H.T. HARVEY & ASSOCIATES
Ecological Consultants

29 October 2014

Karen Kam
Ulferts Center USA Inc.
4288 Dublin Boulevard, Suite 218
Dublin, CA 94568

RE: Ulferts Center Ancillary Parking Lot Project – Burrowing Owl Survey and Habitat Assessment Report (HTH #3630-01)

Dear Mrs. Kam:

Per your request, H. T. Harvey & Associates has conducted a survey for burrowing owls (*Athene cunicularia*) and suitable nesting/roosting habitat at the approximately 0.68-acre site located at 792 Barber Lane, immediately south of the Ulferts Center in Milpitas, California (Figure 1). The proposed project site is bound by the Ulferts Center commercial development to the north, Interstate 880 to the east, commercial development to the south, and Barber Lane to the west. The purpose of the burrowing owl survey was to complete the biological resource requirements described in Mitigation Measure BIO-2 of the Initial Study/Mitigated Negative Declaration (IS/MND). We performed the survey and habitat assessment to determine whether burrowing owls are currently present on the site and to assess the potential for burrowing owl use of the site for breeding, wintering, roosting, and/or foraging. The purpose of this report is to provide the results of the survey, to satisfy biological resource requirements associated with burrowing owls, and to provide recommendations for the implementation of burrowing owl avoidance measures.

Methods

H. T. Harvey & Associates senior wildlife ecologist Patrick Stone, B.S. conducted a habitat assessment for burrowing owls and potential burrowing owl nesting or roosting sites on 17 October 2014 by walking the entire site plus areas within 250 feet where feasible, while looking for burrowing owls, potential nesting or roosting burrows, and evidence of recent owl occupation at burrows (*e.g.*, whitewash, pellets, feathers, and/or prey remains). We conducted the burrowing owl survey according to the California Department of Fish and Wildlife's (CDFW) Staff Report on Burrowing Owl Mitigation (2012), which describes the approved protocol for take avoidance surveys.

Results

No owls, nor any evidence of nesting or roosting owls, were observed on or near the proposed project site. No ground squirrel burrows or other potentially suitable habitat for burrowing owl use (i.e. breeding, wintering, roosting, or foraging) were observed on or near the site. No evidence of ground squirrel presence or activity was observed within the site or on surrounding properties. Ground squirrels may occur on an

undeveloped parcel located approximately 290 feet to the east of the site; however, this parcel is segregated from the proposed project site by the Interstate 880 freeway corridor.

The site supports ruderal grassland vegetation, landscaped trees, and several facultative wetland plant species. The small parcel also currently supports underground utilities (water pipelines) and is surrounded by urban land uses including commercial development and a freeway corridor. The site has been highly degraded by human presence and utility construction/operation. We observed considerable litter and soil compaction within the site. In addition, three man-made structures associated with the underground pipelines (check valves or air valves) exist above ground on the western portion of the site. Wildlife species observed on the site included feral cat (*Felis catus*), northern mockingbird (*Mimus polyglottos*), song sparrow (*Melospiza melodia*), and a dead American coot (*Fulica americana*) that was most likely struck by a vehicle on the adjacent freeway.

The proposed project IS/MND requires burrowing owl avoidance and protection measures as follows:

> Mitigation Measure BIO-2: Prior to any disking for fire or weed control or any demolition or construction activities, a burrowing owl survey shall be conducted. This will include completion of a burrowing owl nesting/occupancy survey on the development property. As established by the CDFG, burrowing owl surveys shall be conducted by walking suitable habitat on the entire property and (where possible) in areas within 150 meters (approximately 500 ft.) of the project impact zone. The 150-meter buffer zone is surveyed to identify burrows and owls outside of the project are which may be impacted by factors such as noise and vibration (heavy equipment, etc) during project construction. Pedestrian survey transects shall be spaced to allow for 100 percent visual coverage of the ground surface. The distance between transect center lines shall be no more than 30 meters (approximately 100 ft.) and shall be reduced to account for differences in terrain, vegetation density, and ground surface visibility. If disking is to occur, all burrowing owl nests will be identified through the above survey process and a 250-foot radius established around the site where no disking will be conducted. Each burrowing owl nest site and associated escape burrows will be protected by the 250-foot buffer zone.

Mitigation Measure BIO-2 requires that a burrowing owl survey is conducted prior to any disking, demolition, or construction activities; however, the measure does not clearly define the appropriate timing for conducting the burrowing owl survey or the parties responsible for implementing this measure. According to the CDFW 2012 Staff Report on Burrowing Owl Mitigation, suitable habitat for owls should be surveyed multiple times to demonstrate absence, with the last survey occurring within 24 of initial disking, demolition, or construction activities. However, if no suitable habitat is present in or near the proposed project site, then a single site visit is sufficient for assessing potential habitat for burrowing owl. Such a habitat survey and assessment to document the presence/absence of ground squirrel burrows or other suitable ground features can be conducted any time prior to construction activities. Therefore, we recommend that the City require the project proponent to implement Mitigation Measure BIO-2 by first conducting a burrowing owl survey and habitat assessment to determine if potential habitat for burrowing owl occurs on the site. If suitable habitat is present, the proponent will conduct avoidance surveys within 24 hours prior to any disturbance, according to

CDFW guidance. If suitable habitat is not present, then the initial survey and habitat assessment will fulfill Mitigation Measure BIO-2 requirements.

Based on the results of the burrowing owl nesting/occupancy survey and habitat assessment completed on 17 October 2014, we determine that the site does not provide suitable nesting or foraging habitat for burrowing owl. Further, burrowing owls are currently absent from the site. Due to the lack of burrowing owl nests or habitat, the survey performed on 17 October satisfies the requirements of Mitigation measure BIO-2 and no additional pre-construction surveys for burrowing owl are needed for this purpose. Further, no 250-foot radius buffer zones for burrowing owl nest protection are needed prior to disking, demolition, or construction activities.

In conclusion, it is our opinion that biological resource requirements for burrowing owl avoidance and protection have been satisfied; no suitable habitat for burrowing owl occurs within or near the project site; and no further measures to avoid potential impacts to burrowing owls are needed.

Please feel free to contact me at pstone@harveyecology.com or (408) 458-3284 if you have any questions regarding the survey results. Thank you very much for contacting H. T. Harvey & Associates regarding this survey.

Sincerely,

Patrick Stone, B.S.
Project Manager – Senior Wildlife Ecologist

Attachments: Figure

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Figure 1: Vicinity Map
Ulferts Center Ancillary Parking Lot (3630-01)
October 2014