



## *Settlement of Litigation with City of Ontario To Fund Land Trust*

In 1998, Endangered Habitats League and the Sierra Club challenged an Environmental Impact Report that allowed the annexation and conversion of 8,000 acres of dairy lands in the Chino Basin to development. The Chino Basin, a huge area of dairy and other agricultural land, is bounded by the 60 (Pomona) freeway to the north, I-15 to the east, SR-91 to the south, and Route 71 to the west. Issues in the litigation included the loss of open space and agriculture, deferring mitigation for biological impacts, and not considering regional traffic impacts.

After what appeared a difficult decision for the judge, we lost at the trial court. That ruling was appealed. Over two years of tortuous settlement negotiations ensued. On several occasions, the agreement was nearly lost. The end result, however, was a package that added value for all parties and reflects the good faith of City as well as environmental negotiators.

From the environmental perspective, Ontario agreed to collect a new mitigation fee that will produce over \$10,000,000 as development occurs. The fee will go to a land trust, which will protect habitat supporting burrowing owls, waterfowl, raptors, or the Delhi Sands flower-loving fly. From the City's

perspective, the new fee will streamline the environmental review process for future development projects and markedly reduce the possibility of future litigation. The agreement also allows the City the option of consolidating preexisting mitigation requirements with the new fee, potentially greatly enhancing the total ecological value and bringing land trust monies to over \$22,000,000.

From a regional perspective, Ontario's portion of the Chino Basin is close to transportation infrastructure, of lower habitat value, and thus relatively appropriate for development. In contrast, to the south of Ontario, adjacent to the Santa Ana River, is an area with great long-term biological value. The new fee will target lands in this area. While we would have liked to accomplish even more, this agreement ensures that future CEQA review does not circumvent mitigation — as would likely be the case absent the fee — and sets an important precedent for other jurisdictions. In fact, we hope to work the City of Chino on a similar and additive effort.

Throughout the trial and difficult settlement negotiations, the Law Office of Mary Hudson superbly represented EHL and the Sierra Club.

### **EHL Seeks Executive Director and Inland Empire Project Manager**

In order to increase organizational capacity, fundraise, and lead us into our second decade, EHL is seeking an Executive Director. Dan Silver, EHL Coordinator since 1991, will continue to oversee program and policy work. This will produce a stronger organization, one poised to become a permanent presence on the southern California scene. Please let us know of anyone we might tap for this position. Simultaneously, EHL is seeking a Project Manager for our land protection and community development programs in Riverside and San Bernardino Counties. For either position, contact Dan Silver for more information (323-654-1456) or go to our web site: <http://home.earthlink.net/~dsilverla>

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## Around the Region

### *Riverside County*

The three parts of the Riverside County Integrated Plan (RCIP) — multiple species habitat, transportation, and land use — are moving forward, though with mixed results. Due to the outstanding biological diversity in western Riverside County, and the partnership with local government arising from the NCCP program, state and federal wildlife agencies have provided major funding for land acquisitions. A remarkable \$23,000,000 has gone into the Warm Springs Creek and Alberhill core areas, which support quino checkerspot butterfly and California gnatcatcher. Additionally, NCCP funds from the Department of Parks and Recreation have secured the first parcel in a future San Timoteo Canyon State Park. This scenic canyon, located east of the convergence of the 10 and 60 freeways, is a glimpse into Riverside County's vanishing rural past, and contains superb riparian woodlands.

The draft land use element of the RCIP remains very problematic. Due to landowner pressures, there is a large excess of land designated for suburban development. EHL recently filed suit against one ill-conceived project, and is considering additional litigation. However, progressive aspects of the plan — creation of community centers where compact housing would replace sprawl, and an incentive program that would help protect rural lands by transferring density — are also making headway. Public hearings over the next few months will be critical. Regarding transportation, we are awaiting a transit plan that includes an innovative Transit Oasis concept, yet are discouraged by the lack of interest shown by many cities toward such planning.

