

A-3.2 CALIFORNIA FISH AND WILDLIFE ATTACHMENT 2

Comment Letter A-3.2

Attachment 2
Wildlife Agency Response to Baldwin Letter
February 22, 1996

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February 22, 1996

Mr. Kim John Kilkenny
The Baldwin Company
11975 El Camino Real, Suite 200
San Diego, CA 92130

Re: Comments on the Baldwin Company's proposed Otay Ranch MSCP Plan Agreement dated November 10, 1995.

Dear Mr. Kilkenny:

The U.S. Fish and Wildlife Service (Service) and the California Department of Fish and Game (Department) have reviewed the proposed Otay Ranch MSCP Plan Agreement (Agreement) dated November 10, 1995. The proposed Agreement between the Department, Service (collectively the Wildlife Agencies) and the Baldwin Company describes changes in the Otay Ranch Project to improve the preserve design for biological resources.

The basic elements of the Agreement are: (1) elimination and reduction in the development areas east of Otay Lake and in Proctor Valley; (2) increases in the size of the development bubbles in portions of the Otay Ranch west of Salt Creek; (3) realignment of Otay Valley Road/Hunte Parkway; (4) elimination of the revegetation requirements for coastal sage scrub habitat; (5) assumption of land management responsibility for Otay Ranch preserve lands east of Otay Lake and in Proctor Valley by the Service; and (6) elimination of the vernal pool study area at the resort site. The Agreement correctly characterizes the development transfers as generally described in numbers 1-3 above. Our comments on the remaining items are provided below.

The Wildlife Agencies agreed to the elimination of the revegetation requirement for coastal sage scrub habitat (approximately 1,300 acres) as proposed by Baldwin, but the Agreement also included the elimination of the revegetation requirement for maritime succulent scrub (MSS) habitat. The elimination of the revegetation requirement for MSS habitat is not

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acceptable to the Wildlife Agencies, and the Agreement should be modified to eliminate reference to MSS habitat. To achieve the protection of the Resource Management Plan (RMP), there must be no net loss of MSS habitat through a combination of preservation and restoration. Based upon the project reconfiguration and potential changes in impacts to MSS, the percent of MSS preserved on-site and the acreage to be restored must be recalculated to meet the RMP goals.

The Agreement should specify that the Service (or at Service's designation, the Department or the Bureau of Land Management) will be the recipient of all preserve lands east of Otay Lake and in Proctor Valley and that the Service will manage the transferred lands for their open space and wildlife values at no cost to the Otay Ranch project. Any rehabilitation (of transferred lands) required pursuant to the RMP would require Otay Ranch project funding. All lands transferred to the Service would be managed in accordance with the National Wildlife Refuge System Administrative Act of 1966 (Refuge Act). The Refuge Act provides for appropriate recreational uses on refuge lands. Prior to the transfer of any parcel(s) to the Service, all leases (including cattle grazing leases), annual use licenses, annual rental Agreements, etc. must be terminated by the landowner.

The revised Conveyance Plan would specify that all preserve lands east of Otay Lake, in Proctor Valley, and otherwise within the final National Wildlife Refuge planning boundary would be directly transferred to the Service. All lands conveyed to the Service must meet the Department of Justice standards for title. Additionally, the revised Conveyance Plan would specify that the Service shall be relieved of any and all RMP obligations associated with transferred lands. Upon finalization of the Agreement, the Conveyance Plan would have to be modified to reflect the changes. The management of preserve lands not transferred to the Service would remain the responsibility of Baldwin or the Preserve Owner Manager and would be managed pursuant to the RMP.

The elimination of the vernal pool study area within the resort site (Village 13) is acceptable to the Wildlife agencies, however, any impacts to the vernal pools must be addressed separately from this agreement through section 404 of the Clean Water Act.


The Department conceptually agrees that it will approve the establishment of a Habitat Maintenance District for the Otay Ranch consistent with the Otay Ranch GDP/SRP, RMP, and as modified by the Agreement. Final Department approval of a Habitat Maintenance District could not occur until all outstanding issues with the RMP and Conveyance Plan have been resolved, the specifics of the Habitat Maintenance District have been reviewed by the Department, and the South County and Chula Vista MSCP subarea plans have been approved by the Wildlife Agencies. Section C.3 should be revised appropriately.

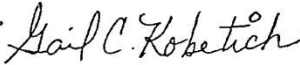
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Based on the above understandings, the Wildlife Agencies will process the application for the necessary "take permits" for the development of the Otay Ranch consistent with the land-use entitlements contained in the Otay Ranch GDP/SRP and as modified by the Agreement. State and Federal permits for the Otay Ranch would be included in any approval of the County's MSCP South County Subarea Plan and the City of Chula Vista's MSCP Subarea Plan. The Wildlife Agencies anticipate that other outstanding issues associated with these plans, the conveyance plan, and the RMP will be resolved by late spring or early summer of this year. The State and Federal take authorizations would be issued consistent with the State and Federal Endangered Species Act, the NCCP Act, and following the required public noticing and National Environmental Policy Act review.

We look forward to finalizing the Agreement as soon as possible and suggest we set a target date for completion of the Agreement by March 30, 1996. If you have any questions regarding this letter, please contact Gail Kobetich at (619) 431-9440 or Ron Rempel at (916) 654-9980.


Ron Rempel
NCCP Program Manager
California Department of Fish and Game

Sincerely,

Gail C. Kobetich
Field Supervisor
U.S. Fish and Wildlife Service

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