Making CEQA Work for You

Rachel E. O’Malley
Department of Environmental Studies
romalley@sjsu.edu
408-924-5450

Invasive Plant Laws and Regulations
Research and Management: Bridging the Gap
California Invasive Plant Council 2006
What is Environmental Impact Assessment (EIA)

- Environmental Impact Assessment: “the process of identifying, estimating and evaluating the environmental consequences of current and proposed actions...”
Environmental Impacts Assessment Goals

• To help decisionmakers assess projects
• To help the public assess decisionmakers
• To protect the environment
The Beginnings of EIA

- 1969 NEPA (National Environmental Policy Act)
  - signed by president…!
- 1970 CEQA (California Environmental Quality Act)
  - signed by governor…!
- 1973 Endangered species act
  - Dovetails with and strengthens CEQA
- Today: 19 US States, 40+ countries have EIA laws
Terminology What’s an EIA?

- California
  - Initial Study
  - Negative Declaration
  - Environmental Impact Report (EIR)
- USA - Federal
  - Environmental Assessment
  - Finding of no significant impact (FONSI)
  - Environmental Impact Statement
The California Assessment Process

Define Project
Check for Exemptions

Possible impacts?
Environmental Checklist & Initial Study

Exempt from CEQA?
Notice of Exemption

No “significant” impacts?
(Mitigated)
Negative Declaration

Impacts potentially significant?
Environmental Impact Report
Environmental Impact Assessment and Invasive Plants

Will invasive plant control cause other environmental impacts?

What level of impact assessment is appropriate?

Will proposed projects contribute to invasive plant introduction or spread?

Should invasive plant control be required as mitigation?
California Players

Will invasive plant control cause other environmental impacts?

- What level of impact assessment is appropriate?
  - Define Project
  - Check for Exemptions (you don’t have to do it)
    - Statutory exemptions
    - Categorical exemptions
Statutory Exemptions

- *Ministerial* projects -- not discretionary
- Emergencies
- Specific activities exempted by state law
  - E.g.: Certain Aspects of Particular Airport Projects related to Certain Salt Ponds
- You’ll know if you have one!
  - Absolute
  - Very Limited
  - Adopted into the CEQA law (PRC§21000+)
  - *no exceptions*
Categorical Exemptions to CEQA

• 33 broad *classes*
  – Five apply to many invasive plant control projects
• Located in CEQA Guidelines, not law (PRC§15301)
• Updated biannually
• Not absolute
  – Do not apply if there is a potential for a significant impact
Categorical Exemption Class 1

• Existing Facilities
  – PRC§15301. Includes maintenance of
    • existing landscaping, native growth, and water supplies (excluding the use of pesticides!)
    • wildlife habitat areas, streamflows, stream channels, to protect fish and wildlife resources
  – Removal of invasive plant growth can often fall under these categories
Categorical Exemption Class 4

- **PRC§15304. Minor Alterations to Land**
  - New gardening with water efficient or fire resistant landscaping
  - Minor alterations in vegetation on existing wildlife areas which improve wildlife resources
  - Fuel management within 30 feet of structures, provided that activities will not result in the take of rare species or cause erosion
Categorical Exemption Classes 7,8

- PRC§15307, §15308. Actions by Regulatory Agencies for Protection of Natural Resources or the Environment
  - Partial exemption for CDFG, Air Board and others
Categorical Exemption Class 33

• Newest Category
• PRC§15333. Small Habitat Restoration Projects.
  – not to exceed five acres in size
  – to assure
    • maintenance,
    • restoration,
    • enhancement, or
    • protection of habitat for fish, plants, or wildlife
Examples of Class 33 Exemptions

- **Revegetation** with native plant species

- **Wetland restoration** to improve conditions for species that rely on wetland habitat;

- stream or river bank **revegetation** to improve habitat for amphibians or native fish;

- projects to **restore or enhance habitat** that are carried out principally with hand labor and not mechanized equipment.

- stream or river bank **stabilization with native vegetation** or other bioengineering techniques, the primary purpose of which is to reduce or eliminate erosion and sedimentation; and

- **culvert replacement** conducted in accordance with published guidelines of the Department of Fish and Game or NOAA Fisheries, the primary purpose of which is to improve habitat or reduce sedimentation.
The risks of rushing environmental impact assessment

- Environmental risk +
- Risk of a bad decision +
- Risk of not disclosing to the public =
- LEGAL RISK

When Categorical Exemptions do not apply (PRC§15300.2)

• Potential for a significant impact?
  a) Location
    – In a particularly sensitive environment
    – of hazardous or critical concern
    – where it has been designated, precisely mapped, and officially adopted
Significant impact in otherwise exempt project?

