

Appendix B
Hacienda at Fairview Valley Biological Circumstances
2013 and Peer Review



MEMORANDUM

Date: May 1, 2013
To: Eric Flodine, Strata Equity Group
From: Shay Lawrey
Subject: Hacienda at Fairview Biological Circumstances 2013

Between 2005 and 2008, I evaluated and reported on the biological resource conditions associated with the Hacienda at Fairview Valley Specific Plan. The proposed project is generally located northeast of the Town of Apple Valley in Fairview Valley and is mapped on the U.S. Geological Survey (USGS) – Fairview Valley Quadrangle, California, 7.5 Minute Series topographic map, within Township 5 North, Range 2 West, Sections 3, 4, 5, 10, 11 and 14, San Bernardino County, California. Specifically, the project site is in a bajada nestled between Fairview Mountain, Sidewinder Mountain, and the Granite Mountains and can be found on the 2007 Thomas Guide page 4298, Section G2.

The project encompasses approximately 1,555 acres of land within two large parcels referred to as Parcel 1 and Parcel 2. Parcel 1 is approximately 1,115 acres in size and Parcel 2 is approximately 440 acres in size. Parcels 1 and 2 encompasses Assessor's Parcel Numbers 043-602-116, 043-602-115, 043-602-114, 043-602-113, 043-603-230, 043-603-221, 043-626-110, 043-626-114, 043-604-102, 043-604-103, 043-604-104, 043-604-116, 043-608-101, 043-608-102, 043-608-104 and 043-608-105. The proposed project is a mixed use community of residential, commercial and open space land uses which generally consists houses, roads, storm drain, utility services, sewage, etc. Additionally, there are offsite improvement areas that border Parcels 1 and 2. The proposed offsite improvements consist of seven (7) detention basins, two (2) water reservoir areas with access roads, and storm drain installation in conjunction with road improvements along Cahuilla Road and Chicago Road.

In 2005, 2007 and 2008 Tom Dodson & Associates (TDA) Biologists evaluated the habitat conditions onsite to determine the biological resources present within and adjacent to the project area, and to assess the potential for occupation by sensitive or protected species. These biologists also conducted focused desert tortoise and burrowing owl surveys in accordance with accepted protocols of the time. The biological surveyors documented suitable habitat for desert tortoise within and adjacent to Parcel 1, Parcel 2 and offsite improvement areas. The surveyors concluded however, that desert tortoises were absent from the site because no desert tortoise or sign (i.e, burrows, scat, scutes, or tracks) were detected during the surveys conducted in 2005, 2007 and 2008.

As for burrowing owl, the surveyors observed several burrowing owls clustered in Parcel 1 along the southwest corner in the early spring of 2005. The owls moved to the east and then southeast across the survey area presumably in response to feral dogs. By late summer no owls were detected on Parcel 1 and two small clusters of burrows were located in the south of Parcel 2. There was white wash and feathers near the burrows but all of the burrows had been dug out recently by dogs. No burrowing owl individuals were found on Parcel 2, but there was evidence that they had been there previously.

The surveyors noted moderate levels of disturbance such as old trash dumps as well as off-road-vehicle (ORV) use, feral dogs, and recent dumping.

On April 15, 17, 18 and 21, 2013 two of the original TDA biological surveyors (Shay Lawrey and Daniel Smith) that surveyed the site in 2005, 2007 and 2008, revisited Parcel 1 and 2 as well as the offsite improvement areas. The purpose of their site visits was to review the site conditions and conduct comparative surveys to confirm whether or not any aspect of the biological conditions had changed since the previous surveys. Due to the large area to be reviewed, the April 15 and 21 field reviews were performed on horseback. By utilizing the horses, the surveyors covered significant territory and with farther sight distance within the habitat. The surveyors traversed 41 survey miles within Parcels 1 and 2 on horseback and covered 10 survey miles including the offsite locations on foot.

