



**EXECUTIVE COMMITTEE
MEETING AGENDA**

TIME: 12:00 p.m.

DATE: Wednesday, June 16, 2021

Pursuant to Governor Newsom's Executive Order N-29-20, (March 18, 2020), the Executive Committee meeting will only be conducted via video conferencing and by telephone.

🌀 COMMITTEE MEMBERS 🌀

Natasha Johnson, City of Lake Elsinore – Chair
Jeff Hewitt, County of Riverside, District 5 – Vice Chair
Lesla Sobek, City of Menifee
Jonathan Ingram, City of Murrieta
Kevin Bash, City of Norco
Crystal Ruiz, City of San Jacinto
Kevin Jeffries, County of Riverside, District 1

WESTERN RIVERSIDE COUNTY REGIONAL CONSERVATION AUTHORITY

www.wrc-rca.org

EXECUTIVE COMMITTEE MEETING AGENDA

**12:00 p.m.
Wednesday, June 16, 2021**

Pursuant to Governor Newsom's Executive Order N-29-20, (March 18, 2020), the Executive Committee meeting will only be conducted via video conferencing and by telephone. Please follow the instructions below to join the meeting remotely.

INSTRUCTIONS FOR ELECTRONIC PARTICIPATION

Join Zoom Meeting

<https://rctc.zoom.us/j/81636760176>

Call in: +1 669 900 6833

Meeting ID: 816 3676 0176

One tap mobile: +16699006833,,81636760176#

For members of the public wishing to submit comment in connection with the Executive Committee Meeting please email written comments to the Clerk of the Board at lmobley@rctc.org prior to June 15, 2021 at 5:00 p.m., and your comments will be made part of the official record of the proceedings. Members of the public may also make public comments through their telephone or Zoom connection when recognized by the Chair.

In compliance with the Brown Act and Government Code Section 54957.5, agenda materials distributed 72 hours prior to the meeting, which are public records relating to open session agenda items, will be available for inspection by members of the public prior to the meeting on the RCA's website, www.wrc-rca.org.

In compliance with the Americans with Disabilities Act, Government Code Section 54954.2, Executive Order N-29-20, and the Federal Transit Administration Title VI, please contact the Clerk of the Board at (951) 787-7141 if special assistance is needed to participate in a Board meeting, including accessibility and translation services. Assistance is provided free of charge. Notification of at least 48 hours prior to the meeting time will assist staff in assuring reasonable arrangements can be made to provide assistance at the meeting.

- 1. CALL TO ORDER**
- 2. ROLL CALL**
- 3. PLEDGE OF ALLEGIANCE**

4. PUBLIC COMMENTS – *Under the Brown Act, the Board should not take action on or discuss matters raised during public comment portion of the agenda that are not listed on the agenda. The Board members may refer such matters to staff for factual information or to be placed on the subsequent agenda for consideration.*

5. ADDITIONS / REVISIONS – *The Board may add an item to the Agenda after making a finding that there is a need to take immediate action on the item and that the item came to the attention of the Board subsequent to the posting of the agenda. An action adding an item to the agenda requires 2/3 vote of the Board. If there are less than 2/3 of the Board members present, adding an item to the agenda requires a unanimous vote. Added items will be placed for discussion at the end of the agenda.*

6. CLOSED SESSION

6A. CONFERENCE WITH LEGAL COUNSEL: EXISTING LITIGATION

Pursuant to Government Code Section 54956.9(d)(1)

Case No. RIC1901547

6B. REPORT OUT FROM CLOSED SESSION

7. CONSENT CALENDAR – *All matters on the Consent Calendar will be approved in a single motion unless a Board Member(s) requests separate action on specific item(s).*

7A. APPROVAL OF MINUTES – MAY 19, 2021

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7B. WESTERN RIVERSIDE COUNTY MULTIPLE SPECIES HABITAT CONSERVATION PLAN FEE COLLECTION REPORT FOR MAY 2021

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Overview

This item is for the Committee to:

- 1) Receive and file the Western Riverside County Multiple Species Habitat Conservation Plan (MSHCP) Fee Collection Report for May 2021; and
- 2) Forward to the Board of Directors for final action.

8. RIGHT OF WAY ACQUISITION OVERVIEW

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Overview

This item is for the Committee to:

- 1) Receive a presentation summarizing the Right of Way Acquisition Process; and
- 2) Forward to the Board of Directors for final action.

9. LEGISLATIVE UPDATE

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Overview

This item is for the Committee to:

- 1) Receive and file an update on state and federal legislation; and
- 2) Forward to the Board of Directors for final action.

10. BOARD OF DIRECTORS / EXECUTIVE DIRECTOR REPORT

Overview

This item provides the opportunity for the Board of Directors and the Executive Director to report on attended meetings/conferences and any other items related to Commission activities.

- Nexus Study Implementation Update
- Covid-19 Protocols

11. ADJOURNMENT

The next Executive Committee is scheduled to be held on **Wednesday, August 18, 2021**, via Zoom.

AGENDA ITEM 7A

MINUTES

WESTERN RIVERSIDE COUNTY REGIONAL CONSERVATION AUTHORITY

EXECUTIVE COMMITTEE MINUTES

Wednesday, May 19, 2021

1. CALL TO ORDER

The meeting of the Executive Committee was called to order by Chair Natasha Johnson at 12:00 p.m., via Zoom Meeting ID: 833 2546 0771, pursuant to Governor Newsom’s Executive Order N-29-20.

2. ROLL CALL

Members/Alternates Present

Kevin Jeffries
Jeff Hewitt
Natasha Johnson
Lesa Sobek
Jonathan Ingram
Crystal Ruiz*

Members Absent

Kevin Bash

*Arrived after the meeting was called to order.

3. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Board Member Jeffries.

4. PUBLIC COMMENTS

Lisa Mobley, Administrative Services Manager/Clerk of the Board, noted that written public comment was received from Ed Sauls and Michele Staples that was forwarded to all Board Members.

Michele Staples, a representative for the Olsen Canyon property, asked the Board for help, as the property in question has been in the MSHCP process for 6 years, and in the appraisal process for 14 months. The MSHCP process isn’t working for this property. The appraisal that was received from the RCA was full of errors and therefore unusable. The owner has now been directed to the conflict resolution process which will require significant court intervention and additional appraisals, from which neither party will benefit.

Ed Sauls, a representative for the Olsen Canyon property, wanted to bring three recommendations forward to the Board for consideration. The first recommendation is to direct the RCA staff to work to negotiate with property owners prior to triggering the conflict resolution process. The second is to consider the offer presented from Olsen Canyon, as this

type of offer has been used in the past successfully. The third recommendation, which would be a long-term goal, would be to put together a task force or a sub-committee to review the process and see if there is way to develop a legal, fair, and efficient way to proceed.

Garret Sauls, a representative for the Olsen Canyon property, complimented right of way staff at RCA for their work. Even with their successful work, they still need more tools to be able to negotiate further without pursuing the conflict resolution process.

5. ADDITIONS / REVISIONS

There were no additions or revisions to the agenda.

6. CONSENT CALENDAR – *All matters on the Consent Calendar will be approved in a single motion unless a Board Member(s) requests separate action on specific item(s).*

M/S/C (Ingram/Sobek) to approve the following Consent Calendar items.

6A. APPROVAL OF MINUTES – APRIL 21, 2021

6B. FISCAL YEAR 2021/21 THIRD QUARTER FINANCIAL REPORT

- 1) Receive and file the FY 2020/21 Third Quarter Financial Report; and
- 2) Forward to the Board of Directors for final action.

6C. WESTERN RIVERSIDE COUNTY MULTIPLE SPECIES HABITAT CONSERVATION PLAN FEE COLLECTION REPORT FOR APRIL 2021

- 1) Receive and file the Western Riverside County Multiple Species Habitat Conservation Plan (MSHCP) Fee Collection Report for April 2021; and
- 2) Forward to the Board of Directors for final action.

7. RECURRING CONTRACTS FOR FISCAL YEAR 2021/22

Jose Mendoza, Procurement Manager, explained the recurring contract process which coincides with the yearly budget process. As part of the annual budget process, staff evaluated contracts that are set to expire within the next year, those contracts are then placed on the calendar for a new solicitation, allowed to expire if they are no longer required, or included as part of the annual recurring contracts list. Consultants and agencies that appear on the recurring contracts list provide unique or specialized services, and/or they are working closely with staff on long-term projects.

Board Member Ingram thanked staff for finding savings on the annual recurring contracts.

Board Member Sobek asked for clarification on the second recommendation. Mr. Mendoza explained that the Dudek contract is for a five-year term and each year of the contract is estimating a value of \$250,000.

M/S/C (Hewitt/Ingram) to:

- 1) Approve the single-year recurring contracts in an amount not to exceed \$3,334,393, for FY 2021/22;**
- 2) Approve the recurring contract for specialized services in and amount not to exceed \$250,000, in FY 2021/22 and \$1,000,000, in FYs 2022/23 - 2025/26;**
- 3) Authorize the Chair or Executive Director, pursuant to legal counsel review, to execute the agreements on behalf of RCA; and**
- 4) Forward to the Board of Directors for final action.**

8. ADOPTION OF FISCAL YEAR 2021/22 BUDGET AND APPROVAL OF THE BIOLOGICAL MONITORING PROGRAM WORKPLANS

Jennifer Fuller, Financial Administration Manager, provided a presentation on the Fiscal Year 2021/22 Budget. In accordance with past practice, 10% of participating special entities revenues will be allocated to the endowment for future preservation. The 2020 Nexus Study recommends that 15% of Local Development Mitigation Fee (LDMF) revenue also be allocated to the endowment. The MSHCP allows property owners who do not intend to file a development application to submit their properties for evaluation and possible acquisition under the Habitat Evaluation and Acquisition Negotiation Strategy (HANS). Consistent with the current budget, staff recommends allocating 5% of LDMF collections to the acquisition of non-development HANS properties. The economic stability policy requires a minimum cash level of \$9 million, to be able to continue operations for at least 18 months.

