

EAST BAY REGIONAL PARK DISTRICT

Resolution No. 1989-

April 18, 1989

RESOLUTION IN SUPPORT OF REGIONAL MEASURES TO CONTRIBUTE TO THE SOLUTION OF GLOBAL ENVIRONMENTAL PROBLEMS

WHEREAS, increasing evidence strongly indicates that the production of carbon dioxide, methane and other gases from human activities have already begun to create a global warming trend, and

WHEREAS, if the trend continues, it could cause drastic world-wide ecological changes of serious consequence to residents of the East Bay, and

WHEREAS, increasing evidence also indicates that the massive release of chlorofluorocarbons into the atmosphere is diminishing the protective layer of ozone that surrounds the earth, and

WHEREAS, other environmental problems, such as diminishing species diversity and widespread toxic pollution of our land, air and water increasingly threaten the ecosystem's stability and human health and welfare,

NOW, THEREFORE BE IT RESOLVED, that this Board, in recognition of its obligation to play whatever role it can in contributing to the solution of these problems and to raise public awareness of their seriousness, directs staff to develop a complete list of regional responses for consideration by the Operations and Natural Resources Committees on May 10 and for discussion by the full Board in June. These activities would address each of the above issues.

Moved by Director _____, seconded by Director _____ and adopted this 18th day of April 1989 by the following vote:

FOR:

AGAINST:

ABSTAIN:

ABSENT:

AGENDA
REGULAR MEETING
BOARD OF DIRECTORS

EAST BAY REGIONAL PARK DISTRICT

Tuesday, April 18, 1989

D. BUSINESS BEFORE THE BOARD

6. CONSENT CALENDAR

- m. Approval of EBRPD Guidelines for Protecting Parkland Archaeological Sites (Kent)

RECOMMENDATION

The General Manager and Board Operations Committee recommend that the Board adopt guidelines for protecting parkland archaeological sites, as submitted this date.

COST

Since the guidelines represent a policy framework for managing and protecting the numerous archaeological sites found throughout District parklands, it will be difficult to assign a cost for implementing the overall policy. It is clear, however, that the District needs to begin discussions with representative living descendents of the Ohlone, Yokut, and Miwok tribes within the East Bay. The costs to implement paragraph IV.(d) of the proposed guidelines can be accommodated within our existing budget level and will involve routine staff time and nominal consultant fees.

Section IV.(e) (Reinterment Plan Policies) will also require attention in the next year or two as we understand that Ohlone descendents are in the process of concluding agreements with both Stanford University and San Jose State for reintering remains of their ancestors taken from Coyote Hills in the 50's and 60's.

POTENTIAL CONTROVERSY

There is a growing controversy between Indians and the scientific community about the proper role for living descendents as compared with archaeologists and scientists at discovered Native American sites.

This proposed policy establishes the firm position that the District will protect and not disturb Native American sites on its parklands and will directly consult with and involve the descendents in preserving and interpreting the sites.

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The science of archaeology will also have an important role to play in the CEQA process and in setting prescriptions for protection. However, science will be balanced with the wishes of descendants and the environmental community for preserving park resources and protecting the cultural and religious heritage of Native American Indians.

ATTACHMENT

EBRPD Guidelines for Protecting Parkland Archaeological Sites

EBRPD GUIDELINES FOR PROTECTING
PARKLAND ARCHAEOLOGICAL SITES

Background

I. The District's Master Plan mandates preservation of prehistoric resources on lands owned or operated by the District. "The District will preserve cultural resources 'in situ' wherever feasible. After consulting with recognized authorities and groups, the Board will adopt a reinterment plan for the remains of Native Americans and their associated artifacts."

II. Ordinance #38

ARCHAEOLOGICAL FEATURES. No person shall damage, injure, collect or remove, any object of paleontological, archaeological or historical interest or value located on District parklands. In addition, any person who willfully injures an object of archaeological or historical interest or value or enters a fenced and posted archaeological site shall be arrested or issued a citation pursuant to Penal code Section 622-1/2.

III. State Law

Native American graves and artifacts. Every person who knowingly mutilates or disinters, wantonly disturbs, or willfully removes any human remains in or from any location is guilty of a misdemeanor. State law prohibits any person from obtaining or possessing any Native American artifacts or human remains taken from a Native American grave or cairn on or after January 1, 1984.

It is a felony punishable by imprisonment in the state prison for any person to knowingly or willfully obtain or possess any Native American artifacts or human remains taken from a Native American grave or cairn after January 1, 1988, except as otherwise provided by law.

SECTION 1. Section 7050.5 of the Health and Safety Code
7050.5 (a) Every person who knowingly mutilates or disinters, wantonly disturbs, or willfully removes any human remains in or from any location other than a dedicated cemetery without authority of law is guilty of a misdemeanor, except as provided in Section 5097.99 of the Public Resources Code. The provisions of this subdivision shall not apply to any person carrying out an agreement developed pursuant to subdivision (1) of Section 5097.94 of the Public Resources Code or to any person authorized to implement Section 5097.98 of the Public Resources Code.

