

Attachment 16

ADDENDUM

to the

**FINAL ENVIRONMENTAL DOCUMENT FOR
PROPOSED REGULATIONS GOVERNING
PUBLIC USE OF CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE LANDS**

prepared by the

STATE OF CALIFORNIA

THE NATURAL RESOURCES AGENCY

CALIFORNIA FISH AND GAME COMMISSION

as the

LEAD AGENCY UNDER THE CALIFORNIA

ENVIRONMENTAL QUALITY ACT for the

REGULATORY ACTION TO

AMEND SECTIONS 500, 551, 552, 630 AND 703

ADD SECTION 550.5 AND REPEAL SECTION 553

OF TITLE 14, CALIFORNIA CODE OF REGULATIONS

May 15, 2013

I.

INTRODUCTION

The California Fish and Game Commission (“Commission”) has prepared this Addendum to comply with the California Environmental Quality Act (“CEQA”)(Public Resources Code section 21000 *et seq.*). The Commission is the lead agency under CEQA with respect to the proposed project that involves changes to existing regulations that govern the public use of lands under the jurisdiction of the California Department of Fish and Wildlife (“CDFW”). Generally, these lands are either ecological reserves (Fish and Game Code section 1580 *et seq.*) or wildlife areas (Fish and Game Code section 1525 *et seq.*) Ecological reserves are generally acquired to protect rare and/or endangered native plant and animal species and specialized habitat types. Wildlife areas are acquired for wildlife conservation and compatible recreational uses. For both of these categories of land, the Commission may adopt regulations that govern their use, operation, and protection. The existing regulations are found in sections 550, 551, 552, 553, 630 and 703 of Title 14 of the California Code of Regulations.

On June 20, 2012, the Commission approved amendments to these sections, with one addition and one repeal. As part of this approval, the Commission prepared and certified a document that was the functional equivalent of an Environmental Impact Report (“EIR”) as it is legally entitled to do under its Certified Regulatory Program (“CRP”). (Title 14, California Code of Regulations, section 781.5, 15251) A Notice of Determination was filed for this document on June 22, 2012.

This Addendum addresses various issues under CEQA associated with the proposed amendments to these sections as well as the addition of section 550.5 and the repeal of section 553. It is also prepared because the Commission has determined that some changes or additions are necessary to the previously certified functional equivalent document, but these changes do not call for the preparation of a subsequent environmental document. (Title 14, California Code of Regulations, section 15164) This Addendum is appropriate because the changes involve only minor technical changes or additions.

II.

BACKGROUND AND OVERVIEW OF THE COMMISSION'S OBLIGATIONS AS THE LEAD AGENCY UNDER CEQA FOR MODIFICATIONS TO THE PREVIOUSLY APPROVED REGULATIONS

The Commission proposes to change existing regulations governing the use of publicly-owned lands under the jurisdiction of, or managed by, the CDFW. The existing regulations are found in sections 550, 551, 552, 553, 630 and 703 of Title 14. Most of these sections were originally adopted in the late 1980s, early 1990s and have been amended numerous times since then. The purposes of the changes that were approved by the Commission in June, 2012 were to consolidate and clarify the existing regulations, standardize the process used to issue special use permits, designate seven recently acquired properties as wildlife areas or ecological reserves, and make changes to or add regulations that would improve public safety and/or recreational opportunities without causing a significant effect on wildlife or habitat resources. As part of the effort to consolidate and clarify the regulations, the existing general and site specific regulations that govern the Department's 111 wildlife areas and 136 ecological reserves were completely reorganized. The environmental document prepared in support of this reorganization was contained in the Initial Statement of Reasons ("ISOR") for the project and was approved at the same time as the regulations themselves. The Commission concluded that the adoption and implementation of those amendments would not result in any potentially significant adverse impacts under CEQA.

The amendments approved by the Commission in June, 2012, were ultimately disapproved by the Office of Administrative Law ("OAL") for reasons related to the Administrative Procedures Act ("APA") (Government Code section 11340 *et seq.*). As a result, the Commission has revised the regulations themselves, as well as related APA documents to meet applicable legal requirements. This gives rise to the current obligation of the Commission to comply with CEQA with respect to the currently-proposed technical changes.

According to CEQA, where a lead agency prepares an EIR or an environmental document pursuant to a CRP for a proposed project, no subsequent or supplemental analysis is required under CEQA unless one or more of the following occur:

- Substantial changes are proposed in the project which will require major revisions to the previous EIR or environmental document.
- Substantial changes occur with respect to the circumstances under which the project is being undertaken which will require major revisions to the previous EIR or environmental document.

- New information, which was not known and could not have been known at the time the previous EIR or environmental document was certified as complete, becomes available.
(Pub. Resources Code, § 21166; Cal. Code Regs., tit. 14, § 15162, subd. (a).)

