

CHAPTER 5

CEQA STATUTORY SECTIONS

INTRODUCTION

This section summarizes the findings with respect to short-term versus long-term productivity of the Park, significant, unavoidable environmental impacts, growth-inducing impacts, and cumulative impacts of the proposed Master Plan.

SHORT-TERM VERSUS LONG-TERM PRODUCTIVITY

CEQA Section 21100 requires the relationship between local short-term uses of the environment and the maintenance and enhancement of long-term productivity to be discussed in an EIR. This discussion includes the cumulative and long-term effects of the proposed project which adversely affect the environment. Special attention is given to impacts which narrow the range of beneficial uses of the environment or pose long-term risks to health or safety, as described below.

Construction of facilities proposed under the Master Plan would foreclose the option of using the site for another purpose in the future, or of retaining that particular site in an undeveloped state, thereby maintaining its existing habitat value for wildlife. Implementation of the proposed Master Plan would result in a long-term commitment of energy resources to build, operate, and maintain proposed facilities.

SIGNIFICANT IRREVERSIBLE EFFECTS

CEQA states that impacts associated with a proposed project may be considered to be significant and irreversible for the following reasons:

- Uses of nonrenewable resources during the initial and continued phases of the project may be irreversible, since a large commitment of such resources makes the removal or non-use thereafter unlikely;
- Primary impacts and, particularly, secondary impacts (such as highway improvement that provides access to a previously inaccessible area) generally commit future generations to similar uses; and,
- Irreversible damage can result from environmental accidents associated with the project.

Implementation of the Master Plan would allow construction of new facilities that in turn could result in short-term, construction-related impacts and impacts associated with increased public access and use. The implementation of mitigation measures identified herein would reduce the

identified effects and therefore would not result in significant irreversible environmental impacts or commitment of resources. However, the commitment of land, resources, and energy for project facilities would be a long-term commitment. Once specific projects have been developed, it is unlikely that circumstances would arise that could justify the return of the land occupied by the Master Plan facilities to its original condition.

GROWTH INDUCEMENT

Section 15126.2 (d) of the CEQA Guidelines requires agencies to address potential growth-inducing effects of their actions. Growth-inducing effects are defined as those effects that could foster economic or population growth, or the construction of additional housing, either directly or indirectly, in the surrounding environment. Growth-inducing effects could result from projects that would remove obstacles to population growth (a major expansion of a wastewater treatment plant might, for example, allow for more construction in service areas). Increases in population could tax existing community service facilities, requiring construction of new facilities that could cause significant environmental effects. The Guidelines also require analysis of the characteristics of projects that may encourage and facilitate other activities that could significantly affect the environment, either individually or cumulatively.

The primary purpose of the Master Plan is to direct future management of the park for the next 20 years. An important component of this purpose is to protect the natural and cultural resources of the park. This purpose, goals, and management direction included in the Master Plan have no potential to foster population growth either directly or indirectly, or the construction of additional housing. The Master Plan's potential to foster to economic growth through revenue generating facilities is minimal and would not result in growth-inducing effects.

CUMULATIVE IMPACTS

Cumulative environmental effects are multiple individual effects that, when considered together are considerable or that compound or increase other environmental impacts. The individual effects may result from a single project or a number of separate projects and may occur at the same place and point in time or at different locations and over extended periods of time.

Cumulative impacts can result from individually minor but collectively significant projects. The purpose of this cumulative analysis is to determine whether potentially significant cumulative environmental impacts would occur from implementation of the Master Plan in combination with other projects or conditions, and to indicate the severity of the impacts and their likelihood of occurrence. The CEQA Guidelines require that EIRs discuss the cumulative impacts of a project when the project's incremental effect is "cumulatively considerable," meaning that the project's incremental effects are considerable when viewed in connection with the effects of past, current, and probable future projects. The discussion does not need to ~~reach the level of be in as great detail as is necessary~~ for project impacts, but it is to be "guided by the standards of practicality and reasonableness". The purpose of the cumulative analysis is to allow decision makers to better understand the potential impacts which might result from approval of past, present and reasonably

foreseeable future projects, in conjunction with the proposed project. The discussion of cumulative impacts should include:

- (1) Either: (A), a list of past, present, and probable future projects producing related or cumulative impacts; or (B), a summary of projections contained in an adopted General Plan or similar document, or in an adopted or certified environmental document, which described or evaluated conditions contributing to a cumulative impact;
- (2) A discussion of the geographic scope of the area affected by the cumulative effect;
- (3) A summary of expected environmental effects to be produced by these projects; and
- (4) Reasonable, feasible options for mitigating or avoiding the project's contribution to any significant cumulative effects.

