



Midpeninsula Regional
Open Space District

R-12-05
Meeting 12-01
January 11, 2012

AGENDA ITEM 8

AGENDA ITEM

Adoption of Midpeninsula Regional Open Space District's (District) Resource Management Policies (RMPs) and approval of proposed Mitigated Negative Declaration (MND) and Mitigation Monitoring Program for the Resource Management Policies Project applicable to all District owned and/or managed lands

GENERAL MANAGER'S RECOMMENDATION

Approve the Mitigated Negative Declaration, the Mitigation Monitoring Program and the attached Resolution of Findings in accordance with the California Environmental Quality Act (CEQA) and formally adopt the District's RMPs as applicable to all District owned and/or managed lands.

SUMMARY

The RMPs were first adopted in October of 1994. A series of public workshops was held from 2005 to 2011 (See Attachment 2) in which each of the revised chapters of the RMPs was presented to the Board for review and tentative adoption. At the meeting of April 27, 2011, the Board of Directors reviewed the complete set of RMPs, tentatively adopted them to serve as the project description so that staff could begin the environmental review process. Staff is presenting the proposed MND, Mitigation Monitoring Program, and RMPs for adoption.

DISCUSSION

As directed by the Board of Directors, an initial study under CEQA has been prepared and an MND has been proposed.

FISCAL IMPACT

If the proposed MND is adopted by the Board, a \$2,044.00 CEQA filing fee is required.

PUBLIC NOTICE

A Notice of Intent (NOI) to adopt the proposed MND was circulated for public review from October 14 to December 14, 2011. An FYI regarding the public availability of the NOI for the

project was sent to the Board on October 19, 2011. During the public review period, the NOI, initial study, proposed MND, and the tentatively approved RMPs were available electronically (on the District's website) and in paper form (at the District's administrative office). The NOI was posted at the Santa Clara, Santa Cruz, and San Mateo county offices and circulated in three local newspapers: the San Mateo County Times, San Jose Mercury News, and Half Moon Bay Review.

The NOI was also mailed to District Resource Management interested parties, and provided to partner agencies including (but not limited to): California State Parks, Cal Fire, California State Historic Preservation Office, California Department of Fish and Game, Committee for Green Foothills, Elkhorn Slough National Estuarine Research Reserve, Golden Gate National Recreation Area, History of San Jose, Land Trust of Santa Cruz County, Marin County Open Space District, Santa Clara Open Space Authority, Stanford University, Presidio Trust, Peninsula Open Space Trust, San Mateo County Farm Bureau, San Francisco Bay Regional Water Quality Control Board, Santa Clara Valley Water, Santa Clara County Parks, San Mateo County Parks, Sempervirens Fund, Save the Redwoods, US Forest Service, and the US Fish and Wildlife Service

During the public review period, one request for additional information was received, and three written comments were received.

CEQA COMPLIANCE

Project Description

The project consists of revised RMPs that are intended to be a document to help guide management and protection of plants, animals, water, soil, terrain, geologic formations, historic resources, scenic features, and cultural resources on District owned and/or managed lands. The RMPs are also intended to help guide the overall planning, budgeting, and decision making processes for individual preserves and for District-wide programs.

The recommended CEQA action before the Board is the adoption of the proposed MND and Mitigation Monitoring Program developed for the RMPs. The Board is not determining how or when to implement any site-specific resource management project under the guidance of the RMPs. Rather the Board is completing CEQA compliance with regard to the RMPs.

CEQA Determination

An initial study for the RMPs has been completed and a MND is proposed. One mitigation measure identified in the MND has been designed to mitigate potential negative effects to land use to a level of insignificance. Copies of these documents were provided to the Board during the public and agency review period. The review period ended on December 14, 2011.

Comments Received

As of December 14, 2011, the District received one request for additional information and three written comments. Please see the attached response to comment (see Attachment 3). This completes the CEQA comment period for the project.

Mitigation Monitoring Program

In accordance with CEQA, the District has prepared a Mitigation Monitoring Program, which describes the project-specific mitigation measure and monitoring process (see Attachment 4). The Mitigation Monitoring Program ensures that the adopted measure intended to mitigate a potentially significant environmental impact will be implemented. The project incorporates this mitigation measures.

CEQA Findings

Adoption of an MND requires that the Board adopt a Resolution of Findings. The required Resolution is attached to this Report as Attachment 1.

NEXT STEPS

If the proposed MND is adopted by the Board, staff will file a Notice of Determination (NOD) (see Attachment 4) with the Santa Clara County Clerk. Filing the NOD starts the 30-day Statute of Limitations. Once the 30-day period is complete, the CEQA process is complete for this project.

Should the Board approve the revised RMPs, staff would begin implementing the RMPs on a case by case basis and as appropriate for the specific resource management issue and its environmental setting. The RMPs will be a useful tool during day to day operations, during project planning, site specific planning, Use and Management planning and Master Planning. A copy of the final RMPs will be made available to the public on the District's website and hard copies will be provided to each Department Manager and to each field office.