The RCA staff anticipates the beginning fiscal year fund balance at \$54.9 million, just over half of this amount is restricted to how it can be spent or is reserved for non-spendable endowments. The Fiscal Year 2021/22 budget includes estimated revenue sources of \$53.3 million and estimated uses of \$50.4 million.

Board Member Ingram inquired as to whether payments from Edison would be continuing, or if all the payments had been collected based on the agreement from Fiscal Year 2018/19. Ms. Fuller noted that she would need to look at that agreement and report back.

At this time, Board Member Ruiz joined the meeting.

M/S/C (Ingram/Sobek) to:

- 1) Adopt the FY 2021/22 Budget and related Resolution No. 2021-014, “Resolution of the Board of Directors of the Western Riverside County Regional Conservation Authority Adopting the Fiscal Year 2021/22 Operating and Capital Budget Including Budget Policies”;**

- 2) **Approve the Biological Monitoring Program Work Plan and Cost Estimate included as Appendix B in the FY 2021/22 Budget;**
- 3) **Approve the Clinton Keith Road Overcrossing Mitigation Monitoring Reimbursable Program Work Plan and Cost Estimate included as Appendix C in the FY 2021/22 Budget; and**
- 4) **Forward to the Board of Directors for final action.**

9. LEGISLATIVE UPDATE

David Knudsen, Legislative Affairs Manager, provided a presentation on state and federal updates. The RCA has been advocating for both state and federal funds. The federal requests have been submitted for community project funding, congressional directed spending, and programmatic funding. Requests to the state have been through the Wildlife Prevention and Climate Resiliency Bond Measures (SB45/AB1500) and individual member budget requests. Altogether, the RCA staff is currently advocating for \$229.2 million in fund requests.

Mr. Knudsen shared a clip of the senate hearing from this morning showing testimony provided by Ed Sullivan, Executive Director of the Santa Clara Valley Habitat Agency, in support of the RCA and Habitat Conservation Plans across California on the behalf of the California Habitat Conservation Plan Coalition. Mr. Sullivan's remarks are the result of a strong partnership with the coalition and the ongoing strategic communication with federal officials.

Board Member Sobek thanked staff for sharing the senate hearing clip, it speaks volumes to what we are accomplishing at the RCA.

- 1) **Receive and file an update on state and federal legislation; and**
- 2) **Forward to the Board of Directors for final action.**

10. BOARD OF DIRECTORS / EXECUTIVE DIRECTOR REPORTS

Anne Mayer, Executive Director, thanked the RCA member agencies on the tremendous job they are doing with the adoption of the Nexus Study Update. Around 75% of the jurisdictions have fully adopted the Nexus Study Update and related documents. We are on track for full adoption by all member agencies by July 1st. Ms. Mayer expressed her thanks to staff, members of this committee, and the full board on their engagement and feedback. The RCA staff will continue to be available both in city council meetings and in preparation of those meetings.

Board Member Sobek wanted to know if RCA or RCTC was eligible to receive any of the Recovery Act money from the federal government and what the affect of those funds might be. Ms. Mayer responded that we are not yet aware of whether any funds will be received, it would depend on how the funding is allocated, as much of the funding will be flowing through the states. The RCA should have more information as the state finalizes its budget in the coming weeks.

Chair Johnson asked that an agenda item be added to the next Executive Committee to discuss the right of way process, in response to today's public comments. Ms. Mayer noted that an agenda item will come forward outlining and summarizing the general process and not single out a particular parcel or property.

Board Member Sobek requested a future agenda item to discuss the COVID-19 restrictions update announcement that is expected on June 15th. Ms. Mayer agreed, and an item will be added for discussion based on the latest information available.

10. ADJOURNMENT

There being no further business for consideration by the Executive Committee, Chair Johnson adjourned the meeting at 12:53 p.m. The next meeting of the Executive Committee is scheduled to be held on **Wednesday, June 16, 2021**, via Zoom.

Respectfully submitted,



Lisa Mobley
Administrative Services Manager/
Clerk of the Board

AGENDA ITEM 7B

WESTERN RIVERSIDE COUNTY REGIONAL CONSERVATION AUTHORITY	
DATE:	June 16, 2021
TO:	Executive Committee
FROM:	Jennifer Fuller, Financial Administration Manager
THROUGH:	Theresa Trevino, Chief Financial Officer
SUBJECT:	Western Riverside County Multiple Species Habitat Conservation Plan Fee Collection Report for May 2021

STAFF RECOMMENDATION:

This item is for the Committee to:

- 1) Receive and file the Western Riverside County Multiple Species Habitat Conservation Plan (MSHCP) Fee Collection Report for May 2021; and
- 2) Forward to the Board of Directors for final action.

BACKGROUND INFORMATION:

The Western Riverside County MSHCP Local Development Mitigation Fee (LDMF) collections provide funding for the acquisition of additional reserve lands and related costs. RCA budgeted \$10.5 million in LDMF collections for FY 2020/21. Other fees are contributed by Member Agencies and other jurisdictions for civic and infrastructure projects. For FY 2020/21, RCA budgeted \$490,000 for such contributions.

Attached is the LDMF Collection and Civic/Infrastructure Contribution report for May 2021, which reflects combined collections to date of \$17,697,417.

FISCAL IMPACT:

There is no fiscal impact to the receipt and file of this fee collection report.

Attachment: Western Riverside County MSHCP LDMF Collection and Civic/Infrastructure Contribution Report for May 2021

**WESTERN RIVERSIDE COUNTY MSHCP LDMF COLLECTION AND CIVIC/INFRASTRUCTURE CONTRIBUTION REPORT
FOR MAY 2021**

Amounts subject to rounding

LOCAL DEVELOPMENT MITIGATION FEE COLLECTIONS								
City/County	Month	REMITTED				EXEMPTIONS & FEE CREDITS		
		Residential Permits	Commercial Industrial Acres	Amount Remitted	Total FY Year-to-Date	Residential Permits	Commercial Industrial Acres	Amount
City of Banning	March April-Pending	56	1.00	\$ 132,710	\$ 141,646			
City of Beaumont	April	73		163,082	614,589			
City of Calimesa	April	18		40,212	563,013			
City of Canyon Lake	April-No Activity			-	17,872			
City of Corona	April		1.29	9,781	417,088			
City of Eastvale	April	2		4,468	758,022			
City of Hemet	April	17		37,978	304,724			
City of Jurupa Valley	April	115		256,910	1,683,420			
City of Lake Elsinore	April	1	1.98	17,097	224,043			
City of Menifee	April	144	2.19	328,639	2,579,276			
City of Moreno Valley	April	41	5.18	130,993	1,029,437			
City of Murrieta	April-No Activity			-	235,665			
City of Norco	April-No Activity			-	2,234			
City of Perris	April March	5 7	1.75	24,481 15,638	1,183,369			
City of Riverside	February March April-Pending	40 34	4.85	85,618 75,956 -	325,126			
City of San Jacinto	April	44		98,296	541,475			
City of Temecula	April	15		21,450	535,714			
City of Wildomar	Roripaugh DA ¹ April-Pending			- -	111,700	20	0.79	\$ 50,723
County of Riverside	April	233		520,522	6,097,716			
Total LDMF Collections		845	18.24	\$ 1,963,830	\$ 17,366,130	20	0.79	\$ 50,723

CIVIC AND INFRASTRUCTURE CONTRIBUTIONS			
Total Civic and Infrastructure contributions from all Member Agencies			\$ 331,287
Total Civic/Infrastructure Contributions		\$ -	\$ 331,287

TOTAL MAY 2021 \$ 1,963,830 \$ 17,697,417

¹ Roripaugh Development Agreement dated 12/17/02. Project is exempt under Assessment District 161.

AGENDA ITEM 8

WESTERN RIVERSIDE COUNTY REGIONAL CONSERVATION AUTHORITY

DATE:	June 16, 2021
TO:	Executive Committee
FROM:	Hector Casillas, Right of Way Manager
THROUGH:	Anne Mayer, Executive Director
SUBJECT:	Right of Way Acquisition Overview

STAFF RECOMMENDATION:

This item is for the Committee to:

- 1) Receive a presentation summarizing the Right of Way Acquisition Process; and
- 2) Forward to the Board of Directors for final action.

BACKGROUND INFORMATION:

One of the Board’s objectives of the consolidation of the Western Riverside County Regional Conservation Authority’s (RCA) with the Riverside County Transportation Commission (RCTC) is to complete assembly of Additional Reserve Lands for the Western Riverside County Multiple Species Habitat Conservation Plan (MSHCP). RCTC has an experienced right of way division that is equipped to acquire habitat in a professional manner and in compliance with all federal, state, and local regulations and laws. The RCA Board Chair has requested that staff present an overview of RCA’s habitat acquisition processes.

DISCUSSION:

Right of Way Department Staff

Within the RCTC organizational structure, the Right of Way Department is under the Project Delivery Department. Right of Way staff is involved in capital improvement projects, toll projects, and RCA land acquisitions. The department is managed by the Right of Way Manager and consists of five Senior Management Analysts. The team is experienced in acquiring property for its projects and follows RCTC’s Right of Way Policies and Procedures Manual (Right of Way Manual) adopted by RCTC on October 14, 2015. Staff has delivered the necessary right of way for RCTC’s high-profile projects, including the State Route 91 Corridor Improvement Project, the Interstate 15 Express Lanes Project, and the Interstate 215/Placentia Interchange Project, to name a few. In the first five months of acquiring property for the MSHCP, staff has continued to acquire land and has brought items to closed session almost every month for the Board’s approval.

Staff is in the process of updating the RCTC Right of Way Manual to include the RCA land acquisition processes and expects to bring it to the September 2021 Board meeting for approval.

Right of Way Acquisition Process for RCA

The land acquisition activities are broken up into three categories:

- Willing seller properties,
- Grant funded properties, and
- Habitat Acquisition Negotiation Strategy (HANS) properties.

These categories all require due diligence items to be completed. Due diligence includes, but is not limited to, obtaining appraisal reports, preliminary title reports, and environmental assessment reports.

Below is a description of each category and its unique process:

Willing Seller Properties

These are property owners willingly looking to sell their property to the RCA. After the RCA team determines there is a need to acquire the property and it fits the criteria as outlined in the MSHCP, the acquisition process begins.

Under this type of acquisition, RCA does not have to acquire the property even if it is described for conservation in the MSHCP. In addition, there are no required timelines. Due to limited funds, RCA would only acquire high priority properties that meet key objectives of the MSHCP.

Properties are typically acquired for the appraised value. However, in some cases, an administrative settlement can be used when the opinion of values is within a reasonable range, staff determines a need for the property is a high priority, and the acquisition is approved by the Board.

Grant Funded Properties

RCA is the recipient of various grants, including the Non-Traditional Section 6 Grant Program and Jurupa Mountains Conservation Grant. The properties in Section 6 grants were selected by staff during the grant application process and were approved for acquisition during the award. Properties eligible for grants such as the Jurupa Mountains Conservation Grant are defined by the State Legislature and the California Natural Resources Agency (CNRA). The funds can only be spent on the properties that are listed in each of those respective grants. All properties identified follow a specific process and timeline provided by each grant agreement with the appropriate state and/or federal agency or agencies.

The process for these properties includes staff soliciting a letter from the property owner stating interest in selling the property to the RCA. Once the letter is received, staff orders an appraisal report for the property. An offer is made based on the appraised value and once accepted by the owner, it is forwarded to the CNRA or the Wildlife Conservation Board, depending on the grant, who then forwards the appraisal to the State of California Department of General Services and/or U.S. Fish and Wildlife Service to conduct a formal review of the report.

Unlike other property acquisitions, grant funded properties cannot be acquired for more than the appraised value. If the property owner and/or its representatives do not agree with the

appraised value, if time allows, staff can order a new appraisal report or decide to end the acquisition efforts.

HANS (Development vs. Non-Development) Properties

There are two types of HANS: development and non-development. The acquisition process for HANS properties is spelled out in detail in Sections 6.1.1 of the MSHCP (Volume I). During the HANS process, Permittees (the cities or the County of Riverside [the County]) evaluate properties to determine if they are described for MSHCP conservation. For both types, a determination is made of what portion of the property is needed for the MSHCP reserve system, which can range from 0 to 100 percent. Once the determination is made by the Permittees, it is submitted to RCA to begin the Joint Project Review (JPR) process. The RCA and wildlife agencies (U.S. Fish and Wildlife Service, California Department of Fish and Wildlife) will provide their findings before the HANS/JPR process is considered complete and negotiations to acquire the property can begin.

Properties are typically acquired for the appraised value. However, in some cases, an administrative settlement can be used when the opinion of values is within a reasonable range, and the acquisition is approved by the Board. The other option is to utilize the MSHCP's conflict resolution process in Section 6.1.1 of the MSHCP (Volume I) to reach an agreement.

Development HANS

Under this type of HANS, the property owner intends to file an application for development with a city or the County. Once the HANS and JPR process is complete, RCA and the property owner may enter a 120-day negotiation period. The property must be acquired by the RCA. Once an appraisal is ordered and purchase price is agreed upon, the close of escrow date is determined based on the purchase price and available funds. In most cases the following is adhered to: \$100,000 or less, within 1 year or less; \$200,000 or less, within 2 years or less; \$300,000 or less, within 3 years or less; greater than \$300,000, within 4 years or less.

Non-Development HANS

The property owner comes to the city or County to see if the MSHCP describes the land for the MSHCP reserve system. No development is proposed by the property owner. Under the non-development HANS process, the property must be acquired by the RCA. The property will be acquired based on a first come, first serve basis and funding availability.

Conflict Resolution Process

This option is utilized when the property owner and RCA are not able to reach an agreement during the negotiation period and further extension of the negotiation is not viewed as fruitful. The process includes mediation, independent appraisal review, and/or arbitration and is more particularly described in section 6.1.1 of the MSHCP (Volume I) and included as an attachment to this agenda item.

RCTC staff is committed to adhering to the highest professional ethical standards and compliance with the MSHCP and state and federal regulations and laws pertaining to real estate transactions. In doing so, RCTC staff also strives to be reasonable, open, transparent, and communicative with property owners and negotiate in good faith.

FISCAL IMPACT:

This is an information item. There is no fiscal impact.

Attachment: Conflict Resolution Section 6 of the MSHCP

6.0 MSHCP Implementation Structure



➤ Conflict Resolution Process

A. Introduction

In order to address in a fair and consistent manner, disputes which may arise concerning the **(i)** application of MSHCP Conservation Criteria, **(ii)** available incentives, or **(iii)** the valuation of property, a conflict resolution process is necessary. Conflict resolution may be initiated by the property owner or the County or Cities and allows for a neutral third party to assist in resolving disputes concerning the aforementioned issues. This Process will not be construed as a limitation on the County's or Cities' ability to approve or deny a development application except that a project consistent with this Process may not be denied solely because a development application does not comply with the MSHCP Conservation Criteria.

B. Mediation

Mediation will initially be required to resolve differences between the parties over the proposed development options for the property (including the application of incentives) as well as differences regarding the application of MSHCP Conservation Criteria. Mediation may not be used to require the County or Cities to acquire property it has determined is not necessary for inclusion in the MSHCP Conservation Area.

If the dispute involves the application of MSHCP Conservation Criteria, the initiating party must consult with the U.S. Fish and Wildlife Service and the California Department of Fish and Game concerning the application of the Criteria prior to the initiation of mediation. The consultation period will be 30 days and may be extended with the consent of the initiating party.

The mediation period will be up to 90 days. This period may be extended upon the mutual consent of the parties. The parties shall also mutually agree to the appointment of a mediator. If the parties are unable to mutually agree to such an appointment, the Presiding Judge of the Riverside Superior Court shall be requested to appoint a mediator. All costs associated with the mediation shall be divided equally between the parties.

Upon completion of the mediation, the mediated resolution shall be complied with, and where a project is proposed, then the project may continue through the normal development review process.

Alternatively, the property owner may either **(i)** request review of any remaining dispute by the Board of Supervisors (in the case of property within the unincorporated area of the County) or the

6.0 MSHCP Implementation Structure



City Council (in the case of property within a City) or **(ii)** initiate arbitration solely for disputes concerning the application of MSHCP Conservation Criteria (as indicated below).

C. Appraisal Review

Should a party opt to commence the Conflict Resolution Process as a result of the parties' inability to resolve differences concerning the valuation of property, a second appraisal shall be conducted, at the expense of the property owner, in accordance with the "Uniform Appraisal Standards for Federal Land Acquisitions" and the "Uniform Standards of Professional Appraisal Practice." In the event of any conflict between these standards, the "Uniform Appraisal Standards for Federal Land Acquisitions" will control. Fee ownership of property to be conveyed may not be required. The type of ownership to be conveyed shall be taken into consideration when conducting the second appraisal.

Any discrepancies between this appraisal and the appraisal previously prepared by the County or the Cities shall be reviewed by a third appraiser mutually agreed to by both parties. Review by the third appraiser shall be completed within 90 days after the parties mutually agree to the selection of the third/review appraiser. If the parties are unable to agree upon the choice of a third/review appraiser, the Presiding Judge of the Riverside Superior Court shall be requested to select the third/review appraiser.

Upon completion of this review, the appraiser shall make recommendations as to which appraisal should be approved. If such a recommendation cannot be made, the third appraiser shall within 90 days conduct an appraisal in accordance with the aforementioned standards. The third appraisal shall then establish the fair market value of the property.

Any recommendations of the third/review appraiser upon completion of the third appraiser's review or if necessary any third appraisal shall be binding upon the parties solely with respect to the issue of establishing the fair market value of the property. Should any subsequent acquisition of the property involve state and/or federal monies, an update or review of the third appraisal may be necessary.

The cost for conducting this review and any necessary third appraisal shall be divided equally between the parties.



6.0 MSHCP Implementation Structure

D. Arbitration

If the parties are unable to resolve through mediation differences concerning the application of MSHCP Conservation Criteria, arbitration may be initiated by either party, with the consent of the property owner.

The arbitration period will be up to 180 days. This period may be extended upon the mutual consent of the parties. The parties shall also mutually agree to the appointment of an arbitrator. If the parties are unable to mutually agree to an appointment, the Presiding Judge of the Riverside Superior Court shall be requested to appoint an arbitrator.

The property owner, the County or Cities may submit to the arbitrator, evidence concerning the application of the MSHCP Conservation Criteria to the property in question. Any cost for such evidence shall be born by the party submitting said evidence. The decision of the arbitrator shall be based solely upon the Conservation Criteria as applied to the property in question and any evidence supporting the application of the Conservation Criteria. The arbitrator's decision shall be binding upon both parties.

➤ Completion of Acquisition

A. Completion of Acquisition If Funding is Available

Following conclusion of successful negotiations or appraisal review under the Conflict Resolution Process and any necessary action by the Board of Supervisors or City Council, the property shall be promptly purchased provided sufficient MSHCP funds are available. The General Fund of the County or Cities shall not be obligated to fund the purchase of property for inclusion in the MSHCP Conservation Area. In addition to the County and the Cities, it is anticipated and expected that State and Federal agencies may either purchase or provide funding to purchase property for inclusion in the MSHCP Conservation Area.

B. Completion of Acquisition or Submittal of Development Application if Funding is Not Immediately Available

- (1) CONVEYANCE OF PROPERTY (WITH PURCHASE PRICE OF \$100,000 OR LESS) AND FOR WHICH A DEVELOPMENT APPLICATION IS INTENDED TO BE PURSUED -** If it is anticipated

AGENDA ITEM 9

WESTERN RIVERSIDE COUNTY REGIONAL CONSERVATION AUTHORITY

DATE:	June 16, 2021
TO:	Executive Committee
FROM:	David Knudsen, Interim External Affairs Director
THROUGH:	Aaron Hake, Interim Regional Conservation Deputy Executive Director
SUBJECT:	Legislative Update

STAFF RECOMMENDATION:

This item is for the Committee to:

- 1) Receive and file an update on state and federal legislation; and
- 2) Forward to the Board of Directors for final action.

BACKGROUND INFORMATION:

State Update

On May 14, 2021, Governor Newsom unveiled a revised budget proposal of \$267.8 billion, an increase from his initial \$227 billion proposal in January. This proposed spending level is a result of the unprecedented \$75.7 billion surplus and \$27 billion in federal relief approved in March. Governor Newsom proposes to spend \$21.4 billion on transportation, \$11.4 billion on natural resources, and \$6 billion on environmental protection. The Governor’s May Revision reflects his spending priorities and is not final.

While the Governor’s May revise does not include specified funding for Habitat Conservation Plans (HCP), a number of proposals could be of benefit to RCA and HCPs across the state. Governor Newsom proposed \$4.35 billion in programs to address drought conditions, including \$33 million to the California Department of Fish and Wildlife (CDFW) for drought-related fisheries and wildlife support and \$230 million over two years to the Wildlife Conservation Board (WCB) for wildlife corridors and fish passage. Additionally, the Governor proposed \$3.8 million to continue CDFW’s Cutting the Green Tape initiative to improve permitting and grant efficiencies and \$80.9 million in one-time spending to the CDFW for limited-term and temporary-help staff and investments in equipment and technology to address endangered species, the deferred maintenance backlog, and stewardship of protected lands.

The Senate and Assembly are negotiating a budget package expected to be passed by June 15, 2021. The Governor must sign a budget by June 30th. Notably, the Senate has proposed a \$3.67 billion Climate Package, which includes a \$500 million investment in the WCB for fish and wildlife protection.

This year, discussions in Sacramento indicate that the Legislature is expected to forgo their bicameral Budget Conference and instead pass a budget that includes all items in which the Senate and Assembly agree, and then continue negotiation for the remainder of the budget, to be passed in a “Budget Jr.” bill in July or August.

On May 26, 2021, the California Habitat Planning Coalition (CHCPC) submitted a letter to Governor Newsom, Senate Pro Tem Toni Atkins, and Assembly Speaker Anthony Rendon in support of the Senate’s proposed Climate Package. In the letter, the CHCPC urged for the following investments to be included in the final budget:

- No less than \$200 million of the \$500 million to the WCB should be directed to the conservation of natural lands for climate resiliency;
- The eligible uses of the \$230 million to the WCB’s Wildlife;
- Corridors and Fish Passage program in the Governor’s drought proposal should be broadened to include protection and restoration of natural lands;
- Include Natural Community Conservation Plans (NCCP) and HCPs in the wildfire package at the same funding level as conservancies; and
- Make a modest increase to CDFW’s Local Assistance Grants for NCCPs & HCPs to total \$1 million each year.

Legislative Affairs staff shared the Coalition’s letter with RCA’s legislative delegation to keep them apprised of the CHCPC’s priorities during this fast-moving process. Legislative Affairs staff will continue to monitor the progress of the budget and advocate for programs that will benefit the RCA and increase the State’s investment in the Multiple Species Habitat Conservation Plan (MSHCP).

SB 45 / AB 1500 Status Update

Of note, the Senate’s proposed Climate Package deliberately includes provisions from the bond measure proposed by Senator Portantino in SB 45, such as the above referenced \$500 million to the WCB. The Senate Budget Subcommittee 2 staff recommendation made direct reference to incorporating provisions from SB 45 into the budget.

The Legislative Affairs staff is monitoring how the budget process may impact whether or not SB 45 or AB 1500 (E. Garcia) are passed this year. SB 45 has been ordered to the Senate Inactive File, where the bill will lie dormant if and until it is brought to the Senate Floor for consideration after one day’s public notice. While AB 1500 was passed by the Assembly Appropriations Committee, it was re-referred to the Assembly Rules Committee, where it may similarly be released in the future for consideration on the Assembly Floor. With the last day for each house to pass bills introduced in that house on June 4, 2021, it is likely that both SB 45 and AB 1500 will become two-year bills.

Legislative Affairs staff will continue to monitor the progress of SB 45 and AB 1500, and advocate for programs that will benefit RCA.

Federal Update

On May 28, 2021, President Biden proposed a FY 2022 budget of \$6 trillion, which is about \$300 billion higher than current federal spending projections for the year. The President's proposal combines his \$2.3 trillion American Jobs Plan, \$1.8 trillion American Families Plan, and \$1.5 trillion in discretionary spending. Presidents' budgets have historically been seen as vision documents, and Congress ultimately dictates the spending levels each fiscal year.

President Biden proposed \$17.4 billion in spending for the Department of Interior, a 16.7% increase from the enacted FY 2021 Budget. This includes a proposed 21.6% increase for the U.S. Fish and Wildlife Service, which in turn includes a 16.2% increase in the Ecological Services program, from which the Cooperative Endangered Species Conservation Fund (Section 6) is funded.

Community Project Funding

Staff submitted Congressionally Directed Spending (CDS) requests to Senators Feinstein and Padilla seeking land acquisition funds. RCA requested \$6 million for the Eden Hot Springs and Sage Acquisition and \$4.2 million for the Wolfskill Acquisition from Senator Feinstein and requested \$4.2 million for the Wolfskill Acquisition from Senator Padilla. Together with the direct acquisition requests submitted to Representatives Calvert, Ruiz, and Takano, this adds up to \$23.2 million in direct acquisition requests submitted to congressional representatives.

Staff have developed a factsheet detailing the current status of requests for over \$376 million in member-designated programmatic and project funding. The Legislative Affairs team will continue to monitor progress of member-directed spending requests.

Senate Biodiversity Hearing and Follow-up Advocacy

As the Board is aware, on May 19, 2021 Ed Sullivan of the Santa Clara Valley Habitat Agency provided testimony on behalf of the CHCPC to the Senate Committee on Environment and Public Works (EPW) for their hearing entitled, "Examining Biodiversity Loss: Drivers, Impacts, and Potential Solutions." Mr. Sullivan represented California HCPs well and requested support for establishing the Western Riverside County National Wildlife Refuge. Mr. Sullivan's submitted testimony is attached.

Legislative Affairs staff were pleased that Senator Padilla offered questions and comments that were positive for HCPs and that he explicitly referenced the proposed wildlife refuge. In order to capitalize on this recognition, RCA sent a letter to Senator Padilla (attached) with a copy to EPW Chair Carper thanking him for his comments and interest in habitat conservation and providing him with an actionable opportunity to benefit HCPs across the country. The letter requested that the EPW Committee include report language in their proposed surface transportation reauthorization bill to allow the use of Endangered Species Act (ESA) Section 10 "incidental take"

permits to recognize mitigation that occurs in HCPs outside of a given transportation project area or corresponding HCP boundary in which the project is located, provided that the mitigation is biologically equivalent or that unavoidable impacts are mitigated, and that the HCP utilized is within the same state. If enacted, this report language would incentivize widespread use of HCPs while facilitating sustainable infrastructure development needed to meet the challenges of the 21st century. This request mirrors report language submitted by Representative Calvert in the House of Representatives.

Legislative Affairs staff will continue to monitor the report language requests and explore opportunities to capitalize on the positive response received at the EPW hearing.

