

STATE OF CALIFORNIA
FISH AND GAME COMMISSION
FINAL STATEMENT OF REASONS FOR REGULATORY ACTION

Amend Section 630, Ecological Reserves
Title 14, California Code of Regulations
Re: Designation and Special Regulations

- I. Date of Initial Statement of Reasons: March 24, 2005
- II. Date of Pre-adoption Statement of Reasons: July 18, 2005
- III. Date of Final Statement of Reasons: November 29, 2005
- IV. Dates and Locations of Scheduled Hearings:
 - (a) Notice Hearing: Date: May 5, 2005
Location: Sacramento
 - (b) Discussion/Adoption Hearing: Date: August 19, 2005
Location: San Luis Obispo
- V. Update:

No modifications were made to the originally proposed language of the Initial Statement of Reasons.

Section III. Description of Regulatory Action, Subsection (d) Identification of Reports or Documents Supporting Regulation Change is revised to read:

See attached [Management Plan Summary](#), revised July 2005 for the proposed new addition. Also see State Lands Commission Calendar Item C36 and Voting Record dated June 20, 2005 approving a Department of Fish and Game application to lease a 24 acre Expanded Wetlands Parcel for management and authorizing its inclusion within the proposed Ballona Wetlands Ecological Reserve.

The revised [Management Plan Summary](#) is attached.

The Fish and Game Commission adopted the proposed regulatory amendments at its August 19, 2005 meeting in San Luis Obispo.

Reasons for Modification of Originally Proposed Language of Initial Statement of Reasons:

No changes have been made to the originally proposed regulatory language.

The attached revised [Management Plan Summary](#) describes the June 20, 2005 approval by the State Lands Commission (SLC) of a Department of Fish and Game (DFG) application to lease 24 acres known as the “Expanded Wetlands Parcel” for management, and authorization of its inclusion within the proposed Ballona Wetlands Ecological Reserve. SLC and DFG are in the process of finalizing this lease, and propose the inclusion of this parcel in the proposed Ballona Wetlands Ecological Reserve with this rulemaking. The management plan summary is also revised to include protection of uplands among the management objectives for the property, and includes existing gas and energy easements in the list of agreements affecting the property.

VI. Summary of Primary Considerations Raised in Support of or Opposition to the Proposed Actions and Reasons for Rejecting those considerations:

[Responses to public comments received by July 18, 2005](#) were included in the Pre-adoption Statement of Reasons (attached).

The following is a summary of public comments received since July 18, 2005:

1. The following individuals wrote letters in support of the proposed regulatory amendments, and with the exception of Daniel S. Cooper, requested that an area known as the Freshwater Marsh not be included within the proposed Ballona Wetlands Ecological Reserve.

- Mira Tweti dated August 5, 2005
- Barbara Elliot dated August 5, 2005
- Bob and Sue Krauch dated August 7, 2005
- Jean Pickus dated August 8, 2005
- Edith Read, Ph.D. Center for Natural Lands Management dated August 9, 2005
- Ruth Lansford, Friends of Ballona Wetlands dated August 10, 2005
- Lisa Fimiani dated August 12, 2005
- Lance Williams dated August 15, 2005
- Daniel S. Cooper, Cooper Ecological Monitoring dated August 15, 2005
- Thomas and Catherine Tyrell dated August 18, 2005

The following individuals testified at the August 19, 2005 Fish and Game Commission Hearing in support of the proposed regulatory amendments and requested that the area known as the Freshwater Marsh not be included within the proposed Ballona Wetlands Ecological Reserve:

- Otella Wruck, Friends of Ballona Wetlands
- Andi Culberterson, City of Los Angeles
- Edith Read, Center for Natural Lands Management
- Lisa Fimiani, Audobon Society, Friends of Ballona Wetlands
- Kathleen Truman, Latham & Watkins representing Playa Capital

Department Response: The proposed regulatory amendments do not include the area known as the Freshwater Marsh within the proposed Ballona Wetlands Ecological Reserve

2. Stan Wisniewski, Los Angeles County Beaches and Harbors wrote a letter dated August 17, 2005 supporting the proposed regulatory amendments contingent on recognition of existing Local Coastal Permits and associated regulations and development standards. He also expressed concern regarding designation of the proposed Ballona Wetlands Ecological Reserve and any related development restrictions.

Andi Culbertson, Los Angeles County Beaches and Harbors testified at the August 19, 2005 Fish and Game Commission hearing in support of the proposed regulatory amendments. He also expressed concerns regarding designation of the proposed Ballona Wetlands Ecological Reserve and any related development restrictions.

