



Maritime Chaparral Workshop

Regulatory Framework and Protection of
Maritime Chaparral

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Various Regulatory Authorities and Decision Makers

- California Environmental Quality Act
 - Lead agency makes land use decisions
 - CDFG is a Trustee or Responsible agency
- California Endangered Species Act
 - CDFG has authority for implementing
- California Coastal Act
 - CCC has authority for implementing
 - Authority may be delegated to local lead agencies

California Environmental Quality Act (CEQA)

- Adopted by state Legislature in 1970 as Public Resources Code §21000-21177
- Overarching goal is to develop and maintain a high-quality environment now and in the future
- Specifically, California's public agencies must *identify* the significant environmental effects of their actions; and *avoid* or *mitigate* significant effects

California Environmental Quality Act

Agency roles

- Each public agency is responsible for complying
- "Lead agency" has the principal responsibility for carrying out or approving a project
- "Trustee agency" is a state agency that has jurisdiction by law over natural resources affected by a project, that are held in trust for the people of the State of California
- "Responsible agency" is a public agency, other than the lead agency, which has responsibility for carrying out or approving a project

California Environmental Quality Act Projects

- CEQA applies to "**projects**" proposed to be *undertaken, funded* or requiring *approval* by State and/or local government agencies
- Projects are activities which have the potential to have a physical impact on the environment
- Projects may include the enactment of zoning ordinances, the issuance of conditional use permits and the approval of tentative subdivision maps
- Projects may be exempt either statutorily or categorically

California Environmental Quality Act

Process

- Inform governmental decision makers and the public about the potential significant environmental effects of proposed activities
- Identify ways that environmental damage can be avoided or significantly reduced
- Require changes in projects through the use of alternatives or mitigation measures when feasible
- Disclose to the public the reasons why a project was approved if significant environmental effects are involved

California Environmental Quality Act
Natural Communities
CEQA Guidelines, Appendix G

- Substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulation or by the California Department of Fish and Game or US Fish and Wildlife Service
 - DFG List of Natural Communities Recognized by the Natural Diversity Data Base
 - 37.308.02 Central Maritime Chaparral
- California Department of Fish and Game
<http://www.dfg.ca.gov/whdab/pdfs/natcomlist.pdf>



Fort Ord, Monterey County

California Environmental Quality Act
Other plans and policies
CEQA Guidelines, Appendix G

- Conflict with the provisions of an adopted HCP, NCCP or other approved conservation plan
- Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project
 - County or City General Plan
 - Implementing Ordinances
 - Local Coastal Plan



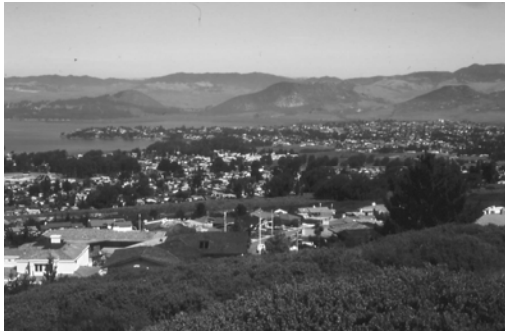
Pebble Beach, Monterey County



Quail Hollow, Santa Cruz County



Hearst Ranch, San Luis Obispo County



Morro Bay Dunes, San Luis Obispo County

California Environmental Quality Act Species CEQA Guidelines, Appendix G

- Have a substantial effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Dept of Fish and Game or US Fish and Wildlife Service
 - Federally listed species
 - State listed species
 - Candidate species
 - CNPS List 1B species
 - Locally significant species
- Interfere substantially with the movement of any native resident or migratory fish or wildlife species



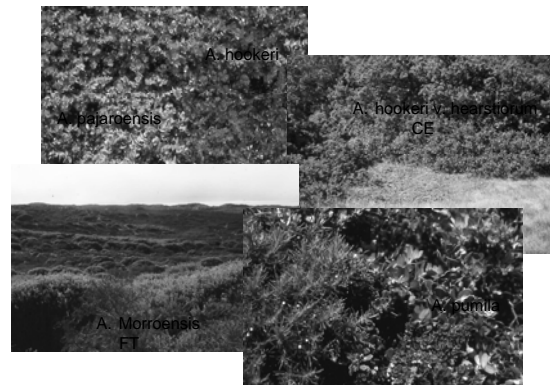
California red-legged frog
FT



Pycnanthemum yadonii
FT



Erysimum amplexicaule



California Environmental Quality Act
Mandatory Findings of Significance
CEQA Guidelines, Appendix G

