
From: Jenn Tanaka <jenn@cmabs.org>
Sent: Monday, May 1, 2023 10:35 AM
To: CITY COUNCIL; CityManager; CITY CLERK
Cc: Ralph Taboada; Russell Toler; Marc Vukceovich; Mike Lingle; David Martinez; Flo Martin
Subject: CMABS - Bus Shelters and Legislation Endorsement Letters for May 2 Meeting
Attachments: CMABS - CA Legislation Endorsement Letter 2023 (Costa Mesa City Council).pdf; City Council - Bus Shelter Letter.pdf

Members of the City Council, City Manager Farrell Harrison and City Clerk Green:

Please find enclosed letters for inclusion in the public record for the May 2 City Council meeting. We have already sent you the first letter, relating to our endorsements of state legislation, last week and we hope you will consider acting on our recommendations.

We are also enclosing a new letter addressing the state of our bus shelters and making some suggestions for the upcoming negotiation with Clear Channel (or an RFP if we decide to pursue a new vendor).

Thank you,
Jenn Tanaka
on behalf of the Board of the Costa Mesa Alliance for Better Streets

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COSTA MESA ALLIANCE FOR BETTER STREETS

April 24, 2023

Via Email

Costa Mesa City Council
Lori Ann Farrell Harrison, City Manager
77 Fair Drive
Costa Mesa, CA 92626
citycouncil@costamesaca.gov
citymanager@costamesaca.gov

Dear Members of the City Council and City Manager Farrell Harrison:

On behalf of the Costa Mesa Alliance for Better Streets, we are writing to express our support for certain proposed legislation that is currently under consideration in the California State Legislature. As Costa Mesa's largest nonprofit advocacy organization devoted to better streets for all, we are eager to endorse the following pieces of legislation:

Senate

SB 695 (Sen. Gonzalez) - California State Highway Transparency Act
SB 434 (Sen. Min) - Public Transit Ridership Safety
SB 712 (Sen. Portantino) - Tenancy; Micro-Mobility Devices

Assembly

AB 1317 (Asm. W. Carillo) - Unbundling Parking from Rent
AB 73 (Asm. Boerner Horvath) - Vehicles; Required Stops; Bicycles (aka the "Idaho Stop Bill")
AB 364 (Asm. Bryan) - Statewide Street Furniture Data
AB 825 (Asm. Bryan) - Decriminalize Bicyclists on Sidewalks
AB 645 (Asm. Friedman) - Speed Safety Cameras Pilot Program
AB 761 (Asm. Friedman) - Transit Transformation Taskforce
AB 894 (Asm. Friedman) - Shared Parking
AB 413 (Asm. Lee) - Prohibit parking within 20 feet of crosswalks (aka the "Daylighting Bill")
AB 835 (Asm. Lee) - Point Access Block Bill
AB 251 (Asm. Ward) - Vehicle Sizes and Impacts on Vulnerable Road Users

We believe that each of these bills has the potential to bring significant benefits to the residents of Costa Mesa. **We therefore urge the City's Legislative Review Team to review these bills and to consider writing a position letter endorsing such bills and conveying the City's views to the relevant elected officials.**

Three of the bills we would like to highlight:

- **AB 251**, "Vehicle Sizes and Impacts on Vulnerable Road Users". This bill would authorize the California Transportation Commission (CTC) to create a working group and study the

implementation of weight-based passenger vehicle fees to account for the disproportionate impacts of larger vehicles on vulnerable road user injuries and fatalities. Vehicle size and weight is strongly correlated with impact force on those outside of the vehicle, which, in Costa Mesa, are increasingly pedestrians and bicyclists. Therefore, regulating vehicle size and weight at the State level, something that Californian cities cannot do, is critical to ensuring the safety and well-being of bicyclists and pedestrians. We implore you to support this legislation.

- **SB 695**, the “California State Highway Transparency Act”. This bill would require the California Department of Transportation (Caltrans) to collect, and make available to the public, historical data detailing roadway expansions of the state highway system. With two major highways slicing through our City, State Route 55 and Interstate 405, Costa Mesa is disproportionately burdened by the climate, traffic and health impacts associated with the induced demand brought on by freeway expansions. This issue is a clear and present concern given the ongoing expansion of State Route 55. We strongly urge you to support SB 695.
- **AB 1317**, “Unbundled Parking”. This bill would require off-street parking spaces to be leased or sold separately from the price of housing, which would reduce car dependence and lower carbon emissions. By allowing tenants to purchase parking only when needed, this measure would encourage the use of public transportation, walking, and biking, which would lead to safer streets and fewer accidents. Moreover, this bill would reduce the cost of housing for low-income individuals and families who do not own a car or prefer to live without one. We believe that AB 1317 would benefit the environment, public health, and equity. Therefore we urge you to consider endorsing this bill and adopting local rules that would incentivize unbundling parking from rent even if AB 1317 is not passed.

The remaining pieces of legislation cover a range of issues, including street design, protections for vulnerable road users, increasing public transportation ridership, and improving development and urban design. We believe that each of these bills is critically important to the well-being of Californians, and we urge you to support them all. **Also, echoing our recommendation for AB 1317, we also strongly encourage you to consider adopting local ordinances that mimic these bills. We would particularly highlight AB 413 (the Daylighting Bill) SB 712 (Tenancy; Micro-Mobility Devices) and AB 894 (Shared Parking) as being particularly suited to local adoption.**

We are confident that you share our vision for a better California, and we look forward to working with you to achieve it. Please do not hesitate to contact us if you have any questions or concerns regarding our endorsement of the proposed legislation.

Sincerely,

The Board of the Costa Mesa Alliance for Better Streets
Russell Toler
Mike Lingle
Flo Martin
David Martinez
Ralph Taboada
Jennifer Tanaka
Marc Vukceвич



COSTA MESA ALLIANCE FOR BETTER STREETS

May 1, 2023

Via Email

Costa Mesa City Council
Lori Ann Farrell Harrison, City Manager
77 Fair Drive
Costa Mesa, CA 92626
citycouncil@costamesaca.gov
citymanager@costamesaca.gov

Dear Members of the City Council and City Manager Farrell Harrison:

We are writing to express our concerns about the poor condition of our bus shelters, benches and unprotected stops. Some shelters are well maintained, while others have visible trash, dirt, peeling paint, rust, broken advertising panes, and other damage. Many more stops, including ones with apparent demand, lack seating or protection from the elements. Neglected bus shelters and poorly appointed stops lower the quality of life for transit riders and reflects poorly on the City's reputation.

The most direct path to addressing this issue is to renegotiate the City's Franchise Agreement with Clear Channel Outdoor (CCO), which will expire next year, or conduct an RFP process requiring a higher level of care and service. Here are some suggested reforms:

- **The new franchise agreement should clearly define higher standards.** Instead of a vague requirement to keep shelters in a "clean, attractive and sanitary" condition, our vendor should be required to maintain our shelters in "like new" condition, and the agreement should clearly define what that means. Any shelters that need to be replaced to achieve the stated standard should be replaced at CCO's expense. For reference, below is an excerpt from the [City of Irvine's bus shelter maintenance vendor contract](#), Outfront Media (now JCDcaux), which more clearly calls out the level of expected maintenance (emphasis mine):

Contractor shall repair, remove or replace damage, vandalism, or graffiti, including etching, paint peeling, and any form of graffiti and/or vandalism damage, within twenty four (24) hours after having been found at the time of a routine maintenance call or upon notification by the City. If shelter or bench damage or vandalism is such that the public could be exposed to a dangerous

situation while in or near the shelter or bench, the Contractor shall repair or if necessary, remove the entire shelter or bench within four (4) hours of notification, twenty four hours (24) a day, seven (7) days a week, and it shall be replaced and fully operational at the same location within five (5) working days after removal. If replacement amenities are not in contractor's stock, contractor will be required to procure replacements and furnish proof that the new amenities have been ordered within five (5) working days to City.

- **Public accountability and feedback should be an ongoing part of maintenance.** The vendor should undertake, at its expense, to post surveys at bus stop locations to solicit feedback from the public regarding the maintenance program of the bus shelters and areas of improvement. The survey data should be shared with the City to ensure that any maintenance or cleanliness issues with bus amenities are addressed promptly, and to allow the City to directly monitor the maintenance program more broadly.
- **Concrete bus benches are perfect opportunities for public art – we should use them!** We should reserve flexibility for the City to select certain concrete benches for the installation of public art projects, similar to the utility box murals that dot the City.

Beyond negotiating a better contract with our advertising vendor, the City should also take steps *today* to significantly improve the transit rider experience:

First, the City should earmark some (or all) bus shelter revenue to transit improvements. Transit riders are a significant reason the City is able to make money advertising in bus shelters in the first place. Therefore, transit riders should receive direct benefits from these funds. Earmarking some or all of the bus shelter revenue for transit improvements would provide a transparent and ongoing revenue stream for this important City priority.

Second, the City should audit the placement of its existing bus furniture, as well as the bus furniture sitting in storage, and adjust bus furniture placement according to boardings, local context, public safety and anticipated future demand. Our existing ordinance addressing bus furniture placement (Title 19, Chapter 2, Section 305) hasn't been updated since 1992 and is vague and outdated. It states that "a location shall be selected generally in accordance with the needs and priorities of the city" (Section 19-305(b)(1)), and that "the precise location of the benches or shelters at each such site shall be reviewed and reported on by the transportation commission and approved by the city council and the transit district serving such bus stop" (Section 19-305(a)). To our knowledge the City of Costa Mesa no longer has a transportation commission, which suggests that our bus shelter sites are not being regularly reviewed at all.

Section 19-305 should be revisited to include specific criteria for the placement and evaluation of bus furniture. This criteria should take into account not only daily boardings (a measure of demand), but also local context, public safety concerns and anticipated future demand. By way of example, consider the stop on Wilson Street just West of the intersection with Harbor Blvd (see photo below). Based on daily boardings this stop may not justify additional street furniture.

However, additional context shows that this stop is located next to a coin laundry and, in the background, the parking garage of a new multifamily housing development is clearly visible. Therefore, placing a bench in this location would make sense for reasons beyond daily boarding statistics.



Additionally, the placement of our bus furniture should be audited on a regular basis so that the City can evaluate and deploy our resources efficiently. Changes in ridership likely occur very slowly, so this process could be done as infrequently as every 10-15 years, and the process of updating the Circulation Element would seem like a natural opportunity. Despite Policy C-4.13 of the current Circulation Element stating that the City should "provide transit stop amenities that facilitate access to and from transit stops and transfer locations" and that such amenities should include "high-quality benches and shelters, traveler information systems (real-time transit arrival information), and bike storage and bicycle connections", there is no active City policy that actually supports and enacts these goals.

Additionally, as Costa Mesa no longer has a "transportation commission", the logical alternative body to review our bus furniture placement and policies would be the Planning Commission. Alternatively, the Active Transportation Committee could be an appropriate body for this work, as almost all transit riders arrive or depart at our bus stops on foot or by bicycle.

Having attractive bus shelters and appropriately appointed bus stops in our City will provide several benefits, including improving the overall look and feel of our streets and ensuring that passengers have a comfortable and safe place to wait for their buses. Doing so also would support our stated goal of 10% transit mode share (see Recommendation C-7.33 of the Circulation Element), which will alleviate congestion pressure on our roadways. But most importantly, it will showcase our City's commitment to providing quality services to its residents and visitors. Transit riders and visitors deserve as much dignity and respect as those walking, bicycling or driving.

In conclusion, we urge you to take action to improve the conditions of the areas in and around our bus shelters and stops in our City. Striking a better deal with our next advertising vendor, and rationalizing the use of advertising revenue and our existing street furniture, will benefit the passengers using them, and it will also improve the City's reputation. Thank you for your attention to this matter.

Sincerely,

The Board of the Costa Mesa Alliance for Better Streets

Russell Toler

Mike Lingle

Flo Martin

David Martinez

Ralph Taboada

Jenn Tanaka

Marc Vukceovich

From: HAUSER, JANET
Sent: Tuesday, May 2, 2023 12:06 PM
To: GREEN, BRENDA; TERAN, STACY; GONZALEZ, GLADYS
Subject: FW: Fairview Park Runway

Janet Hauser
Executive Assistant to Costa Mesa City Council
City of Costa Mesa
77 Fair Drive
Costa Mesa, CA 92626
Desk: 714-754-5107
Cell: 714-949-3693
Janet.hauser@costamesaca.gov

Note: Using the "Reply All" option may inadvertently result in a Brown Act violation.

As City Hall has reopened, we encourage the public to take advantage of our appointment system. Appointments can be made at www.costamesaca.gov/appointments.

Please note that It is required that all guests check in with our Concierge Staff, located on the 1st Floor Lobby, upon arrival at City Hall.

From: Chad @ HOME <free.mesan@proton.me>
Sent: Tuesday, May 2, 2023 11:55 AM
To: CONSTITUENT SERVICES <constituentservices@costamesaca.gov>; STEPHENS, JOHN <JOHN.STEPHENS@costamesaca.gov>; CITY COUNCIL <CITYCOUNCIL@costamesaca.gov>
Subject: Fairview Park Runway

Dear Costa Mesa City Council,

The runway in Fairview Park is illegal. It's just like how the city constructed paths connecting the park to the Waldorf field that damaged the habitat of a vernal pool watershed. The amount of damage done by the winch path and runway projects were much worse than the Waldorf connector path. Had the Trump Administration not repealed quite a lot of wetland protection laws and enabled a no conviction rule, the outcome would have been a lot different.

The HSS letter to council leaves out two things:

1. In 2014 the USFWS sent a letter that was mostly focused on the Waldorf connector trail. It also wasn't a final remediation plan. Had it known the runway was illegal and powered aircraft was illegal and all of the damage the city did to the area, the letter may have been different.
2. The Brandman report is based on an outdated delineation. USFWS has cited damage from the activity of flying in the past. Satellite photos prove, without a doubt, flying activity has caused more damage to the mesa than any other activity since the 1970's.

Keep in mind, the damage done to the runway is documented. It's clear what caused it.

In summary:

1. The city knows the runway is illegal
2. The city knows if the runway stays, aircraft with motors will return.
3. Aircraft with motors violate many rules and laws and harass birds.
4. Runways are only needed for aircraft with motors.
5. Gliders do not need a runway. I hope you researched yourself that gliders do not need a runway.

Thank you,

Chad

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From: Mat Garcia <mat.garcia@live.com>
Sent: Tuesday, May 2, 2023 10:45 AM
To: CITY CLERK
Subject: FW: Fairview Park Flying Field Additional Information - Public Records Request – Emails – CDFW Email Regarding the Flying Field
Attachments: Turner Responsive.pdf

Hi City Clerk,

Please include the below email and all attachments in the public record section for tonight's (May 2, 2023) City Council Meeting for the topic of the flying field.

Thank you,
Mat Garcia

From: Mat Garcia
Sent: Tuesday, May 2, 2023 10:43 AM
To: 'john.stephens@costamesaca.gov' <John.Stephens@costamesaca.gov>; 'MARR, ANDREA' <ANDREA.MARR@costamesaca.gov>; 'Manuel.Chavez@costamesaca.gov' <Manuel.Chavez@costamesaca.gov>; 'Jeffrey.Harlan@costamesaca.gov' <Jeffrey.Harlan@costamesaca.gov>; 'Loren.Gameros@costamesaca.gov' <Loren.Gameros@costamesaca.gov>; Don.Harper@costamesaca.gov; 'REYNOLDS, ARLIS' <ARLIS.REYNOLDS@costamesaca.gov>
Subject: Fairview Park Flying Field Additional Information - Public Records Request – Emails – CDFW Email Regarding the Flying Field

Mayor and Councilmembers,

Public Records Request – Emails – CDFW Email Regarding the Flying Field

The attached document is the result of a public records request (PRR) for emails between Kelly Dalton and Jennifer Turner at CDFW.

There is no history that HSS is aware of between Jennifer Turner and the City on the topic of the flying field. The extent of emails provided in the PRR is limited. Kelly Dalton begins soliciting a written response from Jennifer Turner in March of 2023 after he receives written documentation from USFWS in both September 2022 and February 2023 that does not support the recommendation to shut down the flying field as put forward in the March 21, 2023 Staff Report.

Jennifer Turner was not provided with all of the information necessary for her to make an informed recommendation. Given the information she was provided by Kelly Dalton, her recommendation is not surprising.

It is important to note, that Jennifer Turner was engaged by Kelly Dalton for the first time on the flying field topic AFTER the decision was made to bring this item back to Council with new information, and that Jennifer Turner was provided the Staff Report in order for her to make her recommendation. Staff's recommendation

in the Staff Report drove her to write the email, not that a regulatory agency had an issue with the flying field which the City responded to.

For background, the City Manager announced in January 2023 that the flying field would return to the Council in February 2023 for Council input due to new information discovered by Staff. From the PRR emails, it appears Jennifer Turner was first engaged by Kelly Dalton on February 22, 2023 on the topic of the flying field. The CDFW email appears to be a last-ditch effort to get a regulatory agency to support Staff's recommendation. Kelly Dalton even requests that Jennifer respond in a separate email thread

Email from Kelly Dalton to Jennifer Turner:

From: DALTON, KELLY M. <KELLY.DALTON@costamesaca.gov>

Sent: Tuesday, March 14, 2023 3:52 PM

To: Turner, Jennifer@Wildlife <Jennifer.Turner@wildlife.ca.gov>

Subject: RE: Wetland permitting obligations at Fairview Park

WARNING: This message is from an external source. Verify the sender and exercise caution when clicking links or opening attachments.

Hi Jennifer,

It would not be an official notice that you'd be responding to at this time, but the message could be in the form of a response to the City's consideration of the status of the model flying activity in Fairview Park for gliders. If one is sent, it would probably be best its own thread separate from this email chain about the routine maintenance items. I will share the flying field staff report with you as soon as the agenda posts, as it is still circulating for review and revision; our current staff recommendation is for permanent closure of the flying activity/field. Currently the item is planned to be presented either at the March 21 or April 4th city council meeting.

Regards,
Mat Garcia
HSS PResident

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From: Turner_Jennifer@Wildlife
To: DALTON_KELLY_M
Subject: RE: Wetland permitting obligations at Fairview Park
Date: Tuesday, March 7, 2023 10:09:44 AM

Hi Kelly,

I can try and provide comments, though it may be an email and not a formal letter. Is there an official notice that we would be responding to? If so can you send it to me?

With regard to the streambed issue: please let me know if I can assist with submittal of the notification. I anticipate that without notification(s) submitted ASAP, that additional steps to remedy the issue will be taken by the Department.

Sincerely,

Jennifer Turner

Senior Environmental Scientist (Supervisor)
California Department of Fish and Wildlife
South Coast Region 5
3883 Ruffin Road
San Diego, CA 92123
Office: (858) 467-2717
Mobile: (858) 539-9109

From: DALTON, KELLY M. <KELLY.DALTON@costamesaca.gov>
Sent: Tuesday, March 7, 2023 7:52 AM
To: Turner, Jennifer@Wildlife <Jennifer.Turner@wildlife.ca.gov>
Subject: RE: Wetland permitting obligations at Fairview Park

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Good morning Jennifer,

I was just checking in on whether there was an interest in CDFW submitting comments to the fly field issue that we had discussed, as the staff report is just beginning circulating through departments for review. We can still make changes/additions in the next few days but the sooner I know, the better for the purposes of incorporating agency guidance into the report.

As it stands now, the staff recommendation in the report is to close the fly field and discontinue the model activity in the park due to a variety of environmental constraints, safety concerns, and infeasibility with required resource protection measures at the site. These constraints and issues are more thoroughly described and each is substantiated in the current staff report. The environmental-

related span issues including vernal pool watershed impacts, special-status species impacts, and site modifications/disturbance that have resulted from the activity over time.

Thanks again for the courtesy call regarding the FGC 1600 activities, and I am working on incorporating these maintenance activities into the application. I appreciate CDFW's assistance as we work through all of these items in Fairview Park.

Best,

Kelly Dalton
Fairview Park Administrator
Parks and Community Services Department
City of Costa Mesa
kelly.dalton@CostaMesaCA.gov
714-754-5135

From: Turner, Jennifer@Wildlife <Jennifer.Turner@wildlife.ca.gov>
Sent: Thursday, February 23, 2023 11:00 AM
To: DALTON, KELLY M. <KELLY.DALTON@costamesaca.gov>
Subject: Wetland permitting obligations at Fairview Park

Hi Kelly,

Thanks for taking my call yesterday. I appreciate that the City has been internally reviewing the various mitigation obligations in Fairview Park. CDFW also appreciates that permitting under Fish and Game Code 1600 et seq. has been part of the conversation. Again, without notification per this section of the Fish and Game Code, activities within the bed, bank, or channel of a stream or within the ponds in Fairview Park may constitute a violation. We encourage the City to submit notifications ASAP for any activities that will occur in the ponds.

I'm hoping to check in with my management team about submitting comments on the fly field issue later today.

We appreciate your coordination. Sincerely,

Jennifer Turner

Senior Environmental Scientist (Supervisor)
California Department of Fish and Wildlife
South Coast Region 5
3883 Ruffin Road
San Diego, CA 92123
Office: (858) 467-2717
Mobile: (858) 539-9109

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From: [DALTON, KELLY M.](#)
To: Turner_Jennifer@Wildlife
Subject: RE: Wetland permitting obligations at Fairview Park
Date: Tuesday, March 14, 2023 3:51:00 PM

Hi Jennifer,

It would not be an official notice that you'd be responding to at this time, but the message could be in the form of a response to the City's consideration of the status of the model flying activity in Fairview Park for gliders. If one is sent, it would probably be best its own thread separate from this email chain about the routine maintenance items. I will share the flying field staff report with you as soon as the agenda posts, as it is still circulating for review and revision; our current staff recommendation is for permanent closure of the flying activity/field. Currently the item is planned to be presented either at the March 21 or April 4th city council meeting.

Regarding the streambed issue, I was looking back at some of the earlier communication with the City, and previously you had mentioned setting up a scoping meeting to discuss the routine maintenance agreement activities. As I work through the Activity Details section and other parts of the routine maintenance agreement application, I see there is quite a bit more technical detail needed as to the quantity and quality of activities covered as well as duration, so I think a meeting with City staff and our contracted biologist would be helpful.

As you know, all of the maintenance activities we perform are also part of the contractual agreements with the two mitigation parties that pursued mitigation in Fairview Park, some of which we are still sorting out issues with the project. The upkeep of the wetlands system has also been escalated in the past due to concerns over elevated mosquito activity and public health issues which have occurred in the vicinity, and create substantial ongoing maintenance needs and costs. We appreciate CDFW's ongoing guidance as we work to navigate multiple layers of contractual obligations with this system, the mitigation commitments, the California Health and Safety Code (for mosquito activity) and the Fish and Game Code for biological resources protection in this area.

Sincerely,

Kelly Dalton
Fairview Park Administrator
Parks and Community Services Department
City of Costa Mesa
kelly.dalton@CostaMesaCA.gov
714-754-5135

From: Turner, Jennifer@Wildlife <Jennifer.Turner@wildlife.ca.gov>
Sent: Tuesday, March 7, 2023 10:10 AM
To: DALTON, KELLY M. <KELLY.DALTON@costamesaca.gov>
Subject: RE: Wetland permitting obligations at Fairview Park

Hi Kelly,

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Mobile: (858) 539-9109

From: DALTON, KELLY M. <KELLY.DALTON@costamesaca.gov>

Sent: Tuesday, March 7, 2023 7:52 AM

To: Turner, Jennifer@Wildlife <Jennifer.Turner@wildlife.ca.gov>

Subject: RE: Wetland permitting obligations at Fairview Park

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Fairview Park Administrator
Parks and Community Services Department
City of Costa Mesa
kelly.dalton@CostaMesaCA.gov
714-754-5135

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South Coast Region 5
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Office: (858) 467-2717
Mobile: (858) 539-9109

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From: [Turner, Jennifer@Wildlife](mailto:Turner_Jennifer@Wildlife)
To: DALTON, KELLY M.
Subject: RE: Wetland permitting obligations at Fairview Park
Date: Wednesday, March 15, 2023 10:46:11 AM

Hi Kelly,

I'll be having one of our staff send an email regarding the airfield by this Friday- thanks so much for giving us the opportunity to weigh in!

CDFW is happy to scope the LSA nuances with y'all. Would you like to provide some availability for the City to meet on the routine Maintenance Agreement? I'm out the first three weeks in April, so the last week of March or the last week of April would be ideal.

Cheers,
Jenn Turner

From: DALTON, KELLY M. <KELLY.DALTON@costamesaca.gov>
Sent: Tuesday, March 14, 2023 3:52 PM
To: Turner, Jennifer@Wildlife <Jennifer.Turner@wildlife.ca.gov>
Subject: RE: Wetland permitting obligations at Fairview Park

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we are still sorting out issues with the project. The upkeep of the wetlands system has also been escalated in the past due to concerns over elevated mosquito activity and public health issues which have occurred in the vicinity, and create substantial ongoing maintenance needs and costs. We appreciate CDFW's ongoing guidance as we work to navigate multiple layers of contractual obligations with this system, the mitigation commitments, the California Health and Safety Code (for mosquito activity) and the Fish and Game Code for biological resources protection in this area.

Sincerely,

Kelly Dalton
Fairview Park Administrator
Parks and Community Services Department
City of Costa Mesa
kelly.dalton@CostaMesaCA.gov
714-754-5135

From: Turner, Jennifer@Wildlife <Jennifer.Turner@wildlife.ca.gov>
Sent: Tuesday, March 7, 2023 10:10 AM
To: DALTON, KELLY M. <KELLY.DALTON@costamesaca.gov>
Subject: RE: Wetland permitting obligations at Fairview Park

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Sincerely,

Jennifer Turner

Senior Environmental Scientist (Supervisor)
California Department of Fish and Wildlife
South Coast Region 5
3883 Ruffin Road
San Diego, CA 92123
Office: (858) 467-2717
Mobile: (858) 539-9109

From: DALTON, KELLY M. <KELLY.DALTON@costamesaca.gov>
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To: [Turner, Jennifer@Wildlife](mailto:Turner.Jennifer@Wildlife)
Subject: RE: Wetland permitting obligations at Fairview Park
Date: Wednesday, March 15, 2023 2:51:00 PM
Attachments: [Draft FVP Flying Field Closure Report March 2023.docx](#)

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Date: Friday, March 17, 2023 11:12:00 AM

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To: [DALTON, KELLY M.](mailto:DALTON_KELLY_M)
Subject: RE: Wetland permitting obligations at Fairview Park
Date: Friday, March 17, 2023 11:27:45 AM

Hi Kelly-

Yes, I can meet on the 27th- I've got 9-11, 3:30-4:30 open.

I just got something from the scientist today on the fly field issue- I'll try to get it reviewed before breaking for lunch.

--Jenn

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From: Turner_Jennifer@Wildlife
To: [DALTON, KELLY M.](#)
Subject: Fly Field Closure
Date: Monday, March 20, 2023 11:51:09 AM
Attachments: [Draft FVP Flying Field Closure Report March 2023.docx](#)

Hello Kelly,

In response to our conversation a few weeks ago and our most recent email exchange, CDFW would be supportive if the City was to eliminate the model aircraft flying activity in Fairview Park. As a State Trustee Agency for natural resources sees the current activities at Fairview Park as potentially adverse to a variety of sensitive plant and wildlife species as well as valuable habitat types, including vernal pools, coastal sage scrub, and riparian vegetation. Currently, the designated model aircraft flying area directly overlaps with these habitats.

Sensitive wildlife species are found in and adjacent to the designated flying area, including burrowing owl (*Athene cunicularia*; CDFW Species of Special Concern (SSC)), white-tailed kite (*Elanus leucurus*; Fully Protected), northern harrier (*Circus hudsonius*; SSC), coastal California gnatcatcher (*Poliophtila californica californica*; SSC, Federal Endangered Species Act (ESA) listed-threatened), San Diego fairy shrimp (*Branchinecta sandiegonensis*; Federal ESA listed-endangered), and Riverside fairy shrimp (*Streptocephalus woottoni*; Federal ESA listed-endangered). Sensitive plant species in and adjacent to the flying area include San Diego button celery (*Eryngium aristulatum* var. *parishii*; California Endangered Species Act listed-endangered, Federal ESA listed-endangered, California Rare Plant Rank (CRPR) 1B.1), Orcutt's grass (*Orcuttia californica*; Federal ESA listed-endangered, CRPR 1B.1), , prostrate navarretia (*Navarretia prostrata*; CRPR 1B.2), and small-flowered microseris (*Microseris douglasii* ssp. *platycarpa*; CRPR 4.2).

CDFW would like to express our support for full closure of the flying field due to impacts to sensitive biological resources. Small, unmanned aircraft have high potential to disturb sensitive avian species and can cause physiological stress and decreases in reproduction and survival (Mulero-Pázmány et al., 2017). We are especially concerned about impacts to raptor species which forage on the mesa near the flying field and may mistake a model craft for a competing predator. Smaller birds such as coastal California gnatcatcher may also identify craft as birds of prey; similar instances with other species have occurred locally. For example, in 2021, a drone crash led to the abandonment of approximately 1,500 elegant tern nests at CDFW-owned-and-managed Bolsa Chica Ecological Reserve, only seven miles northwest of Fairview Park. We are concerned that continued operation of the flying field could lead to similar direct and indirect impacts to sensitive avian resources there.

Fairview Park supports one of the last coastal terrace vernal pools complexes in Orange County. Conservation and management of the San Diego fairy shrimp and its habitat in Fairview Park and other vernal pool complexes in the Los Angeles Basin-Orange Management Area is one of the criteria identified for recovery of the San Diego fairy shrimp in the U.S. Fish and Wildlife Service's Recovery Plan for Vernal Pools of Southern California. Vernal pools in Fairview Park also support several plant species that are locally rare (City 2008; Chung 2010). Model aircraft activity at the flying field results in degradation of vernal pool habitats at Fairview Park when uncontrolled landings and associated vegetation trampling occur. For the above reasons, CDFW would be in support of a closure which

would eliminate this source of pedestrian disturbance for the sensitive habitats present on site.

If you have any questions or comments regarding this email please contact me directly.

Sincerely,

Jennifer Turner

Senior Environmental Scientist (Supervisor)

California Department of Fish and Wildlife

South Coast Region 5

3883 Ruffin Road

San Diego, CA 92123

Office: (858) 467-2717

Mobile: (858) 539-9109

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe. Report any suspicious activities to the Information Technology Department.

From: [DALTON, KELLY M.](#)
To: Turner_Jennifer@Wildlife
Subject: RE: Wetland permitting obligations at Fairview Park
Date: Tuesday, March 7, 2023 7:52:00 AM

Good morning Jennifer,

I was just checking in on whether there was an interest in CDFW submitting comments to the fly field issue that we had discussed, as the staff report is just beginning circulating through departments for review. We can still make changes/additions in the next few days but the sooner I know, the better for the purposes of incorporating agency guidance into the report.

As it stands now, the staff recommendation in the report is to close the fly field and discontinue the model activity in the park due to a variety of environmental constraints, safety concerns, and infeasibility with required resource protection measures at the site. These constraints and issues are more thoroughly described and each is substantiated in the current staff report. The environmental-related span issues including vernal pool watershed impacts, special-status species impacts, and site modifications/disturbance that have resulted from the activity over time.

Thanks again for the courtesy call regarding the FGC 1600 activities, and I am working on incorporating these maintenance activities into the application. I appreciate CDFW's assistance as we work through all of these items in Fairview Park.

Best,

Kelly Dalton
Fairview Park Administrator
Parks and Community Services Department
City of Costa Mesa
kelly.dalton@CostaMesaCA.gov
714-754-5135

From: Turner, Jennifer@Wildlife <Jennifer.Turner@wildlife.ca.gov>
Sent: Thursday, February 23, 2023 11:00 AM
To: DALTON, KELLY M. <KELLY.DALTON@costamesaca.gov>
Subject: Wetland permitting obligations at Fairview Park

Hi Kelly,

Thanks for taking my call yesterday. I appreciate that the City has been internally reviewing the various mitigation obligations in Fairview Park. CDFW also appreciates that permitting under Fish and Game Code 1600 et seq. has been part of the conversation. Again, without notification per this section of the Fish and Game Code, activities within the bed, bank, or channel of a stream or within the ponds in Fairview Park may constitute a violation. We encourage the City to submit notifications ASAP for any activities that will occur in the ponds.

I'm hoping to check in with my management team about submitting comments on the fly field issue later today.

We appreciate your coordination. Sincerely,

Jennifer Turner

Senior Environmental Scientist (Supervisor)

California Department of Fish and Wildlife

South Coast Region 5

3883 Ruffin Road

San Diego, CA 92123

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Mobile: (858) 539-9109

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From: [Turner, Jennifer@Wildlife](mailto:Turner.Jennifer@Wildlife)
To: [DALTON, KELLY M.](#)
Subject: Wetland permitting obligations at Fairview Park
Date: Thursday, February 23, 2023 10:59:49 AM

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Jennifer Turner

Senior Environmental Scientist (Supervisor)
California Department of Fish and Wildlife
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3883 Ruffin Road
San Diego, CA 92123
Office: (858) 467-2717
Mobile: (858) 539-9109

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From: [DALTON, KELLY M.](#)
Bcc: [PRICE, SUSAN](#); [MINTER, JASON](#); "[clarwood@octa.net](#)"; "[lhill@octa.net](#)"; "[William_B_Miller@fws.gov](#)"; "[jennifer.blackhall@wildlife.ca.gov](#)"; "[Jennifer.Turner@wildlife.ca.gov](#)"; [Barry Nerhus](#); [Lyell Buttermore](#); [Lesley Hill](#); [Miller, William B.](#); [Charlie Larwood](#); [Troeller, Alexandra@Wildlife](#); [mdimson@endemicenvironmental.net](#)
Subject: Fairview Park Wetland & Riparian Habitat Meeting 3/7/22 - Agenda
Date: Monday, March 7, 2022 2:10:00 PM

Good afternoon,

Please see the agenda below for today's meeting:

AGENDA

Fairview Park Wetland & Riparian Habitat Phase II Mitigation 3/3/2022

1. Introductions
2. Habitat mitigation responsibilities:
 - a. Comparison of habitat coverage types in approved restoration plan vs. current coverage acreages
 - b. Grassland habitat alternatives review
 - c. Tar plant mitigation accounting
 - d. Oak report
3. Maintenance access permit
4. Conservation instrument over the OCTA restoration area
 - a. CE area contingent upon the result of the grasslands habitat determination
5. Next meeting scheduling
6. Any other business

Thank you,

Kelly Dalton
Fairview Park Administrator
Parks and Community Services Department
City of Costa Mesa
kelly.dalton@CostaMesaCA.gov
714-754-5135

From: Mat Garcia <mat.garcia@live.com>
Sent: Tuesday, May 2, 2023 11:35 AM
To: CITY CLERK
Subject: FW: Path Forward - Fairview Park Flying Field
Attachments: 1. Model Aircraft Flying Regulations.docx; 1. Model Aircraft Flying Regulations.pdf; 1. Model Aircraft Flying Regulations_REDLINE.pdf; 2. FAIRVIEW PARK FLYING FIELD RULES.docx; 2. FAIRVIEW PARK FLYING FIELD RULES.pdf; 2. FAIRVIEW PARK FLYING FIELD RULES_REDLINE.pdf; Flying Field Map-Approved Mar-2016.pdf

Hi City Clerk,

Please include the below email and all attachments in the public record section for tonight's (May 2, 2023) City Council Meeting for the topic of the flying field.

Thank you,
Mat Garcia

From: Mat Garcia
Sent: Tuesday, May 2, 2023 11:33 AM
To: 'john.stephens@costamesaca.gov' <John.Stephens@costamesaca.gov>; 'MARR, ANDREA' <ANDREA.MARR@costamesaca.gov>; 'Manuel.Chavez@costamesaca.gov' <Manuel.Chavez@costamesaca.gov>; 'Jeffrey.Harlan@costamesaca.gov' <Jeffrey.Harlan@costamesaca.gov>; 'Loren.Gameros@costamesaca.gov' <Loren.Gameros@costamesaca.gov>; Don.Harper@costamesaca.gov; 'REYNOLDS, ARLIS' <ARLIS.REYNOLDS@costamesaca.gov>
Subject: Path Forward - Fairview Park Flying Field

Mayor and Councilmembers,

Despite the headwinds we have faced, we are determined to work with the City and regulatory agencies to resume flying at Fairview Park in parallel to the Master Plan revision process and while searching for alternate flying sites including evaluation of the east side of Fairview Park.

We see a path forward and we have presented in the below steps. We are open to changes but felt it important to provide a starting point on what needs to happen next.

1. Provide modified controlling documents (done, attached).
2. We do not believe modification to City Ordinance 07-01 is needed at this time. Wait until after the Master Plan revision process takes place. Implement gliders only by modifying the flying field rules (see attached modified field rules). Current City Ordinance 07-01 sets maximum limits on airplane type and size. A reduction of those limits can be implemented by modifying the flying field rules. Since March of 2020, the current ordinance has not been followed by staff.
3. Address all of USFWS documented concerns regarding the flying field through collaboration between USFWS/HSS/City, flying field rules modifications, education, training, and signage.
4. Reinstate the City permitting system, system already exists, staff just needs to begin accepting applications. HSS supports the City if they desire all fliers to be members of HSS or not. We strongly believe youth members of the community should not be charged for a flying field permit or HSS membership.
5. HSS to help enforce compliance of all flying field rules.
6. Establish use agreement between HSS and City. HSS is a 501(c)(3) non-profit organization.

7. Seek USFWS approval for HSS volunteers to perform weed removal (mowing) and trash pick-up on the runway as has been done numerous times in the past.
8. Propose protecting the sensitive wildlife and fauna by limiting intrusion into the sensitive vernal pool habitat (location of the winch turnaround anchor) to only when the ground is dry and by limiting noise disturbances by flying gliders only.

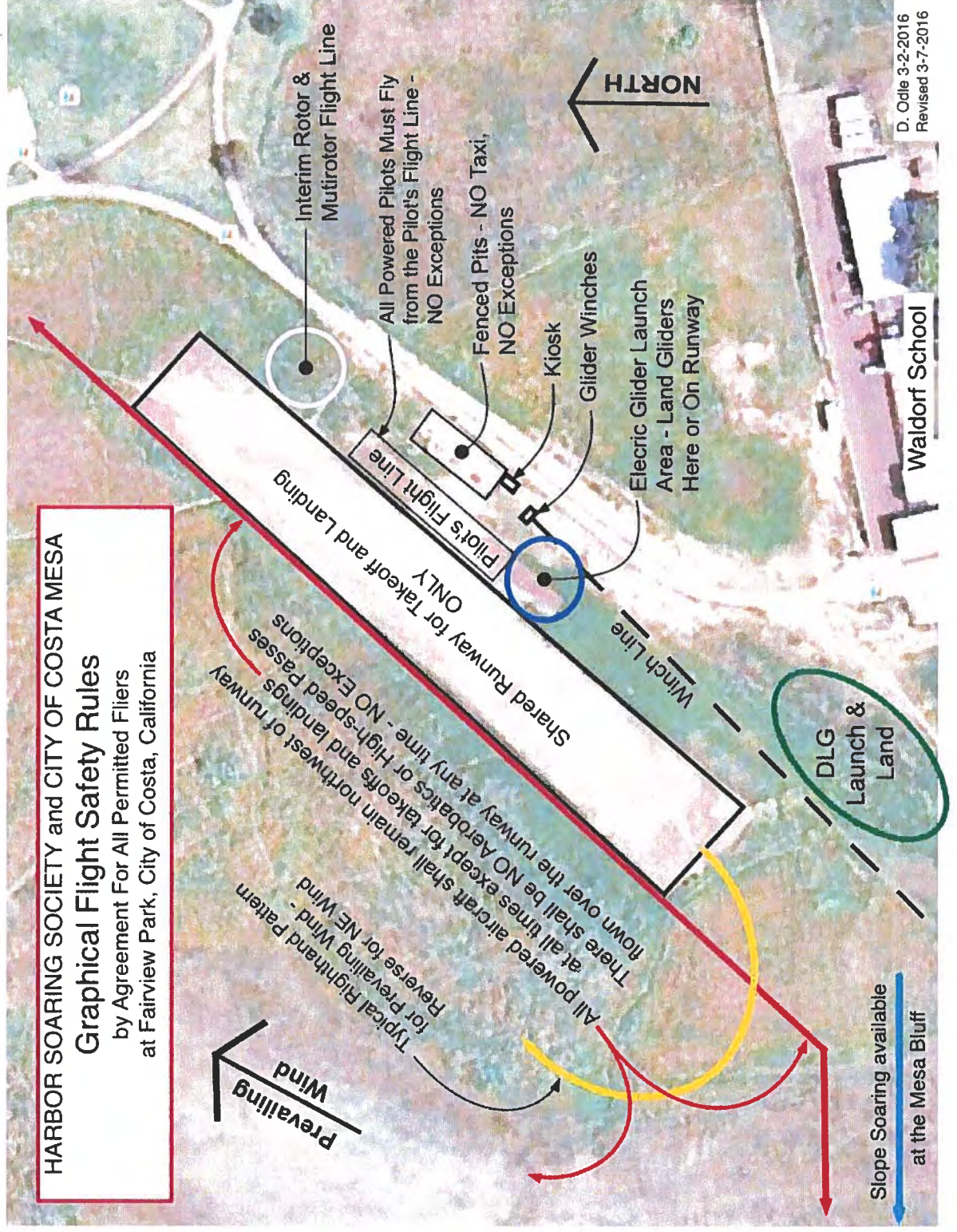
We are ready to work together!

Thank you,
Mat Garcia
HSS President

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe. Report any suspicious activities to the Information Technology Department.

Current Flying Field Operations

Runway Area – 0.9 Acres, Ancillary Areas (Pits, Pilot Stations, Sailplane Launch Area) - 0.3 Acres. A total of 1.2 Acres, or 0.6% of the 208 total acres within Fairview Park.



FAIRVIEW PARK FLYING FIELD RULES

- 1.0 Field Rules:** The intent of these rules is to promote flying safety, financial responsibility and environmental protection by maintaining order, controlling frequency usage, educating and training fliers, and to act as good neighbors to the community.

Rules are based upon the City of Costa Mesa's Ordinance #07-01, FAA Advisory Circular AC 91-57, and the AMA Safety Code. All pilots must follow these rules to fly at Fairview Park.

- 2.0 Permit Requirements:** All pilots are required to have a permit to fly at Fairview Park. This permit ensures each pilot has financial responsibility and promises to follow these field rules. The permit is obtainable from the City of Costa Mesa, Recreation Division. The only exception is the following:

2.1 Visiting Pilots: Licensed AMA members, who are experienced pilots visiting Fairview Park to participate in a City-approved scheduled event. Visiting pilots must show event organizer their AMA Membership license, and review and agree in writing to the Flying Field Rules. They are then allowed to fly in the event.

- 3.0 Environmental Protection:** Vernal pools are large, shallow depressions in the ground that acquire several inches of water during rainy seasons. These pools contain Fairy Shrimp that are an endangered species and are protected by Fairview Park ordinances. Everyone is restricted from walking in the vernal pool areas, whether wet or dry. Pilots should fly over the vernal pools only at an altitude that ensures they will not land in the pool area. In the event of an unavoidable landing in the vernal pool area, the pilot should retrieve his plane in a manner that degrades the area the least. Launching or landing aircraft equipped with floats is not permitted in the pools.

Harassment of animals and birds is not allowed in the park. Do not disturb native plants.

- 4.0 Safety:** All pilots must follow the Official AMA National Model Aircraft Safety Code, which is posted at the flying site, in addition to the following field rules.

- 4.1 Before Turning on Transmitter:** Before turning on a transmitter, each pilot must first check the frequency control board to ensure no other pilot is using the frequency the pilot wishes to use. The pilot must then place an identification clip on that frequency on the board. Identification clips are to have the channel number and the pilot's first and last name. Only then may the pilot turn on the transmitter and fly the aircraft.

When finished flying, the pilot must remove the clip from the control board. No clip may be attached to an existing clip. A pilot may use only one frequency channel at a time.

When other flyers are using the frequency the pilot wishes to use (and they have their clip on the frequency number), a pilot must make every reasonable attempt to locate those flyers. Check all cars in the parking lot and also flyers on the slope soaring area. Once the pilot using the desired frequency is identified, and if shared usage is agreed upon, flight reservations should be limited to no more than 20 minutes by each pilot.

All pilots must display their City issued permit above their waist.

- 4.2 New Aircraft:** All new aircraft must have a radio range check performed before its first flight. Any crashed aircraft should also be radio range checked after repair.
- 4.3 Model Aircraft Must Be Identified:** All model aircraft must be identified with the owner's name and address or AMA number on or in the aircraft.

5.0 General Field Rules:

- 5.1 Approved types of planes: Approved types of planes include all forms of radio-controlled gliders, ~~motor gliders, electric powered aircraft and helicopters.~~ Models that may not be flown include fuel (gas) powered internal combustion engines, rockets, ~~motor gliders, electric powered aircraft and helicopters,~~ and any aircraft exceeding the weight limit set in the Costa Mesa Model Aircraft Ordinance.
- 5.2 Rules applicable to all model aircraft: Every pilot shall perform a pre-flight inspection prior to each launching of their aircraft to ensure that the aircraft is safe to fly and no unobserved damage was sustained from the previous flight.
- 5.3 Excluded Flying Areas: Aircraft should not be flown over the Waldorf School, nor the parking lot, residences, and pedestrians on or off the paths.
- 5.4 Altitude Limitations: Flying is limited to 400' above ground level.
- 5.5 Flying Methods: No Combat flying allowed. No high speed passes at low altitude over the runway. Flying near people is not allowed. ~~The flight line for a powered aircraft is identified on the attached site map in front of the pit area.~~ Flying behind the flight line is not allowed.
- 5.6 Hours of Use: The field may be used during the posted hours, which is between dawn and dusk, seven days a week except for those times when the field is posted closed for special events.
- 5.7 Pedestrian Traffic: Pilots MUST NOT fly close to pedestrians, skaters and bicyclists using the park. Maintain a safe distance between your aircraft and park users.

6.0 Specific Flying Areas and Rules (Consult Flying Field Map and Fairview Park Master Plan):

- 6.1 Gliders: Gliders ~~shall~~ may be launched from the designated area marked on the map, using electric winches, electric motors or bungee hi-starts. Gliders should use the area north of the runway with care. ~~Gliders in flight have the right-of-way over powered aircraft.~~ Gliders in flight have the right-of-way over gliders being launched.
- ~~6.2 Electric powered model aircraft: Electric powered models are to be flown from the runway shown on the map. Do not fly behind the flight line (or dead line), over the paved pedestrian path or anywhere south of the runway. Powered aircraft must yield right-of-way to gliders. Pilots must remain out of the landing area except when retrieving their planes.~~
- ~~6.36.2~~ Slope soaring gliders: Slope soaring gliders may use the bluff at the western edge of Fairview Park. Electric powered aircraft are not allowed on the bluff. Pilots should avoid landing in the vernal pools. Pilots must follow frequency control procedures.
- ~~6.4 Motor gliders: Motor gliders should be launched in the vicinity of the glider winch.~~
- ~~6.56.3~~ Hand launched gliders: Hand launched gliders are to be flown from the area designated on the map.
- ~~6.6 Helicopters and 3-D Stunt Planes: These aircraft are to be flown in the area indicated for electric power aircraft. Helicopters must give right-of-way to all other aircraft.~~
- ~~6.76.4~~ Free flight model aircraft: Free flight models are currently being flown on a grassy area within the developed part of the park.

7.0 Large Events: Harbor Soaring Society (HSS) is authorized to hold model aviation events that are scheduled by HSS and a Special Event Permit has been issued by the City. This applies to events anticipating the attendance of 25 or more participants. During these one to two (1–2) day events, the field will be closed to the general public flying for part of each day. The hours must be announced and posted at least two (2) weeks in advance.

8.0 Emergencies and who to contact:

Medical emergency or injury or crimes:

Call 911

Flying Field Rules violations and unauthorized activities:

Contact: Costa Mesa Police Communications at (714) 754-5252 and request Park Ranger.

Harbor Soaring Society:

Officers: President ~~Jim Hanson~~ Mat Garcia (949) ~~294-8365~~ 264-2624
Vice President ~~Dave Whittington~~ Mike Costello

~~(949) 514-0385~~ (714) 875-7994 Address: P.O. Box 1673,

Costa Mesa, CA 92626

Pilots who cause damage to another person's aircraft, the private property of another individual or to public property must pay for the damage.

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Harbor Soaring Society:

Officers:	President	Jim Hanson	(949) 294-8365
	Vice President	Dave Whittington	(949) 514-0385

Address: P.O. Box 1673, Costa Mesa, CA 92626

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CITY OF COSTA MESA- PARKS AND COMMUNITY SERVICES

**Model Aircraft Flying Regulations for
ISSUANCE, SUSPENSION and REVOCATION of
Permits to fly Radio Controlled Model Aircrafts at
The Fairview Park Fly Field**

1. Purpose

The City Council of the City of Costa Mesa, on January 16, 2007, approved Ordinance No. 07-01 an Ordinance Adopting Radio Controlled Model Aircraft Flying Regulations for a portion of Fairview Park. This ordinance prohibits the flying of model aircraft at Fairview Park without a permit issued by the City, provides for the establishment of procedures and requirements for the issuance, suspension and revocation of permits, and adopts regulations for the flying of model aircrafts at the designated area in the Park.

Ordinance No. 07-01 specifically requires that the Parks and Community Services Director establish procedures and requirements for the issuance, suspension and revocation of permits. The following procedures and requirements have been prepared pursuant to Ordinance No. 07-01.

2. Permit Requirement

No person shall fly model aircraft at the designated fly field within Fairview Park unless and until he or she has received from the City of Costa Mesa a permit to fly model aircraft at the Park

3. Definitions

- A. "City" is the City of Costa Mesa.
- B. "P&CS Director" is the Parks and Community Services Director for the City of Costa Mesa
- C. "P&CS Director designee" is the Fairview Park Administrator and/or Recreation Manager.
- D. "*Model aircraft*" means all forms of radio controlled gliders, electric motor gliders, electric powered model airplanes, electric helicopters, but does NOT include free flight models or toy planes. No internal combustion engine powered aircraft, rockets, and aircraft exceeding 10 pounds may be flown in the City.
- E. "Park" is Fairview Park.
- F. "Pilot" is any person flying model aircraft.
- G. "AMA" is the Academy of Model Aeronautics.
- H. "CMMC" is the Costa Mesa Municipal Code.
- I. "Model Aircraft Flying Regulations" are the regulations for flying model aircraft at Fairview Park set forth in CMMC Title 12, Chapter II, Article 3.

4. Permit Issuance

- A. Any person who desires to fly a model aircraft at the Park must do the following.
 - i. Complete, sign and submit to the City of Costa Mesa an application for a permit to fly model aircraft.
 - ii. Sign the latest version of the AMA Safety Code acknowledging, understanding, and consenting to abide by its provisions.
 - iii. Have the application and the applicant's model aircraft specifications reviewed by the P&CS Director designee.
 - iv. Obtain from the City a permit to fly a model aircraft at the Park.
 - v. Provide proof of adequate liability insurance for the flying of model aircraft in the form of a current AMA membership card or a current homeowner's/personal liability insurance policy specifically covering model airplane/aircraft flying, with a minimum limit of \$500,000
 - vi. Abide by all City Rules and Regulations listed in Title 12, Chapter II, Article 3 of the CMMC, the AMA safety regulations, and the Fairview Park Flying Field Rules.
- B. Application forms may be obtained from the City's Parks and Community Services Department.

CITY OF COSTA MESA- PARKS AND COMMUNITY SERVICES
Model Aircraft Flying Regulations for
ISSUANCE, SUSPENSION and REVOCATION of
Permits to fly Radio Controlled Model Aircrafts at
The Fairview Park Fly Field

5. Suspension and Revocation of Permits

If a person to whom a permit has been issued fails to comply with the Model Aircraft Flying Regulations or the AMA Safety Code, or the Fairview Park Flying Field Rules or is otherwise flying model aircraft in an improper manner, as determined by the City, then that permit is subject to suspension and revocation as provided for in these regulations

A. Warnings.

If a park ranger or police officer observes a pilot not complying with any applicable regulations or if a park ranger or police officer obtains information that a pilot has violated the regulations, the park ranger or police officer may, in his or her discretion, issue a verbal or written warning to the pilot. The park ranger or police officer may also issue one or more citations for violation of the CMMC.

B. Suspensions.

- i. If a park ranger or police officer observes or is informed of any grounds to revoke a permit, a pilot violating any applicable regulations, the park ranger or police officer may immediately suspend the pilot's permit or submit a written recommendation to the P&CS Director designee that the permit be suspended.

If the park ranger or police officer decides to immediately suspend the license of a pilot, that ranger or officer shall immediately notify the pilot of the suspension and shall, if possible, confiscate the pilot's permit (which should be on the Frequency Board). The park ranger or police officer shall submit the permit, if it has been obtained, to the P&CS Director designee and a written report on the violation and the suspension with a recommendation as to the length of the suspension.

- ii. In situations where a park ranger or police officer has suspended a pilot's permit or has recommended suspension of a pilot's permit, the P&CS Director designee shall review the written report, confirm or lift any suspension, and determine whether to suspend the permit, or continue an existing suspension, and the length of the any such suspension. Generally, a suspension period shall be between 14 to 30 days, but may be lesser or greater in the P&CS Director designee's discretion based on the severity of the violation and the permit-holders past history of violation. The P&CS Director designee shall provide written notification of any decision to suspend to the pilot and to the reporting ranger or officer.

C. Revocation.

- i. A permit may be revoked under the following circumstances:
 - a) If a pilot is in violation of any applicable regulations and has already received a suspension.
 - b) If a pilot flies model aircraft with a suspended permit.
 - c) If a pilot trespasses onto a resident's property, including entering an enclosed yard area.
 - d) If a pilot fails to pay, within a reasonable period of time, for repairs for any damage to residential properties that his or her model aircraft causes (regardless of the reason for the damage).
 - e) If the P&CS Director designee determines that a pilot is flying his or her model aircraft in an unsafe manner.
 - f) If a pilot trespasses onto any environmentally sensitive areas of the park.

CITY OF COSTA MESA- PARKS AND COMMUNITY SERVICES
Model Aircraft Flying Regulations for
ISSUANCE, SUSPENSION and REVOCATION of
Permits to fly Radio Controlled Model Aircrafts at
The Fairview Park Fly Field

D. Appeal of P&CS Director designee's Decision.

If the pilot believes that a suspension or revocation is not warranted, he or she may request in writing that a hearing be held before the P&CS Director. The P & CS Director shall conduct the hearing within ten (10) working days of receipt of notice of appeal. The P& CS Director shall make the final decision regarding the matter and provide written notification to the pilot and reporting ranger or officer. The pilot may not fly any model aircraft until a final determination has been made.

6. Miscellaneous

- A. The P&CS Department shall maintain a record of all issuances, suspensions, and revocations of permits.
- B. These Procedures and Regulations may be modified from time to time at the P&CS Directors discretion.
- C. The City reserves the right to modify any ordinances, policies, master plans, etc., regulating the location and usage of the Park for the flying of model airplanes/aircrafts, or to discontinue all use of model airplanes/aircrafts in the Park.

7. Flying Regulations for Model Aircraft

No electric motor gliders, electric powered model airplanes, or electric powered helicopters may be flown at the Park.

Adopted pursuant to Ordinance No. 07-01.

Permittee (has read this document)

Date

Parks and Community Services Department Designee

Date

CITY OF COSTA MESA – PARKS AND COMMUNITY SERVICES
Model Aircraft Flying Regulations for
ISSUANCE, SUSPENSION and REVOCATION of
Permits to fly Radio Controlled Model Aircrafts at
The Fairview Park Fly Field

1. Purpose

The City Council of the City of Costa Mesa, on January 16, 2007, approved Ordinance No. 07-01 an Ordinance Adopting Radio Controlled Model Aircraft Flying Regulations for a portion of Fairview Park. This ordinance prohibits the flying of model aircraft at Fairview Park without a permit issued by the City, provides for the establishment of procedures and requirements for the issuance, suspension and revocation of permits, and adopts regulations for the flying of model aircrafts at the designated area in the Park.

Ordinance No. 07-01 specifically requires that the Parks and Community Services Director establish procedures and requirements for the issuance, suspension and revocation of permits. The following procedures and requirements have been prepared pursuant to Ordinance No. 07-01.

2. Permit Requirement

No person shall fly model aircraft at the designated fly field within Fairview Park unless and until he or she has received from the City of Costa Mesa a permit to fly model aircraft at the Park

3. Definitions

- A. "City" is the City of Costa Mesa.
- B. "P&CS Director" is the Parks and Community Services Director for the City of Costa Mesa
- C. "P&CS Director designee" is the Fairview Park Administrator and/or Recreation Manager.
- D. "*Model aircraft*" means all forms of radio controlled gliders, electric motor gliders, electric powered model airplanes, electric helicopters, but does NOT include free flight models or toy planes. No internal combustion engine powered aircraft, rockets, and aircraft exceeding 10 pounds may be flown in the City.
- E. "Park" is Fairview Park.
- F. "Pilot" is any person flying model aircraft.
- G. "AMA" is the Academy of Model Aeronautics.
- H. "CMMC" is the Costa Mesa Municipal Code.
- I. "Model Aircraft Flying Regulations" are the regulations for flying model aircraft at Fairview Park set forth in CMMC Title 12, Chapter II, Article 3.

4. Permit Issuance

- A. Any person who desires to fly a model aircraft at the Park must do the following.
 - i. Complete, sign and submit to the City of Costa Mesa an application for a permit to fly model aircraft.
 - ii. Sign the latest version of the AMA Safety Code acknowledging, understanding, and consenting to abide by its provisions.
 - iii. Have the application and the applicant's model aircraft specifications reviewed by the P&CS Director designee.
 - iv. Obtain from the City a permit to fly a model aircraft at the Park.
 - v. Provide proof of adequate liability insurance for the flying of model aircraft in the form of a current AMA membership card or a current homeowner's/personal liability insurance policy specifically covering model airplane/aircraft flying, with a minimum limit of \$500,000
 - vi. Abide by all City Rules and Regulations listed in Title 12, Chapter II, Article 3 of the CMMC, the AMA safety regulations, and the Fairview Park Flying Field Rules.
- B. Application forms may be obtained from the City's Parks and Community Services Department.

CITY OF COSTA MESA – PARKS AND COMMUNITY SERVICES
Model Aircraft Flying Regulations for
ISSUANCE, SUSPENSION and REVOCATION of
Permits to fly Radio Controlled Model Aircrafts at
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5. Suspension and Revocation of Permits

If a person to whom a permit has been issued fails to comply with the Model Aircraft Flying Regulations or the AMA Safety Code, or the Fairview Park Flying Field Rules or is otherwise flying model aircraft in an improper manner, as determined by the City, then that permit is subject to suspension and revocation as provided for in these regulations

A. Warnings.

If a park ranger or police officer observes a pilot not complying with any applicable regulations or if a park ranger or police officer obtains information that a pilot has violated the regulations, the park ranger or police officer may, in his or her discretion, issue a verbal or written warning to the pilot. The park ranger or police officer may also issue one or more citations for violation of the CMMC.

B. Suspensions.

- i. If a park ranger or police officer observes or is informed of any grounds to revoke a permit, a pilot violating any applicable regulations, the park ranger or police officer may immediately suspend the pilot's permit or submit a written recommendation to the P&CS Director designee that the permit be suspended.

If the park ranger or police officer decides to immediately suspend the license of a pilot, that ranger or officer shall immediately notify the pilot of the suspension and shall, if possible, confiscate the pilot's permit (which should be on the Frequency Board). The park ranger or police officer shall submit the permit, if it has been obtained, to the P&CS Director designee and a written report on the violation and the suspension with a recommendation as to the length of the suspension.

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 - a) If a pilot is in violation of any applicable regulations and has already received a suspension.
 - b) If a pilot flies model aircraft with a suspended permit.
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 - e) If the P&CS Director designee determines that a pilot is flying his or her model aircraft in an unsafe manner.
 - f) If a pilot trespasses onto any environmentally sensitive areas of the park.

CITY OF COSTA MESA – PARKS AND COMMUNITY SERVICES
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6. Miscellaneous

- A. The P&CS Department shall maintain a record of all issuances, suspensions, and revocations of permits.
- B. These Procedures and Regulations may be modified from time to time at the P&CS Directors discretion.
- C. The City reserves the right to modify any ordinances, policies, master plans, etc., regulating the location and usage of the Park for the flying of model airplanes/aircrafts, or to discontinue all use of model airplanes/aircrafts in the Park.

Adopted pursuant to Ordinance No. 07-01.

Permittee (has read this document)

Date

Parks and Community Services Department Designee

Date

FAIRVIEW PARK FLYING FIELD RULES

- 1.0 Field Rules:** The intent of these rules is to promote flying safety, financial responsibility and environmental protection by maintaining order, controlling frequency usage, educating and training fliers, and to act as good neighbors to the community.

Rules are based upon the City of Costa Mesa's Ordinance #07-01, FAA Advisory Circular AC 91-57, and the AMA Safety Code. All pilots must follow these rules to fly at Fairview Park.

- 2.0 Permit Requirements:** All pilots are required to have a permit to fly at Fairview Park. This permit ensures each pilot has financial responsibility and promises to follow these field rules. The permit is obtainable from the City of Costa Mesa, Recreation Division. The only exception is the following:

2.1 Visiting Pilots: Licensed AMA members, who are experienced pilots visiting Fairview Park to participate in a City-approved scheduled event. Visiting pilots must show event organizer their AMA Membership license, and review and agree in writing to the Flying Field Rules. They are then allowed to fly in the event.

- 3.0 Environmental Protection:** Vernal pools are large, shallow depressions in the ground that acquire several inches of water during rainy seasons. These pools contain Fairy Shrimp that are an endangered species and are protected by Fairview Park ordinances. Everyone is restricted from walking in the vernal pool areas, whether wet or dry. Pilots should fly over the vernal pools only at an altitude that ensures they will not land in the pool area. In the event of an unavoidable landing in the vernal pool area, the pilot should retrieve his plane in a manner that degrades the area the least. Launching or landing aircraft equipped with floats is not permitted in the pools.

Harassment of animals and birds is not allowed in the park. Do not disturb native plants.

- 4.0 Safety:** All pilots must follow the Official AMA National Model Aircraft Safety Code, which is posted at the flying site, in addition to the following field rules.

- 4.1 Before Turning on Transmitter:** Before turning on a transmitter, each pilot must first check the frequency control board to ensure no other pilot is using the frequency the pilot wishes to use. The pilot must then place an identification clip on that frequency on the board. Identification clips are to have the channel number and the pilot's first and last name. Only then may the pilot turn on the transmitter and fly the aircraft.

When finished flying, the pilot must remove the clip from the control board. No clip may be attached to an existing clip. A pilot may use only one frequency channel at a time.

When other flyers are using the frequency the pilot wishes to use (and they have their clip on the frequency number), a pilot must make every reasonable attempt to locate those flyers. Check all cars in the parking lot and also flyers on the slope soaring area. Once the pilot using the desired frequency is identified, and if shared usage is agreed upon, flight reservations should be limited to no more than 20 minutes by each pilot.

All pilots must display their City issued permit above their waist.

- 4.2 New Aircraft:** All new aircraft must have a radio range check performed before its first flight. Any crashed aircraft should also be radio range checked after repair.
- 4.3 Model Aircraft Must Be Identified:** All model aircraft must be identified with the owner's name and address or AMA number on or in the aircraft.

5.0 General Field Rules:

- 5.1 Approved types of planes: Approved types of planes include all forms of radio-controlled gliders, ~~motor gliders, electric powered aircraft and helicopters~~. Models that may not be flown include fuel (gas) powered internal combustion engines, rockets, ~~motor gliders, electric powered aircraft and helicopters~~, and any aircraft exceeding the weight limit set in the Costa Mesa Model Aircraft Ordinance.
- 5.2 Rules applicable to all model aircraft: Every pilot shall perform a pre-flight inspection prior to each launching of their aircraft to ensure that the aircraft is safe to fly and no unobserved damage was sustained from the previous flight.
- 5.3 Excluded Flying Areas: Aircraft should not be flown over the Waldorf School, nor the parking lot, residences, and pedestrians on or off the paths.
- 5.4 Altitude Limitations: Flying is limited to 400' above ground level.
- 5.5 Flying Methods: No Combat flying allowed. No high speed passes at low altitude over the runway. Flying near people is not allowed. ~~The flight line for a powered aircraft is identified on the attached site map in front of the pit area.~~ Flying behind the flight line is not allowed.
- 5.6 Hours of Use: The field may be used during the posted hours, which is between dawn and dusk, seven days a week except for those times when the field is posted closed for special events.
- 5.7 Pedestrian Traffic: Pilots MUST NOT fly close to pedestrians, skaters and bicyclists using the park. Maintain a safe distance between your aircraft and park users.

6.0 Specific Flying Areas and Rules (Consult Flying Field Map and Fairview Park Master Plan):

- 6.1 Gliders: Gliders ~~shall~~ may be launched from the designated area marked on the map, using electric winches, electric motors or bungee hi-starts. Gliders should use the area north of the runway with care. ~~Gliders in flight have the right-of-way over powered aircraft.~~ Gliders in flight have the right-of-way over gliders being launched.
- ~~6.2 Electric powered model aircraft: Electric powered models are to be flown from the runway shown on the map. Do not fly behind the flight line (or dead line), over the paved pedestrian path or anywhere south of the runway. Powered aircraft must yield right-of-way to gliders. Pilots must remain out of the landing area except when retrieving their planes.~~
- ~~6.36.2~~ Slope soaring gliders: Slope soaring gliders may use the bluff at the western edge of Fairview Park. Electric powered aircraft are not allowed on the bluff. Pilots should avoid landing in the vernal pools. Pilots must follow frequency control procedures.
- ~~6.4 Motor gliders: Motor gliders should be launched in the vicinity of the glider winch.~~
- ~~6.56.3~~ Hand launched gliders: Hand launched gliders are to be flown from the area designated on the map.
- ~~6.6 Helicopters and 3-D Stunt Planes: These aircraft are to be flown in the area indicated for electric power aircraft. Helicopters must give right-of-way to all other aircraft.~~
- ~~6.76.4~~ Free flight model aircraft: Free flight models are currently being flown on a grassy area within the developed part of the park.

7.0 Large Events: Harbor Soaring Society (HSS) is authorized to hold model aviation events that are scheduled by HSS and a Special Event Permit has been issued by the City. This applies to events anticipating the attendance of 25 or more participants. During these one to two (1–2) day events, the field will be closed to the general public flying for part of each day. The hours must be announced and posted at least two (2) weeks in advance.

8.0 Emergencies and who to contact:

Medical emergency or injury or crimes:

Call 911

Flying Field Rules violations and unauthorized activities:

Contact: Costa Mesa Police Communications at (714) 754-5252 and request Park Ranger.

Harbor Soaring Society:

Officers: President ~~Jim Hanson~~ Mat Garcia (949) ~~294-8365~~ 264-2624
Vice President ~~Dave Whittington~~ Mike Costello

~~(949) 514-0385~~ (714) 875-7994 Address: P.O. Box 1673,

Costa Mesa, CA 92626

Pilots who cause damage to another person's aircraft, the private property of another individual or to public property must pay for the damage.

CITY OF COSTA MESA- PARKS AND COMMUNITY SERVICES

**Model Aircraft Flying Regulations for
ISSUANCE, SUSPENSION and REVOCATION of
Permits to fly Radio Controlled Model Aircrafts at
The Fairview Park Fly Field**

1. Purpose

The City Council of the City of Costa Mesa, on January 16, 2007, approved Ordinance No. 07-01 an Ordinance Adopting Radio Controlled Model Aircraft Flying Regulations for a portion of Fairview Park. This ordinance prohibits the flying of model aircraft at Fairview Park without a permit issued by the City, provides for the establishment of procedures and requirements for the issuance, suspension and revocation of permits, and adopts regulations for the flying of model aircrafts at the designated area in the Park.

Ordinance No. 07-01 specifically requires that the Parks and Community Services Director establish procedures and requirements for the issuance, suspension and revocation of permits. The following procedures and requirements have been prepared pursuant to Ordinance No. 07-01.

2. Permit Requirement

No person shall fly model aircraft at the designated fly field within Fairview Park unless and until he or she has received from the City of Costa Mesa a permit to fly model aircraft at the Park

3. Definitions

- A. "City" is the City of Costa Mesa.
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- E. "Park" is Fairview Park.
- F. "Pilot" is any person flying model aircraft.
- G. "AMA" is the Academy of Model Aeronautics.
- H. "CMMC" is the Costa Mesa Municipal Code.
- I. "Model Aircraft Flying Regulations" are the regulations for flying model aircraft at Fairview Park set forth in CMMC Title 12, Chapter II, Article 3.

4. Permit Issuance

- A. Any person who desires to fly a model aircraft at the Park must do the following.
 - i. Complete, sign and submit to the City of Costa Mesa an application for a permit to fly model aircraft.
 - ii. Sign the latest version of the AMA Safety Code acknowledging, understanding, and consenting to abide by its provisions.
 - iii. Have the application and the applicant's model aircraft specifications reviewed by the P&CS Director designee.
 - iv. Obtain from the City a permit to fly a model aircraft at the Park.
 - v. Provide proof of adequate liability insurance for the flying of model aircraft in the form of a current AMA membership card or a current homeowner's/personal liability insurance policy specifically covering model airplane/aircraft flying, with a minimum limit of \$500,000
 - vi. Abide by all City Rules and Regulations listed in Title 12, Chapter II, Article 3 of the CMMC, the AMA safety regulations, and the Fairview Park Flying Field Rules.
- B. Application forms may be obtained from the City's Parks and Community Services Department.

CITY OF COSTA MESA- PARKS AND COMMUNITY SERVICES
Model Aircraft Flying Regulations for
ISSUANCE, SUSPENSION and REVOCATION of
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5. Suspension and Revocation of Permits

If a person to whom a permit has been issued fails to comply with the Model Aircraft Flying Regulations or the AMA Safety Code, or the Fairview Park Flying Field Rules or is otherwise flying model aircraft in an improper manner, as determined by the City, then that permit is subject to suspension and revocation as provided for in these regulations

A. Warnings.

If a park ranger or police officer observes a pilot not complying with any applicable regulations or if a park ranger or police officer obtains information that a pilot has violated the regulations, the park ranger or police officer may, in his or her discretion, issue a verbal or written warning to the pilot. The park ranger or police officer may also issue one or more citations for violation of the CMMC.

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- i. If a park ranger or police officer observes or is informed of any grounds to revoke a permit, a pilot violating any applicable regulations, the park ranger or police officer may immediately suspend the pilot's permit or submit a written recommendation to the P&CS Director designee that the permit be suspended.

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 - a) If a pilot is in violation of any applicable regulations and has already received a suspension.
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CITY OF COSTA MESA- PARKS AND COMMUNITY SERVICES

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ISSUANCE, SUSPENSION and REVOCATION of
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D. Appeal of P&CS Director designee's Decision.

If the pilot believes that a suspension or revocation is not warranted, he or she may request in writing that a hearing be held before the P&CS Director. The P & CS Director shall conduct the hearing within ten (10) working days of receipt of notice of appeal. The P& CS Director shall make the final decision regarding the matter and provide written notification to the pilot and reporting ranger or officer. The pilot may not fly any model aircraft until a final determination has been made.

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7. Flying Regulations for Model Aircraft

No electric motor gliders, electric powered model airplanes, or electric powered helicopters may be flown at the Park.

Adopted pursuant to Ordinance No. 07-01.

Permittee (has read this document)

Date

Parks and Community Services Department Designee

Date

From: Mat Garcia <mat.garcia@live.com>
Sent: Tuesday, May 2, 2023 10:54 AM
To: CITY CLERK
Subject: FW: Fairview Park Flying Field Additional Information - 2016-2018 Biological Reports
Attachments: 201617 Biological Reports.pdf; 201718 Various Biological .pdf

Hi City Clerk,

Please include the below email and all attachments in the public record section for tonight's (May 2, 2023) City Council Meeting for the topic of the flying field.

Thank you,
Mat Garcia

From: Mat Garcia
Sent: Tuesday, May 2, 2023 10:53 AM
To: john.stephens@costamesaca.gov; MARR, ANDREA <ANDREA.MARR@costamesaca.gov>; Manuel.Chavez@costamesaca.gov; Jeffrey.Harlan@costamesaca.gov; Loren.Gameros@costamesaca.gov; Don.Harper@costamesaca.gov; REYNOLDS, ARLIS <ARLIS.REYNOLDS@costamesaca.gov>
Subject: Fairview Park Flying Field Additional Information - 2016-2018 Biological Reports

Mayor and Councilmembers,

I would like to provide you with additional information that is relevant to the May 2, 2023 City Council Meeting, specifically the flying field agenda item. Attached are two biological reports written by City-paid biologist Mr. Barry Nerhus over the years 2016 through 2018. They serve as a record of impacts to the sensitive resources and their status while the airplanes were flying at Fairview Park.

The two attachments can be downloaded from the City's website here:
<https://www.costamesaca.gov/community/fairview-park/biological-reports>

Important to note that neither the flying field or RC airplanes appear at all as a concern in either of Mr. Barry Nerhus' 2016/2017 or 2017/2018 Fairview Park biological reports. We were not able to find any other mention of flying field impacts or potential impacts to the wildlife in any of the reports listed on this page. This is a direct contradiction to the email Mr. Barry Nerhus provided to Kelly Dalton ahead of the March 21, 2023 Council meeting.

Regards,
Mat Garcia
HSS President

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe. Report any suspicious activities to the Information Technology Department.

April 2016



Endemic Environmental Services

Attn:
Bart Mejia
City Engineer
City of Costa Mesa

RE: ~~Community Run~~ Nesting Bird Survey and Monitoring

Mr. Mejia,

I conducted the nest survey along the route of the community run at Fairview Park on Wednesday April 20, 2016. I located several nests of the following species: Orange-crowned warbler (*Vermivora celata*), California towhee (*Melospiza crissalis*), and song sparrow (*Melospiza melodia*). These nests ranged approximately 100-150 feet from the trail in coastal sage scrub habitat. I monitored these nests for sensitivity to the ongoing foot traffic and my presence. The birds did not exhibit stress to foot traffic or my presence. The only stress these birds exhibited was when a common raven flew over the area. This bird species is a known nest raider and predator of these small passerines. Therefore, I determined that these birds treated the foot traffic and my presence as not a threat.

However, the community run was still a larger group of runners that could create a disturbance to these nests. Therefore, I recommended a biological monitor to be present onsite during the race as a mitigation measure to the potential disturbances. Dean Nerhus, the biological monitor, monitored the nests during the race on Saturday April 23, 2016 from 07:30-12:00. The birds did not show any stress from the race activities. There was no violation of the migratory bird treaty act (MBTA), which prohibits the take of any native avian nest.

If there are any further questions, please feel free to contact me.

Sincerely,

Barry Nerhus
President/Ecologist
Endemic Environmental Services, Inc.
Cell (714) 393-6249
bnerhus@endemicenvironmental.net

May 26, 2016



Endemic Environmental Services

May 26, 2016

Attn:
Bart Mejia
City Engineer
City of Costa Mesa

Subject: Results of Nesting Bird Survey from along Placentia

Today, ~~May 26, 2016~~, I surveyed all potential nesting bird habitats along the western side of Placentia between the Fairview Park signal and Adams Avenue from 09:00 to 12:00. The habitat consisted of coastal sage scrub, the walking bridge, and planted ornamental trees along the sidewalk. ~~No nests~~ were located nor was any nesting behavior detected ~~along Placentia Avenue~~.

If you have any questions, comments, or concerns, please feel free to contact me.

Sincerely,

Barry Nerhus
President/Ecologist
Endemic Environmental Services, Inc.
(714) 393-6249
bnerhus@endemicenvironmental.net



June 1 2016
fish fry event

Endemic Environmental Services

June 01, 2016

Attn:
Bart Mejia
City Engineer
City of Costa Mesa

Subject: Results of Nesting Bird Survey for the Fish Fry Event.

Today ~~June 01, 2016~~, I surveyed all potential nesting bird habitats within and around the footprint of the Fish Fry Event from 07:00 to 12:00. The habitat consisted of coastal sage scrub and open lawn and sycamores. No nests were located nor was any nesting behavior detected around the area for the Fish Fry Event.

If you have any questions, comments, or concerns, please feel free to contact me.

Sincerely,

Barry Nerhus
President/Ecologist
Endemic Environmental Services, Inc.
(714) 393-6249
bnerhus@endemicenvironmental.net

July 2016
Concert



Endemic Environmental Services

July 05, 2016

Attn:
Bart Mejia
City Engineer
City of Costa Mesa

Subject: Results of Nesting Bird Survey for the Concert in the Park Event #1.

Today July 05, 2016, I surveyed all potential nesting bird habitats within and around the footprint of Concert Event from 07:00 to 11:00. The habitat consisted of coastal sage scrub and open lawn and sycamores. No nests were located nor was any nesting behavior detected around the area for this event. There are family groups of birds utilizing the lawn areas for foraging but appear not to be disturbed by human activity.

If you have any questions, comments, or concerns, please feel free to contact me.

Sincerely,

Barry Nerhus
President/Ecologist
Endemic Environmental Services, Inc.
(714) 393-6249
bnerhus@endemicenvironmental.net



March
2017
mowing

Endemic Environmental Services

March 26, 2017

Attn:
Bart Mejia
City Engineer
City of Costa Mesa

Subject: Results of Nesting Bird Survey

Today ~~March 26, 2017~~, I surveyed all potential nesting bird habitats within and around the area desired to be ~~mowed~~. The habitat consisted mostly of non-native annual forbs and grasses on the south side of the park. The habitat was searched for nests and also using behavioral observations of ground type nesting bird species such as the western meadowlark to determine nesting (i.e. fecal sac removal, nest material, food supply brought to a specific area). There was a red-winged blackbird colony located in a large mustard patch several hundred meters away, that is recommended to be managed by not disturbing the habitat and also delineating a buffer. No nests were found in the grassland area or within proximity. The ~~nest survey is only valid for 3 days~~. It is also ~~recommended to not mow additional areas during this time of year~~ due to the high potential nesting habitat. Mowing in early autumn is a much better time period to avoid nests and mowing down native annuals.

If you have any questions, comments, or concerns, please feel free to contact me.

Sincerely,

Barry Nerhus
President/Ecologist
Endemic Environmental Services, Inc.
(714) 393-6249
bnerhus@endemicenvironmental.net



Endemic Environmental Services

2017
Nesting birds - record
increasing activity

April 21, 2017

Attn:
Bart Mejia
City Engineer
City of Costa Mesa

Subject: Results of Nesting Bird Survey for Community Run

I surveyed all potential nesting bird habitats within and around the community run path. The habitat consisted of non-native annual forbs, coastal sage scrub, and riparian woodland on the north side of the park. There were several nesting birds along the running path. These species included song sparrow, common yellowthroat, and house finch. These nests are located approximately 30 meters off the trail. Additionally, a male least Bell's vireo was advertising in a willow approximately 20 meters away from the running path. These paths are established running paths that all nesting birds have tolerated over numerous seasons. However, the race will be a spike in activity that could lead to disturbing natural avian behavior. As a conservation measure, I recommend that the least Bell's vireo is monitored, as well as the located nests.

If you have any questions, comments, or concerns, please feel free to contact me.

Sincerely,

Barry Nerhus
President/Ecologist
Endemic Environmental Services, Inc.
(714) 393-6249
bnerhus@endemicenvironmental.net



2017
protected rare plant
see photo/map

Endemic Environmental Services

May 10, 2017

Attn:
Bart Mejia
City Engineer
City of Costa Mesa

Subject: Results of Nesting Bird Survey to Mow Model Train Parking Lot

I surveyed all potential nesting bird habitats within and around the planned mowed area for parking. The habitat consisted of non-native annual forbs and native annual forbs on the east side of the park. There was ~~no nesting activity~~ observed in the vegetation. However, I located and mapped several large areas of small-flowered microseris, a protected rare plant with California Department of Fish and Wildlife (CDFW). Mowing the senesced (dead) plants that have already seeded is not a direct impact. However, parking vehicles on top of the area and compacting the soils is more of the issue. I ~~recommend mowing and parking north of the exit sign.~~

If you have any questions, comments, or concerns, please feel free to contact me.

Sincerely,

Barry Nerhus
President/Ecologist
Endemic Environmental Services, Inc.
(714) 393-6249
bnerhus@endemicenvironmental.net

Attachment

Photo 1: Small-flowered Microseris with nodding head

Photo 2: Seeding head

Image 1. Map of Model Train Parking Lot



Endemic Environmental Services





Endemic Environmental Services

Photo 1.



Photo 2. Seed head



Endemic Environmental Services

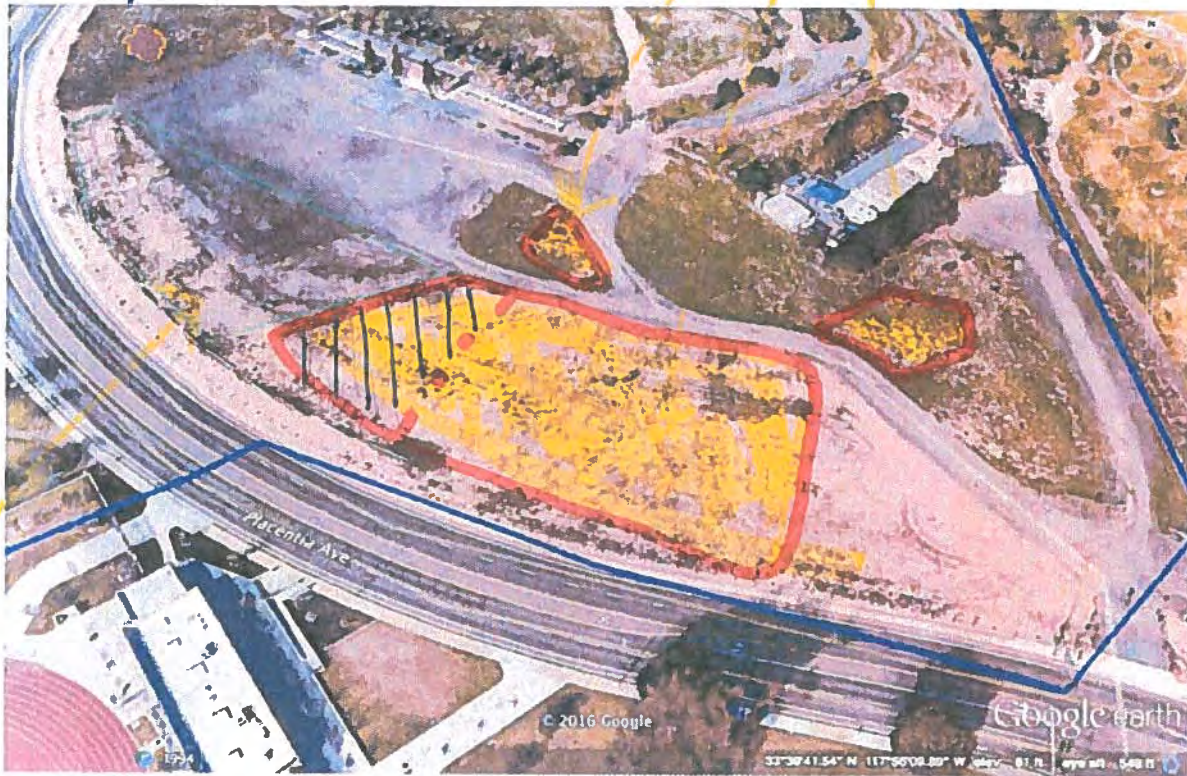


Image 1. The **Orange** is the areas where there are robust populations of small-flowered microseris. The **red area** is Vernal Pool A. The **Blue line** is the general border of Fairview Park. The Green area can be mowed and used as a parking lot.



MAY 2017

Endemic Environmental Services

June 08, 2017

Attn:
Bart Mejia
City Engineer
City of Costa Mesa

Subject: Results of Nesting Bird Survey for the Fish Fry Event.

On May 31, 2017, I surveyed all potential nesting bird habitats within and around the footprint of the Fish Fry Event. The habitat included the parking lot at the Model Train Engineers station on the East side of Placentia, the lawn and ornamental trees near the parking lot, and also the edge of the natural areas. An unoccupied crow's nest was observed in a sycamore. This nest was observed for two days without any activity. It appeared to be disarticulated from the wind. There is currently an active bluebird nest in a blue bird box near the Vandersloot Coastal Sage Scrub Site. I monitored the avian activity throughout the weekend to observe an abnormal behavior. Additionally, the event was compliant with the recommendation to keep night lighting pointed away from the nest and all natural areas to minimize night light disturbance. The adults continued to feed chicks throughout the weekend, as of June 5th, the nest is still active. There was no take of any nests regulated under the Migratory Bird Treaty Act.

If you have any questions, comments, or concerns, please feel free to contact me.

Sincerely,

Barry Nerhus
President/Ecologist
Endemic Environmental Services, Inc.
(714) 393-6249
bnerhus@endemicenvironmental.net

June
2017
delay until fall



Endemic Environmental Services

June 12, 2017

Attn:
Bart Mejia
City Engineer
City of Costa Mesa

Subject: Results of Nesting Bird Survey and Habitat Assessment for Mowing East Fairview Park

On June 16, 2017, I surveyed all potential nesting bird habitats within and around the footprint of the proposed area to be mowed, which included tall weedy grasslands east of Placentia Avenue between the walking bridge and the northern portion of the Park near Canary Drive. The habitat includes open weedy annual grassland and also several native purple needlegrass (*Stipa pulchra*) patches. The native purple needlegrass is still flowering and should not be mowed until it sets seed. This will enable the native needle bunch grasses to expand their area. Additionally, there are many fledging birds that have left the nest but cannot fly well. This is a normal development of fledgling birds, however mowing could directly kill, harm, injure, and/or harass these young birds. I recommend avoiding the majority of the proposed grassland until late summer or early fall. Low biological activity was observed near the Canary Drive area. No purple needlegrass was observed in that area or fledgling activity. The area that I recommend to mow is the 150 foot buffer area near Canary Drive with a qualified biological monitor present to ensure no biological resources are impacted.

If you have any questions, comments, or concerns, please feel free to contact me.

Sincerely,

Barry Nerhus
President/Ecologist
Endemic Environmental Services, Inc.
(714) 393-6249
bnerhus@endemicenvironmental.net



July 2017

Endemic Environmental Services

July 22, 2017

Attn:
Bart Mejia
City Engineer
City of Costa Mesa

Subject: Results of Nesting Bird Survey for the Concert Series

On July 10, 17, and 22, 2017, I surveyed all potential nesting bird habitats within and around the footprint of Concert Event from 07:00 to 11:00. The habitat consisted of coastal sage scrub and open lawn and sycamores. No nests were located nor was any nesting behavior detected around the area for these events. There are family groups of birds utilizing the lawn areas for foraging but appear not to be disturbed by human activity.

If you have any questions, comments, or concerns, please feel free to contact me.

Sincerely,

Barry Nerhus
President/Ecologist
Endemic Environmental Services, Inc.
(714) 393-6249
bnerhus@endemicenvironmental.net

Fairview Park Riparian Mitigation Project Phase II: Annual Report 2017

**Prepared for the City of Costa Mesa
Prepared by Barry Nerhus
Restoration Ecologist
Endemic Environmental Services**

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Executive Summary

The Fairview Park Phase II riparian mitigation is a 20.3 acre site in Costa Mesa, California including several channels, ponds, and riparian plant species. The goal of this project is to provide riparian habitat for the endangered Least Bell's Vireo (*Vireo belli pusillus*), coastal sage scrub for the California gnatcatcher, freshwater wetlands, and coastal grassland with southern tarplant, which supports other native flora and fauna. The purpose of this report is to provide information on the fourth and fifth-year success. Phase I of native species plantings have grown since planting was completed in 2009 and has been monitored for success. The current condition consists of over 95% survival of the planted container stock planted and less than 5% non-native plant coverage. Additionally, the species diversity, nutrient cycling, and reseeded are also important qualities that warrant discussion to meet the goal of a self-sustaining riparian ecosystem and are included in this report.

Introduction

Planting in Phase II was completed November 2012. Phase II vegetation success monitoring began in December of 2012. Fairview Park Phase II has been hydroseeded and planted with container plants. Hydroseeded plants include: Coastal Goldfields (*Lasthenia californica*), Western Ragweed (*Ambrosia psilostachya*), Mulefat (*Baccharis salicifolia*), California mugwort (*Artemisia douglasiana*), Coast Goldenbush (*Isocoma menziesii*), Evening Primrose (*Oenothera elata* ssp. *Hookeri*), Hoary nettle (*Urtica dioica* ssp. *holosericea*), California Sagebrush (*Artemisia californica*), California Poppy (*Eschscholzia californica*) and many others. Container plants included: Arroyo Willow (*Salix lasiolepis*), Goodding's Black Willow (*Salix gooddingii*), Coast Live Oak (*Quercus agrifolia*), Toyon (*Heteromeles arbutifolia*), Coastal Prickly Pear (*Opuntia littoralis*), and others.

The native plant material implemented included hydroseed from S&S Seed, container stock from Moosa Creek and Tree of Life Nurseries, and cuttings from local and adjacent areas. In addition to implemented native plant material, the project site also received native plant recruitment from existing native vegetation outside the project boundaries. The mitigation site has been monitored quarterly by ecologists provided by Endemic Environmental Services. Restoration ecologists documented the progress of the site. The qualitative and quantitative information recorded included non-native plant coverage, and container stock survival as the main criteria to gauge the success of the establishment of the riparian vegetation. Irrigation scheduling and function, trash presence, erosion, and vandalism were all additional elements that were monitored to ensure good health of the native vegetation. Non-native vegetation was removed by hand-weeding and mechanical removal (i.e. brush cutting) when deemed not detrimental to the native vegetation by the restoration ecologist. Monitoring maintenance reports have been provided by Endemic Environmental Services and sent to the City of Costa Mesa. Irrigation has been off this year for most areas, with the exception of the oak woodland and grassland areas.

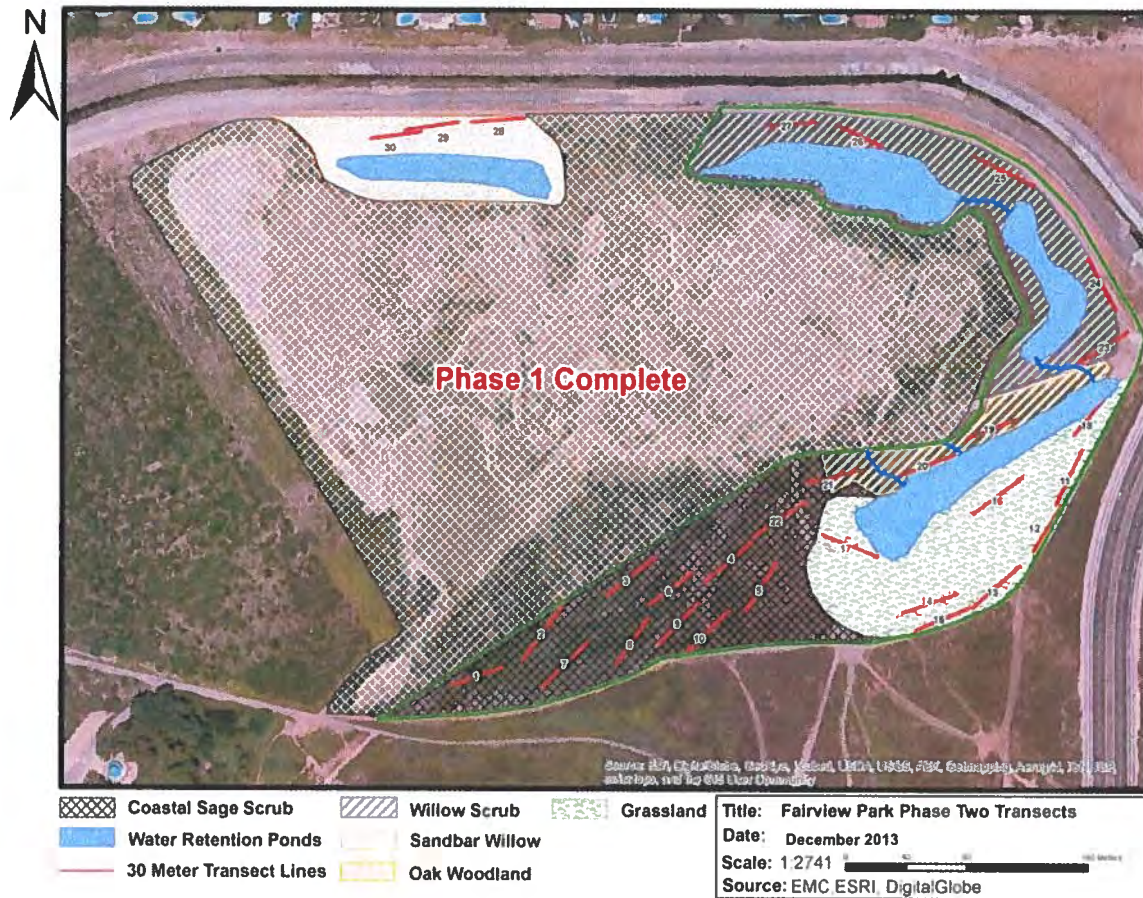


Figure 1. Map of point-intercept transect locations at Phase II of Fairview Park

Methodology

During a five-day period in December of 2017, two biologists conducted vegetation surveys at Fairview Park to obtain information on species diversity and composition and cover of native and exotic species within Phase II of the mitigation site. Two methodologies were implemented consisting of point line-intersect transects and regularly-spaced 1 m² quadrats. All plant species were identified to the lowest possible taxonomic level. Percent cover of each plant species within quadrats was included not exceeding 100%. These methodologies provide a consistent means of collecting and comparing data at different locations and times and allow for long-term studies of changes in communities and diversities.

In previous years, we used 30-point line-intercept transects, each thirty meters in length. However, due to the highly dense areas of the coastal sage scrub areas, we assumed over 95% native cover in those specific areas. Our focus was on the grasslands and habitat surrounding the ponds. Transect measurements were conducted throughout the site with the selection of starting

points intended to ensure a balanced sample of plant diversity and establishment patterns on site.. All of these transects were oriented in an approximately east-west direction and sampling was conducted from east to west. For each point line-intercept transect, a thirty meter measuring tape was run out to its full length, assuring that the tape lay low to the ground and was pulled taut. Every two feet along the transect, for a total of 50 point measurements, plants and substrate were documented by positioning an ½-inch wooden dowel vertically on the near side of the tape and recording every live plant or portion of a plant touching the dowel (or the vertical line created by the dowel from the sky to the ground). Dead organic matter and bare ground were also recorded if present. The point line-intercepts measuring vegetation frequency in place of plant cover or abundance. All plants touching the dowel were identified to species or genus in cases of more complex specimens, and only plants too immature or damaged to identify in the field were recorded as unknown. If a species contacted the dowel in multiple places (even if there were separate plants), only one hit was recorded per species and up to four species were recorded per hit.

In conjunction with each point line intercept transect, 1 m² quadrats were placed at 0, 7.5, 12, and 22.5 meters, alternating to the left and to the right of the transect (starting on the right). A visual estimate of coverage was made for each species independent of canopy position. Percent cover was recorded for each species present in the quadrat, as well as the cover of dead organic matter and bare grounds, with cover estimates not exceeding 100% for all species.

Results

Native cover is 68%, non-native cover is 9%, bare-ground cover is 23%, and organic matter cover is 5% across Phase II of Fairview Park. Non-native cover is highest in the grassland and oak woodland habitat followed by the riparian areas. The lowest cover of non-natives is in the coastal sage scrub area. See the table below for the list of native and non-native species.

Table 1. Native species found in Phase II

Scientific Name	Common Name	Status
<i>Ambrosia psilostachya</i>	Western Ragweed	Native
<i>Artemisia californica</i>	California sagebrush	Native
<i>Artemisia douglasiana</i>	Mugwort	Native
<i>Artemisia dracunculus</i>	Tarragon	Native
<i>Baccharis pilularis</i>	Coyote Bush	Native
<i>Baccharis salicifolia</i>	Mulefat	Native
<i>Centromadia parryi ssp. australis</i>	Southern Tarplant	Native/Rare CNPS 1B.1*
<i>Conyza canadensis</i>	Horseweed	Native
<i>Croton californicus</i>	Croton	Native
<i>Crassula connata</i>	Pygmy weed	Native

<i>Encelia californica</i>	California Encelia	Native
<i>Eschscholzia californica</i>	California poppy	Native
<i>Gnaphalium luteo-album</i>	Bicolored cudweed	Native
<i>Gnaphalium bicolor</i>	Bicolored cudweed	Native
<i>Heliotropum curassavicum</i>	Chinese purslane	Native
<i>Heteromeles arbutifolia</i>	Toyon	Native
<i>Heterotheca grandiflora</i>	Telegraph Weed	Native
<i>Isomeris arborea</i>	Bladderpod	Native
<i>Isocoma menziesii</i>	Golden Bush	Native
<i>Juncus mexicanus</i>	Mexican Rush	Native
<i>Oenothera elata</i>	Evening Primrose	Native
<i>Opuntia littoralis</i>	Coastal prickly pear	Native
<i>Opuntia prolifera</i>	Coastal Cholla	Native
<i>Platanus racemosa</i>	California Sycamore	Native
<i>Pluchea odorata</i>	Marsh Fleabane	Native
<i>Rosa californica</i>	Wild Rose	Native
<i>Salix exigua</i>	Coyote/Sandbar Willow	Native
<i>Salix gooddingii</i>	Goodding's black willow	Native
<i>Salix laevigata</i>	Red Willow	Native
<i>Salix lasiopolis</i>	Arroyo Willow	Native
<i>Salvia mellifera</i>	Black sage	Native
<i>Sambucus mexicanus</i>	Mexican Elderberry	Native
<i>Solanum douglasii</i>	Deadly Nightshade	Native
<i>Schoenoplectus californica</i>	California Bulrush	Native
<i>Typha latifolia</i>	Flat-leaved Cattail	Native
<i>Urtica dioica</i>	Stinging Nettle	Native
<i>Verbena lasiostachys</i>	Western Verbena	Native

Table 2. Non-native plant species

Scientific Name	Common Name	Status
<i>Anaglis arvensis</i>	Scarlet pimpernel	Non-native
<i>Apium graveolens</i>	Celery	Non-native
<i>Atriplex suberecta</i>	Peregrine saltbush	Non-native
<i>Avena barbata</i>	Slender oat	Non-native
<i>Brassica nigra</i>	Black mustard	Non-native (Invasive)
<i>Bromus catharticus</i>	Rescue grass	Non-native
<i>Bromus madritensis</i>	Spanish brome	Non-native
<i>Centaurea melitensis</i>	Maltese star thistle	Non-native

<i>Chamomilla suaveolens</i>	Pineapple weed	Non-native
<i>Chenopodium album</i>	Lamb's quarters	Non-native
<i>Cnicus benedictus</i>	Blessed thistle	Non-native
<i>Conium maculatum</i>	Poison hemlock	Non-native
<i>Cortadera selloana</i>	Pampas grass	Non-native (Invasive)
<i>Crassula connata</i>	Pygmy weed	Non-native
<i>Emex spinosa</i>	Devil-s thorn	Non-native (Invasive)
<i>Erodium cicutarium</i>	Common stork's bill	Non-native
<i>Hordeum murinum</i>	Mouse barley	Non-native
<i>Malva parviflora</i>	Cheeseweed	Non native
<i>Marrubium vulgare</i>	Horehound	Non-native
<i>Medicago polymorpha</i>	Bur-clover	Non-native
<i>Melilotus indicus</i>	Annual yellow sweetclover	Non-native
<i>Mesembryanthemum crystallinum</i>	Crystalline iceplant	Non-native (Invasive)
<i>Mesembryanthemum nodiflorum</i>	Small-flowered iceplant	Non-native (Invasive)
<i>Nicotiana glauca</i>	Tree Tobacco	Non native (Invasive)
<i>Raphanus sativus</i>	Wild radish	Non-native
<i>Salsola tragus</i>	Russian thistle	Non-native (Invasive)
<i>Secale cereale</i>	Cereal rye	Non-native
<i>Setaria viridis</i>	Green bristlegrass	Non-native
<i>Silybum marianum</i>	Milk thistle	Non-native
<i>Sisymbrium orientale</i>	Oriental sisymbrium	Non-native
<i>Sonchus asper</i>	Spiny sowthistle	Non-native
<i>Sonchus oleraceus</i>	Common sow-thistle	Non-native
<i>Taraxacum officinale</i>	Dandelion	Non-native
<i>Tamarix ramosissima</i>	Salt cedar	Non-native (Invasive)
<i>Trifolium repens</i>	White clover	Non-native

Evidence of Regeneration

The level of natural regeneration is very high. The regeneration in the past years is also creating offspring, which is a strong indicator of sustainable native plant species success. This regeneration and eventual breakdown of organic material such as dead vegetation and animal matter will play an important role to the health of the ecosystem and covering the existing bare-ground.

Coast Live Oak Success

Quercus agrifolia trees (Coast live oak) were planted in Phase II of Fairview Park in the Oak Woodland and Grassland areas. Two trees near the east entrance of the park had relatively moist soil and healthy leaves. The remaining oaks were not surviving well. Christian Redman, an Eagle

Scout helped direct volunteers to plant more oaks in autumn 2015. All the oaks appear to be surviving well and are continued to be watered and maintained..

Wildlife Usage

Many species and trophic levels were found in Fairview Park that had not previously been observed. Bird species include Mourning doves, Lesser gold-finches, Kestrels, Rock wrens, Blue-grey gnatcatchers, Green Herons, Red-tailed hawks, Red-shouldered hawks, Northern Harriers, Cooper's Hawks, Turkey Vultures, Red-winged blackbirds, White-crowned sparrows, Lincoln sparrows, Common yellow throats, American coots, Mallards, Widgeons, Snowy egrets, a Green heron, White-faced ibises, Grebes, Northern rough-winged swallows, Yellow-rumped warblers, House finches, Anna's hummingbirds, and Black-chinned hummingbirds. In addition, several juvenile western toads were found on Phase II. Sawfly galls were found deposited on arroyo willow as well. Coyotes have been observed utilizing Phase II to forage. Wildlife at every trophic level is thriving at Fairview Park, which is an indicator of ecosystem health as a whole. It appears that there are now some non-native wildlife species utilizing the park. They include: crayfish, bullfrog, red-eared slider, nutmeg manikin, orange bishop, small-mouth bass, mosquito fish, and brown-headed cowbird.

Sensitive Species

There are several sensitive species utilizing the restoration area. These species range from summer residents such as the least Bell's vireo, yellow-breasted chat, California least tern, yellow warbler to winter/year round residents such as the California gnatcatcher, northern harrier, and Cooper's hawk. One rare plant, southern tarplant (*Centromadia parryi australis*) has spread throughout the grassland area.

Table 3. The table lists the observed rare species within the restoration area in 2017.

Species	Latin Name	Status	Behavior
California Gnatcatcher	<i>Poliophtila californica</i>	State: SSC Federal: Threatened	Year round resident/Wintering/foraging
Least Bell's Vireo	<i>Vireo bellii pusillus</i>	State: Endangered Federal: Endangered	Nesting in Phase I /Foraging Phase II
Yellow-brested Chat	<i>Icteria virens</i>	State: SSC Federal: None	Summer resident/Nesting
California Least Tern	<i>Sterna antillarum browni</i>	State: Endangered Federal: Endangered	Summer resident/ Foraging in ponds
Yellow Warbler	<i>Setophaga petechia</i>	State: SSC Federal: None	Summer resident/ Nesting
Cooper's Hawk	<i>Accipiter cooperii</i>	State: Watchlist Federal: None	Year round/Foraging
Northern Harrier	<i>Circus cyaneus</i>	State: SSC Federal: None	Year round resident/foraging
White-tailed Kite	<i>Elanus leucurus</i>	State: Watchlist Federal: None	Wintering/Possible nesting

Merlin	<i>Falco columbarius</i>	State: Watchlist Federal: None	Wintering
Southern Tarplant	<i>Centromadia parry spp. australis</i>	CNPS* Rank 1B.1 (endangered)	Growing in the 100s to 1000s throughout the grassland areas
Chaparral Sand Verbena	<i>Abronia villosa</i> var. <i>aurita</i>	CNPS Rank 1B.1 (endangered)	Only one individual growing in the northwest corner
Lewis' evening primrose	<i>Camisoniopsis lewisii</i>	CNPS Rank 3 (Review List)	Growing near Pond E and also along the west trail
South Coast Branching Phacelia	<i>Phacelia ramosissima</i> var. <i>austrolitoralis</i>	CNPS Rank 3.2 (Review List)	Growing as a dense undergrowth around Pond E.

CNPS is the California Native Plant Society that has a rare plant ranking system that is reviewed under the California Equality Quality Act (CEQA).

Conclusions/Discussion

The Fairview Park riparian mitigation site is establishing quickly and strongly, despite the exceptional drought. The main limiting factor for the success of this site establishing at this point are perennial non-native species and a few non-native annuals. Since phase II has been relatively recently planted and seeded, more weeding, and planting, will be required. The most abundant non-natives species that will require removal are common horehound (*Marrabium vulgare*), black mustard (*Brassica nigra*), tree tobacco (*Nicotiana glauca*), common stork's bill (*Erodium cicutarium*), pampas grass (*Cortadera selloana*), Russian thistle (*Salsola tragus*), crystalline iceplant (*Mesembryanthemum cystallinum*) and scarlet pimpernel (*Anagalis arvensis*). Several individuals of salt cedar (*Tamarix chinensis*) have also been found in Phase II and should be prioritized in removal as they are among the among the most common invasive plant in the world and most impactful invasive species in Fairview Park system. Russian thistle experienced a boon year with heavy infestation. It is recommended to remove as many plants as possible. As the native plant community establishes, annual non-plant plant species will be less of an issue. Endemic Environmental Services, Inc. and the City of Costa Mesa are updateing a wetland vegetation management program as a mitigation measure for mosquito habitat. I recommend continuing with weeding the grassland areas with dense weed areas, pampas grass, salt cedar, and other highly invasive species. There is also a growing concern for Polyphagus Shot Hole Borer infesting willows. These trees are being monitored by the UC COOP who is currently conducting a county-wide investigation.

Attn:

City of Costa Mesa

Robert Staples

Contract Administrator

(714) 754-5303

rstaples@ci.costa-mesa.ca.us

Provided by:

Endemic Environmental Services, Inc.,

Restoration Ecologist

Barry Nerhus, Jr.

(714) 393-6249

bnerhus@endemicenvironmental.net

Date of inspection: 22 September 2017

Inspection for September

General Overview

Phase II of the 20.3 acre Fairview Park riparian mitigation continued its maintenance period on September 22, 2017. The monthly maintenance monitoring of these native plant materials, non-natives, vandalism, pond quality, bike and pedestrian path maintenance, etc. is currently in its fifth year and an annual monitoring will be performed in December. The annual report will be submitted following the annual quantitative monitoring in December. Endemic Environmental Services, Inc. is responsible for the maintenance of the mitigation site to reach the success criteria.

Container Stock

Container plants included: Arroyo Willow (*Salix lasiolepis*). Goodding's Black Willow (*Salix gooddingii*), Coast Live Oak (*Quercus agrifolia*), Toyon (*Heteromeles arbutifolia*), Coastal Prickly Pear (*Opuntia littoralis*), and others. The container plants are growing well, especially the mulefat, arroyo willow, and hooker's evening primrose. Similar to previous months, approximately 90% of the oaks are healthy, and others are improving in condition. All of the oaks are alive. With continued weeding and consistent watering to individual oaks and sycamores, the container plants will continue to grow healthier.

