

26. CONSIDERATION OF A PLAN FOR THE USE AND MANAGEMENT OF THE GRANTED TIDELANDS IN BOLINAS LAGOON AS REQUIRED BY CHAPTER 787, STATUTES OF 1969 - 606-00(j).

During consideration of Calendar Item 24 attached, appearances were made by the following:

In Support of the Staff Recommendation

Senator Peter H. Behr, Fourth Senatorial District
 Assemblyman William T. Bagley, Seventh Assembly District
 Pierre Joske, Director, Marin County Parks Department
 William J. Picher, Treasurer, Audubon Canyon Ranch
 John Smail, Executive Director, Point Reyes Bird Observatory
 Frances Stewart, Marin Conservation League

In Opposition to Staff Recommendation

Dr. Malcom Finley, in pro per
 John P. Gilchrist, Manager, California Seafood Institute

Jerry O'Shea, Assistant District Engineer, Division of Highways, also appeared.

The chairman presented a group of letters he had received from students in the Third Grade class at Highland School in Oakland, all of which requested the Commission's favorable consideration of the Marin County's Bolinas Lagoon Plan.

Mr. Pierre Joske, Director, Marin County Parks Department, representing the Marin County Board of Supervisors, read a letter from Arnold M. Baptiste, Chairman, Marin County Board of Supervisors, requesting the Commission's approval of the Bolinas Lagoon Plan.

Mr. John P. Gilchrist, Manager, California Seafood Institute, read a letter from Edmund P. Halley, M.D., Executive Vice President of the California Marine Parks & Harbors Association, and a letter from David R. York, Assistant Counsel of the California Marine Parks & Harbors Association, both of which indicated dissatisfaction of the Plan in its present form and requested deferment of approval by the Commission.

The above letters which were read into the record are made a part of these minutes by reference to the files of the Commission.

After consideration of Calendar Item 24, and upon motion duly made and carried, the following resolution was adopted:

THE COMMISSION:

1. ACCEPTS FOR CONSIDERATION STUDIES BY MARIN COUNTY AND REPRESENTATIONS MADE BY THE COUNTY WHICH IDENTIFY BOLINAS LAGOON AS HAVING UNIQUE ENVIRONMENTAL VALUES OF STATEWIDE INTEREST PURSUANT TO SECTION 6375 OF THE PUBLIC RESOURCES CODE.

2. ACCEPTS THE NEGATIVE DECLARATION OF MARIN COUNTY IN COMPLIANCE WITH THE PROVISIONS OF THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, AS AMENDED.
3. FINDS AND DETERMINES THAT THE "BOLINAS LAGOON PLAN" SUBMITTED BY MARIN COUNTY FOR THE USE AND MANAGEMENT OF THE GRANTED TIDELANDS IS REASONABLE AND WORKABLE, AND APPROVE THE PLAN PURSUANT TO THE REQUIREMENTS OF CHAPTER 787, STATUTES OF 1969.

Attachment:

Calendar Item 24 (6 pages)

CALENDAR ITEM

24.

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RHM
G06-00(j)

CONSIDERATION OF A PLAN FOR THE USE AND MANAGEMENT
OF THE GRANTED TIDELANDS IN BOLINAS LAGOON
AS REQUIRED BY CHAPTER 787, STATUTES OF 1969

GRANTEE: County of Marin.

LOCATION: Lands granted by Chapter 800, Statutes of 1957, as amended by Chapter 787, Statutes of 1969, as the lands are shown on a "Map of the Grant to Bolinas Harbor District" prepared and approved by the State Lands Commission on June 5, 1959, and recorded in the office of the Marin County Recorder, in Can B, Serial Number 16836.

PURPOSE: To determine if the plan for the use and management of the tidelands granted to Marin County by Chapter 787, Statutes of 1969, is a reasonable and workable plan by which the lands shall be substantially improved, restored, preserved, or maintained by Marin County in a manner consistent with the amended statute.

Section 1(h) of said amended statute states in part that:

"Within three years from the effective date of the amendment to this act . . . the county shall prepare and submit a reasonable plan pursuant to which the lands shall be substantially improved, restored, preserved, or maintained by the county . . . The county shall submit the plan to the Department of Harbors and Watercraft. The Department of Harbors and Watercraft shall review the plan . . . and . . . shall transmit such plan, together with its comments, to the State Lands Commission . . . If the State Lands Commission determines that the county has failed to submit a reasonable and workable plan as herein required . . . all right, title and interest in the lands shall revert and rest in the State. If the State Lands Commission approves the plan, the lands shall be substantially improved, restored, preserved, or maintained by the county . . . in accordance with the plan . . ."

