

South Fork Newsletter

Parks and Economic Development Division
River Management Program

Winter 2013

Public Notice

Annual Review of the El Dorado County River Management Plan

Held by the River Management Advisory Committee

Location: Marshall Gold Discovery State Historic Park
Museum Building
310 Back Street, Coloma, CA
Date: Tuesday, November 19, 2013
Time: 7:00-9:00 p.m.

Please come ready to discuss issues related to river use on the South Fork that have arisen in 2013. Only through the understanding of area residents' perceptions of whitewater recreation can the County take measures to address your concerns in the future.

Public comments from this meeting and any River Management Advisory Committee (RMAC) recommendations formed as a result of your comments will be presented to the County Planning Commission within the 2013 River Program Annual Report.

El Dorado County Parks

In 2013, El Dorado County Board of Supervisors approved a new division of the Chief Administrative Office — the Economic Development/Parks and Trails Division. Park Operations & Maintenance, Trails and River Recreation are now all located within the same department. There are many projects for the new division, including the Henningsen Lotus Park Conceptual Plan to update the site plan. Additional information on this project can be found at: [www.edcgov.us/Government/Parks/Henningsen Lotus Park Concept Plan.aspx](http://www.edcgov.us/Government/Parks/HenningsenLotusParkConceptPlan.aspx). The public is encouraged to participate in this planning process.

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

Currently, all RMAC positions are filled. RMAC meets monthly, January through November, on the third Tuesday night of the month at the Lotus Fire Station (Station 74). 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 sign up on the County web site: https://service.govdelivery.com/service/subscribe.html?code=CAELDOR_1. Monthly minutes can also be viewed on the web at <https://eldorado.legistar.com/Calendar.aspx>



Flows on South Fork and Release Schedule

The Federal Energy Regulatory Commission's (FERC) new license of SMUD's Upper American River Project and PG&E's Chili Bar Dam will require that recreational flows are provided. Both SMUD and PG&E are currently honoring the license, pending final approval by FERC. The new FERC license will designate a "Water Year" based on snow surveys completed by the CA Department of Water Resources. The release schedule from Chili Bar Dam in 2013 is designated as a "Dry Water Year." The current flow and

release schedule can be found at the bottom of page one, at dreamflows.com and on the County River's web page at www.edcgov.us/Rivers/. The release schedule for 2014 will not be designated until after the last snow survey for the year on May 1. The release schedule for the months of February, March and April will be determined by snow surveys conducted at the beginning of each month. In addition to a designated flow schedule on the South Fork below Chili Bar Dam, there will also be required scheduled flows on the South Fork below Slab Creek Reservoir and on South Fork Silver Creek below Ice House Reservoir in 2014. The dates for these releases are not scheduled at this time.

What can riparian land owners do to prevent the amount of trash getting into waterways?

To help reduce the amount of debris that washes into the river during minor flood events or winter high water, you can do the following:

- 1) Locate the periodic high-water mark (2006 flood elevation) and put a stake (mark) at the location so you or the next tenant knows the elevation. If you would like help locating the high-water mark, call County River Patrol for assistance at 530-621-6052.
- 2) Between the months of November to May, do not leave manufactured items unattended below the high-water mark. Examples of manufactured items include canoes, BBQ's, lawn furniture, shade tents, picnic tables, RV's, etc.

Stormwater Preparedness

Stormwater runoff from construction activities can have a significant impact on water quality. As stormwater flows over a construction site, it picks up pollutants like sediment, debris, and chemicals. Sedimentation can destroy aquatic habitat and high volumes of runoff can cause stream bank erosion.

Polluted stormwater runoff can also have many adverse effects on plants, fish, animals and people. Sediment can cloud the water and make it difficult or impossible for aquatic plants to grow. Sediment also can destroy aquatic

habitats. Excess nutrients can cause algae blooms. When algae die, they sink to the bottom and decompose in a process that removes oxygen from the water called eutrophication. Many fish and other aquatic organisms can't exist in water with low dissolved oxygen levels. Bacteria and other pathogens can wash into swimming areas and create health hazards, often making beach closures necessary.

Debris—plastic bags, six-pack rings, bottles, and cigarette butts—washed into waterbodies can choke, suffocate, or disable aquatic wildlife like fish, turtles, and birds. Debris can also clog waterways and potentially reach the ocean where they can kill marine wildlife and impact habitat.