Department Response: The proposed regulatory action will not result in development restrictions.

3. The following individuals wrote letters requesting that the area known as the Freshwater Marsh be included within the proposed Ballona Wetlands Ecological Reserve:

- Paul Herzog, Ballona Wetlands Land Trust; Joe Geever, Surfrider Foundation; Marcia Hanscom, Sierra Club Angeles Chapter; Patricia McPherson, Grassroots Coalition; Don May, California Earth Corps; Roy Van de Hoek, Wetlands Action Network dated August 13, 2005
- Bill Rosendahl, Los Angeles City Council dated August 16, 2005
- Tracy Egoscue and Dana Palmer, Santa Monica Baykeeper dated August 16, 2005

The following individuals testified at the August 19, 2005 Fish and Game Commission Hearing requesting inclusion of the Freshwater Marsh within the proposed Ballona Wetlands Ecological Reserve:

- Marcia Hanscom, Wetlands Action Network
- Peggy Forster, Grass Roots
- Andrew Christie
- Robert VandeHoek
- Sabrina Venskus, Ballona Wetlands Land Trust

Department Response: The Freshwater Marsh is a mitigation parcel owned by the State Lands Commission and managed by the Center for Natural Lands Management under agreement with Playa Vista Development. There is no need to include the Freshwater Marsh within the proposed Ballona Wetlands Ecological Reserve, because its restoration, funding, management and uses are governed by multiple regulatory agencies and funded by Playa Vista Development.

4. Paul Weakland testified at the August 19, 2005 Fish and Game Commission hearing that Ecological Reserves should not be named after individuals.

Department Response: It is the policy of the Fish and Game Commission that no facility of the Department of Fish and Game shall be named for persons living or dead.

VII. Location and Index of Rulemaking File:

A rulemaking file with attached file index is maintained at:
California Fish and Game Commission
1416 Ninth Street
Sacramento, CA 95814

VIII. Location of Department Files:

Department of Fish and Game
1812 Ninth Street
Sacramento, CA 95814

IX. Description of Reasonable Alternatives to Regulatory Action:

(a) Alternatives to Regulatory Action:

Designation of the properties as wildlife areas in Section 550, Title 14, CCR. This alternative is inappropriate because of the purposes for which these properties were acquired. The sensitive habitats and species require additional protection not provided under Section 550.

(b) No Change Alternative:

By not adding these properties and providing special regulations, the appropriate level of protection for the properties is not provided. Also, appropriate public use activities will not be enforceable unless the amendments are made.

(c) Consideration of Alternatives:

In view of information currently possessed, no reasonable alternative considered would be more effective in carrying out the purposes for which the regulations are proposed or would be as effective, and less burdensome to the affected private persons than the proposed regulations.

X. Impact of Regulatory Action:

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

- (a) Significant Statewide Adverse Economic Impact Directly Affecting Businesses, Including the Ability of California Businesses to Compete with Businesses in Other States:

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

The proposed regulatory action adds one ecological reserve to Title 14 with special regulations. The proposed regulatory action is proposed to provide maximum protection of wildlife and habitat and to manage appropriate public use. It is not expected to negatively affect businesses, because the regulations are enforced only on the specific properties named.

- (b) Impact on the Creation or Elimination of Jobs Within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California:

None

- (c) Cost Impacts on a Representative Private Person or Business:

The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

- (d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State:

None

- (e) Nondiscretionary Costs/Savings to Local Agencies:

None

- (f) Programs mandated on Local Agencies or School Districts:

None

- (g) Costs Imposed on Any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4:

None

(h) Effect on Housing Costs:

None

Updated Informative Digest/Policy Statement Overview

Currently, there are 132 ecological reserves designated in Section 630, Title 14, CCR, for the purpose of protecting sensitive habitats and species. The department is requesting that this section be amended to add one new ecological reserve, Ballona Wetlands, to this listing.

Ballona Wetlands consisting of 553 acres in Los Angeles County is proposed for designation as an ecological reserve for the protection and enhancement of coastal salt marsh, freshwater marsh, transitional uplands, and associated species, including the state listed endangered Belding's savannah sparrow. The area is also an important wildlife movement corridor to other public lands in the vicinity of the wetlands.

The reasons for listing this property in Title 14 are to regulate public use and provide the best available protection for the species and habitats the property was acquired to protect. Since the property contains sensitive species, including a state listed endangered species, sensitive vegetation communities and acts as a linkage for other important protected lands, it is necessary and appropriate to provide this level of regulatory protection to prevent improper use and degradation of wildlife resources. In order to do this efficiently, the department has a set of general regulations which apply to all ecological reserves.

