

South Fork Newsletter

El Dorado County Parks
Whitewater Recreation Program

June 2008

Annual Report

The 2007 Annual Report is posted on the County Parks Rivers web page at www.co.el-dorado.ca.us/Rivers/index.html.

Boater and Community Shuttle

The River Store Inc. is excited to announce that plans are progressing well to create a South Fork American River and local community shuttle service!

The Objectives of the planned shuttle are:

- Service river recreationists and visitors to the area, as well as local communities between Salmon Falls and Chili Bar/Placerville.
- Reduce traffic, emissions and parking issues within that same geographic range
- Have the potential to expand into other local communities such as Georgetown and Cool while creating a connection to the existing El Dorado County Transit system in Placerville

We have received the recommendation for grant funding from the El Dorado County Air Quality Management District (EDCAQMD) and the recommendation for the use of some matching funds from the County's River Trust Fund.

The initial plans include numerous stops at and between Salmon Falls, Coloma and Chili Bar/Placerville. A more complete list of stops will be published once we receive funding and begin to move forward. We do welcome suggestions on stops sent to Dan@Kayaking.com.

If we receive the funding approval from the El Dorado County Supervisors in June, we will then be able to move forward with the project. Once that occurs we will be distributing information on schedules, routes, fees and passes through The River Store, local vendors and a shuttle website. Brochures, information and pass purchase/pick-up will be available at The River Store (1032 Lotus Rd., Lotus 530-626-3435) prior to the actual start of shuttle services.

The River Store would like to thank all of the many folks who have contributed to the possibility of making this shuttle service a reality. These include (but are not limited to) RMAC, El Dorado County Parks, EDCAQMD, El Dorado Transit and community friends and supporters.

Sincerely,

Dan Crandall, President- The River Store Inc.

Martin Harris, RMAC Local Landowner representative

River Cleanup's in 2008

The next river clean up is August 7th and will be on the Chili Bar section.

River cleanup's are coordinated by El Dorado County Parks, CA State Parks, Bureau of Land Management and the American River Conservancy. If you are interested in participating in a river cleanup in 2008 or any other volunteer projects please contact El Dorado County Parks or the American River Conservancy at 530-621-1225.



Fowlers Rapid @ Low Flow 2008 – J. Boyd

Storm Water Tip of the Season:

A clean ocean and healthy creeks, rivers, bays and beaches are important to El Dorado County; however, not properly disposing of household hazardous waste can lead to water pollution. Batteries, paint, oil, gardening chemicals, and other hazardous materials cannot be thrown in the trash. They also must never be

poured or thrown into yards, sidewalks, driveways, gutters or streets. Rain or other water could wash the materials into the storm drain and eventually into our waterways and the ocean. Unlike water in sanitary sewers (from sinks and toilets), water in storm drains is not treated.

What you can do to help:

- Do not allow soil, leaves or grass clippings to accumulate on your driveway, sidewalk or in the street.
- Do not use storm drain inlets for disposing motor oil, antifreeze, pesticides, paints, solvents, or other hazardous materials.
- Sweep (do not wash) fertilizer and soil off driveways and walkways onto the lawn. Any debris remaining on paved areas will quickly be washed into the nearest storm sewer during the next rainfall.
- Minimize your use of de-icing materials on sidewalks and driveways.
- Dispose of pet wastes by flushing them down the toilet or burying them.

For more information on Storm Water issues, please visit our Storm Water website at <http://www.co.el-dorado.ca.us/emd/solidwaste/storm.html>

Property Rights and Boaters' Rights: An Uncertain Boundary

The following article was prepared by the El Dorado County Counsel's office.

Boaters' Responsibilities

Boaters can best observe private property rights by using only river access areas and riverside lands that are open to the public. River maps are available at access areas and signs are placed along the river to help boaters distinguish between public and private lands.

Grey Areas

California's constitution and laws protect the rights of private property owners and recreational boaters alike. Unfortunately, the boundaries between these competing rights are uncertain, especially on the South Fork American River.

To deal with this uncertainty, the County encourages a common-sense approach. We believe that the best way to minimize conflicts is for everyone to avoid the legal "gray areas" and stay well within their rights. Although you should not rely upon the following as legal advice, it

is meant to be an accurate sketch of the law's certainties and uncertainties.

Boaters' Rights

The main reasons for the legal uncertainty on the South Fork are that boaters' rights arise from one, or maybe two sources of state law and neither source defines the precise territorial boundaries of those rights. First, the public has rights to use waters that are navigable by small recreational craft. These rights, the public's rights to navigate, include boating as well as the use of the river bottom for related activities such as walking, standing and anchoring; the rights extend up to the river's "high water mark." Second, a wider range of public rights, including the public's rights to navigate, arises when a waterway meets a stricter test of navigability. If the waterway, in its natural condition, was navigable for commerce at the time

California became a state, then the public trust doctrine established public rights and limits private property rights. Rights under the public trust doctrine extend up to the river's "ordinary high water mark."

Some people believe that the public trust doctrine applies even when the waterway meets only the easier test of recreational navigation – but the law is unclear on this point. The South Fork between Chili Bar Dam and Folsom Reservoir meets the easier recreational navigation test. Whether it meets the stricter commercial navigation test is presently a matter of opinion, not law. Therefore, we know that the public's rights to navigate exist on the South Fork, but we are not sure what additional public rights may exist. Furthermore, we do not know whether the public's rights to navigate extend to the "high water mark" or the "ordinary high water mark."