- Degrade the quality of the environment
- Substantially reduce the habitat of a fish or wildlife species
- Cause a fish or wildlife population to drop below self-sustaining levels
- Threaten to eliminate a plant or animal community
- Reduce the number or restrict the range of an RTE species
- Impacts which are individually limited, but cumulatively considerable, i.e. when viewed with the effects of past, current and probable future projects

California Environmental Quality Act

Hierarchy of Mitigation

- Avoiding the impact altogether
- Minimizing the impacts by limiting the degree or magnitude of the action
- Rectifying the impact by repairing, rehabilitating or restoring the impacted environment
- Reducing or eliminating the impact over time
- Compensating for the impact by replacing or providing substitute resources

(CEQA Guidelines §15370)

California Environmental Quality Act

Authority to Mitigate

- The lead agency has authority to require feasible changes in order to substantially lessen or avoid significant effects on the environment
- The responsible agency shall have more limited authority; they may require changes in a project to lessen or avoid only the effects, either direct or indirect, of that part of the project which the agency will be called on to carry out or approve
- A lead or responsible agency shall not reduce the proposed number of housing units as a mitigation measure or alternative if there is another feasible, specific measure or alternative that would provide a comparable lessening of the significant effect

(CEQA Guidelines §15041)



Quail Hollow Quarry, Santa Cruz County



Manzanita County Park, Monterey County



Montana de Oro State Park, San Luis Obispo County

California Environmental Quality Act

Resources

- Resources Agency CEQA website
<http://ceres.ca.gov/ceqa/index.html> and
<http://ceres.ca.gov/planning/ead/index.html>
- California Department of Fish and Game
<http://www.dfg.ca.gov/>
- DFG and CEQA
<http://www.dfg.ca.gov/hcpb/ceqacesa/ceqa/ceqa.shtml>
- DFG and species/habitats
<http://www.dfg.ca.gov/hcpb/species/species.shtml>
<http://www.dfg.ca.gov/hcpb/species/habitats/habitats.shtml>
- Guide to CEQA related websites
<http://ice.ucdavis.edu/ceqa/>

California Endangered Species Act

(CESA)

- Adopted by state Legislature in 1986 as Fish & Game Code, Chapter 1.5 - Endangered Species §2050-2115
- Policy of the State to *conserve, protect, restore* and *enhance* any endangered species or any threatened species and its habitat; and consistent with conserving the species, to *acquire lands* for habitat for these species.
- Administered by the California Department of Fish & Game (DFG) and the Fish & Game Commission (FGC)

California Endangered Species Act

Conservation

- “**Conserve**”, “**conserving**” and “**conservation**” mean to use, and the use of, all methods and procedures which are necessary to bring any endangered species or threatened species to the point at which the measures provided pursuant to the Act are no longer necessary (CESA §2061).
- These methods and procedures include, but are not limited to, all activities associated with scientific resources management, such as research, census, law enforcement, habitat acquisition, restoration and maintenance, propagation, live trapping, and transplantation.

California Endangered Species Act

Taking, import, export or sale

- No person shall *import* into this state, *export* out of this state, or *take, possess, purchase, or sell* within this state, any species, or any part or product thereof, that the commission determines to be an endangered or threatened species, or attempt any of those acts, except as otherwise provided (CESA §2080).

California Endangered Species Act

Authorization of take

- DFG may authorize acts that are otherwise prohibited pursuant to §2080 as follows:
Through permits or memoranda of understanding, DFG may authorize individuals, public agencies, universities, zoological gardens, and scientific or educational institutions, to import, export, take or possess any endangered species, threatened species, or candidate species for *scientific, educational, or management* purposes (CESA §2081(a)).

California Endangered Species Act

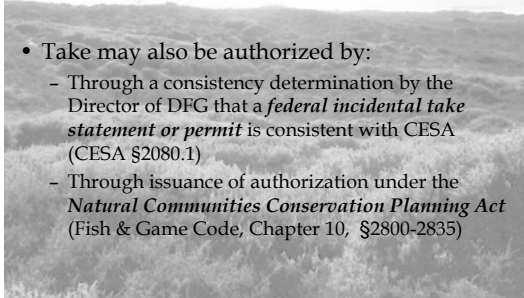
Authorization of take

- DFG may authorize, by permit, the take of endangered species, threatened species, and candidate species (CESA §2081 (b)), if:
 - The take is *incidental* to an other wise lawful activity
 - The impacts of the authorized take is *minimized* and *fully mitigated*
 - The measures required shall be *roughly proportional* in extent to the impact of the authorized taking on the species
 - The applicant *ensures adequate funding* to implement the measures required
 - No permit would be issued if issuance would *jeopardize* the continued existence of the species