The department may also write special regulations for individual properties, as it thinks appropriate, to give an additional level of protection, or to permit specific public uses not governed by the general regulations. The department is requesting special regulations for this reserve based on management information gathered which shows these amendments are necessary to protect the habitat or species the property supports.

Three special regulations will protect sensitive species and habitats of Ballona Wetlands by allowing pedestrian use only on designated trails; bicycle use only on a designated bike path on the north side of the Ballona Creek flood channel; and boating only within the Ballona Creek flood channel. One special regulation will allow fishing only with barbless hooks from shore in designated areas along the Ballona Creek flood channel or from a boat within the Ballona Creek flood channel for the protection of sensitive species and habitats and to minimize mortality of fish and aquatic species caught by anglers and returned to Ballona Creek. Two additional special regulations will allow licensed recreational use of a portion of an area of the proposed reserve known as Area C, and leased parking use under existing agreements, unless it is determined that other uses are more appropriate for these areas. Because these licensed recreational and parking uses are not normally allowed on ecological reserves, these two special regulations are necessary when the department has determined these activities are appropriate and will cause no impacts to protected species and habitats.

No changes have been made to the originally proposed regulatory language. The attached Management Plan Summary is revised from the version included with the

Initial Statement of reasons to include protection of uplands among the management objectives of the property, and to include existing gas and energy easements in the list of agreements affecting the property. The Management Plan Summary is also revised to reflect recent developments in the Department's efforts to include an additional 24 acre parcel, known as the "Expanded Wetlands Parcel" within the proposed Ballona Wetlands Ecological Reserve. On June 20, 2005 the State Lands Commission (SLC) approved a Department of Fish and Game (DFG) application to lease the Expanded Wetlands Parcel for management, and authorized its inclusion within the proposed Ballona Wetlands Ecological Reserve. SLC and DFG are in the process of finalizing this lease, and propose the inclusion of this parcel in the proposed Ballona Wetlands Ecological Reserve with this rulemaking.

The Fish and Game Commission adopted the proposed regulatory amendments to designate Ballona Wetlands Ecological Reserve at its August 19, 2005 meeting in San Luis Obispo.

Addendum to Final Statement of Reasons Dated November 30, 2005
Section 630, Title 14, California Code of Regulations

V. Update:

No modifications were made to the originally proposed language of the Initial Statement of Reasons.

Section III. Description of Regulatory Action, Subsection (d) Identification of Reports or Documents Supporting Regulation Change is revised to read:

See attached Management Plan Summary, revised July 2005 for the proposed new addition. Also see State Lands Commission Calendar Item C36 and Voting Record dated June 20, 2005 approving a Department of Fish and Game application to lease a 24 acre Expanded Wetlands Parcel for management and authorizing its inclusion within the proposed Ballona Wetlands Ecological Reserve.

Clarification:

The reference to State Lands Commission Calendar Item C36 and the June 20, 2005 vote are not documents supporting regulation change and are not part of this file, but are mentioned only to explain why the Management Plan Summary was revised in July 2005, after the submission of the original Management Plan Summary submitted with the Initial Statement of Reasons.

VI. Summary of Primary Considerations Raised in Support of or Opposition to the Proposed Actions and Reasons for Rejecting those considerations:

The following individuals testified at the August 19, 2005 Fish and Game Commission Hearing in support of the proposed regulatory amendments and requested that the area known as the Freshwater Marsh not be included within the proposed Ballona Wetlands Ecological Reserve:

- Andi Culberstson supported the designation of the property as an Ecological Reserve but requested recognition of certain local actions on the part of Los Angeles County.

Department Response: Page 3 of the Final Statement refers to Mr. Culbertson's concerns regarding development restrictions as they relate to the "certain local actions" described in the minutes. The Final Statement states the proposed regulatory actions will not result in development restrictions, and thus will not affect the discussed Los Angeles County actions.

- Lisa Fimiani letter of August 12, 2005, supported designating the property as an Ecological Reserve so that proper protection can occur. She did not want Freshwater Marsh in the Ecological Reserve designation.

Department Response: The Freshwater Marsh already has very strict monitoring and maintenance regulations. There was no proposal to change the current monitoring and maintenance activities so long as it continues to be effective.

- Ms Venskus recommended a special regulation to require the Playa Vista Developers continue restoration/management activities on freshwater marsh.

