



## County of Sacramento

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June 4, 2013

### Spearfishing Impact Analysis and Director's Determination

In 2013 the State of California modified the Fish and Game Regulations to include allowances for spearfishing in Sacramento County, including on the American River, under certain conditions and for targeted fish species. Access to the American River between Discovery Park and Hazel Avenue is managed and controlled by Sacramento County Regional Parks and is governed in part by ordinance 9.36.060 which restricts the possession of weapons, including spear guns, in the American River Parkway. The County Ordinance allows the Director of Regional Parks to provide certain exceptions to park ordinances when appropriate. However, prior to granting an exception to County Ordinance 9.36.060 a review of the impacts to the American River Parkway (Parkway), its users, and the overall impact to Regional Parks is required.

#### Enforcement Background

Weapons, including spear guns have been restricted from Regional Parks including the Parkway under County Ordinance 9.36.060.

#### **9.36.060 Firearms, Air Guns, and Other Weapons.**

No person other than peace officers in the discharge of their duties shall use, maintain, possess, fire, or discharge any firearm, air gun, spring gun, bow and arrow, slingshot, or any other weapon potentially dangerous to wildlife or human safety, except in areas, at times, and under conditions designated by the director for such use. A violation of the provisions of this section is a misdemeanor. (SCC 576 § 15, 1983.)

#### Modification of the Fish and Game Regulations

In 2013 the Fish and Game regulations were amended to allow spearfishing in Sacramento County, including on the American River. Regional Parks has received comments that this amendment has created a conflict between an approved Aquatic Recreation activity (fishing) on the American River and the County Ordinance restricting weapons in the Parkway. The Department has received multiple requests to provide an exception to ordinance 9.36.060 to allow spear guns to be transferred across park property to the river. Our Ranger staff initially enforced ordinance 9.36.060 which caused confusion with the change in fishing regulations and therefore triggered the review of the impacts associated with the transportation of spear guns within the American River Parkway. Due to the confusion of enforcing the County Ordinance related to the change in fishing regulations the Rangers temporarily suspended enforcing the weapons ordinance related to spear guns until a determination could be made by the Director of Regional Parks.

### 2.30. SPEARFISHING.

Spearfishing is permitted only in:

- (a) The Colorado River District for carp, tilapia, goldfish and mullet, all year.
- (b) The Valley District and Black Butte Lake (Tehama County) for carp, tilapia, goldfish, striped bass, western sucker, Sacramento blackfish, hardhead, Sacramento pikeminnow and lamprey, from May 1 through September 15, except that no spearfishing is permitted in: (1) Shasta County (see Section 2.12).
  - (2) Tehama County except Black Butte Lake.
  - (3) Butte Creek (Butte Co.).
  - (4) Feather River below Oroville Dam (Butte Co.).
  - (5) Designated salmon spawning areas (See Fish and Game Code Section 1505).
- (c) The Kern River from the Kern-Tulare county line upstream to the Johnsondale Bridge for carp, goldfish, western sucker, hardhead and Sacramento pikeminnow, from May 1 through September 15.
- (d) See bullfrogs (Section 5.05)

Applicable American River Parkway Plan Sections used in Department Analysis:

*Urban American River Parkway Preservation Act (page 9)*

The locally adopted Plan is then submitted to the State legislature for adoption through the *Urban American River Parkway Preservation Act*, Public Resources Code §5840. The Plan acts as an informational document and an invitation for citizen participation in the planning process. The Plan also provides basic policy guidance for the future of the Parkway.

#### *American River Parkway Plan Goals*

- To provide appropriate access and facilities so that present and future generations can enjoy the amenities and resources of the Parkway which enhance the enjoyment of leisure activities.
- To preserve, protect, interpret and improve the natural, archaeological, historical and recreation resources of the Parkway, including an adequate flow of high quality water, anadromous and resident fishes, migratory and resident wildlife, and diverse natural vegetation.
- To mitigate adverse effects of activities and facilities adjacent to the Parkway.
- To provide public safety and protection within and adjacent to the Parkway.

### *American River Parkway Plan Concept Policies*

1.2 The Parkway shall be orientated to passive, unstructured water-enhanced recreation activities which are appropriate in a natural environment, and which are not normally provided by other County recreational facilities. To this end, development in the Parkway shall be minimal, and facilities which are primarily visitor attractions should be placed in less sensitive areas within the County Park system. Insofar as possible, development shall not occur in areas where natural ecosystems are still relatively undisturbed.

### *American River Parkway Plan Aquatic Recreation (Permitted Recreation Activities)*

5.22 Swimming, wading, snorkeling and scuba diving are activities that occur, although they are not encouraged due to swift currents, water temperatures, slippery and uneven ground, submerged debris and vegetation, and absence of lifeguard services.

5.23 Boating, canoeing, kayaking, rafting, sailing, motor boating, and similar activities are permitted Aquatic Recreation activities.

5.24 Fishing in the river is permitted year round in the Parkway, except during fall and early winter when the river is closed to protect spawning Chinook salmon as regulated by the Department of Fish and Game Code. This closure has generally occurred from just downstream of the Hazel Bridge to Ancil Hoffman Park.

