

LETTERS OF
CONCERN ABOUT
PROJECT AND IN
OPPOSITION TO
THE PROJECT
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State of California
Department of Fish and Wildlife

Memorandum

Date: October 5, 2015

To: Sherilyn Sarb
Senior Deputy Director
California Coastal Commission
South Coast Area Office
200 Oceangate, Suite 1000
Long Beach, CA 90802-4302

From: Edmund Pert *E.P.*
Regional Manager
South Coast Region
California Department of Fish and Wildlife

Subject: Newport Banning Ranch, LLC

The Department of Fish and Wildlife (Department) has reviewed the September 25, 2015 memo authored by Coastal Commission Ecologist, Dr. Jonna Engel, Ph.D., regarding Environmentally Sensitive Habitat Area (ESHA) and wetland determination for the Banning Ranch property (Property), Orange County. The Department concurs with Dr. Engel's conclusions that the Property supports high ecological importance and agrees with the ESHA recommendations for the following reasons:

- The Property contains a vernal pool complex containing plants and animals endemic to vernal pools, including the federally endangered San Diego fairy shrimp (*Branchinecta sandiegonensis*). The Department considers vernal pools and the San Diego fairy shrimp to be very rare (S2)¹. The vernal pools may also support rare or listed plant species, surveys should be conducted at the appropriate time to capture these species. The Department concurs with Dr. Engel's conclusion that these vernal pools are naturally occurring on the Property given the appropriate Myford soils (Myford soils support vernal pools at nearby City of Costa Mesa's Fairview Park), the number of species found on the Property's pools that are endemic to vernal pools, and historical aerial photos that depict mima mounds on the Property.
 - The Department recommends all 39 vernal pools be delineated as ESHA. The ESHA should include the entire watershed for each pool or a 100-foot buffer (whichever is greater).
 - The Department recommends surveys for western spadefoot toad (*Spea hammondi*), a California Species of Special Concern (SOC), to determine presence. If spadefoot toad is present, the Department recommends conserving migration corridors between pools and establishing a 950-foot buffer around each pool. This buffer represents the documented median distance commonly used in the life cycle of the spadefoot toad².

¹ S2: Imperiled – At high risk of extinction due to very restricted range, very few populations (often 20 or fewer) steep declines, or other factors.

² Hunt, Lawrence. "Summary Movements of Western Spadefoot 22feb2013". Message to Scott Harris. February 22, 2013 email.

- Despite repeated disturbance on the Property, it persists as lowland and upland mesa habitat which continues to support sensitive plant and animal species.
- The Property supports southern coastal bluff scrub and maritime succulent scrub habitat, which the Department has ranked S1, or extremely rare³ and at a very high risk of extinction. This habitat type is extremely limited in distribution throughout the State and Southern California and is in need of conservation.
- The Property supports purple needle grass grassland, which the Department has ranked as S3, or rare habitat⁴. Purple needle grass grassland has been extirpated from 95 percent of the range it once occupied⁵ and is foraging habitat for burrowing owls, a California Species of Special Concern, found on the Property.
- The Property has supported coastal California gnatcatcher (*Poliophtila californica californica*), a SOC. U.S. Fish and Wildlife Service designated the entire Property as Critical Habitat for gnatcatcher. The Department considers the Property very valuable in the recovery of gnatcatcher and recommends conservation of the coastal scrub habitat on the Property with a minimum 100-foot buffer.
- The Project supports wintering burrowing owls (*Athene cunicularia*) a SOC and state-identified as rare (S3), which has been virtually extirpated from its range in Orange County⁶. The Department recommends a 50-meter buffer be established around the documented wintering and migrant owl habitat⁷.
- The Property supports Southern Arroyo Willow Riparian Forest, which the Department considers a very rare habitat, or ranked S2⁸.

In summary, the Department agrees with the Coastal Commission's staff report conclusion that the application of the proposed ESHA, including 100-foot buffers (additional buffers for vernal pools and burrowing owls as recommended by Dr. Engel) is necessary to protect the sensitive biological resources on the Property.

If you have any questions, please contact Kelly Schmoker, M.S., Senior Environmental Scientist (Specialist) for the Habitat Conservation Planning Program at 949-581-1015 or Kelly_Schmoker@wildlife.ca.gov.

³ S1: Critically imperiled - at very high risk of extinction due to extreme rarity (often 5 or fewer populations), very steep declines, or other factors.

⁴ S3: Vulnerable, at moderate risk of extinction due to a restricted range, relatively few populations (often 80 or fewer), recent and widespread declines, or other factors.

⁵ National Park Service. 2000. Draft general management plan & environmental impact statement. Santa Monica Mountains National Recreation Area – California.

⁶ S3: Vulnerable, at moderate risk of extinction due to a restricted range, relatively few populations (often 80 or fewer), recent and widespread declines, or other factors.

⁷ California Burrowing Owl Consortium. April 1993. Burrowing Owl survey protocol and mitigation guidelines. California Department of Fish and Game. September 25, 1995. Staff Report on Burrowing Owl Mitigation.

⁸ S2: Imperiled – At high risk of extinction due to very restricted range, very few populations (often 20 or fewer) steep declines, or other factors

October 5, 2015

Mr. Jack Ainsworth, Senior Deputy Director
California Coastal Commission
89 California Street, Suite 200
Ventura, CA 93001

Dear Mr. Ainsworth:

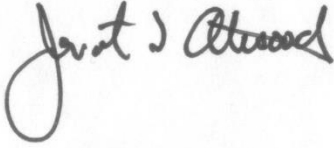
I wish to submit this letter in support of the Coastal Commission's Staff Recommendation to deny the development of Newport Banning Ranch, LLC (5-13-032), located at the 5100 Block of Pacific Coast Highway, Newport Beach, Orange County. The majority of this site has been correctly identified as an Environmentally Sensitive Habitat Area (ESHA), and should be preserved in place rather than impacted and mitigated for elsewhere.

I have been involved in studies of California Gnatcatcher ecology since the late 1980's, and, in fact, was the primary biologist responsible for the species being given protection in 1993 under the U.S. Endangered Species Act. I am very familiar with the species' habitat requirements and population dynamics, especially in coastal areas of Orange, San Diego, and Los Angeles counties (Akçakaya and Atwood 1997, Atwood 1993, Atwood and Bontrager 2001). It has been obvious to me for years that the Banning Ranch property is one of the major elements of any conservation efforts directed toward preserving the species in coastal Orange County.

Even though some areas of this site may support coastal sage scrub vegetation that is not pristine *Artemisia*-dominated scrub, the gnatcatchers themselves – through their dense occupancy of the area – have indicated that the habitat on Newport Banning Ranch is very suitable. Work conducted prior to 2013 found an average of 19 gnatcatcher territories per year (range 15–21, with a maximum count of 29 in 1994). These consistently high population estimates from 1992 through 2009 reflects the important value of this area; I completely reject Dudek's (2013) claim that prior survey efforts overestimated the number of pairs present, and that gnatcatcher habitat at Newport Banning Ranch is inferior. Even if we assume that Dudek's current survey data are correct, and that present population levels are, in fact, lower than the numbers present during the 1990s and 2000s, we must remember that current levels have undoubtedly been impacted by recent severe drought conditions. This apparent reduction in population size has also probably been exacerbated by incremental losses of habitat, and does not reflect the potential that Newport Banning Ranch has to support a strong and robust population of this threatened species, especially now that unpermitted mowing of scrub habitat has ceased and additional habitat is being restored as mitigation for earlier illegal clearing.

I strongly urge you to support the Coastal Commission's Staff Recommendation to deny the development of Newport Banning Ranch, LLC (5-13-032).

Sincerely,

A handwritten signature in dark ink, appearing to read "Jonathan L. Atwood". The signature is fluid and cursive, with the first name "Jonathan" being more prominent than the last name "Atwood".

Jonathan L. Atwood, Ph.D.

93 Clapp Pond Road
Marlborough, NH 03455

References

- Akçakaya, H. R., and J. L. Atwood. 1997. A habitat-based metapopulation model of the California Gnatcatcher. *Conservation Biology* 11:422-434.
- Atwood, J.L. 1993. California Gnatcatchers and coastal sage scrub: the biological basis for endangered species listing. Pp. 149-169, *in* J. E. Keeley [ed.], *Interface Between Ecology and Land Development in California*. S. Calif. Acad. Sci.; Los Angeles, California.
- Atwood, J.L., and D.R. Bontrager. 2001. California Gnatcatcher (*Poliioptila californica*). *In* The Birds of North America, No. 574 (A. Poole and F. Gill, eds.). The Birds of North America, Inc., Philadelphia, PA.
- Letter report from Dudek to the U.S. Fish & Wildlife Service dated 31 May 2013 (12 pages plus attachments) entitled "Focused California Gnatcatcher Survey, Newport Banning Ranch Project, Orange County, California".
- 12-page memorandum from Dudek dated 24 October 2013 prepared for Newport Banning Ranch, LLC, entitled "Review and Comparison of California Gnatcatcher Surveys Results for the Newport Banning Ranch Property, Orange County, California".

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W9b – Requesting Denial

October 2, 2015

Honorable Commissioners
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California Coastal Commission
South Coast District Office
c/o Ms. Amber Dobson
Ms. Teresa Henry
200 Oceangate, 10th Floor
Long Beach, CA 90802-4416

Via Email Amber.Dobson@coastal.ca.gov
 Teresa.Henry@coastal.ca.gov

Re: Application No. 5-13-032, Item W9b
 Application of Newport Banning Ranch, LLC

Dear Honorable Commissioners:

We submit these comments on behalf of the Bolsa Chica Land Trust (BCLT) in support of staff's recommendation to **deny** Application NO. 5-13-032, the Banning Ranch Project. (Staff Report pp. 1, 5.) The mission of BCLT is to acquire, restore and preserve the entire 1,700 acres of the mesa, lowlands and wetlands of the Bolsa Chica ecosystem, and to educate the public about this natural treasure and its unique biological and Native American cultural resources.

The Banning Ranch Project proposes to construct 1,375 residences, 75,000 square feet of commercial use, 4 acres of retail, a 75-room hotel, 8-10 bed hostel, and 6 acres of resort uses. The Banning Ranch site "consists of 401 acres and is the largest and last remaining privately owned lands of its size along the coast in Southern California."

(Staff Report p. 1.) As recognized in the staff report, the Banning Ranch Project site shares important similarities with the Bolsa Chica area. Both the property known as Banning Ranch and the Bolsa Chica area contain upland and lowland habitats, coastal wetlands, and Coastal Commission-designated environmentally sensitive habitat areas (ESHA) that host rare, threatened, and endangered species. Both sites have also served as historic centers of Native American activity, resulting in the presence of culturally significant archaeological and paleontological artifacts onsite. Due to urban development pressures, like the Bolsa Chica area, the Banning Ranch property is one of the only remaining areas of open space and habitat remaining on the Orange County coast. Unfortunately, while much of the Bolsa Chica ecosystem has been preserved as the Bolsa Chica Ecological Reserve, no such permanent protections exist for the Banning Ranch ecosystem. This is important, considering that staff found, “[t]he presence of vernal pools at Banning Ranch adds a layer of diversity not even present at Bolsa Chica.” (Staff Report p. 3.)

BCLT supports staff’s recommendation to deny the amendment due to its inconsistencies with Coastal Act policies concerning biological resources and the protection of ESHA, potential impacts to archaeological and cultural resources, natural landforms, and the preservation of views. (Pub. Resources Code §§ 30240, 30233, 30231, 30253, 30210, 30251.) BCLT further supports staff’s determination that it is unable to determine the Project’s consistency with Coastal Act sections 30252, 30213, and 30250 given the Applicant’s failure to provide the Commission with sufficient information.

I. Only Preservation of the Property is Consistent with Coastal Act Requirements for Environmentally Sensitive Habitat Areas (ESHA).

Banning Ranch borders sensitive habitat and ecological reserves on both the north and west, and boasts “an incredibly unique array of sensitive coastal species and habitats, including nesting habitat for the threatened California gnatcatcher, a very rare vernal pool system, and one of the few remaining significant areas of native grassland in the coastal zone.” (Staff Report p. 3.) As part of the historic Santa Ana River wetlands complex, the site also hosts part of one of the few remaining wildlife corridors in Southern California used by terrestrial species and birds to travel between the mountains and ocean. (Staff Report p. 29.) Rare plant communities, and state and federally-listed bird species, including the California gnatcatcher, least Bell’s vireo, and coastal cactus wren are found onsite. (Staff Report pp. 29-31.) The site’s vernal pool complexes house federally-listed San Diego fairy shrimp. (Staff Report p. 44.) Notably, the site supports a rich seed bank. Once development ceases on the site, it is expected that the watershed, animals, and plants native to site will rebound without intervention. (*Ibid.*) The Commission’s

ecologists have identified “a significant portion” of the site as Environmentally Sensitive Habitat Area (ESHA). (Staff Report p. 35.)

Per the Coastal Act, only resource-dependent uses are permitted in ESHAs. (Pub. Resources Code § 30240 (a).) The Coastal Act requires that development adjacent to ESHAs “be sited and designed to prevent impacts which would significantly degrade those areas, and... be compatible with the continuance of those habitat and recreation areas.” (Pub. Resources Code § 30240 (b).) This means that an applicant must avoid developing on an ESHA, as well as siting a project in a manner that indirectly affects ESHA through edge effects, noise, light intrusion, introducing invasive plant or animal species, removing adjacent lands that contribute to the importance of the ESHA (such as raptor foraging grounds), etc.

The Project’s commercial and residential development would directly affect 158 acres of Banning Ranch, including significant and permanent impacts to over 31 acres of ESHA. (Staff Report p. 37, See Exhibit 13.) Oilfield abandonment and remediation activities would adversely affect an additional 21 acres of ESHA. (*Ibid.*) Oilfield remediation activities would require extensive grading and excavation to bare earth, in a 53-acre area known to contain sensitive biological resources, including nine acres of sensitive native vegetation. As noted by staff, neither residential, commercial, nor oil remediation activities are considered “resource-dependent” uses of ESHA, and their occurrence within ESHA violates section 30240. Many vernal pools would be impacted by remediation and development. (Staff Report p. 44.)

Unfortunately, the Applicant proposes to mitigate impacts to ESHA, as opposed to avoidance of the ESHA or restoration in place. This proposal violates California law. California courts have upheld the Coastal Act’s protections for ESHAs. For example, ESHA in the way of a proposed development cannot be moved. It must be preserved instead. In *Bolsa Chica Land Trust v. Superior Court*, the justices held:

[T]he language of section 30240 does not permit a process by which the habitat values of an ESHA can be isolated and then recreated in another location. Rather, a literal reading of the statute protects the area of an ESHA from uses which threaten the habitat values which exist in the ESHA. Importantly, while the obvious goal of section 30240 is to protect habitat values, the express terms of the statute do not provide that protection by treating those values as intangibles which can be moved from place to place to suit the needs of development. Rather, the terms of the statute protect habitat values by placing strict limits on the uses which may occur in an ESHA and by carefully controlling the manner uses in the area around the ESHA are developed.

(*Bolsa Chica Land Trust v. Superior Court* (1999) 71 Cal.App.4th 493, 507, citations omitted.) Moreover, the deteriorating nature of ESHA cannot be considered with regard to Project placement. (*Id.* at 508.) Once ESHA has been determined by the Coastal Commission, it is entitled to the full protections of the Coastal Act. Put another way, degraded ESHA is still ESHA and must be respected. The Project must be redesigned to avoid adverse impacts to ESHA.

The Application proposes the introduction of a 2-lane road to serve the Banning Ranch development, which would include 1,375 residences, 75,000 square feet of commercial use, 4 acres of retail, a 75-room hotel, 8-10 bed hostel, and 6 acres of resort area. However, based on the intensity and density of the proposed uses, it is far more likely that a 4-lane road will ultimately be required by the City. The staff report already recognizes that a road cannot be built to serve the Project without adversely impacting ESHA in violation of the Coastal Act. A road twice as wide would have even greater adverse impacts and cannot be built.

Moreover, the Applicant has not yet provided the Army Corps of Engineers or the Regional Water Quality Control Board with sufficient information to delineate “waters of the U.S.” as defined in the Clean Water Act. Thus, the U.S. Fish and Wildlife Service has not yet prepared the biological opinion that will identify critical habitat for the San Diego fairy shrimp, and vernal pools and watersheds present on the Banning Ranch property have not yet been delineated. (Staff Report p. 4.) Accordingly, approval of the Project at this time is premature and may result in violations of the Endangered Species Act and Clean Water Act. Additionally, the Commission’s approval of the Project prior to the preparation of this key information would prevent the Commission from exercising its authority to prevent degradation of ESHA that may be determined through these processes, as well as its statutory obligations to protect wetlands and other important habitats.

The Banning Ranch site’s environmental importance is even greater than is presented in the staff report. As described further in the comments submitted on October 1, 2015 by Hamilton Biological, the site contains very significant vernal pools and habitat for the rapidly diminishing coastal cactus wren and burrowing owl.

We agree with staff that the Project “would have significant adverse impacts upon terrestrial and vernal pool ESHA, including impacts to important/rare upland habitats and wildlife species that are an important part of the existing functioning ecosystem.” (Staff Report p. 4.) As the Project clearly violates provisions of the Coastal Act designed to protect ESHA, water quality, wetlands, and vernal pools, the Project must be denied.

II. Archaeological and Cultural Resources Are Present Onsite and Require Enforceable Mitigation Conditions.

The Coastal Act provides strong protections for archaeological resources. (Pub. Resources Code § 30244.) Like Bolsa Chica, Banning Ranch “is also known to contain archaeological resources.” (Staff Report p. 4.) Eight prehistoric and three historic resources are recorded on the Project site. Of the 11 archaeological sites evaluated onsite, three, CA-ORA-839, CA-ORA-844B, and CA-ORA-906, were deemed eligible for listing in the California and National Registers of Historic Places as historical resources. (Staff Report p. 60.)

The staff report notes that the Applicant has attempted to plan around the potential for archaeological resources, but acknowledges the importance of multiple local projects (Brightwater at Bolsa Chica and Hellman Ranch in Seal Beach), where “the location of archeological resources was thought known...only to discover during grading just how highly inaccurate those estimates were.” (Staff Report p. 4.) In Bolsa Chica, the applicant and its consultants had determined through extensive preliminary site work that the Project would avoid significant archaeological resources. The subsequent discovery of human remains and other important cultural resources onsite resulted in years of disruption not only to the Project, but to the Native American community while it was determined how to proceed and how to care for the archaeological and paleontological resources unearthed onsite. Similar issues are likely at Banning Ranch, as “the project involves significant grading, there is a high likelihood of discovering additional resources that are currently unknown, especially since the test pits, to date, have been largely outside the proposed development footprint.” (Staff Report p. 60.)

BCLT appreciates the staff report’s emphasis on the preference of in-situ preservation of archaeological resources that may be located during Project grading or construction. BCLT agrees with staff that “Complete avoidance of resources during the abandonment and remediation activities is appropriate for the site and could be achieved through a proposal to cap known resources.” (Staff Report p. 60.) The Applicant’s proposal to excavate resources and donate them to the Cooper Center is “not most protective of the cultural resource and is not an appropriate response.” (*Ibid.*) This is especially true with regard to the Applicant’s failure to provide for capping of human burials found during grading. (Staff Report p. 60.) In order to avoid the controversy and disruption that occurred with the Brightwater project, the Project conditions must require preservation in-situ and the reconfiguration of the Project to avoid adverse impacts to archaeological resources.

The Brightwater controversy highlighted the importance of having Native American monitors present onsite during any Project grading activities or archaeological investigations. According to the staff report, “Native American tribes note that ancestors were often buried in coastal locations and much evidence exists to support this supposition.” (Staff Report p. 59.) The Project conditions must require the Applicant to have monitors on site from all relevant Native American communities, as well as the presence of a paleontologist at all times.

BCLT agrees with staff regarding the need to impose strong and enforceable conditions to protect archaeological resources consistent with Coastal Act section 30244. Additionally, given the Applicant’s failure to provide sufficient information in the application materials for staff to adequately assess the Project’s potential archaeological impacts, BCLT urges the Commission to deny the Project. (Staff Report p. 61.)

III. Topography and Air Quality Concerns.

The Coastal Act requires that development shall be sited “to minimize the alteration of natural land forms.” (Pub. Resources Code § 30251.) The Banning Ranch site is unique in that it consists of both an upper mesa and lowland fresh water marsh habitat connected by steep slopes and two major arroyos that cut across the property. (Staff Report p. 3.) In order to provide flat building pads for the development Project’s 1,375 residences, commercial, and retail development, the Applicant proposes 3.54 million cubic yards of grading. The large amount of grading – and the impact of that grading – cannot be understated. For comparison purposes, remediation of the known soil contamination on the site would require the movement of only 271,000 cubic yards of soil. (Staff Report p. 2.) While 271,000 cubic yards is itself a large amount of soil movement, it pales in comparison to the 3.54 million cubic yards of grading and soil movement proposed. The resulting Banning Ranch site would have vastly different topography than is present now. The staff report recognizes, “The project would also result in significant landform alteration, in particular the grading and fill of the north-south arroyo.” (Staff Report p. 4.) Clearly, the Project would not “minimize the alteration of natural land forms” as required by the Coastal Act.

The fill of Banning Ranch’s north-south arroyo and other landform alteration through mass grading would also result in adverse visual impacts to and from the site, in violation of provisions in Coastal Act section 30251, pertaining to visual and scenic qualities. The mass grading and fill of natural drainages violates Coastal Act section 30231 providing for the maintenance of riparian habitats, minimization of the alteration of natural streams and watercourses, and the prevention of sedimentation and runoff that adversely impacts water quality.

In addition to the loss of the site's unique topography, the disturbance of millions of cubic yards of contaminated soils presents substantial air quality concerns for wildlife and for downwind residents. The movement of millions of cubic yards of contaminated dirt around the Project site would lead to contaminated fugitive dust. If this dust settles in uncontaminated portions of the property, the known contamination could spread, with greater impacts to ESHA and wildlife than have been disclosed to the Commission and the City thus far. As discussed in the Staff Report, both the Orange County Health Care Agency and the Regional Water Quality Control Board "continue to have significant questions about the" proposed Remedial Action Plan for the site, despite several years of communication about the plan. (Staff Report p. 2.) Thus, the remediation plan for the site's contamination will likely change significantly before it is approved, which will potentially increase the number of proposed clean-up locations and alter "the excavation depths of these areas, the amount of soil needing treatment or dispersal, and the scale of proposed soil treatment activities." (*Ibid.*) This may have already occurred. In a September 4, 2015 letter to the Applicant, which was also submitted to the Commission, the South Coast Air Quality Management District listed a figure of 362,000 cubic yards of soil remediation. This letter also expressed grave concerns with the potential health impacts of the proposed soil remediation and disturbance. Thus, at this point, the Project may violate Coastal Act section 30253, requiring consistency "with requirements imposed by an air pollution control district" to minimize adverse impacts.

Further air quality degradation would be caused by the thousands of diesel truck trips that would be required to move the soil to, from, and around the development site. Microscopic diesel particulate matter contains a host of toxic chemicals that are able to penetrate beyond human lungs and enter the bloodstream. Diesel particulate matter has been linked to a variety of long term and acute cardiopulmonary ailments, including increased risk of heart attack and death. The State of California considers diesel exhaust a toxic air contaminant and a probable human carcinogen. Children and the elderly are especially susceptible to harm caused by diesel exhaust. The impacts of prolonged exposure to diesel exhaust are likely far greater on smaller species, including threatened and endangered species that inhabit Banning Ranch. Thus, the impacts of diesel exhaust on the site's ESHA and sensitive wildlife presents another way in which the proposed Project violates of the Coastal Act.

Conclusion

Thank you for your consideration of these comments. BCLT supports staff's recommendation to deny Application 5-13-032, the Banning Ranch Project, for the reasons set forth in the staff report. As proposed, the Project violates sections 30240, 30233, 30231, 30253, 30210, and 30251 of the Coastal Act, due to its adverse impacts on topography, biological resources including wetlands and vernal pools, and adverse visual

October 2, 2015

Page 8 of 8

impacts through mass grading. We agree with staff that the meager benefits promised by the Project “are entwined with substantial impacts to highly sensitive resources and permanent loss of a very rare and valuable ecosystem that cannot be replicated.” (Staff Report p. 4.) BCLT also notes the Applicant’s history of Coastal Act violations and unpermitted development at Banning Ranch. Based on the information before the Commission, only total preservation of the Banning Ranch parcel can satisfy both the ESHA/biological resources and cultural resource protections contained in the Coastal Act.

Sincerely,



Michelle N. Black, on behalf of
Bolsa Chica Land Trust

Item # W9b
Application # 5-13-032
Rodger Hageman
OPPOSED

October 2, 2015

California Coastal Commission
200 OceanGate 10thFloor
Long Beach, Ca. 90802-4325

Attn. Amber Dodson, Planner

RECEIVED
South Coast Region

OCT 5 2015

CALIFORNIA
COASTAL COMMISSION

Regarding the broad question of whether the Banning Development should be approved and pursued, a question continues to arise as it does for the Doctor's concept of: **DO NO HARM.**


Can the Developer justify it's costs of the development and still gain a fair return on it's investment? And, to do so without the offset of Harming the Existing Communities both healthwise and economically. The physical and material encroachments are actually unmeasured. Has anyone; such as the Developer, the City of Newport or the County of Orange attempted to measure or consider the affect on the existing Community of schools, small businesses, and innocent residents, with no entity to represent them. Though the birds and bees are doing alright with the Banning Conservancy's strong support.

If we are not yet fully attuned to the broad impacts, they will start to appear when the Developer requests it's first approvals to remedy the poisonous ground. An army of earth movers' diesel fumes along with the petroleum overcast will dominate the surrounding atmosphere – FOR TEN YEARS, as reported.

Remember, the investigative process by City, County, Developer and its Environmental Reports are all designed to aid the development process. There is no requirement that those in opposition can formally submit an accredited Environmental Impact Defense Report.

The most significant remark I can make I simply present my somewhat imprecise quotation taken from the EIR:

THAT THERE ARE SPECIFIC ECONOMIC, SOCIAL, AND OTHER PUBLIC BENEFITS
THAT OUTWEIGH THE SIGNIFICANT UNAVOIDABLE IMPACTS ASSOCIATED
WITH THE GENERAL PLAN

Thank you,  Rodger Hageman 949 642 1998/ 7 Goodwill Court, Newport Beach 92663

P.S. A mailing tube containing this letter should be in your hands on Monday, October 5. The tube also contains a rare photograph of farming that I took from our kitchen window. I believe, in the past, you requested photographs of any farming activity on the land. Here it is. Thanks.

Officers:

Terry Welsh, M.D.
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Suzanne Forster
Vice-President
Deborah Koken
Secretary
Jennifer Frutig, Ph.D.
Treasurer

Steve Ray
Executive Director

Board Members:

Mark Tabbert
Diane Silvers Ed. D.

Jan Vandersloot, M.D.
In Memoriam



9-30-15 Permit Application 5-13-032

To the California Coastal Commission:

The Banning Ranch Conservancy is a 501(c)(3) non-profit group with the following mission: "The Preservation, Acquisition, Conservation, and Management of the entire Banning Ranch as a permanent public open space, park, and coastal nature preserve."

The Banning Ranch Conservancy supports staff's recommendation for denial of the coastal development permit for the Newport Banning Ranch (NBR) LLC-proposed 1375-home development project.

The Banning Ranch Conservancy has longed studied the natural features of the site, focusing on the biological resources. We have collected data for 16 years, worked with biologists and consultants, discussed with academics, given talks and lectures, presented at city council meetings (and Coastal Commission hearings) and held "Town Hall" style meetings over these years. Your staff's recommendation for denial should come as no surprise to anyone familiar with the data on Banning Ranch and with the numerous adverse impacts and sheer size of the proposed project.

To summarize, the applicant is putting forward a project that dwarfs anything ever built along the Orange County coast in recent memory. The applicant is proposing that this project be built on the last large unprotected coastal open space in Orange County; a site that is unique in its rich biological resources as well as being the location of a documented pre-historic Native American settlement.

Your staff has done an admirable job in condensing the immense body of knowledge and data on Banning Ranch, as well as analyzing the proposed project, into a 300 page report.

North-South Arroyo

In this current letter I would like to bring to your attention the North-South arroyo, which is one of the main arroyos draining the mesa. The story of the North-South arroyo is typical of many of the natural features of Banning Ranch that can be overlooked in the mountains of data. Visible on historic aerial photos and topographical maps that pre-date the oil operation, the North South arroyo, with the exception of some oil well sites and access roads, exists today much as it likely has for centuries. The North-South arroyo is listed on the USFWS National Inventory of Wetlands as a riverine feature. The North-South arroyo has at least two fairy shrimp-containing vernal pools. The North-South arroyo has been mapped, by the applicant, as containing several native scrub communities (California Brittle Bush scrub, Coastal Prickly Pear scrub, Menzie's Golden Bush scrub, and Quailbush scrub) and has been documented as a nesting location for pairs of California Gnatcatcher and Cactus Wren on multiple surveys through the years.

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Jan Vandersloot, M.D.
In Memoriam



The North-South arroyo is located in the proposed development footprint and planned to become houses as part of the applicant's North Village. Before any site grading and home construction ever begins, however, the North-South arroyo will be erased from the map by the applicant's proposed oil field abandonment and remediation plan (the same "oil field clean-up" that the applicant touts as a benefit of their proposed project). In short, the applicant proposes to fill the North-South arroyo with remediated contaminated soil, and crushed asphalt and concrete, and to then cover the top with a layer of clean soil. Apparently, to the applicant, the North-South arroyo represents an ideal place to bury unwanted oilfield material, since this process would result in additional developable surface area on the mesa. The applicant's proposed plans for the North-South arroyo are inconsistent with sections 30240, 30233, 23231, and 30251 of the Coastal Act.

Vernal Pool Watersheds

Dr. Engel's memo describing the biological resources is well done, providing an excellent summary of the very rich biological resources on the site. However, Dr. Engel's "Banning Ranch ESHA and Wetlands with 100 Foot Buffers" map (Figure 51) is deficient in that it doesn't include vernal pool watersheds for the vernal pool complex on the Banning Ranch mesa. Your staff clearly asked for vernal pool watershed delineations to be performed on all vernal pools. Rather, the applicant only delineated watersheds on a handful of vernal pools in eastern end of the mesa.

Vernal pool watersheds are very important in allowing the vernal pools to collect enough water during the rainy season. Without enough water, vernal pools may not function properly.

As Dr. Engel explains in her memo,

"In the special case of vernal pools, we recommend that the buffer be 100 feet or the edge of the pool's watershed, whichever is larger. A buffer that includes the watershed is necessary to account for natural changes in the basin dimensions over time in response to varying hydrological conditions and to prevent alterations to the watershed that could impact the duration and extent of ponding."

It is therefore essential that the "Banning Ranch ESHA and Wetlands with 100 Foot Buffers" be revised when vernal pool watersheds are delineated. We recognize that this will likely result in a smaller developable footprint compared to the footprint suggested by your staff.

Thank you,

Terry Welsh, M.D.

President, Banning Ranch Conservancy

P. O. Box 15333
Newport Beach,
CA 92659-5333

(310) 961-7610

www.banningranchconservancy.org

Sep. 30, 2015

Dear California Coastal Commission,

Please do not build on Banning Ranch. There are Burrowing Owls that live in burrows dug by Squirrels. If you build places on the land the owls will have no where to go during the Winter. Also, there fairy shrimp eggs that hatch when vernal pools are full with water, the eggs can also stay in the dirt for up to ten years with no water. There are also Native American artifacts buried in the dirt that we can analize. Please do not tear down Banning Ranch.
Sincerely,

Jocelyn Sandoval
Shoreline Cristian School

Sept. 30, 2015

Dear California Coastal Commission,
Please save Banning Ranch, without it there will be no more Burrowing Owls and Fairy shrimp. There are also Native American artifacts for you to find. It is an amazing place! Please don't destroy it. Thank you!

From,
Eli

Shoreline Christian
School

9/30/15

Dear California Coastal Commission,

Please don't ruin Banning Ranch
it has two rare creatures that live
there. The Burrowing Owls and the
Fairy Shrimp. The Burrowing Owls live in
burrows that squirrels have dug. The
Fairy Shrimp live in vernal pools, and they
lay eggs in the vernal pools and the
eggs can last ten years in dry dirt. Last
there are Native American treasures that
were buried years ago. You can dig them
up and analyze them. This means a lot
to Shoreline Christian School, so please
don't ruin it.

Your friend,

Hannah Marble
age 10 Shoreline
Christian
School

Sept. 30, 2015

Dear California Coastal Commission,
Please don't destroy Banning Ranch
because there are only three
Burrowing Owls that live there and
I wish to see them one day. If
you destroy Banning Ranch you don't
care about the fairy shrimp.

Your friend,
Malik.

Shoreline Cristian School

2015

Sept. 30

Dear California Coastal Commission,
I would like to go to
Banning ranch to see all the
creatures. Native american treasures
buried in dirt fairly shrimp
hatch in vernal pools. The eggs
can last 10 yrs in the dirt.

From: Long

9/30/2015

Dear California Coastal Commission,

Please don't destroy Bannings Ranch.
Burrowing Owls live there and they are
almost extinct. Also fairy shrimp live there
too. Native American treasures are buried
there too.

Sincerely,
Christopher Kelly

9/30/15

Dear California Coastal Commission,
Please don't destroy Banning Ranch. All the
Burrowing Owls will not have a home to
live in. The Fairy Shrimp would also have no
place to live also. And there are Native
American items in the dirt to dig up and
sell on ebay. please do not put part of
the city there.

Sincerely,
Cristian

9/30/15

Shoreline
Christian
School

Fountain
Valley.

Dear California Coastal Commission,

Please do not destroy Banning ranch.

The burrowing owls and fairy shrimp
won't have anywhere to live! There are also
Native American artifacts. You can dig it up
and sell it! You can observe the fairy shrimp's
eggs and learn how they survive ten years!
It might help us with our drought!!! I hope
you will save Banning Ranch!!

Sincerely,
Darian Wang

Banning Ranch

Dear

10/15/9:55.10-10:45.18

California Coastal Commission,

I believe the fairy shrimp can survive for ten years in their eggs due to the cause of stored up liquid, they are very unique from other animals.

The burrowing owl is rare in America, and Banning Ranch should make a nesting preservatory for the owls. Then, in about six to fifteen years for the burrowing owls to repopulate.

To help convince that Coastal Commission should preserve the Banning Ranch there are ancient artifacts hidden by the dirt.

If you, Coastal Commission make Banning Ranch extinct, where will the majestic creatures go? Imagine a world without animals, That is the reason you should save animals.

SCS

Shoreline Christian

Sincerely Toby

Sept. 30, 2015

Dear Coastal Commission,

Please Save Banning Ranch it is home to the
Burrowing Owls and they are almost extinct! There are
also Fairy Shrimp living there and their eggs are buried there!
If you build places there then those creatures might not have
anywhere to live! Banning Ranch is also a wonderful place
to look at creation! Please do not do anything to Banning Ranch!

Thank you!

♥Chanty Spradlin♥ Huntington Beach.

Ema Kulikoff
Costa Mesa

September 30
2015

Dear Coastal Commission, please save the land. It is home to animals and wild life, such as the Burrowing Owls who are close to extinction. There are some artifacts from Native Californians that lived on Banning Ranch and are still in the grounds there. A type of shrimp called Fairy Shrimp live in the vernal ponds, and can live 10 years without being wet to hatch. They live in the soil. There is also much more wildlife other than the owls and shrimp so please save the land so that all these animals and soooooo much can be saved! There is already too much buildings and city life, we don't have much wild life, so let's not ruin the wild life that we do have, with awesom almost extinct animals on it. Please preserve the land of Banning Ranch and save the land! Thank you for reading my letter. Sincerely, Ema.

6/10

Sept. 30, 2015

Dear Coastal Commission,
Please save the land!!!
It is home to the rest of all
Burring Owls. They are
beatiful and an amazing creation.
I hope one of those Owls is a
girl. She can have babys and
help save them. I love how
Burrowing Owls spend their
entire winter there on Banning
Ranch. I still hope you are
open to nameing them. I still have
some on thought like Amy, or stella
for the girl. But for the boy
how about fernando, Roderic,
and Smokey. PLEASE save the
Owls.

Sincerely,
love Delaney!!
Fountain Valley!

Sept. 30, 2015

Dear Coastal Commission

Please save the land! It is home for
adorable Burrowing Owls and other animals.
If Banning Ranch is destroyed where will
the Owls live when they come to stay
during winter? We would like to keep all
the Native Californians artifacts in the
ground, and we don't want to dig them
up for houses to be built. Please save

Banning Ranch! Thank you Rachel Peterso
Rachel Peterso Fountain Valley

Sept. 30, 2015

Dear Coastal Commission,

Save the land please burrowing
OWls spend winter on Banning Ranch.
Artifacts from Native Californians
that lived on Banning Ranch are
still in the grounds there. Banning
Ranch and save the Fairy Springs
that live in the vernal pools.

Thank you
Alex

Sept. 30, 2015

Dear Coastal Commission

Please save Banning Ranch for its beautiful views and the artifacts from Native Californians that lived at Banning Ranch. And have you seen the cute burrowing owls and fairy shrimp. Also do we really need more people on the freeway. Please Banning Ranch for its calming planes and vernal pools. And we can learn a lot from those fairy shrimp like saving water because they can stay up to 10 years in their eggs.

Thank you, Megan M. Feitz

huntington beach

September 30, 2015

Dear Coastal Commission,

Please save Banning Ranch and all the creatures who live there! Burrowing Owls are rare along the coast and it is wonderful to see these animals in a beautiful place. Please preserve the land and do not develop it.

Thank you,
Rachel Ludlow

Dear Coastal Commission Sept. 30 2015

Save the land it is home for burrowing owls.
Please Save banning ranch and Save the fairy
shrimp that live in the vernal Ponds. Fairy
shrimp eggs are in the Soil on banning ranch
for up to ten years. Burrowing owls spend
their winter on banning ranch.

Thank You, From Luke
Acourt

SEPT 30, 2015

Jack

Dear Coastal Commission,
Save the land! It has beautiful burrowing owls
that are almost extinct they are living!
preserve the land it is good for breeding.
don't forget those fairy shrimp they are still
in the ground and there not dead living.
I love animals and banning ranch is
a great place for animals birds, owls
and fairy shrimp. banning ranch live

thank you

Jack Steedman

Costa Mesa

Dear Coastal Commision,

Please Save Banning Ranch! They're are so many cool things about Banning Ranch like the Burrowing OWls, the Fairy Shrimp, and the artifacts from the Native-Americans that lived there. Please don't do developmments on the land. I think the Wild Lite needs a beautiful habitat like Banning Ranch.

Thank you,

David Faris

Sep. 30, 2015

Dear Coastal Commission, please save
Banning Ranch. Burrowing owls spend there
winter on Banning Ranch. Fairy shrimp live in
the soil for up to 10 years. They are
avery important part of Banning Ranch.

Thank you, Ethan
FAST

Sept 30, 2015
Ashley Nguyen

Dear Coastal Commission,

Please save the land! We need it because the Burrowing Owls and Fairy Shrimps live there. The Burrowing Owls are almost extinct so we ask you to save the land for them. The Fairy Shrimps live there and their eggs are there too. That is why we need the land. Thank you!!

Sincerely,
Ashley Nguyen
Fountain Valley

9-30-15

Dear California Coastal Commission,

Please save Banning Ranch. I have always wanted to go there but I don't want to go if there are a bunch of buildings there.

If you put buildings there, then where will the burrowing owls go? They are almost extinct and if you put buildings there then I won't be able to see them. Did you know that Banning Ranch is what the animals call home.

How would you feel if someone destroyed your home. That's how the animals feel. The fairy shrimp live there and they can live up to ten years and if you destroy it they won't be able to call that home anymore. Thank you for reading, Allegra Ramsey Shoreline, Christian F.V.

M/H
grade

9/30/15

Dear California Coastal Commission,
Do not build houses on Banning Ranch. If you do the Burrowing Owls and fairy shrimp will die. Burrowing owls are almost extinct. They spend their winter at Banning Ranch where will they go. And Banning Ranch has lots of artifacts that will be destroyed if you build there. Fairy shrimp eggs have been in the Banning Ranch soil for up to ten years, they will get crushed. We have enough houses and cities we need more animals.

Thanks. Noah

Dear CA Coastal Commission,

Help the Burrowing Owls please do as much as you can to save almost extinct Owls in this area. Spend your hours trying to save this land for the Owls and this place Banning Ranch is there Natural habitat. This place keeps them safe from the winter. If you guys could not save it, what will happen to the Owls, they can die if you guys can't save the land. The fate of the Burrowing Owls lives our in your hands. And maybe try these names for the Owls underground Owls, Shadow Owls, Ghost Owls, and Hidden Owls. I also live in Newport Beach.

From: Daniel Toscano

To: CA Coastal Commission

Date: 9/30/15

9/30/15

PLEASE DON'T BUILD!!!

Dear Californian Coastal Commission

I'm a very big animal lover & have a few →
Please don't build on the Banning Ranch
Area! There are many animals
that have their habitat there! Where
will they go? Burrowing Owls, need
Banning Ranch! Fairy shrimps lay their eggs
there & when they hatch they
can live their full cycle! Please
don't take the habitats away! It
would mean a lot to the endangered
animals! PLEASE HELP SAVE the ^{endangered} animals!
Instead of killing them!

Thank You,

Lena N.

Fountain Valley
CA, 92708. -

(Shoreline Christian
School)

- i'm sorry about the sloppy writing... (")

Sept. 30,
2015

Dear California Coastal Commission,

Fairy shrimp live at Banning Ranch, and they are currently buried underneath the ground, waiting to hatch. Burrowing Owls also live there in the winter. I don't know if there is anywhere else they would go. Banning Ranch is a great place for wildlife, so please keep the land.

