September 3, 2015

Darin Ranelletti, Deputy Planning Director (California Trail Project Lead)
City of Oakland Planning Department
250 Frank H. Ogawa Plaza, 2nd Floor
Oakland, CA 94612

**Subject: Oakland Zoo "California Trail" project construction – Violations of environmental protections for rare native grassland and Alameda Striped Racer habitat**

Dear Mr. Ranelletti,

This letter is to urgently express our concern regarding project work for the Oakland Zoo now underway in the western highlands of Knowland Park that is causing significant habitat destruction and violates the conditions of approval for its building permits.

**Part A: Summary of Complaint**

Both the Alameda Striped Racer and the native California grasslands of Knowland Park are recognized for protection in the City Council-approved Subsequent Mitigated Negative Declaration/Addendum (SMND/A). The Alameda Whipsnake/Alameda Striped Racer (ASR) is recognized in permits granted from U.S. Fish and Wildlife Service and the City of Oakland. During current construction of an 8-foot-high chain-link perimeter fence – the very first element of the "California Trail" project – the East Bay Zoological Society (EBZS) has violated specific building permit requirements to protect State of California-rated rare and sensitive native grasslands and the habitat of the Alameda Striped Racer, a federally-listed threatened species, as follows:

1. **EBZS is incurring extensive, unauthorized damage** to the fragile and rare native grassland prairie community in Knowland Park, while constructing new perimeter fencing.

2. **Violation of vehicle exclusion zone:** EBZS construction vehicles have been repeatedly used off-road within this area, which is a designated conservation easement for the Alameda Striped Racer.

3. **EBZS is causing additional major damage** to the native grassland community and Alameda Striped Racer (ASR) habitat by the method and location of its construction of an ASR exclusion fence.

4. **Lack of oversight:** There is no evidence that City building permit environmental protections are being enforced by either EBZS biological monitoring or City building permit worksite inspection.

We believe that permit requirements must be enforced by responsible agencies to correct serious environmental damage and prevent further violations of environmental protections, as follows:

a. **Immediately stop EBZS from incurring damage** to rare plant communities and ASR habitat,

b. **Require EBZS to repair and restore damaged areas** before any further work is allowed, and

c. **Impose an enforcement fine** sufficient to pay for independent environmental oversight of project work before any further work is allowed to proceed in Knowland Park.

**Part B: Specific Environmental Protections in Perimeter Fence Building Permit #PZ1500051 and Actual EBZS Compliance**

Below are the specific requirements to protect sensitive native grassland, as stated in the permit plans:

"Grassland Section (page PF-3)
Within the grassland section of the project plan (pts. B to F), motorized equipment may be used with the following specifications:"

"Contractor is permitted a **10' wide working strip** between A-F: 5' on each side of fence for passage of allowed vehicles, working space, and materials delivery. Circular routes off working strip for access to the post sites and/or deliver materials are not permitted unless on existing roads."

**"No vehicles between pts. C & D are permitted off roads: Hand carry all equipment and materials to post sites."**

"Grasslands which are unduly disturbed within this strip, thus requiring replanting, or any disturbance outside of this strip, will be replaced by owner and back charged to contractor at the cost to plug plant at a minimum of $1.15 per sq. ft."

Below are the requirements to protect ASR as stated in the permit plans:

"Environmental Resource Control Notes: Alameda Striped Racer Controls"

"Alameda Whipsnake or Alameda Striped Racer (ASR) is a state- and federally-listed threatened species known to occur in the site vicinity. Authorization for project implementation requires **strict adherence** to detailed avoidance and conservation measures specified in the biological opinion from the U.S. Fish and Wildlife Service (dated 12/10/14) secured as part of the section 404 Nationwide Permit from the U.S. Army Corps of Engineers (dated 12/24/2014) and the 2081 Incidental Take Permit from the California Department of Fish and Game (dated 12/18/2014). Among other controls, these include:"

"1) Use of a Resource Agency-approved biologist to conduct the required preconstruction surveys and **provide biological monitoring who has the authority to stop any work that may result in the take of listed species**;"

"8) **Restrict all project-related vehicle traffic to established roads**, construction areas, and other designated areas where pre-construction surveys have been performed, to the maximum extent possible, observe 10-mile per hour maximum speed limit within construction areas at all times, **and prohibit off-road traffic outside of designated construction areas**;"

There is evidence of complete disregard for City of Oakland building permit measures, despite the fact that these sensitive native grassland areas are mapped in the building permit, and vehicles are expressly prohibited in permit plan directives. Several thousand square feet of this centuries-old, rare California native grassland prairie community has been seriously degraded or destroyed in direct violation of these provisions.

