HAMILTON BIOLOGICAL

August 14, 2023

Daniel Ruelas
Great Scott Tree Service
10761 Court Avenue
Stanton, CA 90680

SUBJECT: NESTING BIRD SURVEY, EL DORADO NATURE CENTER WEST, LONG BEACH, CALIFORNIA

Dear Mr. Ruelas,

At your request, Hamilton Biological, Inc., has conducted a second survey for any birds potentially nesting in trees planned for pruning or removal along the western boundary of the El Dorado Nature Center open space area (see Figure 1, below).

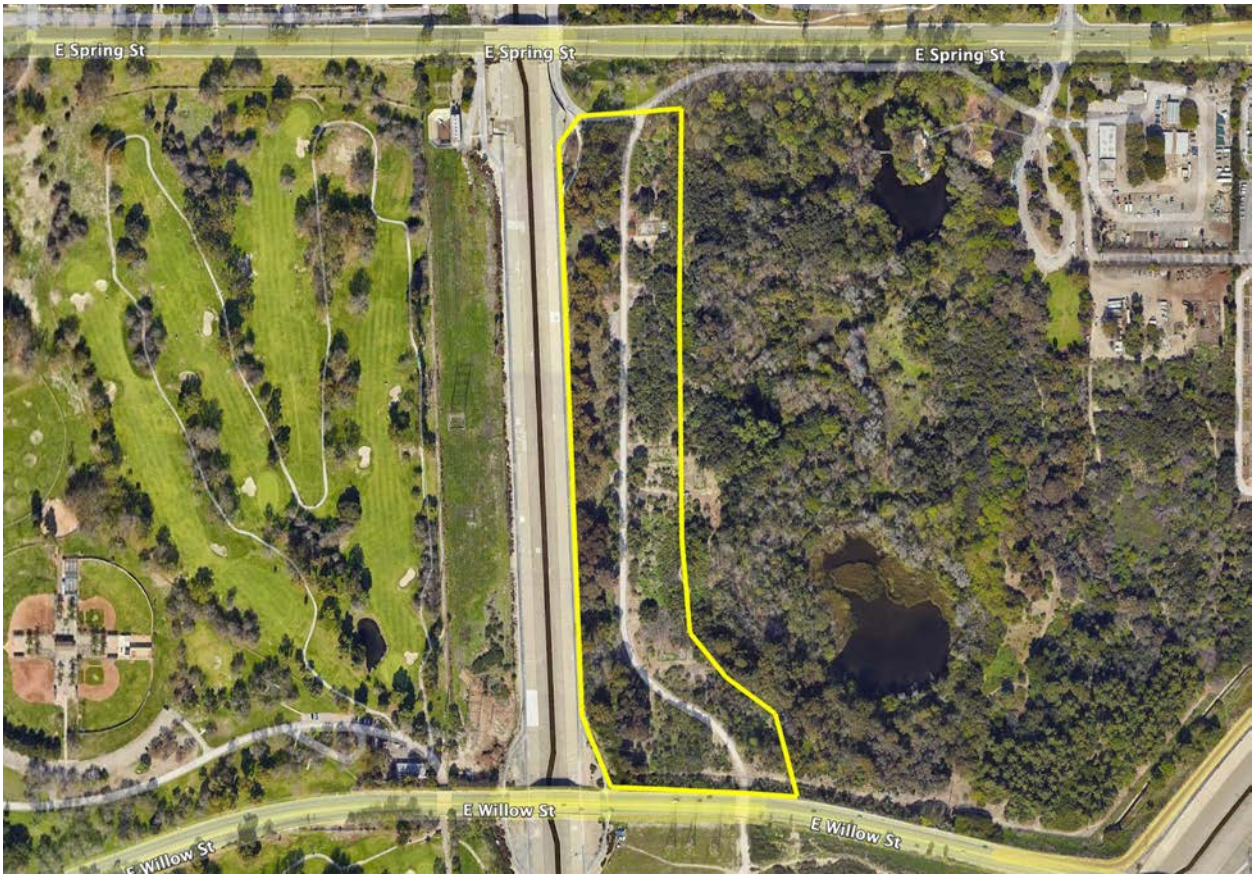

Figure 1. The Survey Area, shown in yellow, extends along the west side of El Dorado Nature Center, south of East Spring Street and north of East Willow Street.

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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.

REVIEW OF REGULATIONS PROTECTING NESTING BIRDS

Federal Migratory Bird Treaty Act

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 6, 2023. The second survey, which covered a somewhat expanded survey area, was conducted on August 14, 2023, from 10:50 a.m. to 12:30 p.m. Skies were hazy; winds were in the range of 1–3 miles per hour; and the temperature was 74–80° F. The survey was conducted by walking slowly throughout the area to be weeded, looking for nests, 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 survey area were inspected for the potential presence of nesting raptors.

SURVEY RESULTS

I did not observe any evidence of birds nesting in the coral trees, or any other nearby trees, during the second survey. No inactive nests of colonial waterbirds or raptors were observed in the survey area or elsewhere in the nearby vicinity.

I observed the following bird species during the survey.

List of Bird Species Detected

Mourning Dove 8
White-throated Swift 6
Anna's Hummingbird 3
Allen's Hummingbird 8
Turkey Vulture 1
Red-tailed Hawk 1
Black Phoebe 5
Cassin's Kingbird 1
Hutton's Vireo 2
California Scrub-Jay 4
Common Raven 1
Northern Rough-winged Swallow 5
Barn Swallow 10
Cliff Swallow 10
Bushtit 10
Swinhoe's White-eye 16
House Wren 8
Bewick's Wren 2
European Starling 18
Western Bluebird 1
Scaly-breasted Munia 4
House Finch 45
Lesser Goldfinch 12
American Goldfinch 4
Song Sparrow 1
California Towhee 4
Spotted Towhee 2
Hooded Oriole 2
Brown-headed Cowbird 1
Orange-crowned Warbler 4
Common Yellowthroat 5
Yellow Warbler 8

RECOMMENDATION & CONCLUSION

The survey found no indication of active nesting, and no inactive nests of colonial waterbirds or raptors that require preservation. Hamilton Biological therefore recommends that tree work may proceed in the area 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 area 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. 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.
http://hamiltonbiological.com