b) Cumulative Impact
   - successive projects of the same type
   - in the same place,
   - over time

c) Significant Effect
   - due to any other unusual circumstances
     - Rare, threatened or endangered species?
     - Hazardous materials on site?
     - Other?
Other special cases... Categorical CEQA Exemptions do not apply

d) Scenic Highways
   - official scenic resources on scenic highway

e) Hazardous Waste Sites
   - On any list compiled pursuant to PRC §65962.5

f) Historical Resources
   - may cause a substantial adverse change in the significance of a historical resource
Public Notice of Exemption

- Optional
  - reduces *statute of limitations* from 180 to 35 days
  - may be filed by lead agency or applicant
The California Assessment Process

1. Define Project
2. Check for Exemptions
3. Possible impacts? Environmental Checklist & Initial Study
4. Exempt from CEQA? Notice of Exemption
5. No “significant” impacts? (Mitigated) Negative Declaration
6. Impacts potentially significant? Environmental Impact Report
Will invasive plant control cause other environmental impacts?

• What level of impact assessment is appropriate?
  – Possible impacts?
    • Environmental Checklist & Initial Study
Basic Contents of an Initial Study

- Project description
- Checklist (Appendix G of CEQA)
  http://ceres.ca.gov/topic/env_law/ceqa/rev/appg_102698.pdf or
  http://www.califaep.org/initstudy.htm
- Environmental setting
- Potential environmental impacts
  - Brief explanations to support findings
- Mitigation measures for any significant effects
- Monitoring Plans for mitigations (recommended)
SUBSTANCE – What resources do you consider in a California EIA?

- Checklist for entire state of CA
- Each city/county may have stricter standards
Resource Areas Relevant to Invasive Plant Control

e.g.: Checklist section IV – Biotics

California Tiger Salamander  *Ambystoma californiense*
Resource Area
BIOTICS: Environmental Setting

- Describe what’s there PRE-PROJECT
  - Onsite and in the Surrounding area
  - At the time of project proposal
- Site visit, expert evaluation and maps
  - Species of Special Concern
  - Riparian habitat
  - Natural communities
  - Wetlands
  - Migratory corridors
  - Nests/burrows
  - Trees/local resources
Threshold of significance: Would the project:
a) Have a substantial adverse effect, either directly
or through habitat modifications, on any species
identified as a candidate, sensitive, or special status
species:

- in local or regional plans, policies, or regulations (General plan)
- by California Dept of Fish and Game (CDFG)
- by US Fish and Wildlife Service (USFWS)

e.g. Burrowing Owl

*Athene cunicularia*
R, T & E Invertebrates

• T & E Inverts in general
  – shrimp, crayfish, snails, butterflies, beetles, grasshoppers and one fly

• E.g.: Bay Checkerspot Butterfly
  – *Euphydryas editha bayensis*

• E.g.: Mt Hermon June Beetle
  – *Polyphylla barbata*

• T&E Insects [http://www.mip.berkeley.edu/essig/endins/thebugs.htm](http://www.mip.berkeley.edu/essig/endins/thebugs.htm)

• Mostly rely on native plants, but removal actions can have short term effects
Rare, Threatened, Endangered and other Special Status Plants

• Special Status Plants

• California Native Plant Society

• E.g.: Narrow-leaf Spineflower
  – *Chorizanthe angustifolia*
b) Riparian or other sensitive natural community

- Local
  - riparian protection/setback ordinances
Natural Communities

- Dunes
- Scrub/Chapparral
- Wetlands
- Riparian
- Oak Woodland
- Prairie/grasslands
- Pine/evergreen
- Alpine

- [http://www.dfg.ca.gov/whdab/index.html](http://www.dfg.ca.gov/whdab/index.html)
- [http://www.dfg.ca.gov/whdab/pdfs/natcomlist.pdf](http://www.dfg.ca.gov/whdab/pdfs/natcomlist.pdf)
c) Federally protected wetlands
d) Interfere with fish or wildlife movement or breeding...

- Movement of
  - Native resident species
  - Migratory species
- Established migratory corridors
- Native nursery sites

- Migratory Bird Treaty Act
e) local biological resources

- e.g. Trees and Shrubs
  - size
  - heritage
  - historic
  - native
  - particular species

- Even invasives can be heritage!
f) HCP or NCCP

- HCP-- Habitat Conservation Plan
- NCCP-- Natural Community Conservation Plan
Basic Contents of an Initial Study

- Environmental setting
- Potential environmental impacts
  - Brief explanations to support findings
- Mitigation measures for any significant impacts
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This is what we want for Invasive Plant Control Anyway
Environmental Impact Assessment and Invasive Plants

Will invasive plant control cause other environmental impacts?

What level of impact assessment is appropriate?

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Should invasive plant control be required as mitigation?
Many State checklist sections already encompass invasive plants

- Local plans/standards should be developed and adopted to augment the State guidelines
- Required mitigations should include invasive plant control
- Mitigations should be monitored for implementation and effectiveness
Make CEQA Work

Thank you