The attached photos document site conditions during the week of August 23-29, 2015. These photos show the extent of damage in the native grassland section between points C and D. Extensive tire soil tear and tracks are evident. This is contrary to the requirement that materials and equipment be hand carried. Destruction to vegetation and extreme soil disturbance are evident.* In addition, work has not been restricted to 5 feet on each side of the fence. Note tire tracks and soil disturbance spanning *between 10 feet and 30 feet on both sides of the fence* for the entire length of the section in the attached photos.

*Note: Soil scientists have shown that, in addition to destruction of grassland plants, disturbing extremely dry soil causes it to lose its structure, damaging its ability to retain moisture and destroying soil organisms that contribute to healthy functioning of plant communities. (http://www.nps.gov/plants/restore/pubs/intronatplant/preparing.htm) Please also refer to expert testimony in SMND/A documents by Dr. Vic Claassen on the protection of remnant native grassland soils.

The area noted in perimeter fence permit plans "C to D" is also the location approved by the environmental regulatory agencies as a mitigation area for EBZS damage to the Maritime Chaparral community, prime habitat for the threatened Alameda Striped Racer. Therefore, prohibition of vehicles and vehicle damage in this area also serves to protect ASR habitat and reduces risk of accidental take of this threatened species. Hand carrying all equipment and materials to post sites in this area allows sufficient time for workers to step aside to avoid harming this animal species. Driving equipment up and down this slope with material loads does not, and represents complete disregard for measures intended to reduce risk to the population of ASR in the park**.**

The slopes are very steep in this location. From a soils conservation and water quality perspective, this violation of building permit conditions has also destroyed sustainable native grass cover, leaving powdery, loose soils at risk of erosion, creating further degradation of habitat.

It is evident that environmental monitoring is negligent, as is the City's inspection oversight for compliance with building permit environmental requirements. These violations represent serious disregard for prior assurances to the environmental regulatory agencies, Oakland citizens, and people of the State of California that environmental protections would be followed.

Immediate correction and enforcement measures are necessary.

**Part C: Resolution to Mitigate Violations**

We believe this serious level of site damage requires that the City and appropriate environmental regulatory **agencies issue a stop-work order on the perimeter fence immediately** (building permit #PZ1500051) until the environmental damage is corrected and independent inspection and oversight are established and funded through enforcement action, as described below:

1. **Develop and publish a restoration plan, performance criteria, and a timeline** to restore the rare native grassland prairie system by reestablishing native grassland species cover and species richness to the background levels of this west-facing hill (i.e., include reestablishment of *Stipa pulchra*, *Calochortus luteus*, *Eriogonum nudum*, *Chlorogalum pomeridianum, Sidalcea malviflora ssp. malviflora, Festuca octoflora, Navarretia mellita, Viola pedunculata, Koeleria macrantha* and all other species found on this hillside (refer to Knowland Park botanical inventory by Diane Lake, California Native Plant Society, 1/2011). Plants are to be grown and established from seed collected on site. Invasive non-native weeds that are introduced or expanded due to the disturbed soil conditions are to be completely eradicated.

2. **Restore areas that have been damaged due to destructive methods and placement** of the wildlife (ASR) exclusion fence. Reinstall fence to ensure minimal damage to sensitive native plant communities/ASR habitat.

3. **Establish a reserve bond fund to pay an independent contractor to properly restore damaged native grassland/ASR habitat** if EBZS fails to achieve restoration performance criteria after three years. *A conservative estimate to repair environmental damage by EBZS **to date** is $200,000.*

4. **Take enforcement action** and use the fines to pay for **independent environmental monitoring to ensure EBZS complies with permit conditions** for the duration of this project.