Department Response: Ms. Venskus recommendation regarding a special regulation to require Playa Vista to continue restoration/management activities on the freshwater marsh

is not warranted or needed because the freshwater marsh is a mitigation parcel owned by State Lands Commission and managed by Center for Natural Lands Management under legally binding agreements with Playa Vista Development. As stated on page 3 of the Final Statement, there is no need to include the Fresh Water Marsh in the Ecological Reserve because its restoration, funding, management and uses are governed by multiple regulatory agencies and funded by Playa Vista Development. Further, the Department of Fish and Game has no authority to regulate the Fresh Water Marsh, as it does not own and is not party to any management agreements for the property. In conclusion, since the Department of Fish and Game has no authority to regulate the Fresh Water Marsh, special regulations for its management and use are not appropriate.

- Kathleen O'Prey Truman, Latham and Watkins letter dated Aug 11, 2005 should be added to the list of supporters on page 2 item 1. Also add to the end of the introductory statement. "Further, Ms. O'Prey Truman, requested clarification that a sliver of land between the Freshwater Marsh and Lincoln Boulevard reserved for an expansion of Lincoln Boulevard".

Department Response: This land is not proposed for inclusion within the proposed ecological reserve.

Section 630, Title 14, CCR is amended to read:

§630. Ecological Reserves.

The areas specified in this chapter have been declared by the Fish and Game Commission to be ecological reserves. A legal description of the boundaries of each ecological reserve is on file at the department's headquarters, 1416 Ninth Street, Sacramento. Ecological reserves are established to provide protection for rare, threatened or endangered native plants, wildlife, aquatic organism and specialized terrestrial or aquatic habitat types. Public entry and use of ecological reserves shall be compatible with the primary purposes of such reserves, and subject to the following applicable general rules and regulations, except as otherwise provided for in the special area regulations:

(a) General Rules and Regulations:

(1) Protection of Resources. No person shall mine or disturb geological formations or archeological artifacts or take or disturb any bird or nest, or eggs thereof, or any plant, mammal, fish, mollusk, crustacean, amphibian, reptile, or any other form of plant or animal life in an ecological reserve except as provided in subsections 630(a)(2) and (a)(8). The department may implement enhancement and protective measures to assure proper utilization and maintenance of ecological reserves.

(2) Fishing. Fishing shall be allowed in accordance with the general fishing regulations of the commission except that the method of taking fish shall be limited to angling from shore. No person shall take fish for commercial purposes in any ecological reserve except by permit from the commission.

(3) Collecting. No collecting shall be done in an ecological reserve except by permit issued pursuant to section 650 of these regulations. Any person applying for a permit must have a valid scientific collecting permit issued pursuant to part 3 of this title.

(4) Motor Vehicles. No person shall drive, operate, leave, or stop any motor vehicle, bicycle, tractor, or other type of vehicle in an ecological reserve except on designated access roads and parking areas.

(5) Swimming. No person shall swim, wade, dive, or use any diving equipment within an ecological reserve except as authorized under the terms of a permit issued pursuant to subsection (3).

(6) Boating. No person shall launch or operate a boat or other floating device within an ecological reserve except by permit from the commission.

(7) Trails. The department may designate areas within an ecological reserve where added protection of plant or animal life is desirable, and may establish equestrian or walking trails or paths within such designated areas. No person shall walk or ride horseback in such areas except upon the established trails or paths.

(8) Firearms. No person shall fire or discharge any firearm, bow and arrow, air or gas gun, spear gun, or any other weapon of any kind within or into an ecological reserve or possess such weapons within an ecological reserve, except law enforcement personnel and as provided for in individual area regulations that allow for hunting.

(9) Ejection. Employees of the department may eject any person from an ecological reserve for violation of any of these rules or regulations or for any reason when it appears that the general safety or welfare of the ecological reserve or persons thereon is endangered.

(10) Public Entry. Public entry may be restricted on any area at the discretion of the department to protect the wildlife, aquatic life, or habitat. No person, except state and local law enforcement officers, fire suppression agencies and employees of the department in the performance of their official duties or persons possessing written permission from the department, may enter any ecological reserve, or portion thereof, which is closed to public entry. No person may enter any Ecological Reserve between sunset and sunrise except with written permission from the Department, which may be granted for purposes including night fishing in accordance with subsection (a)(2) from designated shore areas only.

A \$2.00 day use pass or a valid \$10.00 annual wildlife pass is required of all users of Elkhorn Slough and Upper Newport Bay ecological reserves except for users that possess a valid California sport fishing license hunting license or trapping license, or users that are under 16 years of age or users that are part of an organized youth or school group and having free permits issued by the appropriate regional office. Refer to subsections 550(b)(4) and (5), Title 14, CCR, for regulations for fee requirements for wildlife areas.

