

BUTANO STATE PARK

Preliminary General Plan/Final Environmental Impact Report



View of Santa Cruz Mountains from Butano ridgetop

RESPONSE TO COMMENTS

State Clearinghouse #2003102090

California Department of Parks and Recreation
September 2008



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1 INTRODUCTION

On March 21, 2008 the California Department of Parks and Recreation (Department) released to the general public and public agencies the Preliminary General Plan/Draft Environmental Impact Report for Butano State Park (Park). The proposed General Plan will guide future management direction at the Park. It contains a comprehensive and integrated set of parkwide goals and guidelines for the long-term management of the Park that focus on protection of environmental resources, enhancements to visitor use and opportunities, and improvements to administration and operations of the Park. In addition, the General Plan includes proposed park development and designates appropriate land uses.

The Draft Environmental Impact Report (EIR) that is included in the Preliminary General Plan contains the environmental analysis of potentially significant effects of the proposed project. Together, the Draft EIR and this response to comments document constitute the Final Environmental Impact Report for the project.

In accordance with Public Resources Code Section 21091 and CEQA Guidelines Section 15087, a 45-day public review period for the Draft EIR was provided. The public was advised of the availability of the Preliminary General Plan/Draft EIR through public notices and notification on the Department's web site. The public notice (Notice of Availability) was posted with the San Mateo County Clerk. Copies of the Preliminary General Plan/Draft EIR were also available for review at the following locations: California State Parks - San Mateo Coast Sector Office, Año Nuevo State Natural Reserve Park Office, Santa Cruz District Office, Planning Division (Sacramento); San Mateo County libraries - Half Moon Bay Library, Pacifica-Sharp Park Library, Portola Valley Library, Woodside Library; Santa Cruz County libraries - Central Branch, Boulder Creek Branch, Scott's Valley Branch, Felton Branch; Santa Clara County libraries - Cupertino Library, Los Altos Library, Saratoga Library; and on the State Parks web site.

The public review period ended May 5, 2008. During the public review period comments on the plan and the environmental issues evaluated in the Draft EIR were received from agencies and individuals. This document provides responses to the written comments received during the 45-day public review period.

The focus of the response to comments is on the disposition of environmental issues that have been raised in the comments, as specified by CEQA Guidelines Section 15088(b), but also includes responses related to planning considerations of the Preliminary General Plan.

All comments on the Preliminary General Plan/Draft EIR and the responses thereto, are presented in this document, which is organized as follows:

- **Chapter 1** (Introduction) provides a brief overview of the proposed project, describes the requirements under CEQA for responding to the public comments received on the Draft EIR, and describes the organization of the Final EIR.
- **Chapter 2** (List of Commenters) provides a list, in table format, of all written comments received on the Preliminary General Plan/Draft EIR during the public comment period.
- **Chapter 3** (Comments and Responses) provides a complete copy of, and responses to, written comments on the Preliminary General Plan/Draft EIR received during the public review and comment period.
- **Chapter 4** (Recommended Changes to the General Plan) provides a reproduction of portions of the Preliminary General Plan/Draft EIR with proposed revisions to text made in response to comments.

2 LIST OF COMMENTERS

This chapter provides a list of all public comments received on the Preliminary General Plan/Draft EIR during the public review period. Table 2-1 indicates the commenter/organization that prepared written comments and the date the comment(s) were received.

Table 2-1: List of Written Comments Received

Letter Number	Commenter	Agency/ Organization/ Individual Represented	Date Received
1	George Allen		May 4, 2008 (email)
2	Denise M. Tsuji	Department of Toxic Substances Control	May 5, 2008 (email)

3 COMMENTS AND RESPONSES

This chapter provides a complete copy of the written comments received on the Preliminary General Plan/Draft Environmental Impact Report for Butano State Park, and presents responses to significant environmental issues raised in the comments, as required by CEQA Guidelines Section 15132, as well as comments pertaining to the Preliminary General Plan.

Each letter is reproduced in its entirety, including attachments. Each letter and comments correspond to Table 2-1. The responses to comments follow each letter. Revisions to text in the General Plan/EIR are shown with a strikethrough or underline. Text that has a ~~strikethrough~~ has been deleted from the General Plan/EIR. Text that has been added is presented as single underlined.