It should be noted that a cumulative impact analysis can only look at what is “reasonably foreseeable” or probable. Projects that ~~which are under discussion proposed now may actually be built in phases, or~~ may not be built for many years ~~or may never be built at all; other projects may be changed substantially before being brought forward for approval.~~ The actual date ~~by at~~ which all ~~projects that could contribute to cumulative impacts of this development~~ would be completed is unknown. For this reason, this cumulative analysis relies on projections included in the County's General Plan (1994) and queries of local governments.

Project-level components of the Master Plan include 1) installation of trails, gates, fencing, staging areas, and signage (Western Flat and Mendoza Area); 2) campground improvements, including reduction of density, addition of shower facilities, and construction of amphitheatre (Lakeside Area); 3) establishment of hang-gliding launch and landing sites (Slopes and Ridge Area); 4) establishment of equestrian camping at existing overflow parking area (West Flat Area); 5) installation of boat self-launch area for kayaks/non-motorized boats (Lakeside Area); and 6) use of pond for annual Fishability Days event (near Mendoza Ranch). Work at most of these sites would be limited to clearing of the site, with limited grading activities at the launch area and along the trails. Grading, ~~and~~ construction, and operational activities (i.e., vehicle trips) would be most intensive at the campground improvements area, particularly associated with the construction of an amphitheatre. Program-level facilities identified in the Master Plan include construction of an 18-hole golf course, a fishing pond, trails, building and stadium structures, bicycle sports Park, and other site-specific use areas. In particular, construction and operation of the golf course, equestrian center, events pavilion, and fishing pond could result in both temporary and permanent effects to resources.

Generally, cumulative projects include development and operation of construction-projects within adjacent unincorporated Santa Clara County, the City of Gilroy, and the City of Morgan Hill. Cumulative projects could include residential, commercial, and industrial projects, as well as continuing development of recreation and public areas in the vicinity of, and within Coyote Lake-Harvey Bear Ranch County Park. No approved and pending developments are located in the vicinity of the Park. Neither the Santa Clara County (Brashaw, pers. comm.) or the City of

Gilroy (Casper, pers. comm.), have any projects planned in the vicinity of Coyote Lake – Harvey Bear County Park.

The City of Morgan Hill has one conditional use permit pending on The Institute Golf Course, a private 18-hole golf course located approximately one-quarter mile northeast of adjacent to the West Flat area (Hall, pers. comm.). Although construction of the golf course was completed in 1998, no permits were issued by the City. The project proponent applied for the conditional use permit in 1999, and the Draft EIR is currently in circulation. A Draft EIR, prepared during construction of the golf course, but following completion of portions of it, was publicly circulated in January 2003, but has since been withdrawn following substantial comments as to its adequacy. A new DEIR is anticipated in late October 2003. Therefore, at present, no completed Final EIR for the Institute Golf Course is available that has been certified by the Lead Agency as adequate for its project approval consideration, nor may the originally published Draft EIR be considered to provide documentation and impact analyses that the Lead Agency deems accurate and complete.

The absence of a public document for review for the Institute Golf Course, the apparent illegality of construction of several of its components, and the substantial number of significant impacts that have already and/or would result from completion of the project introduce somewhat unusual considerations into the analysis of potential cumulative impacts of the Coyote Bear Park project. An EIR need not consider a project constructed and operated without required approvals and permits in its analysis of cumulative impacts; indeed, the presumption is warranted for CEQA purposes that existing facilities constructed and operated illegally are subject to government sanctions that will terminate their operation and may remove the facilities themselves. However, in the specific case of the Institute Golf Course, the process of CEQA documentation has been initiated with the intent that the Lead Agency (the City of Morgan Hill) will consider approving the project, albeit after the fact, and thus permitting it to be completed and to operate. Thus, one of two outcomes appears likely. (1) Based on the completed CEQA documentation for the project and other considerations, the Institute Golf Course project will not be approved by the City of Morgan Hill and will be forced to cease operation, thereby eliminating its incremental contribution to any potential cumulative impacts. (2) the revised CEQA analysis currently underway for the Institute Golf Course may identify significant impacts for the project as constructed and operated. At this point in time, it is not possible to determine what those impacts may be, particularly since it appears likely that the project description itself may be subject to change. Nor is it possible to know what feasible mitigation measures and/or reasonable alternatives to the project as constructed and now operated will be identified in the completed EIR for the Institute Golf Course, or even whether feasible mitigation can be found for all of the significant impacts that may be identified. Under this second scenario, the CEQA documentation for the Institute Golf Course is subject to change in ways that cannot now be known, precluding an evaluation by the Parks Department of the cumulative effects of the Coyote Project in combination with the Institute Golf Course.