Sincerely,

Avery

Fountain Valley, CA

September 30, 2015

Dear California Coastal Commission,
Please save Banning Ranch! The owls
come to stay there. Also fairy shrimp
eggs are there! We can't let them
die. The owls won't have a place
to go if you take it away from
them. Artifacts from Native Californians
are here. Please preserve Banning Ranch
and its beauty. Fairy shrimp eggs
can stay dry for 10 years give them a chance
to hatch and make more eggs for the
next year.

Thank you!

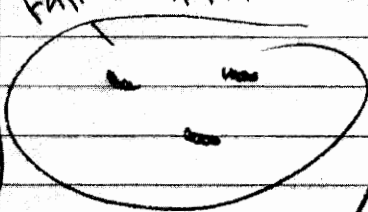
Sincerely,
Sophia B.
at Shoreline
Christian
School!

Whoooo!



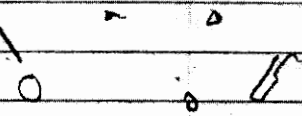
owl holes

Fairy Shrimp



From
Huntington
Beach

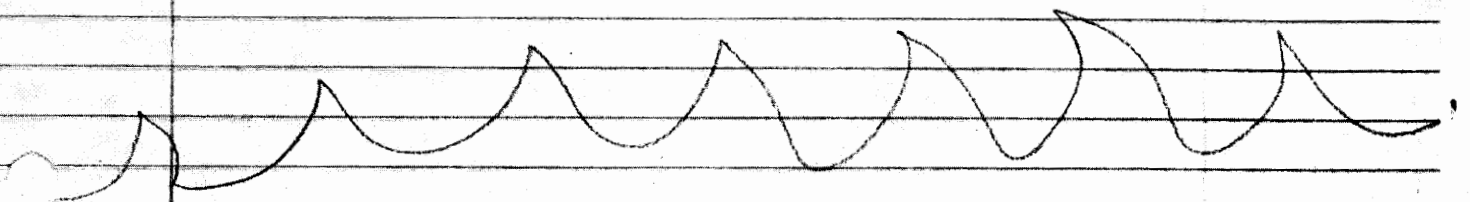
artifacts



September 30, 2015

Dear California Coastal Commission,
My class and I have recently heard
about Banning Ranch. I have
been thinking a lot about it and
I'm asking you to please save the
land. The Ranch is a home to many living
creatures such as the almost extinct
burrowing owl, which I think is quite
cute. And if you get rid of the
Ranch, the owls won't have a home.
Plus, this area is already so crowded
with buildings and houses, we need
more nature to enjoy! I really hope
you take my letter into consideration.
Thank you so much!

Sincerely,
Tori H. from
Shoreline Christian School



SP 9/30/15

Dear California Coastal Commission, Save Banning Ranch. The animals too it would help them in lots of ways for their survival, They are Native Californians artifact underground. Sincerely,
Ethan Gustin Shoreline Christian School.

Dear California Coastal Commission,

Please save Banning Ranch! Burrowing Owls live there, and they are close to being extinct!

If Banning Ranch wasn't there, the owls would have nowhere to go in the winter! Save the Fairy Shrimp that live in the vernal pools.

Banning Ranch is a gorgeous place to see nature, don't ruin nature! Please don't ruin Banning Ranch, it is an amazing place.

Thank you, Tim

Hailey Leo

Westminster, CA

Caidino

Dear California Coastal Commission, 9/30/15

Save the land! It's for the
owls and the Shrimp. Please
leave the owls alone. The Shrimp
need the vernal pools to survive.
If you take the habitat away
from them they will not survive. Also
the artifacts from Native Californians
are still there.

Sincerely, Caidin Shoreline - Fountain Valley

Dear California Coastal Commission,
I would definitely want
to save the burrowing owls & fairy shrimp.
I would also want to save Banning Ranch,
too. When Mr. Welsh came to speak, everything
sounded so interesting to me! I love animals,
so I want to try & save these animals
and the Ranch. I will try my best
for sure!

Sincerely,

Anna Faris,
Shoreline Christian School

9-30-15

Dear California Coastal Commission,

Please save Banning Ranch and save the Fairy shrimp that live in the vernal pools. Fairy shrimp eggs are in the soil on Banning Ranch for up to 10 years! Burrowing Owls spend their winter on Banning Ranch. Save the land! It is home for Burrowing Owls.

Sincerely, Jack Lessley

Sept. 30, 2015

California Coastal Commission

Don't build houses on Bunning Ranch. Seriously.

It is a habitat for quite a few animals.

Also, more houses means more people. Which

means more cars. Which means more traffic.

We have enough problems with that. We don't

need more. Think it over. Please.

Cody -

Loc: H.B.

Sep 30

Dear California Coastal Commission

Please save Banning Ranch and all of the animals on Banning Ranch. If you destroy Banning Ranch the animals will have nowhere to go and if you build something there the animals will come back expecting the Banning Ranch and they will probably die, so please save Banning Ranch

Thank you for seeing
my letter

Caleb from Huntington
beach

9/30/15

Dear California Coastal Commission,
Please save Banning ranch because
the burrowing owls won't have homes
in the winter! They will be very
extinct! Also there are artifacts in the
ground from native Californians that lived
there. There are fairy shrimp eggs in the
ground and they can live for 10 years
but if you put homes over them they
will surely die! Thanks for reading! Hope you
listen!!

Thank you so much,
Lilly from Santa Ana

California Coastal Commission, 9-30-15

Banning Ranch is home to lots of rare wildlife including the Fairy Shrimp and the Burrowing Owl. If there were homes there, the Fairy Shrimp eggs wouldn't be able to hatch and the Burrowing Owls wouldn't be able to live there in the winter time. It would be like coming home to find that your house was made into a shopping center.

Sincerely, Jacob Hackett from
Shoreline Christian School.

sept. 30, 2015

Dear California Coastal Commission,

Please save the land! It is home for the burrowing owls which are almost extinct. Burrowing Owls spend their winter on Banning Ranch. Artifacts from Native Californians that lived on Banning Ranch are still in the grounds there. Please save Banning Ranch and save the fairy shrimp that live in the vernal pools. Fairy shrimp eggs are in the soil on Banning Ranch for up to 10 years!

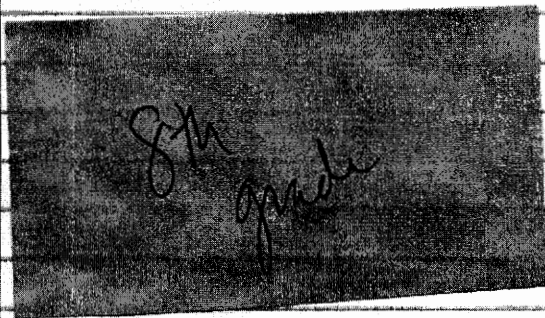
David Beam,
City of Westminster

Dear California Coastal Commission,

Banning Ranch is one of the few places still inhabited with creatures like the fairy shrimp and animals like the burrowing owls. Fairy shrimp eggs are in the soil and are still living. They are just waiting for some water so they can hatch. In our area we have many hotels already so we don't need any more hotels. If hotels are built on top of the soil that the fairy shrimp live in, there will be almost no more of that kind of shrimp. Some animals like whales almost became extinct, but many people helped the whales and now there are lots of whales around. If we help the fairy shrimp and the burrowing owls they will then become less extinct and then people will be able to enjoy both of those animals.

Sincerely,

Craig Felt
Shoreline Christian
Fountain Valley



Dear California Coastal Commission,

Please Save Banning Ranch. It is home to Burrowing Owls, which are almost extinct. If you destroy Banning Ranch to build homes you are pushing Burrowing Owls one step closer to extinction. Also Fairy Shrimp that live underground in Vernal pools will be killed. Fairy Shrimp can live underground for up to ten years!! I love to walk around Banning Ranch and see the amazing creation but if you destroy Banning Ranch I won't be able to anymore. There are plenty of other apartment buildings that people can move in to or you could build them somewhere else. Don't destroy nature more than it already is. Besides since the homes/apartments would be by the beach they would be extremely expensive.

PLEASE SAVE BANNING RANCH!!

Thank you for reading.

- Emily
Fountain Valley
resident

Dear California Coastal Commission,
Please do not destroy this land! I've always
wanted to go to Banning Ranch and see all
the animals & great sights. Also, Banning Ranch
is home to the Burrowing Owls and Fairy
Shrimp. Please do not take these animals home.
Imagine your home being taken away in
an instant. Thank you for reading. I really
hope you make the right decision.

Sincerely,

Kathy Pham -

Huntington Beach

Dear California Coastal Commission,

Please save Banning Ranch!! Banning Ranch is home to the Burrowing Owls, which are going extinct! Banning Ranch is home to fairy shrimp as well and I'm sure these animals wouldn't like for you to take their home away. We also don't need more homes in our community. All over the city of Huntington Beach people are taking empty spaces of land and making them homes or apartments. Please take this into consideration and
SAVE BANNING RANCH!!

Thank you,
Phoebe Minch
of Fountain Valley

Dear California Coastal Commission,

Save the land so that the Burrowing Owls and the fairy shrimp can remain there. It is their home! fairy shrimp eggs are in the soil on Banning Ranch for up to 10 years and if you replace their home with buildings or houses fairy shrimp and Burrowing Owls will not be there. Please save Banning Ranch!

Thank you,
Kendyl

9/30/19

Dear California Coastal Commission,
Please save the land. Banning Ranch
is a home for Burrowing Owls. Burrowing
Owls spend their winter on Banning
Ranch. Artifacts from Native Californians
that lived on Banning Ranch are still
in the grounds there. Banning Ranch is
Beautiful. Some day I would like to
walk around Banning Ranch and see
God creation, but if you put a building
there then I won't have a chance to
see. Plus it next to wetland and
it would be nice to see open land.
Please save Banning Ranch and save
the Fairy shrimp that lived on
Banning Ranch for up to 10 years.

Thank you,
Joshua Surico

Huntington
Beach

Shoreline
Christair
School

Dear California Commission,

Please save Banning Ranch! Banning Ranch is the home for the Burrowing Owls and the fairy shrimp. Artifacts from Native Californians that lived on Banning Ranch are still in the grounds there. We should th. innocent animals! I wouldn't write this if it wasn't important.

Thank you,
Mallory

Huntington Beach

Dear California Coastal Commission please save Banning Ranch.
It is the habitat of the Burrowing Owl and of the Fairy
Shrimp. There are still a lot of homes open for
sale, we don't need more. It isn't a good idea to
destroy something useful for something that is not.
The houses are probably going to be too
expensive for the average person anyways.

please save Banning Ranch, Jake
(from Fountain Valley)

Dear California Coastal Commission,

I'm writing to you about a beautiful property called Banning Ranch. I'd like you to save this land, it is home to many animals, including the burrowing owl. This owl is almost extinct, and has been coming to Banning Ranch for over three years. Another amazing animal called the Fairy Shrimp live in the vernal pools there. Even some artifacts from old Californians are still in the ground there. So, I ask of you one thing... Save Banning Ranch.

Sincerely,

Allison Maring
Huntington Beach

Dear California Coastal Commission,

Please leave Banning Ranch as it is. It is a safe haven for Burrowing Owls during harsh cold winters. There are also hidden artifacts from Native Californians that are still preserved underground. Don't forget about the tiny fairy shrimp eggs that live in the vernal ponds. We don't want them to go extinct too! If we didn't save Banning Ranch, Burrowing Owls and Fairy Shrimp would go extinct. We would never add more historical artifacts to museums also. Banning Ranch is important to little things we might not notice. We could be making a huge change by saving Banning Ranch.

Sincerely,

Mar-Anh Do

(who lives in Fountain Valley)

Dear California Coastal Commission,

Save the land! It is home for the Burrowing owls. Burrowing owls are going extinct but there is a few still living on Banning Ranch. Artifacts from Native Californians that lived there are still in the grounds of Banning Ranch. There are also fairy shrimp that live there that are almost extinct. Fairy shrimp eggs can last up to 10 years in the soil & then when the vernal pools fill up the eggs hatch. Save Banning Ranch so these creatures can live.

Sincerely,

Ashlynn

Dear California Coastal Commission,

Please save Banning Ranch. This piece of land is home to the Burrowing owls, who are almost extinct. To me, no species should become extinct because they are God's creatures and everything on this Earth was put here for a reason. These owls spend their winters on Banning Ranch, so where else would they go if you took Banning Ranch out of the picture? Also, artifacts from Native Californians are still there on the grounds of Banning Ranch! To me, History should always be remembered, especially if it's still here today. Lastly, there's this little water animal on Banning Ranch called the Fairy Shrimp. This creature's eggs are in the soil of Banning Ranch for up to 10 years. They also live in the vernal pools on Banning Ranch. So for all these reasons, **SAVE BANNING RANCH!!**

Sincerely,
William Faris
Shoreline Christian
Fountain Valley

Dear California Coastal commission, please conserve
Panning ranch so that we can eventually go there and see the
Fairy Shrimp and Burrowing owls. The fairy shrimp still have a chance
of surviving since their eggs can live up to 10 years without water.
And the pools can fill back up with water which will
allow the eggs to hatch and a new generation of fairy shrimp
will appear. It is not fair to remove a home for the fairy
shrimp when there is a chance of them surviving, since
there is not a lot of fairy shrimp left in our area.
We want to show our children fairy shrimp and our children's
children fairy shrimp. It is not fair to take the
animals away from the next generations. After all we are just
borrowing the planet we should try to leave Panning Ranch
how we found it since it's a small preserved area, that
has not been touched (which are kind of rare now!) It's not ruin
that with construction which cost a lot of money to ruin something
that is being perfectly fine and more likely than not to do
better than the construction. Sincerely Juan Lopez shoreline, Costa
Mesa.



CALIFORNIA CHAPARRAL INSTITUTE

...the voice of the chaparral

September 30, 2015

Amber Dobson
California Coastal Commission
Via email: amber.dobson@coastal.ca.gov

Re: Denial of the Banning Ranch Development Proposal

Dear Ms. Dobson and Members of the California Coast Commission,

We strongly support the Commission staff's recommendation to deny the permit for the Banning Ranch Development proposal in Newport Beach, California.

The site of the proposed development represents a remarkable opportunity to **protect the last undeveloped, free flowing river mouth in the region**. With so many municipalities now recognizing the importance of open, riparian systems within their communities, denying the proposed development of this site is an investment in the future.

We have lost enough open space along the coast, especially the special and irreplaceable coastal sage scrub and estuary habitat that is currently present on Banning Ranch. Combining the site's preservation with the potential for ecological restoration, Banning Ranch represents a biological and community gem. It needs to be protected.

Sincerely,

Richard W. Halsey
Director
California Chaparral Institute
rwh@californiachaparral.org



HAMILTON BIOLOGICAL

September 30, 2015

Dr. Jonna Engel
California Coastal Commission
200 OceanGate
Long Beach, CA 90802-4316

**SUBJECT: DELINEATION OF ESHA AT NEWPORT BANNING RANCH
STAFF REPORT W9B, APPLICATION NO. 5-13-032**

Dear Dr. Engel,

On behalf of the Banning Ranch Conservancy, Hamilton Biological, Inc. has reviewed the staff report for the Newport Banning Ranch application for a Coastal Development Permit (CDP). The staff report does an excellent job of summarizing years of reports describing the biological resources of this property, and analyzing the potential effects of the proposed project on those resources. In a few areas, however, we believe that additional analysis and protections are warranted, as discussed in these comments.

BLUFF ROAD ISSUES

In order to avoid direct removal of native scrub vegetation occupied by the federally threatened California Gnatcatcher, proposed Bluff Road has been reduced from a four-lane to a two-lane road. In the southeastern corner of the site, this reduced road would have to follow a tightly constrained alignment in order to avoid native scrub, which Dr. Engel has identified as Environmentally Sensitive Habitat Area (ESHA).

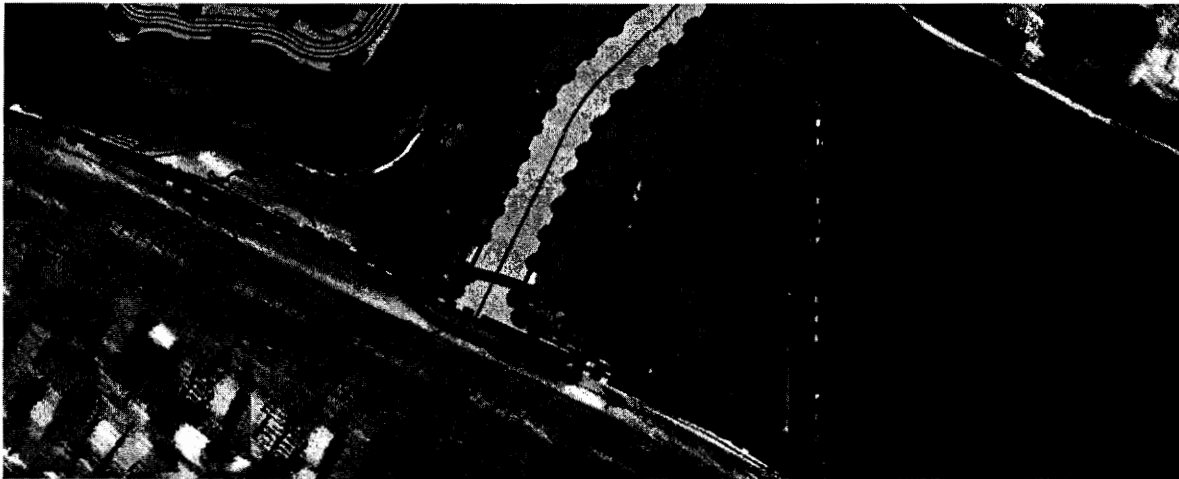


Figure 1. Part of the site plan from the CDP application, showing the southeastern part of the property; a red ellipse shows the proposed southern terminus of Bluff Road at West Coast Highway.

Dudek's final site mapping, submitted to staff on August 3, 2015, depicts the proposed intersection of Bluff Road and West Coast Highway as being vegetated with an exotic "myoporum grove" community. Myoporum grove would not be regarded as ESHA because it is dominated by non-native plants that are of relatively low value to the California Gnatcatcher. See Figure 2, below.

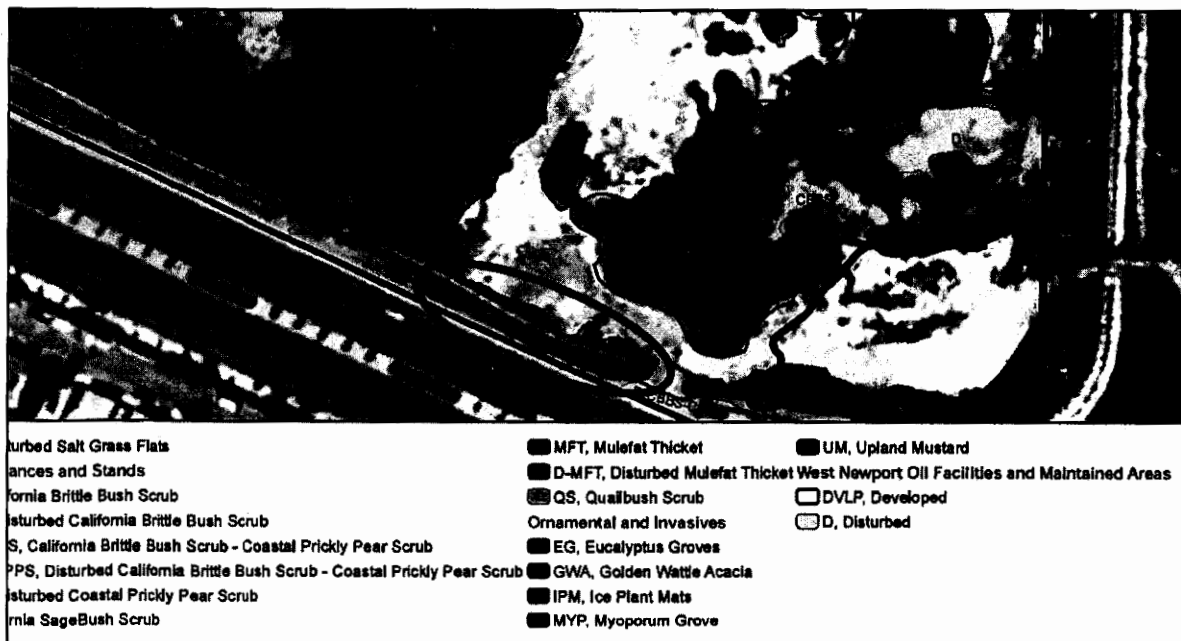


Figure 2. Part of Dudek's most recent vegetation mapping of the site (August 2015), with a red ellipse showing the proposed southern terminus of Bluff Road. The biologists mapped this area as Myoporum Grove ("MYP").

I reviewed the southeastern corner of the project site to determine whether this important area had been mapped correctly. As discussed on Page 13 of the staff report:

Subsequently, in an e-mail dated August 17, 2015, biologist Robb Hamilton provided photographic evidence that an area along the southern project boundary, at Pacific Coast Highway, was erroneously mapped in the revised mapping effort as "myoporum grove" by Dudek, when in fact it supported native scrub dominated by native Brewer's Saltbush (*Atriplex lentiformis* ssp. *breweri*) and Mulefat (*Baccharis salicifolia*). Commission ecologists have not had time to ground-truth the revised vegetation map but Mr. Hamilton's observations suggest that additional site visits to spot-check the 2015 vegetation map are warranted.

Google Earth provides aerial imagery of this area dated March 24, 2015, and Google Earth "street view" provides ground-level photos dated May 20, 2015. Figures 3-5, on the following pages, show that this area is vegetated with native scrub, not exotic "myoporum grove."



Figure 3. Google Earth aerial imagery dated March 24, 2015, with a red ellipse showing the location of the proposed southern terminus of Bluff Road. The four green circles indicate stands of myoporum, which appear dark green and cast shadows on this aerial image. The driveway leading off to the east (i.e., to the right) is the service entrance to Sunset Ridge Park.

Figures 4 and, below and on the following page, are ground-level images (from Google Earth street view) of the area shown in red in Figure 3.

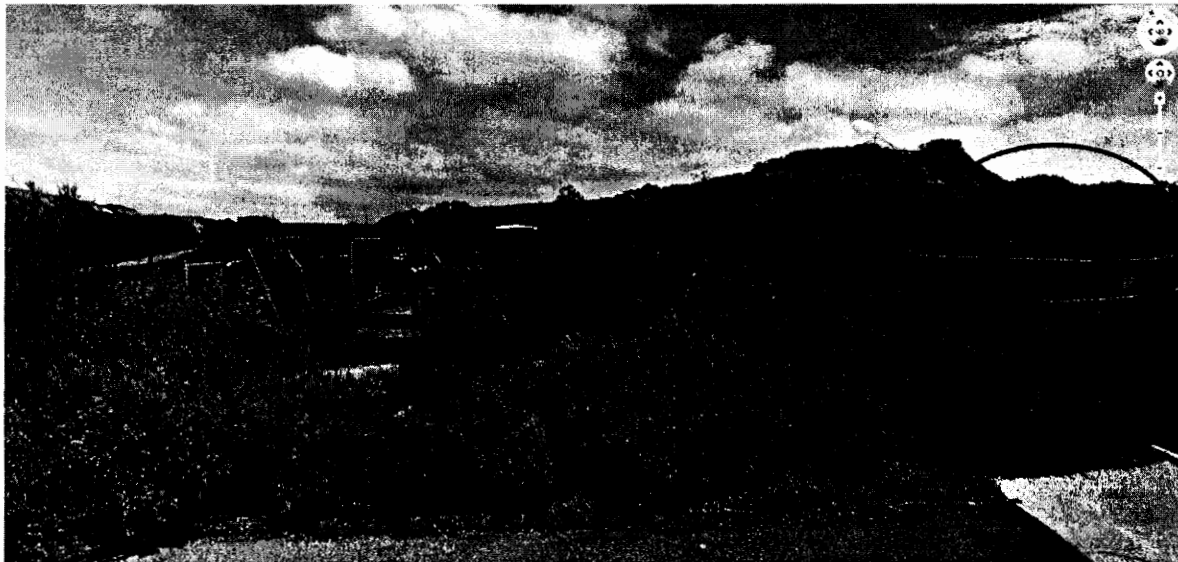


Figure 4. View to the north-northeast from West Coast Highway. Photograph dated May 20, 2015, showing the eastern part of the proposed intersection with Bluff Road. Vegetation in the foreground is mainly native Brewer's Saltbush, interspersed with native Mulefat and native California Buckwheat (*Eriogonum fasciculatum*). A stand of myoporum, outlined in green, lies just north of the Sunset Ridge Park service entrance. This myoporum lies outside of the area that Dudek mapped as "myoporum grove."



Figure 5. View to the northeast from West Coast Highway. Photograph dated May 20, 2015, showing the eastern and central parts of the proposed intersection with Bluff Road. Apart from three clumps of exotic Pampas Grass (*Cortaderia selloana*), the vegetation in this area is dominated by native Brewer's Saltbush, with lesser amounts of Mulefat and California Buckwheat.

The three most prevalent shrubs in this area — Brewer's Saltbush, Mulefat, and California Buckwheat — are native species known to be used regularly by the California Gnatcatcher (see Figure 6, below, for example), and the gnatcatcher regularly nests in this general part of the project site. The presence of exotic Pampas Grass, as a sub-dominant species, indicates some level of disturbance, but this grass makes up only a minor component of the vegetation in this area (see Figures 4 and 5, above). *Myoporum* — the dominant species in this area according to Dudek biologists — is nearly absent. Since this stand of native scrub is consistent with other stands of native scrub throughout the southeastern corner of the project site that Dr. Engel has designated as ESHA, this area should also be designated as ESHA upon field-verification by staff.



Figure 6. Adult male California Gnatcatcher that I photographed on June 3, 2010, in Brewer's Saltbush on the Sunset Ridge Park site. The bird was approximately 25 feet north of West Coast Highway and approximately 210 feet southeast of the proposed Bluff Road.

As the only proposed traffic connector between the proposed Newport Banning Ranch development areas and West Coast Highway, Bluff Road represents an important part of this large project's traffic planning. The applicant has proposed reducing Bluff Road from four lanes to two lanes, and project planners have devised an alignment that narrowly avoids the mapped patches of native scrub, all of which Dr. Engel has designated as ESHA. Construction of the reduced and realigned Bluff Road would completely eliminate the required ESHA buffer in some areas and reduce it well below the recommended 100 feet in others. As reviewed on Page 11 of Dr. Engel's memorandum, failure to provide an adequate ESHA buffer is impermissible under the Coastal Act:

Section 30240(b) requires appropriate siting, design, and buffers to ensure that development adjacent to ESHA does not result in negative impacts to ESHA. Buffers are important for preserving the integrity and natural functions of environmentally sensitive habitats. The purpose of a buffer is to create a zone where there will be little or no human activity, to "cushion" species and habitats from disturbance, and to allow native species to go about their "business as usual."

Since the southeastern part of the project site is vegetated largely with native scrub/California Gnatcatcher ESHA, construction of a project access road through the ESHA buffers in this area would violate the Coastal Act. Furthermore, it seems quite possible that a two-lane Bluff Road servicing a project of the size proposed by the applicant would prove grossly inadequate once the project was completed, necessitating (to ensure public safety) the eventual expansion of this road to the four lanes that were originally planned and approved by the City of Newport Beach during the project's flawed CEQA review process (the EIR's adequacy is now being reviewed by the California Supreme Court). For these reasons alone, the Coastal Commission should not approve extension of Bluff Road to West Coast Highway.

What should be particularly unsettling for the Coastal Commission is the fact that three different biological consulting firms, working either for the applicant or the City of Newport Beach, have misclassified the inconvenient stand of native scrub growing in the middle of the Bluff Road alignment near West Coast Highway. Given the high level of scrutiny this specific part of the project site has received during the planning and various redesigns of Bluff Road, it is inconceivable that no project biologist ever noticed the repeated mis-mapping of this area as myoporum or other exotic ornamental species.

The first erroneous mapping of this area appeared in the August 2008 *Draft Biological Technical Report for the Newport Banning Ranch Property, Newport Beach, California*, prepared by Glenn Lukos Associates, Inc., and published online by the City of Newport Beach. The relevant portion of that report's Exhibit 9, reproduced on the next page as my Figure 7, characterizes this important area as "I/O" (Invasive/Ornamental), a community described on Page 32 of their 2008 report:

Because of the history of disturbance associated with the oil field operations, the site supports substantial areas of non-native invasive or ornamental vegetation that combined total 32.62 acres. Areas mapped as I/O vary according to location and can include: large

stands/mats of hottentot fig, dense thickets of pampas grass and/or giant reed (mostly in the lowland), areas of myoporum (*Myoporum laetum*), thickets of Sydney golden wattle (*Acacia longifolia*) (most common in the middle arroyo), as well as scattered individuals of Brazilian pepper (*Schinus terebinthifolius*), blue gum eucalyptus (*Eucalyptus globulus*), and myoporum.

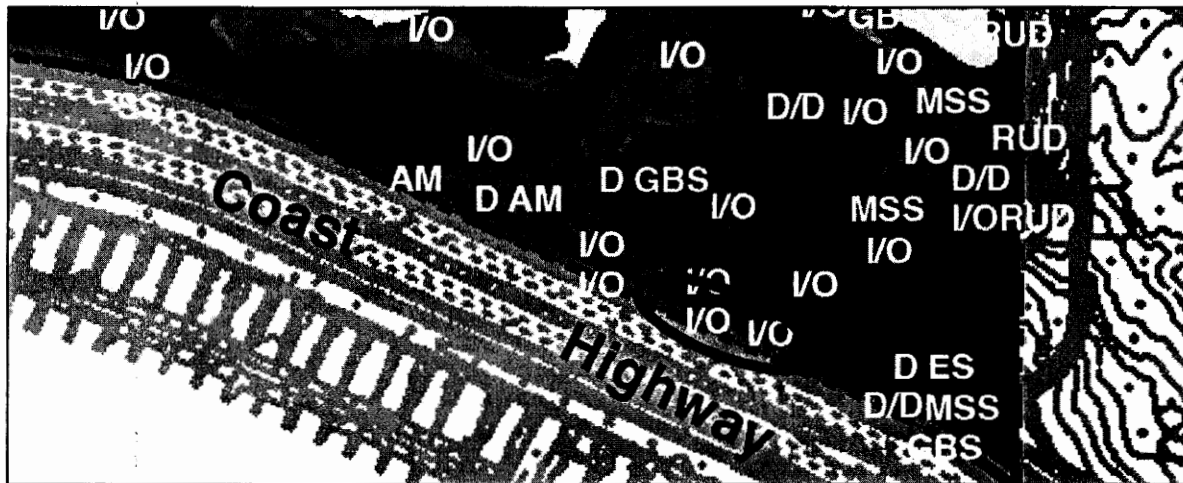


Figure 7. Part of Exhibit 9 from Glenn Lukos Associates' 2008 draft biological report ("Vegetation Map"), with a red ellipse showing the location of the proposed southern terminus of Bluff Road. The biologists mapped this area as Introduced/Ornamental vegetation ("I/O").

The second firm to incorrectly map this area was BonTerra Consulting (now part of Psomas), for the 2011 Draft EIR that was certified by the City of Newport Beach:



Figure 8. Part of Exhibit 4.6-1b from the 2011 DEIR for the Newport Banning Ranch project, prepared by BonTerra Consulting, with a red ellipse showing the proposed southern terminus of Bluff Road. The pink-and-black mapping polygons represent "Ornamental" vegetation.

Most recently, in 2015, Dudek classified this area as a "myoporum grove" (see Figure 2 of this letter).

Whether the serial misclassification of this native scrub vegetation reflects gross negligence on the part of all three consulting firms, or an intent to misrepresent the resources present to avoid an ESHA determination in this one specific part of the site, the result is identical: The public, Coastal Commission staff, and Coastal Commissioners cannot be confident that the project biologists have reliably and impartially documented the biological resources present on Newport Banning Ranch.

Because extension of Bluff Road to West Coast Highway would (a) remove native scrub ESHA; (b) reduce, and in some cases eliminate, required ESHA buffers; and (c) possibly require future road expansion following project build-out, approval of this aspect of the proposed project would violate Sections 30240(a) and Section 30240(b) of the Coastal Act. Therefore, even if the Coastal Commission ultimately approves some form of residential/commercial/resort development at Newport Banning Ranch, extension of Bluff Road to West Coast Highway should not be approved.

INADEQUATE BURROWING OWL ESHA

Figure 9, on the next page, shows areas where Burrowing Owls have been recorded during biological surveys since 2008, as well as the area of Burrowing Owl ESHA identified by Dr. Engel in the staff report. Dr. Engel's analysis of project effects on the Burrowing Owl and its required habitat at Newport Banning Ranch cites two reports:

- California Burrowing Owl Consortium. April 1993. Burrowing Owl survey protocol and mitigation guidelines.
- California Department of Fish and Game. September 25, 1995. Staff Report on Burrowing Owl Mitigation.

The State of California's current policies regarding conservation of the Burrowing Owl are contained in the following reports:

- California Department of Fish and Game. April 14, 2008. *Guidance for Burrowing Owl Conservation*. Habitat Conservation Branch, Wildlife Branch, Bay Delta Region, Sacramento, California. (http://www.thebirdersreport.com/BUOW_Guidance_14_April_2008-CDFG.pdf)
- State of California, Natural Resources Agency, Department of Fish and Game. March 7, 2012. *Staff Report on Burrowing Owl Mitigation*. (<https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=83843>)

A stated purpose of the State's 2008 *Guidance for Burrowing Owl Conservation*, given on Page 2, is to:

Provide guidance that **supersedes** and augments or clarifies the Department's Staff Report on Burrowing Owl Mitigation (1995; www.dfg.ca.gov/wildlife/species/docs/buowlmit.pdf) and the California Burrowing Owl Consortium's Survey Protocol and Mitigation Guidelines (1993, 1997; www.dfg.ca.gov/wildlife/species/docs/buconsortium.pdf). [Emphasis added]

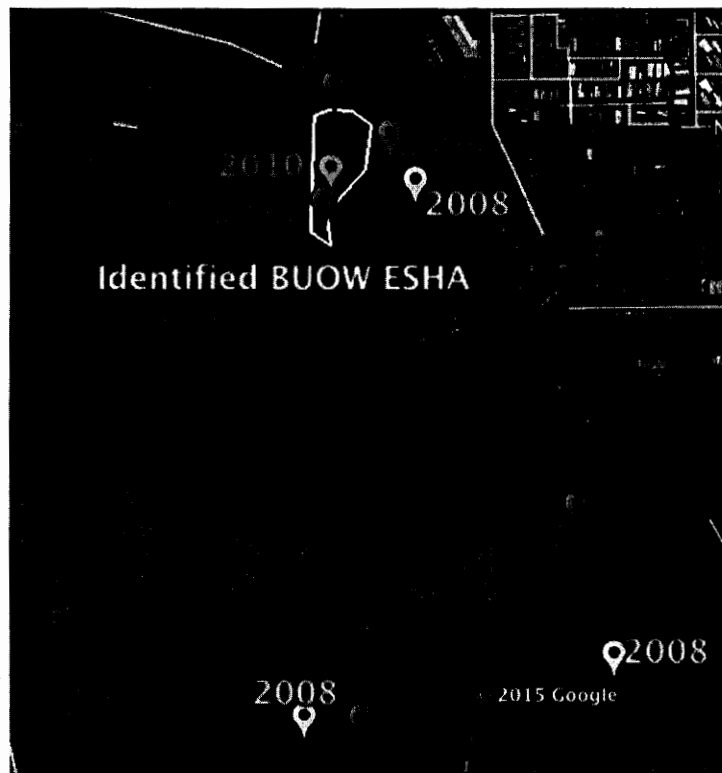


Figure 9. Aerial photo showing locations where Burrowing Owls have been documented wintering on Newport Banning Ranch during certain years between 2008 and 2015, and the 1.1-acre area of Burrowing Owl ESHA identified by Dr. Engel in the current staff report. Cindy Black has observed and photographed one or two owls during most winters in and around the area identified as ESHA, including during 2014 when Dudek biologists observed an owl on the southern mesa but not in the ESHA. Also shown is the location where Kevin Nelson photo-documented an owl at a burrow on February 16, 2011 (see Figures 10, 11).



Figures 10, 11. Burrowing Owl and occupied burrow photographed on February 16, 2011, by Kevin Nelson on the southern mesa (see Figure 9). This record was not previously reported.

The cover page of the State's 2012 *Staff Report on Burrowing Owl Mitigation* states:

This document **replaces** the Department of Fish and Game 1995 Staff Report On Burrowing Owl Mitigation. [Emphasis added]

Since the 2008 and 2012 reports supersede or replace the 1993, 1995, and 1997 report, it is inappropriate for Coastal Commission staff's analysis to cite the outdated reports.

Page 1 of the State's 2008 *Guidance for Burrowing Owl Conservation* provides the following synopsis of the conservation threats facing Burrowing Owls in California [emphasis added]:

Additional immediate protection is needed for the Burrowing Owl (*Athene cunicularia*), a vulnerable California Bird Species of Special Concern (Gervais et al. 2008) and federal Bird of Conservation Concern (U.S. Fish and Wildlife Service 2002), that was the subject of a listing petition to the State of California Fish and Game Commission in 2003. Most Burrowing Owl populations in California still face the same primary threats they did three decades ago (Gervais et al. 2008). Burrowing Owl population declines continue, primarily caused by habitat loss and control of California ground squirrels (*Spermophilus beecheyi*) and other host burrowers.

Concerted conservation actions are needed to maintain viable burrowing owl populations in California and to help prevent the need to list this species under the state or federal endangered species acts.

A comprehensive strategy for its conservation in California is now in progress, which will provide more detailed guidance on measures to protect this species.

Existing legal protection under the California Environmental Quality Act (CEQA), one of the State's principal statutes to address significant environmental impacts, does not substantially contribute to burrowing owl conservation because lead agencies have broad discretion in identifying environmental impacts as significant and, even where they do, significant impacts need only be mitigated to the extent feasible. As a result, lead agencies **do not consistently require sufficient or effective habitat mitigation for immediate or cumulative impacts to burrowing owls.** Current conservation activities, except under a few approved regional conservation plans, are usually implemented piece-meal, typically at the level of the individual owl, to avoid take. In addition, prohibitions on take of burrowing owls are often circumvented, and due to buried or transitory evidence, are not easily enforced.

Suitable conservation areas that could benefit this species through acquisition and management have yet to be identified in most of the State. All these deficiencies remain obstacles to long-term owl conservation, **can lead to local extirpation of resident owl populations, and could cumulatively preclude options for future conservation of this species.**

Page 14 of the State's 2008 *Guidance for Burrowing Owl Conservation* summarizes the Burrowing Owl's ecological requirements as follows [emphasis added]:

Foraging habitat is essential to burrowing owl persistence. Mitigation for impacts to burrowing owl foraging habitat within home ranges should be required based on site-specific evaluation of existing land use patterns, prey availability, and other ecological factors. Useful as a rough guide to evaluating project impacts and appropriate mitigation for burrowing

owls, adult male burrowing owl home ranges have been documented (calculated by minimum convex polygon) to comprise anywhere from **280 acres** in intensively irrigated agroecosystems in Imperial Valley (Rosenberg and Haley 2004) to **450 acres** in mixed agricultural lands at Lemoore Naval Air Station, CA (Gervais et al. 2003), to **600 acres** in pasture in Saskatchewan, Canada (Haug and Oliphant 1990). **But owl home ranges may be much larger, perhaps by an order of magnitude, in non-irrigated grasslands** such as at Carrizo Plain, California (Rosenberg, pers. comm.), based on telemetry studies and distribution of nests. Because of the larger owl home ranges and more difficult access for telemetry studies in these ecosystems, home range size is not well understood (Rosenberg, pers. comm.) In general, burrowing owls in many study areas have been documented to forage primarily within 600 m of their nests (within approximately **300 acres**, based on a circle with a 600 m radius) during the breeding season (Gervais et al., 2003, Haug and Oliphant 1990, Rosenberg and Haley 2004).

This same information on Burrowing Owl foraging-area requirements was provided on Page 7 of Dr. Engel's memorandum dated February 26, 2015, analyzing the potential effects of an unpermitted fence that the Newport Mesa Unified School District constructed on the northern boundary of the Newport Banning Ranch property (<http://documents.coastal.ca.gov/reports/2015/3/th13a-3-2015.pdf>). In that report, Dr. Engel stated, "Burrowing owls require large expanses of open space for foraging," but no similar statement is found in the analysis of the much more damaging Newport Banning Ranch project.

The staff report acknowledges that up to three Burrowing Owls have been documented wintering on Newport Banning Ranch during recent years, but fails to consider that these owls "**require large expanses of open space for foraging.**" Rather, the staff report identifies only 1.1 acre of ESHA for the Burrowing Owl, and concludes:

...winter survey data for the two southern portions of the property suggest that these areas are not frequently occupied by over-wintering burrowing owls and while they represent sensitive areas they do not rise to the level of ESHA."

