

Michael Brandman Associates

ENVIRONMENTAL SERVICES • PLANNING • NATURAL RESOURCES MANAGEMENT

April 10, 2007

Rudy Provoost  
 KB Home - Project Manager  
 801 Corporate Center Drive, Suite 201  
 Pomona, CA 91768

**Subject: Results of an Updated Habitat Assessment and 30-Day Preconstruction Burrowing Owl Survey for TTM 17046 in the City of Victorville, San Bernardino County, California (APN 3072-251-34).**

Dear Mr. Provoost:

This report contains the findings of Michael Brandman Associates (MBA) general habitat assessment survey and a 30-day preconstruction burrowing owl survey on a 44-acre project site located in the City of Victorville, San Bernardino County, California.

**Methodology**

The survey area for the burrowing owl (*Athene cunicularia*) (BUOW) included the entire Project Site, and a 500-foot buffer surrounding the Site. The project site was surveyed on foot by MBA biologist Mikael Romich and James Hickman on April 9, 2007 from 7:00 am to 11:00 am. Weather conditions during the surveys were generally good, with temperatures of 75 degrees, no clouds, and no wind. Transects were spaced to ensure 100 percent coverage. Presence of BUOW was determined by direct observations and presence of sign, including pellets, white wash, feathers, or prey remains. Rodent burrows were thoroughly examined for presence of sign.

**Project Site and Vicinity**

The Site is located northwest of Interstate 15 and south of Bear valley Road in the City of Victorville, San Bernardino County, California. More specifically, the site is located north of Christa Way, south of and abutting Sycamore Street, west of and abutting Amethyst Road, and east of Amargosa Road. The site is depicted on the U.S. Geological Survey (USGS) Hesperia quadrangle in Section 1, Township 4 North, Range 5 West. The Project Site overlaps Oro Grande Wash in the northwestern portion. The project includes assessor parcel number (APN) 3072-251-34.

The surrounding land uses is largely undeveloped land. Scattered residences occur to the west and a cemetery to the east. Elevations on the site range from 3220 feet to 3280 feet above seal level.

**Biological Setting**

The entire project site is occupied by a creosote scrub plant community. Plants observed during the biological survey included creosote bush (*Larrea tridentate*), burrobrush (*Hymenoclea salsola*), ephedra

(*Ephedra nevadensis*), winter fat (*Krascheninnikovia lanata*), spiny hop-sage (*Grayia spinosa*), and Joshua tree (*Yucca brevifolia*). It should be noted that winterfat and hop-sage plants were observed on the project site; these plants may be important to Mohave Ground Squirrel (*Spermophilus mohavensis*) (MGS) as forage. Overall, the site has been subject to some disturbances, including fire and trash dumping.

A previous Biological Survey Report (dated May 29, 2004) has been prepared by RCA Associates. In general, the project site appeared to be of a similar state as described in this existing report.

### **Sensitive Species**

The literature review and California Natural Diversity Database (CNDDDB) database search indicated that eight special status species have been reported as occurring in the region. Of these eight species, three faunal species were determined to have a low to moderate potential to occur on the project site.

#### ***Mohave Ground Squirrel (State Threatened)***

The project site is within the known range of the MGS and the CNDDDB contains a record approximately 0.5 mile from the project site. No MGS were observed during the habitat assessment survey; however, the site visit was conducted during the time of year when MGS can be in estivation. The project site contained winterfat and spiny hop-sage, which are important food sources for MGS. In addition, Oro Grande Wash may provide a wildlife movement corridor for this species.

**Recommendation:** The project site falls within the known range of the MGS, and contains potentially suitable habitat for MGS. It also occurs within and adjacent to Oro Grande Wash. KB Home has acquired the necessary 2081 permit which fully mitigates potential impacts to MGS.

#### ***Desert Tortoise (Federally Threatened)***

No desert tortoise (*Gopherus agassizii*) or desert tortoise sign (burrows, tracks, scat) was found during MBA's site visit. This species is not expected to be resident on the project site due to the low quality of the habitat and the low population levels in the immediate area. Additionally, a focused desert tortoise survey was conducted on May 26, 27, and 28, 2004 and the results were negative.