More environmental promises are clearly not enough. Please keep us informed of your prompt involvement in correcting the serious issues on this project.

Thank you,

Save Knowland Park Coalition
Karen Asbelle, Barbara Kluger, Robert Nelson, Friends of Knowland Park
Beth Wurzburg, California Native Plant Society, East Bay Chapter
Jim Hanson, California Native Grassland Association

cc:
Ren Lohoefener, Regional Director, U.S. Fish and Wildlife Service (Pacific Southwest Region 8)
Scott Wilson, Regional Director, California Department of Fish and Wildlife
Enforcement, Regional Water Quality Control Board
Army Corps of Engineers, San Francisco District
Mayor Libby Schaaf
Dan Kalb, City Councilmember, District 1
Abel Guillén, City Councilmember, District 2
Lynette Gibson McElhaney, City Councilmember, District 3
Annie Campbell Washington, City Councilmember, District 4
Noel Gallo, City Councilmember, District 5
Desley Brooks, City Councilmember, District 6
Larry Reid, City Councilmember, District 7
Rebecca Kaplan, City Councilmember-at-Large
Meredith Walsh, Co-Chair, EBZS Board of Trustees
Sebastian DiGrande, Co-Chair, EBZS Board of Trustees
Skip Rhodes, President, EBZS Foundation Board

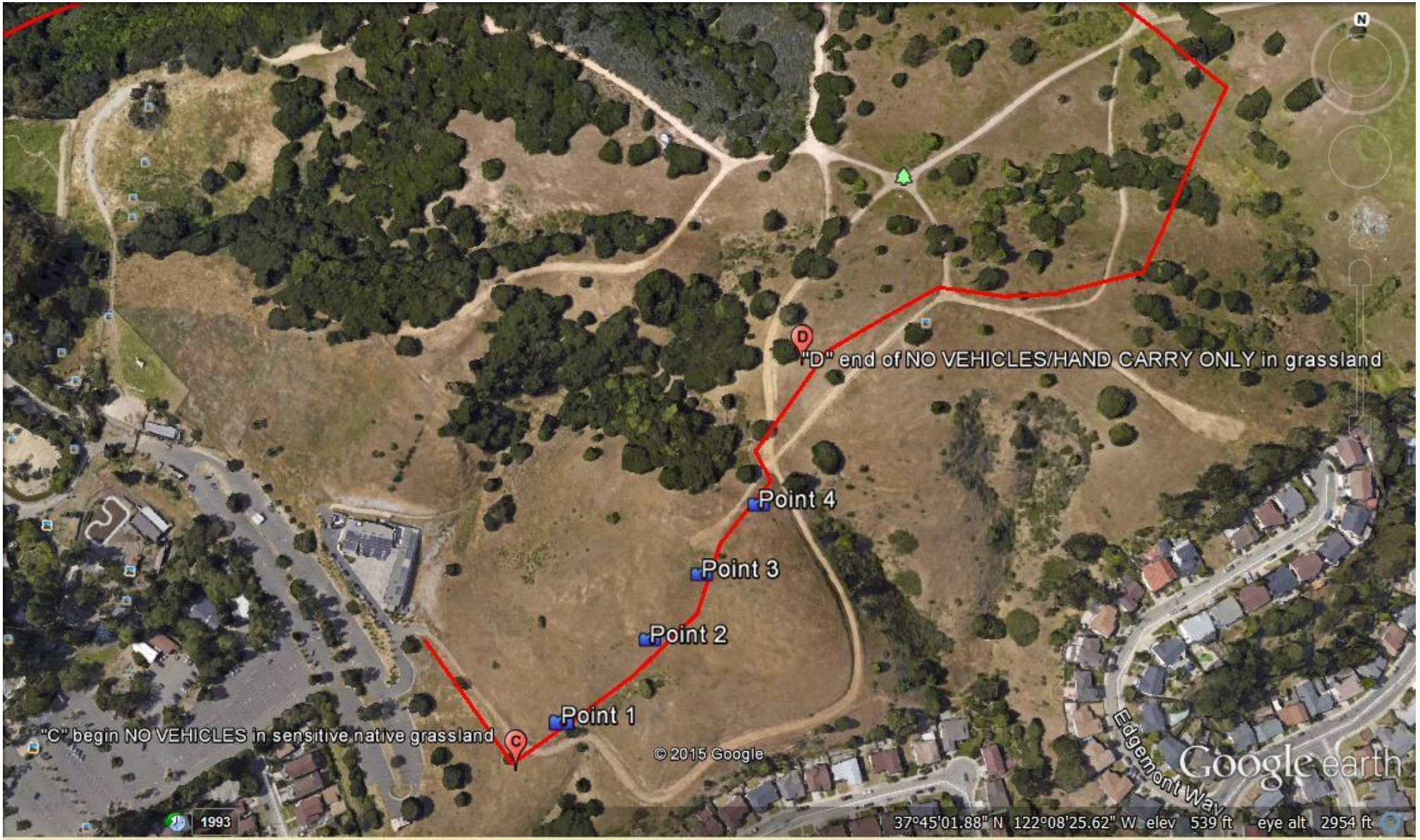
**Attachments with photo documentation and reference to map location**