In general, new information and required revisions to a prior EIR or environmental document trigger the need to prepare subsequent or supplemental analysis under CEQA, only where changes to the project, changes in circumstances, or new information reveal:

- A new potentially significant environmental impact not previously disclosed in the prior analysis; or
- A substantial increase in severity of a previously-identified potentially significant impact.
- (*Id.*, § 15162, subd. (a)(1)-(3).)

Stated another way, a subsequent EIR or environmental document, or a supplement to such prior analysis, is not required under CEQA where substantial evidence in light of the whole record supports the Commission's determination that none of the conditions highlighted above are present. The Commission, as explained below, determines that no such conditions are present with respect to the proposed modifications to the existing regulations governing the use and operation of state-owned land that is held or managed by CDFW. The Commission, as a result, may properly prepare and rely on this Addendum to fulfill its obligations under CEQA with respect to the proposed project. (*Id.*, § 15164.)

III.

CONSIDERATION OF PROJECT CHANGES, CHANGED CIRCUMSTANCES AND POTENTIALLY SIGNIFICANT NEW INFORMATION

As noted above, in 2012, the Commission concluded that the adoption and implementation of that set of regulations would not result in any potentially significant environmental impacts. Those regulations, while approved, did not get published in the California Code of Regulations because they were disapproved by OAL. While remedying the APA-related issues in the regulations, the Commission continued to refine these technical changes. For the sake of clarity, these two regulatory efforts (current and 2012) are combined in the discussion below, although the current changes are a very small subset of the changes proposed in June, 2012.

The existing regulations would generally change in the following ways:

- They would improve consistency and clarity of the existing regulations governing the use of lands held and/ or managed by CDFW . For example, this version of the regulations puts in one place the various regulations that govern certain activities on various properties. If a reader is interested in dog trials or training, he/she can look in one place, find the area he/she wants to use, and look at the rules regarding that activity. All the dog trial or training regulations are in one place. The same is true with the use of boats, off-highway vehicles, horses, and bicycles, among others. This consolidation should make it easier for the reader to figure out what activities are prohibited and permitted. With very few exceptions, these changes merely put in more reader-friendly formats the existing uses; new uses are not authorized. (Same as 2012 regulations; current changes are minor/technical.)
- They would consolidate some regulations and remove existing regulations that are duplicative or unnecessary. For example, many general regulations govern both wildlife areas and ecological reserves. Rather than repeat them in two regulations, they have been consolidated in one location and duplicative provisions are repealed. (Same as 2012 regulations; current changes are minor/technical.)
- The regulations standardize the process used to issue Special Use Permits (SUP) for activities and group events on CDFW lands. None of the activities authorized under SUPs may be incompatible with the specific purposes of the particular area. Fees and other charges for the SUPs are set out in these changes. Currently, each area uses its own criteria for issuing use permits. These changes will not authorize new uses under SUPs, but will standardize the way that such uses are evaluated, considered and paid for. (Same as 2012 regulations; current changes are minor/technical.)
- The amendment would clarify that restrictions on firearms on CDFW lands do not prohibit the lawful possession of a concealed firearm by an active peace officer, by certain retired peace officers, and those in possession of a concealed carry permit issued pursuant to Penal Code section 26150 or 26155. (This is a change from the June, 2012 package.)
- They designate seven properties that have been acquired relatively recently by CDFW as either wildlife areas or ecological reserves. (No change from the June, 2012 package.)
- Finally, the regulations make changes to or add regulations that will improve public safety and/or recreational opportunities without causing a significant effect on wildlife or habitat. No brand new uses are being added to CDFW lands and no existing uses are being prohibited. As explained in detail in the Initial Statement of Reasons, the changes often incorporate on-the-ground

practices already applied by CDFW land managers, or “underground regulations” that have traditionally been printed as non-regulatory “informational text” in CDFW publications.

The current changes to the regulations adopted by the Commission in June, 2012 constitute additional refinements to the reorganization and minor technical changes. They are an improvement to those regulations and will also not result any potentially significant adverse effects on the environment.

In light of the preceding analysis and other substantial evidence in the administrative record of proceedings¹, the Commission does not believe that the proposed changes either to the existing regulations or to the amendment version dated June, 2012, governing the use and operation of CDFW-owned land will result in previously undisclosed, new significant environmental impacts or a substantial increase in the severity of previously disclosed impacts.

¹ Additional, detailed information regarding the existing regulations, the proposed amendments approved in June, 2012, and these amendments is set forth in the various rulemaking files as required by the APA. The rulemaking files, which are available for public review during normal business hours, are located at the office of the Commission at 1416 9th Street, 13th Floor, Sacramento, CA 95814. Members of the public interested in viewing the official rulemaking should contact Sheri Tiemann at sheri.tiemann@fgc.ca.gov or (916) 654-9872.