Attachments:

- 1) State and Federal Update Legislative Matrix
- 2) California Habitat Planning Coalition Letter to Governor Newsom
- 3) State and Federal Funding Request Summary
- 4) Edmund Sullivan's Testimony to the Senate Committee on Environment and Public Works
- 5) RCA Letter to Senator Padilla regarding biodiversity and infrastructure development

WESTERN RIVERSIDE COUNTY REGIONAL CONSERVATION AUTHORITY POSITIONS ON STATE AND FEDERAL LEGISLATION – JUNE 2021

Legislation/ Author	Description	Bill Status	Position	Date of Board Adoption
SB 45 (Portantino)	Wildfire Prevention, Safe Drinking Water, Drought Preparation, and Flood Protection Bond Act of 2022. This bill would enact the Wildfire Prevention, Safe Drinking Water, Drought Preparation, and Flood Protection Bond Act of 2022, which, if approved by the voters, would authorize the issuance of bonds in the amount of \$5,595,000,000 pursuant to the State General Obligation Bond Law to finance projects for a wildfire prevention, safe drinking water, drought preparation, and flood protection program.	Ordered to inactive file on request of Senator Portantino June 1, 2021	<i>Support, if amended</i> <i>(based on platform)</i>	April 8, 2021
AB 1500 (Garcia)	Safe Drinking Water, Wildfire Prevention, Drought Preparation, Flood Protection, Extreme Heat Mitigation, and Workforce Development Bond Act of 2022. This bill, which if approved by the voters, would authorize the issuance of bonds in the amount of \$6,955,000,000 pursuant to the State General Obligation Bond Law to finance projects for safe drinking water, wildfire prevention, drought preparation, flood protection, extreme heat mitigation, and workforce development programs.	Assembly Rules Committee May 20, 2021	<i>Support, if amended</i> <i>(based on platform)</i>	March 30, 2021
H.R. 972 (Calvert)	A bill to establish the Western Riverside County Wildlife Refuge. This legislation creates the federal government's framework to meet its obligations under the Multiple Species Habitat Conservation Plan (MSHCP) Implementing agreement.	Referred to the House Committee on Natural Resources February 11, 2021	<i>Support</i>	April 5, 2021

May 26th, 2021

The Honorable Gavin Newsom
Governor, State of California

The Honorable Toni Atkins
President Pro Tempore
California State Senate

The Honorable Anthony Rendon
Speaker
California State Assembly



Subject: Budget Proposals for Natural and Working Lands

Dear Governor Newsom, Pro Tem Atkins, and Speaker Rendon,

The California Habitat Conservation Planning Coalition participants are local government agencies, NGOs, and businesses who develop and support the implementation of regional Habitat Conservation Plans (HCPs) and Natural Community Conservation Plans (NCCPs) in California.

We write in enthusiastic support of the Senate's \$3.675 billion Climate Package, particularly the \$500 million investment in the Wildlife Conservation Board for protecting fish and wildlife in response to drought, wildfire and changing climate conditions. We also appreciate the proposal for staffing at the Department of Fish and Wildlife to support species and habitat conservation, which will benefit timely review of our Plans' acquisition and restoration projects. We urge you to give guidance in your budget language to ensure that a portion of the natural resources funding packages will support our Plans, given their unique ability to meet the climate, wildfire resiliency, and drought resiliency goals of the state.

Our coalition therefore urges you to direct a portion of the climate, drought, and wildfire packages towards acquisition and projects on natural and working lands to protect and enhance critical habitat.

Investments should include the following:

- No less than \$200 million of the \$500 million to the Wildlife Conservation Board should be directed to the conservation of natural lands for climate resiliency;
- The eligible uses of the \$230 million to the Wildlife Conservation Board's Wildlife Corridors and Fish Passage program in the Governor's drought proposal should be broadened to include protection and restoration of natural lands;
- Include NCCPs & HCPs in the wildfire package at the same funding level as conservancies; and
- Make a modest increase to CDFW's Local Assistance Grants for NCCPs & HCPs to total \$1 million each year.

HCPs and NCCPs, in addition to protecting listed and rare species, help implement the state's Climate Plan. They also bolster natural and working lands by promoting carbon sequestration and curbing sprawl. Highlights of these plans include:

- they use science to identify, preserve, and adaptively manage landscapes for species conservation and recovery;

- they protect and enhance resilient landscapes that reduce the negative impacts of a variety of ecological threats and stressors, such as wildfires and droughts;
- they provide streamlined permitting of infrastructure and urban-suburban development projects that will facilitate more than \$1.6 trillion of economic activity;
- when all the plans are fully implemented, they will permanently conserve over two million acres of important wildlife habitat, benefitting nearly 400 listed and rare species.

HCPs and NCCPs support both conservation and equity priorities. The Governor’s Executive Order N-82-20 established the state’s goal to conserve 30% of the state’s lands by 2030 and protect the biodiversity of California’s unique plants and animals. Resources Secretary Crowfoot has prioritized opportunities for disadvantaged communities to enjoy the state’s natural areas. Nature preserves close to urban areas meet both of these important goals, and these are the exact focus of HCPs and NCCPs.

The federal government has also highlighted the importance of land conservation in stemming the tide of species extinction. One of our coalition members was recently invited to testify before the Senate Environment and Public Works Committee on the importance of HCPs in achieving the goals of federal programs such as the Endangered Species Act to slow the impending global rate of species extinction.

In addition to the biodiversity benefits that Plans provide, HCPs and NCCPs leverage significant federal and local resources, provide streamlined permitting, and facilitate infrastructure development. Investing in these Plans will bring in the economic activity that is necessary for communities to recover, while also providing necessary protections for wildlife habitat.

The state has a once-in-a-lifetime opportunity to make bold and necessary investments that will achieve permanent benefits for conservation on working and natural lands. These actions protect and restore the landscapes that provide water supply and increase access to nature across the state. They will provide essential habitat for dwindling threatened and endangered species. They will also sequester carbon and buffer Californians against some of the worst impacts of climate change. The sooner we act to address the climate crisis, the greater potential we have to make a meaningful difference. A bold investment in 2021 will make our watersheds, farmlands and wildlands more carbon rich and climate resilient – at the very times that climate impacts are worsening, and emission reductions are becoming more urgent and increasingly difficult.

Thank you for your leadership on funding for conservation in the budget, and we respectfully request inclusion of the investments above so that we can fully support that effort.

Sincerely,

A handwritten signature in black ink, appearing to read "John Hopkins", written over a horizontal line.

John Hopkins, PhD
Director
California Habitat Conservation Planning Coalition



State and Federal Funding Request Summary

May 28, 2021

contact: Anne Mayer (amayer@rctc.org) or Aaron Hake (ahake@rctc.org)

RCA Seeks \$376.4 Million in State and Federal Funding – With the return of congressional earmarks and the State’s unprecedented budget surplus, the RCA submitted requests for member-designated programmatic and project funding totaling over \$376 million. These requests would either fund direct land acquisition to implement the MSHCP or benefit HCPs across the state and country.

Share of Responsibility – The federal and state governments are each responsible for acquiring one-sixth of the land, and the RCA is to acquire the remaining two-thirds to complete the MSHCP. MSHCP permittees have adopted Local Development Mitigation Fee (LDMF) increases that will be effective July 1, 2021. While RCA does not expect for the majority of these requests to succeed, Western Riverside County’s fee payers and taxpayers are contributing their fair share to the plan, and it is critical that our federal and state partners do the same.

Federal Funding Requests for Land Acquisition			
Project	Amount Requested	Congressional Office	Status
Eden Hot Springs Acquisition	\$3 million	Rep. Calvert	Not Submitted by Member
Sage Acquisition	\$3 million	Rep. Ruiz	Not Submitted by Member
Kelvar and Wolfskill Acquisition	\$3 million	Rep. Takano	Submitted to Committee; Under Review
Eden Hot Springs and Sage Acquisition	\$6 million	Senator Feinstein	Under Review by Member
Wolfskill Acquisition	\$4.2 million	Senators Feinstein and Padilla	Under Review by Members
Section 6 Grant Program Funding	\$100 million	Senate and House Delegation	Under Review by Members

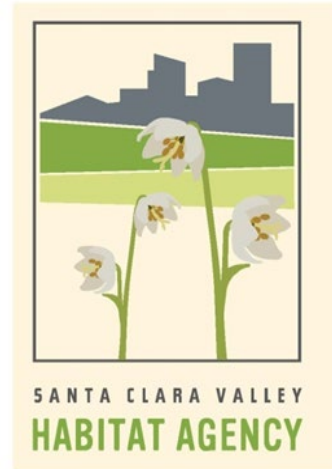
State Funding Requests for Land Acquisition			
Project	Amount Requested	Legislative Office	Status
Lake Elsinore Back Basin Acquisition	\$3 million	Assemblymember Seyarto	Submitted to Committee; Under Review
Statewide Wildlife Conservation Board Funding	\$50 million	Assemblymembers Medina and Seyarto	Not submitted by Members
Statewide Wildlife Conservation Board Funding	\$100 million (SB 45)	Senator Portantino	Pending Senate Floor Vote; Amendments Not Accepted to Date
Statewide Wildlife Conservation Board Funding	\$100 million (AB 1500)	Assemblymember E. Garcia	Pending in Assembly Rules Committee; Amendments Not Accepted to Date

Our Communities Can’t Do This Alone, and Neither Can They – We cannot succeed alone. That means the RCA must seek state and federal funding at every opportunity. State and Federal governments have ambitious conservation and climate change goals that cannot succeed without greater financial partnership into locally supported plans like the MSHCP.

The Multiple Species Habitat Conservation Plan (MSHCP) – A nationally acclaimed plan, and the largest of its kind, our MSHCP is a comprehensive local-state-federal partnership now 17 years into implementation that focuses on the permanent conservation of 500,000 acres, protection of 146 species, and streamlining transportation infrastructure and development. 410,279 acres of land have been conserved since the MSHCP’s inception in 2004, accounting for 82% of the reserve goal.

Economic Driver – The implementation of the MSHCP accelerates the construction of infrastructure and real estate development, reduces project cost, and provides permitting efficiencies that leads to economic growth across western Riverside County.

Environmental Stewardship – HCPs are a proven and underutilized tool to meet state and federal conservation and climate action goals to bolster biodiversity for a healthy ecosystem, protect open space, and improve the quality of life for all residents.