GPS coordinates cited:

- Point 1: N37.74887, W122.14132
- Point 2: N37.74923, W122.14072
- Point 3: N37.74953, W122.14046
- Point 4: N37.75020, W122.14005

List of photos (formatted as pdf):

1. Google map created to show the fence line from point C to D. Point C is up the fire road from the veterinary hospital; Point D is at the western base of a slope that some park visitors call "Heart Attack Hill." GPS point numbers 1-4 refer to GPS points along the fence line corresponding to the beginning and end of fence as constructed on Tuesday, August 25, 2015, and places where the fence is angled to a new direction.
2. GPS Pt. 1. Measurement of five feet is indicated, showing the scale of disturbed area.
3. View along fence line from GPS Pt 1.
4. View along fence line facing east.
5. Close-up view of soil that is pulverized, or "powderized."
6. GPS Pt. 3 at angled portion of fence.
7. Viewing other side of fence at GPS Pt. 3.
8. Close-up view of grassland damage along fence at GPS Pt. 4.
9. Views of wildlife exclusion fence, revealing similar pattern of grassland damage due to heavy machinery being used around perimeter fencing.
10. Another view of construction damage around a wildlife exclusion fence



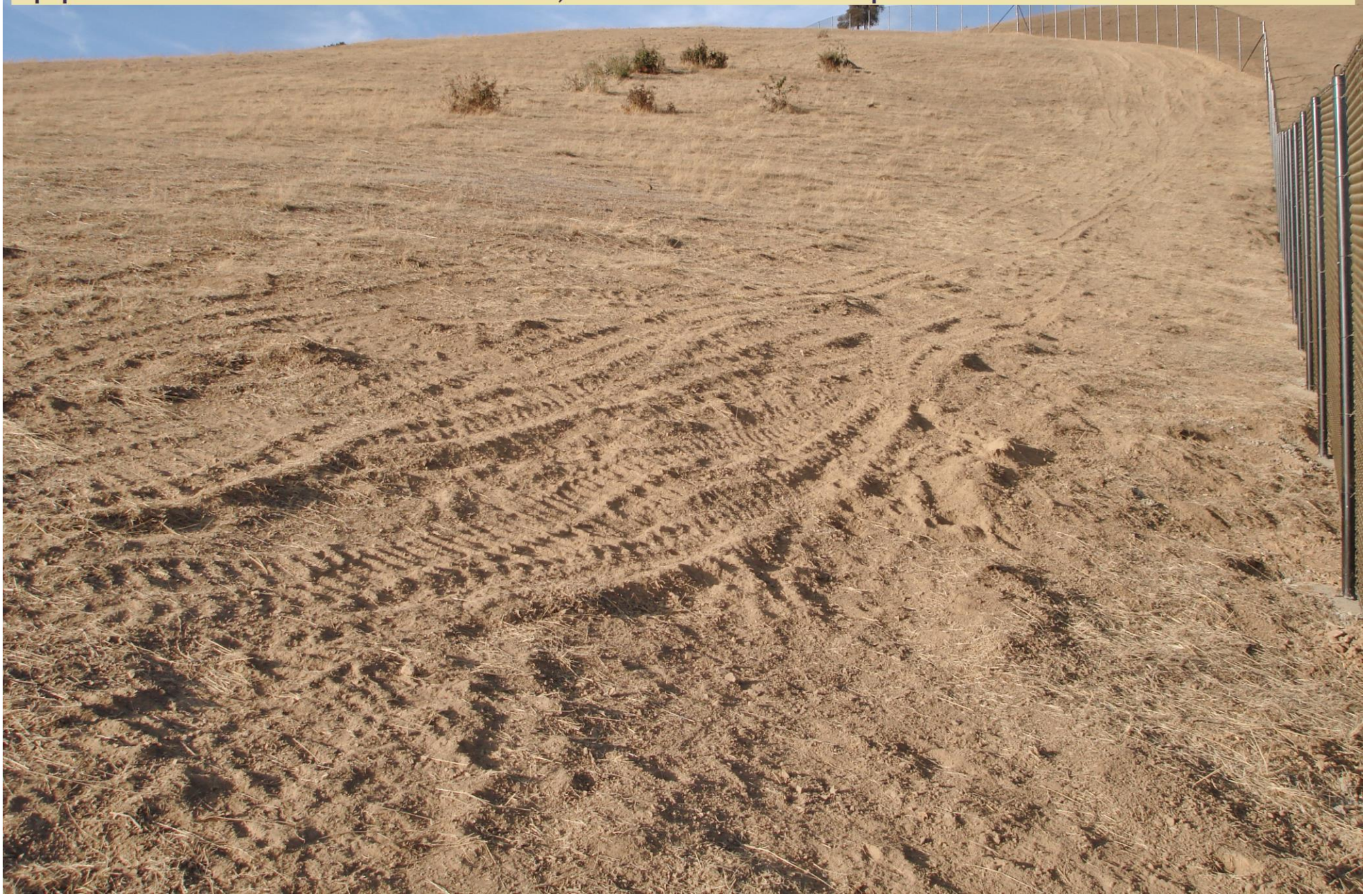

Satellite image with the locations of the four reference points that were observed via a handheld GPS device as follows:

Point 1 - N37.74887, W122.14132; Point 2 - N37.74923, W122.14072

Point 3 - N37.74953, W122.14046; Point 4 - N37.75020, W122.14005


Barbara holds 5 feet at GPS Point 1.

Looking up the hill from GPS Point 1 at the GREATLY disturbed fragile native grassland soil. We estimated the width of this disturbance as conservatively 20 feet on this side of the fence. Added to 10 feet of disturbance on the other side, this equals a 30 foot wide swath of fragile native grassland soil disturbed by tire tracks from mechanized equipment. In this area of the fence installation, tools and materials were specified to be hand carried...



Looking up the hill at the two angle-points in the fence with large diameter posts at GPS Point 3 and GPS Point 2. We counted 14 fence posts between GPS Point 3 and GPS Point 2, yielding a distance along the ground of about 140 feet of disturbed soil with a conservatively estimated swath 30 feet wide.

Soil between GPS Point 2 and GPS Point 3 (south side of fence) is greatly disturbed. The disturbance is so extreme, that the soil might be said to be "powderized".

