HAMILTON BIOLOGICAL

December 13, 2016

Members of the Board of Supervisors
County of Orange
c/o Clerk of the Board of Supervisors
333 West Santa Ana Blvd.
Santa Ana, California 92702-4048

SUBJECT: REVIEW OF CALIFORNIA GNATCATCHER ISSUES ESPERANZA HILLS, PROPOSED ENTRY BRIDGE ORANGE COUNTY, CA

Dear Supervisors,

At the request of the citizens' group, *Protect Our Homes and Hills*, I have evaluated the potential for the Coastal California Gnatcatcher (*Polioptila californica californica*), a federally threatened species, to occur in the southeastern part of the Esperanza Hills project site in unincorporated Orange County, adjacent to the City of Yorba Linda and Chino Hills State Park. Specifically, I evaluated the potential for the gnatcatcher to be impacted by construction of an entry bridge to the property from the south that was recently added to the project description, and that was not evaluated and analyzed in Final EIR No. 616, which the County Board of Supervisors certified on March 10, 2015.

Project documentation refers to the proposed bridge as "Option 1 Modified." The modification is the construction of a new bridge from the south of the site in place of the previous Option 1, which involved modifying an existing road from the south. The OC Development Services/Planning Division prepared an "OC Development Services Report" dated October 26, 2016, advising County decision-makers that "Revised Final EIR 616 satisfied the requirements of CEQA for the proposed Option 1 Modified access configuration is in [*sic*] substantial conformance with the previous environmental assessments." Based on this conclusion, County Staff has recommended that the Board of Supervisors approve the applicant's request for certification of Revised Final EIR 616.

The purpose of my investigation was to determine whether the potential impacts associated with construction and operation of the proposed bridge have been adequately addressed in Revised Final EIR 616.

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TREATMENT OF CALIFORNIA GNATCATCHER, DRAFT EIR

I reviewed the Biological Resources section of Draft EIR No. 616 for the Esperanza Hills Project, as well as Appendix D to the DEIR, "Biological Technical Report Prepared by Glen Lukos Associates, Inc. dated March 2013, Revised November 2013."

Page 5-179 of the DEIR states:

> The proposed Cielo Vista project, the Bridal Hills, LLC property, and the Yorba Linda Land property are all located in designated coastal California gnatcatcher critical habitat and contain coastal sage scrub habitat disturbed by the 2008 Freeway Complex Fire similar to the Proposed Project. Coastal California gnatcatchers were not detected at the proposed Cielo Vista project, and are not expected to occur at the Bridal Hills, LLC property or the Yorba Linda Land, LLC properties. As such, these projects exhibit no potential for impacts to the coastal California gnatcatcher.

These statements may have been true in 2013, but in both 2014 and 2016 California Gnatcatchers were detected on the Cielo Vista project site, within approximately 1,300 feet feet of the proposed alignment of the new bridge (Figure 1).

