



**Wildlife Conservation Board Meeting
December 8, 2020**



List of all Briefing Documents For the Rancho Jamul Land Exchange

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New Items since December 4

Letters of Support

- Letter to WCB from Karen Scarborough
- Letter to WCB from Senator Ben Hueso
- Letter to WCB from Assemblymember Randy Voepel
- Letter to WCB from J. Whalen Associates, Inc.
- Letter to WCB from CAL FIRE Firefighters Local #2881
- Letter to WCB from Supervisor Jim Desmond
- Letter to WCB from Jace Wheeler

Letters of Opposition

- Letter to WCB from Arroyos & Foothill Conservancy
- 53 Opposition emails from EHL list serve alert

Dudek

- Memo regarding review of Letters to WCB

News stories

- *Conservation Board must reject land exchange in San Diego County*, Cal Matters Guest Commentary
- *In a first, California considers allowing housing project on San Diego ecological reserve*, The San Diego Union-Tribune

New Items since November 25

WCB Information

- Final CEQA Findings – Proctor Valley Land Exchange – Dec. 8 meeting

GDCI and GDandB

- Letters to the seven Board members from GDB regarding USFWS Findings

USFWS

- Village 14 Exchange Letter

Letters of Support

- Letter to WCB from Councilmember John McCann, City of Chula Vista
- Letter to WCB from J. Whalen Associates, Inc.

Letters of Opposition

- Letter to WCB from Resources Legacy Fund
- Letter to WCB from San Diego County Wildlife Federation
- Letter to WCB from The Natural Resources Defense Counsel
- Letter to WCB from The Wildlands Audubon Society
- Letter to WCB from Pasadena Audubon Society
- 39 Opposition emails from *EHL* list serve alert

Endangered Habitats League

- Letter from Hamilton Biological – Response to Dudek Memo Re-mapping of Plan Communities Rancho Jamul Land Exchange Project
- Letter from Shute Mihaly & Weinberger LLP

Documents from August Board meeting

CDFW Information

- CDFW Letter re: Proctor Valley
- CDFW LCE Clarification-Update
- LCE package with signatures

GDCI and GDandB

- Video Presentation on behalf of GDCI
- PowerPoint presentation

Letters of Support

- Scott Peters, Congressman, 52nd District
- Greg Cox, Chairman, San Diego County Board of Supervisors
- Community members: Amy Spear, Becky Cortez, Linda Menashe, Sassan Rahimzadeh, Stacie Greene, and Vince Kattoula
- Kim J. Kilkenny, Retired, Executive Vice President, Baldwin Company
- Jerry Sanders, President & CEO, San Diego Regional Chamber of Commerce
- David Leonhardi, President, Deputy Sheriffs' Association of San Diego County
- Jo Marie Diamond, President & CEO, San Diego East County Economic Development Council
- David Hubbard, Gatzke Dillon & Ballance LLC
- Patrick Walker, 10th District Vice President, CAL FIRE Firefighters of Local #2881
- Lisa Cohen, CEO, Chula Vista Chamber of Commerce

Letters of Opposition

- Jay Ziegler, Director of External Affairs and Public Policy, The Nature Conservancy
- Group Opposition Letters – 27 State, National and Local organizations
- Suzanne Thompson, Chair, Pomona Valley Audubon Burrowing Owl Project

Endangered Habitats League (EHL)

- Hamilton Stallicup Review of LCE
- Letter from Attorney William White, Shute, Mihaly & Weinberger LLP
- Fact Sheet
- Presentation
- Summary
- Osborne-Ballmer Letter
- CVs
- Exhibits: 1-15 to the letter from William White of Shute, Mihaly & Weinberger LLP
- Administrative Records: (see Document 1 in folder for list)

New Items for December 8 Board meeting up to November 25

San Diego Board of Supervisors, Greg Cox

- Rancho Jamul Land Exchange Letter
- Letter to San Diego Planning Department from EHL re: DEIR for Newland Sierra General Plan Amendment and Specific Plan
- Map of 1997 South County Multiple Species Conservation Program, Take Authorized Areas
- Map of 1997 South County Multiple Species Conservation Program Amendment, Take Authorized Areas for MSCP Covered Species

GDCI and GDandB

- Letter to Colin Mills, WCB General Counsel, from David Hubbard, GDandB, re: Status of PV1, PV2, and PV3
- Letter to Executive Director and Board Members from David Hubbard, GDandB re: Court Rejection of EHL Claim
- Superior Court of San Diego County, California – Rejection of EHL Claim
- Factual Background – Review of WCB Approved Land Exchanges and Historical Precedent
- Factual Background – Existing Restoration Requirements
- Letter from Frank Thomas, Chief Executive Officer, GDC Communities
- Cover Letter and GDCI Proctor Valley L.P. Memorandum addressing questions raised at the August 26, 2020 hearing. (*This Memorandum references Gatzke Dillon and Ballance's Letter to Collin Mills, dated September 3, 2020, which we assume you are also including in your Board briefing package.*)
- Letter to Exec. Director re: GDCI Factual Detail 7 – 1
- Subdivision Map Act
- GDCI Land Exchange – Additional Factual Detail #7 WCB QA
- Letter to Exec. Director in response to Hamilton Biological Comments (11-24-20)

Letters of Support

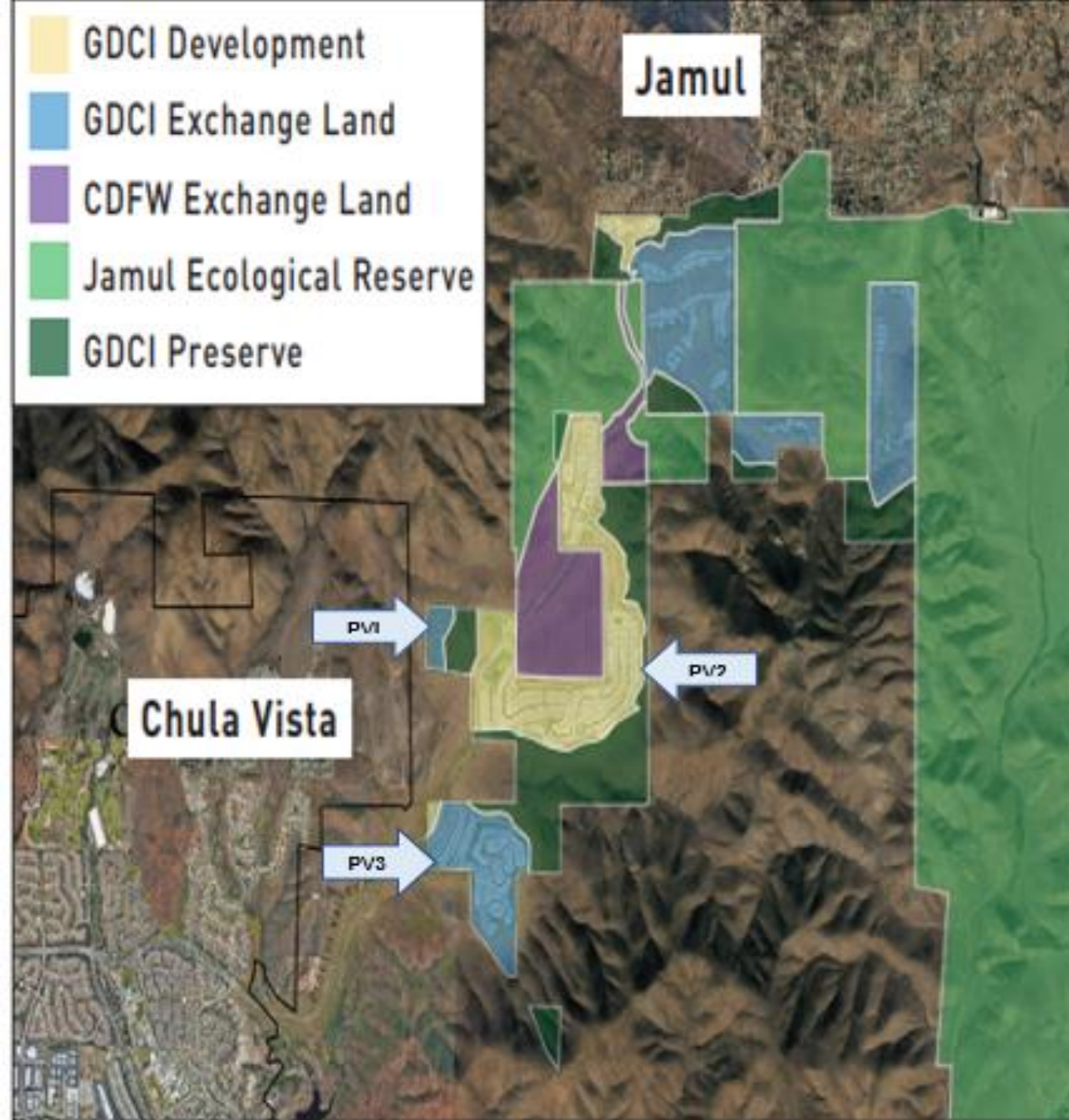
- John McCann, Councilmember, City of Chula Vista
- Letters of Support from Congressman Vargas, community groups, and more than 150 local residents

