



SIERRA CLUB

LONE STAR CHAPTER

Comments on Agenda Item No. 2 – Exchange of Land – Cameron County

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Dear Commissioners,

The Sierra Club Lone Star Chapter offers the following comments on agenda item no. 2 – Exchange of Land – Cameron County. The State of Texas recently celebrated 100 years of state parks, commemorated with the overwhelming voter approval of \$1 billion for state parks as a result of the passage of statewide proposition 14. It is unfortunate that the commission now considers exchanging a portion of state parkland for a parcel that is not analogous, to enable a private entity to continue to harm the surrounding land and community.

(1) The 477 Acres of Land Adjacent to Laguna Atascosa National Wildlife Refuge Do Not Provide the Same or Similar Environmental and Ecosystem Services, Including Habitat for Federally Listed Threatened and Endangered Species.

The urbanization and development of coastal land degrades natural habitats required for other federally listed endangered species. Such as ocelots (*Leopardus pardalis*) who favor specific terrain called “lomas” (clay dunes) found throughout and adjacent to the 43 acres. Ocelots are also already a rare sighting in south Texas, and could be easily spooked as with additional constant development in the area, this creates habitat fragmentation which displaces these creatures.

The variety of sea turtles likely to be found nesting in or near this habitat include: the Kemp’s Ridley (*Lepidochelys kempii*; endangered), Hawksbill (*Eretmochelys imbricata*; endangered) , Leatherback (*Dermochelys coriacea*; endangered), Loggerhead (*Caretta caretta*; threatened), and Green sea turtles (*Chelonia mydas*; threatened). Sea turtles are sensitive to any disruption in their natural habitat that could delay their nesting process, typically by anywhere from a few hours or a few weeks. Detering or preventing sea turtles from nesting in certain areas may cause them to nest in less optimal conditions that may ultimately put them in jeopardy. Examples include: nesting too close to the shore where wave action can harm and drown the eggs, or digging too shallow of a nest which could become easily exposed to predation. The

prevention of endangered turtles from returning to habitual nesting sites harms the species, and thus could be considered a taking under the Endangered Species Act. 16 USC § 1532(19) clearly states that “take means to harass, ***harm***, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct”. Limiting development not only ensures a safe space for multiple federally listed endangered and threatened species of turtles, shorebirds, and Ocelots, but also prevents harm to those listed species.

The finding that such an exchange is of “greater conservation value” is entirely arbitrary. These tracts are not analogous in terms of habitat features including: distance to shoreline, presence of tidal wetlands, and proximity to dune habitat. While the 477 acre tract that the commission considers acquiring is likely to be outstanding habitat for waterfowl — it is unlikely to provide the same habitat conservation benefits for *other federally listed threatened and endangered species*.

(2) We Recognize the Cultural Importance of Boca Chica Beach — and We Remain Concerned About the Future of Beach Access for the Communities that Call it Home.

Boca Chica Beach is of significant cultural and community importance to the surrounding area. There is well documented pushback from the community to the expansion of SpaceX, and to any degradation of Boca Chica. As Texas Parks and Wildlife recently adopted the 2024 Land and Water Plan, it’s important to notice what is especially relevant here: Strategy 8.5 and Strategy 8.6. Mitigating impacts to and protecting cultural resources in this case includes mitigating impacts *to the land itself*. There is a relevant state interest in the park, as the land is part of Boca Chica State Park — and the beach itself is a vital cultural resource for the surrounding community. With the expansion of SpaceX comes the reality that additional dangers means additional beach closures. While acquiring the additional land could provide “more” recreational opportunities, they are not in the same location. Moreover, while the 43 acres of Boca Chica being considered for exchange provide very little (if any) recreational value directly — they are important as both buffer zone habitat, and are an obstacle to additional development by SpaceX that will ultimately result in more beach closures. We strongly encourage the staff and commission to consider the feedback and concerns of the Carrizo Comecrudo Tribe of Texas.

(3) SpaceX Has a History of Being a Bad Neighbor to Boca Chica State Park — and Their Poor Land Stewardship Should Not be Rewarded with Additional Development Opportunities.

Since SpaceX started testing in 2019 there have been many accounts of the surrounding community feeling uneasy.¹ South Texas locals feared for their culture, many feeling threatened as SpaceX forced their way into the quiet town. Brownsville and Port Isabel residents, and the Carrizo Comecrudo Tribe of South Texas² all have voiced their concern for their wellbeing as well as their concern for the surrounding wildlife.³ After a failed launch on April 20, 2023, “The U.S. Fish and Wildlife Service (USFWS) documented that the debris cloud deposited material as far as six-and-a-half miles north of the launch pad.”⁴ In another statement, they commented that no wildlife was harmed during this disaster⁵. An array of evidence could dispute this claim.⁶ Sensitive tidal/mud flats were destroyed by scattered debris, and there is documentation that surrounding vegetation was burned as well. Shorebirds nest in this type of environment — and after the failed launch, active nests containing eggs were discovered to be charred. It was also documented that federally listed Piping Plovers (*Charadrius melodus*) were foraging around the damaged tidal flats.⁷ “*At least nine rockets have exploded at the Boca Chica site over the past five years.*”⁸ These types of events deter wildlife from their native natural habitats, making it harder for them to find a suitable home. And according to We have significant concern that USFWS and the FAA have been downplaying/ignoring the environmental damage caused by SpaceX's carelessness. Giving this company more land

¹ Abby Vesoulis, Elon Musk's Texas Takeover, Mother Jones (Feb. 2024),

<https://www.motherjones.com/politics/2024/01/elon-musk-spacex-texas-boca-chica-oligarchy/>

² Frank Hopper, IN SHADOW OF SPACEX, TRIBE FIGHTING TO PROTECT SACRED SITES FROM ELON MUSK, Declaration (Jan. 3, 2023),

<https://deceleration.news/2023/01/03/spacex-elon-musk-carrizo-comecrudo/>

³ Olivia Solon, Disgruntled neighbors and dwindling shorebirds jeopardize SpaceX expansion, NBC News (Dec. 8, 2021),

<https://www.nbcnews.com/tech/tech-news/disgruntled-neighbors-dwindling-shorebirds-jeopardize-spacex-expansion-rcna7792>

⁴ Gaige Davila, SpaceX is grounded after rocket explosion caused extensive environmental damage, Texas Public Radio (Apr. 27, 2023),

<https://www.tpr.org/environment/2023-04-27/photos-spacex-is-grounded-after-rocket-explosion-caused-extensive-environmental-damage>

⁵ Jeff Foust, Fish and Wildlife Service documents damage from Starship launch, Space News (Apr. 26, 2023), <https://spacenews.com/fish-and-wildlife-service-documents-damage-from-starship-launch/>

⁶ Id.

⁷ Id.

⁸ Center for Biological Diversity Press Release, (Dec. 15, 2023)

<https://biologicaldiversity.org/w/news/press-releases/new-claims-filed-over-spacex-rocket-launchpad-explosion-2023-12-15/#:~:text=%E2%80%9CThis%20failed%20launch%20shows%20the,and%20Fish%20and%20Wildlife%20Service.>

opportunities will exacerbate future disasters, creating more harm for both wildlife and community members.⁹

(4) Conclusion

Especially because this is the only state-level opportunity to comment on this activity, the Sierra Club Lone Star Chapter respectfully opposes this item. Approving this action today could potentially risk irreparable harm to Texas's coastline, endangered species, indigenous communities, and the whole Texas Parks system. Moreover, this decision risks setting a dangerous precedent that large for-profit entities with an appalling history of being a bad land steward and bad for public beach access, like SpaceX, have the ability to slowly chip away at beloved state parks in communities that *do not* want them to expand.

As an alternative — we would suggest using the \$1 billion appropriation *overwhelmingly* approved by Texas voters to acquire some or all of the 477 acres adjacent to the Laguna Atascosa National Wildlife Refuge. This is the only solution that would result in *no net loss* of land conservation, and causes *no additional* harm to communities, habitat, or wildlife.

Finally, we sincerely appreciate the time and energy of the Texas Parks and Wildlife Department staff — especially in being proactive with outreach to us and other stakeholders, and being incredibly responsive to questions and concerns.

The Sierra Club appreciates the opportunity to provide these comments.

Respectfully,

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⁹ Glorie G. Martinez, [Failed SpaceX launch caused 'significant' environmental damage in South Texas](https://www.texasstandard.org/stories/failed-spacex-launch-caused-significant-environmental-damage-in-south-texas/), Texas Standard (Aug. 28, 2023)
<https://www.texasstandard.org/stories/failed-spacex-launch-caused-significant-environmental-damage-in-south-texas/>