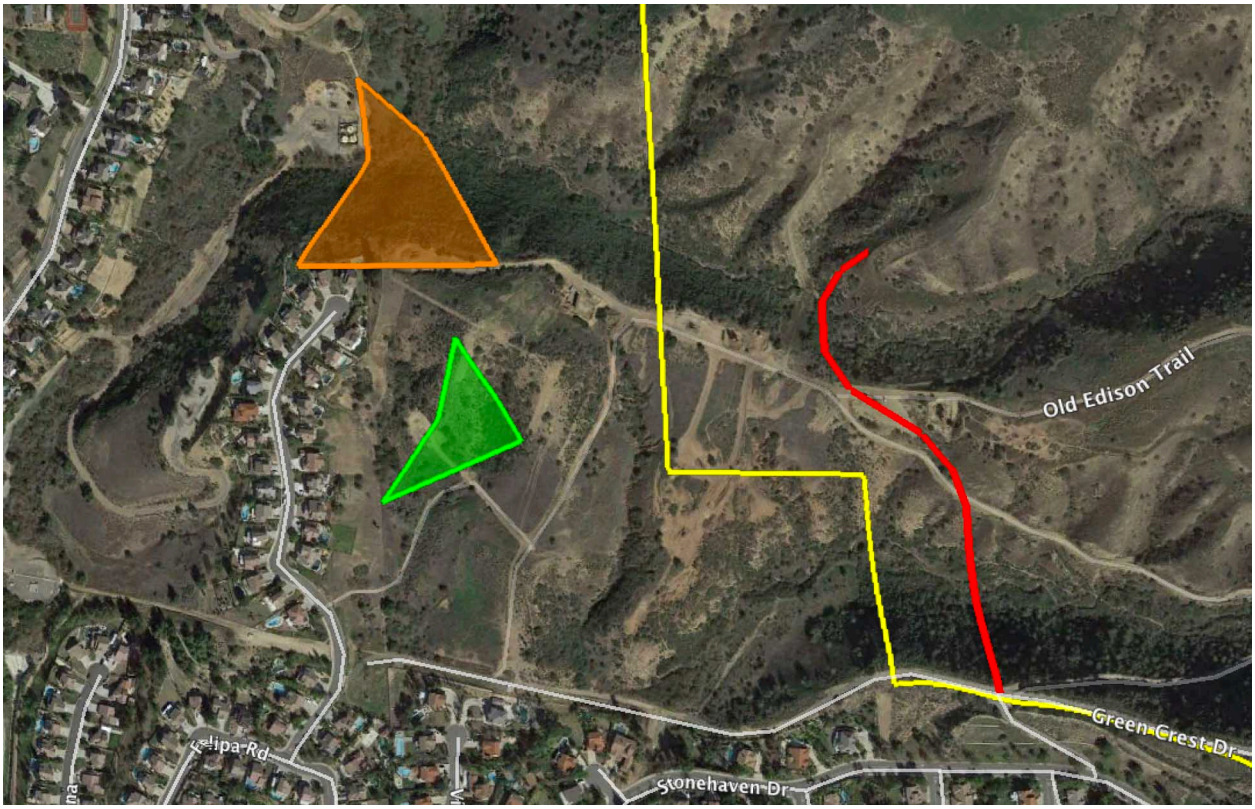

Figure 1. This aerial image shows the southwestern corner of the Esperanza Hills project site in yellow and the proposed new bridge and entry into the proposed development site in red. The green polygon shows the area on the adjacent Cielo Vista property where Glenn Lukos Associates observed a family group of California Gnacatchers in May/June 2014, and the orange polygon shows where SWCA Environmental Consultants observed two pairs of California Gnatcatchers in June 2016.

The citations for these observations are:

Glenn Lukos Associates. 2014. Results of Protocol Coastal California Gnatcatcher Surveys for the Approximately 83-Acre Cielo Vista Property, Located in Unincorporated Orange County, California. Report dated July 30, 2014, submitted to Stacey Love, Recovery Permit Coordinator, US Fish and Wildlife Service, Carlsbad, CA.

SWCA Environmental Consultants. 2016. Results of Protocol Coastal California Gnatcatcher on the 84-Acre Cielo Vista Property, Located in Unincorporated Orange County, California. Report dated August 8, 2016, submitted to Stacey Love, Recovery Permit Coordinator, US Fish and Wildlife Service, Carlsbad, CA.

Page 5-121 of the Esperanza Hills DEIR states:

> The Study Area falls entirely within Unit 9 of the existing critical habitat for coastal California gnatcatcher designated by the USFWS. However, no coastal California gnatcatcher were detected within the Study Area during multiple protocol surveys dating from March 2007 through June 2013 as shown in Exhibit 5-26 – Special Status Biological Resources Map (page 5-113) or on prior focused coastal California gnatcatcher studies dating back to 2002. Additionally, primary constituent elements (PCEs) for coastal California gnatcatcher are severely reduced or lacking due to the high degree of disturbance to coastal sage scrub habitats following the 2008 Freeway Complex Fire.

Given that the habitats occupied by breeding California Gnatcatchers on the adjacent Cielo Vista property are similar to those on the Esperanza Hills property, and given that the native scrub habitat in both areas has now had more than eight years to recover from the Freeway Complex Fire, the analysis provided in the Esperanza Hills DEIR (and in the Revised Final EIR) has become outdated.

PLANT COMMUNITIES RECOVERING

Page 5-108 of the DEIR states that annual grassland habitat occupies approximately 136.10 acres of the Esperanza Hills project site, and describes this community as follows:

> The annual grassland community is dominated by non-native grasses. Many of the non- native grasses found on site are considered to be a naturalized species in southern California. Dominant grasses include ripgut brome, soft chess, Italian wildrye, English wildrye, fox-tail grass, African fountain grass (*Pennisetum setaceum*), slender wild oats, and common wild oats. Dominant forbs mapped in the annual grassland community are Russian thistle, summer mustard, black mustard, tocalote, bur clover (*Medicago polymorpha*), horehound, and telegraph weed.
>
> The species composition of the annual grasslands was largely unchanged by the 2008 Freeway Complex Fire.