Hydroseed

Hydroseeded plants include: Coastal Goldfields (*Lasthenia californica*), Western Ragweed (*Ambrosia psilostachya*), Mulefat (*Baccharis salicifolia*), California mugwort (*Artemisia douglasiana*), Coast Goldenbush (*Isocoma menziesii*), Evening Primrose (*Oenothera elata* ssp. *Hookeri*), Hoary nettle (*Urtica dioica* ssp. *holosericea*), California Sagebrush (*Artemisia californica*), California Poppy (*Eschscholzia californica*) and many others. Those hydroseeded plants were found growing abundantly across the site and will aid in competition with exotic weed species. The site has not received irrigated water for two years. The annual species

appeared to be mostly dead at this point. September is a hot dry month. However, this past winter rains allowed for high species germination rates, which could still be observed during this visit.

Native Recruitment

Native recruitment is exceptionally high. A great majority of the coastal sage scrub areas are so dense with several different age classes of shrubs that it is difficult to determine the container stock, original hydroseed mix and natural recruitment from the introduction of native plants. Additionally, a family of federally-threatened California gnatcatchers were observed in the coastal sage scrub areas.



Figure 1. High concentration of native plant species in the Coastal Sage Scrub habitat



Figure 2. High cover of native plant species grassland habitat



Figure 3. High cover of native plant species in riparian habitat.

Regeneration

There is regeneration occurring from the hydroseed, and container plants throughout the site. The cattails (*Typha latifolia*) have grown and seeded in Pond E. Additionally, existing native species like evening primrose and goldfields are regenerating and adding to the plant diversity, native coverage, and aid in exotic plant species competition. This regeneration and eventual breakdown of organic material such as dead vegetation and animal matter will play an important role to the health of the ecosystem.



Figure 4. Invasive pampas grass was removed and in its place native deergrass was planted.

Exotic Species

Although exotic species cover has drastically decreased because of removal events, some exotics have returned. Invasive black mustard (*Brassica nigra*) was almost completely removed however is reoccurring on the west side of the park. Current non-native/invasive species include castor bean (*Ricinus communis*), pampas grass (*Cortaderia jubata*), Russian thistle (*Salsola tragus*), and tree tobacco (*Nicotiana glauca*) have developed on path edges and throughout the riparian habitat although have been drastically reduced. Non-native plant growth is approximately 0-5% in coastal sage scrub habitat. Non-native plant cover is less than 10% in the riparian habitat and is approximately 0-5% in the grassland habitat.



Figure 6. Approximately 500 lbs. of Salt Cedar was removed from the site.

Erosion

Fairview Park was monitored for erosion in Phase II. Some erosion remains in the grassland area near the area where the Fairview Park Opening ceremony took place. The irrigation was turned

off to prevent further erosion and plants have begun to regenerate. The north trail has experienced heavy erosion from heavy winter rains. We filled the trail with decomposed granite with a small bobcat loader.



Figure 7. Trail repair caused by erosion.

Fences

The cables making up fences around each zone in Phase II were monitored and were in good condition. One fence post had fallen. The City was notified and the post is repaired.



Figure 8. Damaged fence post.

Irrigation

All main irrigation is off. The oaks are still being watered via a temporary irrigation system on an as-needed basis.

Ponds A, B, C, D, and E All ponds appear healthy, as they have recruited native western toad larvae, are eutrophic, and provide habitat for insects. There are cattails spreading and filamentous algae that will be continuous issues for mosquito breeding, if not managed. Endemic has been managing the waterflow, algae build up and cattail growth in areas that it is possible. Thus far, Orange County Vector Control has not determined the wetlands to be a gross producer of mosquitos.



Figure 9. Pond B after flow management and algae clearing.

Figure 12. Pond A has accumulated low algae growth and has improved greatly.



Figure 10. Algae was removed to the maximum extent practicable in all areas.



Figure 11. Homeless activity.

Recommendations

Although algae have begun to be removed, there should be further removal throughout the Fall or until regrowth of algae discontinues. The eventual lack of oxygen may create harsh living conditions for any organisms in the ponds including western toad larvae and mosquito fish. Furthermore, the removal of phosphates in the water source may help prevent the buildup of algae. Additional recommendations include increased filtration to the system and potentially using aquatic weed control. Invasive pampas grass has developed and can be removed from the riparian habitat along walkways. Continued weeding is recommended because of the recent growth of Russian thistle, tree tobacco, castor bean, and others. The non-natives should continue to be removed from all Phase II locations as they reoccur.

Wildlife Usage

Many species and trophic levels were found in Fairview Park during the maintenance. Bird species include the American coot, black phoebe, snowy egret, mallard, lesser goldfinch, orange-crowned warbler, house finch, Anna's hummingbird, mourning dove, and song sparrow among others. Also noted were exotic orange bishops in addition to, dragonflies, ground squirrels, and juvenile western toads/larvae found on site. Red-tailed hawks, Northern harriers, and turkey vultures were observed foraging and coyote scat was also found on the site. Wildlife at every trophic level is thriving at Fairview Park, which is an indicator of high and stable ecosystem health.

MONTHLY TASK REPORTS - SUBMITTED BY ENDEMIC ENVIRONMENTAL Jan/2018 by: Barry Nerhus

TASK	Week 1	Week 2	Week 3	Week 4	Week 5
Maintenance needs	Algae Removal Emergent Vegetation Management Watering Oaks	Algae Removal Emergent Vegetation Management Watering Oaks	Algae Removal Emergent Vegetation Management Watering Oaks	Algae Removal Emergent Vegetation Management Watering Oaks	
Vandalism					
Trespassing restoration areas	Fishing issues continue Homeless activity	Fishing issues continue Homeless activity	Fishing issues continue Homeless activity	Fishing issues continue Homeless activity	
Non-native issues in restoration areas	Pampas grass, tamarisk Russian Thistle	Pampas grass, tamarisk	Pampas grass, tamarisk	Pampas grass, tamarisk	
Channel observations in wetlands	Shut down Middle Channel due to channel bank failure Removed cattails and California bulrush in channels Removed algae	Shut down Middle Channel due to channel bank Removed cattails and California bulrush in chanr Removed algae	Shut down Middle Channel due to channel bank Removed cattails and California bulrush in chann Removed algae; irrigation beams	Shut down Middle Channel due to channel bank failure Removed cattails and California bulrush in channels Removed algae; removed irrigation beams	
Water flow & pump station in wetlands	Pump Station is on, intermittently turned off. Reclaim system was turned on when main pump was off.	Pump Station is on. Reclaim system was turned on when main pump was off.	Pump Station is on. Reclaim system was turned on when main pump was off.	Pump Station is on. Reclaim system was turned on when main pump was off.	
Invasives in wetlands					
Master plan implementation; grant writing;partnerships; consultations	Partnership with Coastline College Internship	Partnership with Coastline College Internship Attended Fairview Park Steering Committee	Partnership with Coastline College Internship	Partnership with Coastline College Internship	

MONTHLY TASK REPORTS - SUBMITTED BY ENDEMIC ENVIRONMENTAL Feb/2018 by: Barry Nerhus

TASK	Week 1	Week 2	Week 3	Week 4	Week 5
Maintenance needs	Algae Removal Emergent Vegetation Management Watering Oaks	Algae Removal Emergent Vegetation Management Watering Oaks	Algae Removal Emergent Vegetation Management Watering Oaks	Algae Removal Emergent Vegetation Management Watering Oaks	
Vandalism					
Trespassing restoration areas	Fishing issues continue Homeless activity	Fishing issues continue Homeless activity	Fishing issues continue Homeless activity	Fishing issues continue Homeless activity	
Non-native issues in restoration areas	Pampas grass, tamarisk Russian Thistle	Pampas grass, tamarisk	Pampas grass, tamarisk	Pampas grass, tamarisk	
Channel observations in wetlands	Shut down Middle Channel due to channel bank failure Removed cattails and California bulrush in channels Removed algae	Shut down Middle Channel due to channel bank fail Shut down Middle Channel due to channel bank failure Removed cattails and California bulrush in channels Removed algae; irrigation beams	Shut down Middle Channel due to channel bank failure Shut down Middle Channel due to channel bank failure Removed cattails and California bulrush in channels Removed algae; irrigation beams	Shut down Middle Channel due to channel bank failure Shut down Middle Channel due to channel bank failure Removed cattails and California bulrush in channels Removed algae; irrigation beams	Shut down Middle Channel due to channel bank failure Shut down Middle Channel due to channel bank failure Removed cattails and California bulrush in channels Removed algae; irrigation beams
Water flow & pump station in wetlands	Pump Station is on, intermittently turned off. Reclaim system was turned on when main pump was off.	Pump Station is on. Reclaim system was turned on when main pump was off.	Pump Station is on. Reclaim system was turned on when main pump was off.	Pump Station is on. Reclaim system was turned on when main pump was off.	
Invasives in wetlands					
Master plan implementation; grant writing;partnership s; consultations	Partnership with Coastline College Internship	Partnership with Coastline College Internship	Partnership with Coastline College Internship	Partnership with Coastline College Internship	

MONTHLY TASK REPORTS - ENDEMIC ENVIRONMENTAL Mar/2018

by: Barry Nerhus

TASK	Week 1	Week 2	Week 3	Week 4	Week 5
Maintenance needs	Algae Removal	Algae Removal	Algae Removal	Algae Removal	
Vandalism	Emergent Vegetation Management Watering Oaks, mosquito	Emergent Vegetation Management Watering Oaks, mosquito	Emergent Vegetation Management Watering Oaks, mosquito	Emergent Vegetation Management Watering Oaks, mosquito	
Trespassing restoration areas	Fishing issues continue Homeless activity	Fishing issues continue Homeless activity	Fishing issues continue Homeless activity	Fishing issues continue Homeless activity	
Non-native issues in restoration areas	Pampas grass, tamarisk Sweet Clover/Mustard	Pampas grass, tamarisk Sweet Clover/Mustard	Pampas grass, tamarisk Sweet Clover/Mustard	Pampas grass, tamarisk Sweet Clover/Mustard	
Channel observations in wetlands	Shut down Middle Channel due to channel bank failure Removed cattails and California bulrush in channels Removed algae	Shut down Middle Channel due to channel bank failure Removed cattails and California bulrush in channels Removed algae	Shut down Middle Channel due to channel bank failure Removed cattails and California bulrush in channels Removed algae; irrigation beams	Shut down Middle Channel due to channel bank failure Removed cattails and California bulrush in channels Removed algae; removed irrigation	
Water flow & pump station in wetlands	Pump Station is on, intermittently turned off. Reclaim system was turned on when main pump	Pump Station is on. Reclaim system was turned on when main pump	Pump Station is on. Reclaim system was turned on when main pump	Pump Station is on. Reclaim system was turned on when main pump	
Invasives in wetlands					
Master plan implementation; grant writing; partnership s; consultations	Partnership with Coastline College Internship	Partnership with Coastline College Internship	Partnership with Coastline College Internship	Partnership with Coastline College Internship	

Attended Fairview Park Steering Committee

MONTHLY TASK REPORTS - SUBMITTED BY ENDEMIC ENVIRONMENTAL MO / YR July/2017 by: Barry Nerhus

TASK	Week 1	Week 2	Week 3	Week 4	Week 5
Maintenance needs	Algae Removal Emergent Vegetation Removal	Algae Removal Emergent Vegetation Removal	Algae Removal Emergent Vegetation Removal	Algae Removal Emergent Vegetation Removal	
Vandalism					
restoration areas	Fishing issues continue Homeless activity	Fishing issues continue Homeless activity	Fishing issues continue Homeless activity	Fishing issues continue Homeless activity	
Non-native issues in restoration areas	Pampas grass, ice plant, tamarisk	Pampas grass, ice plant, tamarisk	Pampas grass, ice plant, tamarisk	Pampas grass, ice plant, tamarisk	
Channel observations in wetlands	Water flow impeded by algal growth, flow not reaching Pond E	Water flow impeded by algal growth, flow not reaching Pond E	Water flow impeded by algal growth, flow not reaching Pond E	Water flow impeded by algal growth, flow not reaching Pond E	
Water flow & pump station in wetlands	Pump Station	Pump Station	Pump Station	Pump Station	
Invasives in wetlands					
Master plan implementation; grant writing;partnerships;	Partnership with Coastline College Internship	Partnership with Coastline College Internship	Partnership with Coastline College Internship	Partnership with Coastline College Internship	

please use additional sheets if needed ; number / date and attach. RECEIVED BY: _____

MONTHLY TASK REPORTS - SUBMITTED BY ENDEMIC ENVIRONMENTAL MO / YR August/2017 by: Barry Nerhus

TASK	Week 1	Week 2	Week 3	Week 4	Week 5
Maintenance needs X	Algae Removal Emergent Vegetation Removal	x Algae Removal Emergent Vegetation Removal Swan Drive Meeting	x Algae Removal Emergent Vegetation Removal Vector Control Coordination	Algae Removal Emergent Vegetation Removal	Algae Removal Emergent Vegetation Removal
Vandalism					
Trespassing restoration areas	X Fishing issues continue Homeless activity	x Fishing issues continue Homeless activity	x Fishing issues continue Homeless activity	Fishing issues continue Homeless activity	Fishing issues continue Homeless activity
Non-native issues in restoration areas	X Pampas grass, ice plant, tamarisk	x Pampas grass, ice plant, tamarisk	Pampas grass, ice plant, tamarisk x	Pampas grass, ice plant, tamarisk	Pampas grass, ice plant, tamarisk
Channel observations in wetlands	X Water flow impeded by algal Bullfrog tadpoles present blocked flow to channel 2	x Channel Two dry, no bullfrog larvae present	Channel 2 flowing	x All Channels flowing growth, flow not reaching Pond E	All Channels flowing growth, flow not reaching P
Water flow & pump station in wetlands	X Pump Station is on. Reclaim system was turned on when main pump was off.	x Pump Station is on. Reclaim system was turned on when main pump was off.	Pump Station is on. Reclaim syst was turned on when main pump was off.	Pump Station is on. Reclaim system was turned on when main pump was off.	Pump Station is on. Reclaim was turned on when main p was off.
Invasives in wetlands					
Master plan implementation; grant writing;partnershi ps; consultations	X Partnership with Coastline College Internship	x Partnership with Coastline College Internship	Partnership with Coastline College Internship		

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MONTHLY TASK REPORTS - SUBMITTED BY ENDEMIC ENVIRONMENTAL MO / YR Sept/2017 by: Barry Nerhus

TASK	Week 1	Week 2	Week 3	Week 4	Week 5
Maintenance needs	Algae Removal Emergent Vegetation Removal	Algae Removal Emergent Vegetation Removal	Algae Removal Emergent Vegetation Removal	Algae Removal Emergent Vegetation Removal	
Vandalism					
Trespassing restoration areas	Fishing issues continue Homeless activity	Fishing issues continue Homeless activity	Fishing issues continue Homeless activity	Fishing issues continue Homeless activity	
Non-native issues in restoration areas	Pampas grass, tamarisk	Pampas grass, tamarisk	Pampas grass, tamarisk	Pampas grass, tamarisk	
Channel observations in wetlands	Water flow impeded by algal growth, flow not reaching Pond E	Water flow impeded by algal growth, flow not reaching Pond E	Water flow impeded by algal growth, flow not reaching Pond E	Water flow impeded by algal growth, flow not reaching Pond E	
Water flow & pump station in wetlands	Pump Station is on. Reclaim system was turned on when main pump was off.	Pump Station is on. Reclaim system was turned on when main pump was off.	Pump Station is on. Reclaim system was turned on when main pump was off.	Pump Station is on. Reclaim system was turned on when main pump was off.	
Invasives in wetlands					
Master plan implementation; grant writing;partnerships; consultations	Partnership with Coastline College Internship	Partnership with Coastline College Internship	Partnership with Coastline College Internship	Partnership with Coastline College Internship	

MONTHLY TASK REPORTS - SUBMITTED BY ENDEMIC ENVIRONMENTAL Oct/2017 by: Barry Nerhus

TASK	Week 1	Week 2	Week 3	Week 4	Week 5
Maintenance needs	Algae Removal Emergent Vegetation Removal Mosquito Magnet Implementation	Algae Removal Emergent Vegetation Removal	Algae Removal Emergent Vegetation Removal mosquito coordination	Algae Removal Emergent Vegetation Removal Broken Fence Post	
Vandalism					
Trespassing restoration areas	Fishing issues continue Homeless activity	Fishing issues continue Homeless activity	Fishing issues continue Homeless activity	Fishing issues continue Homeless activity	
Non-native issues in restoration areas	Pampas grass, tamarisk Russian Thistle	Pampas grass, tamarisk Russian Thistle	Pampas grass, tamarisk Russian Thistle	Pampas grass, tamarisk Russian Thistle	
Channel observations in wetlands	Water flow impeded by algal growth	Water flow impeded by algal growth	Water flow impeded by algal growth	Water flow impeded by algal growth	
Water flow & pump station in wetlands	Pump Station is on, intermittently turned off. Reclaim system was turned on when main pump was off.	Pump Station is on. Reclaim system was turned on when main pump was off.	Pump Station is on. Reclaim system was turned on when main pump was off.	Pump Station is on. Reclaim system was turned on when main pump was off.	
Invasives in wetlands	Pond grass clogs up Pond A channel	Pond grass clogs up Pond A channel, cleared			
Master plan implementation; grant writing;partnerships ; consultations	Partnership with Coastline College Internship	Partnership with Coastline College Internship Attended Fairview Park Steering Committee	Partnership with Coastline College Internship	Partnership with Coastline College Internship	

MONTHLY TASK REPORTS - SUBMITTED BY ENDEMIC ENVIRONMENTAL Nov/2017 by: Barry Nerhus

TASK	Week 1	Week 2	Week 3	Week 4	Week 5
Maintenance needs	Algae Removal Emergent Vegetation Removal Mosquito Magnets; mosquito coordination	Algae Removal Emergent Vegetation Removal mosquito coordination	Algae Removal Emergent Vegetation Removal mosquito coordination	Algae Removal Emergent Vegetation Removal mosquito coordination	
Vandalism					
Trespassing restoration areas	Fishing issues continue Homeless activity	Fishing issues continue Homeless activity	Fishing issues continue Homeless activity	Fishing issues continue Homeless activity	
Non-native issues in restoration areas	Pampas grass, tamarisk Russian Thistle	Pampas grass, tamarisk	Pampas grass, tamarisk	Pampas grass, tamarisk	
Channel observations in wetlands	Water flowing to Pond E	Water flowing to Pond E	Water flowing to Pond E	Water flowing to Pond E	
Water flow & pump station in wetlands	Pump Station is on, intermittently turned off. Reclaim system was turned on when main pump was off.	Pump Station is on. Reclaim system was turned on when main pump was off.	Pump Station is on. Reclaim system was turned on when main pump was off.	Pump Station is on. Reclaim system was turned on when main pump was off.	
Invasives in wetlands					
Master plan implementation; grant writing;partnerships ; consultations	Partnership with Coastline College Internship	Partnership with Coastline College Internship Attended Fairview Park Steering Committee	Partnership with Coastline College Internship	Partnership with Coastline College Internship	

MONTHLY TASK REPORTS - SUBMITTED BY ENDEMIC ENVIRONMENTAL Dec/2017 by: Barry Nerhus

TASK	Week 1	Week 2	Week 3	Week 4	Week 5
Maintenance needs	Algae Removal Emergent Vegetation Mowed down in Pond E mosquito coordination	Algae Removal Emergent Vegetation Mowed down in Pond A mosquito coordination	Algae Removal Emergent Vegetation Mowing in Pond B, C, D mosquito coordination	Algae Removal Emergent Vegetation Mowing in Pond B, C, D mosquito coordination	
Vandalism					
Trespassing restoration areas	Fishing issues continue Homeless activity	Fishing issues continue Homeless activity	Fishing issues continue Homeless activity	Fishing issues continue Homeless activity	
Non-native issues in restoration areas	Pampas grass, tamarisk Russian Thistle	Pampas grass, tamarisk	Pampas grass, tamarisk	Pampas grass, tamarisk	
Channel observations in wetlands	Water flowing to Pond E	Water flowing to Pond E	Water flowing to Pond E	Water flowing to Pond E	
Water flow & pump station in wetlands	Pump Station is on, intermittently turned off. Reclaim system was turned on when main pump was off.	Pump Station is on, Reclaim system was turned on when main pump was off.	Pump Station is on, Reclaim system was turned on when main pump was off.	Pump Station is on, Reclaim system was turned on when main pump was off.	
Invasives in wetlands					
Master plan implementation; grant writing;partnerships ; consultations	Partnership with Coastline College Internship	Partnership with Coastline College Internship Attended Fairview Park Steering Committee	Partnership with Coastline College Internship	Partnership with Coastline College Internship	

From: Mat Garcia <mat.garcia@live.com>
Sent: Tuesday, May 2, 2023 10:31 AM
To: CITY CLERK
Subject: FW: HSS Written Response to May 2, 2023 Staff Report
Attachments: 1-1. Vernal pool restoration at Fairview Park.pdf; 1-1a. 13B0443-14TA0229_OR_Fairview Park VP Remediation.pdf; 2-2. Fw_ [EXTERNAL] Fairview Park and Harbor Soaring....pdf; 2-2a. August 2014 meeting with Harbor Soaring Society.pdf; 2-2b. 121014 RE_Runway Maintenance and General Site.pdf; 2-2c. 121014 Harbor Soaring Society (HSS) - Runway M.pdf; 2-2d. Biologically-Sensitive Areas - HSS Maintenance.pdf; 2-3. RE_ [EXTERNAL] Fairview Park and Harbor Soaring...(1).pdf; 2-4. RE_ [EXTERNAL] Fairview Park and Harbor Soaring....pdf; 2-1. Re_ [EXTERNAL] Vernal Pools 5,6,7 in Fairview Park.pdf; 3-2. RE_ [EXTERNAL] Review of model flying at Fairview....pdf; 3-3. Fw_ [EXTERNAL] RE_Renewing permit for model plane....pdf; 3-1. Re_ [EXTERNAL] Review of model flying at Fairview....pdf; 4-1. FVP discussion.pdf; 4-2. RE_ [EXTERNAL] FVP discussion.pdf

Hi City Clerk,

Please include the below email and all attachments in the public record section for tonight's (May 2, 2023) City Council Meeting for the topic of the flying field.

Thank you,

Mat Garcia

From: Mat Garcia
Sent: Tuesday, May 2, 2023 10:26 AM
To: john.stephens@costamesaca.gov; MARR, ANDREA <ANDREA.MARR@costamesaca.gov>; Manuel.Chavez@costamesaca.gov; Jeffrey.Harlan@costamesaca.gov; Loren.Gameros@costamesaca.gov; Don.Harper@costamesaca.gov; REYNOLDS, ARLIS <ARLIS.REYNOLDS@costamesaca.gov>
Subject: HSS Written Response to May 2, 2023 Staff Report

Mayor and City Councilmembers,

The flying field has been shut down under the false narrative that regulatory agencies, specifically USFWS, see it as an incompatible use for the park. Pertinent email communications between USFWS and the City have not been disclosed in Staff reporting which has further perpetuated the false narrative of incompatibility. USFWS recommendations for continued use of the Fairview Park flying field have been consistently documented from 2014 to present, and they remain unchanged. This information was only discovered after multiple public records requests following the March 21, 2023 City Council Meeting.

Fairview Park Flying Field Recommendations by USFWS:

1. Limit planes to gliders only to limit noise-related disturbance
2. Require a permit to fly planes in the park that needs to be clearly displayed on the operator (e.g., like a fishing license).
3. Require the permit holder to be trained on the rules of operating planes in the park, including the distribution of sensitive species and enforcement actions that will be taken if rules are not followed.
4. Clearly identify the limits of disturbance that are required to operate gliders in the park (i.e., staging and launching areas) and ensure vegetation clearing and maintenance are limited to these areas.

5. Limit operation of gliders and the launching winch to periods when the soil is dry to the touch to prevent impacts to vernal pools associated with glider operation.
6. Direct City staff to enforce the permit conditions on a daily basis (as part of regular park operations) to ensure that only permitted individuals are operating planes and that they are following the permit conditions. Issue enforcement tickets for individuals that a) do not have a permit, b) do not have a permit clearly displayed on their clothing, or c) are operating planes when the soil is wet.

Four meetings have taken place between City Staff and USFWS between 12/2021 and 4/2023. What took place at these meetings? Documented communication was provided to City Staff by USFWS but not provided to the Council or the public. We believe it is important to bring to light this fact prior to discarding the multi-year study of 2019 through 2021 only to embark on another multi-year effort of study.

2021-2023 meetings between City staff and USFWS:

1. December 14, 2021 – Kelly Dalton, Jason Minter, Christine Medak (USFWS)
2. October 2022 – Kelly Dalton, Christine Medak (USFWS)
3. February 10, 2023 – Kelly Dalton, Christine Medak (USFWS), William Miller (USFWS)
4. March 28, 2023 – Kelly Dalton, Christine Medak (USFWS)

Despite all of City Staff's attempts to solicit authoritative guidance from regulatory agencies supporting Staff's desire to close the flying field, USFWS has continued to maintain constant recommendations for the flying field centered around reduction of noise from the RC airplanes, preventing intrusion into the vernal pools while they are wet, education/training of model flyers, and enforcement of the permitting system. The fact of the matter is USFWS does not think the flying field is an incompatible use of Fairview Park, it is Staff that believe it is incompatible, and the question is why.

Meeting details below. Emails are attached.

Regards,
Mat Garcia
HSS President

2021-2023 USFWS Meeting Details:

1. December 14, 2021 – Kelly Dalton, Jason Minter, Christine Medak (USFWS)
 - a. Introduction to Kelly Dalton
 - b. USFWS provides July 24, 2014 formal letter from USFWS to City – Subject: Restoration, Management, and Protection of Vernal Pools within Fairview Park, City of Costa Mesa, Orange County, California
2. October 2022 – Kelly Dalton, Christine Medak (USFWS)
 - a. Meeting specifically to discuss model glider/flying activity in Fairview Park.
 - b. Kelly Dalton solicits written response from USFWS.
 - c. USFWS provides four attachments and 2019 Kim Hendricks' email response to Kelly Dalton prior to the meeting.
 - d. Email with four attachments:

From: [Medak, Christine](#)
To: [DALTON, KELLY M.](#)
Subject: Fw: [EXTERNAL] Fairview Park and Harbor Soaring Society Agreement
Date: Thursday, September 29, 2022 12:27:37 PM
Attachments: [August 2014 meeting with Harbor Soaring Society.pdf](#)
[121014 RE Runway Maintenance and General Site Clean up.pdf](#)
[121014 Harbor Soaring Society \(HSS\) - Runway Maintenance and General Site Clean up.pdf](#)
[Biologically-Sensitive Areas - HSS Maintenance.pdf](#)

Just want to make sure that this is the information you are referring to that was provided in 2019.

Christine L. Medak
Fish and Wildlife Biologist
U.S. Fish and Wildlife Service
2177 Salk Avenue, Suite 250
Carlsbad, CA 92008

I am currently working from home indefinitely. Please email me if you'd like to schedule a call or meeting.

<http://www.fws.gov/carlsbad/>

e. Attachment 1:

John Anderson <johnhanderson36@gmail.com>
To: "Medak, Christine" <christine_medak@fws.gov>
Cc: "henry.smith.3" <henry.smith.3@earthlink.net>

Mon, Aug 25, 2014 at

Thanks Christine,

In your well written memo, you have provided a thoughtful and balanced approach to peaceful coexistence! Speaking for myself, I'm sure that we fliers look forward to successfully working out the details with you as the process unfolds -

in a way that assures the preservation of the species and a mutually beneficial outcome.

Again thanks for your very professional and gracious leadership.

John A.

On Mon, Aug 25, 2014 at 5:06 PM, Medak, Christine <christine_medak@fws.gov> wrote:
John and Henry,

I appreciated the opportunity to meet you both last Friday and to discuss the concerns of the Harbor Soaring Society and its ongoing uses within Fairview Park. Based on our discussion, it is clear your group is aware of and has a respect for the sensitive environmental resources within the park. We acknowledge your efforts to protect these resources by posting signs around the large vernal pool and participating in trash collecting events on a regular basis. Here is a summary of the ideas we discussed to address your concerns regarding proposed fencing locations in our letter to the City of Costa Mesa dated July 24, 2014 and to minimize impacts to sensitive resources in Fairview Park :

- designing fencing at the end of the runway to accommodate continued operation of the winch turnaround and to minimize potential collisions with fencing (i.e., fence no more than about 3 feet with a removable section for winch operation)

- avoiding entering the vernal pools when the ground is wet (either not operating the winch during this period or determining if the winch can be operated without entering the wetted area).

- relocating the model helicopter use area to another location within the park where the need to enter vernal pool to retrieve the helicopter is minimized.

- defining the frequency and extent of maintenance required for continued Harbor Soaring Society uses (i.e., defining size, location, and maintenance requirements of the runway and winch system) for potential inclusion in the Fairview Park Masterplan. This will ensure a consistent footprint of disturbance over time.

- working with the City to include more specific requirements in the permits they issue to allow model plane operation within the park (e.g., a map of sensitive areas that need to be avoided when the ground is wet). We welcome the Harbor Soaring Society's assistance as we work with the City to develop appropriate permit conditions.

Another issue that we did not have an opportunity to discuss is the type of planes that should be allowed in the park. We have received complaints from concerned citizens about the noise generated by the planes and their potential to disturb birds and other wildlife within the park. I am hoping the Harbor Soaring Society can assist in my understanding of what types of planes may be the cause for concern and appropriate limitations based on the noise generated by certain models/classes of planes. We may also be able to define certain times of the year when use of louder planes will have less of an impact on wildlife (i.e., birds are more sensitive to disturbance during their breeding seasons (generally early spring and summer for most species)).

I look forward to our continued cooperation on the balance of human and wildlife uses within Fairview Park.

Christine L. Medak
Fish and Wildlife Biologist
U.S. Fish and Wildlife Service
2177 Salk Avenue, Suite 250
Carlsbad, CA 92008
Phone: (760) 431-9440 ext. 298

3. February 10, 2023 – Kelly Dalton, Christine Medak (USFWS), William Miller (USFWS)
 - a. Meeting specifically to discuss model glider/flying activity in Fairview Park.
 - b. Kelly Dalton again solicits written response from USFWS ahead of March 21, 2023 City Council Meeting.
 - c. USFWS forwards email chain from USFWS to City from May 2019.
4. March 28, 2023 – Kelly Dalton, Christine Medak (USFWS)
 - a. Meeting requested by Kelly Dalton following March 21, 2023 City Council Meeting.

b. Email:

From: DALTON, KELLY M. <KELLY.DALTON@costamesaca.gov>
Sent: Friday, March 24, 2023 10:01 AM
To: Medak, Christine <Christine_Medak@fws.gov>
Subject: [EXTERNAL] FVP discussion

This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.

Good morning Christine,

Do you have some time today for a call? We have had some concerted discussions on biological resources issues of concern at our recent city council meeting that we would welcome your input on.

Thanks,

Kelly Dalton
Fairview Park Administrator
Parks and Community Services Department
City of Costa Mesa
kelly.dalton@CostaMesaCA.gov
714-754-5135

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe. Report any suspicious activities to the Information Technology Department.

From: [DALTON, KELLY M.](#)
To: [Medak, Christine](#)
Subject: RE: [EXTERNAL] FVP discussion
Date: Monday, March 27, 2023 10:46:00 AM

Sorry my mistake, I read the first email too quickly. I've adjusted the meeting time to 9:30 to 10:30am tomorrow.

From: Medak, Christine <Christine_Medak@fws.gov>
Sent: Monday, March 27, 2023 10:42 AM
To: DALTON, KELLY M. <KELLY.DALTON@costamesaca.gov>
Subject: Re: [EXTERNAL] FVP discussion

sorry for the confusion. I am not available between 11 and 2 tomorrow.

Christine L. Medak
Fish and Wildlife Biologist
U.S. Fish and Wildlife Service
2177 Salk Avenue, Suite 250
Carlsbad, CA 92008
Office: 760-431-9440, ext 298
<http://www.fws.gov/carlsbad/>

Check out our annual report



"I'd like to offer a plug for actually having the natural processes instead of having to simulate them."
— Nadav Nur, PRBO Conservation Science

From: DALTON, KELLY M. <KELLY.DALTON@costamesaca.gov>
Sent: Monday, March 27, 2023 10:02 AM
To: Medak, Christine <Christine_Medak@fws.gov>
Subject: RE: [EXTERNAL] FVP discussion

Hi Chris,

I will send out a zoom invite for 11:00 – 12:00pm.

Thank you,

Kelly Dalton
Fairview Park Administrator
Parks and Community Services Department
City of Costa Mesa
kelly.dalton@CostaMesaCA.gov
714-754-5135

From: Medak, Christine <Christine_Medak@fws.gov>
Sent: Monday, March 27, 2023 9:25 AM
To: DALTON, KELLY M. <KELLY.DALTON@costamesaca.gov>
Subject: Re: [EXTERNAL] FVP discussion

Hi Kelly,

I am back in the office this week if you would like to set up a call. I am open tomorrow except 11-2

Christine L. Medak
Fish and Wildlife Biologist
U.S. Fish and Wildlife Service
2177 Salk Avenue, Suite 250
Carlsbad, CA 92008
Office: 760-431-9440, ext 298
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"I'd like to offer a plug for actually having the natural processes instead of having to simulate them."

— Nadav Nur, PRBO Conservation Science

From: DALTON, KELLY M. <KELLY.DALTON@costamesaca.gov>
Sent: Friday, March 24, 2023 10:01 AM
To: Medak, Christine <Christine_Medak@fws.gov>
Subject: [EXTERNAL] FVP discussion

This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.

Good morning Christine,

Do you have some time today for a call? We have had some concerted discussions on biological resources issues of concern at our recent city council meeting that we would welcome your input on.

Thanks,

Kelly Dalton
Fairview Park Administrator
Parks and Community Services Department
City of Costa Mesa
kelly.dalton@CostaMesaCA.gov
714-754-5135

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From: [DALTON, KELLY M.](#)
To: [Medak, Christine](#)
Subject: FVP discussion
Date: Friday, March 24, 2023 10:01:00 AM

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Thanks,

Kelly Dalton
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Parks and Community Services Department
City of Costa Mesa
kelly.dalton@CostaMesaCA.gov
714-754-5135

From: [Medak, Christine](#)
To: [DALTON, KELLY M.](#)
Cc: [Miller, William B.](#)
Subject: Re: [EXTERNAL] Review of model flying at Fairview Park
Date: Tuesday, February 7, 2023 9:16:19 AM

Kelly,

I received requests for several meetings this morning that have not yet been set. Tentatively, I am available:

2/8 - 9 am - 3 pm

2/9 - anytime except 11-12

2/10 - 2 pm - 5 pm

I will let you know if I have any additional conflicts.

Christine L. Medak
Fish and Wildlife Biologist
U.S. Fish and Wildlife Service
2177 Salk Avenue, Suite 250
Carlsbad, CA 92008
Office: 760-431-9440, ext 298
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From: DALTON, KELLY M. <KELLY.DALTON@costamesaca.gov>
Sent: Tuesday, February 7, 2023 8:31 AM
To: Medak, Christine <Christine_Medak@fws.gov>; Miller, William B. <william_b_miller@fws.gov>
Subject: [EXTERNAL] Review of model flying at Fairview Park

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Good morning Chris and Will,

As you may recall, during a period from 2019 through 2021, the City of Costa Mesa worked with various stakeholders and members of the public to evaluate the model flying use agreement, the individual flyer permit system, and the flying activity in Fairview Park. During this time, former City staff worked with the community to conduct a series of meetings and discussions on the model flying activity, and consider issues and concerns related to compatibility with the site's various protected and sensitive resources and habitats. Just prior to the retirement of the former Fairview Park Administrator, in September 2021, staff presented this item before City Council to solicit direction on the fate of the activity and consider alternatives including closure, relocation, or keep in place; however no staff recommendation was provided at the time. At the conclusion of the meeting, City council's directions included 1) allow gliders only going forward (i.e. no motorized planes), 2) evaluate other sites outside of the existing flight field area, and 3) examine the flying activity during the master plan update when a more formal review of activities would be performed, and recognized in an updated Master Plan.

Since that time, staff have worked on revising applicable documents including flying policies, ordinances, and the flyer permit system to account for the updated direction of city council. In addition, staff has spent considerable time reviewing communication and letters that the City has received over time, some of which have been issued over time from the Service and concerned stakeholders regarding public uses in Fairview Park, in the context of the park's unique biological resources and sensitive habitats.

As we have gone through this information, it has come to light that a dedicated meeting would be beneficial to discuss these issues and obtain input from the Service. Based on a comprehensive review of the information City staff has synthesized, staff and the Fairview Park Steering Committee's current conclusion is that allowing any flying activity in the previous location on the mesa (shown in HSS's LOA) is generally incompatible with the City's resource preservation objectives and environmental stewardship obligations at Fairview Park. Some of the concerns with protected features, such as the vernal pools, CSS, and listed species, have been recommended to the City by the Service over time, though not all of these communications were specific to model flying. In addition to concerns about flight and pedestrian activity over and near the vernal pools, coastal sage scrub habitats, previous mitigation/restoration sites, there are also many concerns with impacts to the diverse array of birds species which utilize the park and the mesa as important foraging habitat. Public perception, enforcement, trail formation, and surface degradation are also issues which surround this activity.

However, despite the extensive list of environmental concerns that staff and the Committee has reviewed and brought forward, the model flying community has been pressing City officials to immediately re-open flying to gliders in the same area that was used historically. HSS (Harbor Soaring Society) insists that City staff are over-restricting the activity on our own accord, and HSS dismisses our interpretation of past correspondence with the Service and other concerned parties about environmental impacts relating to the activity. In March, we are tentatively scheduled to

return to City Council where we intend to present these issues and offer a clear recommendation with how to proceed.

Do you have time for a 1-hour zoom meeting this week or early next week to discuss this issue? If you can provide a couple available times, we can set up a call to discuss. If we find that a field meeting is needed, that can also be arranged. I appreciate your guidance and input in advance.

Sincerely,

Kelly Dalton
Fairview Park Administrator
Parks and Community Services Department
City of Costa Mesa
kelly.dalton@CostaMesaCA.gov
714-754-5135

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From: [Medak, Christine](#)
To: [DALTON, KELLY M.](#)
Subject: Fw: [EXTERNAL] RE: Renewing permit for model plane operation in Fairview Park
Date: Friday, February 10, 2023 2:01:49 PM
Attachments: [image001.png](#)

Christine L. Medak
Fish and Wildlife Biologist
U.S. Fish and Wildlife Service
2177 Salk Avenue, Suite 250
Carlsbad, CA 92008
Office: 760-431-9440, ext 298
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"I'd like to offer a plug for actually having the natural processes instead of having to simulate them."
— Nadav Nur, PRBO Conservation Science

From: Medak, Christine <Christine_Medak@fws.gov>
Sent: Thursday, May 16, 2019 8:46 AM
To: Brian Burnett <post.honigtopf@gmail.com>
Subject: Fwd: [EXTERNAL] RE: Renewing permit for model plane operation in Fairview Park

Christine L. Medak
Fish and Wildlife Biologist
U.S. Fish and Wildlife Service
2177 Salk Avenue, Suite 250
Carlsbad, CA 92008
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— Nadav Nur, PRBO Conservation Science

----- Forwarded message -----

From: **Medak, Christine** <christine_medak@fws.gov>

Date: Wed, May 15, 2019 at 2:45 PM

Subject: Re: [EXTERNAL] RE: Renewing permit for model plane operation in Fairview Park

To: D'AGOSTA, CYNTHIA <CYNTHIA.DAGOSTA@costamesaca.gov>

Thanks Cynthia,

Consistent with other ongoing impacts to the park since 2007, it appears the use of electronic planes is a recent development that has become progressively more destructive as the number of planes has increased and the size of the area of disturbance associated with the runway has increased in recent years. We encourage the City to take responsibility for identifying the limits of disturbance that you are permitting to occur and to provide sufficient enforcement to prevent continued unauthorized access into the vernal pools.

Christine L. Medak
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— Nadav Nur, PRBO Conservation Science

On Wed, May 15, 2019 at 2:23 PM D'AGOSTA, CYNTHIA

<CYNTHIA.DAGOSTA@costamesaca.gov> wrote:

Chris, See my replies below in your email for direct responses. Some other thoughts:

I just finished both the staff report and the agreement not even an hour ago. They do not go public until Friday. Would you like me to email them to you at that time?

The process is this:

1. The FVP Steering Committee reviewed and made rec'd to Commission & Council in April, to: 1. Approve new agreement 2. Study the use over the next year (for term of the new agreement).

2. The Parks Commission will review & make rec'd to Council next Thursday night.
3. The Council will hear and make determination at June 18th Council meeting.

The City has over 300 registered permits for flyers at the FVP field. Around 50 of those permittees are HSS members; others are not members. Per this agreement, HSS maintains the field. If there is no HSS, the City cannot run/monitor the field and all 300+ permits will be refunded this year; the field will be closed.

If Council ok's the one-year agreement, we will study the use, it's impacts, compatibility, legal aspects, etc. and revisit next year this time with stats in hand.

In my opinion, much like FFry, the City is pacing the review and removal of the uses; trying to balance citizen requests.

Hope this helps!

Cynthia D'Agosta, Fairview Park Administrator
City of Costa Mesa
77 Fair Drive
Costa Mesa, CA 92628
Office: (714) 754-5135



From: Medak, Christine [mailto:christine_medak@fws.gov]

Sent: Wednesday, May 15, 2019 1:40 PM

To: D'AGOSTA, CYNTHIA <CYNTHIA.DAGOSTA@costamesaca.gov>

Subject: Re: [EXTERNAL] RE: Renewing permit for model plane operation in Fairview Park

Cynthia,

It is my understanding that only gliders are allowed at this time (this is the only use mentioned in the Master Plan) but powered planes are being used extensively (approved by use agreement and permits since 2007 that I can see).

Can you please clarify if the new agreement will specify that powered planes will now be allowed in the park?

Both the [current \(2014-2019\)](#) and [new \(2019-2020\)](#) agreements define "model aircraft" as: As used in this AGREEMENT, the term "model aircraft" means all forms of radio controlled gliders, electric motor gliders, and [electric powered model airplanes and electric helicopters](#), but does NOT include internal combustion engine powered aircraft, rockets, and aircraft exceeding the AMA weight limit of 10 pounds. No person shall be permitted to fly an internal combustion engine powered aircraft or rocket at Fairview Park. All model aircraft must comply with all applicable provisions of the AMA Safety Code and all other applicable AMA specifications and safety codes and as defined as a model aircraft by the

Federal Aviation Administration (FAA).

Does the City plan to monitor the impacts to biological resources associated with ongoing (previously unauthorized) uses during the one year permit renewal period? The year study is to do exactly that 'study all impacts and benefits' of the use. The Steering Committee came up with a list of things to review; we will include your rec'd list in what we study. I began an increased monitoring and survey program of the use this year, and will include that information as well.

Christine L. Medak
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— Nadav Nur, PRBO Conservation Science

On Wed, May 15, 2019 at 11:12 AM D'AGOSTA, CYNTHIA
<CYNTHIA.DAGOSTA@costamesaca.gov> wrote:

Christine,

Thanks for the comments, they will be forwarded to the officials currently considering a one year agreement with the Harbor Soaring Society (July 1, 2019 to June 30, 2020). The action under consideration is not exactly how / what you describe, and is a bit more involved.

Quickly, staff recommendations are: 1). that the City Council approve the new updated use agreement with the HSS for one year, and 2). that a one-year evaluation of the value of the partnership between HSS and the City, and the compatibility of all flying activity with the Master Plan and Measure AA be conducted within the next year.

I am available to discuss via phone call if you'd like.

Again, thanks for taking the time to provide your recommendations which will be considered.

Cynthia D'Agosta, Fairview Park Administrator
City of Costa Mesa
77 Fair Drive
Costa Mesa, CA 92628

Office: (714) 754-5135



From: Medak, Christine [mailto:christine_medak@fws.gov]
Sent: Wednesday, May 15, 2019 9:44 AM
To: D'AGOSTA, CYNTHIA <CYNTHIA.DAGOSTA@costamesaca.gov>
Subject: Renewing permit for model plane operation in Fairview Park

Hi Cynthia,

It is my understanding that the City will soon be considering whether to reauthorize use of gliders in Fairview Park and consider whether use of powered planes should be added to the permit. Here are a couple of quick thoughts on the compatibility of planes with biological resources in the park and our recommendations for the permit renewal for your consideration.

Impacts to biological resources occur as a result of high noise levels, which may disrupt foraging and nesting behaviors to the point that birds abandon the park (depending on the frequency and extent of noise). In addition, grading/vegetation clearing associated with the runway contributes to the spread of invasive plant species that have taken over the park. There does not appear to be a clearly delineated area of disturbance and it is growing in size over time. Planes have the potential to land in the vernal pools and then are retrieved by the operators. Currently this can and does occur year round, regardless of season. Retrieving planes from pools occupied by listed fairy shrimp during the wet season has the potential to impact the fairy shrimp directly and/or degrade the habitat by altering the hydrology/water quality within the pool.

To minimize the potential for degradation of biological resources in the park, we recommend you consider the following conditions to be included in the permit renewal:

- 1) Limit planes to gliders only to limit noise-related disturbance
- 2) Require a permit to fly planes in the park that needs to be clearly displayed on the operator (e.g., like a fishing license).
- 3) Require the permit holder to be trained on the rules of operating planes in the park, including the distribution of sensitive species and enforcement actions that will be taken if rules are not followed.
- 4) Clearly identify the limits of disturbance that are required to operate gliders in the park (i.e., staging and launching areas) and ensure vegetation clearing and maintenance are limited to these areas.
- 5) Limit operation of gliders and the launching winch to periods when the soil is dry to the

touch to prevent impacts to vernal pools associated with glider operation.

6) Direct City staff to enforce the permit conditions on a daily basis (as part of regular park operations) to ensure that only permitted individuals are operating planes and that they are following the permit conditions. Issue enforcement tickets for individuals that a) do not have a permit, b) do not have a permit clearly displaced on their clothing, or c) are operating planes when the soil is wet.

We appreciate your consideration of our recommendations. Please let me know if you have any questions regarding this message.

Christine L. Medak
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From: [DALTON, KELLY M.](#)
To: [Medak, Christine](#)
Cc: [Miller, William B.](#)
Subject: RE: [EXTERNAL] Review of model flying at Fairview Park
Date: Tuesday, February 7, 2023 9:27:00 AM

We will send out a zoom invite for 2/10 from 2pm-3pm. Thanks for the quick response.

From: Medak, Christine <Christine_Medak@fws.gov>
Sent: Tuesday, February 7, 2023 9:16 AM
To: DALTON, KELLY M. <KELLY.DALTON@costamesaca.gov>
Cc: Miller, William B. <william_b_miller@fws.gov>
Subject: Re: [EXTERNAL] Review of model flying at Fairview Park

Kelly,

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From: DALTON, KELLY M. <KELLY.DALTON@costamesaca.gov>

Sent: Tuesday, February 7, 2023 8:31 AM

To: Medak, Christine <Christine_Medak@fws.gov>; Miller, William B. <william_b_miller@fws.gov>

Subject: [EXTERNAL] Review of model flying at Fairview Park

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Good morning Chris and Will,

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surround this activity.

However, despite the extensive list of environmental concerns that staff and the Committee has reviewed and brought forward, the model flying community has been pressing City officials to immediately re-open flying to gliders in the same area that was used historically. HSS (Harbor Soaring Society) insists that City staff are over-restricting the activity on our own accord, and HSS dismisses our interpretation of past correspondence with the Service and other concerned parties about environmental impacts relating to the activity. In March, we are tentatively scheduled to return to City Council where we intend to present these issues and offer a clear recommendation with how to proceed.

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Sincerely,

Kelly Dalton
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kelly.dalton@CostaMesaCA.gov
714-754-5135

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From: [Medak, Christine](#)
To: [DALTON, KELLY M.](#)
Subject: Re: [EXTERNAL] Vernal Pools 5,6,7 in Fairview Park
Date: Thursday, September 29, 2022 12:26:42 PM

Kelly,

I would be happy to meet with you and share the Service's concerns regarding use of the model flyers in the park. I will also separately resend information provided to Cynthia D'Agosta in 2019. Please let me know if this is the information you are referring to in your message.

Christine L. Medak
Fish and Wildlife Biologist
U.S. Fish and Wildlife Service
2177 Salk Avenue, Suite 250
Carlsbad, CA 92008

I am currently working from home indefinitely. Please email me if you'd like to schedule a call or meeting.

<http://www.fws.gov/carlsbad/>

Carlsbad Fish and Wildlife Office 2021 Highlights:
<https://fws.maps.arcgis.com/apps/Cascade/index.html?appid=0347e0e3c4e946ad839cf23f5b2df87a>

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From: DALTON, KELLY M. <KELLY.DALTON@costamesaca.gov>
Sent: Thursday, September 29, 2022 11:24 AM
To: Medak, Christine <Christine_Medak@fws.gov>
Subject: RE: [EXTERNAL] Vernal Pools 5,6,7 in Fairview Park

Good morning Christine,

Apologies for the delayed response, and I also am not exactly following Ms. Hendrick's thoughts and comments. Admittedly these kinds of messages and occasionally long-winded assertions are something I receive fairly regularly about various Fairview Park issues. Despite staff's tireless efforts to keep up with all concerns raised, including those below, many of the claims made by Ms. Hendricks pertain to items or actions allegedly taken many years ago and without any clear evidence or indication of her intent or any solution to addressing them. I can say that any actions we have taken over the recent months and years and since this Restoration Plan was in place have been closely monitored and overseen by our contracted biologists at Glenn Lukos Associates. I am committed to advancing the vernal pools restoration project and other restoration activities in the park for the benefit of Fairview Park's unique wildlife, rare ecological value, and future preservation,

and we certainly hope to address past mistakes. I continue to communicate regularly with Ms. Hendricks about all of our efforts and shared objectives in preserving Fairview Park, but occasionally find that her approach can be unproductive and accusatory rather than solutions-oriented.

On another note, sometime in the coming months, staff will be seeking City Council's direction to potentially determine the fate of the model glider/flying activity in the park. As it currently stands, the Fairview Park Steering Committee has discussed this extensively and made a strong recommendation to not resume the operation of any model flyers at the park, as staff (myself and prior FP Administrator) have brought forth several concerns about the operation of RC flyers/gliders and its incompatibility with the environmental constraints in the park (e.g. winch launch & proximity to vernal pools, rare plants and foot disturbance, raptor activity & disturbance, endangered species act, CSS habitat impacts, etc.). However, although environmental, legal and regulatory issues are a core concern, we have relatively little written information from the resource agencies aside from a couple email exchanges in 2019 when the activity was being reviewed during an HSS agreement renewal. HSS claims that their activities have not been specifically identified as cause for concern in writing from USFWS, and they feel that the legal/regulatory concerns we repeatedly raise are projections of City staff, and misrepresented.

I would welcome a meeting to hear your perspective on the issue, either in-person or zoom, and we can go over some of the various issues that have been discussed regarding the model flying activity.

Thanks,

Kelly Dalton
Fairview Park Administrator
Parks and Community Services Department
City of Costa Mesa
kelly.dalton@CostaMesaCA.gov
714-754-5135

From: Medak, Christine <Christine_Medak@fws.gov>
Sent: Monday, August 22, 2022 11:05 AM
To: DALTON, KELLY M. <KELLY.DALTON@costamesaca.gov>
Subject: Fw: [EXTERNAL] Vernal Pools 5,6,7 in Fairview Park

Kelly,

I admit that I am having a hard time following the concerns outlined in the email but it sounds like the concerns extend beyond just the placement of the HSS storage bin. Let me know if you are able to resolve the issues with her directly (relative to the expectations in the restoration plan) or if it would be helpful for me to come out and take a look at the site with you.

Christine L. Medak
Fish and Wildlife Biologist
U.S. Fish and Wildlife Service

2177 Salk Avenue, Suite 250
Carlsbad, CA 92008

I am currently working from home indefinitely. Please email me if you'd like to schedule a call or meeting.

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<https://fws.maps.arcgis.com/apps/Cascade/index.html?appid=0347e0e3c4e946ad839cf23f5b2df87a>

"I'd like to offer a plug for actually having the natural processes instead of having to simulate them."

— Nadav Nur, PRBO Conservation Science

From: Kim Hendricks <kimhendricks26@gmail.com>

Sent: Monday, August 1, 2022 9:37 PM

To: Medak, Christine <Christine_Medak@fws.gov>

Cc: Wendy Leece <leecefam@sbcglobal.net>; Debby Koken <deborah.koken@gmail.com>; Jason Komala <komala4costamesa@gmail.com>; MINTER, JASON <JASON.MINTER@costamesaca.gov>; DALTON, KELLY M. <kelly.dalton@costamesaca.gov>

Subject: Re: [EXTERNAL] Vernal Pools 5,6,7 in Fairview Park

Hi Christine,

Thank you for your email and I apologize for not explaining why I sent you the pictures too. I wasn't looking for your confirmation that the conceptual design map was included in the Glenn Lukos restoration plan. I have the plan. I sent them to you so you could also see *the difference* between the aerial photo maps and the conceptual design map. I used the Glenn Lukos conceptual design map from a Zoom meeting Fairview Park Alliance (FPA), of which I am a board member, had with the City of Costa Mesa's parks and rec. Director, Jason Minter, and Fairview Park Administrator, Kelly Dalton, because their copy had color and looked better than the black and white copy I had. (see attached) I apologize for not making it clear to you as to why I sent the aerial photos of vernal pools 5,6, & 7, as well as the conceptual design from Glenn Lukos & Assoc. 'Fairview Park Vernal Pool Restoration And Long Term Maintenance Plan for Vernal Pools 5 and 6, and the Associated Watershed Areas Within The Jurisdiction Of The United States Fish and Wildlife Service Pursuant to the Endangered Species Act'.

What is the conceptual design map in the Glenn Lukos Restoration Plan supposed to show? Does it show what *should* be there? Or, does it show what is *currently there*? Does it show the Historic Feature 7 or the newly made Feature 7? Does it show the watershed areas? The aerial photos show much more detailed information of the vernal pools; one can see the gray darker areas extend far beyond which the conceptual map shows.

During the Zoom meeting that FPA had with Mr. Minter and Mr. Dalton, I asked them if the Harbor Soaring Society's (HSS) storage bin and cemented posts would be removed from the watershed area of vernal pool 6 and 7. I was told they weren't in the watershed area and the conceptual design map in the Glenn Lukos Restoration Plan allowed for them. I asked them if they would like to see other earlier maps of aerial photos showing the actual darkened and

gray areas described by vernal pool experts that looked at them, as potential vernal pool and watershed areas. They said they would like to see them. That is why I sent them and bcc'd you, so you could see them too and be reminded of what was there and potentially is there now. I haven't heard from them regarding this.

The HSS storage bin was placed there by the city, without doing an EIR or following CEQA, and unbeknownst to USFW. HSS kept their mowers, gasoline, and other equipment in it. I understand you believe the storage bin may be on higher ground, if the storage bin is on higher ground, it would impact the hydrology to the watershed areas and this does affect the area. Any glider storage was to be near the restrooms as called out in the Fairview Park Master Plan (FPMP). (pg. 33, see attached)

The cemented posts that are next to the HSS storage bin were a 'mishap' by the City in 2018. Former Fairview Park Administrator, Cynthia D'Agosta, asked FPA to call it a 'mishap' and not talk about it publicly. FPA complied. I don't even know if you or anyone else at USFW were aware of the 'mishap' fencing since Cynthia also asked FPA when she was first hired to please bring all our concerns and suggestions to her and to not contact USFW first, but to give her a chance. FPA was happy to comply with that as well. When the city had to remove all the cemented posts, they left the ones next to the bin. FPA was told the cemented posts would be removed along with the storage bin when restoration on the vernal pools 5,6, & 7 began. This has not happened. This fenced off area has become a place for dogs and homeless people to defecate and leave trash. (see photos) There is some fascicled tarplant in this area trying to survive. There was no biologist monitoring the placement of these cemented posts.

There is green fencing that is to the west of vernal pool 7 that runs next to the asphalt trail too. According to the Glenn Lukos Restoration Plan, any installation of fencing would be monitored by a qualified biologist. (see attached pg. 9). This didn't happen with the cemented posts nor with the green poles. In fact, the city employee that installed the green poles was using a conceptual design map to install them, did not know exactly where the poles should go according to the map. As you can see from the photos, the green poles go a lot further into the vernal pool area (22-50 feet) and even cut off some of the watershed for Historic Feature 7. (see attached photos).

FPA understands that the Parks and Rec. Director and Fairview Park Administrator, are somewhat new to their positions and FPA doesn't want to inundate them with past mistakes. Trying to do their best with understanding and complying with all State and Federal laws can be hard, but the mistakes need to be corrected. Correcting the mistakes is part of moving forward because it is part of caring and protecting the natural resources, which the City said it would do many times. FPA hopes the City welcomes information that would help them provide as much protection as possible to these unique and rare ecosystems called vernal pools, and give the vernal pools and their watersheds every opportunity possible for them to be successfully restored.

Thank you,
Kim Hendricks

[BW copy of conceptual desi](#)

[dog feces on vernal pool are](#)

[fencing and bin](#)

[fencing and tras](#)

[fencing holes of](#) [till exi](#)

[FPMP pg. 33.jpg](#)

[Glenn Lukos restoration plan pg.9.jpg](#)

[green fencing at end of Canyon Ave..jpg](#)

[fascicled tarplant trying to survive in fo](#)

[forgotton zone next to k](#)

[mechanized equipment](#)

[more dog feces on vern](#)

[mowing vernal area.jp](#)

[multiple mishap fenci](#)

On Tue, Jul 26, 2022 at 2:45 PM Medak, Christine <Christine_Medak@fws.gov> wrote:

Hi Kim,

[new vernal pool 7 ma](#)

[new vernal pool 7.jpg](#)

I can confirm that the figure provided is from the from the final restoration plan that we approved. I believe the area of concern (storage shed) is on higher ground and is not expected to be inundated.

Christine L. Medak
Fish and Wildlife Biologist
U.S. Fish and Wildlife Service
2177 Salk Avenue, Suite 250
Carlsbad, CA 92008

I am currently working from home indefinitely. Please email me if you'd like to schedule a call or meeting.

<http://www.fws.gov/carlsbad/>

Carlsbad Fish and Wildlife Office 2021 Highlights:
<https://fws.maps.arcgis.com/apps/Cascade/index.html?appid=0347e0e3c4e946ad839cf23f5b2df87a>

"I'd like to offer a plug for actually having the natural processes instead of having to simulate them."

— Nadav Nur, PRBO Conservation Science

From: Kim Hendricks <kimhendricks26@gmail.com>

Sent: Thursday, July 21, 2022 1:34 PM

To: MINTER, JASON <JASON.MINTER@costamesaca.gov>; DALTON, KELLY M. <kelly.dalton@costamesaca.gov>

Cc: Wendy Leece <leecefam@sbcglobal.net>; Debby Koken <deborah.koken@gmail.com>; Jason Komala <komala4costamesa@gmail.com>

Subject: [EXTERNAL] Vernal Pools 5,6,7 in Fairview Park

This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.

Attached are a couple more photos and the depiction of the vernal pools drawn in. I hope the city wants to give the vernal pools full opportunity and proper representation.

Sincerely,
Kim Hendricks

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From: [DALTON, KELLY M.](#)
To: [Medak, Christine](#)
Subject: RE: [EXTERNAL] Fairview Park and Harbor Soaring Society Agreement
Date: Monday, October 3, 2022 9:48:34 AM

Hi Christine,

We can start with a virtual meeting for now for efficiency.

Kelly Dalton
Fairview Park Administrator
Parks and Community Services Department
City of Costa Mesa
kelly.dalton@CostaMesaCA.gov
714-754-5135

From: Medak, Christine <Christine_Medak@fws.gov>
Sent: Friday, September 30, 2022 10:34 AM
To: DALTON, KELLY M. <KELLY.DALTON@costamesaca.gov>
Subject: Re: [EXTERNAL] Fairview Park and Harbor Soaring Society Agreement

Kelly,

Do you think this requires an in-person meeting or can we set up a virtual meeting (for efficiency)?

Christine L. Medak
Fish and Wildlife Biologist
U.S. Fish and Wildlife Service
2177 Salk Avenue, Suite 250
Carlsbad, CA 92008

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"I'd like to offer a plug for actually having the natural processes instead of having to simulate them."
— Nadav Nur, PRBO Conservation Science

From: DALTON, KELLY M. <KELLY.DALTON@costamesaca.gov>
Sent: Thursday, September 29, 2022 5:01 PM
To: Medak, Christine <Christine_Medak@fws.gov>

Subject: RE: [EXTERNAL] Fairview Park and Harbor Soaring Society Agreement

Hi Christine,

Yes, I actually hadn't seen all of the documents you included, just some of them, so thank you for sending these. It would be great to go over these and other issues that have been discussed at length.

If you have a couple dates in mind that you are available to make the trip up to Fairview Park, I'll confirm availability.

Thank you,

Kelly Dalton
Fairview Park Administrator
Parks and Community Services Department
City of Costa Mesa
kelly.dalton@CostaMesaCA.gov
714-754-5135

From: Medak, Christine <Christine_Medak@fws.gov>

Sent: Thursday, September 29, 2022 12:27 PM

To: DALTON, KELLY M. <KELLY.DALTON@costamesaca.gov>

Subject: Fw: [EXTERNAL] Fairview Park and Harbor Soaring Society Agreement

Just want to make sure that this is the information you are referring to that was provided in 2019.

Christine L. Medak
Fish and Wildlife Biologist
U.S. Fish and Wildlife Service
2177 Salk Avenue, Suite 250
Carlsbad, CA 92008

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"I'd like to offer a plug for actually having the natural processes instead of having to simulate them."
— Nadav Nur, PRBO Conservation Science

From: Medak, Christine <Christine_Medak@fws.gov>
Sent: Wednesday, June 26, 2019 4:12 PM
To: Ian Hendricks <hendricksia@sbcglobal.net>
Cc: D'AGOSTA, CYNTHIA <CYNTHIA.DAGOSTA@costamesaca.gov>; edtail1@cox.net
<edtail1@cox.net>; Snyder, Jonathan <Jonathan_d_Snyder@fws.gov>
Subject: Re: [EXTERNAL] Fairview Park and Harbor Soaring Society Agreement

Hi Kim,

Unfortunately by the time I received the information from the City about the permit (one week before the meeting), I had too many other projects on my plate to be able to complete a detailed review of the ordinances for the USFWS; however, I did talk directly to Cynthia D'Agosta and Scott Thomas (Sea and Sage Audubon) before the meeting and shared the following concerns/recommendations verbally with them:

- 1) Because the City is issuing permits to allow the operation of model planes within the park they will also be responsible should take of Federally listed species occur in association with these activities. For example, if the planes cause disturbance to nesting gnatcatchers in a manner that results in abandonment of an active nest then we would consider this a potential violation of Section 9 of the Endangered Species Act that can be referred to our Law Enforcement Division. It was my understanding that the permits would explicitly limit planes from flying over the canyon area where the gnatcatcher was most recently found nesting, but I do not see this stated in the permit. It is not clear how the permit holders will know which resources they need to avoid because only a portion of the park is shown on the figure that I was provided by the City and it does not properly show the hydrological connection between vernal pools 1 and 4.
- 2) We recommended that the City provide sufficient policing to ensure the permit conditions are followed. We also recommended that the permit holders clearly display the permits (i.e., like a fishing license) so that the City can ensure only permitted individuals, that are aware of the locations of sensitive resources, are allowed to fly model planes in the park.
- 3) Although we do not know the exact limit of noise that can be tolerated by various bird species, we do know that loud noises cause disturbance to birds. We recommended that the City discuss with the Harbor Soaring Society the best method for determining which planes should be limited up front (e.g., limit planes to those that emit less than x decibels). It is our understanding that the City plans to conduct a study of the behavior of birds in response to various types of planes and we asked for an opportunity to review the proposed study. We remain concerned that it will be difficult to evaluate the disturbances and determine which planes are appropriate on a quantitative basis, unless a study is also conducted of the behavior of birds when no planes are flying.
- 4) We pointed out that while the ordinance is silent on the presence of sensitive resources in the park. We recommended that the ordinance acknowledge the presence of sensitive resources and clarify the need to avoid flying over or landing in sensitive resource areas (e.g., vernal pools, coastal sage scrub, wetlands/riparian vegetation).
- 5) We recommended that the specific area allowed for launching planes is designated on a map and that disturbance is limited to the minimum area necessary to launch the permitted planes. This area should not be within wetland habitat (i.e., both because it is difficult to use a

launch pad full of water and because of the impacts to aquatic resources) and should provide the maximum buffer possible from the basin of Vernal Pool 1. I am not familiar with the amount of area that is needed so I cannot speak to a particular size. Please see the attached figure for the previous area that we approved to be cleared by the Harbor Soaring Society.

6) In the past we have discussed with both the Harbor Soaring Society and the City that it is important to stay out of the vernal pools when they are wet due to the potential for trampling listed species and the alteration of hydrology that occurs when walking on wet ground (see attached email correspondence). For this reason, we specifically requested that the Soaring Society not have access to the winch (which is located within vernal pool 1) during the wet season. We discussed fencing this area off and only allowing access during the dry period of the year. I do not see any mention of this in the permit language.

While impacts to biological resources continue as a result of both authorized and unauthorized activities within Fairview park, we would be hesitant to go down the path of developing a Habitat Conservation Plan and providing an incidental take permit to the City, as suggested by Sea and Sage. The City has accepted mitigation and grant funding to restore habitats in the park for the benefit of Federally Listed Species. Mitigation was provided in the park to offset impacts to resources that occurred somewhere else. It would not be appropriate to then permit uses that are expected to degrade those mitigation sites within the park.

We agree that the actions of the City do not align with the Master Plan; however, our plan is to continue to coordinate with the City to improve the condition of park resources. It is our understanding that vernal pools 5 and 6 will be restored this year. We are hopeful that the public perception of the park will change as conditions of resources improve and as the public is educated about the rarity of the resources in the park (e.g., through educational signs and nature tours).

Please feel free to call if you have any questions regarding this message.

Christine L. Medak
Fish and Wildlife Biologist
U.S. Fish and Wildlife Service
2177 Salk Avenue, Suite 250
Carlsbad, CA 92008
Phone: (760) 431-9440 ext. 298
Fax: (760) 431-9624
<http://www.fws.gov/carlsbad/>

Follow us on Facebook at <http://facebook.com/USFWSPacificSouthwest>

Follow us on Twitter at <http://twitter.com/USFWSPacSWest>

"I'd like to offer a plug for actually having the natural processes instead of having to simulate them."

— Nadav Nur, PRBO Conservation Science

On Wed, Jun 26, 2019 at 12:01 PM Ian Hendricks <hendrickskia@sbcglobal.net> wrote:

Hi Christine,

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One thing that came up last night was that USFW had not given any official response regarding the agreement. A city council member asked the Fairview Park Administrator if USFW had given an official response regarding the agreement and the answer was, "No". Is this true? If so, why not?

Have you seen that the runway was graded next to a vernal pool (250 feet according to city measurements last night). It has been graded multiple times since 2005. I sent you the pictures but can send them again if you'd like.

Also, did you know that the runway isn't even supposed to be where it currently is? The Fairview Park Master Plan (FPMP) indicates the Silent Glider Land/Launch site to be next to the bathrooms near the lawn. It isn't. Doesn't the FPMP still hold some meaning for USFW? It doesn't seem to have that much importance with the city, in fact, they completely ignored the location being wrong last night. I did bring it up. The FP Administrator said she had been talking with USFW but nothing official - she didn't say that it wasn't even liked by USFW. Is it okay to keep flying, taking off and landing next to the vernal pools. Also, next to vernal pool 7 more space has been graded as well as a result of where they took out the wrongly placed cement posts from last year.

Please tell me what USFW thinks - it was presented like it was no big deal and USFW is talking with the administrator and everything is okay. It doesn't look okay out there.

Thank you,
Kim Hendricks

You can watch that part of the city council meeting on YouTube if you'd like to hear what was said by the FP Administrator.

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From: [DALTON, KELLY M.](#)
To: [Medak, Christine](#)
Subject: RE: [EXTERNAL] Fairview Park and Harbor Soaring Society Agreement
Date: Thursday, September 29, 2022 5:01:52 PM

Hi Christine,

Yes, I actually hadn't seen all of the documents you included, just some of them, so thank you for sending these. It would be great to go over these and other issues that have been discussed at length.

If you have a couple dates in mind that you are available to make the trip up to Fairview Park, I'll confirm availability.

Thank you,

Kelly Dalton
Fairview Park Administrator
Parks and Community Services Department
City of Costa Mesa
kelly.dalton@CostaMesaCA.gov
714-754-5135

From: Medak, Christine <Christine_Medak@fws.gov>
Sent: Thursday, September 29, 2022 12:27 PM
To: DALTON, KELLY M. <KELLY.DALTON@costamesaca.gov>
Subject: Fw: [EXTERNAL] Fairview Park and Harbor Soaring Society Agreement

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Fish and Wildlife Biologist
U.S. Fish and Wildlife Service
2177 Salk Avenue, Suite 250
Carlsbad, CA 92008

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"I'd like to offer a plug for actually having the natural processes instead of having to simulate them."

From: Medak, Christine <Christine_Medak@fws.gov>
Sent: Wednesday, June 26, 2019 4:12 PM
To: Ian Hendricks <hendricksia@sbcglobal.net>
Cc: D'AGOSTA, CYNTHIA <CYNTHIA.DAGOSTA@costamesaca.gov>; edtail1@cox.net <edtail1@cox.net>; Snyder, Jonathan <Jonathan_d_Snyder@fws.gov>
Subject: Re: [EXTERNAL] Fairview Park and Harbor Soaring Society Agreement

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Christine L. Medak
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U.S. Fish and Wildlife Service
2177 Salk Avenue, Suite 250
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"I'd like to offer a plug for actually having the natural processes instead of having to simulate them."

— Nadav Nur, PRBO Conservation Science

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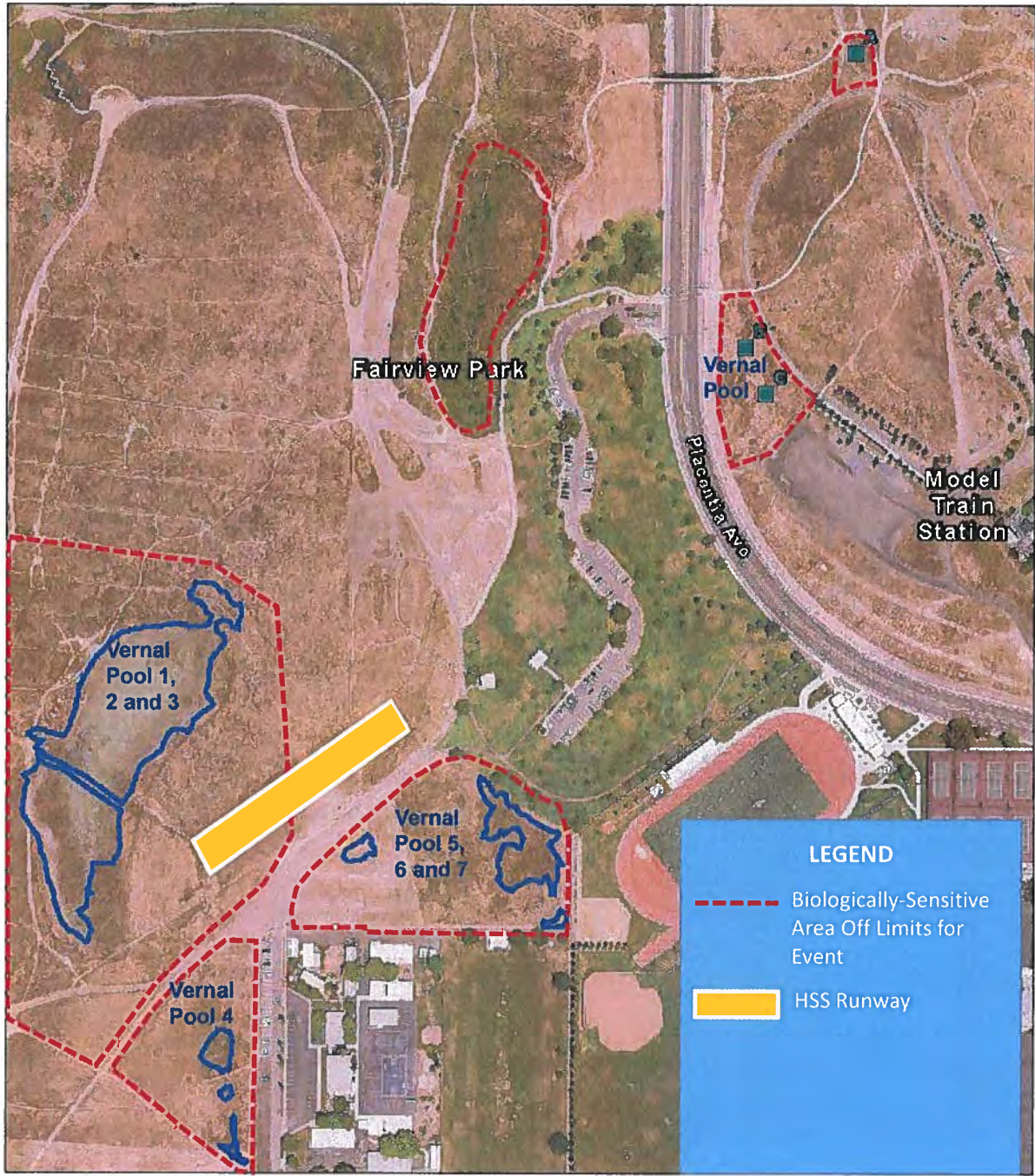
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LSA

LEGEND

- Vernal Pools - Glenn Lukos (2002) and Chambers Group (2005)
- Vernal Pools and Vernal Marshes (2006)

FIGURE 2



SOURCE: Eagle Aerial (2012); NOT FOR PUBLIC DISTRIBUTION
 I:\CCM1301\GIS\VernalPoolsABC.mxd (9/3/2013)

Fairview Park - East of Placentia Avenue
 Vernal Pools A, B, and C



Medak, Christine <christine_medak@fws.gov>

Harbor Soaring Society (HSS) - Runway Maintenance and General Site Clean up

1 message

MEJIA, BALTAZAR <BALTAZAR.MEJIA@costamesaca.gov>

Wed, Dec 10, 2014 at 11:19 AM

To: "Medak, Christine" <christine_medak@fws.gov>

HSS has requested approval to perform annual maintenance work as follows:

1. Mow the weeds on the existing runway. Larger weeds would be cut off flush with the ground and the greens disposed of offsite.
2. Clean up of the upper mesa (west of Placentia Avenue), including vernal pools. As previously discussed, the trash and debris that has accumulated in the Vernal Pool areas will be picked up by hand, loaded into wheelbarrows to bring them to collection points outside of the watershed/roped off areas. No vehicles or motorized equipment are proposed to be utilized within the watersheds/roped off area.

The attached map shows the area where the proposed maintenance is scheduled to take place (west of Placentia Avenue). A schedule will be prepared if approved by your office.

Sincerely,

Baltazar Mejia, P.E., QSD/QSP

Senior Engineer

City of Costa Mesa

714-754-5291

Baltazar.mejia@costamesaca.gov

**Biologically-Sensitive Areas - HSS Maintenance.pdf**

219K



Medak, Christine <christine_medak@fws.gov>

RE: Harbor Soaring Society (HSS) - Runway Maintenance and General Site Clean up

1 message

MEJIA, BALTAZAR <BALTAZAR.MEJIA@costamesaca.gov>
To: "Medak, Christine" <christine_medak@fws.gov>

Wed, Dec 10, 2014 at 3:36 PM

Great. HSS will be happy to hear this.

Thank you,

Baltazar Mejia, P.E., QSD/QSP

Senior Engineer

City of Costa Mesa

714-754-5291

Baltazar.mejia@costamesaca.gov

From: Medak, Christine [mailto:christine_medak@fws.gov]

Sent: Wednesday, December 10, 2014 3:34 PM

To: MEJIA, BALTAZAR

Subject: Re: Harbor Soaring Society (HSS) - Runway Maintenance and General Site Clean up

Bart,

We have no objections to the proposed activities at this time, provided the activities are conducted when the ground is dry.

Christine L. Medak

Fish and Wildlife Biologist

U.S. Fish and Wildlife Service

2177 Salk Avenue, Suite 250

Carlsbad, CA 92008

Phone: (760) 431-9440 ext. 298

Fax: (760) 431-9624

<http://www.fws.gov/carlsbad/>

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Follow us on Twitter at <http://twitter.com/USFWSPacSWest>

"I'd like to offer a plug for actually having the natural processes instead of having to simulate them."

— Nadav Nur, PRBO Conservation Science

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Sincerely,

Baltazar Mejia, P.E., QSD/QSP

Senior Engineer

City of Costa Mesa

714-754-5291

Baltazar.mejia@costamesaca.gov



Medak, Christine <christine_medak@fws.gov>

Re: Delivery Status Notification (Failure)

1 message

John Anderson <johnhanderson36@gmail.com>
To: "Medak, Christine" <christine_medak@fws.gov>
Cc: "henry.smith.3" <henry.smith.3@earthlink.net>

Mon, Aug 25, 2014 at 5:55 PM

Thanks Christine,

In you well written memo, you have provided a thoughtful and balanced approach to peaceful coexistence! Speaking for myself, I'm sure that we fliers look forward to successfully working out the details with you as the process unfolds -
in a way that assures the preservation of the species and a mutually beneficial outcome.
Again thanks for your very professional and gracious leadership.

John A.

On Mon, Aug 25, 2014 at 5:06 PM, Medak, Christine <christine_medak@fws.gov> wrote:
John and Henry,

I appreciated the opportunity to meet you both last Friday and to discuss the concerns of the Harbor Soaring Society and its ongoing uses within Fairview Park. Based on our discussion, it is clear your group is aware of and has a respect for the sensitive environmental resources within the park. We acknowledge your efforts to protect these resources by posting signs around the large vernal pool and participating in trash collecting events on a regular basis. Here is a summary of the ideas we discussed to address your concerns regarding proposed fencing locations included in our letter to the City of Costa Mesa dated July 24, 2014 and to minimize impacts to sensitive resources in Fairview park :

- designing fencing at the end of the runway to accommodate continued operation of the winch turnaround and to minimize potential collisions with fencing (i.e., fence no more than about 3 feet with a removable section for winch operation)
- avoiding entering the vernal pools when the ground is wet (either not operating the winch during this period or determining if the winch can be operated without entering the wetted area).
- relocating the model helicopter use area to another location within the park where the need to enter vernal pool basins to retrieve the helicopter is minimized.
- defining the frequency and extent of maintenance required for continued Harbor Soaring Society uses (i.e., define the size, location, and maintenance requirements of the runway and winch system) for potential inclusion in the Fairview Park Masterplan. This will ensure a consistent footprint of disturbance over time.
- working with the City to include more specific requirements in the permits they issue to allow model plane operation within the park (e.g., a map of sensitive areas that need to be avoided when the ground is wet). We welcome the Harbor Soaring Society's assistance as we work with the City to develop appropriate permit conditions.

Another issue that we did not have an opportunity to discuss is the type of planes that should be allowed in the park. We have received complaints from concerned citizens about the noise generated by the planes and their potential to disturb birds and other wildlife within the park. I am hoping the Harbor Soaring Society can assist in my understanding of what types of planes may be the cause for concern and appropriate limitations based on the noise generated by certain models/classes of planes. We may also be able to define certain times of the year when use of louder planes will have less of an impact on wildlife (i.e., birds are more sensitive to disturbance during their breeding seasons (generally early spring and summer for most species).

I look forward to our continued cooperation on the balance of human and wildlife uses within Fairview Park.

Christine L. Medak
Fish and Wildlife Biologist
U.S. Fish and Wildlife Service
2177 Salk Avenue, Suite 250
Carlsbad, CA 92008
Phone: (760) 431-9440 ext. 298

Fax: (760) 431-9624
<http://www.fws.gov/carlsbad/>

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"I'd like to offer a plug for actually having the natural processes instead of having to simulate them."
— Nadav Nur, PRBO Conservation Science

On Fri, Aug 22, 2014 at 2:54 PM, John Anderson <johnhanderson36@gmail.com> wrote:
Hi Chris,
Thanks for our positive meeting this am
I'm sure we will find a mutually beneficial path forward
John

----- Forwarded message -----

From: **Mail Delivery Subsystem** <mailer-daemon@googlemail.com>
Date: Fri, Aug 22, 2014 at 2:49 PM
Subject: Delivery Status Notification (Failure)
To: johnhanderson36@gmail.com

Delivery to the following recipient failed permanently:

christine_medak@fws.org

Technical details of permanent failure:
Google tried to deliver your message, but it was rejected by the server for the recipient domain fws.org by smtplib.secureserver.net. [68.178.213.203].

The error that the other server returned was:
550 5.1.1 <christine_medak@fws.org> Recipient not found. <<http://x.co/irbounce>>

----- Original message -----

DKIM-Signature: v=1; a=rsa-sha256; c=relaxed/relaxed;
d=gmail.com; s=20120113;
h=mime-version:in-reply-to:references:date:message-id:subject:from:to
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X-Received: by 10.152.28.230 with SMTP id e6mr7035996lah.62.1408744157521;
Fri, 22 Aug 2014 14:49:17 -0700 (PDT)
Received: by 10.112.75.229 with HTTP; Fri, 22 Aug 2014 14:49:17 -0700 (PDT)
In-Reply-To: <61AB79D9-679A-443B-86DB-FE94961C99C3@ccsiglobal.com>
References: <61AB79D9-679A-443B-86DB-FE94961C99C3@ccsiglobal.com>
Date: Fri, 22 Aug 2014 14:49:17 -0700
Message-ID: <CANPaJgskvY2gk0SdS6HxugsoMEinJG=uiAbe5EO-ua=FpPH5zA@mail.gmail.com>
Subject: Fwd: Scans
From: John Anderson <johnhanderson36@gmail.com>
To: christine_medak@fws.org
Content-Type: multipart/mixed; boundary=089e0160b79a17b67205013ecfa3

Hi Chris,
Thanks for our productive meeting this am.
Looking forward to a mutually beneficial path forward.

Here's that Orange Coast River Park piece that I did several years ago.
I'd welcome your corrections/comments.
John A

----- Forwarded message -----

From: Henry Smith <hsmith@ccsiglobal.com>
Date: Fri, Aug 22, 2014 at 2:43 PM
Subject: Scans
To: John Anderson <johnhanderson36@gmail.com>

John,

Here are your scans.

Henry Smith
hsmith@ccsiglobal.com

From: [Medak, Christine](#)
To: [DALTON, KELLY M.](#)
Subject: Fw: [EXTERNAL] Fairview Park and Harbor Soaring Society Agreement
Date: Thursday, September 29, 2022 12:27:37 PM
Attachments: [August 2014 meeting with Harbor Soaring Society.pdf](#)
[121014 RE Runway Maintenance and General Site Clean up.pdf](#)
[121014 Harbor Soaring Society \(HSS\) - Runway Maintenance and General Site Clean up.pdf](#)
[Biologically-Sensitive Areas - HSS Maintenance.pdf](#)

Just want to make sure that this is the information you are referring to that was provided in 2019.

Christine L. Medak
Fish and Wildlife Biologist
U.S. Fish and Wildlife Service
2177 Salk Avenue, Suite 250
Carlsbad, CA 92008

I am currently working from home indefinitely. Please email me if you'd like to schedule a call or meeting.

<http://www.fws.gov/carlsbad/>

Carlsbad Fish and Wildlife Office 2021 Highlights:
<https://fws.maps.arcgis.com/apps/Cascade/index.html?appid=0347e0e3c4e946ad839cf23f5b2df87a>

"I'd like to offer a plug for actually having the natural processes instead of having to simulate them."
— Nadav Nur, PRBO Conservation Science

From: Medak, Christine <Christine_Medak@fws.gov>
Sent: Wednesday, June 26, 2019 4:12 PM
To: Ian Hendricks <hendricksia@sbcglobal.net>
Cc: D'AGOSTA, CYNTHIA <CYNTHIA.DAGOSTA@costamesaca.gov>; edtail1@cox.net
<edtail1@cox.net>; Snyder, Jonathan <Jonathan_d_Snyder@fws.gov>
Subject: Re: [EXTERNAL] Fairview Park and Harbor Soaring Society Agreement

Hi Kim,

Unfortunately by the time I received the information from the City about the permit (one week before the meeting), I had too many other projects on my plate to be able to complete a detailed review of the ordinances for the USFWS; however, I did talk directly to Cynthia D'Agosta and Scott Thomas (Sea and Sage Audubon) before the meeting and shared the following concerns/recommendations verbally with them:

1) Because the City is issuing permits to allow the operation of model planes within the park they will also be responsible should take of Federally listed species occur in association with these activities. For example, if the planes cause disturbance to nesting gnatcatchers in a manner that results in abandonment of an active nest then we would consider this a potential

violation of Section 9 of the Endangered Species Act that can be referred to our Law Enforcement Division. It was my understanding that the permits would explicitly limit planes from flying over the canyon area where the gnatcatcher was most recently found nesting, but I do not see this stated in the permit. It is not clear how the permit holders will know which resources they need to avoid because only a portion of the park is shown on the figure that I was provided by the City and it does not properly show the hydrological connection between vernal pools 1 and 4.

2) We recommended that the City provide sufficient policing to ensure the permit conditions are followed. We also recommended that the permit holders clearly display the permits (i.e., like a fishing license) so that the City can ensure only permitted individuals, that are aware of the locations of sensitive resources, are allowed to fly model planes in the park.

3) Although we do not know the exact limit of noise that can be tolerated by various bird species, we do know that loud noises cause disturbance to birds. We recommended that the City discuss with the Harbor Soaring Society the best method for determining which planes should be limited up front (e.g., limit planes to those that emit less than x decibels). It is our understanding that the City plans to conduct a study of the behavior of birds in response to various types of planes and we asked for an opportunity to review the proposed study. We remain concerned that it will be difficult to evaluate the disturbances and determine which planes are appropriate on a quantitative basis, unless a study is also conducted of the behavior of birds when no planes are flying.

4) We pointed out that while the ordinance is silent on the presence of sensitive resources in the park. We recommended that the ordinance acknowledge the presence of sensitive resources and clarify the need to avoid flying over or landing in sensitive resource areas (e.g., vernal pools, coastal sage scrub, wetlands/riparian vegetation).

5) We recommended that the specific area allowed for launching planes is designated on a map and that disturbance is limited to the minimum area necessary to launch the permitted planes. This area should not be within wetland habitat (i.e., both because it is difficult to use a launch pad full of water and because of the impacts to aquatic resources) and should provide the maximum buffer possible from the basin of Vernal Pool 1. I am not familiar with the amount of area that is needed so I cannot speak to a particular size. Please see the attached figure for the previous area that we approved to be cleared by the Harbor Soaring Society.

6) In the past we have discussed with both the Harbor Soaring Society and the City that it is important to stay out of the vernal pools when they are wet due to the potential for trampling listed species and the alteration of hydrology that occurs when walking on wet ground (see attached email correspondence). For this reason, we specifically requested that the Soaring Society not have access to the winch (which is located within vernal pool 1) during the wet season. We discussed fencing this area off and only allowing access during the dry period of the year. I do not see any mention of this in the permit language.

While impacts to biological resources continue as a result of both authorized and unauthorized activities within Fairview park, we would be hesitant to go down the path of developing a Habitat Conservation Plan and providing an incidental take permit to the City, as suggested by Sea and Sage. The City has accepted mitigation and grant funding to restore habitats in the park for the benefit of Federally Listed Species. Mitigation was provided in the park to offset impacts to resources that occurred somewhere else. It would not be appropriate to then permit

uses that are expected to degrade those mitigation sites within the park.

We agree that the actions of the City do not align with the Master Plan; however, our plan is to continue to coordinate with the City to improve the condition of park resources. It is our understanding that vernal pools 5 and 6 will be restored this year. We are hopeful that the public perception of the park will change as conditions of resources improve and as the public is educated about the rarity of the resources in the park (e.g., through educational signs and nature tours).

Please feel free to call if you have any questions regarding this message.

Christine L. Medak
Fish and Wildlife Biologist
U.S. Fish and Wildlife Service
2177 Salk Avenue, Suite 250
Carlsbad, CA 92008
Phone: (760) 431-9440 ext. 298
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"I'd like to offer a plug for actually having the natural processes instead of having to simulate them."

— Nadav Nur, PRBO Conservation Science

On Wed, Jun 26, 2019 at 12:01 PM Ian Hendricks <hendrickskia@sbcglobal.net> wrote:
Hi Christine,

Big disappointment for me last night regarding the Harbor Soaring Society agreement being passed by city council. I kind of expected it based on the city's usual actions in Fairview Park.

One thing that came up last night was that USFW had not given any official response regarding the agreement. A city council member asked the Fairview Park Administrator if USFW had given an official response regarding the agreement and the answer was, "No". Is this true? If so, why not?

Have you seen that the runway was graded next to a vernal pool (250 feet according to city measurements last night). It has been graded multiple times since 2005. I sent you the pictures but can send them again if you'd like.

Also, did you know that the runway isn't even supposed to be where it currently is? The Fairview Park Master Plan (FPMP) indicates the Silent Glider Land/Launch site to be next to the bathrooms near the lawn. It isn't. Doesn't the FPMP still hold some meaning for USFW? It doesn't seem to have that much importance with the city, in

fact, they completely ignored the location being wrong last night. I did bring it up. The FP Administrator said she had been talking with USFW but nothing official - she didn't say that it wasn't even liked by USFW. Is it okay to keep flying, taking off and landing next to the vernal pools. Also, next to vernal pool 7 more space has been graded as well as a result of where they took out the wrongly placed cement posts from last year.

Please tell me what USFW thinks - it was presented like it was no big deal and USFW is talking with the administrator and everything is okay. It doesn't look okay out there.

Thank you,
Kim Hendricks

You can watch that part of the city council meeting on YouTube if you'd like to hear what was said by the FP Administrator.

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United States Department of the Interior

FISH AND WILDLIFE SERVICE

Ecological Services
Carlsbad Fish and Wildlife Office
2177 Salk Avenue, Suite 250
Carlsbad, California 92008



In Reply Refer To:
FWS-OR-13B0443-14TA0229

JUL 24 2014

Mr. Baltazar Mejia
Senior Engineer, Public Services Department
City of Costa Mesa
77 Fair Drive
Costa Mesa, California 92626

Subject: Restoration, Management, and Protection of Vernal Pools within Fairview Park, City of Costa Mesa, Orange County, California

Dear Mr. Mejia:

This letter has been prepared by the U.S. Fish and Wildlife Service (Service) to provide the City of Costa Mesa (City) with information on the actions needed to restore, protect, and manage vernal pool habitat and associated species within the City at Fairview Park, Orange County, California. This information is provided in response to: (1) the installation of a path in Fairview Park that was routed within and adjacent to vernal pools occupied by the federally endangered San Diego fairy shrimp (*Branchinecta sandiegonensis*), (2) your written request received September 4, 2013, for our review of restoration alternatives for vernal pools impacted by the installation of the path (LSA 2013), and (3) recommendations provided by Finium Environmental (2013) following removal of the path. Although the City's primary focus is on restoration of vernal pools impacted by the path, this letter includes actions the Service considers necessary to protect all vernal pool habitat and associated species within Fairview Park. This letter addresses future actions the City may take; it does not address or resolve issues relating to past actions, including the path construction, or the "take"¹ of listed species associated with those past actions. This letter does not constitute authorization for future "take" of listed species.

Background

San Diego fairy shrimp were first identified in Fairview Park in 1994 (Michael Brandman Associates 1995), 3 years prior to the Federal listing of the species (62 FR 4933). Seven vernal pool basins (numbered 1 through 7) and a "vernal marsh" were delineated in 1995 (Michael Brandman and Associates 1995) (Figure 1). San Diego fairy shrimp have since been identified in all but Basin 7

¹ Section 9 of the Endangered Species Act and associated regulations prohibit the take of endangered and threatened species without special exemption. Take is defined as to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, collect, or to attempt to engage in any such conduct. Harm is further defined by the Fish and Wildlife Service to include significant habitat modification or degradation that results in death or injury to listed species by significantly impairing essential behavior patterns, including breeding, feeding, or sheltering.

(City 2008, Appendix C, Simovich 2005). Three additional vernal pools were observed in Fairview Park, east of Placentia Avenue in 2002 (Glenn Lukos 2002 in LSA 2007). To our knowledge, no surveys for fairy shrimp have been completed in these pools.

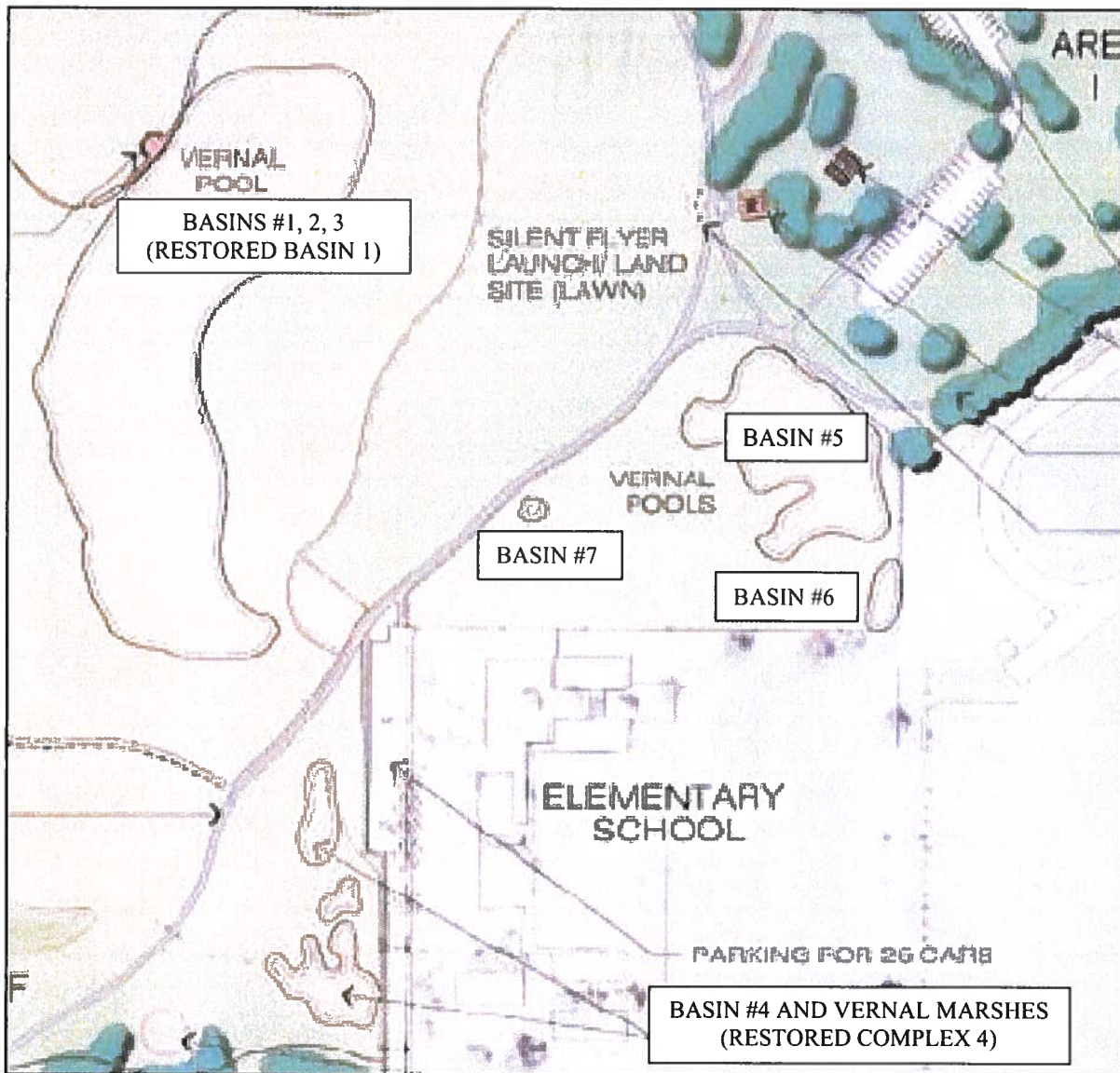


Figure 1. Location of vernal pool basins at Fairview Park.

Source: Michael Brandman Associated (1995) and Fairview Master Plan (November 2002 revision). Pool basins relabeled for clarity.

Restoration projects to improve the quality of habitat for San Diego fairy shrimp and sensitive plant species were completed in Fairview Park as mitigation for impacts to U.S. Army Corps of Engineers jurisdictional waters of the United States (Michael Brandman Associates 2002; Glenn Lukos Associates 2006). As a result of these projects, Basins 1, 2, and 3 were combined (Restored Basin 1), and Basin 4 and the “vernal marsh” were restored into a vernal pool complex (Restored Complex 4).

In above average rainfall years, it is likely that the watersheds of Restored Basin 1 and Restored Complex 4 are connected across the path that artificially separates the watersheds (Figure 2). It is also likely that Basins 5, 6, and 7 are part of a vernal pool complex with a shared hydrological connection during high rainfall years. Monitoring during previous restoration efforts identified the connection between Basins 5 and 6 (Michael Brandman Associates 2002), and the boundary between the watersheds of Basin 5 and 7 was coincident with a row of logs that have since been removed (Finium Environmental 2013).



Figure 2. Vernal pools in Fairview Park during an above average rainfall year (facing south). Paths bisect the basins in several locations, and the fencing is in the water.

Photo source: <http://www.savefairviewpark.org/documents/fpcac-pack-5-29-13.zip>. Labels added.

Fairview Park supports one of the last coastal terrace vernal pools complexes in Orange County (Service 2007). Conservation and management of the San Diego fairy shrimp and its habitat in Fairview Park and other vernal pool complexes in the Los Angeles Basin-Orange Management Area is one of the criteria identified for recovery of the San Diego fairy shrimp in the Service's Recovery Plan for Vernal Pools of Southern California (Service 1998). Vernal pools in Fairview Park also support several plant species that are locally rare (City 2008; Chung 2010).

In the past, the City has supported restoration of the vernal pools and other sensitive habitat in Fairview Park, and the Fairview Park Master Plan (City 2008) includes a commitment that “the pools and basins [in Fairview Park] are to be retained, restored, and protected.” Specific actions in the plan anticipated to benefit the San Diego fairy shrimp include, but are not limited to: (1) restoration of vernal pool habitat; (2) development of a formalized path system to avoid sensitive areas to the extent feasible; (3) installation of educational signage and observation platforms in the vernal pool restoration area; (4) installation of fencing to protect the vernal pools; and (5) cessation of mowing within the vernal pools or, if necessary, mowing only late in the season after annual forbs and grasses have set seed.

We agree that the general measures identified in the Master Plan are appropriate to maintain the vernal pools. We are concerned, however, that some measures have not been implemented and others have been implemented in ways that may have impacted the San Diego fairy shrimp. More specific details are needed to ensure that the San Diego fairy shrimp and its habitat are protected. Activities that may have impacted or have the potential to impact the San Diego fairy shrimp and its habitat at Fairview Park include the following:

Installation of paths and parking areas: A path was installed in late 2013 that may have resulted in direct and indirect impacts to San Diego fairy shrimp, as described in our letter, dated November 14, 2013 (13B0443-14TA0039). While the path has been removed, grading associated with path installation altered the hydrology of the watershed supporting Basins 5 and 6 so that water may not pond to the extent it did historically (Finium Environmental 2013). As a result, fairy shrimp cysts may not hatch to their historical capacities until changes in topography are corrected (Finium Environmental 2013). The portion of the watershed supporting Basin 7 (including the basin area) has been used as a temporary parking area, and logs were placed in the watershed to delineate the parking boundary. A portion of the watershed of Restored Complex 4 was impacted by the installation of permanent parking along Canyon Drive. Grading for the parking area changed the topography so that water now ponds in the parking area (Figure 2).

Improvements to Estancia High School Stadium: The installation of fencing and a field events area impacted a significant portion of the watershed area supporting Basin 6 and altered the hydrology by re-grading the site. The changes in topography may limit the potential for the City to restore the basin within the boundaries of Fairview Park.

Pedestrians, dogs, and bicycles: While substantial resources have been focused on restoring and protecting Restored Basin 1, the unfenced northern end has informal paths leading directly into the basin and allowing bicycle access. Bicycle tracks and paths encroach within the northern end of the basin. Because the fencing was installed only around the restored basin area, the paths leading to the boardwalk are within the watershed of the basin. In January 2011 (an above average rainfall year), it was apparent that several paths and the fence are located in the basin (Figure 2). Restored Complex 4 has multiple paths running through it and shows signs of frequent use by dogs.

Operation of motorized vehicles during the wet season: In Restored Complex 4, deep tire tracks are evident due to motorized vehicle encroachment when the basins were inundated. The deep tracks may have altered the hydrology of the basins by causing water to pool first in the tracks, potentially concentrating fairy shrimp cysts within smaller portions of each basin.

Installation of landscaping and associated irrigation systems: Ornamental landscaping and turf areas border Basins 5 and 6 to the north, south, and east. Irrigation systems installed to support the landscaping are contributing to conversion of the vegetation communities within the watershed where water is now available throughout the year. The perennial water source is supporting wetland species such as mulefat (*Baccharis salicifolia*), curly dock (*Rumex crispus*), and sedges (*Cyperus* sp.) (Finium Environmental 2013). The conversion of the vernal pool habitat to wetland can result in the permanent loss of habitat for San Diego fairy shrimp.

Mowing and pesticide and herbicide application: We have little information regarding the current timing and location of mowing activities or the application of pesticides and herbicides, but these activities have the potential to impact San Diego fairy shrimp and their habitat. Mowing equipment can crush cysts, spread invasive plant species, and cause ruts if mowing is conducted when the ground is damp. Pesticides and herbicides could potentially harm San Diego fairy shrimp cysts and adults.

Restoration, protection, and management of vernal pools in Fairview Park

While accommodating public uses within Fairview Park, it is the City's responsibility to ensure that its actions comply with the Endangered Species Act of 1973 (Act), as amended (16 U.S.C. 1531 *et seq.*). In consideration of the degraded condition and management needs of the vernal pool habitat within Fairview Park, implementation by the City of the following measures would help ensure that the San Diego fairy shrimp population within the coastal terrace vernal pools at Fairview Park remains viable. Some of these restoration actions can be implemented immediately without further authorization under the Act, but others have the potential to result in take of listed species for which additional authorization under the Act would be required. To ensure that the City's future actions are appropriately authorized under the Act, we recommend that the City coordinate closely with our office to ensure that any incidental take associated with these actions is appropriately exempted under the Act. As indicated above, this letter does not exempt future take of listed species.

The following measures apply to Restored Basin 1, Restored Complex 4, and the vernal pool complex consisting of Basins 5, 6, and 7.

1. Watershed Restoration – Prepare and implement a restoration plan to address damages to the hydrological function of the vernal pool watersheds. The plan should be prepared by a biologist with a minimum of 5 years of experience restoring vernal pools in southern California and should identify actions that are necessary to restore hydrological function to the vernal pools. The plan should be reviewed and approved by the Service prior to implementation. Measures that should be included in the restoration plan include, but are not limited to:
 - a. Corrections to the watershed topography, as necessary, to ensure the basins will pond for a sufficient duration during an average rainfall year to support the life history of the San Diego fairy shrimp.
 - b. Management of the irrigation systems to prevent runoff from entering the watershed of Basins 5, 6, and 7. The City should coordinate with Newport-Mesa Unified School

District to ensure irrigation supporting landscaping at Estancia High School Stadium does not enter Fairview Park. We are available to assist the City with this coordination, as necessary.

- c. Removal of landscaping, turf, and non-vernal pool associated wetland plants (e.g., mulefat, curly dock) that were supported by irrigation systems in the watersheds and replacement with appropriate native vegetation.
 - d. Removal of non-native plant species (e.g., annual grasslands and mustards) if needed to re-establish hydrological function.
 - e. Restoration of native vegetation around the vernal pool basins and along informal and unauthorized paths, as appropriate (e.g., outside the basin area).
 - f. Removal of trash or other debris from the vernal pool watershed.
2. Permanent Protection – Record a conservation easement over the vernal pool basins and watersheds. Consistent with the Fairview Park Master Plan, the conservation easement should provide for the protection of the San Diego fairy shrimp and its habitat while allowing appropriate public access and enjoyment of the park.
 3. Fencing and Paths – The Service generally recommends fencing a sufficiently large habitat buffer (i.e., at least 100 feet from the outer edge of the watershed in most cases) to reduce encroachment by pedestrians and off-road vehicles, trash accumulation and dumping, and other indirect effects of development (Service 2008). A large buffer is necessary to account for natural changes in the basin dimensions over time in response to varying hydrological conditions and to prevent alterations to the watershed that could impact the duration and extent of ponding. To ensure the watersheds in Fairview Park are protected, the fencing should limit entry to the majority of the watershed area. Pets should be kept on leash in the park to prevent entry into fenced areas. Formal paths that will pass through the watershed of vernal pools should be placed on boardwalks, above the water surface elevation of the basins, to minimize changes in hydrology and the introduction of contaminants into the basins. Suggested locations for fencing are provided for discussion purposes (Figure 3).
 4. Public Education – The Service would like to partner with the City to develop educational materials and signs that can highlight the importance of biological resources in Fairview Park. The preservation of remaining coastal terrace pools in the City of Costa Mesa should be considered a source of pride for the City and its citizens. Educational signs, located along primary access routes (e.g., Figure 3), can help to enhance and contribute to the public's use and enjoyment of the vernal pool area. A "nature path" with stopping points where users can learn more about vernal pools and the plants and animals they support can highlight species that are not readily seen and can maintain a public awareness of the rarity of these biological resources for generations to come.