(b) In the event of discovery of recognition of any human remains in any location other than a dedicated cemetery, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains until the coroner of the county in which the human remains are discovered has determined, in accordance with Chapter 10 (commencing with Section 27460) of Part

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Parkland Archaeological Sites
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3 of Division 2 of Title 3 of the Government Code, that the remains are not subject to the provisions of Section 27491 of the Government Code or any other related provisions of law concerning investigation of the circumstances, manner and cause of any death, and the recommendations concerning the treatment and disposition of the human remains have been made to the person responsible for the excavation, or to his or her authorized representative, in the manner provided in Section 5097.98 of the Public Resources Code. The coroner shall make his or her determination within two working days from the time the person responsible for the excavation, or his or her authorized representative, notifies the coroner of the discovery or recognition of the human remains.

(c) If the coroner determines that the remains are not subject to his or her authority and if the coroner recognizes the human remains to be those of a Native American, or has reason to believe that they are those of a Native American, he or she shall contact, by telephone within 24 hours, the Native American Heritage Commission.

SEC. 2 Section 5097.99 of the Public Resources Code is amended to read:

5097.99. (a) No person shall obtain or possess any Native American artifacts or human remains which are taken from a Native American grave or cairn on or after January 1, 1984, except as otherwise provided by law or in accordance with an agreement reached pursuant to subdivision (1) of Section 5097.94 or pursuant to Section 5097.98.

(b) Any person who knowingly or willfully obtains or possesses any Native American artifacts or human remains which are taken from a Native American grave or cairn after January 1, 1988, except as otherwise provided by law or in accordance with an agreement reached pursuant to subdivision (1) of Section 5097.94 or pursuant to Section 5097.98, is guilty of a felony which is punishable by imprisonment in the state prison.

IV. EBRPD Operational Guidelines

- A. O&I managers and supervisors will follow the archaeological site operations and protection procedures and mitigations prescribed in any adopted LUDP/EIR or interim use plan for parks under their control.
- B. For parks without LUDP/EIR's, O&I managers and supervisors will identify known archaeological sites, and will conduct park operations in a manner to avoid disturbance of known features. In the event disturbance is unavoidable for any project, we will comply with the District's CEQA process prior to project initiation.

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Parkland Archaeological Sites

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- C. Identified Native American sites will be zoned as special protection units in the O&I resource mapping project, and will be preserved and managed in their natural condition. A minimum 50' buffer will be established around each known site to ensure that encroachments will not desecrate burials or damage artifacts. If a new site is discovered within a developed area, the District, in consultation with local descendents and a qualified archaeologist, will develop special operational guidelines to protect the site and to regulate and control digging, trenching, grading or other activities. Any digging or trenching in or near a known site where human remains might be present will be done with a local designated Native American observer present.
- D. The District will respect the native religious and cultural rights of Ohlone, Yokut, and Miwok descendents. The District will consult with the most likely living descendents recommended by the California Native American Heritage Commission on all matters of:
1. How best to protect the site.
 2. How best to keep certain sites secret, to decide which sites are appropriate to interpret, and how to involve descendents in telling the Ohlone, Yokut, and Miwok story.
 3. How to comply with the wishes of local descendents on matters of religious and cultural beliefs.
 4. How to handle the protection and the dignified reinterment of human remains, and other personal items associated with burials.
 5. How to protect, preserve, catalog, and present for educational purposes any appropriate artifacts found at the park.
 6. How, if, and when any scientific inquiry is appropriate or advisable at the site or involving any disturbed human remains or features. The District will not generally allow archaeological digs to occur on identified sites.
- E. Reinterment Plan Policies

The specific plan for reinterment of human remains and associated burial objects found on District lands will be decided in consultation with the most likely descendents of each tribe for a park site using the following policies:

1. Remains and objects removed from a parkland or disturbed during construction will be reinterred at an appropriate site close to the original burial.

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Parkland Archaeological Sites
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2. The District will cooperate with descendents in returning burial remains that were excavated in archaeological digs prior to District ownership of the parkland.
 3. The reinterment site will be documented in an appropriate fashion, i.e., either a secret site or a public site for educational purposes.
- F. Other identified archaeological sites (other than Native American Indian) will also be zoned as special protection units in the O&I resource mapping project, and will be preserved and protected as features of the park. A minimum 50' buffer will be established around the site to ensure protection of the resource being preserved. The District, in consultation with qualified scientists from the appropriate disciplines, will develop a specific written plan for preserving the site and for determining whether or not further archaeological or scientific discovery is warranted on a representative portion of the site. The Board of Directors, after complying with CEQA, will approve any work that would result in disturbance of the resource.

Archsites
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EAST BAY REGIONAL PARK DISTRICT

Resolution No. 1989-4-

April 18, 1989

APPROVAL OF EBRPD GUIDELINES FOR PROTECTING
PARKLAND ARCHAEOLOGICAL SITES

EBRPD Guidelines for Protecting Parkland Archaeological Sites, as presented to the Board this date, are hereby approved.

Moved by Director _____, seconded by Director _____
and approved this 18th day of April, 1989, by the following vote:

FOR:

AGAINST:

ABSTAIN:

ABSENT:

