HAMILTON BIOLOGICAL

September 5, 2023

Daniel Ruelas
Great Scott Tree Care
10761 Court Avenue #2435
Stanton, CA 90680

SUBJECT: SECOND NESTING BIRD SURVEY REPORT HEARTWELL PARK, AREA 2 (BELLFLOWER TO WOODRUFF) LONG BEACH, LOS ANGELES COUNTY, CALIFORNIA

Dear Daniel,

At your request, Hamilton Biological, Inc., has conducted a second survey for any birds potentially nesting in Chinese Elm trees planned for pruning or removal in "Area 2" of Heartwell Park in Long Beach (Figure 1). This report discusses relevant federal and state regulations protecting nesting birds, provides the methods and results of my survey, and provides recommendations for completing the project.

Figure 1. "Area 2" consists of the portion of Heartwell Park between Bellflower Avenue in the west and Woodruff Avenue in the east. Chinese Elm trees planned for trimming or removal were surveyed, and trees within 300 feet of the survey area were surveyed for the potential presence of nesting raptors.

REVIEW OF REGULATIONS PROTECTING NESTING BIRDS

The federal Migratory Bird Treaty Act (MBTA) of 1918 implemented the 1916 Convention between the U.S. and Great Britain (for Canada) for the protection of migratory birds. Later amendments implemented treaties between the U.S. and Mexico, the U.S. and Japan, and the U.S. and the Soviet Union (now Russia). At the heart of the MBTA is this language:

> Establishment of a Federal prohibition, unless permitted by regulations, to "pursue, hunt, take, capture, kill, attempt to take, capture or kill, possess, offer for sale, sell, offer to purchase, purchase, deliver for shipment, ship, cause to be shipped, deliver for transportation, transport, cause to be transported, carry, or cause to be carried by any means whatever, receive for shipment, transportation or carriage, or export, at any time, or in any manner, any migratory bird, included in the terms of this Convention . . . for the protection of migratory birds . . . or any part, nest, or egg of any such bird." (16 U.S.C. 703).

California Fish and Game Code

Section 3503 of the California Fish and Game Code states, "It is unlawful to take, possess, or needlessly destroy the nest or eggs of any bird, except as otherwise provided by this code or any regulation made pursuant thereto." Thus, in California, it remains a potential State offense to knowingly disrupt an active nest of virtually any native bird species. The term "active nest" is not clearly defined in the Fish and Game Code, and in some circumstances may be left to the discretion of the biologist in the field.

SURVEY METHODS

Biologist Robert A. Hamilton conducted an initial nesting bird survey on August 28, 2023. The second survey was conducted on September 5, 2023, from 10:15 to 11:15 a.m. Skies were 100% overcast; winds were in the range of 1–3 miles per hour; and the temperature was 71° F. The area was surveyed by walking slowly under the trees proposed for pruning or removal, looking for nests in the trees above, observing the behavior of the birds in the area and listening to their vocalizations, and inspecting the ground for guano or "pellets" of undigested fur and bone often deposited beneath the nests of owls and other raptors. Trees within 300 feet of the pine were inspected for the potential presence of nesting raptors.

SURVEY RESULTS

No evidence of nesting was observed during the survey.

The following birds were detected during the survey.

List of Bird Species Detected

Rock Pigeon	100	American Crow	8
Anna's Hummingbird	5	European Starling	15
Allen's Hummingbird	10	Western Bluebird	12
Downy Woodpecker	1	House Finch	40
Nuttall's Woodpecker	3	Dark-eyed Junco	3
Mitred Parakeet	4	Yellow Warbler	3
Black Phoebe	7		

DISCUSSION & RECOMMENDATION

No evidence of nesting was observed. Therefore, under the applicable state and federal regulations, Hamilton Biological recommends that work at the park may proceed without a biological monitor being present.

As a general disclaimer, this field review represents a good-faith effort to find and document bird nests, and to recommend actions intended to ensure compliance with applicable regulations as landscape trees are pruned and removed. Birds may initiate new nests at any time, and it is possible that unfound nests existed in or near the Survey Areas at the time of the survey. The recommendations provided represent my best understanding of state and federal regulations, and the steps needed to achieve compliance. In particular, it is stipulated here that an active nest is understood to be one that is complete and holding at least one potentially viable egg.

If work crews encounter an active nest not reported here, they should avoid disturbing the nest. If crews intend to work near the nest, Hamilton Biological should be notified so that the nest may be properly identified and appropriate protective measures taken.

Thank you for the opportunity to work with you on this project. Please call me at 562-477-2181 if you have questions or wish to further discuss any matters; you may send e-mail to robb@hamiltonbiological.com.

Sincerely,

Robert A. Hamilton, President
Hamilton Biological, Inc.