Overall weather conditions during the comparison surveys was clear with temperatures ranging from approx. 45 degrees in the morning to around 72 degrees in the afternoon. Strong winds blew throughout the April 15 survey. A light breeze was maintained throughout the remaining survey days. As was observed during the 2005, 2007, and 2008 surveys, the site conditions vary from near pristine in some areas to very disturbed in others. Considerable dumping was observed throughout Parcels 1 and 2 but particularly in the northern most section of Parcel 1. In addition to dumping, other disturbances include dirt roads, OHV tracks, and canine activity. Species readily observed during the 2013 surveys included creosote bush, rabbit brush, burrobrush, Joshua trees, and a variety of cactus species, California jackrabbit (*Lepus californicus*), cottontail (*Sylvilagus audubonii*), antelope ground squirrel (*Ammospermophilus leucurus*), raven (*Corvus corax*), mourning dove (*Zenaida macroura*), white crowned sparrow (*Zonotrichia leucophrys*), black throated sparrow (*Amphispiza bilineata*), side blotched lizard (*Uta stansburiana*), whiptail (*Aspidoscelis tigris tigris*), and desert night lizard (*Xantusia vigilis*). In addition, two Anna's hummingbirds (*Calypte anna*) and one pair of Scott's orioles (*Icterus parisorum*) were also observed.

❖ **Special Status Species**

No desert tortoise sign was observed on either of the sites. The 2013 survey results for desert tortoise are the same as previously reported in 2005, 2007 and 2008. In 2013, no BUOW sign was observed either. Two inactive mammal burrows were observed on the northern-most section of Parcel 2, however, there was no BUOW sign or indication that the burrows were or had been used by BUOW recently. Although, BUOW had been observed and reported from the previous surveys, their presence was NOT detected during these comparison surveys. This is most likely due to ongoing canine activity in the area. As for any other special status species, none were observed. In summary, the biological conditions have not changed relative to the findings for the 2005, 2007 and 2008 surveys.

❖ **Jurisdictional Waters**

During the 2013 biological resources review of Parcel 1, Parcel 2 and the offsite improvement areas, the surveyors also reviewed the site relative to jurisdictional waters (both federal and state). Old lath placed to delineate jurisdictional waters remained and continues to depict the same federal and state jurisdictional boundaries identified previously. Nothing had changed since 2005, 2007 and 2008 surveys. The two natural springs identified previously were found in the same condition as they were in 2005, 2007 and 2008.

Based on the 2013 survey findings, we conclude the physical and biological circumstances on site and at proposed offsite improvement areas have not changed.



SHAY LAWREY, PRESIDENT

JERICO SYSTEMS, INC.

SUMMARY

Ms. Lawrey is a subject matter expert relative to riparian birds, small mammal, reptile and amphibian species. With nearly two decades of experience in natural resource management, special status species survey, regulatory permitting, and construction monitoring, she specializes in complex projects usually involving endangered species, sensitive habitats, and/or jurisdictional waters, and regulatory permits. Ms. Lawrey has served as the Designated Biologists, the biologist designated by both the U.S. Fish and Wildlife Service (USFWS) and the California Department of Fish and Wildlife (CDFW) for several projects. She has expertise with desert, and riverine/riparian ecosystems. The least Bell's vireo (LBVI), southwestern willow flycatcher (SWWF) and southwestern arroyo toad (ARTO) are the riparian special status species Ms. Lawrey most often works with and the San Bernardino kangaroo rat (SBKR), desert tortoise, Mohave ground squirrel, and burrowing owl are the desert special status species Ms. Lawrey most often works with.

WORK HISTORY

Jericho Systems Inc. President. Land use planning and natural resources management, with special expertise in southern California ecosystems, regulatory compliance, water resources and communication/facilitation. Serves as firm lead in the acquisition of federal Clean Water Act Sections 404 & 401 discharge of fill permits, California Fish and Game Code Section 1600 Streambed Alteration Agreements, and incidental take permits under the California Endangered Species Act (CESA) and federal Endangered Species Act (ESA). Specializes in biological resources damage assessments.

Tom Dodson & Associates. Ecologist/Regulatory Specialist. Specialized in environmental compliance with the California Environmental Quality Act (CEQA) and National Environmental Policy Act (NEPA) and acquisition of regulatory permits. Prepared constraints analyses, general biological surveys, jurisdictional delineations, habitat suitability evaluations for endangered species, biological resources damage assessments, impact analyses, mitigation plans, implementation plans. Conducted protocol-level surveys for speckled dace, desert tortoise, southern rubber boa, ARTO, red-legged frog, mountain yellow-legged frog, burrowing owl, LBVI, SWWF, southern spotted owl, and SBKR.