INVESTIGATION REPORT:

In August 1971 Marin County officials presented a preliminary plan to State Lands Division staff for conceptual consideration. Representatives of the Division subsequently attended several public meetings when Marin County officials presented the plans for public comment. Additionally, several on-site inspections have been conducted by the State Lands Division.

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On August 23, 1972, a comprehensive final version called the "Bollinas Lagoon Plan" was received by the State Lands Division.

On September 20, 1972, solicited comments relating to the county plan were received from the Department of Navigation and Ocean Development. On September 25, 1972, Marin County prepared and submitted rebuttals to these comments.

On March 14, 1972, the Marin County Board of Supervisors officially requested that the State Lands Commission classify Bollinas Lagoon as an environmentally unique area as provided in Sections 6374 and 6375 of the Public Resources Code.

Subsequently, an informal opinion was requested from the State Attorney General regarding compliance of the Marin County plan with the statute. This informal opinion, indexed as letter number SO IL 72/38, was received on March 19, 1973. Specific elements from this opinion are discussed later in reference to particular considerations.

During the late fall of 1972, shortly after the plan was formally submitted to the Commission, more than 100 letters and telegrams were received from organizations and individuals from throughout the State. In each instance, except for one, the public voiced their support of this plan.

All above-mentioned reports, documents and letters are on file in the office of the State Lands Division.

FACTS SUPPORTING DETERMINATION:

According to Section 1(a) of Chapter 787 "the lands shall be used by the county and its successors for purposes in which there is a general Statewide interest . . ." as in part follows:

"(1) For the establishment, improvement and conduct of a harbor, and . . . accommodation of commerce and navigation, which shall include accommodation for shallow-draft vessels seeking shelter from ocean waters during adverse weather conditions consistent with the preservation of the natural features of the lagoon.

"(2) For the construction, reconstruction, repair and maintenance of roadways, parking facilities . . . and all other transportation and utility facilities . . . necessary or convenient for the promotion and accommodation of any of the uses set forth in this section.

"(3) For the construction . . . of . . . public recreation facilities.

"(4) For the establishment, improvement and conduct of a small boat harbor, marina, aquatic playground and similar recreational facilities.

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"(5) For the establishment, preservation, restoration, improvement, or maintenance of intertidal marine biological reserves, restoration and maintenance of shellfish and related fishery resources, development of nature study trails and areas, exhibits, research projects, preservation of areas of unique ocean phenomena for marine activities and water sports, and the natural beauty and biological resources and activities related thereto, subject to the prior approval of the Fish and Game Commission as to those matters which are subject to regulation by the commission pursuant to the Fish and Game Code."

A review of the authorized purposes reveals that some of the possible uses can prove to be incompatible. A typical small boat harbor and marina, for example, may be a desirable use. Concurrently, however, it can be potentially disruptive when considering the factor of preserving the natural beauty and the general esthetics of a unique ocean environment. Consequently, priority determinations must be made from among the many possible uses if the plan for use and management of the lagoon is to be "reasonable and workable."

The Bolinas Lagoon Plan, submitted by the county, has as its goals the conservation, preservation and maintenance of the ecological health of Bolinas Lagoon, while permitting maximum human use of the area consistent with these goals. No plans for developing facilities or uses incompatible with these goals are contemplated.

The county plan is endorsed by the State Department of Parks and Recreation and the State Department of Fish and Game. The plan is opposed by the Department of Navigation and Ocean Development primarily on two points. First, that the plan ". . . submitted by the county is limited only to the preservation aspects of the grant." Second, that "the timely development of a harbor of refuge should be included in the Bolinas Lagoon Plan."

In order to receive an impartial viewpoint on the first objection, the State Attorney General's office was asked to respond to the following question:

"Does the 'Bolinas Lagoon Plan' submitted by the County of Marin comply with the terms of Chapter 787, Statutes of 1969, even though its conceptual scope is limited to only some of the uses authorized by the statute?"

The response was included in the aforementioned indexed letter which in part states:

". . . our conclusion is that the plan, if otherwise 'reasonable and workable' within the meaning of the statute, is not rendered inadequate because its scope does not include all of the uses authorized by the statute."

The second objection, relating to providing a harbor of refuge, is a legitimate objection. This point which involves public safety is a matter of concern to the State Lands Commission. The county plan states in part:

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" . . . monitored rehabilitative dredging with the cooperation of the U.S. Army Corps of Engineers under their existing authority would improve access to the Lagoon. Such an orderly gradual approach will provide reasonable accommodations for shallow draft vessels seeking shelter from ocean waters during adverse weather conditions in a manner consistent with the preservation of the natural features of the Lagoon."

During the investigation, this particular point was raised with county officials. They responded through County Board of Supervisors Resolution 72-326, unanimously passed on November 7, 1972, clarifying its intent about the harbor of refuge. In essence this resolution reiterates the intent to undertake a joint effort with the U.S. Army Corps of Engineers to perform rehabilitative dredging described in the plan. This would accommodate to some degree a harbor of refuge for use of shallow draft vessels during bad weather.

Through this action, the county evidently wishes to provide safety for shallow draft vessels which have the most to fear from adverse weather. Additionally, scientific reports quoted in the plan indicate that the lagoon is gradually silting up. This rehabilitative dredging will provide safety that would, in a few years, otherwise be denied to any sailor.

The plan also appears to provide for the maximum human use by a wide segment of the public. Provisions are made for motor boating in certain areas, canoeing, reopening of fishing, photography, bird watching, nature education and other relatively passive recreation consistent with the overall plan.

It is important and should be noted that this plan has considered the entire watershed area rather than limiting itself to the granted lands. This assures that adjacent upland activity will be harmonious and consistent with the plan.

The county plan outlines a monitoring system which will generate information on a continuing basis. In this way county officials will be made aware of both short and long term changes in the ecosystem and be able to effectively manage the granted tidelands.

In addition, a "Lagoon Management Advisory Committee" is proposed. This committee will provide citizen participation and include a wide variety of technical expertise ranging from the academic community to the Army Corps of Engineers. The county has also committed itself to assisting this committee by engaging experts that may be required.

ENVIRONMENTAL IMPACT CONSIDERATIONS:

The State Attorney General, in the opinion mentioned previously, notes that:

"It also appears, however, that before the State Lands Commission may consider the adequacy of the plan submitted by the County of Marin, the County must first provide the Commission with either an environmental impact report or a 'negative declaration'

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concerning the effect of the plan on the environment, pursuant to the provisions of the California Environmental Quality Act of 1970, Pub. Res. Code Sections 21000-21174, and the Guidelines issued thereunder by the Resources Agency, 14 Cal. Admin. Code Sections 15000-15166."

The County of Marin has submitted information to the Division indicating that "acceptance of such a plan will have no significant effect upon the environment." They submit that the "main thrust of the plan is the protection, conservation, and preservation of the ecological health of the tidelands while allowing education, scientific study and recreation which will not be destructive to the environment."

The Marin County Board of Supervisors has posted a "Notice of Negative Declaration" in accordance with present county policy. A copy of this negative declaration is on file with the State Lands Division.

It should be noted that any future physical changes affecting the Bolinas Lagoon area by the county will be subjected to additional environmental consideration.

ENVIRONMENTALLY UNIQUE STATUS:

The tremendous pressure for high density active recreation along the coastline has resulted in the development of one natural lagoon after another. Only a very few lagoons remain in a relatively natural condition. The environmental uniqueness of this lagoon is clearly recognized in Marin County's request to classify this lagoon as environmentally unique. Their request reads, in part:

"The (Bolinas Lagoon) Plan's principal aim is to preserve the natural assets of the lagoon while making water and land area available . . . for compatible recreational activities."

Further, the plan:

". . . contains a unique environmental monitoring system which will go a long way toward preservation and judicious use of the lagoon."

EXHIBIT: A. Site Map.

IT IS RECOMMENDED THAT THE COMMISSION:

1. ACCEPT FOR CONSIDERATION STUDIES BY MARIN COUNTY AND REPRESENTATIONS MADE BY THE COUNTY WHICH IDENTIFY BOLINAS LAGOON AS HAVING UNIQUE ENVIRONMENTAL VALUES OF STATEWIDE INTEREST PURSUANT TO SECTION 6375 OF THE PUBLIC RESOURCES CODE.
2. ACCEPT THE NEGATIVE DECLARATION OF MARIN COUNTY IN COMPLIANCE WITH THE PROVISIONS OF THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, AS AMENDED.

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