

MINUTE ITEM NO. 19
APPROVED 12/1/75

MINUTE ITEM

12/1/75
JF

19. ADOPTION OF REGULATIONS TO ASSURE PERMANENT PROTECTION OF ENVIRONMENTALLY SIGNIFICANT LANDS AND CERTIFICATION OF COMPLIANCE WITH SECTION 6370 ET SEQ. OF THE PUBLIC RESOURCES CODE; W 9287.

Mr. James F. Trout, Manager, Land Operations, presented a report on environmentally significant lands under the jurisdiction of the State Lands Commission and the final inventory prepared by the Staff on these lands.

Mr. Trout explained that it was impossible to inventory all lands involved, but he felt the final inventory was indeed comprehensive.

Chairman Cory questioned whether the report was in fact comprehensive since all applicable lands could not physically be inventoried.

Mr. N. Gregory Taylor, of the Attorney General's Office, also commented that according to the statutes, and as indicated in the report and the proposed regulations, no effect on State boundaries was contemplated as part of the significant environmental lands inventory.

Chairman Cory asked whether all waterways had been considered as having important values under the criteria for significant lands.

After a discussion of the criteria, the Commission approved the report with the addition of a paragraph expressing the Commission's finding that all waterways under the State's jurisdiction had environmental significance.

After consideration of Calendar Item 19 attached, and upon motion duly made and carried, the following resolution was adopted as amended:

THE COMMISSION:

1. FINDS THAT PUBLIC HEARINGS CONCERNING ADOPTION OF REGULATIONS FOR ENVIRONMENTALLY SIGNIFICANT LANDS WERE HELD IN ACCORDANCE WITH THE PROVISIONS OF THE CALIFORNIA ADMINISTRATIVE CODE.
2. ADOPTS ADDITIONS TO THE COMMISSION'S REGULATIONS, AS SET FORTH IN EXHIBIT "A" ATTACHED AND BY REFERENCE MADE A PART HEREOF, HAVING TO DO WITH THE PROTECTION OF SIGNIFICANT ENVIRONMENTAL LANDS AND UNRELATED, NONSUBSTANTIVE CHANGES TO DIVISION REGULATIONS FOR COMPLIANCE WITH CEQA;
3. CERTIFIES THAT THERE IS NO COST TO ANY UNIT OF LOCAL GOVERNMENT BY THE ADOPTION OF THE ABOVE REGULATIONS;

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4. CERTIFIES COMPLIANCE WITH ALL REQUIREMENTS OF CHAPTER 1555, STATUTES OF 1970, AS AMENDED BY CHAPTER 688, STATUTES OF 1973, NOW CODIFIED AS PUBLIC RESOURCES CODE SECTION 6370, ET SEQ., HAVING TO DO WITH AN INVENTORY OF UNCONVEYED STATE SCHOOL LANDS AND TIDE AND SUBMERGED LANDS AND IDENTIFICATION OF SUCH LANDS POSSESSING SIGNIFICANT ENVIRONMENTAL VALUES.
5. APPROVES THE REPORT ENTITLED "INVENTORY OF UNCONVEYED STATE SCHOOL LANDS AND TIDE AND SUBMERGED LANDS POSSESSING SIGNIFICANT ENVIRONMENTAL VALUES", PREPARED IN SATISFACTION OF SAID LEGISLATION AND ON FILE IN THE OFFICE OF THE STATE LANDS COMMISSION AND BY REFERENCE MADE A PART HEREOF; AND APPROVES THE REPORT WITH THE CONDITION THAT A PARAGRAPH BE ADDED EXPRESSING THE COMMISSION'S DESIRE THAT ALL WATERWAYS UNDER THE COMMISSION'S JURISDICTION BE INCLUDED AS HAVING ENVIRONMENTAL SIGNIFICANCE.
6. AUTHORIZES THE EXECUTIVE OFFICER TO TRANSMIT THE REPORT TO THE LEGISLATURE.

Attachment:

Calendar Item 19 (15 pages)

19.

