

RESOLUTION NO. 01-043

RESOLUTION OF THE BOARD OF SUPERVISORS, COUNTY OF LASSEN, AMENDING PROCEDURES FOR THE ADMINISTRATION OF THE CALIFORNIA ENVIRONMENTAL QUALITY ACT BY THE COUNTY OF LASSEN

WHEREAS, Public Resources Code Section 21082, as a provision of the California Environmental Quality Act (CEQA), requires that all public agencies shall adopt objectives, criteria and procedures for the evaluation of projects and the preparation of environmental impact reports and negative declarations; and

WHEREAS, said section requires that said objectives, criteria and procedures shall be consistent with the guidelines certified and adopted by the Secretary of the Resources Agency pursuant to Public Resources Code Section 21083; and

WHEREAS, periodic amendments to said guidelines require modification of Lassen County's procedures for environmental review, and

WHEREAS, it is in the interest of the County of Lassen to improve the efficiency and effectiveness of its environmental review procedures to better serve the public and fulfill its responsibilities under CEQA.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Supervisors of the County of Lassen hereby adopts the objective, criteria and implementation procedures attached to this resolution and incorporated herein under the title of "Lassen County Environmental Review Guidelines"; and

BE IT FURTHER RESOLVED, that the Board of Supervisors hereby adopts and incorporates by reference the State CEQA Guidelines as adopted and amended by the Secretary of Resources as Chapter 3, Division 6, Title 14 of the California Code of Regulations, with the additions and modifications set forth in said "Lassen County Environmental Review Guidelines"; and

BE IT FURTHER RESOLVED, that this resolution repeals and supercedes Resolution 01-003; and

BE IT FURTHER RESOLVED that this resolution shall become effective on May 22, 2001.

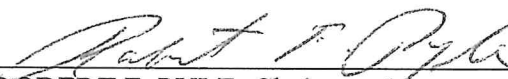
The foregoing resolution was adopted at a regular meeting of the Lassen County Board of Supervisors on the 22nd day of May, 2001, by the following vote:

AYES: Supervisors Pyle, Keefer, Dahle

NOES: Supervisor McCain

ABSTAIN: None

ABSENT: Supervisor Chapman


ROBERT F. PYLE, Chairman
Lassen County Board of Supervisors

ATTEST:


Theresa Nagel, County Clerk

I, THERESA NAGEL, Lassen County Clerk, and ex-officio clerk of the Board of Supervisors, do hereby certify that the foregoing resolution was adopted by the Lassen County Board of Supervisors on the 22nd day of May, 2001.

 (Deputy)
COUNTY CLERK AND EX-OFFICIO CLERK OF THE
BOARD OF SUPERVISORS
Michele J. Yderraga



LASSEN COUNTY ENVIRONMENTAL REVIEW GUIDELINES

INTRODUCTION

The County of Lassen acknowledges and supports the basic purposes of CEQA, as set forth in the State CEQA Guidelines, Section 15002 (a). The basic purposes of CEQA are to:

- a) Inform governmental decisionmakers and the public about the potential, significant environmental effects of proposed activities.
- b) Identify the ways that environmental damage can be avoided or significantly reduced.
- c) Prevent significant, avoidable damage to the environment by requiring changes to projects through the use of alternatives or mitigation measures when the governmental agency finds the changes to be feasible.
- d) Disclose to the public the reasons why a governmental agency approved the project in the manner the agency chose if significant environmental effects are involved.

In order to ensure conformity with the State CEQA Guidelines, Lassen County hereby re-adopts said Guidelines and incorporates them by reference in the County's Environmental Review Guidelines. The objectives of the County's Guidelines are:

- a) To comply with Section 15022 of the State CEQA Guidelines which requires that each public agency shall adopt objectives, criteria and specific procedures consistent with CEQA and the State's Guidelines for administering its responsibilities under CEQA; and
- b) To establish local procedures and provisions that are necessary to tailor the general provisions of the State's Guidelines to the specific operations of the agency.

1. COUNTY LEAD AGENCY RESPONSIBILITIES

- a) These guidelines apply to "projects" in which the County of Lassen is the "Lead Agency" under the criteria set forth in CEQA. A "project", as defined in Section 21065 of Public Resources Code, includes any of the following:
 - 1. An activity directly undertaken by any public agency.