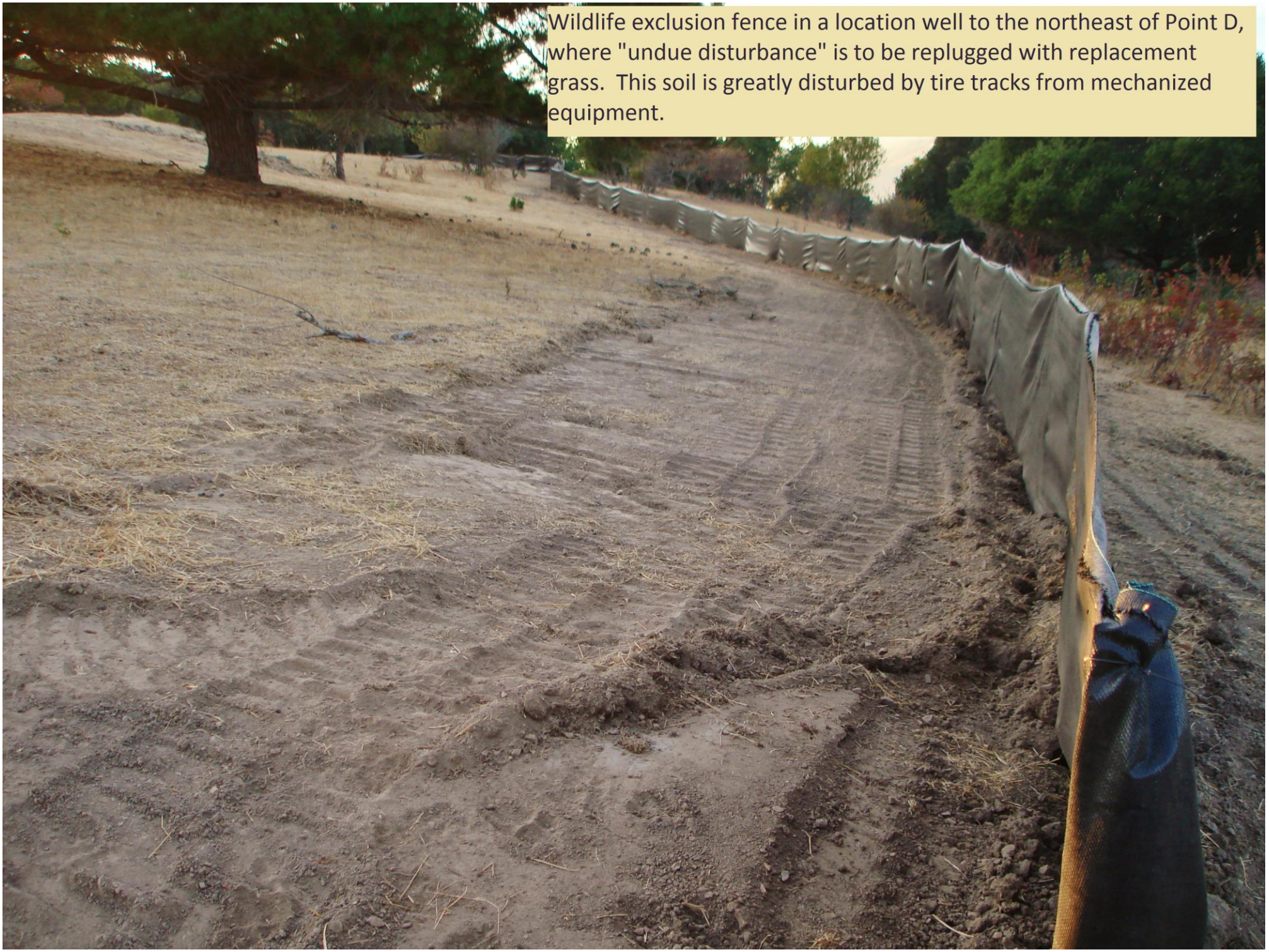

Barbara holds 5 feet at GPS Point 3, N37.74953, W122.14046.


Looking through the fence from south to north at disturbed fragile native grassland soil... This is near GPS Point 3...


Barbara holds 5 feet on the measuring tape in the middle of the disturbed soil of the fragile native grassland west of GPS Point 4, south side of fence.

Wildlife exclusion fence located near GPS Point 4. The soil on both sides is greatly disturbed by tire tracks from mechanized equipment which was not supposed to venture off the roadways.

Wildlife exclusion fence in fragile native grassland near GPS Point 4 reveals greatly disturbed soil due to tire tracks from mechanized equipment. Permit specifies that mechanized equipment is not allowed to venture off roadways in this area.



Wildlife exclusion fence in a location well to the northeast of Point D, where "undue disturbance" is to be replugged with replacement grass. This soil is greatly disturbed by tire tracks from mechanized equipment.