This analysis is inadequate in at least four important respects:

1. Most importantly, **Burrowing Owls are known to require large expanses of grasslands or other suitable open space for foraging**, so even if the site supported only one Burrowing Owl per winter, there is every reason to expect that this owl would forage across all of the ~150 acres of available grassland/vernal pool habitat on the site, including the non-native annual grasslands. Preservation of an acre of Burrowing Owl ESHA around the most-frequently occupied burrow system would do little, if anything, to conserve the wintering owl population at Newport Banning Ranch, so this does not represent a meaningful conservation measure. Although Dr. Engel recognized certain other areas of owl foraging habitat, such as scattered patches of native grassland, as ESHA in their own right, the history of Burrowing Owl decline in Orange County and throughout the coastal zone suggests that preserving only these areas, and their buffers, would not be adequate to ensure continuation of owls wintering in this area. To reiter-

ate information from the 2008 *Guidance for Burrowing Owl Conservation*. **"lead agencies do not consistently require sufficient or effective habitat mitigation for immediate or cumulative impacts to burrowing owls."**

2. Up to three Burrowing Owls have been documented on Newport Banning Ranch during the winter months, with sightings from all of the upland mesa areas. It is unusual for the Coastal Commission to completely discount the importance of recent, verified sightings of rare species occupying areas of their required habitat. All of these areas should be preserved because they are the required habitat of the Burrowing Owl and have been shown to be occupied.
3. The survey data are far from extensive, consisting of a few surveys per year, and only during certain years. Most parts of the project site cannot be effectively surveyed by members of the public from nearby public lands. Burrowing Owls occupy burrows, and can be missed when they fly from those burrows to forage at night, and it is known that project biologists failed to detect a Burrowing Owl known to be present during at least one winter. During January 2014, Dudek conducted focused surveys and documented only one owl, on the southern mesa.¹ During the same month a different Burrowing Owl, which was wintering in the northerly area proposed as owl ESHA, **was recorded eleven times.**² This clearly demonstrates the unreliability of the project biologists' survey results.
4. The surveys from 2008 to 2014 were conducted by Glenn Lukos Associates, Bon-Terra, and Dudek. As explained on Pages 1–7 of this letter, these consulting firms have not earned the public's trust in terms of reliably identifying sensitive biological resources on Newport Banning Ranch.

An overwhelming body of evidence leads to the conclusion that Burrowing Owls are highly sensitive to loss, degradation, and fragmentation of occupied habitat, and cannot persist in small habitat fragments surrounded by development. Areas of open habitat extensive enough to support wintering Burrowing Owls are exceptionally rare in the coastal zone. These areas need to be preserved to give this species a legitimate opportunity to persist as a winter resident in the coastal zone. The evidence indicates that wintering Burrowing Owls regularly use all of the suitable habitat on Newport Banning Ranch, for roosting and/or foraging. For these reasons, it is my opinion, and that of the Banning Ranch Conservancy, that the entire grassland/vernal pool ecosystem warrants designation as ESHA essential to the Burrowing Owl's persistence on the site.

¹ Dudek. 2014. Focused Non-Breeding Season Burrowing Owl Surveys, Newport Banning Ranch Project, Orange County, California. Report dated March 7, 2014, prepared for Newport Banning Ranch, LLC.

² Cindy Black. 2014. Email message to Amber Dobson, Andrew Willis, and Karl Schwing of CCC staff dated May 23, 2014. Subject: Burrowing Owl-Newport Banning Ranch.

SIMILARITY OF NBR TO MORE MESA

The grasslands of Newport Banning Ranch mesa bear a striking similarity to those found on More Mesa, located on the coast of southern Santa Barbara County:



Figure 12. The grasslands of Newport Banning Ranch are comparable to those at More Mesa, shown here. Most of More Mesa has been designated as an ESHA since 1993, even though the non-native grasslands and associated riparian habitats at More Mesa lack the federally listed species found at Newport Banning Ranch. Source: More Mesa Preservation Coalition.

It is the rarity of short-grass coastal mesas across southern California, and the importance of these habitats to many declining plant and wildlife species, that make these landscapes biologically valuable. In addition to providing a functional matrix for dozens of biologically rich vernal pools, the annual grasslands at Newport Banning Ranch support such sensitive birds as White-tailed Kites, Northern Harriers, and Loggerhead Shrikes, in addition to the Burrowing Owls discussed previously. These grasslands also support large flocks of common wintering birds, such as Western Meadowlarks and American Pipits, which are increasingly difficult to find in large numbers anywhere along the southern California coast due to widespread development of all types of grassland. For these additional reasons, we believe that all of the grassland/vernal pool habitat on Newport Banning Ranch warrants designation as ESHA.

FAILURE TO IDENTIFY CACTUS WREN ESHA

As discussed in the staff report, the resident population of Cactus Wrens on Newport Banning Ranch appears to have peaked in 1994, when LSA Associates recorded 14 pairs on the site. Total numbers of birds recorded on the site declined during surveys conducted during the 2000s. The species has not been recorded on the site since 2009, and now appears likely to be extirpated from the area, but it is relevant that the applicant

has made no apparent effort to determine the Cactus Wren's status on the project site, or to determine the potential reason(s) for its decline on the site. In recent years, the only way to infer that the species has probably vanished from the site is that Cactus Wrens have not appeared on the list of species observed during focused surveys for the California Gnatcatcher^{3,4}. The applicant's most recent biological consultant, Dudek, has not mentioned the Cactus Wren in their gnatcatcher reports, or any efforts that may have been made to ascertain the wren's current status on the site. Figure 13, below, shows the large areas of Newport Banning Ranch that were occupied by Cactus Wrens until recent years:



Figure 13. Compilation of documented Cactus Wren use areas, 1992–2009.

³ Dudek. 2014. Focused California Gnatcatcher Survey, Newport Banning Ranch Project, Orange County, California. Report dated August 27, 2014, prepared for unspecified client; addressed to U.S. Fish & Wildlife Service, Carlsbad, CA.

⁴ Dudek. 2015. Focused California Gnatcatcher Survey, Newport Banning Ranch Project, Orange County, California. Report dated June 19, 2015, prepared for unspecified client; addressed to U.S. Fish & Wildlife Service, Carlsbad, CA.

Although the reasons for the Cactus Wren's decline on the site cannot be known, it is known that extensive unpermitted mowing of native scrub vegetation took place on Newport Banning Ranch during the past decades, including within documented Cactus Wren nesting territories.

In a letter dated May 18, 2012, enforcement officer Andrew Willis notified the West Newport Oil Company that vegetation removal had been occurring at Newport Banning Ranch in apparent violation of the Coastal Act. The impacts were not addressed under either a valid coastal development permit or the explicitly limited Resolution of Exemption (No. E-7-27-73-144) from 1973. Mr. Willis further observed that:

1. no application for vested rights to expand oil operations or to mow extensive areas of vegetation on the property, as required in Section 30608 of the Coastal Act, has ever been applied for by the land owner or the oil operator;
2. mowing of the property includes various areas outside of the mapped area of oil operations contained in the 2011 DEIR for the proposed Newport Banning Ranch project at ; and
3. the DEIR mapped oil operations as occurring in areas that the Commission determined to be ESHA.

In a letter dated January 31, 2014, Mr. Willis detailed numerous occasions upon which the Commission notified the oil operator that various oil operations impacting the site's plant communities and wildlife were not covered under either a valid coastal development permit or the 1973 Resolution of Exemption. Page 14 of the letter stated:

As evidenced by the permitting and enforcement history of the site, it has always been the Commission's intent to require coastal development permits for additional wells and other development not specifically covered by the Exemption [of 1973].

On August 19, 2014, Executive Director Charles Lester issued to West Newport Oil Company and Newport Banning Ranch LLC an 11-page Notification of Intent to Commence Cease and Desist Order and Restoration Order Proceedings and Notification of Intent to Record a Notice of Violation. On Page 2 of this document, Dr. Lester stated:

Based upon the information that staff has reviewed to date, it has become abundantly clear to staff that a number of sensitive and native plant communities and wildlife species thrive on the properties. Accordingly, the potential that development activities on the site, particularly unpermitted development activities, could have impacted and could be continuing to impact sensitive habitats and species, including ecologically significant vegetation, became more salient.

Dr. Lester and Mr. Willis demonstrated that, over a period of decades, the owners of Newport Banning Ranch undertook various forms of development and removal of major vegetation, actions not authorized under the Coastal Act or any valid form of exemption. Ultimately, in 2015, the Commission issued Consent Cease and Desist No. CCC-15-CD-01 and Consent Restoration Order No. CCC-15-RO-01 to address drilling and operation of new wells; removal of major vegetation, in part through the mowing of extensive portions of the site; grading; installation of pads and wells; construction of

structures, roads and pipelines; placement of solid material; discharge or disposal of dredged material or liquid waste; removing, mining, or extraction of material; and change in intensity of use of the land that had occurred on the site.

Figures 14–17, below, show some of the unpermitted habitat destruction that has taken place in recent years.



Figures 14 and 15, above, show the same patch of Coastal Prickly-Pear before and after clearing. Source: Banning Ranch Conservancy.



Figures 16 and 17, above, show the same patch of California Encelia scrub before and after clearing. Source: Banning Ranch Conservancy.

As documented by the U.S. Fish & Wildlife Service (USFWS), between 1992 and 2012 the area of coastal sage scrub on Newport Banning Ranch decreased from approximately 59.41 to 52.10 acres, a difference of 7.31 acres.⁵ Page 2 of the USFWS letter expresses

⁵ U.S. Fish & Wildlife Service. 2014. Letter from G. Mendel Stewart, Field Supervisor, to Michael Mohler, Newport Banning Ranch, LLC, and Tom McClosky, West Newport Oil Company. Subject: Oil Field Operations and Maintenance, Newport Banning Ranch, City of Newport Beach, California.

concern "that the past activities on the site may have resulted in take of [California] gnatcatcher through habitat modification." Coastal sage scrub is also utilized by Cactus Wrens and, as shown in Figures 13 and 14, some of the coastal sage scrub vegetation removed from the site included mature cactus.

Another relevant consideration is that, within two miles of Newport Banning Ranch, Cactus Wrens have been successfully translocated from North Irvine to Upper Newport Bay⁶. According to the Birds of North America species account, "The persistence and successful breeding of Cactus Wrens at Upper Newport Bay demonstrate that translocation may be helpful in managing wren populations in a fragmented landscape."⁷ To allow for the possibility of future translocations of this regionally imperiled species, it is important to maintain all cactus scrub historically occupied by Cactus Wrens at Newport Banning Ranch and elsewhere in the region.

For all of these reasons, the Banning Ranch Conservancy does not support staff's decision to not identify ESHA for areas documented to support nesting Cactus Wrens in recent years. Although it is understood that most of the areas in question qualify as ESHA under other valid rationales, we consider it a bad precedent to reward the applicant for having systematically destroyed the required habitat of the Cactus Wren through years of unpermitted mowing of the property.

PROPOSED DISPOSITION OF ESHA

Numerous sensitive natural resources have persisted on Newport Banning Ranch despite decades of oil operations and abusive land-management practices, presumably because the scale of the natural landscape has remained large relative to the scale of the permanent, human-related impacts. Many of these resources rise to the level of ESHA.

The proposed project would involve an almost inconceivable 3,544,000 cubic yards of grading. Residential and Commercial development would involve construction of 1,375 residential units; 75,000 square feet of commercial use; four acres of retail; six acres of resort; and 17 acres of roads. There can be no doubt that populations of many species would be eliminated or greatly reduced due to the combination of massive grading, construction of roads and buildings, infusions of thousands of people, cars, pets, irrigated exotic landscaping, night-lighting, etc. No amount of restoration of the remainder of the property could make up for the ecological devastation that would accompany implementation of the project, as proposed.

⁶ Kamada, D. 2008. Final Report: Cactus Wren *Campylorhynchus brunneicapillus* 2007 telemetry study and the 2007 monitoring results of the 2006 Cactus Wren translocation study in Orange County, California. Report dated February 2008 prepared for CDFG and the Nature Reserve of Orange County, Irvine.

⁷ Hamilton, R. A., Proudfoot, G. A., Sherry, D. A., and Johnson, S. 2011. Cactus Wren *Campylorhynchus brunneicapillus* species account in The Birds of North America Online [A. Poole, ed.]. Cornell Lab of Ornithology, Ithaca, NY.

Page 22 of the staff report describes the project's proposed Habitat Conservation and Conceptual Mitigation Plan (HCCMP):

Most of the impacts to the site would be a result of the proposed remediation plan (RAP) and the mass grading to prepare the site for the housing development. The applicant is proposing compensatory mitigation in another location for most of these impacts, as opposed to restored in place. The plan for the mitigation is the Habitat Conservation and Conceptual Mitigation Plan (HCCMP). The HCCMP presents a program for the onsite compensatory mitigation that is designed to mitigate the biological impacts caused as a result of the proposed project. The HCCMP was prepared as a mitigation proposal and assumes that the underlying impacts to the sensitive resources would be approvable under the Coastal Act.

The applicant invokes the putative power of the HCCMP to counteract all of the proposed project's adverse effects, but this approach is fundamentally inconsistent with the Coastal Act. Restoration of the habitats remaining around the edges of the new settlements could never fully offset these radical changes to the existing landscape. The natural communities in this area would not be able to continue functioning at the levels they currently do. Fortunately, the Coastal Act does not allow for the destroy-and-mitigate approach to ESHA proposed by the applicant.

REQUIREMENT TO AVOID ESHA

The California Fourth Court of Appeals has twice affirmed that Section 30240 of the Coastal Act does not provide for any impacts to ESHA, regardless of whether mitigation is provided in a different location (*Sierra Club v. California Coastal Com.* [1993] 12 Cal.App.4th 602, 611 (*Pygmy Forest*); *Bolsa Chica Land Trust v. Superior Court* [1999] 71 Cal. App.4th 493, 507). The published opinion in the latter case addressed this point directly:

... the language of section 30240 does not permit a process by which the habitat values of an ESHA can be isolated and then recreated in another location. Rather, a literal reading of the statute protects the area of an ESHA from uses which threaten the habitat values which exist in the ESHA. Importantly, while the obvious goal of section 30240 is to protect habitat values, the express terms of the statute do not provide that protection by treating those values as intangibles which can be moved from place to place to suit the needs of development. Rather, the terms of the statute protect habitat values by placing strict limits on the uses which may occur in an ESHA and by carefully controlling the manner uses in the area around the ESHA are developed.

Impacts to ESHA *may* be authorized under Section 30007.5 of the Coastal Act, known as the "balancing provision." Balancing may be invoked only in specific situations where ESHA policy conflicts with other resource protection policies of the Coastal Act. In such circumstances, the Commission is required to resolve any conflict between different policies of the Coastal Act in a manner which, on balance, is the most protective of significant coastal resources. In this case, the main purpose of the proposed project is to bring a massive residential, commercial, and resort development to Banning Ranch. Any putative benefits to sensitive coastal resources (e.g., from implementing the HCCMP or from increasing human access to coastal resources) would clearly represent

by-products of this primary project objective. No policy of the Coastal Act encourages building this type of oversized, highly destructive project within a largely natural area known to support numerous sensitive coastal resources. Thus no "conflict" among Coastal Act policies exists that would enable the applicant to raise the balancing provision in the first place.

SUMMARY AND CONCLUSION

Dr. Engel and the entire staff of the Coastal Commission have prepared a remarkably cogent and complete analysis of this very large and complicated project. The Banning Ranch Conservancy supports the vast majority of staff's analyses and recommendations. The areas where we recommend additional consideration may be summarized briefly as follows:

1. Vegetation at the southern terminus of proposed Bluff Road should be reassessed by the staff ecologist, mapped as native scrub, and designated as ESHA.
2. Designation of ESHA for the Burrowing Owl, a California Species of Special Concern found on the project site, should reflect this raptor's requirement for expansive open spaces, and the documented, regular occurrence of wintering owls not only on the northern mesa but also on the southern mesa.
3. We believe that the entire grassland/pool matrix at Newport Banning Ranch warrants designation as ESHA, a finding that would be consistent with the Coastal Commission's treatment of More Mesa in Santa Barbara County.
4. The applicant has never actually demonstrated, through focused surveys, that Cactus Wrens have been extirpated from the project site during the past few years. What has been demonstrated, by the USFWS, is that the applicant illegally removed more than seven acres of coastal sage scrub from the site between 1992 and 2012. By not identifying ESHA for areas that have been occupied by resident Cactus Wrens (and that could still be occupied), the Coastal Commission would send an unfortunate message that unpermitted removal of habitat can result in a reduction in the area of ESHA designated on a given site. Furthermore, since translocation of Cactus Wrens has proven to be successful in Newport Beach, Newport Banning Ranch could be a good candidate for such efforts in the future.
5. The project's strategy of destroying large areas of ESHA and then mitigating through implementation of a Habitat Conservation and Conceptual Mitigation Plan (HCCMP) is fundamentally inconsistent with the Coastal Act.
6. The applicant can be expected to argue that impacts to various ESHA should be authorized under Section 30007.5 of the Coastal Act, but no conflict among Coastal Act policies exists that would enable the applicant to raise the balancing provision in the first place. This is because no policy of the Coastal Act encour-

ages building this type of oversized, highly destructive project within a largely natural area known to support numerous sensitive coastal resources.

On behalf of the Banning Ranch Conservancy, thank you for your time in consideration. If you have questions, please send e-mail to robb@hamiltonbiological.com or call me at (562) 477-2181.

Sincerely,



Robert A. Hamilton
President, Hamilton Biological, Inc.
<http://hamiltonbiological.com>

attachment: USFWS. 2014. Letter to Newport Banning Ranch and West Newport Oil.

cc: Dr. Charles Lester, CCC
Dr. John Dixon, CCC
Dr. Jonna Engel, CCC
Dr. Laurie Koteen, CCC
Karl Schwing, CCC
Lisa Haage, CCC
Alex Helperin, CCC
Chuck Posner, CCC
Liliana Roman, CCC
Sherilyn Sarb, CCC
Amber Dobson, CCC
Christine Medak, USFWS
Kevin Hupf, CDFW
Steve Ray, Banning Ranch Conservancy
Dr. Terry Welsh, Banning Ranch Conservancy



United States Department of the Interior

FISH AND WILDLIFE SERVICE

Ecological Services
Carlsbad Fish and Wildlife Office
2177 Salk Avenue, Suite 250
Carlsbad, California 92008



In Reply Refer To:
FWS-OR-09BQ158-12TA0393

OCT 09 2014

Michael Mohler
Newport Banning Ranch, LLC
1300 Quail Street, Suite 100
Newport Beach, California 92660

Tom McClosky
West Newport Oil Company
1080 West 17th Street
Costa Mesa, California 92627

Subject: Oil Field Operations and Maintenance, Newport Banning Ranch, City of Newport Beach, California

Dear Mr. Mohler and Mr. McClosky:

By letter received March 11, 2013, you requested that the U.S. Fish and Wildlife Service (Service) review proposed activities related to ongoing oil field operations and maintenance within 385 acres of the Newport Banning Ranch property in the City of Newport Beach, Orange County, California (Enclosed), relative to compliance of those activities with the Endangered Species Act of 1973 (87 Stat. 884, as amended; 16 U.S.C. 1531 *et seq.*) (ESA). Federally listed species known to occur within the property include the threatened coastal California gnatcatcher (*Polioptila californica californica*, gnatcatcher), endangered San Diego fairy shrimp (*Branchinecta sandiegonensis*, SDFS), and endangered least Bell's vireo (*Vireo bellii pusillus*, vireo).

Section 9 of the ESA and associated regulations prohibit the take¹ of endangered and threatened species without special exemption. The Migratory Bird Treaty Act prohibits killing or injuring adults and destroying active nests. Our review of oilfield operations and maintenance activities on the site indicate that, over time, there appears to have been a reduction in habitat for the gnatcatcher and a reduction in the number of gnatcatcher territories. A total of 20 territories were documented in 1993 when the gnatcatcher was listed whereas only 10 territories were observed in 2013, and 8 territories were observed in 2014. We estimate gnatcatcher breeding habitat

¹ Take is defined as to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, collect, or to attempt to engage in any such conduct. Harm is further defined by the Fish and Wildlife Service to include significant habitat modification or degradation that results in death or injury to listed species by significantly impairing essential behavior patterns, including breeding, feeding, or sheltering.

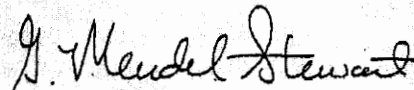
(coastal sage scrub) has declined by 7.31 acres, from 59.41 acres in 1992 to 52.10 acres in 2012². Regular disturbance to vegetation from mowing has also increased the extent of invasive and ornamental vegetation and decreased available foraging habitat for the gnatcatcher.

Accordingly, we are concerned that the past activities on the site may have resulted in take of gnatcatcher through habitat modification. We would like to resolve these past compliance issues with you. In addition, we would like to discuss the components of the maintenance plan that was prepared, by West Newport Oil Company (WNOC) and Newport Banning Ranch LLC (NBRLLC) in coordination with the Service, to describe ongoing activities and to accomplish the following objectives:

- Restore and maintain vegetation so that the habitat quality for the gnatcatcher is equivalent to or greater than it was in 1993, when the gnatcatcher was federally listed as threatened;
- Maintain habitat quality for the vireo and SDFS; and
- Incorporate measures to avoid impacts to gnatcatcher, vireo, and SDFS.

In summary, we appreciate the efforts of WNOC and NBRLLC to coordinate with our agency to ensure regulatory compliance with the ESA and Migratory Bird Treaty Act. At this time, we recommend that mowing be restricted to those areas with active oil operations or that are necessary to maintain health and human safety. Please contact Assistant Field Supervisor Karen Goebel by telephone or email (760-431-9440, extension 296; Karen_Goebel@fws.gov) to arrange a meeting to discuss these issues further.

Sincerely,



G. Mendel Stewart
Field Supervisor

cc:

Resident Agent-in-Charge, USFWS Office of Law Enforcement, Torrance

² Dudek Associates documented a total of 52.10 acres of scrub (minimum of 30 percent shrub cover) in 2012 and determined there was 58.62 acres of scrub (minimum 25 percent shrub cover) in 1992 based on vegetation mapping completed by LSA. The Carlsbad Fish and Wildlife Office GIS staff reviewed the information and determined that a portion of the 1992 map was not included in Dudek's analysis; therefore, 59.41 acres of scrub was mapped in 1992. Scrub vegetation was reduced by approximately 7.31 acres between 1992 and 2012.

Hermosa Beach Office
Phone: (310) 798-2400
Fax: (310) 798-2402

San Diego Office
Phone: (858) 999-0070
Phone: (619) 940-4522



Michelle Black
Email Address:
mnb@cbcearthlaw.com

Direct Phone:
310-798-2400 Ext. 5

W9b – Requesting Denial

October 5, 2015

Honorable Commissioners
California Coastal Commission
Headquarters Office
45 Fremont Street
Suite 2000
San Francisco, CA 94105-2219

California Coastal Commission
South Coast District Office
c/o Ms. Amber Dobson
Ms. Teresa Henry
200 Oceangate, 10th Floor
Long Beach, CA 90802-4416

Via Email Amber.Dobson@coastal.ca.gov
Teresa.Henry@coastal.ca.gov

Re: Application No. 5-13-032, Item W9b
 Application of Newport Banning Ranch, LLC

Dear Honorable Commissioners:

We submit these comments on behalf of the Quality of Life Residents Coalition in support of staff's recommendation to **deny** Application NO. 5-13-032, the Banning Ranch Project. (Staff Report pp. 1, 5.) The Quality of Life Residents Coalition consists of residents of Newport Beach, Costa Mesa, and Huntington Beach who are concerned about the proposed development at Banning Ranch. The Banning Ranch Project proposes to construct 1,375 residences, 75,000 square feet of commercial use, 4 acres of retail, a 75-room hotel, 8-10 bed hostel, and 6 acres of resort uses.

First, we are concerned about the Project's treatment of environmentally sensitive habitat areas (ESHA) on the Project site. Commission ecologists have identified "a significant portion" of the site as ESHA. (Staff Report p. 35.) The Coastal Act does not

permit uses in ESHA unless they are “resource-dependent.” (Pub. Resources Code § 30240 (a).) Residential, commercial, and tourism uses are not resource dependent for purposes of the Coastal Act and are therefore not permitted in areas designated as ESHA.

Second, the Coastal Act requires that development adjacent to ESHAs “be sited and designed to prevent impacts which would significantly degrade those areas, and... be compatible with the continuance of those habitat and recreation areas.” (Pub. Resources Code § 30240 (b).) However, the Project commercial and residential development would directly affect 158 acres of Banning Ranch, including significant and permanent impacts to over 31 acres of ESHA. (Staff Report p. 37, See Exhibit 13.) Oilfield abandonment and remediation activities would adversely affect an additional 21 acres of ESHA. (*Ibid.*)

Instead of avoiding ESHA, as required by the Coastal Act, the Project proposes to rely on mitigation of impacts to ESHA. California courts have found this practice unlawful. In *Bolsa Chica Land Trust v. Superior Court*, the justices held:

[T]he language of section 30240 does not permit a process by which the habitat values of an ESHA can be isolated and then recreated in another location. Rather, a literal reading of the statute protects the area of an ESHA from uses which threaten the habitat values which exist in the ESHA. Importantly, while the obvious goal of section 30240 is to protect habitat values, the express terms of the statute do not provide that protection by treating those values as intangibles which can be moved from place to place to suit the needs of development. Rather, the terms of the statute protect habitat values by placing strict limits on the uses which may occur in an ESHA and by carefully controlling the manner uses in the area around the ESHA are developed.

(*Bolsa Chica Land Trust v. Superior Court* (1999) 71 Cal.App.4th 493, 507, citations omitted.) ESHA located in the path of a proposed development cannot be moved; it must be preserved. As proposed, the Project violates the Coastal Act.

As recognized in the thoroughly researched and detailed staff report, the Project, as proposed, would violate no fewer than nine provisions of the California Coastal Act. These provisions include, but are not limited to:

- Pub. Resources Code § 30240, prohibiting the non-resource dependent uses in ESHA and requiring Project siting that would avoid degradation of ESHA. (Staff Report pp. 28-48.)
- Pub. Resources Code § 30233, requiring protection of wetland and vernal pool habitats. The Project’s location of the proposed water quality basin in the

Banning Ranch lowlands and its destruction of vernal pools by filling them is inconsistent with Coastal Act. (Staff Report pp. 48-51, 57.)

- Pub. Resources Code § 30231, requiring sufficient buffers between development and wetlands and maintenance of surface water flows that sustain wetlands. (Staff Report pp. 48- 51, 57.)
- Pub. Resources Code § 30253, requiring the siting of the Project to minimize risks to life and property and prohibiting the use of devices that would alter or destroy natural landforms. The Project requires over 3 million cubic yards of grading to drastically alter landforms and flatten Banning Ranch for residential and commercial construction. Arroyos and vernal pools would be filled. (Staff Report pp. 57-59.)
- Pub. Resources Code § 30210, requiring maximum access to areas of the coastal zone, but not at the expense of overuse or destruction of natural resources. (Staff Report pp. 61-64.); and
- Pub. Resources Code § 30251, requiring developments to be sited to protect views to and along the ocean and scenic coastal areas and to minimize the alteration of natural land forms. Again, the Project proposes over 3 million cubic yards of grading and the filling of arroyos and unique landforms onsite. Views to and from the natural bluffs will be forever altered. (Staff Report pp. 67-69.)

The Staff Report also states the Application did not contain sufficient information for staff to determine the Project's compliance with several additional sections of the Coastal Act, including:

- Public Resources Code § 30252, concerning the enhancement of public access through increased transit, adequate parking, and other measures. (Staff Report pp. 5, 80.)
- Public Resources Code § 30213, concerning the provision of Lower cost visitor and recreational facilities. (Staff Report pp. 5, 80.); and
- Public Resources Code § 30250, concerning limiting development in currently undeveloped areas. (Staff Report pp. 5, 80.)

While the Quality of Life Residents Coalition urges the Commission to deny the Project for inconsistency with the Coastal Act, we note that the Commission's approval of a Project that staff has found to clearly violate numerous provisions of the Coastal Act could subject the Commission and California's taxpayers to substantial legal liability.

October 5, 2015

Page 4 of 4

Again, the Quality of Life Residents Coalition supports staff's recommendation to deny Application 5-13-032, the Banning Ranch Project, for the reasons set forth in the staff report. The Project violates sections 30240, 30233, 30231, 30253, 30210, and 30251 of the Coastal Act, due to its adverse impacts on topography, biological resources including wetlands and vernal pools, and adverse visual impacts through mass grading. Thank you for your consideration of these comments. We look forward to Wednesday's hearing on the matter.

Sincerely,

A handwritten signature in blue ink, appearing to read "Michelle N. Black", with a stylized flourish at the end.

Michelle N. Black

RECEIVED

SEP 22 2015

CALIFORNIA
COASTAL COMMISSION

1893 Parkview Circle
Costa Mesa, CA 92627-4536
Phone: (949) 642-2841
email: mamalili@pacbell.net

RECEIVED
South Coast Region

SEP 25 2015

CALIFORNIA
COASTAL COMMISSION

September 19, 2015

California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105

Re: Banning Ranch proposed development project

Dear Honorable Chair Kinsey, Commissioners and Staff,

My husband and I own our home on Parkview Circle, Costa Mesa, one of the locations singled out in the Banning Ranch development project EIR as particularly affected by the adverse impacts of the proposed project. If this project is approved as proposed, my home and all my neighbors' will be rendered uninhabitable by toxic dust and other emissions from the project site for at least 10 years, and probably longer. Ours is a long-established neighborhood. This project would make our million-dollar homes worthless, and where would we go?

Please don't approve this project unless it is very greatly modified to protect public health and safety. Please don't drive us from our homes, and don't let development dollars overwhelm your concern for the public whom you serve, and your own sense of decency.

Sincerely yours,



Eleanor Egan

RCD 9/30

DEAR MEMBERS OF THE CALIFORNIA COSTAL COMMISSION SEPT 18, 2015

There is a saying "Nature does not need people to exist, but people need nature".

That being said, the residents of the Costa Mesa Bluffs would like to remind you, our fellow Californians that some of the very last coastal open spaces in our state are rapidly vanishing. One such area is a parcel known as Banning Ranch. From above the bluff, we look over this huge green open space that leads over to the Pacific Coast. We love this area and so does nature. Every day we can see wild life thriving all around that area. At night we hear frogs and owls and then silence. This isn't just a piece of land, it's a habitat. The local wild life depends on this area to survive. Who are we to just mindlessly bulldoze it over and build more high density dwellings we simply don't need.

We can think of MANY good reasons why you should oppose the development of this very sensitive ecosystem, but we cannot think of ONE good reason why you should allow it to be destroyed. The following are just a few of the reasons to consider as we ask you to please help us preserve this very special place.

1. The noise pollution and excessive Dust especially from the proposed 13 years of project implementation would adversely impact the Costa Mesa Bluff Residents and may create a health risk for many of us, as the winds blow from the Pacific Ocean up the bluff right into our homes.
2. Our Interests under section 30001 of the California Coastal Act of 1976 have not been addressed and protected.
3. The project will create a new source of substantial light and/or glare which would adversely affect day and nighttime views in the area. This sky glow will change the quality of life for the Costa Mesa Bluff residents AND the sensitive habitat in surrounding areas known as the Talbert Preserve which is the home of rare species of birds.
4. Visual analysis and aesthetics for the Costa Mesa Bluff residents have not been adequately considered and addressed.
5. The project will degrade the visual character and quality of the surrounding site which includes the Costa Mesa Bluff area.

6. Governor Jerry Brown asks us to conserve water, yet the water sources for proposed projects like this have not been properly addressed.
7. The project would be in conflict with other existing regulations, plans, local coastal programs, ordinances and environmental regulations.
8. Traffic will be even worse for those of us who use Pacific Coast Highway to get to and from work.

This letter notifies you, the Coastal Commission that the following residents of Costa Mesa Bluff listed below are opposed to this project. We thank you for your time on this VERY important issue and ask that you carefully consider the long term impact to our coast line. Thank you.

NAME AND SIGNATURE	ADDRESS	DATE
1 MARCIE ROBINOWITZ <i>Marcie Robinowitz</i>	1140 GLEN EAGLES COSTA MESA 92627	9/19/15
2 TIM ROBINOWITZ <i>Tim Robinowitz</i>	1140 GLEN EAGLES COSTA MESA 92627	9-19-15
3 WILLIAM W. LOWE <i>William W. Lowe</i>	1151 GLEN EAGLES TERR. <i>1151 GLEN EAGLES TERR.</i> COSTA MESA 92627	
4 LEA LOWE <i>Lea Lowe</i>	1151 GLEN EAGLES TERRACE CM 92627	
5 Marilyn Douglass	1149 Sea Bluff Dr. Costa Mesa, CA 92627	9/19/15
6 Sharon Newcomb SHARON NEWCOMB	1094 GLEN CIRCLE COSTA MESA, Ca 92627	
7 <i>Elinore Fidyke</i> ELINORE FIDYKE	1132 Don Elyse COSTA MESA, 92627	

NAME and SIGNATURE

ADDRESS

DATE

8. Nancy Duntun Nancy Duntun 1136 Glenegles Terr. 9/19/15
9. Virginia McCull 1111 Aviemore Terr. C.M. Ca. 9/20/15
10. Howard R Woodworth 1111 AVIEMORE TERRACE C.M. 92627
11. Patrick M Kelly 2091 VALLEY Rd CM. 92627
12. AVERY T. HARRISON 2087 VALLEY ROAD CM. 92627
13. LISA O'BRIEN 1831 ORANGE AVE. COSTA MESA 92627
14. M/Mc Hall 1147 C) M. 92627 7756725
15. Edith P. H. 1285 GLENHEAVES TERRACE 9/22/15
16. Judith Leroy 1190 GLENHEAVES TERRACE, Costa MESA 92627

NAME and SIGNATURE

ADDRESS

DATE

17 Bob Summers
2076 Valley Rd 92627

18 Maria Carcamo
2094 Balmoral place Costa Mesa CA
92627

19 Cobey Huish
2094 Balmoral place Costa Mesa CA
92627.

20 Linda Murray
1133 Glendale Terrace, Costa Mesa, Ca
92627

21 [Signature]
1133 Glendale Terrace, Costa Mesa, Ca
92627

21

12

3

4

NAME and SIGNATURE

ADDRESS

DATE

- 22 Karen Gill 1164 Gleneagles Terr 9/21/15
CM CA 92627
- 23 John Gill 1164 Gleneagles Terr.
COSTA MESA CA. 92627 9/21/15
- 24 CHRIS DYER 1164 GLENEAGLES TERR.
COSTA MESA, CA 92627 9/21/15
- (25) Karen Lorenz 1164 Gleneagles Terrace 9/21/15
Costa Mesa CA 92627
- 26 John Gill 1125 Gleneagles Terr
Costa Mesa, CA 92627 9/21/15
- 27 John Gill " " 9/21/15
- 28 Sam Bodin " " 9/21/15
- 29 DJP 1143 Aviemore Costa Mesa 9-22-15
- 30 Prika Kansridelle 1119 Aviemore Terrace CM 9.22.15

NAME and SIGNATURE

ADDRESS

DATE

- 31 Jeri Crow 1147 Aviemore C M 92627
- 32 Vanda Cowen 2086 Valley Rd. C.M. 92627
- 33 Gertie Cowan 2086 Valley Rd. C.M. 92627
- 34 Loane Cowen 2086 VALLEY R. Costa Mesa, Ca
- 35 Jeanne Kearing 2082 Valley Rd. Costa Mesa, Ca 92627
COSTA MESA
- 36 Beryl Kozlun 1151 AVIEMORE TERRACE 92627
- 37 Diana Kretzschmar 1151 Aviemore Terrace Costa Mesa CA. 92627



NAME and SIGNATURE

ADDRESS

DATE

- 38 MainPake 2095 Vally Rd. CM CA 9/22/15
- 39 GATE BOOK
- Gate Book 1185 Glen Eagles C.M. CA 9/22/15
Chris Steward
- 40 Chris Steward 1115 Ridgecrest C.M. CA 9/22/15
- 41 Paul BARRER 1186 GLEN EAGLES TERRACE, COSTA MESA CA 92627
PAUL BARRER
- 42 Chase Huante 1187 Glen Eagles C.M. CA 9-22-15
- 43 Yisel Meza 6232 Shields Dr, Huntington Beach 92647
- 44 LANCE HUANTE 1187 GLEN EAGLES TERRACE CM CA 92627
- 45 Madge Thomson 1174 Glenegles CM 92627
- 46 ARLY 1170 GLEN EAGLES TER CM 92627 9/22/15

NAME and SIGNATURE

ADDRESS

DATE

47 ELIZABETH ANN MISEL 1137 Gleneagles Ter. 9-22-15

Elizabeth Ann Misel

48 James E. Misel

James E. Misel

1137 Gleneagles Ter

9-22-15

49 Edward Karsidly 1119 Aviemore Terrace CM 9.22.15

50 David T. Buckley 2060 Meadow View Lane, 9-22-15

51 Robert W. Reeder 1131 Aviemore Ter CM CA 92627
9-22-15

52 Donna Stokling 1139 Aviemore Terrace CM-92627
9/22/15

53 Don H. H. 1159 Aviemore Terrace CM 92627

54 Beth Craig 2062 Valley Rd CM, CA 92627

55 GARY CRAIG 2062 VALLEY RD CM CA 92627

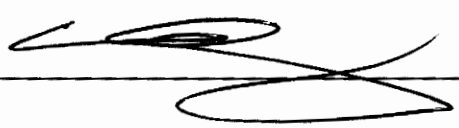
56 Barbara McCas 1163 Aviemore Ter, Costa Mesa 92627

NAME and SIGNATURE

ADDRESS

DATE

57



1167 ~~Admiral~~ Terrace CM 92627

9/22/15

58

ERMINIE ZAPPA

1175 GREEN FAULES TER.
COSTA MESA 9/22/15

59

DUANNE
DUANE CAO

2066 Valley road
Costa Mesa CA 92627

60

Mitchell J Grody

1143 Glenavale Terrace
COSTA MESA CA 92627 9/22/15

NAME and SIGNATURE

ADDRESS

DATE

- 61 Betty Bennett Betty Bennett 1123 Aviemore Ter. CM 9/23/15
- 62 Kyle Woodworth Kyle Woodworth 1111 Aviemore Terrace, CM 9/23/15
- 63 MELISSA SHAVER M.D. Shaver 2052 VALLEY RD ^{CM 92627} 9/26/15
- 64 GARY HANDOVA ~~Handova~~ 2052 VALLEY ROAD ^{CM 92627} 9/26/15
- 65 Denise Moon 2212 Continental Ave CM 92627 9/26/15
- 66 Michael Moon 2212 Continental Ave CM 92627 9/26/15
- 67 Richard Nowels 27835 TAMARA DRIVE ^{YORBA LINDACA} 2539 Santa Catalina # ⁹²⁸⁸⁷ 9/26/15
- 68 MICHAEL MOON ^{CM 92626}

Dear Honorable Chair Kinsey, Commissioners and Staff,

The Banning Ranch Conservancy, its volunteers and supporters, and thousands of residents of the densely packed communities surrounding Banning Ranch, share grave concerns about the impacts of the proposed development of the Banning Ranch site. Far too many of these impacts exceed regulatory standards and are designated "significant and unavoidable" in the Newport Banning Ranch Environmental Impact Report.

The Conservancy joins the larger community of volunteers, supporters and residents in requesting your attention to the following concerns (partial list):

- Banning Ranch is the only remaining large unprotected coastal open space in Orange County. When it's gone, it's gone forever.
- 2.5 million cubic yards of soil will be excavated and stockpiled to prepare the land for development, destroying the environment and exposing the public to unknown levels of contaminants.
- ONGOING RECORD DROUGHT: the Project's water demands will place a significant burden on our scarce water supply, increasing water cuts and rate hikes.
- TRAFFIC: 15,000+ more car trips on our roads, daily! Expect double and triple commutes, gridlocked intersections.
- POLLUTION: Air pollution from construction and traffic will exceed state standards.
- POLLUTION: Noise from construction and traffic will double allowable noise thresholds.
- POLLUTION: Greenhouse gas emissions will contribute considerably to the Greenhouse Gas Inventory, accelerating global climate change and rising sea levels.

Despite the severity of these impacts, the Newport Beach City Council approved the Project in July of 2012, resorting to a "Statement of Overriding Considerations" to rationalize away the "significant and unavoidable" impacts cited throughout the EIR. These impacts will put the health and safety of the public at great risk—and will result in the destruction of the Ranch's rare and finite natural resources.

The public and the environment should not be treated as collateral damage to the proposed development. Please hear our concerns and please preserve our precious California coastline. We're counting on you!

Name: Linda + Charles Mendenhall

Email: _____

Street Address: 8 Goodwill Court

City, State: Newport Beach, CA

Zip/Postal Code: 92663

RECEIVED
South Coast Region

SEP 28 2015

CALIFORNIA
COASTAL COMMISSION

Dobson, Amber@Coastal

From: Carrol Wolf <seeawolf@hotmail.com>
Sent: Sunday, September 27, 2015 11:28 AM
To: Dobson, Amber@Coastal; chrissullivanart@gmail.com
Subject: Banning Ranch Newport Beach and Costa Mesa

September 27, 2015

To whom it Concerns and the California Coastal Commission:

California has been my home for nearly 70 years. During that time many changes have occurred: some good, some bad.

It is my belief is that the Coastal Commission was formed to protect our state and keep it a beautiful place for residents and visitors alike and to allow equal access to its natural resources for all, not just a privileged few.

A potential project is being proposed. It would take the Banning Ranch open space in Newport Beach and Costa Mesa and turn it into a mega development with over 1000 homes, a hotel and 75,000 square feet of commercial space. The Coastal Commission should strongly reject this plan. The impact on our already severe coastal traffic would be disastrous. But also this project would give a "chosen few" who could afford the housing, hotel and shops the benefit, while eliminating a very beautiful natural resource that currently can be enjoyed by all.

My training was at USC. I spent my career as an architect licensed in California and also held my NCARB national certification. Therefore I spent many hours in planning classes. So my concern comes from a certain educated basis.

So here are the basic reasons that I feel this project should be rejected:

Project would limit access to a natural coastal resource that currently both residents and visitors can enjoy.

Project would draw a severe increase in traffic, with its associated gridlock, accidents, and frustration for both drivers and the already stretched law enforcement agencies.

When a group that sets itself up as: "protector of the environment for all to enjoy" it has a duty to think of future generations as well as the current population. California will continue to attract residents and visitors because of its unique beauty. The USA has the national park system because of the far thinking of one of our Presidents. Let us be as wise here in our beautiful state.