San Bernardino County Department of Public Works (DPW) Senior Associate Planner. Provided oversight for DWP compliance with local, state and federal environmental regulations. Obtained all required regulatory permits for DPW operations and maintenance, flood control, transportation, and emergency projects. Prepared CEQA and NEPA documents for DPW projects.

San Bernardino County DPW. Ecologist. Conducted protocol-level surveys for speckled dace, desert tortoise, southern rubber boa, ARTO, burrowing owl, LBVI, SWWF, and SBKR. Prepare programmatic maintenance agreements for DPW facilities.

RELEVANT EXPERIENCE

Jurupa Community Services District (JCSD): Ms. Lawrey was contracted by the JCSD to conduct and prepare a biological resources damage assessment and remediation plan in response to their Sanitary Sewer Overflow (SSO) that occurred

Years of Experience: 19

Education:

M.A., Biology, Occidental College, Los Angeles, CA, 1997

B.A., Environmental Studies, University of California Santa Cruz, 1993

Permits / Licenses:

US Fish and Wildlife Service Federal 10(a) Recovery Permit (TE-094308-3) to survey for San Bernardino kangaroo rat (*Dipodomys merriami parvus*) and Southwestern willow flycatcher (*Empidonax traillii extimus*)

California Department of Fish and Game Scientific Collecting Permit (SC-007256)

Publications:

Feather Lead Concentrations and 207Pb/206Pb Ratios Reveal Lead Exposure History of California Condors (*Gymnogyps californianus*) Environ. Sci. Technol., 2010, 44 (7), pp 2639–2647 (March 3, 2010)

at the intersection of Pyrite Creek and 58th Street on June 25, 2012.

Santa Ana Watershed Project Authority (SAWPA): Ms. Lawrey was contracted by SAWPA to conduct and prepare biological resources damage assessments and follow up monitoring of the October 18, 2011 and May 15, 2012 Inland Empire Brine Line Reach V spills into Bedford Wash and Temescal Wash.

Santa Ana Watershed Project Authority's Santa Ana River Interceptor (SARI) Repair and Rehabilitation Project. Ms. Lawrey was the CDFW and USFWS designated biologist as per the project's regulatory permits and incidental take authority for the LBVI. She provided oversight on the project relative to biological resources (specifically nesting birds) and regulatory permit compliance during construction in Prado.

Eastern Municipal Water District's Murrieta Sewer (EMWD) Ms. Lawrey was contracted by EMWD to conduct and prepare biological resources damage assessments and follow up monitoring of the December 2009 SSO into Murrieta Creek from the Temecula Valley Regional Water Reclamation Facility. Provided rebuttal evidence in legal argument as an expert witness on behalf of the EMWD at the January 12, 2011 State of California Regional Water Quality Control Board San Diego Region hearing in the matter of Order No. R9-2000-0165 identified in Complaint No. R9-2010-0085.

Designated Biologist for Eastern Municipal Water District's Murrieta Sewer Relief Project. Ms. Lawrey was the CDFW and USFWS designated biologist as per the project's Special Participating Entity (SPE) status under the Western Riverside County Multi Species Habitat Species Conservation Plan. Ms. Lawrey conducted protocol LBVI and SWWF surveys, secured all regulatory permits, prepared and provided a CDFG/USFWS approved environmental awareness class and provided full-time construction monitoring and implemented the post construction wetland creation component and the five-year monitoring of this effort.

Victor Valley Waste Water Authority Upper Narrows Interceptor Replacement Project. Ms. Lawrey conducted protocol level LBVI, SWWF, ARTO and desert tortoise surveys. She was responsible for the jurisdictional waters delineation, regulatory permitting and coordination relative to natural resources issues with FEMA, U.S. Army Corps of Engineers, USFWS, CDFW, Environmental Protection Agency, Regional Water Quality Control Board, San Manuel Mission Band of Indians, and County of San Bernardino Flood Control District. CDFW and USFWS have determined Ms. Lawrey to be the designated biologist during construction scheduled for fall of 2013.

Victor Valley Waste Water Authority Waste Water Treatment Plant outfall downstream water monitoring and protocol level LBVI, SWWF, ARTO and desert tortoise surveys.