ADOPTION OF REGULATIONS TO ASSURE PERMANENT
PROTECTION OF ENVIRONMENTALLY SIGNIFICANT LANDS AND
CERTIFICATION OF COMPLIANCE WITH SECTION 6370 ET SEQ. OF
PUBLIC RESOURCES CODE

Section 6370 of the Public Resources Code, as enacted by Chapter 1555 in 1970 and subsequently amended in 1973 with the passage of Chapter 688, requires the State Lands Commission to:

1. Inventory unconveyed State school and tide and submerged lands;
2. Identify those lands which possess significant environmental values of statewide interest;
3. Adopt regulations necessary to assure permanent protection for the identified significant lands; and
4. Report to the Legislature:
 - a. The lands determined to possess significant environmental values;
 - b. The criteria upon which the determination of significant environmental values were made;
 - c. The regulations adopted by the Commission to assure permanent protection of such lands;
 - d. The recommendations of any additional actions necessary for permanent protection of such identified lands.

The prescribed project was begun by the Division in 1970. In complying, the State Lands Division took the following steps to meet the requirements of the Legislature:

1. The inventory of all unconveyed State school lands and ungranted tide and submerged lands was completed and distributed in mid-May, 1973 to governmental agencies, organizations and individuals for nomination of environmentally significant lands for the inventory.
2. The lands nominated and finally identified as possessing significant environmental values are listed in the report on file in the Office of the State Lands Commission and by reference made a part hereof. Those lands nominated were circulated statewide in a February 1975 draft report. This followed notice last December that the State Lands Commission was going to adopt the report. Comments were received and incorporated into the final report.

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3. The State Lands Commission at its July 24, 1975 meeting, authorized the State Lands Division to take such steps as may be necessary and appropriate to adopt regulations to assure permanent protection to lands identified as possessing significant environmental values and to make unrelated, nonsubstantive changes to Division regulations for compliance with CEQA. The proposed regulations were circulated and a public hearing was held September 4, 1975. At that time, a continuance was requested by the Attorney General's Office and the State Lands Division. A subsequent hearing was held on September 15, 1975.
4. The Division has prepared the required report to the Legislature. The report contains:
 - a. A listing of those lands identified as possessing significant environmental values.
 - b. The criteria upon which the identification of lands having significant environmental values was made, and which were adopted by the State Lands Commission at its December 20, 1973 meeting.
 - c. The regulations recommended for adoption by the State Lands Commission establishing special regulations to protect the environmentally significant lands.
 - d. The recommended additional actions necessary for permanent protection of such identified lands.

EXHIBIT: A. Cal. Adm. Code, Title 2, Div. 3,
 Portions of Arts. 10 & 11.

IT IS RECOMMENDED THAT THE COMMISSION:

1. FIND THAT PUBLIC HEARINGS CONCERNING ADOPTION OF REGULATIONS FOR ENVIRONMENTALLY SIGNIFICANT LANDS WERE HELD IN ACCORDANCE WITH THE PROVISIONS OF THE CALIFORNIA ADMINISTRATIVE CODE;
2. ADOPT ADDITIONS TO THE COMMISSION'S REGULATIONS, AS SET FORTH IN EXHIBIT "A" ATTACHED AND BY REFERENCE MADE A PART HEREOF, HAVING TO DO WITH THE PROTECTION OF SIGNIFICANT ENVIRONMENTAL LANDS AND UNRELATED, NONSUBSTANTIVE CHANGES TO DIVISION REGULATIONS FOR COMPLIANCE WITH CEQA;
3. CERTIFY THAT THERE IS NO COST TO ANY UNIT OF LOCAL GOVERNMENT BY THE ADOPTION OF THE ABOVE REGULATIONS;

CALENDAR ITEM NO. 19. (CONTD)

4. CERTIFY COMPLIANCE WITH ALL REQUIREMENTS OF CHAPTER 1555, STATUTES OF 1970, AS AMENDED BY CHAPTER 688, STATUTES OF 1973, NOW CODIFIED AS PUBLIC RESOURCES CODE SECTION 6370, ET SEQ., HAVING TO DO WITH AN INVENTORY OF UNCONVEYED STATE SCHOOL LANDS AND TIDE AND SUBMERGED LANDS AND IDENTIFICATION OF SUCH LANDS POSSESSING SIGNIFICANT ENVIRONMENTAL VALUES;
5. APPROVE THE REPORT ENTITLED "INVENTORY OF UNCONVEYED STATE SCHOOL LANDS AND TIDE AND SUBMERGED LANDS POSSESSING SIGNIFICANT ENVIRONMENTAL VALUES", PREPARED IN SATISFACTION OF SAID LEGISLATION AND ON FILE IN THE OFFICE OF THE STATE LANDS COMMISSION AND BY REFERENCE MADE A PART HEREOF; AND
6. AUTHORIZE THE EXECUTIVE OFFICER TO TRANSMIT THE REPORT TO THE LEGISLATURE.