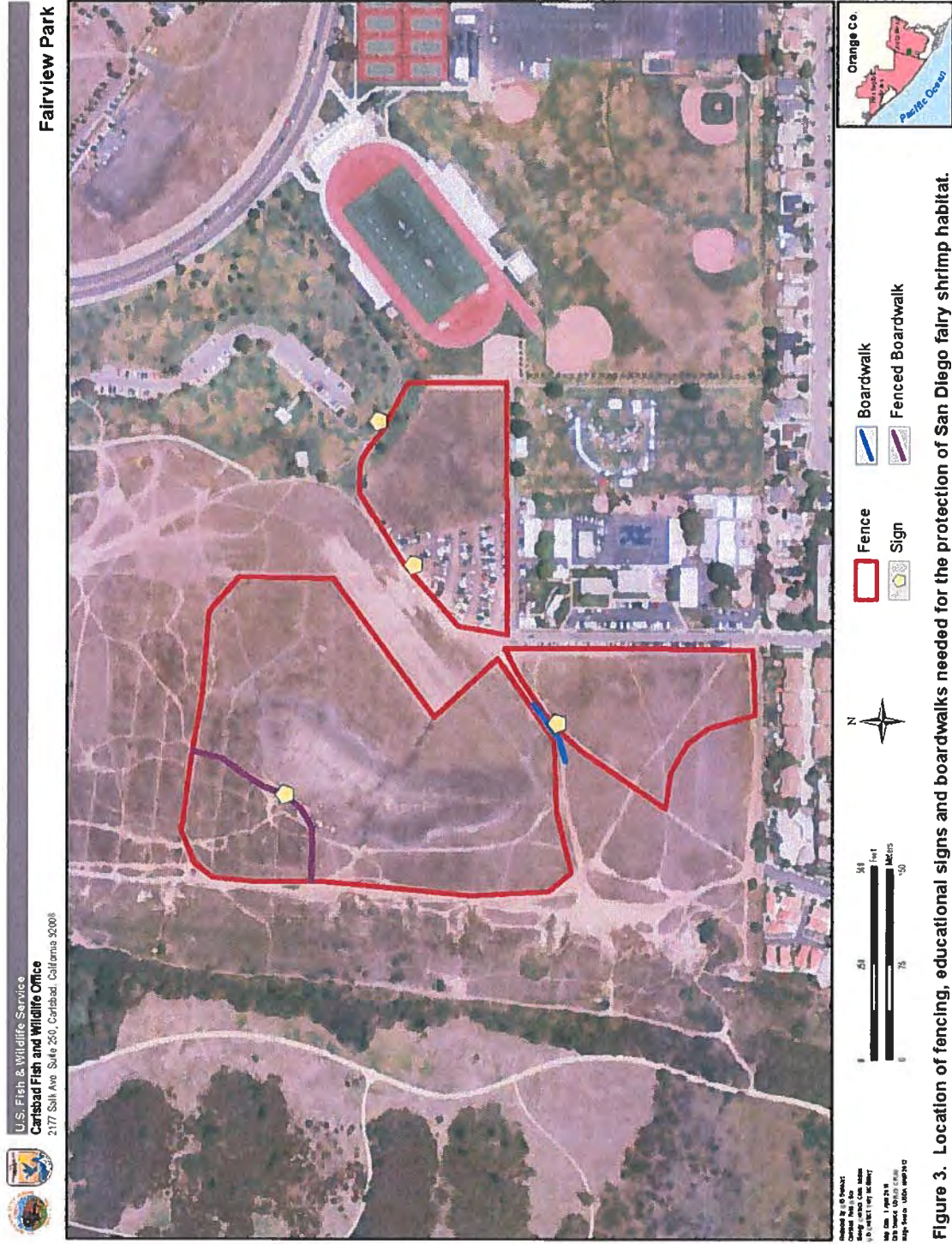


Figure 3. Location of fencing, educational signs and boardwalks needed for the protection of San Diego fairy shrimp habitat.

5. Trash – Provide trash receptacles and pet waste stations in convenient locations to minimize the potential for trash to be discarded in the vernal pool watersheds.
6. Mowing, Weed Control, and Pesticide Use – Mowing should be conducted outside the limits of the vernal pool basins to avoid direct impacts to San Diego fairy shrimp. In addition, we recommend that mowing be restricted within approximately 50 feet of the basin area to avoid restored habitat and sensitive plant species surrounding the basin area. The mowing limits should be periodically reevaluated to compensate for changes in the size and location of the basin area and corresponding zone of sensitive plant species. Please coordinate with the Service regarding use of pesticides and herbicides within the vernal pool watersheds to ensure chemicals harmful to San Diego fairy shrimp are avoided.
7. Employee Education – Provide an on-site education program for current and new employees of the City that will have assigned duties in Fairview Park to review sensitive biological resource areas and the City's responsibilities for management of these areas.
8. Patrol – Include as part of regular patrol duties, inspection of the fencing surrounding the watersheds and reporting of any damage to the fences or signs of encroachment within the fenced boundary.
9. Biological Monitoring – Regular biological monitoring is necessary to determine the efficacy of management measures to preserve and protect the San Diego fairy shrimp. Biological monitoring should include:
 - a. Annual watershed inspection – A biologist who has experience with San Diego fairy shrimp and its habitat should prepare a brief summary of the status of the habitat and a list of any additional management actions needed to protect and/or restore damages to the habitat.
 - b. Surveys for fairy shrimp – The City should conduct periodic surveys once every 5 years when there is sufficient rainfall to document the status of the San Diego fairy shrimp in each of the pools in Fairview Park.
10. Adaptive Management – Review the effectiveness of management actions annually to determine if additional measures are needed to protect San Diego fairy shrimp from harm. Cable wire fencing is proposed in the Fairview Park Master Plan to protect the pool basins. If this type of fencing is not adequate to prevent the public from regularly entering the basin areas, additional fencing or a different type of fencing may be required. If the degradation of the pools has already impacted the viability of the San Diego fairy shrimp, additional inoculation of the pools with cysts may be necessary.

Three additional vernal pool areas, located east of Placentia Avenue, require additional surveys to determine if San Diego fairy shrimp and/or sensitive vernal plant species are present. We recommend the City delineate the watershed of the three pools in the near future and avoid impacts to the watershed areas until protocol surveys (Service 1996) can be completed. Positive survey results may require changes in management actions to address

San Diego fairy shrimp. The City should coordinate adaptive management with the Service prior to implementation.

11. Fairview Park Master Plan Update – Include in an update to the Fairview Park Master Plan specific and ongoing management actions that will be implemented to ensure high quality habitat for San Diego fairy shrimp is maintained and that the species is protected.

These are the measures that are needed to protect San Diego fairy shrimp and their habitat in Fairview Park and are not intended to offset the damage caused by path construction. Issues relating to take that may have been caused by path construction remain under investigation by the Service at this time and will be addressed separately in the future.

We look forward to meeting with the City to further refine the details and timing of restoration, protection, and management actions. Should you have any questions regarding this letter, please contact Christine Medak of this office at 760-431-9440, extension 298.

Sincerely,



Karen A. Goebel
Assistant Field Supervisor

cc:

Marilyn Fluharty, California Department of Fish and Wildlife

Literature Cited

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Mr. Baltazar Mejia (FWS-OR-13B0443-14TA0229)

11

Simovich, M. 2005. Collecting report for 2004 for collecting permit TE87037-2. Prepared for U. S. Fish and Wildlife Service, Carlsbad, California.

Personal Communication

Chung, J. 2010. U. S. Army Corps of Engineers, electronic mail received by C. Medak, Carlsbad Fish and Wildlife Office, April 16, 2010.

From: [Medak, Christine](#)
To: [DALTON, KELLY M.](#); [MINTER, JASON](#)
Cc: [Lieberman, Carolyn](#); [Snapp-Cook, Jonathan](#); [Woulfe, MaryBeth](#)
Subject: Vernal pool restoration at Fairview Park
Date: Tuesday, December 14, 2021 1:37:05 PM
Attachments: [13B0443-14TA0229 OR Fairview Park VP Remediation Measures s20140724 kag.pdf](#)

Kelly and Jason,

Thank-you for your time this morning and opportunity to discuss future potential restoration opportunities within Fairview Park. As I mentioned, there are various opportunities available to support restoration activities within the park. In addition to the proposed mitigation for the LA Airport, we have funding opportunities within our office through coordination with our Coastal Program Coordinator (Carolyn Lieberman), Partners Program Coordinator (Jonathan Snapp-Cook) and Section 6 Program Coordinator (Mary Beth Woulfe). Please feel free to reach out to these individuals (copied on this message) for further information about their programs and timing for submitting proposals. We also have a running list of project proposals that we keep in our office in case additional funding opportunities come up that we can match with proposals.

Please also see the attached letter that includes recommended actions for the City to protect and manage habitat for listed species within the site. The City has already implemented several of the actions in this letter. We look forward to working with you to develop future restoration proposals.

Christine L. Medak
Fish and Wildlife Biologist
U.S. Fish and Wildlife Service
2177 Salk Avenue, Suite 250
Carlsbad, CA 92008

I am currently working from home indefinitely. Please contact me via email.

<http://www.fws.gov/carlsbad/>

Carlsbad Fish and Wildlife Office 2020 Highlights:
<https://fws.maps.arcgis.com/apps/Cascade/index.html?appid=de3b646f2db244dc8b20b0669aff1485>

"I'd like to offer a plug for actually having the natural processes instead of having to simulate them."
— Nadav Nur, PRBO Conservation Science

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe. Report any suspicious activities to the Information Technology Department.

From: Mat Garcia <mat.garcia@live.com>
Sent: Tuesday, May 2, 2023 11:39 AM
To: CITY CLERK
Subject: HSS Written Response to 2023-03-21 Agenda Item 4 Staff Report
Attachments: HSS Written Respnsse to 2023-03-21 City Council, Agenda Item 4 - Final.pdf

Hi City Clerk,

Please include the attachment in the public record section for tonight's (May 2, 2023) City Council Meeting for the topic of the flying field.

Thank you,
Mat Garcia

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe. Report any suspicious activities to the Information Technology Department.



**HARBOR SOARING SOCIETY WRITTEN RESPONSE
to the
COSTA MESA CITY COUNCIL'S AGENDA ITEM:
CONSIDERATION OF MODEL GLIDER FLYING FIELD AT FAIRVIEW PARK**

Introduction

The Harbor Soaring Society (HSS) recommends implementation of the actions City Council approved at the September 21, 2021 meeting to 1) include in the Fairview Park Master Plan update a broader analysis for flying options at the park, 2) identify other potential sites including Fairview Developmental Center, and 3) permit glider flying going forward in the park. Absent any new substantive, empirical data or analyses from regulatory agencies or independent, authoritative sources, we believe it is appropriate to proceed with the City Council's approved actions. No such information has been provided in the latest staff report.

HSS strives to be a partner with the City and Costa Mesa community with our flying activities, training, and educational programs. We also want to be good stewards of Fairview Park and work collaboratively with park rangers and other stakeholders to ensure safe operation of the flying site.

Background

In the spring of 2019, as a component of the review of the 2008 Fairview Park Master Plan, the Fairview Park Steering Committee and the Parks, Arts and Community Services Commission made recommendations to the Costa Mesa City Council, approved a one-year agreement between the City and Harbor Soaring Society (HSS). With the approval, City Council directed staff to conduct a comprehensive evaluation of the value of the partnership between HSS and the City and an analysis of the compatibility of all flying activity with the Master Plan for Fairview Park, and Measure AA. In September 2021, Parks and Community Services Department staff presented the Item "Consideration of Proposals for the Use of the Flying Field at Fairview Park" to the City Council. The item was presented following a series of stakeholder meetings that were held during the preceding months and years. Ultimately, the result of the discussion included City Council direction to evaluate flying activity during the Master Plan update, consider other sites including Fairview Developmental Center, and permit gliders going forward. It has now been 18 months since that meeting and glider flying has still not been permitted.

Compatibility of Glider Flying Activity with the Fairview Park Master Plan and Measure AA

Fairview Park Master Plan

Glider Flying

Model glider flying is recognized in the Public Use Objectives of the current Fairview Park Master Plan, and indeed is included in the third defined objective of the plan: *Provide for the continuation of the organized uses that have historically occurred on the site, including model railroading, model airplane, and model glider flying (Pg. 27).* The plan presents a park for passive uses, including walking, jogging,



biking and quiet contemplation, and includes a model railroad, glider and kite flying, and group picnicking, all offered *without compromising the overall passive nature of the plan* (Pg.28).

The Master Plan includes the fly field use in general discussion as a “passive use” and in specific entries, describes the activity as “model glider planes” with both “electric motor launch operations” and “bluff top launches.” The Plan states “Both operations are planned to be retained and provided for in the park” (Pg. 33).

The flying of glider aircraft is specifically noted as an activity “*compatible with the natural habitat restoration and archeological preservation to occur in the major portion of the site*” within the Fairview Park Master Plan on several occasions. This specific designation within the Plan is significant and should there be any desire to revisit the compatibility of gliders with passive use and restoration activity, that assessment shall be made in conjunction with the Fairview Park Master Plan update as previously directed by the City Council vote on September 21, 2021.

Model Railroad

In addition to the specific references to glider flying, the Plan also makes similar statements regarding the model railroad operations. As previously noted, the third defined objective of the plan: *Provide for the continuation of the organized uses that have historically occurred on the site, including model railroading, model airplane, and model glider flying* (Pg. 27). The model railroad has significant infrastructure in place and draws large crowds as noted on Pg. 24 of the master plan, attendance is in excess of 50,000 people per year.

11. Existing Narrow Gauge Railroad

Beginning in 1988 the Orange County Model Railroad Engineers, Inc. were granted permission to construct a rail system in Fairview Park on the east side of Placentia. The Railroad Engineers is a club, which is open to any member of the public. Over three miles of track have been constructed by the club. Free train rides are offered to the public on the third weekend of each month. The annual attendance at these weekends exceeds 50,000 persons per year. The presence of the tracks and the intermittent train traffic is consistent with the passive use goals of the park and is compatible with other uses such as walking, picnicking, and additional landscaping.

It must be noted that this level of attendance is significantly higher than visitors to the flying field, as noted in the February 2020 Draft FVP Fly Field Compatibility Evaluation (Pg.17).

City of Costa Mesa Permits Issued:						
YEAR	2015	2016	2017	2018	2019	2020* (as of 02/30/20)
RESIDENTS	66	58	61	37	34	21
NON-RESIDENTS	288	275	237	190	155	88
TOTAL	354	333	298	227	189	109

Again, this level of use of the model railroad is identified within the Plan as consistent with the passive use goals of the park.

The recent staff report “Discussion Regarding Environmental Incompatibility Of Model Aircraft Flying Field At Fairview Park And Consideration Of Staff’s Recommendation To Close The Model Aircraft Flying Field To Protect Sensitive And Rare Species And Habitats At The Site” contemplates the relocation of the fly field to the east side of the park near the model railroad and states, “One alternative would be to further evaluate the east side of the park for the compatibility of relocating the model gliding activity to the east of Placentia Avenue. However, this option is not recommended as this area also contains vernal pools, designated trails, and biological resources that pose conflicts with the activity” (Pg.11).



If the flying field poses a conflict, it begs the question, does the model railroad as well? Surely the noise, crowds, infrastructure, and the like cause disturbance to the biological resources on the east side. Is the model railroad next on the list of recreational activities specifically designated in the Master Plan as compatible passive uses to be shut down?

Measure AA

On November 8, 2016, Costa Mesa residents had the opportunity to cast their votes in favor of or against Measure AA. The measure was known as "*An Initiative Requiring Changes in Use at Fairview Park Be Subject to Voter Approval*" and was overwhelmingly supported by the voters, passing with 70.85% in favor. This measure amended the Costa Mesa Municipal Code to require that certain changes to Fairview Park go to a vote of the people. It is important to note that Measure AA gives the public the right to determine if a project, beyond the "As Built" condition of FVP, shall be allowed or not. The "As Built" condition means the amenities and alterations that have been built as of the effective date of the ordinance (Nov 2016), which includes the fly field and related infrastructure. Measure AA includes the following phrases related to the flying field:

- allows for "all uses passive" including "glider flying"
- "protect against alteration that reduce the tangible and intangible benefits to the public"

Clearly, closing the flying field is an alteration that reduces benefits to the public and changes the "As Built" condition of the park. An option that includes modifications to the use, and/or movement of the field, will have consequences from Measure AA, potentially including the requirement of a full vote of the public to be implemented.

Balanced Approach

We believe in a balanced approach where gliders can co-exist with sensitive habitat and we are willing to work with all the stakeholders of Fairview Park to identify and implement a solution amenable to all. We have reviewed much of the correspondence with regulatory agencies and believe there is a path forward, working together.

Regulatory Input

USFWS documented communications identify utilizing the flying field in the current location and do not identify it as a concern to the restoration, protection, or management of the vernal pools at Fairview Park (*Restoration, Management, and Protection of Vernal Pools within Fairview Park, City of Costa Mesa, Orange County, California – Letter from USFWS to City, July 24, 2014*). They even support utilizing the winch turn around anchor in its current location within the vernal pool, during the dry season (*Fairview Park and Harbor Soaring Society Agreement – Email from USFWS to concerned citizen and City, June 26, 2019*).

Sea and Sage Audubon, Irvine Letter January 24, 2020

"...put forth a plan to fly aircraft within the original vision of the Master Plan and provide for a high degree of wildlife and natural habitat protection."

"Our biggest concerns relate not so much to small model gliding aircraft operation, but engine driven planes, and jet aircraft ... We believe that the increase in these aircraft...are the primary causes of disturbances to wildlife...also to the general public..."

HSS is supportive of RC glider flying at the current flying field location in Fairview Park. The major compromise was to remove electric powered model aircraft and to change the rules to only allow RC gliders going forward. Glider flying is silent. This is a significant compromise that eliminates all noise and reduces the overall amount of model airplane flying that will take place at Fairview Park.



Community Support

There is significant community support for glider flying at Fairview Park, as noted in the February 2020 Draft FVP Fly Field Compatibility Evaluation, authored by Cynthia D'Agosta, previous Fairview Park Administrator. Below include excerpts from that report.

"To compile some general information about the Fairview Park users who were interested in this compatibility evaluation, staff prepared an on-line survey available for interested parties. This survey was advertised on the City Website, posted at Fairview Park, and announced at Fairview Park public meetings. The Survey asked about respondent's residency, the type and frequency of their park use, their experience with fly field activity at Fairview Park, and their visits to other fly fields. When asked about preferred activity, eighty-five respondents indicated that walking and hiking was their preferred activity at Fairview Park, with the second highest number of respondents stating that flying was their preferred activity" (Pg. 21).

QUESTION # 3	
PREFERRED ACTIVITY:	
Walking/Hiking	85
Flying	81
Birding/Photography	33
Walking Dogs	14
Biking	13
Nature Appreciation	9
Running	5
RC Cars	4
Work Adjacent	2
Dog Mushing	1
Relaxing	1

City Hall Meeting January 16, 2020

"The table below is a summary of comments that were gathered at the January 16th meeting. Staff gathered comments from the community which indicated that fly field activity was not compatible, or compatible as is, but focused the detail of this matrix on the comments provided in yellow, summarizing suggestions for modifications to current fly field operations to increase compatibility" (Pg.24).



CONCERN	RED NOT COMPATIBLE	YELLOW COMPATIBLE WITH MODIFICATIONS	GREEN COMPATIBLE AS IS	CHALLENGES/SOLUTIONS
SAFETY/NUSIANCE:				
Safety concerns related to flying equipment interference with park patrons.	3	10	13	Suggested Modifications include enforcement of boundaries, additional controls, HSS members only, additional enforcement, separation of activities, relocation of flight area, additional signage.
Flying equipment noise level interference with enjoyment of park users.	2	14	16	Suggested Modifications include approving plane styles, requiring quieter planes, restricting types of planes or motors, scheduling times for different kinds of planes explore current noise ordinance for other activities, conduct a noise study, HSS regulate plane types, use decibel meter.
ENVIRONMENTAL:				
Flying equipment interference with avian activity (intentional/non intentional)	6	3	20	Suggested Modifications include monitoring of park activity that interferes with avian activity, including dogs, children and other park patrons.
Retrieval of flying equipment from sensitive habitat area.	3	22	5	Suggested Modifications include training and instruction on flight parameters and out-of-bounds areas, train HSS member to retrieve out of sensitive areas, fine for entering sensitive areas, rules posted at fly field, on line and on permit application, fence and sign sensitive areas, permits to HSS members only.
Flights outside of the designated flying area, over trails, sensitive habitats.	5	8	11	Suggested Modifications include revoking permits for non-compliant flyers, reduce speed, regulate types of planes, move runway closer to bluff, education and safety briefing, post rules, limit distance to 200 yards from runway.
FLIGHT PARAMETERS:				
Regulation of flying equipment size, color and engine types.	0	8	20	Suggested Modifications include no powered aircraft, limit aircraft size and decibels, HSS to regulate, no jets or drones, only gliders, restrict to certain models.
Takeoff and landing area location, runway size.	0	9	18	Suggested Modifications include better delineation of runway, fenced runway, clearly marked runway, better pedestrian signage, reduction in runway size.
Number of flying equipment in the air at any given time.	2	8	17	Suggested Modifications include additional policing, self-regulate, limit to 5 planes, limit to 3 or 4 planes, no exhibit flying,
Hours the fly field is open/closed	1	10	15	Suggested Modifications include modifying hours, changing hours, reducing hours, restricting hours, limiting hours to 8am – 4pm, limit hours to less active times.
ENFORCEMENT:				
Enforcement of existing regulations governing flying activity.	1	16	5	Suggested Modifications include: HSS provide enforcement, more education, HSS membership only, HSS membership for permits, posted rules, revoke permits of non-compliant flyers, additional rules enforced by park rangers, all flyers HSS members, permit checks by park rangers, HSS should not be required to enforce.

The majority of attendees responded that the fly field was compatible as is or with some modifications. HSS is willing to work with the City and interested stakeholders to implement modifications to address the environmental and safety concerns. Some modifications could include:

- Issue a new fly field permit for both HSS members and other flyers
- Develop a new agreement with flyers and require needed modifications to address identified concerns
- Develop new flight parameters for the fly field, and gather resources to enforce existing flight parameters



- Limit fly field hours of operation to coincide with environmental, keeping bird foraging times "flight free"
- Explore seasonal parameters, limiting flight during nesting season, when trails are flooded, etc.
- Post and observe unobtrusive and temporary field flags, signifying that the fly field is open/closed
- Install markings for sensitive habitat and out-of-bounds areas; visual cues that park users can easily see
- Create an education/enforcement plan with staff, partners, ambassadors, rangers, and non-profit groups

Partnership with the City

HSS would like to continue its long-standing partnership with the City and work within the parameters set forth as the club has done for decades, including through the origination of the fly field and subsequent grading of the field.

The site of the present day flying field was graded in 2005. The City Parks Project Manager put before the Parks and Recreation Commission (Parks and Rec. Commission Agenda Report - Meeting Date: January 26, 2005) asking for a fly field to be graded. The Parks Project Manager (Bart Mejia) said Council Ordinance 200-11 had been followed and the grading was not in conflict with the FPMP. The city attorney (Kimberly Hall-Barlow) also signed off on the activity and asserted that it was not in conflict with CEQA.

HSS worked with the City throughout the development of the flying field. To the extent that there are different opinions regarding the historical grading at present, HSS has no fault in the matter and operated within the bounds set forth at the time. We are willing to continue to work with the City and regulatory agencies should there be a need to remediate some of these past actions as we have done historically.

HSS Community Outreach and Education

We strive to be a conduit through model aviation training and educational programs to encourage youth towards science and engineering careers in addition to a lifelong recreational activity. We do this in multiple ways, including flight training and certification under the Academy of Model Aeronautics Intro Pilot training program. Additionally, the club's ongoing STEAM activities include annual participation in Imaginology, where ours is continually a hugely popular booth. Imaginology is an annual event at the fairgrounds where elementary school kids are exposed to various clubs, businesses, and educational opportunities.

HSS has significant of history working with educators at the high school level since HSS' establishment in 1964, especially at Estancia High School. That tradition continues and today we have weekly volunteers in the classroom supporting educator Jerry Rizza and the engineering curriculum he teaches. Most recently, HSS has helped support advanced manufacturing, specifically helping get Estancia's two Haas CNC machines up and running, introducing the classes to solid modeling and CAM technology, support for their electric vehicle design, build, and race competition, facilitating paid internships for the graduating seniors, and general engineering guidance and design review support. Within the last two years, HSS has developed a collaborative relationship with Racine Cross, engineering educator at Costa Mesa High School. HSS has supported her engineering classes by providing guest speakers, facilitating externship opportunities at industry partners' facilities, and coordinating engineering education support with Orange County engineering and manufacturing companies.

In November 2022, Harbor Soaring Society had the privilege to exhibit and participate in Vital Link's inaugural 2022 Student Leadership Summit. The summit was a terrific one-day event that connected local high school students and educators with industry, non-profits, and colleges. Students and educators from both Costa Mesa High School and Estancia High School attended the event. HSS members engaged with over 275 students: sharing advice and talking about experiences working in the local aerospace



industry. Students tried their hand on the flight simulator and engaged with HSS members one-on-one at the HSS booth and in groups during the lunch hour mentor round-table session.

HSS, a regular participant at the City's past Scarecrow Festivals, participated again at the 2022 Scarecrow Festival. We built a scarecrow and built over 250 pumpkin penny gliders with the kids. This year, HSS has also coordinated student internships and teacher externships and collaborated with several community partners including the Girl Scouts, Vital Link, NMUSD, and the City of Costa Mesa. HSS members are supporting NMUSD and the City's Women in Engineering Night where one HSS member will be on the panel of engineers. Additionally, we will have an HSS table at the event. We recently met with Melissa Arambula from the Shalimar teen center, Think Together, and are exploring ways to collaborate to provide the youth more STEM opportunities.

Because of our influence on the youth of our community, we know of many who have gone on to become engineers and pilots. The Council may not be aware, but the world is facing an extreme shortage of airline pilots, as the baby boomers reach mandatory retirement age, and the aerospace industry is facing a similar shortage of engineers and technicians.

In addition to STEAM engagement with the community, Harbor Soaring Society champions environmental protections as well, with HSS members regularly participating in the City of Costa Mesa's Fairview Park second Saturday of the month restoration events at Fairview Park.

Response to the Staff Report

The recommendation from staff in the current report "Discussion Regarding Environmental Incompatibility Of Model Aircraft Flying Field At Fairview Park And Consideration Of Staff's Recommendation To Close The Model Aircraft Flying Field To Protect Sensitive And Rare Species And Habitats At The Site" to permanently close the fly field is "based on additional feedback provided by State and Federal regulatory agencies" (Pg. 1). Presumably there has been clear guidance from these agencies since the September 2021 meeting that would necessitate another thorough review, staff report, and item brought before City Council. However, no such additional documentation is included in staff's report or related attachments, or any correspondence provided to the public on this matter.

In addition, the staff report notes, "The City's contracted biologist who has supported the City with biological resources compliance and management services has also submitted correspondence pertaining to a range of biological and environmental impacts associated with the model aircraft activity at Fairview Park (Attachment 3)" (Pg. 5). Some items of note after review of this correspondence:

- There is little if any substantive evidence referenced within this email, mostly relying on observation and conjecture.
- This biologist is contracted by the City to perform restoration work and therefore has a direct financial conflict of interest on this matter and cannot be relied upon to provide an independent, unbiased opinion.
- It should be noted that the staff report does in fact include this email as an attachment to the report, something that is notably missing from the regulatory agencies' feedback.

The staff report goes on to say, "In addition, the wildlife agencies have communicated to the City that model flying activities should not be performed in or over sensitive resource areas including vernal pools, coastal sage scrub, and wetland/riparian vegetation" (Pg. 5). Again, no evidence is provided to support this claim. Any written documentation from these agencies since the September 2021 meeting is markedly absent. If this evidence does in fact exist, HSS would like the opportunity to review and have a dialogue with such agencies as well prior to a Council vote to permanently shut down the flying field.

The staff report also makes reference to receipt of grant funding on several occasions, stating "In addition to the City's significant contributions of funds and staffing resources towards restoration, preservation and mitigation projects over time, the City has also successfully obtained a large number of competitive grant funds from outside entities to complete these projects..." (Pg. 2) "Notably, over the last two decades, the



City has accepted significant sums of competitive restoration grant funds... The City has accepted substantial sums of mitigation and restoration funds to restore sensitive habitats" (Pg. 8).

The staff report seems to suggest that part of the driving force behind the desire to shut down the flying field is due to these project agreements and funding acceptances from private and public sources. We question whether these grant funding acceptances are not subject to City Council approval. Through acceptance of these funds, is staff is binding the City to certain courses of action and policy decisions that would otherwise be beyond their authority and have the potential to influence policy counter to voter and council approved plans? The lack of grant money transparency and oversight is an issue all unto its own and perhaps an item for future public input.

Conclusion

We are approaching four years since the flying field was shut down by City staff. While HSS appreciates all the time and energy spent working with us on this topic, we feel that the actions that came out of the September 21, 2021 City Council meeting were clear: flying of gliders only should resume at the current location without undue delay, alternate sites should be evaluated, and major changes to the park, like the flying field, should be considered in the master plan process, not ad hoc as was done in 2021. Absent any new specific and explicit guidance from regulatory agencies or independent, authoritative sources, we believe it is appropriate to proceed with the City Council's approved actions and immediately allow silent glider flying at Fairview Park. We look forward to collaboratively working with the City to make this happen.

Response to Late Submission of Email from California Department of Fish and Wildlife

On the morning of the March 21, 2023 City Council meeting, HSS obtained last minute e-mail correspondence from Jennifer Turner, Senior Environmental Scientist (Supervisor), California Department of Fish and Wildlife regarding the flying field topic. It must be noted that the very late timing of this submission calls into question whether there is a good faith effort on the part of staff to allow sufficient response time.

Nevertheless, after review of this correspondence, it seems to contradict previous communication with regulatory agencies as referenced within the *Regulatory Input* section of this letter above. In previous correspondence, there has been a noteworthy effort to explore modifications to the flying activities rather than completely eliminate them. We cannot help but question what specific question was asked of Ms. Turner in soliciting this response. Was it, "Do you support closure of the flying field?" Clearly, the answer to that from a State Trustee Agency for natural resources is "yes." However, there is no indication that an unbiased question such as, "Is there any way for silent glider flying to coexist with the sensitive habitat at Fairview Park? What modifications could be made to reach the objectives of all our citizens; environmentalist supporters and RC enthusiasts alike?" was asked. We believe a question such as that would solicit an entirely different response, as we have noted in the past with regulatory agencies. We would appreciate the opportunity to have a voice on this topic and would welcome greater transparency as to the discussions between city staff and the regulators. We strongly believe we can work together with the regulatory agencies given the opportunity.

While the protection of sensitive plant and wildlife species is important, completely eliminating model glider flying activity in Fairview Park is not the solution and is counter to the Fairview Park Master Plan and Measure AA. We believe it is possible to balance the interests of hobbyists and conservation efforts and would appreciate your consideration to move forward with a balanced approach.



March 21, 2023

Attachment 1: 2019-June USFWS Correspondence - Flying Field Recommendations_w_comments



From: Medak, Christine [mailto:christine_medak@fws.gov]

Sent: Wednesday, June 26, 2019 4:13 PM

To: Ian Hendricks <hendricksia@sbcglobal.net>

Cc: D'AGOSTA, CYNTHIA <CYNTHIA.DAGOSTA@costamesaca.gov>; edtail1@cox.net; Jonathan Snyder <jonathan_d_snyder@fws.gov>


Subject: Re: [EXTERNAL] Fairview Park and Harbor Soaring Society Agreement


Hi Kim,

Unfortunately by the time I received the information from the City about the permit (one week before the meeting). I had too many other projects on my plate to be able to complete a detailed review of the ordinances for the USFWS; however, I did talk directly to Cynthia D'Agosta and Scott Thomas (Sea and Sage Audubon) before the meeting and shared the following concerns/recommendations verbally with them:

1) Because the City is issuing permits to allow the operation of model planes within the park they will also be responsible should take of Federally listed species occur in association with these activities. For example, if the planes cause disturbance to nesting gnatcatchers in a manner that results in abandonment of an active nest then we would consider this a potential violation of Section 9 of the Endangered Species Act that can be referred to our Law Enforcement Division.


It was my understanding that the permits would explicitly limit planes from flying over the canyon area where the gnatcatcher was most recently found nesting, but I do not see this stated in the permit. It is not clear how the permit holders will know which resources they need to avoid because only a portion of the park is shown on the figure that I was provided by the City and it does not properly show the hydrological connection between vernal pools 1 and 4.


 2) We recommended that the City provide sufficient policing to ensure the permit conditions are followed. We also recommended that the permit holders clearly display the permits (i.e., like a fishing license) so that the City can ensure only permitted individuals, that are aware of the locations of sensitive resources, are allowed to fly model planes in the park.


 3) Although we do not know the exact limit of noise that can be tolerated by various bird species, we do know that loud noises cause disturbance to birds. We recommended that the City discuss with the Harbor Soaring Society the best method for determining which planes should be limited up front (e.g., limit planes to those that emit less than x decibels). It is our understanding that the City plans to conduct a study of the behavior of birds in response to various types of planes and we asked for an opportunity to review the proposed study. We remain concerned that it will be difficult to evaluate the disturbances and determine which planes are appropriate on a quantitative basis, unless a study is also conducted of the behavior of birds when no planes are flying.

Summary of Comments on 2019-June USFWS Correspondence - Flying Field Recommendations_w_comments.pdf


Page: 1

 Number: 1 Author: mgarcia Subject: Highlight Date: 3/21/2023 4:33:10 AM
This current map (created in March of 2016) of the designated flying area restricts flying over the canyon area.

 Number: 2 Author: mgarcia Subject: Sticky Note Date: 3/21/2023 4:24:03 AM
HSS is happy to provide support as stakeholder of the park to help enforce the rules laid out by the City.

 Number: 3 Author: mgarcia Subject: Sticky Note Date: 3/21/2023 4:25:11 AM
Gliders eliminate the noise concerns.

4) We pointed out that while the ordinance is silent on the presence of sensitive resources in the park. We recommended that the ordinance acknowledge the presence of sensitive resources and clarify the need to avoid flying over or landing in sensitive resource areas (e.g., vernal pools, coastal sage scrub, wetlands/riparian vegetation).

 5) We recommended that the specific area allowed for launching planes is designated on a map and that disturbance is limited to the minimum area necessary to launch the permitted planes. This area should not be within wetland habitat (i.e., both because it is difficult to use a launch pad full of water and because of the impacts to aquatic resources) and should provide the maximum buffer possible from the basin of Vernal Pool 1. I am not familiar with the amount of area that is needed so I cannot speak to a particular size. Please see the attached figure for the previous area that we approved to be cleared by the Harbor Soaring Society.

6) In the past we have discussed with both the Harbor Soaring Society and the City that it is important to stay out of the vernal pools when they are wet due to the potential for trampling listed species and the alteration of hydrology that occurs when walking on wet ground (see attached email correspondence). For this reason, we specifically requested that the Soaring Society not have access to the winch (which is located within vernal pool 1) during the wet season. We discussed fencing this area off and only allowing access during the dry period of the year. I do not see any mention of this in the permit language.







While impacts to biological resources continue as a result of both authorized and unauthorized activities within Fairview Park, we would be hesitant to go down the path of developing a Habitat Conservation Plan and providing an incidental take permit to the City, as suggested by Sea and Sage. The City has accepted mitigation and grant funding to restore habitats in the park for the benefit of Federally Listed Species. Mitigation was provided in the park to offset impacts to resources that occurred somewhere else. It would not be appropriate to then permit uses that are expected to degrade those mitigation sites within the park.

We agree that the actions of the City do not align with the Master Plan; however, our plan is to continue to coordinate with the City to improve the condition of park resources. It is our understanding that vernal pools 5 and 6 will be restored this year. We are hopeful that the public perception of the park will change as conditions of resources improve and as the public is educated about the rarity of the resources in the park (e.g., through educational signs and nature tours).

Please feel free to call if you have any questions regarding this message.

Christine L. Medak
Fish and Wildlife Biologist
U.S. Fish and Wildlife Service
2177 Salk Avenue, Suite 250
Carlsbad, CA 92008
Phone: (760) 431-9440 ext. 298
Fax: (760) 431-9624

Page: 2

-
-  Number: 1 Author: mgarcia Subject: Highlight Date: 3/21/2023 4:27:51 AM
The sensitive resources are identified in the City's Flying Field Rules and restrictions are listed. HSS does not believe the Flying Field Rules were provided to USFWS, and it is possible to work with USFWS to tailor the field rules as needed.
-
-  Number: 2 Author: mgarcia Subject: Sticky Note Date: 3/21/2023 4:22:29 AM
Sections 5 and 6 from USFWS show that through collaboration, both flying at the current flying field location and protecting the sensitive resources in the park are possible.
-
-  Number: 3 Author: mgarcia Subject: Highlight Date: 3/21/2023 4:17:33 AM
HSS was not provided the 'attached figure' when Kelly Dalton provided this email PDF to us.
-
-  Number: 4 Author: mgarcia Subject: Highlight Date: 3/21/2023 4:14:41 AM
-
-  Number: 5 Author: mgarcia Subject: Highlight Date: 3/21/2023 4:15:08 AM
-
-  Number: 6 Author: mgarcia Subject: Highlight Date: 3/21/2023 4:30:23 AM
USFWS specifically authorized the use of the winch located within vernal pool 1 during the dry season. The winch has only ever been used in the dry season. HSS has incorporated language in a modified flying field rules document to support USFWS suggestions.

March 21, 2023

Attachment 2: 2019-June USFWS Correspondence - Flying Field Recommendations



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"I'd like to offer a plug for actually having the natural processes instead of having to simulate them."

— Nadav Nur, PRBO Conservation Science

On Wed, Jun 26, 2019 at 12:01 PM Ian Hendricks <hendrickskia@sbcglobal.net> wrote:
Hi Christine,

Big disappointment for me last night regarding the Harbor Soaring Society agreement being passed by city council. I kind of expected it based on the city's usual actions in Fairview Park.

One thing that came up last night was that USFW had not given any official response regarding the agreement. A city council member asked the Fairview Park Administrator if USFW had given an official response regarding the agreement and the answer was, "No". Is this true? If so, why not?

Have you seen that the runway was graded next to a vernal pool (250 feet according to city measurements last night). It has been graded multiple times since 2005. I sent you the pictures but can send them again if you'd like.

Also, did you know that the runway isn't even supposed to be where it currently is? The Fairview Park Master Plan (FPMP) indicates the Silent Glider Land/Launch site to be next to the bathrooms near the lawn. It isn't. Doesn't the FPMP still hold some meaning for USFW? It doesn't seem to have that much importance with the city, in fact, they completely ignored the location being wrong last night. I did bring it up. The FP Administrator said she had been talking with USFW but nothing official - she didn't say that it wasn't even liked by USFW. Is it okay to keep flying, taking off and landing next to the vernal pools. Also, next to vernal pool 7 more space has been graded as well as a result of where they took out the wrongly placed cement posts from last year.

Please tell me what USFW thinks - it was presented like it was no big deal and USFW is talking with the administrator and everything is okay. It doesn't look okay out there.

Thank you,
Kim Hendricks

You can watch that part of the city council meeting on YouTube if you'd like to hear what was said by the FP Administrator.

From: Medak, Christine [mailto:christine_medak@fws.gov]

Sent: Wednesday, June 26, 2019 4:13 PM

To: Ian Hendricks <hendricksia@sbcglobal.net>

Cc: D'AGOSTA, CYNTHIA <CYNTHIA.DAGOSTA@costamesaca.gov>; edtail1@cox.net; Jonathan Snyder <jonathan_d_snyder@fws.gov>

Subject: Re: [EXTERNAL] Fairview Park and Harbor Soaring Society Agreement

Hi Kim,

Unfortunately by the time I received the information from the City about the permit (one week before the meeting). I had too many other projects on my plate to be able to complete a detailed review of the ordinances for the USFWS; however, I did talk directly to Cynthia D'Agosta and Scott Thomas (Sea and Sage Audubon) before the meeting and shared the following concerns/recommendations verbally with them:

- 1) Because the City is issuing permits to allow the operation of model planes within the park they will also be responsible should take of Federally listed species occur in association with these activities. For example, if the planes cause disturbance to nesting gnatcatchers in a manner that results in abandonment of an active nest then we would consider this a potential violation of Section 9 of the Endangered Species Act that can be referred to our Law Enforcement Division. It was my understanding that the permits would explicitly limit planes from flying over the canyon area where the gnatcatcher was most recently found nesting, but I do not see this stated in the permit. It is not clear how the permit holders will know which resources they need to avoid because only a portion of the park is shown on the figure that I was provided by the City and it does not properly show the hydrological connection between vernal pools 1 and 4.
- 2) We recommended that the City provide sufficient policing to ensure the permit conditions are followed. We also recommended that the permit holders clearly display the permits (i.e., like a fishing license) so that the City can ensure only permitted individuals, that are aware of the locations of sensitive resources, are allowed to fly model planes in the park.
- 3) Although we do not know the exact limit of noise that can be tolerated by various bird species, we do know that loud noises cause disturbance to birds. We recommended that the City discuss with the Harbor Soaring Society the best method for determining which planes should be limited up front (e.g., limit planes to those that emit less than x decibels). It is our understanding that the City plans to conduct a study of the behavior of birds in response to various types of planes and we asked for an opportunity to review the proposed study. We remain concerned that it will be difficult to evaluate the disturbances and determine which planes are appropriate on a quantitative basis, unless a study is also conducted of the behavior of birds when no planes are flying.

4) We pointed out that while the ordinance is silent on the presence of sensitive resources in the park. We recommended that the ordinance acknowledge the presence of sensitive resources and clarify the need to avoid flying over or landing in sensitive resource areas (e.g., vernal pools, coastal sage scrub, wetlands/riparian vegetation).

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Christine L. Medak
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March 21, 2023

Attachment 3: 2014-July USFWS Fairview Park Letter





United States Department of the Interior

FISH AND WILDLIFE SERVICE

Ecological Services
Carlsbad Fish and Wildlife Office
2177 Salk Avenue, Suite 250
Carlsbad, California 92008



In Reply Refer To:
FWS-OR-13B0443-14TA0229

JUL 24 2014

Mr. Baltazar Mejia
Senior Engineer, Public Services Department
City of Costa Mesa
77 Fair Drive
Costa Mesa, California 92626

Subject: Restoration, Management, and Protection of Vernal Pools within Fairview Park, City of Costa Mesa, Orange County, California

Dear Mr. Mejia:

This letter has been prepared by the U.S. Fish and Wildlife Service (Service) to provide the City of Costa Mesa (City) with information on the actions needed to restore, protect, and manage vernal pool habitat and associated species within the City at Fairview Park, Orange County, California. This information is provided in response to: (1) the installation of a path in Fairview Park that was routed within and adjacent to vernal pools occupied by the federally endangered San Diego fairy shrimp (*Branchinecta sandiegonensis*), (2) your written request received September 4, 2013, for our review of restoration alternatives for vernal pools impacted by the installation of the path (LSA 2013), and (3) recommendations provided by Finium Environmental (2013) following removal of the path. Although the City's primary focus is on restoration of vernal pools impacted by the path, this letter includes actions the Service considers necessary to protect all vernal pool habitat and associated species within Fairview Park. This letter addresses future actions the City may take; it does not address or resolve issues relating to past actions, including the path construction, or the "take"¹ of listed species associated with those past actions. This letter does not constitute authorization for future "take" of listed species.

Background

San Diego fairy shrimp were first identified in Fairview Park in 1994 (Michael Brandman Associates 1995), 3 years prior to the Federal listing of the species (62 FR 4933). Seven vernal pool basins (numbered 1 through 7) and a "vernal marsh" were delineated in 1995 (Michael Brandman and Associates 1995) (Figure 1). San Diego fairy shrimp have since been identified in all but Basin 7

¹ Section 9 of the Endangered Species Act and associated regulations prohibit the take of endangered and threatened species without special exemption. Take is defined as to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, collect, or to attempt to engage in any such conduct. Harm is further defined by the Fish and Wildlife Service to include significant habitat modification or degradation that results in death or injury to listed species by significantly impairing essential behavior patterns, including breeding, feeding, or sheltering.

(City 2008, Appendix C, Simovich 2005). Three additional vernal pools were observed in Fairview Park, east of Placentia Avenue in 2002 (Glenn Lukos 2002 in LSA 2007). To our knowledge, no surveys for fairy shrimp have been completed in these pools.

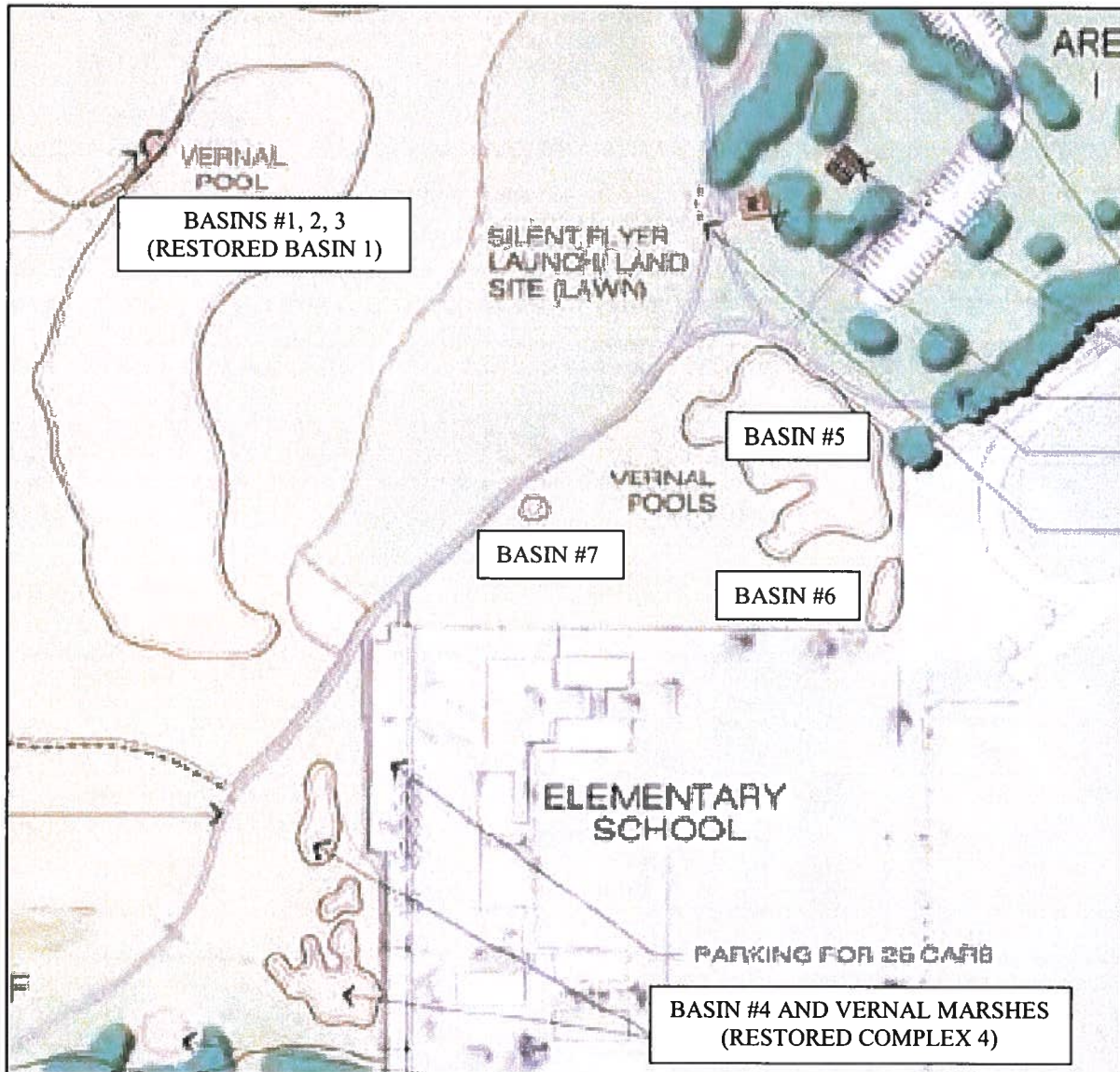


Figure 1. Location of vernal pool basins at Fairview Park.

Source: Michael Brandman Associated (1995) and Fairview Master Plan (November 2002 revision). Pool basins relabeled for clarity.

Restoration projects to improve the quality of habitat for San Diego fairy shrimp and sensitive plant species were completed in Fairview Park as mitigation for impacts to U.S. Army Corps of Engineers jurisdictional waters of the United States (Michael Brandman Associates 2002; Glenn Lukos Associates 2006). As a result of these projects, Basins 1, 2, and 3 were combined (Restored Basin 1), and Basin 4 and the “vernal marsh” were restored into a vernal pool complex (Restored Complex 4).

In above average rainfall years, it is likely that the watersheds of Restored Basin 1 and Restored Complex 4 are connected across the path that artificially separates the watersheds (Figure 2). It is also likely that Basins 5, 6, and 7 are part of a vernal pool complex with a shared hydrological connection during high rainfall years. Monitoring during previous restoration efforts identified the connection between Basins 5 and 6 (Michael Brandman Associates 2002), and the boundary between the watersheds of Basin 5 and 7 was coincident with a row of logs that have since been removed (Finium Environmental 2013).



Figure 2. Vernal pools in Fairview Park during an above average rainfall year (facing south). Paths bisect the basins in several locations, and the fencing is in the water.

Photo source: <http://www.savefairviewpark.org/documents/fpcac-pack-5-29-13.zip>. Labels added.

Fairview Park supports one of the last coastal terrace vernal pools complexes in Orange County (Service 2007). Conservation and management of the San Diego fairy shrimp and its habitat in Fairview Park and other vernal pool complexes in the Los Angeles Basin-Orange Management Area is one of the criteria identified for recovery of the San Diego fairy shrimp in the Service's Recovery Plan for Vernal Pools of Southern California (Service 1998). Vernal pools in Fairview Park also support several plant species that are locally rare (City 2008; Chung 2010).

In the past, the City has supported restoration of the vernal pools and other sensitive habitat in Fairview Park, and the Fairview Park Master Plan (City 2008) includes a commitment that “the pools and basins [in Fairview Park] are to be retained, restored, and protected.” Specific actions in the plan anticipated to benefit the San Diego fairy shrimp include, but are not limited to: (1) restoration of vernal pool habitat; (2) development of a formalized path system to avoid sensitive areas to the extent feasible; (3) installation of educational signage and observation platforms in the vernal pool restoration area; (4) installation of fencing to protect the vernal pools; and (5) cessation of mowing within the vernal pools or, if necessary, mowing only late in the season after annual forbs and grasses have set seed.

We agree that the general measures identified in the Master Plan are appropriate to maintain the vernal pools. We are concerned, however, that some measures have not been implemented and others have been implemented in ways that may have impacted the San Diego fairy shrimp. More specific details are needed to ensure that the San Diego fairy shrimp and its habitat are protected. Activities that may have impacted or have the potential to impact the San Diego fairy shrimp and its habitat at Fairview Park include the following:

Installation of paths and parking areas: A path was installed in late 2013 that may have resulted in direct and indirect impacts to San Diego fairy shrimp, as described in our letter, dated November 14, 2013 (13B0443-14TA0039). While the path has been removed, grading associated with path installation altered the hydrology of the watershed supporting Basins 5 and 6 so that water may not pond to the extent it did historically (Finium Environmental 2013). As a result, fairy shrimp cysts may not hatch to their historical capacities until changes in topography are corrected (Finium Environmental 2013). The portion of the watershed supporting Basin 7 (including the basin area) has been used as a temporary parking area, and logs were placed in the watershed to delineate the parking boundary. A portion of the watershed of Restored Complex 4 was impacted by the installation of permanent parking along Canyon Drive. Grading for the parking area changed the topography so that water now ponds in the parking area (Figure 2).

Improvements to Estancia High School Stadium: The installation of fencing and a field events area impacted a significant portion of the watershed area supporting Basin 6 and altered the hydrology by re-grading the site. The changes in topography may limit the potential for the City to restore the basin within the boundaries of Fairview Park.

Pedestrians, dogs, and bicycles: While substantial resources have been focused on restoring and protecting Restored Basin 1, the unfenced northern end has informal paths leading directly into the basin and allowing bicycle access. Bicycle tracks and paths encroach within the northern end of the basin. Because the fencing was installed only around the restored basin area, the paths leading to the boardwalk are within the watershed of the basin. In January 2011 (an above average rainfall year), it was apparent that several paths and the fence are located in the basin (Figure 2). Restored Complex 4 has multiple paths running through it and shows signs of frequent use by dogs.

Operation of motorized vehicles during the wet season: In Restored Complex 4, deep tire tracks are evident due to motorized vehicle encroachment when the basins were inundated. The deep tracks may have altered the hydrology of the basins by causing water to pool first in the tracks, potentially concentrating fairy shrimp cysts within smaller portions of each basin.

Installation of landscaping and associated irrigation systems: Ornamental landscaping and turf areas border Basins 5 and 6 to the north, south, and east. Irrigation systems installed to support the landscaping are contributing to conversion of the vegetation communities within the watershed where water is now available throughout the year. The perennial water source is supporting wetland species such as mulefat (*Baccharis salicifolia*), curly dock (*Rumex crispus*), and sedges (*Cyperus* sp.) (Finium Environmental 2013). The conversion of the vernal pool habitat to wetland can result in the permanent loss of habitat for San Diego fairy shrimp.

Mowing and pesticide and herbicide application: We have little information regarding the current timing and location of mowing activities or the application of pesticides and herbicides, but these activities have the potential to impact San Diego fairy shrimp and their habitat. Mowing equipment can crush cysts, spread invasive plant species, and cause ruts if mowing is conducted when the ground is damp. Pesticides and herbicides could potentially harm San Diego fairy shrimp cysts and adults.

Restoration, protection, and management of vernal pools in Fairview Park

While accommodating public uses within Fairview Park, it is the City's responsibility to ensure that its actions comply with the Endangered Species Act of 1973 (Act), as amended (16 U.S.C. 1531 *et seq.*). In consideration of the degraded condition and management needs of the vernal pool habitat within Fairview Park, implementation by the City of the following measures would help ensure that the San Diego fairy shrimp population within the coastal terrace vernal pools at Fairview Park remains viable. Some of these restoration actions can be implemented immediately without further authorization under the Act, but others have the potential to result in take of listed species for which additional authorization under the Act would be required. To ensure that the City's future actions are appropriately authorized under the Act, we recommend that the City coordinate closely with our office to ensure that any incidental take associated with these actions is appropriately exempted under the Act. As indicated above, this letter does not exempt future take of listed species.

The following measures apply to Restored Basin 1, Restored Complex 4, and the vernal pool complex consisting of Basins 5, 6, and 7.

1. Watershed Restoration – Prepare and implement a restoration plan to address damages to the hydrological function of the vernal pool watersheds. The plan should be prepared by a biologist with a minimum of 5 years of experience restoring vernal pools in southern California and should identify actions that are necessary to restore hydrological function to the vernal pools. The plan should be reviewed and approved by the Service prior to implementation. Measures that should be included in the restoration plan include, but are not limited to:
 - a. Corrections to the watershed topography, as necessary, to ensure the basins will pond for a sufficient duration during an average rainfall year to support the life history of the San Diego fairy shrimp.
 - b. Management of the irrigation systems to prevent runoff from entering the watershed of Basins 5, 6, and 7. The City should coordinate with Newport-Mesa Unified School

District to ensure irrigation supporting landscaping at Estancia High School Stadium does not enter Fairview Park. We are available to assist the City with this coordination, as necessary.

- c. Removal of landscaping, turf, and non-vernal pool associated wetland plants (e.g., mulefat, curly dock) that were supported by irrigation systems in the watersheds and replacement with appropriate native vegetation.
 - d. Removal of non-native plant species (e.g., annual grasslands and mustards) if needed to re-establish hydrological function.
 - e. Restoration of native vegetation around the vernal pool basins and along informal and unauthorized paths, as appropriate (e.g., outside the basin area).
 - f. Removal of trash or other debris from the vernal pool watershed.
2. Permanent Protection – Record a conservation easement over the vernal pool basins and watersheds. Consistent with the Fairview Park Master Plan, the conservation easement should provide for the protection of the San Diego fairy shrimp and its habitat while allowing appropriate public access and enjoyment of the park.
 3. Fencing and Paths – The Service generally recommends fencing a sufficiently large habitat buffer (i.e., at least 100 feet from the outer edge of the watershed in most cases) to reduce encroachment by pedestrians and off-road vehicles, trash accumulation and dumping, and other indirect effects of development (Service 2008). A large buffer is necessary to account for natural changes in the basin dimensions over time in response to varying hydrological conditions and to prevent alterations to the watershed that could impact the duration and extent of ponding. To ensure the watersheds in Fairview Park are protected, the fencing should limit entry to the majority of the watershed area. Pets should be kept on leash in the park to prevent entry into fenced areas. Formal paths that will pass through the watershed of vernal pools should be placed on boardwalks, above the water surface elevation of the basins, to minimize changes in hydrology and the introduction of contaminants into the basins. Suggested locations for fencing are provided for discussion purposes (Figure 3).
 4. Public Education – The Service would like to partner with the City to develop educational materials and signs that can highlight the importance of biological resources in Fairview Park. The preservation of remaining coastal terrace pools in the City of Costa Mesa should be considered a source of pride for the City and its citizens. Educational signs, located along primary access routes (e.g., Figure 3), can help to enhance and contribute to the public's use and enjoyment of the vernal pool area. A "nature path" with stopping points where users can learn more about vernal pools and the plants and animals they support can highlight species that are not readily seen and can maintain a public awareness of the rarity of these biological resources for generations to come.

5. Trash – Provide trash receptacles and pet waste stations in convenient locations to minimize the potential for trash to be discarded in the vernal pool watersheds.
6. Mowing, Weed Control, and Pesticide Use – Mowing should be conducted outside the limits of the vernal pool basins to avoid direct impacts to San Diego fairy shrimp. In addition, we recommend that mowing be restricted within approximately 50 feet of the basin area to avoid restored habitat and sensitive plant species surrounding the basin area. The mowing limits should be periodically reevaluated to compensate for changes in the size and location of the basin area and corresponding zone of sensitive plant species. Please coordinate with the Service regarding use of pesticides and herbicides within the vernal pool watersheds to ensure chemicals harmful to San Diego fairy shrimp are avoided.
7. Employee Education – Provide an on-site education program for current and new employees of the City that will have assigned duties in Fairview Park to review sensitive biological resource areas and the City’s responsibilities for management of these areas.
8. Patrol – Include as part of regular patrol duties, inspection of the fencing surrounding the watersheds and reporting of any damage to the fences or signs of encroachment within the fenced boundary.
9. Biological Monitoring – Regular biological monitoring is necessary to determine the efficacy of management measures to preserve and protect the San Diego fairy shrimp. Biological monitoring should include:
 - a. Annual watershed inspection – A biologist who has experience with San Diego fairy shrimp and its habitat should prepare a brief summary of the status of the habitat and a list of any additional management actions needed to protect and/or restore damages to the habitat.
 - b. Surveys for fairy shrimp – The City should conduct periodic surveys once every 5 years when there is sufficient rainfall to document the status of the San Diego fairy shrimp in each of the pools in Fairview Park.
10. Adaptive Management – Review the effectiveness of management actions annually to determine if additional measures are needed to protect San Diego fairy shrimp from harm. Cable wire fencing is proposed in the Fairview Park Master Plan to protect the pool basins. If this type of fencing is not adequate to prevent the public from regularly entering the basin areas, additional fencing or a different type of fencing may be required. If the degradation of the pools has already impacted the viability of the San Diego fairy shrimp, additional inoculation of the pools with cysts may be necessary.

Three additional vernal pool areas, located east of Placentia Avenue, require additional surveys to determine if San Diego fairy shrimp and/or sensitive vernal plant species are present. We recommend the City delineate the watershed of the three pools in the near future and avoid impacts to the watershed areas until protocol surveys (Service 1996) can be completed. Positive survey results may require changes in management actions to address

San Diego fairy shrimp. The City should coordinate adaptive management with the Service prior to implementation.

11. Fairview Park Master Plan Update – Include in an update to the Fairview Park Master Plan specific and ongoing management actions that will be implemented to ensure high quality habitat for San Diego fairy shrimp is maintained and that the species is protected.

These are the measures that are needed to protect San Diego fairy shrimp and their habitat in Fairview Park and are not intended to offset the damage caused by path construction. Issues relating to take that may have been caused by path construction remain under investigation by the Service at this time and will be addressed separately in the future.

We look forward to meeting with the City to further refine the details and timing of restoration, protection, and management actions. Should you have any questions regarding this letter, please contact Christine Medak of this office at 760-431-9440, extension 298.

Sincerely,

A handwritten signature in blue ink, appearing to read "Karen A. Goebel".

Karen A. Goebel
Assistant Field Supervisor

cc:

Marilyn Fluharty, California Department of Fish and Wildlife

Literature Cited

- City of Costa Mesa. 2008. Fairview Park Master Plan March 1998, Revised February 2001 and November 2002, Updated November 2008.
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Mr. Baltazar Mejia (FWS-OR-13B0443-14TA0229)

11

Simovich, M. 2005. Collecting report for 2004 for collecting permit TE87037-2. Prepared for U. S. Fish and Wildlife Service, Carlsbad, California.

Personal Communication

Chung, J. 2010. U. S. Army Corps of Engineers, electronic mail received by C. Medak, Carlsbad Fish and Wildlife Office, April 16, 2010.

From: Mat Garcia <mat.garcia@live.com>
Sent: Tuesday, May 2, 2023 11:08 AM
To: CITY CLERK
Subject: FW: Fairview Park Flying Field Additional Information - Public Records Request – Emails
Attachments: RE: Public Records Request - Emails of Fairview Park Administrator Kelly Dalton; FW: Public Records Request #236 (Garcia) Various Correspondence (1 of 2); Public Records Request #326 (Garcia) Medak, Snyder, Turner Correspondence

Hi City Clerk,

Please include the below email and all attachments in the public record section for tonight's (May 2, 2023) City Council Meeting for the topic of the flying field.

Thank you,
Mat Garcia

From: Mat Garcia
Sent: Tuesday, May 2, 2023 11:06 AM
To: 'john.stephens@costamesaca.gov' <John.Stephens@costamesaca.gov>; 'MARR, ANDREA' <ANDREA.MARR@costamesaca.gov>; 'Manuel.Chavez@costamesaca.gov' <Manuel.Chavez@costamesaca.gov>; 'Jeffrey.Harlan@costamesaca.gov' <Jeffrey.Harlan@costamesaca.gov>; 'Loren.Gameros@costamesaca.gov' <Loren.Gameros@costamesaca.gov>; Don.Harper@costamesaca.gov; 'REYNOLDS, ARLIS' <ARLIS.REYNOLDS@costamesaca.gov>
Subject: Fairview Park Flying Field Additional Information - Public Records Request – Emails

Mayor and Councilmembers,

Public Records Request – Emails

We made the attached public records request (PRR) following the March 21, 2023 City Council Meeting. Attached is the request emails and the response from the City.

In these public records requests, we were looking for documented communications between USFWS (and CDFW) and the City. Relevant information related to the flying field was discovered as a result of this request.

Relevant information provided includes a map identifying the runway area that USFWS agreed to be cleared that was referenced in the 2019 USFWS email response to Kim Hendricks (this map is relevant and not included with the 2019 email that is part of the May 2, 2023 City Council meeting attachments). The map represents what USFWS recognizes as the approved flying field runway. Additionally, we received documentation that Park Administrator Kelly Dalton requested and received past and current input from USFWS four times in the past year specifically related to the flying field. The Park Administrator received documentation that has not been shared in writing with the public at any City meeting to date. The documentation communicates USFWS' balanced approach to the flying field at Fairview park. Concerns are centered around potential impacts due to noise, training, enforcement, and staying off of sensitive habitat while the ground is wet. USFWS documents a productive meeting in 2014 with past HSS members via email and discusses ways to work together utilizing the winch launch in its current location and creating a gate in the fence to access it when the ground is dry.

Important to note, that USFWS never advocates for shutting down the flying field, but instead working together to minimize impacts to sensitive wildlife and habitat. USFWS recommendations have been consistent since 2014 to now with respect to the flying field. Current and past Fairview Park Administrators have worked to shut down the flying field which is counter to the current 2008 Fairview Park Master Plan, Measure AA, community support and September 21, 2021 Council direction.

Regards,
Mat Garcia
HSS President

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe. Report any suspicious activities to the Information Technology Department.

From: Mat Garcia <IMCEAEX-_O=FIRST+20ORGANIZATION_OU=EXCHANGE+20ADMINISTRATIVE+20GROUP+28FYDIBOHF23SPDLT+29_CN=RECIPIENTS_CN=00030000ACC665CC@namprd10.prod.outlook.com>
Sent: Friday, March 24, 2023 12:43 PM
To: GREEN, BRENDA; NGUYEN, DAVID; MUNOZ, SANDY; MINTER, JASON; DALTON, KELLY M.
Subject: RE: Public Records Request - Emails of Fairview Park Administrator Kelly Dalton
Attachments: 2019-June USFWS Correspondence - Flying Field Recommendations.pdf

Hi Brenda,

Thank you for the thorough answer.

I would like to provide five more focused requests. I have attached an email that a former City employee, Cynthia D'Agosta, received from US Fish and Wildlife Service employee, Christine Medak.

Christine's email is: christine_medak@fws.gov.

Public Records Requests:

1. I would like to make a public records request for all emails sent to or from Christine Medak christine_medak@fws.gov to or from Costa Mesa City employee Cynthia D'Agosta between January 1, 2015 and December 31, 2022.
2. I would like to make a public records request for all emails sent to or from Christine Medak christine_medak@fws.gov to or from Costa Mesa City employee Kelly Dalton between July 1, 2021 and today, March 24, 2023.
3. I would like to make a public records request for all emails sent to or from Jonathan Snyder jonathan_d_snyder@fws.gov to or from Costa Mesa City employee Kelly Dalton between July 1, 2021 and today, March 24, 2023.
4. I would like to make a public records request for the attachment that is referenced in the attached email to Cynthia D'Agosta on Wednesday, June 26, 2019 at 4:13pm, from Christine Medak christine_medak@fws.gov, subject line: Re: [EXTERNAL] Fairview Park and Harbor Soaring Society Agreement. See below excerpt for the language from the email.

5) We recommended that the specific area allowed for launching planes is designated on : and that disturbance is limited to the minimum area necessary to launch the permitted play. This area should not be within wetland habitat (i.e., both because it is difficult to use a launch pad full of water and because of the impacts to aquatic resources) and should provide the maximum buffer possible from the basin of Vernal Pool 1. I am not familiar with the amount of area that is needed so I cannot speak to a particular size. Please see the attached figure for previous area that we approved to be cleared by the Harbor Soaring Society.

5. I would like to make a public records request for all emails sent to or from Jennifer Turner at the California State Department of Fish and Wildlife, email Jennifer.turner@wildlife.ca.gov, to or from Costa Mesa City employee Kelly Dalton between July 1, 2021 and today, March 24, 2023.

Please confirm receipt of this email.

Thank you,
Mat Garcia

From: GREEN, BRENDA <brenda.green@costamesaca.gov>

Sent: Friday, March 24, 2023 11:38 AM

To: Mat Garcia <mat.garcia@live.com>; NGUYEN, DAVID <DAVID.NGUYEN@costamesaca.gov>; MUNOZ, SANDY <SANDY.MUNOZ@costamesaca.gov>; MINTER, JASON <JASON.MINTER@costamesaca.gov>; DALTON, KELLY M. <KELLY.DALTON@costamesaca.gov>

Subject: RE: Public Records Request - Emails of Fairview Park Administrator Kelly Dalton

Hello,

The City has determined that your request includes a voluminous amount of responsive individual records, all of which would have to be reviewed to ensure that they are indeed within the scope of the request and then for the presence of exempt material prior to disclosure. As such, the request is not sufficiently focused, is unduly burdensome and must be narrowed before the City can respond. (Cal. Gov't Code § 6253.1)

Under the PRA, the City is obligated to produce documents upon a request that "reasonably describes an identifiable record" (Cal. Gov't Code § 6253(b)) such that the record or records "can be located with reasonable efforts" (State Board of Equalization v. Superior Court, (1992) 10 Cal.App.4th 1177, 1186), and which is sufficiently "focused and specific." (Rogers v. Superior Court, (1993) 19 Cal.App.4th 469, 481). Even a clearly framed request will be objectionable as unduly burdensome if it requires the agency to review an enormous volume of data in order to segregate exempt and nonexempt material. (American Civil Liberties Union Foundation v. Deukmejian, (1982) 32 Cal.3d 440, 444; California First Amendment Coalition v. Superior Court, (1998) 67 Cal.App.4th 159, 166.). A preliminary search provided in excess of 10,000 files that would need to be individually reviewed.

To assist you in providing a more focused request, the City recommends that you identify outside agencies, narrow the timeline and/or provide keyword search terms to assist the City in more quickly and efficiently identifying, reviewing and producing responsive records. Note terms such as "Fairview Park" does not narrow the scope as it would be included in every email of Mr. Dalton. Please provide your response by April 3, 2023.

Please feel free to contact me should you have any additional questions.

Brenda Green

City Clerk

City of Costa Mesa

714/754-5221

E-mail correspondence with the City of Costa Mesa (and attachments, if any) may be subject to the California Public Records Act, and as such may, therefore, be subject to public disclosure unless otherwise exempt under the act.

From: Mat Garcia <mat.garcia@live.com>

Sent: Wednesday, March 22, 2023 2:46 PM

To: CITY CLERK <CITYCLERK@costamesaca.gov>

Subject: Public Records Request - Emails of Fairview Park Administrator Kelly Dalton

Hi City Clerk,

I would kindly like to make a public records request for all emails, both sent and received, to City employee, Fairview Park Administrator Kelly Dalton from the time he started in his role as Fairview Park Administrator in December 2021 to now.

Thank you,

Mat Garcia

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe. Report any suspicious activities to the Information Technology Department.

From: Medak, Christine [mailto:christine_medak@fws.gov]
Sent: Wednesday, June 26, 2019 4:13 PM
To: Ian Hendricks <hendricksia@sbcglobal.net>
Cc: D'AGOSTA, CYNTHIA <CYNTHIA.DAGOSTA@costamesaca.gov>; edtail1@cox.net; Jonathan Snyder <jonathan_d_snyder@fws.gov>
Subject: Re: [EXTERNAL] Fairview Park and Harbor Soaring Society Agreement

Hi Kim,

Unfortunately by the time I received the information from the City about the permit (one week before the meeting). I had too many other projects on my plate to be able to complete a detailed review of the ordinances for the USFWS; however, I did talk directly to Cynthia D'Agosta and Scott Thomas (Sea and Sage Audubon) before the meeting and shared the following concerns/recommendations verbally with them:

- 1) Because the City is issuing permits to allow the operation of model planes within the park they will also be responsible should take of Federally listed species occur in association with these activities. For example, if the planes cause disturbance to nesting gnatcatchers in a manner that results in abandonment of an active nest then we would consider this a potential violation of Section 9 of the Endangered Species Act that can be referred to our Law Enforcement Division. It was my understanding that the permits would explicitly limit planes from flying over the canyon area where the gnatcatcher was most recently found nesting, but I do not see this stated in the permit. It is not clear how the permit holders will know which resources they need to avoid because only a portion of the park is shown on the figure that I was provided by the City and it does not properly show the hydrological connection between vernal pools 1 and 4.
- 2) We recommended that the City provide sufficient policing to ensure the permit conditions are followed. We also recommended that the permit holders clearly display the permits (i.e., like a fishing license) so that the City can ensure only permitted individuals, that are aware of the locations of sensitive resources, are allowed to fly model planes in the park.
- 3) Although we do not know the exact limit of noise that can be tolerated by various bird species, we do know that loud noises cause disturbance to birds. We recommended that the City discuss with the Harbor Soaring Society the best method for determining which planes should be limited up front (e.g., limit planes to those that emit less than x decibels). It is our understanding that the City plans to conduct a study of the behavior of birds in response to various types of planes and we asked for an opportunity to review the proposed study. We remain concerned that it will be difficult to evaluate the disturbances and determine which planes are appropriate on a quantitative basis, unless a study is also conducted of the behavior of birds when no planes are flying.

4) We pointed out that while the ordinance is silent on the presence of sensitive resources in the park. We recommended that the ordinance acknowledge the presence of sensitive resources and clarify the need to avoid flying over or landing in sensitive resource areas (e.g., vernal pools, coastal sage scrub, wetlands/riparian vegetation).

5) We recommended that the specific area allowed for launching planes is designated on a map and that disturbance is limited to the minimum area necessary to launch the permitted planes. This area should not be within wetland habitat (i.e., both because it is difficult to use a launch pad full of water and because of the impacts to aquatic resources) and should provide the maximum buffer possible from the basin of Vernal Pool 1. I am not familiar with the amount of area that is needed so I cannot speak to a particular size. Please see the attached figure for the previous area that we approved to be cleared by the Harbor Soaring Society.

6) In the past we have discussed with both the Harbor Soaring Society and the City that it is important to stay out of the vernal pools when they are wet due to the potential for trampling listed species and the alteration of hydrology that occurs when walking on wet ground (see attached email correspondence). For this reason, we specifically requested that the Soaring Society not have access to the winch (which is located within vernal pool 1) during the wet season. We discussed fencing this area off and only allowing access during the dry period of the year. I do not see any mention of this in the permit language.

While impacts to biological resources continue as a result of both authorized and unauthorized activities within Fairview Park, we would be hesitant to go down the path of developing a Habitat Conservation Plan and providing an incidental take permit to the City, as suggested by Sea and Sage. The City has accepted mitigation and grant funding to restore habitats in the park for the benefit of Federally Listed Species. Mitigation was provided in the park to offset impacts to resources that occurred somewhere else. It would not be appropriate to then permit uses that are expected to degrade those mitigation sites within the park.

We agree that the actions of the City do not align with the Master Plan; however, our plan is to continue to coordinate with the City to improve the condition of park resources. It is our understanding that vernal pools 5 and 6 will be restored this year. We are hopeful that the public perception of the park will change as conditions of resources improve and as the public is educated about the rarity of the resources in the park (e.g., through educational signs and nature tours).

Please feel free to call if you have any questions regarding this message.

Christine L. Medak
Fish and Wildlife Biologist
U.S. Fish and Wildlife Service
2177 Salk Avenue, Suite 250
Carlsbad, CA 92008
Phone: (760) 431-9440 ext. 298
Fax: (760) 431-9624

<http://www.fws.gov/carlsbad/>

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Follow us on Twitter at <http://twitter.com/USFWSPacSWest>

"I'd like to offer a plug for actually having the natural processes instead of having to simulate them."

— Nadav Nur, PRBO Conservation Science

On Wed, Jun 26, 2019 at 12:01 PM Ian Hendricks <hendrickskia@sbcglobal.net> wrote:
Hi Christine,

Big disappointment for me last night regarding the Harbor Soaring Society agreement being passed by city council. I kind of expected it based on the city's usual actions in Fairview Park.

One thing that came up last night was that USFW had not given any official response regarding the agreement. A city council member asked the Fairview Park Administrator if USFW had given an official response regarding the agreement and the answer was, "No". Is this true? If so, why not?

Have you seen that the runway was graded next to a vernal pool (250 feet according to city measurements last night). It has been graded multiple times since 2005. I sent you the pictures but can send them again if you'd like.

Also, did you know that the runway isn't even supposed to be where it currently is? The Fairview Park Master Plan (FPMP) indicates the Silent Glider Land/Launch site to be next to the bathrooms near the lawn. It isn't. Doesn't the FPMP still hold some meaning for USFW? It doesn't seem to have that much importance with the city, in fact, they completely ignored the location being wrong last night. I did bring it up. The FP Administrator said she had been talking with USFW but nothing official - she didn't say that it wasn't even liked by USFW. Is it okay to keep flying, taking off and landing next to the vernal pools. Also, next to vernal pool 7 more space has been graded as well as a result of where they took out the wrongly placed cement posts from last year.

Please tell me what USFW thinks - it was presented like it was no big deal and USFW is talking with the administrator and everything is okay. It doesn't look okay out there.

Thank you,
Kim Hendricks

You can watch that part of the city council meeting on YouTube if you'd like to hear what was said by the FP Administrator.

From: NGUYEN, DAVID <DAVID.NGUYEN@costamesaca.gov>
Sent: Monday, April 17, 2023 5:21 PM
To: Mat Garcia
Cc: TAFOYA, KAREN
Subject: FW: Public Records Request #236 (Garcia) Various Correspondence (1 of 2)

Good afternoon Mr. Garcia,

The below email was sent to you in response to your public records request, however, due to the size of the attachment the email was kicked back. As such, I have dropped the documents responsive to your request in the below drop box.

<https://www.dropbox.com/scl/fo/qytemhnj8ci1q0lz6i1b4/h?dl=0&rlkey=lmek2u168bqvw44lbr4kyo2jw>

From: NGUYEN, DAVID
Sent: Monday, April 17, 2023 5:14 PM
To: 'Mat Garcia' <mat.garcia@live.com>
Cc: TAFOYA, KAREN <KAREN.TAFOYA@costamesaca.gov>
Subject: Public Records Request #236 (Garcia) Various Correspondence (1 of 2)

This email serves as response to your public records request of March 22, 2023, which was revised on March 24, 2023, and extended by 14 days to April 17, 2023 under Government Code § 7922.535(c)(2), for the following:

1. For all emails sent to or from Christine Medak christine_medak@fws.gov to or from Costa Mesa City employee Cynthia D'Agosta between January 1, 2015 and December 31, 2022.
2. For all emails sent to or from Christine Medak christine_medak@fws.gov to or from Costa Mesa City employee Kelly Dalton between July 1, 2021 and today, March 24, 2023.
3. For all emails sent to or from Jonathan Snyder jonathan_d_snyder@fws.gov to or from Costa Mesa City employee Kelly Dalton between July 1, 2021 and today, March 24, 2023.
4. For the attachment that is referenced in the attached email to Cynthia D'Agosta on Wednesday, June 26, 2019 at 4:13pm, from Christine Medak christine_medak@fws.gov, subject line: Re: [EXTERNAL] Fairview Park and Harbor Soaring Society Agreement.
5. For all emails sent to or from Jennifer Turner at the California State Department of Fish and Wildlife, email Jennifer.turner@wildlife.ca.gov, to or from Costa Mesa City employee Kelly Dalton between July 1, 2021 and today, March 24, 2023.

Attached you will find documents responsive to your request. Please note, due to the size of the documents a second email with additional attachments will be sent.

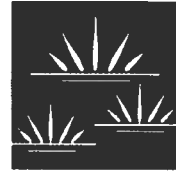
Thank you and have a good day.

David Nguyen

Deputy City Clerk – City Clerk's Office
77 Fair Drive
Costa Mesa, Ca 92626
(714) 754-5239

GLENN LUKOS ASSOCIATES

Regulatory Services



July 13, 2017

Stacey Love
U.S. Fish and Wildlife Service
2177 Salk Avenue, Suite 250
Carlsbad, California 92008

SUBJECT: Submittal Requirements for 2016-2017 Wet Season Survey for Listed Branchiopods Conducted for the Fairview Park Project, Located in the City of Costa Mesa, County of Orange, California

Dear Ms. Love:

The following letter report documents the results of wet season surveys conducted by Glenn Lukos Associates, Inc. (GLA) of seven seasonally ponded features at the above-referenced property in order to determine the presence/absence of listed branchiopods. The survey area included three features located east of Placentia Avenue for which a dry season survey was conducted in 2014 and wet season surveys were conducted in 2014-2015, 2015-2016, and 2016-2017. The 2016-2017 survey also included four additional features located west of Placentia Avenue for which the USFWS has requested an updated status of fairy shrimp¹.

In October 2014, GLA biologist Kevin Livergood (TE-172638-2) conducted dry season surveys of the features located east of Placentia Avenue². Very low densities of cysts (2-3) of the genus *Branchinecta* were detected in Features A and B. Dry season surveys were followed up with wet season surveys during the 2014-2015 rainy season. Only Feature A exhibited ponding, but ponding was very short-term and did not last for a duration suitable for the development of fairy shrimp. Due to the lack of ponding and inconclusive results of the 2014-2015 wet season survey, surveys were conducted again during the 2015-2016 wet season. However, insufficient rainfall and a lack of ponding produced inconclusive results as well. The 2016-2017 rainy season produced substantial rainfall and resulted in exceptional ponding. Therefore, per the notification to conduct the 2016-2017 wet season surveys Features A, B, and C located east of Placentia

¹ Glenn Lukos Associates; May 2015 (Revised December 2015). *Fairview Park Vernal Pool Restoration and Long-term Maintenance Plan for Vernal Pools 5, 6, and 7*; page 12.

² The nomenclature for the features east of Placentia Avenue has been changed to more accurately reflect the status and condition of these features. The northernmost feature was previously identified as Feature A and is referred to in this report as Feature C. Feature B is unchanged for descriptive purposes, but as discussed below will be merged with the adjacent feature for future tracking and management. The southerly feature, formerly designated as Feature C is now designated as Feature A. The new nomenclature is provided on Exhibit 3 and is also reflected in the attached datasheets.

29 Orchard
Telephone: (949) 837-0404

■ Lake Forest

■ California 92630-8300
Facsimile: (949) 837-5834

Stacey Love
U.S. Fish and Wildlife Service
July 13, 2017
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Avenue were monitored for ponding as well as Features 1, 4, 5, 6, and 7 located west of Placentia Avenue. East of Placentia Avenue, Features A and B exhibited suitable ponding. West of Placentia Avenue features 1, 4, 5, and 6 exhibited ponding.

Species with the potential to occur in this region include the listed endangered San Diego fairy shrimp (*Branchinecta sandiegonensis*), endangered Riverside fairy shrimp (*Streptocephalus woottoni*), and the common versatile fairy shrimp (*Branchinecta lindahli*). In Feature A located east of Placentia Avenue, the San Diego fairy shrimp was detected during 2016-2017 surveys. West of Placentia Avenue, San Diego fairy shrimp were observed in Features 1, 4, 5, and 6. Furthermore, Riverside fairy shrimp were also detected in Features 1 and 4.

I. SITE LOCATION

Fairview Park is situated along the bluffs overlooking the Santa Ana River in the City of Costa Mesa, Orange County, California. The park is located north and west of Estancia High School, south and east of Fairview Channel, west of Costa Mesa Golf Course and is bisected by Placentia Avenue in the City of Costa Mesa, County of Orange, California [Exhibit 1 – Regional Map; Exhibit 2 – Vicinity Map; and Exhibit 3: Survey Area Map]. The project site can be found on the U.S. Geological Survey (USGS) 7.5' Newport Beach Quadrangle [dated 1965 and photorevised 1981] in an unsectioned portion of Township 6 South, Range 10 West. The Universal Transverse Mercator (UTM) coordinates approximately corresponding to the site are 41316 mE and 3724857 mN (Zone 11S).

As specified on the corresponding data sheets (Appendix A) and depicted on the Survey Area Map (Exhibit 3), following are the UTM coordinates for the locations of features within the study area:

Features East of Placentia Avenue

- Feature A: 3725405.43N, 41316.86E
- Feature B: 3725185.19N, 413103.32E
- Feature C: 3725146.40N, 413091.99E

Features West of Placentia Avenue

- Feature 1: 3724935.11N, 412654.93E
- Feature 4: 3724732.26N, 412731.28E
- Feature 5: 3724876.68N, 412936.63E
- Feature 6: 3724820.91N, 412960.18E
- Feature 7: 3724857.09N, 412826.07E

Stacey Love
U.S. Fish and Wildlife Service
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The area east of Placentia Avenue is currently occupied by a network of model railroad tracks and sidewalks used by patrons of Costa Mesa's Miniature Railroad. Sidewalks are a component of Fairview Park – East that provide park users opportunities for passive recreation and access to portions of the park located west of Placentia Avenue. General topography is flat with areas vegetated predominantly with non-native grasses and ruderal species that occur between sidewalks and railroad tracks. As shown in the attached photo exhibit (Exhibit 4), during the wet phase the depressional features within the Survey Area were vegetated with upland grasses and forbs which had germinated with early season rains such as: Russian thistle (*Salsola tragus*), seaside barley (*Hordeum marinum*), and clustered tarweed (*Deinandra fasciculata*). However, following initial ponding, vernal pool and other wetland plants began to emerge and were evident in Features 1, 4a, 4b, and 5 as the pools dried out in March and April.

II. METHODOLOGY

GLA biologist Kevin Livergood (TE-172638-2) submitted a request for authorization to conduct wet season surveys to the USFWS Carlsbad office on October 25, 2016. On October 27, 2016, the USFWS responded with authorization to proceed with sampling utilizing methods prescribed in the USFWS *Survey Guidelines for the Listed Large Branchiopods* dated May 31, 2015³. In accordance with the Survey Guidelines site visits were conducted within 24 hours of initial storm events to determine whether features contained a minimum of three centimeters (cm) of ponding. Once a feature was determined to be sufficiently ponded, follow up surveys were conducted within seven days in order to begin sampling for fairy shrimp.

When suitable conditions are present, sampling for the presence of fairy shrimp is performed using a dip net within representative portions of the depression bottom, edges, and vertical water column when there is adequate ponding. In the field, specimens are collected in receptacles containing distilled water and immediately transferred to a vial containing a 95% ethanol solution. Each sample is labeled according to the depression from which the sample was collected. For species identification, each specimen is inspected in the lab using a dissecting microscope and the "Key to California Fairy Shrimps" found in Eriksen and Belk (1999)⁴. Information pertaining to each pool, whether ponded or dry, is recorded on vernal pool data sheets [Appendix A].

Per the Survey Guidelines, when suitable conditions are present each feature is sampled once every seven days, beginning no later than seven days after initial inundation and continuing until the feature is no longer inundated, or until it has experienced 120 days of continuous ponding. In

³ USFWS. May 31, 2015. *Survey Guidelines for the Listed Large Branchiopods*.

⁴ Eriksen, C. and D. Belk. 1999. *Fairy Shrimps of California's Puddles, Pools, and Playas*. Mad River Press, Inc. Eureka, California.

Stacey Love
U.S. Fish and Wildlife Service
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cases where features dry and refill during the same wet season, sampling is reinitiated within seven days of refilling upon meeting the three cm standing water criteria and continues until the feature is no longer inundated.

During site visits, depressional features were inspected for level of inundation, surface area of ponding, and level of disturbance. Representative photographs were taken of ponded areas during site visits [Exhibit 4].

During the 2016-2017 wet season, Fairview Park depressional features and vernal pools were monitored for ponding sufficient to support fairy shrimp. Of the surveyed features, Feature C located east of Placentia Avenue was determined to be unsuitable for fairy shrimp due to the insufficient depth and short duration of ponding. These results are corroborated by the absence of cysts per dry season protocol surveys conducted in 2014. Feature B, also located east of Placentia Avenue exhibited sufficient ponding, but is now mapped as a component of Feature A. Feature B does not exhibit characteristics suitable for fairy shrimp as a stand-alone feature, but during periods in which Features A and B are at or near maximum capacity they are connected. When they are connected, fairy shrimp located in Feature A also utilize the eastern edge of B. Therefore, the features are being combined and identified as Feature A for future tracking and management.

On the west side of Placentia Avenue, Features 1, 4, 5, and 6 exhibited sufficient ponding to support fairy shrimp and in all cases supported listed species. However, Feature 7 did not exhibit sufficient depth or duration of ponding and does not support fairy shrimp.

III. DESCRIPTION OF THE DEPRESSIONAL FEATURES

Following are descriptions of each feature.

FEATURE A

Feature A consists of a vegetated depression adjacent to a gravel parking lot to the south and compacted earth trail at the edge of Placentia Avenue to the west. The predominant plant species observed in the feature included seaside barley, curly dock (*Rumex crispus*), bur clover (*Medicago polymorpha*), and Russian thistle (*Salsola tragus*). At maximum, the main feature measured approximately 10 meters (m) in width by 25 m in length. Once the adjacent meadow inclusive of Feature B was saturated and began to exhibit ponding, it connected to Feature A, thus expanding the maximum dimensions of the combined features to approximately 35m by 63m. Maximum depth is estimated to be 15 cm.

Stacey Love
U.S. Fish and Wildlife Service
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FEATURE B

As discussed above, Feature B is now considered a component of Feature A. When Feature A is at or near maximum ponding it connects to Feature B. Feature B was previously identified as an individual feature due to the remnant presence of woolly marbles (*Psilocarphus brevissimus*) that were identified during the drought. However, once conditions were suitable for ponding it became evident that ponding in Feature B was connected to ponding in Feature A. Therefore, the features are being treated as a single feature (Feature A) in which the area previously identified as Feature B is ponded only during exceptionally wet years. On the attached datasheets, Features A and B are treated separately with different measurements based on weekly conditions. The dimensions of Feature A are inclusive of the depressional area previously identified as Feature B during the period of maximum inundation. When Feature B was not connected hydrologically to the meadow area adjacent to Feature A, it measured approximately 5m by 14m, with a maximum depth of 7cm; however, no fairy shrimp were detected. To reiterate, Features A and B are now combined into a single Feature A, leaving only a single feature east of Placentia Avenue with Feature C (formerly Feature A) being eliminated due to lack of detection of fairy shrimp.

FEATURE C

Feature C consists of a slight depression adjacent to a sidewalk and small-scale railroad track. The depression is vegetated with upland ruderal species typical of the surrounding area. Predominant plant species include Russian thistle and seaside barley. At maximum, the feature measured approximately 15m in width by 40m in length. Maximum depth is estimated to be 6.5 cm.

FEATURES 1, 4, 5, 6, and 7

Features 1, 4, 5, 6, and 7 located west of Placentia Avenue are depicted on Exhibit 3. In accordance with the restoration plan prepared in coordination with Ms. Christine Medak of the USFWS, wet season surveys are to be conducted at these features during suitable rainfall years in order to determine which fairy shrimp species are present and to estimate population density. Following is an excerpt from the approved restoration plan pertaining to surveys of these features:

Wet season surveys for San Diego fairy shrimp will be conducted by individuals holding a valid Section 10(a)(1)(A) permit for listed branchiopods in Restored Basins 5 and 6 for a minimum of 5 years in accordance with the accepted protocol for listed vernal pool branchiopods (Survey Guidelines for Listed Large

Stacey Love
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Branchiopods)⁵ and until conditions allow for two complete wet season surveys. If ponding depth, duration, and quality are appropriate but San Diego fairy shrimp are not detected in Basin 5 or 6, the basin(s) will be inoculated with cysts collected from Restored Basin 1 or Restored Basin 4, as proposed in the current Plan. In order to confirm the presence of San Diego fairy shrimp in Vernal Pools 1 and 4 and the absence of the versatile fairy shrimp, wet-season surveys would also be conducted during suitable rainfall years during the five-year monitoring period. Should versatile fairy shrimp be confirmed in either Vernal Pools 1 or 4, such pool would not be used as a source for inoculum. The source inoculate will depend on wet season survey results and should be free of versatile fairy shrimp (*Branchinecta lindahli*). Monitoring will continue until at least two complete wet season surveys are conducted and result in positive detection of hatched San Diego fairy shrimp and gravid females in Vernal Pools 5 and 6⁶.

Completed Wet Season Survey Data Sheets are provided in Appendix A for sampling conducted at Features A through C and Features 1, 4, 5, 6 and 7. Feature 7 did not exhibit ponding sufficient to support fairy shrimp and was therefore not sampled. All features have been photo documented during previous surveys and assessments; however, Exhibit 4 contains representative photographs of the surveyed features taken during the 2016-2017 wet season.

IV. RESULTS OF WET SEASON SURVEY

FEATURES WEST OF PLACENTIA AVENUE

Due to an exceptionally wet rainy season, Features 1, 4, 5, and 6 were at or exceeded their capacity for ponding for at least a brief period. Weather cycles during the wet season facilitated longer-term ponding and resulted in optimal conditions for the emergence and persistence of fairy shrimp. Following is a summary of findings for each sampled feature.

Feature 1

In Feature 1 both San Diego and Riverside fairy shrimp were detected. In prior surveys, San Diego fairy shrimp were confirmed in this feature, but the 2016-2017 wet season is the first recorded occurrence of Riverside fairy shrimp at this location. Densities of San Diego fairy shrimp were highly variable with 100's of immature specimens observed in early February, but the population of mature specimens was typically 10-15 per square meter. Riverside fairy

⁵ U.S. Fish and Wildlife Service. May 31, 2015. *Survey Guidelines for Listed Large Branchiopods*.

⁶ Glenn Lukos Associates; May 2015 (Revised December 2015). *Fairview Park Vernal Pool Restoration and Long-term Maintenance Plan for Vernal Pools 5, 6, and 7*; page 12.

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shrimp density was also low with an average of 5-10 mature specimens observed per square meter. Specimens of both species tended to occur in pockets throughout the feature and Riverside were most often detected in deeper portions of the pool. Due to the low densities of both populations, few specimens were collected for accessioning. In total, 12 *Streptocephalus woottoni* specimens (5 male, 7 female) were collected and 8 *Branchinecta sandiegonensis* were collected (7 male, 1 female). All collected specimens will be submitted to the Natural History Museum of Los Angeles. Furthermore, California Natural Diversity Database (CNDDDB) online field survey forms have been submitted to the California Department of Fish and Wildlife (CDFW) documenting the occurrence of both species at this location.

Feature 4

Feature 4 is a vernal pool created as part of a habitat restoration program. The feature is composed of a complex of three connected depressions in which the source hydrology includes vertical rainfall and sheet flow overflowing from Feature 1 to the north. The two depressions at the north end of the complex, identified as Features 4a and 4b, are of higher quality than depression 4c, which was not altered as part of the restoration project.

Feature 4a supported a very low density of San Diego fairy shrimp with less than 10 adults typically observed throughout the entire pool during a site visit. The feature also supported a very low density of Riverside fairy shrimp. No more than five adult Riverside fairy shrimp were detected in the feature during 2016-2017 surveys. Feature 4b supported a very small, short-lived population of four San Diego fairy shrimp. Feature 4c did not support fairy shrimp; however, a portion of the feature that connected to a trail depression at the southern end supported three female versatile fairy shrimp (*Branchinecta lindahli*). No versatile fairy shrimp were detected in the main depressions of the Feature 4 complex pools.

In total, four *Branchinecta sandiegonensis* were collected from the Feature 4 complex (3 male, 1 female) and no *Streptocephalus woottoni* specimens were collected due to the very small population. All collected specimens will be submitted to the Natural History Museum of Los Angeles. Furthermore, CNDDDB online field survey forms have been submitted to CDFW documenting the occurrence of both species at this location.

Feature 5

Feature 5 has been monitored and sampled in prior years and is known to support San Diego fairy shrimp. During 2016-2017 San Diego fairy shrimp were detected in low densities at less than five specimens per square meter at the population's peak. The surface area of the feature is relatively large and fairy shrimp were detected throughout the feature, but specimens were most frequently observed on the east side of the feature where the duration of ponding is longest.

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In total, 9 *Branchinecta sandiegonensis* were collected from Feature 5 (5 male, 4 female). All collected specimens will be submitted to the Natural History Museum of Los Angeles. A CNDDDB record has been submitted to the CDFW; however, the species occurrence is already documented at this location.

Feature 6

Feature 6 is typically a stand-alone depression that ponds seasonally during average to above-average rainfall years. With rainfall that is significantly above average, the feature exhibits connectivity to Feature 5 via the trail located along the east boundary. During 2016-2017 San Diego fairy shrimp were detected in the portion of the trail that connects to Feature 5. It is expected that fairy shrimp from Feature 5 have spread into Feature 6. Fairy shrimp were detected during one sampling event and less than 10 adult specimens were observed. None of the specimens were collected due to the low-density population.

Feature 7

Feature 7 did not exhibit the minimum requirements for ponding as stipulated in the survey guidelines. It is recommended that this feature be removed from future surveys due to the lack of ponding even during years of above average rainfall.

Miscellaneous Trail Features

During the wet-season survey the surveying biologist periodically sampled features within the extensive trail network of Fairview Park. In all instances, features that were sampled along existing trails, that were not associated with the otherwise named vernal pool features, either lacked suitability to support fairy shrimp or supported the common versatile fairy shrimp.

In cases where the versatile fairy shrimp has been identified, it is recommended that future habitat management programs consider the removal of the ponded feature to prevent hybridization of listed fairy shrimp species that occur in Fairview Park⁷.

⁷ Simovich, M., K. Davis, and A. Bohonak. 2013. Landscape homogenization threatens the genetic integrity of the Endangered San Diego fairy shrimp *Branchinecta sandiegonensis* (Branchiopoda: Anostraca). *Journal of Crustacean Biology* 33(5): 730-740.

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FEATURES EAST OF PLACENTIA AVENUE

Feature A

San Diego fairy shrimp were identified in Feature A after the feature had been ponded for approximately one month. Population density was low, ranging from 5 to 10 specimens per square meter. Following two significant rain events in February in which two inches of rain fell per event, ponding in the feature expanded to include portions of the grassland directly north of the elongated area to the south where ponding typically occurs. San Diego fairy shrimp were detected throughout the ponded area.

Feature B

Feature B exhibited ponding of sufficient depth and longevity only when the northern portion of Feature A was ponded. Based on the results of 2016-2017 sampling and hydrology monitoring, it is recommended that Feature B be combined with Feature A for tracking and measurement purposes. Feature B does not exhibit suitability for fairy shrimp as a stand-alone depression, but exhibits suitability for San Diego fairy shrimp when conditions are adequate for the species in the northern portion of Feature A.

This recommendation is corroborated by the presence of *Branchinecta* sp. cysts detected in dry-season sampling conducted in 2014. During the exceptionally wet 2016-2017 season, the feature did not support ponding sufficient to support San Diego fairy shrimp on its own, but when connected to Feature A, fairy shrimp activity could expand to the Feature B depression.

Feature C

Feature C exhibited ponding of sufficient depth immediately following above-average rain events, but ponding was not sustained for sufficient duration to support fairy shrimp. During the 2016-2017 survey, no fairy shrimp were detected at this location. Based on lack of detection during both dry-season and wet-season surveys, it is recommended that this feature be removed from future surveys due to the lack of sufficient ponding even during years of above average rainfall.

Table 1 below indicates when site visits were conducted during the 2016-2017 wet season survey and indicates the species of shrimp detected during sampling. During each survey visit features were inspected for level of inundation, surface area of ponding, and level of disturbance.

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Table 1: Wet Season Survey Dates

I D	Results	Survey Date (2016-2017)											
		Oct 25	Nov 22	Nov 29	Dec 17	Dec 21	Dec 26	Dec 30	Jan 6	Jan 13	Jan 20	Jan 24	Jan 26
A	BRSA	Dry	Dry	Dry	Dry	Ponded	Ponded	Ponded	Ponded	BRSA	BRSA	BRSA	BRSA
B	Ponded	Dry	Dry	Dry	Dry	Dry	Dry	Dry	Dry	Dry	Ponded	Ponded	Ponded
C	Insufficient Ponding	Dry	Dry	Dry	Dry	Dry	Dry	Dry	Dry	Dry	Ponded	Ponded	Ponded
1	BRSA STWO	Dry	Dry	Dry	Dry	Dry	Dry	Dry	Dry	Ponded		Ponded	Ponded
4a	BRSA STWO	Dry	Dry	Dry	Dry	Dry	Ponded	Ponded	Ponded	Ponded		BRSA	BRSA
4b	BRSA	Dry	Dry	Dry	Dry	Dry	Dry	Dry	Dry	Dry		Ponded	Ponded
4c	BRLI	Dry	Dry	Dry	Dry	Dry	Dry	Dry	Dry	Dry		Dry	Dry
5	BRSA	Dry	Dry	Dry	Dry	Ponded	Ponded	Ponded	Ponded	Ponded		Ponded	Ponded
6	BRSA	Dry	Dry	Dry	Dry	Dry	Dry	Dry	Dry	Dry		Ponded	Ponded
7	Insufficient Ponding	Dry	Dry	Dry	Dry	Dry	Dry	Dry	Dry	Dry		Ponded	Ponded

[illegible]

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Table 2 below indicates the results of dry season and wet season surveys conducted at Fairview Park since 2014. It should be noted that Feature 1 and Features 4a, 4b, and 4c have not been subject to dry season sampling. Dry season surveys of Features A, B, and C east of Placentia Avenue (2014) and Feature 7 west of Placentia Avenue (2015) resulted in no detection of cysts of the genus *Streptocephalus*; however, cysts of the genus *Branchinecta* were detected in very low densities within Features A and B.

Table 2: Summary of Dry and Wet Season Survey Results

Feature ID	2014 and 2015 DRY SEASON	2014-2015 WET SEASON		2015-2016 WET SEASON		2016-2017 WET SEASON	
	Cysts Present	Ponded	Fairy Shrimp Observed	Ponded	Fairy Shrimp Observed	Ponded	Fairy Shrimp Observed
A*	3 (<i>Branchinecta</i> sp.)	Limited	No	Limited	No	Yes	BRSA
B	2 (<i>Branchinecta</i> sp.)	No	No	No	No	Yes	BRSA
C*	0	No	No	No	No	Limited	No
1	Not Sampled	Not Sampled	---	No	No	Yes	BRSA/STWO
4a	Not Sampled	Not Sampled	---	No	No	Yes	BRSA/STWO
4b	Not Sampled	Not Sampled	---	No	No	Yes	BRSA
4c	Not Sampled	Not Sampled	---	No	No	Yes	BRLI
5	Not Sampled	Not Sampled	---	No	No	Yes	BRSA
6	Not Sampled	Not Sampled	---	No	No	Yes	BRSA
7	0	Not Sampled	---	No	No	Limited	No

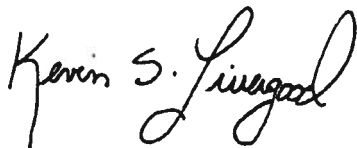
*Note that the naming for Features A and C have been changed in the 2016-2017 report at the request of the City of Costa Mesa. All prior reports have named the depressional feature furthest north in the area east of Placentia Avenue as Feature A. In this report, all references to Feature A refer to the feature located furthest south in the area east of Placentia Avenue. Since the current Feature C (formerly Feature A) has not exhibited characteristics suitable for fairy shrimp and is proposed for removal from future sampling or monitoring, the City requested the features name be changed.

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I certify that the information in this survey report and attached exhibits fully and accurately represent my work. If you have any questions regarding this letter report, please contact me at klivergood@wetlandpermitting.com.

Sincerely,

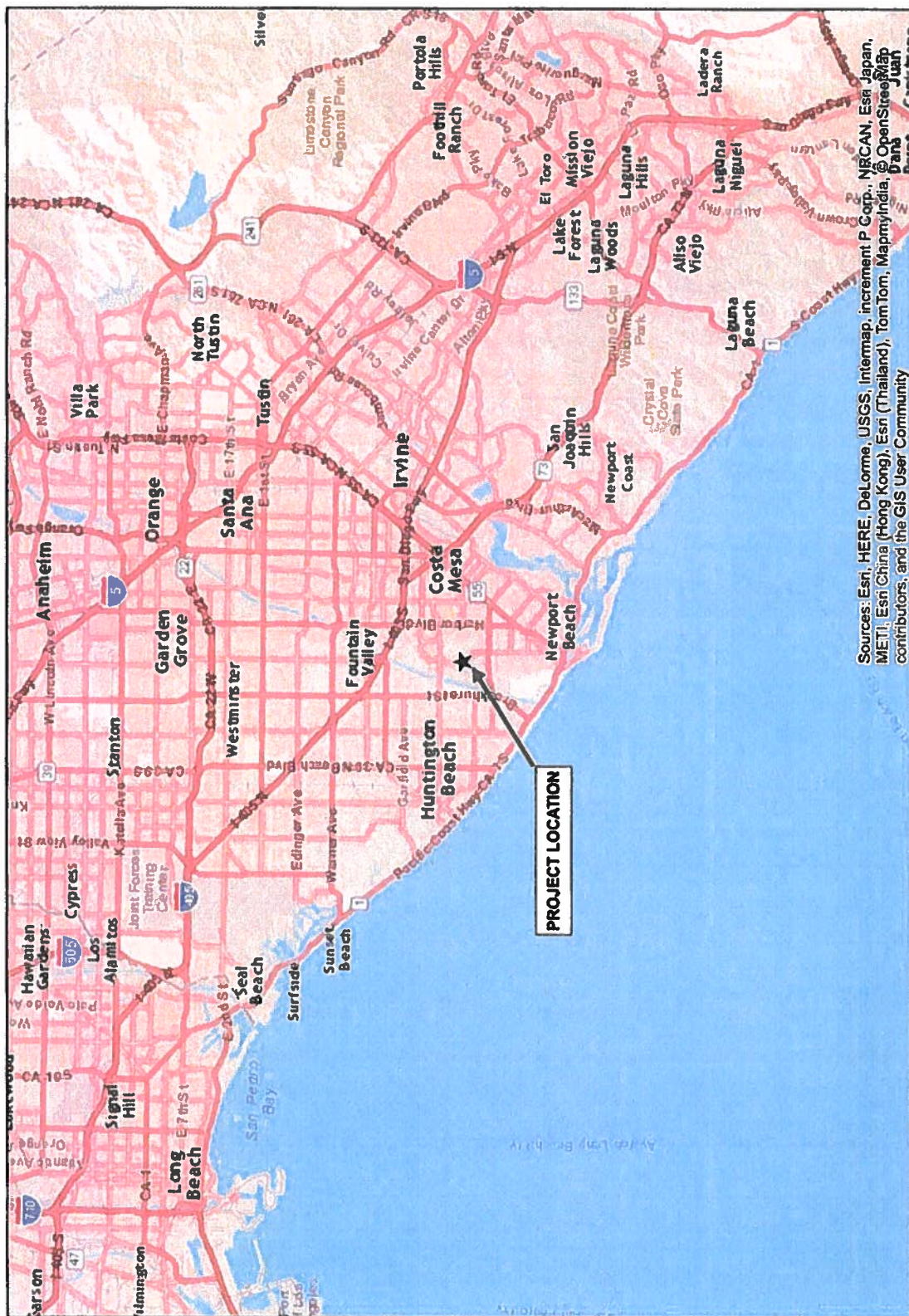
GLENN LUKOS ASSOCIATES, INC.

A handwritten signature in black ink that reads "Kevin S. Livergood". The signature is written in a cursive, flowing style.

