Words to Know:

- **Overreach:** When the government takes more power than it is supposed to have.
- **Permit:** An official paper that gives someone permission to do something.
- **Possessory Interest:** Using public property (like a river permit) in a way that makes it like private property you own.
- **Condoned:** When someone allows bad behavior to continue by not stopping it.