Attachment: Exhibit "A"

California Administrative Code
Title 2, Administration
Division 3, State Property Operations

ARTICLE 10

REGULATIONS FOR PRESERVING AND ENHANCING THE ENVIRONMENT

Section 2903 is amended to read:

2903. Definitions.

(f)(2) Final EIR means ~~and~~ an EIR containing the following:

(A) The Draft EIR or a revision of the draft.

(B) Comments and recommendations received on the Draft EIR either verbatim or in summary.

(C) A list of persons, organizations and public agencies commenting on the Draft EIR.

(D) The responses of the Lead Agency to significant environmental points raised in the review and consultation process.

~~(g) Environmentally Significant Lands. These lands within the jurisdiction of the Commission which have been identified to have significant environmental values as defined by the Public Resources Code, Division 6, Chapter 4.5, Sections 6370 through 6378 inclusive.~~

~~(h)~~ (g) Initial Study. An evaluation prepared by the Lead Agency pursuant to Paragraph B, Section 2906 of these rules and regulations to determine whether an EIR or ND must be prepared.

~~(i) -- Significant Environmental Values -- Characteristics of features of land which are worthy of permanent protection -- These values may include, but are not limited to scenic, historical, natural, or aesthetic values, etc., of State-wide interest.~~

Section (b) of Section 2906 is amended to read:

2906. Procedure for Evaluation of Projects.

(b) Initial Study

If a project is not exempt from the requirements of CEQA, the Division shall conduct an Initial Study to determine if the project may have a significant effect on the environment. If any of the effects of a project may have a substantial adverse impact on the environment, regardless of whether the overall effect of the project is adverse or beneficial, then an environmental impact report shall be prepared where discretionary governmental action is involved.

If, after an initial study, the Division recommends and the Commission finds that the proposed action will have no possible significant affect, no further action under CEQA or these regulations is required.

If the project is to be carried out by a non-governmental person, the Division may require such person to submit data and information which will enable the agency to make this determination.

Class 3 of Subsection (a) of Section 2907 is amended to read:

2907. Categorical Exemptions.

Class 3: New Construction of Small Structures.

Class 3 consists of construction and location of single, new small facilities or structures and installation of small new equipment and facilities including, but not limited to:

- (A) A pier, floating dock or boathouse, restricted to non-commercial or recreational use that will occupy no more than 3,000 square feet of tide and submerged land, including the area of use.
- (B) A single small boat mooring buoy.
- (C) A floating platform used solely for swimming.
- (D) Buoys for delineating a safety area or designated speed zones; provided that public navigational and fishing rights are not affected.

Subsection (b) of Section 2907 is amended to read:

(b) Exceptions.

- (1) Location. Classes 3, 4, 5, 6 and 11 are qualified by consideration of where the project is to be located - a project that is ordinarily insignificant in its impact on the environment may in a particularly sensitive environment be significant. Therefore, these classes are considered to apply in all instances, except where the project may have impact on an environmental resource of hazardous or critical concern where designated, precisely mapped, and officially adopted pursuant to law by federal, State or local agencies.

(2) Cumulative Impact. All exemptions for these classes are inapplicable when the cumulative impact of successive projects of the same type in the same place, over time is significant - for example, annual additions to an existing building under Class 1.

~~(3) -- Environmentally Significant Lands -- Projects normally exempt by Classes 3, 4, 5, 6 and 11 are found to be non-exempt when such projects occur on lands which the Commission has identified as having significant environmental values.~~

Section 2910 is repealed in its entirety.

Section 2911 is renumbered 2910.