Attachments:

1. Resolution of Findings Pursuant to the California Environmental Quality Act
2. List of previous Board Meetings for the project
3. Comments Received and Response to Comments
4. Proposed Mitigation Monitoring Program

Prepared by:

Julie K. Andersen, Planner II
Kirk Lenington, Senior Planner

Contact person:

Julie K. Andersen, Planner II
Kirk Lenington, Senior Planner

RESOLUTION NO. 12-XX

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE MIDPENINSULA REGIONAL OPEN SPACE DISTRICT ADOPTING THE MITIGATED NEGATIVE DECLARATION, THE MITIGATION MONITORING PROGRAM, AND THE FINDINGS IN CONNECTION WITH THE PROPOSED RESOURCE MANAGEMENT POLICIES

WHEREAS The Board of Directors of the Midpeninsula Regional Open Space District (“District”) has reviewed the proposed Resource Management Policies Project and all associated actions (“the Project”) and has reviewed the Mitigated Negative Declaration (“MND”) analyzing the environmental effects of the Project;

NOW, THEREFORE, BE IT RESOLVED by the District Board of Directors that, based upon the Initial Study, Mitigated Negative Declaration, Mitigation Monitoring Program, all comments received, and all substantial evidence in light of the whole record presented, the Board of Directors finds that:

1. Notice of the availability of the Initial Study and Mitigated Negative Declaration and all hearings on the MND was given as required by law and the actions were conducted pursuant to California Environmental Quality Act (CEQA) and the CEQA Guidelines.
2. All interested parties desiring to comment on the MND were given the opportunity to submit oral and written comments on the adequacy of the MND prior to this action by the Board of Directors.
3. Prior to approving the Project that is the subject of the MND, the Board has considered the MND, along with all comments received during the public review process.
4. The MND finds potentially significant effects with respect to Land Use and the Board hereby finds that these effects will be mitigated or avoided by Mitigation Measure No. LU-1 as described in the Initial Study and the MND and made a part of the Project.
5. The Board finds that, on the basis of the whole record before it, including the Initial Study and MND, that there is no substantial evidence that the Project will have a significant effect on the environment in that, although the proposed Project could have significant effect on the environment, there will not be a significant effect in this case since a Mitigation Measure has been made a part of the Project to avoid such effects.
6. The Board adopts the MND and determines that the MND reflects the District’s independent judgment and analysis.
7. The Board adopts the attached Mitigation Monitoring and Reporting Program and will require it to be implemented as part of the Project.
8. The location and custodian of the documents or other material which constitute the record of proceedings upon which this decision is based are located at the offices of the General Manager of the Midpeninsula Regional Open Space District, 330 Distel Circle, Los Altos, California 94022.



Midpeninsula Regional
Open Space District

ATTACHMENT 2

RESOURCE MANAGEMENT POLICIES

LIST OF PREVIOUS BOARD MEETINGS:

October 21, 2004- Resource Management Policies Prioritization Workshop
March 30, 2005- Review, Discuss/Comment on Draft Water Resources Policy
June 22, 2005- Tentatively Adopt Amendments to the District's Water Resources Policy
September 27, 2006- Study Session to Review Draft Grazing Management Policy
November 29, 2006- Study Session to Review Sudden Oak Death Policy
January 24, 2007- Study Session to Review Invasive Species Policy
February 7, 2007- Tentatively Adopt Amendments to the Grazing Management Policy
February 28, 2007- Second Study Session to Review Invasive Species Policy
June 27, 2007- Study Session to Review Forest Management Policy
July 11, 2007- Second Study Session to Review Forest Management Policy
December 12, 2007- Presentation of Ecological Succession Policy
May 14, 2008- Study Session to Review Habitat Connectivity
June 11, 2008- Study Session to Review Cultural Resources Management Policy
November 6, 2007- Study Session to Review Wildland Fire Management Policy
December 4, 2008- Second Study Session to Review Wildland Fire Management Policy
March 9, 2011- Workshop to review remaining six Resource Management Policies
April 27, 2011- Tentative Adoption of the Revised Resource Management Policies as a whole

ATTACHMENT 3

MIDPENINSULA REGIONAL OPEN SPACE DISTRICT

RESOURCE MANAGEMENT POLICIES INITIAL STUDY/MITIGATED NEGATIVE DECLARATION December 14, 2011

Pursuant to CEQA Guideline 15073, the Initial Study and Mitigated Negative Declaration were circulated for public review. The public comment period began on October 14, 2011 and was scheduled to conclude on November 14, 2011. However, the District determined that an additional 30 day public comment period was appropriate. The extended public comment period concluded on December 14, 2011. The document was distributed in compliance with CEQA and also posted on the District's website.

The purpose of this document is to respond to comments pertaining to the potential for significant effect on the environment as a result of adoption of the Resource Management Policies (hereafter "RMPs").

During the public comment period, comments were received from four commenters. This document responds to those comments.

The District received both verbal and written comments. The comments are attached to this Response as Exhibit A. Responses are provided in numerical order to correspond with the attached compilation of comments received.