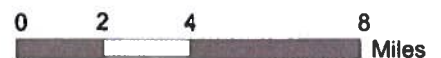
Kevin Livergood
Biologist/Regulatory Specialist
USFWS Recovery Permit #: TE-172638-2

s:493-7e.2016-2017Wet.rpt.docx

EXHIBIT 1: REGIONAL MAP



Source: ESRI World Street Map



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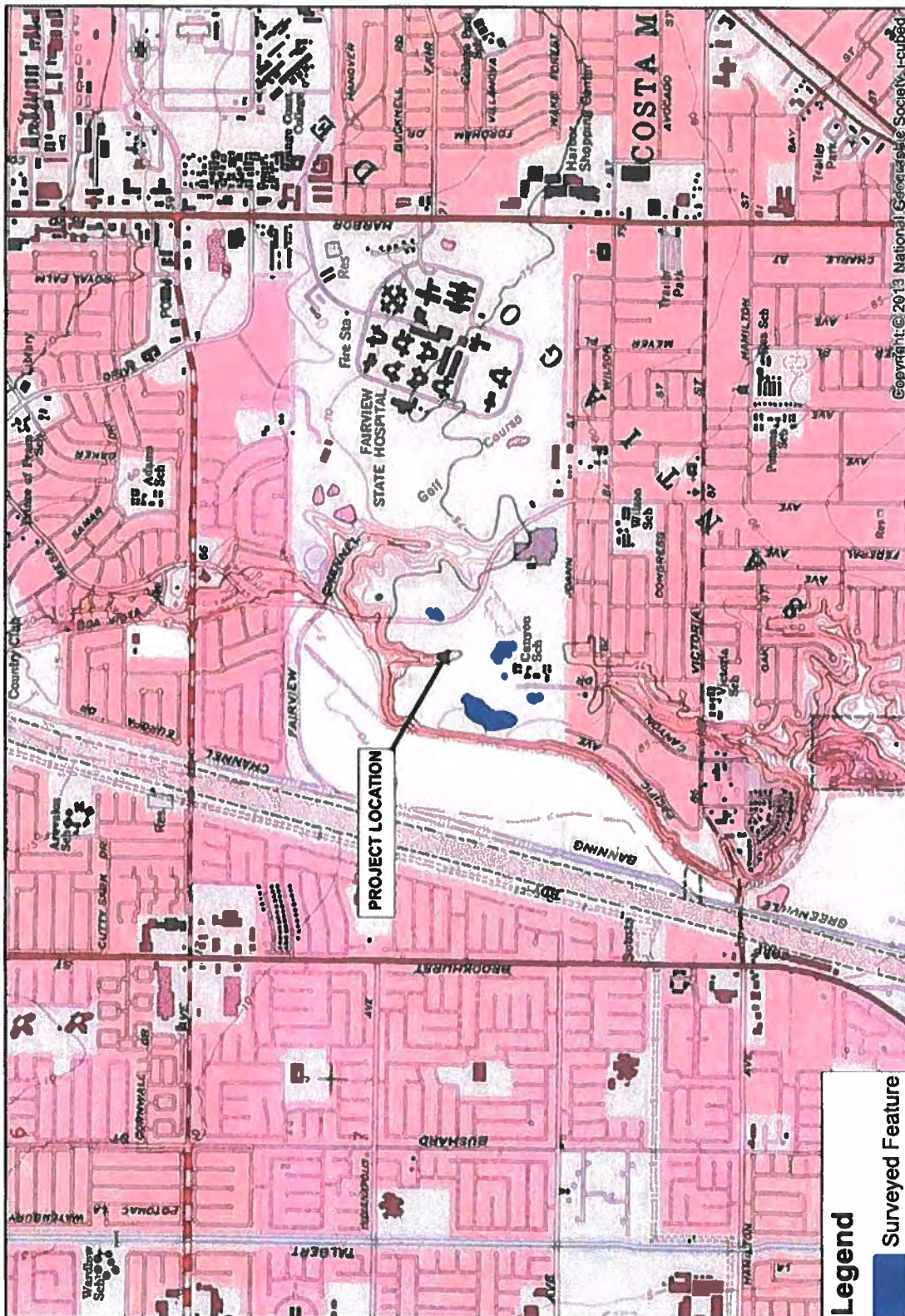
Exhibit 1

FAIRVIEW PARK

Regional Map

Sources: Esri, HERE, DeLorme, USGS, Intermap, increment P Corp., NRCAN, Esri Japan, METI, Esri China (Hong Kong), Esri (Thailand), TomTom, MapmyIndia, © OpenStreetMap contributors, and the GIS User Community

EXHIBIT 2: VICINITY MAP



Adapted from USGS Newport Beach, CA quadrangle



0 1,000 2,000 4,000 Feet



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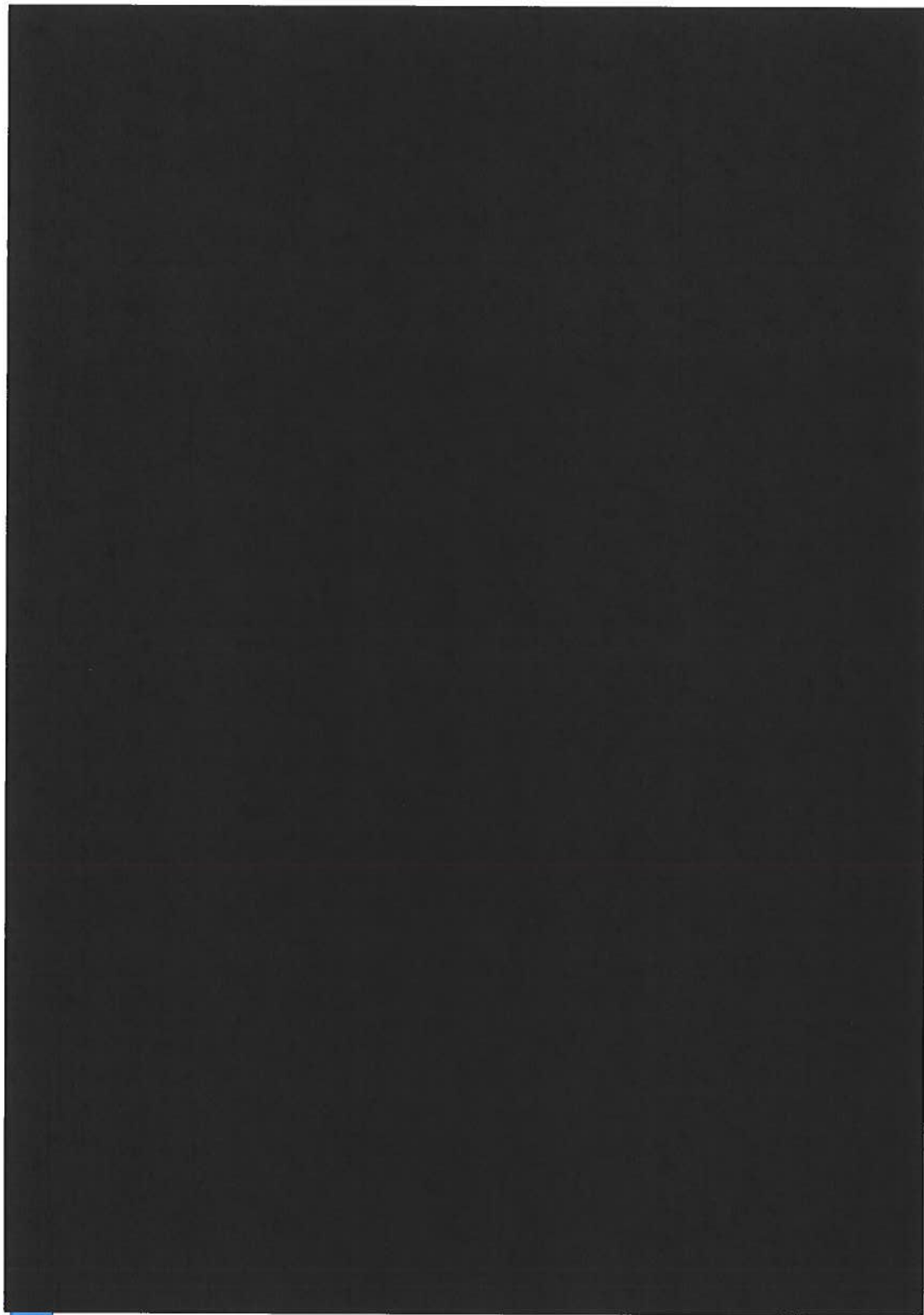
Exhibit 2







FAIRVIEW PARK

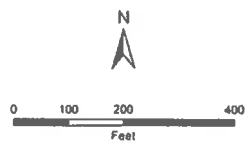
Vicinity Map

Copyright © 2013 National Geographic Society. i-cubed

EXHIBIT 3: FAIRY SHRIMP SURVEY AREA MAP



-  2017 Max Ponding
-  Typical Ponding
-  *Streptocephalus woottoni*
-  *Branchinecta sandiegonensis*
-  *Branchinecta lindahli*
-  No Fairy Shrimp Detected



1 inch = 200 feet

FAIRVIEW PARK
2017 Wet Season Fairy Shrimp Survey Area

GLENN LUKOS ASSOCIATES

Exhibit 3



X:\0363-THE RESTORED CALLMANS F. GOS/2017 Wet Season AS/493 7 2017 WetSeasonMap.mxd

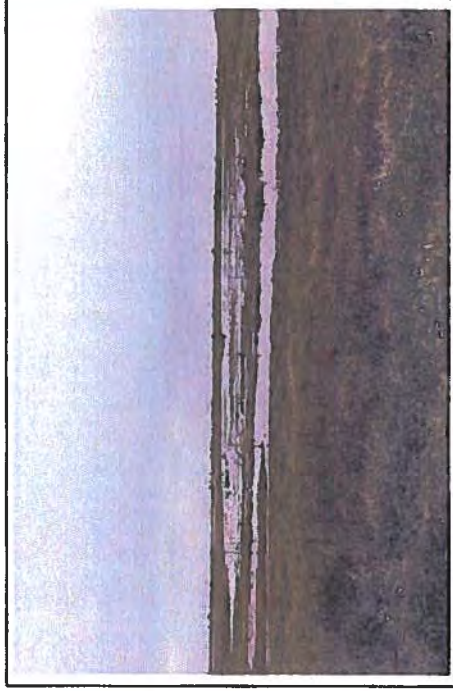
EXHIBIT 4: SITE PHOTOGRAPHS



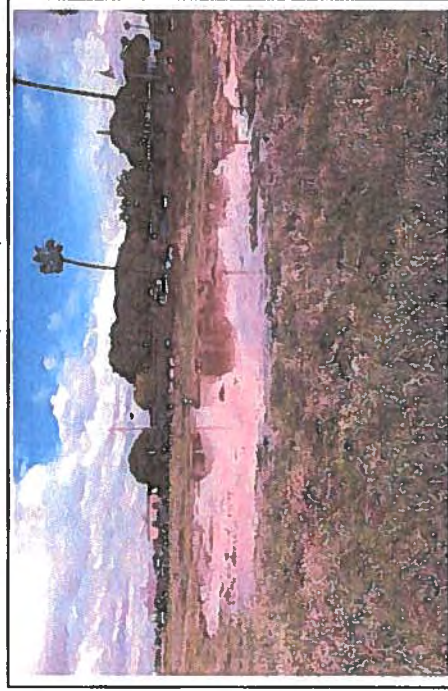
Photograph 1: View to the south of Feature 1 as seen on January 24, 2017 after a series of rain events dropped approximately 4.8" over five days. No fairy shrimp had been detected in the feature at that point (KL: 1/24/17).



Photograph 3: View to the south of Feature 4a as seen on January 13, 2017 following a multi-day storm event that dropped approximately 1.3" of rain. No fairy shrimp had been detected in the feature to that point (KL: 1/13/17).



Photograph 2: View to the north of Feature 1 as seen on February 3, 2017. *B. sandiegoneensis* were observed in this feature on this date and *S. wooltoni* were later detected in this feature as well (KL: 2/3/17).



Photograph 4: View to the east of Feature 4a as seen on January 13, 2017. *B. sandiegoneensis* and *S. wooltoni* were later detected in low densities in this feature, though not at the time of this photo (KL: 1/13/17).

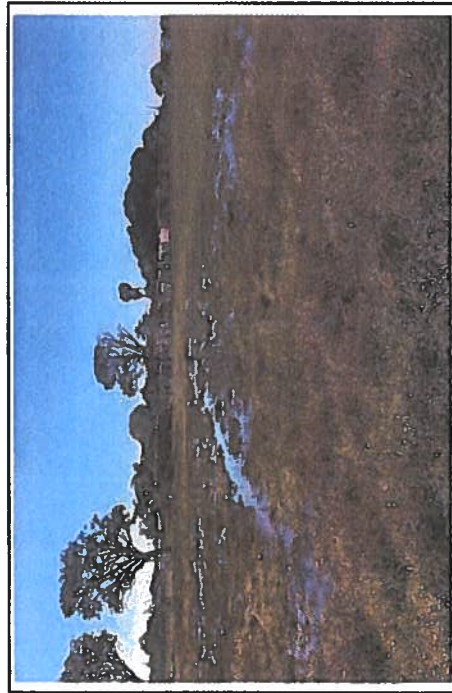


GLENN LUKOS ASSOCIATES
Exhibit 4

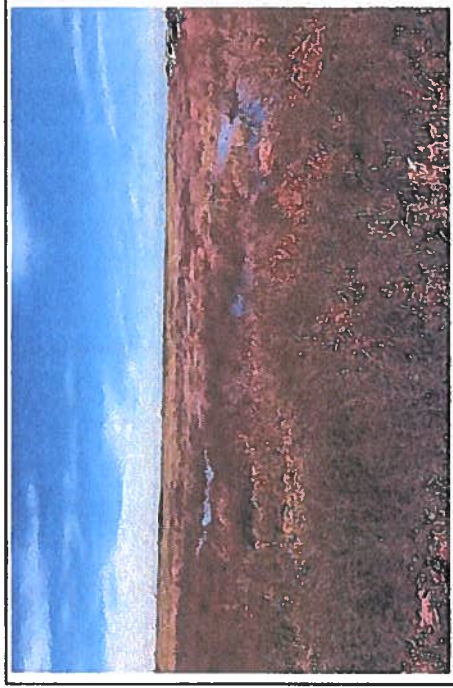
FAIRVIEW PARK
Site Photographs



Photograph 5: View to the south of Feature 4b as seen on March 2, 2017. Four mature *B. sandiegorensis* were detected in this feature earlier in the season, though not at the time of this photo (KL: 3/2/17).



Photograph 7: View to the south of Feature 5 as seen on January 26, 2017 following a 6-day storm event that dropped just under 5" of rain. *B. sandiegorensis* were later detected in moderate densities in this feature (KL: 1/26/17).



Photograph 6: View to the north of Feature 4c as seen on March 2, 2017. *B. lindahli* were detected at the southern edge of this feature along an existing trail. No fairy shrimp were detected in the deeper, central portions of the feature (KL: 3/2/17).



Photograph 8: View to the east of Feature 5 as seen on February 9, 2017 following a 3-day storm event that dropped approximately 1.7" of rain (KL: 2/9/17).



GLENN LUKOS ASSOCIATES
Exhibit 4

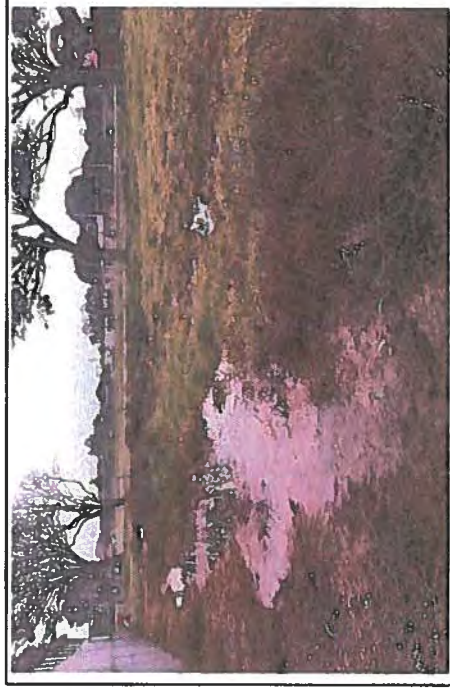
FAIRVIEW PARK
Site Photographs



Photograph 9: View to the south of Feature 6 as seen on January 24, 2017 following a series of storm events that dropped approximately 4.8\"/>



Photograph 11: View to the west of the area in which Feature 7 was historically identified. The photo was taken on January 24, 2017 following a 4-day storm event that dropped 4.8\"/>



Photograph 10: View to the south of Feature 6 as seen on February 9, 2017 following approximately 1.7\"/>

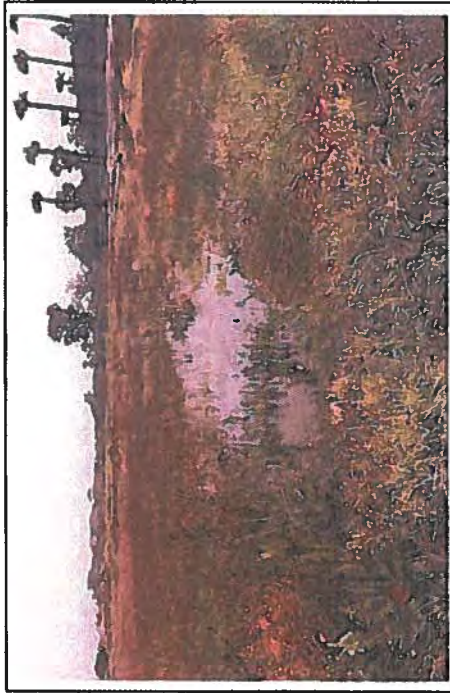


Photograph 12: View to the east of the location previously identified as Feature 7. The feature exhibited limited ponding of less than 3 cm in depth for less than 7 consecutive days during the wet season survey (KL: 2/9/17).



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Exhibit 4

FAIRVIEW PARK
Site Photographs



Photograph 13: View to the northeast of the main depression of Feature A (formerly referred to as Feature C). A low density of *B. sandiegensis* were detected in this portion of the feature (KL: 1/20/17).



Photograph 15: View to the north of the area previously identified as Feature B. Inundation occurred in this area once the meadow to the west exhibited ponding. *B. sandiegensis* were detected on the western edge of this area when the meadow was ponded (KL: 2/16/17).



Photograph 14: View to the west in the meadow portion of Feature A. Once this area ponded it had connectivity to the area identified as Feature B. *B. sandiegensis* were detected in this meadow area (KL: 2/9/17).



Photograph 16: View to the south of Feature C, which was previously identified as Feature A. Due to insufficient ponding and lack of suitability for fairy shrimp, it is recommended that this feature no longer be tracked as a seasonally ponded feature (KL: 1/13/17).

FAIRVIEW PARK Site Photographs



APPENDIX A: DATASHEETS

Appendix 1. U.S. Fish and Wildlife Service – Data Sheet for Wet Season Surveys For Listed Large Branchiopods																		
Site or Project Name: Fairview Park			County: Orange		Quad: Newport Beach		Township: T6S		Range: R10W		Section: Unsec.							
SURVEYOR / Permit Number: K. Livergood/TE-172638-2																		
Date: 10/25/16		Time: 11:00		Weather Conditions: 71 F, 25% cc, 2-4 mph														
Feature ID #	UTM (Northing, Easting, Datum)	Temp (°C)		Depth (cm)		Surface Area (m x m)		Crustaceans				Insects				Platyhelminths (flatworms)	Habitat Condition	Notes / Voucher information
		Air	Water	Average	Est. Max.	Present	Est. Max.	Anostracans	Notostracans	Copepods	Ostracods	Cladocera	Coleoptera	Hemiptera	Diptera Culicidae			
East - A	3725405.43N, 41316.06E	16.6	---	Dry	15													Rain Event 10/23-10/24 0.55"
East - B	3725165.18N, 413100.20E	16.6	---	Dry	6.3													
East - C	3725146.40N, 413091.00E	16.6	---	Dry	7													
West - 1	3724835.11N, 412954.00E	16.6	---	Dry	25													
West - 4a	3724732.20N, 412731.20E	16.6	---	Dry	15													
West - 4b	3724701.04N, 412737.04E	16.6	---	Dry	25													
West - 4c	3724805.30N, 412738.00E	16.6	---	Dry	28													
West - 5	3724975.65N, 412508.02E	16.6	---	Dry	20													
West - 6	3724820.51N, 412660.10E	16.6	---	Dry	8													
West - 7	3724857.00N, 412628.01E	16.6	---	Dry	---													

Notes: Fill in abbreviated names of Anostracans and Notostracans, for all others indicate presence with a check mark. Anostracan and Notostracan Abbreviations: Use first two letters of genus and species name (e.g., LIOC = *Lindberghia occidentalis*, BRLL = *Branchinecta lindahli*).
For habitat conditions use two letter abbreviation as follows: NP = Natural Pool, CP = Constructed Pool; UD = undisturbed, D = disturbed; with TT = tire tracks, T = trash, P = plowed; G = grazed, UG = ungrazed by: C = cattle, H = horses, S = sheep; AB = Algal blooms present.
(Estimate grazing regime by height of grasses and forbs and density of hoof prints) LG = light grazing, MG = moderate grazing, HG = heavy grazing.

Appendix 1. U.S. Fish and Wildlife Service – Data Sheet for Wet Season Surveys For Listed Large Branchiopods																		
Site or Project Name: Fairview Park			County: Orange		Quad: Newport Beach		Township: T6S		Range: R10W		Section: Unsec.							
SURVEYOR / Permit Number: K. Livergood/TE-172638-2																		
Date: 11/22/16		Time: 09:10		Weather Conditions: 61F, 0% cc, 1-3 mph														
Feature ID #	UTM (Northing, Easting, Datum)	Temp (°C)		Depth (cm)		Surface Area (m x m)		Crustaceans				Insects				Platyhelminths (flatworms)	Habitat Condition	Notes / Voucher information
		Air	Water	Average	Est. Max.	Present	Est. Max.	Anostracans	Copepods	Ostracods	Cladocera	Coleoptera	Hemiptera	Diptera	Culicidae			
East - A	3725405.43N, 41316.80E	16.6	---	Dry	15													Rain Event 11/21/16 0.63"
East - B	3725185.19N, 41310.32E	16.6	---	Dry	6.3	5x14												
East - C	3725148.49N, 41309.18E	16.6	---	Dry	7	15x40												
West - 1	3724825.11N, 41264.03E	16.6	---	Dry	25													
West - 4a	3724732.26N, 41271.26E	16.6	---	Dry	15													
West - 4b	3724701.84N, 41271.84E	16.6	---	Dry	25													
West - 4c	3724683.39N, 41278.39E	16.6	---	Dry	28													
West - 5	3724576.69N, 41264.03E	16.6	---	Dry	20													
West - 6	3724620.91N, 41280.16E	16.6	---	Dry	8													
West - 7	3724657.09N, 412826.07E	16.6	---	Dry	---													

Notes: Fill in abbreviated names of Anostracans and Notostracans, for all others indicate presence with a check mark. Anostracan and Notostracan Abbreviations: Use first two letters of genus and species name (e.g., LIOC = *Lindernella occidentalis*, BRLL = *Branchinella lindahli*).
For habitat conditions use two letter abbreviation as follows: NP = Natural Pool, CP = Constructed Pool; UD = undisturbed, D = disturbed; with TT = tire tracks, T = trash, P = plowed, G = grazed, UG = ungrazed by: C = cattle, H = horses, S = sheep; AB = Algal blooms present.
(Estimate grazing regime by height of grasses and forbs and density of hoof prints) LG = light grazing, MG = moderate grazing, HG = heavy grazing.

Appendix 1. U.S. Fish and Wildlife Service – Data Sheet for Wet Season Surveys For Listed Large Branchiopods																		
Site or Project Name: Fairview Park		County: Orange		Quad: Newport Beach		Township: T6S		Range: R10W		Section: Unsec								
SURVEYOR / Permit Number: K. Livergood/TE-172638-2																		
Date: 11/29/16		Time: 09:00		Weather Conditions: 64 F, 0% cc, 8-11 mph (Soils damp, but not muddy. No sign of ponding or saturation)														
Feature ID #	UTM (Northing, Easting, Datum)	Temp (°C)		Depth (cm)		Surface Area (m x m)		Crustaceans				Insects				Platyhelminths (flatworms)	Habitat Condition	Notes / Voucher information
		Air	Water	Average	Est. Max.	Present	Est. Max.	Anostracans	Copepods	Ostracods	Cladocera	Coleoptera	Hemiptera	Diptera	Culicidae			
East - A	3724405.33N, 413141.80E	17.8	---	Dry	15													Rain Event 11/28/16 0.55"
East - B	3725165.18N, 413103.32E	17.8	---	Dry	6.3													
East - C	3725148.40N, 413081.08E	17.8	---	Dry	7													
West - 1	3724825.11N, 412864.82E	17.8	---	Dry	25													
West - 4a	3724752.20N, 413731.28E	17.8	---	Dry	15													
West - 4b	3724761.04N, 413737.84E	17.8	---	Dry	25													
West - 4c	3724865.30N, 413738.50E	17.8	---	Dry	28													
West - 5	3724878.80N, 413504.83E	17.8	---	Dry	20													
West - 6	3724820.81N, 412880.18E	17.8	---	Dry	8													
West - 7	3724837.08N, 412828.07E	17.8	---	Dry	---													

Notes: Fill in abbreviated names of Anostracans and Notostracans, for all others indicate presence with a check mark. Anostracan and Notostracan Abbreviations: Use first two letters of genus and species name (e.g., LIOC = *Lindernia occidentalis*, BRUJ = *Branchinecta lindahli*).
For habitat conditions use two letter abbreviation as follows: NP = Natural Pool, CP = Constructed Pool, UD = undisturbed, D = disturbed; with TT = tire tracks, T = trash, P = plowed, G = grazed, UG = ungrazed by: C = cattle, H = horses, S = sheep, AB = Algal blooms present.
(Estimate grazing regime by height of grasses and forbs and density of hoof prints) LG = light grazing, MG = moderate grazing, HG = heavy grazing.

Appendix 1. U.S. Fish and Wildlife Service – Data Sheet for Wet Season Surveys For Listed Large Branchiopods																		
Site or Project Name: Fairview Park		County: Orange		Quad: Newport Beach		Township: T6S		Range: R10W		Section: Unsec.								
SURVEYOR / Permit Number: K. Livergood/TE-172638-2																		
Date: 12/17/16		Time: 09:00		Weather Conditions: 54 F, 25% cc, 2-4 mph														
Feature ID #	UTM (Northing, Easting, Datum)	Temp (°C)		Depth (cm)		Surface Area (m x m)		Crustaceans				Insects				Platyhelminths (flatworms)	Habitat Condition	Notes / Voucher information
		Air	Water	Average	Est. Max.	Present	Est. Max.	Anostracans	Copepods	Ostracods	Cladocera	Coleoptera	Hemiptera	Diptera Culicidae	Diptera Chironomidae			
East - A	3725405.43N, 41316.06E	12.2	---	Dry	15		10x25 (25x40)											Rain Event 12/16/16 1.15"
East - B	3725185.18N, 413100.32E	12.2	---	Dry	6.3		5x14											
East - C	3725146.40N, 413091.06E	12.2	---	Dry	7		15x40											
West - 1	3724505.11N, 412864.02E	12.2	---	Dry	25		75x270											
West - 4a	3724732.26N, 412731.26E	12.2	---	Dry	15		24x40											
West - 4b	3724701.04N, 412737.81E	12.2	---	Dry	25		16x28											
West - 4c	3724663.26N, 412738.06E	12.2	---	Dry	28		48x53											
West - 5	3724576.68N, 412506.02E	12.2	---	Dry	20		55x95											
West - 6	3724520.51N, 412580.10E	12.2	---	Dry	8		18x18											
West - 7	3724557.09N, 412526.07E	12.2	---	Dry	---		---											

Notes: Fill in abbreviated names of Anostracans and Notostracans, for all others indicate presence with a check mark. Anostracan and Notostracan Abbreviations: Use first two letters of genus and species name (e.g., LIOC = *Lindernella occidentalis*, BRLL = *Branchinella lindahli*).
For habitat conditions use two letter abbreviation as follows: NP = Natural Pool, CP = Constructed Pool; UD = undisturbed, D = disturbed; with TT = tire tracks, T = trash, P = plowed; G = grazed, UG = ungrazed by: C = cattle, H = horses, S = sheep, AB = Algal blooms present.
(Estimate grazing regime by height of grasses and forbs and density of hoof prints) LG = light grazing, MG = moderate grazing, HG = heavy grazing.

Appendix 1. U.S. Fish and Wildlife Service – Data Sheet for Wet Season Surveys For Listed Large Branchiopods																		
Site or Project Name: Fairview Park		County: Orange		Quad: Newport Beach		Township: T6S		Range: R10W		Section: Unsec								
SURVEYOR / Permit Number: K. Livergood/TE-172638-2																		
Date: 12/21/16		Time: 14:10		Weather Conditions: 61F, overcast, 3-6 mph														
Feature ID #	UTM (Northing, Easting, Datum)	Temp (°C)		Depth (cm)		Surface Area (m x m)		Crustaceans				Insects				Platyhelminths (flatworms)	Habitat Condition	Notes / Voucher information
		Air	Water	Average	Est. Max.	Present	Est. Max.	Anostracans	Copepods	Ostracods	Cladocera	Coleoptera	Hemiptera	Diptera Culicidae	Diptera Chironomidae			
East - A	3725405.43N, 41316.06E	16.1	16.1	6.4	15	4.5x12	10x5 (5x4x3)											Rain Event 12/17/16 1.21"
East - B	3725185.19N, 413302.32E	16.1	---	Dry	6.3		5x14											
East - C	3725146.40N, 413291.06E	16.1	---	Dry	7		15x40											
West - 1	3724935.11N, 412654.02E	16.1	---	Dry	25		75x270											
West - 4a	3724732.26N, 412771.20E	16.1	---	Dry	15		24x40											
West - 4b	3724701.04N, 412737.84E	16.1	---	Dry	25		16x28											
West - 4c	3724665.38N, 412739.09E	16.1	---	Dry	28		48x53											
West - 5	3724676.68N, 412608.63E	16.1	16.7	6.4	20	.5x1	55x95											Ponded on DG only
West - 6	3724620.91N, 412602.18E	16.1	---	Dry	8		18x18											
West - 7	3724657.08N, 412628.07E	16.1	---	Dry	---		----											

Notes: Fill in abbreviated names of Anostracans and Notostracans, for all others indicate presence with a check mark. Anostracan and Notostracan Abbreviations: Use first two letters of genus and species name (e.g., LIOC = *Lindberghia occidentalis*, BRLL = *Branchinecta lindahli*).
For habitat conditions use two letter abbreviation as follows: NP = Natural Pool, CP = Constructed Pool; UD = undisturbed, D = disturbed; with TT = tire tracks, T = trash, P = plowed, G = grazed, UG = ungrazed by: C = cattle, H = horses, S = sheep; AB = Algal blooms present.
(Estimate grazing regime by height of grasses and forbs and density of hoof prints) LG = light grazing, MG = moderate grazing, HG = heavy grazing.

Appendix 1. U.S. Fish and Wildlife Service – Data Sheet for Wet Season Surveys For Listed Large Branchiopods																		
Site or Project Name: Fairview Park		County: Orange		Quad: Newport Beach		Township: T6S		Range: R10W		Section: Unsec								
SURVEYOR / Permit Number: K. Livengood/TE-172638-2																		
Date: 12/26/16		Time: 12:40		Weather Conditions: 62F, partly cloudy, 1-2 mph														
Feature ID #	UTM (Northing, Easting, Datum)	Temp (°C)		Depth (cm)		Surface Area (m x m)		Crustaceans				Insects				Platyhelminths (flatworms)	Habitat Condition	Notes / Voucher information
		Air	Water	Average	Est. Max.	Present	Est. Max.	Anostracans	Copepods	Ostracods	Cladocera	Coleoptera	Hemiptera	Diptera Culicidae	Diptera Chironomidae			
East - A	3725405.43N, 413116.06E	16.7	16.1	10	15	6x28	10x25 (5x40)											Rain Event 12/22/16 0.80"
East - B	3725185.18N, 413100.32E	16.7	---	Dry	6.3	5x14												
East - C	3725146.00N, 413091.06E	16.7	---	Dry	7	15x40												
West - 1	3724835.11N, 412854.02E	17.2	---	Dry	25	75x270												Vegetated, moderately turbid
West - 4a	3724732.26N, 412731.26E	17.2	16.7	7.6	15	11x17	24x40											
West - 4b	3724701.04N, 412737.04E	17.2	---	Dry	25	16x28												Ponded on DG only
West - 4c	3724665.38N, 412729.06E	17.2	---	Dry	28	48x53												
West - 5	3724676.68N, 412658.03E	17.2	16.7	3.8	20	.5x1	55x95											
West - 6	3724630.91N, 412660.18E	17.2	---	Dry	8	18x18												
West - 7	3724657.08N, 412628.07E	117.2	---	Dry	---	---	---											

Notes: Fill in abbreviated names of Anostracans and Notostracans, for all others indicate presence with a check mark. Anostracan and Notostracan Abbreviations: Use first two letters of genus and species name (e.g., LIOC = *Lindernella occidentalis*, BRJ = *Branchinecta lindahli*).
For habitat conditions use two letter abbreviation as follows: NP = Natural Pool, CP = Constructed Pool; UD = undisturbed, D = disturbed; with TT = tire tracks, T = trash, P = plowed, G = grazed, UG = ungrazed by: C = cattle, H = horses, S = sheep; AB = Algal blooms present.
(Estimate grazing regime by height of grasses and forbs and density of hoof prints) LG = light grazing, MG = moderate grazing, HG = heavy grazing.

Appendix 1. U.S. Fish and Wildlife Service – Data Sheet for Wet Season Surveys For Listed Large Branchiopods																		
Site or Project Name: Fairview Park			County: Orange		Quad: Newport Beach		Township: T6S		Range: R10W		Section: Unsec							
SURVEYOR / Permit Number: K. Livengood/TE-172638-2																		
Date: 12/30/16		Time: 12:50		Weather Conditions: 63F, partly cloudy, 4-7 mph														
Feature ID #	UTM (Northing, Easting, Datum)	Temp (°C)		Depth (cm)		Surface Area (m x m)		Crustaceans				Insects				Platyhelminths (flatworms)	Habitat Condition	Notes / Voucher information
		Air	Water	Average	Est. Max.	Present	Est. Max.	Anostracans	Copepods	Ostracods	Cladocera	Coleoptera	Hemiptera	Diptera	Culicidae			
East - A	372405.43N, 413116.06E	17.2	20	5-7.5	15	3x24	19x25 (95x43)											Rain Event 12/28/16 1.03"
East - B	372518.19N, 413103.32E	17.2	---	Dry	6.3		5x14											
East - C	3725146.40N, 413081.09E	17.2	---	Dry	7		15x40											
West - 1																		
West - 4a	3724025.11N, 412654.02E	17.2	---	Dry	25		75x270											Vegetated, moderately turbid
West - 4b	3724132.20N, 412731.02E	17.2	20.5	6	15	11x14	24x40											
West - 4c	3724101.04N, 412737.04E	17.2	---	Dry	25		16x28											
West - 5	3724055.38N, 412738.09E	17.2	---	Dry	28		48x53											
West - 6	3724078.88N, 412508.02E	17.2	20.5	2.5	20	1x1	55x95											Ponded on DG only
West - 7	3724030.51N, 412600.18E	17.2	---	Dry	8		18x18											
	3724037.09N, 412628.07E	17.2	---	Dry	---		---											

Notes: Fill in abbreviated names of Anostracans and Notostracans, for all others indicate presence with a check mark. Anostracan and Notostracan Abbreviations: Use first two letters of genus and species name (e.g., LIOC = *Lindernella occidentalis*, BRLL = *Branchinella lindahli*). For habitat conditions use two letter abbreviation as follows: NP = Natural Pool, CP = Constructed Pool; UD = undisturbed, D = disturbed; with TT = tire tracks, T = trash, P = plowed, G = grazed, UG = ungrazed by: C = cattle, H = horses, S = sheep; AB = Algal blooms present. (Estimate grazing regime by height of grasses and forbs and density of hoof prints) LG = light grazing, MG = moderate grazing, HG = heavy grazing.

Appendix 1. U.S. Fish and Wildlife Service – Data Sheet for Wet Season Surveys For Listed Large Branchiopods																		
Site or Project Name: Fairview Park		County: Orange		Quad: Newport Beach		Township: T6S		Range: R10W		Section: Unsec.								
SURVEYOR / Permit Number: K. Livengood/TE-172638-2																		
Date: 1/6/17		Time: 1100		Weather Conditions: 62F, partly cloudy, 2-4 mph														
Feature ID #	UTM (Northing, Easting, Datum)	Temp (°C)		Depth (cm)		Surface Area (m x m)		Crustaceans				Insects				Platyhelminths (flatworms)	Habitat Condition	Notes / Voucher information
		Air	Water	Average	Est. Max.	Present	Est. Max.	Anostracans	Copepods	Ostracods	Cladocera	Coleoptera	Hemiptera	Diptera	Culicidae			
East - A	3725405.43N, 413116.08E	16.7	16.7	15	20	9x38	10x35 (25x43)											Rain Event 1/5/17 0.30" Since 12/16/16: 4.22"
East - B	3725185.18N, 413103.33E	16.7	---	Dry	6.3		5x14											
East - C	3725148.42N, 413091.09E	16.7	---	Dry	7		15x40											
West - 1	3724835.11N, 412964.93E	17.8	---	Dry	25		75x270											
West - 4a	3724732.20N, 412751.28E	17.8	16.1	1	15	10x16	24x40											Vegetated, moderately turbid
West - 4b	3724701.04N, 412737.84E	17.8	---	---	25		16x28											
West - 4c	3724685.39N, 412728.18E	17.8	---	---	28		48x53											
West - 5	3724676.68N, 412636.63E	17.8	17.8	5	20	2x1	55x95											Ponded on DG only
West - 6	3724620.91N, 412606.18E	17.8	---	Dry	8		18x18											
West - 7	3724637.08N, 412606.07E	17.8	---	Dry	---		---											

Notes: Fill in abbreviated names of Anostracans and Notostracans, for all others indicate presence with a check mark. Anostracan and Notostracan Abbreviations: Use first two letters of genus and species name (e.g., LIOC = *Lindnerella occidentalis*, BRLL = *Branchinecta lindahli*).
For habitat conditions use two letter abbreviation as follows: NP = Natural Pool, CP = Constructed Pool; UD = undisturbed, D = disturbed; with TT = tire tracks, T = trash, P = plowed, G = grazed, UG = ungrazed by: C = cattle, H = horses, S = sheep; AB = Algal blooms present.
(Estimate grazing regime by height of grasses and forbs and density of hoof prints) LG = light grazing, MG = moderate grazing, HG = heavy grazing.

Appendix 1. U.S. Fish and Wildlife Service - Data Sheet for Wet Season Surveys For Listed Large Branchiopods																		
Site or Project Name: Fairview Park		County: Orange		Quad: Newport Beach		Township: T6S		Range: R10W		Section: Unacc								
SURVEYOR / Permit Number: K. Livergood/TE-172638-2																		
Date: 1/13/17		Time: 1100		Weather Conditions: 57F, partly cloudy, 1-3 mph														
Feature ID #	UTM (Northing, Easting, Datum)	Temp (°C)		Depth (cm)		Surface Area (m x m)		Crustaceans				Insects				Platyhelminths (flatworms)	Habitat Condition	Notes / Voucher information
		Air	Water	Average	Est. Max.	Present	Est. Max.	Anostracans	Copepods	Ostracods	Cladocera	Coleoptera	Hemiptera	Diptera Culicidae	Diptera Chironomidae			
East - A	3725405.43N, 41318.86E	14	15	15	20	15x40	10x5 (20x40)	BRSA	X				X				Rain Event 1/9-1/13 1.36"	
East - B	3725185.19N, 413103.52E	14	---	---	6.3	5x14												
East - C	3725146.40N, 413081.09E	14	---	---	7	15x40												
West - 1	3724853.11N, 412654.82E	15.5	16.6	2.5-5	25	35x50	75x270										Very turbid; EC=120	
West - 4a	3724732.20N, 412751.28E	15.5	14.4	17.8	20	21x30	24x40		X									
West - 4b	3724791.80N, 412717.64E	15.5	---	---	25	16x28												
West - 4c	3724685.33N, 412739.80E	15.5	---	---	28	48x53												
West - 5	3724678.68N, 412650.43E	15.5	17.7	6.3-7.6	20	2x4	55x95										Ponded on DG only	
West - 6	3724620.91N, 412660.18E	15.5	---	---	8	18x18												
West - 7	3724857.09N, 412626.07E	15.5	---	---	---	---												

Notes: Fill in abbreviated names of Anostracans and Notostracans, for all others indicate presence with a check mark. Anostracan and Notostracan Abbreviations: Use first two letters of genus and species name (e.g., LIOC = *Lindberghia occidentalis*; BRUJ = *Branchinecta lindberghii*).
For habitat conditions use two letter abbreviation as follows: NP = Natural Pool, CP = Constructed Pool, UD = undisturbed, D = disturbed; with TT = tire tracks, T = trash, P = plowed, G = grazed, UG = ungrazed by: C = cattle, H = horses, S = sheep; AB = Algal blooms present.
(Estimate grazing regime by height of grasses and forbs and density of hoof prints) LG = light grazing, MG = moderate grazing, HG = heavy grazing.

Appendix 1. U.S. Fish and Wildlife Service – Data Sheet for Wet Season Surveys For Listed Large Branchiopods																		
Site or Project Name: Fairview Park		County: Orange		Quad: Newport Beach		Township: T6S		Range: R10W		Section: Unsec.								
SURVEYOR / Permit Number: K. Livengood/TE-172638-2																		
Date: 1/20/17		Time: 1050		Weather Conditions: 57F, overcast, 6mph Heavy rain expected thru 1/23/17														
Feature ID #	UTM (Northing, Easting, Datum)	Temp (°C)		Depth (cm)		Surface Area (m x m)		Crustaceans				Insects				Platyhelminths (flatworms)	Habitat Condition	Notes / Voucher information
		Air	Water	Average	Est. Max.	Present	Est. Max.	Anostracans	Copepods	Ostracods	Cladocera	Coleoptera	Hemiptera	Diptera	Culicidae			
East - A	3725405.03N, 41316.06E	13.8	14.4	17.8	20	15x40		BRSA										Rain Event 1/19-1/20 1.36"
East - B	3725165.18N, 413103.32E	13.8	14.4	6	6	5x14												
East - C	3725146.40N, 413091.06E	13.8	14.4	7	7	15x40												
West - 1	3724835.11N, 412964.03E				25													EC: 211; 3 fem, 2m
West - 4a	3724732.20N, 412731.26E				20													
West - 4b	3724701.04N, 412723.84E				25													
West - 4c	3724683.30N, 412726.56E				28													
West - 5	3724676.60N, 412628.03E				20													
West - 6	3724620.81N, 412560.16E				8													
West - 7	3724657.00N, 412626.07E			---	---													

Notes: Fill in abbreviated names of Anostracans and Notostracans, for all others indicate presence with a check mark. Anostracan and Notostracan Abbreviations: Use first two letters of genus and species name (e.g., LIOC = *Lindnerella occidentalis*, BRLL = *Branchinella lindahlia*).
For habitat conditions use two letter abbreviation as follows: NP = Natural Pool, CP = Constructed Pool; UD = undisturbed, D = disturbed; with TT = tire tracks, T = trash, P = plowed, G = grazed, UG = ungrazed by: C = cattle, H = horses, S = sheep; AB = Algal blooms present.
(Estimate grazing regime by height of grasses and forbs and density of hoof prints) LG = light grazing, MG = moderate grazing, HG = heavy grazing.

Appendix 1. U.S. Fish and Wildlife Service – Data Sheet for Wet Season Surveys For Listed Large Branchiopods																		
Site or Project Name: Fairview Park			County: Orange		Quad: Newport Beach		Township: T6S		Range: R10W		Section: Unsec.							
SURVEYOR / Permit Number: K. Livergood/TE-172638-2																		
Date: 1/24/17		Time: 0815		Weather Conditions: 45F, partly cloudy, 1-2mph														
Feature ID #	UTM (Northing, Easting, Datum)	Temp (°C)		Depth (cm)		Surface Area (m x m)		Crustaceans				Insects				Platyhelminths (flatworms)	Habitat Condition	Notes / Voucher information
		Air	Water	Average	Est. Max.	Present	Est. Max.	Anostracans	Copepods	Ostracods	Cladocera	Coleoptera	Hemiptera	Diptera Culicidae	Diptera Chironomidae			
East - A	3725405.43N, 413116.86E	8.3	9.2	20.3	20	10x3 (3x4x3)	10x25 (20x43)	BRSA	X									Rain Event 1/19-1/23 4.81" @Max ponding
East - B	3725185.19N, 413102.32E	8.3	9.4	6.3	7	5x14	5x14											
East - C	3725146.49N, 413091.89E	8.3	10	7	7	15x40	15x40											EC: 163
West - 1	3724935.11N, 412864.82E	7.7	9.2	22-25	25	75x270	75x270											EC: 96
West - 4a	3724792.29N, 412731.26E	7.2	8.6	18-20	20	24x40	24x40	BRSA		X								EC: 74; 1 male
West - 4b	3724701.04N, 412737.84E	7.2	8.6	18-20	25	16x28	16x28											1/23: Initial ponding
West - 4c	3724693.39N, 412739.56E	7.2	---	---	28	---	48x53											
West - 5	3724878.66N, 412808.63E	7.2	9.7	18	20	55x95	55x95											EC: 112
West - 6	3724820.91N, 412860.18E	7.2	8.8	8	8	18x18	18x18											EC: 123
West - 7	3724857.09N, 412828.07E	7.2	10	1-2	2.5	1x2.5	1x2.5											

Notes: Fill in abbreviated names of Anostracans and Notostracans, for all others indicate presence with a check mark. Anostracan and Notostracan Abbreviations: Use first two letters of genus and species name (e.g., LIOC = *Lindernella occidentalis*, BRLL = *Branchinella lindahli*).
For habitat conditions use two letter abbreviation as follows: NP = Natural Pool, CP = Constructed Pool; UD = undisturbed, D = disturbed; with TT = tire tracks, T = trash, P = plowed, G = grazed, UG = ungrazed by: C = cattle, H = horses, S = sheep; AB = Algal blooms present.
(Estimate grazing regime by height of grasses and forbs and density of hoof prints) LG = light grazing, MG = moderate grazing, HG = heavy grazing.

Site or Project Name: Fairview Park	County: Orange	Quad: Newport Beach	Township: T6S	Range: R10W	Section: Unsec
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Date: 1/24/17	Time: 08:15	Weather Conditions: 45 F. partly cloudy. 1-2 mph
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[illegible]

Notes: Fill in abbreviated names of Anostracans and Notostracans, for all others indicate presence with a check mark. Anostracan and Notostracan Abbreviations: Use first two letters of genus and species name (e.g., LIOC = *Linderiella occidentalis*, BRLI = *Branchinecta lindahli*). For habitat conditions use two letter abbreviation as follows: NP = Natural Pool, CP = Constructed Pool; UD = undisturbed, D = disturbed; with TT = tire tracks, T = trash, P = plowed; G = grazed, UG = ungrazed by: C = cattle, H = horses, S = sheep; AB = Algal blooms present. Estimate grazing regime by height of grasses and forbs and density of hoof prints) LG = light grazing, MG = moderate grazing, HG = heavy grazing.

• : Ponding (~1" deep) on south end near fence. Overflow from adjacent trail. Small pockets of shallow ponding indicate soil saturation throughout. Ponding is not widespread. 30x50m exhibits saturation or shallow ponding. Vegetated (mustard, scorpionmel, dwarf nettle, salsola)

Appendix 1. U.S. Fish and Wildlife Service – Data Sheet for Wet Season Surveys For Listed Large Branchiopods																		
Site or Project Name: Fairview Park		County: Orange		Quad: Newport Beach		Township: T6S		Range: R10W		Section: Unacc								
SURVEYOR / Permit Number: K. Livengood/TE-172638-2																		
Date: 1/26/17		Time: 1130		Weather Conditions: 54F, clear, 3-4mph														
Feature ID #	UTM (Northing, Easting, Datum)	Temp (°C)		Depth (cm)		Surface Area (m x m)		Crustaceans				Insects				Platyhelminths (flatworms)	Habitat Condition	Notes / Voucher information
		Air	Water	Average	Est. Max.	Present	Est. Max.	Anostracans	Copepods	Ostracods	Cladocera	Coleoptera	Hemiptera	Diptera Culicidae	Diptera Chironomidae			
East - A	3725405.43N, 413116.80E	15.5	15	12.7	20	10x25 (shaded)	10x25 (shaded)	BRSA		X								Rain Event 1/19-1/24 4.99"
East - B	3725145.19N, 413103.32E	15.5	15.5	10	7	5x14	5x14			X								
East - C	3725148.40N, 413091.80E	16.1	16	5	7	15x40	15x40			X								
West - 1	3724853.11N, 412854.82E	15	14.4	18-20	25	75x270	75x270											
West - 4a	3724732.30N, 412771.20E	15	14.4	18-20	20	24x40	24x40	BRSA			X							
West - 4b	3724701.60N, 412771.80E	15	14.4	18-20	25	16x28	16x28											1/23: Initial ponding
West - 4c	3724683.30N, 412778.50E	---	---	---	28	---	48x53											
West - 5	3724678.60N, 412828.82E	14.4	14.5	15	20	55x95	55x95											
West - 6	3724620.91N, 412860.18E	13.8	14.0	7-8	8	18x18	18x18											
West - 7	3724657.00N, 412824.07E	14.4	14.5	2	2.5	1x2.5	1x2.5											

Notes: Fill in abbreviated names of Anostracans and Notostracans, for all others indicate presence with a check mark. Anostracan and Notostracan Abbreviations: Use first two letters of genus and species name (e.g., LIOC = *Lindberghia occidentalis*, BRLL = *Branchinecta lindshiei*).
For habitat conditions use two letter abbreviation as follows: NP = Natural Pool, CP = Constructed Pool, UD = undisturbed, D = disturbed; with TT = tire tracks, T = trash, P = plowed, G = grazed, UG = ungrazed by: C = cattle, H = horses, S = sheep; AB = Algal blooms present.
(Estimate grazing regime by height of grasses and forbs and density of hoof prints) LG = light grazing, MG = moderate grazing, HG = heavy grazing.

Appendix 1. U.S. Fish and Wildlife Service – Data Sheet for Wet Season Surveys For Listed Large Branchiopods																		
Site or Project Name: Fairview Park		County: Orange		Quad: Newport Beach		Township: T6S		Range: R10W		Section: Umeac								
SURVEYOR / Permit Number: K. Livergood/TE-172638-2																		
Date: 2/3/17		Time: 1010		Weather Conditions: 56F, overcast, 3-4mph, rain														
Feature ID #	UTM (Northing, Easting, Datum)	Temp (°C)		Depth (cm)		Surface Area (m x m)		Crustaceans				Insects				Platyhelminths (flatworms)	Habitat Condition	Notes / Voucher information
		Air	Water	Average	Est. Max.	Present	Est. Max.	Anostracans	Copepods	Ostracods	Cladocera	Coleoptera	Hemiptera	Diptera Culicidae	Diptera Chironomidae			
East - A	3725405.43N, 413148.80E	13.3	15.5	5	20	6x10 (25x50)	18x25 (24x43)	BRSA										Rain Event 1/27 0.15"
East - B	3725185.19N, 413102.22E	13.3	---	---	7	---	5x14											
East - C	3725146.40N, 413081.89E	13.3	---	---	7	---	15x40											
West - 1	3724835.11N, 412654.62E	13.8	16.8	18-20	25	70x260	75x270	BRSA								EC: 218		100%veg.m (temperate); 2ha.m. native
West - 4a	3724732.20N, 412731.28E	13.8	17	18-20	20	22x38	24x40	STWO										3 females; EC: 149
West - 4b	3724701.64N, 412737.84E	13.8	17.2	20	25	15x27	16x28	BRSA		X	X							EC: 239; w load egg masses
West - 4c	3724685.33N, 412739.89E	13.8	16.8	25	28	45x50	48x53	BRLI										Frog eggs abundant
West - 5	3724678.68N, 412636.42E	13.8	16.1	5-7	20	50x90	55x95	BRSA		X								
West - 6	3724620.81N, 412650.18E	13.8	---	---	8	---	18x18											
West - 7	3724657.09N, 412620.07E	13.8	---	---	2.5	---	1x2.5											

Notes: Fill in abbreviated names of Anostracans and Notostracans, for all others indicate presence with a check mark. Anostracan and Notostracan Abbreviations: Use first two letters of genus and species name (e.g., LIOC = *Lindberghia occidentalis*, BRLI = *Branchinecta lindneri*).
For habitat conditions use two letter abbreviation as follows: NP = Natural Pool, CP = Constructed Pool; UD = undisturbed, D = disturbed; with TT = tire tracks, T = trash, P = plowed, G = grazed, UG = ungrazed by: C = cattle, H = horses, S = sheep; AB = Algal blooms present.
(Estimate grazing regime by height of grasses and forbs and density of hoof prints) LG = light grazing, MG = moderate grazing, HG = heavy grazing.

Appendix 1. U.S. Fish and Wildlife Service – Data Sheet for Wet Season Surveys For Listed Large Branchiopods			
Site or Project Name: Fairview Park	County: Orange	Quad: Newport Beach	Township: T6S Range: R10W Section: Unsec.

SURVEYOR / Permit Number: K. Livergood/TE-172638-2

Date: 2/3/17	Time: 1010	Weather Conditions: Species confirmation at trail features
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[illegible]

Notes: Fill in abbreviated names of Anostracans and Notostracans, for all others indicate presence with a check mark. Anostracan and Notostracan Abbreviations: Use first two letters of genus and species name (e.g., LIOC = *Lindernella occidentalis*, BRUJ = *Branchinecta lindahli*). For habitat conditions use two letter abbreviation as follows: NP = Natural Pool, CP = Constructed Pool, UD = undisturbed, D = disturbed; with TT = tire tracks, T = trash, P = plowed; G = grazed, UG = ungrazed by: C = cattle, H = horses, S = sheep; AB = Algal blooms present. (Estimate grazing regime by height of grasses and forbs and density of hoof prints) LG = light grazing, MG = moderate grazing, HG = heavy grazing.

1: Ponding (~1" deep) on south end near fence. Overflow from adjacent trail. Small pockets of shallow ponding indicate soil saturation throughout. Ponding is not widespread. 30x50m exhibits saturation or shallow ponding. Vegetated (mustard, sc2gimpemel, dwarf nettle, salsola)

Appendix 1. U.S. Fish and Wildlife Service – Data Sheet for Wet Season Surveys For Listed Large Branchiopods																		
Site or Project Name: Fairview Park			County: Orange		Quad: Newport Beach		Township: T6S		Range: R10W		Section: Unsec							
SURVEYOR / Permit Number: K. Livergood/TE-172638-2																		
Date: 2/9/17		Time: 0900		Weather Conditions: 58F, overcast, raining														
Feature ID #	UTM (Northing, Easting, Datum)	Temp (°C)		Depth (cm)		Surface Area (m x m)		Crustaceans				Insects				Platyhelminths (flatworms)	Habitat Condition	Notes / Voucher information
		Air	Water	Average	Est. Max.	Present	Est. Max.	Anostracans	Notostracans	Copepods	Ostracods	Cladocera	Coleoptera	Hemiptera	Diptera Culicidae			
East - A	3725400.43N, 413116.06E	14.4	17.5	15	20	6x25 (0x0)	10x25 (0x40)	BRSA		X							EC: 202; <5/sq.m.	Rain Event 2/6-2/8 1.74"
East - B	3725182.19N, 413103.30E	14.4	18.6	<1	7	3x10	5x14										EC: 292	
East - C	3725146.40N, 413091.00E	14.4	18.4	7.5	7	3x7	15x40										EC: 289	
West - 1	3724633.11N, 412654.02E	17.2	18.6	18-20	25	70x270	75x270	BRSA									EC: 207	100s/sq.m (immature)
West - 4a	3724132.30N, 412731.20E	16.1	18.8	18-20	20	20x35	24x40	BRSA TWO									BRSA 3 obs. STWC: 1 larva EC: 187	
West - 4b	3724051.04N, 412727.04E	16.1	19	18	25	15x25	16x28	BRSA		X	X						EC: 185; 4 mature	
West - 4c	3724085.39N, 412736.06E	16.1	18.3	30	30	45x50	48x53	BRLI									EC: 212; 3 mature	
West - 5	3724070.68N, 412636.02E	15.5	18.5	15	20	40x80	55x95	BRSA	X								EC: 152; <5/sq. m.	
West - 6	3724620.91N, 412660.10E	15.5	17.7	10-12	8	3x6	18x18										EC: 235	
West - 7	3724657.09N, 412626.07E	16.1	19.3	2.5	2.5	1x2	1x2.5										EC: 204	

Notes: Fill in abbreviated names of Anostracans and Notostracans, for all others indicate presence with a check mark. Anostracan and Notostracan Abbreviations: Use first two letters of genus and species name (e.g., LIOC = *Lindernia occidentalis*, BRLI = *Branchinecta lindarii*).
For habitat conditions use two letter abbreviation as follows: NP = Natural Pool, CP = Constructed Pool, UD = undisturbed, D = disturbed; with TT = tire tracks, T = trash, P = plowed; G = grazed, UG = ungrazed by: C = cattle, H = horses, S = sheep; AB = Algal blooms present.
(Estimate grazing regime by height of grasses and forbs and density of hoof prints) LG = light grazing, MG = moderate grazing, HG = heavy grazing.

Appendix 1. U.S. Fish and Wildlife Service – Data Sheet for Wet Season Surveys For Listed Large Branchiopods																		
Site or Project Name: Fairview Park			County: Orange		Quad: Newport Beach		Township: T6S		Range: R10W		Section: Unsec.							
SURVEYOR / Permit Number: K. Livengood/TE-172638-2																		
Date: 2/16/17		Time: 0825		Weather Conditions: 55F, overcast, 0-1 mph														
Feature ID #	UTM (Northing, Easting, Datum)	Temp (°C)		Depth (cm)		Surface Area (m x m)		Crustaceans				Insects				Platyhelminths (flatworms)	Habitat Condition	Notes / Voucher information
		Air	Water	Average	Est. Max.	Present	Est. Max.	Anostracans	Copepods	Ostracods	Cladocera	Coleoptera	Hemiptera	Diptera Culicidae	Diptera Chironomidae			
East - A	372465.43N, 41316.06E	12.7	14.8	10-15	20	6x23	10x5 (24x3)	BRSA	X	X							NP, UD	EC: 253; New cohort
East - B	372516.19N, 41310.33E	12.7	---	---	7	---	5x14										D	
East - C	372514.40N, 41301.06E	12.7	---	---	7	---	15x40										D	
West - 1	372435.11N, 41264.02E	13.8	19.1	18-20	25	65x265	75x270	BRSA/TWO									CP; EC: 251	STWO 10-15w.m. BRSA, 1 adult
West - 4a	372432.26N, 41271.26E	12.7	16.7	25-28	28	18x33	24x40				X						CP	
West - 4b	372451.04N, 41277.84E	12.7	17.1	25-28	28	10x23	16x28			X	X						CP	EC: 185; 4 mature
West - 4c	372460.38N, 41278.59E	12.7	17.0	22-25	30	40x45	48x53			X	X						D	EC: 212; 3 mature
West - 5	372487.68N, 41268.02E	13.8	18.0	12-15	20	35x75	55x95	BRSA		X							NP	10 observed
West - 6	372450.51N, 41260.18E	13.8	18.7	5-7	8	1x5	18x18	BRSA									NP	<10 observed, all on DG
West - 7	372467.08N, 41258.07E	13.8	---	---	2.5	---	1x2.5										---	EC: 204

Notes: Fill in abbreviated names of Anostracans and Notostracans, for all others indicate presence with a check mark. Anostracan and Notostracan Abbreviations: Use first two letters of genus and species name (e.g., LIOC = *Lindrella occidentalis*, BRLI = *Branchinecta lindahli*).
For habitat conditions use two letter abbreviation as follows: NP = Natural Pool, CP = Constructed Pool, UD = undisturbed, D = disturbed; with TT = tire tracks, T = trash, P = plowed, G = grazed, UG = ungrazed by: C = cattle, H = horses, S = sheep, AB = Algal blooms present.
(Estimate grazing regime by height of grasses and forbs and density of hoof prints) LG = light grazing, MG = moderate grazing, HG = heavy grazing.

Appendix 1. U.S. Fish and Wildlife Service – Data Sheet for Wet Season Surveys For Listed Large Branchiopods																		
Site or Project Name: Fairview Park		County: Orange		Quad: Newport Beach		Township: T6S		Range: R10W		Section: Unsec								
SURVEYOR / Permit Number: K. Livergood/TE-172638-2																		
Date: 2/24/17		Time: 1210		Weather Conditions: 58F, partly cloudy, 3-5 mph														
Feature ID #	UTM (Northing, Easting, Datum)	Temp (°C)		Depth (cm)		Surface Area (m x m)		Crustaceans				Insects				Platyhelminths (flatworms)	Habitat Condition	Notes / Voucher information
		Air	Water	Average	Est. Max.	Present	Est. Max.	Anostracans	Copepods	Ostracods	Cladocera	Coleoptera	Hemiptera	Diptera Culicidae	Diptera Chironomidae			
East - A	372405.43N, 413116.68E	15.5	16.6	15	20	6x23	16x25 (25x43)	BRSA	X	X						NP, UD	Rain Event 2/18-2/19 1.95"	
East - B	372518.51N, 413102.32E	15.5	---	---	7	---	5x14									D		
East - C	3725148.40N, 413201.06E	15.5	---	---	7	---	15x40									D		
West - 1	372425.11N, 413204.02E	14.4	16.1	15-18	25	65x285	75x270	STWO		X						CP	10-15/sq.m.	
West - 4a	372432.26N, 412731.26E	14.4	15.5	28-30	28	18x33	24x40	STWO		X						CP	Many tadpoles, frog egg masses	
West - 4b	3724701.04N, 412737.04E	14.4	16.1	25-28	28	10x23	16x28			X						CP		
West - 4c	372465.39N, 412728.06E	14.4	15.5	28-30	30	40x45	48x53			X						D		
West - 5	3724876.68N, 413206.03E	14.4	14.4	13	20	30x70	55x95	BRSA		X						NP	6-8 observed	
West - 6	3724203.91N, 412800.16E	14.4	16.1	2.5-5	8	14x20	18x18									NP		
West - 7	3724857.08N, 412828.07E	14.4	---	---	2.5	---	1x2.5									---		

Notes: Fill in abbreviated names of Anostracans and Notostracans, for all others indicate presence with a check mark. Anostracan and Notostracan Abbreviations: Use first two letters of genus and species name (e.g., LJO = *Lindberghia occidentalis*, BR = *Branchinecta lindahli*).
For habitat conditions use two letter abbreviation as follows: NP = Natural Pool, CP = Constructed Pool; UD = undisturbed, D = disturbed; with TT = tire tracks, T = trash, P = plowed, G = grazed, UG = ungrazed by; C = cattle, H = horses, S = sheep; AB = Algal blooms present.
(Estimate grazing regime by height of grasses and forbs and density of hoof prints) LG = light grazing, MG = moderate grazing, HG = heavy grazing.

Appendix 1. U.S. Fish and Wildlife Service – Data Sheet for Wet Season Surveys For Listed Large Branchiopods																		
Site or Project Name: Fairview Park			County: Orange		Quad: Newport Beach		Township: T6S		Range: R10W		Section: Unsec							
SURVEYOR / Permit Number: K. Livergood/TE-172638-2																		
Date: 3/2/17		Time: 1040		Weather Conditions: 75F, clear, 2-4 mph														
Feature ID #	UTM (Northing, Easting, Datum)	Temp (°C)		Depth (cm)		Surface Area (m x m)		Crustaceans				Insects				Platyhelminths (flatworms)	Habitat Condition	Notes / Voucher information
		Air	Water	Average	Est. Max.	Present	Est. Max.	Anostracans	Copepods	Ostracods	Cladocera	Coleoptera	Hemiptera	Diptera Culicidae	Diptera Chironomidae			
East - A	3725405.43N, 41316.06E	23.9	17.8	7.5	20	3x10(7x15)		BRSA	X	X						NP, UD	<5/sq.m.	
East - B	3725165.18N, 413103.32E	23.9	---	---	7	5x14										D		
East - C	3725148.40N, 413091.06E	23.9	---	---	7	15x40										D		
West - 1	3724835.11N, 412854.02E	23.9	22.2	15-20	25	65x265		STWO			X					CP	5-10/sq.m.; turbid, algae	
West - 4a	3724732.26N, 412751.30E	23.9	21.1	30.5	28	20x30		STWO	X	X						CP	5 specimens obs.	
West - 4b	3724701.04N, 412737.84E	23.9	21.1	18	28	17x25			X	X						CP	Many tadpoles	
West - 4c	3724663.39N, 412739.59E	23.9	20.0	25-28	30	40x50										D		
West - 5	3724676.68N, 412658.02E	24.4	15.6	10-15	20	45x80		BRSA	X	X						NP	6-8 observed	
West - 6	3724520.81N, 412650.14E	24.4	16.1	7-8	8	8x15										NP		
West - 7	3724457.09N, 412628.07E	24.4	---	---	2.5	1x2.5										---		

Notes: Fill in abbreviated names of Anostracans and Notostracans, for all others indicate presence with a check mark. Anostracan and Notostracan Abbreviations: Use first two letters of genus and species name (e.g., LIOC = *Lindberghia occidentalis*, BRLL = *Branchinecta lindahli*).
For habitat conditions use two letter abbreviation as follows: NP = Natural Pool, CP = Constructed Pool; UD = undisturbed, D = disturbed; with TT = tire tracks, T = trash, P = plowed; G = grazed, UG = ungrazed by: C = cattle, H = horses, S = sheep; AB = Algal blooms present.
(Estimate grazing regime by height of grasses and forbs and density of hoof prints) LG = light grazing, MG = moderate grazing, HG = heavy grazing.

Appendix 1. U.S. Fish and Wildlife Service – Data Sheet for Wet Season Surveys For Listed Large Branchiopods																			
Site or Project Name: Fairview Park			County: Orange		Quad: Newport Beach		Township: T6S		Range: R10W		Section: Unsec								
SURVEYOR / Permit Number: K. Livengood/TE-172638-2																			
Date: 3/9/17		Time: 1240		Weather Conditions: 76F, clear, 3-5 mph															
Feature ID #	UTM (Northing, Easting, Datum)	Temp (°C)		Depth (cm)		Surface Area (m x m)		Crustaceans					Insects				Platyhelminths (flatworms)	Habitat Condition	Notes / Voucher information
		Air	Water	Average	Est. Max.	Present	Est. Max.	Anostracans	Notostracans	Copepods	Ostracods	Cladocera	Coleoptera	Hemiptera	Diptera	Culicidae			
East - A	3724605.43N, 413116.08E	24.4	---	---	20	---	10x3 (3x4x3)												
East - B	3725165.19N, 413102.32E	24.4	---	---	7	---	5x14												
East - C	3725148.40N, 413001.06E	24.4	---	---	7	---	15x40												
West - 1	3724825.11N, 413554.02E	24.4	27.6	15-20	25	63x265	75x270	STWO		X								NP, UD	<2/sq.m.; EC:337
West - 4a	3724132.30N, 413131.28E	24.4	25.9	18-20	28	17x27	24x40		X	X								D	EC: 199
West - 4b	3724191.04N, 412937.84E	24.4	29.5	12-15	28	13x18	16x28		X	X								D	EC: 266
West - 4c	3724662.39N, 412739.58E	24.4	24.7	25	30	26x40	48x53											D	EC: 329
West - 5	3724878.68N, 412938.63E	24.4	28.9	5-8	20	30x36	55x95	BRSA		X	X							NP	EC: 380
West - 6	3724820.91N, 412980.18E	24.4	---	---	8	---	18x18											NP	
West - 7	3724857.09N, 412926.07E	24.4	---	---	2.5	---	1x2.5											---	

Notes: Fill in abbreviated names of Anostracans and Notostracans, for all others indicate presence with a check mark. Anostracan and Notostracan Abbreviations: Use first two letters of genus and species name (e.g., LIOC = *Lindernia occidentalis*, BRLL = *Branchinecta lindahli*).
For habitat conditions use two letter abbreviation as follows: NP = Natural Pool, CP = Constructed Pool, UD = undisturbed, D = disturbed; with TT = tire tracks, T = trash, P = plowed, G = grazed, UG = ungrazed by: C = cattle, H = horses, S = sheep, AB = Algal blooms present.
(Estimate grazing regime by height of grasses and forbs and density of hoof prints) LG = light grazing, MG = moderate grazing, HG = heavy grazing.

Appendix 1. U.S. Fish and Wildlife Service – Data Sheet for Wet Season Surveys For Listed Large Branchiopods																		
Site or Project Name: Fairview Park			County: Orange		Quad: Newport Beach		Township: T6S		Range: R10W		Section: Unsec.							
SURVEYOR / Permit Number: K. Livergood/TE-172638-2																		
Date: 3/16/17		Time: 1425		Weather Conditions: 65F, partly cloudy, 5-8 mph														
Feature ID #	UTM (Northing, Easting, Datum)	Temp (°C)		Depth (cm)		Surface Area (m x m)		Crustaceans				Insects				Platyhelminths (flatworms)	Habitat Condition	Notes / Voucher information
		Air	Water	Average	Est. Max.	Present	Est. Max.	Anostracans	Copepods	Ostracods	Cladocera	Coleoptera	Hemiptera	Diptera Culicidae	Diptera Chironomidae			
East - A	3725405.43N, 41318.89E	18.3	---	---	20	---	10x25 (50x43)											
East - B	3725185.19N, 413103.32E		---	---	7	---	5x14											
East - C	3725146.40N, 413091.89E		---	---	7	---	15x40											
West - 1	3724855.11N, 412854.82E	19.2	29.0	10-15	25	55x260	75x270	STWO	X							NP, UD		
West - 4a	3724732.29N, 412731.20E	18.3	23.5	118-24	28	15x20	24x40			X						CP		STWO @ south end only; EC 398
West - 4b	3724701.04N, 412737.84E	18.3	28.7	8	28	10x15	16x28				X					CP		EC: 256
West - 4c	3724655.38N, 412739.59E	18.3	27.9	15-18	30	24x35	48x53			X						CP		EC: 306
West - 5	3724878.68N, 412856.83E	20	26.2	10	20	2x5	55x95									D		EC: 400
West - 6	3724820.91N, 412860.18E	20	---	---	8	---	18x18									NP		EC: 411
West - 7	3724857.09N, 412826.07E	20	---	---	2.5	---	1x2.5									---		

Notes: Fill in abbreviated names of Anostracans and Notostracans, for all others indicate presence with a check mark. Anostracan and Notostracan Abbreviations: Use first two letters of genus and species name (e.g., LIOC = *Lindernia occidentalis*, BRLL = *Branchinella lindahli*).
For habitat conditions use two letter abbreviation as follows: NP = Natural Pool, CP = Constructed Pool; UD = undisturbed, D = disturbed; with TT = tire tracks, T = trash, P = plowed, G = grazed, UG = ungrazed by: C = cattle, H = horses, S = sheep; AB = Algal blooms present.
(Estimate grazing regime by height of grasses and forbs and density of hoof prints) LG = light grazing, MG = moderate grazing, HG = heavy grazing.

Appendix 1. U.S. Fish and Wildlife Service – Data Sheet for Wet Season Surveys For Listed Large Branchiopods																		
Site or Project Name: Fairview Park		County: Orange		Quad: Newport Beach		Township: T6S		Range: R10W		Section: Unsec								
SURVEYOR / Permit Number: K. Livengood/TE-172638-2																		
Date: 3/23/17		Time: 1015		Weather Conditions: 62F, clear, 5-8 mph														
Feature ID #	UTM (Northing, Easting, Datum)	Temp (°C)		Depth (cm)		Surface Area (m x m)		Crustaceans				Insects				Platyhelminths (flatworms)	Habitat Condition	Notes / Voucher information
		Air	Water	Average	Est. Max.	Present	Est. Max.	Anostracans	Notostracans	Copepods	Ostracods	Cladocera	Coleoptera	Hemiptera	Diptera Culicidae			
East - A	3724605.30N, 413116.80E	---	---	---	20	---	10x25 (plowed)									NP, UD		
East - B	3725165.10N, 413105.32E	---	---	---	7	---	5x14									D		
East - C	3725146.40N, 413001.80E	---	---	---	7	---	15x40									D		
West - 1	3724825.11N, 412854.82E	17.2	18.1	10-14	25	55x250	75x270		X							CP		
West - 4a	3724732.20N, 412731.20E	16.7	18.1	10-13	28	11x17	24x40		X							CP		
West - 4b	3724701.00N, 412737.84E	16.7	---	---	28	---	16x28									CP		
West - 4c	3724663.30N, 412726.50E	16.7	17.8	14	30	13x13	48x53		X	X						D		
West - 5	3724678.60N, 412656.82E	17.8	17.5	5	20	2x5	55x95		X	X						NP		
West - 6	3724820.81N, 412860.18E	---	---	---	8	---	18x18									NP		
West - 7	3724857.00N, 412826.07E	---	---	---	2.5	---	1x2.5									---		

Notes: Fill in abbreviated names of Anostracans and Notostracans, for all others indicate presence with a check mark. Anostracan and Notostracan Abbreviations: Use first two letters of genus and species name (e.g., LIOC = *Lindernia occidentalis*, BRU = *Branchinecta lindahli*).
For habitat conditions use two letter abbreviation as follows: NP = Natural Pool, CP = Constructed Pool; UD = undisturbed, D = disturbed; with TT = tire tracks, T = trash, P = plowed; G = grazed, UG = ungrazed by: C = cattle, H = horses, S = sheep; AB = Algal blooms present.
(Estimate grazing regime by height of grasses and forbs and density of hoof prints) LG = light grazing, MG = moderate grazing, HG = heavy grazing.

Appendix 1. U.S. Fish and Wildlife Service – Data Sheet for Wet Season Surveys For Listed Large Branchiopods																		
Site or Project Name: Fairview Park		County: Orange		Quad: Newport Beach		Township: T6S		Range: R10W		Section: Unacc.								
SURVEYOR / Permit Number: K. Livergood/TE-172638-2																		
Date: 3/29/17		Time: 1630		Weather Conditions: 71F, clear, 6-8 mph														
Feature ID #	UTM (Northing, Easting, Datum)	Temp (°C)		Depth (cm)		Surface Area (m x m)		Crustaceans				Insects				Platyhelminths (flatworms)	Habitat Condition	Notes / Voucher information
		Air	Water	Average	Est. Max.	Present	Est. Max.	Anostracans	Notostracans	Copepods	Ostracods	Cladocera	Coleoptera	Hemiptera	Diptera			
East - A	3725405.40N, 413118.88E				20		10x25 (5x43)										NP, UD	
East - B	3725185.18N, 413102.32E				7		5x14										D	
East - C	3725148.40N, 413091.08E				7		15x40										D	
West - 1	3724825.11N, 412854.82E	18.9	27.8	8	25	44x215	270				X						CP	
West - 4a	3724732.30N, 412731.20E	21.7	27.8	9	28	4x7	24x40										CP	
West - 4b	3724701.04N, 412737.84E				28		16x28										CP	
West - 4c	3724682.38N, 412729.58E				30		48x53										D	
West - 5	3724678.58N, 412836.62E				20		55x95										NP	
West - 6	3724620.91N, 412800.18E				8		18x18										NP	
West - 7	3724657.09N, 412808.07E				2.5		1x2.5										---	

Notes: Fill in abbreviated names of Anostracans and Notostracans, for all others indicate presence with a check mark. Anostracan and Notostracan Abbreviations: Use first two letters of genus and species name (e.g., LIOC = *Lindernia occidentalis*, BRLL = *Branchinella lindahli*).
For habitat conditions use two letter abbreviation as follows: NP = Natural Pool, CP = Constructed Pool, UD = undisturbed, D = disturbed; with TT = tire tracks, T = trash, P = plowed, G = grazed, UG = ungrazed by: C = cattle, H = horses, S = sheep; AB = Algal blooms present.
(Estimate grazing regime by height of grasses and forbs and density of hoof prints) LG = light grazing, MG = moderate grazing, HG = heavy grazing.

Appendix 1. U.S. Fish and Wildlife Service – Data Sheet for Wet Season Surveys For Listed Large Branchiopods																		
Site or Project Name: Fairview Park		County: Orange		Quad: Newport Beach		Township: T6S		Range: R10W		Section: Unec								
SURVEYOR / Permit Number: K. Livergood/TE-172638-2																		
Date: 4/6/17		Time: 1030		Weather Conditions:														
Feature ID #	UTM (Northing, Easting, Datum)	Temp (°C)		Depth (cm)		Surface Area (m x m)		Crustaceans				Insects				Platyhelminths (flatworms)	Habitat Condition	Notes / Voucher information
		Air	Water	Average	Est. Max.	Present	Est. Max.	Anostracans	Copepods	Ostracods	Cladocera	Coleoptera	Hemiptera	Diptera Culicidae	Diptera Chironomidae			
East - A	3725405.43N, 41318.06E	---	---	---	20	---	10x25 (shaded)											
East - B	3725185.19N, 413103.32E	---	---	---	7	---	5x14											
East - C	3725148.40N, 413081.09E	---	---	---	7	---	15x40											
West - 1	3724935.11N, 412654.02E	17.8	22.2	5	25	15x20	75x270											
West - 4a	3724132.20N, 412731.20E	---	---	---	28	---	24x40											
West - 4b	3724101.04N, 412737.04E	---	---	---	28	---	16x28											
West - 4c	3724085.39N, 412729.50E	---	---	---	30	---	48x53											
West - 5	3724076.89N, 412636.03E	---	---	---	20	---	55x95											
West - 6	3724020.81N, 412680.18E	---	---	---	8	---	18x18											
West - 7	3724057.09N, 412628.07E	---	---	---	2.5	---	1x2.5											

Notes: Fill in abbreviated names of Anostracans and Notostracans, for all others indicate presence with a check mark. Anostracan and Notostracan Abbreviations: Use first two letters of genus and species name (e.g., LIOC = *Lindernia occidentalis*, BRUJ = *Branchinecta lindneri*).
For habitat conditions use two letter abbreviation as follows: NP = Natural Pool, CP = Constructed Pool; UD = undisturbed, D = disturbed; with TT = tire tracks, T = trash, P = plowed; G = grazed, UG = ungrazed by: C = cattle, H = horses, S = sheep; AB = Algal blooms present.
(Estimate grazing regime by height of grasses and forbs and density of hoof prints) LG = light grazing, MG = moderate grazing, HG = heavy grazing.

Appendix 1. U.S. Fish and Wildlife Service – Data Sheet for Wet Season Surveys For Listed Large Branchiopods																		
Site or Project Name: Fairview Park			County: Orange		Quad: Newport Beach		Township: T6S		Range: R10W		Section: Unacc							
SURVEYOR / Permit Number: K. Livergood/TE-172638-2																		
Date: 4/13/17		Time: 1015		Weather Conditions:														
Feature ID #	UTM (Northing, Easting, Datum)	Temp (°C)		Depth (cm)		Surface Area (m x m)		Crustaceans				Insects				Platyhelminths (flatworms)	Habitat Condition	Notes / Voucher information
		Air	Water	Average	Est. Max.	Present	Est. Max.	Anostracans	Notostracans	Copepods	Ostracods	Cladocera	Coleoptera	Hemiptera	Diptera Culicidae			
East - A	3725405.43N, 41316.86E		---	---	20	---	16x25 (26x43)										NP, UD	
East - B	3725185.18N, 413102.32E		---	---	7	---	5x14										D	
East - C	3725148.40N, 413091.89E		---	---	7	---	15x40										D	
West - 1	3724833.11N, 412654.02E	17.2	18.9	2.5-5	25	2x4	75x270										CP	5-6 small pockets of ponding
West - 4a	3724732.20N, 412731.28E		---	---	28	---	24x40										CP	
West - 4b	3724701.54N, 412737.84E		---	---	28	---	16x28										CP	
West - 4c	3724685.39N, 412729.59E		---	---	30	---	48x53										D	
West - 5	3724478.68N, 412608.02E		---	---	20	---	55x95										NP	
West - 6	3724420.91N, 412600.18E		---	---	8	---	18x18										NP	
West - 7	3724457.09N, 412608.07E		---	---	2.5	---	1x2.5										---	

Notes: Fill in abbreviated names of Anostracans and Notostracans for all others indicate presence with a check mark. Anostracan and Notostracan Abbreviations: Use first two letters of genus and species name (e.g., LIOC = *Linderniella occidentalis*, BRLL = *Branchinella linderniella*).
For habitat conditions use two letter abbreviation as follows: NP = Natural Pool, CP = Constructed Pool; UD = undisturbed, D = disturbed; with TT = tire tracks, T = trash, P = plowed; G = grazed, UG = ungrazed
by: C = cattle, H = horses, S = sheep; AB = Algal blooms present.
(Estimate grazing regime by height of grasses and forbs and density of hoof prints) LG = light grazing, MG = moderate grazing, HG = heavy grazing.

Appendix 1. U.S. Fish and Wildlife Service – Data Sheet for Wet Season Surveys For Listed Large Branchiopods																		
Site or Project Name: Fairview Park		County: Orange		Quad: Newport Beach		Township: T6S		Range: R10W		Section: Unsec								
SURVEYOR / Permit Number: K. Livergood/TE-172638-2																		
Date: 4/21/17		Time: 0900		Weather Conditions: All features are dry														
Feature ID #	UTM (Northing, Easting, Datum)	Temp (°C)		Depth (cm)		Surface Area (m x m)		Crustaceans				Insects				Platyhelminths (flatworms)	Habitat Condition	Notes / Voucher information
		Air	Water	Average	Est. Max.	Present	Est. Max.	Anostracans	Notostracans	Copepods	Ostracods	Cladocera	Coleoptera	Hemiptera	Diptera			
East - A	3725408.43N, 413116.86E	---	---	---	20	---	16x25 (25x40)										NP, UD	
East - B	3725185.19N, 413102.32E	---	---	---	7	---	5x14										D	
East - C	3725146.40N, 413201.86E	---	---	---	7	---	15x40										D	
West - 1	3724635.11N, 412854.62E	---	---	---	25	---	75x270										CP	
West - 4a	3724732.26N, 412731.26E	---	---	---	28	---	24x40										CP	
West - 4b	3724707.04N, 412737.84E	---	---	---	28	---	16x28										CP	
West - 4c	3724663.39N, 412738.56E	---	---	---	30	---	48x53										D	
West - 5	3724676.68N, 412838.62E	---	---	---	20	---	55x95										NP	
West - 6	3724629.91N, 412890.16E	---	---	---	8	---	18x18										NP	
West - 7	3724857.09N, 412826.07E	---	---	---	2.5	---	1x2.5										---	

Notes: Fill in abbreviated names of Anostracans and Notostracans, for all others indicate presence with a check mark. Anostracan and Notostracan Abbreviations: Use first two letters of genus and species name (e.g., LIOC = *Lindernella occidentalis*, BRLL = *Branchinella lindahli*).
For habitat conditions use two letter abbreviation as follows: NP = Natural Pool, CP = Constructed Pool; UD = undisturbed, D = disturbed; with TT = tire tracks, T = trash, P = plowed; G = grazed, UG = ungrazed by: C = cattle, H = horses, S = sheep; AB = Algal blooms present.
(Estimate grazing regime by height of grasses and forbs and density of hoof prints) LG = light grazing, MG = moderate grazing, HG = heavy grazing.

CNDDDB Online Field Survey Form Report



California Natural Diversity Database
Department of Fish and Wildlife
1416 9th Street, Suite 1266
Sacramento, CA 95814
Fax: 916.324.0475
cnddb@wildlife.ca.gov
www.dfg.ca.gov/biogeodata/cnddb/



Source code LIV17F0004

Quad code 3311768

Occ. no. _____

EO index no. _____

Map index no. _____

This data has been reported to the CNDDDB, but may not have been evaluated by the CNDDDB staff

Scientific name: *Branchinecta sandiegonensis*

Common name: San Diego fairy shrimp

Date of field work (mm-dd-yyyy): 03-16-2017

Comment about field work date(s): Protocol survey conducted from 10/25/2016-4/21/2017

OBSERVER INFORMATION

Observer: Kevin Livergood

Affiliation: Glenn Lukos Associates

Address:

Email: klivergood@wetlandpermitting.com

Phone: (949) 837-0404

Other observers:

DETERMINATION

Keyed In: Eriksen, C. and D. Belk. 1999. Fairy Shrimps of California's Puddles, Pools, and Playas. Mad River

Compared w/ specimen at:

Compared w/ image in:

By another person:

Other:

Identification explanation:

Identification confidence: Very confident

Species found: Yes If not found, why not?

Level of survey effort: Work conducted per USFWS Survey Guidelines for the Listed Large Branchiopods, dated May 31, 2015

Total number of individuals: 100's

Collection? Yes

Collection number:

Museum/Herbarium: Natural History Museum of Los Angeles

ANIMAL INFORMATION

How was the detection made? Collected

Number detected in each age class:

10-15

adults

juveniles

larvae

egg mass

unknown

Age class comment: 10-15 mature specimens observed per square meter in main vernal pool. Other pools contained specimens in lower densities.

Site use description: Passive recreation and habitat conservation

What was the observed behavior? Specimens were detected during protocol survey by permitted biologist. Multiple cohorts were detected during the course of the survey with adults reaching full maturity.

Describe any evidence of reproduction: Females were observed with brood pouches.

SITE INFORMATION

Habitat description: The site contains multiple seasonally ponded depressions including some restored vernal pools. BRSA were detected in 5 of the depression features.

Slope:

Land owner/manager: City of Costa Mesa

Aspect:

Site condition + population viability: Good

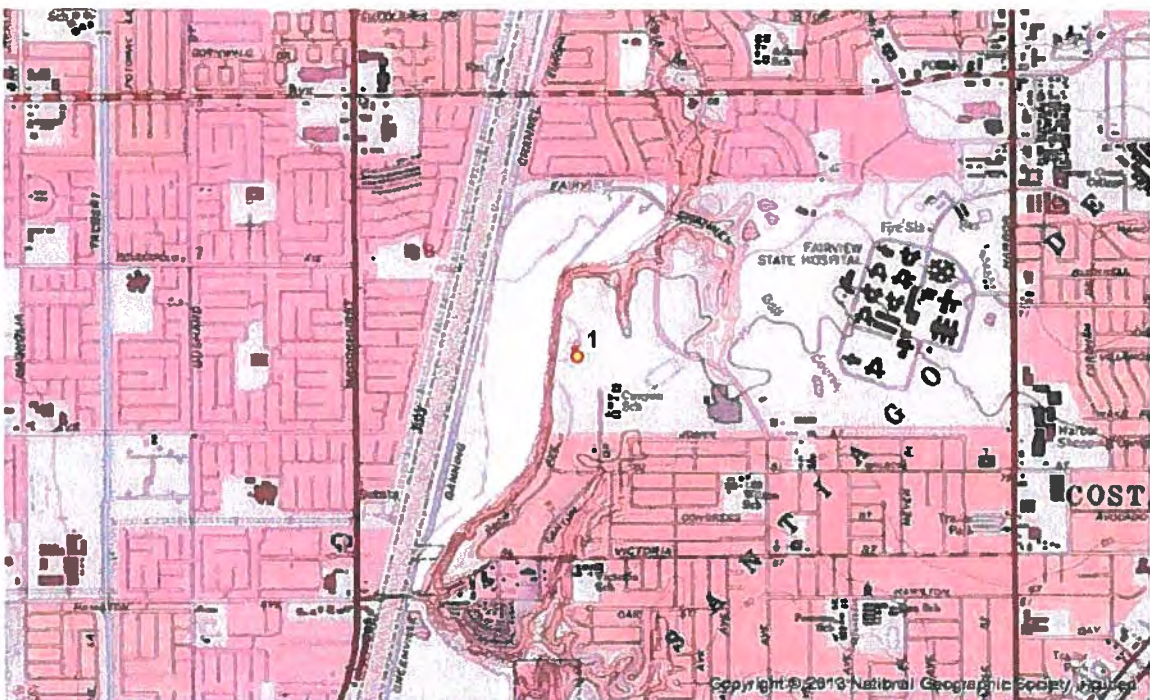
Immediate & surrounding land use: City park, passive recreation

Visible disturbances: Fragmentation due to trail use.

Threats: Encroachment by invasive species

General comments: The City is in coordination with USFWS regarding additional restoration and conservation efforts.

MAP INFORMATION



ID	County	24K Quadrangle	Elev. (ft)	Latitude NAD83	Longitude NAD83	UTM E NAD83	UTM N NAD83	UTM Zone
	Orange	Newport Beach	78	33.66092	-117.94189	412673	3724959	11
1	Public Land Survey	Feature Comment						
	S T06S R10W 8							

The mapped feature is accurate within: 100 m

Source of mapped feature: CNDDB Online Field Survey Tool

Mapping notes: Coordinates from specific vernal pools are provided in survey report

Location/directions comments:

Attachment(s):

CNDDDB Online Field Survey Form Report



California Natural Diversity Database
Department of Fish and Wildlife
1416 9th Street, Suite 1266
Sacramento, CA 95814
Fax: 916.324.0475
cnddb@wildlife.ca.gov
www.dfg.ca.gov/biogeodata/cnddb/



Source code LIV17F0005
Quad code 3311768
Occ. no. _____
EO index no. _____
Map index no. _____

This data has been reported to the CNDDDB, but may not have been evaluated by the CNDDDB staff

Scientific name: *Streptocephalus woottoni*

Common name: Riverside fairy shrimp

Date of field work (mm-dd-yyyy): 03-16-2017

Comment about field work date(s): Protocol survey conducted 10/25/2016-4/21/2017

OBSERVER INFORMATION

Observer: Kevin Livergood

Affiliation: Glenn Lukos Associates

Address:

Email: klivergood@wetlandpermitting.com

Phone: (949) 837-0404

Other observers:

DETERMINATION

Keyed in: Eriksen, C. and D. Belk. 1999. Fairy Shrimps of California's Puddles, Pools, and Playas.

Compared w/ specimen at:

Compared w/ image in:

By another person:

Other:

Identification explanation:

Identification confidence: Very confident

Species found: Yes If not found, why not?

Level of survey effort: Work conducted per USFWS Survey Guidelines for the Listed Large Branchiopods, dated May 31, 2015

Total number of individuals: 19

Collection? Yes

Collection number:

Museum/Herbarium: Natural History Museum of Los Angeles

ANIMAL INFORMATION

How was the detection made? Seen

Number detected in each age class:

15

adults

juveniles

larvae

egg mass

unknown

Age class comment: Population density was approximately 10-15/square meter. Multiple cohorts were observed.

Site use description: Passive recreation and habitat conservation

What was the observed behavior? Specimens were detected during protocol survey by permitted biologist. Multiple cohorts were detected during the course of the survey with adults reaching full maturity.

Describe any evidence of reproduction: Adult females with brood pouches were observed.

SITE INFORMATION

Habitat description: The site contains multiple seasonally ponded depressions including some restored vernal pools. STWO were detected in 2 of the restored pools.

Slope:

Land owner/manager: City of Costa Mesa

Aspect:

Site condition + population viability: Good

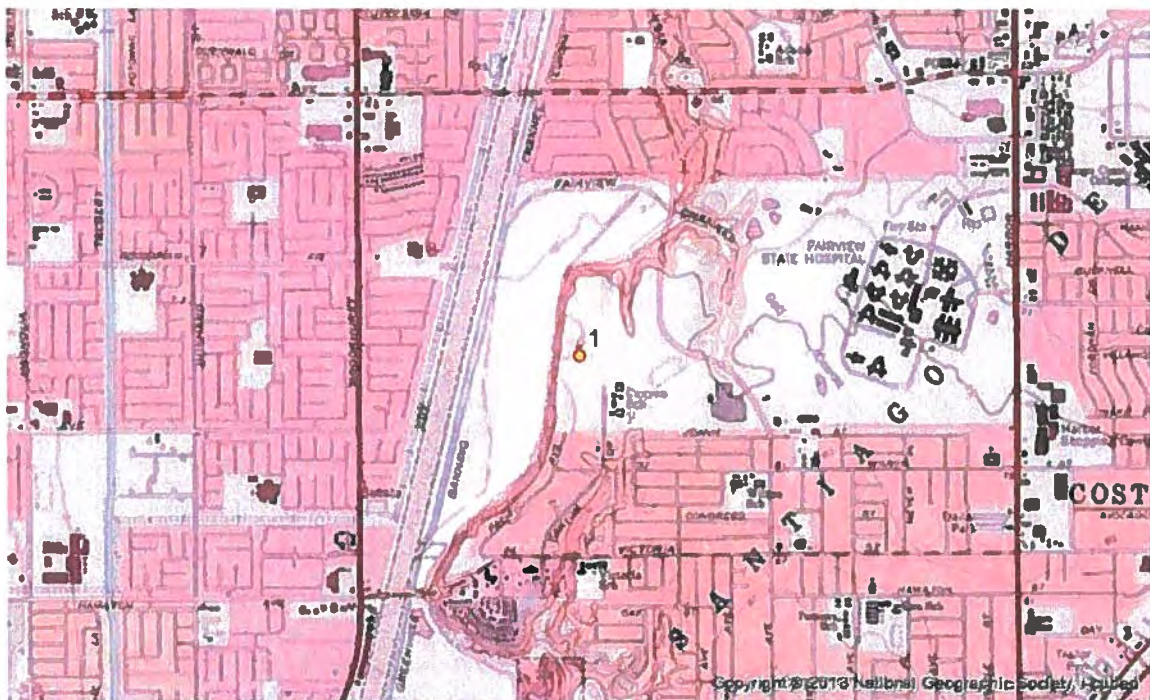
Immediate & surrounding land use: City park, passive recreation

Visible disturbances: Fragmentation due to trail use.

Threats: Encroachment by invasive species.

General comments: The City is in coordination with USFWS regarding additional restoration and conservation efforts.

MAP INFORMATION



ID	County	24K Quadrangle	Elev. (ft)	Latitude NAD83	Longitude NAD83	UTM E NAD83	UTM N NAD83	UTM Zone
	Orange	Newport Beach	78	33.66088	-117.94196	412666	3724954	11
1	Public Land Survey	Feature Comment						
	S T06S R10W 8							

The mapped feature is accurate within: 100 m

Source of mapped feature: CNDDDB Online Field Survey Tool

Mapping notes: Point represents the center of the area in which a complex of pools supporting the species occurs at Fairview Park

Location/directions comments:

Attachment(s):



CITY OF COSTA MESA

CALIFORNIA 92628-1200

P.O. BOX 1200

FROM THE OFFICE OF THE CITY CLERK

January 12, 2016

Glenn Lukos Associates, Inc.
Attn: Tony Bomkamp
29 Orchard
Lake Forest, CA 92630

Dear Mr. Bomkamp:

RE: Professional Services Agreement

Enclosed, for your records, is a fully executed copy of the agreement between the City of Costa Mesa and Glenn Lukos Associates, Inc., to perform biological studies for Fairview Park.

Sincerely,

Brenda Green
City Clerk

Enclosure (1)

**CITY OF COSTA MESA
PROFESSIONAL SERVICES AGREEMENT
WITH
GLENN LUKOS ASSOCIATES, INC.**

THIS AGREEMENT is made and entered into this 30 day of October, 2015 ("Effective Date"), by and between the CITY OF COSTA MESA, a municipal corporation ("City"), and GLENN LUKOS ASSOCIATES, INC., a California Corporation ("Consultant").

WITNESSETH:

A. WHEREAS, City proposes to utilize the services of Consultant as an independent contractor to perform biological studies for Fairview Park, as more fully described herein; and

B. WHEREAS, Consultant represents that it has that degree of specialized expertise contemplated within California Government Code Section 37103, and holds all necessary licenses to practice and perform the services herein contemplated; and

C. WHEREAS, City and Consultant desire to contract for the specific services described in Exhibit "A" (the "Project") and desire to set forth their rights, duties and liabilities in connection with the services to be performed; and

D. WHEREAS, no official or employee of City has a financial interest, within the provisions of Sections 1090-1092 of the California Government Code, in the subject matter of this Agreement.

NOW, THEREFORE, for and in consideration of the mutual covenants and conditions contained herein, the parties hereby agree as follows:

1.0. SERVICES PROVIDED BY CONSULTANT

1.1. Scope of Services. Consultant shall provide the professional services described in the City's Request for Proposal ("RFP"), attached hereto as Exhibit "A," and Consultant's Response to City's RFP (the "Response") attached hereto as Exhibit "B," both incorporated herein by this reference.

1.2. Professional Practices. All professional services to be provided by Consultant pursuant to this Agreement shall be provided by personnel experienced in their respective fields and in a manner consistent with the standards of care, diligence and skill ordinarily exercised by professional consultants in similar fields and circumstances in accordance with sound professional practices. Consultant also warrants that it is familiar with all laws that may affect its performance of this Agreement and shall advise City of any changes in any laws that may affect Consultant's performance of this Agreement.

1.3. Performance to Satisfaction of City. Consultant agrees to perform all the work to the complete satisfaction of the City and within the hereinafter specified. Evaluations of the work will be done by the City's Chief Executive Officer ("City CEO") or his or her designee. If the quality of work is not satisfactory, City in its discretion has the right to:

- (a) Meet with Consultant to review the quality of the work and resolve the matters of concern;

- (b) Require Consultant to repeat the work at no additional fee until it is satisfactory; and/or
- (c) Terminate the Agreement as hereinafter set forth.

1.4. Warranty. Consultant warrants that it shall perform the services required by this Agreement in compliance with all applicable Federal and California employment laws, including, but not limited to, those laws related to minimum hours and wages; occupational health and safety; fair employment and employment practices; workers' compensation insurance and safety in employment; and all other Federal, State and local laws and ordinances applicable to the services required under this Agreement. Consultant shall indemnify and hold harmless City from and against all claims, demands, payments, suits, actions, proceedings, and judgments of every nature and description including attorneys' fees and costs, presented, brought, or recovered against City for, or on account of any liability under any of the above-mentioned laws, which may be incurred by reason of Consultant's performance under this Agreement.

1.5. Non-discrimination. In performing this Agreement, Consultant shall not engage in, nor permit its agents to engage in, discrimination in employment of persons because of their race, religion, color, national origin, ancestry, age, physical handicap, medical condition, marital status, sexual gender or sexual orientation, except as permitted pursuant to Section 12940 of the Government Code.

1.6. Non-Exclusive Agreement. Consultant acknowledges that City may enter into agreements with other consultants for services similar to the services that are subject to this Agreement or may have its own employees perform services similar to those services contemplated by this Agreement.

1.7. Delegation and Assignment. This is a personal service contract, and the duties set forth herein shall not be delegated or assigned to any person or entity without the prior written consent of City. Consultant may engage a subcontractor(s) as permitted by law and may employ other personnel to perform services contemplated by this Agreement at Consultant's sole cost and expense.

1.8. Confidentiality. Employees of Consultant in the course of their duties may have access to financial, accounting, statistical, and personnel data of private individuals and employees of City. Consultant covenants that all data, documents, discussion, or other information developed or received by Consultant or provided for performance of this Agreement are deemed confidential and shall not be disclosed by Consultant without written authorization by City. City shall grant such authorization if disclosure is required by law. All City data shall be returned to City upon the termination of this Agreement. Consultant's covenant under this Section shall survive the termination of this Agreement.

2.0. COMPENSATION AND BILLING

2.1. Compensation. Consultant shall be paid in accordance with the fee schedule set forth in Exhibit "C," attached hereto and made a part of this Agreement (the "Fee Schedule"). Consultant's total compensation shall not exceed Twenty Thousand Dollars (\$20,000.00).

2.2. Additional Services. Consultant shall not receive compensation for any services provided outside the scope of services specified in the Consultant's Proposal unless the City or the Project Manager for this Project, prior to Consultant performing the additional services, approves such additional services in writing. It is specifically understood that oral requests

and/or approvals of such additional services or additional compensation shall be barred and are unenforceable.

2.3. Method of Billing. Consultant may submit invoices to the City for approval on a progress basis, but no more often than two times a month. Said Invoice shall be based on the total of all Consultant's services which have been completed to City's sole satisfaction. City shall pay Consultant's invoice within forty-five (45) days from the date City receives said invoice. Each invoice shall describe in detail, the services performed, the date of performance, and the associated time for completion. Any additional services approved and performed pursuant to this Agreement shall be designated as "Additional Services" and shall identify the number of the authorized change order, where applicable, on all invoices.

2.4. Records and Audits. Records of Consultant's services relating to this Agreement shall be maintained in accordance with generally recognized accounting principles and shall be made available to City or its Project Manager for inspection and/or audit at mutually convenient times for a period of three (3) years from the Effective Date.

3.0. TIME OF PERFORMANCE

3.1. Commencement and Completion of Work. The professional services to be performed pursuant to this Agreement shall commence within five (5) days from the Effective Date of this Agreement.

3.2. Excusable Delays. Neither party shall be responsible for delays or lack of performance resulting from acts beyond the reasonable control of the party or parties. Such acts shall include, but not be limited to, acts of God, fire, strikes, material shortages, compliance with laws or regulations, riots, acts of war, or any other conditions beyond the reasonable control of a party.

4.0. TERM AND TERMINATION

4.1. Term. This Agreement shall commence on the Effective Date and continue for a period of Twenty Four (24) months, ending on October ~~30~~, 2017, unless previously terminated as provided herein or as otherwise agreed to in writing by the parties.

4.2. Notice of Termination. The City reserves and has the right and privilege of canceling, suspending or abandoning the execution of all or any part of the work contemplated by this Agreement, with or without cause, at any time, by providing written notice to Consultant. The termination of this Agreement shall be deemed effective upon receipt of the notice of termination. In the event of such termination, Consultant shall immediately stop rendering services under this Agreement unless directed otherwise by the City.

4.3. Compensation. In the event of termination, City shall pay Consultant for reasonable costs incurred and professional services satisfactorily performed up to and including the date of City's written notice of termination. Compensation for work in progress shall be prorated based on the percentage of work completed as of the effective date of termination in accordance with the fees set forth herein. In ascertaining the professional services actually rendered hereunder up to the effective date of termination of this Agreement, consideration shall be given to both completed work and work in progress, to complete and incomplete drawings, and to other documents pertaining to the services contemplated herein whether delivered to the City or in the possession of the Consultant.

//

4.4. Documents. In the event of termination of this Agreement, all documents prepared by Consultant in its performance of this Agreement including, but not limited to, finished or unfinished design, development and construction documents, data studies, drawings, maps and reports, shall be delivered to the City within ten (10) days of delivery of termination notice to Consultant, at no cost to City. Any use of uncompleted documents without specific written authorization from Consultant shall be at City's sole risk and without liability or legal expense to Consultant.

5.0. INSURANCE

5.1. Minimum Scope and Limits of Insurance. Consultant shall obtain, maintain, and keep in full force and effect during the life of this Agreement all of the following minimum scope of insurance coverages with an insurance company admitted to do business in California, rated "A," Class X, or better in the most recent Best's Key Insurance Rating Guide, and approved by City:

- (a) Commercial general liability, including premises-operations, products/completed operations, broad form property damage, blanket contractual liability, independent contractors, personal injury or bodily injury with a policy limit of not less than One Million Dollars (\$1,000,000.00), combined single limits, per occurrence. If such insurance contains a general aggregate limit, it shall apply separately to this Agreement or shall be twice the required occurrence limit.
- (b) Business automobile liability for owned vehicles, hired, and non-owned vehicles, with a policy limit of not less than One Million Dollars (\$1,000,000.00), combined single limits, per occurrence for bodily injury and property damage.
- (c) Workers' compensation insurance as required by the State of California. Consultant agrees to waive, and to obtain endorsements from its workers' compensation insurer waiving subrogation rights under its workers' compensation insurance policy against the City, its officers, agents, employees, and volunteers arising from work performed by Consultant for the City and to require each of its subcontractors, if any, to do likewise under their workers' compensation insurance policies.
- (d) Professional errors and omissions ("E&O") liability insurance with policy limits of not less than One Million Dollars (\$1,000,000.00), combined single limits, per occurrence and aggregate. Architects' and engineers' coverage shall be endorsed to include contractual liability. If the policy is written as a "claims made" policy, the retro date shall be prior to the start of the contract work. Consultant shall obtain and maintain, said E&O liability insurance during the life of this Agreement and for three years after completion of the work hereunder.

5.2. Endorsements. The commercial general liability insurance policy and business automobile liability policy shall contain or be endorsed to contain the following provisions:

- (a) Additional insureds: "The City of Costa Mesa and its elected and appointed boards, officers, officials, agents, employees, and volunteers are additional insureds with respect to: liability arising out of activities performed by or on behalf of the Consultant pursuant to its contract with

the City; products and completed operations of the Consultant; premises owned, occupied or used by the Consultant; automobiles owned, leased, hired, or borrowed by the Consultant."

- (b) Notice: "Said policy shall not terminate, be suspended, or voided, nor shall it be cancelled, nor the coverage or limits reduced, until thirty (30) days after written notice is given to City.
- (c) Other insurance: "The Consultant's insurance coverage shall be primary insurance as respects the City of Costa Mesa, its officers, officials, agents, employees, and volunteers. Any other insurance maintained by the City of Costa Mesa shall be excess and not contributing with the insurance provided by this policy."
- (d) Any failure to comply with the reporting provisions of the policies shall not affect coverage provided to the City of Costa Mesa, its officers, officials, agents, employees, and volunteers.
- (e) The Consultant's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

5.3. Deductible or Self Insured Retention. If any of such policies provide for a deductible or self-insured retention to provide such coverage, the amount of such deductible or self-insured retention shall be approved in advance by City. No policy of insurance issued as to which the City is an additional insured shall contain a provision which requires that no insured except the named insured can satisfy any such deductible or self-insured retention.

5.4. Certificates of Insurance. Consultant shall provide to City certificates of insurance showing the insurance coverages and required endorsements described above, in a form and content approved by City, prior to performing any services under this Agreement. The certificates of insurance shall be attached hereto as Exhibit "D" and incorporated herein by this reference.

5.5. Non-limiting. Nothing in this Section shall be construed as limiting in any way the indemnification provision contained in this Agreement, or the extent to which Consultant may be held responsible for payments of damages to persons or property.

6.0. GENERAL PROVISIONS

6.1. Entire Agreement. This Agreement constitutes the entire agreement between the parties with respect to any matter referenced herein and supersedes any and all other prior writings and oral negotiations. This Agreement may be modified only in writing, and signed by the parties in interest at the time of such modification. The terms of this Agreement shall prevail over any inconsistent provision in any other contract document appurtenant hereto, including exhibits to this Agreement.

6.2. Representatives. The City CEO or his or her designee shall be the representative of City for purposes of this Agreement and may issue all consents, approvals, directives and agreements on behalf of the City, called for by this Agreement, except as otherwise expressly provided in this Agreement.

//

Consultant shall designate a representative for purposes of this Agreement who shall be authorized to issue all consents, approvals, directives and agreements on behalf of Consultant called for by this Agreement, except as otherwise expressly provided in this Agreement.

6.3. Project Managers. City shall designate a Project Manager to work directly with Consultant in the performance of this Agreement.

Consultant shall designate a Project Manager who shall represent it and be its agent in all consultations with City during the term of this Agreement. Consultant or its Project Manager shall attend and assist in all coordination meetings called by City.

6.4. Notices. Any notices, documents, correspondence or other communications concerning this Agreement or the work hereunder may be provided by personal delivery, facsimile or mail and shall be addressed as set forth below. Such communication shall be deemed served or delivered: a) at the time of delivery if such communication is sent by personal delivery; b) at the time of transmission if such communication is sent by facsimile; and c) 48 hours after deposit in the U.S. Mail as reflected by the official U.S. postmark if such communication is sent through regular United States mail.

IF TO CONSULTANT:

Glenn Lukos Associates, Inc.
29 Orchard
Lake Forest, CA 92630
Tel: (949) 837-0404
Fax: (949) 837-5834
Attn: Tony Bomkamp

IF TO CITY:

City of Costa Mesa
77 Fair Drive
Costa Mesa, CA 92626
Tel: (714) 754-5053
Fax: (714) 754-5028
Attn: Bart Mejia

6.5. Drug-free Workplace Policy. Consultant shall provide a drug-free workplace by complying with all provisions set forth in City's Council Policy 100-5, attached hereto as Exhibit "E" and incorporated herein by reference. Consultant's failure to conform to the requirements set forth in Council Policy 100-5 shall constitute a material breach of this Agreement and shall be cause for immediate termination of this Agreement by City.

6.6. Attorneys' Fees. In the event that litigation is brought by any party in connection with this Agreement, the prevailing party shall be entitled to recover from the opposing party all costs and expenses, including reasonable attorneys' fees, incurred by the prevailing party in the exercise of any of its rights or remedies hereunder or the enforcement of any of the terms, conditions, or provisions hereof.

6.7. Governing Law. This Agreement shall be governed by and construed under the laws of the State of California without giving effect to that body of laws pertaining to conflict of laws. In the event of any legal action to enforce or interpret this Agreement, the parties hereto agree that the sole and exclusive venue shall be a court of competent jurisdiction located in Orange County, California.

6.8. Assignment. Consultant shall not voluntarily or by operation of law assign, transfer, sublet or encumber all or any part of Consultant's interest in this Agreement without City's prior written consent. Any attempted assignment, transfer, subletting or encumbrance shall be void and shall constitute a breach of this Agreement and cause for termination of this Agreement. Regardless of City's consent, no subletting or assignment shall release Consultant

of Consultant's obligation to perform all other obligations to be performed by Consultant hereunder for the term of this Agreement.