~~2911.~~ 2910. Fees for Environmental Documents. If the Division determines that an application or other procedure requires the preparation of an Initial Study, it shall estimate the cost of preparing and processing the Initial Study and the applicant or party initiating the procedure shall deposit the estimated cost with the Division before work on the Initial Study is begun.

California Administrative Code
Title 2, Administration
Division 3, State Property Operations

Article 11 is added to read:

ARTICLE 11

REGULATIONS PROTECTING ENVIRONMENTALLY SIGNIFICANT STATE LANDS

3001. Authority.

The authority for these regulations is found in the Public Resources Code; Division 6, Part 1, Chapter 3 (Section 200 et. seq.) and Chapter 4.5 (Section 6370 et. seq.), and other sections of the Public Resources Code as enumerated in the Article.

3002. Purpose.

The purpose of these regulations is to assure permanent protection, to the extent the authority vested in the State Lands Commission allows, of those lands which have been designated as possessing significant environmental values.

3003. Applicability.

These regulations apply only to those projects requiring Commission approval which involve lands under the jurisdiction of the State Lands Commission declared to be environmentally significant. This Article is not meant to replace or modify 2 Cal. Adm. Code, Division 3, Chapter 1, Article 10; they should be read together.

3004. Definitions.

As used in this article unless the context otherwise requires, the following terms shall mean:

(a) Environmentally Significant Lands. Those lands within the jurisdiction of the State Lands Commission which possess significant environmental values.

(b) Significant Environmental Values. Characteristics or features of the land which are worthy of permanent protection. Such characteristics and the criteria for their adoption are defined within the report submitted to the Legislature pursuant to Public Resources Code Section 6370.1, as adopted by the Commission on December 20, 1973.

(c) Inventory. The enumeration of lands under the jurisdiction of the State Lands Commission containing significant environmental values, which was made pursuant to Chapter 1555, Statutes of 1970 as amended by Chapter 688, Statutes of 1973; codified as Public Resources Code Section 6370, et. seq.

(d) Use. Any project which requires the approval of the State Lands Commission.

(e) Use Classification. Use classification shall be as defined in Section 3009.

(f) Division. State Lands Division.

3005. Designation of Environmentally Significant Lands.

(a) Lands possessing significant environmental values shall be designated by the Division pursuant to the criteria approved by the Commission and submitted to the Legislature under Public Resources Code Section 6370.1.

(b) Additions to the inventory of the lands initially designated under the above provision may be made from time to time, as additional information concerning State lands becomes available.

3006. Deletions from Inventory of Environmentally Significant Land.

Lands included in the inventory shall not be deleted unless one of the following conditions occurs:

(a) The Commission determines that the land no longer possesses the environmentally significant values for which it was included in the inventory.

(b) The land is no longer under the jurisdiction of the Commission.

3007. Updating Augmentation of Land Use Data and Classification Changes.

(a) The Division may augment the information included in the inventory at such times as are appropriate, to include land use data concerning the individual environmentally significant parcels and adjacent lands. Agencies, organizations, and individuals are encouraged to submit additional information concerning these lands as it may become available.

(b) Based upon such augmented information, the Commission may change the use classification of lands listed in the inventory.

3008. Public Inspection.

A listing of all lands in the inventory, along with the significant environmental values of the lands and the report to the Legislature accompanying the inventory, together with all augmentations and amendments thereto, is available for public inspection at the State Lands Division in Sacramento. Single copies shall be available to members of the public for a reasonable fee to cover the Commission's costs.

3009. Use Classification System.

(a) The Division with Commission approval shall classify all environmentally significant lands into the following use classifications:

Class A: Restricted Use - Areas where public use should be minimized in order to preserve the integrity of the natural environment as a whole.

Class B: Limited Use - Areas in which one or more closely related dominant, significant environmental values are present. Limited use which is compatible with and non-consumptive of such values may be permitted.

Class C: Multiple Use - Areas currently in multiple use which are less susceptible to environmental degradation than are Classes A and B, but nevertheless do possess significant environmental values.

(b) Designation of environmentally significant lands as multi-use or limited-use areas shall not preclude setting aside certain portions of these areas as natural or limited-use areas where appropriate.

(c) In addition to the classification system, the Division with Commission's approval may add specific constraints and describe significant characteristics not otherwise identified in the inventory, which may require special treatment.