Figure 2, below, is a screen-capture of Exhibit 5-25 from the Esperanza Hills DEIR.

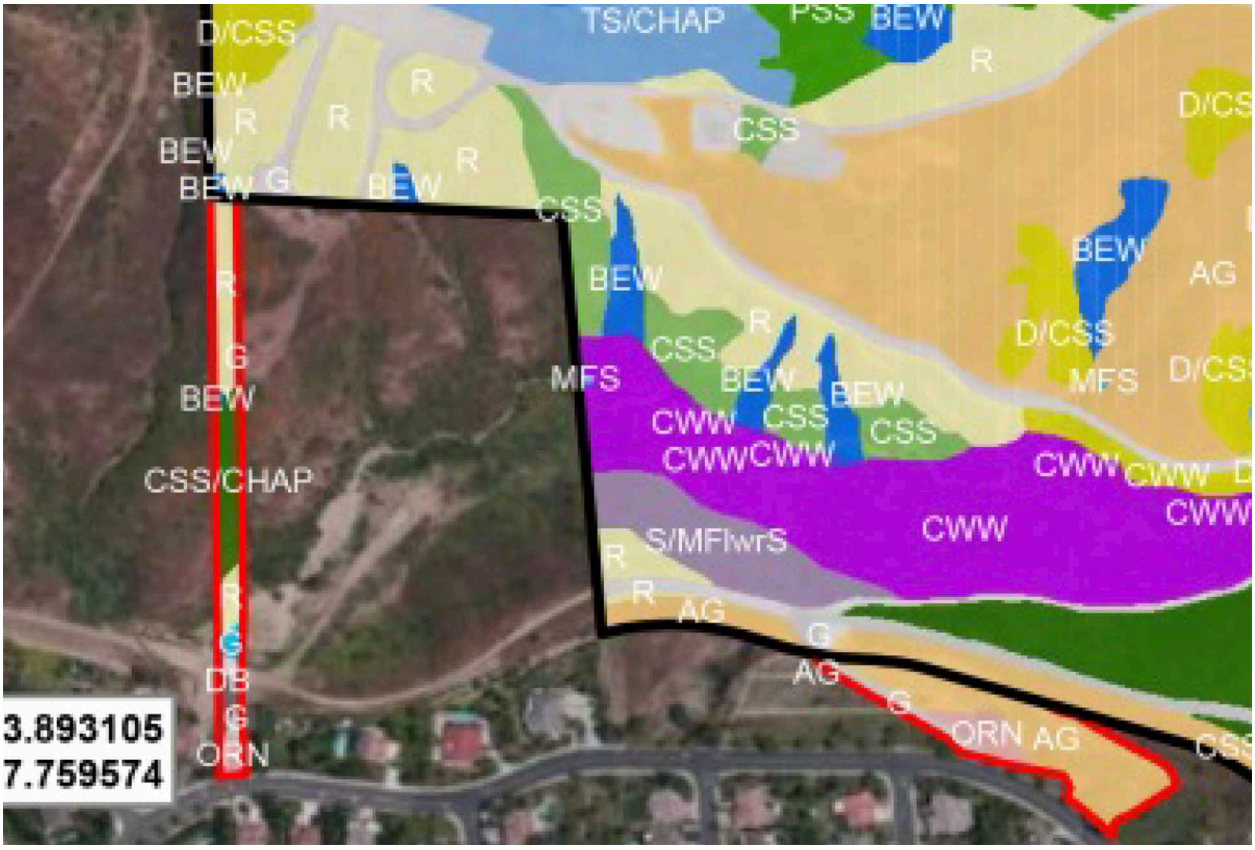

Figure 2. The plant community mapping contained in the DEIR shows the south-facing slope where the bridge is proposed as being composed mostly of annual grassland ("AG" in orange-beige screen) and ruderal or weedy habitat ("R" in pale yellow screen).

Page 5-95 of the DEIR states:

> The Esperanza Hills site is currently in an early post-fire successional stage, and habitat recovery will vary according to a number of factors. It is presumed that the habitats within the Study Area will return to pre-fire conditions eventually; however, such conversion will take one to two decades.

