



A CALIFORNIA PUBLIC INTEREST NONPROFIT

Elizabeth Duxbury, President
Jose Luis Pino, Vice-President
Brett Duxbury, Secretary-Treasurer
kernriverboaters@gmail.com

December 12, 2022

Russell Kashiwa
County of Tulare Project Planner
RKashiwa@tularecounty.ca.gov

Regarding **PSP 21-114, Corral Creek Permanent Tent Camp Development**

Dear. Mr. Kashiwa:

Kern River Boaters ["KRB"] is a nonprofit California public benefit corporation of more than 1,100 members with federal 501(c)(3) status advocating for the interests of noncommercial whitewater boaters in the Kern River watershed, including their interests in aesthetics, environmental health, and recreation throughout the Kern drainage.¹

Please inform the Planning Commission that our organization strongly opposes the Corral Creek Permanent Tent Camp Development, and we ask for CEQA review of the project's potential environmental effects should the Commission not reject the development outright.

County staff have recommended approval a CEQA Notice of Exemption (NOE) for this project. The NOE is, in our view, fatally deficient, and an EIR should be required for this project. The NOE incorrectly contends the development site "is not located within a scenic corridor and would not impact scenic resources." (NOE at 2.) Both contentions are false. The proposed development is directly adjacent to the North Fork Kern River – a federally protected Wild and Scenic River – and the development stands firmly, within

¹ See <http://kernriverboaters.com> & <https://www.facebook.com/groups/kernriverboaters>

the Wild and Scenic riverine corridor, degrading that corridor's beauty.

The Final Environmental Impact Study for the North Fork Kern's Wild and Scenic River status

compared the interrelationships of water, landform, vegetation, and the overall aesthetic qualities of the N.F. Kern river with other rivers. In general, the river's steep canyon walls, numerous waterfalls, straight line north-south oriented U-shaped canyon, contrasts between rock and clear, free-flowing water, and vegetative variety gave it a high aesthetic rating. The visual qualities are further enhanced by the essentially natural conditions which extend for over 61 miles. The N.F. Kern River was found to possess outstandingly remarkable scenic value when compared with other rivers within the Sierra Nevada.

(FEIS at 24-25.) The FEIS concluded that the corridor in question "possess[es] outstandingly remarkable aesthetic . . . values." (FEIS at i.) Make no mistake that the proposed development implicates a sensitive, outstanding scenic environment.

According to a recent analysis by Southern California Edison, USFS has attached the highest level of its Scenery Management System to this corridor: "Very High," indicating the objective that the corridor remain unaltered by human activities. (PAD at 5-162 & 5-167.) USFS has

classified the [North Fork] Kern River, Salmon Creek, and adjacent landscapes as distinctive because of the scenic interest created by the perennial flowing waters supporting a wide diversity of riparian species, vertical canyon walls, prominent rock boulders, and higher elevation forested areas (FERC and USFS, 1996). Class A, Distinctive, is one of the three Scenic Attractiveness classes used by the USFS to determine the relative scenic value of lands within a particular landscape Character, which in turn is used to determine the scenic integrity of

the landscape in a given area (USFS, 1995). Class A refers to those areas where features of landform, vegetation patterns, water forms, and rock formations are of unusual or outstanding visual quality.

(PAD at 5-165.) Again, the proposed development is located within a scenic corridor with outstanding aesthetic values worthy of protection by Tulare County.

The Tulare County General Plan contains the following Goals consistent with these federal judgments:

SL-1.3 Watercourses: The County shall protect visual access to, and the character of, Tulare County's scenic rivers . . . by . . . Maintaining the rural and natural character of landscape viewed from trails and watercourses used for public recreation.

LU-7.12 Historic Buildings and Areas: The County shall encourage preservation of . . . areas with special and recognized . . . aesthetic value.

The NF Kern corridor is inarguably a "scenic" riverine environment and "special" area meriting increased scrutiny in support of its protection and preservation, per these common sense County Plan Goals. Further, the federal record, when coupled with the comments the County has on file from the public, is more than enough to constitute a "fair argument" that the proposed development may have a significant negative impact on the visual environment.

