

## **A Message About Closure of Clear Creek to Boating**

Several of our members have reached out to us asking about the Jefferson County Sheriff and Golden Police Departments' closure of Clear Creek. We have been asked if the [Closure Order](#) is legal; why the Closure Order singles out kayakers and other boaters when it does not apply to hikers, bikers, anglers, climbers, and others recreating in Clear Creek Canyon; and finally what Colorado Whitewater's position is on the Closure Order.

Colorado statutes and regulations empower law enforcement officers and parks and recreation officials to close waterways in certain circumstances. But generally, that authority does not extend to whitewater kayaks and canoes. So, for example, although law enforcement officers have the authority to restrict inner-tubes from rivers during high flows, they do not have the authority to restrict whitewater kayakers and canoeists because of concerns over flow levels.

Even so, the closure statutes and regulations do allow law enforcement officers to close waterways to all "vessels," including whitewater kayaks and canoes, in certain limited circumstances. One such circumstance is when the Governor or a local political body (here Jefferson County) has declared a state of disaster emergency. Both Colorado and Jefferson County have issued such declarations due to COVID-19. Obviously, these emergency declarations have nothing to do with Clear Creek per se, and we seriously doubt the legislature created this emergency declaration provision with the idea that a broad statewide emergency declaration would serve as the basis for restricting local river access. But no one disputes that COVID-19 presents significant safety concerns for all Coloradans, and these declarations are the stated basis for the Closure Order.

The statutes and regulations that authorize Closure Orders prohibiting "vessels" on waterways do not grant law enforcement officers the authority to prohibit hiking, biking, climbing, and other similar non-waterway activities. Jefferson County officials could likely rely on other statutes and regulations to prohibit those activities. That said, Colorado Whitewater (CW) and American Whitewater (AW) have no interest in restricting the activities of other outdoor enthusiasts, but it is disconcerting that it is only kayakers and whitewater enthusiasts whose activities are being limited in Clear Creek Canyon.

Shortly after the Closure Order went into effect, Colorado Whitewater and American Whitewater—who have a long history of working in close partnership on conservation and access issues—contacted Jefferson County and the Golden

Police Department about the Closure Order. Our purpose in doing so was not to categorically oppose the Closure Order. Even though we are unaware of any other law enforcement agency entering a similar order specifically to restrict river access, CW and AW recognize the significant health risks COVID-19 poses to the community at large. But both organizations also believe that any such orders should be lawful, narrowly tailored, and of the shortest possible duration. CW and AW continue to be in regular contact with Jefferson County and Golden officials, and we have proposed modifications to the Closure Order for officials to consider.

CW and AW recognize a broad diversity of opinion exists about the Closure Order, but we encourage all members to conduct themselves in a way that reinforces our message to law enforcement: the paddling community looks out for the safety of one another both on and off the river. We will continue to work directly with Jefferson County and Golden officials because we believe they recognize the negative impact the Closure Order has on kayakers and are engaging with us in good faith. We are hopeful the Closure Order will not be extended and will expire by its terms on May 26 (or at least be modified to exclude whitewater kayaks and canoes). Should that not occur, we will revisit our approach and make appropriate recommendations to our Boards.

AW has put together a great set of recommendations for boating in this COVID-19 time. You will find a link to AW's recommendations below. We hope all of you stay safe both on and off the river.

[Keep it LOCAL](#)