TESTIMONY OF

Edmund Patrick Sullivan

Executive Officer – Santa Clara Valley Habitat Agency

Member – California Habitat Conservation Planning Coalition

REGARDING

**Habitat Conservation Plans and Biodiversity Loss: A Solution
to the Problem**

BEFORE THE

**Committee on Environment and Public Works Committee of
the United States Senate**

ON

Wednesday, May 19, 2021

Introduction

Chairman Carper, Ranking Member Capito, and Members of the Committee, thank you for the opportunity to appear today and speak to the theme of Examining Biodiversity Loss: Drivers, Impacts, and Potential Solutions.

My name is Edmund Sullivan, and I serve as the Executive Officer of the Santa Clara Habitat Agency (Habitat Agency) and a member of the California Habitat Conservation Planning Coalition (CHCPC). Today, it is my honor to testify on behalf of the Habitat Agency and CHCPC, which represents Habitat Conservation Plan (HCPs) stakeholders across California.

Why is Biodiversity Important?

Biodiversity underpins all life on Earth. Without species, there would be no air to breathe, no food to eat, no water to drink. There would be no human society at all. The map of biodiversity hotspots overlaps extraordinarily well with the map of the natural places that most benefit people.

Biodiversity also refers to the number or abundance of different species living within a particular region. It represents the wealth of biological resources available to us. It is all about sustaining the natural area made up of a community of plants, animals, and other living things that is being reduced at a steady rate.

Biodiversity is important to most aspects of our lives. We value biodiversity for many reasons, some utilitarian, some intrinsic. This means we value biodiversity both for what it provides to humans, and for the value it has in its own right.

Biodiversity offers several ecosystem services which we all depend upon. They are as follows.

1. Keeping Biodiverse Ecosystems Intact Helps Humans Stay Healthy
 - ✓ As 2020 has shown us, there is a close link between disease outbreaks and the degradation of nature.
2. Supports a Variety of Plant Species
 - ✓ With greater biodiversity, the variety of plants increases. This leads to more opportunities, especially for farmers, since they can plant a greater variety of crops and thus use their land more effectively.
3. Ecosystem Balance
 - ✓ Recycling and storage of nutrients, combating pollution by breaking it down and its absorption, stabilizing climate, protecting water resources, forming, and

protecting soil, recovery from unpredictable events and maintaining overall eco-balance.

4. Freshwater Resources

- ✓ Through a variety of microorganisms and other creatures, it can be assured that freshwater resources are sustained.

5. Biodiversity and Economy

- ✓ Biodiversity is priceless. However, there have been attempts to put an economic value on biodiversity. At least 40 percent of the world's economy and 80 percent of the needs of the poor are derived from biological resources.

6. Biodiversity and Industry

- ✓ Biological sources provide many industrial materials, including rubber, cotton, leather, food, paper, timber, water, fiber, oil, and dyes.

7. Food Resources

- ✓ Biodiversity provides for a variety of foods for the planet. Because of the availability of different species, humans can obtain a range of materials and foods to support their well-being and health.

8. Climatic Stability

- ✓ Biodiversity protects the planet from global warming. For example, rainforests store huge amounts of greenhouse gas CO₂. In addition, forests and wetland ecosystems provide crucial buffers to extreme storms and flooding related to climate change.

9. Sustain Recreation Areas

- ✓ Whether it is animals or humans, every species needs a place to rest. It is therefore crucial that we contain the natural variety of our planet to provide recreational areas where people can rest and escape from the stresses of life.

10. Source of Drugs

- ✓ Nature, especially our plants, provide an immense variety of ingredients which are used for pharmaceutical processes.

How can HCPs Stem the Loss of Biodiversity?

I hope my testimony will prove to be a catalyst into further exploration of the benefits of and lessons learned from large-scale, multi-agency Habitat Conservation Plans (HCPs), which are effective solutions to biodiversity loss, while assisting economic development. In thinking about the future of habitat conservation planning, it is important to appreciate HCPs legacy. Through the Endangered Species Act's (ESA) HCP program, endangered species conservation has evolved considerably, and several lessons can be gleaned from this development – most notably, that with foresight, planning and investment, economic developing and biodiversity are not mutually exclusive.

Area-wide, multi-agency HCPs have particularly altered the landscape of habitat conservation. These plans introduced the possibility of a more comprehensive, adaptive, and collaborative approach to mitigation and conservation. In assessing these pioneering arrangements, it is important to consider not only the efficiency of their formation and implementation processes, but also their effectiveness in advancing valuable conservation goals.

Landscape scale HCPs are attempting to implement sustainable development principles of facilitating economic development while at the same time protecting wildlife habitat, biodiversity, and local food systems, and sequestering carbon. The integration of environment and development will lead to improved living standards for all, better protected and managed ecosystems, and a safer, more prosperous future.

Regional HCPs also facilitate the development of major infrastructure projects in addition to the substantial private development that is dependent on this infrastructure. Direct economic benefits of large-scale HCP include:

1. Cost savings through reduced uncertainty, time delay, and compliance costs. Regional HCPs dramatically speed up project permitting.
2. Large-scale regional HCPs accelerate the completion and operation of regional infrastructure projects and other development projects.
3. Cost savings for the USFWS – public sector efficiencies – due to a significant reduction in time required to review and negotiate “take” permits by delegating ESA permitting authority through an approved HCP to local government.

Numerous bridge and road infrastructure projects, including the widening of US-101 in Santa Clara County, benefited from the streamlined permitting provided by the Santa Clara Valley Habitat Plan. And in turn, the mitigation that resulted from these projects resulted in the protection of and the in-perpetuity management of thousands of acres of core habitat of listed threatened and endangered species.

Another example of how effective HCPs are is the Western Riverside County Multi-species HCP, which expedited a new Metrolink rail line, two new freeways, and six major freeway widening projects and resulted in conserving 33 federal and state listed species and 500,000 acres of wildlife habitat.

My final example highlighting HCPs is the Columbia Pipeline Group HCP, which covers 15,000 miles of pipeline across 14 states, and 3 Fish and Wildlife Service Regions. It addresses 90 endangered species and conservation within a 9.5 million acres area. The HCP proponents worked closely with federal and state agencies as well as numerous NGOs. The Columbia Pipeline Group HCP resulted in expedited self-implemented permitting, reduced ESA and NEPA risk, and

landscape level conservation that coordinates mitigation with the goal of protecting areas with the highest conservation biodiversity values.

Overview of Regional HCP Benefits

Landscape scale regional HCP careful management of wildlife habitat and permit certainty is the backbone of their success. The benefits to species and their habitat, all levels of government, and the community are listed below.

Species & Habitat

- Directly supports the covered species.
- Improves protection for species and their habitats at a landscape scale.
- Improves habitat quality.
- Increases species population size.
- Increases extent of habitat.
- Provides an "umbrella of protection" for many other local species.
- Increases connectivity for species between occupied areas.
- Creates a program to identify and reduce future threats and impacts to species.

Federal, State and Local Governments

- Provides for coordinated monitoring, management, and restoration planning.
- Provides a substantial commitment of resources at the onset of the program which allows for the initiation of conservation actions.
- Increases knowledge of threatened and endangered species.
- Provides clear guidelines on how and where to protect habitat and where to focus development.
- Provides framework to take advantage of future opportunities and partnerships.
- Helps promote resource conservation and education.
- Allows for the streamlined permitting of new development and infrastructure.

- Resolves many contentious land use planning disputes because all parties to the agreement understand the development and conservation game plan.

The Community

- Increases local knowledge of threatened and endangered species and related ecological resources.
- Creates opportunities for cooperative regional efforts to conserve national resources.
- Public access to some of the lands HCPs protect.
- Working lands conservation – keeping farmers and ranchers on the land.
- Enhancing ecosystem services functions including flood retention, carbon sequestration, and buffers against oceanic storm events.
- Voluntary land conservation – fee title or conservation easements purchased from willing sellers.

How Regional Landscape Scale HCPs are Protecting Biodiversity Hotspots

Protected areas are the backbone of global biodiversity conservation. Land conservation at the ecosystem scale is a key driver for achieving that objective and regional HCPs are one of the best mechanisms available capable of implementing that objective. Why do I believe large scale multi-species HCPs are well positioned to implement a policy goal focused on biodiversity conservation?

1. It is our core mission.
2. Financial sustainability.
3. Endowment financing focused on in-perpetuity funding for land management and monitoring.
4. Collaborative partnership between all levels of government, NGOs, and private landowners.
5. Adaptative management drives HCP land management and conservation decision making.
6. Science driven land conservation decision-making process focused on protecting biodiversity hotspots.

In the past, conservation primarily focused on preserving existing biodiversity patterns and acted reactively with respect to new threats. With the effects of climate change, regional HCPs and

other similar conservation efforts are leading a paradigm shift in habitat reserve design and function. A relatively straightforward and intuitive approach is to focus on identifying and protecting biodiversity in those areas least likely to undergo rapid climate-induced changes. Regional efforts are best suited for tackling climate change impacts since they are ecosystem focused, building resiliency and redundancy into the landscape, establishing wildlife linkages, and protecting climate refugia.

For example, the Santa Clara Valley Habitat Plan (SCVHP) identified biodiversity hotspots based on the best available science, critical species occurrence data, remote sensing analysis, and growth truthing when and where feasibility. This decision matrix as well as understanding critical wildlife linkages drives our land acquisition decision-making. Because of this process, my agency has purchased several properties dominated by California native endemic plants, some found only in Santa Clara County, and home to the Bay checkerspot butterfly and other species only found in California.