In *Protect Niles v. City of Fremont* (2018) 25 Cal.App.5th 1129, the Court held: "A project's impact on the aesthetic character of a surrounding community is a proper subject of CEQA environmental review." The Court noted, "there may be situations where . . . an aesthetic impact like the one alleged here arises in a 'particularly sensitive' context [cite] where it could be

considered environmentally significant. . . .” Again, the proposed development is within a “particularly sensitive” site in the corridor of this federally protected Wild and Scenic river. The federal record as well as “[p]ersonal observations on these nontechnical issues can constitute substantial evidence” of a fair argument that CEQA review is required. The Court in *Georgetown Preservation Society vs. County of El Dorado et al.* (2018) 30 Cal. App.5th 358 agrees: “lay opinions can provide substantial evidence to support a fair argument that a project may have a significant aesthetic impact on the environment, triggering the need to prepare an environmental impact report (EIR) pursuant to the California Environmental Quality Act (“CEQA”).”

We can attest that our membership finds the project incompatible with the outstanding visual resources of the surrounding area. We attest – and as shown in the comments to [these linked Facebook posts](#) (each link points to a different post) – that the extremely large and unnatural excavated burms scarring the riverine environment surrounding the campground, and the permanent, jumbo-sized canvass platform tents that exist nowhere else in this protected river valley, have led not only our membership but the community at large to characterize the site as: “A weird man camp for industrial use,” “Hideous to look at,” “An internment Camp,” “A startling, completely out of place sight to come upon when driving up Mountain 99 [CR 521],” “A homeless encampment,” “A civil war camp,” a “Buffalo Hunters camp,” “A concentration camp,” “That mess,” “Auschwitz on the Kern,” and the like – each characterization emanating from a unique individual. “Having to drive by that place every time I go to work is awful,” adds another. We are confident you have received further, similar characterizations directly. The development is aesthetically objectionable, sticking out like a sore thumb in this otherwise gorgeous river valley, and degrades human enjoyment and experience of the area, as viewed from multiple locations during multiple human activities, such as: (a) the otherwise enjoyable drive up County Road 521 [known in this community as Mountain 99] between Kernville and Johnsondale Bridge, (b)

from the nearby hiking and biking trails on both sides of the river [Fairview Trail to the west, and the Flume Trail to the east, and (c) from the river itself, whether as a hiker, boater, angler, tuber, or day user.² The development – specifically its artificial burms and tens of towering, permanent canvas tents – is grossly incompatible with the surrounding environment.

The NOE is also deficient on issues of (1) erosion of the banks of this Wild & Scenic river by doubling the number of guests adjacent to the river banks, (2) runoff from the unstable bulldozed dirt burms into this federally protected river in times of high precipitation, and (3) threats to special status species, as indicated in the analysis of our organization’s president, Liz Duxbury, arriving to you under separate cover.

We cannot adequately express how strongly our opposition to this project is, nor how out of touch the NOE’s description of potential project

² Tellingly, the Corral Creek Lodge [website](#) depicts the site of the adjacent tent site (across from the lodge, between the river and highway) unspoiled, *prior* to the extensive dozing and erection of the permanent tents. That is a view worthy of this County’s protection.



effects is with the reality on the ground as experienced by our membership and, as you are no doubt aware by now, the community at large. There remains a fair argument on this record that this project may have a substantial effect on the environment – a unique environment, a special one, one designated Wild and scenic by the Congress of the United States – and if the Planning Commission fails to reject this proposal on the merits at this time, it must require a CEQA review of its potential environmental effects prior to moving forward.

We thank you for your time and attention to our concerns.

Respectfully submitted by the Directors of Kern River Boaters,

//s// EAD

Elizabeth Duxbury, President

//s// JLP

José Luis Pino, Vice President

//s// BHD

Brett Duxbury, Secretary-Treasurer

A view of the tent site – *prior to its un-permitted development* – from the river (Corral Creek Lodge can be seen at the top):