RESPONSE TO COMMENTS

Response to Commenter 1: Dave Abrevaya

- 1.) The commenter requested a copy of the following documents which were provided to the commenter on October 21, 2011: A copy of the District's Road and Trail Typical Design Specifications and the District's Best Management Policies.

Response to Commenter 2: California Department of Transportation (CalTrans)

- 1.) The commenter had no comment on the RMP's. The commenter requested that the District consult with CalTrans prior to implementation of a policy or project that could potentially impact State facilities or mitigation matters. Comment noted.

Response to Commenter 3: Craig Dremann

- 1.) (a) The commenter requested an extension of time to comment. The original 30 day comment period required by CEQA was extended 30 days from October 14, 2011 to December 14, 2011 to provide additional time for public review.
(b) See Response to Comment 1(a) above.

- 2.) The commenter stated the adoption of the RMP's is not a project under CEQA. The commenter supported the adoption of the policies provided the policies were not subject to CEQA review.

According to Public Resource Code 21065, a "Project" under CEQA is: "an activity which may cause either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment, and which is any of the following:(a) An activity directly undertaken by any public agency.

(b) An activity undertaken by a person which is supported, in whole or in part, through contracts, grants, subsidies, loans, or other forms of assistance from one or more public agencies.

(c) An activity that involves the issuance to a person of a lease, permit, license, certificate, or other entitlement for use by one or more public agencies."

Because adoption and implementation of the District's Resource Management Policies may directly cause a physical change in the environment and because it is reasonably foreseeable such adoption may cause an indirect physical change in the environment and is "an activity directly undertaken by a public agency", adoption of the RMPs is considered a "Project" subject to CEQA review.

- 3.) The commenter verbally discussed concerns relating to past grassland management projects at Russian Ridge Open Space Preserve and stated that he did not believe the area had been properly restored or maintained. The commenter's account of the District's past treatment of grasslands at Russian Ridge is noted. The RMPs provide a variety of goals and objectives to promote and enhance the ecological restoration of native vegetation and to control invasive species in order to foster restoration of native vegetation. These general guidelines are not site or project specific but will provide general guidance when considering implementation of a specific project at a specific site. RMPs at pp. iv-v.
- 4.) The commenter requested that the District void the portion of the District's 2001 CEQA Guidelines which he characterized as providing "a CEQA exemption for management of existing vegetation." This is not a comment pertaining to the IS/MND and is noted.

For clarification, CEQA Statute 21082 requires each agency to adopt guidelines for administration of its responsibilities under CEQA. In 2001, the District adopted District Guidelines for the Implementation of the California Environmental Quality Act. The District Guidelines adopt the State CEQA Guidelines by reference and in the event of any conflict between the District's Guidelines and the State Guidelines, the State Guidelines control. As required by CEQA, the District Guidelines identify typical District projects that may qualify for categorical exemptions unless due to the particular facts and circumstances of the activity, or due to unusual circumstances, the activity does not qualify for a categorical exemption under the State CEQA Guidelines. While maintenance of existing native vegetation is listed as a typical District activity, there is no provision in the District Guidelines exempting all vegetation management from review under CEQA. The District determines the appropriate level of CEQA review on a site-specific and project-specific basis.

- 5.) The Initial Study and the Mitigated Negative Declaration is the appropriate level of CEQA analysis for adoption of the RMPs. Implementation of individual projects resulting from adoption of the RMPs that may have a significant impact on the environment will be subject to further evaluation under CEQA. These discrete projects will be assessed on a site- and issue-specific basis, with general guidance from the RMPs for informed, consistent, and effective resource management decision-making. RMPs at p. iv. Such projects will be subject to the appropriate level of environmental review needed in order to specifically address environmental concerns that may pertain to that project. See also the response to Comment 2 above.
- 6.) The commenter recommends the District develop agency-specific thresholds of significance. Thresholds are qualitative, quantitative or performance levels of a particular effect (such as level of traffic congestion) compliance with which normally means the effect will be less than significant. Development of agency- specific thresholds of significance is not required by CEQA. The District relies on standard CEQA thresholds in determining significance.
- 7.) (a) The commenter recommended that the District secure funding to restore native grasslands at Russian Ridge Open Space Preserve. Comment noted. These comments have been forwarded to the Board and District management team.
(b) The commenter discussed past vegetation management at Russian Ridge Open Space Preserve. Comment noted. The commenter was encouraged to submit further comments pertaining to the RMPs.
- 8.) The commenter provided his opinion that in conducting environmental review, the District uses categorical exemptions too broadly and cited past instances where he believes this has occurred. No CEQA exemption is proposed for the adoption of the RMPs. The commenter stated his belief that the IS/MND is inadequate. The commenter did not specify in what manner the document is inadequate or why he contended that adoption of the RMPs would have a significant adverse effect on the environment. Comment noted.
- 9.) See Response to Comment 2 above.
- 10.) The commenter states adoption of the RMPs requires an Environmental Impact Report. The commenter did not specify why the IS/MND is not an adequate level of environmental review. The determination of whether an EIR is the appropriate level of CEQA review can only be made after an analysis of a specific project and an assessment of potential adverse and significant effects that it has the potential to cause. Comment noted.
- 11.) The commenter states the IS/MND is inadequate in that it consists of only a checklist and the document fails to identify what potentially significant effects the RMPs may have and what mitigation measures are proposed to avoid such effects. The commenter does not specify which effect is not identified.

