

**From:** Medak, Christine [[mailto:christine\\_medak@fws.gov](mailto:christine_medak@fws.gov)]  
**Sent:** Wednesday, June 26, 2019 4:13 PM  
**To:** Ian Hendricks <[hendricksia@sbcglobal.net](mailto:hendricksia@sbcglobal.net)>  
**Cc:** D'AGOSTA, CYNTHIA <[CYNTHIA.DAGOSTA@costamesaca.gov](mailto:CYNTHIA.DAGOSTA@costamesaca.gov)>; [edtail1@cox.net](mailto:edtail1@cox.net); Jonathan Snyder <[jonathan\\_d\\_snyder@fws.gov](mailto: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.

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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](mailto: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.