Letters of Opposition

- Opposition letter from Land Trust Community
- Group opposition letter
- 33 Opposition emails from EHL List Serve Alert
- Letter recommending denial from San Diego BOS Terra Lawson-Remer

Endangered Habitats League

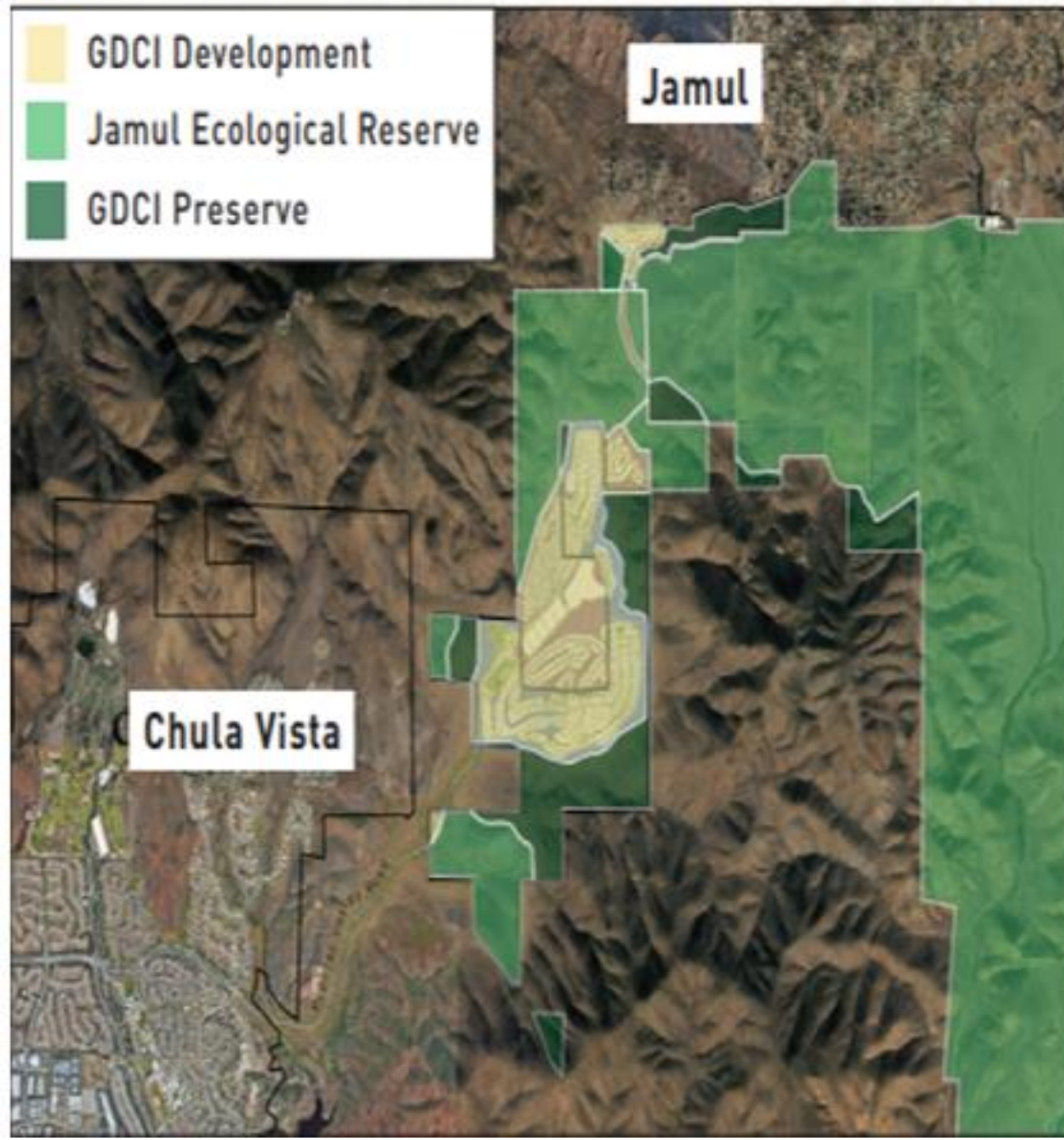
- Proposed Exchange Fact Sheet



19. Rancho Jamul Land Exchange

Slide 1

Current Preserve and Exchange Parcels.



19. Rancho Jamul Land Exchange

Slide 2

Post Land Exchange



19. Rancho Jamul Land Exchange

Slide 3

Left picture is the current development plan.

Right picture is the post development plan after the exchange.



19. Rancho Jamul Land Exchange

Slide 4

Looking south at exchange
Parcel R-16.



19. Rancho Jamul Land Exchange

Slide 5


Southerly view of a GDCI
exchange parcel to CDFW.



19. Rancho Jamul Land Exchange

Slide 6

Northerly view of GDCI
exchange parcel to CDFW.



19. Rancho Jamul Land Exchange

Slide 7

Easterly view of CDFW
exchange parcel to GDCI.



19. Rancho Jamul Land Exchange

Slide 8

- Easterly view across CDFW exchange parcel to GDCI.



19. Rancho Jamul Land Exchange

Slide 9

Northwesterly view of CDFW
exchange parcel to GDCl.



A black and white landscape photograph of a mountain range. The foreground shows a rocky, sparsely vegetated slope with several pine trees. In the middle ground, there are rolling hills and valleys covered in dense evergreen forests. The background features a range of mountains under a sky with scattered clouds. A semi-transparent white rectangular box with a thin green border is centered over the image. Inside this box, the text "Rancho Jamul Land Exchange" is written in a black serif font. Two dark horizontal bars extend from the left and right sides of the box, partially overlapping the image.

Rancho Jamul Land Exchange

General Background

Slide 1

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- CDFW to exchange 219± acres to GDCI.
 - GDCI to exchange 339± acres to CDFW plus a conservation easement held by CDFW covering 191± acres.
 - CDFW lands appraised at \$31,000,000.
 - GDCI lands (fee interest plus conservation easement) appraised at \$56,485,000.
 - DGS approved the appraisal concluding the “appraiser has demonstrated the value of the GDCI Exchange Parcels exceeds the value of the CDFW Exchange Parcels” and the “appraisals are adequately supported and are credible for the stated intended use (relative valuation for land exchange).”
 - The exchange was contemplated in the Dispute Resolution Agreement (DRA).

WCB Authority to Conduct CDFW Exchanges

Slide 2

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- WCB has authority to conduct exchanges on behalf of CDFW under Fish and Game Code section 1348.
 - Although the intent of all CDFW acquisitions is to own and preserve the property in perpetuity, state and federal law allows and the Department, at times, does exchange these properties.

