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**Sent:** Monday, October 12, 2015 2:57 PM  
**To:** CEQA Guidelines  
**Subject:** Comments on Preliminary Discussion Draft of Proposed Updates to the CEQA Guidelines

Monday 12 October 2012

Governor's Office of Planning and Research:

I have reviewed the Preliminary Discussion Draft of Proposed Updates to the CEQA Guidelines (Appendix G Initial Study Checklist) and offer the following comments/suggestions:

1. I see no advantages but several disadvantages to lumping disparate topics into the new section entitled "Open Space, Managed Resources and Working Landscapes". This new section contains topics that are completely unrelated and, thus, ends up being a mish mash or hodgepodge. The result is that there is a risk that individual topics will get lost in the haze. If there is an advantage to combining so many unrelated topics into one section, why separate out any one topic into its own section? Rather, combine all topics under one heading. If lumping "Managed Resources" into this new section is advantageous, why not include all "Managed Resources" into one section, including biological resources, cultural resources, historical resources, etc.? After all, these are all managed resources, why separate out some and not others? To an outside observer, it would appear that, by separating out certain topics and lumping others, OPR is signaling that some managed resources are more important than other managed resources. If all topics are of equal importance (i.e., equal rank), then each should have its own section. In my opinion, it is simply unreasonable to create a hodge-podge category that includes fish, wildlife, water, soils, agriculture, timberland, wildfires, geohazards, paleontological resources, etc. The current Checklist (with a few exceptions) functions quite well in dividing environmental topics into sections that allow one group of specialists to address that section. In contrast, no group of specialists will be able to address all, or even most of topics in the proposed new section. The only persons who could possibly be responsible to handle all of these unrelated topics would be a generalist. Yet, specialists are required to handle each separate topic. It seems far more reasonable to me to include each separate topic into its own section, which then can be addressed by one group of specialists -- biologists, archaeologists, geologists, paleontologists, etc.

2. Let me provide a specific example. The current Checklist Section V.(c) asks the question: "*Would the project [d]irectly or indirectly destroy a unique paleontological resource...?*" Paleontological resources are not cultural resources and, thus, this question was inappropriately included with Cultural Resources in the Checklist. AB 52 has resolved this issue by requiring that paleontological resources be removed from the Cultural Resources section. When paleontological resources was included in Cultural Resources, many cultural resource initial studies and many EAs and EIRs failed to address potential impacts to paleontological resources. Cultural resource specialists (historians and archaeologists) who were assigned the task of completing the Cultural Resource section were simply not prepared to address potential adverse impacts to paleontological resources and left it out of their section report. The same thing is likely to happen if paleontological resources are included into another inappropriate combination of topics in the proposed new section entitled "Open Space, Managed Resources and Working Landscapes".

3. Since AB 52 has mandated that paleontological resources be moved out of the section entitled Cultural Resources, where should it be moved? Moving paleontological resources to the Checklist section on Geology and Soils, along with the question: "*Would the project...[d]irectly or indirectly destroy a...unique geologic feature?*", would be a better placement than with Cultural Resources. However, questions in the Geology and Soils portion of the Checklist deal primarily with geologic hazards, erosion, and loss of top soil; paleontological resources do not fit well there either. Like cultural resource specialists, most geologists and soil scientists are also ill prepared to deal with potential adverse impacts to paleontological resources. Including paleontological resources with Biological Resources might be an even better fit, since fossils are after all the remains of prehistoric biological resources or paleobiological resources. However, like most cultural resource specialists, geologists, and soil scientists, most biologists are also ill prepared to deal with potential adverse impacts to paleontological resources. It takes a knowledgeable specialist to deal with specialty topics. Therefore, I suggest that the best way to handle paleontological resources is to include them as a separate section, equal in rank with both Biological and Cultural Resources and with Geology and Soils. Paleontology is an interdisciplinary science including some biology, some geology, and even some archaeology. However, it is a distinct science separate from each of these other fields. It is time that the CEQA Checklist stop treating paleontology as a bastard step-child to some other resource by placing it under some category in which it does not comfortably fit. Instead, include Paleontological Resources as an equal member of the "family". In the attached version of the Checklist, I have suggested a new section for Paleontological Resources, as well as made necessary changes to other sections. To be easily found, my suggested changes are in red text highlighted in yellow.

4. In the proposed a new section entitled "Open Space, Managed Resources and Working Landscapes", the revised question regarding potential impacts to paleontological resources is: "*Would the project adversely impact open space for the preservation of natural resources, including, but not limited to,...unique paleontological resource or site or unique geologic feature?*" What does open space have to do with the preservation of paleontological resources? Very little is the answer. There may be more paleontological resources under developed, urban lands than under most open space (think Sierra Batholith). Maybe the OPR has paleo confused with archaeo AGAIN! Since most archaeological resources are found at or near the surface, open space could perhaps contribute to their preservation, but since most paleontological resources are found in the subsurface, leaving open space is not going to significantly contribute to the preservation of fossils. Basically, since open space and paleontological resources are unrelated, the question is meaningless as written. Fossils are found more frequently under high-rise buildings in downtown San Francisco or San Diego than they are in the entire extent of the Sierra Nevada.

5. In addition, the EPA defines "open space" as an undeveloped piece of land without buildings or structures and that is available for public access. Thus, if this definition is applied to the term "open space" as used in CEQA, environmental impacts to resources found on private lands or those underlying developed property would potentially not be addressed.

6. The current CEQA Checklist applies unequal criteria regarding the severity of potential impacts that need to be considered to biological, cultural, and paleontological resources. For

both Biological and Cultural Resources, the criteria are "*have a substantial adverse effect on*" biological resources or "*cause a substantial adverse change*" to archaeological resources. In stark contrast, for paleontological resources, the criteria are "*destroy a unique paleontological resource*". In other words, in the current Checklist, to be considered a potentially significant impact, paleontological resources must not be just adversely affected as must biological resources or adversely changed as must cultural resources; they must be destroyed! In addition, in the current Checklist, the only significant impacts to be considered are impacts to "*unique*" paleontological resources, rather than adverse impact to any or all paleontological resources. (Incidentally, the word "*unique*" is not defined in CEQA when applied to paleontological resources.) To be consistent, the Checklist should consider only adverse impacts that have the potential to "*destroy unique*" biological and cultural resources. Of course, this language is absurd, but it is just as absurd to use this criterion for paleontological resources. To correct this unequal treatment of equally significant resources and to be consistent, I suggest that the Checklist language for paleontological resources simply be changed to "*have a substantial adverse effect on paleontological resources.*" The attached version of the Checklist uses this revised language.

[Thank you](#) for considering each of my suggestions above. I would be pleased to have the opportunity to discuss these items further with persons involved in amending the CEQA Initial Study Checklist.