Thank you for your many hours in attempting to keep California the place that we love.

Sincerely,
Carrol Ann Wolf
Retired architect

RECEIVED
South Coast Region

SEP 29 2015

California Coastal Commission
45 Fremont Street,
Suite 2000
San Francisco, CA 94105

CALIFORNIA
COASTAL COMMISSION

RECEIVED

SEP 28 2015

CALIFORNIA
COASTAL COMMISSION

September 23, 2015

RE: Banning Ranch Proposal, Newport Beach
Meeting of Wednesday, October 7 2015,
Agenda Item 9b: Application No. 5-13-032 (Newport Banning Ranch, LLC, Newport Beach)

Honorable Commissioners:

I am a private citizen who has lived in Newport Beach since 1969.

I'm writing to you today to plead with you to deny the above application.

There is so little natural space left in our community, the outright destruction of this last bit of wildlife habitat would be a devastating tragedy.

Additionally, its noise, pollution, traffic and overcrowding would diminish our quality of life.

We citizens voted overwhelmingly for the General Plan back in 2006, which states in the Land Use Element "Prioritize the acquisition of Banning Ranch as an open space amenity for the community and region ----".

We wanted the area to be maintained as a natural preserve for the abundant and endangered wildlife currently living there and as a natural park for future generations to enjoy.

Instead, this huge, unwanted and unnecessary development has been crammed down our throats.

Now you are our only hope.

Please deny the above Application not only for the good of the City of Newport Beach but also for the memory of what our glorious coast used to be, and even more for the Gnatcatchers, the Coastal Cactus Wrens, the Burrowing Owls, the Vernal Pools of San Diego Fairy Shrimp and for all the other wildlife, endangered or not, who call Banning Ranch their home.

Sincerely,

Carl Mumm

319 Cedar Street

Newport Beach, CA 92663

949-642-0031

Dobson, Amber@Coastal

From: Dave Wilson <seadavemar@gmail.com>
Sent: Saturday, September 26, 2015 10:41 AM
To: Dobson, Amber@Coastal
Subject: Please don't destroy banning ranch

I live in the area now and it is so peaceful. So many animals live here many of them are endangered.

Every morning i walk through the beautiful now protected lands and it is so special to have a place like this in Orange County. You can go on a ten minute walk in the morning and see dozens of animals, hear the birds chirping, and really be surrounded by nature. We have houses shops and hotels all over the place. How many places do we have like this?

Please protect this beautiful peaceful place. Protect the animals that will not have homes anymore. Protect this small area where we can get away from the congestion of Orange County and step into nature.

Please don't do something that can't be undone. When you walk along the trails there are signs that tell you about the endangered animals living there.

It would be a shame for money hungry developers to turn this into a hotel and homes.

It's not for the good of the people of this city or the animals that don't have a voice.

The only people that benefit are the developers walking away with money.

Please do the right thing.

Thank you,
Dave Wilson
seabird ct
Jewport beach ca 92663

September 27, 2015

Re: Banning Ranch, Newport Beach and Costa Mesa

To the California Coastal Commission:

I have lived in California for 65 years and in the Newport Beach area for 42 of those years. Open space in this area has severely disappeared due to housing and commercial developments. Traffic has increased to severe levels.

I believe that the Coastal Commission was formed to protect the natural resources of our state and to preserve them for residents, visitors and future generations to enjoy.

Regarding the Banning Ranch open space in Newport Beach and Costa Mesa, the California Coastal Commission should strongly reject the plan to turn it into a mega development with over 1,000 homes, a hotel, and 75,000 square feet of commercial space. This entire property should remain open space.

I feel that this project should be rejected for the following reasons:

1. Access to a natural resource would be limited that currently all residents and visitors can enjoy. Only those wealthy enough to afford the housing, hotel, and shops would benefit.
2. The impact on our already severe coastal traffic would be horrible! There would be increased gridlock, accidents, and frustration for drivers that can often result in more accidents. Law enforcement and paramedic agencies will be stretched even further.
3. We all need to think about protecting the natural resources and unique beauty of this great state for future generations as well as our current population and visitors. In the Newport Beach area, so much coastal habitat has already been lost or severely impacted by development. We must hang on to what we have left!

Thank you for all that you do to preserve our treasured natural resources of California.

Most sincerely,

Christine Sullivan

Professor Emeritus, Coast Community College District



*Sea &
Sage Audubon*

P.O. BOX 5447, IRVINE, CA 92616-5447

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OCT - 2 2015

CALIFORNIA
COASTAL COMMISSION

August 1, 2015

Amber Dobson
California Coastal Commission
South Coast Area Office
200 Oceangate, Suite 1000
Long Beach, CA 90802-4302

RE: Response to Staff Report Newport Banning Ranch W9b Application No. 5-13-032

Dear Ms. Dobson,

We are writing to provide comments to the Staff Report for the Newport Banning Ranch, LLC (NBR) Application no. 5-13-032. Sea and Sage Audubon Society is a local Orange County chapter of the National Audubon Society dedicated to the protection and enjoyment of birds and their habitats. After reviewing the Staff Report carefully, we agree with the staff recommendation to deny the project.

Our primary interest with the nearly 400 acre Banning Ranch property is its unique and diverse wildlife, especially, but not limited to its rare and endangered birds and their special habitats. We also are concerned about the protection of other unique habitats, such as the numerous vernal pools, native grasslands, threatened coastal sage scrub habitats and the crucial salt marsh habitats.

Staff Report Summary

We find the summary of the Staff Report to be detailed and thoughtful, and appropriately describes the reasons why staff correctly recommends to deny the application. Banning Ranch contains an extraordinary number of diverse and interconnected Environmentally Sensitive Habitat Areas (ESHA). The unusual diversity of rare plants and animals on such a relatively small property is unmatched along our coast. Due to the number of ESHA on the property, and buffers needed for these ESHA to meet the requirements of the Coastal Act, controversy over past destruction of habitats and still some missing data on sensitive habitats in the proposal, there is no other choice than to deny to application.

ESHA

Section 30240 of the Coastal Act requires that projects avoid direct impacts and adjacent impacts to ESHA. Given the widespread nature of ESHA habitats on the property we find it virtually impossible to imagine how the proposed development plan could meet the requirements of the Coastal Act to protect ESHA.

One of the unique qualities of Banning Ranch is that these existing habitats function well with very little management or intervention. This is in part due to the fact that despite years of ongoing oil operations, human disturbance is relatively low. Additionally, it is very likely that the ecosystem as a whole is dependent upon the health of each of the individual habitats.

We feel that disturbing, fragmenting and/or encroaching upon any of the individual ESHAs and adjacent habitats would irreparably damage the entire system. When viewing the entire suite of ESHA and other special areas identified and mapped in the report (exhibit 1), it is clearly demonstrated that protection of entire property is necessary to protect its many individual ESHAs and special resources.

Exhibit 1. ESHA and Special Habitat Map taken from 2015 CCC Staff Report

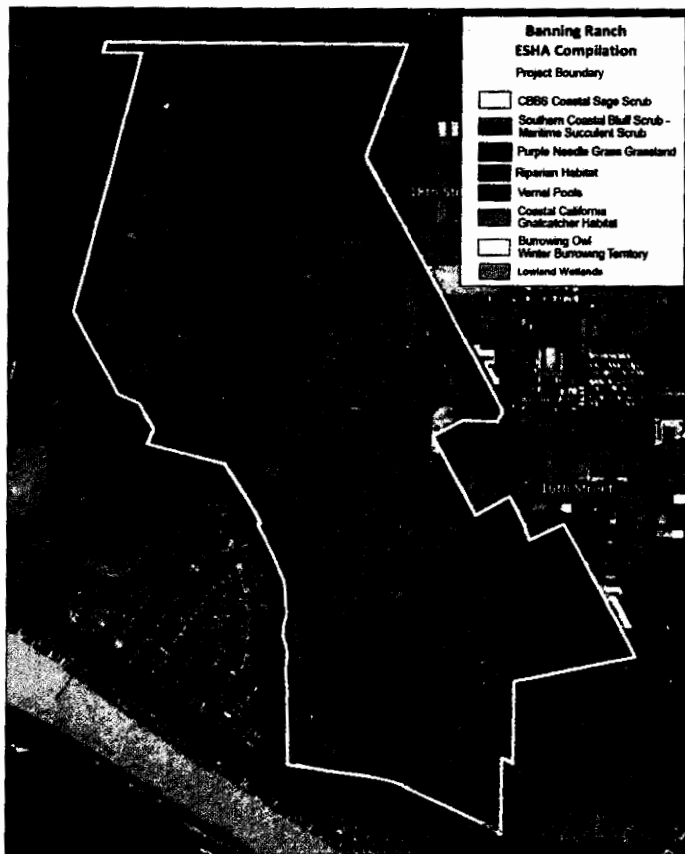


Figure 50. Banning Ranch ESHA and Wetland Boundaries.



For Illustrative Purposes Only. Source: Dudek, ESRI.

5-13-032 Exhibit 20

Page 1 of 1

03/15/15

Vernal Pools

Vernal pools can loosely be described as seasonal bodies of water, typically filled during rain events, which are hydrologically disconnected from other sources of water. But to be productive and support rare and special wildlife, such as fairy shrimp, many other factors must be present. The soil has to be somewhat non-porous. Soil PH and other chemical properties must be very specific and stable to support certain species, such as the federally endangered San Diego fairy shrimp found in some pools at Banning Ranch. Temperatures, longevity, and turbidity are also critical. The location of a vernal pool in relation to other natural features (and sometimes manmade features) plays an important role. Flow of sediments and pollutants and the soil composition from adjacent area, especially above a pool can determine its success.

Given the complicated criteria for a successful vernal pool and the fact that despite all these factors vernal pools on Banning Ranch still persist, they should be considered very sensitive and not candidates for removal or relocation.

Since vernal pools in the coastal zone are so important, it is inconceivable that this application is being forwarded lacking detailed information about the location and ecology of all the pools on the property. With information missing, there is no sure way to understand the total impacts of the project.

Mitigation of vernal pools through the creation of alternate pools for the loss of existing pools should not be considered because it does not meet the standards of the Coastal Act. Considering their rarity, all vernal pools on the Banning Ranch should be protected from disturbance, including human activity, outright destruction, and from disturbance of surrounding habitats that may cause direct or indirect impacts.

Rare, Threatened, and Endangered Birds

California Gnatcatcher

Banning Ranch is home to a surprising large number of rare, special, threatened and endangered bird species. Federally listed California Gnatcatchers are a significantly important resource at Banning Ranch. Their persistence, despite a good deal of habitat removal in recent years, is owed in no small part to the remaining, premier and diverse coastal sage scrub habitats.

To assure long-term survival of California Gnatcatchers on Banning Ranch and the chance to restore ESHA for both gnatcatchers and cactus wrens their habitats at Banning Ranch should not be further disturbed, reduced or cut up and detached from one another. Studies have long shown that a property as small as 400 acres is a challenge for the long-term success of CSS habitats. The only way to guarantee that these special species and others such as Least Bells' Vireos remain an integral of the Banning Ranch ecosystem is to fully protect all their habitats, ESHA and otherwise as well as adjacent habitats.

Coastal Cactus Wrens

Coastal Cactus Wrens, an increasingly rare species in Orange County, had been documented on Banning Ranch. Reduced CSS as well as factors such as drought may have contributed to the reduction, however focused surveys and analysis would be beneficial to assess whether any individuals remain or if targeted restoration would be appropriate. We feel CCC should take the necessary steps to protect or repopulate Coastal Cactus Wrens at Banning Ranch.

Neo-tropical Migrants

Many of the ESHA at Banning Ranch support neo-tropical migrant species such as warblers. Neo-tropical migrant birds travel thousands of miles to breed in northern latitudes including southern California, especially in our riparian and associated habitats. Although not all of these birds are special status species, they all should be considered important resources. Development of portions of Banning Ranch will reduce available habitats. Although eco-restoration is an important tool in protecting birds, along the Orange County coast and at Banning Ranch there simply is not enough open space to balance permanent impacts of development through restoration. We request that CCC do everything possible to protect these resources.

Burrowing Owls and White-Tailed Kites

Wintering Burrowing Owls are dependent upon habitats like those found at Banning Ranch, as proven by their frequent wintering use of the property by Burrow Owls. Typically, wintering grounds in Orange County are rare and usually limited to coastal areas such as Newport Bay, Bolsa Chica, Costa Mesa and Banning Ranch. While we understand there may be reluctance to designate the habitats of rare and threatened wintering birds as ESHA, we would like to stress that wintering grounds for Burrowing Owls, a Species of Special Concern, is equally as important as the breeding grounds. For the long term survival of any migrant species, both the breeding grounds and wintering grounds are critical. We feel that in this regard the Staff Report is incorrect and that Burrowing Owl habitat is critically important and should be considered ESHA with and receive all of its associated protections.

Unsubstantiated, but likely accurate reports persist of Burrowing Owls attempting to breed in Orange County coastal areas, including nearby Banning Ranch. The last attempt reported to Sea and Sage Audubon, which could not be confirmed due to the late reporting, was in 2012 of a pair nesting somewhere in the hills just north of Banning Ranch in Costa Mesa. Banning Ranch, if left undeveloped and isolated from disturbance, is a perfect candidate property for promoting breeding of Burrowing Owls.

Similarly, although recent surveys at Banning Ranch have not found White-tailed Kites (a Fully Protected Species) nesting at Banning Ranch, it has long been suspected they do nest there, at least in years of high rainfall. Like Burrowing Owls, White-tailed Kites are likely to use Banning Ranch in the future if adequate habitat remains.

In any case the habitats for kites and owls are important and should be considered special, as foraging grounds and wintering grounds for these species, even if they are not documented as current breeding grounds.

All Raptors

Banning Ranch is home to a good number of raptors in addition to Burrowing Owls and White-tailed Kites, all of which are protected and considered sensitive to some degree. Many rely on the habitats at Banning Ranch both for year-round foraging, roosting and nesting, and for wintering grounds. As with other areas, similar local habitats along the coast of Banning Ranch support a wide variety of both migrant and residential raptors. In some cases, such as Red-tailed Hawks and Coopers Hawks, both resident and migrant populations of the same species utilize the ranch habitats. They should be considered ESHA for both migrant and resident raptors.

Restoration of habitats for raptors on small properties is usually very successful when coupled with development and loss of some portion of the habitat. Unfortunately a common misconception is that

raptor habitat can be restored while simultaneously reducing available acreage. Obviously, foraging opportunities are reduced with housing and commercial development of habitats. However, in addition to the loss of destroyed habitat, restoration projects that largely target CSS habitats, result in reduced raptor foraging opportunities in the restoration areas as well.

In its current condition, raptors at Banning Ranch can utilize almost all of the available habitat, good and degraded. Development on any portion of Banning Ranch will reduce raptor foraging and nesting habitat no matter what type of restoration occurs.

Other Habitat Concerns

There are additional habitats on Banning Ranch that are very important, including the various salt marsh habitats. While the NBR application proposes to save almost all of the existing wetlands, the proposal fails to fully recognize that the health and longevity of marshes is tied to the health of the ecosystems surrounding it, including upland the bluffs and arroyos. The only way to ensure that the marshes at Banning Ranch remain as healthy as they are today, is to limit deleterious impacts on the habitats that surround them. Adequate ESHA buffers and consideration for direct and indirect impacts on all habitats as a whole is critical at Banning Ranch.

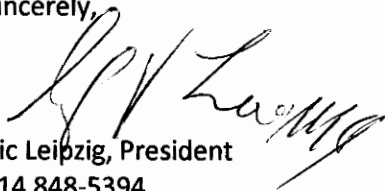
The application calls for filling portions of the arroyos, even though biological assessments of these features is incomplete. It is very likely that the arroyos contribute to the success and productivity of California Gnatcatchers, potentially Coastal Cactus Wrens, Burrowing Owls and most of the other raptors and conceivably even vernal pool success. They certainly are a component to the overall ecological health of the entire system. Again, given the close proximity of the individual ESHA already mapped, the interconnection of habitats, the need for coastal lowland wetlands to have healthy uplands, we feel the arroyos are of special importance and require CCC protection.

Conclusion

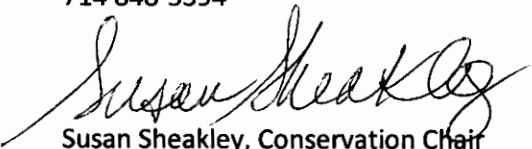
We have limited our response to ESHA and habitat related topics, although there are many other considerations such as archaeological resources, traffic concerns, and community support for open space which all support the staff recommendation to deny the application. We hope you will take all these factors into consideration.

Thank you and please feel free to contact us if you have any questions,

Sincerely,



Vic Leipzig, President
714 848-5394



Susan Sheakley, Conservation Chair
949 552-5974

Sea and Sage Audubon Society
Response to CCC Staff Report, Newport Banning Ranch



Scott Thomas, Raptor Research Chair
949 293-2915

Sea and Sage Audubon Society

cc Dr. Charles Lester, CCC
 Dr. John Dixon, CCC
 Dr. Jonna Engel, CCC
 Dr. Laurie Koteen, CCC
 Al Padilla, CCC
 Karl Schwing, CCC
 Lisa Haage, CCC
 Alex Helperin, CCC
 Chuck Posner, CCC
 Liliana Roman, CCC
 Sherilyn Sarb, CCC

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CALIFORNIA
COASTAL COMMISSION

RE: Item # W9b
Application Number: 5-13-032
Patrick T. Copps/Robin A. O'Connor
Position: Opposed to Project

September 26, 2015

Comment for California Coastal Commission Hearing Meeting: ITEM NO: W9b

My wife and I are in opposition to the proposed construction of a housing and mixed use development on the 401 acre site located on the Banning Ranch property.

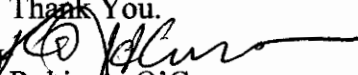
Based on our review of the information supplied by the developer and the Environmental Impact Report, there is certain to be severe environmental degradation caused by the construction of the proposed project. The destruction of scarce and valuable habitat for endangered species alone would be sufficient reason for the Coastal Commission to deny the Permit Application. However, the major strain that this project would place on existing infrastructure would lead to additional environmental degradation by taxing existing resources – particularly water as well as seriously impacting air quality.

We have an opportunity. Denying the Permit Application would preserve some of the last remaining coastal habitat for indigenous animals and plants in Southern California.

In addition, when the full impact is considered, there is no net benefit from this project for the residents of Orange County, or indeed to the State of California.

We urge you to do the right thing and deny this Permit Application.

Thank You.


Robin A. O'Connor
Patrick T. Copps

1049 Regatta Run
Costa Mesa, CA 92627

Log B2

FAX W
2 pgs

TO: STEVE KINSEY

PLEASE DISTRIBUTE TWO PAGES

TO ALL CCL COMMISSIONERS
AND STAFF

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SIERRA CLUB

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2

From: SANTA MONICA MOUNTAINS TASK FORCE
SIERRA CLUB, ANGELES CHAPTER

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TO: California Coastal Commission
San Francisco, CA

OCT 01 2015

CALIFORNIA
COASTAL COMMISSION

Re: Banning Ranch Proposal, Newport Beach

Dear Chairman Kinsey, Commissioners and Staff:

We ask that your CCC reject the proposed development at Banning Ranch...in its entirety. And please support your CCC staff report of rejection of this project. There analysis is extremely thorough and correct.

The project proposes destruction of environmentally sensitive habitat areas, threatens wildlife species, coastal wetlands and vernal pools--- that are all concerned irreplaceable by the Coastal Act.

The air pollution from the project construction and the long-term traffic loading will exceed state standards. the noise impacts from traffic and other sources from the coastal bluff will be double allowable noise thresholds and extend beyond the project site. The Water Supply Assessment Reports is outdated and flawed.

Banning Ranch in its entirety should be valued as the one remaining opportunity for a coastal public resource.

Sincerely,

Mary Ann Webster, Chair, Santa Monica Mountains Task Force
Angeles Chapter, Sierra Club

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California Coastal Commission

OCT 1 2015

9/27/2015

Long Beach, Ca.

CALIFORNIA
COASTAL COMMISSION

Agenda 9b

Application 5-13-032

Gerard Proccacino

OPPOSED

Greetings California Coastal Commission, Commissioners and Staff,

I am a proud 43 year resident home owner of Lido Sands, Newport Beach, Ca. Lido Sands is a cozy mid century community in West Newport Beach that lies along PCH directly in front of the devastatingly intrusive project of Banning Ranch. I want to share my thoughts of why I pray you do not approve the application of the Banning Ranch Development directly across from my home.

I want to refer to this intrusive project with it's residential and tens of thousands square feet of hotel and commercial, retail business district, as "The City of Banning Ranch" because this in fact is what is proposed. I went to "Newport Beach, California - Wikipedia" under paragraph "Demographics" I found, according to 2010 census and most likely greater today, "the average family size was 2.81". This times 1,375 permanent dwellings has the potential of a residential population of 3,864, greater then the city of Bishop, Ca. Then I went to, [http://www.california-demographics.com/cities by population](http://www.california-demographics.com/cities_by_population), which lists California cities by population, I believe 2010 also, Bishop has 3'841 residents, ranked number 698 in size on a list of 1360. The "City of Banning Ranch" could come in at 696 making it more populated then 664 Ca. cities listed. Add to this that the transit population of the hotel, business district and others using the boulevard artery will add thousands of people day and night. It will be a disaster.

To enter this "city" there is a proposed signaled boulevard intersection, 8 to 15% grade off the bluffs, on to PCH that will dump 15,000 combined cars, trucks, tractor trailers, motorcycles and buses onto PCH. This intersection is only 300 yards from the Superior, PCH massive intersection. Caltrans has shown displeasure with massive intersections this close together on PCH. The Coastal Commission

had denied this intersection and road to Newport Beach as an entrance to Sunset Ridge Park. The added air, noise, light and traffic grid lock pollution thrown upon the people in Lido Sands and West Newport Beach will be incomprehensible.

The existing sound wall along PCH, Lido Sands Drive measures 9' on the Lido Sands side and 8', a mere 2' higher than a residential property line wall, on the PCH side. Little known is that PCH is actually about 1 ½' higher than Lido Sands Drive. Therefore the wall effectiveness is only 8 feet.

Newport Beach is now building the ECHO 56 residential development. It derived its name from surfers naming that section of beach as Echo Beach. Folk lore has it that if you were at that section of the beach you could hear the waves echo off of the bluffs of Banning Ranch. I can hear the waves and traffic that way when I have my bedroom door open. I can also hear conversations of people on PCH, not over the wall but from the bluff echo. The noise and lights from stopping and starting vehicles will be unbearable. There is not much more disturbing than a revving motorcycle at 1:00 am, outside your bedroom window, waiting for a signal to change. PCH is arguably the most motorcycle desirable artery in California. Idling vehicles also produce more stationary air pollution

I am bringing all this up because I could not find anything in the EIR that addressed mitigation of these issues as previously mentioned. The pollution impacts are intensified with the bluffs resonance / echo. As I recall at the Newport Beach staff meeting a few years back this was considered as one of the "insignificant negative impact details" when approving the then DEIR. What a shame.

A few years ago property owners of West Newport Beach paid approx. \$10,000.00+ each to underground ugly utility poles, overhead transformers and wires. The tax payers of Newport Beach paid for the "traffic calming" along River Ave., less than 300' from PCH. The proposed "city" will destroy all that with unbearable traffic and ugly, bare steel poles with ugly black light boxes hanging from them. Please, do not allow this to happen.

Newport Beach has long been a sacred calm get away to enjoy its superb amenities. The construction of this "city" will destroy the

quality of life of Lido Sands, West Newport, all of Newport Beach and its bordering cities.

Banning Ranch is arguably the last, unmolested, God given, ocean view property in Orange County, maybe all of S. California, certainly Newport Beach.

If developers had a way they would figure out how to build boulevards and buildings on top of the ocean surface, scary.

Now is the chance to say no. No more cars, no more pollution, no more disturbance of nature and her habitants, no more human grid lock, no more destruction of peoples quality of life. You are the people that must say no.

I sincerely ask you to honor the decision of your professional staff and deny the building of this "city"

Thank you so very much for your consideration.

I apologize for the variation of type font and size. I'm a bit computer challenged when it comes to copy and paste.

Respectfully,

A handwritten signature in black ink, appearing to read 'Gerard Proccacino', with a large, stylized loop at the end.

Gerard Proccacino

Newport Beach, Ca

WHITTIER AREA AUDUBON

PO Box 548, Whittier, CA 90608-0548

www.whittieraudubon.org

To Educate and Protect



October 2, 2015

California Coastal Commission
South Coast District
200 Oceangate
Long Beach, CA 90902-4325

re: Agenda Item W9b, Newport Banning Ranch

Dear Coastal Commission,

The Whittier Area Audubon Society urges you to adopt the recommendation of your staff and deny the application by the Newport Banning Ranch, LLC, for development on the ranch property. The housing and mixed-use development proposed for the property would have a significant unmitigated impact on sensitive habitat and endangered and threatened species that are utilizing the area.

The 401 acres of the Newport Banning Ranch make up part of the very little open space with native habitat along our coast, and are part of the wildlife corridor that can connect the mountain areas to the coast along the Santa Ana River. As such, it is important to many species of wildlife, including several species of threatened and endangered birds.

As your ecologist, Jonna Engle, points out in her report, there are several habitat types currently existing at the Newport Banning Property, supporting threatened and endangered species such as California Gnatcatcher, Burrowing Owl, Least Bell's Vireo, and Belding's Savannah Sparrow. The vernal pool areas also support the endangered San Diego Fairy Shrimp. These habitat areas would be impacted and/or destroyed by the removal, remediation, grading, and construction phases of the project. In

particular, the housing and resort development will cause destruction of much of the vernal pool area. It will also destroy some of the area used by Least Bell's Vireos and California Gnatcatchers. The proximity of the developed area to the remaining Vireo and Gnatcatcher habitat will likely have an additional impact on those sensitive species.

Although the developer states that 307 acres will remain as "open space", a significant portion of that amount will be dedicated to park and recreation areas, which will not support the threatened and endangered species. Also, it is not known how the increased use of the remaining native habitat areas on the proposed new trails and access points will affect the threatened and endangered species.

Please act to preserve this important area of coastal habitat.

Thank you.

Sincerely,

Joan Powell
Conservation Chair
Whittier Area Audubon Society
joan.powell@att.net



Fairview Park Preservation Alliance

September 24, 2015

California Coastal Commission
45 Fremont Street,
Suite 2000
San Francisco, CA 94105

RE: Banning Ranch Proposal, Newport Beach

Honorable Chair Kinsey, Commissioners and Staff:

The Fairview Park Preservation Alliance is a local organization that works to protect the natural resources found in Fairview Park, a city park on the west side of Costa Mesa and directly upstream from Banning Ranch. We believe there are numerous negative impacts associated with the proposed project of the Banning Ranch property in the City of Newport Beach. Some of these negative impacts are:

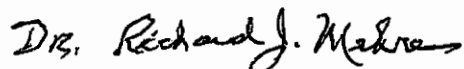
- Banning Ranch is the only remaining large unprotected coastal open space in Orange County. If it is developed, it is gone forever.
- 2.5 million cubic yards of soil are proposed to be excavated and stockpiled to prepare the land for development, destroying a unique coastal environment and exposing the public to unknown levels of oil field contaminants.
- The project proposes destruction of environmentally sensitive habitat areas, threatened wildlife species, coastal wetlands and vernal pools— that are all considered irreplaceable by the Coastal Act.
- The proposed project's water demands will place a significant burden on scarce water supplies, increasing groundwater withdrawals.
- Traffic and emissions will be significantly increased with 15,000+ additional vehicle daily trips on our roads that have not been upgraded for such congestion, with over 60% of that traffic going through Costa Mesa
- The noise impacts from traffic and other sources from the coastal bluff will be double allowable noise thresholds and extend beyond the project site.

Many of the above impacts exceed regulatory standards and are designated "significant and unavoidable" in the Newport Banning Ranch Environmental Impact Report.

Even though the Newport Beach's own General Plan states in its Land Use Element to "Prioritize the acquisition of Banning Ranch as an open space amenity for the community and region ----", and despite the number and severity of adverse impacts, the Newport Beach City Council approved the proposed Banning Ranch project in July of 2012, in spite of those impacts cited in their own EIR. These impacts could put the health and safety of the public at risk—and **will** result in the destruction of the rare and finite natural resources at this unique coastal location.

To conclude, FPPA urges the Commission to reject the proposed development at Banning Ranch. We do not believe that there is an overriding public benefit from development at this location, while the value of a preservation-focused use of the property would be extremely beneficial and popular to the surrounding communities and the region. This land is situated at the Pacific Ocean terminus of the Santa Ana River which has recently been recognized as a statewide resource through the formation of the Santa Ana River Conservancy. Through concerted action by the State's Coastal Commission and Coastal Conservancy along with all other parties of interest including the 17 agency Southern California Wetlands Recovery Project, the Banning Ranch, in its entirety, should be a protected resource in perpetuity. We ask you to reject this current project in its entirety.

Respectfully



Dr. Richard Mehren
President
Fairview Park Preservation Alliance

California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105
Via Email: amber.dobson@coastal.ca.gov

Honorable Chair Kinsey, Commissioners and Staff:

Subject: Application No.: 5-13-032. 2010 City of Newport Beach Water Supply Assessment and 2005 Urban Water Management Plan for Newport Banning Ranch Project

Summary

The Newport Banning Ranch (NBR) Water Supply Assessment (WSA) is based on the 'paper water' found in the City of Newport Beach's 2005 Urban Water Management Plan (UWMP). The WSA needs to be an evaluation of the city's real water supply and not simply a restatement of a plan that greatly underestimated it. The point of SB 610 and SB 220, also known as the "Show me the Water" laws, is to assure that there is enough surplus water to support large projects that may not be accounted for in the most recent water plan. This WSA does not meet that standard. The WSA did not account for the shortfall of historical water supply, reduced Santa Ana River flows, and the City's ongoing growth that, by 2010, the year the WSA was prepared, had already surpassed growth accounted for in the 2005 UWMP.

Our findings demonstrate that unless a new WSA is performed that identifies new sources of water, there is not enough city water supply to support the project.

The water is not real.

The Conservancy is submitting the attached report for your consideration, which we believe answers the questions of water supply availability for the project. In addition, we would like to speak to some of the legal concerns related to water supply issues.

A water supply assessment cannot rely on "paper water. The report must be based on the actual availability of water. After an in-depth review of the City's UWMP and the WSA for the proposed Newport Banning Ranch Project (project), it is apparent that this project cannot proceed because the WSA is insufficient and fails to demonstrate that water is actually available. The WSA does not comport with Coastal Act Section 30250 or with the California Environmental Quality Act (CEQA).

CEQA requires that "[w]henver a city or county determines that a project, as defined in Section 10912 of the water Code, is subject to this division, it shall comply with Part 2.10 (commencing with Section 10910) of Division 6 of the Water Code." (Cal. Pub. Resources Code Section 21151.9). Section 10910 of the Water Code contains specific requirements for preparation of a water supply assessment report: "The city or county...shall identify any water system that is, or may become as a result of supplying water to the project identified pursuant to this subdivision, a public water system, as defined in Section 10912, that may supply water for the project." (Cal. Water Code Section 10910(b)).

Importantly, the California Appellate Court has held that a water supply assessment report is insufficient if it relies on the provision of "paper water" and fails to assess the adequacy and availability of actual water. (*Santa Clarita Organization for Planning the Environment ("SCOPE") v. County of Los Angeles* (2007) 157 Cal. App. 4th 149, 159 ("...the future water supplies identified and analyzed must bear a likelihood of actually proving available; speculative sources and unrealistic allocations ('paper water') are insufficient bases for decision making under CEQA. [Citation.]").

The California Coastal Commission must comply with CEQA and all other laws and regulations applicable. Therefore, the WSA's improper reliance on paper water is a violation of CEQA, and the Commission cannot properly approve the development of the Project. The insufficiency of actual water also raises the question of whether the water supply for the Project is consistent with the groundwater protections of Coastal Act Section 30231, which requires preventing the depletion of groundwater.

Because the 2010 Water Supply Assessment is based on 'paper water' it fails to assure that there is enough surplus water to support a project as large as Newport Banning Ranch. As cited earlier, the WSA did not account for the shortfall of historical water supply, reduced Santa Ana River flows, and the City's ongoing growth that in 2010 had already surpassed growth accounted for in the 2005 Urban Water Management Plan.

Conclusion:

Simply stated, unless a new WSA is performed that identifies new sources of water, there is not enough city water supply to support the project.

The Banning Ranch Conservancy urges the Coastal Commission to scrutinize the project and its WSA to ensure compliance with Section 30250 and with CEQA requirements and, if such compliance is lacking, we urge the Commission to uphold the provisions of the Coastal Act by denying the project.

Steve Ray, Executive Director
Banning Ranch Conservancy



California Cultural Resource Preservation Alliance, Inc.

**P.O. Box 54132
Irvine, CA 92619-4132**

**An alliance of American Indian and scientific communities working for
the preservation of archaeological sites and other cultural resources.**

October 3, 2015

Honorable Commissioners
California Coastal Commission

Ms. Teresa Henry, District Manager
California Coastal Commission
200 Oceangate, Suite 1000
Long Beach, CA 90802-4416

Item No. W9b
Application No. 5-13-032
Newport Banning Ranch
Object and support staff
Recommendation of denial

Dear Honorable Commissioners:

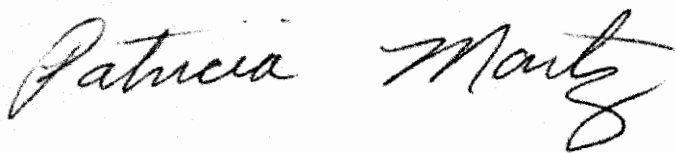
I regret that I will not be able to attend the hearing as I will be out of town. I am writing in support of staff's recommendation to deny the application for the development and proposed remediation. As indicated in the above letterhead, my main concern is for the archaeological resources that will be impacted if the application is approved. As I have indicated in previous letters, 11 archaeological sites were recorded in the project area. Today only three have escaped total destruction due to oil field development, CA-ORA-839, CA-ORA-844B, and CA-ORA-906. Archaeological and ethnographic data suggest that the sites are part of the extensive prehistoric settlement known as Genga. This settlement extended along the Santa Ana River from Costa Mesa to the mouth of the river. These sites have been determined eligible for listing on the National Register of Historic Places (NRHP) and the California Register of Historical resources (CRHR), and under AB 52 meet the criteria as Tribal Cultural Resources. In addition, as stated in the staff report there is the potential for the presence of buried archaeological resources that have not been discovered.

If this project is approved these sites will be destroyed by the development including ground disturbing activities associated with planned removal of oilfield-related infrastructures and other remedial efforts. It is estimated that 90 percent of coastal archaeological sites in Orange County have been destroyed due to development. In the past it was considered appropriate to mitigate significant archaeological sites through archaeological excavations. Archaeology as it is practiced today is a destructive process and the public gets no benefits from the archaeological excavations designed to retrieve scientific data prior to total destruction. More important, archaeological sites have cultural and religious values for Native American descendants and these values cannot be mitigated by archaeological excavations.

The three remaining sites are all that is left of an important prehistoric settlement that has cultural and religious values for Native American descendants and can provide important information to be retrieved by archaeologists in the future using non-destructive technology. This makes it all the more important that they be protected and preserved.

Given the losses of open space, and natural and cultural resources in coastal southern California, I add the cultural values to the natural values that are in need of protection at Banning Ranch and urge the Commission to reject the proposed development. A preservation-focused use of the property would be respectful to Native American descendants and extremely beneficial to the public and future generations.

Sincerely,

A handwritten signature in cursive script that reads "Patricia Martz". The signature is written in dark ink and is positioned above the typed name.

Patricia Martz, Ph.D.
President

Dobson, Amber@Coastal

From: Blythe Fair <blythefair@icloud.com>
Sent: Tuesday, September 29, 2015 11:47 PM
To: Dobson, Amber@Coastal
Subject: Banning Ranch

Follow Up Flag: Flag for follow up
Flag Status: Flagged

I pray the Coastal Commission sees open space is disappearing quickly.

We must protect natural, open spaces for generations to come.

Thank goodness people in positions such as yours, had the foresight to preserve State/National Parks & icons such as New York's Central Park .

Please protect & keep Banning Ranch am open space for generations to come that they may see what the wild brush, bunnies & butterflies are like in our area.

Sincerely,

Blythe Fair

456 Mendoza Terrace

Corona del Mar, CA 92625

Hermosa Beach Office
Phone: (310) 798-2400
Fax: (310) 798-2402

San Diego Office
Phone: (858) 999-0070
Phone: (619) 940-4522


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mnb@cbcearthlaw.com

Direct Phone:
310-798-2400 Ext. 5

W9b – Requesting Denial

October 2, 2015

Honorable Commissioners
California Coastal Commission
Headquarters Office
45 Fremont Street
Suite 2000
San Francisco, CA 94105-2219

California Coastal Commission
South Coast District Office
c/o Ms. Amber Dobson
Ms. Teresa Henry
200 Oceangate, 10th Floor
Long Beach, CA 90802-4416

Via Email Amber.Dobson@coastal.ca.gov
Teresa.Henry@coastal.ca.gov

Re: Application No. 5-13-032, Item W9b
Application of Newport Banning Ranch, LLC

Dear Honorable Commissioners:

We submit these comments on behalf of the Bolsa Chica Land Trust (BCLT) in support of staff's recommendation to **deny** Application NO. 5-13-032, the Banning Ranch Project. (Staff Report pp. 1, 5.) The mission of BCLT is to acquire, restore and preserve the entire 1,700 acres of the mesa, lowlands and wetlands of the Bolsa Chica ecosystem, and to educate the public about this natural treasure and its unique biological and Native American cultural resources.

The Banning Ranch Project proposes to construct 1,375 residences, 75,000 square feet of commercial use, 4 acres of retail, a 75-room hotel, 8-10 bed hostel, and 6 acres of resort uses. The Banning Ranch site "consists of 401 acres and is the largest and last remaining privately owned lands of its size along the coast in Southern California."

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CALIFORNIA
COASTAL COMMISSION

(Staff Report p. 1.) As recognized in the staff report, the Banning Ranch Project site shares important similarities with the Bolsa Chica area. Both the property known as Banning Ranch and the Bolsa Chica area contain upland and lowland habitats, coastal wetlands, and Coastal Commission-designated environmentally sensitive habitat areas (ESHA) that host rare, threatened, and endangered species. Both sites have also served as historic centers of Native American activity, resulting in the presence of culturally significant archaeological and paleontological artifacts onsite. Due to urban development pressures, like the Bolsa Chica area, the Banning Ranch property is one of the only remaining areas of open space and habitat remaining on the Orange County coast. Unfortunately, while much of the Bolsa Chica ecosystem has been preserved as the Bolsa Chica Ecological Reserve, no such permanent protections exist for the Banning Ranch ecosystem. This is important, considering that staff found, “[t]he presence of vernal pools at Banning Ranch adds a layer of diversity not even present at Bolsa Chica.” (Staff Report p. 3.)

BCLT supports staff’s recommendation to deny the amendment due to its inconsistencies with Coastal Act policies concerning biological resources and the protection of ESHA, potential impacts to archaeological and cultural resources, natural landforms, and the preservation of views. (Pub. Resources Code §§ 30240, 30233, 30231, 30253, 30210, 30251.) BCLT further supports staff’s determination that it is unable to determine the Project’s consistency with Coastal Act sections 30252, 30213, and 30250 given the Applicant’s failure to provide the Commission with sufficient information.

I. Only Preservation of the Property is Consistent with Coastal Act Requirements for Environmentally Sensitive Habitat Areas (ESHA).

Banning Ranch borders sensitive habitat and ecological reserves on both the north and west, and boasts “an incredibly unique array of sensitive coastal species and habitats, including nesting habitat for the threatened California gnatcatcher, a very rare vernal pool system, and one of the few remaining significant areas of native grassland in the coastal zone.” (Staff Report p. 3.) As part of the historic Santa Ana River wetlands complex, the site also hosts part of one of the few remaining wildlife corridors in Southern California used by terrestrial species and birds to travel between the mountains and ocean. (Staff Report p. 29.) Rare plant communities, and state and federally-listed bird species, including the California gnatcatcher, least Bell’s vireo, and coastal cactus wren are found onsite. (Staff Report pp. 29-31.) The site’s vernal pool complexes house federally-listed San Diego fairy shrimp. (Staff Report p. 44.) Notably, the site supports a rich seed bank. Once development ceases on the site, it is expected that the watershed, animals, and plants native to site will rebound without intervention. (*Ibid.*) The Commission’s

ecologists have identified "a significant portion" of the site as Environmentally Sensitive Habitat Area (ESHA). (Staff Report p. 35.)

Per the Coastal Act, only resource-dependent uses are permitted in ESHAs. (Pub. Resources Code § 30240 (a).) The Coastal Act requires that development adjacent to ESHAs "be sited and designed to prevent impacts which would significantly degrade those areas, and... be compatible with the continuance of those habitat and recreation areas." (Pub. Resources Code § 30240 (b).) This means that an applicant must avoid developing on an ESHA, as well as siting a project in a manner that indirectly affects ESHA through edge effects, noise, light intrusion, introducing invasive plant or animal species, removing adjacent lands that contribute to the importance of the ESHA (such as raptor foraging grounds), etc.

The Project's commercial and residential development would directly affect 158 acres of Banning Ranch, including significant and permanent impacts to over 31 acres of ESHA. (Staff Report p. 37, See Exhibit 13.) Oilfield abandonment and remediation activities would adversely affect an additional 21 acres of ESHA. (*Ibid.*) Oilfield remediation activities would require extensive grading and excavation to bare earth, in a 53-acre area known to contain sensitive biological resources, including nine acres of sensitive native vegetation. As noted by staff, neither residential, commercial, nor oil remediation activities are considered "resource-dependent" uses of ESHA, and their occurrence within ESHA violates section 30240. Many vernal pools would be impacted by remediation and development. (Staff Report p. 44.)