The United States has many biodiversity hotspots including parts of California, the Appalachian Mountains, the North American Coastal Plain, and Madrean Pine-Oak Woodlands. One of those hotspots in California is in Riverside County. One my asks today is for Senate support establishing the Western Riverside County National Wildlife Refuge (WRCNWR) in a biodiversity hotspot found in Southern California which would protect habitat and vulnerable species, increase access to public lands for underserved communities, and provide expedited permitting for infrastructure and development. Moreover, the proposal would directly protect 146 species—33 of which are listed as threatened or endangered under the Endangered Species Act or state law. WRCNWR would ensure finalization of the country’s largest and most extensive HCP and is directly linked to biodiversity.

Threats to Biodiversity

The threats to biodiversity are many, but today I will be focusing on invasive species, climate change, and loss of habitat, and how landscape scale HCPs can help tackle these threats.

Invasive Species

Invasive species are among the leading threats to native wildlife. Approximately 42 percent of threatened or endangered species are at risk due to invasive species. Human health and economies are also at risk from invasive species. The impacts of invasive species on our natural ecosystems and economy cost billions of dollars each year. Many of our commercial, agricultural, and recreational activities depend on healthy native ecosystems.

America has a very large and increasing number of non-native species, which are spreading rapidly due to the consistent decline of native species for many of the reasons discussed above related to climate change. Non-native species are excellent opportunists, often better suited to take advantage of a newly disturbed site from an extreme event like fire or flood, and once they have developed a strong position, it is very hard for native species to effectively compete for necessary resources such as water, light, and food. Non-native species can often change the habitat in a way that it becomes ill suited for natives and therefore change the ecosystem dynamics in a way that is nearly irretrievable and can also affect the most fundamental levels of ecosystem health, such as complex food webs. Controls that worked in the native habitats do not work in their new locations, the reasons ranging from lack of predators to our native species being susceptible to the new disease.

Examples of invasive species' impacts include non-natives killing animals and plants along with disrupting ecological functions. Much of south Florida is infested by Burmese pythons. They eat virtually any animal they encounter in the Everglades, with huge impacts on the native mammal and bird populations. Unnatural wildfires result from invasive species in some locations. Non-native grasses in desert areas that were historically fire resistant are a major example. Historically, vegetation was very sparse, so that fires from lightning or other causes would not spread to catastrophically large size. A carpet of non-native grasses can result in devastating wildfires in locales such as saguaro cactus lands of Arizona, Joshua tree woodlands in the Mohave desert and the common desert creosote bush scrub. At one creosote bush scrub fire location, there was no reappearance of the scrub after 40 years. In some eastern United States areas, up to 80% of the hemlock trees have been killed by an invasive insect making these forests particularly vulnerable to non-native tree species creating type conversion to a different ecosystem in the long-term.

Freshwater aquatic ecosystems are among the most imperiled ecological communities worldwide. Invasive alien species are a major threat to freshwater ecosystems, and American bullfrogs (*Lithobates (Rana) catesbeianus*) are among the world's 100 most prominent aquatic invasive species. Moreover, there is a strong historical link between the introduction of the American bullfrog into the western United States and the emergence of the deadly chytrid fungus, a pathogen that has caused declines and extinctions of amphibians around the world. The bullfrogs, native to the eastern United States, likely coevolved with the deadly fungal pathogen, *Batrachochytrium dendrobatidis* (Bd), and brought it with them when the bullfrogs were introduced as a food source in the West and later traded throughout the world. As invasive species and disease vectors, bullfrogs continue to threaten amphibian populations that may have no defenses against Bd, including endangered species like the California red-legged frog, the mountain yellow-legged frog and the California tiger salamander.

By mitigating for environmental impacts at the landscape/ecosystem scale, it is harder for invasive species to take hold. Furthermore, HCPs have the long-term focus on eradicating non-native species threatening natural landscapes because this is a critical component of our land

management enhancement strategy. Invasives are a threat to the long-term viability of our special status species: a threat we cannot ignore. The SCVHP has taken on the invasive species challenge by removing feral pigs from our Reserve System, bullfrogs from wetlands and ponds, and invasive plants like barb goatgrass (*Aegilops triuncialis*) from our serpentine bunchgrass plant community.

Climate change drivers of biodiversity and species decline

One of the principal challenges to our mission as HCP practitioners is climate change and its impact on ecosystem health. It is a major threat to biodiversity, to species extinction, and a big challenge to conservation. Globally, an estimated 8 million species of animals and plants are threatened with extinction by climate change. Climate change is currently affecting 19% of species listed as threatened on the International Union for the Conservation of Nature's Red List of Threatened Species, increasing the likelihood of their extinction.

Climate change affects species range, biology, abundances, and community composition; communities that have adapted over time based upon key relationships and interdependencies amongst various species. This is where consequences of biodiversity loss become a national risk and the importance of planning for ecosystem resilience becomes imperative.

In the past, conservation primarily focused on preserving existing biodiversity patterns and acted reactively with respect to new threats. With the effects of climate change, HCPs are leading a paradigm shift in habitat reserve design and function. A relatively straightforward and intuitive approach is to focus on identifying and protecting biodiversity in those areas least likely to undergo rapid climate-induced changes. Large scale HCPs are best well suited for tackling climate change since they are ecosystem focused on building resiliency and replication into the landscape, establishing wildlife linkages, and protecting climate refugia.

Historically, species have been able to adapt to changing climates because these changes to their habitat took place slowly. The current rapid climate change is too fast for many species to adapt to new and changing conditions. Additionally, the many stressors related to climate, such as increased temperature, extended drought, increased fire intensity, extreme cold, extreme flooding, and sea level rise, potentially compound with other threats such as habitat loss and degradation, increased pollution, and human impacts at the urban/wildland interface. Together these threats and stressors decrease the functional resilience of species, populations, and ecosystems as a whole.

If our natural communities are not resilient and do not remain ecologically functional, serious impacts could be seen within the communities and our nation. For example, the black mangroves of south Louisiana are an important component of a very complex saltmarsh ecosystem. The complexity of the habitat provided by this system provides important fisheries nursery habitat supporting the world-renowned seafood, sportfishing, and tourism industries of the Gulf Coast.

What is less known, however, is that this ecosystem also offers protection from impacts of hurricanes and storm surge. These mangrove communities slow storm surge and protect the coast from land loss. In fact, mangroves build land over time through their robust below-ground root systems, sequestering carbon in the process. Local extinction of black mangrove from coastal Louisiana and other Gulf states would have serious consequences, to not only aquatic food webs supporting thousands of species, but also Gulf coast economies, infrastructure resilience to hurricanes and ultimately global carbon dioxide levels. Unfortunately, black mangrove communities along the northern Gulf Coast are at risk due to sea level rise and extreme cold events that may increase due to climate change.

Climate change results in a variety of drivers that affect biodiversity, species populations, and ecological communities across our nation. They include increasing temperatures, changes in precipitation patterns, increasing severity and frequency of extreme events, sea level rise, changing ocean currents, and salinity fluctuations. There are also interactions with other factors, such as invasive species and habitat fragmentation. Often the impacts are complex and variable from species to species and biological community to biological community.

Changes in the geographic ranges of individual species

Geographic range is the overall area where a species lives. For example, almost all occurrences of the greater sage grouse are in Nevada, Oregon, Idaho Wyoming, and Montana. The eastern flying squirrel in the U.S. ranges from Florida to Texas in the south, northwards to the Canadian border from North Dakota to Maine. Many species have much more limited geographic ranges. And, like the greater sage grouse, they may depend on a particular type of habitat. The desert tortoise is limited to certain desert areas in California, Nevada, Arizona, and Utah. The Texas toad's range is almost entirely central and west Texas. The northern pin oak is limited to a small area south and west of the Great Lakes. A very large number of native plant species are only found in California. Often, they are in very small areas, with particular needs for soil type, moisture and other factors. Species with small ranges and/or requiring niche ecological conditions are often more vulnerable to the various effects of climate change. For example, researchers have predicted that future temperature changes could threaten up to 66% of California's unique plants, including current range losses of 80% or more.

There are many examples of species ranges shifting northwards and /or to higher elevations in response to rising average temperatures and /or climate change induced changes in rain and snowfall patterns. As of 2015, 55% of the species in temperate North America had either disappeared from the southern edges of their ranges or expanded to new areas in the north. The Edith's checkerspot butterfly has disappeared from many locations in the southern portion of its range [California, Nevada, Utah]. As of 2006, the average [mean] location had moved 32 miles northwards. Alpine species such as the pika are moving uphill but will run out of habitat because they cannot go higher than the tops of mountains. This is a dramatic example of how a shift in a species range can disconnect that species from the ecosystem it requires.

Combined effects of increased temperature and changing precipitation patterns

Increased temperature has led to ecological changes including the migration of Chinook salmon (*Oncorhynchus tshawytscha*) to rivers from the Arctic to California, while behavioral changes in species include earlier breeding times for numerous North American songbirds. Climate change is also causing significant physiological changes. Warmer temperatures during egg incubation are causing imbalanced female to male sex ratios among endangered green sea turtles (*Chelonia mydas*), with females accounting for 99% of newly hatched turtles on some nesting beaches. Genetic changes attributed to climate change include hybridization – interbreeding as species' habitats change.