2. 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.
 3. 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.
- b) The Board of Supervisors, consistent with State CEQA Guidelines Section 15025, has assigned specific functions to its Planning Commission and staff to assist in administering CEQA. In cases where the Board has delegated decision-making authority to the Planning Commission, the Commission, as the "primary decision making body," shall perform the functions of Lead Agency under the delegation of the Board.
1. The delegation of primary decision-making authority by the Board of Supervisors to the Planning Commission does not waive any appeal rights of an applicant otherwise granted by the Lassen County Code, Title 18, these guidelines, or applicable ordinances. When a project decision of the Planning Commission is appealed to the Board, the Board shall resume authority and duties of Lead Agency under CEQA relating to the project in question.
 2. Neither the Planning Commission nor the Board of Supervisors, in executing their decision-making responsibilities, shall delegate the following CEQA functions:
 - A. Reviewing and considering a final EIR or approving a Negative Declaration prior to approving a project.
 - B. The making of findings as required by State CEQA Guidelines Sections 15091 (regarding findings in an EIR) and 15093 (regarding Statements of Overriding Considerations in an EIR).
 3. Where the Planning Commission*, as an advisory board, is required to make a recommendation on a project to the decision-making body, the Commission shall also review and provide recommendations upon the EIR or Negative Declaration in draft or final form.

*References to the Planning Commission contained within these guidelines shall be also be deemed to be references to other agencies which are delegated decision-making authority by action of the Board of Supervisors.

2. RESPONSIBILITIES OF THE DIRECTOR OF THE DEPARTMENT OF COMMUNITY DEVELOPMENT

The Director of the Department of Community Development shall:

- a) Be responsible for coordinating Lassen County's environmental review procedures;
- b) Prepare administrative procedures for efficient and effective environmental review processes, including a process to evaluate activities to determine if there is no possibility that the activity may have significant effect on the environment;
- c) Identify and maintain a list of specific activities which are found to be within the categorical exemptions listed in the CEQA Guidelines, and are exempt from CEQA.
 - 1. The Director shall consider the intent of the Legislature in identifying categorical exemptions and the applicability of that intent in Lassen County, given local conditions when determining such local exemptions.
 - 2. Upon request by any person, the Director shall consider the potential effects of the specific activity set forth in the request and shall, within 30 days, either list the specific activity as categorically exempt or determine that the activity is subject to CEQA review.
 - 3. The Director shall maintain an official list of "locally exempt" activities.
- d) Identify and maintain a list of projects or permits over which the County has only ministerial authority.
- e) Advise the Board of Supervisors on State environmental review requirements, and prepare and submit to the Board proposed amendments to the County's environmental review procedures; and
- f) Advise other agencies in Lassen County, upon request, on compliance with and implementation of CEQA.

3. DESIGNATION OF ENVIRONMENTAL REVIEW OFFICER

- a) The Lassen County Director of Community Development is hereby designated to serve as the "Environmental Review Officer" (ERO) for all projects under the responsibility of the Planning Commission and Board of Supervisors that are subject to environmental review under CEQA. Functions delegated to the ERO in

this resolution shall be performed on behalf of and under the title of Lead Agency.

- b) Upon approval by the County Administrative Officer, Department Heads of the various Lassen County Departments (e.g. Public Works, Sheriff's Department, Probation, Public Health, Lassen Works, etc.) may assume ERO status and will be responsible for CEQA compliance on projects administered by their departments.