6.9. Indemnification and Hold Harmless. Consultant agrees to defend, indemnify, hold free and harmless the City, its elected officials, officers, agents and employees, at Consultant's sole expense, from and against any and all claims, actions, suits or other legal proceedings brought against the City, its elected officials, officers, agents and employees arising out of the performance of the Consultant, its employees, and/or authorized subcontractors, of the work undertaken pursuant to this Agreement. The defense obligation provided for hereunder shall apply without any advance showing of negligence or wrongdoing by the Consultant, its employees, and/or authorized subcontractors, but shall be required whenever any claim, action, complaint, or suit asserts as its basis the negligence, errors, omissions or misconduct of the Consultant, its employees, and/or authorized subcontractors, and/or whenever any claim, action, complaint or suit asserts liability against the City, its elected officials, officers, agents and employees based upon the work performed by the Consultant, its employees, and/or authorized subcontractors under this Agreement, whether or not the Consultant, its employees, and/or authorized subcontractors are specifically named or otherwise asserted to be liable. Notwithstanding the foregoing, the Consultant shall not be liable for the defense or indemnification of the City for claims, actions, complaints or suits arising out of the sole active negligence or willful misconduct of the City. This provision shall supersede and replace all other indemnity provisions contained either in the City's specifications or Consultant's Proposal, which shall be of no force and effect.

6.10. Independent Contractor. Consultant is and shall be acting at all times as an independent contractor and not as an employee of City. Consultant shall have no power to incur any debt, obligation, or liability on behalf of City or otherwise act on behalf of City as an agent. Neither City nor any of its agents shall have control over the conduct of Consultant or any of Consultant's employees, except as set forth in this Agreement. Consultant shall not, at any time, or in any manner, represent that it or any of its or employees are in any manner agents or employees of City. Consultant shall secure, at its sole expense, and be responsible for any and all payment of Income Tax, Social Security, State Disability Insurance Compensation, Unemployment Compensation, and other payroll deductions for Consultant and its officers, agents, and employees, and all business licenses, if any are required, in connection with the services to be performed hereunder. Consultant shall indemnify and hold City harmless from any and all taxes, assessments, penalties, and interest asserted against City by reason of the independent contractor relationship created by this Agreement. Consultant further agrees to indemnify and hold City harmless from any failure of Consultant to comply with the applicable worker's compensation laws. City shall have the right to offset against the amount of any fees due to Consultant under this Agreement any amount due to City from Consultant as a result of Consultant's failure to promptly pay to City any reimbursement or indemnification arising under this paragraph.

6.11. PERS Eligibility Indemnification. In the event that Consultant or any employee, agent, or subcontractor of Consultant providing services under this Agreement claims or is determined by a court of competent jurisdiction or the California Public Employees Retirement System (PERS) to be eligible for enrollment in PERS as an employee of the City, Consultant shall indemnify, defend, and hold harmless City for the payment of any employee and/or employer contributions for PERS benefits on behalf of Consultant or its employees, agents, or subcontractors, as well as for the payment of any penalties and interest on such contributions, which would otherwise be the responsibility of City.

Notwithstanding any other agency, state or federal policy, rule, regulation, law or ordinance to the contrary, Consultant and any of its employees, agents, and subcontractors

providing service under this Agreement shall not qualify for or become entitled to, and hereby agree to waive any claims to, any compensation, benefit, or any incident of employment by City, including but not limited to eligibility to enroll in PERS as an employee of City and entitlement to any contribution to be paid by City for employer contribution and/or employee contributions for PERS benefits.

6.12. Cooperation. In the event any claim or action is brought against City relating to Consultant's performance or services rendered under this Agreement, Consultant shall render any reasonable assistance and cooperation which City might require.

6.13. Ownership of Documents. All findings, reports, documents, information and data including, but not limited to, computer tapes or discs, files and tapes furnished or prepared by Consultant or any of its subcontractors in the course of performance of this Agreement, shall be and remain the sole property of City. Consultant agrees that any such documents or information shall not be made available to any individual or organization without the prior consent of City. Any use of such documents for other projects not contemplated by this Agreement, and any use of incomplete documents, shall be at the sole risk of City and without liability or legal exposure to Consultant. City shall indemnify and hold harmless Consultant from all claims, damages, losses, and expenses, including attorneys' fees, arising out of or resulting from City's use of such documents for other projects not contemplated by this Agreement or use of incomplete documents furnished by Consultant. Consultant shall deliver to City any findings, reports, documents, information, data, in any form, including but not limited to, computer tapes, discs, files audio tapes or any other Project related items as requested by City or its authorized representative, at no additional cost to the City.

6.14. Public Records Act Disclosure. Consultant has been advised and is aware that this Agreement and all reports, documents, information and data, including, but not limited to, computer tapes, discs or files furnished or prepared by Consultant, or any of its subcontractors, pursuant to this Agreement and provided to City may be subject to public disclosure as required by the California Public Records Act (California Government Code Section 6250 *et seq.*). Exceptions to public disclosure may be those documents or information that qualify as trade secrets, as that term is defined in the California Government Code Section 6254.7, and of which Consultant informs City of such trade secret. The City will endeavor to maintain as confidential all information obtained by it that is designated as a trade secret. The City shall not, in any way, be liable or responsible for the disclosure of any trade secret including, without limitation, those records so marked if disclosure is deemed to be required by law or by order of the Court.

6.15. Conflict of Interest. Consultant and its officers, employees, associates and subconsultants, if any, will comply with all conflict of interest statutes of the State of California applicable to Consultant's services under this agreement, including, but not limited to, the Political Reform Act (Government Code Sections 81000, *et seq.*) and Government Code Section 1090. During the term of this Agreement, Consultant and its officers, employees, associates and subconsultants shall not, without the prior written approval of the City Representative, perform work for another person or entity for whom Consultant is not currently performing work that would require Consultant or one of its officers, employees, associates or subconsultants to abstain from a decision under this Agreement pursuant to a conflict of interest statute.

6.16. Responsibility for Errors. Consultant shall be responsible for its work and results under this Agreement. Consultant, when requested, shall furnish clarification and/or explanation as may be required by the City's representative, regarding any services rendered under this Agreement at no additional cost to City. In the event that an error or omission attributable to Consultant occurs, then Consultant shall, at no cost to City, provide all necessary design

drawings, estimates and other Consultant professional services necessary to rectify and correct the matter to the sole satisfaction of City and to participate in any meeting required with regard to the correction.

6.17. Prohibited Employment. Consultant will not employ any regular employee of City while this Agreement is in effect.

6.18. Order of Precedence. In the event of an inconsistency in this Agreement and any of the attached Exhibits, the terms set forth in this Agreement shall prevail. If, and to the extent this Agreement incorporates by reference any provision of any document, such provision shall be deemed a part of this Agreement. Nevertheless, if there is any conflict among the terms and conditions of this Agreement and those of any such provision or provisions so incorporated by reference, this Agreement shall govern over the document referenced.

6.19. Costs. Each party shall bear its own costs and fees incurred in the preparation and negotiation of this Agreement and in the performance of its obligations hereunder except as expressly provided herein.

6.20. No Third Party Beneficiary Rights. This Agreement is entered into for the sole benefit of City and Consultant and no other parties are intended to be direct or incidental beneficiaries of this Agreement and no third party shall have any right in, under or to this Agreement.

6.21. Headings. Paragraphs and subparagraph headings contained in this Agreement are included solely for convenience and are not intended to modify, explain or to be a full or accurate description of the content thereof and shall not in any way affect the meaning or interpretation of this Agreement.

6.22. Construction. The parties have participated jointly in the negotiation and drafting of this Agreement. In the event an ambiguity or question of intent or interpretation arises with respect to this Agreement, this Agreement shall be construed as if drafted jointly by the parties and in accordance with its fair meaning. There shall be no presumption or burden of proof favoring or disfavoring any party by virtue of the authorship of any of the provisions of this Agreement.

6.23. Amendments. Only a writing executed by the parties hereto or their respective successors and assigns may amend this Agreement.

6.24. Waiver. The delay or failure of either party at any time to require performance or compliance by the other of any of its obligations or agreements shall in no way be deemed a waiver of those rights to require such performance or compliance. No waiver of any provision of this Agreement shall be effective unless in writing and signed by a duly authorized representative of the party against whom enforcement of a waiver is sought. The waiver of any right or remedy in respect to any occurrence or event shall not be deemed a waiver of any right or remedy in respect to any other occurrence or event, nor shall any waiver constitute a continuing waiver.

6.25. Severability. If any provision of this Agreement is determined by a court of competent jurisdiction to be unenforceable in any circumstance, such determination shall not affect the validity or enforceability of the remaining terms and provisions hereof or of the offending provision in any other circumstance. Notwithstanding the foregoing, if the value of this Agreement, based upon the substantial benefit of the bargain for any party, is materially impaired, which determination made by the presiding court or arbitrator of competent jurisdiction

Agreement, based upon the substantial benefit of the bargain for any party, is materially impaired, which determination made by the presiding court or arbitrator of competent jurisdiction shall be binding, then both parties agree to substitute such provision(s) through good faith negotiations.

6.26. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original. All counterparts shall be construed together and shall constitute one agreement.

6.27. Corporate Authority. The persons executing this Agreement on behalf of the parties hereto warrant that they are duly authorized to execute this Agreement on behalf of said parties and that by doing so the parties hereto are formally bound to the provisions of this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by and through their respective authorized officers, as of the date first above written.

CITY OF COSTA MESA,
A municipal corporation

Thomas R. Hatch
Chief Executive Officer

Date: 1/11/16

CONSULTANT

Glenn Lukos, Pres
Signature
Name and Title

Date: 10/26/15

33-0374249
Social Security or Taxpayer ID Number

ATTEST:

Brenda Green
City Clerk and ex-officio Clerk
of the City of Costa Mesa

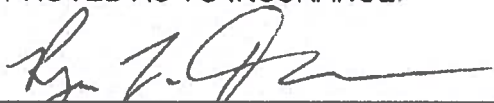


APPROVED AS TO FORM:

[Signature]
City Attorney

Date: 10/30/15

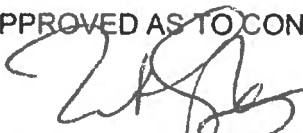
APPROVED AS TO INSURANCE:



Risk Management

Date: 10/27/15

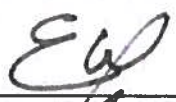
APPROVED AS TO CONTENT:



Project Manager

Date: 10/14/15

DEPARTMENT HEAD APPROVAL



Ernesto Munoz, Director of Public Services

Date: 12.16.15

FINANCE DEPARTMENT APPROVAL



Stephen Dunivent,
Interim Finance Director

EXHIBIT A
REQUEST FOR PROPOSALS

STAPLES, ROBERT

From: STAPLES, ROBERT
Sent: Wednesday, September 02, 2015 10:55 AM
To: 'tbomkamp@wetlandpermitting.com'
Subject: FW: Request For Bid
Attachments: Request for Bid FPTechnicalStudies.doc

Please see attached Request for Bid for on call services at Fairview Park. Thanks.

Robert Staples
City of Costa Mesa
Contract Administrator
714.754.5303





REQUEST FOR BID

Submitted to City of Costa Mesa/Public Services
For Projects and Maintenance Services Under \$30,000

THIS PROPOSAL, IN ORDER TO BE VALID, MUST BE RETURNED TO CITY OF COSTA MESA

ATTN: Robert Staples

VIA EMAIL TO: robert.staples@costamesaca.gov

NO LATER THAN 4:30 P.M., ON 9/10/15

VIA FAX TO: 714.754.5028

VENDOR'S NAME	VENDOR'S TELEPHONE	DATE
STREET ADDRESS	FAX NUMBER	
CITY, STATE & ZIP	JOB NAME/LOCATION Fairview Park Technical Studies	
Provide environmental technical studies on an on call basis. Provide hourly rates for: bird nesting surveys, Section 7 of the Endangered Species Act endangered species surveys and consultation, NEPA and CEQA environmental assessments, mitigation and monitoring reports.		

We Propose Hereby to Furnish Material, Labor, Special Equipment and Permits,
Complete in Accordance With Above Specifications

FOR THE SUM OF:

Not to exceed Twenty thousand dollars (\$20,000.00)

All material is guaranteed to be as specified, all work to be completed in a workmanlike manner according to standard practices, according to terms and conditions on the attached hereon and made a part thereof. A Purchase Order will not be issued until the insurance certificate are approved by Risk Management.

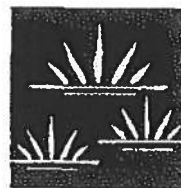
Note: Proposal may be withdrawn by Contractor
if not accepted within 30 days.

AUTHORIZED SIGNATURE

EXHIBIT B
CONSULTANT'S PROPOSAL

GLENN LUKOS ASSOCIATES

Regulatory Services



STATEMENT OF QUALIFICATIONS

Glenn Lukos Associates, Inc. (GLA) was formed in 1989 specifically to assist the regulated community through the approval process generated by state and federal environmental laws and regulations. Since 1997 we have been providing full biological services to our client in addition to our regulatory work. We specialize in biological surveys and endangered species coordination, habitat restoration design, mitigation implementation, and mitigation monitoring. We assist clients with regulations associated with federal, state, and local Habitat Conservation Plan biological issues including:

- National Environmental Policy Act (environmental assessment)¹
- California Environmental Quality Act (biological and delineation sections)²
- California Public Resources Code (analysis with respect to fire protection regulations)
- California Fish and Game Code (state listed species surveys and consultation)
- California Endangered Species Act (state listed species surveys and consultation)
- Federal Endangered Species Act (federal listed species surveys and consultation)
- MSHCP (compliance and consistency with the plan)
- NCCP (compliance and consistency with the plan)

In addition to the 26 years that GLA has been continuously performing such work, senior staff at GLA have been performing work in this area prior to the formation of GLA. For example, Mr. Bomkamp is a field biologist, wetlands ecologist, and regulatory specialist with an extensive background in environmental studies. As a botanist, Mr. Bomkamp has diverse field experience extending back over 28 years in all of the major vegetation communities in Southern California. He is a recognized expert in the Southern California flora and is past President of the Orange County Chapter of the California Native Plant Society (CNPS). Mr. Bomkamp has particular expertise in wetland and riparian ecology, having been the primary field investigator on a two-year study of all riparian and coastal wetlands in Los Angeles and Ventura counties for the Los Angeles Regional Water Quality Control Board. Mr. Bomkamp also serves as part-time faculty at California State University, Fullerton, for the graduate Environmental Studies Program, teaching courses on wetlands and endangered habitats.

¹ GLA does not prepare entire NEPA documents, but only provides biological and delineation sections or input for the NEPA preparer.

² GLA does not prepare entire CEQA documents, but only provides biological and delineation sections or input for the CEQA preparer.

GLA is also a recognized expert in "wetland" and other water-related permitting and wetland delineation. We assist clients through the maze of regulations associated with federal and state permits including:

- Section 404 of the Clean Water Act ("wetland" permitting)
- Section 404(b)(1) of the Clean Water Act (alternatives analysis)
- Section 401 of the Clean Water Act (water quality certification)
- Section 402 of the Clean Water Act (stormwater runoff discharge permits)
- Section 13260 of the California Water Code (waste discharge requirements)
- Section 7 of the Endangered Species Act (endangered species surveys and consultation)
- Section 1602 of the California Fish and Game Code (streambed alteration agreement)
- Section 2081 of the California Fish and Game Code (endangered species permitting)
- Section 10 of the Rivers and Harbors Act (navigable waters permitting)
- California Coastal Act (coastal development permits)



REQUEST FOR BID



Submitted to City of Costa Mesa/Public Services
For Projects and Maintenance Services Under \$30,000

THIS PROPOSAL, IN ORDER TO BE VALID, MUST BE RETURNED TO CITY OF COSTA MESA

ATTN: Robert Staples

VIA EMAIL TO: robert.staples@costamesaca.gov

NO LATER THAN 4:30 P.M., ON 9/10/15

VIA FAX TO: 714.754.5028

VENDOR'S NAME Glenn Lukos Associates, Inc.	VENDOR'S TELEPHONE (949) 837-0404	DATE 9/10/15
STREET ADDRESS 29 Orchard	FAX NUMBER (949) 837-5834	
CITY, STATE & ZIP Lake Forest, CA 92630	JOB NAME/LOCATION Fairview Park Technical Studies	
Provide environmental technical studies on an on call basis. Provide hourly rates for: bird nesting surveys, Section 7 of the Endangered Species Act endangered species surveys and consultation, NEPA and CEQA environmental assessments, mitigation and monitoring reports.		

We Propose Hereby to Furnish Material, Labor, Special Equipment and Permits,
Complete in Accordance With Above Specifications

FOR THE SUM OF:

Not to exceed Twenty thousand dollars (\$20,000.00)

All material is guaranteed to be as specified, all work to be completed in a workmanlike manner according to standard practices, according to terms and conditions on the attached hereon and made a part thereof. A Purchase Order will not be issued until the insurance certificate are approved by Risk Management.

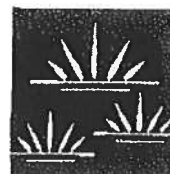
Note: Proposal may be withdrawn by Contractor
if not accepted within 30 days.


AUTHORIZED SIGNATURE

EXHIBIT C
FEE SCHEDULE

GLENN LUKOS ASSOCIATES

Regulatory Services



SCHEDULE OF FEES AND CHARGES

HOURLY LABOR RATES

Principal-in-Charge	\$230
Senior Project Manager	\$185-140
Project Manager	\$135-85
Habitat Restoration Specialist	\$135-85
Biologist	\$135-85
Assistant Project Manager	\$110-55
Field Assistant	\$75
GIS Technician	\$105-65
Clerical	\$40

DIRECT EXPENSES

GLA's direct expenses shall be those costs incurred directly for the CLIENT's project including but not limited to necessary transportation costs including mileage by automobile at the current rate allowed by IRS, meals and lodging, laboratory tests and analyses, retention and management of technical consultants, printing, and binding charges. Reimbursement for these expenses shall be on the basis of actual charges when furnished by GLA. An administrative charge of 15% shall be applied to all direct expense charges.

s: 2015 FEE.docx

29 Orchard
Telephone: (949) 837-0404

■ Lake Forest

■ California 92630-8300
Facsimile: (949) 837-5834

**EXHIBIT D
CERTIFICATES OF INSURANCE**

Client#: 688752

GLENLUKO

ACORD™

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

4/02/2015

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Hub International 470 E. Highland Ave. Redlands, CA 92373 909 793-2373	CONTACT NAME: Lysandra Jones-Hommers	
	PHONE (A/C, No, Ext): 909-379-1333	FAX (A/C, No): 909-533-2266
E-MAIL ADDRESS: lysandra.hommers@hubinternational.com		
INSURED Glenn Lukos Associates, Inc. 29 Orchard Street Lake Forest, CA 92630-8300	INSURER(S) AFFORDING COVERAGE	
	INSURER A: Starr Indemnity & Liability Com	NAIC # 38318
	INSURER B: Zurich American Insurance Compa	16535
	INSURER C: Travelers Casualty Insurance Co	19046
	INSURER D:	
	INSURER E:	
INSURER F:		

COVERAGES		CERTIFICATE NUMBER:		REVISION NUMBER:	
THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.					
INSR	TYPE OF INSURANCE	ADDL SUBR	POLICY NUMBER	POLICY EFF	POLICY EXP
A	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> BI/PD Ded: 5,000 GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC		1000065532151	03/31/2015	03/31/2016
					EACH OCCURRENCE \$1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$50,000 MED EXP (Any one person) \$5,000 PERSONAL & ADV INJURY \$1,000,000 GENERAL AGGREGATE \$2,000,000 PRODUCTS - COMP/OP AGG \$2,000,000 \$
C	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO ALL OWNED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> SCHEDULED AUTOS NON-OWNED AUTOS		BA7976X38015	03/31/2015	03/31/2016
					COMBINED SINGLE LIMIT (Ea accident) \$1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$ EACH OCCURRENCE \$ AGGREGATE \$ \$
	UMBRELLA LIAB EXCESS LIAB DED RETENTION \$				
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER MEMBER EXCLUDED? (Mandatory In NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N <input checked="" type="checkbox"/> Y N/A	WC969783203	03/31/2015	03/31/2016
					<input checked="" type="checkbox"/> WC STATU-TORY LIMITS <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$1,000,000 E.L. DISEASE - EA EMPLOYEE \$1,000,000 E.L. DISEASE - POLICY LIMIT \$1,000,000
A	Professional Liab		1000065532151	03/31/2015	03/31/2016
A	Pollution Liab		1000065532151	03/31/2015	03/31/2016
					\$1,000,000 Occurrence \$1,000,000 Occurrence \$5,000 Ded each Occ

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

Re: GLA Agreement

The City of Costa Mesa and its elected and appointed boards, officers, officials, agents, employees and volunteers are Additional Insured on General Liability per OG023 0611 attached where required by written contract including Primary Non-contributory Wording and Waiver of Subrogation. Automobile Additional Insured applies per CAT420 0215 attached. Waiver of Subrogation on Workers Compensation applies per (See Attached Descriptions)

CERTIFICATE HOLDER

CANCELLATION

City of Costa Mesa
77 Fair Drive
Costa Mesa, CA 92626

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE



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DESCRIPTIONS (Continued from Page 1)

attached WC040306 0484 attached.

"Should the policies be cancelled before the expiration date, Hub International Insurance Services Inc. (Hub), independent of any rights which may be afforded within the policies to the certificate holder named below, will provide to such certificate holder notice of such cancellation within thirty (30) days of the cancellation date, except in the event the cancellation is due to non-payment of premium, in which case Hub will provide to such certificate holder notice of such cancellation within ten (10) days of the cancellation date."



Starr Indemnity & Liability Company

Dallas, TX 1-866-519-2522

Primary and Non-contributory, Additional Insured and Waiver of Subrogation

Policy Number: 1000065532151

Effective Date: 03/31/2015 at 12:01 A.M.

Named Insured: Glenn Lukos Associates Inc

This endorsement modifies the insurance coverage form(s) listed below that have been purchased by you and evidenced as such on the Declarations page. Please read the endorsement and respective policy(ies) carefully.

Commercial General Liability Coverage Form
Owners and Contractors Protective Liability Coverage form
Products/Completed Operations Liability Coverage Form
Contractors Pollution Liability Coverage Form
Professional Liability Coverage Form
Site Pollution Liability Coverage Form

SCHEDULE

All as required by written, signed or executed contract.

- A. SECTION II - WHO IS AN INSURED is amended to include as an insured the person or organization shown in the schedule of this endorsement, but only with respect to liability arising out of "your work" for that insured by or for you.
- B. As respects additional insureds as defined above, this insurance also applies to "bodily injury" or "property damage" arising out of your negligence when the following written contract requirements are applicable:
1. Coverage available under this coverage part shall apply as primary insurance. Any other insurance available to these additional insured's shall apply as excess and not contribute as primary to the insurance afforded by this endorsement.
 2. We waive any right of recovery we may have against these additional insured's because of payments we make for injury or damage arising out of "your work" done under a written contract with the additional insured.
 3. The term insured is used separately and not collectively, but the inclusion of more than one insured shall not increase the limits or coverage provided by this insurance.

Insureds and Agents are advised that certificates of insurance should be used only to provide evidence of insurance in lieu of an actual copy of the applicable insurance policy. Certificates should not be used to amend, expand or otherwise alter the terms of the actual policy.

ALL OTHER TERMS AND CONDITIONS REMAIN UNCHANGED.

Signed for STARR INDEMNITY & LIABILITY COMPANY


Charles H. Dangelo, President


Honora M. Keane, General Counsel

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

AUTO COVERAGE PLUS ENDORSEMENT

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM

GENERAL DESCRIPTION OF COVERAGE – This endorsement broadens coverage. However, coverage for any injury, damage or medical expenses described in any of the provisions of this endorsement may be excluded or limited by another endorsement to the Coverage Part, and these coverage broadening provisions do not apply to the extent that coverage is excluded or limited by such an endorsement. The following listing is a general coverage description only. Limitations and exclusions may apply to these coverages. Read all the provisions of this endorsement and the rest of your policy carefully to determine rights, duties, and what is and is not covered.

- | | |
|--|--|
| A. BLANKET ADDITIONAL INSURED | H. AUDIO, VISUAL AND DATA ELECTRONIC EQUIPMENT – INCREASED LIMIT |
| B. EMPLOYEE HIRED AUTO | I. WAIVER OF DEDUCTIBLE – GLASS |
| C. EMPLOYEES AS INSURED | J. PERSONAL PROPERTY |
| D. SUPPLEMENTARY PAYMENTS – INCREASED LIMITS | K. AIRBAGS |
| E. TRAILERS – INCREASED LOAD CAPACITY | L. AUTO LOAN LEASE GAP |
| F. HIRED AUTO PHYSICAL DAMAGE | M. BLANKET WAIVER OF SUBROGATION |
| G. PHYSICAL DAMAGE – TRANSPORTATION EXPENSES – INCREASED LIMIT | |

A. BLANKET ADDITIONAL INSURED

The following is added to Paragraph A.1., Who Is An Insured, of SECTION II – COVERED AUTOS LIABILITY COVERAGE:

Any person or organization who is required under a written contract or agreement between you and that person or organization, that is signed and executed by you before the "bodily injury" or "property damage" occurs and that is in effect during the policy period, to be named as an additional Insured is an "Insured" for Covered Autos Liability Coverage, but only for damages to which this insurance applies and only to the extent that person or organization qualifies as an "Insured" under the Who Is An Insured provision contained in Section II.

B. EMPLOYEE HIRED AUTO

- The following is added to Paragraph A.1., Who Is An Insured, of SECTION II – COVERED AUTOS LIABILITY COVERAGE:

An "employee" of yours is an "insured" while operating a covered "auto" hired or rented under a contract or agreement in an "employee's" name, with your permission, while

performing duties related to the conduct of your business.

- The following replaces Paragraph b. in B.5., Other Insurance, of SECTION IV – BUSINESS AUTO CONDITIONS:

b. For Hired Auto Physical Damage Coverage, the following are deemed to be covered "autos" you own:

- (1) Any covered "auto" you lease, hire, rent or borrow; and
- (2) Any covered "auto" hired or rented by your "employee" under a contract in an "employee's" name, with your permission, while performing duties related to the conduct of your business.

However, any "auto" that is leased, hired, rented or borrowed with a driver is not a covered "auto".

C. EMPLOYEES AS INSURED

The following is added to Paragraph A.1., Who Is An Insured, of SECTION II – COVERED AUTOS LIABILITY COVERAGE:

COMMERCIAL AUTO

Any "employee" of yours is an "Insured" while using a covered "auto" you don't own, hire or borrow in your business or your personal affairs.

D. SUPPLEMENTARY PAYMENTS - INCREASED LIMITS

1. The following replaces Paragraph A.2.a.(2) of SECTION II - COVERED AUTOS LIABILITY COVERAGE:

(2) Up to \$3,000 for cost of bail bonds (including bonds for related traffic law violations) required because of an "accident" we cover. We do not have to furnish these bonds.

2. The following replaces Paragraph A.2.a.(4) of SECTION II - COVERED AUTOS LIABILITY COVERAGE:

(4) All reasonable expenses incurred by the "Insured" at our request, including actual loss of earnings up to \$500 a day because of time off from work.

E. TRAILERS - INCREASED LOAD CAPACITY

The following replaces Paragraph C.1. of SECTION I - COVERED AUTOS:

1. "Trailers" with a load capacity of 3,000 pounds or less, designed primarily for travel on public roads.

F. HIRED AUTO PHYSICAL DAMAGE

The following is added to Paragraph A.4., Coverage Extensions, of SECTION III - PHYSICAL DAMAGE COVERAGE:

Hired Auto Physical Damage Coverage

If hired "autos" are covered "autos" for Covered Autos Liability Coverage but not covered "autos" for Physical Damage Coverage, and this policy also provides Physical Damage Coverage for an owned "auto", then the Physical Damage Coverage is extended to "autos" that you hire, rent or borrow subject to the following:

- (1) The most we will pay for "loss" to any one "auto" that you hire, rent or borrow is the lesser of:
 - (a) \$50,000;
 - (b) The actual cash value of the damaged or stolen property as of the time of the "loss"; or
 - (c) The cost of repairing or replacing the damaged or stolen property with other property of like kind and quality.

(2) An adjustment for depreciation and physical condition will be made in determining actual cash value in the event of a total "loss".

(3) If a repair or replacement results in better than like kind or quality, we will not pay for the amount of betterment.

(4) A deductible equal to the highest Physical Damage deductible applicable to any owned covered "auto".

(5) This Coverage Extension does not apply to:

- (a) Any "auto" that is hired, rented or borrowed with a driver; or
- (b) Any "auto" that is hired, rented or borrowed from your "employee".

G. PHYSICAL DAMAGE - TRANSPORTATION EXPENSES - INCREASED LIMIT

The following replaces the first sentence in Paragraph A.4.a., Transportation Expenses, of SECTION III - PHYSICAL DAMAGE COVERAGE:

We will pay up to \$50 per day to a maximum of \$1,500 for temporary transportation expense incurred by you because of the total theft of a covered "auto" of the private passenger type.

H. AUDIO, VISUAL AND DATA ELECTRONIC EQUIPMENT - INCREASED LIMIT

Paragraph C.1.b. of SECTION III - PHYSICAL DAMAGE COVERAGE is deleted.

I. WAIVER OF DEDUCTIBLE - GLASS

The following is added to Paragraph D., Deductible, of SECTION III - PHYSICAL DAMAGE COVERAGE:

No deductible for a covered "auto" will apply to glass damage if the glass is repaired rather than replaced.

J. PERSONAL PROPERTY

The following is added to Paragraph A.4., Coverage Extensions, of SECTION III - PHYSICAL DAMAGE COVERAGE:

Personal Property Coverage

We will pay up to \$400 for "loss" to wearing apparel and other personal property which is:

- (1) Owned by an "Insured"; and
- (2) In or on your covered "auto".

This coverage only applies in the event of a total theft of your covered "auto".

No deductibles apply to Personal Property coverage.

K. AIRBAGS

The following is added to Paragraph B.3., Exclusions, of SECTION III - PHYSICAL DAMAGE COVERAGE:

Exclusion 3.a. does not apply to "loss" to one or more airbags in a covered "auto" you own that inflate due to a cause other than a cause of "loss" set forth in Paragraphs A.1.b. and A.1.c., but only:

- a. If that "auto" is a covered "auto" for Comprehensive Coverage under this policy;
- b. The airbags are not covered under any warranty; and
- c. The airbags were not intentionally inflated.

We will pay up to a maximum of \$1,000 for any one "loss".

L. AUTO LOAN LEASE GAP

The following is added to Paragraph A.4., Coverage Extensions, of SECTION III - PHYSICAL DAMAGE COVERAGE:

Auto Loan Lease Gap Coverage for Private Passenger Type Vehicles

In the event of a total "loss" to a covered "auto" of the private passenger type shown in the Schedule or Declarations for which Physical Damage Coverage is provided, we will pay any unpaid amount due on the lease or loan for such covered "auto" less the following:

- (1) The amount paid under the Physical Damage Coverage Section of the policy for that "auto"; and

(2) Any:

- (a) Overdue lease or loan payments at the time of the "loss";
- (b) Financial penalties imposed under a lease for excessive use, abnormal wear and tear or high mileage;
- (c) Security deposits not returned by the lessor;
- (d) Costs for extended warranties, Credit Life Insurance, Health, Accident or Disability Insurance purchased with the loan or lease; and
- (e) Carry-over balances from previous loans or leases.

M. BLANKET WAIVER OF SUBROGATION

The following replaces Paragraph A.6., Transfer Of Rights Of Recovery Against Others To Us, of SECTION IV - BUSINESS AUTO CONDITIONS:

5. Transfer Of Rights Of Recovery Against Others To Us

We waive any right of recovery we may have against any person or organization to the extent required of you by a written contract executed prior to any "accident" or "loss", provided that the "accident" or "loss" arises out of the operations contemplated by such contract. The waiver applies only to the person or organization designated in such contract.

**WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT—
CALIFORNIA**

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule. (This agreement applies only to the extent that you perform work under a written contract that requires you to obtain this agreement from us.)

You must maintain payroll records accurately segregating the remuneration of your employees while engaged in the work described in the Schedule.

The additional premium for this endorsement shall be 0 % of the California workers' compensation premium otherwise due on such remuneration.

Schedule

Person or Organization
WHEN REQUIRED BY A
WRITTEN CONTRACT
Policy #WC9697835203

Job Description
WETLAND AND WATER RELATED PERMITTING

EXHIBIT E
CITY COUNCIL POLICY 100-5

SUBJECT	POLICY NUMBER	EFFECTIVE DATE	PAGE
DRUG-FREE WORKPLACE	100-5	8-8-89	1 of 3

BACKGROUND

Under the Federal Drug-Free Workplace Act of 1988, passed as part of omnibus drug legislation enacted November 18, 1988, contractors and grantees of Federal funds must certify that they will provide drug-free workplaces. At the present time, the City of Costa Mesa, as a sub-grantee of Federal funds under a variety of programs, is required to abide by this Act. The City Council has expressed its support of the national effort to eradicate drug abuse through the creation of a Substance Abuse Committee, institution of a City-wide D.A.R.E. program in all local schools and other activities in support of a drug-free community. This policy is intended to extend that effort to contractors and grantees of the City of Costa Mesa in the elimination of dangerous drugs in the workplace.

PURPOSE

It is the purpose of this Policy to:

1. Clearly state the City of Costa Mesa's commitment to a drug-free society.
2. Set forth guidelines to ensure that public, private, and nonprofit organizations receiving funds from the City of Costa Mesa share the commitment to a drug-free workplace.

POLICY

The City Manager, under direction by the City Council, shall take the necessary steps to see that the following provisions are included in all contracts and agreements entered into by the City of Costa Mesa involving the disbursement of funds.

1. Contractor or Sub-grantee hereby certifies that it will provide a drug-free workplace by:
 - a. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in Contractor's and/or sub-grantee's workplace, specifically the job site or location included in this contract, and specifying the actions that will be taken against the employees for violation of such prohibition;

SUBJECT	POLICY NUMBER	EFFECTIVE DATE	PAGE
DRUG-FREE WORKPLACE	100-5	8-8-89	2 of 3

- b. Establishing a Drug-Free Awareness Program to inform employees about:
 1. The dangers of drug abuse in the workplace;
 2. Contractor's and/or sub-grantee's policy of maintaining a drug-free workplace;
 3. Any available drug counseling, rehabilitation and employee assistance programs; and
 4. The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;
- c. Making it a requirement that each employee to be engaged in the performance of the contract be given a copy of the statement required by subparagraph A;
- d. Notifying the employee in the statement required by subparagraph 1 A that, as a condition of employment under the contract, the employee will:
 1. Abide by the terms of the statement; and
 2. Notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction;
- e. Notifying the City of Costa Mesa within ten (10) days after receiving notice under subparagraph 1 D 2 from an employee or otherwise receiving the actual notice of such conviction;
- f. Taking one of the following actions within thirty (30) days of receiving notice under subparagraph 1 D 2 with respect to an employee who is so convicted:
 1. Taking appropriate personnel action against such an employee, up to and including termination; or
 2. Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health agency, law enforcement, or other appropriate agency;

SUBJECT	POLICY NUMBER	EFFECTIVE DATE	PAGE
DRUG-FREE WORKPLACE	100-5	8-8-89	3 of 3

- g. Making a good faith effort to maintain a drug-free workplace through Implementation of subparagraphs 1 A through 1 F, inclusive.
2. Contractor and/or sub-grantee shall be deemed to be in violation of this Policy if the City of Costa Mesa determines that:
 - a. Contractor and/or sub-grantee has made a false certification under paragraph 1 above;
 - b. Contractor and/or sub-grantee has violated the certification by failing to carry out the requirements of subparagraphs 1 A through 1 G above;
 - c. Such number of employees of Contractor and/or sub-grantee have been convicted of violations of criminal drug statutes for violations occurring in the workplace as to indicate that the contractor and/or sub-grantee has failed to make a good faith effort to provide a drug-free workplace.
3. Should any contractor and/or sub-grantee be deemed to be in violation of this Policy pursuant to the provisions of 2 A, B, and C, a suspension, termination or debarment proceeding subject to applicable Federal, State, and local laws shall be conducted. Upon issuance of any final decision under this section requiring debarment of a contractor and/or sub-grantee, the contractor and/or sub-grantee shall be ineligible for award of any contract, agreement or grant from the City of Costa Mesa for a period specified in the decision, not to exceed five (5) years. Upon issuance of any final decision recommending against debarment of the contractor and/or sub-grantee, the contractor and/or sub-grantee shall be eligible for compensation as provided by law.

**CITY OF COSTA MESA
PROFESSIONAL SERVICES AGREEMENT
WITH
GLEN LUKOS ASSOCIATES, INC.**

THIS PROFESSIONAL SERVICES AGREEMENT ("Agreement") is made and entered into this 1ST day of May, 2017 ("Effective Date"), by and between the CITY OF COSTA MESA, a municipal corporation ("City"), and GLENN LUKOS ASSOCIATES, INC., a California Corporation ("Consultant").

WITNESSETH:

A. WHEREAS, City proposes to utilize the services of Consultant as an independent contractor to perform biological consulting services for Fairview Park vernal pools, as more fully described herein; and

B. WHEREAS, Consultant represents that it has that degree of specialized expertise contemplated within California Government Code section 37103, and holds all necessary licenses to practice and perform the services herein contemplated; and

C. WHEREAS, City and Consultant desire to contract for the specific services described in Exhibit "A" (the "Project") and desire to set forth their rights, duties and liabilities in connection with the services to be performed; and

D. WHEREAS, no official or employee of City has a financial interest, within the provisions of sections 1090-1092 of the California Government Code, in the subject matter of this Agreement.

NOW, THEREFORE, for and in consideration of the mutual covenants and conditions contained herein, the parties hereby agree as follows:

1.0. SERVICES PROVIDED BY CONSULTANT

1.1. Scope of Services. Consultant shall provide the professional services described in the City's Request for Proposals ("RFP"), attached hereto as Exhibit "A," and Consultant's Response to City's RFP ("Consultant's Proposal"), attached hereto as Exhibit "B," both incorporated herein by this reference.

1.2. Professional Practices. All professional services to be provided by Consultant pursuant to this Agreement shall be provided by personnel experienced in their respective fields and in a manner consistent with the standards of care, diligence and skill ordinarily exercised by professional consultants in similar fields and circumstances in accordance with sound professional practices. Consultant also warrants that it is familiar with all laws that may affect its performance of this Agreement and shall advise City of any changes in any laws that may affect Consultant's performance of this Agreement.

1.3. Performance to Satisfaction of City. Consultant agrees to perform all the work to the complete satisfaction of the City and within the hereinafter specified. Evaluations of the

work will be done by the City Manager or his or her designee. If the quality of work is not satisfactory, City in its discretion has the right to:

- (a) Meet with Consultant to review the quality of the work and resolve the matters of concern;
- (b) Require Consultant to repeat the work at no additional fee until it is satisfactory; and/or
- (c) Terminate the Agreement as hereinafter set forth.

1.4. Warranty. Consultant warrants that it shall perform the services required by this Agreement in compliance with all applicable Federal and California employment laws, including, but not limited to, those laws related to minimum hours and wages; occupational health and safety; fair employment and employment practices; workers' compensation insurance and safety in employment; and all other Federal, State and local laws and ordinances applicable to the services required under this Agreement. Consultant shall indemnify and hold harmless City from and against all claims, demands, payments, suits, actions, proceedings, and judgments of every nature and description including attorneys' fees and costs, presented, brought, or recovered against City for, or on account of any liability under any of the above-mentioned laws, which may be incurred by reason of Consultant's performance under this Agreement.

1.5. Non-Discrimination. In performing this Agreement, Consultant shall not engage in, nor permit its agents to engage in, discrimination in employment of persons because of their race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military or veteran status, except as permitted pursuant to section 12940 of the Government Code.

1.6. Non-Exclusive Agreement. Consultant acknowledges that City may enter into agreements with other consultants for services similar to the services that are subject to this Agreement or may have its own employees perform services similar to those services contemplated by this Agreement.

1.7. Delegation and Assignment. This is a personal service contract, and the duties set forth herein shall not be delegated or assigned to any person or entity without the prior written consent of City. Consultant may engage a subcontractor(s) as permitted by law and may employ other personnel to perform services contemplated by this Agreement at Consultant's sole cost and expense.

1.8. Confidentiality. Employees of Consultant in the course of their duties may have access to financial, accounting, statistical, and personnel data of private individuals and employees of City. Consultant covenants that all data, documents, discussion, or other information developed or received by Consultant or provided for performance of this Agreement are deemed confidential and shall not be disclosed by Consultant without written authorization by City. City shall grant such authorization if disclosure is required by law. All City data shall be returned to City upon the termination of this Agreement. Consultant's covenant under this Section shall survive the termination of this Agreement.

2.0. COMPENSATION AND BILLING

2.1. Compensation. Consultant shall be paid in accordance with the fee schedule set forth in Exhibit "C," attached hereto and made a part of this Agreement by this reference (the "Fee Schedule"). Consultant's total compensation shall not exceed Forty Thousand Dollars (\$40,000.00).

2.2. Additional Services. Consultant shall not receive compensation for any services provided outside the scope of services specified in the Consultant's Proposal unless the City or the Project Manager for this Project, prior to Consultant performing the additional services, approves such additional services in writing. It is specifically understood that oral requests and/or approvals of such additional services or additional compensation shall be barred and are unenforceable.

2.3. Method of Billing. Consultant may submit invoices to the City for approval on a progress basis, but no more often than two times a month. Said invoice shall be based on the total of all Consultant's services which have been completed to City's sole satisfaction. City shall pay Consultant's invoice within forty-five (45) days from the date City receives said invoice. Each invoice shall describe in detail, the services performed, the date of performance, and the associated time for completion. Any additional services approved and performed pursuant to this Agreement shall be designated as "Additional Services" and shall identify the number of the authorized change order, where applicable, on all invoices.

2.4. Records and Audits. Records of Consultant's services relating to this Agreement shall be maintained in accordance with generally recognized accounting principles and shall be made available to City or its Project Manager for inspection and/or audit at mutually convenient times from the Effective Date until three (3) years after termination of this Agreement.

3.0. TIME OF PERFORMANCE

3.1. Commencement and Completion of Work. The professional services to be performed pursuant to this Agreement shall commence within five (5) days from the Effective Date of this Agreement. Failure to commence work in a timely manner and/or diligently pursue work to completion may be grounds for termination of this Agreement.

3.2. Excusable Delays. Neither party shall be responsible for delays or lack of performance resulting from acts beyond the reasonable control of the party or parties. Such acts shall include, but not be limited to, acts of God, fire, strikes, material shortages, compliance with laws or regulations, riots, acts of war, or any other conditions beyond the reasonable control of a party.

4.0. TERM AND TERMINATION

4.1. Term. This Agreement shall commence on the Effective Date and continue for a period of twenty four (24) months, ending on April 30, 2019, unless previously terminated as provided herein or as otherwise agreed to in writing by the parties. This Agreement may be extended by one (1) additional term period of one (1) year upon mutual written agreement of both parties.

4.2. Notice of Termination. The City reserves and has the right and privilege of canceling, suspending or abandoning the execution of all or any part of the work contemplated by this Agreement, with or without cause, at any time, by providing written notice to Consultant. The termination of this Agreement shall be deemed effective upon receipt of the notice of termination. In the event of such termination, Consultant shall immediately stop rendering services under this Agreement unless directed otherwise by the City.

4.3. Compensation. In the event of termination, City shall pay Consultant for reasonable costs incurred and professional services satisfactorily performed up to and including the date of City's written notice of termination. Compensation for work in progress shall be prorated based on the percentage of work completed as of the effective date of termination in accordance with the fees set forth herein. In ascertaining the professional services actually rendered hereunder up to the effective date of termination of this Agreement, consideration shall be given to both completed work and work in progress, to complete and incomplete drawings, and to other documents pertaining to the services contemplated herein whether delivered to the City or in the possession of the Consultant.

4.4. Documents. In the event of termination of this Agreement, all documents prepared by Consultant in its performance of this Agreement including, but not limited to, finished or unfinished design, development and construction documents, data studies, drawings, maps and reports, shall be delivered to the City within ten (10) days of delivery of termination notice to Consultant, at no cost to City. Any use of uncompleted documents without specific written authorization from Consultant shall be at City's sole risk and without liability or legal expense to Consultant.

5.0. INSURANCE

5.1. Minimum Scope and Limits of Insurance. Consultant shall obtain, maintain, and keep in full force and effect during the life of this Agreement all of the following minimum scope of insurance coverages with an insurance company admitted to do business in California, rated "A," Class X, or better in the most recent Best's Key Insurance Rating Guide, and approved by City:

- (a) Commercial general liability, including premises-operations; products/completed operations, broad form property damage, blanket contractual liability, independent contractors, personal injury or bodily injury with a policy limit of not less than One Million Dollars (\$1,000,000.00), combined single limits, per occurrence. If such insurance contains a general aggregate limit, it shall apply separately to this Agreement or shall be twice the required occurrence limit.
- (b) Business automobile liability for owned vehicles, hired, and non-owned vehicles, with a policy limit of not less than One Million Dollars (\$1,000,000.00), combined single limits, per occurrence for bodily injury and property damage.
- (c) Workers' compensation insurance as required by the State of California. Consultant agrees to waive, and to obtain endorsements from its workers' compensation insurer waiving subrogation rights under its workers' compensation insurance policy against the City, its officers, agents,

employees, and volunteers arising from work performed by Consultant for the City and to require each of its subcontractors, if any, to do likewise under their workers' compensation insurance policies.

- (d) Professional errors and omissions ("E&O") liability insurance with policy limits of not less than One Million Dollars (\$1,000,000.00), combined single limits, per occurrence and aggregate. Architects' and engineers' coverage shall be endorsed to include contractual liability. If the policy is written as a "claims made" policy, the retro date shall be prior to the start of the contract work. Consultant shall obtain and maintain, said E&O liability insurance during the life of this Agreement and for three years after completion of the work hereunder.

5.2. Endorsements. The commercial general liability insurance policy and business automobile liability policy shall contain or be endorsed to contain the following provisions:

- (a) Additional insureds: "The City of Costa Mesa and its elected and appointed boards, officers, officials, agents, employees, and volunteers are additional insureds with respect to: liability arising out of activities performed by or on behalf of the Consultant pursuant to its contract with the City; products and completed operations of the Consultant; premises owned, occupied or used by the Consultant; automobiles owned, leased, hired, or borrowed by the Consultant."
- (b) Notice: "Said policy shall not terminate, be suspended, or voided, nor shall it be cancelled, nor the coverage or limits reduced, until thirty (30) days after written notice is given to City."
- (c) Other insurance: "The Consultant's insurance coverage shall be primary insurance as respects the City of Costa Mesa, its officers, officials, agents, employees, and volunteers. Any other insurance maintained by the City of Costa Mesa shall be excess and not contributing with the insurance provided by this policy."
- (d) Any failure to comply with the reporting provisions of the policies shall not affect coverage provided to the City of Costa Mesa, its officers, officials, agents, employees, and volunteers.
- (e) The Consultant's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

5.3. Deductible or Self Insured Retention. If any of such policies provide for a deductible or self-insured retention to provide such coverage, the amount of such deductible or self-insured retention shall be approved in advance by City. No policy of insurance issued as to which the City is an additional insured shall contain a provision which requires that no insured except the named insured can satisfy any such deductible or self-insured retention.

5.4. Certificates of Insurance. Consultant shall provide to City certificates of insurance showing the insurance coverages and required endorsements described above, in a

form and content approved by City, prior to performing any services under this Agreement. The certificates of insurance shall be attached hereto as Exhibit "D" and incorporated herein by this reference.

5.5. Non-Limiting. Nothing in this Section shall be construed as limiting in any way, the indemnification provision contained in this Agreement, or the extent to which Consultant may be held responsible for payments of damages to persons or property.

6.0. GENERAL PROVISIONS

6.1. Entire Agreement. This Agreement constitutes the entire agreement between the parties with respect to any matter referenced herein and supersedes any and all other prior writings and oral negotiations. This Agreement may be modified only in writing, and signed by the parties in interest at the time of such modification. The terms of this Agreement shall prevail over any inconsistent provision in any other contract document appurtenant hereto, including exhibits to this Agreement.

6.2. Representatives. The City Manager or his or her designee shall be the representative of City for purposes of this Agreement and may issue all consents, approvals, directives and agreements on behalf of the City, called for by this Agreement, except as otherwise expressly provided in this Agreement.

Consultant shall designate a representative for purposes of this Agreement who shall be authorized to issue all consents, approvals, directives and agreements on behalf of Consultant called for by this Agreement, except as otherwise expressly provided in this Agreement.

6.3. Project Managers. City shall designate a Project Manager to work directly with Consultant in the performance of this Agreement.

Consultant shall designate a Project Manager who shall represent it and be its agent in all consultations with City during the term of this Agreement. Consultant or its Project Manager shall attend and assist in all coordination meetings called by City.

6.4. Notices. Any notices, documents, correspondence or other communications concerning this Agreement or the work hereunder may be provided by personal delivery or mail and shall be addressed as set forth below. Such communication shall be deemed served or delivered: (a) at the time of delivery if such communication is sent by personal delivery, and (b) 48 hours after deposit in the U.S. Mail as reflected by the official U.S. postmark if such communication is sent through regular United States mail.

IF TO CONSULTANT:

Glenn Lukos Associates, Inc.
29 Orchard
Lake Forest, CA 92630
Tel: (949) 837-0404
Attn: Tony Bomkamp

IF TO CITY:

City of Costa Mesa
77 Fair Drive
Costa Mesa, CA 92626
Tel: (714) 754-5303
Attn: Bart Mejia

Courtesy copy to:

City of Costa Mesa
77 Fair Drive
Costa Mesa, CA 92626
Attn: Finance Dept. | Purchasing

6.5. Drug-Free Workplace Policy. Consultant shall provide a drug-free workplace by complying with all provisions set forth in City's Council Policy 100-5, attached hereto as Exhibit "E" and incorporated herein by reference. Consultant's failure to conform to the requirements set forth in Council Policy 100-5 shall constitute a material breach of this Agreement and shall be cause for immediate termination of this Agreement by City.

6.6. Attorneys' Fees. In the event that litigation is brought by any party in connection with this Agreement, the prevailing party shall be entitled to recover from the opposing party all costs and expenses, including reasonable attorneys' fees, incurred by the prevailing party in the exercise of any of its rights or remedies hereunder or the enforcement of any of the terms, conditions, or provisions hereof.

6.7. Governing Law. This Agreement shall be governed by and construed under the laws of the State of California without giving effect to that body of laws pertaining to conflict of laws. In the event of any legal action to enforce or interpret this Agreement, the parties hereto agree that the sole and exclusive venue shall be a court of competent jurisdiction located in Orange County, California.

6.8. Assignment. Consultant shall not voluntarily or by operation of law assign, transfer, sublet or encumber all or any part of Consultant's interest in this Agreement without City's prior written consent. Any attempted assignment, transfer, subletting or encumbrance shall be void and shall constitute a breach of this Agreement and cause for termination of this Agreement. Regardless of City's consent, no subletting or assignment shall release Consultant of Consultant's obligation to perform all other obligations to be performed by Consultant hereunder for the term of this Agreement.

6.9. Indemnification and Hold Harmless. Consultant agrees to defend, indemnify, hold free and harmless the City, its elected officials, officers, agents and employees, at Consultant's sole expense, from and against any and all claims, actions, suits or other legal proceedings brought against the City, its elected officials, officers, agents and employees arising out of the performance of the Consultant, its employees, and/or authorized subcontractors, of the work undertaken pursuant to this Agreement. The defense obligation provided for hereunder shall apply without any advance showing of negligence or wrongdoing by the Consultant, its employees, and/or authorized subcontractors, but shall be required whenever any claim, action, complaint, or suit asserts as its basis the negligence, errors, omissions or misconduct of the Consultant, its employees, and/or authorized subcontractors, and/or whenever any claim, action, complaint or suit asserts liability against the City, its elected officials, officers, agents and employees based upon the work performed by the Consultant, its employees, and/or authorized subcontractors under this Agreement, whether or not the Consultant, its employees, and/or authorized subcontractors are specifically named or otherwise asserted to be liable. Notwithstanding the foregoing, the Consultant shall not be liable for the defense or indemnification of the City for claims, actions, complaints or suits arising out of the

sole active negligence or willful misconduct of the City. This provision shall supersede and replace all other indemnity provisions contained either in the City's specifications or Consultant's Proposal, which shall be of no force and effect.

6.10. Independent Contractor. Consultant is and shall be acting at all times as an independent contractor and not as an employee of City. Consultant shall have no power to incur any debt, obligation, or liability on behalf of City or otherwise act on behalf of City as an agent. Neither City nor any of its agents shall have control over the conduct of Consultant or any of Consultant's employees, except as set forth in this Agreement. Consultant shall not, at any time, or in any manner, represent that it or any of its agents or employees are in any manner agents or employees of City. Consultant shall secure, at its sole expense, and be responsible for any and all payment of Income Tax, Social Security, State Disability Insurance Compensation, Unemployment Compensation, and other payroll deductions for Consultant and its officers, agents, and employees, and all business licenses, if any are required, in connection with the services to be performed hereunder. Consultant shall indemnify and hold City harmless from any and all taxes, assessments, penalties, and interest asserted against City by reason of the independent contractor relationship created by this Agreement. Consultant further agrees to indemnify and hold City harmless from any failure of Consultant to comply with the applicable worker's compensation laws. City shall have the right to offset against the amount of any fees due to Consultant under this Agreement any amount due to City from Consultant as a result of Consultant's failure to promptly pay to City any reimbursement or indemnification arising under this paragraph.

6.11. PERS Eligibility Indemnification. In the event that Consultant or any employee, agent, or subcontractor of Consultant providing services under this Agreement claims or is determined by a court of competent jurisdiction or the California Public Employees Retirement System (PERS) to be eligible for enrollment in PERS as an employee of the City, Consultant shall indemnify, defend, and hold harmless City for the payment of any employee and/or employer contributions for PERS benefits on behalf of Consultant or its employees, agents, or subcontractors, as well as for the payment of any penalties and interest on such contributions, which would otherwise be the responsibility of City.

Notwithstanding any other agency, state or federal policy, rule, regulation, law or ordinance to the contrary, Consultant and any of its employees, agents, and subcontractors providing service under this Agreement shall not qualify for or become entitled to, and hereby agree to waive any claims to, any compensation, benefit, or any incident of employment by City, including but not limited to eligibility to enroll in PERS as an employee of City and entitlement to any contribution to be paid by City for employer contribution and/or employee contributions for PERS benefits.

6.12. Cooperation. In the event any claim or action is brought against City relating to Consultant's performance or services rendered under this Agreement, Consultant shall render any reasonable assistance and cooperation which City might require.

6.13. Ownership of Documents. All findings, reports, documents, information and data including, but not limited to, computer tapes or discs, files and tapes furnished or prepared by Consultant or any of its subcontractors in the course of performance of this Agreement, shall be and remain the sole property of City. Consultant agrees that any such documents or information shall not be made available to any individual or organization without the prior consent of City. Any use of such documents for other projects not contemplated by this

Agreement, and any use of incomplete documents, shall be at the sole risk of City and without liability or legal exposure to Consultant. City shall indemnify and hold harmless Consultant from all claims, damages, losses, and expenses, including attorneys' fees, arising out of or resulting from City's use of such documents for other projects not contemplated by this Agreement or use of incomplete documents furnished by Consultant. Consultant shall deliver to City any findings, reports, documents, information, data, in any form, including but not limited to, computer tapes, discs, files audio tapes or any other Project related items as requested by City or its authorized representative, at no additional cost to the City.

6.14. Public Records Act Disclosure. Consultant has been advised and is aware that this Agreement and all reports, documents, information and data, including, but not limited to, computer tapes, discs or files furnished or prepared by Consultant, or any of its subcontractors, pursuant to this Agreement and provided to City may be subject to public disclosure as required by the California Public Records Act (California Government Code section 6250 *et seq.*). Exceptions to public disclosure may be those documents or information that qualify as trade secrets, as that term is defined in the California Government Code section 6254.7, and of which Consultant informs City of such trade secret. The City will endeavor to maintain as confidential all information obtained by it that is designated as a trade secret. The City shall not, in any way, be liable or responsible for the disclosure of any trade secret including, without limitation, those records so marked if disclosure is deemed to be required by law or by order of the Court.

6.15. Conflict of Interest. Consultant and its officers, employees, associates and subconsultants, if any, will comply with all conflict of interest statutes of the State of California applicable to Consultant's services under this agreement, including, but not limited to, the Political Reform Act (Government Code sections 81000, *et seq.*) and Government Code section 1090. During the term of this Agreement, Consultant and its officers, employees, associates and subconsultants shall not, without the prior written approval of the City Representative, perform work for another person or entity for whom Consultant is not currently performing work that would require Consultant or one of its officers, employees, associates or subconsultants to abstain from a decision under this Agreement pursuant to a conflict of interest statute.

6.16. Responsibility for Errors. Consultant shall be responsible for its work and results under this Agreement. Consultant, when requested, shall furnish clarification and/or explanation as may be required by the City's representative, regarding any services rendered under this Agreement at no additional cost to City. In the event that an error or omission attributable to Consultant occurs, then Consultant shall, at no cost to City, provide all necessary design drawings, estimates and other Consultant professional services necessary to rectify and correct the matter to the sole satisfaction of City and to participate in any meeting required with regard to the correction.

6.17. Prohibited Employment. Consultant will not employ any regular employee of City while this Agreement is in effect.

6.18. Order of Precedence. In the event of an inconsistency in this Agreement and any of the attached Exhibits, the terms set forth in this Agreement shall prevail. If, and to the extent this Agreement incorporates by reference any provision of any document, such provision shall be deemed a part of this Agreement. Nevertheless, if there is any conflict among the terms and conditions of this Agreement and those of any such provision or provisions so incorporated by reference, this Agreement shall govern over the document referenced.

6.19. Costs. Each party shall bear its own costs and fees incurred in the preparation and negotiation of this Agreement and in the performance of its obligations hereunder except as expressly provided herein.

6.20. No Third Party Beneficiary Rights. This Agreement is entered into for the sole benefit of City and Consultant and no other parties are intended to be direct or incidental beneficiaries of this Agreement and no third party shall have any right in, under or to this Agreement.

6.21. Headings. Paragraphs and subparagraph headings contained in this Agreement are included solely for convenience and are not intended to modify, explain or to be a full or accurate description of the content thereof and shall not in any way affect the meaning or interpretation of this Agreement.

6.22. Construction. The parties have participated jointly in the negotiation and drafting of this Agreement. In the event an ambiguity or question of intent or interpretation arises with respect to this Agreement, this Agreement shall be construed as if drafted jointly by the parties and in accordance with its fair meaning. There shall be no presumption or burden of proof favoring or disfavoring any party by virtue of the authorship of any of the provisions of this Agreement.

6.23. Amendments. Only a writing executed by the parties hereto or their respective successors and assigns may amend this Agreement.

6.24. Waiver. The delay or failure of either party at any time to require performance or compliance by the other of any of its obligations or agreements shall in no way be deemed a waiver of those rights to require such performance or compliance. No waiver of any provision of this Agreement shall be effective unless in writing and signed by a duly authorized representative of the party against whom enforcement of a waiver is sought. The waiver of any right or remedy in respect to any occurrence or event shall not be deemed a waiver of any right or remedy in respect to any other occurrence or event, nor shall any waiver constitute a continuing waiver.

6.25. Severability. If any provision of this Agreement is determined by a court of competent jurisdiction to be unenforceable in any circumstance, such determination shall not affect the validity or enforceability of the remaining terms and provisions hereof or of the offending provision in any other circumstance. Notwithstanding the foregoing, if the value of this Agreement, based upon the substantial benefit of the bargain for any party, is materially impaired, which determination made by the presiding court or arbitrator of competent jurisdiction shall be binding, then both parties agree to substitute such provision(s) through good faith negotiations.

6.26. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original. All counterparts shall be construed together and shall constitute one agreement.

6.27. Corporate Authority. The persons executing this Agreement on behalf of the parties hereto warrant that they are duly authorized to execute this Agreement on behalf of said parties and that by doing so the parties hereto are formally bound to the provisions of this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by and through their respective authorized officers, as of the date first above written.

CONSULTANT

Signature

Glenn Lukos, CFO
[Name and Title]

Date:

5/15/17

33.037.4249
Social Security or Taxpayer ID Number

CITY OF COSTA MESA

Thomas Hatch
Thomas Hatch
City Manager

Date:

6/26/17

ATTEST:

Brenda Green
Brenda Green
City Clerk



APPROVED AS TO FORM:

Thomas Duarte
Thomas Duarte
City Attorney

Date:

06/22/17

APPROVED AS TO INSURANCE:

Ruth Wang
Ruth Wang
Risk Management

Date:

5/19/17

APPROVED AS TO CONTENT:

Bart Mejia
Bart Mejia
Project Manager

Date: 5/22/17

DEPARTMENTAL APPROVAL:

Raja Sethuraman
Raja Sethuraman
Director of Public Services

Date: 5-22-17

APPROVED AS TO PURCHASING:

Stephen Dunivent
Stephen Dunivent
Interim Finance Director

Date: 6-22-17

EXHIBIT A
REQUEST FOR PROPOSALS

STAPLES, ROBERT

From: STAPLES, ROBERT
Sent: Monday, April 10, 2017 4:27 PM
To: 'Tony Bomkamp'
Subject: Request For Bid
Attachments: Request for Bid FP Vernal Pools 2017.doc

Tony,

See attached Request for Bid for further biological services pertaining to the Fairview Park vernal pools. Provide me with an updated fee schedule and insurance certificates. Thanks.

Robert Staples
City of Costa Mesa
Contract Administrator
714.754.5303





REQUEST FOR BID

Submitted to City of Costa Mesa/Public Services
For Projects and Maintenance Services Under \$30,000

THIS PROPOSAL, IN ORDER TO BE VALID, MUST BE RETURNED TO CITY OF COSTA MESA

ATTN: Robert Staples

VIA EMAIL TO: robert.staples@costamesaca.gov

NO LATER THAN 4:30 P.M., ON 4/13/17

VIA FAX TO: 714.754.5028

VENDOR'S NAME	VENDOR'S TELEPHONE	DATE
STREET ADDRESS	FAX NUMBER	
CITY, STATE & ZIP	JOB NAME/LOCATION Fairview Park Vernal Pool Biological Services	
Provide biological services on an on call basis for the Fairview Park vernal pools. Provide hourly rates.		
Fairview Park, 2525 Placentia Avenue, Costa Mesa.		

We Propose Hereby to Furnish Material, Labor, Special Equipment and Permits,
Complete in Accordance with Above Specifications

FOR THE SUM OF:

Not to exceed Forty thousand dollars (\$40,000.00)

All material is guaranteed to be as specified, all work to be completed in a workmanlike manner according to standard practices, according to terms and conditions on the attached hereon and made a part thereof. A Purchase Order will not be issued until the insurance certificate are approved by Risk Management.

Note: Proposal may be withdrawn by Contractor
if not accepted within 30 days.

AUTHORIZED SIGNATURE

GENERAL TERMS AND CONDITIONS OF THE CITY OF COSTA MESA

1. In submitting a proposal, the bidder acknowledges that the bidder has thoroughly and carefully read and understands the bid document and attachments; agrees to furnish the product and or labor at the prices, quantities, and terms and conditions stated; and certifies that the information contained in the bid is true and complete to the best of the bidder's knowledge.
2. Submission of a signed bid/proposal will be interpreted to mean the bidder has agreed to all the terms and conditions set forth in the pages of this solicitation. Bidder's signed bid and the City of Costa Mesa's written acceptance shall constitute a binding contract. The submission of a proposal shall be considered conclusive evidence that the Contractor has investigated and is satisfied as to the condition to be encountered in respect to the character, quality, and quantities of work to be performed and materials to be furnished to comply with requirements of the contract and specifications.
3. All contractors shall comply with current federal, state, local and other laws relative thereto. This contract shall be in accordance with the laws of the State of California. The parties stipulate that this contract was entered into in the County of Orange, in the State of California. The parties further stipulate that the County of Orange, California, is the only appropriate forum for any litigation resulting from a breach hereof or any questions risen here from.
4. Whenever a question as to the meaning of any portion of the specifications is in dispute, or where there may be more than one interpretation given to any portion of the specifications, the interpretation by the City of Costa Mesa shall be final.
5. Bidder hereby agrees that the material, equipment or services offered will meet all the requirements of the specifications in this solicitation unless deviations from them are clearly indicated in the bidder's response.
6. The Contractor shall be responsible for providing qualified supervision in all areas of operations. The supervisor will work with City personnel in planning and scheduling the work for successful completion of the task. The contractor shall furnish all required safety devices for his men and equipment and must observe all State safety codes. All articles delivered under this contract must conform to the Safety Orders of the State of California, Division of Industrial Safety.
7. The Contractor shall exercise good housekeeping habits at all times, and maintain the job in safe, clean condition, and he will restore the job site to its original condition of cleanliness and repair at completion of the job. All work which is determined by the City to be defective or deficient in any of the requirements of the specifications shall be remedied by the Contractor at his expense in a manner acceptable to the City.
8. Under no condition will the Contractor, his agent or workman remove any item or items from the job site except that which has been authorized by the City of Costa Mesa in writing.
9. If any subcontractors are to be used in the performance of this contract, they must be identified as subcontractors in the bid.
10. The City of Costa Mesa reserves the right to make awards to the lowest acceptable Contractor, to make awards based on work requirements, to make no award, or to terminate any or all contracts any time due to less than acceptable standards of material, workmanship, or illegal acts. The City of Costa Mesa reserves the right to reject any bids, all bids, or any part of a bid. The City of Costa Mesa reserves the right to reject the bid of any Bidder who previously failed to perform adequately for the City of Costa Mesa or any other governmental agency. The City of Costa Mesa expressly reserves the right to reject the bid of any bidder who is in default on the payment of taxes, licenses, or other monies due to the City of Costa Mesa.
11. Prices quoted shall be net, including all trade discounts, and Contractor should not include Federal Excise Tax. The City of Costa Mesa is exempt from Federal Excise Tax.
12. Contractor shall not commence work under this contract until he has obtained all insurance required under this section and the insurance has been approved by City as to form, amount, and carrier, nor shall contractor allow any subcontractor to commence any work until all similar insurance required of the subcontractor has been obtained and approved. Neither the failure of contractor to supply specified insurance policies and coverage, nor the failure of City to approve same shall alter or invalidate the provisions of this contract.

GENERAL TERMS AND CONDITIONS OF THE CITY OF COSTA MESA - continued

WORKERS' COMPENSATION INSURANCE

Contractor shall obtain and maintain during the life of this contract workers' compensation insurance and, if any work is sublet, contractor shall require all subcontractors to obtain workers' compensation insurance.

All workers' compensation insurance policies shall provide that the insurance may not be canceled without thirty (30) days advance written notice of such cancellation to City.

Contractor is aware of the provision of Section 3700 of the Labor Code, which requires every employer to be insured against liability for Workman's Compensation or undertake self-insurance in accordance with the provisions of that Code, and will comply with such provisions before commencing the performance of the work of this contract.

LIABILITY INSURANCE COVERAGE

Contractor shall obtain and maintain during the life of this contract the following insurance coverage:

- **Commercial General Liability**, including coverage for premises-operations, products/completed operations hazard, blanket contractual, broad form property damage, and independent contractors, personal injury.
- **Automobile liability**, including owned, hired, and non-owned vehicles.

The above insurance coverages shall have limits of not less than one million dollars (\$1,000,000.00) combined single limit, per occurrence and aggregate.

- **Endorsements** to the policies providing the above insurance shall be obtained by contractor, adding the following three provisions:
- **Additional insureds:** (For Commercial General Liability only)

"The City of Costa Mesa and its elected and appointed boards, officers, agents, and employees are additional insureds with respect to the subject project and agreement:"

"Said policy shall not terminate, nor shall it be canceled nor the coverage reduced, until thirty (30) days after written notice is given to City."

"Any other insurance maintained by the City of Costa Mesa shall be excess and not contributing with the insurance provided by this policy."

All insurance carriers utilized by the contractor or any subcontractor under this contract shall be approved by the California Department of Insurance to transact business in the State of California. The types of services provided under this contract may further require contractor's insurance carrier(s) to be admitted insurers in the State of California.

13. **Payment Terms:** Subsequent to receipt of goods, the vendor must submit an invoice for payment. Invoices shall be sent to: City of Costa Mesa, Accounts Payable, P. O. Box 1200, Costa Mesa, CA. 92628-1200. Invoices shall include the purchase order number, description of the goods provided and price. Payment shall be made within thirty (30) days after receipt of invoice. Invoices are to be submitted in arrears for goods provided. Any "prompt payment discounts" will be taken by the City of Costa Mesa, if possible, and will be included in the bid evaluation if the terms offered are for (20) days or longer.

14. **Project manager responsibilities** are assigned to Robert Staples. Any questions regarding these terms and conditions or project problems should be directed to the person mentioned herein.

CONDITIONS. The following standard conditions are always applicable, and the following work order conditions are also applicable when this order provides for performance of any work.

STANDARD CONDITIONS

1. **Law:** This contract is governed by the laws of the State of California. The provisions of the Uniform Commercial Code shall apply except as otherwise set forth in this contract.
2. **Contract:** This order, when accepted by SELLER either in writing or by the shipment of any article or other commencement of performance hereunder, constitutes the entire contract between SELLER and the CITY, no exceptions, alternates, substitutes or revisions are valid or binding on the CITY unless authorized by the CITY in writing. The SELLER acknowledges that he has read and agrees to all terms and conditions of this contract/purchase order. The only terms and conditions that will be applicable to the interpretation of this contract are those issued by the City of Costa Mesa.
3. **Taxes:** Unless otherwise provided herein or by law, price quoted does not include California State sales or use tax. The City is exempt from Federal excise tax.
4. **Delivery:** Time of delivery is the essence of this contract. The CITY reserves the right to refuse any goods and to cancel all or any part of the goods not delivered by the due date and/or not conforming to applicable specifications, drawings, samples or descriptions. Acceptance of any part of the order shall not bind CITY to accept future shipments, nor deprive it the right to return goods already accepted, at SELLER'S expense. Overshipments and undershipments shall be only as agreed to by CITY.
5. **Risk of Loss:** Delivery shall not be deemed to be complete until goods have been actually received and accepted by CITY. Payment shall be made after satisfactory acceptance of shipments by the CITY.
6. **Warranty:** SELLER expressly warrants that the goods covered by this order are of merchantable quality, satisfactory and safe for consumer use, and are fit for the particular purpose as set forth in the CITY'S specification. Acceptance of this order shall constitute an agreement upon SELLER'S part to indemnify and hold harmless from liability, loss, damage and expense, including reasonable attorney fees, incurred or sustained by CITY, its officers, employees and agents, by reason of the failure of the goods to conform to such warranties, faulty work performance, negligent or unlawful acts, and noncompliance with any applicable local, State or Federal codes, ordinances, orders, or statutes, including the Occupational Safety and Health Act (OSHA) and the California Industrial Safety Act. Such remedies shall be in addition to any other remedies provided by law. Inspection by the City of Costa Mesa or its agents or employees and acceptance of the articles, materials and work covered by this contract shall not constitute release or waiver of the City of Costa Mesa's rights by reason of failure of Contractor to comply with any of the warranties contained herein. Warranties herein expressed or implied shall be construed as consistent with each other and as cumulative and, where in conflict, the specifications of the City of Costa Mesa shall be paramount.
7. **Infringement:** SELLER shall indemnify and defend CITY, at SELLER'S expense, against all claims, demands, suits, liability and expense on account of alleged infringement of any patent, copyright or trademark, resulting from or arising in connection with the manufacture, sale, normal use or other normal disposition of any article or material furnished hereunder.
8. **Assignment:** Neither this order nor any claim against CITY arising directly or indirectly out of or in connection with this order shall be assignable by SELLER or by operation of law, nor shall SELLER subcontract any obligations hereunder, without CITY'S prior written consent.
9. **Default:** If SELLER or any subcontractor breaches any provision hereof, or becomes insolvent, enters bankruptcy, receivership or other like proceeding (voluntarily or involuntarily) or makes assignment for the benefit of creditors, CITY shall have the right, in addition to any other rights it may have hereunder or by law, to terminate this order by giving SELLER written notice whereupon (a) CITY shall be relieved of all further obligation hereunder, except to pay the reasonable value of SELLER'S prior performance, but not more than the contracted price, and (b) CITY may procure the articles or services from other sources and may deduct from unpaid balance due the vendor or may collect against the bond or surety, or may invoice the vendor for excess cost so paid. The price paid by CITY shall be considered prevailing market price at the time such purchase is made.
10. **Labor Disputes:** Whenever any actual or potential labor dispute delays or threatens to delay the timely performance of this order, SELLER shall immediately give written notice thereof to CITY.
11. **Nondiscrimination:** In the performance of the terms of any contract resulting from this order, SELLER agrees that they will not engage nor permit such subcontractors, where applicable as he may employ, from engaging in discrimination in employment of persons because of the race, color, sex, national origin or ancestry, disability or religion of such person.
12. **Termination:** The CITY reserves the right to terminate this contract without penalty and without cause after 30 days' written notice unless otherwise specified.

WORK ORDER CONDITIONS

13. **Performance:** SELLER shall perform all work diligently, carefully, and in a good and workmanlike manner; shall furnish all labor, supervision, machinery, equipment, materials and supplies necessary therefor; shall obtain and maintain all building and other permits and licenses required by public authorities in connection with performance of the work; and, if permitted to subcontract, shall be fully responsible for all work performed by subcontractors. SELLER shall conduct all operations in SELLER'S own name and as independent contractor, and not in the name of, or as an agent for CITY.
14. **Indemnification:** The Contractor hereby agrees to defend at his own cost and to indemnify and hold harmless the City of Costa Mesa, its officers, agents and employees, from and against any and all liability, damages, costs, losses, claims and expenses, howsoever caused, resulting directly or indirectly from or connected with the performance of the contract (including but not limited to such liability, costs, damage, loss, claim, or expense arising from the death or injury to an agent or employee of the Contractor, subcontractor, or the City of Costa Mesa or loss of, damage to, or destruction of the property of Contractor, subcontractor, or of the City of Costa Mesa, or of any agent or employee of the Contractor, subcontractor, or of the City of Costa Mesa), except where such liability, damages, costs, losses, claims or expenses are caused solely by the negligent or wrongful acts of the City of Costa Mesa or any of its agents or employees other than negligent omission or commissions of the City of Costa Mesa, its agents or employees, in connection with the general supervision or direction of the work to be performed hereunder. The Contractor, in addition to the foregoing, specifically shall indemnify and save harmless the City of Costa Mesa, any and all of the City of Costa Mesa's officers, agents, and employees, from any liability by reason of California safe place statutes or similar provisions pertaining to the workplace or safety of materials or equipment supplied by the City of Costa Mesa or others at the direction of the City of Costa Mesa and used in the performance of the work hereunder.
15. **Insurance:** SELLER shall maintain in full force during the term of this contract the following insurances, in a form and with companies as approved by the CITY, with limits not less than those specified: (a) Worker's Compensation and Employer's Liability complying with any statutory requirements; (b) Commercial General Liability insurance including broad form property damage, products/completed operations and contractual liability coverage, with a \$1,000,000 combined single limit each occurrence; Endorsements to the Commercial General Liability insurance shall be obtained by contractor, adding the following three provisions: (1) Additional Insureds: "The City of Costa Mesa and its elected and appointed boards, officers, agents, and employees are additional insureds with respect to the subject project and agreement." (2) Notice: "Said policy shall not terminate, nor shall it be cancelled nor the coverage reduced, until thirty (30) days after written notice is given to City." (3) Other Insurance: "Any other insurance maintained by the City of Costa Mesa shall be excess and not contributing with the insurance provided by this policy." (c) Comprehensive Auto Liability (including the owned, nonowned and hired automobile hazards) with \$1,000,000 combined single limit each occurrence. If the CITY so desires, these limits may be increased or decreased.
16. **Bills and Liens:** SELLER shall pay promptly all indebtedness for labor, materials and equipment used in performance of the work. SELLER shall not permit any lien or charge to attach to the work or the premises, but if any does so attach, SELLER shall promptly procure its release and indemnify CITY against all damages and expense incident thereto.
17. **Bonds:** If the CITY so desires, SELLER shall provide payment and performance bonds as required.
18. **Changes:** SELLER shall make no change in the work or perform any additional work without the CITY'S specific written approval.

MISCELLANEOUS CONDITIONS

19. All plants and materials must be free of pests and disease. If any are found, the material will be rejected and refused. Vendor will pick up at no cost to the CITY.
20. Vendor is required to provide a completed MSDS (Material Safety Data Sheet) for hazardous substances as required by Labor Code Sections 6390; General Industrial Safety Order, Section 5194; and Title 8, California Admins. Code. MSDS sheet for each specified item shall be sent to place of shipment, and a copy sent to the Purchasing Division.

DEFINITION

Whenever used herein, "CITY" shall mean, City of Costa Mesa, a political subdivision of the State of California.

(5148-22)

EXHIBIT B
CONSULTANT'S PROPOSAL



REQUEST FOR BID

**Submitted to City of Costa Mesa/Public Services
For Projects and Maintenance Services Under \$45,000**

THIS PROPOSAL, IN ORDER TO BE VALID, MUST BE RETURNED TO CITY OF COSTA MESA

ATTN: Robert Staples

VIA EMAIL TO: robert.staples@costamesaca.gov

NO LATER THAN 4:30 P.M., ON 4/13/17

VIA FAX TO: 714.754.5028

VENDOR'S NAME Glenn Lukos Associates, Inc.	VENDOR'S TELEPHONE 949-837-0404	DATE 4/13/17
STREET ADDRESS 29 Orchard	FAX NUMBER 949-837-5834	
CITY, STATE & ZIP Lake Forest, CA 92630	JOB NAME/LOCATION Fairview Park Vernal Pool Biological Services	
Provide biological services on an on call basis for the Fairview Park vernal pools. Provide hourly rates.		
Fairview Park, 2525 Placentia Avenue, Costa Mesa.		

We Propose Hereby to Furnish Material, Labor, Special Equipment and Permits,
Complete in Accordance with Above Specifications

FOR THE SUM OF:

Not to exceed Forty thousand dollars (\$40,000.00)

All material is guaranteed to be as specified, all work to be completed in a workmanlike manner according to standard practices, according to terms and conditions on the attached hereon and made a part thereof. A Purchase Order will not be issued until the insurance certificate are approved by Risk Management.

Note: Proposal may be withdrawn by Contractor
if not accepted within 30 days.

A handwritten signature in cursive script, likely belonging to the authorized representative of the contractor.

AUTHORIZED SIGNATURE

GENERAL TERMS AND CONDITIONS OF THE CITY OF COSTA MESA

1. In submitting a proposal, the bidder acknowledges that the bidder has thoroughly and carefully read and understands the bid document and attachments; agrees to furnish the product and or labor at the prices, quantities, and terms and conditions stated; and certifies that the information contained in the bid is true and complete to the best of the bidder's knowledge.
2. Submission of a signed bid/proposal will be interpreted to mean the bidder has agreed to all the terms and conditions set forth in the pages of this solicitation. Bidder's signed bid and the City of Costa Mesa's written acceptance shall constitute a binding contract. The submission of a proposal shall be considered conclusive evidence that the Contractor has investigated and is satisfied as to the condition to be encountered in respect to the character, quality, and quantities of work to be performed and materials to be furnished to comply with requirements of the contract and specifications.
3. All contractors shall comply with current federal, state, local and other laws relative thereto. This contract shall be in accordance with the laws of the State of California. The parties stipulate that this contract was entered into in the County of Orange, in the State of California. The parties further stipulate that the County of Orange, California, is the only appropriate forum for any litigation resulting from a breach hereof or any questions risen here from.
4. Whenever a question as to the meaning of any portion of the specifications is in dispute, or where there may be more than one interpretation given to any portion of the specifications, the interpretation by the City of Costa Mesa shall be final.
5. Bidder hereby agrees that the material, equipment or services offered will meet all the requirements of the specifications in this solicitation unless deviations from them are clearly indicated in the bidder's response.
6. The Contractor shall be responsible for providing qualified supervision in all areas of operations. The supervisor will work with City personnel in planning and scheduling the work for successful completion of the task. The contractor shall furnish all required safety devices for his men and equipment and must observe all State safety codes. All articles delivered under this contract must conform to the Safety Orders of the State of California, Division of Industrial Safety.
7. The Contractor shall exercise good housekeeping habits at all times, and maintain the job in safe, clean condition, and he will restore the job site to its original condition of cleanliness and repair at completion of the job. All work which is determined by the City to be defective or deficient in any of the requirements of the specifications shall be remedied by the Contractor at his expense in a manner acceptable to the City.
8. Under no condition will the Contractor, his agent or workman remove any item or items from the job site except that which has been authorized by the City of Costa Mesa in writing.
9. If any subcontractors are to be used in the performance of this contract, they must be identified as subcontractors in the bid.
10. The City of Costa Mesa reserves the right to make awards to the lowest acceptable Contractor, to make awards based on work requirements, to make no award, or to terminate any or all contracts any time due to less than acceptable standards of material, workmanship, or illegal acts. The City of Costa Mesa reserves the right to reject any bids, all bids, or any part of a bid. The City of Costa Mesa reserves the right to reject the bid of any Bidder who previously failed to perform adequately for the City of Costa Mesa or any other governmental agency. The City of Costa Mesa expressly reserves the right to reject the bid of any bidder who is in default on the payment of taxes, licenses, or other monies due to the City of Costa Mesa.
11. Prices quoted shall be net, including all trade discounts, and Contractor should not include Federal Excise Tax. The City of Costa Mesa is exempt from Federal Excise Tax.
12. Contractor shall not commence work under this contract until he has obtained all insurance required under this section and the insurance has been approved by City as to form, amount, and carrier, nor shall contractor allow any subcontractor to commence any work until all similar insurance required of the subcontractor has been obtained and approved. Neither the failure of contractor to supply specified insurance policies and coverage, nor the failure of City to approve same shall alter or invalidate the provisions of this contract.

GENERAL TERMS AND CONDITIONS OF THE CITY OF COSTA MESA - continued

WORKERS' COMPENSATION INSURANCE

Contractor shall obtain and maintain during the life of this contract workers' compensation insurance and, if any work is sublet, contractor shall require all subcontractors to obtain workers' compensation insurance.

All workers' compensation insurance policies shall provide that the insurance may not be canceled without thirty (30) days advance written notice of such cancellation to City.

Contractor is aware of the provision of Section 3700 of the Labor Code, which requires every employer to be insured against liability for Workman's Compensation or undertake self-insurance in accordance with the provisions of that Code, and will comply with such provisions before commencing the performance of the work of this contract.

LIABILITY INSURANCE COVERAGE

Contractor shall obtain and maintain during the life of this contract the following insurance coverage:

- **Commercial General Liability**, including coverage for premises-operations, products/completed operations hazard, blanket contractual, broad form property damage, and independent contractors, personal injury.
- **Automobile liability**, including owned, hired, and non-owned vehicles.

The above insurance coverages shall have limits of not less than one million dollars (\$1,000,000.00) combined single limit, per occurrence and aggregate.

- **Endorsements** to the policies providing the above insurance shall be obtained by contractor, adding the following three provisions:
- **Additional insureds:** (For Commercial General Liability only)

"The City of Costa Mesa and its elected and appointed boards, officers, agents, and employees are additional insureds with respect to the subject project and agreement."

"Said policy shall not terminate, nor shall it be canceled nor the coverage reduced, until thirty (30) days after written notice is given to City."

"Any other insurance maintained by the City of Costa Mesa shall be excess and not contributing with the insurance provided by this policy."

All insurance carriers utilized by the contractor or any subcontractor under this contract shall be approved by the California Department of Insurance to transact business in the State of California. The types of services provided under this contract may further require contractor's insurance carrier(s) to be admitted insurers in the State of California.

13. **Payment Terms:** Subsequent to receipt of goods, the vendor must submit an invoice for payment. Invoices shall be sent to: City of Costa Mesa, Accounts Payable, P. O. Box 1200, Costa Mesa, CA. 92628-1200. Invoices shall include the purchase order number, description of the goods provided and price. Payment shall be made within thirty (30) days after receipt of invoice. Invoices are to be submitted in arrears for goods provided. Any "prompt payment discounts" will be taken by the City of Costa Mesa, if possible, and will be included in the bid evaluation if the terms offered are for (20) days or longer.

14. **Project manager responsibilities** are assigned to Robert Staples. Any questions regarding these terms and conditions or project problems should be directed to the person mentioned herein.

CONDITIONS. The following standard conditions are always applicable, and the following work order conditions are also applicable when this order provides for performance of any work.

STANDARD CONDITIONS

1. **Law:** This contract is governed by the laws of the State of California. The provisions of the Uniform Commercial Code shall apply except as otherwise set forth in this contract.
2. **Contract:** This order, when accepted by SELLER either in writing or by the shipment of any article or other commencement of performance hereunder, constitutes the entire contract between SELLER and the CITY, no exceptions, alternates, substitutes or revisions are valid or binding on the CITY unless authorized by the CITY in writing. The SELLER acknowledges that he has read and agrees to all terms and conditions of this contract/purchase order. The only terms and conditions that will be applicable to the interpretation of this contract are those issued by the City of Costa Mesa.
3. **Taxes:** Unless otherwise provided herein or by law, price quoted does not include California State sales or use tax. The City is exempt from Federal excise tax.
4. **Delivery:** Time of delivery is the essence of this contract. The CITY reserves the right to refuse any goods and to cancel all or any part of the goods not delivered by the due date and/or not conforming to applicable specifications, drawings, samples or descriptions. Acceptance of any part of the order shall not bind CITY to accept future shipments, nor deprive it the right to return goods already accepted, at SELLER'S expense. Overshipments and undershipments shall be only as agreed to by CITY.
5. **Risk of Loss:** Delivery shall not be deemed to be complete until goods have been actually received and accepted by CITY. Payment shall be made after satisfactory acceptance of shipments by the CITY.
6. **Warranty:** SELLER expressly warrants that the goods covered by this order are of merchantable quality, satisfactory and safe for consumer use, and are fit for the particular purpose as set forth in the CITY'S specification. Acceptance of this order shall constitute an agreement upon SELLER'S part to indemnify and hold harmless from liability, loss, damage and expense, including reasonable attorney fees, incurred or sustained by CITY, its officers, employees and agents, by reason of the failure of the goods to conform to such warranties, faulty work performance, negligent or unlawful acts, and noncompliance with any applicable local, State or Federal codes, ordinances, orders, or statutes, including the Occupational Safety and Health Act (OSHA) and the California Industrial Safety Act. Such remedies shall be in addition to any other remedies provided by law. Inspection by the City of Costa Mesa or its agents or employees and acceptance of the articles, materials and work covered by this contract shall not constitute release or waiver of the City of Costa Mesa's rights by reason of failure of Contractor to comply with any of the warranties contained herein. Warranties herein expressed or implied shall be construed as consistent with each other and as cumulative and, where in conflict, the specifications of the City of Costa Mesa shall be paramount.
7. **Infringement:** SELLER shall indemnify and defend CITY, at SELLER'S expense, against all claims, demands, suits, liability and expense on account of alleged infringement of any patent, copyright or trademark, resulting from or arising in connection with the manufacture, sale, normal use or other normal disposition of any article or material furnished hereunder.
8. **Assignment:** Neither this order nor any claim against CITY arising directly or indirectly out of or in connection with this order shall be assignable by SELLER or by operation of law, nor shall SELLER subcontract any obligations hereunder, without CITY'S prior written consent.
9. **Default:** If SELLER or any subcontractor breaches any provision hereof, or becomes insolvent, enters bankruptcy, receivership or other like proceeding (voluntarily or involuntarily) or makes assignment for the benefit of creditors, CITY shall have the right, in addition to any other rights it may have hereunder or by law, to terminate this order by giving SELLER written notice whereupon (a) CITY shall be relieved of all further obligation hereunder, except to pay the reasonable value of SELLER'S prior performance, but not more than the contracted price, and (b) CITY may procure the articles or services from other sources and may deduct from unpaid balance due the vendor or may collect against the bond or surety, or may invoice the vendor for excess cost so paid. The price paid by CITY shall be considered prevailing market price at the time such purchase is made.
10. **Labor Disputes:** Whenever any actual or potential labor dispute delays or threatens to delay the timely performance of this order, SELLER shall immediately give written notice thereof to CITY.
11. **Nondiscrimination:** In the performance of the terms of any contract resulting from this order, SELLER agrees that they will not engage nor permit such subcontractors, where applicable as he may employ, from engaging in discrimination in employment of persons because of the race, color, sex, national origin or ancestry, disability or religion of such person.
12. **Termination:** The CITY reserves the right to terminate this contract without penalty and without cause after 30 days' written notice unless otherwise specified.

WORK ORDER CONDITIONS

13. **Performance:** SELLER shall perform all work diligently, carefully, and in a good and workmanlike manner; shall furnish all labor, supervision, machinery, equipment, materials and supplies necessary therefor; shall obtain and maintain all building and other permits and licenses required by public authorities in connection with performance of the work; and, if permitted to subcontract, shall be fully responsible for all work performed by subcontractors. SELLER shall conduct all operations in SELLER'S own name and as Independent contractor, and not in the name of, or as an agent for CITY.
14. **Indemnification:** The Contractor hereby agrees to defend at his own cost and to indemnify and hold harmless the City of Costa Mesa, its officers, agents and employees, from and against any and all liability, damages, costs, losses, claims and expenses, howsoever caused, resulting directly or indirectly from or connected with the performance of the contract (including but not limited to such liability, costs, damage, loss, claim, or expense arising from the death or injury to an agent or employee of the Contractor, subcontractor, or the City of Costa Mesa or loss of, damage to, or destruction of the property of Contractor, subcontractor, or of the City of Costa Mesa, or of any agent or employee of the Contractor, subcontractor, or of the City of Costa Mesa), except where such liability, damages, costs, losses, claims or expenses are caused solely by the negligent or wrongful acts of the City of Costa Mesa or any of its agents or employees other than negligent omission or commissions of the City of Costa Mesa, its agents or employees, in connection with the general supervision or direction of the work to be performed hereunder. The Contractor, in addition to the foregoing, specifically shall indemnify and save harmless the City of Costa Mesa, any and all of the City of Costa Mesa's officers, agents, and employees, from any liability by reason of California safe place statutes or similar provisions pertaining to the workplace or safety of materials or equipment supplied by the City of Costa Mesa or others at the direction of the City of Costa Mesa and used in the performance of the work hereunder.
15. **Insurance:** SELLER shall maintain in full force during the term of this contract the following insurances, in a form and with companies as approved by the CITY, with limits not less than those specified: (a) Worker's Compensation and Employer's Liability complying with any statutory requirements; (b) Commercial General Liability insurance including broad form property damage, products/completed operations and contractual liability coverage, with a \$1,000,000 combined single limit each occurrence; Endorsements to the Commercial General Liability Insurance shall be obtained by contractor, adding the following three provisions: (1) Additional insureds: "The City of Costa Mesa and its elected and appointed boards, officers, agents, and employees are additional insureds with respect to the subject project and agreement." (2) Notice: "Said policy shall not terminate, nor shall it be cancelled nor the coverage reduced, until thirty (30) days after written notice is given to City." (3) Other insurance: "Any other insurance maintained by the City of Costa Mesa shall be excess and not contributing with the insurance provided by this policy." (c) Comprehensive Auto Liability (including the owned, nonowned and hired automobile hazards) with \$1,000,000 combined single limit each occurrence. If the CITY so desires, these limits may be increased or decreased.
16. **Bills and Liens:** SELLER shall pay promptly all indebtedness for labor, materials and equipment used in performance of the work. SELLER shall not permit any lien or charge to attach to the work or the premises, but if any does so attach, SELLER shall promptly procure its release and indemnify CITY against all damages and expense incident thereto.
17. **Bonds:** If the CITY so desires, SELLER shall provide payment and performance bonds as required.
18. **Changes:** SELLER shall make no change in the work or perform any additional work without the CITY'S specific written approval.

MISCELLANEOUS CONDITIONS

19. All plants and materials must be free of pests and disease. If any are found, the material will be rejected and refused. Vendor will pick up at no cost to the CITY.
20. Vendor is required to provide a completed MSDS (Material Safety Data Sheet) for hazardous substances as required by Labor Code Sections 6390; General Industrial Safety Order, Section 5194; and Title 8, California Admins. Code. MSDS sheet for each specified item shall be sent to place of shipment, and a copy sent to the Purchasing Division.

DEFINITION

Whenever used herein, "CITY" shall mean, City of Costa Mesa, a political subdivision of the State of California.

(5146-22)

**AMENDMENT NUMBER ONE
TO PROFESSIONAL SERVICES AGREEMENT
WITH
GLENN LUKOS & ASSOCIATES, INC.**

This Amendment Number One ("Amendment") is made and entered into this 15th day of April, 2019 ("Effective Date"), by and between the CITY OF COSTA MESA, a municipal corporation ("City"), and GLENN LUKOS & ASSOCIATES, INC., a California corporation ("Consultant").

WHEREAS, City and Consultant entered into an agreement on May 1, 2017 for Consultant to perform biological consulting services for the Fairview Park vernal pools (the "Agreement"); and

WHEREAS, Section 4.1 of the Agreement provides for a term of two (2) years, with the option to extend the Agreement for one (1) additional one (1) year period; and


WHEREAS, City and Consultant desire to extend the term for one (1) year, through April 30, 2020.

NOW, THEREFORE, for valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. The term of the Agreement shall be extended through April 30, 2020.
2. All terms not defined herein shall have the same meaning and use as set forth in the Agreement.
3. All other terms, conditions, and provisions of the Agreement not in conflict with this Amendment shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be executed by and through their respective authorized officers, as of the date first written above.

CITY OF COSTA MESA


Acting City Manager

Date: 5/3/19

CONSULTANT


Signature

Date: 4/18/19


Name and Title President & CEO

ATTEST:

Brenda Gu
City Clerk



APPROVED AS TO FORM:

Kimberly Ann Barlow
City Attorney

Date: 5/7/19

APPROVED AS TO INSURANCE:

Rick
Risk Management

Date: 4/25/19

APPROVED AS TO CONTENT:

Cynthia D'Agostin
Project Manager

Date: 4/29/19

DEPARTMENTAL APPROVAL:

Justin Martin
Parks and Community Services Director

Date: 4/25/19

APPROVED AS TO PURCHASING:

Kelly Tate
Finance Director

Date: 5/1/19



GLENLUK-01

LHEMMERS

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
4/4/2019

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER License # 0757776 Redlands, CA - HUB International Insurance Services Inc. 470 East Highland Avenue Redlands, CA 92373		CONTACT Lysandra Jones-Hemmers PHONE (A/C, No, Ext): (909) 379-1333 FAX (A/C, No): (909) 533-2266 E-MAIL ADDRESS: lysandra.hemmers@hubinternational.com		
INSURED Glenn Lukos Associates, Inc. 29 Orchard Street Lake Forest, CA 92630		INSURER(S) AFFORDING COVERAGE		NAIC #
		INSURER A: Starr Surplus Lines Insurance Company		13604
		INSURER B: Travelers Casualty Insurance Company of America		19046
		INSURER C: American Family Home Insurance Company		23450
		INSURER D:		
		INSURER E:		
INSURER F:				

COVERAGES

CERTIFICATE NUMBER:

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PROJECT <input type="checkbox"/> LOC OTHER:	X	X	1000067334191	3/31/2019	3/31/2020	EACH OCCURRENCE \$ 2,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 50,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 2,000,000 GENERAL AGGREGATE \$ 4,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000
B	<input checked="" type="checkbox"/> AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> NON-OWNED AUTOS ONLY	X	X	BA-8M250481-19-42-G	3/31/2019	3/31/2020	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ EACH OCCURRENCE \$ AGGREGATE \$
	<input type="checkbox"/> UMBRELLA LIAB <input type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED RETENTION \$						EACH OCCURRENCE \$ AGGREGATE \$
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N N	N/A	X 2EA5WC000039702	3/31/2019	3/31/2020	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
A	Professional Liab			1000067334191	3/31/2019	3/31/2020	Each Occurrence/Agg 2,000,000
A	Pollution Liability			1000067334191	3/31/2019	3/31/2020	Each Occurrence 1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Re: GLA Agreement

The City of Costa Mesa and its elected and appointed boards, officers, officials, agents, employees and volunteers are Additional Insured on General Liability per attached where required by written contract including Primary Non-contributory Wording and Waiver of Subrogation. Automobile Additional Insured applies per attached. Waiver of Subrogation on Workers Compensation applies per attached.

"Should the policies be cancelled before the expiration date, Hub International Insurance Services Inc (Hub), independent of any rights which may be afforded within the policies to the certificate holder named below, will provide to such certificate holder notice of such cancellation within thirty (30) days of the cancellation date, except in the event the cancellation is due to non-payment of premium, in which case Hub will provide to such certificate holders notice of such cancellation within ten (10) days of the cancellation date."

CERTIFICATE HOLDER

CANCELLATION

City of Costa Mesa 77 Fair Drive Costa Mesa, CA 92626	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE
---	---



Starr Surplus Lines Insurance Company

Primary and Non-contributory, Additional Insured and Waiver of Subrogation

Policy Number: 1000067334191

Effective Date: March 31, 2019 at 12:01 a.m

Named Insured: Glenn Lukos Associates Inc

This endorsement modifies the insurance coverage form(s) listed below that have been purchased by you and evidenced as such on the Declarations page. Please read the endorsement and respective policy(ies) carefully.

Commercial General Liability Coverage Form
Owners and Contractors Protective Liability Coverage Form
Products/Completed Operations Liability Coverage Form
Contractors Pollution Liability Coverage Form
Professional Liability Coverage Form
Site Pollution Liability Coverage Form

SCHEDULE

Where Required By Written Contract

- A. SECTION II - WHO IS AN INSURED** is amended to include as an insured the person or organization shown in the schedule of this endorsement, but only with respect to liability arising out of "your work" for that insured by or for you.
- B.** As respects additional insureds as defined above, this insurance also applies to "bodily injury" or "property damage" arising out of your negligence when the following written contract requirements are applicable:
1. Coverage available under this coverage part shall apply as primary insurance. Any other insurance available to these additional insured's shall apply as excess and not contribute as primary to the insurance afforded by this endorsement.
 2. We waive any right of recovery we may have against these additional insured's because of payments we make for injury or damage arising out of "your work" done under a written contract with the additional insured.
 3. The term insured is used separately and not collectively, but the inclusion of more than one insured shall not increase the limits or coverage provided by this insurance.

Insureds and Agents are advised that certificates of insurance should be used only to provide evidence of insurance in lieu of an actual copy of the applicable insurance policy. Certificates should not be used to amend, expand or otherwise alter the terms of the actual policy.

All other terms and conditions of this Policy remain unchanged.

Signed for STARR SURPLUS LINES INSURANCE COMPANY


Steve Blakey, President


Nehemiah E. Ginsburg, General Counsel

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

AUTO COVERAGE PLUS ENDORSEMENT

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM

GENERAL DESCRIPTION OF COVERAGE – This endorsement broadens coverage. However, coverage for any injury, damage or medical expenses described in any of the provisions of this endorsement may be excluded or limited by another endorsement to the Coverage Part, and these coverage broadening provisions do not apply to the extent that coverage is excluded or limited by such an endorsement. The following listing is a general coverage description only. Limitations and exclusions may apply to these coverages. Read all the provisions of this endorsement and the rest of your policy carefully to determine rights, duties, and what is and is not covered.

- | | |
|---|---|
| A. BLANKET ADDITIONAL INSURED | H. AUDIO, VISUAL AND DATA ELECTRONIC EQUIPMENT – INCREASED LIMIT |
| B. EMPLOYEE HIRED AUTO | I. WAIVER OF DEDUCTIBLE – GLASS |
| C. EMPLOYEES AS INSURED | J. PERSONAL PROPERTY |
| D. SUPPLEMENTARY PAYMENTS – INCREASED LIMITS | K. AIRBAGS |
| E. TRAILERS – INCREASED LOAD CAPACITY | L. AUTO LOAN LEASE GAP |
| F. HIRED AUTO PHYSICAL DAMAGE | M. BLANKET WAIVER OF SUBROGATION |
| G. PHYSICAL DAMAGE – TRANSPORTATION EXPENSES – INCREASED LIMIT | |

A. BLANKET ADDITIONAL INSURED

The following is added to Paragraph A.1., Who Is An Insured, of SECTION II – COVERED AUTOS LIABILITY COVERAGE:

Any person or organization who is required under a written contract or agreement between you and that person or organization, that is signed and executed by you before the "bodily injury" or "property damage" occurs and that is in effect during the policy period, to be named as an additional insured is an "Insured" for Covered Autos Liability Coverage, but only for damages to which this insurance applies and only to the extent that person or organization qualifies as an "Insured" under the Who Is An Insured provision contained in Section II.

B. EMPLOYEE HIRED AUTO

- The following is added to Paragraph A.1., Who Is An Insured, of SECTION II – COVERED AUTOS LIABILITY COVERAGE:

An "employee" of yours is an "insured" while operating a covered "auto" hired or rented under a contract or agreement in an "employee's" name, with your permission, while

performing duties related to the conduct of your business.

- The following replaces Paragraph b. in B.5., Other Insurance, of SECTION IV – BUSINESS AUTO CONDITIONS:

- For Hired Auto Physical Damage Coverage, the following are deemed to be covered "autos" you own:

- Any covered "auto" you lease, hire, rent or borrow; and
- Any covered "auto" hired or rented by your "employee" under a contract in an "employee's" name, with your permission, while performing duties related to the conduct of your business.

However, any "auto" that is leased, hired, rented or borrowed with a driver is not a covered "auto".

C. EMPLOYEES AS INSURED

The following is added to Paragraph A.1., Who Is An Insured, of SECTION II – COVERED AUTOS LIABILITY COVERAGE:

COMMERCIAL AUTO

Any "employee" of yours is an "insured" while using a covered "auto" you don't own, hire or borrow in your business or your personal affairs.

D. SUPPLEMENTARY PAYMENTS – INCREASED LIMITS

1. The following replaces Paragraph A.2.a.(2) of SECTION II – COVERED AUTOS LIABILITY COVERAGE:

(2) Up to \$3,000 for cost of bail bonds (including bonds for related traffic law violations) required because of an "accident" we cover. We do not have to furnish these bonds.

2. The following replaces Paragraph A.2.a.(4) of SECTION II – COVERED AUTOS LIABILITY COVERAGE:

(4) All reasonable expenses incurred by the "insured" at our request, including actual loss of earnings up to \$500 a day because of time off from work.

E. TRAILERS – INCREASED LOAD CAPACITY

The following replaces Paragraph C.1. of SECTION I – COVERED AUTOS:

1. "Trailers" with a load capacity of 3,000 pounds or less designed primarily for travel on public roads.

F. HIRED AUTO PHYSICAL DAMAGE

The following is added to Paragraph A.4., Coverage Extensions, of SECTION III – PHYSICAL DAMAGE COVERAGE:

Hired Auto Physical Damage Coverage

If hired "autos" are covered "autos" for Covered Autos Liability Coverage but not covered "autos" for Physical Damage Coverage, and this policy also provides Physical Damage Coverage for an owned "auto", then the Physical Damage Coverage is extended to "autos" that you hire, rent or borrow subject to the following:

(1) The most we will pay for "loss" to any one "auto" that you hire, rent or borrow is the lesser of:

(a) \$50,000;

(b) The actual cash value of the damaged or stolen property as of the time of the "loss"; or

(c) The cost of repairing or replacing the damaged or stolen property with other property of like kind and quality.

(2) An adjustment for depreciation and physical condition will be made in determining actual cash value in the event of a total "loss".

(3) If a repair or replacement results in better than like kind or quality, we will not pay for the amount of betterment.

(4) A deductible equal to the highest Physical Damage deductible applicable to any owned covered "auto".

(5) This Coverage Extension does not apply to:

(a) Any "auto" that is hired, rented or borrowed with a driver; or

(b) Any "auto" that is hired, rented or borrowed from your "employee".

G. PHYSICAL DAMAGE – TRANSPORTATION EXPENSES – INCREASED LIMIT

The following replaces the first sentence in Paragraph A.4.a., Transportation Expenses, of SECTION III – PHYSICAL DAMAGE COVERAGE:

We will pay up to \$50 per day to a maximum of \$1,500 for temporary transportation expense incurred by you because of the total theft of a covered "auto" of the private passenger type.

H. AUDIO, VISUAL AND DATA ELECTRONIC EQUIPMENT – INCREASED LIMIT

Paragraph C.1.b. of SECTION III – PHYSICAL DAMAGE COVERAGE is deleted.

I. WAIVER OF DEDUCTIBLE – GLASS

The following is added to Paragraph D., Deductible, of SECTION III – PHYSICAL DAMAGE COVERAGE:

No deductible for a covered "auto" will apply to glass damage if the glass is repaired rather than replaced.

J. PERSONAL PROPERTY

The following is added to Paragraph A.4., Coverage Extensions, of SECTION III – PHYSICAL DAMAGE COVERAGE:

Personal Property Coverage

We will pay up to \$400 for "loss" to wearing apparel and other personal property which is:

(1) Owned by an "insured"; and

(2) In or on your covered "auto".

This coverage only applies in the event of a total theft of your covered "auto".

No deductibles apply to Personal Property coverage.

K. AIRBAGS

The following is added to Paragraph B.3., Exclusions, of SECTION III – PHYSICAL DAMAGE COVERAGE:

Exclusion 3.a. does not apply to "loss" to one or more airbags in a covered "auto" you own that inflate due to a cause other than a cause of "loss" set forth in Paragraphs A.1.b. and A.1.c., but only:

- a. If that "auto" is a covered "auto" for Comprehensive Coverage under this policy;
- b. The airbags are not covered under any warranty; and
- c. The airbags were not intentionally inflated.

We will pay up to a maximum of \$1,000 for any one "loss".

L. AUTO LOAN LEASE GAP

The following is added to Paragraph A.4., Coverage Extensions, of SECTION III – PHYSICAL DAMAGE COVERAGE:

Auto Loan Lease Gap Coverage for Private Passenger Type Vehicles

In the event of a total "loss" to a covered "auto" of the private passenger type shown in the Schedule or Declarations for which Physical Damage Coverage is provided, we will pay any unpaid amount due on the lease or loan for such covered "auto" less the following:

- (1) The amount paid under the Physical Damage Coverage Section of the policy for that "auto"; and

(2) Any:

- (a) Overdue lease or loan payments at the time of the "loss";
- (b) Financial penalties imposed under a lease for excessive use, abnormal wear and tear or high mileage;
- (c) Security deposits not returned by the lessor;
- (d) Costs for extended warranties, Credit Life Insurance, Health, Accident or Disability Insurance purchased with the loan or lease; and
- (e) Carry-over balances from previous loans or leases.

M. BLANKET WAIVER OF SUBROGATION

The following replaces Paragraph A.5., Transfer Of Rights Of Recovery Against Others To Us, of SECTION IV – BUSINESS AUTO CONDITIONS:

5. Transfer Of Rights Of Recovery Against Others To Us

We waive any right of recovery we may have against any person or organization to the extent required of you by a written contract executed prior to any "accident" or "loss", provided that the "accident" or "loss" arises out of the operations contemplated by such contract. The waiver applies only to the person or organization designated in such contract.

WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT - CALIFORNIA

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against any person or organization named in the Schedule. (This agreement applies only to the extent that you perform work under a written contract that requires you to obtain this agreement from us.)

You must maintain payroll records accurately segregating the remuneration of your employees while engaged in the work described in the Schedule.

This agreement shall not operate directly or indirectly to benefit anyone not named in the Schedule.