From: George Allen [georgej.allen15@gmail.com]
Sent: Sunday, May 04, 2008 5:07 AM
To: General, Plan
Subject: Butano State Park General Plan Project-Comments
Attn: Ellie Wagner, Project Manager

Regarding the Butano State Park, we are adjacent private landowners with concerns as addressed in our letter to the County of San Mateo in 2007 when APN 089-120-30 was acquired for transfer to the Park by Save the Redwoods. It is a fact that our land and that of other adjacent private land owners lie in a designated Timber Harvest Zone. As more land is removed for Parks and the intended resource value of the land is thwarted, the intent of the Timber Harvest Zone is negated. We manage our private forest in a prescribed manner and have participated in State programs to this end which included thinning and re-seeding with young trees. Having cared for our forest since 1945, before there was a Butano Park, we fear that undue restrictions by further Park expansion may hamper our future plans for Timber Harvest plans to thin our trees' canopy for optimum healthy growth.

1A

We are also concerned for the safety of an increase of unwitting hikers who may trespass and suffer an injury on our property.

We have gone for years without any vandalism problems until last year when theft and property damage occurred. We are concerned that this activity will escalate with Park expansion and ask that you address this issue and that of trespass and liability on your part. We realize your intentions are good, but the rights of the private property owner must be felt as one of your priorities. We are family landowners, and are deeply attached to our small slice of the forest. We need assurances that our children won't lose any part of what our generation has enjoyed given our above concerns- especially those areas of liability which would jeopardize the family forest plans and subject us to an economic disaster should personal injury occur.

1B

George Allen
Managing Owner
APN 089-120-020
Butano Forest-A renewable resource

Response to Letter 1 George Allen

- 1A –** Thank you for providing your comments and concerns to State Parks as an adjacent property owner to Butano State Park. You stated in your letter that your property is currently in a timber harvest zone, as are additional properties surrounding the park.

The Butano State Park Preliminary General Plan has not caused a change in the zoning of your property and it does not specifically impose any restrictions on adjacent private property. The park manages its forest property using a variety of methods to maintain healthy forests and enhance management for timber. See the Butano State Park Preliminary General Plan/Draft EIR guidelines **Geology/Hydrology 4** and **9** regarding participating with others, including resource agencies and adjacent landowners, to address sediment issues and to prepare watershed management plans and assessments; and guidelines **Vegetation 1, 2, and 4** regarding establishing habitat restoration programs in areas of past disturbance and using prescribed fire as part of a vegetation management strategy. These management methods will not impose restrictions on neighboring property.

The California Department of Forestry and Fire Protection (Cal Fire) enforces the laws that regulate logging on privately owned lands in California. These laws are found in the Forest Practice Act which include appropriate buffer zones on properties adjacent to designated recreation areas or located in the coastal zone. Additional rules are enacted by the State Board of Forestry and Fire Protection to ensure resource protection during logging operations.

Property added to the State Park could result in additional requirements by Cal Fire during timber harvest for established buffer zones on private properties adjacent to recreation lands. The State Parks property acquisition process includes environmental review and contains provisions for public comment.

- 1B –** The Department regards adjacent private lands and facilities as an important consideration when planning for specific State Park area facilities and activities for the public. The California state legislature has passed a law, Civil Code Section 846, that protects private property owners from any liability to recreational users entering their property.

The Department will work in cooperation with adjacent property owners to minimize trespass situations. Examples of actions may include posting signs at property boundaries, cost sharing for fencing along a common property line, and providing visitor information at the park entrance and major trailheads. This information would contain park maps with the park

roads, trails, and property boundaries clearly delineated and with a reminder to visitors to respect neighboring property and to avoid trespassing on private property.

Guideline **Trails 4** emphasizes the Department's commitment to take appropriate actions to ensure the public knows where State Park property boundaries are located, and that the boundaries are properly signed where appropriate. This guideline demonstrates the high priority of neighboring properties in the Department's decisions. Implementation will help provide adequate public information about private and public boundaries. As stated in guideline **Trails 4**, "Trails in the park and region are often adjacent to private property...Provide signs clarifying public property boundaries where necessary and provide trail users with information regarding park rules, wayfinding, and regulations to minimize public/private use conflicts and trespassing." Priority for sign placement will be in areas of visitor use that are located adjacent to private property, such as along roads and trails.

The current plan does not specifically propose additional access or visitor services adjacent to your property that would cause an increase in visitor use or trespassing. Future site specific proposals in the park will require public review and you will have additional opportunities to comment at that time.