**Recommendation:** The site provides low quality habitat for desert tortoise and no tortoise or sign of tortoise has been found during previous focused surveys. The site also occurs in an area where desert tortoise populations are expected to be very low to nonexistent. Based on these conditions, the site is considered unoccupied by the desert tortoise. Therefore, no further actions are recommended.

#### ***Burrowing Owl (State Sensitive)***

Suitable nesting, foraging and wintering habitat occurs onsite. Several suitable burrows occur on the project site. During the 30-day preconstruction survey, the absence of BUOW was confirmed by the close inspection of each burrow encountered. No BUOW or BUOW sign (whitewash, pellets and feathers) was observed at the burrows on the project site. The project site could become occupied by BUOW in the future due to the general openness of that habitat and the presence of suitable nesting habitat (burrows).

**Recommendation:** Although the project site is not currently occupied by BUOW, suitable burrows were observed and the site could be occupied by BUOW in the future. Therefore, if clearing and grubbing does not occur prior to May 10, 2007, an additional 30-day preconstruction BUOW survey is recommended for the project site.

### **Cooper's Hawk (State Sensitive-nesting)**

Throughout its range, the Cooper's hawk (*Accipiter cooperii*) breeds in deciduous, mixed, and evergreen forests and deciduous stands of riparian habitat. The Cooper's hawk breeds primarily in riparian areas and oak woodlands. It frequents landscapes where wooded areas occur in patches and groves and it often uses patchy woodlands and edges with snags for perching. This species is seldom found in areas without dense tree stands or patchy woodland. The Cooper's hawk is tolerant of human disturbance and habitat fragmentation and breeds in suburban and urban settings.

The site provides only low quality nesting habitat due to the lack of large trees. The site provides suitable foraging habitat for this species.

**Recommendation:** See recommendation for nesting birds.

### **Le Conte's Thrasher (State Sensitive)**

The Le Conte's thrasher inhabits desert flats, washes and alluvial fans with sandy and/or alkaline soil and scattered shrubs. They are not found in urban or dense residential areas but may be found near scattered rural residences that abut suitable habitat. Where it occurs, silver cholla (*Opuntia echinocarpa*) is the preferred nesting plant. The nest typically is placed in a cactus, thorny shrub, or small tree, chosen to offer protection from predators and sun; it is not always the tallest or largest plant that is used, but one with the proper branching structure that provides the best protection from sun and predation. Species of saltbush found in the Le Conte's Thrashers range, such as allscale (*Atriplex polycarpa*), shadscale (*A. confertifolia*), quailbush (*A. lentiformis*), desert holly (*A. hymenolytra*) and fourwinged saltbush (*A. canescens*) may be used for nesting. Other plants used are pencil cholla (*Opuntia ramosissima*), smoke tree, and Mojave yucca (*Yucca schidigera*). To a lesser degree jojoba (*Simmondsia chinensis*) and California juniper have been found as nest plants. The Le Conte's Thrasher usually does not occur in areas of monotypic creosote bush scrub, as it provides little cover or nesting sites.

The site provides low quality habitat for the Le Conte's thrasher due to the dominance of creosote bush and that it is near urban areas.

**Recommendation:** See recommendation for nesting birds.

### **Loggerhead Shrike (State Sensitive)**

The loggerhead shrike (*Lanius ludovicianus*) has been declining throughout the United States due to various reasons, including loss of habitat and use of pesticides. This species of shrike hunts in open or brushy areas and nests in large shrubs. The site provides moderate-quality nesting habitat due to the presence of Joshua trees. It would provide moderate-quality foraging habitat; in general there is a moderate potential for loggerhead shrike to occur on the project site, although it was not observed during the habitat assessment.

**Recommendation:** See recommendation for nesting birds.

### **California Horned Lark (State Sensitive)**

Continuing threats to the California horned lark (*Eremophila alpestris actia*) include habitat destruction and fragmentation. The California horned lark is a common to abundant resident in a variety of open habitats, usually where trees and large shrubs are absent. The site provides suitable nesting and foraging habitat.

**Recommendation:** See recommendation for nesting birds.

### **Coast Horned Lizard (State Sensitive)**

Coast horned lizards (*Phrynosoma coronatum blainvillei*) inhabit open country, especially sandy areas, washes, flood plains and wind-blown deposits in a wide variety of habitats found chiefly below 600 meters (2,000 feet) in the north and 900 meters (3,000 feet) in the south. Horned lizards forage on the ground in open areas, usually between shrubs and often near ant nests. Since suitable habitat elements are present, this species has a moderate potential to occur on the project site.