(11) Introduction of Species. Unless authorized by the commission, the release of any fish or wildlife species, including domestic or domesticated species, or the introduction of any plant species, is prohibited. The department may reintroduce endemic species on ecological reserves for management purposes.

(12) Feeding of Wildlife. The feeding of wildlife is prohibited.

(13) Pesticides. The use of pesticides is prohibited on any ecological reserve unless authorized by the commission with the exception that the department may use pesticides for management purposes and for public safety.

(14) Litter. No person shall deposit, drop, or scatter any debris on any ecological reserve except in a receptacle or area designated for that purpose. Where no designated receptacles are provided, any refuse resulting from a person's use of an area must be removed from that area by such person.

(15) Grazing. The grazing of livestock is prohibited on any ecological reserve.

(16) Falconry. Falconry is prohibited.

(17) Aircraft. No person shall operate any aircraft or hovercraft within a reserve, except as authorized by a permit from the commission.

(18) Pets. Pets, including dogs and cats, are prohibited from entering reserves unless they are retained on a leash of less than ten feet or are inside a motor vehicle, except as provided for in individual area regulations that allow for hunting or training activities.

(19) Fires. No person shall light fireworks or other explosive or incendiary devices, or start or maintain any fire on or in any reserve, except for management purposes as provided in subsection (a)(1).

(20) Camping. No person shall camp on/in any ecological reserve.

(21) Vandalism. No person shall tamper with, damage or remove any property not his own when such property is located within an ecological reserve.

(b) Areas and Special Regulations for Use:

(1) Agua Hedionda Lagoon Ecological Reserve, San Diego County.

(A) The department, and the County of San Diego, after consultation with the department, may carry out management activities for fish and wildlife, flood control and vector control. Authorized operation and maintenance activities shall include, but shall not be limited to, use of chemicals, vegetation control, water control and use of associated equipment.

(B) All fishing is prohibited.

(2) Albany Mudflats Ecological Reserve, Alameda County.

(3) Alkali Sink Ecological Reserve, Fresno County.

(A) Grazing is permitted under a permit from the department.

(4) Allensworth Ecological Reserve, Tulare County.

(A) Grazing shall be allowed under permit from the department.

(B) Hunting shall be permitted in accordance with general hunting regulations, but only at such times and in specific areas as designated by the department.

(5) Apricum Hill Ecological Reserve, Amador County.

(A) No person, except as provided in subsection (a)(10), shall enter the reserve.

(6) Atascadero Creek Marsh Ecological Reserve, Sonoma County.

(7) Bair Island Ecological Reserve, San Mateo County.

(A) No person, except as provided in subsection (a)(10), shall enter this reserve during the period February 15 through May 20.

(B) Waterfowl shall be taken in accordance with the general waterfowl regulations.

(8) Baldwin Lake Ecological Reserve, San Bernardino County.

(A) All fishing is prohibited.

(B) Waterfowl and upland game hunting shall be allowed in accordance with the general hunting regulations. Waterfowl hunting shall be permitted from boats only, and in accordance with general waterfowl hunting regulations and pursuant to the provisions of Section 551, Title 14, CCR.

(C) Boating is permitted for the purpose of waterfowl hunting only. Boats may be launched and retrieved in designated areas only.

(9) Ballona Wetlands Ecological Reserve, Los Angeles County.

(A) Pedestrian use is allowed on designated trails only.

(B) Bicycle use is allowed only on the designated bike path on the north side of the Ballona Creek flood control channel.

(C) Fishing from shore is allowed only in designated areas along Ballona Creek flood control channel. Fishing from boats is allowed only within the Ballona Creek flood control channel. Only barbless hooks may be used.

(D) Boating shall be allowed only within the Ballona Creek flood control channel.

(E) Existing recreational uses may be allowed under license agreement with Playa Vista Little League in that portion of Area C identified in the license agreement unless it is determined by the department that restoration or other uses in this area are more appropriate.

(F) Existing parking areas under leases to the County of Los Angeles may be allowed unless it is determined by the department that restoration or other uses in those areas are more appropriate.

(9)(10) Baticuitos Lagoon Ecological Reserve, San Diego County.

No changes to subsequent text except for renumbering.

[NOTE TO EDITOR:PLEASE RENUMBER ALL SUBSEQUENT PROVISIONS SEQUENTIALLY]

NOTE:

Authority cited: Sections 1580, 1581, 1583 and 1907, Fish and Game Code. Reference: Sections 1526, 1528, 1530, 1580-1585, 1590 and 1591, Fish and Game Code.