Unfortunately, the Applicant proposes to mitigate impacts to ESHA, as opposed to avoidance of the ESHA or restoration in place. This proposal violates California law. California courts have upheld the Coastal Act's protections for ESHAs. For example, ESHA in the way of a proposed development cannot be moved. It must be preserved instead. In *Bolsa Chica Land Trust v. Superior Court*, the justices held:

[T]he language of section 30240 does not permit a process by which the habitat values of an ESHA can be isolated and then recreated in another location. Rather, a literal reading of the statute protects the area of an ESHA from uses which threaten the habitat values which exist in the ESHA. Importantly, while the obvious goal of section 30240 is to protect habitat values, the express terms of the statute do not provide that protection by treating those values as intangibles which can be moved from place to place to suit the needs of development. Rather, the terms of the statute protect habitat values by placing strict limits on the uses which may occur in an ESHA and by carefully controlling the manner uses in the area around the ESHA are developed.

(*Bolsa Chica Land Trust v. Superior Court* (1999) 71 Cal.App.4th 493, 507, citations omitted.) Moreover, the deteriorating nature of ESHA cannot be considered with regard to Project placement. (*Id.* at 508.) Once ESHA has been determined by the Coastal Commission, it is entitled to the full protections of the Coastal Act. Put another way, degraded ESHA is still ESHA and must be respected. The Project must be redesigned to avoid adverse impacts to ESHA.

The Application proposes the introduction of a 2-lane road to serve the Banning Ranch development, which would include 1,375 residences, 75,000 square feet of commercial use, 4 acres of retail, a 75-room hotel, 8-10 bed hostel, and 6 acres of resort area. However, based on the intensity and density of the proposed uses, it is far more likely that a 4-lane road will ultimately be required by the City. The staff report already recognizes that a road cannot be built to serve the Project without adversely impacting ESHA in violation of the Coastal Act. A road twice as wide would have even greater adverse impacts and cannot be built.

Moreover, the Applicant has not yet provided the Army Corps of Engineers or the Regional Water Quality Control Board with sufficient information to delineate "waters of the U.S." as defined in the Clean Water Act. Thus, the U.S. Fish and Wildlife Service has not yet prepared the biological opinion that will identify critical habitat for the San Diego fairy shrimp, and vernal pools and watersheds present on the Banning Ranch property have not yet been delineated. (Staff Report p. 4.) Accordingly, approval of the Project at this time is premature and may result in violations of the Endangered Species Act and Clean Water Act. Additionally, the Commission's approval of the Project prior to the preparation of this key information would prevent the Commission from exercising its authority to prevent degradation of ESHA that may be determined through these processes, as well as its statutory obligations to protect wetlands and other important habitats.

The Banning Ranch site's environmental importance is even greater than is presented in the staff report. As described further in the comments submitted on October 1, 2015 by Hamilton Biological, the site contains very significant vernal pools and habitat for the rapidly diminishing coastal cactus wren and burrowing owl.

We agree with staff that the Project "would have significant adverse impacts upon terrestrial and vernal pool ESHA, including impacts to important/rare upland habitats and wildlife species that are an important part of the existing functioning ecosystem." (Staff Report p. 4.) As the Project clearly violates provisions of the Coastal Act designed to protect ESHA, water quality, wetlands, and vernal pools, the Project must be denied.

II. Archaeological and Cultural Resources Are Present Onsite and Require Enforceable Mitigation Conditions.

The Coastal Act provides strong protections for archaeological resources. (Pub. Resources Code § 30244.) Like Bolsa Chica, Banning Ranch “is also known to contain archaeological resources.” (Staff Report p. 4.) Eight prehistoric and three historic resources are recorded on the Project site. Of the 11 archaeological sites evaluated onsite, three, CA-ORA-839, CA-ORA-844B, and CA-ORA-906, were deemed eligible for listing in the California and National Registers of Historic Places as historical resources. (Staff Report p. 60.)

The staff report notes that the Applicant has attempted to plan around the potential for archaeological resources, but acknowledges the importance of multiple local projects (Brightwater at Bolsa Chica and Hellman Ranch in Seal Beach), where “the location of archeological resources was thought known...only to discover during grading just how highly inaccurate those estimates were.” (Staff Report p. 4.) In Bolsa Chica, the applicant and its consultants had determined through extensive preliminary site work that the Project would avoid significant archaeological resources. The subsequent discovery of human remains and other important cultural resources onsite resulted in years of disruption not only to the Project, but to the Native American community while it was determined how to proceed and how to care for the archaeological and paleontological resources unearthed onsite. Similar issues are likely at Banning Ranch, as “the project involves significant grading, there is a high likelihood of discovering additional resources that are currently unknown, especially since the test pits, to date, have been largely outside the proposed development footprint.” (Staff Report p. 60.)

BCLT appreciates the staff report’s emphasis on the preference of in-situ preservation of archaeological resources that may be located during Project grading or construction. BCLT agrees with staff that “Complete avoidance of resources during the abandonment and remediation activities is appropriate for the site and could be achieved through a proposal to cap known resources.” (Staff Report p. 60.) The Applicant’s proposal to excavate resources and donate them to the Cooper Center is “not most protective of the cultural resource and is not an appropriate response.” (*Ibid.*) This is especially true with regard to the Applicant’s failure to provide for capping of human burials found during grading. (Staff Report p. 60.) In order to avoid the controversy and disruption that occurred with the Brightwater project, the Project conditions must require preservation in-situ and the reconfiguration of the Project to avoid adverse impacts to archaeological resources.

The Brightwater controversy highlighted the importance of having Native American monitors present onsite during any Project grading activities or archaeological investigations. According to the staff report, "Native American tribes note that ancestors were often buried in coastal locations and much evidence exists to support this supposition." (Staff Report p. 59.) The Project conditions must require the Applicant to have monitors on site from all relevant Native American communities, as well as the presence of a paleontologist at all times.

BCLT agrees with staff regarding the need to impose strong and enforceable conditions to protect archaeological resources consistent with Coastal Act section 30244. Additionally, given the Applicant's failure to provide sufficient information in the application materials for staff to adequately assess the Project's potential archaeological impacts, BCLT urges the Commission to deny the Project. (Staff Report p. 61.)

III. Topography and Air Quality Concerns.

The Coastal Act requires that development shall be sited "to minimize the alteration of natural land forms." (Pub. Resources Code § 30251.) The Banning Ranch site is unique in that it consists of both an upper mesa and lowland fresh water marsh habitat connected by steep slopes and two major arroyos that cut across the property. (Staff Report p. 3.) In order to provide flat building pads for the development Project's 1,375 residences, commercial, and retail development, the Applicant proposes 3.54 million cubic yards of grading. The large amount of grading – and the impact of that grading – cannot be understated. For comparison purposes, remediation of the known soil contamination on the site would require the movement of only 271,000 cubic yards of soil. (Staff Report p. 2.) While 271,000 cubic yards is itself a large amount of soil movement, it pales in comparison to the 3.54 million cubic yards of grading and soil movement proposed. The resulting Banning Ranch site would have vastly different topography than is present now. The staff report recognizes, "The project would also result in significant landform alteration, in particular the grading and fill of the north-south arroyo." (Staff Report p. 4.) Clearly, the Project would not "minimize the alteration of natural land forms" as required by the Coastal Act.

The fill of Banning Ranch's north-south arroyo and other landform alteration through mass grading would also result in adverse visual impacts to and from the site, in violation of provisions in Coastal Act section 30251, pertaining to visual and scenic qualities. The mass grading and fill of natural drainages violates Coastal Act section 30231 providing for the maintenance of riparian habitats, minimization of the alteration of natural streams and watercourses, and the prevention of sedimentation and runoff that adversely impacts water quality.

In addition to the loss of the site's unique topography, the disturbance of millions of cubic yards of contaminated soils presents substantial air quality concerns for wildlife and for downwind residents. The movement of millions of cubic yards of contaminated dirt around the Project site would lead to contaminated fugitive dust. If this dust settles in uncontaminated portions of the property, the known contamination could spread, with greater impacts to ESHA and wildlife than have been disclosed to the Commission and the City thus far. As discussed in the Staff Report, both the Orange County Health Care Agency and the Regional Water Quality Control Board "continue to have significant questions about the" proposed Remedial Action Plan for the site, despite several years of communication about the plan. (Staff Report p. 2.) Thus, the remediation plan for the site's contamination will likely change significantly before it is approved, which will potentially increase the number of proposed clean-up locations and alter "the excavation depths of these areas, the amount of soil needing treatment or dispersal, and the scale of proposed soil treatment activities." (*Ibid.*) This may have already occurred. In a September 4, 2015 letter to the Applicant, which was also submitted to the Commission, the South Coast Air Quality Management District listed a figure of 362,000 cubic yards of soil remediation. This letter also expressed grave concerns with the potential health impacts of the proposed soil remediation and disturbance. Thus, at this point, the Project may violate Coastal Act section 30253, requiring consistency "with requirements imposed by an air pollution control district" to minimize adverse impacts.

Further air quality degradation would be caused by the thousands of diesel truck trips that would be required to move the soil to, from, and around the development site. Microscopic diesel particulate matter contains a host of toxic chemicals that are able to penetrate beyond human lungs and enter the bloodstream. Diesel particulate matter has been linked to a variety of long term and acute cardiopulmonary ailments, including increased risk of heart attack and death. The State of California considers diesel exhaust a toxic air contaminant and a probable human carcinogen. Children and the elderly are especially susceptible to harm caused by diesel exhaust. The impacts of prolonged exposure to diesel exhaust are likely far greater on smaller species, including threatened and endangered species that inhabit Banning Ranch. Thus, the impacts of diesel exhaust on the site's ESHA and sensitive wildlife presents another way in which the proposed Project violates of the Coastal Act.

Conclusion

Thank you for your consideration of these comments. BCLT supports staff's recommendation to deny Application 5-13-032, the Banning Ranch Project, for the reasons set forth in the staff report. As proposed, the Project violates sections 30240, 30233, 30231, 30253, 30210, and 30251 of the Coastal Act, due to its adverse impacts on topography, biological resources including wetlands and vernal pools, and adverse visual

California Coastal Commission
October 2, 2015
Page 8 of 8

impacts through mass grading. We agree with staff that the meager benefits promised by the Project "are entwined with substantial impacts to highly sensitive resources and permanent loss of a very rare and valuable ecosystem that cannot be replicated." (Staff Report p. 4.) BCLT also notes the Applicant's history of Coastal Act violations and unpermitted development at Banning Ranch. Based on the information before the Commission, only total preservation of the Banning Ranch parcel can satisfy both the ESHA/biological resources and cultural resource protections contained in the Coastal Act.

Sincerely,

A handwritten signature in black ink, appearing to read "Michelle N. Black", with a stylized flourish at the end.

Michelle N. Black, on behalf of
Bolsa Chica Land Trust

Dobson, Amber@Coastal

From: blush1996@aol.com
Sent: Thursday, October 01, 2015 8:48 AM
To: Dobson, Amber@Coastal; Schwing, Karl@Coastal
Subject: Evaluation of NBR Water Supply Assessment and CNB Urban Water Management Plan
Attachments: Cover Letter-Water Supply Assessment-Sf.docx; Evaluation of NBR Water Supply Assessment & CNB UWMP.pdf

Follow Up Flag: Flag for follow up
Flag Status: Flagged

Dear Amber and Karl,

The Banning Ranch Conservancy is submitting an evaluation of the project's 2010 Water Supply Assessment and the 2005 City's Urban Water Management Plan. We're also submitting a cover letter from the Conservancy that addresses the evaluation's conclusions and refers to some of the legal concerns associated with water supply issues. Both cover letter and evaluation are attached.

Thanks for your consideration of this submission for the Newport Banning Ranch Project, Application No.: 5-13-032.

Suzanne Forster

Evaluation of the Newport Banning Ranch WSA
& Newport Beach UWMP

David Coffin
www.droughtmath.com
9/27/15

7

Contents

Executive Summary	3
1. Projected Units	4
a) The City's UWMP accounts for only 1,039 new units while the proposed project has 1,375 units. 4	
b) The Housing Growth in the City exceeded growth accounted for in the City's UWMP.....	5
2. Population and GPCD	6
Actual available water supply fell dramatically between 2005 and 2010.	6
3. Supply Source Projections v. Actual Delivery	7
a) Merely citing the UWMP does not provide evidence of available water supply.....	7
b) Past City UWMP's haven't been Reliable Enough to Be Taken at Face Value.....	8
4. Dry Year Forecasts Point to Drought Recovery Flaw	9
WSA Exaggerated Dry Year forecasts point to drought recovery flaw	9
5. Santa Ana River Supply.....	10
Santa Ana River flows are substantially reduced.	10
Conclusion	11
Appendix	12

Executive Summary

The Newport Banning Ranch Water Supply Assessment is based on the 'paper water' found in the City's 2005 Urban Water Management Plan. NBR's WSA needs to be an evaluation of the city's real water supply and not simply restate a plan that greatly underestimated it. The point of SB 610 and SB 220, also known as the "Show me the Water Laws," is to assure that there is enough surplus water to support large projects that may not be accounted for in the most recent water plan. This WSA does not meet that standard. The WSA did not account for the shortfall of historical water supply, reduced Santa Ana River flows, and the City's ongoing growth that had already surpassed growth accounted for in the 2005 Urban Water Management Plan in 2010.

We find that unless a new WSA is performed that identifies new sources of water, then there is not enough city water supply to support the project.

- In Section 1
 - We find that the 2005 UWMP had projected growth for only 1,039 additional units between 2005 and 2030 and that the proposed 1,375 units for the Newport Banning Ranch project is well over that 336 units.
 - Compounding the problem, we also found that by 2010, the City of Newport grew by 6,056 units which was 5,017 units over the UWMP projections.
 - If we factor in seasonal and recreational housing, the number grows to 6,993 units.
 - **This unaccounted for increase in housing units reinforces why WSAs should evaluate all of the conditions that impact water supply and not limit it to a simple review of the past UWMP.**
- In Section 2
 - The WSA points to an increase of water supply from 17,820 Af/y to 19,792. The implication is that this surplus (an increase from 200 to 220 gallons per capita daily) is enough to meet the project's demand. However, we find that there is no surplus given the city's inability to access these projected demands. The increase in housing units and inability to meet supply targets has resulted in a decline to 164 gallons per capita daily.
- In Section 3
 - We find that all categories of the city's water supply sources of supply fell short of the UWMP's targets. This includes groundwater and imported water but not recycled water.
 - We also find that the city's UWMP has not been a reliable indicator of future water supply. Both 2000 and 2005 UWMPs stated the city had much more access to water than it really had.
 - We also found that the 2010 UWMP dropped its water supply projections by 21% which is perhaps why NBR choose to use the older 2005 UWMP with the paper water in it.
- In Section 4
 - We find that the WSA has exaggerated how much imported water is available to it during local droughts. We find that MWDOC has never been able to meet drought demands despite the WSA's claim the Metropolitan can meet this demand with 100% reliability.
- In Section 5
 - We confirmed earlier comments that there has been a 50% reduction of the Santa Ana River flows measured in cubic feet per second since 2007 by reviewing the stream data charts.

1. Projected Units

- a) The City's UWMP accounts for only 1,039 new units while the proposed project has 1,375 units.

The proposed project's 1,375 units exceeds the 1,039 residential units accounted for in the 2005 UWMP by 337 units (Figure 1).

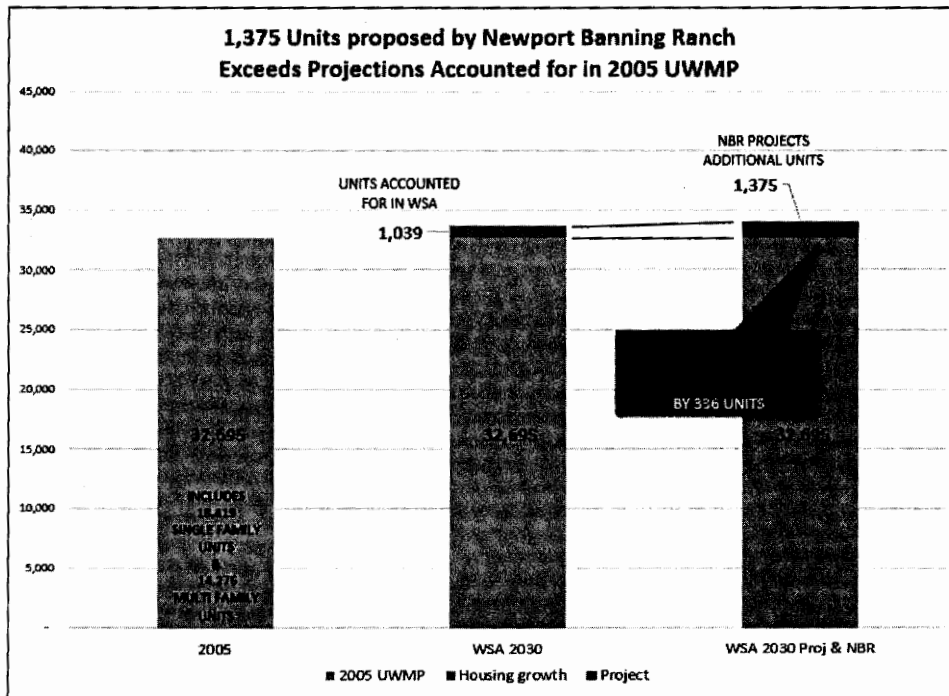


Figure 1 - Project Exceeds UWMP Projection

The City 2005 UWMP shows a net increase of 652 single family accounts, 136 multi-family accounts, and 101 commercial accounts.

To convert residential accounts to units, we need to add a 'density' multiplier of 2.828 to multi-family accounts. The density multiplier is based on the 2000 Census¹ for housing and provides for the average number of units per multi-family account.

Adjusting for density², the 5,048 multi-family accounts in 2005 shown in Figure 2 represents ~14,276 units. An increase of multi-family accounts to 5,184 in 2030 would represent an additional 387 units for a total of 14,663 units citywide. Single family accounts in 2005 represent 18,419 units. An increase in single family units in 2030 is 19,071 units. No density multiplier is needed for single family units and their increase during that period was projected for a total of 652 units.

In total, the UWMP projects an increase of 1,39 single family and multi-family units for a total of 33,734 units. (Figure 2)

The project proposed 1,375 units is 336 more units than is projected in the UWMP and the WSA does not cite where the additional water will come from.

¹ Newport Beach 2000 Census. Housing Tenure. <http://www.newportbeachca.gov/home/showdocument?id=4709>

² 14,663 housing units/5,184 accounts = 2.828 units per acct.

2005 UWMP								Units When Adjusted for Density		
HOUSING (Accounts)	2005	2010	2015	2020	2025	2030	Increase	2005	2030	net resid
single fam	18,419	18,588	18,747	18,909	19,071	19,071	652	18,419	19,071	652
multi-fam	5,048	5,052	5,096	5,140	5,184	5,184	136	14,276	14,663	387
comm	1,863	1,914	1,931	1,948	1,964	1,964	101	-	-	-
Total	25,330	25,554	25,774	25,997	26,219	26,219		32,695	33,734	1,039

Figure 2 – Table showing UWMP Projected Housing Units³

b) The Housing Growth in the City exceeded growth accounted for in the City's UWMP.

Planning departments and water agencies do not track or report the incremental increases in water demand for new housing that falls under the 500 unit CEQA threshold so there is no way to know if the incremental water demand has exceeded the projected growth found in the UWMP. To effectively evaluate the impacts a project will have on the city's water supply, a Water Supply Assessment should include this incremental demand.

As noted in the Section 1A above, the WSA reports that there was 23,467 single-family and multi-family 'accounts'. When density is factored in for multi-family accounts, we find there were 32,695 units in the city in 2005. The 2010⁴ U.S. Census reports that the city's total housing rose 38,751 for a net increase of 5,017 units. This increase of 5,017 units (See Figure 3) is not accounted for in the WSA and far outstrips the 1,039 units that was projected in the 2005 UWMP. Adding the NBR project to the unaccounted for units increases the total to 6,392 units.

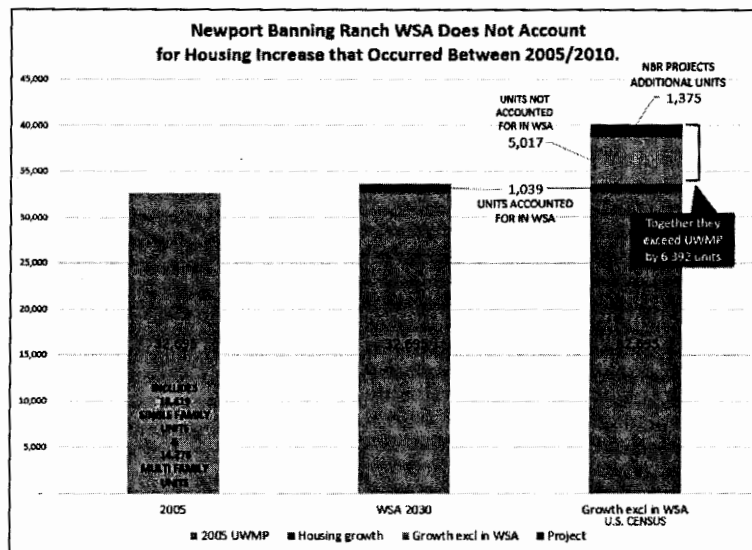


Figure 3 - City Growth Exceeds UWMP Projections

Adding further to the demand, if we include the seasonal and recreational housing of 937 units found in the census, the net increase would be 5,954 units. In a coastal city such as Newport Beach where good weather is year round, water consumption in seasonal and recreational housing may not be significantly different from 'occupied housing'.

³ Not enough information was provided in WSA to include commercial and landscaping so it was purposely omitted to maintain focus on housing element.

⁴ Newport Beach 2010 Census <http://www.newportbeachca.gov/home/showdocument?id=13487>

2. Population and GPCD

Actual available water supply fell dramatically between 2005 and 2010.

The WSA states in Table 7-2 (see Figure 12) the city's supply was 17,820 Af/y in 2005. With a population of 79,320⁶ this would suggest an average city supply of 200.6 gallons per capita daily which would also include commercial, government, and landscape.

Generally, we find the supply values reported in UWMP to be quite close to actual supplies delivered in the year that the UWMP was published. However, in future years, water agencies usually *overestimate* supply to bank water⁵ used by somebody else. We verified that this unfortunate tendency to overestimate future water supply also occurred in the 2005 UWMP by comparing projected supply with the historical records supplied by OCWD and MWDOC.

A public records request was made to both the MWDOC and OCWD for historical records of water sales that were made to the Newport Beach utility district. The information received was compiled and compared to the UWMP (Figure 9) which is cited in the WSA.

Citing a population of 85,250⁶, the WSA states that the available water supply in 2010 would increase to 19,792 Af/y giving the city 220 GPCD and implying there will be a surplus of water. However, when we look back at the 'actual amount', we find that the City received only 15,688 AF. With less water and a larger than projected population of 85,185⁶, the per capita supply fell 25 percent to just 164.4 GPCD. (Figure 4)

In each succeeding year this WSA projected water supplies exceeding 19,000 Af/y (Figure 12). Given that actual deliveries fall short of projections by ~21 percent we can only conclude that this is paper water. The long term result is a water supply deficit that hits the community economically and by quality of life.

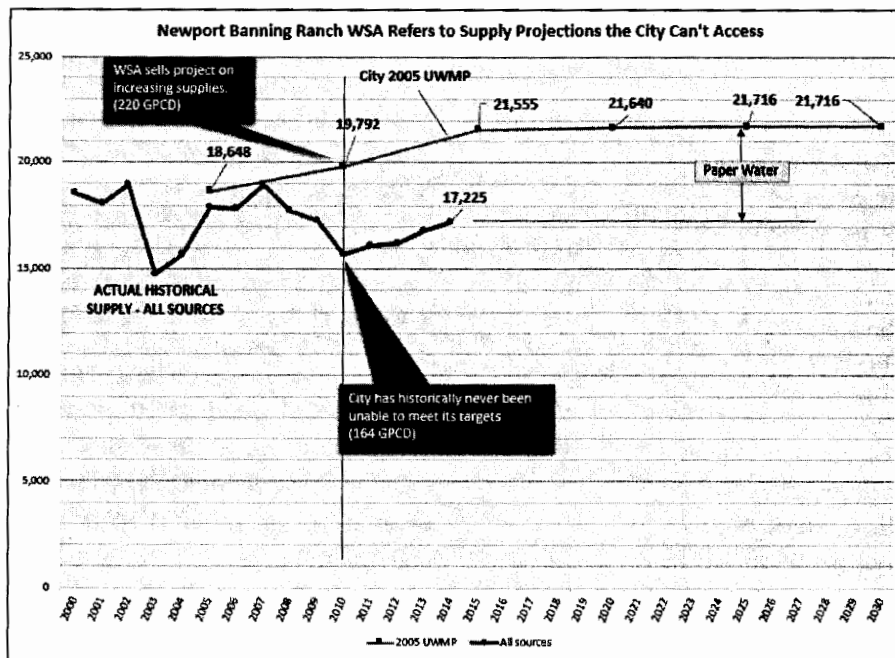


Figure 4 – Gallons per Capita Daily (GPCD)

⁵ Water for Growth - California Water Plan Update 2009. <http://www.waterplan.water.ca.gov/cwpu2009/index.cfm>

⁶ WSA, Table 5-1 on page 11

3. Supply Source Projections v. Actual Delivery

a) Merely citing the UWMP does not provide evidence of available water supply.

A public records request was made to both the MWD OC and OCWD for historical records of water sales that were made to the Newport Beach utility district. The information received was compiled and compared to the UWMP (Figure 9) that the WSA cites as demonstrating sufficient supply for the Newport Banning Ranch project.

The WSA relies on the fact that it can build this project because it states that the City will have and continuously be able to maintain substantial groundwater and imported supplies.

However, we found that the city has not been able to meet the supply projections noted in the WSA and the City's UWMP. Figure 5 shows the combined actual supply from MWD OC (imported water), OCWD wells (groundwater) and recycled water and compares that to the WSA's projections.

Using UWMP data, the proposed project suggests that it has access to substantial surplus water that we find really isn't available, hence paper water.

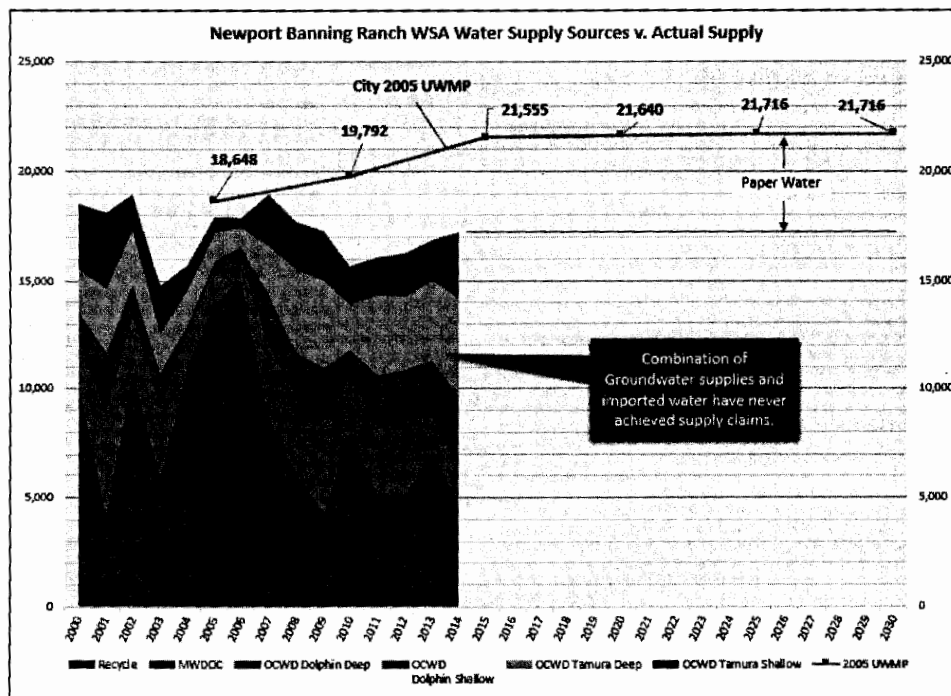


Figure 5 – Comparison of City of Newport Historical Supply to UWMP Projections

- i. **Groundwater** - The WSA suggests that the City would have available to it and would be receiving 11,287 to 14,921 Af/y of groundwater between 2008 and 2015 (Figure 12). However, the average supply from the four wells belonging to the City between 2008 and 2014 has been only 10,883 Af/y.
- ii. **Imported Water** - The WSA suggests the City would have available to it and be receiving 3,743 Af/y of imported water in 2008 and increasing to 6,157 Af/y by 2015. However, the average supply to the City from MWD OC has only been 5,457 Af/y between 2008 and 2014.
- iii. **Recycled Water** – Recycled water is purchased separately from OCWD through the Green Acres Project. Over the last 5 years the City has been purchasing an average of 422 Af/y which suggests that it's met its projections.

b) Past City UWMP's haven't been Reliable Enough to Be Taken at Face Value

In an article that appeared in the 2005 California Water Update called 'Water for Growth'⁷ the author noted that "a majority of utilities are reporting substantial normal-year surpluses. The magnitudes involved—some 2 million acre-feet per year—suggest that many utilities are banking on "paper water" already being used by someone else within the state's water system."

It further cites that "land-use authorities may not be led to adequately considering the water supply consequences of growth. Second, even in jurisdictions with municipal water departments, elected officials may take a shorter-term view of resource adequacy than area residents do. If—as is often asserted—land-use authorities are aligned with pro-development forces, they may be inclined to favor growth..."

We noted in Section 2 that water agencies tend to overestimate future water supplies to 'bank water' already being used by someone else. This leads us to ask how reliable were the City's past UWMPs in forecasting available water supply? Historical evidence shows us they are not reliable at all. WSA's and the UWMP' they rely on all promise lots water for future growth but they misrepresent how much we really have access to. This is called 'Paper Water'.

The following chart shows the water supply projections in the City's 2000, 2005 and 2010 UWMP's. Both the 2000 and 2005 UWMP's cited that the city would have more than 19,700 Af/y within 5 years of their adoption and it didn't happen in either case.

In both plans, city planners and residents were told the city would have sufficient water for growth. However, instead of 20,000 Af/y as promised, what the City had access to was just 17,000 Af/y thus creating a deficit.

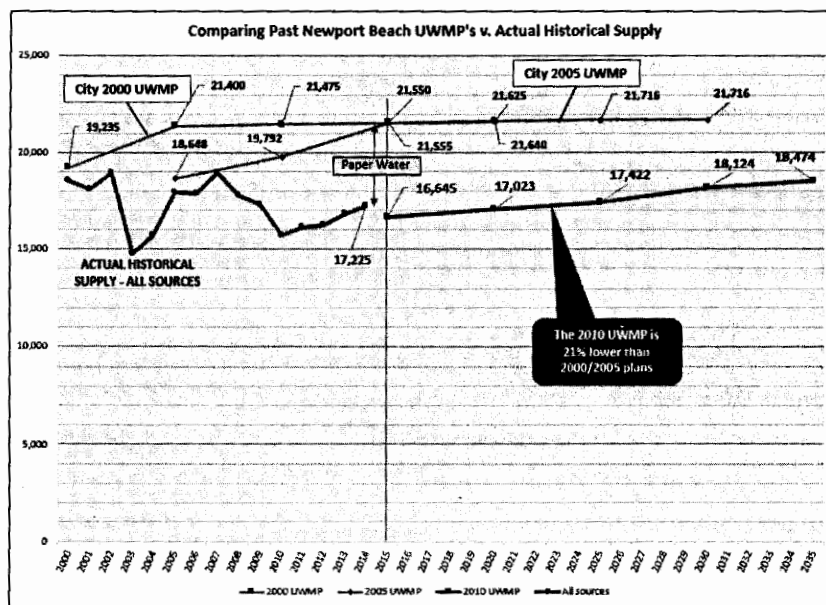


Figure 6 – Comparing the City's Projections v. Actual Supply

This chart also holds some special significance since it may suggest why NBR does not want to revise the WSA using 2010 UWMP.

After years of overly optimistic projections, the City finally acknowledged that this was never going to be met. The 2010 UWMP lowered its projections 21% to an average of 17,761 Af/y. Any surplus that the project sought to have, real or imagined, saw that disappear in the 2010 plan.

⁷ E. Hanak (2005) Water for Growth. California Water Plan Update 2009. <http://www.waterplan.water.ca.gov/cwpu2009/index.cfm>

4. Dry Year Forecasts Point to Drought Recovery Flaw

WSA Exaggerated Dry Year forecasts point to drought recovery flaw

The WSA, using UWMP figures suggests that the City will have substantial surplus water available to it when the City's local ground water supplies fall short.

This is another common reporting phenomena that can be found in most urban UWMP's. In Table 4-9 of the UWMP shown in (Figure 14) and Table 8-2 (Figure 13).

In the WSA we find the claim that the City can increase imported water from 140 to 160% (Figure 14) in single and multi-dry years when local ground water is in short supply. The rationale behind this is that single and multi-dry years are a local groundwater shortage problem that can be resolved by importing water. In fact, the 2005 UWMP and WSA both assure that **"Metropolitan Water District indicates it can provide 100% of the supply demanded by its member agencies through 2030"**⁸.

However, in **2007 we find that this strategy is no longer viable**. In that year, a court found that the huge deliveries of water through the State Water Project had a serious environmental downside and it ordered the DWR⁹ to sharply cut back supplies to Central and Southern California. Multi-dry years weren't just a local problem; they were also a State problem.

A review of the historical supply figures shows that since 2007, the MWDOC supply has not been able to provide the additional water that is cited in the WSA for dry and multi-dry years. From 2000 to 2006 the City's average MWDOC supply was 9,933 Af/y. This dropped to an average of 5,827 Af/y between 2007 and 2014. (See Figure 9)

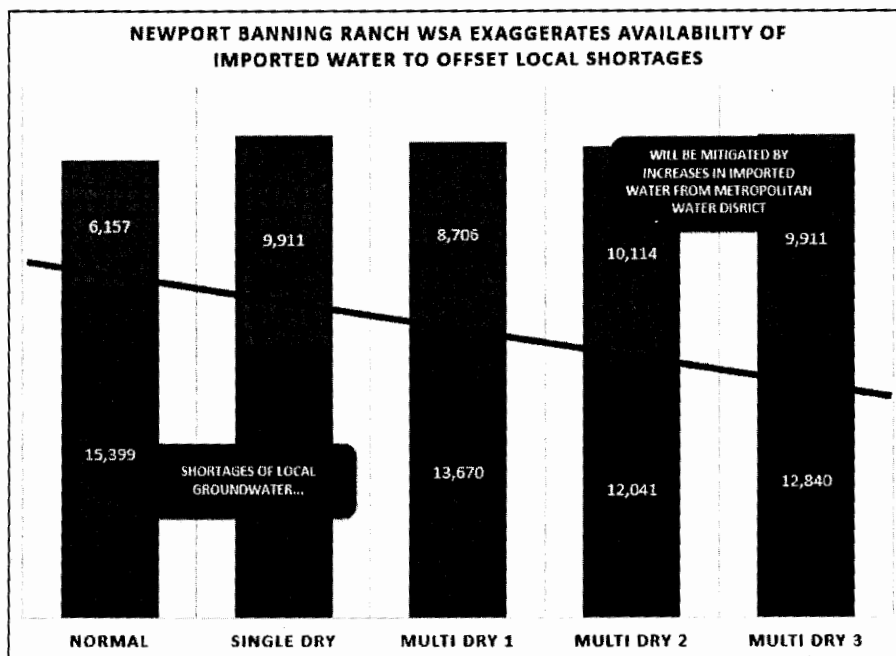


Figure 7 - Dry Year Source Strategy

⁸ NBR Water Supply Assessment. Page 4, Para. 5

⁹ Delta Smelt Decision. Natural Resources Defense Council v. Kempthorne, E.D.Cal., 2007

5. Santa Ana River Supply

Santa Ana River flows are substantially reduced.

A new WSA should be performed because the original WSA was based on a wet period. Since that time there have been significantly reduced flows on the Santa Ana River and subsequent reduced recharge in the basin.

At a recent Westchester/Playa Water forum, Michael R. Markus, General Manager of the Orange County Water District spoke about OCWD recycling program and recycling efforts of other agencies. In his remarks he stated that OCWD has been impacted by reduced Santa Ana River flows and attributed some of it to upstream water agencies that are making a better effort at recycling their sewage instead of just treating it and releasing it into the Santa Ana River. This has resulted in reduced flows and less water for OCWD to treat.

To verify what Mr. Markus intimated, we reviewed gage data located at an entry point into OCWD basin. The chart in Figure 8 shows flows of the Santa Ana River at the gage (11074000¹⁰) below Prado Dam between 2007 and 2015 and confirms both the General Manager's comments and the comments made by Banning Ranch Conservancy of reduced flows.

From Oct 2007 to Jan 2011 flows averaged 297 CFS. From Jan 2011 to Sep 2015 flows averaged just 166 CFS amounting to a 50% drop.

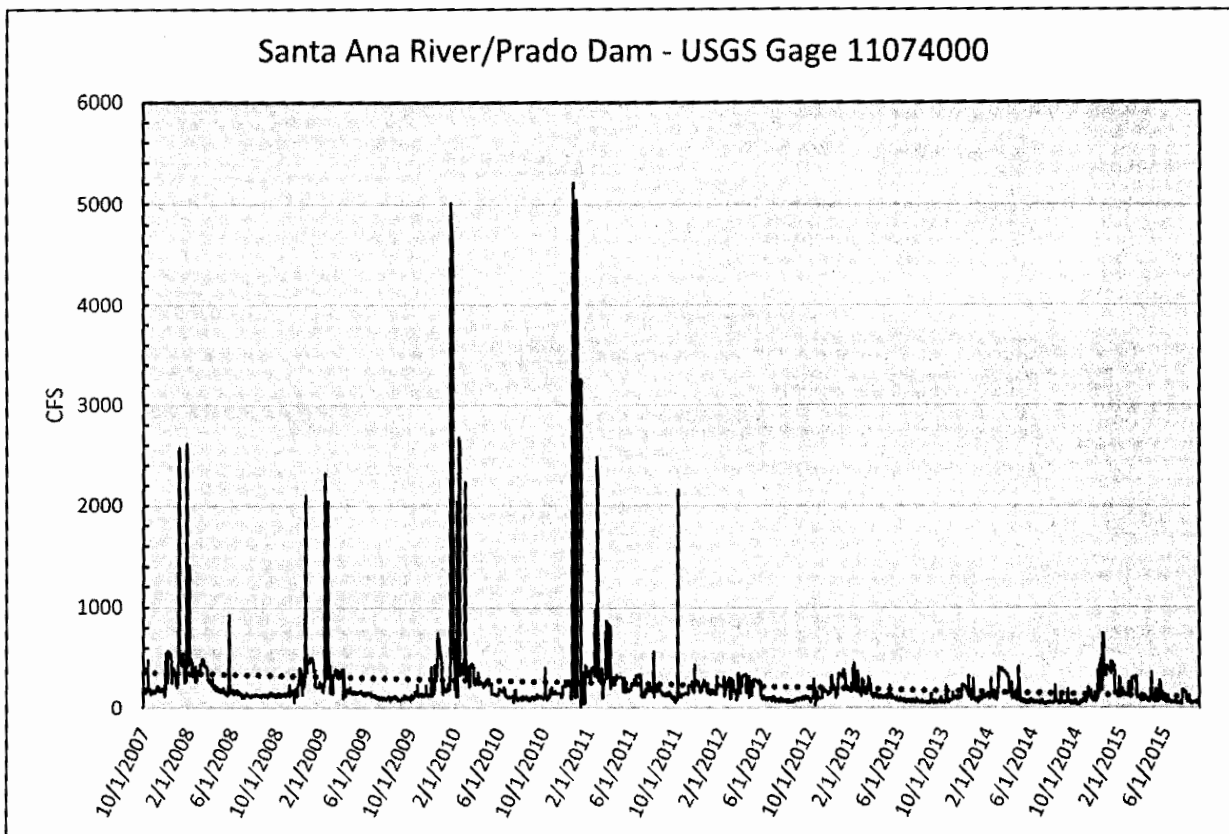


Figure 8 – Santa Ana River flow at OCWD basin

¹⁰ USGS Gage http://waterdata.usgs.gov/usa/nwis/uv?site_no=11074000

Conclusion

The Newport Banning Ranch Water Supply Assessment is based on the 'paper water' found in the City's 2005 Urban Water Management Plan. NBR's WSA needs to be an evaluation of the city's real water supply and not simply restate a plan that greatly underestimated it. The WSA does not assure the residents of the City that there is sufficient water for the project. We find that unless a new WSA is performed that identifies new sources of water, then there is not enough city water supply to support the project.

About

David Coffin is a manufacturing engineer whose interest carries over to California water infrastructure, water history and policy and its relationship to growth. Mr. Coffin's research into urban water supply began in 2000 when he served for two elected terms (eight years) as a board member on the Neighborhood Council of Westchester/Playa in the City of Los Angeles.

Mr. Coffin researches and writes about water supply at www.DroughtMath.com - *A Critical Look at the City of L.A. Water Supply Policy* and his columns are occasionally appear on CityWatchLA.com.