### *San Bernardino County*

There has been no progress whatsoever toward a multiple species plan. Rather, the County continues to site sprawl development in rare alluvial fan sage scrub habitat in a reckless manner. Located in level floodplains, this habitat can be home to the endangered San Bernardino kangaroo rat. EHL, represented by the firm of Johnson and Sedlack, has filed suit against one such project in Lytle Creek, and has commented extensively on another. Similarly, there has not been visible movement toward a comprehensive plan for the Delhi Sands flower-loving fly and its dune habitat.

### *San Diego County*

In the County's "2020" General Plan update, the biggest problem is the extent of existing "estate lot" development on one- and two-acre lots. Our goal in a new land use map is a pattern of "towns and greenbelts" that will preserve the scenic backcountry. If the new map — now in preparation — achieves this goal, we will then have to work with com-

munity groups on a more focused pattern of development. We are also prepared to discuss a complementary transfer of development credits program. Densities in the greenbelts may be as low as one unit per 80 or 160 acres.

Showing how far San Diego's disparate interests have learned to work together and find common ground, groups as varied as the San Diego County Taxpayers Association, Chamber of Commerce, and EHL are discussing comprehensive ways to pay for the huge infrastructure needs of the region. All needs — transportation, clean water, habitat, and urban infrastructure — are being looked at as a package.

In other news, we continue to see excellent gains on the Upper San Diego River Parkway, an effort that EHL spearheaded and that now has its own staff. We are also investigating litigation against the City of Poway for failure to carry out properly its responsibilities in the Multiple Species Conservation Program. Meanwhile, after many years of slow progress, the environmental impact report for the Multiple Habitat Conservation Plan (MHCP) for North County cities has been released for public review.

### *Orange County*

At a special Planning Commission hearing on December 13, 2001, Supervisor Tom Wilson announced an innovative process for planning of the Rancho Mission Viejo (RMV), a global biodiversity hotspot (see Fall 2001 *Newsletter*). Rather than simply start with the landowner's outrageous proposal for 14,000 housing units, public and community involvement will instead guide the planning process. Called South County Outreach and Review Effort (SCORE), it will first look to the NCCP process to determine scientifically which, if any, portions of the Rancho can be developed. EHL applauds Supervisor Wilson's leadership and responsiveness to the communities he represents. At another public hearing, EHL offered specific suggestions for the NCCP component. We stressed the need for a citizens' advisory committee and for independent scientific input.

#### ENDANGERED HABITATS LEAGUE

The Endangered Habitats League is a non-profit organization.  
All contributions are tax-deductible.

**Dan Silver** Coordinator and Newsletter Editor

**Jack Bath** Director-San Bernardino County/EHL Secretary

**Michael Beck** Director-San Diego County

**Jane Block** Director-Riverside County

**Pete DeSimone** Director-Orange County

**Jess Morton** Director-Los Angeles County/EHL Treasurer

## Beasts and Botany: On the Malaga Dunes

To most people, sand dunes are typified by piles of wind-blown sand, more or less bound together by scattered drought-tolerant vegetation. And so they are — at least those that occur immediately along the coast. Of course, in the Los Angeles basin, those dunes were built on long ago, and only residents digging in their gardens may realize what was once there.

There are other dunes, however, ones that are much older than those moved by wind. Of them all, the oldest in the Los Angeles region may well be the Malaga Dunes of Palos Verdes Estates. These consist of sands laid down tens of thousands of years ago, when both sea level and the peninsula itself were at much lower elevations than they are today. These dunes have had time to mature, and the soil on them is an interesting amalgam of sand and vegetative matter, some living, some decomposed.

If you have ever driven around the Palos Verdes Peninsula, it is likely that you have passed the Malaga Dunes with scarcely a notice. As you drive east from the complex intersection of Palos Verdes Drive North and Palos Verdes Drive West, the dunes underlie the lightly forested hillside across the deep ravine on your right — easy to dismiss as of no interest. To see how marvelous the dunes are, you need to walk them.

The main trail onto the dunes passes through a mature eucalyptus grove punctuated here and there with many of our other common ornamental trees and shrubs. As one moves to higher ground, however, the vista opens up. The flat areas high on the dunes are dominated by croton, a plant limited to sandy soils. Mustard and non-native annual grasses are part of the mix, but there are good patches of deerweed, sagebrush, and other important native species.