On December 12, 2016, I observed the southwestern part of the Esperanza Hills property from an adjacent property, to evaluate whether the habitat in this area remained as it had been mapped by Glenn Lukos Associates for the 2013 DEIR. As shown in Figures 3 and 4, on the next page, most of the habitat on the south-facing slope where the bridge is proposed has recovered to a form of coastal scrub. I was not able to closely inspect this area to determine the species composition, but in similar areas nearby the recovering scrub habitat is dominated by a mix of California Encelia (*Encelia californica*), California Sagebrush (*Artemisia californica*), and Black Sage (*Salvia mellifera*), interspersed with non-native Russian Thistle (*Salsola tragus*) and with a sparse understory of non-native annual grass. The scrub appears to have been hard-hit not only by the fire several years ago, but also by the ensuing multi-year drought that has affected the entire region.

At the time I observed this area, the scrub on the south-facing slope either was not leafing out yet or was just starting to do so. It is to be expected that the scrub in this area will look different (healthier) after the rainy season causes leaves and flowering, but for now it is sufficient to note that most of the area mapped as "annual grassland" or "ruderal" habitat for the 2013 DEIR has recovered to a mix of coastal sage scrub and scrub/grassland. Therefore, this information in the DEIR has also become outdated.

Figure 3. View, facing east of the south-facing slope (left side of photo) where the bridge is proposed. This area was mapped as primarily "annual grassland" and "ruderal" habitat for the 2013 DEIR. Clearly, this area is now vegetated with a mixture of coastal scrub and scrub/grassland.

Figure 4. View, facing northeast of the same south-facing slope, where the bridge is proposed. I was not able to inspect this scrub and scrub/grassland closely, but it appears to be potentially suitable habitat for the California Gnatcatcher that was not present in 2013, according to the mapping in the DEIR (see Figure 2 in this report).

As noted on Page 5-122 of the DEIR, the entire project site is delineated as Critical Habitat for the gnatcatcher. As shown in the photos above, the south-facing slope in the southwestern corner of the project site, where the bridge is now proposed, is continuing to recover from fire and drought, and can no longer be accurately characterized as mainly a mix of annual grasses and weeds. This area now appears to contain the Primary Constituent Elements of California Gnatcatcher Critical Habitat. Given that the habitat appears to be potentially suitable for occupation by the California Gnatcatcher, and

given that gnatcatchers are now known to be resident several hundred feet west of this location, it appears that updated focused surveys for the gnatcatcher are warranted to determine whether gnatcatchers are present that could be adversely affected by construction and operation of the bridge.

POTENTIAL EFFECTS OF BRIDGE ON GNATCATCHERS

If California Gnatcatchers now occupy the designated Critical Habitat in the area where the bridge is proposed, utilizing scrub and scrub/grassland habitat that was not present at the time of the 2013 DEIR, the current CEQA analysis must take this into account as a potentially significant impact that was not identified previously. Potential effects of the bridge upon the gnatcatcher include (a) temporary grading and disturbance impacts; (b) permanent loss of habitat resulting from placement of bridge supports in occupied habitat; (c) permanent noise impacts from traffic on the bridge overhead; and (d) permanent shading impacts.

SUMMARY AND RECOMMENDATION

Page 22 of the EIR's Biological Technical Appendix, prepared by Glenn Lukos Associates, stated:

> It should also be noted that although much of the coastal sage scrub will likely revert to the pre-fire condition after one to two decades, it is not anticipated that coastal California gnatcatcher will colonize such areas since it was never observed within the Study Area.

As discussed in this report, California Gnatcatchers were found breeding only a few hundred feet west of the site in 2014, and two pairs were recorded in the same general area in 2016. This calls into question the conclusion set forth by Glenn Lukos Associates that California Gnatcatchers should not be expected to occur in this area. Furthermore, as shown in the photos taken on December 12, 2016, the south-facing slope where the new bridge is being proposed is now vegetated with coastal scrub and scrub/grassland (Primary Constituent Elements of California Gnatcatcher Critical Habitat), not the annual grassland and ruderal habitats mapped there by Glenn Lukos Associates in 2013.

In light of these two changed circumstances (discovery of a population of gnatcatchers where the DEIR reported that none existed, and existence of a considerable area of potentially suitable gnatcatcher habitat where the DEIR reported none), it is my recommendation that a new round of focused protocol surveys for the California Gnatcatcher be conducted in at least the southwestern portion of the project site, where the bridge is proposed. These surveys should be conducted during the breeding season, starting as early as February 2017.

Thank you for the opportunity to consult with you on this project. Please call me at 562-477-2181 if you have questions or wish to further discuss any matters; you may send e-mail to robb@hamiltonbiological.com.

Sincerely,

Robert A. Hamilton
President, Hamilton Biological, Inc.

attachment: Curriculum Vitae