Appendix

NEWPORT BEACH HISTORICAL SUPPLY 2000 – 2015 With 2005 Projected Supply							
Year	MWDOC	OCWD Dolphin Shallow	OCWD Dolphin Deep	OCWD Tamura Deep	OCWD Tamura Shallow	Total	2005 UWMP
2000	10,261.1	1,594.4	1,791.1	1,915.8	2,990.5	18,552.9	
2001	3,829.8	2,907.0	4,489.8	2,925.1	3,487.2	17,638.9	
2002	10,403.9	1,656.7	2,391.0	2,402.1	1,643.2	18,496.9	
2003	5,661.2	1,688.1	3,005.0	1,885.2	2,194.4	14,433.9	
2004	10,722.9	528.5	1,362.0	1,584.2	1,127.5	15,325.1	
2005	13,761.1	452.8	1,507.4	1,241.8	689.1	17,652.2	18,648
2006	14,895.8	568.8	815.9	921.6	406.8	17,608.9	
2007	8,413.9	2,493.2	3,208.5	2,184.1	2,374.1	18,673.8	
2008	5,843.8	2,113.2	3,465.9	3,834.0	2,200.9	17,457.8	
2009	3,996.7	2,520.4	4,143.6	4,030.6	2,294.6	16,985.9	
2010	7,705.2	1,277.1	2,382.1	2,125.9	1,766.2	15,256.5	19,792
2011	4,854.6	2,401.0	3,007.8	3,750.5	1,722.6	15,736.5	
2012	4,732.7	2,475.5	3,266.7	3,397.2	1,962.8	15,834.9	
2013	6,732.2	2,444.7	1,658.2	3,686.1	1,844.2	16,365.4	
2014	4,339.1	3,365.2	1,521.1	4,517.7	3,008.4	16,751.5	
2015	-	885.0	1,515.9	1,707.4	1,087.6	5,195.9	21,556
2016							
2017							
2018							
2019							
2020							21,640
2021							
2022							
2023							
2024							
2025							21,716
2026							
2027							
2028							
2029							
2030							21,716

Figure 9 – Historical Supply to Newport by OCWD and MWDOC.

Table 3-2. (DWR Table 12) Past, Current, and Projected Water Deliveries (AFY)

Year	Water Use Sector	Single-Family	Multi-Family	Commercial	Industrial	Instit./Gov.	Land-scape	Agricultural	Total
2000	# of accounts	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Metered	deliveries (AFY)	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
2005	# of accounts	18,419	5,048	1,863	0	397	623	0	26,350
Metered	deliveries (AFY)	7,484	2,727	3,760	0	903	2,842	0	17,723
2010	# of accounts	18,588	5,052	1,914	0	399	638	0	26,591
Metered	deliveries (AFY)	8,085	2,820	3,948	0	940	3,008	0	18,801
2015	# of accounts	18,747	5,096	1,931	0	402	644	0	26,820
Metered	deliveries (AFY)	8,805	3,072	4,300	0	1,024	3,276	0	20,477
2020	# of accounts	18,909	5,140	1,948	0	405	649	0	27,051
Metered	deliveries (AFY)	8,840	3,084	4,317	0	1,028	3,289	0	20,558
2025	# of accounts	19,071	5,184	1,964	0	409	655	0	27,283
Metered	deliveries (AFY)	8,870	3,095	4,333	0	1,032	3,301	0	20,631
2030	# of accounts	19,071	5,184	1,964	0	409	655	0	27,283
Metered	deliveries (AFY)	8,870	3,095	4,333	0	1,032	3,301	0	20,631

Figure 10 – Table from UWMP showing projected accounts and water supply.

**Newport Banning Ranch
Water Supply Assessment**

Table 5-1 – Existing & Projected Population in Service Area

	2005	2010	2015	2020	2025	2030
Population	79,320	80,250	81,062	81,863	82,681	83,508

SOURCE: City UWMP (December 2005).

Figure 11 – WSA Projected Population Growth

**Newport Banning Ranch
Water Supply Assessment**

City of Newport Beach

The City's 2005 UWMP contains a comparison of projected water supply and estimated demands through the year 2030. The potable water resources necessary to meet projected demands include imported water (30%) and groundwater (70%). Existing and projected supplies to the City are shown in Table 7-2.

Has Newport Beach been meeting these projections?

Table 7-2 – Existing and Projected Supplies

Supply Source	Annual Amount (af/yr)								
	FY 05-06	FY 06-07	FY 07-08	FY 08-09	2010	2015	2020	2025	2030
MWDOC (Imported)	14,012	15,093	3,743	5,846	5,768	6,157	6,382	6,226	6,256
OCWD (Groundwater)	3,658	3,805	14,338	11,287	13,590	14,921	14,778	14,990	14,960
Recycled Water	250	311	265	299	443	477	500	500	500
Total	17,820	19,009	18,346	17,429	19,791	21,555	21,640	21,716	21,716
% Potable from Groundwater	20%	19%	79%	66%	70%	71%	70%	71%	71%

SOURCE: City UWMP (December 2005), City demand records.

Figure 12 – WSA Showing existing & projected water supply

**Table 8-2 – Projected Water Supply and Demand
(Normal, Single Dry-Year, and Multiple Dry-Years)**

Description		Annual Amount (af/yr)				
		Normal Year	Single Dry-Year	Multiple Dry-Years		
				Year 1	Year 2	Year 3
2015						
Total Projected Demand		21,665	22,761	22,376	22,165	22,761
Available Supply	MWDQC (Imported)	6,157	9,911	8,706	10,114	9,811
	OCWD (Groundwater)	14,621	12,363	13,193	11,564	12,363
	Recycled Water	477	477	477	477	477
Total Available Supply		21,655	22,751	22,376	22,155	22,761
% Potable Supply from Groundwater		71%	56%	60%	53%	56%
Difference		0	0	0	0	0

Figure 13 – Newport Banning Ranch WSA

2015	Normal Water Year (Average)	Single Dry Year (1961)	Multiple Dry Water Years		
			2008 (1959)	2009 (1960)	2010 (1961)
Local Supply	15,399	12,840	13,670	12,041	12,840
	% of Normal	83.4%	88.9%	78.2%	83.4%
Imported Supply	6,157	9,911	8,706	10,114	9,911
	% of Normal	161.0%	141.4%	164.3%	161.0%
Normal Water Year			Single Dry Year		
			Multiple Dry Water Years		
			2008	2009	2010

Figure 14 – Table 4-9 of the City of Newport 2005 UWMP



Costa Mesa Mobile-home Coalition

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South Coast Region

OCT 05 2015

CALIFORNIA
COASTAL COMMISSION

RECEIVED
OCT 02 2015
CALIFORNIA
COASTAL COMMISSION

September 25, 2015

California Coastal Commission
45 Fremont Street,
Suite 200
San Francisco, CA 94105

RE: Banning Ranch Proposal, Newport Beach

Honorable Chair Kinsey, Commissioners and Staff:

The Costa Mesa Mobile-Home Coalition is a local organization that is working to provide safety nets for mobile home owners through developing local policies and ordinances enhancing their protection from unreasonable conversions and land use changes. While our focus is on mobile-home support through organization and legislative cures, we also work to enhance mobile-home owner's quality of life. We believe there are numerous negative impacts associated with the proposed project of the Banning Ranch property in the City of Newport Beach that will have significant negative impacts on that quality of life. Some of these negative impacts are:

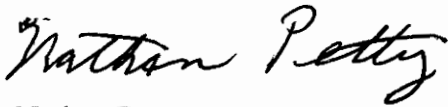
- Banning Ranch is the only remaining large unprotected coastal open space in Orange County. If it is developed, it is gone forever.
- 2.5 million cubic yards of soil are proposed to be excavated and stockpiled to prepare the land for development, destroying a unique coastal environment and exposing the public to unknown levels of oil field contaminants. Most of our members live down wind and in close proximity to the dust that will be generated over the next 10 years of construction, and will be continually impacted by that dust.
- The project proposes destruction of environmentally sensitive habitat areas, threatened wildlife species, coastal wetlands and vernal pools— that are all considered irreplaceable by the Coastal Act.
- The proposed project's water demands will place a significant burden on scarce water supplies, increasing groundwater withdrawals.
- Traffic and emissions will be significantly increased with 15,000+ additional vehicle daily trips on our roads that have not been upgraded for such congestion, with over 60% of that traffic going through Costa Mesa

Many of the above impacts exceed regulatory standards and are designated "significant and unavoidable" in the Newport Banning Ranch Environmental Impact Report.

Even though the Newport Beach's own General Plan states in its Land Use Element to "Prioritize the acquisition of Banning Ranch as an open space amenity for the community and region -----", and despite the number and severity of adverse impacts, the Newport Beach City Council approved the proposed Banning Ranch project in July of 2012, in spite of those impacts cited in their own EIR. These impacts could put the health and safety of the public at risk—and **will** result in the destruction of the rare and finite natural resources at this unique coastal location.

To conclude, MCCM urges the Commission to reject the proposed development at Banning Ranch. We do not believe that there is an overriding public benefit from development at this location, while the value of a preservation-focused use of the property would be extremely beneficial and popular to the surrounding communities and the region. This land is situated at the Pacific Ocean terminus of the Santa Ana River which has recently been recognized as a statewide resource through the formation of the Santa Ana River Conservancy. Through concerted action by the State's Coastal Commission and Coastal Conservancy along with all other parties of interest including the 17 agency Southern California Wetlands Recovery Project, the Banning Ranch, in its entirety, should be a protected resource in perpetuity. We ask you to reject this current project in its entirety.

Respectfully

A handwritten signature in black ink that reads "Nathan Petty". The signature is written in a cursive, flowing style.

Nathan Petty
President
Costa Mesa Mobile-home Coalition

OCT 5 2015

CALIFORNIA
COASTAL COMMISSION

September 29, 2015

W9b – Requesting Denial

Honorable Commissioners
California Coastal Commission
South Coast District Office
200 Oceangate, 10th Floor
Long Beach, CA 90802-4416

Re: Newport Banning Ranch, LLC Application No. 5-13-032; Support for Staff
Recommendation to Deny Application No. 5-13-032

Dear Honorable Commissioners,

I am writing in support of your staff's recommendation and to urge your denial of the Newport Banning Ranch, LLC application before you. Per your staff's report, and well known to us surrounding residents, Banning Ranch contains diverse, rare and abundant wildlife, habitat and archaeology which must be protected under the Coastal Act.

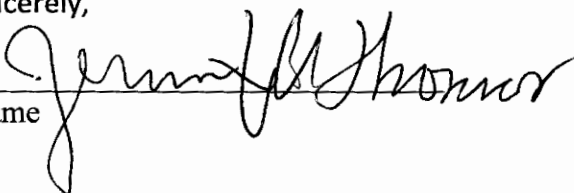
Far too much of Southern California's coastal habitats and cultural landscapes have been destroyed for development. This proposal's impacts on ESHA and numerous archaeological sites will be severe and permanent and should not be permitted even with the promise of land dedication and restoration.

Per your staff's report page 3; "In fact, it appears the subject site is the only area like it anywhere within the Santa Ana River watershed between the sea and the Santa Ana Mountains located 20 miles inland. The remainder has been heavily urbanized." Surely, this is worthy of full protection.

From your staff's report, page 5: "Thus, Commission staff has concluded that the proposed project is inconsistent with Coastal Act Sections 30240, 30233, 30231, 30253, 30210, 30251 of the Coastal Act due to adverse impacts upon natural landforms, adverse impacts upon biological resources including wetlands and vernal pools; adverse visual impacts related to landform alteration and the project's consistency with 30252, 30213 and 30250 cannot be determined based on the information provided. Therefore, staff recommends that the Commission DENY the proposal."

Banning Ranch is precious, please DENY the development application.

Sincerely,


Name

5432 Kenilworth
HB 92649
Address

RECEIVED
South Coast Region

OCT 5 2015

CALIFORNIA
COASTAL COMMISSION

September 29, 2015

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California Coastal Commission
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Banning Ranch is precious, please DENY the development application.

Sincerely,

Name

Budaly Fain

Address

17706 GAINSFORD LN.
HUNTINGTON BEACH, CA

92649

RECEIVED
South Coast Region

OCT 5 2015

CALIFORNIA
COASTAL COMMISSION

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Banning Ranch is precious, please DENY the development application.

Sincerely,

Frances C. Fair
Name

17704 Gainsford Lane
Huntington Beach, Ca
Address
92649

OCT 5 2015

CALIFORNIA
COASTAL COMMISSION

September 29, 2015

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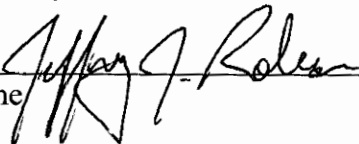
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Banning Ranch is precious, please DENY the development application.

Sincerely,


Name

JEFFREY J. ROKOS

5902 LIEGE DR, HUNTINGTON BEACH
Address 92649

OCT 5 2015

CALIFORNIA
COASTAL COMMISSION

September 29, 2015

W9b – Requesting Denial

Honorable Commissioners
California Coastal Commission
South Coast District Office
200 Oceangate, 10th Floor
Long Beach, CA 90802-4416

Re: Newport Banning Ranch, LLC Application No. 5-13-032; Support for Staff
Recommendation to Deny Application No. 5-13-032

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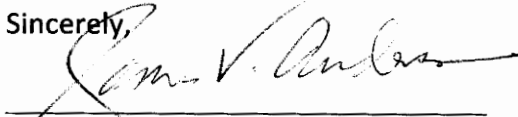
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Banning Ranch is precious, please DENY the development application.

Sincerely,



Name

JAMES V. ANDERSON

1901 E. OCEAN BLVD UNIT 302

LONG BEACH 90802

Address

OCT 5 2015

CALIFORNIA
COASTAL COMMISSION

September 29, 2015

W9b – Requesting Denial

Honorable Commissioners
California Coastal Commission
South Coast District Office
200 Oceangate, 10th Floor
Long Beach, CA 90802-4416

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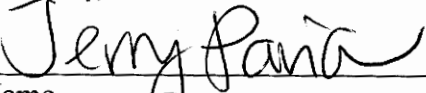

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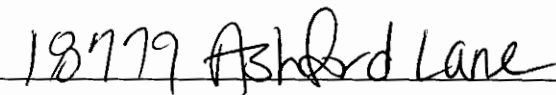
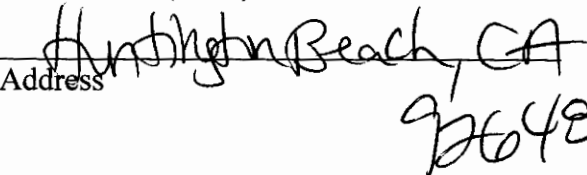
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Sincerely,


Name 


Address 

September 29, 2015

Honorable Commissioners
California Coastal Commission
South Coast District Office
200 Oceangate, 10th Floor
Long Beach, CA 90802-4416

W9b – Requesting Denial

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South Coast Region

OCT 5 2015

CALIFORNIA
COASTAL COMMISSION

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Banning Ranch is precious, please DENY the development application.

Sincerely,

Susan Schwartz

Name



18779 Ashford Lane

Huntington Beach CA

Address

92648

September 29, 2015

W9b – Requesting Denial

RECEIVED
South Coast Region

Honorable Commissioners
California Coastal Commission
South Coast District Office
200 OceanGate, 10th Floor
Long Beach, CA 90802-4416

OCT 5 2015

CALIFORNIA
COASTAL COMMISSION

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Banning Ranch is precious, please DENY the development application.

Sincerely,

Barbara Hollander
Name

5456 Industrial Dr.
AB 92648
Address

September 29, 2015

W9b – Requesting Denial

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South Coast Region

Honorable Commissioners
California Coastal Commission
South Coast District Office
200 Oceangate, 10th Floor
Long Beach, CA 90802-4416

OCT 5 2015

CALIFORNIA
COASTAL COMMISSION

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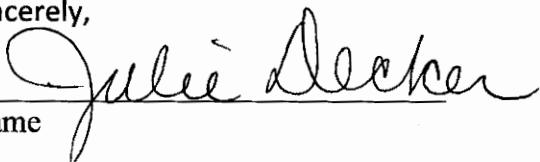
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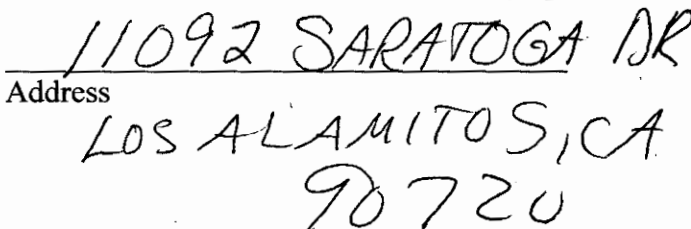
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Sincerely,


Name


Address

September 29, 2015

Honorable Commissioners
California Coastal Commission
South Coast District Office
200 Oceangate, 10th Floor
Long Beach, CA 90802-4416

W9b – Requesting Denial

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South Coast Region

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Banning Ranch is precious, please DENY the development application.

Sincerely,

K. S. Muzzy

Name

KEN MUZZY
19751 OCEANGATE RD,

HUNTINGTON BEACH, CA 92648

Address

September 29, 2015

W9b – Requesting Denial

Honorable Commissioners
California Coastal Commission
South Coast District Office
200 Oceangate, 10th Floor
Long Beach, CA 90802-4416

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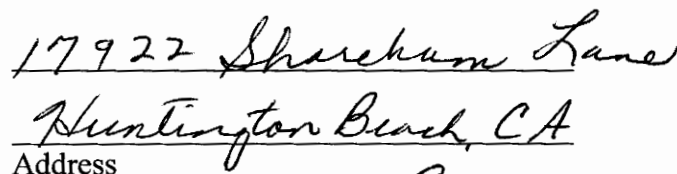
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Sincerely,


Name


Address

92649

September 29, 2015

W9b – Requesting Denial

Honorable Commissioners
California Coastal Commission
South Coast District Office
200 Oceangate, 10th Floor
Long Beach, CA 90802-4416

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South Coast Region

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Sincerely,

Barnel Patterson
Name

16444 Bolsa Chica St. #70
Huntington Beach 92649
Address

September 29, 2015

Honorable Commissioners
California Coastal Commission
South Coast District Office
200 Oceangate, 10th Floor
Long Beach, CA 90802-4416

W9b – Requesting Denial

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South Coast Region

OCT 5 2015

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Sincerely,

Nancy Paradise
Name
Nancy Paradise

16 722 Robert Ln.
Huntington Beach CA 92647
Address

September 29, 2015

Honorable Commissioners
California Coastal Commission
South Coast District Office
200 Oceangate, 10th Floor
Long Beach, CA 90802-4416

W9b – Requesting Denial

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South Coast Region

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COASTAL COMMISSION

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Banning Ranch is precious, please DENY the development application.

Sincerely,

Lorraine Pinsky
Name

5402 Barwood Dr.
Huntington Beach, CA
Address

September 29, 2015

W9b – Requesting Denial
RECEIVED
South Coast Region

Honorable Commissioners
California Coastal Commission
South Coast District Office
200 Oceangate, 10th Floor
Long Beach, CA 90802-4416

OCT 5 2015

CALIFORNIA
COASTAL COMMISSION

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Banning Ranch is precious, please DENY the development application.

Sincerely,

Kathy Miller
Name

5642 Abraham Ave
Westminster, CA 92683-2804
Address

September 29, 2015

Honorable Commissioners
California Coastal Commission
South Coast District Office
200 Oceangate, 10th Floor
Long Beach, CA 90802-4416

W9b – Requesting Denial

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South Coast Region

OCT 5 2015

CALIFORNIA
COASTAL COMMISSION

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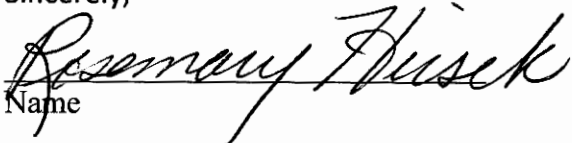
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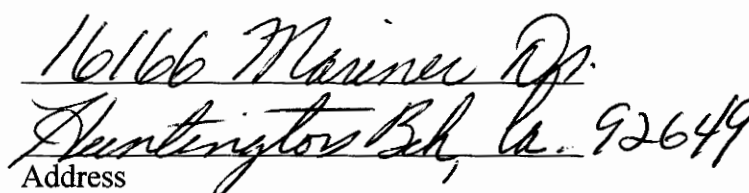
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Sincerely,


Name


Address

September 29, 2015

W9b – Requesting Denial

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California Coastal Commission
South Coast District Office
200 OceanGate, 10th Floor
Long Beach, CA 90802-4416

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South Coast Region

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Banning Ranch is precious, please DENY the development application.

Sincerely,

Name



309 Carroll Park East
Long Beach, CA 90814
Address

RECEIVED
South Coast Region

OCT 5 2015

September 29, 2015

Honorable Commissioners
California Coastal Commission
South Coast District Office
200 Oceangate, 10th Floor
Long Beach, CA 90802-4416

W9b – Requesting Denial

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COASTAL COMMISSION
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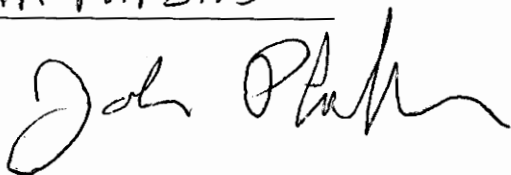
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Sincerely,

John Phibbs

Name



15642 Sunburst Ln

Huntington Beach, CA

Address

92647

September 29, 2015

W9b – Requesting Denial

Honorable Commissioners
California Coastal Commission
South Coast District Office
200 Oceangate, 10th Floor
Long Beach, CA 90802-4416

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Banning Ranch is precious, please DENY the development application.

Sincerely,

Name

Michael Hegan

Address

*20312 Wind Cave Lane
Huntington Beach
CA 92646*

September 29, 2015

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Honorable Commissioners
California Coastal Commission
South Coast District Office
200 Oceangate, 10th Floor
Long Beach, CA 90802-4416

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South Coast Region

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Sincerely,

Mariuka Horack

Name

21742 Fairlane Circle
Huntington Beach, CA 92646

Address

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Sincerely,

D. Anthony Roman
Name

Anthony Roman

1901 East Ocean Blvd #101
Long Beach, 90802
Address

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Sincerely,

Kearney Quiston
Name

15831 Bonnie St
Westminster Ca 92683
Address

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Sincerely,

Steve Polychuk
Name

11642 Mac Murray St.
Garden Grove, CA 92841
Address

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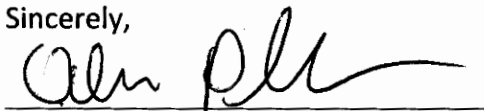
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Name

6091 Hampshire,
Huntlyns Beach, CA 92647

Address

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Name

5611 RIDGEBURY DR
HUNTINGTON BEACH, CA 92649
Address

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Huntington Beach Ca
Address
92649

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16610 ACAGONA LN ST
H.B 92649
Address

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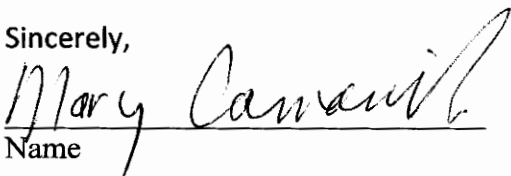
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Sincerely,


Name

16192 Brent Cir
HB CA 92647
Address

Clark Strategic Partners

Sustaining the Earth

California Coastal Commission:

Banning Ranch Water Supply Sustainability

By: Woodrow W. Clark II, MA³, PhD (*)

Executive Summary

This Report offers a big picture approach to water supply sustainability by referencing climate change impacts such as drought, sea-level rise, storms, increased global melting of the Pole areas and related issues. It addresses challenges of climate change that affect the globe as well as issues of local water scarcity, such as the Newport Banning Ranch Project that is currently under review by the commission. The Project Applicants and the City of Newport Beach could serve as a case study on a local level of the failure to cope with water and drought conditions with little future consideration for long-term water supply sustainability.

By state law, the Newport Banning Ranch project cannot go forward without valid evidence of enough surplus water to support the project. In 2012, the City of Newport Beach unanimously approved the proposed project based in part on a Water Supply Assessment (WSA) that by its own admission ignored “record drought, climate change and other environmental concerns.” Further, the WSA referred to the 2005 Urban Water Management Plan (UWMP) as “questionable,” and as reported in David Coffin’s analysis of the city’s water supply documents (“An Evaluation of the Newport Banning Ranch Project’s Water Supply Assessment and the City of Newport Beach’s Urban Water Management Plan”) the UWMP’s projected water allocations were based on “paper water,” which is water the utilities claim access to and attempt to justify by their projections of future water supply allocations, but in reality are not accessible.

“Water For Growth,” an article by Ellen Hanak in the 2009 California Water update, says this about the use of paper water: “...even in jurisdictions with municipal water departments, elected officials may take a shorter-term view of resource adequacy than area residents do. If—as is often asserted—land-use authorities are aligned with predevelopment forces, they may be inclined to favor growth, even if it means higher costs (or a loss in property values) to the community down the road.”

There is little evidence of sustainability in the City’s water supply documents. On the contrary, they reveal a process that allows unchecked growth to compromise fragile water resources, while extreme drought and global climate change devastate our state and threaten our environment and our local way of life. Even with an El Nino expected this fall (2015), the drought will not end—and the predictable land and environmental devastation, along with potential loss of lives, is certain to occur just as the tornados and earthquakes in the oil producing mid-west and hurricane storms on the east coast have

dramatically increased over the last decade. In the end, there is NO value or number for the loss of people.

The WSA's required 20-year projections of available water imply that water supplies must be sustainable over that period of time. Because the projections are flawed by the inclusion of paper water and supported by other inaccurate data, it can be concluded that the water for the project is neither available nor sustainable.

Our findings raise questions about the very methods of documenting and projecting water supply availability. In an environment where climate change and multi-year drought prevail there must also be the ability and obligation to provide a water supply that is sustainable and can be reliably delivered. Even today, our water documents do not take these elements into full consideration.

Overview

Qualitative economics makes economics a science where it is not now one. Economics needs to address and use scientific methods through the interactionist perspective on how everyday business life actually works. From a philosophy of science rooted in the European subjectivist tradition, qualitative economics rooted provides a balanced and wholistic view of economics (Clark and Fast, 2008). For economics to be modeled on the sciences itself, there must be both quantitative (objectivist) and qualitative (subjectivist) data. "Economists have been too narrow-minded in the way that they have sought to apply their analytical principles. Economists have become prematurely attached to a very materialistic view of human motivation." (Casson, 1996:1152) Science itself is a combination of objectivist theories based on subjectivist theories, methods and hypothesis making.

Casson (1996) critically reviews the development of economics from a social science, and particularly an anthropologist perspective. "Economics, being the most individualistic of the social sciences, has never fooled itself that everyone in a society is alike. The fact that individuals have different tastes and different abilities is crucial to economists' explanation of trade."

Despite all the activity in Europe and Asia, few Americans (outside of a small circle of scholars and a handful of prescient venture capitalists and investment bankers) saw this new global megatrend looming. Even many people within the green industry have remained oblivious. For the most part, America's dependence on fossil fuels has clouded its ability to see that the carbon-based Second Industrial Revolution is ending. Today, the corporations and people vested in fossil fuels and related products from the Second Industrial Revolution are holding America back; preventing it from competing and advancing into the new green future.

The Green Industrial Revolution, with its extraordinary new technologies and the promise of thousands of new green jobs is trying to come to America. It is hampered by the lack of a national energy policy, and a political process that is beholden to the fossil fuel industry. Big Oil has been America's "elephant-in-the room" for over a hundred years, exploiting the nation's resources, pushing the country into a dependence on foreign oil producers who are politically destabilizing, and not aligned with our national interests.

Human-induced climate change since the 1960s has increased the frequency and intensity of heat waves and thus also likely exacerbated their societal impacts. In some climatic regions, extreme precipitation and drought have increased in intensity and/or frequency with a likely human influence (The World Bank, 2012)



The U.S. remains in the Second Industrial Revolution, when in January 2010, the U.S. Supreme Court institutionalized the problem. In *Citizens United v. Federal Election Commission*, the High Court ruled that large corporations, with unlimited financial resources, are to be considered as "individuals". This means that they have no limits of freedom of speech in terms of financial and political influences.

The powerful interests that buttressed America's lavish carbon-intensive lifestyle are using their enormous resources to influence public opinion and politics, trying to keep America desperately clinging to an era that the rest of the world is leaving.

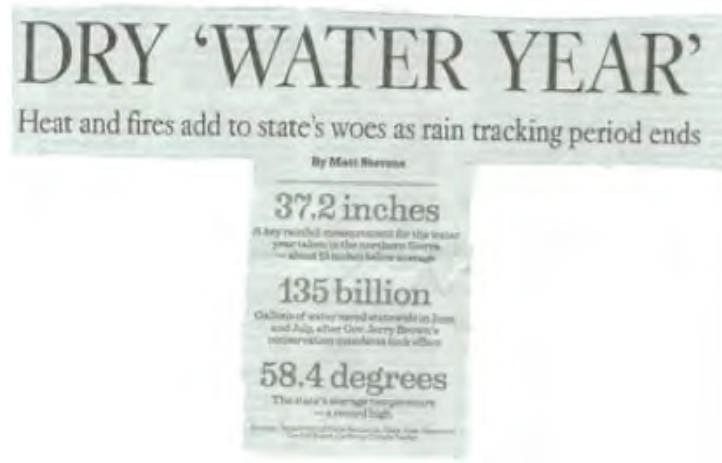
The planet is threatened by an environmental and climate catastrophe of unimaginable proportions. Population is the ticking time bomb. The United Nations predicts that we will increase from today's 7 billion people to 10 billion by 2050. In other words, we will add 3 billion people in less than 40 years. China will add 320 million for 1.4 billion, India will add 600 million to about 1.5 billion, while the U.S. will add 120 million for about 400 million total by mid-century.

All natural resources, particularly fossil fuels, are finite. Experts are warning that there are not enough resources and that we are inviting environmental collapse. As the chart below shows, the last decade has been the warmest in human history and then in 2015 (October) it appears that that record has been broken.

Rank 1 = Warmest Period of Record: 1880–2013	Year	Anomaly °C	Anomaly °F
1	2010	0.66	1.19
2	2005	0.65	1.17
3	1998	0.63	1.13
4 (tie)*	2013	0.62	1.12
4 (tie)*	2003	0.62	1.12
6	2002	0.61	1.10
7	2006	0.60	1.08
8 (tie)*	2009	0.59	1.07
8 (tie)*	2007	0.59	1.06
10 (tie)	2004	0.57	1.04
10 (tie)	2012	0.57	1.03

The new green and blue smart industrial revolution features fast-as-light communication of the digital age with its Internet access to almost all-scientific knowledge, and the Facebook and Twitter-led social networking that has truly created Marshall McLuhan's "global village". This digital age will intersect with renewable and sustainable sources for power. It will be augmented by smart grids, intelligent machines, and additive manufacturing. This emerging worldwide Green Industrial Revolution is being led by the Asian nations, particularly China. The U.S. is lagging far behind.

In major historical irony, the communications tools of this new Green Industrial Revolution helped overthrow the notorious despots who ruled the countries that controlled the world's oil supply. The Arab Spring, which has changed the political reality of the Middle East, was made possible by the instant communications of the social networks and Facebook, in particular. Yet even the regular press and news reports are shocking about climate change and its impact on water, especially the drought in California.



This Blue-Green Smart Industrial Revolution has the potential to be more significant and life changing than either the First or Second Industrial Revolutions. It may also turn out to be the planet's only real chance for survival. With an estimated 10 billion inhabitants by mid-century, there is so much more at stake. The water levels and drought in California are a sign of what the world will be if actions are not taken today. Consider this photo of a boater in Lake Shasta near Redding, California in July 2015 which documents how the "lack precipitation has driven fuel moisture to critically low levels below" due to the "highest average temperature in 120 years of record keeping" (Matt Stevens, LA Times, September 30, 2015: p.B1)



Despite the claims by the oil and natural gas industries that there is an abundance supply, the reality is that the world is running out of fossil fuel, particularly oil. This alone threatens to shake the very foundation of human

Tighter air pollution limits

At least 28 California counties would be in violation of the new federal EPA smog standard if it were in place today.



existence. Adding a heightened sense of urgency is the environmental degradation and the collapse of various parts of our planet's ecosystem, like the Brazilian watershed and the Arctic. The latest news for California and especially the L.A Basin is that the air pollution here is the worse in the US. As the LA Times reported on Friday, October 2, 2015 with a headline story.

The world is round and much of the local and California weather problems come from other nations especially in the Pacific Rim. Fortunately, in some parts of the world, the Green Industrial Revolution has begun. Parts of Asia and Europe have been moving into it for over three decades, developing sustainable, energy-independent communities.

South Korea has urban regions that are already energy independent and carbon neutral.

Japan was heading in this direction as well, but got redirected toward nuclear power stations and plants in the 1970s. However, after the March 2011 nuclear disaster at Fukushima, the Japanese government is replacing nuclear power with renewable energy systems for building complexes and individual homes.

Meanwhile a large-scale effort is underway in China where the nation has "leapfrogged" other countries in the new green industrial revolution. In 2008 the Climate Group, an international think tank, reported China's rapid gains in the race to become the leader in developing renewable energy technologies via its 12th Five-Year Plan. This plan that started in March 2011 committed the nation to spending the equivalent of over three trillion dollars in funding for renewable energy.

Germany through its feed-in-tariff (FiT) program was the number one producer and installer of solar panels for homes, offices, and large open areas from 2006-09. In 2010, Italy then copied the FiT and held that distinction of world leader in solar panel installation. China took the lead in 2011 and continues as the number one solar panel and photovoltaic manufacturer and installer. Japan is now leading in auto manufacturing, jumping ahead of the competition with its hybrids.

Other European nations like Spain and the Nordic countries are pursuing policies to achieve energy independent through renewable energy. They are succeeding. Denmark has made extraordinary advances already. The Danes have a program that includes local plans and financing to develop onsite energy-renewable power systems. By 2015, several Danish cities will be energy independent with renewable energy power and smart green grids with the whole nation 100 percent using renewable energy by 2025.

Sustainability is the key for Smart Blue-Green Cities (local communities)

The decline in natural resources and fossil fuels and increasing climate change plus an accelerating population is pushing us closer to environmental catastrophe. If global energy policies do not change, political and social tensions will mount over the supplies and locations of fossil fuels as they become scarcer and more expensive. The decline in fossil fuel and rise in climate change will exacerbate the difficulties in feeding the world's expanding population.

The way out is by embracing the Green Industrial Revolution and its promise of sustainable communities, renewable and distributed energy, and smart grids. Asian and European nations have set the pace for sustainable and secure communities with their own renewable energy sources, storage devices, and emerging technologies.

Sustainable blue-green communities represent an improved new design for how we can live, particularly in urban areas. They can integrate renewable energy generation and storage technologies with non-fossil fueled transportation. They can focus on environmentally sensitive business development, green job creation, and healthy social activities. Social scientists describe this as sustainable development or the integration of a community's energy and infrastructure requirements, economic needs, and social activities for the protection and preservation of the environment. Business and new commerce is stimulated by this interaction, which in turn provides economic reasons for pursuing and creating sustainable communities.

Most modern cities have the potential to implement some, if not all, sustainable activities. With a little guidance, most communities can have locally-distributed renewable energy, clean water, recycled garbage and waste, and efficient community transportation systems that run on renewable energy sources for power. We must create a sustainable lifestyle that is free from the carbon-intensive, fossil-fuel-based, inefficient centralized energy generation of the past.

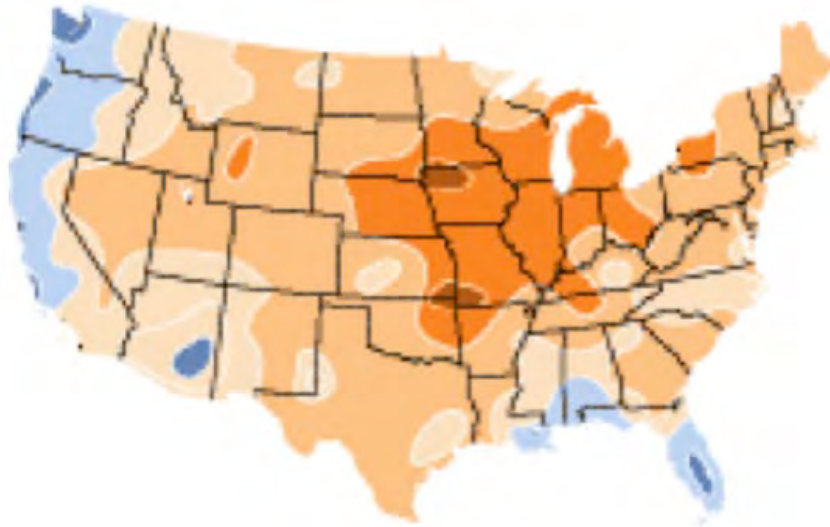
The endgame for the carbon-intensive, utility-controlled centralized power generation era has started. Powered by the oil-fueled internal combustion engine, this era is slowly giving way to a revolutionary new industrial and economic model powered by renewable green energy. Instead of being generated in monolithic plants with huge fossil-fueled turbines and passed along rigid one-way power lines,

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this energy will come from many small-scale renewable processes. In the US electricity will flow through a smart and flexible grid, and controlled by the Internet.

Areas in the US where drought conditions vary. Blue and dark blue in particular show drought conditions and lack of water over a 4-5 year period. The orange and other shades show normal areas of rain, with the dark orange showing extreme amounts of rain (National Weather Service, July, 2015).



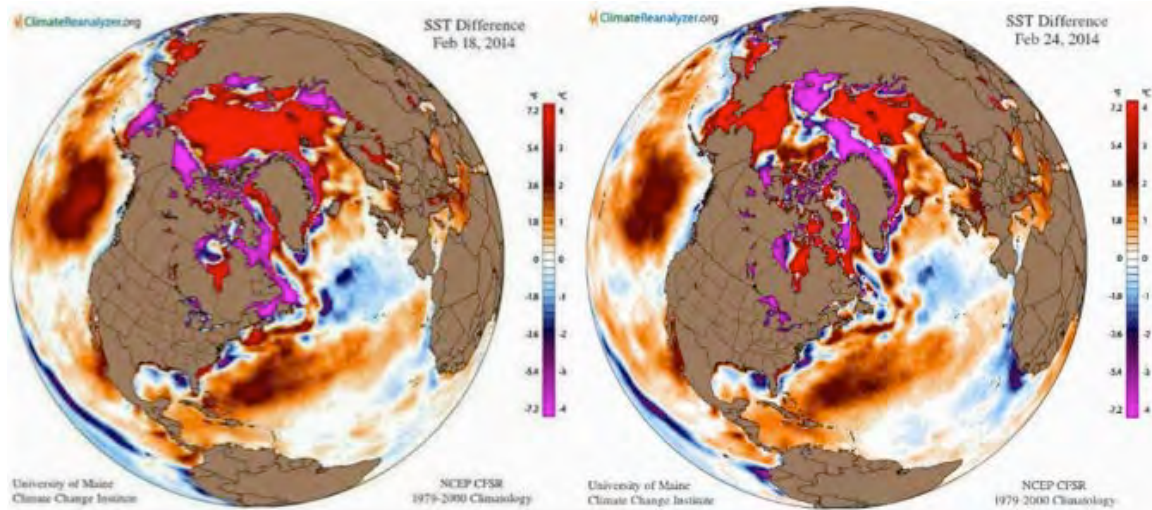
As the map above indicates, the US lags behind most developed nations in the battle against climate change. The lack of water and even the horizontal drilling for oil and topping, coping and reversing drought and rain conditions are critical. While the US is getting atmospheric conditions from greenhouse emissions from Asia, it still must try mitigate, adjust, reverse and stop the loss of water in some regions of the nation while storing and containing excessive rain in other regions.

To do this requires new technologies, political processes and systems on the local level, which are called “distributed”, or on-site for power, water, waste, transportation and other infrastructures. Unlike carbon sources such as coal, oil, gas, and tar sand, which come from special finite sources, distributed renewable energy comes from common sources that cover every inch of the planet.

For example, solar, wind, geothermal heat under the ground, biomass from garbage, small hydro, ocean tides and waves are all easily harnessed sources to generate electricity. These never-ending sources are at the core of an economic and industrial revolution that will transform the way we live. It is called the Green Industrial Revolution, (GIR) and it will emerge as the largest megatrend in history.

A case in point is Japan, which has long been exploring water conservation and as an island nation has had to get power from external sources. So companies there, like TOTO have been leaders for over 4 decades in water conservation and use for bathrooms.

Others have commercialized renewable solutions such as hybrid cars from Toyota, called the Prius. However, there have been misguided forays into nuclear power generation promoted and pushed by American nuclear power companies in the 1970s-80s. Today after the disaster at Fukushima, Japan is “rethinking” what it will do with its almost dozen current nuclear power plants in operation. One immediate result was that China put its monthly building of nuclear power plants on hold. Then in November 2014, China and the USA agreed to collaborate together for strategies to reduce and stop climate change that is impacting both nations. Nuclear was not an option for either country.



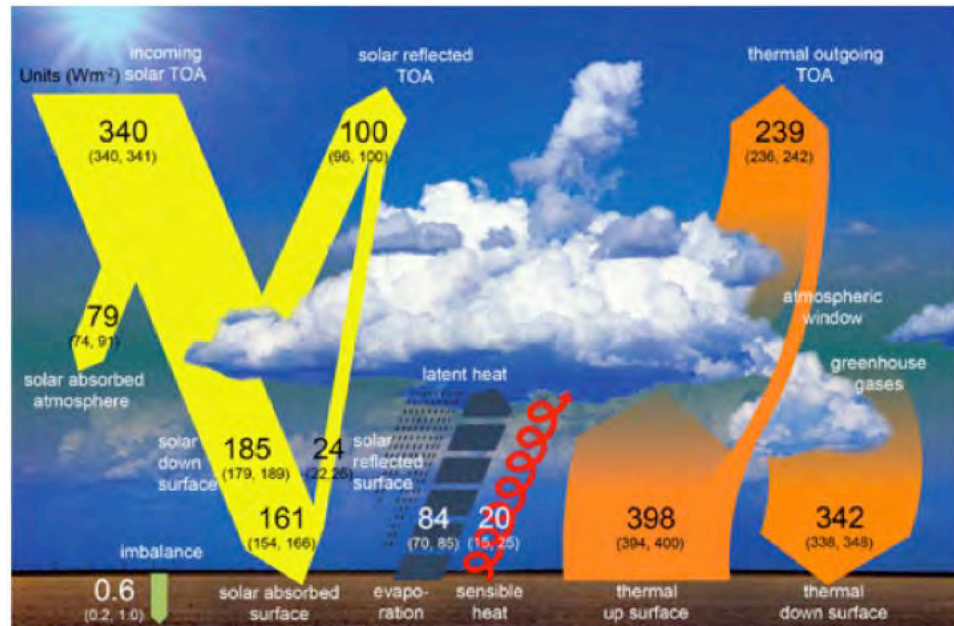
These global charts show the increase in heat that makes the Gulf Stream water warmer and hence storms such as one expected in early October to hit Caribbean Island nations and then the east coast of the US.