(d) Evaluation of all projects shall be on a case-by-case basis.

3010. Information Required.

(a) When an application for sale, lease or other use of environmentally significant State land is received, the applicant shall be provided with:

(1) A description of the significant environmental values of the land.

(2) The use classification of the land.

(3) A copy of the regulations which apply to the land, including this Article, in addition to such other forms as the applicant may need to complete this application.

(b) When an application for sale, lease or other use of State lands, as to which no determination concerning whether or not such lands are environmentally significant has been made by the Division and approved by the Commission, is received, the Division shall review an environmental description provided by the applicant to determine if

the lands should be classified as environmentally significant; if so, such recommendation shall be made to the Commission at the time of action upon the application. If the Commission adopts the Division recommendation, the application shall be acted upon in accordance with this article.

3011. Sales, Leases or Other Uses of Significant Lands.

At such time as an application for sale, lease or other use is made to the Division for lands classified as environmentally significant, the Commission will consider the use classification, information about the land which was obtained during the inventory, and other information that may have been obtained subsequent thereto.

(a) The Commission shall consider at this time additional protective actions for the environmentally significant State parcel as may be appropriate.

(b) The Commission may not approve any application affecting lands designated as environmentally significant without finding that adequate provisions have been made for the permanent protection of the significant environmental characteristics of such lands or that the granting of the application will have no significant affect upon said characteristics.

(c) Such additional protection of the significant environmental values as may be needed shall be incorporated in the terms of an agreement or lease for use of the land.

(d) When unusual circumstances are present, and sufficient public interest has been shown, the Commission may authorize a public hearing concerning the use classification and the need for any additional regulations to protect environmentally significant State land. The hearing shall be held,

when feasible, at a convenient location near the area where the land is located. Adequate notice of the hearing will be provided in the area where the hearing will be held.

3012. Permanent Protection for Significant Lands.

(a) Staff of the State Lands Division shall periodically investigate environmentally significant lands as well as enter into inter-agency agreements for the investigation of such lands to determine if the identified environmental values are being threatened.

(b) Upon identification of parcels whose values are threatened, staff shall proceed as quickly as possible to preserve those values.

(c) Staff shall inform the State Lands Commission of any threatened parcel and of possible solutions that can be used to preserve those values.

3013. Failure to Classify Lands, No Exemption from Article 10.

Nothing in this Article shall be construed to exempt proposed projects on State lands not identified as environmentally significant from the requirements of California Environmental Quality Act (Public Resources Code Sections 21000 et. seq.), or 2 Cal. Adm. Code, Division 3, Article 10.

3014. Federally Designated Areas.

For purposes of protecting the environmentally significant values of any State lands or part thereof which lie within the boundaries of any National Park, Monument, Recreation Area, Wildlife Refuge, Seashore, Wilderness Area, Historical Park or other federal area designated for the purpose of preservation and development of its recreational resources, the State Lands Commission may:

(a) Make exchanges of such lands with the United States for other lands.

(b) May enter into leases or management agreements with the United States concerning such lands.

3015. **Determination of Whether a Project is Located Within Environmentally Significant Lands.**

Subject to Commission approval, the Division shall determine whether a proposed project on State lands, lies within the portion of State land designated as environmentally significant.

3016. **Miscellaneous General Provisions.**

(a) The provisions of this article are meant to apply only to lands designated as environmentally significant.

(b) This article shall not be construed to limit the public rights to navigation, fishing, or other constitutional or statutory rights reserved for the people to use State lands other than may be reasonably necessary hereunder for the protection of significant environmental values.

(c) Pursuant to Public Resources Code Section 6376, any inventory prepared pursuant to Chapter 4.5, Part 1, Division 6 of the Public Resources Code and this Article shall be solely for informational purposes and not to establish rights of ownership. Any boundaries mapped or described by the Commission in any such inventory shall not be binding upon any private or public owner of property (including, but not limited to, the State Lands Commission) in so far as ownership or boundaries of ownership interests are concerned.

3017. **Severability.**

If any provision of this Article or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or divisions of this Article which can be given effect without the invalid provision or application thereof.

The State Lands Commission certifies that it has determined there is no cost to any unit of local government by the adoption of the above regulations.