Last year, a previously unknown population of the Palos Verdes blue butterfly was found here, using deerweed as the host plant for its caterpillars. Even more remarkable, however, was the discovery of an insect, *Raphiomides terminatus terminatus*, which (like the PV blue) had been thought extinct. This was a very large, strange looking species that nectars on summer flowers during the hottest part of the day. Known as a flower-loving fly, these insects have a very short lifespan as winged adults.\*

The bird life on the Malaga Dunes is very rich, and at



Jeremiah George

Jeremiah George rediscovered the presumed extinct El Segundo flower-loving fly (*Raphiomides terminatus terminatus*) at the Malaga Dunes.

this time of year, flickers are everywhere. Hawks and hummingbirds are ever present, and the brushy hillsides offer fine cover for many kinds of sparrows and other smaller birds. Small- to medium-sized mammals and other vertebrates use the dunes, too. It's the last known place in the South Bay to have held horned lizards, which, like *Raphiomides*, need native ants to survive. No one knows yet how biologically rich the dunes are, but clearly they are an extremely important natural resource that must be preserved for its biological diversity, if nothing else. —Jess Morton

## Gains on the Horizon in Chula Vista

The City of Chula Vista, at the southern end of San Diego County, is a key resource area that was badly compromised by approval of the massive Otay Ranch development plan in the mid-90s. However, as Chula Vista moves forward on its portion of the Multiple Species Conservation Program, opportunities have arisen and created a high stakes negotiation. At stake are maritime succulent scrub, vernal pools, and habitat for the quino checkerspot butterfly, California gnatcatcher, and coastal cactus wren.

Utilizing scientific input from the Conservation Biology Institute, EHL has worked with the City to make important changes to an earlier reserve design. While our progress is yet to be validated by final adoption, we are hopeful that several key issues will fall in the direction of significantly increased resource protection. Included on the list are the elimination of two road segments, Otay Valley Road and Alta Road, increased protection in Salt Creek and Wolfe Canyon, elimination of a golf course and development areas within the Otay River Valley, and the establishment of an endowed non-profit conservancy to manage the reserve areas of the Otay River Valley and associated canyons. We hope to build upon these improvements with large additions to the San Diego National Wildlife Refuge through land acquisition.

\*EHL is playing a key role in the preservation of the endangered cousin of this species, the Delhi Sands flower-loving fly (*Raphiomides terminatus abdominalis*), and may eventually take a hand in similar efforts on the PV Peninsula, where it is deeply involved in the NCCP.

## Mariposa Lily

My finger brushed the hillside flower;  
its depths of wine and lavender,  
around the stamen's subtle tongue,  
that shun the Moon, but lap the Sun.

The curvature, the petal's glow,  
so like the bare limb's supple bow  
just seen in easeful pose, beguile;  
the fascination of such blooms.

Amid the rocks and hum of wasps  
where nothing flawless can be true,  
I drifted for a while, consumed,  
suspending sense of what I knew,  
as if this lily could be plucked,  
as if these hillsides might be climbed.

*—Jess Morton*

## First Rain

I know by your tears that you are November  
the spirit of high Cordilleras wells in your eyes  
purifier of air and land, creation out of sorrow  
a cortege of withered stalks attends your first rain

The fog does not mask your countenance  
the sycamore trees on the dead meadows  
exhibit their gifts of golden platters  
and the spider webs have grown large for you

All the birds have fallen down the flyways  
of the harvest moon to bathe at your feet  
and the winter sparrow beneath my window  
waits to sing through your greening lips

Under the lucent limbs of morning shrubbery  
each seed and blade awaits the midwife  
of your grief, the wept acknowledgment  
that in your coming is a beginning, and an end

*—Jess Morton*

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## ENDANGERED HABITATS LEAGUE

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Dan Silver • Coordinator  
8424-A Santa Monica Blvd., #592  
Los Angeles, CA 90069-4267  
TEL: 323•654•1456 FAX: 323•654•1931

# First Class