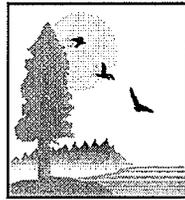


CALIFORNIA STATE LANDS COMMISSION

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Established in 1938

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December 17, 2015

Holly Roberson, Land Use Counsel
Governor's Office of Planning and Research
1400 Tenth Street
Sacramento, CA 95814

Subject: Discussion Draft of Proposed Changes to Appendix G of the California Environmental Quality Act (CEQA) Guidelines Incorporating Tribal Cultural Resources

Dear Ms. Roberson:

The California State Lands Commission (CSLC) staff has reviewed the subject Discussion Draft, which proposes changes to Appendix G of the State CEQA Guidelines to comply with Public Resources Code section 21083.09. Section 21083.09 states:

On or before July 1, 2016, the Office of Planning and Research shall prepare and develop, and the Secretary of the Natural Resources Agency shall certify and adopt, revisions to the guidelines that update Appendix G of Chapter 3 (commencing with Section 15000) of Division 6 of Title 4 of the California Code of Regulations to do both of the following:

- (a) Separate the consideration of paleontological resources from tribal cultural resources and update the relevant sample questions.*
- (b) Add consideration of tribal cultural resources with relevant sample questions.*

In the Discussion Draft, the Governor's Office of Planning and Research (OPR) offers three alternatives to address this requirement. CSLC staff requests that OPR consider the following comments.

1. CSLC staff believes neither Alternative 1 nor Alternative 2, as proposed, meets the intent of section 21083.09 that the consideration of paleontological resources be separated from tribal cultural resources. The Discussion Draft (page 2) states "[e]ach of these three options include tribal cultural resources and separate out paleontological resources...." While it is true that each of the alternatives presented have tribal cultural resources and paleontological resources in separate *sample questions*, only Alternative 3 removes paleontological resources from the "Cultural Resources" *analysis section*. This is an important distinction. Staff recommends removal and relocation of the paleontological sample question from any alternative ultimately adopted. For example, staff suggests moving the sample question "[d]irectly or indirectly destroy a unique paleontological resource

or site or unique geologic feature” to the “Geology and Soils” analysis section or other appropriate location in Appendix G. This revision would separate tribal cultural resources, which pertain to people and their cultures, from paleontological resources, which generally pertain to fossils, and from geologic features, which generally pertain to rocks and minerals.

2. CSLC staff recommends against Alternative 3. Staff is aware that OPR, in addition to the Appendix G changes related to tribal cultural resources, is preparing a comprehensive update to the State CEQA Guidelines that is intended to result in improved efficiency and “update, consolidate, and streamline the environmental checklist...” (*Proposed Updates to the CEQA Guidelines, Preliminary Discussion Draft, August 11, 2015, page 7*). With this in mind, staff believes that Alternative 3 is the least desirable of the options presented, as it appears to complicate the impact analysis by separating into individual sample questions the ways in which a resource could meet the definition of a “tribal cultural resource” as found in Public Resources Code section 21074. In practice, a lead agency undertaking an impact analysis first determines whether tribal cultural resources are present by applying the definitions in that section, then determines whether the project would cause a substantial adverse change in that tribal cultural resource, regardless of the means by which it met the definition. It is difficult to understand, then, if a tribal cultural resource was present based on being included in the California Register of Historic Resources, what impact boxes a lead agency should check for the remaining sample questions.
3. CSLC staff believes Alternative 2, minus paleontological resources, is the best option. Provided that the sample question regarding paleontological resources is moved to a different analysis section within Appendix G, as suggested above, this alternative includes a more comprehensive explanation of the definition of tribal cultural resources than the other alternatives without adding duplicative sample questions.

Thank you for this opportunity to provide input on the proposed changes to Appendix G. Please refer questions concerning the comments above to Jennifer DeLeon, CSLC Tribal Liaison, at (916) 574-0748 or via email at jennifer.deleon@slc.ca.gov.

Sincerely,



Cy R. Oggins, Chief
Division of Environmental Planning
and Management

cc: Office of Planning and Research
J. DeLeon, CSLC Tribal Liaison
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