Household hazardous wastes like insecticides, pesticides, paint, solvents, used motor oil and other auto fluids can poison aquatic life. Land animals and people can become sick or die from eating diseased fish and shellfish or ingesting polluted water. Polluted stormwater often affects drinking water sources. This, in turn, can affect human health and increase drinking water treatment costs.

If you see any areas of potential erosion, sediment control and/or pollution issues, please call the Storm Water Coordinator at 530-621-5900. For more information on Storm Water issues, please visit our Storm Water website at:

[www.edcgov.us/Government/EMD/HazardousMaterials/Storm Water Pollution Prevention.aspx](http://www.edcgov.us/Government/EMD/HazardousMaterials/StormWaterPollutionPrevention.aspx)

Bridges to Be Retrofitted or Replaced

The El Dorado County Transportation Division (DOT) and CalTrans are currently in the planning phases of determining whether to retrofit or replace the Mount Murphy Bridge, Mosquito Rd. Bridge and the Hwy 49 Bridge across the South Fork of the American River. These bridges have been identified as needing major maintenance to them in addition to a general goal to increase vehicle and pedestrian safety. Please visit the County DOT planning website www.edcgov.us/BridgeProjects and Caltrans planning website <http://www.dot.ca.gov/dist3/Projects/> for further information on these projects and public input opportunities.

South Fork American Below Chili Bar Dam Minimum Recreational Flow By Water Year (cfs)

- 2013 Water Year Type Dry -

Period	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
March -Memorial Day	3 Hrs @ 1300	3 Hrs @ 1300			3 Hrs @ 1300	3 Hrs @ 1300	3 Hrs @ 1300
Memorial Day – Labor Day	3 Hrs @ 1300	3 Hrs @ 1300		3 Hrs @ 1300	3 Hrs @ 1300	5 Hrs @ 1500	5 Hrs @ 1500
Labor Day - September					3 Hrs @ 1300	3 Hrs @ 1300	3 Hrs @ 1300
October - February						3 Hrs @ 1300	3 Hrs @ 1300



Highway 49 Bridge across the South Fork of the American River

Boaters' Rights

-Prepared by El Dorado County Counsel, 1997

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 right 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.

Property Rights

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 results 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 could 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.

Remember, County River Patrol's authority is usually limited to education of the public. They do not have the law-enforcement capabilities of the County Sheriff.



Safety matters

Safety and Crime Reporting

When embarking on a day of recreation on the river or hiking on the County trails, please remember to deter break-ins by not leaving valuables in your vehicle. It is best to recreate with a partner, dress appropriately, have a first-aid kit and rescue gear. Training and having a plan in the event that something goes wrong can greatly increase your

chances of survival or rescue. If you see suspicious activity, observe a crime or are a victim of a crime, please call the El Dorado County Sheriff's Department at 530-621-6600, as well as the appropriate land management agency. Contact information for land-management agencies is listed at the end of this newsletter.



Events in the Coloma - Lotus Valley

- Living History Days, 2nd Sat of each month in Coloma at the Sutters Mill Site. Docents impart knowledge about the days of the Gold Rush.
- Historic Houses in Coloma, November 30th, 1-5 pm. Twelve historic buildings open and decorated for Christmas with interpreters in period clothing on hand.
- Christmas in Coloma, December 14th&15th, 10am to 3pm. Old-fashioned Christmas with local craft vendors, wreath-making, music, games, food, and Santa!!!
- American River Conservancy Events. Please see arconservancy.org for events (hikes, wildlife viewing, interpretation programs, etc.)

County of El Dorado, River Management Program

330 Fair Lane, Building "A"
Placerville, CA 95667
530-621-6052

Marshall Gold Discovery State Historic Park

PO Box 265
Coloma, CA 95613
530-622-3470

Bureau of Land Management, Mother Lode Field Office

5152 Hillsdale Circle
El Dorado Hills, CA 95762
916-941-3101

Auburn State Recreation Area

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

Dispatch for On-Duty Ranger: 916-358-1300

Folsom Lake State Recreation Area

7806 Folsom-Auburn Road
Folsom, CA 95630-1797
916-988-0205

Dispatch for On-Duty Ranger: 916-358-1300

Note: You can find this newsletter on the El Dorado County Rivers web page, www.edcgov.us/Rivers/