4. DUTIES OF THE ENVIRONMENTAL REVIEW OFFICER

- a) The ERO may delegate to staff members under the ERO's supervision authority to act on the ERO's behalf on all environmental matters for which the ERO is responsible.
- b) The ERO shall:
 - 1. Determine whether proposed projects are exempt from environmental review requirements of CEQA and these guidelines.
 - 2. Prepare Initial Studies and determine the environmental significance of each proposed project;
 - 3. Recommend environmental findings to the Lead Agency;
 - 4. Prepare or cause to be prepared mitigation measures for negative declarations and EIRs, if necessary, and include those measures in any staff report on any project to which CEQA is applicable;
 - 5. Prepare or cause to be prepared responses to written comments received on draft EIRs;
 - 6. Conduct public hearings pursuant to State Guidelines Section 15087 and as deemed necessary or beneficial to determine the adequacy of draft and final EIRs;
 - 7. Conduct scoping meetings and other public meetings deemed to be beneficial to the environmental review process by the ERO and Lead Agency;
 - 8. Comment on environmental documents of a Lead Agency pursuant to Guidelines 15096 (d) when the County is a Responsible Agency for the Lead Agency's project;

5. ENVIRONMENTAL REVIEW PROCESS

- a) When the County determines to carry out a project, or an entitlement proposal is accepted for processing, the following process shall be administered.
 - 1. The ERO shall conduct a preliminary review of all projects and determine, within 30 days, whether the project is ministerial or otherwise exempt from CEQA.
 - 2. An Initial Study, as defined pursuant to Section 15365 of the State CEQA Guidelines, shall be prepared by the ERO for each project which is not exempt from CEQA and for which a complete application has been accepted. The process for preparation of an Initial Study shall be as prescribed by the ERO, pursuant to Section 2 (B) of these Guidelines.

6. DETERMINATION OF THE APPROPRIATE ENVIRONMENTAL DOCUMENT

- a) The ERO shall review the Initial Study and determine whether:
 - 1. The Initial Study shows there is no substantial evidence that the project may have a significant effect on the environment and a Negative Declaration should be prepared; or
 - 2. The Initial Study identified potentially significant effects, but revisions in the project would avoid the effects or mitigate the effects to a point where no significant effects would occur, and there is no substantial evidence that the project as revised may have a significant effect on the environment, consequently a Negative Declaration should be prepared; or
 - 3. There is substantial evidence that the project may have a significant effect on the environment and an EIR should be required.
- b) The ERO may refer projects to the Planning Commission, or to the Board of Supervisors as applicable, for the purpose of making a determination of whether an EIR or a Negative Declaration shall be prepared.
- c) Except as provided in subdivision (e) of this Section, in the event that the ERO, after review of the Initial Study, makes a preliminary determination that an EIR should be prepared, the referral of the determination will be scheduled for Public Hearing by the primary decision-making body. Unless the applicant concurs with the preliminary determination of the ERO to begin preparation of an EIR, the primary decision-making body will make a determination as to whether an EIR or Negative Declaration should be

prepared. Review will not be limited to the record, and relevant new information, recommendations and public comment will be encouraged. If an appeal is made to the Board of Supervisors on a determination by the Planning Commission, the appeal shall be made pursuant to this Section.

- d) The Lead Agency shall determine within 30 days after acceptance of an application as complete whether an EIR or a Negative Declaration will be required, or whether to use a previously prepared EIR or Negative Declaration. The 30-day period may be extended 15 days upon mutual consent of the project applicant and the Lead Agency. A determination made by the ERO or the Planning Commission on behalf of the Lead Agency shall satisfy the time limits set forth in Section 15102 of the State CEQA Guidelines, regardless of any pending appeals on the determination.
- e) The ERO may forego the process of determining whether an EIR or Negative Declaration will be prepared including preparation of an Initial Study if the proponent of the project authorizes the preparation of an EIR.
- f) Any person dissatisfied with the determination of the Planning Commission to require an Environmental Impact Report or Negative Declaration, or to require a revision of a project to qualify for a Negative Declaration, may, within 10 days following such determination, appeal the same to the Board of Supervisors. The appeal shall be taken by filing a notice thereof with the ERO, stating with particularity the findings of the Planning Commission, which are claimed to be unsupported by the record of the matter. Thereupon, the ERO shall transmit the complete record of the Planning Commission action on the application, together with the Notice of Appeal, to the Clerk of the Board of Supervisors, who shall place the matter upon the agenda of the Board of Supervisors as a public hearing at its first meeting occurring at least 14, but not more than 28 days, following receipt by the Clerk of the Notice of Appeal. The Board of Supervisors shall make its independent findings and determination as to the appropriate environmental document.