Climate change is also causing changes in precipitation patterns. The latter will vary from region to region as local and regional weather is driven by climate conditions. For example, the Southwest is becoming drier. Over time, we will see dramatic distribution changes in biological community composition and loss of species, including the major plant species that define a region. This is occurring already. For example, between 1997 and 2006, the average elevation of the dominant plant species in the California's Santa Rosa Mountains rose by 213 feet because of changes in regional climate. The Mohave Desert's Joshua trees may become extinct due to shifting precipitation patterns and California blue oak woodlands will shift uphill over time and may eventually disappear altogether from much of Central California. Temperature and precipitation also have significant effects on overall forest health. A stressed forest ecosystem is more susceptible to disease, invasive pests, and catastrophic wildfire.

Natural processes are also being disrupted by climate change. Southern California scrub habitats regenerate after fire. But if the next severe fire occurs too soon, the natural regeneration will not occur. The result is replacement of the native vegetation with non-native grasses. Intense fires over a large area of the landscape in turn affects many ecosystem services that are important to the surrounding communities such as water supply, soil health, water quality, public recreation, carbon sequestration, air quality, etc. Forests devastated from fire are often unable to fully re-establish and instead become infested with non-native and invasive species.

Intense wildfires, major floods, extended droughts, extreme cold spells, etc. are all becoming more severe and more frequent because of rising temperature within the atmosphere and oceans. Historically, these events have occurred at frequencies and extents which nature could handle, with native vegetation regenerating after the fire or flood. However, the rapidly changing climate is pushing species and populations outside their zone of resilience, to a place where they do not have the biological fitness nor tools for adaptation available to survive. For these reasons, climate change is one of the biggest challenges to global biodiversity that we face.

Habitat fragmentation affects the ability of nature to handle climate change

It has long been understood that when animals are left without large areas of intact habitat, they are at greater risk of extinction: fragmentation leaves animals confined to ever-smaller areas, restricting movement and gene flow, and leaving species vulnerable to threats ranging from poachers to climate change. A 2017 study published in the Proceedings of the National Academy of Sciences set out to quantify this risk for more than 4,000 land-dwelling mammal species across the globe — and found that species with more fragmented habitats were at greater risk of extinction. A prime example of this challenge is for the San Joaquin kit fox a once abundant species where there are now fewer than 7,000 scattered among fragmented populations.

Habitat loss and fragmentation have long been considered a primary cause for biodiversity loss and ecosystem degradation and is a key challenge for landscape scale HCP implementation. Although some habitats are naturally patchy, human actions have profoundly fragmented landscapes across the North America, altering the quality and connectivity of habitats. Therefore, understanding the causes and consequences of habitat fragmentation is critical to preserving biodiversity and ecosystem functioning. Connectivity among elevational and other gradients, between vegetation communities, and along north-south pathways is a mainstay for successful climate adaption for plants and animals alike. The challenge is particularly severe in already depleted and fragmented landscapes, where future development or agriculture may foreclose connectivity options. Connectivity does not respect jurisdictional boundaries, and will take state, federal, local, and private partnerships with coordinated land protection strategies and acquisitions. Connectivity is one of the primary tools that species have to be resilient in the face of climate change.

In these challenges lies opportunity though. Landscape scale HCPs recognize threats to biodiversity in fragmented landscapes and are positioned to help mitigate these threats by re-establishing critical wildlife linkages and conserving large habitat patch areas linked to one another through protected wildlife corridors. HCPs have the capacity, in-perpetuity funding, and a focus on adaptive management to mitigate the effects of habitat fragmentation.

Roads unfortunately pose a significant threat to wildlife across North America. Roads serve as a direct barrier to movement, impeding the ability of wildlife to move safely to find food, water, and mates. Hundreds of millions of animals die because of wildlife-vehicle collisions on North American roads every year. As barriers to movement, roads can cause genetic isolation within populations, thereby contributing to biodiversity decline. Wildlife-related car accidents are also a danger to people, resulting in thousands of human fatalities every year.

Large-scale HCPs with our local, state, and federal partners, are identifying roads of critical concern for wildlife, conducting field research to better understand the issues at hand, and develop location-specific measures to address them. But we cannot do it alone. We also need the help of lawmakers at the state and federal level to craft policies designed to incentivize

greater investment in road crossings and other wildlife-friendly improvements, as well as to integrate these considerations into planning for new projects from the outset.

My agency, the Santa Clara Valley Habitat Agency, and others are working with Caltrans and California Highspeed Rail Authority (HSR) to build wildlife crossings into their respective project designs. Specifically, HSR will have a significant impact on wildlife movement across Santa Clara County. We are working with HSR to appropriately mitigate their project with one potential outcome being the construction of a land bridge across State Highway 152 in the Pacheco Pass area as well as construct of new or enhancement of existing undercrossings throughout the rail alignment benefiting endangered amphibians, Kit fox, mountain lion, elk, and American badger.

Another great example is the Interstate 90 wildlife crossings project through the Central Cascades. Since 2000, The Cascades Conservation Partnership and the I-90 Wildlife Bridges Coalition, led efforts to reconnect Washington's north and south Cascades by protecting and restoring habitat and establishing safe wildlife crossings under and over I-90. Two fully vegetated, 150-foot-wide overpasses are planned. Construction on the Keechelus Wildlife Overcrossing was completed in 2018, becoming Washington's first-ever wildlife bridge over a highway or freeway, and the largest wildlife overcrossing in North America. Construction has also been completed for numerous undercrossings benefiting elk, deer, salmonids, and wolverine.

My final example is Montana's U.S. Highway 93. A 56-mile stretch of U.S. Highway 93 has been redesigned to allow animal crossings over and under the existing road, facilitating the safety of both wildlife and motorists. The highway redesign came about as a means of preventing dangerous and sometimes lethal collisions between motorists and wildlife. The 56 miles of the redesigned Highway 93 now boasts 41 underpasses and overpasses. Species benefiting from these improvements include grizzly bear, elk, deer, mountain lion, moose, wolve, turtles, and amphibians.

Closing Remarks

Regional large-scale HCPs are federalism in action: local government is delegated federal and state permit implementation authority integrating federal and state permits into the local land use development review process. They are a negotiated agreement between local government, in some instances a state, and the federal government instituting permit conditions and conservation actions established for the stated purpose of project specific mitigation and covered species recovery. Regional HCPs foster a partnership between local government and the federal government, a shared vision so to speak, for conservation and economic development. Moreover, landscape scale regional HCPs have a strong track record in aiding infrastructure and other economic development, assisting federal, state, and local governments, and gaining support from the private sector and NGOs.

I hope my testimony presents a wide range of illustrative actions for sustainability and pathways for achieving them across and between sectors such as agriculture, forestry, marine systems, freshwater systems, urban areas, energy, finance, and many others. I believe it highlights the importance of, among others, adopting integrated management and cross-sectoral approaches like regional landscape scale HCPs that consider the trade-offs of food and energy production, infrastructure, freshwater and coastal management, and biodiversity conservation. Will striking these balances require substantial financial investment? Yes, but not nearly as much as losing the \$125 trillion worth of ecosystem services that experts estimate nature provides to us every year.



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May 25, 2021

The Honorable Alex Padilla
United States Senate
United States Capitol
Washington, DC 20510

Subject: Habitat Conservation Plans Support Biodiversity and Infrastructure Development

Dear Senator Padilla:

On behalf of the Western Riverside County Regional Conservation Authority (RCA), I want to thank you for your thoughtful engagement in the U.S. Senate Committee on Environment and Public Works' (EPW) hearing entitled "Examining Biodiversity Loss: Drivers, Impacts, and Potential Solutions." The RCA appreciates your recognition of the proposed Western Riverside County Wildlife Refuge (H.R. 972) and agrees with your observation that California is a global hotspot for biodiversity. Habitat Conservation Plans (HCP) across California, including the RCA, work every day to balance the need for species protection and land conservation with infrastructure and economic development. With the drafting of surface transportation reauthorization legislation underway, there is an opportunity to make a bold step in further accomplishing both goals.

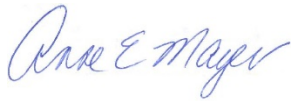
RCA proposes a pilot program to require that 25 percent of federal highway fund recipients be required to fulfill their Endangered Species Act (ESA) mitigation requirements by prioritizing use of existing permitted large-scale HCPs, where feasible. The proposed pilot program would allow the use of ESA Section 10 "incidental take" permits to recognize mitigation that occurs in HCPs outside of a given transportation project area or corresponding HCP boundary in which the project is located, provided that the mitigation is biologically equivalent or that unavoidable impacts are mitigated, and that the HCP utilized is within the same state. If enacted, this report language would incentivize widespread use of HCPs while facilitating sustainable infrastructure development needed to meet the challenges of the 21st century.

RCA commends EPW for exploring the critical issue of biodiversity loss. With the largest habitat conservation plan in the nation, the RCA is ready to partner with the state of California and the federal government in attaining President Biden's goal to conserve 30 percent of our lands and waters by 2030. As you know, large-scale HCPs such as ours and transportation infrastructure are inextricably linked. Your comments at the hearing pave the way for strengthened support of these successful programs.

The Honorable Alex Padilla
May 25, 2021
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I encourage you to give this proposal prompt consideration. If you wish to further discuss this solution to balance conservation with infrastructure, please contact me at (951) 787-7141.

Sincerely,

A handwritten signature in blue ink that reads "Anne E. Mayer". The signature is written in a cursive style.

Anne Mayer
Executive Director

CC: Chairman Tom Carper, U.S. Senate Committee on Environment and Public Works
Ranking Member Shelley Capito, U.S. Senate Committee on Environment and Public Works
Senator Dianne Feinstein
Representative Ken Calvert
Representative Mark Takano