### *American River Parkway Plan Prohibited Activities and Facilities*

5.27.1 (c) Use of any firearm, including air rifle, pellet guns, bb guns paint ball, sling shots or any other ballistic device,

(d) Use of archery equipment for purposes other than target shooting in the designated archery range at Discovery Park,

### *American River Parkway Plan Implementation Measures 1.0 Jurisdictional Responsibilities*

Each of the following entities has a role in the implementation of the Parkway Plan. There are numerous agencies with varying levels of jurisdiction within the Parkway. In the future, new approaches to funding the Parkway may be explored in order to expand the resources available to support the Parkway. Nevertheless, to ensure a consistent management and visitor experience within this regional facility, the day-to-day management and operations should be the responsibility of a single management entity.

The American River Parkway Plan is defined to include the American River and adjacent floodplain, from the confluence with the Sacramento River up to Folsom Dam. The County of Sacramento, however, has day-to-day management responsibility for the portion of the Parkway from the Sacramento River confluence to Hazel Avenue (exclusive of the fish hatchery facilities). For the purposes of this Plan, the lower

American River (LAR) is defined to be from the confluence of the Sacramento River upstream to Hazel Avenue

#### *California Fish and Wildlife*

The mission of the California Department of Fish and Wildlife is to manage California's diverse fish, wildlife, and plant resources, and the habitats upon which they depend, for their ecological values and for their use and enjoyment by the public. The Department of Fish and Wildlife maintains native fish, wildlife, plant species and natural communities for their intrinsic and ecological value and their benefits to people. This includes habitat protection and maintenance in a sufficient amount and quality to ensure the survival of all species and natural communities.

Within the Parkway, Fish and Game Wardens enforce State hunting and fishing regulations. The Department is also responsible for the maintenance of anadromous fish populations. This responsibility is accomplished in a variety of ways, such as protecting salmon and steelhead trout spawning areas, coordinating water releases from Nimbus Dam, making improvements to fish spawning habitat, and operating Salmon and Steelhead trout hatcheries. The fish hatchery at Nimbus Dam is funded by the Bureau of Reclamation specifically for fish propagation within the American River. The Department of Fish and Wildlife works with the various floodway maintaining agencies and County Regional Parks where stream alteration projects fall within the jurisdiction of the Fish and Game Code.

## Department Analysis

### Prohibited Activities

Section 5.27.1 of the American River Parkway Plan (Plan) defines the restriction of firearms and other ballistic devices from the American River Parkway. Spear guns fall within the category of a firearm or other ballistic device and are a prohibited use in the Parkway.

### Aquatic Recreation

The Plan relies on Fish and Wildlife Regulations to establish fishing regulations for the American River. The implementation measures outline Fish and Wildlife's responsibility to enforce fishing regulations on the American River although County Rangers enforce Fish and Game Regulations when necessary.

### Aquatic Recreation (Behavior Change)

The new Regulation may cause some behavior change on the American River. The Regulation allows spearfishing, but does not expressly authorize or address any particular manner of engaging in that activity, i.e. whether by use of a spear pole, spear gun or other mechanism. Regional Parks does not anticipate any change in aquatic activities if a spear pole is used. In contrast, some change is likely to occur if a spear gun is used. Spear gun fishing requires the angler to swim, snorkel or scuba dive in order to track fish which will bring potential new users to the river. Swimming, snorkeling and scuba diving are all approved Aquatic Recreation activities on the American River although the potential for conflict between shoreline or boat anglers will increase due spearfishing activity if a spear gun is utilized.

### Inappropriate Use Impacts

The Parkway provides a diverse riparian wildlife corridor and the allowance of spear guns could have a detrimental impact on the wildlife if used for any use other than its authorized use under Fish and Game Regulations.

### Distinction From Bows and Arrows

A limited exception to the prohibition against weapons has been authorized for bows and arrows at designated facilities. However, no such limitation on location is feasible with respect to spear guns. The potential for their use throughout the Parkway is significant and, as firearms, the potential for adverse interactions with both users of the Parkway and the natural habitat is significant.

### Determination

The revised Fish and Game Regulation authorize spearfishing within Sacramento County, including on the American River, for specific species and locations. The Plan and County Code prohibit ballistic devices which includes spear guns within County Parks. The Department has determined that continued enforcement of Sacramento County Code section 9.36.060 is the most appropriate policy for the American River Parkway. Allowing exceptions for weapons with the potential to transport them in multiple areas of the Parkway is inconsistent with the Parkway Plan and County Code and therefore an exception will **not** be issued by the Director of Regional Parks.

### Implementation of the Determination

- Public notice of this determination will be circulated to fishing clubs, dive shops and known spearfishing anglers.
- The Department of Regional Parks will post this notice at all kiosk locations along the American River Parkway.
- The Department of Regional Parks will post this notice on their main web page.
- The Department of Regional Parks will e-mail this notice to all subscribers in the e-mail delivery system related to Regional Parks.
- The Department of Regional Parks will notice the Recreation and Park commission at the June meeting of the Director's determination.
- Rangers will resume education and enforcement of Sacramento County Code section 9.36.060 prohibiting weapons in Regional Parks including the American River Parkway.

Department of Regional Parks



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