Regardless of the duration or the outcome of any referral or appeal of an environmental determination, the initial determination of the ERO or the Planning Commission shall comply with and thereby satisfy the time limit requirements of State Guidelines, Section 15102.

7. PREPARATION OF ENVIRONMENTAL DOCUMENTS

a) Preparation of Negative Declarations

1. Negative Declarations shall be prepared pursuant to Sections 15070 and 15071 of the State CEQA Guidelines.
2. The ERO may require the applicant of a project to supply any additional data and information identified by the ERO, responsible agencies, and/or commenting agencies and persons as necessary for the preparation of adequate environmental documents.

b) Preparation of Environmental Impact Reports

1. Environmental Impact Reports shall be prepared in conformance with the CEQA Guidelines, Section 15080 et. Seq.
2. For EIRs related to entitlement applications, the following provisions shall apply:
 - A. When a determination has been made that an EIR is the appropriate environmental document, the project applicant shall be notified. Preparation of the Draft EIR, including the sending of Notices of Preparation, will not be initiated until the applicant has paid the appropriate EIR preparation fees. Delay in paying the fees shall suspend the running of the time periods described in the CEQA Guidelines. Failure to pay within six months of notification that an EIR will be required may result in disapproval of the project application, or an interpretation that the project has been withdrawn.
 - B. The County may hire independent contractor(s) to prepare and/or administer contracts for preparation of the EIR. The ERO shall have the discretion to determine when a contractor should be hired and the extent of contractor services.
 - C. The County shall be responsible to ensure the adequacy of the EIR and to that end, will exercise its sole discretion as to content and quality of the EIR.
 - D. The County, or its contractor(s), may make use of outside studies of environmental factors prepared by consultants not on the staff of or under the direction of the County's consultant and contracted for before the approval of the County's consultant contract. The consultant may also utilize information obtained from ongoing studies regarding factual environmental information related to the subject property and its surroundings, even though the authors are not on the staff of or under the direction of the County's consultant. In either case, the County's

consultant must independently (1) verify the professional competence and expertise of the study author(s), (2) agree with the study methodology, and (3) determine the factual validity of environmental conclusions drawn from these studies.

- E. The project proponent, pursuant to a funding agreement executed by the County and proponent, shall pay the cost of preparing an EIR. Such funds as may be required to meet the proponent's obligation under the funding agreement, shall be paid to the County prior to the County beginning or continuing work on the EIR. The funds shall be deposited into a non-interest bearing trust account.
- F. In the event that a project proponent withdraws an application after preparation of an EIR has begun, the following provisions shall pertain to the return of any EIR filing fees:
 - 1) If the project is withdrawn or otherwise terminated prior to the payment of the proposed contract costs, 60 percent of the EIR filing fee will be returned.
 - 2) If the project is withdrawn or otherwise terminated after a third party contract is entered into for preparation of the EIR, and before a public hearing on the Draft EIR has been initiated, 20 percent of the EIR filing fee will be returned.
 - 3) If the project is withdrawn or otherwise terminated after initiation of the public review period on the Draft EIR, no part of the EIR filing fee will be returned.

8. FINAL PROJECT DECISION BY LEAD AGENCY

- a) If an EIR was prepared to consider the environmental effects of the project, prior to making its final decision to approve or carry out the project, the County shall, follow the procedures set forth in Sections 15089 through 15091.
- b) Upon making its final decision to approve or carry out a project, the County shall,
 - 1. if a Negative Declaration was prepared to consider the environmental effects of the project, meet the requirements of Section 15075, or
 - 2. if an EIR was prepared to consider the environmental effects of the project, follow the procedures set forth in Sections 15092 through 15095

3. Upon adoption of a negative declaration, a mitigated negative declaration or certification of an EIR, the ERO shall file, within five workings days, a Notice of Determination pursuant to Guidelines Section 15075 or 15094. When the approving authority acts as Responsible Agency, the ERO shall file or cause to be filed a Notice of Determination pursuant to Guidelines Section 15096 (i).

Adopted January 23, 2001, Board of Supervisors Resolution No. 01-003
Revision 1: May 22, 2001, Board of Supervisors Resolution No. 01-____
Effective Date: May 22, 2001