CALIFORNIA CIVIL CODE SECTION 846

Westlaw.

West's Ann.Cal.Civ.Code § 846

Page 1

C

Effective:[See Text Amendments]

West's Annotated California Codes Currentness

Civil Code (Refs & Annos)

Division 2. Property (Refs & Annos)

Part 2. Real or Immovable Property

▣ Title 3. Rights and Obligations of Owners

▣ Chapter 2. Obligations of Owners

→ § 846. Permission to enter for recreational purposes

An owner of any estate or any other interest in real property, whether possessory or nonpossessory, owes no duty of care to keep the premises safe for entry or use by others for any recreational purpose or to give any warning of hazardous conditions, uses of, structures, or activities on such premises to persons entering for such purpose, except as provided in this section.

A "recreational purpose," as used in this section, includes such activities as fishing, hunting, camping, water sports, hiking, spelunking, sport parachuting, riding, including animal riding, snowmobiling, and all other types of vehicular riding, rock collecting, sightseeing, picnicking, nature study, nature contacting, recreational gardening, gleaming, hang gliding, winter sports, and viewing or enjoying historical, archaeological, scenic, natural, or scientific sites.

An owner of any estate or any other interest in real property, whether possessory or nonpossessory, who gives permission to another for entry or use for the above purpose upon the premises does not thereby (a) extend any assurance that the premises are safe for such purpose, or (b) constitute the person to whom permission has been granted the legal status of an invitee or licensee to whom a duty of care is owed, or (c) assume responsibility for or incur liability for any injury to person or property caused by any act of such person to whom permission has been granted except as provided in this section.

This section does not limit the liability which otherwise exists (a) for willful or malicious failure to guard or warn against a dangerous condition, use, structure or activity; or (b) for injury suffered in any case where permission to enter for the above purpose was granted for a consideration other than the consideration, if any, paid to said landowner by the state, or where consideration has been received from others for the same purpose; or (c) to any persons who are expressly invited rather than merely permitted to come upon the premises by the landowner.

Nothing in this section creates a duty of care or ground of liability for injury to person or property.

CREDIT(S)

(Added by Stats.1963, c. 1759, p. 3511, § 1. Amended by Stats.1970, c. 807, p. 1530, § 1; Stats.1971, c. 1028, p. 1975, § 1; Stats.1972, c. 1200, p. 2322, § 1; Stats.1976, c. 1303, p. 5859, § 1; Stats.1978, c. 86, p. 221, § 1; Stats.1979, c. 150, p. 347, § 1; Stats.1980, c. 408, § 1; Stats.1988, c. 129, § 1.)



Department of Toxic Substances Control

Maureen F. Gorsen, Director
700 Heinz Avenue
Berkeley, California 94710-2721



Arnold Schwarzenegger
Governor

May 5, 2008

Ms. Ellie Wagner
Department of Parks and Recreation
1415 9th Street
Sacramento, California 95814

Dear Ms. Wagner:

Thank you for the opportunity to comment on the draft Environmental Impact Report (EIR) for the Butano State Park General Plan (Project) (SCH# 2003102090). As you may be aware, the California Department of Toxic Substances Control (DTSC) oversees the cleanup of sites where hazardous substances have been released pursuant to the California Health and Safety Code, Division 20, Chapter 6.8. As a Responsible Agency, DTSC is submitting comments to ensure that the environmental documentation prepared for this project under the California Environmental Quality Act (CEQA) adequately addresses any remediation activities pertaining to releases of hazardous substances.

According to the draft EIR, the proposed Project will address key planning issues at Butano State Park. The Project would provide a framework for developing individual projects, which include visitor facilities and amenities, public access and circulation, and wildlife and resource protection, and property acquisition. Historic uses at the Park include homesteads, dairy operations, logging, sawmills, agriculture, and goat and turkey farming.

The Hazards and Hazardous Materials section of the draft EIR states that ground disturbance during construction may expose hazardous materials, especially in areas of historic land uses. DTSC strongly recommends that an assessment of historic uses be conducted for each project developed under the General Plan. This information can be used to determine whether hazardous substances may have been released into the soil at the project location. Based on this information, sampling should be conducted to determine whether a release has occurred.