The Initial Study is based upon the Environmental Checklist Form provided by the Office of Planning and Research and found in the State CEQA Guidelines as Appendix G. Use of this Form is the appropriate manner in which to determine whether the RMPs may have a significant environmental effect. For each environmental factor listed in the Checklist, the document assesses both existing environmental conditions with respect to that factor and evaluates whether adoption of the RMP's would potentially have a significant impact on that factor. The basis for each conclusion with regard to potential impact is explained. Where a mitigation measure is needed to avoid a potentially significant effect, it is stated. See e.g. Land Use Section XI.

The commenter also states that EIR's are required for District projects. See Response to Comment 10.

- 12.) The commenter states that past vegetation management burns at Russian Ridge Open Space Preserve were not conducted with the proper level of CEQA review. The commenter states that invasive weeds were increased as a result of past vegetation management efforts and native grasses were significantly and adversely effected.

The RMPs will be used to provide general guidance for resource management actions District-wide. They are not site-specific, nor do they mandate the use of prescribed burns for any particular site. These general Policies will be useful guidance and information when the District is determining the site specific management actions that may be appropriate for a particular site or issue. They provide general guidance to the District about how future management actions at the site might be developed. When site-specific projects are proposed, such projects will be subject to evaluation under CEQA to determine the appropriate level of environmental review, and, if warranted by CEQA, assessing site specific environmental impacts and development of necessary mitigation or alternatives analysis.

Implementation of the Resource Management Policies is subject to funding availability, competing District needs, and overall feasibility. The commenter provided information regarding the numbers of weeds and of native vegetation that the commenter states were once, or are now, present at the site. The District will take this comment into consideration when planning future site specific management actions at Russian Ridge Open Space Preserve.

- 13.) The commenter states that all herbicide spraying done on District lands requires an EIR. The RMPs do not mandate the use of herbicides or other pesticides for any project. For example, in Invasive Species Management Section IV, the RMPs provide guidance that when it is determined for a specific project that no other methods of control of invasives are effective, the least toxic herbicides may be chosen and applied in an environmentally safe manner and directed narrowly at the target invasive. The RMPs also state that the suitability of a particular RMP can only be determined on a site-specific basis given the circumstances and conditions to be addressed. Under some circumstances, deviation from a particular RMP may represent a more effective resource management approach given applicable factors. RMP at pp. iv-v.

14.) See Response to Comment 4 above.

15.) See Response to Comments 2, 5 and 11 above.

16.) The commenter requests that an EIR be prepared for any District weed or grassland management projects or herbicide use. As a public agency, the District will adhere to the California Environmental Quality Act (CEQA). The level of CEQA review for a particular project is determined on a site-specific and project-specific basis. When appropriate given the circumstances, an Environmental Impact Report (EIR) will be prepared to inform District decision-makers and the general public of significant environmental effects of a project, ways to minimize significant effects, and discussion of reasonable alternatives to a project.

Response to Commenter 4: Ken Nitz

- 1.) The commenter stated that the RMPs should include a policy addressing agricultural land management. In 2003, the District established robust policies addressing agricultural activities as a component of the Coastside Protection Program during the extension of the District's boundaries to include coastal San Mateo County. These policies apply within the Coastside Protection Area boundaries. Virtually all of the District's lands with agricultural activities are located within this Coastside region and therefore subject to these policies. Therefore, the need for inclusion of a stand-alone agricultural policy in the RMPs was determined to have less priority than the RMPs which had not been revised in their entirety since creation in 1994.
- 2.) The commenter notes that language within the Water Resources Section V of the RMPs is potentially confusing in the description of water resources habitats and suggests the use of the following text in place of the existing text in the document: "District open space lands contain a variety of water resources that include such diverse habitats as freshwater wetlands (**including ponds and seasonal wetlands**) and watercourses, salt water tidal wetlands...." RMPs at p. 23. The District will make the recommended change for clarity.
- 3.) The commenter provided his opinion that Policy WR-7 does not adequately address the management needs of ponds or lakes in comparison to policies and implementation measures addressing streams. Many of the policies within the Water Resources Section apply to any watercourse, wetland, or aquatic habitat. The District believes that the policy and implementation measures presented adequately address the management needs of ponds and lakes. Comment noted.

Exhibit A: Comments and Correspondence Received on Resource Management Policies

Commenters:

1. Dave Abrevaya, Member of the public, email to Julie Andersen, Planner II on 10/21/2011.
2. Gary Arnold, District Branch Chief, California Department of Transportation, letter to Julie Andersen, Planner II on 10/31/2011
3. Craig Dremann, Member of the public, emails to Michelle Radcliffe, District Clerk on 10/19/2011 and 11/1/2011, telephone calls to Julie Andersen, Planner II on 10/19/2011 and 11/2/2011, and email to Julie Andersen, Planner II on 11/2/2011.
4. Ken Nitz, Member of the public, emails to Kirk Lenington, Senior Planner on 12/14/11 and 12/15/11.