Schedule**1. Blanket Waiver**

Any person or organization for whom the Named Insured has agreed by written contract to furnish this waiver.

2. Premium:

The additional premium charge for this endorsement shall be 3 percent of the California Workers' Compensation premium otherwise due subject to a minimum premium of \$ 750 per policy.

This endorsement changes the policy to which it is attached and is effective on the date issued unless otherwise stated.
(The information below is required only when this endorsement is issued subsequent to preparation of the policy.)

Endorsement Effective 3-31-2019 Policy No. 2EA5WC000039702

Endorsement No. 001

Insured **GLENN LUKOS ASSOCIATES INC**

Premium \$ **INCL.**

Insurance Company **AMERICAN FAMILY HOME INSURANCE COMPANY**

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To: NGUYEN, DAVID
Subject: Get a Handle on "Any and All" Email Requests Confirmation



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**AMENDMENT NUMBER ONE
TO PROFESSIONAL SERVICES AGREEMENT
WITH
GLENN LUKOS ASSOCIATES, INC.**

THIS AMENDMENT NUMBER ONE ("Amendment") is made and entered into as of July 19, 2022 ("Effective Date"), by and between the CITY OF COSTA MESA, a municipal corporation ("City"), and GLENN LUKOS ASSOCIATES, INC., a California corporation ("Consultant").

WHEREAS, City and Consultant entered into an agreement dated October 15, 2019 for Consultant to provide restoration and monitoring services at Fairview Park (the "Agreement"); and

WHEREAS, City and Consultant desire to amend the Scope of Services to include the additional services set forth in Exhibit "A," attached hereto and incorporated herein; and

WHEREAS, City desires to increase Consultant's maximum compensation accordingly to Two Hundred Seventy-Four Thousand Seven Hundred Seventy-Seven Dollars (\$274,777.00).

NOW, THEREFORE, for valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. The Scope of Services shall be amended to include the additional services set forth in Exhibit A.
2. Section 2.1 of the Agreement shall be amended to reflect that Consultant's total compensation shall not exceed Two Hundred Seventy-Four Thousand Seven Hundred Seventy-Seven Dollars (\$274,777.00). Consultant shall be paid according to the fee schedule set forth in the Agreement and Exhibit A of this Amendment.
3. All terms not defined herein shall have the same meaning and use as set forth in the Agreement.
4. All other terms, conditions, and provisions of the Agreement not in conflict with this Amendment shall remain in full force and effect.
5. This Amendment may be executed in one or more counterparts, each of which shall be deemed an original. All counterparts shall be construed together and shall constitute one agreement.

[Signature page follows.]

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be executed by and through their respective authorized officers, as of the date first written above.

CITY OF COSTA MESA


Lori Ann Farrell Harrison
City Manager

Date: 8/18/2022

CONSULTANT


Thienan Pfeiffer
President & CEO

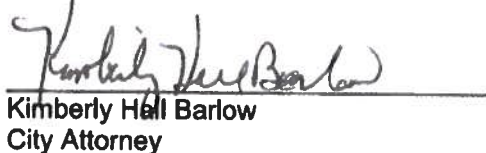
Date: August 2, 2022

ATTEST:


Brenda Green
City Clerk



APPROVED AS TO FORM:


Kimberly Hall Barlow
City Attorney

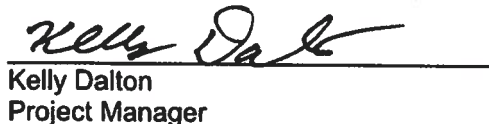
Date: 8/17/22

APPROVED AS TO INSURANCE:


Ruth Wang
Risk Management


Date: 8/8/22

APPROVED AS TO CONTENT:


Kelly Dalton
Project Manager

Date: 8/8/22

DEPARTMENTAL APPROVAL:

 mv for JM Date: 8/8/22
Jason Minter
Parks and Community Services
Director

APPROVED AS TO PURCHASING:


Carol Molina
Finance Director

Date: August 4, 2022

EXHIBIT A
ADDITIONAL SERVICES

GLENN LUKOS ASSOCIATES

Regulatory Services



June 1, 2022

Kelly Dalton
Fairview Park Administrator
City of Costa Mesa
77 Fair Drive
Costa Mesa, California 92628-1200

SUBJECT: Revised Change Order for Continued Restoration and Monitoring of Vernal Pools 5, 6, and 7 and associated Watershed, an approximately 6.74-Acre Restoration Area at Fairview Park, Costa Mesa, California

Dear Mr. Dalton:

Glenn Lukos Associates (GLA) is pleased to submit this revised change order to the City of Costa Mesa (City/Client) for restoration monitoring and reporting services associated with the U.S. Fish and Wildlife Service (USFWS) approved Fairview Park Vernal Pool Restoration and Long-Term Maintenance Plan (Restoration Plan) for Vernal Pools 5 and 6, and the Associated Watershed, dated June 8, 2018. Per your request, the previous proposal dated August 23, 2021 was truncated to address anticipated tasks for the remainder of the 2022 calendar year through the end of 2023 calendar year, which comprise mitigation installation and the first year of maintenance and monitoring. Subsequent years two through five of maintenance and monitoring will be covered under a separate proposal to be submitted to the City at a later date.

As approved by the USFWS, a seven-year period to allow a two-year weed abatement regime to prepare the site prior to establishment of native vegetation in and around the pools was initiated in 2020. Installation of an irrigation system, installation of plants and seed are expected to occur in fall 2022, and the five-year maintenance and monitoring period is expected to begin in 2023 and continue through 2027.

The scope of services provided in this proposal includes activities to be conducted in accordance with the USFWS approved action plan for the remainder of 2022 and all of 2023 calendar year including implementation of the Restoration Plan and performing the first of five years of monitoring and reporting. Additionally, this change order incorporates subcontractor costs associated with irrigation installation, plant installation, and the first year of maintenance as outlined below.

Kelly Dalton
City of Costa Mesa
June 1, 2022
Page 2

Ms. Sheri Asgari will oversee the project and will work closely with GLA's fairy shrimp biologist, Stephanie Cashin, who will conduct necessary fairy shrimp surveys and will monitor activities occurring within areas known to support listed branchiopods. Ms. Cashin holds a valid Section 10(a)(1)(A) Recovery Permit for conducting surveys for listed branchiopods in California (TE-20280D-0). In the future, GLA may request the approval from the USFWS of other biologists to perform this work.

The following tasks are included as a part of this proposed scope of work:

- | | |
|------------|--|
| Task I. | Irrigation installation within native grassland plots (subcontractor); |
| Task II. | Grow and kill in the vernal pool and grassland buffer through fall 2022 (subcontractor); |
| Task III. | Installation of container plants and hydroseed in fall 2022 (subcontractor); |
| Task IV. | Year one (2023) of five-year maintenance (subcontractor); |
| Task V. | Performance Bond (subcontractor – as-needed); |
| Task VI. | Oversight of site preparation through 2022; |
| Task VII. | Oversight of regular maintenance by maintenance contractor in first year of maintenance (2023); |
| Task VIII. | Monitoring to document success for 1) hydrology, 2) listed fairy shrimp, and vernal pool vegetation, vegetation monitoring in the watershed for the first year of monitoring (2023); |
| Task IX. | Annual report preparation for Year one (2023); and |
| Task X. | Meetings and Coordination (2022 and 2023). |

COST

The proposed fixed fee for performance of Tasks I through X, as presented in the attached scope of work, is \$148,731. This fee includes all direct costs as well as a 15% administrative charge to the subcontractor tasks.

This proposal is valid for a period of 30 days after which time changes to the scope and/or proposed fee may be required to proceed.

SCHEDULE

GLA will proceed within three weeks of a signed contract.

Kelly Dalton
City of Costa Mesa
June 1, 2022
Page 2

Should you have any questions regarding this proposal, please feel free to contact me at (949) 340-9088.

Sincerely,

GLENN LUKOS ASSOCIATES, INC.

A handwritten signature in black ink, appearing to read 'Thienan Pfeiffer', written in a cursive style.

Thienan Pfeiffer
President

p:0493-7dl.pro

SA

**SCOPE OF WORK
MITIGATION SUPPORT SERVICES
FAIRVIEW PARK
COSTA MESA, CALIFORNIA**

TASK I. IRRIGATION INSTALLATION (SUBCONTRACTOR)

Under GLA's direction, the Subcontractor will install six circular plots within the 2.97-acre grassland restoration area and install temporary overhead irrigation that will be manually operated. Sprinklers will be installed on risers and placed 20-feet on center for on-grade lateral pipe.

TASK II. WEED ABATEMENT / GROW AND KILL (SUBCONTRACTOR)

Under GLA's direction, the Subcontractor will conduct a program of natural grow and kill throughout the entire restoration area to reduce the existing non-native seed bank prior to plant installation and seeding. This includes hand weeding within the vernal pools.

TASK III. CONTAINER PLANTING AND SEEDING (SUBCONTRACTOR)

Under GLA's direction, the Subcontractor will install 125 1-gallon container plants within the native grassland areas and auger 576 1-gallon planting holes for volunteers to plant within the coastal sage scrub buffer area. The hydroseed mix outlined in the Restoration Plan will be applied to the native grassland areas and coastal sage scrub buffer.

TASK IV. YEAR ONE OF FIVE-YEAR MAINTENANCE (SUBCONTRACTOR)

Under GLA's direction, the Subcontractor will perform one year of maintenance (through December 2023) including weed abatement, trash removal irrigation, repairs of the irrigation systems, and any other routine tasks to ensure establishment of the native grassland and coastal sage scrub in the watershed of the vernal pool complex.

TASK V. PERFORMANCE BOND (SUBCONTRACTOR)

The subcontractor assumes a budget for posting a performance bond. This is an as-needed task.

TASK VI. DIRECTION AND OVERSIGHT FOR SITE PREPARATION

In accordance with the Restoration Plan, GLA will provide direction and oversight for site preparation for watershed plantings set forth in the Restoration Plan which includes native scrub

and grassland vegetation. Included in this task is coordination with the maintenance contractor associated with initial weed removal and ongoing maintenance necessary to prepare the site for the native habitat plantings.

In accordance with the Restoration Plan, this task also includes oversight of site preparation for the slope north of Vernal Pool 5 that comprises a portion of the pool's watershed. The subject slope was covered with turf and will be maintained primarily by volunteers. GLA and Subcontractor will provide assistance and direction as necessary to meet the requirements of the Restoration Plan.

Finally, this task provides for oversight and direction for native plantings within the watershed for Vernal Pools 5, 6, and 7 including native scrub and grassland species. Included in this task will be coordination with native plant nurseries to obtain the necessary plant material to install in accordance with the Restoration Plan.

TASK VII. OVERSIGHT OF MAINTENANCE WITHIN VERNAL POOLS (2023)

In accordance with the Restoration Plan, GLA will oversee maintenance within Vernal Pool 6, which requires direction of the Permitted Biologist due to the potential presence of listed fairy shrimp, the remediated footpath, and maintenance for the watershed for Vernal Pools 5, 6, and 7, which is not a covered activity. This task assumes two meetings each season, the timing of which would be determined based upon rainfall timing and amounts and associated weed response. A GLA permitted biologist would be present during weeding within Vernal Pool 6 necessary to remove non-native invasive species. Maintenance, within the watershed of the Vernal Pool 5, 6 and 7 complex will include removal of non-native annual grasses and forbs.

Because of the potential for large rainfall years and associated long-term ponding to kill the non-native upland annual grasses and forbs, if rainfall during the season preceding weeding results in exceptional ponding, an adaptive management approach will be implemented relative to weeding in Vernal Pool 5, in coordination with USFWS.

TASK VIII. CONDUCT ANNUAL MONITORING (2023)

In accordance with the Restoration Plan, GLA will conduct the first annual monitoring of 1) restored Vernal Pool 6 (hydrological monitoring, fairy shrimp monitoring, and vegetation monitoring), monitoring of the remediated Foot Path, and monitoring of the restored watershed for Vernal Pools 5, 6 and 7. Monitoring will be conducted in a manner that measures progress towards the performance standards as set forth in detail in the Restoration Plan.

As described in the Restoration Plan monitoring to determine progress toward performance standards includes monitoring of hydrological conditions, monitoring of fairy shrimp and vernal pool vegetation in conjunction with the watershed vegetation.

Monitoring in the watershed including the grasslands and coastal sage scrub will be conducted in 2023 during the growing season. After initial planting, GLA will conduct qualitative site monitoring of the restoration areas on a monthly basis in the first year to document any problems with plants, seed germination, irrigation, erosion, vandalism, weed invasion, etc. that might adversely affect the success of the restoration. Notes on wildlife use will be included (i.e., direct observations of nests, animals, and/or other related evidence observed during site visits). GLA will prepare monthly and quarterly memos or email correspondence (per Client's preference) to the Client to report any problems and document observations of the site visit for the first annual monitoring report. Hydrologic, biogeochemical, and plant or animal habitat indicators will be monitored and evaluated for functions and values.

GLA will perform transect monitoring which will consist of two per acre 50-meter point-intercept transects. The percent cover of native, non-native, and unvegetated areas within each transect will be identified. GLA will prepare the first annual monitoring report summarizing performance of mitigation project over the last year, and if necessary, recommend steps to be taken to ensure that second-year performance criteria will be achieved by next year's monitoring. After review and approval by the Client, the first annual monitoring report will be transmitted to the USFWS by July 1st following the first growing season after implementation of the mitigation plan.

TASK IX. PREPARE ANNUAL REPORT

In accordance with the Restoration Plan, GLA will submit an annual report to USFWS by July 1, 2023. Monitoring shall be tied to the actual implementation date (e.g., the first annual report shall be delivered on July 1st of the year following the first rainy season after implementation of the restoration plan). The annual report shall include the results of the hydrological, fairy shrimp, and vegetation monitoring (including watershed vegetation), and assess attainment of success criteria. As noted for monitoring of hydrology, fairy shrimp and vernal pool plants, it is expected that detailed monitoring reports will be prepared during above-average rainfall seasons with less detailed reports during dry years.

The detailed report will include the following:

- A list of names, titles, and companies of all persons who prepared the content of the annual report and participated in monitoring activities for that year;
- An aerial photograph indicating location of the areas addressed in the report;
- A restoration site map or aerial photograph identifying restoration activities, photo station locations, and other information (e.g., GPS data points) as appropriate;
- Copies of representative monitoring photographs;
- Copies of completed field data sheets;
- An analysis of all monitoring data relative to success criteria for hydrology, fairy shrimp and vernal pool vegetation.

TASK X. MEETINGS AND COORDINATION

This task covers meetings and coordination not specifically set forth in the various tasks above and would include meetings with the City staff; meetings with USFWS, and/or meeting with members of the public and other stakeholders as directed by the City during 2022 and 2023.

COST

TASK	
	Total Cost
<i><u>Subcontractor Tasks</u></i>	
Task I. Native Grassland Plots Irrigation System	\$19,458
Task II. Grow/Kill Vernal Pool Thru 2022	\$28,152
Task III. Container Planting and Seeding	\$28,337
Task IV. Year One of Five-Year Maintenance (2023)	\$45,540
Task V. Performance Bond (if needed)	\$5,974
<i><u>GLA Tasks</u></i>	
Task VI. Oversight During Site Preparation Thru 2022	\$3,430
Task VII. Oversight During Maintenance (2023)	\$2,310
Task VIII. Conduct Annual Monitoring (2023)	\$7,970
Task IX. Prepare and Submit Annual Reports (2023)	\$7,560
Task X. Meetings and Coordination (2022-2023)	\$7,330
TOTAL	\$148,731

**CITY OF COSTA MESA
PROFESSIONAL SERVICES AGREEMENT
WITH
GLENN LUKOS ASSOCIATES, INC.**

THIS PROFESSIONAL SERVICES AGREEMENT ("Agreement") is made and entered into this 15th day of October, 2019 ("Effective Date"), by and between the CITY OF COSTA MESA, a municipal corporation ("City"), and GLENN LUKOS ASSOCIATES, INC., a California corporation ("Consultant").

W I T N E S S E T H :

A. WHEREAS, City proposes to utilize the services of Consultant as an independent contractor to provide restoration and monitoring services at Fairview Park, as more fully described herein; and

B. WHEREAS, Consultant represents that it has that degree of specialized expertise contemplated within California Government Code section 37103, and holds all necessary licenses to practice and perform the services herein contemplated; and

C. WHEREAS, City and Consultant desire to contract for the specific services described in Exhibit "A" (the "Project") and desire to set forth their rights, duties and liabilities in connection with the services to be performed; and

D. WHEREAS, no official or employee of City has a financial interest, within the provisions of sections 1090-1092 of the California Government Code, in the subject matter of this Agreement; and

E. WHEREAS, Consultant has commenced providing the restoration services set forth herein; and

F. WHEREAS, City and Consultant intend and desire to have this Agreement be effective retroactive to the Effective Date.

NOW, THEREFORE, for and in consideration of the mutual covenants and conditions contained herein, the parties hereby agree as follows:

1.0. SERVICES PROVIDED BY CONSULTANT

1.1. Scope of Services. Consultant shall provide the professional services described in Consultant's Proposal, attached hereto as Exhibit "A," in accordance with the U.S. Fish and Wildlife Service-approved Fairview Park Vernal Pool Restoration and Long Term Maintenance Plan for Vernal Pools 5 and 6, and the Associated Watershed Areas (the "Plan"), attached hereto as Exhibit "B," and U.S. Fish and Wildlife Service Permit No. TE87580B-0 (the "Permit"), attached hereto as Exhibit "C." Exhibits A, B and C are incorporated herein by this reference.

1.2. Professional Practices. All professional services to be provided by Consultant pursuant to this Agreement shall be provided by personnel experienced in their respective fields and in a manner consistent with the standards of care, diligence and skill ordinarily exercised by professional consultants in similar fields and circumstances in accordance with sound

professional practices. Consultant also warrants that it is familiar with all laws that may affect its performance of this Agreement and shall advise City of any changes in any laws that may affect Consultant's performance of this Agreement.

1.3. Performance to Satisfaction of City. Consultant agrees to perform all the work to the complete satisfaction of the City and within the hereinafter specified. Evaluations of the work will be done by the City Manager or his or her designee. If the quality of work is not satisfactory, City in its discretion has the right to:

(a) Meet with Consultant to review the quality of the work and resolve the matters of concern;

(b) Require Consultant to repeat the work at no additional fee until it is satisfactory; and/or

(c) Terminate the Agreement as hereinafter set forth.

1.4. Warranty. Consultant warrants that it shall perform the services required by this Agreement in compliance with all applicable Federal and California employment laws, including, but not limited to, those laws related to minimum hours and wages; occupational health and safety; fair employment and employment practices; workers' compensation insurance and safety in employment; and all other Federal, State and local laws and ordinances applicable to the services required under this Agreement. Consultant shall indemnify and hold harmless City from and against all claims, demands, payments, suits, actions, proceedings, and judgments of every nature and description including attorneys' fees and costs, presented, brought, or recovered against City for, or on account of any liability under any of the above-mentioned laws, which may be incurred by reason of Consultant's performance under this Agreement.

1.5. Prevailing Wages. To the extent applicable to the services provided pursuant to this Agreement, Consultant shall comply in all respects with California Labor Code sections 1770 et seq., including but not limited to ensuring that its subcontractors pay prevailing wages and keep all records required by Labor Code section 1776. Consultant shall obtain certified copies of the payroll records required by Labor Code section 1776 and provide such copies to the City upon completion of each subcontractor's work.

1.6. Supervision by Consultant. At all times during performance of this Agreement, Consultant shall supervise the work as required by the Permit.

1.7. Inspection by City. Consultant shall at all times maintain proper facilities and provide safe access for inspection by City to all parts of the work to be performed by Consultant and its subcontractors and to all shops on or off-site where the work or portions of the work are in preparation. City shall have the right of access to the premises for inspection at all times, provided that City shall, at all times, comply with Consultant's safety requirements on the job site.

1.8. Care of the Work. Consultant warrants that it has examined the site of the work and is familiar with its topography and condition, location of property lines, easements, building lines and other physical factors and limitations affecting the performance of this Agreement. Consultant shall be responsible for the proper care and protection of all materials delivered to the site or stored off-site and for the work performed until completion and final inspection and acceptance by City. The risk, damage or destruction of materials delivered to the site or to work performed shall be borne by Consultant.

1.9. Non-Discrimination. In performing this Agreement, Consultant shall not engage in, nor permit its agents to engage in, discrimination in employment of persons because of their race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military or veteran status, except as permitted pursuant to section 12940 of the Government Code.

1.10. Non-Exclusive Agreement. Consultant acknowledges that City may enter into agreements with other consultants for services similar to the services that are subject to this Agreement or may have its own employees perform services similar to those services contemplated by this Agreement.

1.11. Delegation and Assignment. This is a personal service contract, and the duties set forth herein shall not be delegated or assigned to any person or entity without the prior written consent of City. Consultant may engage a subcontractor(s) as permitted by law and may employ other personnel to perform services contemplated by this Agreement at Consultant's sole cost and expense.

1.12. Confidentiality. Employees of Consultant in the course of their duties may have access to financial, accounting, statistical, and personnel data of private individuals and employees of City. Consultant covenants that all data, documents, discussion, or other information developed or received by Consultant or provided for performance of this Agreement are deemed confidential and shall not be disclosed by Consultant without written authorization by City. City shall grant such authorization if disclosure is required by law. All City data shall be returned to City upon the termination of this Agreement. Consultant's covenant under this Section shall survive the termination of this Agreement.

2.0. COMPENSATION AND BILLING

2.1. Compensation. Consultant shall be paid in accordance with the fee schedule set forth in Exhibit A. Consultant's total compensation shall not exceed One Hundred Twenty-Six Thousand Forty-Six Dollars (\$126,046.00).

2.2. Prompt Payment to Subcontractors. Consultant shall comply with all applicable prompt payment laws of the State of California. Consultant agrees to pay each subcontractor providing work under this Agreement for satisfactory performance of its contract no later than ten (10) days from the receipt of each payment the Consultant receives from City. Consultant shall indemnify and hold harmless City from and against all claims, demands, payments, suits, actions, proceedings, and judgments of every nature and description including attorneys' fees and costs, presented, brought, or recovered against City for, or on account of any liability which may be incurred by reason of Consultant's failure to comply with prompt payment laws.

Consultant further agrees to release retainage payments, if any, to each subcontractor within thirty (30) days after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment from the above-referenced time frame may occur only for good cause following written approval of the City.

2.3. Additional Services. Consultant shall not receive compensation for any services provided outside the scope of services specified in the Consultant's Proposal unless the City

Manager or designee, prior to Consultant performing the additional services, approves such additional services in writing. It is specifically understood that oral requests and/or approvals of such additional services or additional compensation shall be barred and are unenforceable.

2.4. Method of Billing. Consultant may submit invoices to the City for approval on a monthly basis in accordance with the Summary of Fees by Task and Year schedule set forth in Exhibit A. Said invoice shall be based on the total of all Consultant's services which have been completed to City's sole satisfaction. City shall pay Consultant's invoice within forty-five (45) days from the date City receives said invoice. Each invoice shall describe in detail the list of tasks, the percentage being billed to each task during the billing cycle and the total percentage of each task completed to date. Any additional services approved and performed pursuant to this Agreement shall be designated as "Additional Services" and shall identify the number of the authorized change order, where applicable, on all invoices.

2.5. Records and Audits. Records of Consultant's services relating to this Agreement shall be maintained in accordance with generally recognized accounting principles and shall be made available to City or its Project Manager for inspection and/or audit at mutually convenient times from the Effective Date until three (3) years after termination of this Agreement.

3.0. TIME OF PERFORMANCE

3.1. Commencement and Completion of Work. Unless otherwise agreed to in writing by the parties, the professional services to be performed pursuant to this Agreement shall commence within five (5) days from the Effective Date of this Agreement. Failure to commence work in a timely manner and/or diligently pursue work to completion may be grounds for termination of this Agreement.

3.2. Excusable Delays. Neither party shall be responsible for delays or lack of performance resulting from acts beyond the reasonable control of the party or parties. Such acts shall include, but not be limited to, acts of God, fire, strikes, material shortages, compliance with laws or regulations, riots, acts of war, or any other conditions beyond the reasonable control of a party.

4.0. TERM AND TERMINATION

4.1. Term. This Agreement shall be effective retroactive to the Effective Date and continue for a period of six (6) years, ending on October 14, 2025, unless previously terminated as provided herein or as otherwise agreed to in writing by the parties.

4.2. Notice of Termination. The City reserves and has the right and privilege of cancelling, suspending or abandoning the execution of all or any part of the work contemplated by this Agreement, with or without cause, at any time, by providing written notice to Consultant. The termination of this Agreement shall be deemed effective upon receipt of the notice of termination. In the event of such termination, Consultant shall immediately stop rendering services under this Agreement unless directed otherwise by the City.

4.3. Compensation. In the event of termination, City shall pay Consultant for reasonable costs incurred and professional services satisfactorily performed up to and including the date of City's written notice of termination. Compensation for work in progress shall be prorated based on the percentage of work completed as of the effective date of termination in accordance with the fees set forth herein. In ascertaining the professional services actually

rendered hereunder up to the effective date of termination of this Agreement, consideration shall be given to both completed work and work in progress, to complete and incomplete drawings, and to other documents pertaining to the services contemplated herein whether delivered to the City or in the possession of the Consultant.

4.4. Documents. In the event of termination of this Agreement, all documents prepared by Consultant in its performance of this Agreement including, but not limited to, finished or unfinished design, development and construction documents, data studies, drawings, maps and reports, shall be delivered to the City within ten (10) days of delivery of termination notice to Consultant, at no cost to City. Any use of uncompleted documents without specific written authorization from Consultant shall be at City's sole risk and without liability or legal expense to Consultant.

5.0. INSURANCE

5.1. Minimum Scope and Limits of Insurance. Consultant shall obtain, maintain, and keep in full force and effect during the life of this Agreement all of the following minimum scope of insurance coverages with an insurance company admitted to do business in California, rated "A," Class X, or better in the most recent Best's Key Insurance Rating Guide, and approved by City:

- (a) Commercial general liability, including premises-operations, products/completed operations, broad form property damage, blanket contractual liability, independent contractors, personal injury or bodily injury with a policy limit of not less than One Million Dollars (\$1,000,000.00), combined single limits, per occurrence. If such insurance contains a general aggregate limit, it shall apply separately to this Agreement or shall be twice the required occurrence limit.
- (b) Business automobile liability for owned vehicles, hired, and non-owned vehicles, with a policy limit of not less than One Million Dollars (\$1,000,000.00), combined single limits, per occurrence for bodily injury and property damage.

- (c) Workers' compensation insurance as required by the State of California. Consultant agrees to waive, and to obtain endorsements from its workers' compensation insurer waiving subrogation rights under its workers' compensation insurance policy against the City, its officers, agents, employees, and volunteers arising from work performed by Consultant for the City and to require each of its subcontractors, if any, to do likewise under their workers' compensation insurance policies.

- (d) Professional errors and omissions ("E&O") liability insurance with policy limits of not less than One Million Dollars (\$1,000,000.00), combined single limits, per occurrence and aggregate. Architects' and engineers' coverage shall be endorsed to include contractual liability. If the policy is written as a "claims made" policy, the retro date shall be prior to the start of the contract work. Consultant shall obtain and maintain, said E&O liability insurance during the life of this Agreement and for three years after completion of the work hereunder.

5.2. Endorsements. The commercial general liability insurance policy and business automobile liability policy shall contain or be endorsed to contain the following provisions:

(a) Additional insureds: "The City of Costa Mesa and its elected and appointed boards, officers, officials, agents, employees, and volunteers are additional insureds with respect to: liability arising out of activities performed by or on behalf of the Consultant pursuant to its contract with the City; products and completed operations of the Consultant; premises owned, occupied or used by the Consultant; automobiles owned, leased, hired, or borrowed by the Consultant."

(b) Notice: "Said policy shall not terminate, be suspended, or voided, nor shall it be cancelled, nor the coverage or limits reduced, until thirty (30) days after written notice is given to City."

(c) Other insurance: "The Consultant's insurance coverage shall be primary insurance as respects the City of Costa Mesa, its officers, officials, agents, employees, and volunteers. Any other insurance maintained by the City of Costa Mesa shall be excess and not contributing with the insurance provided by this policy."

(d) Any failure to comply with the reporting provisions of the policies shall not affect coverage provided to the City of Costa Mesa, its officers, officials, agents, employees, and volunteers.

(e) The Consultant's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

5.3. Deductible or Self Insured Retention. If any of such policies provide for a deductible or self-insured retention to provide such coverage, the amount of such deductible or self-insured retention shall be approved in advance by City. No policy of insurance issued as to which the City is an additional insured shall contain a provision which requires that no insured except the named insured can satisfy any such deductible or self-insured retention.

5.4. Certificates of Insurance. Consultant shall provide to City certificates of insurance showing the insurance coverages and required endorsements described above, in a form and content approved by City, prior to performing any services under this Agreement.

5.5. Non-Limiting. Nothing in this Section shall be construed as limiting in any way, the indemnification provision contained in this Agreement, or the extent to which Consultant may be held responsible for payments of damages to persons or property.

6.0. CONSULTANT'S GUARANTEE

6.1. Guarantee. Consultant guarantees that all materials used in the work and all labor performed shall be in conformity with this Agreement including, but not limited to, the standards and specifications set forth in the Plan and the Permit. Consultant shall, at its own expense, make any and all repairs and replacements that shall become necessary as the result of any failure of the work to conform to the requirements of this Agreement until the work is approved in writing by the U.S. Fish and Wildlife Service in accordance with the requirements of the Permit.

6.2. Remedies Cumulative. The rights and remedies available to City pursuant to this section shall be cumulative with all rights and remedies available to City pursuant to statutory and common law, which rights and remedies are hereby expressly reserved, and the foregoing guarantee by Consultant shall not constitute a waiver of any rights or remedies available to City against Consultant.

7.0. GENERAL PROVISIONS

7.1. Entire Agreement. This Agreement constitutes the entire agreement between the parties with respect to any matter referenced herein and supersedes any and all other prior writings and oral negotiations. This Agreement may be modified only in writing, and signed by the parties in interest at the time of such modification. The terms of this Agreement shall prevail over any inconsistent provision in any other contract document apportioned hereto, including exhibits to this Agreement.

7.2. Representatives. The City Manager or his or her designee shall be the representative of City for purposes of this Agreement and may issue all consents, approvals, directives and agreements on behalf of the City, called for by this Agreement, except as otherwise expressly provided in this Agreement.

Consultant shall designate a representative for purposes of this Agreement who shall be authorized to issue all consents, approvals, directives and agreements on behalf of Consultant called for by this Agreement, except as otherwise expressly provided in this Agreement.

7.3. Project Managers. City shall designate a Project Manager to work directly with Consultant in the performance of this Agreement.

Consultant shall designate a Project Manager who shall represent it and be its agent in all consultations with City during the term of this Agreement. Consultant or its Project Manager shall attend and assist in all coordination meetings called by City.

7.4. Notices. Any notices, documents, correspondence or other communications concerning this Agreement or the work hereunder may be provided by personal delivery or mail and shall be addressed as set forth below. Such communication shall be deemed served or delivered: (a) at the time of delivery if such communication is sent by personal delivery, and (b) 48 hours after deposit in the U.S. Mail as reflected by the official U.S. postmark if such communication is sent through regular United States mail.

IF TO CONSULTANT:

Glenn Lukos Associates, Inc.
29 Orchard
Lake Forest, CA 92630
Tel: (949) 837-0404
Attn: Theinman Pfeiffer, President

IF TO CITY:

City of Costa Mesa
77 Fair Drive
Costa Mesa, CA 92626
Tel: (714) 754-5135
Attn: Cynthia D'Agosta

Courtesy copy to:

City of Costa Mesa
77 Fair Drive
Costa Mesa, CA 92626
Attn: Finance Dept. | Purchasing

7.5. Drug-Free Workplace Policy. Consultant shall provide a drug-free workplace by complying with all provisions set forth in City's Council Policy 100-5, attached hereto as Exhibit "D" and incorporated herein by reference. Consultant's failure to conform to the requirements set forth in Council Policy 100-5 shall constitute a material breach of this Agreement and shall be cause for immediate termination of this Agreement by City.

7.6. Attorneys' Fees. In the event that litigation is brought by any party in connection with this Agreement, the prevailing party shall be entitled to recover from the opposing party all costs and expenses, including reasonable attorneys' fees, incurred by the prevailing party in the exercise of any of its rights or remedies hereunder or the enforcement of any of the terms, conditions, or provisions hereof.

7.7. Governing Law. This Agreement shall be governed by and construed under the laws of the State of California without giving effect to that body of laws pertaining to conflict of laws. In the event of any legal action to enforce or interpret this Agreement, the parties hereto agree that the sole and exclusive venue shall be a court of competent jurisdiction located in Orange County, California.

7.8. Assignment. Consultant shall not voluntarily or by operation of law assign, transfer, sublet or encumber all or any part of Consultant's interest in this Agreement without City's prior written consent. Any attempted assignment, transfer, subletting or encumbrance shall be void and shall constitute a breach of this Agreement and cause for termination of this Agreement. Regardless of City's consent, no subletting or assignment shall release Consultant of Consultant's obligation to perform all other obligations to be performed by Consultant hereunder for the term of this Agreement.

7.9. Indemnification and Hold Harmless. Consultant agrees to defend, indemnify, hold free and harmless the City, its elected officials, officers, agents and employees, at Consultant's sole expense, from and against any and all claims, actions, suits or other legal proceedings brought against the City, its elected officials, officers, agents and employees arising out of the performance of the Consultant, its employees, and/or authorized subcontractors, of the work undertaken pursuant to this Agreement. The defense obligation provided for hereunder shall apply without any advance showing of negligence or wrongdoing by the Consultant, its employees, and/or authorized subcontractors, but shall be required whenever any claim, action, complaint, or suit asserts as its basis the negligence, errors, omissions or misconduct of the Consultant, its employees, and/or authorized subcontractors, and/or whenever any claim, action, complaint or suit asserts liability against the City, its elected officials, officers, agents and employees based upon the work performed by the Consultant, its employees, and/or authorized subcontractors under this Agreement, whether or not the Consultant, its employees, and/or authorized subcontractors are specifically named or otherwise asserted to be liable. Notwithstanding the foregoing, the Consultant shall not be liable for the defense or indemnification of the City for claims, actions, complaints or suits arising out of the sole active negligence or willful misconduct of the City. This provision shall supersede and replace all other indemnity provisions

contained either in the City's specifications or Consultant's Proposal, which shall be of no force and effect.

City's acceptance of the insurance policies required by this Agreement shall not constitute a waiver of any rights against Consultant which it may have by reason of the foregoing indemnification obligations. Consultant's indemnification obligations shall apply to all liabilities, expenses, claims, and damages of every kind (including but not limited to attorneys' fees) incurred or alleged to have been incurred by reason of the operations of Consultant or any subcontractor or others performing work on behalf of Consultant, whether or not such insurance policies are applicable. Consultant shall require any and all tiers of subcontractors to afford the same degree of indemnification to the City of Costa Mesa and its elected and appointed boards, officers, agents, and employees that is required of Consultant and shall incorporate identical indemnity provisions in all contracts between Consultant and all tiers of its subcontractors.

In the event that Consultant and City are sued by a third party for damages caused or allegedly caused by negligent or other wrongful conduct of Consultant or any of its subcontractors, or by a dangerous condition of City's property created by Consultant or any of its subcontractors or existing while the property was under the supervision and control of Consultant, Consultant shall not be relieved of its indemnity obligation to City by any settlement with any such third party unless that settlement includes a full release and dismissal of all claims by the third party against the City.

7.10. Independent Contractor. Consultant is and shall be acting at all times as an independent contractor and not as an employee of City. Consultant shall have no power to incur any debt, obligation, or liability on behalf of City or otherwise act on behalf of City as an agent. Neither City nor any of its agents shall have control over the conduct of Consultant or any of Consultant's employees, except as set forth in this Agreement. Consultant shall not, at any time, or in any manner, represent that it or any of its agents or employees are in any manner agents or employees of City. Consultant shall secure, at its sole expense, and be responsible for any and all payment of income tax, Social Security, State Disability Insurance Compensation, Unemployment Compensation, and other payroll deductions for Consultant and its officers, agents, and employees, and all business licenses, if any are required, in connection with the services to be performed hereunder. Consultant shall indemnify and hold City harmless from any and all taxes, assessments, penalties, and interest asserted against City by reason of the independent contractor relationship created by this Agreement. Consultant further agrees to indemnify and hold City harmless from any failure of Consultant to comply with the applicable worker's compensation laws. City shall have the right to offset against the amount of any fees due to Consultant under this Agreement any amount due to City from Consultant as a result of Consultant's failure to promptly pay to City any reimbursement or indemnification arising under this paragraph.

7.11. PERS Eligibility Indemnification. In the event that Consultant or any employee, agent, or subcontractor of Consultant providing services under this Agreement claims or is determined by a court of competent jurisdiction or the California Public Employees Retirement System (PERS) to be eligible for enrollment in PERS as an employee of the City, Consultant shall indemnify, defend, and hold harmless City for the payment of any employee and/or employer contributions for PERS benefits on behalf of Consultant or its employees, agents, or subcontractors, as well as for the payment of any penalties and interest on such contributions, which would otherwise be the responsibility of City.

Notwithstanding any other agency, state or federal policy, rule, regulation, law or ordinance to the contrary, Consultant and any of its employees, agents, and subcontractors providing service under this Agreement shall not qualify for or become entitled to, and hereby agree to waive any claims to, any compensation, benefit, or any incident of employment by City, including but not limited to eligibility to enroll in PERS as an employee of City and entitlement to any contribution to be paid by City for employer contribution and/or employee contributions for PERS benefits.

7.12. Cooperation. In the event any claim or action is brought against City relating to Consultant's performance or services rendered under this Agreement, Consultant shall render any reasonable assistance and cooperation which City might require.

7.13. Ownership of Documents. All findings, reports, documents, information and data including, but not limited to, computer tapes or discs, files and tapes furnished or prepared by Consultant or any of its subcontractors in the course of performance of this Agreement, shall be and remain the sole property of City. Consultant agrees that any such documents or information shall not be made available to any individual or organization without the prior consent of City. Any use of such documents for other projects not contemplated by this Agreement, and any use of incomplete documents, shall be at the sole risk of City and without liability or legal exposure to Consultant. City shall indemnify and hold harmless Consultant from all claims, damages, losses, and expenses, including attorneys' fees, arising out of or resulting from City's use of such documents for other projects not contemplated by this Agreement or use of incomplete documents furnished by Consultant. Consultant shall deliver to City any findings, reports, documents, information, data, in any form, including but not limited to, computer tapes, discs, files audio tapes or any other Project related items as requested by City or its authorized representative, at no additional cost to the City.

7.14. Public Records Act Disclosure. Consultant has been advised and is aware that this Agreement and all reports, documents, information and data, including, but not limited to, computer tapes, discs or files furnished or prepared by Consultant, or any of its subcontractors, pursuant to this Agreement and provided to City may be subject to public disclosure as required by the California Public Records Act (California Government Code section 6250 et seq.). Exceptions to public disclosure may be those documents or information that qualify as trade secrets, as that term is defined in the California Government Code section 6254.7, and of which Consultant informs City of such trade secret. The City will endeavor to maintain as confidential all information obtained by it that is designated as a trade secret. The City shall not, in any way, be liable or responsible for the disclosure of any trade secret including, without limitation, those records so marked if disclosure is deemed to be required by law or by order of the Court.

7.15. Conflict of Interest. Consultant and its officers, employees, associates and subcontractors, if any, will comply with all conflict of interest statutes of the State of California applicable to Consultant's services under this agreement, including, but not limited to, the Political Reform Act (Government Code sections 81000, et seq.) and Government Code section 1090. During the term of this Agreement, Consultant and its officers, employees, associates and subcontractors shall not, without the prior written approval of the City Representative, perform work for another person or entity for whom Consultant is not currently performing work that would require Consultant or one of its officers, employees, associates or subcontractors to abstain from a decision under this Agreement pursuant to a conflict of interest statute.

7.16. Responsibility for Errors. Consultant shall be responsible for its work and results under this Agreement. Consultant, when requested, shall furnish clarification and/or explanation

as may be required by the City's representative, regarding any services rendered under this Agreement at no additional cost to City. In the event that an error or omission attributable to Consultant occurs, then Consultant shall, at no cost to City, provide all necessary design drawings, estimates and other Consultant professional services necessary to rectify and correct the matter to the sole satisfaction of City and to participate in any meeting required with regard to the correction.

7.17. Prohibited Employment. Consultant will not employ any regular employee of City while this Agreement is in effect.

7.18. Order of Precedence. In the event of an inconsistency in this Agreement and any of the attached Exhibits, the terms set forth in this Agreement shall prevail. If, and to the extent this Agreement incorporates by reference any provision of any document, such provision shall be deemed a part of this Agreement. Nevertheless, if there is any conflict among the terms and conditions of this Agreement and those of any such provision or provisions so incorporated by reference, this Agreement shall govern over the document referenced.

7.19. Costs. Each party shall bear its own costs and fees incurred in the preparation and negotiation of this Agreement and in the performance of its obligations hereunder except as expressly provided herein.

7.20. No Third Party Beneficiary Rights. This Agreement is entered into for the sole benefit of City and Consultant and no other parties are intended to be direct or incidental beneficiaries of this Agreement and no third party shall have any right in, under or to this Agreement.

7.21. Headings. Paragraphs and subparagraph headings contained in this Agreement are included solely for convenience and are not intended to modify, explain or to be a full or accurate description of the content thereof and shall not in any way affect the meaning or interpretation of this Agreement.

7.22. Construction. The parties have participated jointly in the negotiation and drafting of this Agreement. In the event an ambiguity or question of intent or interpretation arises with respect to this Agreement, this Agreement shall be construed as if drafted jointly by the parties and in accordance with its fair meaning. There shall be no presumption or burden of proof favoring or disfavoring any party by virtue of the authorship of any of the provisions of this Agreement.

7.23. Amendments. Only a writing executed by the parties hereto or their respective successors and assigns may amend this Agreement.

7.24. Waiver. The delay or failure of either party at any time to require performance or compliance by the other of any of its obligations or agreements shall in no way be deemed a waiver of those rights to require such performance or compliance. No waiver of any provision of this Agreement shall be effective unless in writing and signed by a duly authorized representative of the party against whom enforcement of a waiver is sought. The waiver of any right or remedy in respect to any occurrence or event shall not be deemed a waiver of any right or remedy in respect to any other occurrence or event, nor shall any waiver constitute a continuing waiver.

7.25. Severability. If any provision of this Agreement is determined by a court of competent jurisdiction to be unenforceable in any circumstance, such determination shall not affect the validity or enforceability of the remaining terms and provisions hereof or of the offending

provision in any other circumstance. Notwithstanding the foregoing, if the value of this Agreement, based upon the substantial benefit of the bargain for any party, is materially impaired, which determination made by the presiding court or arbitrator of competent jurisdiction shall be binding, then both parties agree to substitute such provision(s) through good faith negotiations.

7.26. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original. All counterparts shall be construed together and shall constitute one agreement.

7.27. Corporate Authority. The persons executing this Agreement on behalf of the parties hereto warrant that they are duly authorized to execute this Agreement on behalf of said parties and that by doing so the parties hereto are formally bound to the provisions of this Agreement.

[Signatures appear on following page.]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by and through their respective authorized officers, as of the date first above written.

CONSULTANT

Signature

Thienan Pfeiffer, President & CEO

[Name and Title]

CITY OF COSTA MESA

Lori Ann Farrell Harrison

City Manager

ATTEST:

Brenda Green 2/5/2020

Brenda Green
City Clerk

APPROVED AS TO FORM:

Kimberly Hall Barlow
City Attorney

APPROVED AS TO INSURANCE:

Ruth Wang
Risk Management

Date: 1/29/2020

Date: 2/4/20

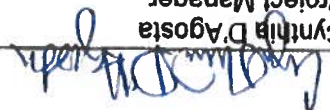


Social Security or Taxpayer ID Number

Date: January 20, 2020

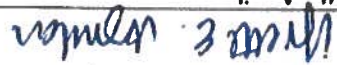
APPROVED AS TO CONTENT:

Cynthia D. Agosta
Project Manager



DEPARTMENTAL APPROVAL:

Yvette Aguilar
Acting Parks and Community Services
Director



APPROVED AS TO PURCHASING:

Kelly Telford
Finance Director



Date:

1/25/2020

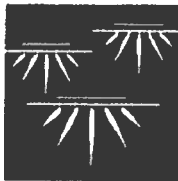
Date:

01/28/2020

Date:

1-28-2020

EXHIBIT A
CONSULTANT'S PROPOSAL



GLENN LUKOS ASSOCIATES
Regulatory Services

September 3, 2019
[Revised September 13, 2019]

Cynthia D'Agosta
Fairview Park Administrator
City of Costa Mesa
77 Fair Drive
Costa Mesa, California 92628-1200

SUBJECT: Revised Scope of Services and Cost Proposal for the Restoration and Monitoring of Vernal Pools 5, 6, and 7 and associated Watershed at Fairview Park, Costa Mesa, California

Dear Ms. D'Agosta:

Glenn Lukos Associates (GLA) is pleased to submit this revised detailed scope of services outlining the proposed activities, cost, and schedule for implementation of the U.S. Fish and Wildlife Service (USFWS) approved Fairview Park Vernal Pool Restoration and Long-Term Maintenance Plan (Restoration Plan) for Vernal Pools 5 and 6, and the Associated Watershed, dated June 8, 2018. A cost and scope of services for the enhancement and protection of Vernal Pool 4c located west of Canyon Drive across from the Waldorf School of Orange County will be provided separately. Thus, this scope of services identifies activities to be conducted in accordance with the USFWS approved Restoration Plan only. This proposal has been revised to incorporate subcontractor costs associated with site preparation and earthwork (see Tasks 1 and 2 below).

The attached Scope of Work sets forth an approach to address USFWS's concerns for the restoration and protection of sensitive native resources in a manner that is cost-effective for the City while also ensuring biological integrity of the pools.

Mr. Tony Bomkamp will oversee the project and will work closely with GLA biologist Kevin Livergood, who will conduct necessary fairy shrimp surveys and will monitor activities occurring within areas known to support listed branchiopods. Mr. Livergood holds a valid Section 10(a)(1)(A) Recovery Permit for conducting surveys for listed branchiopods in California (TB-172368-2).

As detailed below, this scope includes the following tasks necessary to implement the restoration program set forth in the approved restoration plan prepared by GLA and includes the following components as provided in an excerpt from the approved restoration plan:

29 Orchard
Telephone: (949) 837-0404
Lake Forest
California 92630-8300
Facsimile: (949) 837-5834

This Restoration and Maintenance Plan includes: (1) restoration of the watershed for Vernal Pools 5 and 6, by restoring the elevation and contours to the conditions prior to installation of the foot path that also ensures that runoff from rainfall is directed toward Vernal Pool 5 rather than collecting on the foot path; (2) reestablishment of portions of Vernal Pool 6 affected by the installation of a foot path along the eastern and southern edges of Vernal Pool 6, which would be accomplished through the reestablishment of the original perimeter contours; (3) repair of the indentations associated with the placement and removal of telephone poles within the watershed of historical Feature 7; (4) removal of non-native weeds and establishment of native vegetation within the watersheds for Vernal Pools 5 and 6 and former Feature 7; and (5) removal of turf grass and irrigation within the watershed of Vernal Pool 5, including reestablishment of native coastal sage scrub shrubs and grasses to provide a natural vegetated buffer and remove the source of potential irrigation runoff. The details for each component of this restoration plan are set forth in detail below. In addition, a Long-Term Management Plan (LTMP) will be implemented once the performance standards for the restoration plan have been achieved. The LTMP will include the following components as describe in more detail in the final section of this plan: training of maintenance personnel, ongoing non-native vegetation control, general maintenance (e.g., trash and debris removal, repair of fencing and signage, and annual reporting.

Implementation of the approved Restoration Plan includes the following general components:

- Site preparation including but not limited to non-native vegetation removal, initial clearing within vernal pools, and turf removal (subcontractor);
- Earthwork including but not limited to rough grade staking, cut and compaction of soils, and balancing grade (subcontractor);
- Oversight of site preparation and earthwork to 1) remediate trail along eastern edge of Pools 5 and 6, 2) recontouring of Pool 6, 3) any necessary repairs to ground contours in the watershed;
- Collection and distribution of vernal pool inoculum;
- Oversight of regular maintenance by maintenance contractor;
- Monitoring to document success for 1) hydrology, 2) listed fairy shrimp, and vernal pool vegetation;
- Annual reporting; and
- Meetings and Coordination.

COST

The proposed fixed fee for performance of Tasks 1 through 9, as presented in the attached scope of work, is \$126,046. This fixed fee includes all direct costs and a 15% administrative charge to the subcontractor tasks but does not include tasks not specifically addressed in the scope of work. This proposal is valid for a period of 30 days after which time changes to the scope and/or proposed fee may be required to proceed.

SCHEDULE

GLA understands that it is the City's intention to begin work during late summer and early fall of 2019, including grading of Vernal Pool 6 and the foot path along with collection and distribution of vernal pool inoculum as described in the Scope of Work below. Site preparation for removal of turf north of Vernal Pool 5 as well as the start of weed control in the watershed for Vernal Pools 5, 6, and 7 could also be initiated. In order to be consistent with the approved Restoration Plan, grading and inoculum collection and distribution need to be completed by October 15. Provided written authorization to proceed is given within one week of the date of this proposal, GLA sees no constraints to achieving the initial work before October 15, 2019. Should any contracting constraints arise, the deadline stipulated in the Restoration Plan may require modification with the USFWS, which would need to be carried out under separate contract.

Should you have any questions regarding this proposal, please feel free to contact me at (949) 837-0404.

Sincerely,

GLENN LUKOS ASSOCIATES, INC.



Thienan Pfeiffer
President

s:0493-7c.pro.docx
TB

Enclosure

SCOPE OF WORK
RESTORATION, MONITORING AND REPORTING
VERNAL POOL 6, AND WATERSHEDS FOR
VERNAL POOLS 5, 6, AND 7
FAIRVIEW PARK
COSTA MESA, CALIFORNIA

TASK 1. SITE PREPARATION (SUBCONTRACTOR)

Under GLA supervision, Nakae & Associates, Inc. will furnish labor, equipment, and material to carry out the following site preparation activities:

- *Non-Native Vegetation Removal* – All non-native vegetation within the restoration site will be removed and taken to an off-site legal landfill;
- *Initial Clearing Within Vernal Pools* – An initial event of non-native vegetation removal within vernal pools No. 5 & 6 will take place by weeding. All removed vegetation by weeding will be taken to an off-site legal landfill;
- *Spray Turf Removal Area* – Spray the area with a glyphosate based herbicide that is approved for use around water (Roundup Custom) before the grading contractor removes the turf along the north boundary of the restoration site. Spraying the turf is necessary before removal or the grass will come back indefinitely;
- *Ripping With Equipment* – After turf removal and nonNative vegetation removal take place, the turf removal and CSS establishment areas will be ripped using equipment. Ripping will alleviate compaction in these areas which will help with the germination and establishment of native container plants and seed;
- *Repair Indentations* – Indentations within the watershed associated with the former Feature 7 caused by the placement of telephone poles will be repaired by filling and compacting the pole indentations with soil harvested from the on-site borrow area in order to match the surrounding topography; and
- *Straw Waite Installation* – Photo-degradable straw waites will be trenched in and around the vernal pools for protection against herbicides, etc.

TASK 2. EARTHWORK/GRADING (SUBCONTRACTOR)

Under GLA supervision, Slice Company, Inc. will furnish labor, equipment, and material to carry out the following earthwork/grading activities in accordance with the Restoration Plan and revised Restoration/Planting Plan exhibit:

- *Site Clearing* – Clear and dispose of grass on north restoration area; and
- *Earthwork* – Rough grade staking, original ground processing, cut and compaction of onsite soils, provide and compact import from park borrow area next to the model plane airport, and balance grade as needed to reestablish proper drainage and elevations on the old walking trail.

TASK 3. OVERSIGHT OF SITE PREPARATION AND EARTHWORK (COVERED ACTIVITY)

In accordance with the approved Restoration Plan, GLA Senior Biologist Tony Bomkamp will oversee the remedial grading for Vernal Pool 6 along with the repair of the footpath adjacent to Vernal Pools 5 and 6 to restore watershed functions that include positive drainage to the pools. Included in this task is coordination with the grading contractor to establish access, location of borrow material consistent with the requirements of the Restoration Plan, demarcation of the areas within Vernal Pool 6 subject to re-contouring, direction and oversight during grading and documentation of conditions following completion of earthwork. In accordance with the Restoration Plan, GLA will provide direction and oversight for necessary repairs to areas in watershed such as indentations left by telephone poles, which have been removed. Finally, this task includes coordination with the grading contractor to obtain cost estimates for the submittal to the City.

TASK 4. COLLECTION AND DISTRIBUTION OF INOCULUM (COVERED ACTIVITY)

In accordance with the Restoration Plan, GLA will collect donor inoculum from Vernal Pool 1 for transfer to restored portions of Vernal Pool 6. The inoculum will be collected using the two-percent collection method as described in the Restoration Plan between August 15 and September 15 with distribution to Pool 6 between September 15 and October 15. Because of the presence of the San Diego fairy shrimp within the donor vernal pool basins, inoculum collection and redistribution must be conducted by individuals holding a valid Section 10(a)(1)(A) permit for listed branchiopods with prior notification to USFWS as provided in the guidelines¹. This task includes inoculum collection for the initial phase of restoration plus collection during two additional years to ensure that performance standards are achieved.

On behalf of the City, GLA will submit a report (including topographic maps and vernal pool locations) to the USFWS within 6 weeks of completion of reestablishment of previous contours and distribution of inoculum, describing as-built status of the restoration project. If the site recontouring and inoculation are not completed within six weeks of each other, separate reports will be submitted describing those specific as-built conditions (separation of recontouring and inoculum distribution would only occur if recontouring were to occur during July or early August and inoculum introduction did not occur until late September or early October). Note, based on the current schedule, GLA believes that once started, all work to be documented in the As-Built Report will be completed within a six-week window and only one report will be necessary.

TASK 5. DIRECTION AND OVERSIGHT FOR SITE PREPARATION FOR WATERSHED PLANTINGS AND INSTALLATION OF PLANTINGS (NOT A COVERED ACTIVITY)

In accordance with the Restoration Plan, GLA will provide direction and oversight for site preparation for watershed plantings set forth in the Restoration Plan which includes native scrub and grassland vegetation. Included in this task is coordination with the maintenance contractor

¹ U.S. Fish and Wildlife Service. Revised November 13, 2017. *Survey Guidelines for Listed Large Branchiopods*.

associated with initial weed removal and ongoing maintenance necessary to prepare the site for the native habitat plantings. Based on the density of the weeds in the watershed, it could require a number of grow and kill cycles to prepare the watershed areas for planting due to the efforts needed to remove the large mass of non-native grasses and forbs and associated seed bank.

In accordance with the Restoration Plan, this task also includes oversight of site preparation for the slope north of Vernal Pool 5 that comprises a portion of the pool's watershed. The subject slope is covered with turf which will be removed by the landscape contractor and prepared for native plantings as set forth in the Restoration Plan.

Finally, this task provides for oversight and direction for native plantings within the watershed for Vernal Pools 5, 6, and 7 including native scrub and grassland species. Included in this task will be coordination with native plant nurseries to obtain the necessary plant material to install in accordance with the Restoration Plan.

TASK 6. DIRECTION AND OVERSIGHT OF MAINTENANCE WITHIN VERNAL POOL 6 (COVERED ACTIVITY), REMEDIATED FOOTPATH, AND WATERSHED FOR POOLS 5, 6, AND 7 (NOT A COVERED ACTIVITY)

In accordance with the Restoration Plan, GLA will oversee maintenance within Vernal Pool 6, which requires direction of the Permitted Biologist due to the potential presence of listed fairy shrimp, the remediated footpath, and maintenance for the watershed for Vernal Pools 5, 6, and 7, which is not a covered activity. This task assumes two meetings each season, the timing of which would be determined based upon rainfall timing and amounts and associated weed response. A GLA permitted biologist would be present during weeding within Vernal Pool 6 necessary to remove non-native invasive species such as hyssop loosestrife (*Lythrum hyssopifolia*), brass buttons (*Colula coronopifolia*), rabbitfoot grass (*Polypogon monspeliensis*), curly dock (*Rumex crispus*), and prickly grass (*Crypsis* spp.). Maintenance, within the watershed of the Vernal Pool 5, 6 and 7 complex will include removal of non-native annual grasses, including but not limited to: *Bromus* spp., *Avena* spp., *Hordeum* spp., and *Festuca perennis* and forbs including but not limited to: *Brassica* spp., *Raphanus sativus*, *Erodium* spp., and *Centaurea melitensis*.

Because of the potential for large rainfall years and associated long-term ponding to kill the non-native upland annual grasses and forbs, if rainfall during the season preceding weeding results in exceptional ponding, an adaptive management approach will be implemented relative to weeding in Vernal Pool 5, in coordination with USFWS.

TASK 7. CONDUCT ANNUAL MONITORING

In accordance with the Restoration Plan, GLA will conduct annual monitoring of 1) restored Vernal Pool 6 (hydrological monitoring, fairy shrimp monitoring, and vegetation monitoring), monitoring of the remediated Foot Path, and monitoring of the restored watershed for Vernal Pools 5, 6 and 7. Monitoring will be conducted in a manner that measures progress towards the performance standards as set forth in detail in the Restoration Plan.

As described in the Restoration Plan monitoring to determine progress toward performance standards includes monitoring of hydrological conditions, monitoring of fairy shrimp and vernal pool vegetation in conjunction with the watershed vegetation. Because hydrological monitoring can only be monitored during years of sufficient rainfall, GLA assumes that there would be three years out of the five-year monitoring period when there would be sufficient water present to conduct hydrology monitoring. Similarly, fairy shrimp monitoring could only be conducted during years when water is present for sufficient duration, which is approximately 3 continuous weeks. Thus, the cost table below assumes hydrological and fairy shrimp monitoring during three out of the five seasons with only brief visits during the drier years to confirm lack of ponding. Similarly, while some vernal pool plants may germinate during drier years, more expansive germination and associated cover is only expected during the above-average rainfall years and the cost table below, assumes quantitative monitoring only during three seasons, with brief visits during the drier years to report on conditions. Should rainfall conditions warrant additional monitoring visits, GLA will contact the Client and determine the need for a change order.

TASK 8. PREPARE ANNUAL REPORTS

In accordance with the Restoration Plan, GLA will submit an annual report to USFWS for the duration of the monitoring period. Monitoring shall be tied to the actual implementation date (e.g., the first annual report shall be delivered on July 1st of the year following the first rainy season after implementation of the restoration plan). These reports shall include the results of the hydrological, fairy shrimp, and vegetation monitoring (including watershed vegetation), and assess attainment of success criteria. As noted for monitoring of hydrology, fairy shrimp and vernal pool plants, it is expected that detailed monitoring reports will be prepared during above-average rainfall seasons with less detailed reports during dry years. The detailed reports will include the following:

- A list of names, titles, and companies of all persons who prepared the content of the annual report and participated in monitoring activities for that year;
- An aerial photograph indicating location of the areas addressed in the report;
- A restoration site map or aerial photograph identifying restoration activities, photo station locations, and other information (e.g., GPS data points) as appropriate;
- Copies of representative monitoring photographs;
- Copies of completed field data sheets;
- An analysis of all monitoring data relative to success criteria for hydrology, fairy shrimp and vernal pool vegetation.

TASK 9. MEETINGS AND COORDINATION

This task covers meetings and coordination not specifically set forth in the various tasks above and would include meetings with the City staff, meetings with USFWS, and/or meeting with members of the public and other stakeholders as directed by the City.

COST

The table below has been developed to aid us in estimating the total cost of the proposed work and is provided for your information only. Unless otherwise arranged with the client, the cost of each task is not meant to be precise and we may find it necessary to shift costs between tasks as the work proceeds.

TASK	
TOTAL COSTS	
Task 1. Site Preparation (Subcontractor)	\$26,910
Task 2. Earthwork/Grading (Subcontractor)	\$21,966
Task 3. Oversight of Site Prep and Earthwork	\$5,160
Task 4. Collection and Distribution of Inoculum	\$5,660
Task 5. Oversight of Site Prep. and Plantings	\$4,830
Task 6. Oversight During Maintenance	\$6,150
Task 7. Conduct Annual Monitoring	\$18,560
Task 8. Prepare and Submit Annual Reports	\$30,770
Task 9. Meetings and Coordination	\$6,040
TOTAL	\$126,046

Summary of Fees by Task and Year*

	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Total by Task
Task 1	\$26,910						\$26,910
Task 2	\$21,966						\$21,966
Task 3	\$5,160						\$5,160
Task 4	\$2,000		\$1830		\$1,830		\$5,660
Task 5	\$2,415	\$2,415					\$4,830
Task 6			\$1,537.50	\$1,537.50	\$1,537.50	\$1,537.50	\$6,150
Task 7		\$2,712	\$4,712	\$2,712	\$4,712	\$3,712	\$18,560
Task 8	\$3,000	\$7,770	\$5,000	\$5,000	\$5,000	\$5,000	\$30,770
Task 9	\$3,000	\$608	\$608	\$608	\$608	\$608	\$6,040
Total by Year	\$64,451	\$13,505	\$13,688	\$9,858	\$13,688	\$10,858	

* The fees as summarized by year above are GLA's best estimate of how the costs will be distributed over the course of the project. As described in the detailed scope of work above, years of high rainfall and associated ponding will generate more intense monitoring efforts while drought years will result in limited monitoring. Thus, the actual fees for monitoring as summarized for Task 5 would change depending which years exhibit higher or lower rainfall and associated monitoring efforts. Similarly, weeding and associated oversight would be increased during years with more rainfall.

EXHIBIT B
FAIRVIEW PARK VERNAL POOL RESTORATION AND LONG TERM MAINTENANCE PLAN
FOR VERNAL POOLS 5 AND 6, AND THE ASSOCIATED WATERSHED AREAS

**FAIRVIEW PARK VERNAL POOL RESTORATION
AND
LONG TERM MAINTENANCE PLAN FOR VERNAL POOLS 5 AND 6,
AND THE ASSOCIATED WATERSHED
AREAS WITHIN THE JURISDICTION OF
THE UNITED STATES FISH AND WILDLIFE SERVICE
PURSUANT TO THE ENDANGERED SPECIES ACT**

**FAIRVIEW PARK
COSTA MESA, CALIFORNIA**

JUNE 8, 2018

Prepared for:

**City of Costa Mesa
Parks Department
77 Fair Drive
Costa Mesa, California 92628-1200
Contact: Baltazar Mejia
(714) 754-5291**

Prepared by:

**Glenn Lukos Associates, Inc.
29 Orchard
Lake Forest, California 92630
Contact: Tony Bomkamp/Kevin Livergood
(949) 837-0404**

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I. EXECUTIVE SUMMARY

This Restoration and Maintenance Plan for Vernal Pools 5 and 6, and the associated watershed area (Complex) which is inclusive of historical Feature 7 located in Fairview Park ("Project Site") in the City of Costa Mesa ("City"), Orange County, California [Exhibit 1 - Regional Map, Exhibit 2 - Vicinity Map, Exhibit 3 - Restoration Site Plan Map, and Exhibit 4 - Site Photographs], has been developed to address potential impacts associated with installation of a decomposed granite foot path in and adjacent to vernal pools (Vernal Pools 5 and 6) occupied by the federally listed endangered San Diego fairy shrimp (*Branchinecta sandiegonensis*). In addition, this plan addresses potential watershed impacts associated with preparation and use of the area surrounding historical Feature 7 as a parking lot and telephone poles that were placed in the vicinity of the former feature to prevent unauthorized vehicular access into the watershed surrounding Vernal Pools 5 and 6. Placement of the telephone poles created shallow indentations in the soil surface. The foot path and telephone poles have been removed. This plan addresses 1) restoration of the foot path (i.e., restoration of the area where the foot path was removed) to original elevation and topography, so as to restore the watershed for Vernal Pools 5 and 6, 2) reestablishment of the impacted portions of Vernal Pool 6 in a manner that results in restoration of the previous functions, 3) repair of indentations in the watershed associated with former Feature 7 caused by the placement of telephone poles and 4) repair of disturbance related to use of the watershed area for parking. This plan also addresses the removal of turf and irrigation along the northern edge of the watershed for Vernal Pool 5 to prevent irrigation runoff from entering Vernal Pool 5, while also providing a natural buffer. The purpose of this plan is to set forth in detail the various components of the vernal pool and watershed restoration plan, including the restoration methods, monitoring and maintenance methods, and success criteria. The plan also includes long-term maintenance activities that will be implemented within the Complex once the restoration activities are completed.

As a result of the presence of the San Diego fairy shrimp and the potential for take of listed species associated with the proposed restoration efforts, these activities are being coordinated with and are subject to approval of the U.S. Fish and Wildlife Service (USFWS), which issued a letter on July 24, 2014 requiring restoration of these areas. Completion of this plan will enhance the survival of San Diego fairy shrimp, thus contributing to the recovery of this species and as such, the actions carried out to implement this plan are anticipated to be covered under a Section 10(a)(1)(A) Recovery Permit, which allows otherwise prohibited take of the San Diego fairy shrimp to enhance the survival of the species.

II. PROJECT DESCRIPTION

A. Responsible Parties

Owner:

City of Costa Mesa
77 Fair Drive

Costa Mesa, California 92628-1200
Contact: Mr. Baltazar Mejia
Telephone: (714) 754-5291

The goal of the Restoration and Maintenance Plan is to contribute to the recovery of the San Diego fairy shrimp through specific restoration and maintenance efforts described in detail below. The restoration plan proposes to restore the limited portions of the watershed associated with Vernal Pools 5 and 6 affected by footpath installation and removal, which will ensure conservation of the San Diego fairy shrimp within these pools. The restoration plan goals will

III. GOALS OF RESTORATION AND MAINTENANCE PLAN

This Restoration and Maintenance Plan includes: (1) restoration of the watershed for Vernal Pools 5 and 6, by restoring the elevation and contours to the conditions prior to installation of the foot path that also ensures that runoff from rainfall is directed toward Vernal Pool 5 rather than collecting on the foot path; (2) reestablishment of portions of Vernal Pool 6 affected by the installation of a foot path along the eastern and southern edges of Vernal Pool 6, which would be accomplished through the reestablishment of the original perimeter contours; (3) repair of the indentations associated with the placement and removal of telephone poles within the watershed of historical Feature 7; (4) removal of non-native weeds and establishment of native vegetation within the watersheds for Vernal Pools 5 and 6 and former Feature 7; and (5) removal of turf grass and irrigation within the watershed of Vernal Pool 5, including reestablishment of native coastal sage scrub shrubs and grasses to provide a natural vegetated buffer and remove the source of potential irrigation runoff. The details for each component of this restoration plan are set forth in detail below. In addition, a Long-Term Management Plan (LTMP) will be implemented once the performance standards for the restoration plan have been achieved. The LTMP will include the following components as described in more detail in the final section of this plan: training of maintenance personnel, ongoing non-native vegetation control, general maintenance (e.g., trash and debris removal, repair of fencing and signage, and annual reporting.

C. Brief Summary of Project

Fairview Park is situated along the bluffs overlooking the Santa Ana River in the City of Costa Mesa, Orange County, California. The park is roughly bounded by Adams Avenue to the north, Santa Ana River to the west, Victoria Street to the south, and is bisected by Placencia Avenue [Exhibits 1 and 2]. Land uses adjacent to the restoration sites include developed parkland to the north, Estancia High School with sports fields to the east, Waldorf School of Orange County and associated sports field to the south, and natural lands including a runway area used by Harbor Soaring Society for flying model planes and a previously restored vernal pool to the west [Exhibit 3]. The topography of the site is flat.

B. Location of Project

Glenn Lukos Associates, Inc.
29 Orchard
Lake Forest, California 92630
Contact: Tony Bomkamp
or Kevin Livergood
Phone: (949) 837-0404

Preparer of Restoration and Maintenance Plan:

IV. IMPLEMENTATION PLAN FOR RESTORATION ACTIVITIES

also be accomplished by restoring the eastern boundary of Vernal Pool 6 to reestablish this component of the pool's watershed, which was affected by installation of the foot path. While former Feature 7 has not been documented to support fairy shrimp (a dry-season survey conducted in summer of 2015 was negative for cysts),¹ remediation of any potential damage to the watershed by placement of the telephone poles, and the preparation and use of this area for parking vehicles would ensure maintenance of existing habitat functions for the historically significant feature, which has in wetter-than-average years supported a small number of vernal pool plants. The goals of the Long-Term Management Plan include ongoing control on non-native invasive species within the watershed areas of Vernal Pools 5 and 6, and former Feature 7, which will be subject to restoration of native scrub and grasslands, maintenance of protective fencing, and regular removal of any trash or debris in the vernal pools or associated watersheds.

A. Responsible Parties

Owner:

City of Costa Mesa
77 Fair Drive

Costa Mesa, California 92628-1200
Contact: Mr. Baltazar Mejia
Telephone: (714) 754-5291

Preparer of Plan:

Glenn Lukos Associates, Inc.
29 Orchard

Lake Forest, California 92630
Contact: Tony Bomkamp² or Kevin Livergood
Phone: (949) 837-0404

B. Implementation Schedule

A qualified habitat restoration specialist or biologist with a minimum of 5 years of experience in vernal pool restoration in southern California hereinafter referred to as the Project Biologist, will supervise the implementation, maintenance, and five-year monitoring of the restoration activities. Activities with the potential for take of the San Diego fairy shrimp (such as wet- or dry-season surveys and collection of inoculum) will be conducted by Biologists and/or Restoration Specialists (Project Biologist) approved by USFWS and listed on a Section 10(a)(1)(A) Recovery Permit issued to the City specifically for restoration, biological surveys, and long-term maintenance. Implementation of the restoration activities shall occur, to the maximum extent practicable, as soon as possible after plan approval and issuance of a Section 10(a)(1)(A) Recovery Permit to the City, dependent on weather conditions. As the site will need

¹ Glenn Lukos Associates. July 20, 2015. Letter Report to Stacey Love: Submittal Requirements for 2015 Dry Season Survey for Listed Branchiopods Conducted for the Fairview Park Project - Feature 7, Located in the City of Costa Mesa, County of Orange, California. It should be noted that the dry-season survey was conducted after the area was disturbed repeatedly for preparation and use as a parking lot.

² Tony Bomkamp has over 22 years of experience restoring vernal pools in southern California.

a. *Reestablishment of Vernal Pool 6 Contours* - Reestablishment of the impacted portions of Vernal Pool 6 will be directed by the Section 10(a)(1)(A) Permit Holder under the guidance of the Project Biologist. Reestablishment of original contours will be conducted by a grading contractor experienced in the restoration of vernal pool basins. The equipment to be used for reestablishment of the impacted portions of Vernal Pool 6 will be determined by the grading contractor, although it is expected to be a small dozer or bobcat due to the limited area to be restored. An engineered grading plan will not be developed; rather, recontouring will be field-directed and micro elevations and micro grading will be determined and directed by the Project Biologist with final contours established in the field in a manner that is consistent with the original elevation. All soil placement will be directly monitored by the Project Biologist to ensure that no damage to functioning and intact vernal pool habitat occurs. Prior to commencing work, the target basin perimeter will be marked on the ground and the portion of the basin to be avoided will be marked as noted. A transit or laser auto-level will be used to record elevations at various locations both inside and outside of the target basin. Recontouring will be performed until target elevations are achieved. Upon completion of mechanical and hand contouring (using rakes and shovels as needed), final

As depicted on Exhibit 3, a portion of Vernal Pool 6 was affected by installation and removal of the decomposed granite foot path. The watershed of Vernal Pool 6 was also affected by the removal of the foot path, which left the ground surface a few inches lower than the adjacent pool basin. Restoration of the impacted watershed area of Vernal Pool 6 is addressed below.

1. *Reestablishment of Impacted portions of Vernal Pool 6 (Covered Activity)*

As noted, this plan addresses restoration activities that will contribute to the recovery of the San Diego fairy shrimp, but which also exhibit potential for take of the species. Any activities with potential for take of the San Diego fairy shrimp (Covered Activity) will be performed by qualified individuals, approved by USFWS, and listed in the Section 10(a)(1)(A) Permit issued to the City ("Permit Holder") specifically for the restoration, biological surveys, and long-term maintenance activities described in the Plan. Other activities that exhibit no potential for take will not require coverage under the Recovery Permit, but will contribute to the recovery of the San Diego fairy shrimp through habitat and watershed enhancements. Activities that would be covered under the Recovery Permit are limited to 1) restoration of the watershed area impacted by the foot path adjacent to Vernal Pool 5 and 2) reestablishment of the impacted portions of Vernal Pool 6 to restore previous functions, which includes the introduction of inoculum to the reestablished pool area. Repair of the shallow indentations created by the telephone poles in the vicinity of former Feature 7 and re-vegetation of the surrounding watershed area with coastal sage scrub and native grasses do not exhibit potential for take of the San Diego fairy shrimp.

C. *Implementation of Restoration Plan*

Long-term maintenance will continue, once success criteria are met, as described in Section VIII below. To be dry to collect inoculum, work may begin after a period of approximately 4 - 6 weeks with no rain events, or after the rainy season, which typically ends in mid-April. The site will be maintained and monitored for a minimum of five years or until specific success criteria are met.

³ U.S. Fish and Wildlife Service. Revised November 13 2017. *Survey Guidelines for Listed Large Branchiopods*.
⁴ Michael Brandman Associates and K&A Environmental. 1995. *Kearney Villa Road Vernal Pool Restoration: First Progress Report*.
⁵ Vernal Pool 1 was selected because it contains San Diego fairy shrimp cysts and exhibits the highest concentration of sensitive plant species including *Navarretia prostrata*, *Adonis nuttallii* ssp. *capus*, and *Microseris douglasii* var. *platycarpa*, as well as supporting low densities of non-native species such as *Rumex crispus* and *Lythrum hyssopifolia*.

Restoration of the watershed area damaged by the foot path will be conducted simultaneously with reestablishment of Vernal Pool 6 (see Task 1a above). Removal of the decomposed granite foot path created a "lip" outside of the eastern boundary of Vernal Pools 5 and 6 (note: the basin for Vernal Pool 5 was not affected by the foot path construction or associated removal). The "lip" is generally shallow, averaging about 3 inches and reaches 10 inches in one area, causing

2. Restoration of Watershed Area Damaged by the Foot Path near Vernal Pools 5 and 6 (Covered Activity)

No formal planting plan or plant palette has been developed. Rather, material salvaged from the donor vernal pool will provide all of the necessary propagules and cysts for the portion of Vernal Pool 6 to be reestablished. Introduction of the collected seed and organic matter (containing cysts) from the donor vernal pools will be accomplished by hand-broadcasting over the surface of the reestablished pool area followed by light raking. All hand-broadcasting will occur between September 15 and October 15, immediately following collection of inoculum.

Elevations for the reestablished contours of Vernal Pool 6 will be recorded to 0.05 feet. *Inoculum Collection and Redistribution* - Collection of inoculum for the San Diego fairy shrimp (and vernal pool plants) from Vernal Pool 1 would be conducted to replace the pool substrate that was removed from Vernal Pool 6. Given the adjacency of the reestablishment area with the existing pool, the area would also be rapidly colonized by both the San Diego fairy shrimp and vernal pool plants. Because of the presence of the San Diego fairy shrimp within the donor vernal pool basins, inoculum collection and redistribution must be conducted by individuals holding a valid Section 10(a)(1)(A) permit for listed branchiopods with prior notification to USFWS as provided in the guidelines.³ Inoculum containing San Diego fairy shrimp cysts and vernal pool plants will be collected using the two-percent collection methodology described by Bauder (cited in Michael Brandman Associates and K&A Environmental 1995)⁴. Use of this method ensures that no more than two-percent of the existing propagules are removed from the donor areas. Vernal Pool 1 will provide donor inoculum.⁵ Inoculum collection will be performed in the fall season when the site is dry and before the rainy season which typically begins in mid-October and lasts through mid-April. Inoculum collection will occur once the contours of Vernal Pool 6 and the adjacent watershed area are reestablished. Collection of inoculum will be performed using a one-meter quadrat, which is placed in one corner of the donor area. Two one-decimeter quadrats are randomly placed within the one-meter quadrat and the top one centimeter of soil and vegetative material are collected from the area circumscribed by each one-decimeter quadrat, which is then placed in cardboard boxes for transport. The one-meter quadrat is moved to the adjacent one-meter plot and the process is repeated until each one-meter plot from the donor vernal pool is completed.

rainfall that falls on the former path to pond rather than contributing to the hydrological input for Vernal Pools 5 and 6. The ground surface elevations will be restored to ensure positive drainage to the pools as set forth below:

- a. Soils will be imported from other portions of the park that consist of the suitable clays, corner of the park. The soils will be moved from the donor sites to the foot path either by dump truck or by front-end loader. If a dump truck is used and soil is stockpiled, it will be stockpiled on the turf, on top of canvas or plastic covers to ensure that turf is not inadvertently introduced to the restored foot path area.
- b. The clay will be deposited on the foot path areas starting at the southern extent of the foot path, adjacent to Vernal Pool 6, a portion of which extended into the area now occupied by the foot path, and will be spread either by dozer or loader such that positive drainage will occur from the eastern edge of the foot path to Vernal Pool 5. The work will begin adjacent to Vernal Pool 6 and work toward the north past Vernal Pool 5 to where the foot path began. To ensure that there will be minimal soil settlement, the soils will be compacted to approximately 90 percent and will be surveyed to 0.05 inch to ensure that the final elevations of the restored path drain towards Vernal Pools 5 and 6.
- c. An as-built plan with final topographic measurements on the former foot path and in the vernal pools, showing positive drainage to the pools will be prepared and submitted to the USFWS following completion of the restoration of the foot path to pre-existing grades.
- d. The limits of Vernal Pools 5 and 6 will be demarcated using pin flags to ensure that no work encroaches into the pools and that no fill is placed in the pools. To maximize potential success, all work will be directed and supervised by the Project Biologist and any work with the potential for take will also be supervised by the Section 10(a)(1)(A) Permit Holder.
- e. The restored foot path will be re-vegetated with native upland species as set forth in Table 1 of Section C.5. below.
- f. Prior to the initiation of work, the Project Biologist and Section 10(a)(1)(A) Permit Holder will hold a pre-construction meeting on the site with the contractor, including equipment operators, to describe the sensitive nature of the vernal pools and associated biota. The meeting will focus on ingress and egress and avoidance of the existing Vernal Pool 5 and the extant portion of Vernal Pool 6.

3. Removal of Turf Grass and Irrigation along Northern Edge of Vernal Pool 5 (Not a Covered Activity)

An approximately 0.37-acre area of turf grass along the northern edge of Vernal Pool 5 will be removed using mechanized equipment and hand tools as determined appropriate by the City. Following removal of the turf, the area will be treated, through installation of black tarp, to kill the remaining roots of the turf in a manner that has no potential for effects on Vernal Pool 5. If it is necessary to use chemicals, only chemicals approved for use around wetlands will be used and straw wattle will be placed at the lower edge of the restoration area to limit the potential for chemicals from reaching Vernal Pool 5. Following removal and necessary treatment, the area will be revegetated with native upland species per Table 1 in Section C.5. below. The irrigation that currently exists will remain in place to establish the newly planted upland vegetation.

Botanical Name	Common Name	Container Stock	Plants/Acre
<i>Eriogonum fasciculatum</i>	California buckwheat (CSS)	200	
<i>Artemisia californica</i>	California sagebrush (CSS)	200	
<i>Isocoma menziesii</i>	Coast goldenbush (CSS and Grassland)	100	
<i>Silene lepidota</i>	Foothill needlegrass (CSS and Grassland)	100	
<i>Silene pulchra</i>	Purple needlegrass (CSS and Grassland)	100	
<i>Melica imperata</i>	Coast range melic (CSS and Grassland)	50	
<i>Galium angustifolium</i>	Narrow-leaved bedstraw (CSS)	50	

Table 1: Coastal Sage Scrub Plant Palette

Following removal of turf grass and site preparation along the northern edge of Vernal Pool 5, the area will be planted with native coastal sage scrub using a combination of seed and container stock. The container stock and seed mix is provided in Table 1 below.

5. Upland Planting Plan along Northern Edge of Vernal Pool 5 (Not a Covered Activity)

While former Feature 7 does not currently exhibit characteristics of a vernal pool, this plan acknowledges that prior to disturbance in the area, Feature 7 and the surrounding watershed may have supported deeper ponding suitable for vernal pool bromeliads and during wetter-than-average years supported a low density of vernal pool plants. Therefore, the area should be preserved for its long-term contribution to the Vernal Pool 5 and 6 watershed and the potential recovery of Feature 7.

Shallow indentations in the ground surface were created where telephone poles were placed to restrict vehicle access to Vernal Pools 5 and 6. The poles were placed in the vicinity of a former feature located within the watershed of Vernal Pools 5 and 6. Due to the sensitivity of pools 5 and 6, the watershed (inclusive of Feature 7) will be re-vegetated with native plant species and topographic irregularities resulting from the placement of the telephone poles will be removed. These areas will be repaired by hand-filling the pole indentations with soil harvested from the borrow area identified for restoration of the foot path at Vernal Pool 6. Hand tools would be used to fill and compact the soil such that the grade on either side of the indentations would match the surrounding topography.

4. Repair Damage from the Telephone Poles near Former Feature 7 (Not a Covered Activity)

During establishment, the water shall be carefully controlled to prevent excess water from entering Vernal Pool 5. The irrigation will be turned off after vegetation establishment, which is anticipated to occur approximately 2-3 years after planting. In order to ensure that leakage from the irrigation system does not reach Vernal Pool 5, the irrigation system will be inspected at least twice annually for leaks and any leaks detected will be fixed immediately.

Seed		Lbs/Acre
<i>Encelia californica</i>	California bush sunflower (CSS and Grassland)	6.0
<i>Delandrea fasciculata</i>	Fasciated tarweed (Grassland)	1.0
<i>Lupinus bicolor</i>	Minutaire lupine (CSS and Grassland)	2.0
<i>Lasienia californica</i>	California goldfields (Grassland)	2.0

6. Install Protective Fencing and Signs Around Vernal Pool Complex (Not a Covered Activity)

Protective fencing will be installed along the perimeter of the Vernal Pool 5 and 6 Complex, which is inclusive of historical Feature 7 and the associated watershed [Exhibit 3]. Installation of the fencing will be monitored by a qualified biologist to ensure that no incursions occur into vernal pools. Signage prohibiting entry and educating the public of the sensitive habitat will be placed along the fencing at regular intervals as depicted on Exhibit 3.

7. Upland Planting Plan within the Vernal Pool Complex

Disturbance associated with a) installation of the foot path, b) preparation and use of the area in and surrounding historical Feature 7 as a parking area, and c) pedestrian access to the watershed area due to a lack of protective fencing has degraded habitat for San Diego fairy shrimp by increasing the extent and diversity of non-native vegetation within the Vernal Pool Complex. To restore habitat conditions for San Diego fairy shrimp, non-native vegetation will be replaced with coastal sage scrub and native grasslands within the boundary of the proposed fencing (Exhibit 3). Non-native vegetation will be hand pulled from the watershed and replaced with native vegetation per Table 1 above. Larger woody shrubs (e.g., California sagebrush, California buckwheat and coast goldenbush) will be primarily concentrated along the periphery of the fenced area and will further discourage encroachment into the watershed area. Vernal pool-associated flora will be reestablished along the boundary of Vernal Pools 5 and 6 using inoculum collected from Vernal Pool 1, as described in Task 1b above.

D. As-Built Conditions

The City will submit a report (including topographic maps and vernal pool locations) to the USFWS within 6 weeks of completion of reestablishment of previous contours and distribution of inoculum, describing as-built status of the restoration project. If the site recontouring and inoculation are not completed within six weeks of each other, separate reports will be submitted describing those specific as-built conditions (separation of recontouring and inoculum distribution would only occur if recontouring were to occur during July or early August and inoculum introduction did not occur until late September or early October).

V. MAINTENANCE ACTIVITIES DURING THE MONITORING PERIOD

A. Maintenance Activities

Maintenance activities will ensure the success of the proposed restoration. Successful

reestablishment of native vegetation and hydrological conditions typically associated with vernal pools will limit establishment of most weedy non-native species. Because collection of inoculum will specifically avoid areas in the existing vernal pools which contain these plants, it is not expected that weedy species will be introduced to Vernal Pools 5 and 6, or the surrounding watershed inclusive of former Feature 7. Trash and other types of unwanted debris will be removed on a regular basis from all areas of the Project Site when the ground is dry. In addition, signage and fencing will be repaired as needed. Should weedy aquatic species become established in numbers or extent that removal is required, there would be potential for take of San Diego fairy shrimp cysts through trapping or dislocation. In order to minimize the potential for take, all weeding activities within Vernal Pools 5 and 6 will be conducted under the supervision of a qualified biologist named on the project Section 10(a)(1)(A) permit.

It is important to note that the vernal pools at Fairview Park generally only fill with water during above-average rainfall years and that when filling occurs, the period of inundation is sufficient to kill most upland and non-native grasses and forbs, which invade the pools during low rainfall years or periods of drought. During high rainfall years, the pools experience a "reset" as non-native upland species are eliminated and native vernal pool and other wetland species are dominant. As such, "weeding" within Vernal Pool Basin 6, will focus on invasive aquatic plants such as hyssop loosestrife (*Lythrum hyssopifolia*), brass buttons (*Costa coronopifolia*), rabbitfoot grass (*Polypogon monspeliensis*), curly dock (*Rumex crispus*), and prickly grass (*Cyperus* spp.). Maintenance, within the watershed of the Vernal Pool 5 and 6 complex will include removal of non-native annual grasses, including but not limited to: *Bromus* spp., *Avena* spp., *Hordeum* spp., and *Festuca perennis* and forbs including but not limited to: *Brassica* spp., *Raphanus sativus*, *Erodium* spp., and *Centaurea melitensis*.

Because of the potential for large rainfall years and associated long-term ponding to kill the non-native upland and annual grasses and forbs, if rainfall during the season preceding weeding results in exceptional ponding, an adaptive management approach will be implemented relative to weeding in Vernal Pool 5, in coordination with USFWS. Maintenance in the watershed areas will also include replacement of native scrub and grassland container plants that do not survive following installation to ensure that the performance standards set forth below are achieved within the five-year establishment period.

B. Responsible Parties

The City of Costa Mesa will be responsible for financing and ensuring that maintenance activities are funded and implemented.

City of Costa Mesa
77 Fair Drive
Costa Mesa, California 92628-1200
Contact: Mr. Baltazar Mejia
Telephone: (714) 754-5291

C. Maintenance Schedule

The restoration maintenance program will begin during implementation of the restoration activities and continue for five years, or until final success criteria are met. Maintenance activities will include trash and debris removal within the fenced area on a regular basis when the ground is dry and repair of signage and fencing and will occur on a quarterly basis during the monitoring period. Weeding of non-native upland and invasive aquatic plant species located in the vernal pool basins will be performed by hand only. Mechanized equipment such as weed-whips can be used in areas of watershed restoration for Vernal Pools 5 and 6 but cannot work within 25 feet of the outer extent of the pools as identified by pin flags denoting the limits of ponding.

VI. MONITORING ACTIVITIES FOR THE RESTORATION PLAN

A. Final Success Criteria

1. Target Fauna – San Diego Fairy Shrimp

Restoration of Vernal Pool 6 and restoration of the watershed associated with the Vernal Pool Complex will contribute to the recovery of the federally-listed San Diego fairy shrimp. In addition, it is assumed that with the installation of fencing, potential future impacts from vehicles will be eliminated, potential threats of degradation from other types of incursion will be minimized, and the functions associated with the existing vernal pools will be maintained.

Success Criteria 1: Criteria for target fauna will be met if gravid females of the San Diego fairy shrimp are present in the reestablished portion of Vernal Pool 6 during any two of the five monitoring seasons that exhibit ponding for a minimum duration necessary to support gravid females. If sufficient ponding does not occur during the five year period, then monitoring will be extended until sufficient rainfall occurs to induce sufficient ponding necessary for support of gravid females. If gravid female San Diego fairy shrimp are detected during two out of five years, then the success criteria are met. If gravid female San Diego fairy shrimp are not detected, the City will consult with USFWS to determine appropriate remedial measures.

2. Target Hydrological Regime

Hydrological contribution to the vernal pools will continue to originate as direct precipitation into the pools as well as drainage from the watersheds, which will be reestablished to baseline conditions as a result of re-contouring the foot path to ensure positive drainage towards Vernal Pools 5 and 6. In addition, removal of the irrigated turf and dense non-native weeds throughout the watershed will increase the hydrologic input to the Vernal Pool Complex. Any potential minor effects to the watershed associated with former Feature 7 resulting from the telephone pole indentations will also be remedied, reestablishing the baseline condition for the watershed. With implementation of the remedial measures in the watersheds of the Vernal Pool Complex, baseline conditions would be restored. Monitoring conducted during the 2016-2017 rainfall season demonstrated that ponding in Vernal Pools 5 and 6 is of sufficient depth, duration and quality to support San Diego fairy shrimp. Recontouring of Vernal Pool 6 and the former foot

path will ensure that hydrological conditions observed at Vernal Pools 5 and 6 are maintained or improved.

Success Criteria 2: The area where the foot path was removed and restored will exhibit positive drainage toward Vernal Pools 5 and 6, and will exhibit only de minimis ponding following rainfall events in areas where the foot path was removed adjacent to Vernal Pool 6. This is defined as ponding that is no more than a maximum of 0.25 inch deep, and cumulatively covers no greater than three square feet. Should ponding in the area where the foot path was removed and restored be observed more than 24 hours following a rainfall event and the ponding is not contiguous with the basin area of Vernal Pool 5 or 6, then remedial measures including minor recontouring and the addition of soil⁶, as needed, will be implemented until this success criterion is achieved.

Success Criteria 3: Ponding of sufficient depth, duration, and quality during consecutive days for Vernal Pools 5 and 6 to support gravid female San Diego fairy shrimp during at least two seasons during the five-year monitoring period. If gravid female San Diego fairy shrimp are not detected, the City will evaluate the hydrological data and consult with USFWS to determine appropriate remedial measures.

3. Target Vegetation

Restoration of native vegetation throughout the watershed of Vernal Pools 5 and 6, and former Feature 7 will contribute to maintaining the target hydrological regime by limiting the space available for non-native vegetation once it is removed. The species diversity and cover of native vegetation restored north of Vernal Pool 5 (Exhibit 3, "Turf Removal and CSS Planting") and throughout the watershed of Vernal Pools 5 and 6 will be monitored annually for five years or until success criteria are met.

Success Criteria 4: Native species cover within native grassland and coastal sage scrub will be at least 75-percent. Species diversity within the established native grassland and coastal sage scrub, based on the species included in the Plan (i.e., 11 species), will include 90-percent of the species planted (at least 1-percent relative cover of each species) at the completion of the restoration. Container plant survival should be at least 80-percent of the initial planting for the first five years, with all dead container stock replaced at the first and second anniversary of plant installation. Non-native species cover will be no greater than 5-percent and 10-percent of the basins and watersheds respectively (0-percent cover for weed species categorized as High or Moderate in the California Invasive Plant Council (Cal-IPC) Invasive Plant Inventory).

Historically, Vernal Pool 6 supported five native vernal pool or wetland plant species plus two non-native species that often occur in vernal pools or other seasonal wetlands. Native species included creeping spikerush (*Eleocharis palustris*), purslane speedwell (*Veronica peregrina* ssp. *xalapensis*), smooth spike primrose (*Epilobium pygmaeum*), alkali weed (*Cressa truxillensis*), and woolly marbles (*Psilocarphus brevissimus*). Non-natives included hyssop looseshrift (*Lycium hyssopifolia*) and curly dock (*Rumex crispus*). It is expected that the seed bank for these species remains extant and viable within the portions of Vernal Pool 6 that was not disturbed. Nevertheless,

⁶ Soil will be added as described in Section IV(C) (Implementation Plan), task 2

inoculum from Vernal Pool 1 will be incorporated into the reestablished areas as well as into the undisturbed portions of Vernal Pool 6 (Task 1b above).

Vernal Pool 1 includes a high diversity of vernal pool plants as well as vernal pool associated species. As such, the inoculum from Vernal Pool 1 will include a much higher level of diversity than has previously occurred in Vernal Pool 6.

Success Criteria 5: Vernal Pool 6 will support at least five native vernal pool or vernal pool-associated plant species with each species contributing at least two-percent of the relative cover.

B. Monitoring Methods

1. Fairy Shrimp Monitoring

Wet season surveys for San Diego fairy shrimp will be conducted by individuals holding a valid Section 10(a)(1)(A) permit for listed branchiopods in Restored Basins 5 and 6 for a minimum of 5 years in accordance with the accepted protocol for listed vernal pool branchiopods (Survey Guidelines for Listed Large Branchiopods) and until conditions allow for two complete wet season surveys. If ponding depth, duration, and quality are appropriate, but San Diego fairy shrimp are not detected in pools 5 or 6, the basin(s) will be inoculated with cysts collected from Vernal Pool 1 or Vernal Pool 4, as proposed in the current Plan. The presence of San Diego fairy shrimp was confirmed in both Vernal Pools 1 and 4 during 2016-2017 wet season surveys. Both Vernal Pools (1 and 4) were free of versatile fairy shrimp (*Branchinecta lindahli*), making the pools ideal candidates for source inoculate. Monitoring of Vernal Pools 5 and 6 will continue until at least two complete wet season surveys are conducted and result in positive detection of hatched San Diego fairy shrimp that reach a level of maturity sufficient for positive identification.

2. Hydrological Monitoring

Hydrological monitoring will be conducted in areas where the foot path was removed, near Vernal Pools 5 and 6, and in the watershed contributing to the Vernal Pool Complex. Hydrological monitoring will also include observations of ponding at historical Feature 7 to determine if ponding suitable for branchiopods and vernal pool vegetation occurs.

During the first rainy season following restoration of the area where the foot path was removed, hydrological monitoring will be conducted following storm events to determine if ponding is occurring in the area where the foot path was removed. If ponding is contiguous with Vernal Pool 5 or 6, then site visits will continue as needed to determine if a separate pond remains on the foot path as the water dissipates. Three years of hydrological monitoring will be performed between year one and year five to verify that positive drainage occurs following storm events.

Monitoring protocols will also include 1) review of water depth, ponding duration, temperature, and electroconductivity. In order to measure the depth of ponding in the reestablished portion of Vernal Pools 5 and 6, a pvc pipe (or similar device) with clearly identifiable centimeter markings

will be placed in the deepest area of each existing pool. During each monitoring visit following the onset of ponding, the pool depths at each location will be recorded to the nearest centimeter. In addition, during each visit the areal extent of ponding will be recorded with a tape measure to the nearest decimeter along the long and short axes of the vernal pool. In addition, the limits of ponding will be mapped using GPS, taking care not to leave foot-prints in the saturated ground immediately adjacent to the vernal pools. Water quality (temperature and electroconductivity) will also be recorded during each visit for each pool that exhibits ponding. Site photographs will also be taken during each monitoring visit.

An individual holding a valid Section 10(a)(1)(A) permit for listed branchiopods with appropriate credentials and experience or person named on the City's Section 10(a)(1)(A) permit for this project can perform hydrological monitoring. Specifically, the hydrological monitor must have a minimum of five years experience in vernal pool creation and/or restoration including quantitative hydrological sampling.

3. Vegetation Monitoring

Coastal Sage Scrub and Native Grasslands

Vegetation monitoring of the species diversity and cover of native vegetation restored north of Vernal Pool 5 and throughout the Complex will be measured annually for five years.

Monitoring Methods

The restoration site will be monitored for five years following the completion of plant installation unless final success criteria are achieved. The monitoring activities will consist of the measurement of performance indicators and assessment of these indicators relative to established performance criteria. The Project Biologist along with other qualified habitat restoration specialists or biologists shall perform monitoring. Continuity within the personnel and methodology of monitoring shall be maintained insofar as possible to ensure comparable assessments.

Qualitative Monitoring

The Project Biologist or those under supervision by the Project Biologist shall conduct qualitative monitoring surveys on a monthly basis for the first 12 months and quarterly thereafter for the remainder of the monitoring period. Qualitative surveys consisting of a general site walkover and habitat characterization shall be completed during each monitoring visit. General observations such as fitness and health of planted species, pest problems, weed establishment, mortality, and drought stress shall be noted during each site walkover. Records shall be kept of mortality and other problems such as insect damage and weed infestation. The Project Biologist shall determine remedial measures necessary to facilitate compliance with performance standards. All remedial measures undertaken shall be referenced in the annual monitoring reports.

Quantitative Monitoring

For the duration of the five-year monitoring period establishment of the coastal sage scrub and native grassland will be measured through a series of qualitative and quantitative measurements assessing native species cover, percent of planted species represented in the site, and non-native species cover. All of these, except for non-native species cover, should increase with time. If survival and cover requirements are not met, the City is responsible for replacement plantings to achieve these requirements. Replacement plants shall be monitored according to the same survival and growth requirements as initial plantings for the duration of the restoration activities.

Quantitative monitoring will assess the attainment of annual and final success criteria and identify the need to implement contingency measures in the event of failure. Monitoring methods include an annual census of dead and/or declining plant stock, visual estimates of cover, and field sampling techniques that are based in accordance with the methodology developed by the California Native Plant Society (CNPS)⁸. Please refer to *A Manual of California Vegetation* for further details on this sampling method.

Sampling Techniques for Vegetation Cover and Diversity

Percent canopy cover of the native grassland and coastal sage scrub plantings will be measured by using the point-intercept sampling method centered in a 2-meter by 50-meter plot. Two transects will be located within the coastal sage scrub on the slope, two transects will be located in the coastal sage scrub planted along the perimeter of the Complex and three transects will be located within the native grassland areas within the interior of the Complex. At each 0.5-meter interval along each transect (beginning at the 50-cm mark and ending at 50-meter), a point is projected vertically into the vegetation. Each plant species intercepted by a point is recorded, providing a tally of hits for each species in the herbaceous, shrub, and tree canopies, making it possible to record more than 100 hits in any 50-meter transect. Percent cover for each species, according to vegetation layer (herb, shrub, and tree) can be calculated from these data. A list of all additional species within the 250 square-meter belt is subsequently made. The starting point for each transect will be randomly located, using a random numbers table for the first sampling event and permanently marked to facilitate their use in subsequent years.

Photo-Documentation

Permanent stations for photo-documentation will be established during the first annual quantitative monitoring event. Photos shall be taken during each monitoring period from the same vantage point and in the same direction each year, and shall reflect material discussed in the annual monitoring report.

Monitoring Schedule

It is anticipated that all restoration site vegetation will be installed at the same time each year and that annual monitoring will occur in one collective monitoring event per year. Quantitative

⁸ Sawyer, John O. and Todd Keeler-Wolf. 1995. *A Manual of California Vegetation*. California Native Plant Society.

Permanent stations for photo-documentation will be established during the first annual monitoring event. Photos shall be taken during each of the three monitoring periods from the same vantage point and in the same direction each monitoring year and shall reflect material discussed in the annual monitoring report.

Photo-Documentation

As previously noted, Vernal Pool 5 will be subject to enhancement through introduction of meter transects, that will be established on each side of the pool to capture the diversity and cover of the enhanced pool margins.

For Vernal Pool 6, vegetative cover will be determined by conducting vegetative sampling along established transects within the restored pool. Sampling will be conducted up to three times each season: during the aquatic phase immediately adjacent to ponded areas, immediately upon drying of the basin, and approximately one month following drying of the restored Vernal Pool 6. Two 15-meter transects will be placed randomly (using a random numbers table or similar device) on the north-south axis of the pool and one transect on the east-west axis. Beginning at one meter and continuing at each half-meter through 15 meters, a two-decimeter quadrat will be placed adjacent to the transect tape, alternative sides with each subsequent sample. Percent cover of all species combined, percent cover of non-native species (also combined) along with all species identified within the quadrat will be recorded.

Vernal Pool Plant Species

- Data addressing survival and/or replacement of container stock, percent cover of native and non-native species, and diversity of volunteer species within the restoration site;
- Cover and diversity data and associated analysis relative to the Performance Standards; Regional and vicinity maps indicating the location of the restoration site;
- A site plan identifying the target habitat and restoration, quadrat or transect locations, fixed photo-point locations and appropriate compass directions in which photographs are taken, photo-point geographic coordinates (latitude and longitude), and other information as needed;
- A list of names, titles, and companies of all persons involved in conducting monitoring event(s) and preparing the annual report; and
- An analysis of all qualitative and quantitative monitoring data that includes a summary of field data sheets.

Annual monitoring reports will include the following:

Monitoring Reports

monitoring will be conducted during the month of June during the first year and every year thereafter until all five-year success criteria have been met:

From: DALTON, KELLY M.
Bcc: PRICE, SUSAN; MINTER, JASON; "clarwood@octa.net"; "lhill@octa.net"; "William_B_Miller@fws.gov"; "jennifer.blackhall@wildlife.ca.gov"; "Jennifer.Turner@wildlife.ca.gov"; Barry Nerhus; Lyell Buttemore; Lesley Hill; Miller, William B.; Charlie Larwood; Troeller, Alexandra@Wildlife; mdimson@endemicenvironmental.net
Subject: Fairview Park Wetland & Riparian Habitat Meeting 3/7/22 - Agenda
Date: Monday, March 7, 2022 2:10:00 PM

Good afternoon,

Please see the agenda below for today's meeting:

AGENDA
Fairview Park Wetland & Riparian Habitat Phase II Mitigation
3/3/2022

1. Introductions
2. Habitat mitigation responsibilities:
 - a. Comparison of habitat coverage types in approved restoration plan vs. current coverage acreages
 - b. Grassland habitat alternatives review
 - c. Tar plant mitigation accounting
 - d. Oak report
3. Maintenance access permit
4. Conservation instrument over the OCTA restoration area
 - a. CE area contingent upon the result of the grasslands habitat determination
5. Next meeting scheduling
6. Any other business

Thank you,

Kelly Dalton
Fairview Park Administrator
Parks and Community Services Department
City of Costa Mesa
kelly.dalton@CostaMesaCA.gov
714-754-5135

From: [Turner, Jennifer@Wildlife](mailto:Turner.Jennifer@Wildlife)
To: [DALTON, KELLY M.](#)
Subject: Wetland permitting obligations at Fairview Park
Date: Thursday, February 23, 2023 10:59:49 AM

Hi Kelly,

Thanks for taking my call yesterday. I appreciate that the City has been internally reviewing the various mitigation obligations in Fairview Park. CDFW also appreciates that permitting under Fish and Game Code 1600 et seq. has been part of the conversation. Again, without notification per this section of the Fish and Game Code, activities within the bed, bank, or channel of a stream or within the ponds in Fairview Park may constitute a violation. We encourage the City to submit notifications ASAP for any activities that will occur in the ponds.

I'm hoping to check in with my management team about submitting comments on the fly field issue later today.

We appreciate your coordination. Sincerely,

Jennifer Turner

Senior Environmental Scientist (Supervisor)
California Department of Fish and Wildlife
South Coast Region 5
3883 Ruffin Road
San Diego, CA 92123
Office: (858) 467-2717
Mobile: (858) 539-9109

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe. Report any suspicious activities to the Information Technology Department.

From: [DALTON, KELLY M.](#)
To: Turner_Jennifer@Wildlife
Subject: RE: Wetland permitting obligations at Fairview Park
Date: Tuesday, March 7, 2023 7:52:00 AM

Good morning Jennifer,

I was just checking in on whether there was an interest in CDFW submitting comments to the fly field issue that we had discussed, as the staff report is just beginning circulating through departments for review. We can still make changes/additions in the next few days but the sooner I know, the better for the purposes of incorporating agency guidance into the report.

As it stands now, the staff recommendation in the report is to close the fly field and discontinue the model activity in the park due to a variety of environmental constraints, safety concerns, and infeasibility with required resource protection measures at the site. These constraints and issues are more thoroughly described and each is substantiated in the current staff report. The environmental-related span issues including vernal pool watershed impacts, special-status species impacts, and site modifications/disturbance that have resulted from the activity over time.

Thanks again for the courtesy call regarding the FGC 1600 activities, and I am working on incorporating these maintenance activities into the application. I appreciate CDFW's assistance as we work through all of these items in Fairview Park.

Best,

Kelly Dalton
Fairview Park Administrator
Parks and Community Services Department
City of Costa Mesa
kelly.dalton@CostaMesaCA.gov
714-754-5135

From: Turner, Jennifer@Wildlife <Jennifer.Turner@wildlife.ca.gov>
Sent: Thursday, February 23, 2023 11:00 AM
To: DALTON, KELLY M. <KELLY.DALTON@costamesaca.gov>
Subject: Wetland permitting obligations at Fairview Park

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From: [Turner, Jennifer@Wildlife](mailto:Turner.Jennifer@Wildlife)
To: [DALTON, KELLY M.](#)
Subject: RE: Wetland permitting obligations at Fairview Park
Date: Tuesday, March 7, 2023 10:09:44 AM

Hi Kelly,

I can try and provide comments, though it may be an email and not a formal letter. Is there an official notice that we would be responding to? If so can you send it to me?

With regard to the streambed issue: please let me know if I can assist with submittal of the notification. I anticipate that without notification(s) submitted ASAP, that additional steps to remedy the issue will be taken by the Department.

Sincerely,

Jennifer Turner

Senior Environmental Scientist (Supervisor)
California Department of Fish and Wildlife
South Coast Region 5
3883 Ruffin Road
San Diego, CA 92123
Office: (858) 467-2717
Mobile: (858) 539-9109

From: DALTON, KELLY M. <KELLY.DALTON@costamesaca.gov>
Sent: Tuesday, March 7, 2023 7:52 AM
To: Turner, Jennifer@Wildlife <Jennifer.Turner@wildlife.ca.gov>
Subject: RE: Wetland permitting obligations at Fairview Park

WARNING: This message is from an external source. Verify the sender and exercise caution when clicking links or opening attachments.

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Best,

Kelly Dalton
Fairview Park Administrator
Parks and Community Services Department
City of Costa Mesa
kelly.dalton@CostaMesaCA.gov
714-754-5135

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Sent: Thursday, February 23, 2023 11:00 AM
To: DALTON, KELLY M. <KELLY.DALTON@costamesaca.gov>
Subject: Wetland permitting obligations at Fairview Park

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We appreciate your coordination. Sincerely,

Jennifer Turner

Senior Environmental Scientist (Supervisor)
California Department of Fish and Wildlife
South Coast Region 5
3883 Ruffin Road
San Diego, CA 92123
Office: (858) 467-2717
Mobile: (858) 539-9109

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From: [DALTON, KELLY M.](#)
To: [Turner, Jennifer@Wildlife](mailto:Turner.Jennifer@Wildlife)
Subject: RE: Wetland permitting obligations at Fairview Park
Date: Tuesday, March 14, 2023 3:51:00 PM

Hi Jennifer,

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Parks and Community Services Department
City of Costa Mesa
kelly.dalton@CostaMesaCA.gov
714-754-5135

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To: [DALTON, KELLY M.](mailto:DALTON.KELLY.M)
Subject: RE: Wetland permitting obligations at Fairview Park
Date: Wednesday, March 15, 2023 10:46:11 AM

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To: [Turner, Jennifer@Wildlife](mailto:Turner.Jennifer@Wildlife)
Subject: RE: Wetland permitting obligations at Fairview Park
Date: Wednesday, March 15, 2023 2:51:00 PM
Attachments: [Draft FVP Flying Field Closure Report March 2023.docx](#)

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From: [DALTON, KELLY M.](#)
To: Turner_Jennifer@Wildlife
Subject: RE: Wetland permitting obligations at Fairview Park
Date: Friday, March 17, 2023 11:12:00 AM

Hi Jennifer,

Are you available on March 27th sometime before noon to meet regarding the LSA?