California Endangered Species Act

Authorization of take

- Take may also be authorized by:
 - Through a consistency determination by the Director of DFG that a *federal incidental take statement or permit* is consistent with CESA (CESA §2080.1)
 - Through issuance of authorization under the *Natural Communities Conservation Planning Act* (Fish & Game Code, Chapter 10, §2800-2835)



Eriodictyon alissimum
CE, FE



Gilia tenuiflora ssp. *areolaria*
CT, FE



Erysimum cheiranthoides
CE, FE

California Endangered Species Act

Resources

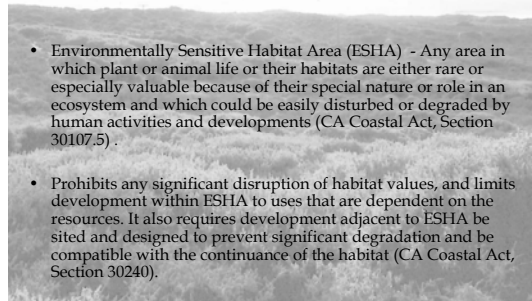
- Department of Fish and Game home page
<http://www.dfg.ca.gov/>
- DFG - CESA
<http://www.dfg.ca.gov/hcpb/ceqacesa/cesa/cesa.shtml>
- CESA regulations
<http://www.dfg.ca.gov/legal/879regs.htm>
- DFG - species information
<http://www.dfg.ca.gov/hcpb/species/species.shtml>



California Coastal Act

Environmentally Sensitive Habitat Area (ESHA)

- Environmentally Sensitive Habitat Area (ESHA) - Any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments (CA Coastal Act, Section 30107.5).
- Prohibits any significant disruption of habitat values, and limits development within ESHA to uses that are dependent on the resources. It also requires development adjacent to ESHA be sited and designed to prevent significant degradation and be compatible with the continuance of the habitat (CA Coastal Act, Section 30240).



Delineation, Impact Assessment and Mitigation

Utility of a definition and delineation methodology

- **Define** *vb* to set forth the meaning of; to fix or mark the limits of
- **Definition** *n* an act of determining or settling; the action or the power of making definite and clear
- **Definite** *adj* having distinct limits; clear in meaning
- **Delineate** *vb* sketch; portray; describe
– The Merriam-Webster Dictionary

Delineation, Impact Assessment and Mitigation

Intersection of science and regulation

- Different reasons to **define** and **delineate**
- Very important underpinning for conservation
 - Need to know what it is to know how much there is
- Regulatory framework applies primarily to changes in land use, and therefore, to “not conservation”
- Regulatory framework rarely results in a true conservation outcome
 - Always couched in terms of what wasn’t lost
- Utility and challenges in impact assessment
- Utility and challenges for determination of mitigation

Delineation, Impact Assessment and Mitigation

Delineation - based on wetlands model

- One parameter vs. two or three
 - Vegetation, soils, climate (maritime)
- Development of a list of plant species
 - Obligate, Facultative, etc.
 - Effort needed vs. area covered
 - Potential for misinterpretation
- Identification of boundaries
 - **In vs. out:** how many, of what species, need to be how close (or far away) from what, to be in or out

Delineation, Impact Assessment and Mitigation

Impact assessment

- Potential natural vegetation vs. existing vegetation
 - Functional value (high quality vs. degraded)
 - Restoration potential
- Relationship to impact analysis
 - Value of site to be lost
 - Determination of mitigation ratios
- Potential for abuse
 - Intentional degradation prior to assessment
 - Importance of CEQA baseline

Delineation, Impact Assessment and Mitigation

Determination of appropriate mitigation

- Selection of mitigation site
 - Use of delineation methodology
- In-kind vs. out-of-kind mitigation
 - Species composition, including sensitive species
- Potential natural vegetation vs. existing vegetation
 - Functional value (degraded vs. high quality)
 - Mitigation ratios
- Value of extant vegetation vs. restoration
 - Mitigation ratios

* *Mitigation rarely results in a true conservation outcome*

Delineation, Impact Assessment and Mitigation

Other conservation values

- Size and shape of site
- Context in the landscape
 - Adjacency and connectivity
- Rarity of the natural community
- Quality of the impact / mitigation site
 - Exotic invasive species
 - Fragmentation
 - Incompatible uses (recreation, grazing, etc.)
- Restoration / enhancement potential
- Manageability

Delineation, Impact Assessment and Mitigation

Role of ecologist in impact assessment and development of mitigation

- Need for professional training
 - Similar to architects and development of plans
- Need for professional interpretation
 - Similar to physicians and diagnosis / treatment
- Interface between science and regulation
 - Develop information, provide interpretation
- Art vs. science
 - Experience matters
- **Good, Fast, Cheap:** pick any two



Monterey County

San Luis Obispo County