Julie Andersen

From: Dave Abrevaya |
Sent: Friday, October 21, 2011 6:43 AM
To: Julie Andersen
Subject: Request for information

Julie,

I was reviewing proposed RMP and would like to know how I might get copies of related information I could not find on District's website. Could you send me a copy of, or link to: Road and Trail Typical Design Specifications, prepared by: Best, T.C. Certified Engineering Geologist, 2008 and also the District's current Best Management Policies?

Thank you,

Dave Abrevaya

1

DEPARTMENT OF TRANSPORTATION

111 GRAND AVENUE
P. O. BOX 23660
OAKLAND, CA 94623-0660
PHONE (510) 286-5541
FAX (510) 286-5559
TTY 711



*Flex your power!
Be energy efficient!*

RECEIVED
NOV 1 2011
MIDPENINSULA REGIONAL OPEN
SPACE DISTRICT

October 31, 2011

SLCVAR020
SCH2011102020

Mrs. Julie K. Andersen
Midpeninsula Regional Open Space District
333 Distel Circle
Los Altos, CA 94022

Dear: Mrs. Andersen

Resource Management Policies/ Initial Study— Negative Declaration

Thank you for including the California Department of Transportation in the environmental review process for the project referenced above. We have no comments at this time for this project, but at the time that the district goes to policy implementation, we request that you consult with us to determine any potential impacts to State facilities or mitigation matters.

1

Should you have any questions regarding this letter, please call Keith Wayne of my staff at (510) 286-5737.

Sincerely,

A handwritten signature in blue ink, appearing to read "Gary Arnold".

GARY ARNOLD
District Branch Chief
Local Development – Intergovernmental Review

c: State Clearinghouse

Julie Andersen

From: Michelle Radcliffe
Sent: Wednesday, October 19, 2011 1:08 PM
To: Julie Andersen
Subject: FW: Always appreciate your help

FYI

Michelle Radcliffe, CMC
District Clerk
mradcliffe@openspace.org
Midpeninsula Regional Open Space District 330 Distel Circle, Los Altos, CA 94022
P: (650) 691-1200 - F: (650) 691-0485

-----Original Message-----

From: Craig Dremann - Redwood City Seed Company
Sent: Wednesday, October 19, 2011 12:19 PM
To: Michelle Radcliffe
Cc:
Subject: Always appreciate your help

Dear Michelle,

Thanks for your help today, and your email with the link to that Policy that has a 30-day public comment period.

I am hoping in the future, that any 30 day comment periods that your District starts in the future, please do not start the clock on the day you mail out the notices, but start the comment period the day when you would expect us to receive the notices in the mail?

1a

For example, we lost 10% of our comment period, by the District mailing this notice out on a Friday, and it took to get to us at least until Monday, cutting three days off this current public comment period.

I always appreciate your help, and look forward to my other requests.

Sincerely, Craig

Julie Andersen

From: Michelle Radcliffe
Sent: Tuesday, November 01, 2011 5:07 PM
To: Craig Dremann - Redwood City Seed Company
Cc: Julie Andersen
Subject: FW: Permission to submit public comments to you by email?

Dear Mr. Dremann -

Thank you for your email and phone call this afternoon. I wanted to inform you that public comments submitted via email will be accepted. Please send your comments to Resource Planner Julie Andersen at jandersen@openspace.org.

I also wanted to inform you that the District is working on an Amended Notice of Intent to Adopt to extend the comment period until December 14, 2011 and will be moving the public meeting date to the January 11, 2012 Board meeting. A copy of the Amended Notice will be mailed out next week.

Thank you for your continued interest in the District. Please let me know if you have any questions.

Sincerely,

Michelle

Michelle Radcliffe, CMC
District Clerk
mradcliffe@openspace.org
Midpeninsula Regional Open Space District
330 Distel Circle, Los Altos, CA 94022
P: (650) 691-1200 - F: (650) 691-0485

-----Original Message-----

From: Craig Dremann - Redwood City Seed Company
Sent: Tuesday, November 01, 2011 1:05 PM
To: Michelle Radcliffe
Cc: BOARD; Sue Schectman
Subject: Permission to submit public comments to you by email?

Dear Michelle,

I got a notice in the mail, of Intent to Adopt a Mitigated Negative Declaration for Project: Policies outlining Resource Management on District.

The notice that was mailed out to the public, states that the public must submit any comments in writing by mail, and no other methods are listed in the notice.

I want to get permission to submit my comments by email to you as the Board Clerk, and that my emailed comments would legally be accepted for

the record when received by the District in that manner.

I am objecting to the 30-day comment period starting on the day that the notice was mailed out, on a Friday, so in effect, the public lost 10% of our 30-day comment period for this action, because we did not receive the notice until after the weekend. The 30-day comment period should have started when we would have reasonably received the notice in the mail.

