HAMILTON BIOLOGICAL

October 28, 2021

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

SUBJECT: NESTING BIRD SURVEY REPORT, QUEENSWAY BAY SITES LONG BEACH, LOS ANGELES COUNTY, CALIFORNIA

Dear Daniel,

At your request, Hamilton Biological, Inc., has conducted a nesting bird survey in trees planned for pruning at six locations near Queensway Bay in coastal Long Beach (see Figure 1). The survey is required to comply with relevant federal and state laws, and the City of Long Beach Tree Trimming Policy, approved by the California Coastal Commission in 2008.

Figure 1. Showing the six Survey Areas: Golden Shore, Rainbow Harbor Grounds, Rainbow Lagoon, Shoreline Marina, Rainbow Harbor Esplanades, and South Shore Launch Ramps. All trees in these areas were included in the nest survey, and trees within 300 feet of these areas were surveyed for the potential presence of nesting raptors.

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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. At present, wardens for the California Department of Fish & Wildlife (CDFW) typically define an active nest as one that is completed and holding at least one egg (Erinn Wilson, CDFW, pers. comm.).

City of Long Beach Tree Trimming Policy (Coastal Commission)

In 2008, the California Coastal Commission asserted jurisdiction over "annual and emergency tree trimming activities" in those parts of the City of Long Beach that lie within the coastal zone[1]. This includes the Downtown Shoreline, Alamitos Bay Marina, Marine Stadium, Colorado Lagoon, and other state tidelands and beaches. Under this policy:

> Any trimming of trees with nests shall be supervised by a qualified biologist or ornithologist and a qualified arborist to ensure that adequate nest support and foliage coverage is maintained in the tree, to the maximum extent feasible, in order to preserve the nesting habitat. Trimming of any nesting trees shall occur in such a way that the support structure of existing nests will not be trimmed and existing nests will be preserved, unless the Department of Parks, Recreation and Marine, in consultation with a qualified arborist, determines that such trimming is necessary to protect the health and safety of the public. The amount of trimming at any one time shall be limited to preserve the suitability of the nesting tree for breeding and/or

[1] https://documents.coastal.ca.gov/reports/2009/2/W23b-2-2009.pdf.

> nesting habitat. Trees or branches with a nest that has been active anytime within the last five years shall not be removed or disturbed unless a health and safety danger exists.
>
> Trimming may not proceed if a nest is found and evidence of courtship or nesting behavior is observed at the site. In the event that any birds continue to occupy trees during the non-nesting season, trimming shall not take place until a qualified biologist or ornithologist has assessed the site, determined that courtship behavior has ceased, and given approval to proceed within 300 feet of any occupied tree.

The policy pertains to the nests of colonial waterbirds, including cormorants, herons, and egrets, as well as raptorial species known to re-use nests from previous years.

SURVEY METHODS

Biologist Robert A. Hamilton conducted the nesting bird survey on October 28, 2021, from 12:10 to 5:40 p.m. Skies were clear; winds were in the range of 2–5 miles per hour; and the temperature was 82-86° F. The six Survey Areas were surveyed by walking slowly under each of the 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. Trees within 300 feet of the survey areas were inspected for the potential presence of nesting raptors.

SURVEY RESULTS

I detected the following bird species during the survey: Cackling Goose, Mallard, Rock Pigeon, Allen's Hummingbird, American Coot, Ring-billed Gull, Western Gull, Red-shouldered Hawk, Black Phoebe, American Pipit, Ruby-crowned Kinglet, European Starling, Northern Mockingbird, House Finch, Orange-crowned Warbler, and Yellow-rumped Warbler.

I did not observe any evidence of nesting birds during the survey.

I did not detect any inactive heron/egret/raptor nests during the survey.

DISCUSSION & RECOMMENDATION

Under the applicable federal and state regulations, and the City of Long Beach Tree Trimming Policy, trimming of all trees within the six Survey Areas 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.
http://hamiltonbiological.com