Past CDFW Exchanges

Slide 3

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- CDFW exchanges are not uncommon.
 - WCB has conducted 20+ exchanges for CDFW.
 - Many land exchanges are minor to allow for resolution of boundary disputes and encroachments or to allow for roadway realignments/expansions.
 - The ability to conduct exchanges is beneficial to CDFW as it avoids unnecessary litigation (such as eminent domain in the context of roadways or disputes with neighboring landowners).
 - The ability to conduct exchanges also allows CDFW to be nimble and negotiate to achieve the greatest possible conservation outcome.

Past CDFW Exchanges (cont.)

Slide 4

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- Land exchanges are supported by Land Conversion Evaluations (LCE) prepared by CDFW.
 - Land exchanges typically do not require a restriction on the land CDFW transfers out of ownership.

Section 6 Funding

Slide 5

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- Section 6 identifies a path for disposal of land acquired with Section 6 funding. USFWS approved the exchange of the fee parcels on November 18 concluding that **there is biological equivalency between the *fee parcels* being exchanged.**
 - USFWS' determination did not analyze the conservation easement as part of its equivalency analysis. Therefore, **the conservation easement provides additional habitat values to CDFW as part of the exchange.**
 - WCB has processed exchanges acquired with other federal funding sources such as the Land Water Conservation Fund.

CDFW NCCP Authority

Slide 6

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- Natural Community Conservation Plans (NCCP) are plans entered into between CDFW and local agencies to provide comprehensive management and conservation of multiple wildlife species. (Fish and Game Code § 2800, *et seq.*)
 - The Multiple Species Conservation Program Subarea Plan discussed as part of this project is a comprehensive, long-term habitat conservation plan approved under the Federal Endangered Species Act and the Natural Community Conservation Plan program administered by CDFW.
 - The MSCP allows for permitted development to occur with take authorization for listed species covered by the plan and identifies habitat mitigation and the land to be preserved for that mitigation.

The County's MSCP Subarea Plan

Slide 7

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- The MSCP covers a total of 85 species. At the time of the County's original approval (2019), the quino checkerspot butterfly (Quino) was not covered by the plan. Quino is only a listed species under the federal Endangered Species Act.
 - The County's MSCP Subarea Plan allows for amendments and has been amended prior to the current amendment.
 - Although the LCE concludes there will be a loss of Quino habitat, the exchange results in benefits to other species, including San Diego Fairy Shrimp (CDFW LCE Letter July 2020). The exchange also preserves important connectivity/corridors for Quino.

What is the Board considering today?

Slide 8

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- The Board is not being asked to approve the MSCP Subarea Plan amendment. That amendment was approved by the County (June 2020), CDFW (August 2020), and, in principle, by the USFWS (November 2020). The USFWS' final permit will not be issued until after a Board approval of the Exchange.
 - Today, the Board is being asked to approve an exchange of property (recommended by CDFW) which will help to implement the MSCP Subarea Plan, as amended.
 - The purpose of the original funding sources (USFWS Section 6 and Prop. 12 [PRC § 5096.350(a)(6)]) is to implement NCCPs. The requirements of the funding sources will be applied to the properties CDFW will be receiving in the exchange, if approved, and will further the MSCP. The Section 6 funding requirements are only applied to the fee parcels being acquired.

Implications to CDFW of Not Approving the Exchange

Slide 9

- WCB is charged to help CDFW implement NCCPs through various funding sources (Prop. 12, Prop. 68, Prop. 84).
- If the exchange is not approved, GDCI's original plan is fully entitled by the County to move forward and would result in impacts to CDFW lands.
- However, approving the exchange assists CDFW in fulfilling its statutory role under the NCCP program, is consistent with the funding sources used, and is in keeping with WCB's traditional role of assisting CDFW in implementing its regulatory role and NCCPs.