Thanks again for the guidance and input regarding the fly field issue. If you have the email message regarding that item today, that would be helpful as we are on schedule to present our report and recommendations for fly field closure during Tuesday night's (March 21) city council meeting. The sooner we have it, the better.

Today is our flex (off) Friday but I am in the office for a few hours to work on the powerpoint presentation for the fly field item. It is likely to be a contentious discussion, but we are confident that the breadth of biological resources and environmental considerations highlight the resolution that best serves the park's unique resources.

Thanks again!

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Subject: RE: Wetland permitting obligations at Fairview Park
Date: Friday, March 17, 2023 11:27:45 AM

Hi Kelly-

Yes, I can meet on the 27th- I've got 9-11, 3:30-4:30 open.

I just got something from the scientist today on the fly field issue- I'll try to get it reviewed before breaking for lunch.

--Jenn

From: DALTON, KELLY M. <KELLY.DALTON@costamesaca.gov>
Sent: Friday, March 17, 2023 11:13 AM
To: Turner, Jennifer@Wildlife <Jennifer.Turner@wildlife.ca.gov>
Subject: RE: Wetland permitting obligations at Fairview Park

WARNING: This message is from an external source. Verify the sender and exercise caution when clicking links or opening attachments.

Hi Jennifer,

Are you available on March 27th sometime before noon to meet regarding the LSA?

Thanks again for the guidance and input regarding the fly field issue. If you have the email message regarding that item today, that would be helpful as we are on schedule to present our report and recommendations for fly field closure during Tuesday night's (March 21) city council meeting. The sooner we have it, the better.

Today is our flex (off) Friday but I am in the office for a few hours to work on the powerpoint presentation for the fly field item. It is likely to be a contentious discussion, but we are confident that the breadth of biological resources and environmental considerations highlight the resolution that best serves the park's unique resources.

Thanks again!

Kelly Dalton
Fairview Park Administrator
Parks and Community Services Department
City of Costa Mesa
kelly.dalton@CostaMesaCA.gov
714-754-5135

From: DALTON, KELLY M.

Sent: Wednesday, March 15, 2023 2:52 PM

To: 'Turner, Jennifer@Wildlife' <Jennifer.Turner@wildlife.ca.gov>

Subject: RE: Wetland permitting obligations at Fairview Park

Hi Jennifer,

I've attached a draft of the staff report which is still being circulated for internal review, hopefully this provides some useful context and background information that helps inform our current staff recommendation. Please note this is just a draft at the moment.

I'll circle back with you about a couple dates in last week of March to scope the LSA application.

Thanks for your help!

Kelly Dalton

Fairview Park Administrator

Parks and Community Services Department

City of Costa Mesa

kelly.dalton@CostaMesaCA.gov

714-754-5135

From: Turner, Jennifer@Wildlife <Jennifer.Turner@wildlife.ca.gov>

Sent: Wednesday, March 15, 2023 10:46 AM

To: DALTON, KELLY M. <KELLY.DALTON@costamesaca.gov>

Subject: RE: Wetland permitting obligations at Fairview Park

Hi Kelly,

I'll be having one of our staff send an email regarding the airfield by this Friday- thanks so much for giving us the opportunity to weigh in!

CDFW is happy to scope the LSA nuances with y'all. Would you like to provide some availability for the City to meet on the routine Maintenance Agreement? I'm out the first three weeks in April, so the last week of March or the last week of April would be ideal.

Cheers,

Jenn Turner

From: DALTON, KELLY M. <KELLY.DALTON@costamesaca.gov>

Sent: Tuesday, March 14, 2023 3:52 PM

To: Turner, Jennifer@Wildlife <Jennifer.Turner@wildlife.ca.gov>

Subject: RE: Wetland permitting obligations at Fairview Park

WARNING: This message is from an external source. Verify the sender and exercise caution when clicking links or opening attachments.

Hi Jennifer,

It would not be an official notice that you'd be responding to at this time, but the message could be in the form of a response to the City's consideration of the status of the model flying activity in Fairview Park for gliders. If one is sent, it would probably be best its own thread separate from this email chain about the routine maintenance items. I will share the flying field staff report with you as soon as the agenda posts, as it is still circulating for review and revision; our current staff recommendation is for permanent closure of the flying activity/field. Currently the item is planned to be presented either at the March 21 or April 4th city council meeting.

Regarding the streambed issue, I was looking back at some of the earlier communication with the City, and previously you had mentioned setting up a scoping meeting to discuss the routine maintenance agreement activities. As I work through the Activity Details section and other parts of the routine maintenance agreement application, I see there is quite a bit more technical detail needed as to the quantity and quality of activities covered as well as duration, so I think a meeting with City staff and our contracted biologist would be helpful.

As you know, all of the maintenance activities we perform are also part of the contractual agreements with the two mitigation parties that pursued mitigation in Fairview Park, some of which we are still sorting out issues with the project. The upkeep of the wetlands system has also been escalated in the past due to concerns over elevated mosquito activity and public health issues which have occurred in the vicinity, and create substantial ongoing maintenance needs and costs. We appreciate CDFW's ongoing guidance as we work to navigate multiple layers of contractual obligations with this system, the mitigation commitments, the California Health and Safety Code (for mosquito activity) and the Fish and Game Code for biological resources protection in this area.

Sincerely,

Kelly Dalton
Fairview Park Administrator
Parks and Community Services Department
City of Costa Mesa
kelly.dalton@CostaMesaCA.gov
714-754-5135

From: Turner, Jennifer@Wildlife <Jennifer.Turner@wildlife.ca.gov>

Sent: Tuesday, March 7, 2023 10:10 AM

To: DALTON, KELLY M. <KELLY.DALTON@costamesaca.gov>

Subject: RE: Wetland permitting obligations at Fairview Park

Hi Kelly,

I can try and provide comments, though it may be an email and not a formal letter. Is there an official notice that we would be responding to? If so can you send it to me?

With regard to the streambed issue: please let me know if I can assist with submittal of the notification. I anticipate that without notification(s) submitted ASAP, that additional steps to remedy the issue will be taken by the Department.

Sincerely,

Jennifer Turner

Senior Environmental Scientist (Supervisor)
California Department of Fish and Wildlife
South Coast Region 5
3883 Ruffin Road
San Diego, CA 92123
Office: (858) 467-2717
Mobile: (858) 539-9109

From: DALTON, KELLY M. <KELLY.DALTON@costamesaca.gov>
Sent: Tuesday, March 7, 2023 7:52 AM
To: Turner, Jennifer@Wildlife <Jennifer.Turner@wildlife.ca.gov>
Subject: RE: Wetland permitting obligations at Fairview Park

WARNING: This message is from an external source. Verify the sender and exercise caution when clicking links or opening attachments.

Good morning Jennifer,

I was just checking in on whether there was an interest in CDFW submitting comments to the fly field issue that we had discussed, as the staff report is just beginning circulating through departments for review. We can still make changes/additions in the next few days but the sooner I know, the better for the purposes of incorporating agency guidance into the report.

As it stands now, the staff recommendation in the report is to close the fly field and discontinue the model activity in the park due to a variety of environmental constraints, safety concerns, and infeasibility with required resource protection measures at the site. These constraints and issues are more thoroughly described and each is substantiated in the current staff report. The environmental-related span issues including vernal pool watershed impacts, special-status species impacts, and site modifications/disturbance that have resulted from the activity over time.

Thanks again for the courtesy call regarding the FGC 1600 activities, and I am working on incorporating these maintenance activities into the application. I appreciate CDFW's assistance as we work through all of these items in Fairview Park.

Best,

Kelly Dalton
Fairview Park Administrator
Parks and Community Services Department
City of Costa Mesa
kelly.dalton@CostaMesaCA.gov
714-754-5135

From: Turner, Jennifer@Wildlife <Jennifer.Turner@wildlife.ca.gov>
Sent: Thursday, February 23, 2023 11:00 AM
To: DALTON, KELLY M. <KELLY.DALTON@costamesaca.gov>
Subject: Wetland permitting obligations at Fairview Park

Hi Kelly,

Thanks for taking my call yesterday. I appreciate that the City has been internally reviewing the various mitigation obligations in Fairview Park. CDFW also appreciates that permitting under Fish and Game Code 1600 et seq. has been part of the conversation. Again, without notification per this section of the Fish and Game Code, activities within the bed, bank, or channel of a stream or within the ponds in Fairview Park may constitute a violation. We encourage the City to submit notifications ASAP for any activities that will occur in the ponds.

I'm hoping to check in with my management team about submitting comments on the fly field issue later today.

We appreciate your coordination. Sincerely,

Jennifer Turner

Senior Environmental Scientist (Supervisor)
California Department of Fish and Wildlife
South Coast Region 5
3883 Ruffin Road
San Diego, CA 92123
Office: (858) 467-2717
Mobile: (858) 539-9109

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From: [Turner, Jennifer@Wildlife](mailto:Turner_Jennifer@Wildlife)
To: [DALTON, KELLY M.](#)
Subject: Fly Field Closure
Date: Monday, March 20, 2023 11:51:09 AM
Attachments: [Draft FVP Flying Field Closure Report March 2023.docx](#)

Hello Kelly,

In response to our conversation a few weeks ago and our most recent email exchange, CDFW would be supportive if the City was to eliminate the model aircraft flying activity in Fairview Park. As a State Trustee Agency for natural resources sees the current activities at Fairview Park as potentially adverse to a variety of sensitive plant and wildlife species as well as valuable habitat types, including vernal pools, coastal sage scrub, and riparian vegetation. Currently, the designated model aircraft flying area directly overlaps with these habitats.

Sensitive wildlife species are found in and adjacent to the designated flying area, including burrowing owl (*Athene cunicularia*; CDFW Species of Special Concern (SSC)), white-tailed kite (*Elanus leucurus*; Fully Protected), northern harrier (*Circus hudsonius*; SSC), coastal California gnatcatcher (*Poliophtila californica californica*; SSC, Federal Endangered Species Act (ESA) listed-threatened), San Diego fairy shrimp (*Branchinecta sandiegonensis*; Federal ESA listed-endangered), and Riverside fairy shrimp (*Streptocephalus woottoni*; Federal ESA listed-endangered). Sensitive plant species in and adjacent to the flying area include San Diego button celery (*Eryngium aristulatum* var. *parishii*; California Endangered Species Act listed-endangered, Federal ESA listed-endangered, California Rare Plant Rank (CRPR) 1B.1), Orcutt's grass (*Orcuttia californica*; Federal ESA listed-endangered, CRPR 1B.1), , prostrate navarretia (*Navarretia prostrata*; CRPR 1B.2), and small-flowered microseris (*Microseris douglasii* ssp. *platycarpha*; CRPR 4.2).

CDFW would like to express our support for full closure of the flying field due to impacts to sensitive biological resources. Small, unmanned aircraft have high potential to disturb sensitive avian species and can cause physiological stress and decreases in reproduction and survival (Mulero-Pázmány et al., 2017). We are especially concerned about impacts to raptor species which forage on the mesa near the flying field and may mistake a model craft for a competing predator. Smaller birds such as coastal California gnatcatcher may also identify craft as birds of prey; similar instances with other species have occurred locally. For example, in 2021, a drone crash led to the abandonment of approximately 1,500 elegant tern nests at CDFW-owned-and-managed Bolsa Chica Ecological Reserve, only seven miles northwest of Fairview Park. We are concerned that continued operation of the flying field could lead to similar direct and indirect impacts to sensitive avian resources there.

Fairview Park supports one of the last coastal terrace vernal pools complexes in Orange County. Conservation and management of the San Diego fairy shrimp and its habitat in Fairview Park and other vernal pool complexes in the Los Angeles Basin-Orange Management Area is one of the criteria identified for recovery of the San Diego fairy shrimp in the U.S. Fish and Wildlife Service's Recovery Plan for Vernal Pools of Southern California. Vernal pools in Fairview Park also support several plant species that are locally rare (City 2008; Chung 2010). Model aircraft activity at the flying field results in degradation of vernal pool habitats at Fairview Park when uncontrolled landings and associated vegetation trampling occur. For the above reasons, CDFW would be in support of a closure which

would eliminate this source of pedestrian disturbance for the sensitive habitats present on site.

If you have any questions or comments regarding this email please contact me directly.

Sincerely,

Jennifer Turner

Senior Environmental Scientist (Supervisor)

California Department of Fish and Wildlife

South Coast Region 5

3883 Ruffin Road

San Diego, CA 92123

Office: (858) 467-2717

Mobile: (858) 539-9109

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From: DALTON, KELLY M.
To: jonathan_d_snyder@fws.gov
Subject: Tewinkle Parks Lake Renovation project in Costa Mesa
Date: Tuesday, July 20, 2021 11:32:00 AM
Attachments: [image003.png](#)

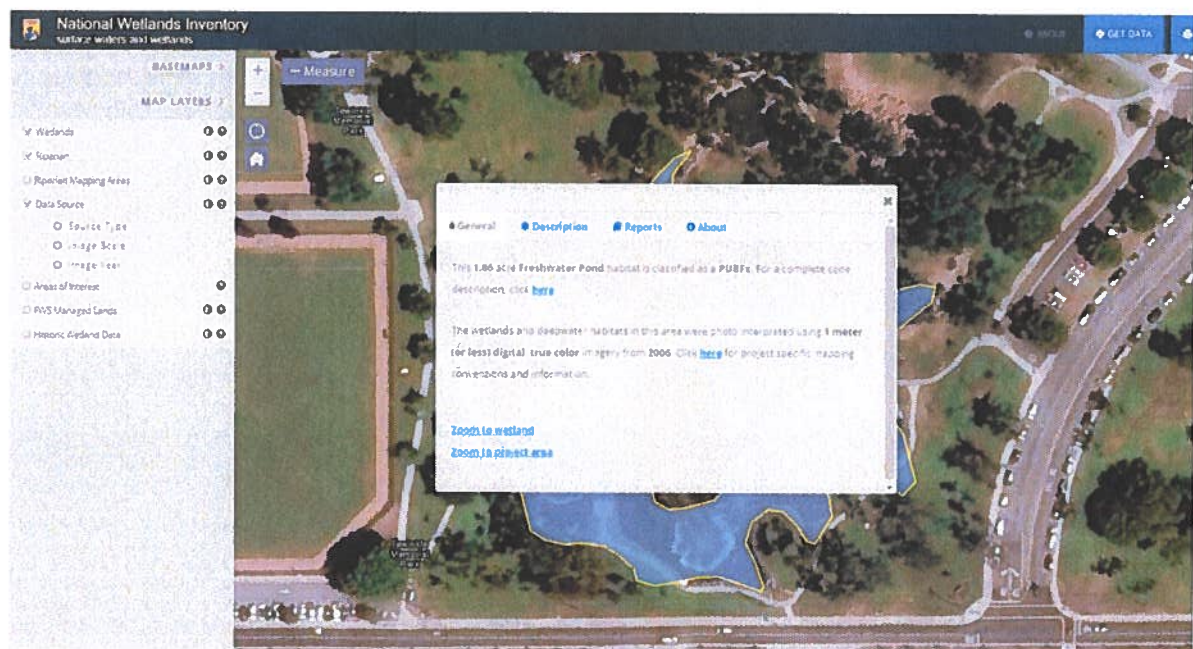
Good morning Jonathan,

I was provided your contact information from our interim City Engineer, Bart Mejia, who previously worked with you on items relating to Fairview Park.

On a separate note, we're starting on a design project here in Costa Mesa to evaluate renovation improvements on the ornamental lakes in Tewinkle Park, located at 970 Arlington Drive. Some of the design elements being evaluated include systems/tools to improve water quality, dredging/removal of excess sediment accumulation, relining of the lakes to reduce water loss, and modifications to the water features and perimeter to improve circulation and reduce erosion and scouring, amongst others.

In researching the lake systems, we note that the lakes are shown in the USFWS wetlands mapper interface ([Wetlands Mapper \(fws.gov\)](https://wetlands.fws.gov/)), and are classified as a PUBFx (see image below). As we're currently discussing with the design consultant to define their scope of work prior to awarding the design contract, we'd like to know what USFWS requirements are as it relates to this listing/classification, so we can account for any additional scope that may be necessary in order to execute the project.

Thanks in advance for any information you can provide, and let me know if you have any questions.



Regards,

Kelly Dalton
Associate Engineer
Engineering – Public Services Dept.
City of Costa Mesa
kelly.dalton@costamesa.gov
(714) 754-5275

From: DALTON, KELLY M.
To: jonathan_d_snyder@fws.gov
Subject: RE: Tewinkle Parks Lake Renovation project in Costa Mesa
Date: Tuesday, July 20, 2021 11:44:00 AM
Attachments: [Image001.png](#)

Hi Jonathan,

I just wanted to add a bit more information about the lakes mentioned in my prior email. The ornamental lakes are man-made, supplied by potable water, and were originally built in 1977. They are not connected to any urban surface drainage system aside from the minimal amount of landscaped surface around the perimeter of the lakes (i.e., the lakes are self-contained).

Please let me know if you need any further information, and thanks again.

Regards,

Kelly Dalton
Associate Engineer
Engineering – Public Services Dept.
City of Costa Mesa
kelly.dalton@costamesa.gov
(714) 754-5275

From: DALTON, KELLY M.
Sent: Tuesday, July 20, 2021 11:33 AM
To: 'jonathan_d_snyder@fws.gov' <jonathan_d_snyder@fws.gov>
Subject: Tewinkle Parks Lake Renovation project in Costa Mesa

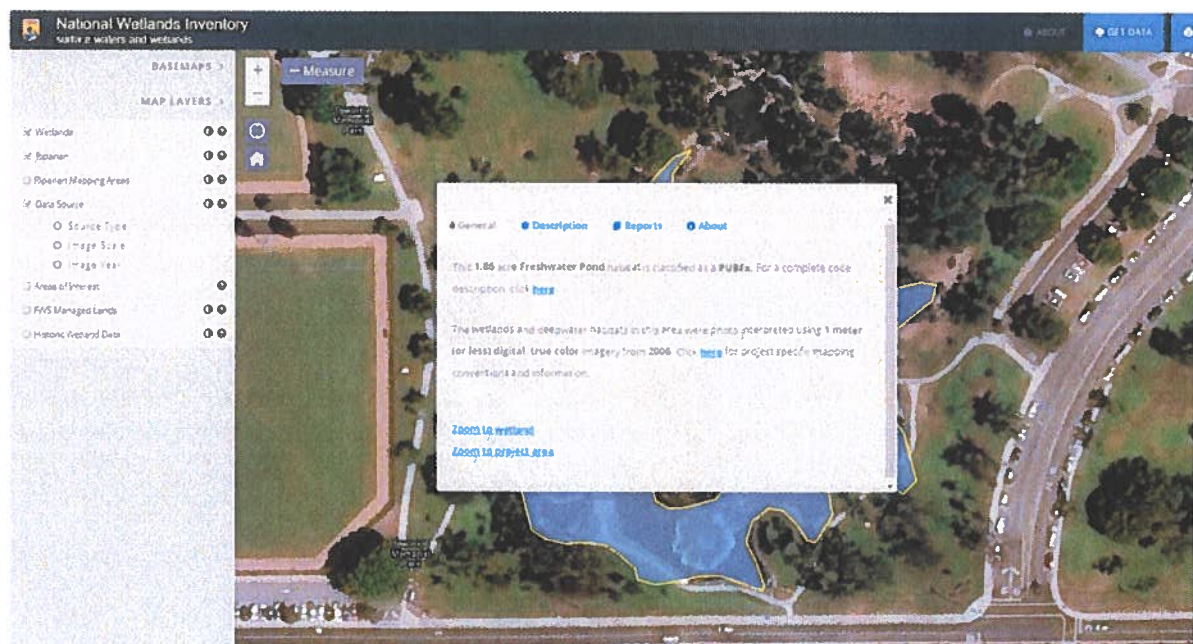
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Thanks in advance for any information you can provide, and let me know if you have any questions.



Regards,

Kelly Dalton
Associate Engineer
Engineering - Public Services Dept.
City of Costa Mesa
kelly.dalton@costamcsaca.gov
(714) 754-5275

From: [LETTERMAN, MADDY R.](#)
To: christine_medak@fws.gov
Cc: [D"AGOSTA, CYNTHIA](#)
Subject: Vernal Pool Map Source
Date: Monday, June 4, 2018 1:28:57 PM
Attachments: [USFWS Vernal Pool Delineation Map.PNG](#)

Hi Chris,

This is Maddy Letterman (we met 1 or 2 months ago at Fairview Park). Cynthia asked for a website reference to a map that was used by a Committee member in our last Fairview Park Steering Committee. I have the map attached to this email and if you could identify the source that would be greatly appreciated.

Thank you,

Maddy Letterman

Recreation Leader III

Fairview Park Assistant

Costa Mesa – Parks & Community Services Department

Parks Make Life Better!

From: [Medak, Christine](#)
To: [LETTERMAN, MADDY R.](#)
Subject: Re: [EXTERNAL] Vernal Pool Map Source
Date: Monday, June 4, 2018 2:03:49 PM
Attachments: [13B0443-14TA0229_OR_Fairview Park VP Remediation Measures_s20140724_kag.pdf](#)

Maddy,

Attached is the letter we submitted to the City that includes the map you identified.

Christine L. Medak
Fish and Wildlife Biologist
U.S. Fish and Wildlife Service
2177 Salk Avenue, Suite 250
Carlsbad, CA 92008
Phone: (760) 431-9440 ext. 298
Fax: (760) 431-9624
<http://www.fws.gov/carlsbad/>

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Follow us on Twitter at <http://twitter.com/USFWSPacSWest>

"I'd like to offer a plug for actually having the natural processes instead of having to simulate them."

— Nadav Nur, PRBO Conservation Science

On Mon, Jun 4, 2018 at 1:28 PM, LETTERMAN, MADDY R.
<MADDY.LETTERMAN@costamesaca.gov> wrote:

Hi Chris,

This is Maddy Letterman (we met 1 or 2 months ago at Fairview Park). Cynthia asked for a website reference to a map that was used by a Committee member in our last Fairview Park Steering Committee. I have the map attached to this email and if you could identify the source that would be greatly appreciated.

Thank you,

Maddy Letterman

Recreation Leader III

Fairview Park Assistant

Costa Mesa – Parks & Community Services Department

Parks Make Life Better!

From: [Medak, Christine](#)
To: [D'AGOSTA, CYNTHIA](#)
Cc: [AGUILAR, YVETTE](#); [PRICE, SUSAN](#)
Subject: Re: [EXTERNAL] Fwd: Costa Mesa Fire And Rescue Crews To Conduct Training In Fairview Park To Prep For Wildland Fire Season
Date: Tuesday, June 9, 2020 10:35:28 AM

Thank-you for your quick response. Would you like me to forward your response to Kim or do you want to coordinate with her directly?

Christine L. Medak
Fish and Wildlife Biologist
U.S. Fish and Wildlife Service
2177 Salk Avenue, Suite 250
Carlsbad, CA 92008
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"I'd like to offer a plug for actually having the natural processes instead of having to simulate them."
— Nadav Nur, PRBO Conservation Science

From: D'AGOSTA, CYNTHIA <CYNTHIA.DAGOSTA@costamesaca.gov>
Sent: Tuesday, June 9, 2020 10:02 AM
To: Medak, Christine <Christine_Medak@fws.gov>
Cc: AGUILAR, YVETTE <YVETTE.AGUILAR@costamesaca.gov>; PRICE, SUSAN <SUSAN.PRICE@costamesaca.gov>
Subject: RE: [EXTERNAL] Fwd: Costa Mesa Fire And Rescue Crews To Conduct Training In Fairview Park To Prep For Wildland Fire Season

Good morning Chris,

This training is a regional training that the City of Costa Mesa Fire hosts every few years. They also use Talbert and Canyon Parks. Our Departments worked together to modify the training for Fairview Park this year and are doing "brush clearing with hand tools only" at this location. There will be no helicopter used any longer at FVP for trainings, and no power tools/equipment.

The area that will be used for brush clearing is along the southern most edge of the park and vernal pool 4 watershed, along the trail and backs of homes, between Pacific Ave and Canyon Drive. The training is for 3 days and will address an area of the park that the City normally clears for a 100' fire set back this time of year.

The City regularly has bird surveys done prior to any work at the park; one was conducted yesterday

by Endemic Environmental, and the biologists have viewed the area for plants. Endemics staff that are on site this week are aware of the work and will be periodically stopping by, they are in direct contact with myself and the on-site Fire Department staff should something come up.

One of the modifications to this site that makes the helicopter no longer viable here, is that most of the watershed of vernal pool 4 is protected now by a temporary type of fencing around the border, in the area where the copter would land. We've also closed off some user defined, duplicative, narrow trails in the watershed as well.

Hope that helps. Let me know if you have any further questions.

Thanks,

Cynthia D'Agosta
Fairview Park Administrator,
Parks and Community Services Department,
Costa Mesa CA 92627
Office: 714-754-5135

From: Medak, Christine [mailto:Christine_Medak@fws.gov]

Sent: Tuesday, June 9, 2020 7:24 AM

To: D'AGOSTA, CYNTHIA <CYNTHIA.DAGOSTA@costamesaca.gov>

Subject: Fw: [EXTERNAL] Fwd: Costa Mesa Fire And Rescue Crews To Conduct Training In Fairview Park To Prep For Wildland Fire Season

Hi Cynthia,

I believe Kim is looking for the specific measures that the City will be taking to ensure the Fire and Rescue Crew are aware of the location of sensitive resources and that they will avoid those areas. Can you please let me know what precautions are being taken to prevent the training from occurring in areas where birds are nesting or where federally listed plants and animals occur?

Christine L. Medak
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U.S. Fish and Wildlife Service
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"I'd like to offer a plug for actually having the natural processes instead of having to simulate them."
— Nadav Nur, PRBO Conservation Science

From: Kim Hendricks <hendrickskia@sbcglobal.net>
Sent: Monday, June 8, 2020 8:13 PM
To: D'AGOSTA, CYNTHIA <CYNTHIA.D'AGOSTA@costamesaca.gov>
Subject: [EXTERNAL] Fwd: Costa Mesa Fire And Rescue Crews To Conduct Training In Fairview Park To Prep For Wildland Fire Season

Hi Cynthia,

This is the second year the Fire Dept has conducted fire training in Fairview Park.

This seems like a very bad idea primarily because they trample the watershed of vernal pool 4 and the vehicles and helicopter contribute to the degradation and erosion of the bluffs.

I am disappointed that this was allowed once again and had hoped the resources in Fairview Park would be protected by the city instead of disregarded.

Why did you allow this?

Sincerely,
Kim Hendricks

Sent from my iPhone

Begin forwarded message:

From: City of Costa Mesa <webmaster@costamesaca.gov>
Date: June 8, 2020 at 3:16:50 PM PDT
To: hendrickskia@sbcglobal.net
Subject: Costa Mesa Fire And Rescue Crews To Conduct Training In Fairview Park To Prep For Wildland Fire Season
Reply-To: webmaster@costamesaca.gov

**Costa Mesa Fire And Rescue Crews To Conduct Training In
Fairview Park To Prep For Wildland Fire Season**

Post Date: 06/08/2020 3:15 pm

City of Costa Mesa has sent you a News item. To view this item, please go to
<https://www.cityofcostamesanews.com/costa-mesa-fire-and-rescue-crews-to-conduct-training-in-fairview-park-to-prep-for-wildland-fire-season/>

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From: [Medak, Christine](#)
To: [D'AGOSTA, CYNTHIA](#)
Cc: [AGUILAR, YVETTE](#); [PRICE, SUSAN](#)
Subject: Re: [EXTERNAL] Fwd: Costa Mesa Fire And Rescue Crews To Conduct Training In Fairview Park To Prep For Wildland Fire Season
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Sent: Tuesday, June 9, 2020 10:02 AM
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Fairview Park Administrator,
Parks and Community Services Department,
Costa Mesa CA 92627
Office: 714-754-5135

From: Medak, Christine [mailto:Christine_Medak@fws.gov]

Sent: Tuesday, June 9, 2020 7:24 AM

To: D'AGOSTA, CYNTHIA <CYNTHIA.DAGOSTA@costamesaca.gov>

Subject: Fw: [EXTERNAL] Fwd: Costa Mesa Fire And Rescue Crews To Conduct Training In Fairview Park To Prep For Wildland Fire Season

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Sent from my iPhone

Begin forwarded message:

From: City of Costa Mesa <webmaster@costamesaca.gov>
Date: June 8, 2020 at 3:16:50 PM PDT
To: hendrickskia@sbcglobal.net
Subject: Costa Mesa Fire And Rescue Crews To Conduct Training In Fairview Park To Prep For Wildland Fire Season
Reply-To: webmaster@costamesaca.gov

**Costa Mesa Fire And Rescue Crews To Conduct Training In
Fairview Park To Prep For Wildland Fire Season**

Post Date: 06/08/2020 3:15 pm

City of Costa Mesa has sent you a News item. To view this item, please go to
<https://www.cityofcostamesanews.com/costa-mesa-fire-and-rescue-crews-to-conduct-training-in-fairview-park-to-prep-for-wildland-fire-season/>

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From: [Sheri Asgari](#)
To: [Medak, Christine](#)
Cc: [D'AGOSTA, CYNTHIA](#); [MINTER, JASON](#); [Tony Bomkamp](#)
Subject: Fairview Park - Proposed Work Plan
Date: Wednesday, May 26, 2021 1:40:33 PM
Attachments: [0493-06_VP Restoration Plan-Proposed Work Plan_April 2021.pdf](#)

Hi Chris,

Nice talking to you earlier. I'm attaching our proposed work plan notes, as discussed. We're glad you agree with the proposed approach as we think extending the site preparation period through fall 2022 will be instrumental in getting some control over the weeds at the site. We are also excited about incorporating a volunteer program for the turf removal/CSS habitat buffer area, as the community involvement and support is so important in the long-term success of the restoration program.

Please let us know if you have any questions on the attached, and hope to see you in the field in the next month or so.

Thank you!
Sheri



Sheri Asgari | Principal/Senior Habitat Restoration Specialist | Glenn Lukos Associates, Inc.
1940 E. Deere Avenue, Suite 250, Santa Ana, CA 92705
949.837.0404 x49 office | 949.340.3356 direct | 949-633-6867 cell | sasgari@wetlandpermitting.com
For periodic regulatory updates follow GLA on LinkedIn 

From: [Medak, Christine](#)
To: [Sheri Asgari](#); [D'AGOSTA, CYNTHIA](#)
Cc: [MINTER, JASON](#); [Tony Bomkamp](#)
Subject: Re: [EXTERNAL] Fairview Park - Proposed Work Plan
Date: Wednesday, May 26, 2021 5:56:03 PM

Sheri and Cynthia,

As we discussed during the call, we approve of the proposed changes. Consistent with the original plan, we request that the source of seed for native plants is reviewed and approved by our office. We appreciate the intention to reduce potential runoff to the vernal pools by limiting irrigation to hand watering. Please be aware that this method will require regular attention (possibly 3-4 days a week) to minimize plant mortality after initial planting. We recommend that the plant layout in the area that will be planted by the public is set up using flagging to identify where each species is intended to go.

Thank-you for your continued coordination and well-thought-out opportunities for public engagement in the project.

Christine L. Medak
Fish and Wildlife Biologist
U.S. Fish and Wildlife Service
2177 Salk Avenue, Suite 250
Carlsbad, CA 92008

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<http://www.fws.gov/carlsbad/>

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— Nadav Nur, PRBO Conservation Science

From: Sheri Asgari <sasgari@wetlandpermitting.com>
Sent: Wednesday, May 26, 2021 1:40 PM
To: Medak, Christine <Christine_Medak@fws.gov>
Cc: D'AGOSTA, CYNTHIA <CYNTHIA.DAGOSTA@costamesaca.gov>; MINTER, JASON <JASON.MINTER@costamesaca.gov>; Tony Bomkamp <tbomkamp@wetlandpermitting.com>
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Cc: [Tony Bomkamp](#); [MINTER, JASON](#); [Sheri Asgari](#); [Blackhall, Jennifer@Wildlife](#); [Jennifer.Turner](#); [Miller, William B.](#)
Subject: Re: [EXTERNAL] Fairview Park field visit
Date: Thursday, August 5, 2021 9:09:44 AM

Hi Cynthia,

Will Miller is also interested in attending this site visit so that he can see the status of the ongoing restoration and the potential for additional restoration within the site. CDFW (Jennifer Blackhall and possibly Jennifer Turner) were also interested in attending (mainly to introduce new staff to the park). I am not sure if they already reached out to you directly. Would you be available after the meeting to walk around to other areas of the park for those that have not been there before (if additional time is needed)? Otherwise, would you mind if I gave them a tour?

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Subject: [EXTERNAL] Fairview Park field visit
When: Tuesday, August 10, 2021 9:00 AM-10:30 AM.
Where: Parking lot off Placentia Ave. FVP

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Field visit for vernal pool restoration site (# 5,6,7)

Chris Medak, USFWS

Sheri Asgari, Lukos

Tony Bomkamp, Lukos

Cynthia D'Agosta, City of Costa Mesa

Jason Minter, City of Costa Mesa

From: [Medak, Christine](#)
To: [D'AGOSTA, CYNTHIA](#); [Blackhall, Jennifer@Wildlife](#); [Jennifer.Turner](#)
Cc: [Tony Bomkamp](#); [MINTER, JASON](#); [Sheri Asgari](#); [Miller, William B.](#)
Subject: Re: [EXTERNAL] Fairview Park field visit
Date: Thursday, August 5, 2021 1:46:45 PM
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)

Thank-you so much for accommodating all of us!

Jennifer and Jennifer - can you please confirm if you are coming so that Cynthia can plan for the correct number of people?

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Please everyone plan to meet at the picnic shelter off Placentia Ave main entrance to the park. See

you Tuesday.

Thanks,

Cynthia D'Agosta

Fairview Park Administrator | 714-754-5135

Cynthia.dagosta@costamesaca.gov

77 Fair Drive | Costa Mesa | CA 92626

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Chris Medak, USFWS
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Tony Bomkamp, Lukos
Cynthia D'Agosta, City of Costa Mesa
Jason Minter, City of Costa Mesa

From: [Medak, Christine](#)
To: [MINTER, JASON](#)
Cc: [Love, Stacey](#); [Tony Bomkamp](#)
Subject: Fw: [EXTERNAL] RE: Returned: Annual Report City of Costa Mesa TE-87580B-0
Date: Friday, November 12, 2021 7:06:06 AM
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)

Hi Jason,

We received a request to add new biologists to the City of Costa Mesa permit for restoration of vernal pools 5, 6, and 7. From the email chain below it is my understanding that the permit needs a new Principal Officer (now that Cynthia has retired) before new biologists can be added to the permit. Please let me know if you are the correct contact. If so, our permit coordinator (Stacey Love, copied on this message) can assist you with the process for adding biologists to the City's permit. Please feel free to reach out to Stacey directly.

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Sent: Thursday, November 11, 2021 7:31 AM
To: Medak, Christine <Christine_Medak@fws.gov>
Cc: Sheri Asgari <sasgari@wetlandpermitting.com>
Subject: RE: [EXTERNAL] RE: Returned: Annual Report City of Costa Mesa TE-87580B-0

Jason Minter. MINTER, JASON JASON.MINTER@costamesaca.gov

I will get the rest of his contact information ASAP.

From: Medak, Christine <Christine_Medak@fws.gov>

Sent: Wednesday, November 10, 2021 2:34 PM

To: Tony Bomkamp <tbomkamp@wetlandpermitting.com>

Subject: Fw: [EXTERNAL] RE: Returned: Annual Report City of Costa Mesa TE-87580B-0

Hi Tony,

I received this response from Stacey regarding your inquiry. Do you know who the primary contact at the City is for the project now that Cynthia has retired? It looks like we need to start there.

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From: Love, Stacey <stacey_love@fws.gov>

Sent: Wednesday, November 10, 2021 2:16 PM

To: Medak, Christine <Christine_Medak@fws.gov>

Subject: Fw: [EXTERNAL] RE: Returned: Annual Report City of Costa Mesa TE-87580B-0

Hi Chris,

I hope you're well; it's been awhile! Please see below. The City needs to identify their new Principal Officer (PO) for the permit and contact me for advice regarding the change of POs. After that I can advise them about making changes to their List of Authorized Individuals.

Thanks,
Stacey

From: D'AGOSTA, CYNTHIA <CYNTHIA.DAGOSTA@costamesaca.gov>

Sent: Monday, August 23, 2021 8:15 AM

To: Love, Stacey <stacey_love@fws.gov>

Subject: RE: [EXTERNAL] RE: Returned: Annual Report City of Costa Mesa TE-87580B-0

Stacey, Here you go, sorry about the confusion. Hopefully this finalizes the submittal. I was not able to remove Kevin's permit # from his field reports at end.

FYI. I am retiring at the end of September. The City has not yet hired my replacement, so I'm not certain we will have overlap. I am working with GLA to hopefully make a smooth transition so that these mistakes do not continue. I thank you for your patience in the past, and potentially the near future!

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To: [Medak, Christine](#); [MINTER, JASON](#)
Cc: [Love, Stacey](#); [Sheri Asgari](#)
Subject: RE: [EXTERNAL] RE: Returned: Annual Report City of Costa Mesa TE-87580B-0
Date: Friday, November 12, 2021 7:40:05 AM
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)

Chris, thanks for following up on this. I will get with Sheri on our end and develop the list of biologists and associated duties for submittal from GLA.

Tony

From: Medak, Christine <Christine_Medak@fws.gov>
Sent: Friday, November 12, 2021 7:05 AM
To: MINTER, JASON <JASON.MINTER@costamesaca.gov>
Cc: Love, Stacey <stacey_love@fws.gov>; Tony Bomkamp <tbomkamp@wetlandpermitting.com>
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Cynthia.dagosta@costamesaca.gov
77 Fair Drive | Costa Mesa | CA 92626

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From: [DALTON, KELLY M.](#)
To: christine_medak@fws.gov
Subject: Fairview Park Vernal Pools Restoration 5 & 6
Date: Wednesday, December 1, 2021 10:59:23 AM

Good morning Christine,

I have filled the position previously occupied by Cynthia D'Agosta as Fairview Park Administrator, and am getting up to speed on several items including the status of the vernal pools restoration at Fairview Park. I was reviewing the June 8, 2018 restoration plan as well as some more recent correspondence from our consultant restoration biologist who is working on the project, and wanted to discuss the status when have a chance.

I look forward to working with you and USFWS on this and other restoration efforts at Fairview Park.

Sincerely,

Kelly Dalton
Fairview Park Administrator
Parks and Community Services Department
City of Costa Mesa
kelly.dalton@CostaMesaCA.gov
714-754-5135

From: [DALTON, KELLY M.](#)
To: [Medak, Christine](#)
Subject: RE: [EXTERNAL] Fairview Park Vernal Pools Restoration 5 & 6
Date: Wednesday, December 1, 2021 3:12:20 PM

Hi Christine,

How about this Friday the 3rd, does 2:00 pm work for you? And yes, a Teams call will work if you are able to set one up.

Thank you,

Kelly Dalton
Fairview Park Administrator
Parks and Community Services Department
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kelly.dalton@CostaMesaCA.gov
714-754-5135

From: Medak, Christine <Christine_Medak@fws.gov>
Sent: Wednesday, December 1, 2021 1:08 PM
To: DALTON, KELLY M. <KELLY.DALTON@costamesaca.gov>
Subject: Re: [EXTERNAL] Fairview Park Vernal Pools Restoration 5 & 6

I need to cancel my availability Monday afternoon but the other two dates still work.

Christine L. Medak
Fish and Wildlife Biologist
U.S. Fish and Wildlife Service
2177 Salk Avenue, Suite 250
Carlsbad, CA 92008

I am currently working from home indefinitely. Please contact me via email.

<http://www.fws.gov/carlsbad/>

Carlsbad Fish and Wildlife Office 2020 Highlights:
<https://fws.maps.arcgis.com/apps/Cascade/index.html?appid=de3b646f2db244dc8b20b0669aff1485>

"I'd like to offer a plug for actually having the natural processes instead of having to simulate them."
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From: Medak, Christine <Christine_Medak@fws.gov>
Sent: Wednesday, December 1, 2021 11:26 AM

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Subject: Re: [EXTERNAL] Fairview Park Vernal Pools Restoration 5 & 6

Welcome Kelly!

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From: [MINTER, JASON](#)
To: [Charlie Larwood](#)
Cc: [Lesley Hill](#); [Blackhall, Jennifer@Wildlife](#); [PRICE, SUSAN](#); [JIMENEZ, FRANCINE](#); [William_B_Miller@fws.gov](#); [Jennifer.Turner@wildlife.ca.gov](#); [Emily.Gray@Wildlife.ca.gov](#); [Kurt Brotcke](#); [DALTON, KELLY M.](#)
Subject: RE: Fairview Park Follow Up
Date: Thursday, December 2, 2021 4:31:48 PM
Attachments: [image001.png](#)
[image002.png](#)

Hello everyone,

I wanted to introduce everyone in the group to our new Fairview Park Administrator, Kelly Dalton. Kelly comes from our Public Services Division, so he's familiar with the internal workings of the City. This is his second week so we are bringing him up to speed on the projects that he needs to jump on, including the issues related to this group. Kelly has the information that was sent back in November, and he has spent some time with the now retired Cynthia to help with the transition.

I will have Kelly follow up with everyone as he continues to get his feet under him in the position.

In the meantime, please join me in welcoming Kelly to the team!

Thank you all!

Jason Minter
Parks and Community Services Director
(714) 754-5065
jason.minter@costamesaca.gov
www.costamesaca.gov

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From: Charlie Larwood <clarwood@octa.net>
Sent: Thursday, December 2, 2021 4:07 PM
To: MINTER, JASON <JASON.MINTER@costamesaca.gov>
Cc: Lesley Hill <lhill@octa.net>; Blackhall, Jennifer@Wildlife <Jennifer.Blackhall@Wildlife.ca.gov>; PRICE, SUSAN <SUSAN.PRICE@costamesaca.gov>; JIMENEZ, FRANCINE <FRANCINE.JIMENEZ@costamesaca.gov>; William_B_Miller@fws.gov;

Jennifer.Turner@wildlife.ca.gov; Emily.Gray@Wildlife.ca.gov; Kurt Brotcke <KBrotcke@octa.net>
Subject: RE: Fairview Park Follow Up

Hi Jason,

Can you please set up a meeting in the next two weeks to discuss how the City is progressing on the Fairview Park follow up issues that we are working to resolve. We have had several requests for updates from the resource agencies (see below) as it has now been several months since our last meeting with no action from the City. We need to find out what the City intends to do to solve this issue in a timely matter.

Regards,

Charlie Larwood
Manager, Transportation Planning
Orange County Transportation Authority
(714) 560-5683

From: Blackhall, Jennifer@Wildlife <Jennifer.Blackhall@Wildlife.ca.gov>
Sent: Thursday, December 2, 2021 10:28 AM
To: Charlie Larwood <clarwood@octa.net>
Cc: Lesley Hill <lhill@octa.net>
Subject: RE: Fairview Park Follow Up

Hi Charlie,

Just checking in: do you have any updates from the City about Fairview Park? We still haven't heard anything since the October email update. Hopefully they are planning on setting up a meeting this month. Any information would be helpful, but it's understandable if you don't have any updates.

Thanks,

Jennifer Blackhall
Environmental Scientist
Lake and Streambed Alteration Agreement Program
California Department of Fish and Wildlife
South Coast Region 5
(858) 354-3285

From: Charlie Larwood <clarwood@octa.net>
Sent: Monday, November 15, 2021 10:15 AM
To: JASON.MINTER@costamesa.ca.gov
Cc: Lesley Hill <lhill@octa.net>; PRICE, SUSAN <SUSAN.PRICE@costamesaca.gov>;
FRANCINE.JIMENEZ@costamesaca.gov; William_B_Miller@fws.gov; Blackhall, Jennifer@Wildlife

<Jennifer.Blackhall@Wildlife.ca.gov>; endemcmgmt@gmail.com; Turner, Jennifer@Wildlife
<Jennifer.Turner@wildlife.ca.gov>; Gray, Emily@Wildlife <Emily.Gray@Wildlife.ca.gov>; Kurt Brotcke
<KBrotcke@octa.net>

Subject: FW: Fairview Park Follow Up

WARNING: This message is from an external source. Verify the sender and exercise caution when clicking links or opening attachments.

Hi Jason,

I am emailing you to see how the City is progressing on the Fairview Park follow up issues that we are working to resolve. We have had several requests for updates from the resource agencies and don't want to lose any momentum on resolving the outstanding issues that were discussed at our meeting on September 13, 2021. With that said, it would be quite helpful if you could please schedule another meeting in early December to discuss any progress the City has made and begin to develop a schedule in order to resolve all our mutual concerns. We would also like to discuss the possibility of having the City attend our next OCTA Environmental Oversight Committee meeting in order to present a progress report. The next meeting is anticipated to be in February which should allow plenty of time for preparations.

Please feel free to call myself or Lesley Hill at (714) 560-5759 if you have any questions.

Regards,

Charlie Larwood
Manager, Transportation Planning
Orange County Transportation Authority
(714) 560-5683

From: MINTER, JASON <JASON.MINTER@costamesaca.gov>
Sent: Thursday, October 14, 2021 2:21 PM
To: Lesley Hill <lhill@octa.net>
Cc: Charlie Larwood <clarwood@octa.net>
Subject: RE: Fairview Park Follow Up

Hi Leslie,

We did figure out that Susan and I didn't get the email. Luckily Francine in our office got it and forwarded it to us. Susan and I are going through it now.

We are moving along in the recruiting process, and had interviews today for the new Fairview Park Administrator. We hope to have the position filled this month so the new person can jump in and get up to speed right away to help us move forward!

We will be in touch!

Jason Minter
Parks and Community Services Director
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To: cynthia.dagosta@costamesaca.gov
Cc: Susan.price@costamesaca.gov; Jason.minter@costamesaca.gov; FRANCINE.JIMENEZ@costamesaca.gov; William_B_Miller@fws.gov; jennifer.blackhall@wildlife.ca.gov; endemicmgmt@gmail.com; Jennifer.turner@wildlife.ca.gov; Emily.gray@wildlife.ca.gov; Lesley Hill <lhill@octa.net>; Kurt Brotcke <kbrotcke@octa.net>
Subject: FW: Fairview Park Follow Up

Hello Cynthia,

During our call on Monday, September 13, OCTA committed to giving you a high level summary of the OCTA funded Fairview Park restoration project. I hope this information is helpful. In addition, we are here to help answer any questions that you may have. OCTA has also coordinated with CDFW on this email. Attached you will find several documents that they have provided.

Summary

In February 2011, the OCTA awarded the City of Costa Mesa (City) \$2 million for a 23-acre habitat restoration project within the City's Fairview Park (Agreement #C-1-2059). Once the project is completed and approved by the California Department of Fish and Wildlife (CDFW), and the United States Fish and Wildlife Service (collectively referred to as the Wildlife Agencies), OCTA will be able to use the restored habitat for mitigation as part of the OCTA M2 Natural Community Conservation Plan/Habitat Conservation Plan (Conservation Plan). Several project concerns have been raised by OCTA and the Wildlife Agencies multiple times over

the past several years. These issues continue to remain unresolved.

To date, OCTA has reimbursed the city \$1,993,000 for this project. As documented in the City's 2020 Fairview Park Riparian and Wetlands Restoration Project Annual Report, the City has established 16.86 acres of various habitat types. Some habitat types included in the City's accounting were not required in the agreement. Based on this annual report, it appears the project is over 10 acres short of the agreed upon acreage.

Previous concerns communicated to the City have included:

- Failure to complete some of the agreed upon habitat restoration acreage and address how the City will resolve this deficiency;
- Documentation that the mitigation for the Ascon Landfill Remediation Project did not overlap with the OCTA funded project (Southern tarplant);
- Management/maintenance of the flows to the wetland pond system (including access points);
- Lack of a CDFW 1600 Notification for ongoing maintenance of ponds; and
- No progress on the development or recordation of the required land protection document over the OCTA project area.

OCTA appreciates Costa Mesa staff setting up and attending the zoom meeting on September 13, 2021. During this meeting the city explained that the Fairview Park Administrator position is currently open and that it is anticipated to be filled soon. It is our understanding that the city will prioritize the OCTA restoration project. Additionally, a more comprehensive and accurate survey of the restored areas will be completed as the first order of business. We also agreed that a monthly meeting (set up by city staff) will occur to keep all of the agencies involved (city of Costa Mesa, OCTA, and the Wildlife Agencies) and apprised on the progress of this project. This should help get us to the finish line and obtain the required approvals from the Wildlife Agencies on this project. The City has yet to schedule the next meeting.

We look forward to the development of a committed work schedule on this project and are optimistic that the City can make the necessary progress on these outstanding issues. If you have any question, please don't hesitate to call me or Lesley Hill at (714) 560-5759.

Regards,

Charlie Larwood

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From: [Sheri Asgari](#)
To: [Medak, Christine](#); [Love, Stacey](#)
Cc: [Tony Bomkamp](#); [MINTER, JASON](#); [DALTON, KELLY M.](#)
Subject: Annual Report City of Costa Mesa TE-87580B-0
Date: Friday, December 3, 2021 2:45:15 PM
Attachments: [image007.png](#)
[image008.png](#)
[image009.png](#)
[image010.png](#)

Hi Stacy and Chris,

Kelly Dalton (copied) is replacing Cynthia D'Agosta as the new Fairview Park Administrator. I believe he will be the new Principal Officer for the permit but I will let him confirm. We would like to add GLA's David Moskovitz and Stephanie Cashin as authorized individuals for fairy shrimp sampling/monitoring.

Dave's permit number is PER0010680-0. (Note that his renewal was done through the new e-permit system and his renewal number changed from what he had since 2007).
Stephanie's permit number is TE-20280D-0.

Please let me know if you need any additional information from us and I will get that over to you.

Thank you



Sheri Asgari | Principal/Senior Habitat Restoration Specialist | Glenn Lukos Associates, Inc.
1940 E. Deere Avenue, Suite 250, Santa Ana, CA 92705
949.837.0404 x49 office | 949.340.3356 direct | 949-633-6867 cell | sasgari@wetlandpermitting.com
For periodic regulatory updates follow GLA on LinkedIn 

From: Tony Bomkamp <tbomkamp@wetlandpermitting.com>
Sent: Friday, November 12, 2021 7:40 AM
To: Medak, Christine <Christine_Medak@fws.gov>; MINTER, JASON <JASON.MINTER@costamesaca.gov>
Cc: Love, Stacey <stacey_love@fws.gov>; Sheri Asgari <sasgari@wetlandpermitting.com>
Subject: RE: [EXTERNAL] RE: Returned: Annual Report City of Costa Mesa TE-87580B-0

Chris, thanks for following up on this. I will get with Sheri on our end and develop the list of biologists and associated duties for submittal from GLA.

Tony

From: Medak, Christine <Christine_Medak@fws.gov>
Sent: Friday, November 12, 2021 7:05 AM
To: MINTER, JASON <JASON.MINTER@costamesaca.gov>
Cc: Love, Stacey <stacey_love@fws.gov>; Tony Bomkamp <tbomkamp@wetlandpermitting.com>
Subject: Fw: [EXTERNAL] RE: Returned: Annual Report City of Costa Mesa TE-87580B-0

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We received a request to add new biologists to the City of Costa Mesa permit for restoration of vernal pools 5, 6, and 7. From the email chain below it is my understanding that the permit needs a new Principal Officer (now that Cynthia has retired) before new biologists can be added to the permit. Please let me know if you are the correct contact. If so, our permit coordinator (Stacey Love, copied on this message) can assist you with the process for adding biologists to the City's permit. Please feel free to reach out to Stacey directly.

Christine L. Medak
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U.S. Fish and Wildlife Service
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Subject: RE: [EXTERNAL] RE: Returned: Annual Report City of Costa Mesa TE-87580B-0

Jason Minter. MINTER, JASON JASON.MINTER@costamesaca.gov

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From: Love, Stacey <stacey_love@fws.gov>

Sent: Wednesday, November 10, 2021 2:16 PM

To: Medak, Christine <Christine_Medak@fws.gov>

Subject: Fw: [EXTERNAL] RE: Returned: Annual Report City of Costa Mesa TE-87580B-0

Hi Chris,

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Thanks,
Stacey

From: D'AGOSTA, CYNTHIA <CYNTHIA.DAGOSTA@costamesaca.gov>

Sent: Monday, August 23, 2021 8:15 AM

To: Love, Stacey <stacey_love@fws.gov>

Subject: RE: [EXTERNAL] RE: Returned: Annual Report City of Costa Mesa TE-87580B-0

Stacey, Here you go, sorry about the confusion. Hopefully this finalizes the submittal. I was not able to remove Kevin's permit # from his field reports at end.

FYI. I am retiring at the end of September. The City has not yet hired my replacement, so I'm not certain we will have overlap. I am working with GLA to hopefully make a smooth transition so that these mistakes do not continue. I thank you for your patience in the past, and potentially the near

future!

Sincerely,

Cynthia D'Agosta

Fairview Park Administrator | 714-754-5135

Cynthia.dagosta@costamesaca.gov

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To: [Love, Stacey](#); [Sheri Asgari](#); [Medak, Christine](#)
Cc: [Tony Bomkamp](#); [MINTER, JASON](#)
Subject: RE: [EXTERNAL] Annual Report City of Costa Mesa TE-87580B-0
Date: Tuesday, December 14, 2021 11:45:35 AM
Attachments: [image003.png](#)
[image004.png](#)
[image005.png](#)
[image006.png](#)
[TE-87580B-0 Principal Officer Update City of Costa Mesa.pdf](#)

Good morning Stacy,

Please see the attached letter regarding the City's update to the Principal Officer.

I also can confirm the request to add Stephanie Cashin to our List of Authorized Individuals to conduct wet season surveys and inoculum collection. Please also remove Kevin Livergood from the List of Authorized Individuals.

Let me know if you have any other questions or concerns as it relates to this permit.

Thank you,

Kelly Dalton
Fairview Park Administrator
Parks and Community Services Department
City of Costa Mesa
kelly.dalton@CostaMesaCA.gov
714-754-5135

From: Love, Stacey <stacey_love@fws.gov>
Sent: Monday, December 6, 2021 5:52 PM
To: Sheri Asgari <sasgari@wetlandpermitting.com>; Medak, Christine <Christine_Medak@fws.gov>
Cc: Tony Bomkamp <tbomkamp@wetlandpermitting.com>; MINTER, JASON <JASON.MINTER@costamesaca.gov>; DALTON, KELLY M. <KELLY.DALTON@costamesaca.gov>
Subject: Re: [EXTERNAL] Annual Report City of Costa Mesa TE-87580B-0

Sheri, thank you.

Kelly,

Please send me a formal letter, if possible on letterhead, stating that Cynthia D'Agosta has retired, and that you are accepting responsibilities as Principal Officer for the permit (include the permit number), which you sign and date.

Regarding the request to revise the List of Authorized Individuals, please confirm (by email reply) your request to add Stephanie Cashin to conduct wet season surveys and inoculum

collection (number 2 on the List; permit attached). Also, please confirm that you are requesting to remove Kevin Livergood from the List. Finally, please note that David Moskovitz's name is already on the List.

Thank you,

Stacey Love (she/her)
Recovery Permit Coordinator
[Carlsbad \(incl. Palm Springs\) field office](#)
[\(click here for jurisdiction map\)](#)

U.S. Fish and Wildlife Service
2177 Salk Avenue, Ste. 250
Carlsbad, CA 92008
(760) 431-9440 x 263
stacey_love@fws.gov
[Pacific Southwest Region Recovery Permits web page](#)

Permittees: Please include your permit number in all correspondence and reporting, thank you.

From: Sheri Asgari <sasgari@wetlandpermitting.com>
Sent: Friday, December 3, 2021 2:45 PM
To: Medak, Christine <Christine_Medak@fws.gov>; Love, Stacey <stacey_love@fws.gov>
Cc: Tony Bomkamp <tbomkamp@wetlandpermitting.com>; MINTER, JASON <JASON.MINTER@costamesaca.gov>; DALTON, KELLY M. <KELLY.DALTON@costamesaca.gov>
Subject: [EXTERNAL] Annual Report City of Costa Mesa TE-87580B-0

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Hi Stacy and Chris,

Kelly Dalton (copied) is replacing Cynthia D'Agosta as the new Fairview Park Administrator. I believe he will be the new Principal Officer for the permit but I will let him confirm. We would like to add GLA's David Moskovitz and Stephanie Cashin as authorized individuals for fairy shrimp sampling/monitoring.

Dave's permit number is PER0010680-0. (Note that his renewal was done through the new e-permit system and his renewal number changed from what he had since 2007).
Stephanie's permit number is TE-20280D-0.

Please let me know if you need any additional information from us and I will get that over to you.

Thank you



Sheri Asgari | Principal/Senior Habitat Restoration Specialist | Glenn Lukos Associates, Inc.
1940 E. Deere Avenue, Suite 250, Santa Ana, CA 92705
949.837.0404 x49 office | 949.340.3356 direct | 949-633-6867 cell | sasgari@wetlandpermitting.com

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From: [DALTON, KELLY M.](#)
To: [Medak, Christine](#)
Subject: RE: [EXTERNAL] Fairview Park Vernal Pools Restoration 5 & 6
Date: Tuesday, December 7, 2021 10:48:35 AM

Hi Christine,

Let's try next Tuesday at 9:00 am.

Thank you,

Kelly Dalton
Fairview Park Administrator
Parks and Community Services Department
City of Costa Mesa
kelly.dalton@CostaMesaCA.gov
714-754-5135

From: Medak, Christine <Christine_Medak@fws.gov>
Sent: Tuesday, December 7, 2021 9:02 AM
To: DALTON, KELLY M. <KELLY.DALTON@costamesaca.gov>
Subject: Re: [EXTERNAL] Fairview Park Vernal Pools Restoration 5 & 6

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Sent: Friday, December 3, 2021 8:25 AM
To: Medak, Christine <Christine_Medak@fws.gov>
Subject: RE: [EXTERNAL] Fairview Park Vernal Pools Restoration 5 & 6

Hi Christine,

Some things came up so today might not work for the meeting after all. How about Tuesday at 9am? Let me know if you are able to set up a Teams meeting. We don't have a Teams account here at the City but I can use it if a link is provided.

Thank you,

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City of Costa Mesa
kelly.dalton@CostaMesaCA.gov
714-754-5135

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To: 'Medak, Christine' <Christine_Medak@fws.gov>
Subject: RE: [EXTERNAL] Fairview Park Vernal Pools Restoration 5 & 6

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Subject: Re: [EXTERNAL] Fairview Park Vernal Pools Restoration 5 & 6

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From: [DALTON, KELLY M.](#)
To: [Love, Stacey](#); [Sheri Asgari](#); [Medak, Christine](#)
Cc: [Tony Bomkamp](#); [MINTER, JASON](#)
Subject: RE: [EXTERNAL] Annual Report City of Costa Mesa TE-87580B-0
Date: Tuesday, December 14, 2021 11:45:35 AM
Attachments: [image003.png](#)
[image004.png](#)
[image005.png](#)
[image006.png](#)
[TE-87580B-0 Principal Officer Update City of Costa Mesa.pdf](#)

Good morning Stacy,

Please see the attached letter regarding the City's update to the Principal Officer.

I also can confirm the request to add Stephanie Cashin to our List of Authorized Individuals to conduct wet season surveys and inoculum collection. Please also remove Kevin Livergood from the List of Authorized Individuals.

Let me know if you have any other questions or concerns as it relates to this permit.

Thank you,

Kelly Dalton
Fairview Park Administrator
Parks and Community Services Department
City of Costa Mesa
kelly.dalton@CostaMesaCA.gov
714-754-5135

From: Love, Stacey <stacey_love@fws.gov>
Sent: Monday, December 6, 2021 5:52 PM
To: Sheri Asgari <sasgari@wetlandpermitting.com>; Medak, Christine <Christine_Medak@fws.gov>
Cc: Tony Bomkamp <tbomkamp@wetlandpermitting.com>; MINTER, JASON <JASON.MINTER@costamesaca.gov>; DALTON, KELLY M. <KELLY.DALTON@costamesaca.gov>
Subject: Re: [EXTERNAL] Annual Report City of Costa Mesa TE-87580B-0

Sheri, thank you.

Kelly,

Please send me a formal letter, if possible on letterhead, stating that Cynthia D'Agosta has retired, and that you are accepting responsibilities as Principal Officer for the permit (include the permit number), which you sign and date.

Regarding the request to revise the List of Authorized Individuals, please confirm (by email reply) your request to add Stephanie Cashin to conduct wet season surveys and inoculum

collection (number 2 on the List; permit attached). Also, please confirm that you are requesting to remove Kevin Livergood from the List. Finally, please note that David Moskowitz's name is already on the List.

Thank you,

Stacey Love (she/her)
Recovery Permit Coordinator
[Carlsbad \(incl. Palm Springs\) field office](#)
[\(click here for jurisdiction map\)](#)

U.S. Fish and Wildlife Service
2177 Salk Avenue, Ste. 250
Carlsbad, CA 92008
(760) 431-9440 x 263
stacey_love@fws.gov
[Pacific Southwest Region Recovery Permits web page](#)

Permittees: Please include your permit number in all correspondence and reporting, thank you.

From: Sheri Asgari <sasgari@wetlandpermitting.com>
Sent: Friday, December 3, 2021 2:45 PM
To: Medak, Christine <Christine_Medak@fws.gov>; Love, Stacey <stacey_love@fws.gov>
Cc: Tony Bomkamp <tbomkamp@wetlandpermitting.com>; MINTER, JASON <JASON.MINTER@costamesaca.gov>; DALTON, KELLY M. <KELLY.DALTON@costamesaca.gov>
Subject: [EXTERNAL] Annual Report City of Costa Mesa TE-87580B-0

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Hi Stacy and Chris,

Kelly Dalton (copied) is replacing Cynthia D'Agosta as the new Fairview Park Administrator. I believe he will be the new Principal Officer for the permit but I will let him confirm. We would like to add GLA's David Moskowitz and Stephanie Cashin as authorized individuals for fairy shrimp sampling/monitoring.

Dave's permit number is PER0010680-0. (Note that his renewal was done through the new e-permit system and his renewal number changed from what he had since 2007).
Stephanie's permit number is TE-20280D-0.

Please let me know if you need any additional information from us and I will get that over to you.

Thank you



Sheri Asgari | Principal/Senior Habitat Restoration Specialist | Glenn Lukos Associates, Inc.
1940 E. Deere Avenue, Suite 250, Santa Ana, CA 92705
949.837.0404 x49 office | 949.340.3356 direct | 949-633-6867 cell | sasgari@wetlandpermitting.com
For periodic regulatory updates follow GLA on LinkedIn 

From: Tony Bomkamp <tbomkamp@wetlandpermitting.com>
Sent: Friday, November 12, 2021 7:40 AM
To: Medak, Christine <Christine_Medak@fws.gov>; MINTER, JASON
<JASON.MINTER@costamesaca.gov>
Cc: Love, Stacey <stacey_love@fws.gov>; Sheri Asgari <sasgari@wetlandpermitting.com>
Subject: RE: [EXTERNAL] RE: Returned: Annual Report City of Costa Mesa TE-87580B-0

Chris, thanks for following up on this. I will get with Sheri on our end and develop the list of biologists and associated duties for submittal from GLA.

Tony

From: Medak, Christine <Christine_Medak@fws.gov>
Sent: Friday, November 12, 2021 7:05 AM
To: MINTER, JASON <JASON.MINTER@costamesaca.gov>
Cc: Love, Stacey <stacey_love@fws.gov>; Tony Bomkamp <tbomkamp@wetlandpermitting.com>
Subject: Fw: [EXTERNAL] RE: Returned: Annual Report City of Costa Mesa TE-87580B-0

Hi Jason,

We received a request to add new biologists to the City of Costa Mesa permit for restoration of vernal pools 5, 6, and 7. From the email chain below it is my understanding that the permit needs a new Principal Officer (now that Cynthia has retired) before new biologists can be added to the permit. Please let me know if you are the correct contact. If so, our permit coordinator (Stacey Love, copied on this message) can assist you with the process for adding biologists to the City's permit. Please feel free to reach out to Stacey directly.

Christine L. Medak
Fish and Wildlife Biologist
U.S. Fish and Wildlife Service
2177 Salk Avenue, Suite 250
Carlsbad, CA 92008

I am currently working from home indefinitely. Please contact me via email.
<http://www.fws.gov/carlsbad/>

Carlsbad Fish and Wildlife Office 2020 Highlights:
<https://fws.maps.arcgis.com/apps/Cascade/index.html?>

[appid=de3b646f2db244dc8b20b0669aff1485](#)

"I'd like to offer a plug for actually having the natural processes instead of having to simulate them."
— Nadav Nur, PRBO Conservation Science

From: Tony Bomkamp <tbomkamp@wetlandpermitting.com>
Sent: Thursday, November 11, 2021 7:31 AM
To: Medak, Christine <Christine_Medak@fws.gov>
Cc: Sheri Asgari <sasgari@wetlandpermitting.com>
Subject: RE: [EXTERNAL] RE: Returned: Annual Report City of Costa Mesa TE-87580B-0

Jason Minter. MINTER, JASON JASON.MINTER@costamesaca.gov

I will get the rest of his contact information ASAP.

From: Medak, Christine <Christine_Medak@fws.gov>
Sent: Wednesday, November 10, 2021 2:34 PM
To: Tony Bomkamp <tbomkamp@wetlandpermitting.com>
Subject: Fw: [EXTERNAL] RE: Returned: Annual Report City of Costa Mesa TE-87580B-0

Hi Tony,

I received this response from Stacey regarding your inquiry. Do you know who the primary contact at the City is for the project now that Cynthia has retired? It looks like we need to start there.

Christine L. Medak
Fish and Wildlife Biologist
U.S. Fish and Wildlife Service
2177 Salk Avenue, Suite 250
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[appid=de3b646f2db244dc8b20b0669aff1485](#)

"I'd like to offer a plug for actually having the natural processes instead of having to simulate them."
— Nadav Nur, PRBO Conservation Science

From: Love, Stacey <stacey_love@fws.gov>

Sent: Wednesday, November 10, 2021 2:16 PM

To: Medak, Christine <Christine_Medak@fws.gov>

Subject: Fw: [EXTERNAL] RE: Returned: Annual Report City of Costa Mesa TE-87580B-0

Hi Chris,

I hope you're well; it's been awhile! Please see below. The City needs to identify their new Principal Officer (PO) for the permit and contact me for advice regarding the change of POs. After that I can advise them about making changes to their List of Authorized Individuals.

Thanks,
Stacey

From: D'AGOSTA, CYNTHIA <CYNTHIA.DAGOSTA@costamesaca.gov>

Sent: Monday, August 23, 2021 8:15 AM

To: Love, Stacey <stacey_love@fws.gov>

Subject: RE: [EXTERNAL] RE: Returned: Annual Report City of Costa Mesa TE-87580B-0

Stacey, Here you go, sorry about the confusion. Hopefully this finalizes the submittal. I was not able to remove Kevin's permit # from his field reports at end.

FYI. I am retiring at the end of September. The City has not yet hired my replacement, so I'm not certain we will have overlap. I am working with GLA to hopefully make a smooth transition so that these mistakes do not continue. I thank you for your patience in the past, and potentially the near future!

Sincerely,

Cynthia D'Agosta

Fairview Park Administrator | 714-754-5135

Cynthia.dagosta@costamesaca.gov

77 Fair Drive | Costa Mesa | CA 92626

PLEASE NOTE:

City Hall is open to the public. For expedited service, **appointments** are strongly encouraged.

~ The City of Costa Mesa serves our residents, businesses and visitors while promoting a safe, inclusive and vibrant community ~



PLEASE CONSIDER THE ENVIRONMENT BEFORE PRINTING THIS EMAIL. THANK YOU!

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From: [Medak, Christine](#)
To: [DALTON, KELLY M.](#); [MINTER, JASON](#)
Cc: [Lieberman, Carolyn](#); [Snapp-Cook, Jonathan](#); [Woulfe, MaryBeth](#)
Subject: Vernal pool restoration at Fairview Park
Date: Tuesday, December 14, 2021 1:37:05 PM
Attachments: [13B0443-14TA0229_OR_Fairview Park VP Remediation Measures_s20140724_kag.pdf](#)

Kelly and Jason,

Thank-you for your time this morning and opportunity to discuss future potential restoration opportunities within Fairview Park. As I mentioned, there are various opportunities available to support restoration activities within the park. In addition to the proposed mitigation for the LA Airport, we have funding opportunities within our office through coordination with our Coastal Program Coordinator (Carolyn Lieberman), Partners Program Coordinator (Jonathan Snapp-Cook) and Section 6 Program Coordinator (Mary Beth Woulfe). Please feel free to reach out to these individuals (copied on this message) for further information about their programs and timing for submitting proposals. We also have a running list of project proposals that we keep in our office in case additional funding opportunities come up that we can match with proposals.

Please also see the attached letter that includes recommended actions for the City to protect and manage habitat for listed species within the site. The City has already implemented several of the actions in this letter. We look forward to working with you to develop future restoration proposals.

Christine L. Medak
Fish and Wildlife Biologist
U.S. Fish and Wildlife Service
2177 Salk Avenue, Suite 250
Carlsbad, CA 92008

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"I'd like to offer a plug for actually having the natural processes instead of having to simulate them."
— Nadav Nur, PRBO Conservation Science

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From: [DALTON, KELLY M.](#)
To: [Medak, Christine](#); [MINTER, JASON](#)
Cc: [Lieberman, Carolyn](#); [Snapp-Cook, Jonathan](#); [Woulfe, MaryBeth](#)
Subject: RE: Vernal pool restoration at Fairview Park
Date: Tuesday, December 14, 2021 5:13:03 PM

Hi Christine,

Thank you for taking the time to meet with us this morning and discuss the status of our restoration efforts and upcoming opportunities with USFWS and partners.

I will continue to monitor the conversation with LA World Airports and our Vernal Pools biologist regarding potential mitigation opportunities, and I am encouraged by the potential to secure long-term funding which is a common hurdle in our broader restoration objectives. I will be in contact with the program coordinators you have shared here and we appreciate the support and collaboration from USFWS to facilitate these and other potential restoration activities.

I look forward to continuing the City's momentum with the restoration programs & projects at Fairview Park, and thanks again for assisting with this transition.

Regards,

Kelly Dalton
Fairview Park Administrator
Parks and Community Services Department
City of Costa Mesa
kelly.dalton@CostaMesaCA.gov
714-754-5135

From: Medak, Christine <Christine_Medak@fws.gov>
Sent: Tuesday, December 14, 2021 1:36 PM
To: DALTON, KELLY M. <KELLY.DALTON@costamesaca.gov>; MINTER, JASON <JASON.MINTER@costamesaca.gov>
Cc: Lieberman, Carolyn <Carolyn_Lieberman@fws.gov>; Snapp-Cook, Jonathan <Jonathan_Snapp-cook@fws.gov>; Woulfe, MaryBeth <marybeth_woulfe@fws.gov>
Subject: Vernal pool restoration at Fairview Park

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Fish and Wildlife Biologist
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— Nadav Nur, PRBO Conservation Science

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From: DALTON, KELLY M.
To: Jennifer.Turner@wildlife.ca.gov
Subject: Permit for Fairview Park Wetlands Habitat
Date: Wednesday, January 26, 2022 3:21:27 PM

Hi Jennifer,

Thank you again for meeting yesterday to discuss some of the outstanding needs with the wetland habitat area at Fairview Park, and provide insight on CDFW's requirements as it relates to the project and the City's ongoing management of the mitigation efforts. During our meeting, we had touched upon the 1602 permit coverage for the wetlands maintenance activities, as well as the conservation easement to which CDFW would prefer to be added as a third party beneficiary.

For the permitting item, are you able to send me the permit application first and I can begin working my way through that process? If you think a 1 on 1 follow-up discussion is needed right away to get us started, I can set that up. Currently I'm reviewing the information at <https://wildlife.ca.gov/Conservation/Environmental-Review/LSA> to prepare for what we'll need to submit, but let me know if there are any other resources I should refer to, or if you have your own outline of steps that I should follow to initiate the process.

Regarding the conservation easement process, if you can share any links or information regarding the pathway to initiate that process, that would be helpful. We can also set up a discussion to go through this process as the other mitigation activities get back on track, as this may be a longer-term process based on prior discussions.

Thanks again, and I appreciate your guidance and collaboration on these items at Fairview Park.

Sincerely,

Kelly Dalton
Fairview Park Administrator
Parks and Community Services Department
City of Costa Mesa
kelly.dalton@CostaMesaCA.gov
714-754-5135

Effective, Thursday, January 6th, City Hall will operate solely on an *APPOINTMENT ONLY CUSTOMER SERVICE* system until further notice. Appointments can be made at www.costamesaca.gov/appointments.

From: [Turner, Jennifer@Wildlife](mailto:Turner_Jennifer@Wildlife)
To: [DALTON, KELLY M.](#)
Subject: RE: Permit for Fairview Park Wetlands Habitat
Date: Friday, January 28, 2022 10:19:12 AM
Attachments: [Mitigation CE TPB - Partial Property - Sept 2015.doc](#)
[1-CDFW-Land-Agent's Land-Pkg-Checklist for-Applicant 10-15-21.docx](#)

Hello Kelly,

Thanks for reaching out! Regarding the 1602 permit, the public-facing website is a great resource. I would also look at getting the City set up with an online account on our Environmental Permit Information Management Systems (fondly referred to as EPIMS), as we accept notifications exclusively through EPIMS now: <https://epims.wildlife.ca.gov/index.do>. When you've digested that information, I think the easiest way to move forward would be to meet for a pre-scoping (virtual) meeting with your environmental consultant(s), and we can discuss what we would be looking for in your notifications. Consultants notify CDFW for wetland impacts regularly, and they should be well-versed in the process.

With regard to the Conservation Easement (CE), please see attached for a 'starter checklist' of items which are required for the Lands Package, as well as CDFW's preferred template for the CE. Additional items may be required based on our land agent's review. Note that Government Code § 65967(c) requires a state or local agency to exercise due diligence when approving governmental entities, special districts, and non-profit organizations proposed to hold CEs or manage and steward mitigation lands. CDFW is happy to facilitate a discussion as to how to navigate the due diligence process. More information can be found on our website at: <https://wildlife.ca.gov/Conservation/Planning/Endowments-Mit-Land-Mgmt>.

When you're ready to talk about the CE, we can schedule a meeting with our Land Agent, and talk about the various real estate and biological documents which are required.

Please give me a call if I can clarify anything! These regulatory processes can be challenging to navigate, and I'm happy to help.

Sincerely,

Jennifer Turner

Senior Environmental Scientist (Supervisor)
California Department of Fish and Wildlife
South Coast Region 5
3883 Ruffin Road
San Diego, CA 92123
Office: (858) 467-2717
Mobile: (858) 539-9109

From: DALTON, KELLY M. <KELLY.DALTON@costamesaca.gov>
Sent: Wednesday, January 26, 2022 3:21 PM
To: Turner, Jennifer@Wildlife <Jennifer.Turner@wildlife.ca.gov>
Subject: Permit for Fairview Park Wetlands Habitat

WARNING: This message is from an external source. Verify the sender and exercise caution when clicking links or opening attachments.

Hi Jennifer,

Thank you again for meeting yesterday to discuss some of the outstanding needs with the wetland habitat area at Fairview Park, and provide insight on CDFW's requirements as it relates to the project and the City's ongoing management of the mitigation efforts. During our meeting, we had touched upon the 1602 permit coverage for the wetlands maintenance activities, as well as the conservation easement to which CDFW would prefer to be added as a third party beneficiary.

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Thanks again, and I appreciate your guidance and collaboration on these items at Fairview Park.

Sincerely,

Kelly Dalton
Fairview Park Administrator
Parks and Community Services Department
City of Costa Mesa
kelly.dalton@CostaMesaCA.gov
714-754-5135

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From: [DALTON, KELLY M.](#)
To: [clarwood@octa.net](#); [lhill@octa.net](#); [William_B_Miller@fws.gov](#); [jennifer.blackhall@wildlife.ca.gov](#); [Jennifer.Turner@wildlife.ca.gov](#)
Cc: [Barry Nerhus](#); [Lyell Buttermore](#)
Subject: Fairview Park Wetland & Riparian Habitat Update Meeting: 3/7/22 (via Zoom)
Date: Thursday, February 10, 2022 11:57:34 AM

Good morning,

As a follow-up to our recent meeting, the City would like to schedule the next discussion regarding the status and next steps for the Fairview Park Wetland & Riparian Habitat project. Currently, I am coordinating with our clerical staff to send out an invitation for the following date:

- Monday, March 7th from 3:30 – 4:30 pm (via Zoom)

In a separate email, you will be receiving a meeting invitation and zoom link to access the meeting. I will also be distributing an agenda prior to the meeting.

We look forward to discussing with you.

Sincerely,

Kelly Dalton
Fairview Park Administrator
Parks and Community Services Department
City of Costa Mesa
kelly.dalton@CostaMesaCA.gov
714-754-5135

Effective, Thursday, January 6th, City Hall will operate solely on an *APPOINTMENT ONLY CUSTOMER SERVICE* system until further notice. Appointments can be made at www.costamesaca.gov/appointments.

From: [MINTER, JASON](#)
To: [Medak, Christine](#)
Cc: [DALTON, KELLY M.](#)
Subject: RE: [EXTERNAL] Maps of vernal pools in Fairview Park
Date: Monday, July 25, 2022 12:00:41 PM
Attachments: [image001.png](#)
[image002.png](#)

Hi Chris,

Sorry you received that email. Kelly and I had a meeting with the Alliance to talk about some of their concerns. Ms. Hendricks has mentioned the storage container several times, and that it is located in the watershed for vernal pool 6. Kelly and I showed her the map from Glen Lukos, that I believe has been approved through the restoration plan. Ms. Hendricks does not feel that the map we showed her is correct. Which is why she emailed you.

Kelly and I are happy to schedule a zoom with you to go over the maps. The pictures Ms. Hendricks do not seem helpful to me, but perhaps you have other thoughts.

Kelly is working on an update of other restoration activities for you, and we can discuss that on a zoom.

Thank you.

Jason Minter
Parks and Community Services Director
(714) 754-5065
jason.minter@costamesaca.gov
www.costamesaca.gov

Effective Wednesday, February 16, 2022, City Hall will return to walk-in appointments for the public. Costa Mesa will continue to follow the state mask guidelines. While City Hall will be open, we still encourage members of the public to take advantage of our appointment system. Appointments can be made at www.costamesaca.gov/appointments.



From: Medak, Christine <Christine_Medak@fws.gov>
Sent: Saturday, July 23, 2022 8:36 AM
To: MINTER, JASON <JASON.MINTER@costamesaca.gov>
Subject: Re: [EXTERNAL] Maps of vernal pools in Fairview Park

Hi Jason,

Can you let me know what this is about? The approved restoration plan for pools 5,6, and 7 acknowledged the full extent of the vernal pools so this message does not make sense to me. Also, can you please provide an update on the status of restoration activities?

Christine L. Medak
Fish and Wildlife Biologist
U.S. Fish and Wildlife Service
2177 Salk Avenue, Suite 250
Carlsbad, CA 92008

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"I'd like to offer a plug for actually having the natural processes instead of having to simulate them."
— Nadav Nur, PRBO Conservation Science

From: Kim Hendricks <kimhendricks26@gmail.com>
Sent: Thursday, July 21, 2022 1:24 PM
To: MINTER, JASON <JASON.MINTER@costamesaca.gov>; DALTON, KELLY M. <kelly.dalton@costamesaca.gov>
Cc: Wendy Leece <leecefam@sbcglobal.net>; Debby Koken <deborah.koken@gmail.com>; Jason Komala <komala4costamesa@gmail.com>
Subject: [EXTERNAL] Maps of vernal pools in Fairview Park

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Greetings,

Thank you for talking with Fairview Park Alliance this morning.

Attached are a few maps that show the location of the vernal pools in Fairview Park at earlier dates and the map included in Glenn Lukos restoration packet.

In the actual google earth pictures, you can see the gray areas of vernal pools 5,6,7 and just how far vernal pool 6 extends west along the fence. These maps are from earlier dates and human disturbance year after year has been great in this vernal pool 5,6,7 area.

In all fairness, as good stewards of the Fairview Park, I expect you to talk with Tony

Bombkamp from Glenn Lukos Assoc. and ask him to reflect all watershed areas of vernal pools 5,6,7 as well. I've included his map as well and it is not even a picture but a drawn version making it not that accurate.

Thank you,
Kim Hendricks

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Cc: [DALTON, KELLY M.](#)
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Attachments: [image001.png](#)
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Parks and Community Services Director
(714) 754-5065
jason.minter@costamesaca.gov
www.costamesaca.gov

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Fish and Wildlife Biologist
U.S. Fish and Wildlife Service
2177 Salk Avenue, Suite 250
Carlsbad, CA 92008

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— Nadav Nur, PRBO Conservation Science

From: Kim Hendricks <kimhendricks26@gmail.com>
Sent: Thursday, July 21, 2022 1:24 PM
To: MINTER, JASON <JASON.MINTER@costamesaca.gov>; DALTON, KELLY M. <kelly.dalton@costamesaca.gov>
Cc: Wendy Leece <leecefam@sbcglobal.net>; Debby Koken <deborah.koken@gmail.com>; Jason Komala <komala4costamesa@gmail.com>
Subject: [EXTERNAL] Maps of vernal pools in Fairview Park

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Bombkamp from Glenn Lukos Assoc. and ask him to reflect all watershed areas of vernal pools 5,6,7 as well. I've included his map as well and it is not even a picture but a drawn version making it not that accurate.

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Kim Hendricks

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From: [MINTER, JASON](#)
To: [Medak, Christine](#)
Cc: [DALTON, KELLY M.](#)
Subject: RE: [EXTERNAL] Maps of vernal pools in Fairview Park
Date: Monday, July 25, 2022 12:28:03 PM
Attachments: [image001.png](#)
[image002.png](#)

Tomorrow afternoon works for me. I'll have Kelly set it up and we'll send you a zoom link.

Thank you!

Jason Minter
Parks and Community Services Director
(714) 754-5065
jason.minter@costamesaca.gov
www.costamesaca.gov

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Sent: Monday, July 25, 2022 12:05 PM
To: MINTER, JASON <JASON.MINTER@costamesaca.gov>
Cc: DALTON, KELLY M. <KELLY.DALTON@costamesaca.gov>
Subject: Re: [EXTERNAL] Maps of vernal pools in Fairview Park

A call might be helpful so that we can discuss the context and what is relevant for fairy shrimp. I am open tomorrow, Thursday and Friday after 11:00 am

Christine L. Medak
Fish and Wildlife Biologist
U.S. Fish and Wildlife Service
2177 Salk Avenue, Suite 250
Carlsbad, CA 92008

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Parks Make Life Better!

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Sent: Saturday, July 23, 2022 8:36 AM
To: MINTER, JASON <JASON.MINTER@costamesaca.gov>
Subject: Re: [EXTERNAL] Maps of vernal pools in Fairview Park

Hi Jason,

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From: [Medak, Christine](#)
To: [Kim Hendricks](#)
Cc: [WENDY LEECE- City Council](#); [Debby Koken](#); [Jason Komala](#); [MINTER, JASON](#); [DALTON, KELLY M.](#)
Subject: Re: [EXTERNAL] Vernal Pools 5,6,7 in Fairview Park
Date: Tuesday, July 26, 2022 2:45:51 PM

Hi Kim,

I can confirm that the figure provided is from the final restoration plan that we approved. I believe the area of concern (storage shed) is on higher ground and is not expected to be inundated.

Christine L. Medak
Fish and Wildlife Biologist
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From: [Medak, Christine](#)
To: [DALTON, KELLY M.](#)
Subject: Fw: [EXTERNAL] Vernal Pools 5,6,7 in Fairview Park
Date: Monday, August 22, 2022 11:05:48 AM

Kelly,

I admit that I am having a hard time following the concerns outlined in the email but it sounds like the concerns extend beyond just the placement of the HSS storage bin. Let me know if you are able to resolve the issues with her directly (relative to the expectations in the restoration plan) or if it would be helpful for me to come out and take a look at the site with you.

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Sent: Monday, August 1, 2022 9:37 PM
To: Medak, Christine <Christine_Medak@fws.gov>
Cc: Wendy Leece <leecefam@sbcglobal.net>; Debby Koken <deborah.koken@gmail.com>; Jason Komala <komala4costamesa@gmail.com>; MINTER, JASON <JASON.MINTER@costamesaca.gov>; DALTON, KELLY M. <kelly.dalton@costamesaca.gov>
Subject: Re: [EXTERNAL] Vernal Pools 5,6,7 in Fairview Park

Hi Christine,

Thank you for your email and I apologize for not explaining why I sent you the pictures too. I wasn't looking for your confirmation that the conceptual design map was included in the Glenn Lukos restoration plan. I have the plan. I sent them to you so you could also see *the difference* between the aerial photo maps and the conceptual design map. I used the Glenn Lukos conceptual design map from a Zoom meeting Fairview Park Alliance (FPA), of which I am a board member, had with the City of Costa Mesa's parks and rec. Director, Jason Minter, and Fairview Park Administrator, Kelly Dalton, because their copy had color and looked better than the black and white copy I had. (see attached) I apologize for not making it clear to

you as to why I sent the aerial photos of vernal pools 5,6, & 7, as well as the conceptual design from Glenn Lukos & Assoc. 'Fairview Park Vernal Pool Restoration And Long Term Maintenance Plan for Vernal Pools 5 and 6, and the Associated Watershed Areas Within The Jurisdiction Of The United States Fish and Wildlife Service Pursuant to the Endangered Species Act'.

What is the conceptual design map in the Glenn Lukos Restoration Plan supposed to show? Does it show what *should* be there? Or, does it show what is *currently there*? Does it show the Historic Feature 7 or the newly made Feature 7? Does it show the watershed areas? The aerial photos show much more detailed information of the vernal pools; one can see the gray darker areas extend far beyond which the conceptual map shows.

During the Zoom meeting that FPA had with Mr. Minter and Mr. Dalton, I asked them if the Harbor Soaring Society's (HSS) storage bin and cemented posts would be removed from the watershed area of vernal pool 6 and 7. I was told they weren't in the watershed area and the conceptual design map in the Glenn Lukos Restoration Plan allowed for them. I asked them if they would like to see other earlier maps of aerial photos showing the actual darkened and gray areas described by vernal pool experts that looked at them, as potential vernal pool and watershed areas. They said they would like to see them. That is why I sent them and bcc'd you, so you could see them too and be reminded of what was there and potentially is there now. I haven't heard from them regarding this.

















The HSS storage bin was placed there by the city, without doing an EIR or following CEQA, and unbeknownst to USFW. HSS kept their mowers, gasoline, and other equipment in it. I understand you believe the storage bin may be on higher ground, if the storage bin is on higher ground, it would impact the hydrology to the watershed areas and this does affect the area. Any glider storage was to be near the restrooms as called out in the Fairview Park Master Plan (FPMP). (pg. 33, see attached)

The cemented posts that are next to the HSS storage bin were a 'mishap' by the City in 2018. Former Fairview Park Administrator, Cynthia D'Agosta, asked FPA to call it a 'mishap' and not talk about it publicly. FPA complied. I don't even know if you or anyone else at USFW were aware of the 'mishap' fencing since Cynthia also asked FPA when she was first hired to please bring all our concerns and suggestions to her and to not contact USFW first, but to give her a chance. FPA was happy to comply with that as well. When the city had to remove all the cemented posts, they left the ones next to the bin. FPA was told the cemented posts would be removed along with the storage bin when restoration on the vernal pools 5,6, & 7 began. This has not happened. This fenced off area has become a place for dogs and homeless people to defecate and leave trash. (see photos) There is some fascicled tarplant in this area trying to survive. There was no biologist monitoring the placement of these cemented posts.

There is green fencing that is to the west of vernal pool 7 that runs next to the asphalt trail too. According to the Glenn Lukos Restoration Plan, any installation of fencing would be monitored by a qualified biologist. (see attached pg. 9). This didn't happen with the cemented posts nor with the green poles. In fact, the city employee that installed the green poles was using a conceptual design map to install them, did not know exactly where the poles should go according to the map. As you can see from the photos, the green poles go a lot further into the vernal pool area (22-50 feet) and even cut off some of the watershed for Historic Feature 7. (see attached photos).

FPA understands that the Parks and Rec. Director and Fairview Park Administrator, are somewhat new to their positions and FPA doesn't want to inundate them with past mistakes. Trying to do their best with understanding and complying with all State and Federal laws can be hard, but the mistakes need to be corrected. Correcting the mistakes is part of moving forward because it is part of caring and protecting the natural resources, which the City said it would do many times. FPA hopes the City welcomes information that would help them provide as much protection as possible to these unique and rare ecosystems called vernal pools, and give the vernal pools and their watersheds every opportunity possible for them to be successfully restored.

Thank you,
Kim Hendricks

-  [BW copy of conceptual design Glenn Lukos.jpg](#)
-  [dog feces on vernal pool area.jpg](#)
-  [fencing and bin problem.jpg](#)
-  [fencing and trash problem.jpg](#)
-  [fencing holes of trial and error still exist to...](#)
-  [FPMP pg. 33.jpg](#)
-  [Glenn Lukos restoration plan pg.9.jpg](#)
-  [green fencing at end of Canyon Ave..jpg](#)
-  [fascicled tarplant trying to survive in forgott...](#)
-  [forgotton zone next to bin in vernal pools.jpg](#)
-  [mechanized equipment within 25 feet buffer.jpg](#)
-  [more dog feces on vernal pool area.jpg](#)
-  [mowing vernal area.jpg](#)
-  [multiple mishap fencing.jpg](#)
-  [new vernal pool 7 maybe....jpg](#)
-  [new vernal pool 7.jpg](#)

On Tue, Jul 26, 2022 at 2:45 PM Medak, Christine <Christine_Medak@fws.gov> wrote:
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To: [DALTON, KELLY M.](#)
Subject: Re: [EXTERNAL] Vernal Pools 5,6,7 in Fairview Park
Date: Thursday, September 29, 2022 12:26:42 PM

Kelly,

I would be happy to meet with you and share the Service's concerns regarding use of the model flyers in the park. I will also separately resend information provided to Cynthia D'Agosta in 2019. Please let me know if this is the information you are referring to in your message.

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Sent: Thursday, September 29, 2022 11:24 AM
To: Medak, Christine <Christine_Medak@fws.gov>
Subject: RE: [EXTERNAL] Vernal Pools 5,6,7 in Fairview Park

Good morning Christine,

Apologies for the delayed response, and I also am not exactly following Ms. Hendrick's thoughts and comments. Admittedly these kinds of messages and occasionally long-winded assertions are something I receive fairly regularly about various Fairview Park issues. Despite staff's tireless efforts to keep up with all concerns raised, including those below, many of the claims made by Ms. Hendricks pertain to items or actions allegedly taken many years ago and without any clear evidence or indication of her intent or any solution to addressing them. I can say that any actions we have taken over the recent months and years and since this Restoration Plan was in place have been closely monitored and overseen by our contracted biologists at Glenn Lukos Associates. I am committed to advancing the vernal pools restoration project and other restoration activities in the park for the benefit of Fairview Park's unique wildlife, rare ecological value, and future preservation,

and we certainly hope to address past mistakes. I continue to communicate regularly with Ms. Hendricks about all of our efforts and shared objectives in preserving Fairview Park, but occasionally find that her approach can be unproductive and accusatory rather than solutions-oriented.

On another note, sometime in the coming months, staff will be seeking City Council's direction to potentially determine the fate of the model glider/flying activity in the park. As it currently stands, the Fairview Park Steering Committee has discussed this extensively and made a strong recommendation to not resume the operation of any model flyers at the park, as staff (myself and prior FP Administrator) have brought forth several concerns about the operation of RC flyers/gliders and its incompatibility with the environmental constraints in the park (e.g. winch launch & proximity to vernal pools, rare plants and foot disturbance, raptor activity & disturbance, endangered species act, CSS habitat impacts, etc.). However, although environmental, legal and regulatory issues are a core concern, we have relatively little written information from the resource agencies aside from a couple email exchanges in 2019 when the activity was being reviewed during an HSS agreement renewal. HSS claims that their activities have not been specifically identified as cause for concern in writing from USFWS, and they feel that the legal/regulatory concerns we repeatedly raise are projections of City staff, and misrepresented.

I would welcome a meeting to hear your perspective on the issue, either in-person or zoom, and we can go over some of the various issues that have been discussed regarding the model flying activity.

Thanks,

Kelly Dalton
Fairview Park Administrator
Parks and Community Services Department
City of Costa Mesa
kelly.dalton@CostaMesaCA.gov
714-754-5135

From: Medak, Christine <Christine_Medak@fws.gov>
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Subject: Fw: [EXTERNAL] Vernal Pools 5,6,7 in Fairview Park

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Christine L. Medak
Fish and Wildlife Biologist
U.S. Fish and Wildlife Service

2177 Salk Avenue, Suite 250
Carlsbad, CA 92008

I am currently working from home indefinitely. Please email me if you'd like to schedule a call or meeting.

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"I'd like to offer a plug for actually having the natural processes instead of having to simulate them."
— Nadav Nur, PRBO Conservation Science

From: Kim Hendricks <kimhendricks26@gmail.com>
Sent: Monday, August 1, 2022 9:37 PM
To: Medak, Christine <Christine_Medak@fws.gov>
Cc: Wendy Leece <leecefam@sbcglobal.net>; Debby Koken <deborah.koken@gmail.com>; Jason Komala <komala4costamesa@gmail.com>; MINTER, JASON <JASON.MINTER@costamesaca.gov>; DALTON, KELLY M. <kelly.dalton@costamesaca.gov>
Subject: Re: [EXTERNAL] Vernal Pools 5,6,7 in Fairview Park

Hi Christine,

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gray areas described by vernal pool experts that looked at them, as potential vernal pool and watershed areas. They said they would like to see them. That is why I sent them and bcc'd you, so you could see them too and be reminded of what was there and potentially is there now. I haven't heard from them regarding this.


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There is green fencing that is to the west of vernal pool 7 that runs next to the asphalt trail too. According to the Glenn Lukos Restoration Plan, any installation of fencing would be monitored by a qualified biologist. (see attached pg. 9). This didn't happen with the cemented posts nor with the green poles. In fact, the city employee that installed the green poles was using a conceptual design map to install them, did not know exactly where the poles should go according to the map. As you can see from the photos, the green poles go a lot further into the vernal pool area (22-50 feet) and even cut off some of the watershed for Historic Feature 7. (see attached photos).

FPA understands that the Parks and Rec. Director and Fairview Park Administrator, are somewhat new to their positions and FPA doesn't want to inundate them with past mistakes. Trying to do their best with understanding and complying with all State and Federal laws can be hard, but the mistakes need to be corrected. Correcting the mistakes is part of moving forward because it is part of caring and protecting the natural resources, which the City said it would do many times. FPA hopes the City welcomes information that would help them provide as much protection as possible to these unique and rare ecosystems called vernal pools, and give the vernal pools and their watersheds every opportunity possible for them to be successfully restored.

Thank you,
Kim Hendricks



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[FPMP pg. 33.jpg](#)

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On Tue, Jul 26, 2022 at 2:45 PM Medak, Christine <Christine_Medak@fws.gov> wrote:

Hi Kim,

[new vernal pool 7 ma](#)

[new vernal pool 7.jpg](#)

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Christine L. Medak
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"I'd like to offer a plug for actually having the natural processes instead of having to simulate them."

— Nadav Nur, PRBO Conservation Science

From: Kim Hendricks <kimhendricks26@gmail.com>

Sent: Thursday, July 21, 2022 1:34 PM

To: MINTER, JASON <JASON.MINTER@costamesaca.gov>; DALTON, KELLY M. <kelly.dalton@costamesaca.gov>

Cc: Wendy Leece <leecefam@sbcglobal.net>; Debby Koken <deborah.koken@gmail.com>; Jason Komala <komala4costamesa@gmail.com>

Subject: [EXTERNAL] Vernal Pools 5,6,7 in Fairview Park

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Attached are a couple more photos and the depiction of the vernal pools drawn in. I hope the city wants to give the vernal pools full opportunity and proper representation.

Sincerely,
Kim Hendricks

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From: [Medak, Christine](#)
To: [DALTON, KELLY M.](#)
Subject: Re: [EXTERNAL] Vernal Pools 5,6,7 in Fairview Park
Date: Thursday, September 29, 2022 12:26:42 PM

Kelly,

I would be happy to meet with you and share the Service's concerns regarding use of the model flyers in the park. I will also separately resend information provided to Cynthia D'Agosta in 2019. Please let me know if this is the information you are referring to in your message.

Christine L. Medak
Fish and Wildlife Biologist
U.S. Fish and Wildlife Service
2177 Salk Avenue, Suite 250
Carlsbad, CA 92008

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From: DALTON, KELLY M. <KELLY.DALTON@costamesaca.gov>
Sent: Thursday, September 29, 2022 11:24 AM
To: Medak, Christine <Christine_Medak@fws.gov>
Subject: RE: [EXTERNAL] Vernal Pools 5,6,7 in Fairview Park

Good morning Christine,

Apologies for the delayed response, and I also am not exactly following Ms. Hendrick's thoughts and comments. Admittedly these kinds of messages and occasionally long-winded assertions are something I receive fairly regularly about various Fairview Park issues. Despite staff's tireless efforts to keep up with all concerns raised, including those below, many of the claims made by Ms. Hendricks pertain to items or actions allegedly taken many years ago and without any clear evidence or indication of her intent or any solution to addressing them. I can say that any actions we have taken over the recent months and years and since this Restoration Plan was in place have been closely monitored and overseen by our contracted biologists at Glenn Lukos Associates. I am committed to advancing the vernal pools restoration project and other restoration activities in the park for the benefit of Fairview Park's unique wildlife, rare ecological value, and future preservation,

and we certainly hope to address past mistakes. I continue to communicate regularly with Ms. Hendricks about all of our efforts and shared objectives in preserving Fairview Park, but occasionally find that her approach can be unproductive and accusatory rather than solutions-oriented.

On another note, sometime in the coming months, staff will be seeking City Council's direction to potentially determine the fate of the model glider/flying activity in the park. As it currently stands, the Fairview Park Steering Committee has discussed this extensively and made a strong recommendation to not resume the operation of any model flyers at the park, as staff (myself and prior FP Administrator) have brought forth several concerns about the operation of RC flyers/gliders and its incompatibility with the environmental constraints in the park (e.g. winch launch & proximity to vernal pools, rare plants and foot disturbance, raptor activity & disturbance, endangered species act, CSS habitat impacts, etc.). However, although environmental, legal and regulatory issues are a core concern, we have relatively little written information from the resource agencies aside from a couple email exchanges in 2019 when the activity was being reviewed during an HSS agreement renewal. HSS claims that their activities have not been specifically identified as cause for concern in writing from USFWS, and they feel that the legal/regulatory concerns we repeatedly raise are projections of City staff, and misrepresented.

I would welcome a meeting to hear your perspective on the issue, either in-person or zoom, and we can go over some of the various issues that have been discussed regarding the model flying activity.

Thanks,

Kelly Dalton
Fairview Park Administrator
Parks and Community Services Department
City of Costa Mesa
kelly.dalton@CostaMesaCA.gov
714-754-5135

From: Medak, Christine <Christine_Medak@fws.gov>
Sent: Monday, August 22, 2022 11:05 AM
To: DALTON, KELLY M. <KELLY.DALTON@costamesaca.gov>
Subject: Fw: [EXTERNAL] Vernal Pools 5,6,7 in Fairview Park

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Sent: Monday, August 1, 2022 9:37 PM
To: Medak, Christine <Christine_Medak@fws.gov>
Cc: Wendy Leece <leecefam@sbcglobal.net>; Debby Koken <deborah.koken@gmail.com>; Jason Komala <komala4costamesa@gmail.com>; MINTER, JASON <JASON.MINTER@costamesaca.gov>; DALTON, KELLY M. <kelly.dalton@costamesaca.gov>
Subject: Re: [EXTERNAL] Vernal Pools 5,6,7 in Fairview Park

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To: MINTER, JASON <JASON.MINTER@costamesaca.gov>; DALTON, KELLY M. <kelly.dalton@costamesaca.gov>

Cc: Wendy Leece <leecefam@sbcglobal.net>; Debby Koken <deborah.koken@gmail.com>; Jason Komala <komala4costamesa@gmail.com>

Subject: [EXTERNAL] Vernal Pools 5,6,7 in Fairview Park

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From: [Medak, Christine](#)
To: [DALTON, KELLY M.](#)
Subject: Fw: [EXTERNAL] Fairview Park and Harbor Soaring Society Agreement
Date: Thursday, September 29, 2022 12:27:37 PM
Attachments: [August 2014 meeting with Harbor Soaring Society.pdf](#)
[121014 RE Runway Maintenance and General Site Clean up.pdf](#)
[121014 Harbor Soaring Society \(HSS\) - Runway Maintenance and General Site Clean up.pdf](#)
[Biologically-Sensitive Areas - HSS Maintenance.pdf](#)

Just want to make sure that this is the information you are referring to that was provided in 2019.

Christine L. Medak
Fish and Wildlife Biologist
U.S. Fish and Wildlife Service
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Carlsbad, CA 92008

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"I'd like to offer a plug for actually having the natural processes instead of having to simulate them."
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From: Medak, Christine <Christine_Medak@fws.gov>
Sent: Wednesday, June 26, 2019 4:12 PM
To: Ian Hendricks <hendricksia@sbcglobal.net>
Cc: D'AGOSTA, CYNTHIA <CYNTHIA.DAGOSTA@costamesaca.gov>; edtail1@cox.net <edtail1@cox.net>; Snyder, Jonathan <Jonathan_d_Snyder@fws.gov>
Subject: Re: [EXTERNAL] Fairview Park and Harbor Soaring Society Agreement

Hi Kim,

Unfortunately by the time I received the information from the City about the permit (one week before the meeting), I had too many other projects on my plate to be able to complete a detailed review of the ordinances for the USFWS; however, I did talk directly to Cynthia D'Agosta and Scott Thomas (Sea and Sage Audubon) before the meeting and shared the following concerns/recommendations verbally with them:

1) Because the City is issuing permits to allow the operation of model planes within the park they will also be responsible should take of Federally listed species occur in association with these activities. For example, if the planes cause disturbance to nesting gnatcatchers in a manner that results in abandonment of an active nest then we would consider this a potential

violation of Section 9 of the Endangered Species Act that can be referred to our Law Enforcement Division. It was my understanding that the permits would explicitly limit planes from flying over the canyon area where the gnatcatcher was most recently found nesting, but I do not see this stated in the permit. It is not clear how the permit holders will know which resources they need to avoid because only a portion of the park is shown on the figure that I was provided by the City and it does not properly show the hydrological connection between vernal pools 1 and 4.

2) We recommended that the City provide sufficient policing to ensure the permit conditions are followed. We also recommended that the permit holders clearly display the permits (i.e., like a fishing license) so that the City can ensure only permitted individuals, that are aware of the locations of sensitive resources, are allowed to fly model planes in the park.

3) Although we do not know the exact limit of noise that can be tolerated by various bird species, we do know that loud noises cause disturbance to birds. We recommended that the City discuss with the Harbor Soaring Society the best method for determining which planes should be limited up front (e.g., limit planes to those that emit less than x decibels). It is our understanding that the City plans to conduct a study of the behavior of birds in response to various types of planes and we asked for an opportunity to review the proposed study. We remain concerned that it will be difficult to evaluate the disturbances and determine which planes are appropriate on a quantitative basis, unless a study is also conducted of the behavior of birds when no planes are flying.

4) We pointed out that while the ordinance is silent on the presence of sensitive resources in the park. We recommended that the ordinance acknowledge the presence of sensitive resources and clarify the need to avoid flying over or landing in sensitive resource areas (e.g., vernal pools, coastal sage scrub, wetlands/riparian vegetation).

5) We recommended that the specific area allowed for launching planes is designated on a map and that disturbance is limited to the minimum area necessary to launch the permitted planes. This area should not be within wetland habitat (i.e., both because it is difficult to use a launch pad full of water and because of the impacts to aquatic resources) and should provide the maximum buffer possible from the basin of Vernal Pool 1. I am not familiar with the amount of area that is needed so I cannot speak to a particular size. Please see the attached figure for the previous area that we approved to be cleared by the Harbor Soaring Society.

6) In the past we have discussed with both the Harbor Soaring Society and the City that it is important to stay out of the vernal pools when they are wet due to the potential for trampling listed species and the alteration of hydrology that occurs when walking on wet ground (see attached email correspondence). For this reason, we specifically requested that the Soaring Society not have access to the winch (which is located within vernal pool 1) during the wet season. We discussed fencing this area off and only allowing access during the dry period of the year. I do not see any mention of this in the permit language.

While impacts to biological resources continue as a result of both authorized and unauthorized activities within Fairview park, we would be hesitant to go down the path of developing a Habitat Conservation Plan and providing an incidental take permit to the City, as suggested by Sea and Sage. The City has accepted mitigation and grant funding to restore habitats in the park for the benefit of Federally Listed Species. Mitigation was provided in the park to offset impacts to resources that occurred somewhere else. It would not be appropriate to then permit

uses that are expected to degrade those mitigation sites within the park.

We agree that the actions of the City do not align with the Master Plan; however, our plan is to continue to coordinate with the City to improve the condition of park resources. It is our understanding that vernal pools 5 and 6 will be restored this year. We are hopeful that the public perception of the park will change as conditions of resources improve and as the public is educated about the rarity of the resources in the park (e.g., through educational signs and nature tours).

Please feel free to call if you have any questions regarding this message.

Christine L. Medak
Fish and Wildlife Biologist
U.S. Fish and Wildlife Service
2177 Salk Avenue, Suite 250
Carlsbad, CA 92008
Phone: (760) 431-9440 ext. 298
Fax: (760) 431-9624
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Follow us on Twitter at <http://twitter.com/USFWSPacSWest>

"I'd like to offer a plug for actually having the natural processes instead of having to simulate them."

— Nadav Nur, PRBO Conservation Science

On Wed, Jun 26, 2019 at 12:01 PM Ian Hendricks <hendrickskia@sbcglobal.net> wrote:
Hi Christine,

Big disappointment for me last night regarding the Harbor Soaring Society agreement being passed by city council. I kind of expected it based on the city's usual actions in Fairview Park.

One thing that came up last night was that USFW had not given any official response regarding the agreement. A city council member asked the Fairview Park Administrator if USFW had given an official response regarding the agreement and the answer was, "No". Is this true? If so, why not?

Have you seen that the runway was graded next to a vernal pool (250 feet according to city measurements last night). It has been graded multiple times since 2005. I sent you the pictures but can send them again if you'd like.

Also, did you know that the runway isn't even supposed to be where it currently is? The Fairview Park Master Plan (FPMP) indicates the Silent Glider Land/Launch site to be next to the bathrooms near the lawn. It isn't. Doesn't the FPMP still hold some meaning for USFW? It doesn't seem to have that much importance with the city, in

fact, they completely ignored the location being wrong last night. I did bring it up. The FP Administrator said she had been talking with USFW but nothing official - she didn't say that it wasn't even liked by USFW. Is it okay to keep flying, taking off and landing next to the vernal pools. Also, next to vernal pool 7 more space has been graded as well as a result of where they took out the wrongly placed cement posts from last year.