**Recommendation:** Due to the relative abundance of the coast horned lizard on a local and regional basis, no further actions are required.

### **Nesting Birds**

The Migratory Bird Treaty Act (MBTA) protects all migratory native birds found in the United States. The MBTA makes it unlawful for anyone to kill, capture, collect, possess, buy, sell, trade, ship, import or export any migratory bird including feathers, parts, nests or eggs. California Department of Fish and Game (CDFG) Code 3503 makes it illegal to destroy any birds' nest or any birds' eggs that are protected under the MBTA. Code 3503.5 further protects all birds in the orders Falciformes and Strigiformes (birds of prey, such as hawks and owls) and their eggs and nests from any form of take.

The site contains suitable habitat for nesting birds such as California horned lark and loggerhead shrike, as well as for more common bird species such as verdin (*Auriparus flaviceps*) and cactus wren (*Campylorhynchus brunneicapillus*). During the habitat assessment, a common raven (*Corvus corax*) nest was located in a Joshua tree and was being incubated by an adult, indicating the presence of eggs. In addition, several cactus wren nests were observed, which are used year round as roost sites as well as for breeding, but no eggs were present.

**Recommendation:** As per the MBTA and CDFG Codes, removal of any trees, shrubs, grass or any other potential nesting habitat, should be conducted outside the nesting season. The nesting season generally occurs between March and July, but can vary slightly from year to year. If construction activity is to occur during the nesting season, a breeding bird survey conducted by a qualified biologist would be conducted within seven (7) days of clearing and grubbing activities to identify any potential nests. If birds are found to be nesting within the impact area, construction would need to avoid these areas as determined by a qualified biologist. The biologist would monitor any nests until it is determined that the nest is no longer active, at which time construction could continue.

### **Jurisdictional Waters / Wetlands**

The United States Army Corps of Engineers (USACE) and the Regional Water Quality Control Board (RWQCB) regulate discharge of fill into waters of the United States under Section 404 and 401 of the federal Clean Water Act, respectively. The CDFG regulates alterations to stream courses including adjacent riparian habitat areas under Section 1600 of the state Fish and Game Code.

The project site contains Oro Grande Wash that flows through the northwestern portion of the project site. This would be considered jurisdictional by the ACOE and the CDFG. The grading footprint of the project is outside of the jurisdictional drainage feature.

**Recommendation:** The grading footprint does not overlap the jurisdictional drainage feature and no impacts are anticipated. If impacts to the jurisdictional drainage feature are required, the necessary

permits pursuant to sections 404 and 401 of the Clean Water Act and section 1602 of the Fish and Game Code must be prepared.

### **Joshua Trees**

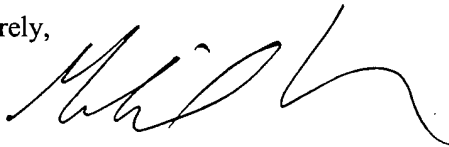
There were a number of Joshua trees identified on the project site. The Municipal Code of the City of Victorville (Chapter 13.33-Preservation and Removal of Joshua Trees) requires that Joshua trees be protected and preserved to the greatest extent possible. It is unlawful for any person to cut, damage, destroy, dig up, or harvest any Joshua tree without the prior written consent of the director of parks and recreation or his designee.

**Recommendation:** All Joshua tree on the project site should be identified, measured, and mapped, and a plan for transplanting and preservation of the salvageable trees should be developed.

### **Conclusion and Recommendations**

The project site was confirmed to exist in a similar biological state as described in the previous Biological Survey Report completed by RCA Associates in May 2004. The results of the 30 day preconstruction BUOW survey confirmed that they remain absent from the project site. If grading does not occur by May 10, 2007, an additional 30-day preconstruction survey may be required. Due to the presence of nesting birds, a preconstruction survey should be conducted prior to clearing and grubbing to ensure no nests are impacted. Please call me at 909.884.2255 if you have any question concerning this letter report. We look forward to continuing to assist you with work on this or other sites.

Sincerely,



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