HAMILTON BIOLOGICAL

March 16, 2024

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

SUBJECT: NESTING BIRD SURVEY REPORT WHALEY PARK SOUTH, LONG BEACH, CALIFORNIA

Dear Daniel,

At your request, Hamilton Biological, Inc., has conducted a survey for any birds potentially nesting in several trees planned for pruning or removal in the southern portion of Whaley Park in Long Beach, plus one tree in the northern portion (Figure 1).

Figure 1. The survey covered the southern part of Whaley Park, south of East Atherton Street, plus a single tree north of East Atherton Street. All trees in this area were surveyed, and trees within 300 feet were surveyed for the potential presence of nesting raptors.

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 the nesting bird survey on March 16, 2024, from 5:30 to 6:60 p.m. Temperature was 66–63° F; skies were 50% overcast; and winds were in the range of 1–3 miles per hour. The biologist walked slowly under trees 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.

SURVEY RESULTS

No evidence of nesting was observed during the survey. The following birds were detected during the survey.

List of Bird Species Detected

Mallard	1	Swinhoe's White-eye	6
Mourning Dove	2	Ruby-crowned Kinglet	1
Anna's Hummingbird	2	Western Bluebird	6
Allen's Hummingbird	3	House Finch	12
Red-tailed Hawk	1	Lesser Goldfinch	12
Black Phoebe	3	Dark-eyed Junco	3
American Crow	2	Orange-crowned Warbler	1
Common Raven	1	Yellow-rumped Warbler	13
Barn Swallow	4		

DISCUSSION & RECOMMENDATION

The survey found no indication of active nesting in any vegetation, 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.