Even if we knew which mark was the proper boundary, courts have defined each term in different ways at different times. It should come as no surprise, then, that neither the courts nor any government agency has attempted to locate either mark along the South Fork. Lacking clear-cut legal guidance, we recommend that everyone fully recognize the public's rights to navigate below the high water mark that exists at any moment.

This simple ground rule – "keep your feet wet" - seems to us to be both legally defensible and eminently practical.

Property Right's

The essence of private property is the owner's right to exclude others from their land. An unauthorized entry onto the lands of another is a trespass. So is an entry that exceeds the bounds of a landowner's limited consent. A trespasser is liable for any money damages the trespass causes, and a willful trespass is also a misdemeanor crime. If the trespasser acted with legal malice, punitive damages can be sought, but the courts will not normally issue court orders to prohibit future trespasses.

Landowners should realize that the legal doctrine of "necessity" sometimes excuses acts that would otherwise be trespasses. This doctrine authorizes entry onto private property if the encroacher reasonably believes that doing so is necessary to preserve life or property.

On the South Fork, "necessity" would normally authorize things like swimming to shore after losing a boat, righting and draining a capsized boat, or making short portages past areas the boater cannot navigate safely. It might allow advance scouting of difficult rapids, especially during high water. It would not apply to rest or convenience stops.

What if a boater or other recreational user is injured on private property? A special state law shields landowners from legal liability if they passively permitted the injured person to come onto their land for recreational purposes. This law was enacted to encourage landowners not to close off their lands from recreational users.

Therefore, unless recreational users pay for entry, or the landowner expressly invites them onto the land or the injury result from the landowner's willful or malicious misconduct, injured visitors bear full responsibility for their own injuries.

Many landowners along the South Fork have parcels whose boundaries extend under or across the river. This does not mean that the landowner can ignore the public's rights to navigate. It is unlawful to place fences, cables, wires, or other obstructions to navigation into or across the river. If the landowner does so, and a non-trespassing boater is injured, the landowner will be liable for damages.

Respect Others' Rights

To summarize, the best way for landowners and boaters to coexist is for each group to show a healthy respect for the others' rights. No one can fix with certainty the

boundary lines between each groups' rights, because the law is unsettled and circumstances change constantly. The shifting zone between land and water is a gray area: property owners have a right to use their land, and to exclude trespassers, but boaters have a right to navigate without obstructions and to take reasonable actions to protect lives and property. We urge everyone to show mutual respect by exercising tolerance and common sense in their conduct.

County Parks employs three people for the job of river patrol each boating season. One of the patrol's responsibilities is an educational program for non-commercial boaters. A primary goal of the program is to have all boaters observe private property rights. We stress the importance of using only river access areas and riverside lands open to the public. We try to let the public know that with the variety of river access points open to the public and the where the Bureau of Land Management public lands along the river, there is no need or excuse for utilizing private lands during their river trip.

We also know that we do not reach everyone, and some people may ignore our message. If you are a landowner with ongoing trespass problems, please contact both the County Parks Office and the County Sheriff's Boat Patrol (see the back cover of this newsletter). County Parks can focus more attention to your section of the river.

Remember County Parks authority is usually limited to education of the public. We do not have the law enforcement capabilities of the County Sheriff.

The River Management Advisory Committee

The River Management Advisory Committee (RMAC) provides a forum for the discussion of river use issues, ideas and conflicts. RMAC is a formal advisory body which makes recommendations to both the County Planning Commission and the Board of Supervisors on matters related to whitewater recreation and campground development along the South Fork American River. The County established RMAC to be representative of a broad base of interests concerning the river. There are seven members:

- **a permitted commercial outfitter**
- **a non-commercial boater**
- **a local business representative**
- **a local resident**
- **two members-at-large**
- **a California State Parks representative**

RMAC usually meets the second Wednesday or Thursday night of each month, January through November. Usually this is at the Lotus Fire Station. Currently all RMAC positions are filled. The public is

invited to attend and participate at these monthly meetings. If you would like to receive the minutes and agendas via email please email Noah.Rucker-Triplett@edcgov.us. Monthly minutes can also be viewed on the web at www.co.el-dorado.ca.us/Rivers/river_advisory_com.html. The 2008 RMAC meeting schedule is posted on the web site listed above.

Other river related events scheduled in 2008 are:
June 9, 2008 – Headwaters Institute Guide Seminar
June 9, 2008 – ARC Trail Festival
June 14, 2008 – Coloma Blues Festival
September 6-7, 2008- American River Whitewater Festival
September 19, 20, 21- American River Music Festival

Agency Contact Information

Bureau of Land Management
63 Natoma Street
Folsom, Ca 95603
916-985-4474

El Dorado County Parks
3000 Fairlane Ct., Suite 1
Placerville, Ca 95667
530-621-6052

Auburn State Recreation Area
501 El Dorado Street
Auburn, CA 95604-3266
530-885-4527

Folsom Lake State Recreation Area
7806 Folsom-Auburn Road
Folsom, CA 95630-1797
916-988-0205

Marshall Gold Discovery State Historic Park
PO Box 265
Coloma, CA 95613
530-622-3470

Note: You can also find this newsletter on the El Dorado County Parks/Rivers web page, www.co.el-dorado.ca.us/Rivers/index.html. If you want to continue to receive a paper copy of this newsletter please contact the El Dorado County Parks office. We would prefer to send an electronic version to you in the future. Please email Noah.Rucker-Triplett@edcgov.us so we can achieve this goal.