

## Outline - Lecture 3

- Freewrite
- Announcements
- Review – Process: Exemptions
- PROCESS: Initial Study
- SUBSTANCE
  - Thresholds of significance
  - Individual and cumulative impacts
- Questions

### Review

- Freewrite:
  - What is a difference between a statutory and a categorical exemption to CEQA?
    - ♦ Which one has exceptions, and what are they?
    - ♦ Why would a project proponent file a notice of exemption?
    - ♦ Where is the notice posted?

### Announcements

- Hand out
  - Freewrites/Questions from end of class
    - ♦ Trustee agencies
    - ♦ Partial exemptions
  - Notices of Exemption
  - Meeting Plans
  - Group notes

### Starting the assessment process

- Phase one - Scoping
  - Define project
  - Check for exemptions
- Phase two – Focusing - Initial Study
  - Checklist and explanations
- Phase three - Evaluation of significance
  - Negative Declaration or
  - Environmental Impact Report
- Decision

### Initial Study – why?

- Lead agency completes Initial Study to:
  - Decide whether to prepare
    - ♦ Negative Declaration (ND) or Mitigated ND, or
    - ♦ Environmental Impact Report (EIR), and
  - Focus ND or EIR on potentially significant effects

### The risks of rushing environmental impact assessment

- Environmental risk +
  - Risk of a bad decision +
  - Risk of not disclosing to the public =
  - LEGAL RISK
- (p.8)

### Do you ever skip the initial study?

- If EIR is definitely required, initial study not needed:
  - new hazardous waste incineration
  - open pit mining with cyanide
  - new UC, CSU or JC campus

### What is in an Initial Study?

- Identifying Information/Location and contacts
- Project Description
- Checklist
- For each resource area potentially affected:
  - Environmental setting *before* project
  - Objective threshold of significance (from checklist)
  - Significance level
  - Impact explanation
  - Mitigations (if required)
- Recommendation for ND or EIR

### Identifying Information

- (p. 313)
- location includes cross-streets
  - General Plan designation (see maps)
  - Zoning (see zoning maps)
  - Contact people at lead agency
  - Project proponent

### Project Description

- Should cover all phases
  - planning, implementation, operation
- Clear and complete enough to evaluate
  - objectives of project
  - potential impacts of project

### Checklist

- (p.314+)-- Appendix G of guidelines
- Also, see appendix F for energy

### For each resource area with any impact greater than “no impact”

- Naked checklist is insufficient!
- a) *Environmental Setting* before project
  - physical condition of the resource
    - ♦ on site
    - ♦ in adjacent environment

### b) Thresholds of significance:

- “a quantitative or qualitative standard, or set of criteria, pursuant to which the significance of a given environmental effect may be determined”
  - established health standards
  - public service capacity
  - ecological tolerance standards
  - established guidelines and local registers
    - ♦ See Figure 5-2 (p.97)

### Where do you find thresholds?

- This is the SUBSTANCE part
- Start with the checklist questions
  - Rephrase questions as “if ..., then the impact would be considered significant.”
  - See Figure 2-8, p.42
- ...then find local criteria
- Consult the relevant LOCAL planning docs:
  - Check General and Specific Plans

[http://www.sanjoseca.gov/planning/gp/2020\\_text/Pdf\\_version/2007/GP\\_TOC\\_2007\\_06-05.pdf](http://www.sanjoseca.gov/planning/gp/2020_text/Pdf_version/2007/GP_TOC_2007_06-05.pdf)

- [http://www.sanjoseca.gov/planning/spec\\_plan/default.asp](http://www.sanjoseca.gov/planning/spec_plan/default.asp)
- Zoning  
[http://www.sanjoseca.gov/planning/pdf/zoning\\_code.pdf](http://www.sanjoseca.gov/planning/pdf/zoning_code.pdf)
- other local environmental ordinances
- Adopted thresholds (see appendix 10, p. 393) and  
<http://ceres.ca.gov/planning/ceqa/thresholds.html>

#### *c) Significance level*

- Four choices (from checklist):
  - no impact  
=====vs.=====
  - 2. less-than-significant or
  - 3. less-than-significant with mitigation incorporation  
===== vs. =====
  - 4. potentially significant
- Reiterate which one you recommend in the text

#### *What amount of impact is “significant?”*

- “a substantial or potentially substantial change in any of the physical conditions within the area affected by the project”
- Yes, this can be tricky

#### *d) Impact explanation*

- Describe the logic/evidence that supports the significance level
  - Clearly relate the projections with the threshold
  - Avoid argument, speculation, opinion, or social factors
    - ♦ cite all sources
    - ♦ Use facts, reasonable assumptions, and expert opinion only!

#### *Impact explanation*

- Consider both direct and indirect effects
- Consider both individual and cumulative impacts

#### *Data used for impact explanations*

- Projections/assumptions from comparable initial studies
- Field studies
- Research maps, existing publications, species lists
- Expert consultants (ideally with degrees) for each resource

#### *e) Mitigations*

- Measures that reduce the impact of human activities
  - from “potentially significant” to “less-than-significant”
    - ♦ See Figure 5-2 (p.97)

#### *Negative Declaration or Environmental Impact Report*

- ND
  - if all impacts are less than significant
- mitigated ND
  - must mitigate all potentially significant impacts to less than significant
- =====
- EIR
  - If even one unmitigatable potentially significant effect remains => complete an EIR

#### *When must an EIR be prepared?*

##### *“Fair Argument” standard*

- Fairly argued in light of the whole record
  - Based on *substantial* evidence
    - ♦ not *solely* arguments, speculation, opinion
  - however, public opinion and controversy *must be* considered if any substantial evidence exists
- *That the project may have a significant effect on the environment*
  - *Even if conflicting evidence exists*

#### *Examples*

<http://www.sanjoseca.gov/planning/eir/eir.asp>  
<http://www.sanjoseca.gov/planning/eir/Nd2/pdc07-024/PDC07-024is.pdf>

See printout

#### *Exercise*

- Find:
  - Identifying information
  - Project description
  - Checklist sections
  - For at least THREE resource areas, identify
    - Environmental Setting
    - Thresholds of Significance
    - Significance level
    - Impact explanations

#### *Discussion Questions:*

- What information would you like to see in the project description in order to evaluate this project more effectively?
- Are the thresholds of significance clearly and concretely identified? How could they be improved?
- Is it easy to find the significance level for each impact?
- Do the impact explanations
  - relate directly to the thresholds,
  - justify the significance levels, and
  - consider indirect and direct, as well as cumulative impacts?
- What document is recommended by this initial study?

#### *Questions:*

*What was the muddiest part of today’s lecture?  
What one question would you like to be answered?  
What was the most interesting part of today’s class?*

*Recommendation for*