Biological Considerations Supporting the Exchange

Slide 10

- Public Resources Code § 5096.516 allows for exchanges of conservation lands for “lands of greater biological value for wildlife habitat.”
- The statute does not dictate how such an analysis occur. Accordingly, among other things, the LCE considered the impacts to CDFW lands that would result from implementation of the 2019 County Approved GDCI project versus the alternative of implementing the exchange with the reduced development footprint.
- The LCE prepared by CDFW, after reviewing the exchange lands, concluded that the land exchange is “**biologically superior to that which would result from implementation of the Current Land Plan** [the 2019 County approved GDCI development plan].” (LCE at pg. 13)
- CDFW confirmed this finding in two subsequent letters to WCB. (July 2020 letter to WCB and August 2020 letter to WCB).

Biological Considerations (cont.)

Slide 11

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- Biological evaluations are not always conducive to comparing apples to apples. CDFW biological staff must evaluate differing habitat conditions and types, species composition, connectivity, and management considerations and determine if the exchange results in greater biological value for wildlife habitat.
 - In addition, impacts to Quino were not the sole consideration driving the evaluation. CDFW considered the evaluation in the context of the MSCP and the 85 species covered by the plan. This is consistent with the funding sources which are used for the purposes of implementing the MSCP and benefiting the covered species.

Biological Considerations (cont.)

Slide 12

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- CDFW acknowledges that “the CDFW Exchange Lands currently possess higher biological value in terms of habitat and sensitive species.”
 - However, CDFW placed greater emphasis on reducing edge effects by consolidating development. CDFW also identified that potential habitat loss and fragmentation from the 2019 County approved project at the west end of Proctor Valley would be “**a significant adverse impact on regional MSCP preserve design.**”

Biological Considerations (cont.)

Slide 13

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- The LCE identified the negative impacts that would occur to CDFW lands in the absence of the exchange. For example, Area A would be surrounded by development on 3 sides and a road on the fourth side which would “bring commensurate edge effects having a significant adverse impact to the flora and fauna in Area A.” (LCE at p. 12.) Areas B, C, and E would all be subject to edge effects.
 - CDFW’s August 2020 letter to WCB concluded that “[o]n balance, the Department determined that the benefits from the Land Exchange by providing a net increase in conservation lands, reducing fragmentation, and maintaining connectivity **outweighed the loss of certain lands with superior habitat values.**”

Biological Considerations (cont.)

Slide 14

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- In short, CDFW acknowledged the difference in habitat values but ultimately concluded the exchange was superior for wildlife habitat based on a multitude of factors, not just impacts to one species or the exact comparison of habitat conditions.
 - Ultimately, CDFW concluded that the exchange results in an exchange for lands of greater biological value as wildlife habitat.
 - The exchange contemplated fully complies with the law.

Litigation and USFWS Approval Update


Slide 15

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- The CEQA challenge against CDFW related to its decision to enter into the DRA was decided in favor of CDFW. However, that decision was recently appealed.
 - WCB, as a responsible agency, is relying on the County approved EIR and Addendum prepared and adopted by the County. Although there are existing lawsuits related to the validity of the EIR and the Addendum, CEQA states that absent an injunction, responsible agencies *shall* assume that the EIR complies with the law (Pub. Resources Code section 21167.3(b).) At present, there is no court issued injunction or stay.
 - USFWS approved the County Subarea Plan Amendment and the Section 6 exchange of the fee parcels on November 18, 2020.

Conclusion

Slide 16

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- Board staff recommends approval of the project as proposed for the following reasons:
 - The exchange is legal. It is consistent with WCB's statutory authority, the funding sources, and with the Public Resources Code provisions regarding exchanges of conserved lands.
 - The exchange results in greater biological value as wildlife habitat as opposed to the impacts that would occur from the original project development which is supported by CDFW's LCE. The exchange of properties is also supported by a DGS and USFWS approved appraisal which verifies that CDFW is receiving lands of greater monetary value.
 - The exchange supports CDFW's regulatory role in implementing the MSCP and WCB's role in supporting NCCPs.
 - WCB is fully complying with CEQA as part of its approval of the exchange.



Questions / Comments