2A

The draft EIR states that if hazardous materials are found in the park, including during construction, building removal, renovation, and maintenance activities, all regulations for hazardous materials transport, use, and disposal will be adhered to, following State Park policies and procedures. DTSC recommends stating in the EIR that any releases of hazardous substances found at a specific project site will need to be addressed as

2B

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Ms. Ellie Wagner
May 5, 2008
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part of the CEQA compliance document for the project. For example, if remediation activities at the property include the need for soil excavation, the CEQA compliance document for the project should include: (1) an assessment of air impacts and health impacts associated with the excavation activities; (2) identification of any applicable local standards which may be exceeded by the excavation activities, including dust levels and noise; (3) transportation impacts from the removal or remedial activities; and (4) risk of public upset should be there an accident at the individual project site.

**2B
cont.**

DTSC and the Regional Water Quality Control Boards (Regional Boards) signed a Memorandum of Agreement, March 1, 2005 (MOA) aimed to avoid duplication of efforts among the agencies in the regulatory oversight of investigation and cleanup activities at brownfield sites. Under the MOA, anyone requesting oversight from DTSC or a Regional Board must submit an application to initiate the process to assign the appropriate oversight agency. The completed application and site information may be submitted to either DTSC or Regional Board office in your geographical area. The application is available at <http://www.calepa.ca.gov/brownfields/MOA/application.pdf>.

If you have any questions, please contact Allan Fone of my staff at (510) 540-3836. Thank you in advance for your cooperation in this matter.

Sincerely,



Denise M. Tsuji, Unit Chief
North Coast Cleanup Operations

cc: Governor's Office of Planning and Research
State Clearinghouse
P. O. Box 3044
Sacramento, CA 95812-3044

Guenther Moskat
CEQA Tracking Center
Department of Toxic Substances Control
P.O. Box 806
Sacramento, California 95812-0806

Response to Letter 2
Department of Toxic Substances Control
Denise M. Tsuji, Unit Chief

- 2A -** Thank you for your comments on the Butano State Park Preliminary General Plan and Draft EIR. As stated in Chapter 5, Environmental Analysis, this EIR is a first tier document and is intended to provide broad guidance followed by more detailed information and environmental analysis of development projects in subsequent environmental documents. The general plan is the primary management document for a park, establishing its purpose and management direction for the future.

Site specific projects will follow approval of this general plan and will provide more detailed information directly related to the proposed project. An assessment of historic uses would be conducted as appropriate as part of the site specific studies undertaken at this future more detailed level of planning. As stated in your letter, the results of these studies may lead to further detailed investigations, such as sampling, to determine if a release of hazardous materials has occurred.

- 2B -** The Department is committed to following all regulations and State Parks policies regarding hazardous materials. The Preliminary General Plan/Draft EIR states that "all park plans and projects shall be in compliance with state and federal permitting and regulatory requirements and subject to subsequent tier CEQA review ..." As noted on page 5-14, the Preliminary General Plan/Draft EIR states that "If hazardous materials are found in the park,... all regulations for hazardous material transport, use, and disposal will be adhered to, following Department policies and procedures (Department Operations Manual, Chapter 0800, Hazardous Materials)." To further emphasize and clarify State Parks commitment to public safety, the following text revisions will be made in the final General Plan/EIR:

Section 5.6, Impact Analysis, Hazards and Hazardous Materials, Impact Analysis

If hazardous materials are found in the park, including during construction, building removal, renovation, and maintenance activities, all regulations for hazardous material transport, use, and disposal will be adhered to, following Department policies and procedures (Department Operations Manual, Chapter 0800, Hazardous Materials). Any releases of hazardous substances found at a specific project site shall be addressed as part of the CEQA compliance document for the project.

4 RECOMMENDED CHANGES TO THE GENERAL PLAN

This chapter contains recommended revisions to the Preliminary General Plan/Draft EIR for Butano State Park made subsequent to its public release and the public review process. All revisions are a result of responses to comments detailed in Chapter 3 of this document. Text revisions are organized by the page numbers that appear in the Preliminary General Plan/Draft EIR. The Final General Plan/EIR may include additional minor revisions in order to ensure accuracy of information presented in the plan.

Page 5-14, Hazards and Hazardous Materials, Impact Analysis, will be revised to read:

If hazardous materials are found in the park, including during construction, building removal, renovation, and maintenance activities, all regulations for hazardous material transport, use, and disposal will be adhered to, following Department policies and procedures (Department Operations Manual, Chapter 0800, Hazardous Materials). Any releases of hazardous substances found at a specific project site shall be addressed as part of the CEQA compliance document for the project.