Please tell me what USFW thinks - it was presented like it was no big deal and USFW is talking with the administrator and everything is okay. It doesn't look okay out there.

Thank you,
Kim Hendricks

You can watch that part of the city council meeting on YouTube if you'd like to hear what was said by the FP Administrator.

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From: [DALTON, KELLY M.](#)
To: [Medak, Christine](#)
Subject: RE: [EXTERNAL] Fairview Park and Harbor Soaring Society Agreement
Date: Thursday, September 29, 2022 5:01:52 PM

Hi Christine,

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Kelly Dalton
Fairview Park Administrator
Parks and Community Services Department
City of Costa Mesa
kelly.dalton@CostaMesaCA.gov
714-754-5135

From: Medak, Christine <Christine_Medak@fws.gov>
Sent: Thursday, September 29, 2022 12:27 PM
To: DALTON, KELLY M. <KELLY.DALTON@costamesaca.gov>
Subject: Fw: [EXTERNAL] Fairview Park and Harbor Soaring Society Agreement

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Christine L. Medak
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U.S. Fish and Wildlife Service
2177 Salk Avenue, Suite 250
Carlsbad, CA 92008

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To: Ian Hendricks <hendricksia@sbcglobal.net>
Cc: D'AGOSTA, CYNTHIA <CYNTHIA.DAGOSTA@costamesaca.gov>; edtail1@cox.net
<edtail1@cox.net>; Snyder, Jonathan <Jonathan_d_Snyder@fws.gov>
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To: [Medak, Christine](#)
Subject: RE: [EXTERNAL] Fairview Park and Harbor Soaring Society Agreement
Date: Monday, October 3, 2022 9:48:34 AM

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To: [Love, Stacey](#)
Cc: [Medak, Christine](#); [Sheri Asgari](#); [Wanisa Jaikwang](#); [Tony Bomkamp](#); [David Moskovitz](#); [Stephanie Cashin](#); [Miller, William](#)
Subject: Fairview Park Fairy Shrimp 15-day notification (Recovery Permit TE-87580B-0)
Date: Monday, January 30, 2023 2:51:04 PM
Attachments: [Fairy Shrimp Monitoring Notification Letter Jan. 2023 \(Fairview Park - C.....pdf](#)
[Exhibits Fairview Park 2023 Wet Season Monitoring Notification.pdf](#)

Good afternoon Ms. Love,

Please see attached monitoring notification letter for Recovery Permit TE-87580B-0 issued to the City of Costa Mesa to conduct fairy shrimp monitoring at Fairview Park.

Due to the relative infrequency of ponding in the Fairview Park vernal pools and the limited windows of opportunity to conduct fairy shrimp monitoring activities under optimal conditions, we would respectfully request that the notification is approved sooner than the 15-day period that is typically used for monitoring activities.

Please let me know if you need any further information regarding this item, and thank you for your assistance.

Sincerely,

Kelly Dalton
Fairview Park Administrator
Parks and Community Services Department
City of Costa Mesa
714-754-5135

From: [David Moskovitz](#)
To: [Love, Stacey](#); [DALTON, KELLY M.](#)
Cc: [Medak, Christine](#); [Sheri Asgari](#); [Wanisa Jaikwang](#); [Tony Bomkamp](#); [Stephanie Cashin](#); [Miller, William B.](#)
Subject: RE: (TE-20280D, PER0010680) Fairview Park Fairy Shrimp 15-day notification (Recovery Permit TE-87580B-0)
Date: Tuesday, January 31, 2023 3:09:51 PM
Attachments: [image001.png](#)

Hi Stacey,

Stephanie and I are fine proceeding with wet sampling for this season under our individual permits, with the reporting (including annual reporting) being our responsibility. The pools are drying down quickly so we would like permission to proceed as soon as possible.

Regarding your reference to adding Stephanie for inoculum collection, please note that Stephanie's individual permit does not currently authorize her for dry season surveys because at the time of her application she did not have enough field experience with dry collection. Stephanie has since acquired that experience and intends to request an amendment to her permit in the near future. From the perspective of inoculum collection under the City's permit, we would still like to see Stephanie added as authorized individual for that if acceptable to the Service for this specific task, or at least the allow for a supervisory option.

Additionally, we would like to add Stephanie to the hydrology monitoring task and Stephanie and another staff person to the vegetation monitoring task. We will have that request come from the City, but wanted to vet some of that with you.

Thank you.



David Moskovitz | Principal

Director of Biological Services

1940 E Deere Avenue, Suite 250, Santa Ana, California 92705

D: 949.340.2562 | O: 949.837.0404 | dmoskovitz@wetlandpermitting.com

Glenn Lukos Associates, Inc. | [Website](#)

From: Love, Stacey <stacey_love@fws.gov>

Sent: Monday, January 30, 2023 3:34 PM

To: DALTON, KELLY M. <KELLY.DALTON@costamesaca.gov>

Cc: Medak, Christine <Christine_Medak@fws.gov>; Sheri Asgari <sasgari@wetlandpermitting.com>;
Wanisa Jaikwang <WJaikwang@wetlandpermitting.com>; Tony Bomkamp
<tbomkamp@wetlandpermitting.com>; David Moskovitz <dmoskovitz@wetlandpermitting.com>;
Stephanie Cashin <scashin@wetlandpermitting.com>; Miller, William B.
<william_b_miller@fws.gov>

Subject: Re: (TE-20280D, PER0010680) Fairview Park Fairy Shrimp 15-day notification (Recovery Permit TE-87580B-0)

Hello Kelly,

Thank you for the notification. I was wondering why David and Stephanie's other permits are mentioned, but found your request from December 14, 2021 to add Stephanie to your permit. It appears I accidentally didn't process it and misfiled it under Annual Reports, which is really unfortunate. I apologize for this oversight.

Due the time-sensitive nature of events, we can proceed with reviewing this request under David and Stephanie's individual permits, as you are only requesting surveys (versus the other activities on your permit). *The survey report would identify their permits only, not your permit (TE-87580B). They--not you--would be responsible for their activities and reporting, including reporting at the end of the year.* Please let me know if this is acceptable to all. Also, if you would still like me to add Stephanie at a later date for inoculum collection.

Thank you,

Stacey Love (she/her)

Recovery Permit Coordinator

[Carlsbad \(incl. Palm Springs\) field office](#)

[\(click here for jurisdiction map\)](#)

U.S. Fish and Wildlife Service

2177 Salk Avenue, Ste. 250

Carlsbad, CA 92008

(760) 431-9440 x 263

stacey_love@fws.gov

Useful links:

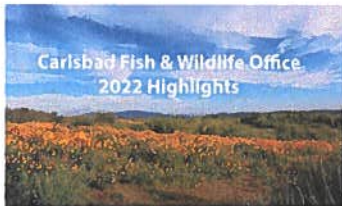
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[General Recovery Permits web page](#)

[\[Video\] How to Submit a Renewal Application in ePermits](#)

Permittees: Please include your permit number in all correspondence and reporting, thank you.

[Check out our annual report](#)



From: DALTON, KELLY M. <KELLY.DALTON@costamesaca.gov>

Sent: Monday, January 30, 2023 2:51 PM

To: Love, Stacey <stacey_love@fws.gov>

Cc: Medak, Christine <Christine_Medak@fws.gov>; Sheri Asgari <sasgari@wetlandpermitting.com>; Wanisa Jaikwang <WJaikwang@wetlandpermitting.com>; Tony Bomkamp <tbomkamp@wetlandpermitting.com>; David Moskovitz <dmoskovitz@wetlandpermitting.com>; Stephanie Cashin <scashin@wetlandpermitting.com>; Miller, William B. <william_b_miller@fws.gov>

Subject: [EXTERNAL] Fairview Park Fairy Shrimp 15-day notification (Recovery Permit TE-87580B-0)

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Good afternoon Ms. Love,

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Sincerely,

Kelly Dalton
Fairview Park Administrator
Parks and Community Services Department
City of Costa Mesa
714-754-5135

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From: [Miller, William B.](#)
To: [BACKSTROM, TINA M.](#)
Cc: [DALTON, KELLY M.](#); [Ann Johnston](#); [Skidmore, Anthony](#); [Roberts, Carol](#); [Medak, Christine](#)
Subject: Fairview Park Fairy Shrimp Surveys
Date: Tuesday, January 31, 2023 10:34:46 AM

Dear Tina- We (USFWS) have been advised that the City of Costa Mesa is getting ready to initiate surveys for endangered fairy shrimp within a couple but not all of the vernal pools at Fairview Park. This survey effort is limited because it is associated with efforts to remediate impacts within those pools. However, given that this is an advantageous rainfall year, and in light of LAWA's proposal to enhance and manage the pools at Fairview Park for the endangered Riverside Fairy Shrimp (RFS), we encourage LAWA to support performing fairy shrimp surveys within all of the Fairview Park Vernal Pools this year to provide additional baseline information for preparation of the management plan.

Importantly, despite several formal surveys for fairy shrimp at Fairview Park over the years, RFS was only documented within one of the pools in 2017. Therefore, it would be desirable to perform additional targeted surveys for this species to assess its current status and distribution among the pools within the Park. Because protocol surveys are intended to be performed throughout the entire period of pool inundation, a decision whether to support such surveys should be made ASAP. Please let me know if you have any questions.

Thanks- Will

William B. Miller, Biomonitor
U.S. Fish and Wildlife Service
Carlsbad Fish and Wildlife Office
2177 Salk Avenue, Suite 250
Carlsbad, California 92008
(760) 431-9440 Ext. 206
William_B_Miller@fws.gov

Pronouns: *He, Him, His*

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From: [BACKSTROM, TINA M.](#)
To: [Miller, William B.](#)
Cc: [DALTON, KELLY M.](#); [Ann Johnston](#); [Skidmore, Anthony](#); [Roberts, Carol](#); [Medak, Christine](#)
Subject: RE: Fairview Park Fairy Shrimp Surveys
Date: Tuesday, January 31, 2023 11:43:53 AM
Attachments: [image001.png](#)

Thanks for the information, Will. LAWA, through our consultant Tony Skidmore of CDM Smith, has reached out to the City of Costa Mesa on their availability for discussions and has been on standby. We'll reach out to them again.

Tina M. Backstrom, P.E.
Sustainable Campus Manager (STPII)
Los Angeles World Airports
424-646-7028 (o)



From: Miller, William B. <william_b_miller@fws.gov>
Sent: Tuesday, January 31, 2023 10:35 AM
To: BACKSTROM, TINA M. <TBACKSTROM@lawa.org>
Cc: DALTON, KELLY M. <KELLY.DALTON@costamesaca.gov>; Ann Johnston <ann.johnston@psomas.com>; Skidmore, Anthony <SkidmoreAJ@cdmsmith.com>; Roberts, Carol <carol_a_roberts@fws.gov>; Medak, Christine <Christine_Medak@fws.gov>
Subject: Fairview Park Fairy Shrimp Surveys

This message originated from an external email system. Exercise caution.

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From: [David Moskovitz](#)
To: [Love, Stacey](#); [DALTON, KELLY M.](#)
Cc: [Medak, Christine](#); [Sheri Asgari](#); [Wanisa Jaikwang](#); [Tony Bomkamp](#); [Stephanie Cashin](#); [Miller, William B.](#)
Subject: RE: (TE-20280D, PER0010680) Fairview Park Fairy Shrimp 15-day notification (Recovery Permit TE-87580B-0)
Date: Tuesday, January 31, 2023 3:09:51 PM
Attachments: [image001.png](#)

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David Moskovitz | Principal

Director of Biological Services

1940 E Deere Avenue, Suite 250, Santa Ana, California 92705

D: 949.340.2562 | O: 949.837.0404 | dmoskovitz@wetlandpermitting.com

Glenn Lukos Associates, Inc. | [Website](#)

From: Love, Stacey <stacey_love@fws.gov>

Sent: Monday, January 30, 2023 3:34 PM

To: DALTON, KELLY M. <KELLY.DALTON@costamesaca.gov>

Cc: Medak, Christine <Christine_Medak@fws.gov>; Sheri Asgari <sasgari@wetlandpermitting.com>; Wanisa Jaikwang <WJaikwang@wetlandpermitting.com>; Tony Bomkamp <tbomkamp@wetlandpermitting.com>; David Moskovitz <dmoskovitz@wetlandpermitting.com>; Stephanie Cashin <scashin@wetlandpermitting.com>; Miller, William B. <william_b_miller@fws.gov>

Subject: Re: (TE-20280D, PER0010680) Fairview Park Fairy Shrimp 15-day notification (Recovery Permit TE-87580B-0)

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Thank you,

Stacey Love (she/her)

Recovery Permit Coordinator

[Carlsbad \(incl. Palm Springs\) field office](#)

[\(click here for jurisdiction map\)](#)

U.S. Fish and Wildlife Service

2177 Salk Avenue, Ste. 250

Carlsbad, CA 92008

(760) 431-9440 x 263

stacey_love@fws.gov

Useful links:

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[General Recovery Permits web page](#)

[\[Video\] How to Submit a Renewal Application in ePermits](#)

Permittees: Please include your permit number in all correspondence and reporting, thank you.

Check out our annual report



From: DALTON, KELLY M. <KELLY.DALTON@costamesaca.gov>

Sent: Monday, January 30, 2023 2:51 PM

To: Love, Stacey <stacey_love@fws.gov>

Cc: Medak, Christine <Christine_Medak@fws.gov>; Sheri Asgari <sasgari@wetlandpermitting.com>; Wanisa Jaikwang <WJaikwang@wetlandpermitting.com>; Tony Bomkamp <tbomkamp@wetlandpermitting.com>; David Moskovitz <dmoskovitz@wetlandpermitting.com>; Stephanie Cashin <scashin@wetlandpermitting.com>; Miller, William B. <william_b_miller@fws.gov>

Subject: [EXTERNAL] Fairview Park Fairy Shrimp 15-day notification (Recovery Permit TE-87580B-0)

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Good afternoon Ms. Love,

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Sincerely,

Kelly Dalton
Fairview Park Administrator
Parks and Community Services Department
City of Costa Mesa
714-754-5135

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From: [DALTON, KELLY M.](#)
To: [Medak, Christine](#)
Subject: RE: [EXTERNAL] RE: (TE-20280D, PER0010680) Fairview Park Fairy Shrimp 15-day notification (Recovery Permit TE-87580B-0)
Date: Wednesday, March 15, 2023 5:38:00 PM
Attachments: [image004.png](#)
[VP 1 & 4.png](#)

Hi Chris,

The activities being performed under David Moskovitz and Stephanie Cashin are pertaining only to the Vernal pool 5/6/7 area, which is more specific to the restoration plan and required monitoring activities for that area. This was always scoped under a separate contract with Glenn Lukos Associates solely for that management area.

These other proposed surveys as proposed by Barry Nerhus are also in Fairview Park, but are pertaining to the Vernal Pool 1 and 4 areas. The approximate vernal pool boundaries are shown in the attached figure. This area would be surveyed under Barry's permitted biologists who carry individual permits for fairy shrimp surveys. Barry will be following up with the information about these activities and the details of the permittees in the other email chain with Stacey. We have Barry (Endemic) under separate contract for the wetlands and other biological resources services throughout the park, so this is why they are being processed as separate requests. Endemic will not be surveying in any of the vernal pool 5/6/7 areas.

Thanks,

Kelly Dalton
Fairview Park Administrator
Parks and Community Services Department
City of Costa Mesa
kelly.dalton@CostaMesaCA.gov
714-754-5135

From: Medak, Christine <Christine_Medak@fws.gov>
Sent: Wednesday, March 15, 2023 8:37 AM
To: DALTON, KELLY M. <KELLY.DALTON@costamesaca.gov>
Subject: Fw: [EXTERNAL] RE: (TE-20280D, PER0010680) Fairview Park Fairy Shrimp 15-day notification (Recovery Permit TE-87580B-0)

Hi Kelly,

It appears surveys for fairy shrimp are already under way at Fairview Park so it is not clear that there is a need to have surveys conducted by another individual. Can you please coordinate with Barry Nerhus and clarify if he is proposing to survey in a different area than David is contracted to survey?

Christine L. Medak
Fish and Wildlife Biologist
U.S. Fish and Wildlife Service
2177 Salk Avenue, Suite 250
Carlsbad, CA 92008
Office: 760-431-9440, ext 298
<http://www.fws.gov/carlsbad/>

Check out our annual report



"I'd like to offer a plug for actually having the natural processes instead of having to simulate them."
— Nadav Nur, PRBO Conservation Science

From: David Moskovitz <dmoskovitz@wetlandpermitting.com>
Sent: Tuesday, March 14, 2023 5:30 PM
To: Medak, Christine <Christine_Medak@fws.gov>
Cc: Stephanie Cashin <scashin@wetlandpermitting.com>
Subject: RE: [EXTERNAL] RE: (TE-20280D, PER0010680) Fairview Park Fairy Shrimp 15-day notification (Recovery Permit TE-87580B-0)

Hi Chris,

Stephanie Cashin and I initiated on the day that you authorized us via email. We collected a single male of San Diego fairy shrimp each of Pools 5 and 7, and confirmed gravid females in each. Pool 6 had dried at that time, but has since re-filled, so we intend to visit at the end of this week to check that pool.

Please let me know if you have any questions.

Thank you.

David Moskovitz | Principal
Director of Biological Services
1940 E Deere Avenue, Suite 250, Santa Ana, California 92705
D: 949.340.2562 | O: 949.837.0404 | dmoskovitz@wetlandpermitting.com



Glenn Lukos Associates, Inc. | [Website](#)

From: Medak, Christine <Christine_Medak@fws.gov>
Sent: Tuesday, March 14, 2023 2:33 PM
To: David Moskovitz <dmoskovitz@wetlandpermitting.com>
Subject: Re: [EXTERNAL] RE: (TE-20280D, PER0010680) Fairview Park Fairy Shrimp 15-day notification (Recovery Permit TE-87580B-0)

Hi David,

Can you confirm that you initiated surveys for fairy shrimp at Fairview Park?

Christine L. Medak
Fish and Wildlife Biologist
U.S. Fish and Wildlife Service
2177 Salk Avenue, Suite 250
Carlsbad, CA 92008
Office: 760-431-9440, ext 298
<http://www.fws.gov/carlsbad/>

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"I'd like to offer a plug for actually having the natural processes instead of having to simulate them."
— Nadav Nur, PRBO Conservation Science

From: David Moskovitz <dmoskovitz@wetlandpermitting.com>
Sent: Wednesday, February 1, 2023 12:35 PM
To: Medak, Christine <Christine_Medak@fws.gov>

Cc: Roberts, Carol <carol_a_roberts@fws.gov>; Stephanie Cashin <scashin@wetlandpermitting.com>

Subject: Re: [EXTERNAL] RE: (TE-20280D, PER0010680) Fairview Park Fairy Shrimp 15-day notification (Recovery Permit TE-87580B-0)

Thank you for confirming approval.

David

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From: Medak, Christine <Christine_Medak@fws.gov>

Sent: Wednesday, February 1, 2023 12:20:54 PM

To: David Moskovitz <dmoskovitz@wetlandpermitting.com>

Cc: Roberts, Carol <carol_a_roberts@fws.gov>; Stephanie Cashin <scashin@wetlandpermitting.com>

Subject: [EXTERNAL] RE: (TE-20280D, PER0010680) Fairview Park Fairy Shrimp 15-day notification (Recovery Permit TE-87580B-0)

David,

Thank you for the notification. Please consider this email our approval for you to commence wet season surveys for fairy shrimp at the location proposed immediately instead of fifteen days after notification as stipulated in your recovery permit. The proposed activities are approved to be conducted in accordance with individual permits issued to you and to Stephanie Cashin.

Please send your survey report to Stacey Love.

Christine L. Medak
Fish and Wildlife Biologist
U.S. Fish and Wildlife Service
2177 Salk Avenue, Suite 250
Carlsbad, CA 92008
Office: 760-431-9440, ext 298
<http://www.fws.gov/carlsbad/>

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"I'd like to offer a plug for actually having the natural processes instead of having to simulate them."
— Nadav Nur, PRBO Conservation Science

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From: [DALTON, KELLY M.](#)
To: [Love, Stacey](#); [David Moskowitz](#)
Cc: [Medak, Christine](#); [Sheri Asgari](#); [Wanisa Jaikwang](#); [Tony Bomkamp](#); [Stephanie Cashin](#); [Miller, William B.](#)
Subject: RE: [EXTERNAL] RE: (TE-20280D, PER0010680) Fairview Park Fairy Shrimp 15-day notification (Recovery Permit TE-87580B-0)
Date: Tuesday, January 31, 2023 3:33:00 PM
Attachments: [image003.png](#)

Good afternoon Stacey,

Yes, I can confirm that this approach is acceptable on the city's end.

Please let me know if you need anything else on the City's side.

Thank you,

Kelly Dalton
Fairview Park Administrator
Parks and Community Services Department
City of Costa Mesa
kelly.dalton@CostaMesaCA.gov
714-754-5135

From: Love, Stacey <stacey_love@fws.gov>
Sent: Tuesday, January 31, 2023 3:29 PM
To: David Moskowitz <dmoskovitz@wetlandpermitting.com>; DALTON, KELLY M. <KELLY.DALTON@costamesaca.gov>
Cc: Medak, Christine <Christine_Medak@fws.gov>; Sheri Asgari <sasgari@wetlandpermitting.com>; Wanisa Jaikwang <WJaikwang@wetlandpermitting.com>; Tony Bomkamp <tbomkamp@wetlandpermitting.com>; Stephanie Cashin <scashin@wetlandpermitting.com>; Miller, William B. <william_b_miller@fws.gov>
Subject: Re: [EXTERNAL] RE: (TE-20280D, PER0010680) Fairview Park Fairy Shrimp 15-day notification (Recovery Permit TE-87580B-0)

Hi David, thank you. Is Kelly available to confirm that this approach regarding the immediate surveys is acceptable?

From: David Moskowitz <dmoskovitz@wetlandpermitting.com>
Sent: Tuesday, January 31, 2023 3:09 PM
To: Love, Stacey <stacey_love@fws.gov>; DALTON, KELLY M. <KELLY.DALTON@costamesaca.gov>
Cc: Medak, Christine <Christine_Medak@fws.gov>; Sheri Asgari <sasgari@wetlandpermitting.com>; Wanisa Jaikwang <WJaikwang@wetlandpermitting.com>; Tony Bomkamp <tbomkamp@wetlandpermitting.com>; Stephanie Cashin <scashin@wetlandpermitting.com>; Miller, William B. <william_b_miller@fws.gov>
Subject: [EXTERNAL] RE: (TE-20280D, PER0010680) Fairview Park Fairy Shrimp 15-day notification (Recovery Permit TE-87580B-0)

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From: Love, Stacey <stacey_love@fws.gov>

Sent: Monday, January 30, 2023 3:34 PM

To: DALTON, KELLY M. <KELLY.DALTON@costamesaca.gov>

Cc: Medak, Christine <Christine_Medak@fws.gov>; Sheri Asgari <sasgari@wetlandpermitting.com>;

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<tbomkamp@wetlandpermitting.com>; David Moskovitz <dmoskovitz@wetlandpermitting.com>;

Stephanie Cashin <scashin@wetlandpermitting.com>; Miller, William B.

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Thank you,

Stacey Love (she/her)

Recovery Permit Coordinator

[Carlsbad \(incl. Palm Springs\) field office](#)

[\(click here for jurisdiction map\)](#)

U.S. Fish and Wildlife Service

2177 Salk Avenue, Ste. 250

Carlsbad, CA 92008

(760) 431-9440 x 263

stacey_love@fws.gov

Useful links:

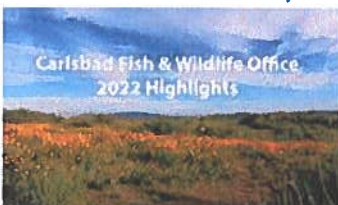
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Sent: Monday, January 30, 2023 2:51 PM

To: Love, Stacey <stacey_love@fws.gov>

Cc: Medak, Christine <Christine_Medak@fws.gov>; Sheri Asgari <sasgari@wetlandpermitting.com>;
Wanisa Jaikwang <WJaikwang@wetlandpermitting.com>; Tony Bomkamp
<tbomkamp@wetlandpermitting.com>; David Moskovitz <dmoskovitz@wetlandpermitting.com>;
Stephanie Cashin <scashin@wetlandpermitting.com>; Miller, William B.
<william_b_miller@fws.gov>

Subject: [EXTERNAL] Fairview Park Fairy Shrimp 15-day notification (Recovery Permit TE-87580B-0)

This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.

Good afternoon Ms. Love,

Please see attached monitoring notification letter for Recovery Permit TE-87580B-0 issued to the City of Costa Mesa to conduct fairy shrimp monitoring at Fairview Park.

Due to the relative infrequency of ponding in the Fairview Park vernal pools and the limited windows of opportunity to conduct fairy shrimp monitoring activities under optimal conditions, we would respectfully request that the notification is approved sooner than the 15-day period that is typically used for monitoring activities.

Please let me know if you need any further information regarding this item, and thank you for your assistance.

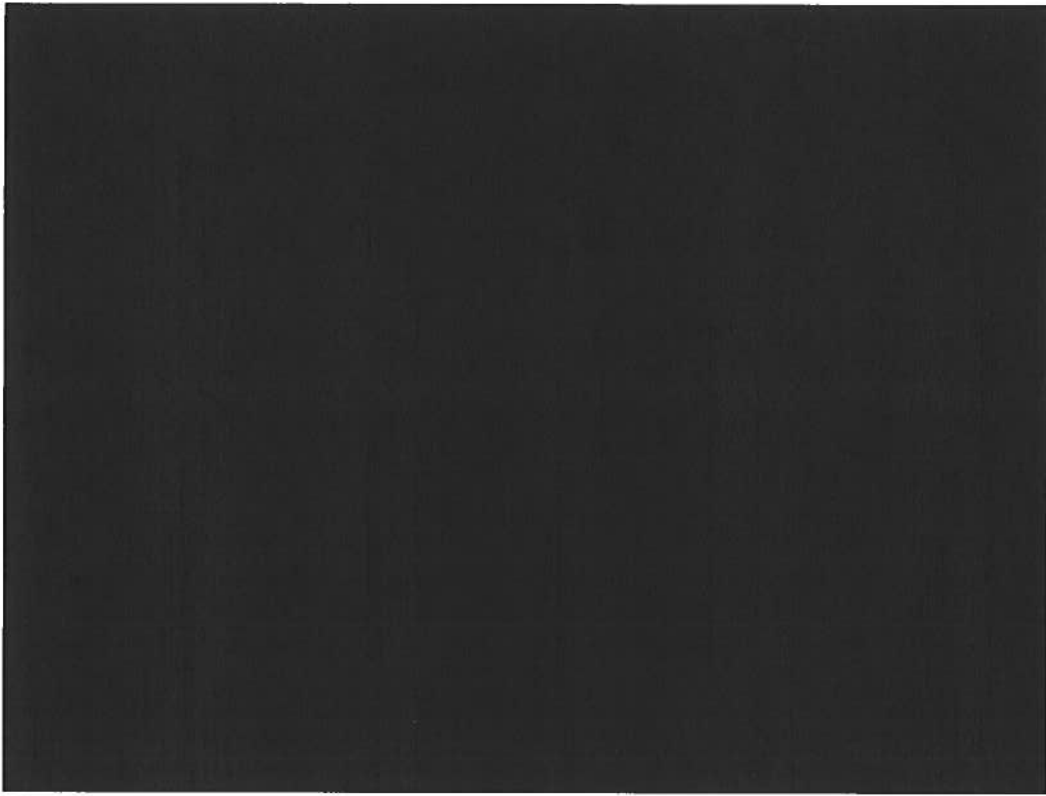
Sincerely,

Kelly Dalton
Fairview Park Administrator
Parks and Community Services Department
City of Costa Mesa
714-754-5135

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Small, illegible text at the bottom left corner, possibly a page number or footer.

From: [Love, Stacey](#)
To: [David Moskowitz](#); [DALTON, KELLY M.](#)
Cc: [Medak, Christine](#); [Sheri Asgari](#); [Wanisa Jaikwang](#); [Tony Bomkamp](#); [Stephanie Cashin](#)
Subject: Re: adding staff (TE-87580B, City of Costa Mesa)
Date: Thursday, February 2, 2023 3:38:56 PM
Attachments: [image001.png](#)

Hello David,

Following up on the inquiry highlighted below, the City may send a request to add Stephanie in accordance with permit condition 5 of TE-87580B. Please note that the permit condition states to allow at least 30 days; as this is my busiest time of year, it could take longer. Also, the permittee should be aware that they will be responsible for activities, reporting, and any State approvals if needed.

Regarding personnel in supervisory status, please see the note at the end of the List of Authorized Individuals. As long as supervised individuals conduct activities within 3 meters of a person identified on the permit, there is no need to add them to the permit. We ask that no more than 2 supervised individuals accompany a permitted person at a time.

Thank you,
Stacey

From: David Moskowitz <dmoskovitz@wetlandpermitting.com>
Sent: Tuesday, January 31, 2023 3:09 PM
To: Love, Stacey <stacey_love@fws.gov>; DALTON, KELLY M. <KELLY.DALTON@costamesaca.gov>
Cc: Medak, Christine <Christine_Medak@fws.gov>; Sheri Asgari <sasgari@wetlandpermitting.com>; Wanisa Jaikwang <WJaikwang@wetlandpermitting.com>; Tony Bomkamp <tbomkamp@wetlandpermitting.com>; Stephanie Cashin <scashin@wetlandpermitting.com>; Miller, William B. <william_b_miller@fws.gov>
Subject: [EXTERNAL] RE: (TE-20280D, PER0010680) Fairview Park Fairy Shrimp 15-day notification (Recovery Permit TE-87580B-0)

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Hi Stacey,

Stephanie and I are fine proceeding with wet sampling for this season under our individual permits, with the reporting (including annual reporting) being our responsibility. The pools are drying down quickly so we would like permission to proceed as soon as possible.

Regarding your reference to adding Stephanie for inoculum collection, please note that Stephanie's

individual permit does not currently authorize her for dry season surveys because at the time of her application she did not have enough field experience with dry collection. Stephanie has since acquired that experience and intends to request an amendment to her permit in the near future.

From the perspective of inoculum collection under the City's permit, we would still like to see Stephanie added as authorized individual for that if acceptable to the Service for this specific task, or at least the allow for a supervisory option.

Additionally, we would like to add Stephanie to the hydrology monitoring task and Stephanie and another staff person to the vegetation monitoring task. We will have that request come from the City, but wanted to vet some of that with you.

Thank you.



David Moskovitz | Principal

Director of Biological Services

1940 E Deere Avenue, Suite 250, Santa Ana, California 92705

D: 949.340.2562 | O: 949.837.0404 | dmoskovitz@wetlandpermitting.com

Glenn Lukos Associates, Inc. | [Website](#)

From: Love, Stacey <stacey_love@fws.gov>

Sent: Monday, January 30, 2023 3:34 PM

To: DALTON, KELLY M. <KELLY.DALTON@costamesaca.gov>

Cc: Medak, Christine <Christine_Medak@fws.gov>; Sheri Asgari <sasgari@wetlandpermitting.com>;

Wanisa Jaikwang <WJaikwang@wetlandpermitting.com>; Tony Bomkamp

<tbomkamp@wetlandpermitting.com>; David Moskovitz <dmoskovitz@wetlandpermitting.com>;

Stephanie Cashin <scashin@wetlandpermitting.com>; Miller, William B.

<william_b_miller@fws.gov>

Subject: Re: (TE-20280D, PER0010680) Fairview Park Fairy Shrimp 15-day notification (Recovery Permit TE-87580B-0)

Hello Kelly,

Thank you for the notification. I was wondering why David and Stephanie's other permits are mentioned, but found your request from December 14, 2021 to add Stephanie to your permit. It appears I accidentally didn't process it and misfiled it under Annual Reports, which is really unfortunate. I apologize for this oversight.

Due the time-sensitive nature of events, we can proceed with reviewing this request under David and Stephanie's individual permits, as you are only requesting surveys (versus the other activities on your permit). *The survey report would identify their permits only, not your permit (TE-87580B). They--not you--would be responsible for their activities and reporting, including*

reporting at the end of the year. Please let me know if this is acceptable to all. Also, if you would still like me to add Stephanie at a later date for inoculum collection.

Thank you,

Stacey Love (she/her)

Recovery Permit Coordinator

[Carlsbad \(incl. Palm Springs\) field office](#)

[\(click here for jurisdiction map\)](#)

U.S. Fish and Wildlife Service

2177 Salk Avenue, Ste. 250

Carlsbad, CA 92008

(760) 431-9440 x 263

stacey_love@fws.gov

Useful links:

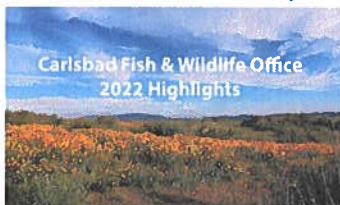
[Pacific Southwest Region Recovery Permits web page](#)

[General Recovery Permits web page](#)

[\[Video\] How to Submit a Renewal Application in ePermits](#)

Permittees: Please include your permit number in all correspondence and reporting, thank you.

[Check out our annual report](#)



From: DALTON, KELLY M. <KELLY.DALTON@costamesaca.gov>

Sent: Monday, January 30, 2023 2:51 PM

To: Love, Stacey <stacey_love@fws.gov>

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Wanisa Jaikwang <WJaikwang@wetlandpermitting.com>; Tony Bomkamp

<tbomkamp@wetlandpermitting.com>; David Moskovitz <dmoskovitz@wetlandpermitting.com>;

Stephanie Cashin <scashin@wetlandpermitting.com>; Miller, William B.

<william_b_miller@fws.gov>

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Please let me know if you need any further information regarding this item, and thank you for your assistance.

Sincerely,

Kelly Dalton
Fairview Park Administrator
Parks and Community Services Department
City of Costa Mesa
714-754-5135

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From: [DALTON, KELLY M.](#)
To: [Medak, Christine](#); [Miller, William B.](#)
Subject: Review of model flying at Fairview Park
Date: Tuesday, February 7, 2023 8:31:00 AM
Attachments: [USFWS Concerns - Lions Club Fish Fry Feb. 2019.pdf](#)
[June 2019 USFWS Correspondence - Flying Field Recommendations.pdf](#)
[Memo to Bart Mejia Vernal Pools.pdf](#)
[2021 Harbor Soaring CBO LOA final.pdf](#)

Good morning Chris and Will,

As you may recall, during a period from 2019 through 2021, the City of Costa Mesa worked with various stakeholders and members of the public to evaluate the model flying use agreement, the individual flyer permit system, and the flying activity in Fairview Park. During this time, former City staff worked with the community to conduct a series of meetings and discussions on the model flying activity, and consider issues and concerns related to compatibility with the site's various protected and sensitive resources and habitats. Just prior to the retirement of the former Fairview Park Administrator, in September 2021, staff presented this item before City Council to solicit direction on the fate of the activity and consider alternatives including closure, relocation, or keep in place; however no staff recommendation was provided at the time. At the conclusion of the meeting, City council's directions included 1) allow gliders only going forward (i.e. no motorized planes), 2) evaluate other sites outside of the existing flight field area, and 3) examine the flying activity during the master plan update when a more formal review of activities would be performed, and recognized in an updated Master Plan.

Since that time, staff have worked on revising applicable documents including flying policies, ordinances, and the flyer permit system to account for the updated direction of city council. In addition, staff has spent considerable time reviewing communication and letters that the City has received over time, some of which have been issued over time from the Service and concerned stakeholders regarding public uses in Fairview Park, in the context of the park's unique biological resources and sensitive habitats.

As we have gone through this information, it has come to light that a dedicated meeting would be beneficial to discuss these issues and obtain input from the Service. Based on a comprehensive review of the information City staff has synthesized, staff and the Fairview Park Steering Committee's current conclusion is that allowing any flying activity in the previous location on the mesa (shown in HSS's LOA) is generally incompatible with the City's resource preservation objectives and environmental stewardship obligations at Fairview Park. Some of the concerns with protected features, such as the vernal pools, CSS, and listed species, have been recommended to the City by the Service over time, though not all of these communications were specific to model flying. In addition to concerns about flight and pedestrian activity over and near the vernal pools, coastal sage scrub habitats, previous mitigation/restoration sites, there are also many concerns with impacts to the diverse array of birds species which utilize the park and the mesa as important foraging habitat. Public perception, enforcement, trail formation, and surface degradation are also issues which surround this activity.

However, despite the extensive list of environmental concerns that staff and the Committee has

reviewed and brought forward, the model flying community has been pressing City officials to immediately re-open flying to gliders in the same area that was used historically. HSS (Harbor Soaring Society) insists that City staff are over-restricting the activity on our own accord, and HSS dismisses our interpretation of past correspondence with the Service and other concerned parties about environmental impacts relating to the activity. In March, we are tentatively scheduled to return to City Council where we intend to present these issues and offer a clear recommendation with how to proceed.

Do you have time for a 1-hour zoom meeting this week or early next week to discuss this issue? If you can provide a couple available times, we can set up a call to discuss. If we find that a field meeting is needed, that can also be arranged. I appreciate your guidance and input in advance.

Sincerely,

Kelly Dalton
Fairview Park Administrator
Parks and Community Services Department
City of Costa Mesa
kelly.dalton@CostaMesaCA.gov
714-754-5135

From: [DALTON, KELLY M.](#)
To: [Medak, Christine](#)
Cc: [Miller, William B.](#)
Subject: RE: [EXTERNAL] Review of model flying at Fairview Park
Date: Tuesday, February 7, 2023 9:27:00 AM

We will send out a zoom invite for 2/10 from 2pm-3pm. Thanks for the quick response.

From: Medak, Christine <Christine_Medak@fws.gov>
Sent: Tuesday, February 7, 2023 9:16 AM
To: DALTON, KELLY M. <KELLY.DALTON@costamesaca.gov>
Cc: Miller, William B. <william_b_miller@fws.gov>
Subject: Re: [EXTERNAL] Review of model flying at Fairview Park

Kelly,

I received requests for several meetings this morning that have not yet been set. Tentatively, I am available:

2/8 - 9 am - 3 pm
2/9 - anytime except 11-12
2/10 - 2 pm - 5 pm

I will let you know if I have any additional conflicts.

Christine L. Medak
Fish and Wildlife Biologist
U.S. Fish and Wildlife Service
2177 Salk Avenue, Suite 250
Carlsbad, CA 92008
Office: 760-431-9440, ext 298
<http://www.fws.gov/carlsbad/>

[Check out our annual report](#)

"I'd like to offer a plug for actually having the natural processes instead of having to simulate them."
— Nadav Nur, PRBO Conservation Science

From: DALTON, KELLY M. <KELLY.DALTON@costamesaca.gov>

Sent: Tuesday, February 7, 2023 8:31 AM

To: Medak, Christine <Christine_Medak@fws.gov>; Miller, William B. <william_b_miller@fws.gov>

Subject: [EXTERNAL] Review of model flying at Fairview Park

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kelly.dalton@CostaMesaCA.gov
714-754-5135

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2177 Salk Avenue, Suite 250
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Office: 760-431-9440, ext 298
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"I'd like to offer a plug for actually having the natural processes instead of having to simulate them."
— Nadav Nur, PRBO Conservation Science

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Kelly Dalton
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kelly.dalton@CostaMesaCA.gov
714-754-5135

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From: [Carlos Martinez](#)
To: william_b_miller@fws.gov; Christine_Medak@fws.gov; [DALTON, KELLY M.](#)
Cc: [Amber Semrow](#); [Steve Shepherd](#)
Subject: Fairview Park Vernal Pools
Date: Wednesday, February 8, 2023 8:23:06 AM
Attachments: [Biologically-Sensitive Areas.pdf](#)

Good Morning,

I apologize for the delay in this email. The treatment was made on February 2nd. I treated vernal pools 1,2,3,4. These are the identification numbers that we received back in 2017 so I wanted to be on the same page as our partner agencies. The previous numbers were numbers I came up with on the fly.

So, with that being said, I treated 108,900 square feet at 4 pounds per acre. As agreed , I used Vectobac G and was able to reach most of the water from the edge. I did not wade into the pools.

I decided to treat at the lower rate due to the sensitivity of the site. I will include a map that the service provided in the beginning.

If the identification number have changed or if there is a better map, please send that to me so that I can update my records.

I will re-inspect the site the week of February 13th. If you have any questions, please do not hesitate to contact me at this email or at my District cell phone which is 714-876-3851.

Sincerely,

Carlos Martinez
Vector Control Inspector III
Orange County Mosquito and Vector Control District
Serving Orange County Since 1947
[13001 Garden Grove Boulevard](#)
[Garden Grove, CA 92843-2102](#)
OFF: [\(714\) 971-2421](tel:(714)971-2421)
FAX: [\(714\) 748-0247](tel:(714)748-0247)
E-mail: cmartinez@ocvector.org

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From: [Miller, William B.](#)
To: [Carlos Martinez](#); [Medak, Christine](#); [DALTON, KELLY M.](#)
Cc: [Amber Semrow](#); [Steve Shepherd](#)
Subject: Re: [EXTERNAL] Fairview Park Vernal Pools
Date: Wednesday, February 8, 2023 1:06:20 PM

Thanks for providing the update Carlos! Thanks for transmitting the exhibit along with the update which facilitates our ability to track where the treatments were applied.

Sincerely,

William B. Miller, Biomonitor
U.S. Fish and Wildlife Service
Carlsbad Fish and Wildlife Office
2177 Salk Avenue, Suite 250
Carlsbad, California 92008
(760) 431-9440 Ext. 206
William_B_Miller@fws.gov

Pronouns: *He, Him, His*

From: Carlos Martinez <CMartinez@ocvector.org>
Sent: Wednesday, February 8, 2023 8:22 AM
To: Miller, William B. <william_b_miller@fws.gov>; Medak, Christine <Christine_Medak@fws.gov>; KELLY.DALTON@costamesaca.gov <KELLY.DALTON@costamesaca.gov>
Cc: Amber Semrow <asemrow@ocvector.org>; Steve Shepherd <sshepherd@ocvector.org>
Subject: [EXTERNAL] Fairview Park Vernal Pools

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Sincerely,

Carlos Martinez
Vector Control Inspector III
Orange County Mosquito and Vector Control District
****Serving Orange County Since 1947****
13001 Garden Grove Boulevard
Garden Grove, CA 92843-2102
OFF: (714) 971-2421
FAX: (714) 748-0247
E-mail: cmartinez@ocvector.org

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From: [Medak, Christine](#)
To: [DALTON, KELLY M.](#)
Subject: Fw: [EXTERNAL] RE: Renewing permit for model plane operation in Fairview Park
Date: Friday, February 10, 2023 2:01:49 PM
Attachments: [image001.png](#)

Christine L. Medak
Fish and Wildlife Biologist
U.S. Fish and Wildlife Service
2177 Salk Avenue, Suite 250
Carlsbad, CA 92008
Office: 760-431-9440, ext 298
<http://www.fws.gov/carlsbad/>

[Check out our annual report](#)



"I'd like to offer a plug for actually having the natural processes instead of having to simulate them."
— Nadav Nur, PRBO Conservation Science

From: Medak, Christine <Christine_Medak@fws.gov>
Sent: Thursday, May 16, 2019 8:46 AM
To: Brian Burnett <post.honigtopf@gmail.com>
Subject: Fwd: [EXTERNAL] RE: Renewing permit for model plane operation in Fairview Park

Christine L. Medak
Fish and Wildlife Biologist
U.S. Fish and Wildlife Service
2177 Salk Avenue, Suite 250
Carlsbad, CA 92008
Phone: (760) 431-9440 ext. 298
Fax: (760) 431-9624
<http://www.fws.gov/carlsbad/>

Follow us on Facebook at <http://facebook.com/USFWSPacificSouthwest>
Follow us on Twitter at <http://twitter.com/USFWSPacSWest>

"I'd like to offer a plug for actually having the natural processes instead of having to simulate them."

— Nadav Nur, PRBO Conservation Science

----- Forwarded message -----

From: **Medak, Christine** <christine_medak@fws.gov>

Date: Wed, May 15, 2019 at 2:45 PM

Subject: Re: [EXTERNAL] RE: Renewing permit for model plane operation in Fairview Park

To: D'AGOSTA, CYNTHIA <CYNTHIA.DAGOSTA@costamesaca.gov>

Thanks Cynthia,

Consistent with other ongoing impacts to the park since 2007, it appears the use of electronic planes is a recent development that has become progressively more destructive as the number of planes has increased and the size of the area of disturbance associated with the runway has increased in recent years. We encourage the City to take responsibility for identifying the limits of disturbance that you are permitting to occur and to provide sufficient enforcement to prevent continued unauthorized access into the vernal pools.

Christine L. Medak
Fish and Wildlife Biologist
U.S. Fish and Wildlife Service
2177 Salk Avenue, Suite 250
Carlsbad, CA 92008
Phone: (760) 431-9440 ext. 298
Fax: (760) 431-9624
<http://www.fws.gov/carlsbad/>

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"I'd like to offer a plug for actually having the natural processes instead of having to simulate them."

— Nadav Nur, PRBO Conservation Science

On Wed, May 15, 2019 at 2:23 PM D'AGOSTA, CYNTHIA

<CYNTHIA.DAGOSTA@costamesaca.gov> wrote:

Chris, See my replies below in your email for direct responses. Some other thoughts:

I just finished both the staff report and the agreement not even an hour ago. They do not go public until Friday. Would you like me to email them to you at that time?

The process is this:

1. The FVP Steering Committee reviewed and made rec'd to Commission & Council in April, to: 1. Approve new agreement 2. Study the use over the next year (for term of the new agreement).

2. The Parks Commission will review & make rec'd to Council next Thursday night.
3. The Council will hear and make determination at June 18th Council meeting.

The City has over 300 registered permits for flyers at the FVP field. Around 50 of those permittees are HSS members; others are not members. Per this agreement, HSS maintains the field. If there is no HSS, the City cannot run/monitor the field and all 300+ permits will be refunded this year; the field will be closed.

If Council ok's the one-year agreement, we will study the use, it's impacts, compatibility, legal aspects, etc. and revisit next year this time with stats in hand.

In my opinion, much like FFry, the City is pacing the review and removal of the uses; trying to balance citizen requests.

Hope this helps!

Cynthia D'Agosta, Fairview Park Administrator
City of Costa Mesa
77 Fair Drive
Costa Mesa, CA 92628
Office: (714) 754-5135



From: Medak, Christine [mailto:christine_medak@fws.gov]
Sent: Wednesday, May 15, 2019 1:40 PM
To: D'AGOSTA, CYNTHIA <CYNTHIA.DAGOSTA@costamesaca.gov>
Subject: Re: [EXTERNAL] RE: Renewing permit for model plane operation in Fairview Park

Cynthia,

It is my understanding that only gliders are allowed at this time (this is the only use mentioned in the Master Plan) but powered planes are being used extensively (approved by use agreement and permits since 2007 that I can see).

Can you please clarify if the new agreement will specify that powered planes will now be allowed in the park?

Both the current (2014-2019) and new (2019-2020) agreements define "model aircraft" as: As used in this AGREEMENT, the term "model aircraft" means all forms of radio controlled gliders, electric motor gliders, and electric powered model airplanes and electric helicopters, but does NOT include internal combustion engine powered aircraft, rockets, and aircraft exceeding the AMA weight limit of 10 pounds. No person shall be permitted to fly an internal combustion engine powered aircraft or rocket at Fairview Park. All model aircraft must comply with all applicable provisions of the AMA Safety Code and all other applicable AMA specifications and safety codes and as defined as a model aircraft by the

Federal Aviation Administration (FAA).

Does the City plan to monitor the impacts to biological resources associated with ongoing (previously unauthorized) uses during the one year permit renewal period? The year study is to do exactly that 'study all impacts and benefits' of the use. The Steering Committee came up with a list of things to review; we will include your rec'd list in what we study. I began an increased monitoring and survey program of the use this year, and will include that information as well.

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"I'd like to offer a plug for actually having the natural processes instead of having to simulate them."

— Nadav Nur, PRBO Conservation Science

On Wed, May 15, 2019 at 11:12 AM D'AGOSTA, CYNTHIA
<CYNTHIA.DAGOSTA@costamesaca.gov> wrote:

Christine,

Thanks for the comments, they will be forwarded to the officials currently considering a one year agreement with the Harbor Soaring Society (July 1, 2019 to June 30, 2020). The action under consideration is not exactly how / what you describe, and is a bit more involved.

Quickly, staff recommendations are: 1). that the City Council approve the new updated use agreement with the HSS for one year, and 2). that a one-year evaluation of the value of the partnership between HSS and the City, and the compatibility of all flying activity with the Master Plan and Measure AA be conducted within the next year.

I am available to discuss via phone call if you'd like.

Again, thanks for taking the time to provide your recommendations which will be considered.

Cynthia D'Agosta, Fairview Park Administrator
City of Costa Mesa
77 Fair Drive
Costa Mesa, CA 92628

Office: (714) 754-5135



From: Medak, Christine [mailto:christine_medak@fws.gov]
Sent: Wednesday, May 15, 2019 9:44 AM
To: D'AGOSTA, CYNTHIA <CYNTHIA.DAGOSTA@costamesaca.gov>
Subject: Renewing permit for model plane operation in Fairview Park

Hi Cynthia,

It is my understanding that the City will soon be considering whether to reauthorize use of gliders in Fairview Park and consider whether use of powered planes should be added to the permit. Here are a couple of quick thoughts on the compatibility of planes with biological resources in the park and our recommendations for the permit renewal for your consideration.

Impacts to biological resources occur as a result of high noise levels, which may disrupt foraging and nesting behaviors to the point that birds abandon the park (depending on the frequency and extent of noise). In addition, grading/vegetation clearing associated with the runway contributes to the spread of invasive plant species that have taken over the park. There does not appear to be a clearly delineated area of disturbance and it is growing in size over time. Planes have the potential to land in the vernal pools and then are retrieved by the operators. Currently this can and does occur year round, regardless of season. Retrieving planes from pools occupied by listed fairy shrimp during the wet season has the potential to impact the fairy shrimp directly and/or degrade the habitat by altering the hydrology/water quality within the pool.

To minimize the potential for degradation of biological resources in the park, we recommend you consider the following conditions to be included in the permit renewal:

- 1) Limit planes to gliders only to limit noise-related disturbance
- 2) Require a permit to fly planes in the park that needs to be clearly displayed on the operator (e.g., like a fishing license).
- 3) Require the permit holder to be trained on the rules of operating planes in the park, including the distribution of sensitive species and enforcement actions that will be taken if rules are not followed.
- 4) Clearly identify the limits of disturbance that are required to operate gliders in the park (i.e., staging and launching areas) and ensure vegetation clearing and maintenance are limited to these areas.
- 5) Limit operation of gliders and the launching winch to periods when the soil is dry to the

touch to prevent impacts to vernal pools associated with glider operation.

6) Direct City staff to enforce the permit conditions on a daily basis (as part of regular park operations) to ensure that only permitted individuals are operating planes and that they are following the permit conditions. Issue enforcement tickets for individuals that a) do not have a permit, b) do not have a permit clearly displaced on their clothing, or c) are operating planes when the soil is wet.

We appreciate your consideration of our recommendations. Please let me know if you have any questions regarding this message.

Christine L. Medak
Fish and Wildlife Biologist
U.S. Fish and Wildlife Service
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— Nadav Nur, PRBO Conservation Science

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From: [Carlos Martinez](#)
To: [Miller, William](#); [Christine Medak \(christine_medak@fws.gov\)](mailto:christine_medak@fws.gov); [DALTON, KELLY M.](#)
Cc: [Amber Semrow](#); [Steve Shepherd](#)
Subject: Fairview Park Vernal Pool Inspection
Date: Thursday, February 16, 2023 3:31:01 PM
Attachments: [Biologically-Sensitive Areas.pdf](#)

Good Afternoon,

I inspected the vernal pool complex at Fairview Park today. I found breeding in vernal pool 4. I did not treat it because the pool is rapidly drying up and I feel it will be dry before the mosquitoes become a health risk. In fact, vernal pools 5,6, and 7th are completely dry. Vernal pools 1,2, and 3 still have some water but the water is has receded away from the vegetation and it's just in the middle where mosquitoes are not likely to be. Because of this, I did not make any treatments but will re-inspect in 10-14 days. I will include a picture of ponds 1,2, and 3 for your reference.

Sincerely,

Carlos Martinez
Vector Control Inspector III
Orange County Mosquito and Vector Control District
****Serving Orange County Since 1947****
[13001 Garden Grove Boulevard](#)
[Garden Grove, CA 92843-2102](#)
OFF: [\(714\) 971-2421](tel:(714)971-2421)
FAX: [\(714\) 748-0247](tel:(714)748-0247)
E-mail: cmartinez@ocvector.org

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From: [Miller, William B.](#)
To: [Carlos Martinez](#); [Medak, Christine](#); [DALTON, KELLY M.](#)
Cc: [Amber Semrow](#); [Steve Shepherd](#)
Subject: Re: [EXTERNAL] Fairview Park Vernal Pool Inspection
Date: Thursday, February 16, 2023 4:53:36 PM

Thank you for the update and election not to treat based on current conditions. Best regards-
Will

William B. Miller, Biomonitor
U.S. Fish and Wildlife Service
Carlsbad Fish and Wildlife Office
2177 Salk Avenue, Suite 250
Carlsbad, California 92008
(760) 431-9440 Ext. 206
William_B_Miller@fws.gov

Pronouns: *He, Him, His*

From: Carlos Martinez <CMartinez@ocvector.org>
Sent: Thursday, February 16, 2023 3:30 PM
To: Miller, William B. <william_b_miller@fws.gov>; Medak, Christine <Christine_Medak@fws.gov>;
kelly.dalton@costamesaca.gov <KELLY.DALTON@costamesaca.gov>
Cc: Amber Semrow <asemrow@ocvector.org>; Steve Shepherd <sshepherd@ocvector.org>
Subject: [EXTERNAL] Fairview Park Vernal Pool Inspection

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Sincerely,

Carlos Martinez
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E-mail: cmartinez@ocvector.org

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From: [Carlos Martinez](#)
To: [Miller, William](#); [Christine Medak \(christine_medak@fws.gov\)](mailto:christine_medak@fws.gov); [DALTON, KELLY M.](#)
Cc: [Steve Shepherd](#); [Amber Semrow](#)
Subject: Fairview Park Vernal Pools
Date: Thursday, March 2, 2023 5:00:37 PM

Hello,

I just wanted to inform everyone that I inspected the vernal pool complex at Fairview Park on Tuesday the 28th of February. All vernal pools are full of water again, actually, they have more water than before. However, I did not find any breeding. I will reinspect in roughly 14 days.

Carlos Martinez
Vector Control Inspector III
Orange County Mosquito and Vector Control District
Serving Orange County Since 1947
[13001 Garden Grove Boulevard](#)
[Garden Grove, CA 92843-2102](#)
OFF: [\(714\) 971-2421](tel:(714)971-2421)
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E-mail: cmartinez@ocvector.org

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From: [Carlos Martinez](#)
To: [Miller, William](#); [Christine Medak \(christine_medak@fws.gov\)](#); [DALTON, KELLY M.](#)
Cc: [Amber Semrow](#); [Steve Shepherd](#); [Todd Harries](#)
Subject: Fairview Park Vernal Pools
Date: Friday, March 10, 2023 9:25:15 AM

Good Morning,

Yesterday, March 9th, Todd Harries and I inspected the vernal pool complex at Fairview Park. There is still a substantial amount of water in all the pools but we did not find any breeding whatsoever. Todd will be taking over this site temporarily so I went over all the procedures regarding this site.

Carlos Martinez
Vector Control Inspector III
Orange County Mosquito and Vector Control District
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From: [Miller, William B.](#)
To: [Carlos Martinez](#); [Medak, Christine](#); [DALTON, KELLY M.](#)
Cc: [Amber Semrow](#); [Steve Shepherd](#); [Todd Harries](#)
Subject: Re: [EXTERNAL] Fairview Park Vernal Pools
Date: Friday, March 10, 2023 9:26:01 AM

Thanks for the update. - Will

William B. Miller, Biomonitor
U.S. Fish and Wildlife Service
Carlsbad Fish and Wildlife Office
2177 Salk Avenue, Suite 250
Carlsbad, California 92008
(760) 431-9440 Ext. 206
William_B_Miller@fws.gov

Pronouns: *He, Him, His*

From: Carlos Martinez <CMartinez@ocvector.org>
Sent: Friday, March 10, 2023 9:25 AM
To: Miller, William B. <william_b_miller@fws.gov>; Medak, Christine <Christine_Medak@fws.gov>; kelly.dalton@costamesaca.gov <KELLY.DALTON@costamesaca.gov>
Cc: Amber Semrow <asemrow@ocvector.org>; Steve Shepherd <sshepherd@ocvector.org>; Todd Harries <THarries@ocvector.org>
Subject: [EXTERNAL] Fairview Park Vernal Pools

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E-mail: cmartinez@ocvector.org

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From: [DALTON, KELLY M.](#)
To: [Carlos Martinez](#); [Miller, William](#); [Christine Medak \(christine_medak@fws.gov\)](mailto:christine_medak@fws.gov)
Cc: [Amber Semrow](#); [Steve Shepherd](#); [Todd Harries](#)
Subject: RE: Fairview Park Vernal Pools
Date: Friday, March 10, 2023 3:49:00 PM

Hi Carlos,

Thanks for the update, and for OCMVCD's ongoing coordination with the City on vector management activities in Fairview Park.

Sincerely,

Kelly Dalton
Fairview Park Administrator
Parks and Community Services Department
City of Costa Mesa
kelly.dalton@CostaMesaCA.gov
714-754-5135

From: Carlos Martinez <CMartinez@ocvector.org>
Sent: Friday, March 10, 2023 9:25 AM
To: Miller, William <william_b_miller@fws.gov>; Christine Medak (christine_medak@fws.gov) <Christine_Medak@fws.gov>; DALTON, KELLY M. <KELLY.DALTON@costamesaca.gov>
Cc: Amber Semrow <asemrow@ocvector.org>; Steve Shepherd <sshepherd@ocvector.org>; Todd Harries <THarries@ocvector.org>
Subject: Fairview Park Vernal Pools

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From: [Barry Nerhus](#)
To: [Medak, Christine](#)
Cc: [DALTON, KELLY M.](#); [Alex Eagleton](#)
Subject: Fairview Park Fairy Shrimp Surveys
Date: Monday, March 13, 2023 8:00:09 AM

Hello Chris,

The Fairview Park vernal pools have finally received enough water to fill, since 2017! Pursuant to FWS-OR-13B0443-14TA0229 item 9 Biological Monitoring section b "survey for fairy shrimp" we will commence the fairy shrimp surveys to document the status of the San Diego fairy shrimp in each of the pools.

Should we submit the results to you?

Let me know if you need any additional information.

Barry

--

Barry Nerhus
President/Principal Ecologist
Endemic Environmental Services, Inc.
(714) 393-6249
www.endemicenvironmental.net



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From: [Medak, Christine](#)
To: [Barry Nerhus](#)
Cc: [DALTON, KELLY M.](#); [Alex Eagleton](#); [Love, Stacey](#)
Subject: Re: [EXTERNAL] Fairview Park Fairy Shrimp Surveys
Date: Monday, March 13, 2023 11:15:18 AM

Hi Barry,

Curious. We have received information from OCVC previously that indicated that several ponds already ponded from previous storms. I just want to make sure you are aware and that hatching may have previously occurred. Can you clarify if these surveys are covered under the City's permit or if they will be conducted under your individual permit? If they will be covered under the City's permit you may need to have your name added to the permit (not sure if this was already done previously). I have copied Stacey Love, our permit coordinator. She will be able to assist with the permit requirements and survey notification process, if needed.

Christine L. Medak
Fish and Wildlife Biologist
U.S. Fish and Wildlife Service
2177 Salk Avenue, Suite 250
Carlsbad, CA 92008
Office: 760-431-9440, ext 298
<http://www.fws.gov/carlsbad/>

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"I'd like to offer a plug for actually having the natural processes instead of having to simulate them."
— Nadav Nur, PRBO Conservation Science

From: Barry Nerhus <bnerhus@endemicenvironmental.net>
Sent: Monday, March 13, 2023 8:00 AM
To: Medak, Christine <Christine_Medak@fws.gov>
Cc: DALTON, KELLY M. <KELLY.DALTON@costamesaca.gov>; Alex Eagleton <aeagleton@endemicenvironmental.net>
Subject: [EXTERNAL] Fairview Park Fairy Shrimp Surveys

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Hello Chris,

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From: [Barry Nerhus](#)
To: [Medak, Christine](#)
Cc: [Alex Eagleton](#); [DALTON, KELLY M.](#); [Love, Stacey](#)
Subject: Re: [EXTERNAL] Fairview Park Fairy Shrimp Surveys
Date: Monday, March 13, 2023 11:28:23 AM

Hi Chris,

The vernal pool basin started to have surface water in January, but quickly dried. After the February rains, the basins have filled to the maximum basin levels. The surveys are intended to be covered under the City's permit. Currently my name is not on the City's permit. My individual permit doesn't currently have Branchiopods listed as an activity. I have Tania Asef on my team that does have Branchiopods on her recovery permit. We can go in any direction. I just want to make sure that we cover the survey for the City's permit.

Thanks for your help with this.

Barry

On Mon, Mar 13, 2023 at 11:15 AM Medak, Christine <Christine_Medak@fws.gov> wrote:
Hi Barry,

Curious. We have received information from OCVC previously that indicated that several ponds already ponded from previous storms. I just want to make sure you are aware and that hatching may have previously occurred. Can you clarify if these surveys are covered under the City's permit or if they will be conducted under your individual permit? If they will be covered under the City's permit you may need to have your name added to the permit (not sure if this was already done previously). I have copied Stacey Love, our permit coordinator. She will be able to assist with the permit requirements and survey notification process, if needed.

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— Nadav Nur, PRBO Conservation Science

From: Barry Nerhus <bnerhus@endemicenvironmental.net>
Sent: Monday, March 13, 2023 8:00 AM
To: Medak, Christine <Christine_Medak@fws.gov>
Cc: DALTON, KELLY M. <KELLY.DALTON@costamesaca.gov>; Alex Eagleton <aeagleton@endemicenvironmental.net>
Subject: [EXTERNAL] Fairview Park Fairy Shrimp Surveys

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From: [Barry Nerhus](#)
To: [Medak, Christine](#)
Cc: [Alex Eagleton](#); [DALTON, KELLY M.](#); [Love, Stacey](#)
Subject: Re: [EXTERNAL] Fairview Park Fairy Shrimp Surveys
Date: Monday, March 13, 2023 11:46:07 AM

Stacey,

Would it be possible to be added to the City's permit if I submit my resume and qualifications?

Barry

On Mon, Mar 13, 2023 at 11:28 AM Barry Nerhus <bnerhus@endemicenvironmental.net> wrote:

Hi Chris,

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On Mon, Mar 13, 2023 at 11:15 AM Medak, Christine <Christine_Medak@fws.gov> wrote:
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Check out our annual report



"I'd like to offer a plug for actually having the natural processes instead of having to simulate them."

— Nadav Nur, PRBO Conservation Science

From: Barry Nerhus <bnerhus@endemicenvironmental.net>

Sent: Monday, March 13, 2023 8:00 AM

To: Medak, Christine <Christine_Medak@fws.gov>

Cc: DALTON, KELLY M. <KELLY.DALTON@costamesaca.gov>; Alex Eagleton <aeagleton@endemicenvironmental.net>

Subject: [EXTERNAL] Fairview Park Fairy Shrimp Surveys

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From: [Medak, Christine](#)
To: [DALTON, KELLY M.](#)
Subject: Fw: [EXTERNAL] It's a busy season at the Santa Ana River Coastal Corridor!
Date: Monday, March 13, 2023 12:58:20 PM

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From: Banning Ranch Conservancy <volunteer@banningranchconservancy.org>

Sent: Saturday, March 11, 2023 12:59 PM

To: Medak, Christine <Christine_Medak@fws.gov>

Subject: [EXTERNAL] It's a busy season at the Santa Ana River Coastal Corridor!

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Christine L. Medak



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Saturday, March 18, 2023 9:00 AM

Fairview Park Habitat Restoration Days | Third Saturday, Monthly

Fairview Park, Costa Mesa

U.S. Fish and Wildlife Service



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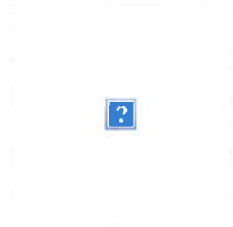
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Paul Waggoner

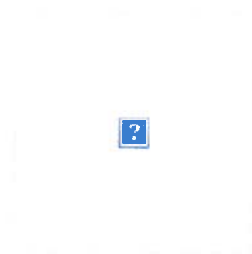
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Carlsbad, CA 92008



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<http://www.banningranch.org>

Our mailing address is:

Banning Ranch Conservancy
P.O. Box 15333
Newport Beach, CA 92659-5333

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Fish and Wildlife Biologist
U.S. Fish and Wildlife Service
2177 Salk Avenue, Suite 250
Carlsbad, CA 92008
Office: 760-431-9440, ext 298
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From: DALTON, KELLY M. <KELLY.DALTON@costamesaca.gov>
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Kelly Dalton
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Parks and Community Services Department
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kelly.dalton@CostaMesaCA.gov
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From: [Love, Stacey](#)
To: [Barry Nerhus](#)
Cc: [Alex Eagleton](#); [DALTON, KELLY M.](#); [Medak, Christine](#)
Subject: Re: [87580B] Fairview Park Fairy Shrimp Surveys
Date: Tuesday, March 14, 2023 3:35:28 PM

Hello Barry,

Thank you for the inquiry. The City may send a request to add individuals to their permit in accordance with permit condition 5 of TE-87580B. Please note that recovery permit conditions state to allow at least 30 days. I could try to expedite processing but cannot make promises as this is my busiest time of year. Also, I need clarification before I could estimate a realistic timeframe. Finally, the City should be aware that they will be responsible for activities, reporting, and any State approvals if needed.

The City's recovery permit allows them to conduct habitat restoration and maintenance, collect inoculum, harass by survey, capture, handle, release, and collect adult vouchers in accordance with the *Fairview Park Vernal Pool Restoration and Long Term Maintenance Plan for Vernal Pools 5 and 6, and the Associated Watershed Areas Within the Jurisdiction of the United States Fish and Wildlife Service Pursuant to the Endangered Species Act, Fairview Park, Costa Mesa, California*, dated June 8, 2018.

Please clarify what activities you would be requesting. Are you requesting to conduct wet season surveys only, and not the other activities listed in the paragraph above (e.g., collect inoculum)? As you state below, Tania Asef *does* have a recovery permit to conduct protocol wet and dry season surveys under TE-59234C. Adding her to the City's permit for wet season surveys and inoculum collection should be a quicker process, as she is already permitted. If you want to add other activities, this may take more time, as we will need to review her qualifications for the other activities.

To add you to the permit, you will need to demonstrate that you meet the [Minimum Qualifications](#) for conducting protocol surveys, including passing the fairy shrimp exam within one year prior to the City's request. This will also take more time as we will need to review your qualifications for all requested activities.

Finally, we already approved David Moskovitz on February 1 to conduct wet season surveys at this site. Did he make any collections? Is he no longer surveying the site and what is the relation of your proposed work to his, if any?

Thank you,

Stacey Love (she/her)

Recovery Permit Coordinator
[Carlsbad \(incl. Palm Springs\) field office](#)
[\(click here for jurisdiction map\)](#)

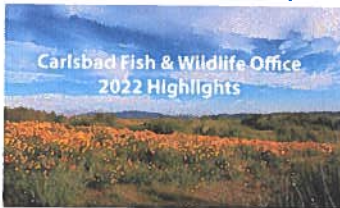
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2177 Salk Avenue, Ste. 250
Carlsbad, CA 92008
(760) 431-9440 x 263
stacey_love@fws.gov

Useful links:

[Pacific Southwest Region Recovery Permits web page](#)
[General Recovery Permits web page](#)
[\[Video\] How to Submit a Renewal Application in ePermits](#)

Permittees: Please include your permit number in all correspondence and reporting, thank you.

Check out our annual report



From: Barry Nerhus <bnerhus@endemicenvironmental.net>
Sent: Monday, March 13, 2023 11:45 AM
To: Medak, Christine <Christine_Medak@fws.gov>
Cc: Alex Eagleton <aeagleton@endemicenvironmental.net>; DALTON, KELLY M. <KELLY.DALTON@costamesaca.gov>; Love, Stacey <stacey_love@fws.gov>
Subject: Re: [EXTERNAL] Fairview Park Fairy Shrimp Surveys

Stacey,

Would it be possible to be added to the City's permit if I submit my resume and qualifications?

Barry

On Mon, Mar 13, 2023 at 11:28 AM Barry Nerhus <bnerhus@endemicenvironmental.net> wrote:

Hi Chris,

The vernal pool basin started to have surface water in January, but quickly dried. After the February rains, the basins have filled to the maximum basin levels. The surveys are intended to be covered under the City's permit. Currently my name is not on the City's permit. My individual permit doesn't currently have Branchiopods listed as an activity. I have Tania Asef on my team that does have Branchiopods on her recovery permit. We can go in any

direction. I just want to make sure that we cover the survey for the City's permit.

Thanks for your help with this.

Barry

On Mon, Mar 13, 2023 at 11:15 AM Medak, Christine <Christine_Medak@fws.gov> wrote:
Hi Barry,

Curious. We have received information from OCVC previously that indicated that several ponds already ponded from previous storms. I just want to make sure you are aware and that hatching may have previously occurred. Can you clarify if these surveys are covered under the City's permit or if they will be conducted under your individual permit? If they will be covered under the City's permit you may need to have your name added to the permit (not sure if this was already done previously). I have copied Stacey Love, our permit coordinator. She will be able to assist with the permit requirements and survey notification process, if needed.

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Hello Chris,

The Fairview Park vernal pools have finally received enough water to fill, since 2017! Pursuant to FWS-OR-13B0443-14TA0229 item 9 Biological Monitoring section b "survey for fairy shrimp" we will commence the fairy shrimp surveys to document the status of the San Diego fairy shrimp in each of the pools.

Should we submit the results to you?

Let me know if you need any additional information.

Barry

--

Barry Nerhus
President/Principal Ecologist
Endemic Environmental Services, Inc.
(714) 393-6249
www.endemicenvironmental.net



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Subject: Fw: [EXTERNAL] RE: (TE-20280D, PER0010680) Fairview Park Fairy Shrimp 15-day notification (Recovery Permit TE-87580B-0)
Date: Wednesday, March 15, 2023 8:38:50 AM
Attachments: [image001.png](#)

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Carlsbad, CA 92008
Office: 760-431-9440, ext 298
<http://www.fws.gov/carlsbad/>

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From: David Moskovitz <dmoskovitz@wetlandpermitting.com>
Sent: Tuesday, March 14, 2023 5:30 PM
To: Medak, Christine <Christine_Medak@fws.gov>
Cc: Stephanie Cashin <scashin@wetlandpermitting.com>
Subject: RE: [EXTERNAL] RE: (TE-20280D, PER0010680) Fairview Park Fairy Shrimp 15-day notification (Recovery Permit TE-87580B-0)

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Thank you.



David Moskovitz | Principal
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1940 E Deere Avenue, Suite 250, Santa Ana, California 92705
D: 949.340.2562 | O: 949.837.0404 | dmoskovitz@wetlandpermitting.com
Glenn Lukos Associates, Inc. | [Website](#)

From: Medak, Christine <Christine_Medak@fws.gov>
Sent: Tuesday, March 14, 2023 2:33 PM
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Date: Wednesday, March 15, 2023 5:38:00 PM
Attachments: [image004.png](#)
[VP 1 & 4.png](#)

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To: [Medak, Christine](#)
Cc: [Love, Stacey](#)
Subject: RE: [EXTERNAL] RE: (TE-20280D, PER0010680) Fairview Park Fairy Shrimp 15-day notification (Recovery Permit TE-87580B-0)
Date: Thursday, March 16, 2023 4:33:00 PM
Attachments: [image003.png](#)

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Sent: Thursday, March 16, 2023 9:22 AM
To: DALTON, KELLY M. <KELLY.DALTON@costamesaca.gov>
Cc: Love, Stacey <staacey_love@fws.gov>
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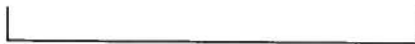
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From: [Barry Nerhus](#)
To: [Love, Stacey](#)
Cc: [Alex Eagleton](#); [DALTON, KELLY M.](#); [Medak, Christine](#); [Tania Asef](#); [Thea Wang](#)
Subject: Re: [87580B] Fairview Park Fairy Shrimp Surveys
Date: Wednesday, March 22, 2023 8:00:20 AM

Thanks Stacey for all the clarification. After speaking with Kelly Dalton from the City of Costa, David Moskovitz is conducting the surveys for Vernal Pools 5 and 6, so those measures are covered.

We are proposing to conduct separate surveys at the Vernal Pool 1 and 4 complex, which are not currently being surveyed. The purpose of these surveys is to confirm both Riverside and San Diego Fairy shrimp in this complex, which were previously detected in 2017. There has been better fencing protection and management of these watersheds and basins. It's also been 6 years since positive detection.

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One last question, I hope to also document Orcutt's grass and San Diego Button Celery that has previously grown at vernal pool 4. Is there a specific person to submit this info to at the service? We usually submit to the CNDDDB and Calflora, but want to make sure the service has it on record too.

Thanks for all the help! I know how busy you get Stacey and you have already been assisting me on several projects and questions.

Thanks!!

Barry

On Tue, Mar 14, 2023 at 3:35 PM Love, Stacey <stacey_love@fws.gov> wrote:
Hello Barry,

Thank you for the inquiry. The City may send a request to add individuals to their permit in accordance with permit condition 5 of TE-87580B. Please note that recovery permit conditions state to allow at least 30 days. I could try to expedite processing but cannot make promises as this is my busiest time of year. Also, I need clarification before I could estimate a realistic timeframe. Finally, the City should be aware that they will be responsible for activities, reporting, and any State approvals if needed.

The City's recovery permit allows them to conduct habitat restoration and maintenance, collect inoculum, harass by survey, capture, handle, release, and collect adult vouchers in

accordance with the *Fairview Park Vernal Pool Restoration and Long Term Maintenance Plan for Vernal Pools 5 and 6, and the Associated Watershed Areas Within the Jurisdiction of the United States Fish and Wildlife Service Pursuant to the Endangered Species Act, Fairview Park, Costa Mesa, California*, dated June 8, 2018.

Please clarify what activities you would be requesting. Are you requesting to conduct wet season surveys only, and not the other activities listed in the paragraph above (e.g., collect inoculum)? As you state below, Tania Asef *does* have a recovery permit to conduct protocol wet and dry season surveys under TE-59234C. Adding her to the City's permit for wet season surveys and inoculum collection should be a quicker process, as she is already permitted. If you want to add other activities, this may take more time, as we will need to review her qualifications for the other activities.

To add you to the permit, you will need to demonstrate that you meet the [Minimum Qualifications](#) for conducting protocol surveys, including passing the fairy shrimp exam within one year prior to the City's request. This will also take more time as we will need to review your qualifications for all requested activities.

Finally, we already approved David Moskovitz on February 1 to conduct wet season surveys at this site. Did he make any collections? Is he no longer surveying the site and what is the relation of your proposed work to his, if any?

Thank you,

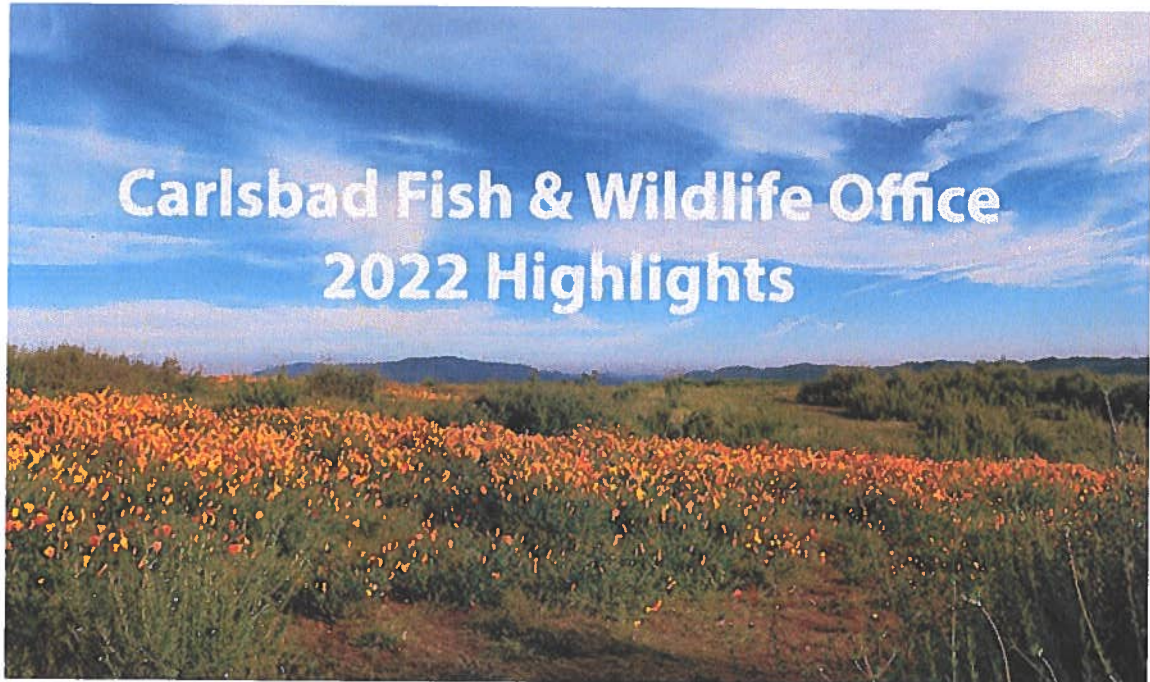
Stacey Love (she/her)
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U.S. Fish and Wildlife Service
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[\[Video\] How to Submit a Renewal Application in ePermits](#)

Permittees: Please include your permit number in all correspondence and reporting, thank you.

Check out our annual report



From: Barry Nerhus <bnerhus@endemicenvironmental.net>
Sent: Monday, March 13, 2023 11:45 AM
To: Medak, Christine <Christine_Medak@fws.gov>
Cc: Alex Eagleton <aeagleton@endemicenvironmental.net>; DALTON, KELLY M. <KELLY.DALTON@costamesaca.gov>; Love, Stacey <stacey_love@fws.gov>
Subject: Re: [EXTERNAL] Fairview Park Fairy Shrimp Surveys

Stacey,

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Thanks for your help with this.

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Hi Barry,

Curious. We have received information from OCVC previously that indicated that several ponds already ponded from previous storms. I just want to make sure you are aware and that hatching may have previously occurred. Can you clarify if these surveys are covered under the City's permit or if they will be conducted under your individual permit? If they will be covered under the City's permit you may need to have your name added to the permit (not sure if this was already done previously). I have copied Stacey Love, our permit coordinator. She will be able to assist with the permit requirements and survey notification process, if needed.

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From: [Love, Stacey](#)
To: [Barry Nerhus](#)
Cc: [Alex Eagleton](#); [DALTON, KELLY M.](#); [Medak, Christine](#); [Tania Asef](#); [Thea Wang](#)
Subject: Re: [74785A, 59234C, 87580B] Fairview Park Fairy Shrimp Surveys
Date: Wednesday, March 22, 2023 1:32:07 PM

Hi Barry,

Thank you for the reply. Tania's notification has been routed to my colleagues for review.

Regarding documenting Orcutt's grass and San Diego Button Celery (or their absence), I recommend discussing this in the survey report. All survey reports get entered into our database (with target species and incidentally observed listed species) that can be searched by our staff. I do recommend Cc'ing Chris when you send me the report, as it can take time for reports to get entered. (Chris, feel free to state otherwise or add to my guidance).

Regarding the fairy shrimp exam, you can take it here if you wish; we have opened the exam for new applicants. Here is the [Study Guide](#).

Regards,
Stacey

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Subject: [EXTERNAL] Re: [87580B] Fairview Park Fairy Shrimp Surveys

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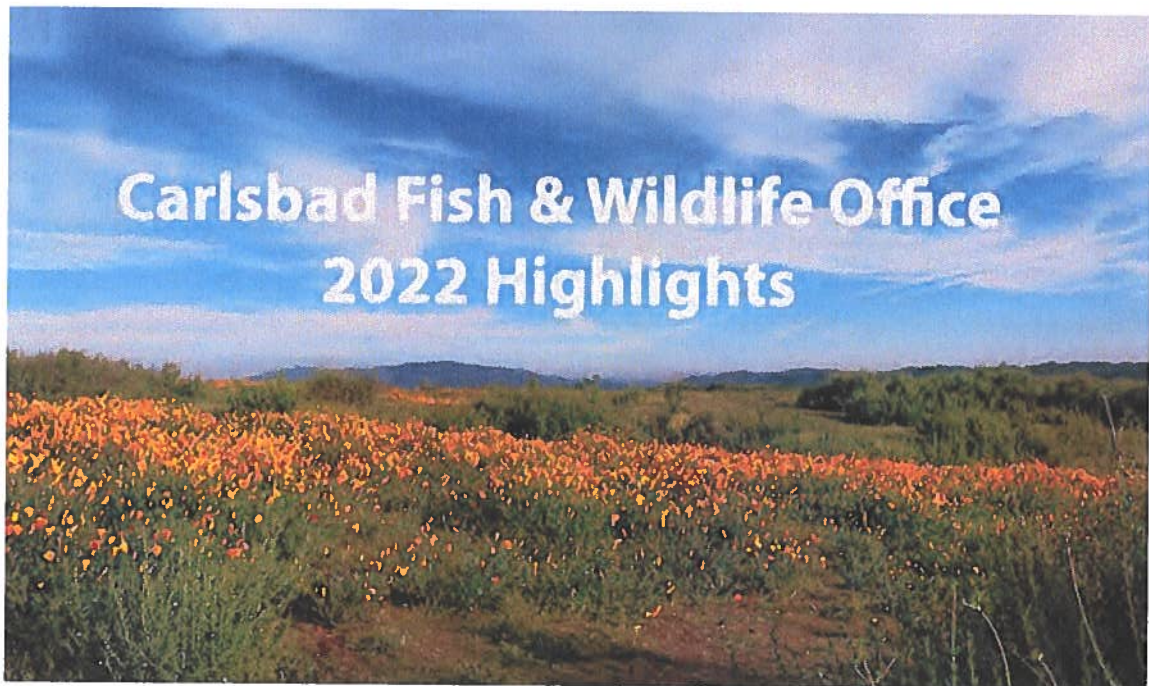
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From: NGUYEN, DAVID <DAVID.NGUYEN@costamesaca.gov>
Sent: Monday, May 1, 2023 5:55 PM
To: Mat Garcia
Cc: TAFOYA, KAREN
Subject: Public Records Request #326 (Garcia) Medak, Snyder, Turner Correspondence
Attachments: Garcia - Documents 05-01-23.pdf

Good evening,

This email serves as response to your public records request for:

1. I would like to make a public records request for all emails and attachments sent to or from Christine Medak christine_medak@fws.gov to or from Costa Mesa City employee Kelly Dalton or Jason Minter between March 24, 2023 and today, April 21, 2023.
2. I would like to make a public records request for all emails and attachments sent to or from Jonathan Snyder jonathan_d_snyder@fws.gov to or from Costa Mesa City employee Kelly Dalton or Jason Minter between March 24, 2023 and today, April 21, 2023.
3. I would like to make a public records request for all emails and attachments sent to or from Jennifer Turner at the California State Department of Fish and Wildlife, email Jennifer.turner@wildlife.ca.gov, to or from Costa Mesa City employee Kelly Dalton or Jason Minter between March 24, 2023 and today, April 21, 2023.

Attached you will find documents responsive to your request.

Thank you and have a good night.

David Nguyen

Deputy City Clerk – City Clerk's Office
77 Fair Drive
Costa Mesa, Ca 92626
(714) 754-5239

As City Hall has reopened, we encourage the public to take advantage of our appointment system. Appointments can be made at www.costamesaca.gov/appointments.

Please note that It is required that all guests check in with our Concierge Staff, located on the 1st Floor Lobby, upon arrival at City Hall.

From: [DALTON, KELLY M.](#)
To: [Medak, Christine](#)
Subject: FVP discussion
Date: Friday, March 24, 2023 10:01:00 AM

Good morning Christine,

Do you have some time today for a call? We have had some concerted discussions on biological resources issues of concern at our recent city council meeting that we would welcome your input on.

Thanks,

Kelly Dalton
Fairview Park Administrator
Parks and Community Services Department
City of Costa Mesa
kelly.dalton@CostaMesaCA.gov
714-754-5135

From: [Medak, Christine](#)
To: [DALTON, KELLY M.](#)
Subject: Automatic reply: [EXTERNAL] FVP discussion
Date: Friday, March 24, 2023 10:02:56 AM

I will be in Costa Rica through April 8 and return to the office on April 11. If you need assistance in my absence, please contact the division manager for your project area:

Carol Roberts - Orange and LA County

Susan Wynn - County of San Diego

David Zoutendyk - City of San Diego and North County coastal cities within San Diego County

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From: [DALTON, KELLY M.](#)
To: [Medak, Christine](#)
Subject: RE: [EXTERNAL] FVP discussion
Date: Monday, March 27, 2023 10:02:00 AM

Hi Chris,

I will send out a zoom invite for 11:00 – 12:00pm.

Thank you,

Kelly Dalton
Fairview Park Administrator
Parks and Community Services Department
City of Costa Mesa
kelly.dalton@CostaMesaCA.gov
714-754-5135

From: Medak, Christine <Christine_Medak@fws.gov>
Sent: Monday, March 27, 2023 9:25 AM
To: DALTON, KELLY M. <KELLY.DALTON@costamesaca.gov>
Subject: Re: [EXTERNAL] FVP discussion

Hi Kelly,

I am back in the office this week if you would like to set up a call. I am open tomorrow except 11-2

Christine L. Medak
Fish and Wildlife Biologist
U.S. Fish and Wildlife Service
2177 Salk Avenue, Suite 250
Carlsbad, CA 92008
Office: 760-431-9440, ext 298
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"I'd like to offer a plug for actually having the natural processes instead of having to simulate them."
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From: [DALTON, KELLY M.](#)
To: [Medak, Christine](#)
Subject: RE: [EXTERNAL] FVP discussion
Date: Monday, March 27, 2023 10:46:00 AM

Sorry my mistake, I read the first email too quickly. I've adjusted the meeting time to 9:30 to 10:30am tomorrow.

From: Medak, Christine <Christine_Medak@fws.gov>
Sent: Monday, March 27, 2023 10:42 AM
To: DALTON, KELLY M. <KELLY.DALTON@costamesaca.gov>
Subject: Re: [EXTERNAL] FVP discussion

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Sent: Monday, March 27, 2023 10:02 AM
To: Medak, Christine <Christine_Medak@fws.gov>
Subject: RE: [EXTERNAL] FVP discussion

Hi Chris,

I will send out a zoom invite for 11:00 – 12:00pm.

Thank you,

Kelly Dalton
Fairview Park Administrator
Parks and Community Services Department
City of Costa Mesa
kelly.dalton@CostaMesaCA.gov
714-754-5135

From: Medak, Christine <Christine_Medak@fws.gov>
Sent: Monday, March 27, 2023 9:25 AM
To: DALTON, KELLY M. <KELLY.DALTON@costamesaca.gov>
Subject: Re: [EXTERNAL] FVP discussion

Hi Kelly,

I am back in the office this week if you would like to set up a call. I am open tomorrow except 11-2

Christine L. Medak
Fish and Wildlife Biologist
U.S. Fish and Wildlife Service
2177 Salk Avenue, Suite 250
Carlsbad, CA 92008
Office: 760-431-9440, ext 298
<http://www.fws.gov/carlsbad/>

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"I'd like to offer a plug for actually having the natural processes instead of having to simulate them."
— Nadav Nur, PRBO Conservation Science

From: DALTON, KELLY M. <KELLY.DALTON@costamesaca.gov>
Sent: Friday, March 24, 2023 10:01 AM
To: Medak, Christine <Christine_Medak@fws.gov>
Subject: [EXTERNAL] FVP discussion

This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.

Good morning Christine,

Do you have some time today for a call? We have had some concerted discussions on biological resources issues of concern at our recent city council meeting that we would welcome your input on.

Thanks,

Kelly Dalton
Fairview Park Administrator
Parks and Community Services Department
City of Costa Mesa
kelly.dalton@CostaMesaCA.gov
714-754-5135

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From: [Todd Harries](#)
To: [DALTON, KELLY M.](#)
Cc: [Carlos Martinez](#); [Miller, William](#); [Christine Medak \(christine_medak@fws.gov\)](#); [Amber Semrow](#); [Steve Shepherd](#)
Subject: Re: Fairview Park Vernal Pools
Date: Tuesday, March 28, 2023 1:51:48 PM

Good Afternoon,

I just got done with the inspection at Fairview Park vernal pools. All Vernal pools are actively breeding mosquitoes. I am trying to coordinate a treatment plan as soon as possible. A application with the backpack, like usual will only treat 50% of the area needed. I know we spoke about a treatment with our drone a couple of weeks ago. I will be in touch when I find out when and if that's possible.

Thanks,
Todd Harries
714-876-3873

Sent from my iPhone

On Mar 10, 2023, at 3:49 PM, DALTON, KELLY M.
<KELLY.DALTON@costamesaca.gov> wrote:

Hi Carlos,

Thanks for the update, and for OCMVCD's ongoing coordination with the City on vector management activities in Fairview Park.

Sincerely,

Kelly Dalton
Fairview Park Administrator
Parks and Community Services Department
City of Costa Mesa
kelly.dalton@CostaMesaCA.gov
714-754-5135

From: Carlos Martinez <CMartinez@ocvector.org>
Sent: Friday, March 10, 2023 9:25 AM
To: Miller, William <william_b_miller@fws.gov>; Christine Medak (christine_medak@fws.gov) <Christine_Medak@fws.gov>; DALTON, KELLY M. <KELLY.DALTON@costamesaca.gov>
Cc: Amber Semrow <asemrow@ocvector.org>; Steve Shepherd <sshepherd@ocvector.org>; Todd Harries <THarries@ocvector.org>

Subject: Fairview Park Vernal Pools

Good Morning,

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Carlos Martinez
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OFF: (714) 971-2421
FAX: (714) 748-0247
E-mail: cmartinez@ocvector.org

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Subject: Re: Fairview Park Vernal Pools
Date: Friday, April 14, 2023 9:17:45 AM

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Thanks,
Todd Harries
[714-876-3873](tel:714-876-3873)

Sent from my iPhone

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From: [Miller, William B.](#)
To: [DALTON, KELLY M.](#); [Todd Harries](#)
Cc: [Carlos Martinez](#); [Medak, Christine](#); [Amber Semrow](#); [Steve Shepherd](#)
Subject: Re: [EXTERNAL] RE: Fairview Park Vernal Pools
Date: Tuesday, March 28, 2023 4:40:57 PM

Kelly- On January 30, 2023, I sent an email summarizing our (USFWS) conversation with OCVCD regarding mosquito control at the Fairview Park vernal pools that you can look to for a more detailed response. In brief, OCVCD previously prepared a plan for performing mosquito control within the vernal pools that was reviewed and approved by the USFWS. It was our understanding that the plan included a proposal to broadcast larvicide (Vectobac G granules) into the pools when necessary from the pool edges with use of a backpack sprayer. Importantly, that plan was developed prior to the use of drones by the district and it was not brought to our attention that district staff may want to wade into the Fairview Park pools to broadcast larvicide.

During coordination with OCVCD earlier this year, it was suggested that the size of the pools is too big to adequately treat the pools with a backpack sprayer from the pool edges, so district staff may wish to wade into the pools with the backpack sprayer to gain adequate access to mosquito breeding areas. While we are concerned with the potential for mixed messaging relative to the City restricting public use of radio-controlled airplanes over the vernal pools, we do feel that OCVCD's use of drones for broadcasting the larvicide will cause less of an impact to the endangered fairy shrimp than would wading into the pools with backpack sprayers. Therefore, if sufficient access cannot be gained for effective mosquito control from the pool edges, we prefer the use of the drone for broadcasting the larvicide.

Another potential concern with use of the drone is the potential for negative interactions with sensitive raptors known to use habitat in the vicinity. Thus, if possible, we recommend OCVCD have a biologist present to look for the potential of the drone to disturb raptors during their operation, and to direct the drone pilot to control the drone so as to avoid and minimize such disturbance.

Thanks for your coordination. - Will

William B. Miller, Biomonitor
U.S. Fish and Wildlife Service
Carlsbad Fish and Wildlife Office
2177 Salk Avenue, Suite 250
Carlsbad, California 92008
(760) 431-9440 Ext. 206
William_B_Miller@fws.gov

Pronouns: *He, Him, His*

From: DALTON, KELLY M. <KELLY.DALTON@costamesaca.gov>
Sent: Tuesday, March 28, 2023 2:04 PM
To: Todd Harries <THarries@ocvector.org>
Cc: Carlos Martinez <CMartinez@ocvector.org>; Miller, William B. <william_b_miller@fws.gov>; Medak, Christine <Christine_Medak@fws.gov>; Amber Semrow <asemrow@ocvector.org>; Steve Shepherd <sshepherd@ocvector.org>
Subject: [EXTERNAL] RE: Fairview Park Vernal Pools

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Good afternoon Todd,

Thank you for the update. Let me know what is needed on the City's end with regard to treatment coordination. I will be out of the office tomorrow afternoon until Monday 4/3/23 but I will have intermittent access to email if additional coordination is needed between Wednesday and the weekend.

We would also welcome guidance from the Service on recommended mitigation measures prior to treatment, if a drone application is considered the most suitable and effective for this situation.

Thank you,

Kelly Dalton
Fairview Park Administrator
Parks and Community Services Department
City of Costa Mesa
kelly.dalton@CostaMesaCA.gov
714-754-5135

From: Todd Harries <THarries@ocvector.org>
Sent: Tuesday, March 28, 2023 1:52 PM
To: DALTON, KELLY M. <KELLY.DALTON@costamesaca.gov>
Cc: Carlos Martinez <CMartinez@ocvector.org>; Miller, William <william_b_miller@fws.gov>; Christine Medak (christine_medak@fws.gov) <Christine_Medak@fws.gov>; Amber Semrow <asemrow@ocvector.org>; Steve Shepherd <sshepherd@ocvector.org>
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Thanks,
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714-876-3873

Sent from my iPhone

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To: [Todd Harries](#); [DALTON, KELLY M.](#)
Cc: [Carlos Martinez](#); [Miller, William B.](#); [Amber Semrow](#); [Steve Shepherd](#); [LOPEZ, PAUL](#); [John Savage](#); [John Drake](#); [Eric Paquette](#)
Subject: Re: [EXTERNAL] Re: Fairview Park Vernal Pools
Date: Friday, April 14, 2023 10:00:01 AM

Hi Todd,

Thanks for the heads up. Would it be possible for you to take photos of the pools when you are doing the treatment? I would like to get a visual on the size of pools that require drone application.

Christine L. Medak
Fish and Wildlife Biologist
U.S. Fish and Wildlife Service
2177 Salk Avenue, Suite 250
Carlsbad, CA 92008
Office: 760-431-9440, ext 298
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"I'd like to offer a plug for actually having the natural processes instead of having to simulate them."
— Nadav Nur, PRBO Conservation Science

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Sent: Friday, April 14, 2023 9:17 AM
To: DALTON, KELLY M. <KELLY.DALTON@costamesaca.gov>
Cc: Carlos Martinez <CMartinez@ocvector.org>; Miller, William B. <william_b_miller@fws.gov>; Medak, Christine <Christine_Medak@fws.gov>; Amber Semrow <asemrow@ocvector.org>; Steve Shepherd <sshepherd@ocvector.org>; paul.lopez@costamesaca.gov <paul.lopez@costamesaca.gov>; John Savage <jsavage@ocvector.org>; John Drake <jdrake@ocvector.org>; Eric Paquette <epaquette@ocvector.org>
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714-876-3873

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Subject: Re: [EXTERNAL] Re: Fairview Park Vernal Pools
Date: Friday, April 14, 2023 11:17:56 AM

Hi Christine,

Yes, I can take photos during the next treatment. I will send them to you once we get done next week.

Thanks,
Todd

Sent from my iPhone

On Apr 14, 2023, at 10:00 AM, Medak, Christine <Christine_Medak@fws.gov> wrote:

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To: [Medak, Christine](#)
Cc: [DALTON, KELLY M.](#); [Carlos Martinez](#); [Miller, William B.](#); [Amber Semrow](#); [Steve Shepherd](#); [LOPEZ, PAUL](#); [John Savage](#); [John Drake](#); [Eric Paquette](#)
Subject: Re: [EXTERNAL] Re: Fairview Park Vernal Pools
Date: Friday, April 14, 2023 11:17:56 AM

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2177 Salk Avenue, Suite 250
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<http://www.fws.gov/carlsbad/>

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Cc: [DALTON, KELLY M.](#); [Carlos Martinez](#); [Miller, William B.](#); [Amber Semrow](#); [Steve Shepherd](#); [LOPEZ, PAUL](#); [John Savage](#); [John Drake](#)
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Attachments: [Fairview Park - Vernal Pool Site Map.pdf](#)

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2177 Salk Avenue, Suite 250
Carlsbad, CA 92008
Office: 760-431-9440, ext 298
<http://www.fws.gov/carlsbad/>

[Check out our annual report](#)



"I'd like to offer a plug for actually having the natural processes instead of having to

simulate them."

— Nadav Nur, PRBO Conservation Science

From: Todd Harries <THarries@ocvector.org>

Sent: Friday, April 14, 2023 9:17 AM

To: DALTON, KELLY M. <KELLY.DALTON@costamesaca.gov>

Cc: Carlos Martinez <CMartinez@ocvector.org>; Miller, William B. <william_b_miller@fws.gov>; Medak, Christine <Christine_Medak@fws.gov>; Amber Semrow <asemrow@ocvector.org>; Steve Shepherd <sshepherd@ocvector.org>; paul.lopez@costamesaca.gov <paul.lopez@costamesaca.gov>; John Savage <jsavage@ocvector.org>; John Drake <jdrake@ocvector.org>; Eric Paquette <epaquette@ocvector.org>

Subject: [EXTERNAL] Re: Fairview Park Vernal Pools

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Fairview Park Administrator
Parks and Community Services Department
City of Costa Mesa
kelly.dalton@CostaMesaCA.gov
714-754-5135

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Sent: Friday, March 10, 2023 9:25 AM
To: Miller, William <william_b_miller@fws.gov>; Christine Medak (christine_medak@fws.gov)
<Christine_Medak@fws.gov>; DALTON, KELLY M.
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OFF: (714) 971-2421
FAX: (714) 748-0247
E-mail: cmartinez@ocvector.org

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From: [Love, Stacey](#)
To: [DALTON, KELLY M.](#)
Cc: [Medak, Christine](#)
Subject: Fw: [EXTERNAL] TE-87580B-0 Annual Summary Report. Fairview Park - City of Costa Mesa
Date: Friday, April 14, 2023 3:57:27 PM
Attachments: [Annual Summary Report TE-87580B-0 Permit 2023.pdf](#)

Hello Kelly,

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Please allow ample time to familiarize yourself with ePermits before May 13.

The recovery permit allows you (the City) to conduct habitat restoration and maintenance, collect inoculum, harass by survey, capture, handle, release, and collect adult vouchers for Riverside fairy shrimp and San Diego fairy shrimp in accordance with the *Fairview Park Vernal Pool Restoration and Long Term Maintenance Plan for Vernal Pools 5 and 6, and the Associated Watershed Areas Within the Jurisdiction of the United States Fish and Wildlife Service Pursuant to the Endangered Species Act, Fairview Park, Costa Mesa, California*, dated June 8, 2018. Are any changes or updates needed to the Plan?

Thank you for sending the Annual Summary Report for 2022. However, I am confused because it indicates that activities were conducted for Riverside fairy shrimp and San Diego fairy shrimp but you stated below that no collection occurred. Did you conduct other activities pursuant to the permit such as habitat restoration and maintenance?

Thank you,

Stacey Love (she/her)
Recovery Permit Coordinator
[Carlsbad \(incl. Palm Springs\) field office](#)
[\(click here for jurisdiction map\)](#)

U.S. Fish and Wildlife Service
2177 Salk Avenue, Ste. 250
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(760) 431-9440 x 263
stacey_love@fws.gov

Useful links:

[Pacific Southwest Region Recovery Permits web page](#)

[General Recovery Permits web page](#)

[\[Video\] How to Submit a Renewal Application in ePermits](#)

Permittees: Please include your permit number in all correspondence and reporting, thank you.

Check out our annual report



From: DALTON, KELLY M. <KELLY.DALTON@costamesaca.gov>

Sent: Monday, April 10, 2023 4:20 PM

To: Love, Stacey <stacey_love@fws.gov>

Subject: [EXTERNAL] TE-87580B-0 Annual Summary Report. Fairview Park - City of Costa Mesa

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Hi Stacey,

Please see the attached annual summary report for the subject permit in the Fairview Park Vernal pools 5, 6, and 7 restoration area.

Please note that for the 2021-2022 wet season, no collection was performed due to a lack of ponding. This year's (2022-23) wet season collection has taken place after this year's ample rains, and the results will be reported in our January 2024 report.

I also note that the permit expiration date shows 6/13/23, so please let me know what will be needed in order to process an extension of the permit to cover the activities for this restoration plan. We were behind schedule on this project when I inherited the project due to the pandemic. This January 2023 we planted the vernal pool restoration area and will be performing site maintenance and monitoring going forward.

Thank you for your assistance on this matter.

Sincerely,

Kelly Dalton
Fairview Park Administrator

Parks and Community Services Department
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kelly.dalton@CostaMesaCA.gov
714-754-5135

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From: [Eric Paquette](#)
To: [Todd Harries](#); [Medak, Christine](#)
Cc: [DALTON, KELLY M.](#); [Carlos Martinez](#); [Miller, William B.](#); [Amber Semrow](#); [Steve Shepherd](#); [LOPEZ, PAUL](#); [John Savage](#); [John Drake](#)
Subject: RE: [EXTERNAL] Re: Fairview Park Vernal Pools
Date: Monday, April 17, 2023 2:17:00 PM
Attachments: [Fairview Park - Vernal Pool Site Map.pdf](#)

Good Afternoon,

Please find attached an aerial image of the Fairview Park vernal pool complex to this email. The image was captured on January 17, 2023, and the extent of the vernal pools has increased since that time due to rains received in February and March 2023. I've also included a scale of the approximate reach within each of the pools that the district's backpacks can achieve during a perimeter application (30 ft.). Due to the size of the vernal pools, a larvicide application utilizing the district's drone is the most appropriate tool that can be utilized during this time due to the environmentally sensitive nature of vernal pool complexes.

Please let me know if anyone has additional questions.

Best regards,

Eric

Eric Paquette

Assistant Biologist

Orange County Mosquito and Vector Control District

Serving Orange County Since 1947

13001 Garden Grove Boulevard

Garden Grove, CA 92843-2102

OFF: (714) 971-2421 x194

FAX: (714) 971-3940

E-mail: epaquette@ocvector.org

Website: ocvector.org

From: Todd Harries <THarries@ocvector.org>

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Good Morning,

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To: [Love, Stacey](#)
Cc: [Medak, Christine](#)
Subject: RE: [EXTERNAL] TE-87580B-0 Annual Summary Report. Fairview Park - City of Costa Mesa
Date: Tuesday, April 18, 2023 10:48:00 AM

Hi Stacey,

I just noticed the epermits automatic notification as well, and I'll keep the 30 day in advance of permit expiration factor in mind to submit in time. No other changes are needed to the Plan at this time.

Regarding the 2022 annual summary report, the species were listed under the activities conducted section to note the species to which the applicable activities pertain. No collection occurred last wet season due to lack of ponding, although the habitat restoration and maintenance activities were performed and continued during this period pursuant to the restoration plan which is still being implemented. Hopefully this clears up that question, but let me know if there are any other questions.

Thank you for your assistance,

Kelly Dalton
Fairview Park Administrator
Parks and Community Services Department
City of Costa Mesa
kelly.dalton@CostaMesaCA.gov
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[Carlsbad \(incl. Palm Springs\) field office](#)
[\(click here for jurisdiction map\)](#)

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To: [Todd Harries](#)
Cc: [Christine Medak](#); [William B. Miller](#); [Amber Semrow](#); [Steve Shepherd](#); [Carlos Martinez](#)
Subject: RE: Upper Fairview Park Vernal Pools
Date: Thursday, April 20, 2023 8:50:00 AM

Thank you for the treatment summary, Todd.

From: Todd Harries <THarries@ocvector.org>
Sent: Wednesday, April 19, 2023 9:46 AM
To: DALTON, KELLY M. <KELLY.DALTON@costamesaca.gov>
Cc: Christine Medak <Christine_Medak@fws.gov>; William B. Miller <william_b_miller@fws.gov>; Amber Semrow <asemrow@ocvector.org>; Steve Shepherd <sshepherd@ocvector.org>; Carlos Martinez <CMartinez@ocvector.org>
Subject: Upper Fairview Park Vernal Pools

Good Morning,

Today, April 19th, we arrived at Upper Fairview Vernal pools at 7:45 a.m. and concluded at 9:30. We treated 2.5 acres at 10 Lbs per acre, for a total of 25lbs of Vectobac G. The drone treatment was a complete success again from start to finish. We did receive a couple of questions from the public while treating. Eric Paquette (OCMVCD Biologist) did not observe any concerns with wildlife around the vernal pools during treatment and post treatment.

Thanks,
Todd Harries

Sent from my iPhone

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From: [Medak, Christine](#)
To: [Todd Harries](#); [DALTON, KELLY M.](#)
Cc: [Miller, William B.](#); [Amber Semrow](#); [Steve Shepherd](#); [Carlos Martinez](#)
Subject: Re: [EXTERNAL] Upper Fairview Park Vernal Pools
Date: Thursday, April 20, 2023 9:24:26 AM

Thanks Todd,

Were you able to get any photos of the current condition of the pools when they were treated?

Christine L. Medak
Fish and Wildlife Biologist
U.S. Fish and Wildlife Service
2177 Salk Avenue, Suite 250
Carlsbad, CA 92008
Office: 760-431-9440, ext 298
<http://www.fws.gov/carlsbad/>

Check out our annual report



"I'd like to offer a plug for actually having the natural processes instead of having to simulate them."
— Nadav Nur, PRBO Conservation Science

From: Todd Harries <THarries@ocvector.org>
Sent: Wednesday, April 19, 2023 9:46 AM
To: KELLY M. DALTON <KELLY.DALTON@costamesaca.gov>
Cc: Medak, Christine <Christine_Medak@fws.gov>; Miller, William B. <william_b_miller@fws.gov>; Amber Semrow <asemrow@ocvector.org>; Steve Shepherd <sshepherd@ocvector.org>; Carlos Martinez <CMartinez@ocvector.org>
Subject: [EXTERNAL] Upper Fairview Park Vernal Pools

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Good Morning,

Today, April 19th, we arrived at Upper Fairview Vernal pools at 7:45 a.m. and concluded at 9:30. We treated 2.5 acres at 10 Lbs per acre, for a total of 25lbs of Vectobac G. The drone treatment was a complete success again from start to finish. We did receive a couple of questions from the public while treating. Eric Paquette (OCMVCD Biologist) did not observe any concerns with wildlife around the vernal pools during treatment and post treatment.

Thanks,
Todd Harries

Sent from my iPhone

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