Countries in Asia have already taken action against climate change. Another Asian example is South Korea which enacted a Green Growth Task Force in 2009 and the results have been impressive. The current Secretary General of the UN (Mr. Ban Ki-moon) is from South Korea. Southeast Asia and even India are creating new smart green cities (Smart Green Cities due out in the fall for 2015 from Gower Press) highlighting many proven cases such as Singapore and its Eco-City program, Berlin with its Sustainability Plan and other cities in Asia and the EU.

As the second decade of the 21st century began, China switched its 13th Five Year Plan from two decades of conventional western classical economics to a social economic paradigm approach modeled after Northern European (Nordic and German) nations, not called “civic markets” (Clark and Fast, 2008). China used its 5 Year Plans to leapfrog the infrastructure and environmental mistakes (LE, 2013) made by Western developed nations and sustainable development is now [official government policy](#).

In Europe environmental issues morphed into legitimate political concerns that resulted in greenhouse gas reductions and incentives for renewable energy. Europe was

given a further wakeup call last year that reliance on (supposedly “clean”) natural gas, imported from Russia, carried a high price tag, not just for the environment but also for geopolitical stability. And while the world makes progress toward cleaning up the planet, the [International Monetary Fund recently reported](#) that global subsidies for fossil fuels cost consumers and taxpayers \$5.3 trillion per year.



There are three critical issues with the plan proposed by Newport Banning Ranch, LLC, the developer for the project: 1) The world is “round”, not “flat” as some economists claim; 2) The new global gold standard is no longer “yellow” but “blue” or “green”; and 3) Current data and details on climate change document dramatic changes that will impact everyone, especially at the local community levels. Let’s start with #3:

#3 is the broader problem of Climate Change.

The US government not only provides direct subsidies to Big Oil, we then allow fossil fuel interests to spend those subsidies to influence policy, and while it is disappointing to see a lack of leadership, it is not surprising. So, it was refreshing when California Gov. Jerry Brown issued an executive order to reduce emissions to 40 percent below 1990 levels by 2030 through 50% of the states energy being generated by renewable energy sources. Brown called it the most aggressive benchmark enacted by a government in North America, while it matches some Nordic countries and links California the recent G7 declaration to have them all be 100% renewable energy by the next Century.

True, even if it just brings California into alignment with the same targets of the leading international governments ahead of the United Nations Climate Change Conference. The latest proposal comes just months after Brown, at his inauguration,

challenged the nation's most populous state to increase renewable energy use to 50 percent in the next 15 years, which the UN plans on implementing with its December 2015 meeting of the UN FCCC in Paris.

The frontline of the [Green Industrial Revolution](#) can be found in many places: in December 2015, the UNCCC will be holding in Paris an important global conference on the solutions to climate change ranging from science labs at universities around the globe, the Electric Valley in the Chinese city of Baoding, R&D departments at leading corporations, organic farms, the Vatican, and even the recycling bin in a family's own kitchen.

Renewable energy is not only solar panels or wind turbines. Innovative technologies to stop energy dependency on fossil fuels and thus mitigate climate change, certainly needs to include solar, wind, batteries, flywheels and other technology systems, like geothermal energy as well as to integrate these systems and others that have not been invented yet. New open incentives, including [SRECs](#) and [carbon taxes](#) are needed, just so long as the source of power does not have elements that harm the environment. Above all, the financing and investments in these plans for stopping climate change need to be implemented.

No fossil fuels. No carbon. No nukes. No emissions. Nothing that leaves a pile of garbage in its wake. This is how a sculptor approaches a block of marble, chipping away everything that isn't supposed to be there. For too long non-existent US energy policy has been little more than pandering to fossil fuel lobby while defaulting to the convenient, the expeditious, and the dangerous rather than reliance on the efficient, smart, and sustainable use of energy. Even the [fossil fuel industry around the world has finally realized](#) that it is best to tax carbon fuels than create a "cap and trade market" since it is easier to manage and far more efficient.

Once the world chips away all the bad junk you have a chance to implement the Green Industrial Revolution. The earth has plenty of clean energy; solar, wind, thermal, electromagnetic, and more – waiting to be harnessed. We need to use it all. It has to be completely reliable; not intermittent, not just reliant on the grid and distributed generation. And of course it should be less expensive. This requires that we think beyond existing technologies. Consider below how warming and cooling temperatures impact all nations in a very difficult and life threatening manner (UN IPCC, ARS, 2014):

It's important to take a big picture approach to water supply sustainability by referencing the drought, climate change, sea-level rise and related issues, ideally with the project and the City of Newport Beach serving as a case study on a local level. Consider the scenario shown in Figure 4 below, "Newport Banning Ranch WSA Refers to Supply Projections the City Can't Access." The graph shows the City's projections of increasing supplies while the actual historical supply data from all sources shows that

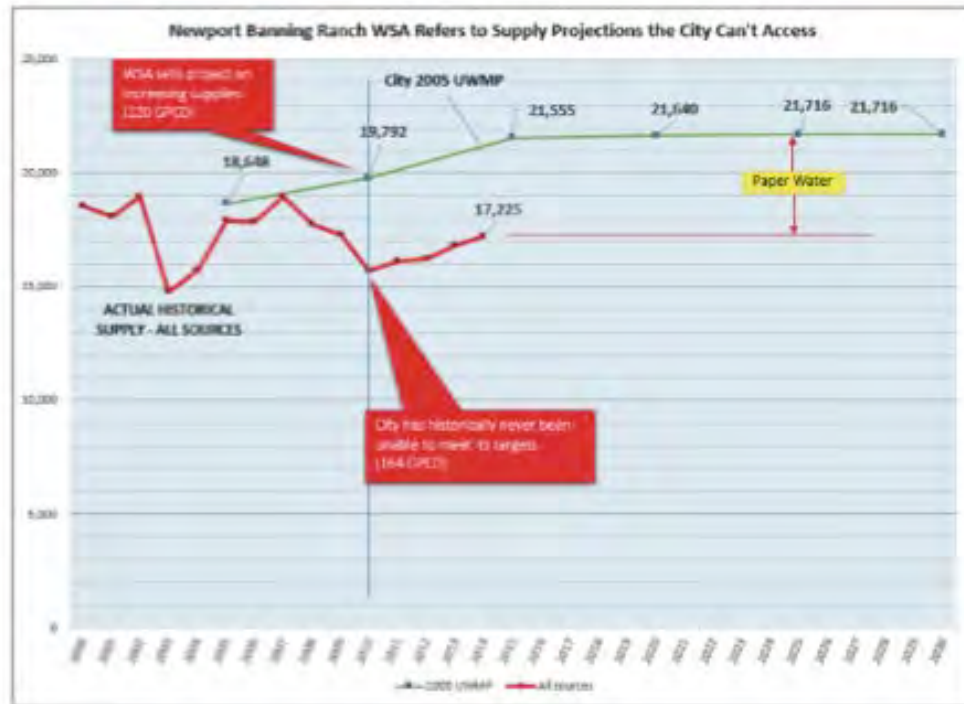


Figure 4 – Gallons per Capita Daily (GPCD)

The city has never met its projections. Also, see the chart below as an example of an unaccounted-for increase in housing units in Newport Beach and the subsequent increase in water supply projections.

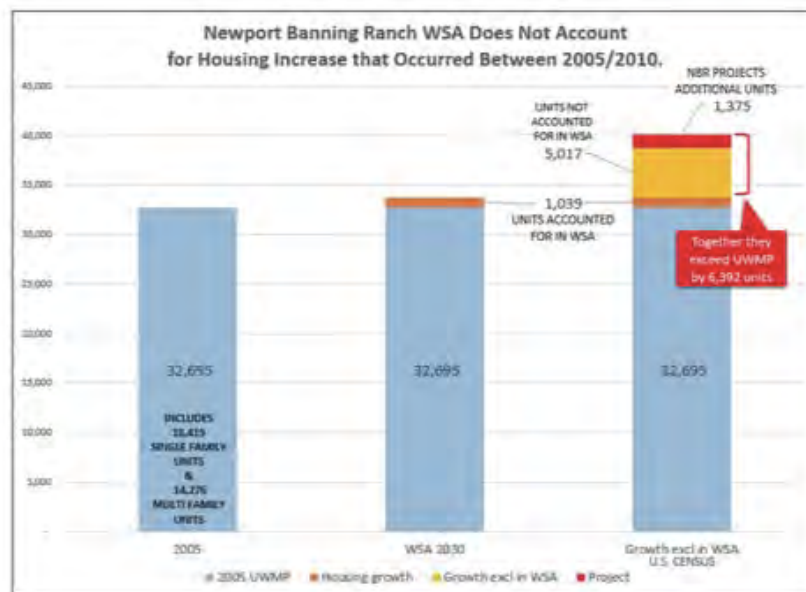


Figure 3 – City Growth Exceeds UWMP Projections

Ellen Hanak's book, *Water for Growth: California's New Frontier*, Public Policy Institute of California,

2005) has an overall statement by David W. Lyon, President and CEO of the Institute, who notes:

First, ample opportunities are available over the coming decades to meet the state's needs through diverse approaches, including groundwater banking, recycling, improvements in urban water-use efficiency, and water transfers that can help supplement surface storage—the option that dominated California's water strategy in the early part of the last century.

Second, the author argues that on both the *demand* and *supply* side of the equation, future solutions are in the hands of local and regional agencies. After surveying city and county land-use planners, the author concludes that the “disconnect” between utilities and local governments is not as large as many might have imagined or feared. Six out of 10 land-use agencies participate in the planning activities of at least some of their local utilities, and nearly as many are active in water policy groups concerned with regional resource management. The survey also showed that over half of all cities and most counties—housing over half of the state's residents—have some form of local oversight policy to guard against the building of new residential developments without adequate water supply.

Hanak's work does not account for the impacts of a severe drought due to the continued global changes in climate. In summary, the author concludes that there are plenty of opportunities for balancing the supply and demand of water in the coming decades, but as mentioned, this approach does not integrate weather, nor does it include the necessary health and policy aspects. The Next Economics offers the most viable approach to balance future water supply and demand, given the extreme weather changes we're faced with on a global scale. This approach is discussed below.

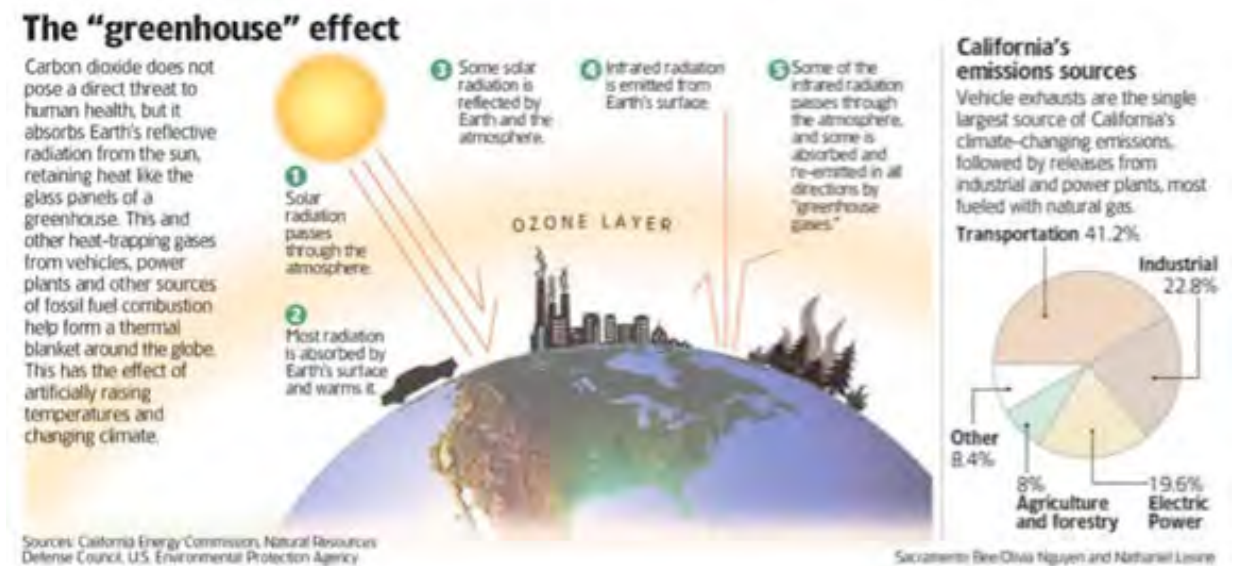
#1) The world is “round” and not “flat” as some economists claim

A science of economics should follow the lead, direction, methods and rule-law making of the natural and physical sciences. Qualitative economics is a new field that does just that through the descriptive, empirical data-base of scientific inquiry about any phenomena based on proving or disproving a hypothesis.

This new economic scientific paradigm seeks to discover, through the scientific methods at the micro-economic level of inquiry with the creation of theories that become rules which then can be generalised into universal economic laws. Rule making creates sets of laws, which are the key component in any science. Generalities are formulated, tested and prescribed for future research, investigation, predicative models and hypothesis investigations.

The next economic paradigm started in China, Nordic countries and Germany and Japan due to a Green Industrial Revolution (GIR) of renewable energy, smart green sustainable communities and advanced technologies (Clark and Cooke, 2011). The GIR has taken the USA by surprise. The GIR is the significant paradigm change from the

fossil fuels and nuclear power plants of The Second Industrial Revolution (2IR), which has dominated global economics since the late 1890s, to renewable energy in the late 1990s and growing at an extraordinarily rapid rate into the 21st Century. While the USA had invented and even began to commercialize many of the technologies developed into mass markets by the EU and Japan, it failed in the last two decades to move ahead of corporate interests, while at the same time recognizing the growing importance of climate change for the future.



It's not all about money—or is it?

In light of the October 2008 world financial meltdown, which even in 2014 continues with the monetary crisis in Europe, it seems silly to think that the supply-side, deregulated, free-market economics so passionately espoused by President Ronald Reagan and Prime Minister Margaret Thatcher in the 1980s will work for a 21st century world threatened by irreversible environmental damage.

The 2008 (and even in the summer of 2015 which started and has not ended yet) the economic implosion from trillions of dollars in hedge funds, sub-prime mortgages, credit swaps, and related marginal derivatives nearly pushed the Western world's financial structure into the abyss. It underlined what happens when governments ignore their responsibility to govern. Market economists and others had argued that there was no need for regulation. Government would act as "the invisible hand."

In the end, the worst financial disaster since the Great Depression was a testament to the venal side of free market capitalism—greed, stupidity,

carelessness, and total disregard for risk management. These are not behaviors that can be repeated if the planet is going to survive climate change and its impact on the earth and its inhabitants.

The Green Industrial Revolution must develop an economy that fits its social and political structures, similar to the First and Second Industrial Revolutions. The first one replaced an agrarian, draft animal-powered economy with one powered by steam engines and combustion machine-driven manufacturing, an evolution that was accelerated by colonial expansion. The second created a fossil fuel-powered economy that extracted natural resources in an unregulated, consumer-fed, free-market capitalist society.

As the GIR emerges, the world is becoming much more interdependent. What happens in one part of the world, be it weather, pollution, politics, or economics, impacts other regions. For example, the dramatic change in the Egyptian government in early 2010 has affected the rest of the Middle East and will result in global changes of oil and gas supplies. The result might well be the forced end of the Second Industrial Revolution as continuous Middle East turmoil forces developed nations to push for energy independence with renewable energy sources.

There is historical precedence for this forced transition. The Arab oil embargoes of the early 1970s pushed Europe and Asia toward social policies that eventually led to the beginnings of the GIR. Energy independence, climate change, and environmental protection became serious political issues. Both these regions have been developing economic forms of what has become known as “social capitalism,” an economic view that includes sustainable growth, health and educational issues, environmental concerns, and climate change mitigation, along with interest in diverse populations, gender equality, and democratic processes. The essence of social capitalism is that there are some social and political problems so complex and overriding that free markets and deregulation cannot address them.

Social and environmental factors—sustainable communities, climate change mitigation, and environmental protection—are growing in importance and will soon demand far greater international cooperation and agreement. Rampant economic growth and individual accumulation of wealth is being replaced by social and environmental values that benefit the larger community. For example, the European Union is pushing for limits on the salaries of corporate executives.

Without a national policy and investment, countries cannot address their basic infrastructures. Without government consensus, there can be no action, no improvement, no resources, and certainly no response to environmental degradation. For example, the United States’ inability to develop a national energy policy that addresses climate change is often cited as a monumental failure of its free market and deregulated economic model. Energy and infrastructure, the argument goes, are extraordinarily important national issues, just as important as

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defense or entitlement programs. To address these basic systems for the greater good, a nation needs to have plans, which are outlined and offered by the central government.

Above all, the western definition of “market-driven” economies in energy is questionable in China such that different definitions and meanings are need for “market” and therefore “capitalism”. And that is what China has done. Redefined capitalism so that it has a societal focus, direction and set of policy along with financial strategies. For example, the rapidly emerging renewable energy industry in China has created a new market finance mechanism for long term debt, which involves the Chinese business financing the entire sale, installation and operations along with maintenance of the renewable energy technologies and products.

In short, China may have discovered a new form of The World Bank. Ice is melting at rates beyond anything science has predicted and currently there are no new ways of stopping or mitigating this global loss of water resources. In summer, the North Pole now has no ice, while oil and gas companies want to drill near the distressed area and pipe or ship their oil and gas to other areas in the world for processing.



China is now the leading example of the next economics, because it has Five-year Plans and started its twelfth in March 2011. Each plan provides clear and formulated policies, and their intended budgets, to address environmental issues and their solutions. China has “leapfrogged” into the 3IR in order to avoid the mistakes of the western developed nations in a variety of infrastructure areas. Also the USA must look comprehensively into the corporate and political reactions to the 2011 Japanese tsunami and ensuing nuclear power plant explosions, as well as the 2010 BP oil spill in the Gulf of Mexico off Louisiana. The USA and other countries cannot ignore the environmental consequences and economic costs of the 2IR that have handicapped it moving into the 3IR. The end result is not good for the American people, let alone the rest of the world.

Privatization is wrong --- US and CA deregulation and liberation in the EU. As US Senator Sanders: Social Security – paid from US Employers – for over 75 yrs and never missed payments; Medicare for all American and not with insurance companies Issue of who pays taxes in US --- 1% of wealthy but have over 22% of GDP. Class differences with elimination of middle class --- more like a new Caste System in America.

#2) New global gold standard is no longer “yellow” but “blue” or “green”

Many industrialized nations espouse and promote a version of Adam Smith laissez-faire economics, which turned it into the neo-classical economic model of today. The modern day version of economics, especially espoused in the United Kingdom (UK or Britain) and United States of America (USA or American) are that there must be a balance between supply and demand. This can only be done through “market forces” which, unfortunately, take control of regional and national policies and programs, let alone international economic growth. This conventional neo-classical economic theory places societal concerns second to the needs of business interests. Yet this narrowly focused concern for personal profits and financial rewards ignores purposefully the problems of health, the environment and climate change. Another economic model is needed. It is “social capitalism” which must be the next economic model and concerns long-term plan along with finance and investments, within the oversight and regulation from governments to monitor, measure success, provide change, implement proven innovations and even invest in economic plans.

Traditionally, especially over the last four decades, economics has been evolved from the neo-classic economics into the study of allocating scarce resources. Also, however, during the past four decades economists have become increasingly enamored with the finance industry. As a result, the economics discipline is “[i]n the wake of the biggest economic calamity in 80 years” according to the Economist (Economist, July 16, 2009: 11).

On the other hand, there would be the emergence of non-conventional security challenges whereby the Chinese government-controlled oil and gas companies bought international oil and gas producing and transport companies; 2) economic development became the key objective for all nations and economic power thus emerged to become more important and relevant than traditional military strength. Thus, soon, China had to face economic interdependence by increasing its global economic presence fuel supplies; 3) the post-Cold War US-based and controlled world order which is an American-centric new world order, would likely remain for a unknown period of time.

Therefore, China should, in the words of Deng, “observe calmly, secure our position, cope with affairs calmly, hide our capacities and bide our time”; and 4) there would be growing global competition for natural resources hence for energy security. It

was this last area that began after the turn of the 21st Century, when China's unknown global challenges were still being defined and hence significant tasks needed to be accomplished moving from totally government controlled industries to ones that were collaboration or joint ventures with foreign companies and often owned by a majority of Chinese workers (Clark and Isherwood, 2010).

Driven by the need for new strategic understandings, China has been pursuing a global foreign economic policy that was directed at creating a stable and peaceful environment for its economic growth through active engagement with the West and with the surrounding Asian nations. This strategy has become China's globalization focus for a new or next economy (Li and Clark, 2009). China grasped opportunities for increasing international trade and foreign direct investment, and, more importantly, for securing access to natural resources and energy supplies through its own international trade and investment in the resource-rich regions such as Africa, Latin America and Southeast Asia, and in recent years, Central Asia. China's global policy strategies under an active role of the state have been seen as effectively making it one of the "globalization's great winners" (Thøgersen and Østergaard, 2010).

China's remarkable achievement in economic growth was made possible by its growing involvement in the capitalist world system. Steven Chan verified this fact as he told the story of SunTech becoming the world's number #1 solar manufacturing company in 2010 (Chan, Steven, 2011). But China remained in charge with caution and intense controls from the central government. It did not, for example, experience the deep 2008 global economic recession. In other words, China's economic growth is inseparable from its increasing dependence on global markets, with some estimates suggesting that more than 40% of its GNP is derived from international trade (Chun, ML, 2010). In other words, China's rapid economic growth has been driven by exports with the assistance of foreign investments and joint ventures that have dominated the most dynamic sectors of the economy. Its market-driven growth encourages more concessions to induce capital flows and growth in unlimited possibilities of expansion and more structural changes to meet the demand of the overwhelming pursuit of external markets and resources (Lo, 2011).

In recent years China has won the global recognition for its achievement in the development and application of alternative energy. China overtook the United States for the first time in 2009 in the race to invest in wind, solar and other sources of clean energy. American clean energy investments were \$18.6 billion last year which were a little more than half the Chinese total of \$34.6 billion. Just a few years ago, China's investments in clean energy totaled just \$2.5 billion (*Los Angeles Times*, March 25, 2010). In recent years, it is increasingly recognized that China's "green leap forward" policy has made it become the world's largest makers of wind turbines and solar panels surpassing Western competitors in the race for alternative energy. As one of the key US newspapers points out:

China vaulted past competitors in Denmark, Germany, Spain and the United States last year to become the world's largest maker of wind turbines, China has also leapfrogged the West in the last two years to emerge as the world's largest manufacturer of solar panels. And the country is pushing equally hard to build nuclear reactors and the most efficient types of coal power plants. These efforts to dominate renewable energy technologies raise the prospect that the West may someday trade its dependence on oil from the Mideast for a reliance on solar panels, wind turbines and other gear manufactured in China. (*New York Times*, January 30, 2010)

Clean renewable energy strategy emphasizes a sustainable growth path based on equity is leading the transition to knowledge and information economy. When referring to China's alternative renewable energy policy, some studies have shown that China is facing both opportunities and challenges. The potential opportunities are plenty, such as solar energy, wind energy, biomass energy, small hydropower, geothermal energy, ocean energy, etc; whereas the challenges are apparent as well, such as the lack of coordination and policy consistency, weakness and incompleteness in incentive system, lack of innovation in regional policy, immature financial system for renewable energy projects and the limited investment in research and development of renewable energy (Zhang, Peidong, et al 2007). There is still a long way to go before China's renewable energy market becomes mature and socially and culturally embedded.

However, despite the above global reality described by this realist perception, China's deep sense of its energy insecurity and vulnerability is changing its development policy towards clean and renewable energy. China is accelerating R&D on renewable energy supply and advanced energy conservation-based techniques and products; it is making necessary structural changes in industrial and agricultural sectors moving to non-energy intensive industries. Furthermore, China is trying to rely primarily on domestic resources while strengthening mutually beneficial international energy cooperation. The optimism that China is presenting to the world is not groundless. China is not only one of the world's leading producers of renewable energy, but also is over-taking more developed countries in exploiting valuable economic opportunities, creating green-collar jobs and leading development of critical low carbon technologies.

Such optimism in China's own "green revolution" is also confirmed by the front page of a recent report by Climate Group (2009), "As one of the world's major economic powers, China will have to be at the forefront of this journey. This report shows that it can be." Nevertheless, China still has a long way to meet its policy objectives on energy and environmental sustainability. Due to its size and population the consequences of failure in China's case are much more serious than many other counties. China should not be left struggling alone on the road to optimism; and the whole world must pay more

attention to China. World peace and a sustainable planet depend on global harmony and collaboration beyond convention competition over supply and demand.

Recommendations

From Manatt Law Firm (David Huard, September 30, 2015) on Environmental Law:

California's drought is now in its fourth year, and state leaders are faced with making unprecedented decisions further restricting water use. The brown lawns and dying trees are all too obvious and painful examples of the drought's impact. However, somewhat lost in the public discussion, but of critical importance, is the impact of the drought on the energy sector, including power use, transmission and supply, in addition to several other secondary impacts such as diminished air quality and increased commodity prices.

The full impact of this four-year drought is still unknown and will remain so until further studies can be conducted. However, certain interim effects are inevitable in drought years and should be recognized and discussed as state agencies look to address the drought's implications...

Joint Agency Action to Address Drought Implications

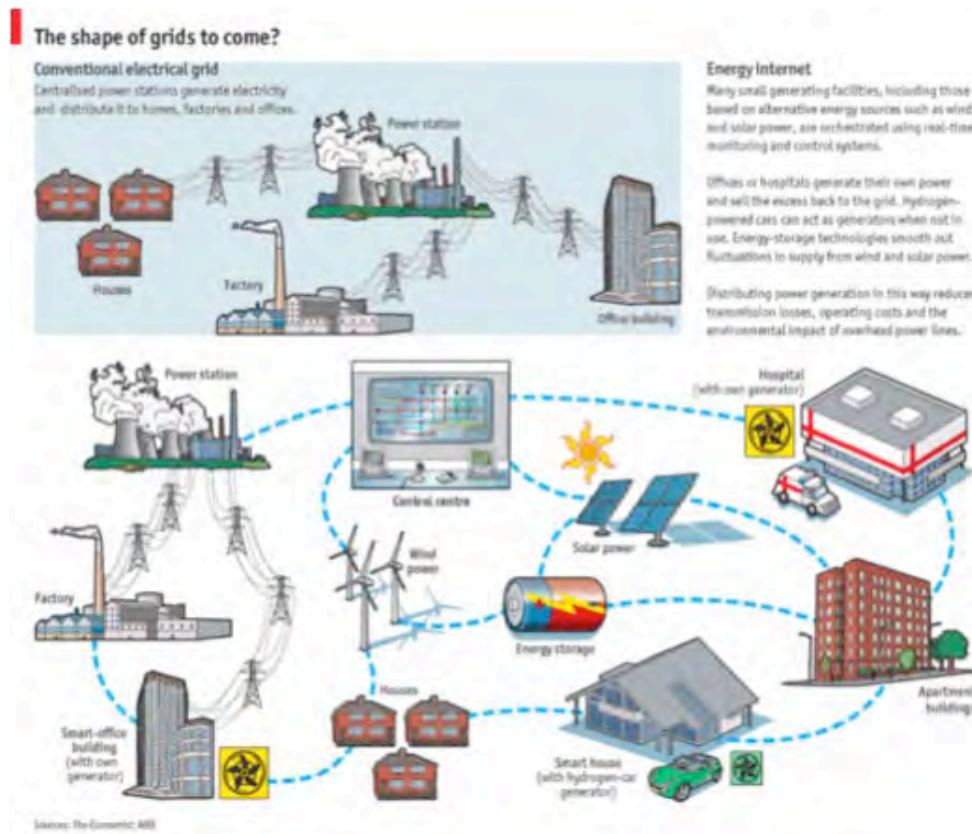
State agencies that deal with such issues are not just sitting idly by. The California Energy Commission (CEC) with the California Public Utilities Commission (CPUC) and CARB have collectively and individually begun to address these issues.

For example, on August 28, 2015, the CEC convened state agencies for a workshop to address California's Drought Response. The workshop was held in conjunction with a rulemaking at the CPUC called the Water-Energy Nexus Proceeding. CEC workshop participants discussed current drought effects and provided updates on state actions to address them, including state rebate programs to install more efficient appliances and water management technologies. The workshop concluded with a long-term outlook: Preparing for a Future of Drought.

One would hope that these initial efforts reflect a permanent shift in managing the state's increasingly scarce water resources and understanding the drought's implications for other state resources. But we must realistically assume that the impact of such processes will, even if productive, lag in impact from this year or even next. As 2016 is expected to be an El Niño year, California and the West may have some respite from these woes—but the problems being faced now are cyclical, so we can only hope that the efforts to address potential drought conditions do not disappear with the first rains of the winter.

On-site and Distributed Water and Energy Systems

There must be both central plant energy and water systems (as well as other infrastructures like waste, transportation and Wifi etc). Not just a central plant that communities and cities depend upon. So what is the solution --- strategy and plan? The need for “agile systems” that use both central water, waste and power systems along with on-site distributed systems. Both are needed in order to mitigate and adjust to global climate change. In short, the local level (communities and cities) are critical.



The above chart from the Economist in April 2004 was based on Agile Energy Systems (Clark and Bradshaw, Elsevier Press, February, 2004) which is now being updated today in 2015 for publication in 2016.

For example, the answers for both New York City or Beijing (and for all the world's megacities, regions and communities) is to become green, smart and sustainable. Cities, particularly large cities, must focus on environmental sustainability as well as economic sustainability. The quality of urban space must improve, and they must become more walkable, bike friendly, and livable. The

architecture should be inventive with sensitive urban design and a dynamic atmosphere. Sustainable living and sustainable business development must be promoted, along with infrastructure needs of water, recycling, transportation, waste, and materials. Above all else, a green sustainable city needs to generate

renewable energy and use energy storage with a smart integrated grid system to balance and share energy.

Cities can follow Berlin's example as it works to be 'climate neutral'. Germany's capital, Berlin is the nation's largest city with 3.75 million inhabitants. Becoming more attractive and growing steadily, Berlin has made a citywide effort to become climate neutral by 2050. A city can be regarded as 'climate-neutral' if its greenhouse gas emissions can keep global warming below the dangerous threshold of 2°C. Given these conditions, Berlin could become climate-neutral if total urban carbon dioxide emissions can be limited to 4.4 million tons by 2050 - a reduction of about 85 percent compared to 1990 levels.

Becoming climate neutral is only a part of the drive for sustainability of water and other resources. A city needs a heart and soul, or a center, where people have congregated for work and leisure based on its culture, history and traditions. Today, smart cities are well connected locally and internationally, along with a sustainable lifestyle and places where people come first. A "smart green city" has these elements, plus a core value of conservation, a respect for natural resources, and an appreciation for the environment.



Homes need to have all their own power, water and waste systems. So do business with new electric and hydrogen fuel cell cars that are recharged or refueled as this Honda Clarity below:



A powerful smart blue green technology revolution is commercializing rapidly that will change all aspects of our lives,

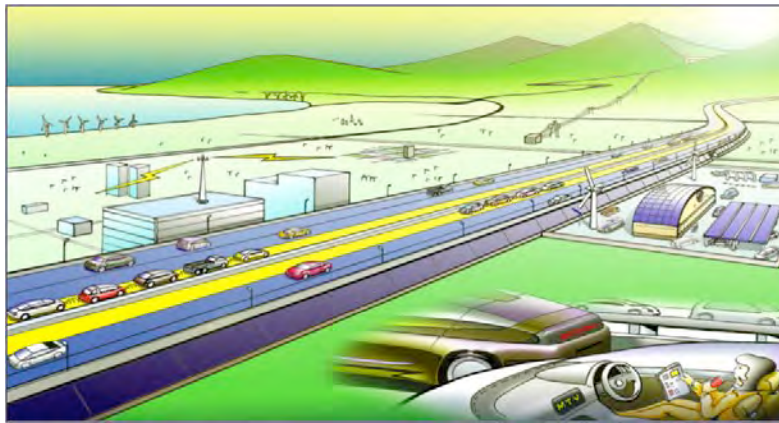
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including how we will access renewable energy. The Internet is becoming sophisticated enough and soon it will seamlessly tie together how we share and interact with electricity. It will greatly increase productivity and drive marginal cost of producing and distributing electricity down, possibly to nothing beyond fixed costs.

This is almost the case with the early adopters of solar and wind energy. As they pay off these systems and their fixed costs are covered, additional units of energy are basically free. Eventually, city residents will be able to buy a home solar system at Ikea, Costco or Home Depot, have it installed and recover costs in less than two years.

All three of these elements—carbon mitigation costs, grid parity and zero marginal costs, (and others like additive manufacturing and nanotechnology) are part of the Green Industrial Revolution. The new energy model is distributed, mobile, intelligent, and participatory and will rapidly replace the old energy model. As the nexus of declining prices for renewables and rising costs of extraction for fossil fuel is crossed—and we are there in several regions of the world—demand will rapidly shift and propel us into global energy deflation. It will change our cities and the way we live.

The era of sustainability and renewable energy has begun. The push for renewable energy and a carbonless lifestyle will become history's largest social and economic megatrend, with the potential of extraordinary benefits in the form of economic revival, innovation, emerging technologies, and significant job growth for those nations, and cities, capable of fast entry. The world of tomorrow is already occurring, as this schematic from a Japanese companies illustrates (from 2011):



Smart Green
(Clark and

Cities
Cooke,

2015) are the basic answer. For the first time in human history a majority of the planet's population lives in an urban setting. This mass migration to the world's global cities puts added pressure on city leaders and urban resources. Environmental crises linked to climate change are much more severe and have much more impact. Creating smart green cities requires solutions to old and new problems. Changing from a dependency upon fossil fuels and their carbon-intensive, polluted urban environment to one that is sustainable, healthier and with low toxic emissions is doable—and there are many cities around the world that are succeeding.

Human needs remain constant in urban environments, particularly in large, global cities. People need the basic infrastructure components such as energy, water, waste, telecommunications, and transportation to work well. In a smart green city, the components are linked and integrated. That way, components overlap, reducing costs for construction, operations, and maintenance.

Despite the extraordinary problems facing our cities, they need to change for the better. Cities need to be healthier and pollution free and new approaches to development and construction must be incorporated into how we work, live, and play. Instead of being centers for wealth inequality that breed alienation, resentment, and strife, our cities must be turned into centers that promote human interaction, healthy exchanges of ideas, and participation in shared values.

Overall, the quality of urban space must improve. Architecture should be more inventive with sensitive urban design and a dynamic atmosphere. Sustainable living and sustainable business development must be promoted. Cities must become more walkable, bike friendly, and livable. They need to focus on the environment as well as economic sustainability. They need to become smart and maximize the use of smart technologies to optimize the resources available for infrastructure upgrading. Smart cities need to capitalize on IT solutions to develop a smart economy, smart governance structures and procedures, smart people, a smart environment, smart mobility and smart living.

In short, the world needs to develop and implement green cities, which are capable of stopping climate change and addressing the other looming challenges of the 21st century. At the same time, cities need to be smart as they are urban centers that must encourage sustainable economic development, which promotes a high quality of life. Smart, emerging technologies can smooth the way for a more sustainable existence.

Since the world is round, not flat, weather in one part of the world impacts the rest. When different weather patterns occur as they are doing more frequently because of changes in climate, the results can be tornadoes, hurricanes and extreme weather patterns never before experienced in history.

Hurricane Sandy is a case in point. Sandy, the largest Atlantic hurricane on record slammed into the Northeastern section of the United States October 29, 2012. Propelled by twisting cyclonic winds and torrential rain, Hurricane Sandy crushed coastal New Jersey and New York, killing 253 people, destroying homes and businesses and wrecking havoc and destruction for over 72 hours. Airports were abandoned, and millions of people were threatened as New York City's subway tunnels sparked, then shorted, and became eerily quiet as they filled with water.

Hurricane Sandy was not an isolated case. Global warming is real, it is here now, and it is having a serious impact on the planet's weather. For

example, Climate Central reported that 2012 was the third straight hurricane season with 19 named storms on the U.S. east coast. Hurricane records go back to 1851, and the 2010, 2011, and 2012 were the busiest on record except for 2005 and 1933. Scientists think one reason for this increase in storm activity comes from the warming of the Atlantic sea surface temperatures. (Sandy Hurricane, October 2012)

Hurricanes are exceptional because of their size, but they are not the only results of climate change. On land, hurricanes are called tornados. They are caused by the same weather impacts from wind from different directions and temperatures hitting one another causing vast circles of energy that are out of control. The number of tornados in the U.S. has doubled each of the last ten years. The damage cannot be calculated due to the loss of lives.

Massive though Hurricane Sandy was, it paled in comparison to super-typhoon Haiyan that ripped through the Philippines in November 2013. The sheer magnitude of the typhoon was unprecedented as the archipelago was shattered with 250 miles per hour-sustained winds, and water surged over 16 foot barriers. The scale of the destruction and damage was shocking. President Benigno Aquino declared the devastation a national calamity. (Economist. November 16, 2014)

Some parts hit by Typhoon Haiyan were remote; however, the government said that more than 2,300 people were killed, and 11 million were affected. Roads and villages were destroyed, trees felled, crops flattened, power lines and houses blown away and about 600,000 were made homeless. Cost estimates were well over \$15 billion.

Typhoon Haiyan may be the strongest storm in recorded history, and scientist and politicians are blaming climate change. Naderev Sano, the Philippines representative at the 2013 Warsaw climate summit was convinced that the severity of the storm was the result of climate change. "The trend we now see is that more destructive storms will be the new norm," he told reporters. (ibid., 2014). Sever rain and hurricanes are now (October 2015) hitting the Bahamas and the Caribbean Islands they head for the eastern shores of the US.

What are the plans and strategies when the El Nino floods come later this fall?

Water is a finite resource.

"Charting Our Water Future" by the 2030 Water Resources Groups, P4, Executive Summary, puts it this way:

There is little indication that, left to its own devices, the water sector will come to a sustainable, cost-effective solution to meet the growing water requirements implied by economic and population growth.

Assuring sufficient raw or “upstream” water resources is a precondition for solving other water issues, such as those of clean water supply in municipal and rural systems, wastewater services, and sanitation—the “downstream” water services. Yet the institutions and practices common in the water sector have often failed to achieve such security. A lack of transparency on the economics of water resources makes it difficult to answer a series of fundamental questions: What will the total demand for water be in the coming decades? How much supply will there still be? What technical options for supply and water productivity exist to close the “water gap”? What resources are needed to implement them? Do users have the right incentives to change their behaviors and invest in water saving? What part of the investment backlog must be closed by private sector efforts, and what part does the public sector play in ensuring that water scarcity does not derail either economic or environmental health?”

As David Coffin’s technical report notes, the City of Newport Beach, in their 2010 UWMP clearly recognized that their 2005 projections were excessive, apparently gleaned from data that was available to them regarding the effects of climate change and drought on our diminishing water resources. As such, the city’s analysis supports our conclusion that there will be insufficient water supply availability, reliability and sustainability for the project.

The City’s projections in the 2005 UWMP were not sustainable and that is acknowledged by their much lower projections in the 2010 UWMP. If all or any part of the 2010 WSA and the 2010 UWMP was prepared in same year, this raises unfortunate, but inevitable questions. Out of concern and a sense of responsibility, there is an obligation to ask if the projections in the 2010 UWMP were adjusted to reflect the new data while data from the totally outdated and inaccurate 2005 UWMP was used to create the project’s 2010 WSA.

If so, this sequestration and misuse of reports may have enabled the justification of water supplies based on an outdated report by ignoring and even misusing current data. Even if this is not the case, the 2010 WSA has not proved there is an adequate water supply for the project as required by Section 30250 of the Coastal Act, and therefore, we concur with Coastal staff’s findings and urge the Commission to deny the project.

Blue (water) is becoming the new gold standard around the world.

(*) Woodrow W. Clark II, MA³, PhD. with Li Xing, PhD. Associate Professor at Aalborg University, Denmark contributed to this chapter along with special thanks to Michael Intriligator, PhD, co-editor for this special Issue of the CEO. And to Jerry Jin, PhD at: jerryjin88@yahoo.com ; David Nieh,

environmental economist in Shanghai at: david.nieh@shuion.com.cn ; and ML Chan PhD
at: mlchan@jucce.com

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Telephone +1 (310) 858-6886 Fax +1 (310) 858-6881

Email: wwclark13@gmail.com Website: www.clarkstrategicpartners.net

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NRDC's water supply sustainability index (US map showing extreme drought conditions in CA)

<http://www.nrdc.org/globalwarming/watersustainability/>

Water and Climate Change
Preserving Water Ecosystems

<http://www.nrdc.org/water/default.asp>

EX PARTE COMMUNICATION

FORM FOR DISCLOSURE
OF EX PARTE
COMMUNICATIONS

Received at Commission
Meeting

MAY 15 2015

From:

Date and time of communication:

5/12/15 5 PM

Location of communication:

(If communication was sent by mail or
facsimile, indicate the means of transmission.)

