

B 2010-010

EXECUTIVE ORDER

Creating the Governor's River Access Dispute Resolution Task Force

Pursuant to the authority vested in the Office of the Governor of the State of Colorado, I, Bill Ritter, Jr., Governor of the State of Colorado, hereby issue this Executive Order creating the Governor's River Access Dispute Resolution Task Force ("Task Force").

I. Background and Need

Colorado's rivers are essential to all Coloradans, not only for the vital drinking and agricultural water they carry, but also to our overall economy and quality of life. Anglers, rafters and private landowners may all have separate and unique interests, but they all share a common Colorado interest that is bound together by doing what's best for our children and the future of our state.

During the 2010 legislative session, House Bill 10-1188 sparked a public debate between rafters and landowners regarding rafters' right to float on rivers that run through private land and landowners' right to exclude boaters from these same stretches of water. Indeed, the right to float versus the right to exclude has a long history in Colorado, dating back to the 1970s when the Colorado Supreme Court issued its decision in *People v. Emmert*, 597 P.2d 1025 (Colo. 1979). Since the *Emmert* decision and notwithstanding unresolved differences of opinion among those who have studied the issue extensively, landowners and boaters have largely managed to peacefully coexist and arrange their relationships through private agreements.

The events of the last several months, including House Bill 10-1188 and a number of ballot measures that have since been withdrawn, threatened to undermine the private-agreement system that has served the people of Colorado for decades. The charge of the Task Force established by this executive order is not to resolve the longstanding legal and policy dispute over whether there exists or ought to exist a "right to float" in Colorado. Instead, the Task Force's charge is to establish a framework for landowners and boaters to efficiently and fairly resolve disputes over the use of rivers as they arise.

Establishing a means for effectively and efficiently facilitating the resolution of conflicts between rafters and landowners is of vital public interest. Colorado's rivers serve important recreational and commercial purposes for the people of our state. Rafting and fishing on Colorado's rivers are activities that define the healthy outdoors lifestyle that many residents enjoy, and these pursuits are also financially beneficial to the people of Colorado. Private landowners invest untold sums into maintaining and enhancing the waterways that run through their lands. And more tourists come to Colorado to raft than in any other state; this activity alone generates \$132 million per year in revenue. It is in the interest of the entire state that landowners and rafters have a means of resolving their disputes in a manner that keeps waterways open to rafting while respecting the interests and investments of private landowners.

Although the circumstances that shape the relationships between landowners and rafters vary from river-to-river and stretch-to-stretch, rafters and landowners across the state have many of the same recreational and commercial interests.

II. Mission and Scope

The mission of the Task Force established by this executive order is to re-establish a dialogue between landowners and rafters that will lead to the establishment of a fair and efficient dispute-resolution process for the future. The charge of the Task Force is to develop a proposal for resolving conflicts among landowners, anglers, commercial rafters, and the boating public. The Task Force will be charged with developing a framework for resolving disputes on Colorado rivers on a stretch-by-stretch basis as those disputes arise. This approach recognizes that disputes vary from place to place and that a one-size-fits-all strategy is unlikely to succeed. Moreover, the Task Force shall clearly articulate the sources of conflict between rafters and landowners, recommend potential solutions, and develop a process for resolving disputes when they arise in a cost-effective, timely manner. To that end, the Task Force shall:

- A. Conduct two meetings to solicit information from the public regarding the issues facing landowners and rafters and gather input and suggestions for potential solutions. These meetings shall be held in two different locations in to order bring stakeholders together from around the state and to ensure that the public has an opportunity to provide input to the Task Force.
- B. Conduct at least four meetings during which the Task Force shall discuss and consider the information gathered from the public meetings and evaluate options for potential solutions to the issues identified by members of the Task Force and the public. The meetings shall be open to the public.
- C. Prepare a final report to be submitted to the Governor and the General Assembly no later than December 31, 2010. In that final report, the Task

Force shall make its recommendations regarding the framework for a dispute resolution process for conflicts between rafters and landowners. The Task Force shall make every effort to reach consensus on its final report. Recommendations contained in the Task Force's final report shall only be adopted upon a two-thirds vote of the Task Force members.

III. Membership

- A. The Task Force shall be composed of up to seventeen (17) voting members appointed by and serving at the pleasure of the Governor. The Task Force will have balanced representation between landowners and rafters. Rafting representatives will include private and commercial rafters; landowner representatives will include at least one member of the agricultural community. The Task Force will also include representatives of local governments, including law enforcement officials, who have historically been called upon to intervene when disputes have arisen. Any individual member may represent more than one of the enumerated categories.
- B. In addition to the members identified in paragraph A above, the Task Force will be co-chaired by the Executive Director of the Department of Natural Resources, or his designee, and an individual in the Governor's Office, who shall be non-voting members of the Task Force. The Task Force may also have the following non-voting ex-officio members, appointed by the Governor: one representative of the Governor's Office; up to two attorneys to serve as legal advisors to the Task Force; and up to two experts to provide technical advice to the Task Force.
- C. The Task Force may establish working groups, task forces, or other structures from within its membership or outside its membership as needed to address specific issues or to assist it in its work.

IV. Staffing and Resources

The Task Force shall have the power to accept money and in-kind contributions from private entities and persons only to the extent such donations are necessary to cover its expenses. Any money contributed to the Task Force shall be directed to the Office of the Governor and deposited with the Treasurer of the State of Colorado in an account within the Office of the Governor's budget. Members of the Task Force shall serve without compensation, but may, at the discretion of the chair and approval of the Office of the Governor, be reimbursed for any actual expenses incurred.

V. Directive and Prior Order Repealed

The Governor's River Access Dispute Resolution Task Force is hereby created.

VI. Duration

This Executive Order shall remain in force until December 31, 2010, unless modified or rescinded earlier by a subsequent Executive Order.

GIVEN under my hand and the
Executive Seal of the State of
Colorado, this twenty-sixth day
of July, 2010.

Bill Ritter, Jr.
Governor