A second point of consideration is that Draft EIR for the Institute Golf Course, which as noted the Lead Agency has withdrawn and evidently intends to recirculate, identified significant

unavoidable impacts for a number of issues concerning endangered species, flooding, water supply, among others, through an after-the fact analysis. As a consequence, the analysis in the Draft was obliged to conclude that certain impacts for which feasible mitigation is generally available were in fact significant and unavoidable because the impacts are actually occurring and have not yet been ameliorated. This analytic approach renders use of the analysis in the Draft EIR for the Institute Golf Course problematic, even if it is assumed that the technical data and analyses in the document are accurate.

Nonetheless, because the CEQA process for the Institute Golf Course has begun and is expected to be completed and approval of the Institute Golf Course considered, it ensures a conservative and inclusive analysis of the potential cumulative impacts of the Coyote-Bear Park project to include the Institute Golf Course. Although the revised Institute Golf Course DEIR is not yet available, the January 2003 DEIR provides information that enables a qualitative assessment, although with the caveat that the assessment is subject to revision based on the recirculated Draft. For comparison, the subject headings used in the Coyote Bear DEIR are used here. Subject headings in The Institute Golf Course DEIR (January 2003) are cross-referenced in the discussion.

BIOLOGICAL RESOURCES

The Institute Golf Course DEIR (January 2003) found significant cumulative impacts would result to special status species. No mitigation measures for impacts to special status species are proposed as part of the Institute Golf Course. In contrast, the Coyote Bear DEIR proposes mitigation measures to avoid, minimize and compensate for potential impacts at both the project and program level of development, with the result being a reduction in project impacts to a level that is less than significant. With implementation of the mitigation measures identified in the Draft EIR, the incremental contribution of the Coyote Bear Park project to cumulative effects on special status species would be insubstantial.

HYDROLOGY, FLOODPLAINS AND WATER QUALITY

The Institute Golf Course DEIR (January 2003) found significant cumulative impacts would result to water supply, ground water quality, surface water quality, and surface water runoff. No mitigation measures for impacts to these resources are proposed as part of the Institute Golf Course. In contrast, the Coyote Bear DEIR proposes mitigation measures to avoid, minimize and compensate for potential impacts at both the project and program level of development, with the result being a reduction in project impacts to a level that is less than significant. With implementation of the mitigation measures identified in the Draft EIR, the incremental contribution of the Coyote Bear Park project to cumulative effects on hydrology and water quality would be insubstantial

With regard to water supply, the Coyote Bear DEIR includes mitigation that commits the Parks Department to explore and develop alternatives to reliance on groundwater for irrigation and other uses. The framework of the DEIR establishes that this would occur for program-level

elements of park development at such time that design of those phases is initiated and the specific water needs are analyzed.

Similarly, the effects of golf courses on groundwater quality were evaluated and discussed as potentially significant in the DEIR; accordingly, the DEIR also discussed feasible mitigation measures that would lessen project impacts. The measures include conforming to the County's guidelines for chemical use on golf courses, and not relying on groundwater for golf course irrigation, which can elevate already problematic nitrate levels. Several viable options for sources of irrigation, all of which are compatible with objectives to limit reliance on groundwater, have been identified, including:

- The San Felipe Pipeline, owned by the U.S. Bureau of Reclamation (USBR) and operated by the Santa Clara Valley Water District (SCVWD) traverses the West Flat Area of Coyote Lake Harvey Bear Ranch. Raw (untreated) Water in the pipeline travels to SCVWD treatment facilities and then to water retailers that provide domestic water service to residential and commercial customers. SCVWD has indicated to the Parks Department that it may be possible to provide raw water for irrigation, but that the preference of the SCVWD Board of Directors is to limit such "non-essential" uses to maximize the availability of the water to the retailers and their customers. Instead, SCVWD encourages the Parks Department to participate in a recycled water program, which would provide a substantial opportunity for much-needed disposal of treated wastewater.
- The City of Gilroy Municipal Water Treatment Plant is undergoing planning for expansion, with an estimated completion date in 2005. At that time, the volume of tertiary treated water, which meets California State Title 22 standards of suitability for irrigation of public parks and agricultural crops, will increase from 3 million gallons per day (MGD) to 6 MGD. The City of Gilroy and SCVWD is currently identifying potential customers and possible delivery routes for this treated water, including several other golf courses on the west side of the valley.
- Natural springs on the western slopes of Bear Ranch are currently producing in excess of 70,000 gallons per day. These sources have been used in the past, and could be further developed for use in irrigation, as well as for enhancement of riparian corridors.

The Institute Golf Course DEIR also identifies as significant and unavoidable impacts the degradation of surface water quality resulting from discharge of sediments and pollutants into Corralitos Creek, and an increased potential for flood related property loss or hazard to human life. Additionally, the Institute Golf Course DEIR determined that project would result in increased soil erosion and non-point source pollutants entering surface waters, higher nitrogen loading to downstream surface waters, and contamination of on-site drainages and downstream creeks with pesticides.

The Coyote Bear Park DEIR evaluated the same types of potential impact sources and incorporated mitigation measures to reduce the impacts to a level that would be less than significant. These measures include an appropriate implementation approach that begins with consultation and compliance with relevant Federal, State and local regulations, and incorporates the specific types of actions that typically, and at a minimum, would be required as conditions of

approval of the project. The DEIR also identifies strategies for minimizing reconfiguration of streams to be incorporated into eventual design plans, minimum qualifications for preparers of plans involving stream re-alignment, and quantitative criteria for monitoring turbidity of any discharge to streams.

TRAFFIC AND CIRCULATION

Neither the Institute Golf Course or Coyote Bear Park DEIRs found significant impacts associated with traffic and circulation. The traffic networks of the two projects overlap only on San Martin Avenue, which, in later phases of park development, will be the primary access route to the West Flat Area, and is one of two access routes to the Institute Golf Course from Highway 101. The Institute Golf Course, as a private facility, would generate far fewer peak hour trips than the County CMA threshold of significance, and would therefore not “exceed the capacity of the roadway system”. Traffic analysis of the Coyote Bear Park also found no significant incremental increase in trips or decrease in level of service at either the project or program level. Changes in level of service are expected as a result of regional growth and concomitant increases in vehicle trips, primarily along the Leavesley Road corridor. The increases in regional cumulative traffic have been taken into account in the Coyote Bear DEIR analyses of future years.

OTHER ISSUE AREAS

The Coyote Bear DEIR found no potentially significant cumulative effects in other issue areas, including air quality, cultural resources, geology, geohazards and soils, hazardous materials, land use, noise, public services and utilities, recreation, and visual resources. No information exists at this time, including the now withdrawn EIR for the Institute Golf Course, which indicates the less-than-significant incremental project impacts of the Coyote Bear Park project disclosed under these topic headings would constitute a cumulatively considerable contribution to a significant cumulative impact.

Because specific timelines for implementation of facilities that could be developed under the Master Plan are not known and no projects are currently planned within the adjacent jurisdictions, assessing the expected environmental effects that these projects would produce entails speculation. However, there are two general categories of effects that could be expected. The first and most widespread would be general construction impacts, such as temporary air quality degradation and increased erosion resulting from earth movement. However, construction impacts would be temporary and local in nature and thus unlikely to constitute cumulatively considerable contributions to cumulative significant impacts. The second category of impacts is related to operational effects to regional traffic, air quality, and potential habitat alterations and effects on wildlife.

Implementation of the Master Plan, in conjunction with other regional projects and ongoing regular park maintenance activities, could adversely affect Park resources. However, implementation of mitigation measures identified in Chapter 3 and included as part of the Master Plan would reduce any impacts, including cumulative impacts, to a less than significant level. In

addition, the County would require examination of program-level facilities at the time they are proposed for implementation to determine if further environmental review at a more detailed project-specific and site-specific level is necessary, including analysis of potential cumulative effects.