Designated Biologist Mojave Water Agency's Regional Recharge and Recovery (R³) and Oro Grande Wash Recharge Construction Projects. Ms. Lawrey was the CDFW designated biologist as per the California Endangered Species Act Incidental Take Permit (ITP) Number 2081-2010-027-06. Ms. Lawrey provided a CDFW approved environmental awareness class and full-time construction monitoring for the year-long construction phase of these projects. Shay was tasked with contractor compliance focusing on the terms and conditions of the CESA 2081 ITP, potential impacts to desert tortoise, Mohave ground squirrel, the Clean Water Act Sections 404/401 permits and CDFW Streambed Alteration Agreement.



DANIEL SMITH
JERICO SYSTEMS, INC.

SUMMARY

Mr. Smith is a Biologist who received his B.A. in Criminal Science from California State University of Fullerton. Although Mr. Smith did not pursue a degree in ecology, he has a personal interest and years 12 years of experience conducting wildlife survey, with a specialty in herpetological surveys. He has a decade of experience with small-scale herpetoculture of approximately 11 species of reptiles and amphibians (predominately snakes but also, turtles and toads) native to California. For the past several years his focus has been on monitoring construction projects in the desert with desert tortoise and/or burrowing owl. He has over 1800 hours surveying for desert tortoise and burrowing owl at the protocol level and over 8,000 hours of construction monitoring. He attended the Desert Tortoise Council workshop in 2001. Primary duties over the past decade include conducting desert tortoise surveys and monitoring construction projects within desert tortoise habitat.

Years of Experience: 12

Education:

B.A., Criminal Justice, California State University of Fullerton, 2008.

Certificates:

2001 Desert Tortoise Council Workshops: covered topics in desert tortoise handling, egg handling, artificial burrow construction, construction monitoring and regulatory requirements.

SELECT PROJECT EXPERIENCE

Inland Valley Development Agency 3rd Street culvert replacement. Lead Biologist responsible for monitoring a nesting pair of burrowing owls adjacent to the construction zone. Responsible for coordinating with and reporting to the regulatory agencies.

San Bernardino county Department of Public Works Transportation Department Barstow Area Road Maintenance Project. Desert Tortoise monitoring, provide awareness training, prepare daily monitoring logs.

City of Victorville's La Mesa/ Nisqualli Interchange Project. Desert Tortoise, burrowing owl, Mohave ground squirrel and jurisdictional waters monitoring.

Victor Valley Wastewater Reclamation Authority. Desert Tortoise surveys for plant expansion.

Southern California Logistics Airport – Desert tortoise survey and monitoring

WORK HISTORY

Jericho Systems Inc. Senior Environmental Technician. Specializes in construction monitoring and species surveys with expertise in southern California ecosystems and regulatory compliance. Conducts general biological surveys and habitat suitability evaluations for desert tortoise and burrowing owl. Conducts focused, protocol-level, surveys desert tortoise, burrowing owl and southern rubber boa. Daniel also provides construction monitoring for several sensitive biological resources including wetlands, stickleback, southwestern arroyo toad, speckled dace, southern rubber boa and desert tortoise.

Tom Dodson & Associates Contract Biologist/ Construction Monitor. Provided construction monitoring on projects requiring a qualified desert tortoise and or qualified/authorized biological monitor. Conducted protocol-level surveys for speckled dace, desert tortoise, southern rubber boa, ARTO, and burrowing owl.



TECHNICAL MEMORANDUM

Date: July 29, 2013
To: Kari Kano
From: Thomas McGill, Ph.D
Subject: Review of the Hacienda at Fairview Valley Biological Resources Reports

Tom McGill, Ph.D. of RBF peer reviewed Tom Dodson's Associates (TDA) update of Biological Circumstances for the Hacienda at Fairview project site. The update summarized previous technical reports (surveys were conducted in 2005, 2007 and 2008) and included the results of 2013 site visits that assessed current site conditions and concluded that site conditions were unchanged from that noted in the previous surveys. Further, TDA found that the jurisdictional water previously delineated for the project site were in the same condition as they were in 2005, 2007 and 2008. Based on the 2013 site assessment, TDA concluded that the physical and biological circumstances on the site and at the offsite improvement areas had not changed. Base on a review of the TDA reports, including their 2013 update, RBF concurs with TDA's conclusion that conditions remain unchanged and that the County can rely on the biological and jurisdictional data contained in the 2005, 2007 and 2008 survey reports.

Should you have any questions with respect to the review of the subject letter, please do not hesitate contact me at 909-974-4907, or tmcgill@rbf.com.

Sincerely,

Tom McGill, Ph.D