

APPENDIX A

**Burrowing Owl Survey Report
H.T. Harvey & Associates**



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DAVID J. POWERS
& ASSOCIATES, INC.

19 February 2007

Ms. Sandy Sloan
Jorgenson, Siegel, McClure & Flegel, LLP
1100 Alma St., Ste. 210
Menlo Park, CA 94025

RE: Burrowing Owl Survey Report
BEA site, Component Drive, San Jose, California (HTH #1980-05)

Dear Ms. Sloan:

Per your request, H.T. Harvey & Associates has completed a survey for Burrowing Owls (*Athene cunicularia*) at parcels A, B, and C of the BEA site located north of Guadalupe Parkway, east of Orchard Parkway, and west of North First Street in San Jose, California. The purpose of the survey was to determine whether Burrowing Owls are currently present on the site for the due diligence phase prior to finalizing the sale of the property.

We conducted the survey according to the California Department of Fish and Game (CDFG) protocol to determine whether the property currently supports Burrowing Owls. H.T. Harvey & Associates senior ornithologist Scott Terrill, Ph.D., conducted a reconnaissance-level survey on 14 February 2007 to determine whether the parcel provided suitable habitat, which includes burrows for nesting and roosting sites in open areas. Scott concluded that suitable habitat was present due to a number of recently opened ground squirrel burrows and recommended that the remaining three surveys be completed to demonstrate presence or absence at the level of effort commonly accepted by the CDFG. Although Scott did not observe any owls or sign of owls during his visit, he did indicate that recent heavy rains likely washed any recent sign of owl presence.

H.T. Harvey & Associates ornithologist Mike Mammoser flushed a Burrowing Owl from a burrow in the central portion of parcel B during the second site visit on the afternoon of 15 February 2007 (see attached figure). Mike also observed owl signs (white wash) near other burrows in the northwestern portion of parcel C. The remaining two surveys were completed to conclusively determine the number of potential owls present and their breeding status. Mike Mammoser completed the remaining two visits on 17 and 18 February 2007, respectively under suitable weather conditions to maximize detection of owls. Mike only observed the single owl on parcel B and no evidence that the owl is paired or actively nesting. Furthermore, it is our opinion that the single owl present likely moved onto the site very recently because parcels B and C were disked and the burrows that are open appear very freshly excavated.

We have also reviewed a copy of a signed (signature dates 3 January 2001 and 5 January 2001) mitigation agreement (Ref. No. 1802-2000-073-3) between Agilent Technologies, Inc. and the CDFG. The copy reviewed was included as an appendix in a circulated 2005 Initial Study for the nearby Agilent Building 91 ISO Bulk Ammonia Storage Project. Under the existing agreement, it appears that mitigation for impacts to three burrows that were previously occupied during the nesting season (1 February to 31 August) have already been completed. If the mitigation agreement is still valid, and mitigation habitat was secured as specified in the agreement, it is our opinion that impacts to Burrowing Owls on the BEA site are already covered for CEQA purposes. Please note that the mitigation agreement does specify that no owls can be passively



evicted during the breeding season and that a 250-foot buffer should be maintained between an active nest and project activities. It also appears that passive eviction during the non-breeding season (1 September to 31 January) requires formal written approval from the CDFG. We recommend that this information be confirmed with the agreement holders (Agilent Technologies and CDFG).

Please note that the results of our survey are valid for 30 days. If project activities do not occur within the next 30 days, we recommend a follow-up survey to determine whether additional Burrowing Owls have moved onto the site. Please feel free to contact me at sterrill@harveyecology.com or (408) 448-9450 x 211 or Kim Wells at kwells@harveyecology.com or (408) 448-9450 x 205 with any questions you may have regarding our survey results.

Thank you for contacting H.T. Harvey & Associates about this survey.

Sincerely,

Scott B. Terrill, Ph.D.
Senior Ornithologist

Cc: Nora Monette, David J. Powers & Associates