1b

Sincerely, Craig

October 19, 2011

Documentation of telephone call with Mr. Craig Dremann

Mr. Dremann called to discuss the Notice of Intent (NOI) he received regarding the District's Resource Management Policies (RMPs). Mr. Dremann had concern with the timeline provided for public review (see attached email from Michelle Radcliffe). I let Mr. Dremann know that the NOI was posted on the District's website on Oct 12, as well as published in three local newspapers, posted at the three county offices, and sent to the State for posting on Oct. 14. The additional notification to the Resource Management interested parties list was mailed on Oct 14, which Mr. Dremann felt was insufficient (see email).

Specific to the RMPs, Mr. Dremann stated that a Policy cannot be considered a project under CEQA, and that the District cannot arrive at a Negative Declaration on a Policy (because it is not considered a project under CEQA). Mr. Dremann did indicate support for the District to formally adopt the Policies, provided that the process is removed from CEQA. 2

Mr. Dremann also discussed additional concerns regarding the District's treatment of grasslands at Russian Ridge. He provided a timeline of District actions from 2001-2011 that he does not believe support proper maintenance or restoration. 3

Mr. Dremann identified the following as next steps for the District:

1. Get rid of the 2001 Board Resolution that provides the District with a CEQA exemption for management of existing vegetation. 4
2. Do not consider the RMPs under CEQA; separate the public comment and Board approval process from CEQA. Send out another notice that the RMPs are not a "Project" under CEQA, but that the District would like the public to comment and then adopt the Policies. 5
3. The District should begin writing thresholds for CEQA exemptions 6

Mr. Dremann stated that he cannot get the Board to stipulate (legal term) that Russian Ridge was one of the best examples of native wildflowers in the state (circa 1996). He would like the Management team to go to the Board in support of his statement and have the District secure funding to restore the grasslands at Russian Ridge to circa 1996 vegetation. He would like to see annual funds dedicated to grassland restoration at Russian Ridge. 7a

I explained to Mr. Dremann that I could not speak to the District's work at Russian Ridge. I pointed him to the Vegetation Management and Invasive Species chapters in the RMPs and asked that he review these chapters to determine if they are in support of the type of work and monitoring that he would like to see performed at Russian Ridge. He also pointed out the picture of invasive Harding grass on the front of the spring newsletter and stated that it is not the message the District should be sending (especially given his past communications). I pointed out to him that the RMPs do include direction for the District to perform monitoring, restoration and public education and outreach. I let Mr. Dremann know that I documented his comments (in write up), but that I also encouraged Mr. Dremann to provide his comments in writing to ensure I captured his comments correctly. 7b

Record of Telephone Conversation

Date: 11/2/2011

Time: 11:30.

Person calling: C. Dreemann

Person called: J. Andersen

Project/Subject: RMP's CEQA

Phone:

ext.

Message:



New Dec for Policies

Read in Detail. - How the District follows CEQA.
Cited on webpage.

McQueen Court Decision →

↳ 1988 Make exemptions too broadly, an EIR might fly.

↳ Not enough enviro analysis to back up your claim

EX: ↳ Use of herbicides

↳ Burns at Russian Ridge

↳ Put in place but do not tack on CEQA

↳ Glad extended comment period

↳ IF put through the ^{CEQA} process, ^{in written form} it is too inadequate.

↳ No Analysis - cannot comment.

Response:

-Comments Noted, encouraged to Submit in writing.

All Comments Considered.

Julie Andersen

From: Craig Dremann - Redwood City Seed Company
Sent: Wednesday, November 02, 2011 2:06 PM
To: Julie Andersen
Cc:
Subject: Comments on the Project: "Policy...Resource Man.." Neg. Dec.

Dear Ms. Andersen,

Thank you for your time on the phone today. and I am putting in writing my comments about your proposal of the Notice of Intent to Adopt a Mitigated Negative Declaration for the Project: Policies outlining Resource Management on District Properties (hereinafter "Policies")..

1.) NEED TO SEPARATE DISTRICT POLICIES from CEQA. As we were discussing on the phone, if the Board wants to put out for public comment the District's policies on Resource Management, and then the Board approves them at a future meeting, that could be a way to do those legally. However, when you put your policies through the CEQA process as a "project", and then give your document a Mitigated Negative Declaration, that is not legal.

9

Your District should know that if you want to submit to the public and the Board, your Policies as a CEQA document, you must submit it as a full EIR, not with a Neg. Dec. or Mitigated Neg. Dec. The reason is that the document as written does not give the public sufficient environmental analysis to support a Neg. Dec. or Mitigated Neg. Dec. finding.

10

2.) SIGNIFICANT ENVIRONMENTAL IMPACTS lacking in policies. Furthermore, the document is inadequate, only a CEQA checklist and you have failed to identify details of what significant environmental impacts your policies or projects may have, and how you are planning to mitigate them.

11

Additionally, all of my dozens of emails since 2006 to the Board, alerting the District that projects conducted without ERs in the past, need to have full EIRs for the future, because the CEQA "Fair Argument" threshold has been crossed, because measurable and significant environmental damages have occurred.

3.) FIVE ILLEGAL RUSSIAN RIDGE BURN DAMAGES, WHERE IS THE MITIGATION? For example, the five illegal burns on Russian Ridge conducted by CALFIRE for the last decade, without any monitoring the before-and-after effects of the burns on the resources, and no EIRs with alternatives offered to the public or Board, have had a significant measurable negative impact on the environment, killing 99% of the best example of non-serpentine native grass resource in the San Francisco Bay Area. The State of California considers non-serpentine wildflowers and native grass resources as our second rarest plant community, after vernal pools.

12

And mitigation for the damages done to the resource needs to be addressed in any Policy document that is written for the future. My profession estimate is that \$20 million dollar worth of fire damages have been done at Russian Ridge, how much the mitigation will cost to get the wildflowers, native grasses and weeds back where they were, prior to the first burn in 1996.

That means managing the weeds that were spread by the five fires, like the 808,000 Italian thistle plants, and the 527,622 Harding grass plants, and the 152,000 yellow star thistle plants, and the 2 million wild oats plants, for example. And also restore the fire-killed resources, that include 200,000 Sitanion grass plants, 156,000 Nassella pulchra plants that were lost in the fires, 32,000 Melica grasses, 20,000 Festuca grasses, 20,000 Koeleria grasses, 500,000 annual tarweeds, 500,000 ows clover plants, 400,000 Layia wildflowers,

224,000 White Yarrow plants, 160,000 Amsinckia plants, 52,000 lupines, 40,000 native Plantago, 40,000 miners lettuce, 40,000 coyote mint plants, 40,000 California poppy plants, 40,000 blue eyed grasses, 12,000 popcorn flowers, 12,000 buttercups, and 10,000 Farewell to Springs.

You have to have some substantial environmental analysis to support what you are proposing for your policies.

4.) ILLEGAL HERBICIDE SPRAYING WITHOUT AN EIR. All of the herbicide spraying that has been done on all of the District's properties without any EIRs, and no alternatives offered to the public or the Board, is illegal under CEQA, and CEQA does not allow for any exemptions for the use of herbicides in wildlands without an EIR.

13

5.) ILLEGAL 2001 RESOLUTION EXEMPTION. And add insult by the District to CEQA even further, was the illegal CEQA exemption placed in the 2001 District Resolution #01-29. We should all know that the District cannot categorically exempt itself from CEQA, and to never write an EIR, for "Management of existing native vegetation," but that is exactly what the Board tried to do in their 2001 resolution.

14

The District should know, that native vegetation CEQA Categorical Exemption is illegal, is vague, arbitrary, capricious, and unenforceable. Therefore, please let me know when you will be putting a new resolution on the Board's agenda to vote, to nullify, cancel, and void that illegal exemption.

6.) RESUBMIT POLICIES without CEQA: What I am hoping, is that the District will reconsider the Policies as a CEQA project, and resubmit it for public review without any CEQA connection attached and then the Board adopts it.

15

This is because when the Policies are framed within CEQA, the public is unable to comment on it, especially when the District is assigning a Neg. Dec. to it, without sufficient environmental analysis.

7.) FULL EIRs ON ANY 2012 PROJECTS WITH POTENTIAL ENVIRONMENTAL DAMAGES.

I am hoping that before the District starts or continues any weed management or herbicide projects for FY 2012, the District starts the process of writing full EIRs for all of these projects--like herbicide spraying, like weed management, like wildflower and native grassland management--or whatever other projects may cause massive environmental damage, like your past projects that lack EIRs, already have. The Board and Public need to see a full environmental review of these projects, plus alternatives offered, including a "no project" alternative.

16

Sincerely, Craig Dremann

Kirk Lenington

From: Ken Nitz
Sent: Wednesday, December 14, 2011 9:23 AM
To: Kirk Lenington; Steve Abbors; Curt Riffle
Cc:
Subject: Re: Adoption of the Midpeninsula Regional Open Space District's Resource Management Policies

Hi Kirk,

Good to see you last night.

This is an impressive piece of work! I can see that lots of time, effort and thought went into its creation. Great job!

One question. I read that the District recently jumped over the 60K acre line with the lease of some agricultural land near HMB which is also along a stream. The report does not call out specifically agricultural land (grazing and forest are all I saw) and with this addition it seems at first light, that it should (and what practices, runoff, pesticides, plowing methods etc. (as was done with grazing)). I think it is a lease which might make a difference, but it is now under District authority, so under District Resource Policies.

1

again a great job!

--ken

On 11/14/2011 2:54 PM, Kirk Lenington wrote:

Dear Colleagues and Contributors,

It's taken us some time, but I'm happy to announce that the Board of Directors for the Open Space District will be adopting the Resource Management Policies on January 11, 2012. Many of you helped to prepare these policies and the attached notification was prepared to announce our intention to adopt a Mitigated Negative Declaration (MND) for this project.

I appreciated all of your support and contributions to this project. Please feel free to contact myself or Julie Andersen if you have any questions, concerns, or comments on the Policies or the MND document.

Warm regards,

Kirk



Kirk Lenington
Senior Resource Planner
klenington@openspace.org
Midpeninsula Regional Open Space District
330 Distel Circle, Los Altos, CA 94022
P: (650) 691-1200 | F: (650) 691-0485

Kirk Lenington

From: Kenneth Nitz
Sent: Thursday, December 15, 2011 1:59 PM
To: Kirk Lenington
Cc: Steve Abbors; Curt Riffle
Subject: Resource Management Policies

Hi Kirk,

In looking over the Water Resources section (page 23), I was confused by some definitions.

"contain a variety of water resources that include such diverse habitats as freshwater wetlands and watercourses (including ponds and seasonal wetlands)"

I'm confused by the

" watercourses (including ponds and seasonal wetlands)"

because in the paragraph below it is:

"Watercourse is a generic term used to define any land feature that conveys concentrated *flow*, regardless of whether the flow is ephemeral..."

which makes it sound like a stream/river, but you have

" watercourses (including ponds and seasonal wetlands)"

which makes it sound like it includes still bodies of water.

so maybe it should be

" wetlands (including ponds and seasonal wetlands)" ?

but wetlands in its definition sounds more like a swampy area or baylands area, not so much ponds (and lakes since the District also has lakes (although small)).

So, I think that ponds/lakes should be clarified a bit better.

Also in WR-7, it really doesn't do much for the District's ponds/lakes. No determination of siltation (Shilling Lake, Sausal Pond) (-although mentioned in other WR Policies, it should be mentioned here as well) , no measurement of oxygen levels, no determination of depth/size, etc. Seems like ponds (and lakes) are getting a short shrift compared to streams.

thanks again for a great report.

--ken

Ken Nitz

2

3

MITIGATION MONITORING PROGRAM

RESOURCE MANAGEMENT POLICIES
Districtwide

State Clearinghouse Number: 2011102020

Santa Clara, Santa Cruz and San Mateo Counties, CA

December 14, 2011

Midpeninsula Regional Open Space District
330 Distel Circle
Los Altos, CA 94022-1404

DISTRICTWIDE RESOURCE MANAGEMENT POLICIES MITIGATION MONITORING PROGRAM

This mitigation monitoring program (MMP) includes a brief discussion of the legal basis and purpose of the program, a key to understanding the monitoring matrix, discussion and direction regarding noncompliance complaints, and the mitigation monitoring matrix itself.

LEGAL BASIS AND PURPOSE OF THE MITIGATION MONITORING PROGRAM

Public Resources Code (PRC) 21081.6 requires public agencies to adopt mitigation monitoring or reporting programs whenever certifying a mitigated negative declaration to insure compliance with the mitigation measure. This requirement facilitates implementation of all mitigation measures adopted through the California Environmental Quality Act (CEQA) process.

MONITORING MATRIX

The following pages provide a series of tables identifying the mitigation incorporated into the Districtwide Resource Management Policies (the project). The mitigation measure is reproduced from the Mitigated Negative Declaration for the project. The columns within the tables have the following meanings:

- Number: The number in this column refers to the Initial Study section where the mitigation is discussed.
- Mitigation: This column lists the specific mitigation identified within the Mitigated Negative Declaration.
- Timing: This column identifies at what point in time, review process, or phase the mitigation will be completed.
- Who will
verify? This column references the District staff that will ensure implementation of the mitigation.
- Agency /
Department
Consultation: This column references any public agency or District Department with which coordination is required to ensure implementation of the mitigation. California Department of Fish and Game is listed as CDFG. The United States Fish and Wildlife Service is listed as USFWS.
- Verification: This column will be initialed and dated by the individual designated to confirm implementation.

NONCOMPLIANCE COMPLAINTS

Any person or agency may file a complaint asserting noncompliance with the mitigation measure associated with the project. The complaint shall be directed to the District's General Manager in written form, providing specific information on the asserted violation. The General Manager shall cause an investigation and determine the validity of the complaint; if noncompliance with the mitigation has occurred, the General Manager shall cause appropriate actions to remedy any violation. The complainant shall receive written confirmation indicating the results of the investigation or the final action corresponding to the particular noncompliance.

LOCATION AND CUSTODIAN OF RECORD OF PROCEEDINGS

The location and custodian of the documents or other material which constitute the record of proceedings upon which this decision is based are located at the offices of the General Manager of the Midpeninsula Regional Open Space District, 330 Distel Circle, Los Altos, California 94022.

<i>Number</i>	<i>Mitigation</i>	<i>Timing</i>	<i>Who will verify?</i>	<i>Department or Agency Consultation</i>	<i>Verification (Date & Initials)</i>
Mitigation in Section XI. Land Use	Mitigation Measure LU-1: In implementing the RMPs through (but not limited to) site specific projects, Use and Management Plans and Master Plans the District shall obtain all necessary permits and approvals from appropriate federal, State, and local regulatory agencies with jurisdiction over the project.	During individual project implementation	Individual project managers	To be determined on a case by case basis, project specific.	Ongoing through regular course of day to day business