Santa Barbara

Identity of person(s) initiating communication:

Mike Reilly, Michael Mohler &

Identity of person(s) receiving communication:

Mary Shallenberger George Basyle

Name or description of project:

Banning Ranch

Description of content of communication:

(If communication included written material, attach a copy of the complete text of the written material.)

see attached

Date

5/15/15

Signature of Commissioner

Mary Shallenberger

If communication occurred seven (7) or more days in advance of the Commission hearing on the item that was the subject of the communication, complete this form and transmit it to the Executive Director **within** seven (7) days of the communication. If it is reasonable to believe that the completed form will not arrive by U.S. mail at the Commission's main office prior to the commencement of the meeting, other means of delivery should be used, such as facsimile, overnight mail, or personal delivery by the Commissioner to the Executive Director at the meeting prior to the time that the hearing on the matter commences.

If communication occurred within seven (7) days of the hearing, **complete** this form, provide the information **orally** on the record of the proceeding **and** provide the Executive Director with a copy of any written material that was part of the communication.



NEWPORT BANNING RANCH CONSERVATION & RE-USE PLAN

April, 2015



OVERVIEW

○ Location

- Newport Beach
- Costa Mesa
- Huntington Beach
- County of Orange

○ Local Jurisdictions

- Newport Beach: 40+ Acres
- County of Orange: 360 Acres
- Entire Property within NB Sphere of Influence

○ Ownership

- Mineral Rights Owned/Operated by APC-HDLC/WNOC
- Surface Right Owned by NBR LLC

NEWPORT BANNING RANCH



CCC PROCESSING SUMMARY

July-August 2012	City of Newport Beach Approvals
February 1, 2013	NBR CDP Application Submittal
March 1, 2013	1 st CCC Notice of Incomplete
June 14, 2013	CCC staff identifies Threshold Issues
August 7, 2013	CCC Proposes Dispute Hearing
February 14, 2014	NBR Public Comment re: processing concerns
June 5, 2014	6 th CCC Notice of Incomplete
June 11, 2014	CCC Site Tour
June 12, 2014	NBR files Dispute Resolution per 8/7/13 staff recommendation
August, 2014	CCC Exec Director Nullifies Dispute and Forces NOV
November 26, 2014	7 th CCC Notice of Incomplete
March 12, 2015	CCC Approves Settlement Agreement
April 3, 2015	8 th CCC Notice of Incomplete
April 8, 2015	NBR Submits Response to Notice of Incomplete
April 26, 2015	CCC Deems Application Complete

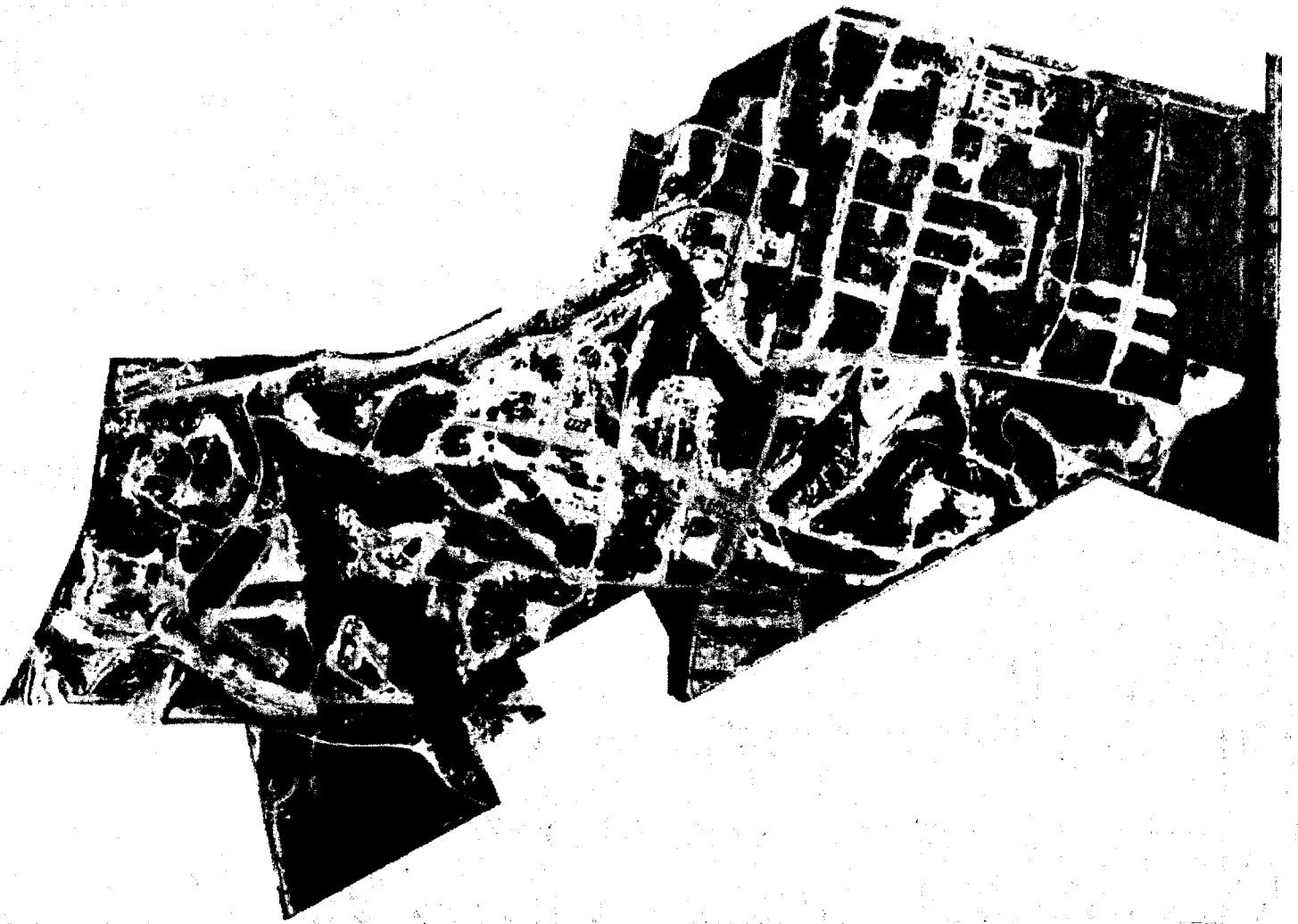
EXISTING CONDITIONS

○ NBR Aerial

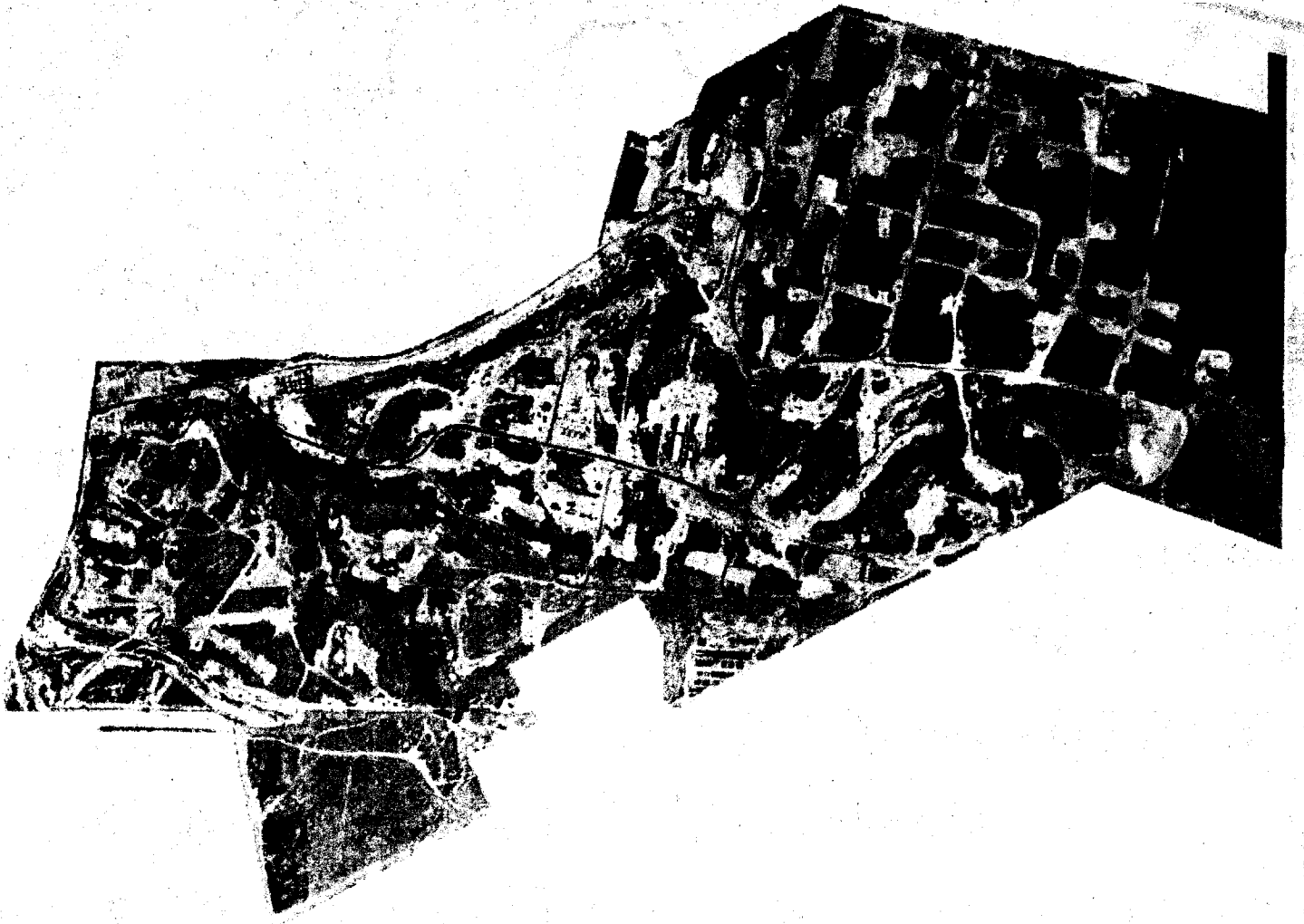
NEWPORT BANNING RANCH



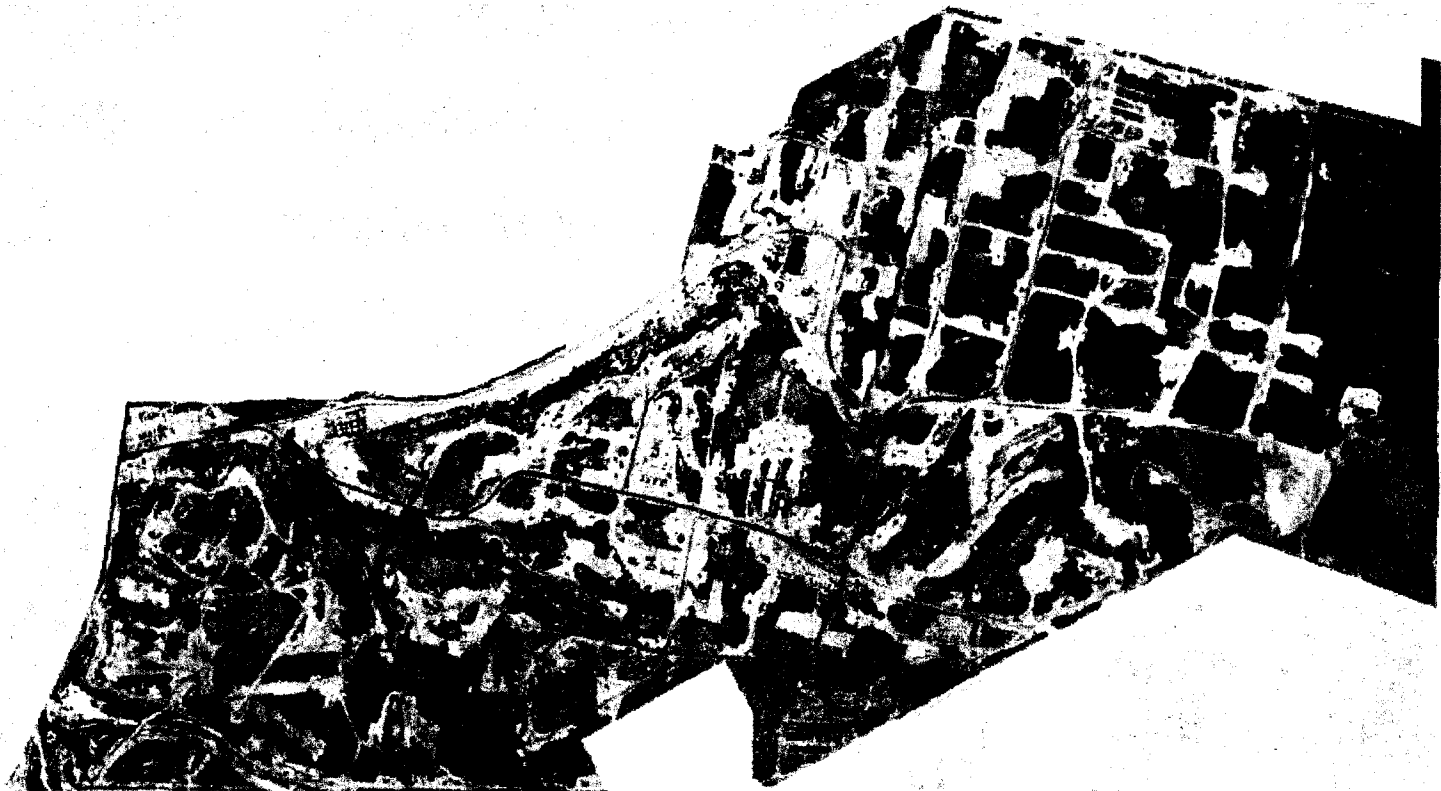
1973 Aerial



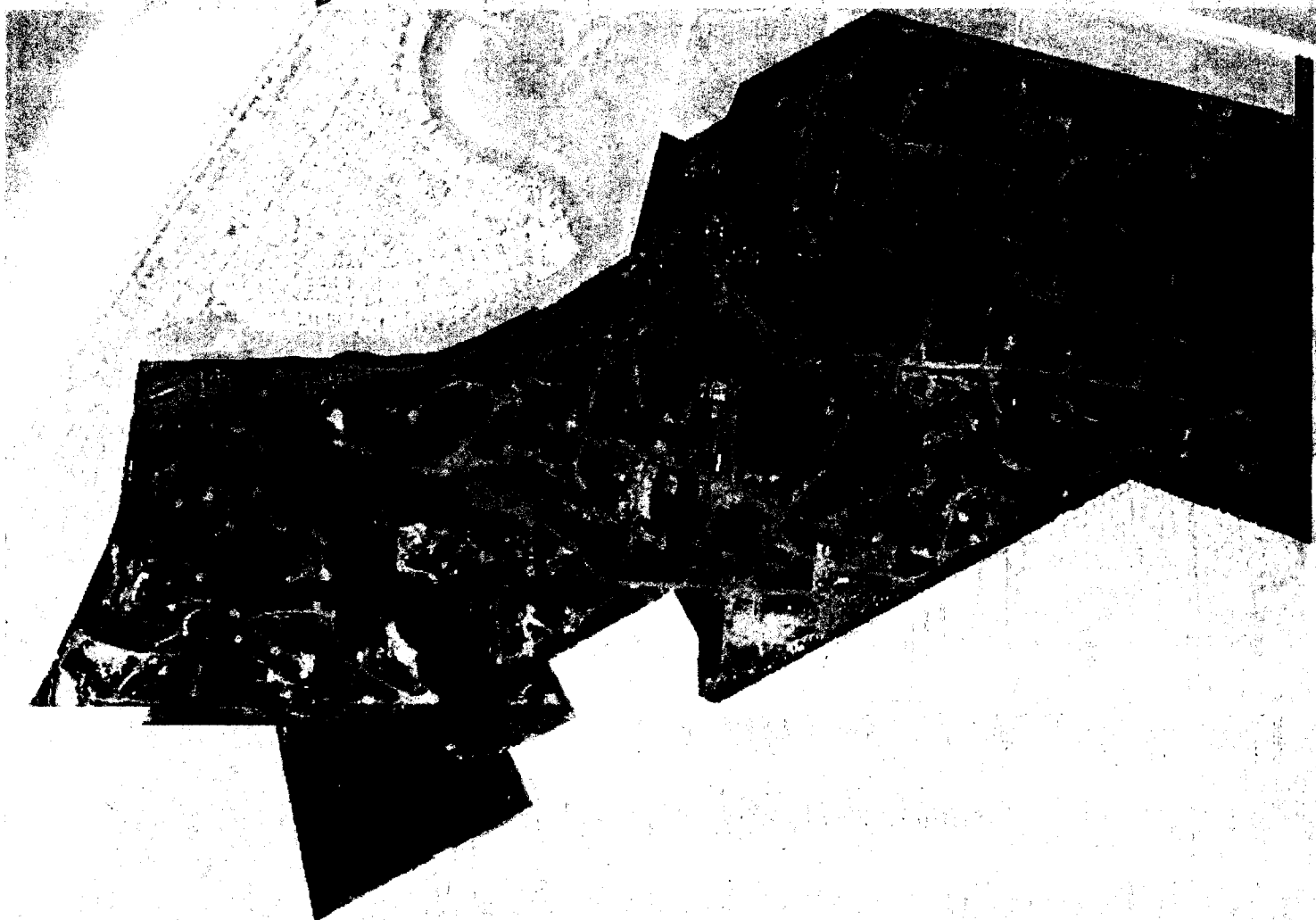
1975 Aerial



1975 Aerial



2009 Aerial



EXISTING CONDITIONS

- Approx. 401 Acres
- Oil discovered 1943
- Production & maintenance operations commenced thereafter and continue today
- 480+ wells drilled
- Over 40 miles of pipeline
- More than half the site has been impacted by oil operations

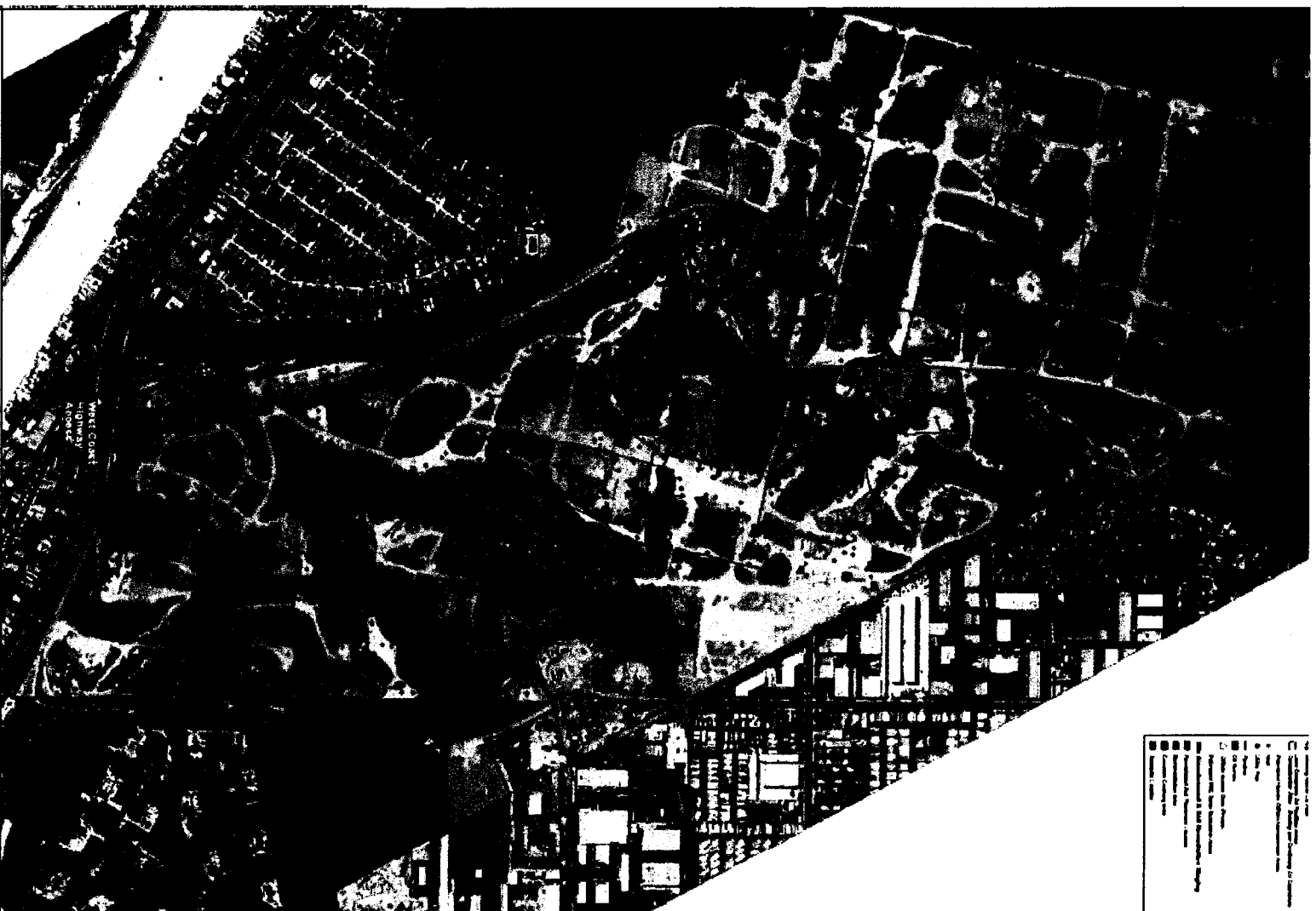
NEWPORT BANNING RANCH



ABANDONMENT & REMEDIATION

- RAP submitted to:
 - OCHCA
 - RWQCB
 - CCC Energy Staff
- On-site remediation and recycling of impacted soils and materials
- \$30 Million + clean-up

NEWPORT BANNING RANCH



REDUCTION IN OIL OPERATIONS AREA

- 2 “Remainder Operations” sites – Max. 17 acres
- Deed restricted to Open Space upon cessation of oil operations
- Total Restricted for Future Open Space
- 17 Acres

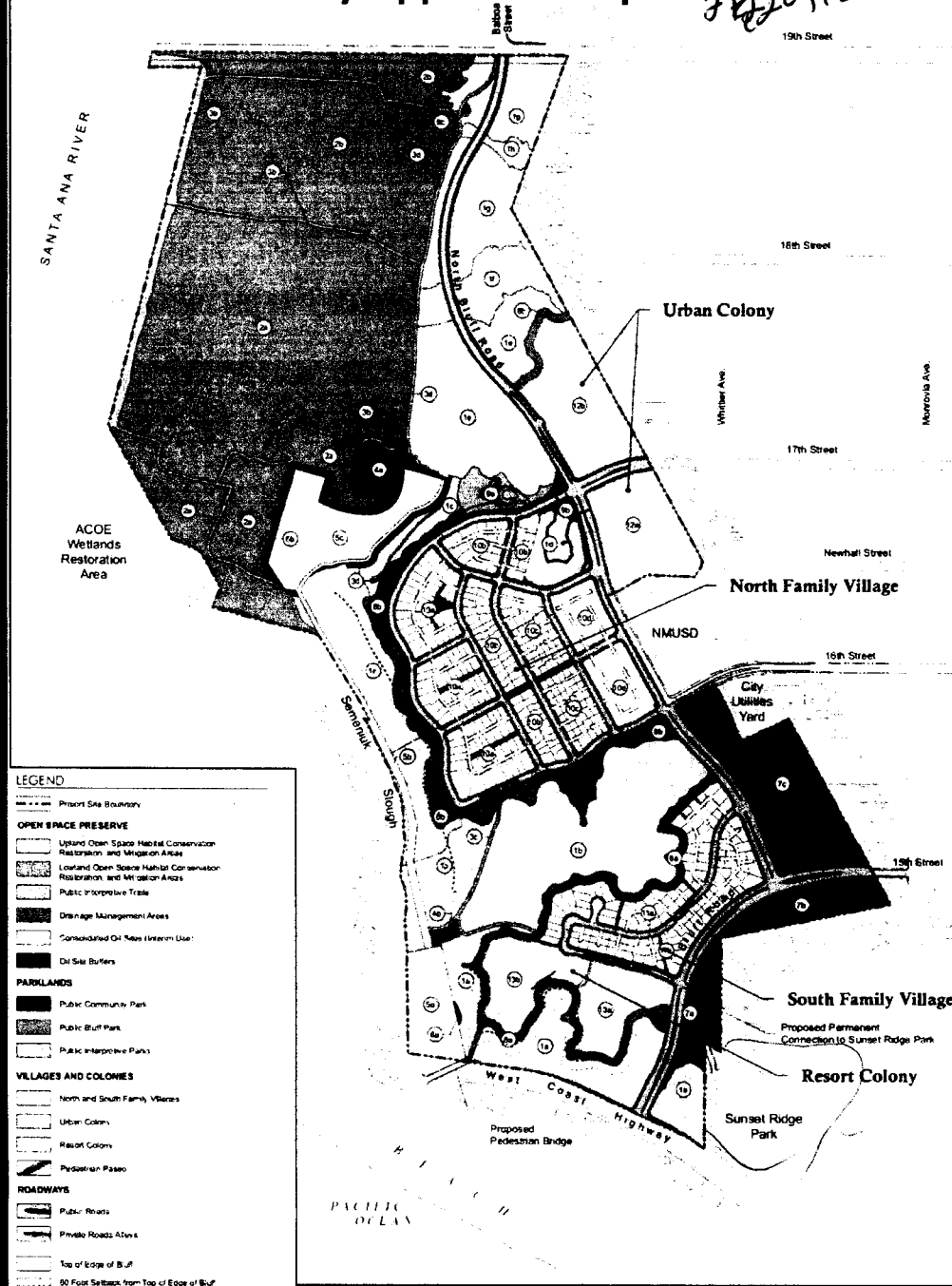
NEWPORT BANNING RANCH



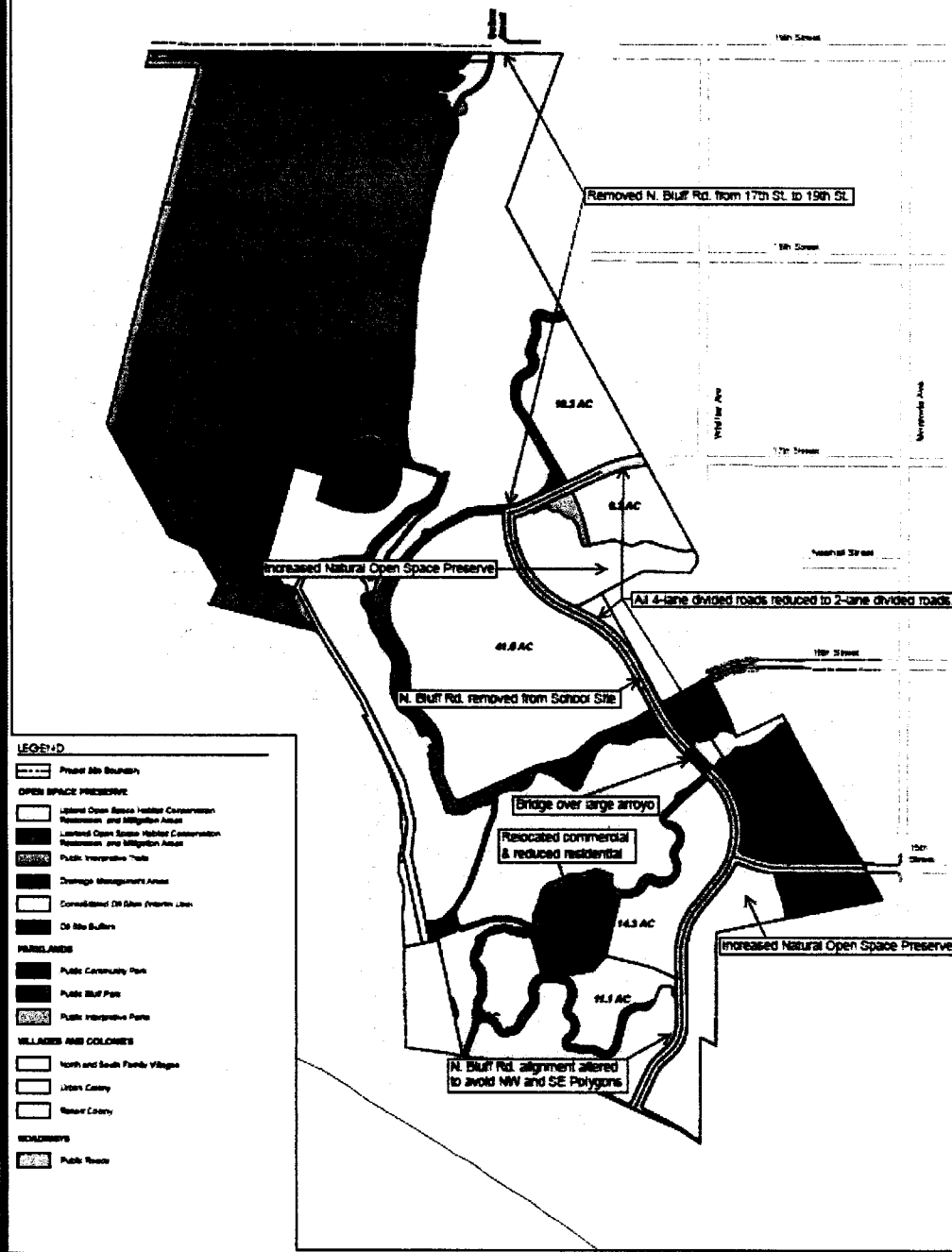
PROJECT EVOLUTION

City Approved Project

2/22/12



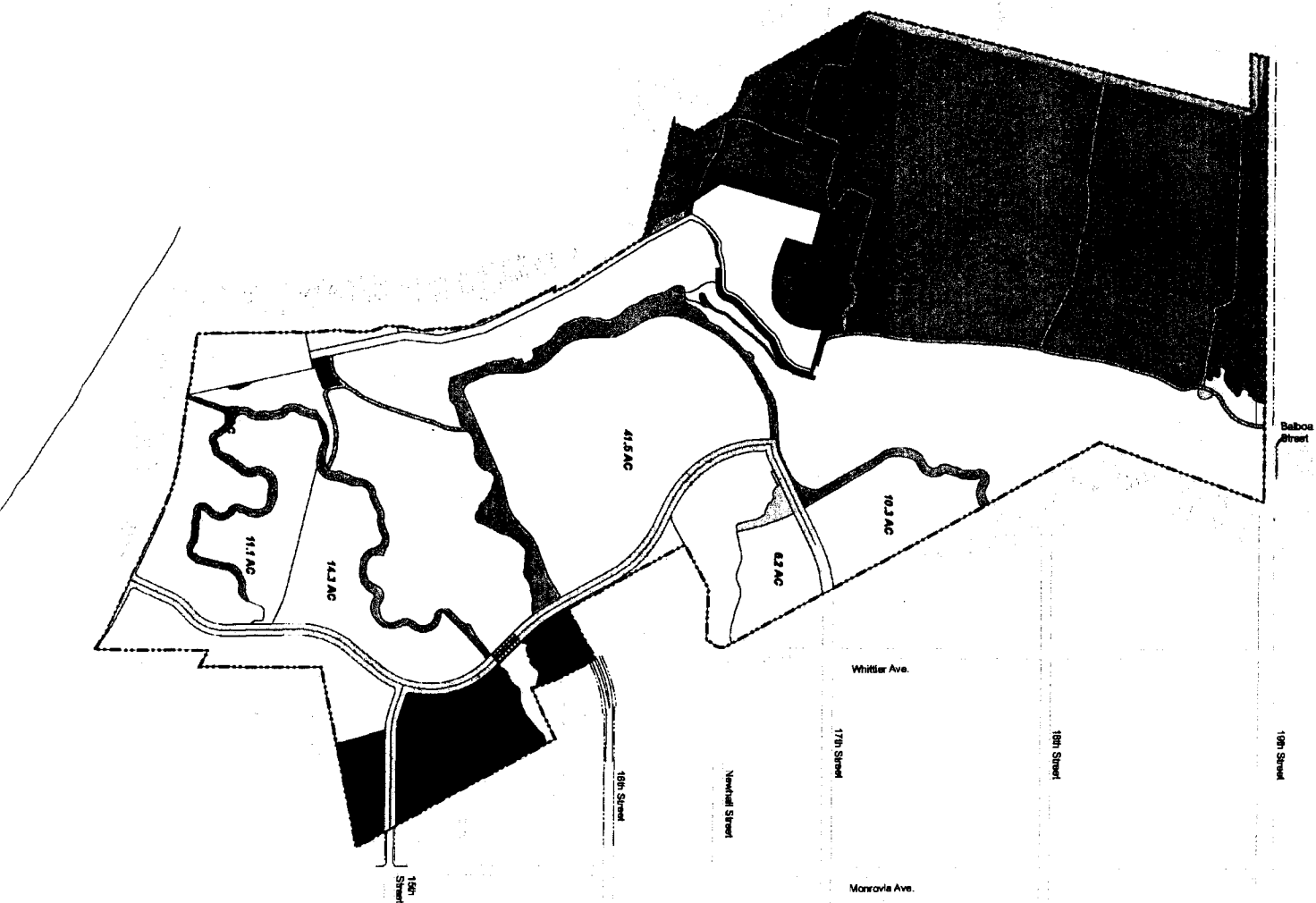
Current CCC Submittal



PROPOSED USES REVISED

- Property Total
 - 401 Acres
- Permanent Public Open Space
 - 307 Acres, >77%
- Roads
 - 11 acres, > 3%
- Mixed-Use Development
 - 83 Acres, <20%

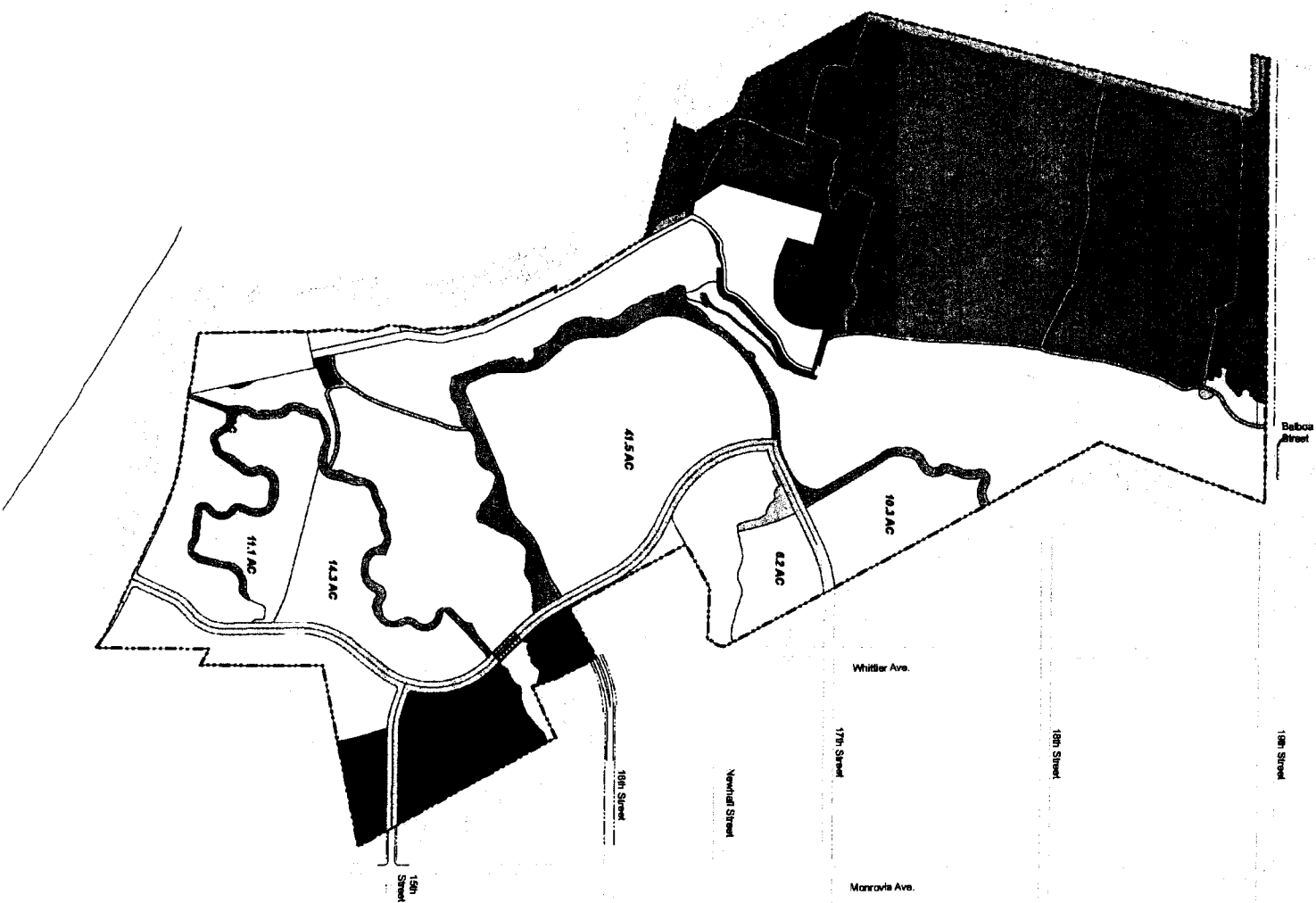
NEWPORT BANNING RANCH



NATURAL OPEN SPACE

- A comprehensive habitat preservation & restoration program
- Water Quality
- Land Stewardship
 - Protect, maintain, & manage
 - No cost to taxpayers
 - In perpetuity
- Total Open Space
- 261 Acres

NEWPORT BANNING RANCH



HABITAT CONSERVATION & CONCEPTUAL MITIGATION PLAN

- Following Abandonment and Remediation the Plan provides for protection, restoration and management of
 - Scrub Habitats
 - Vernal Pool Preserves
 - Wetland/Lowland transition areas
 - Third Party Mitigation Opportunity

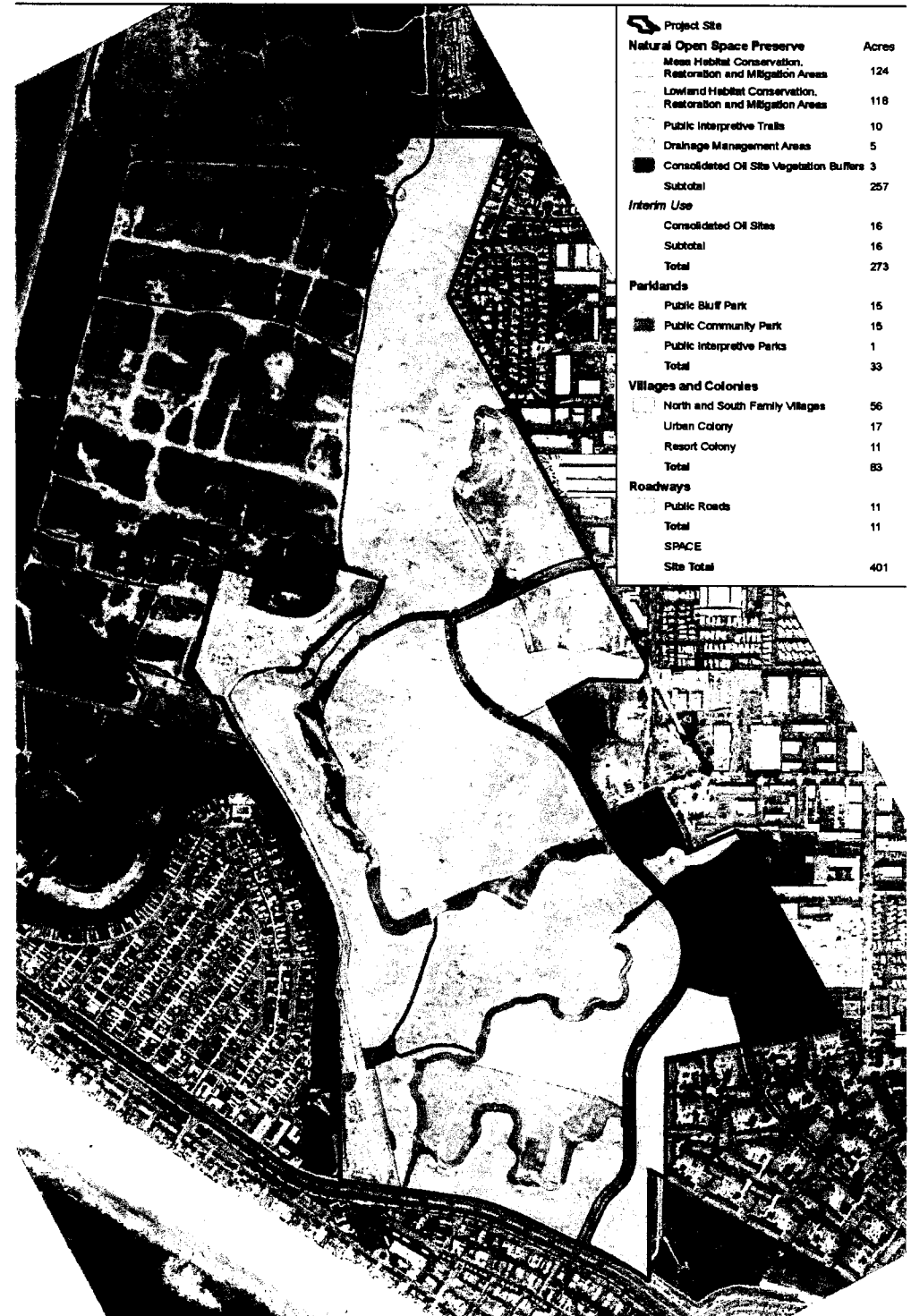
NEWPORT BANNING RANCH



PUBLIC PARKS & TRAILS

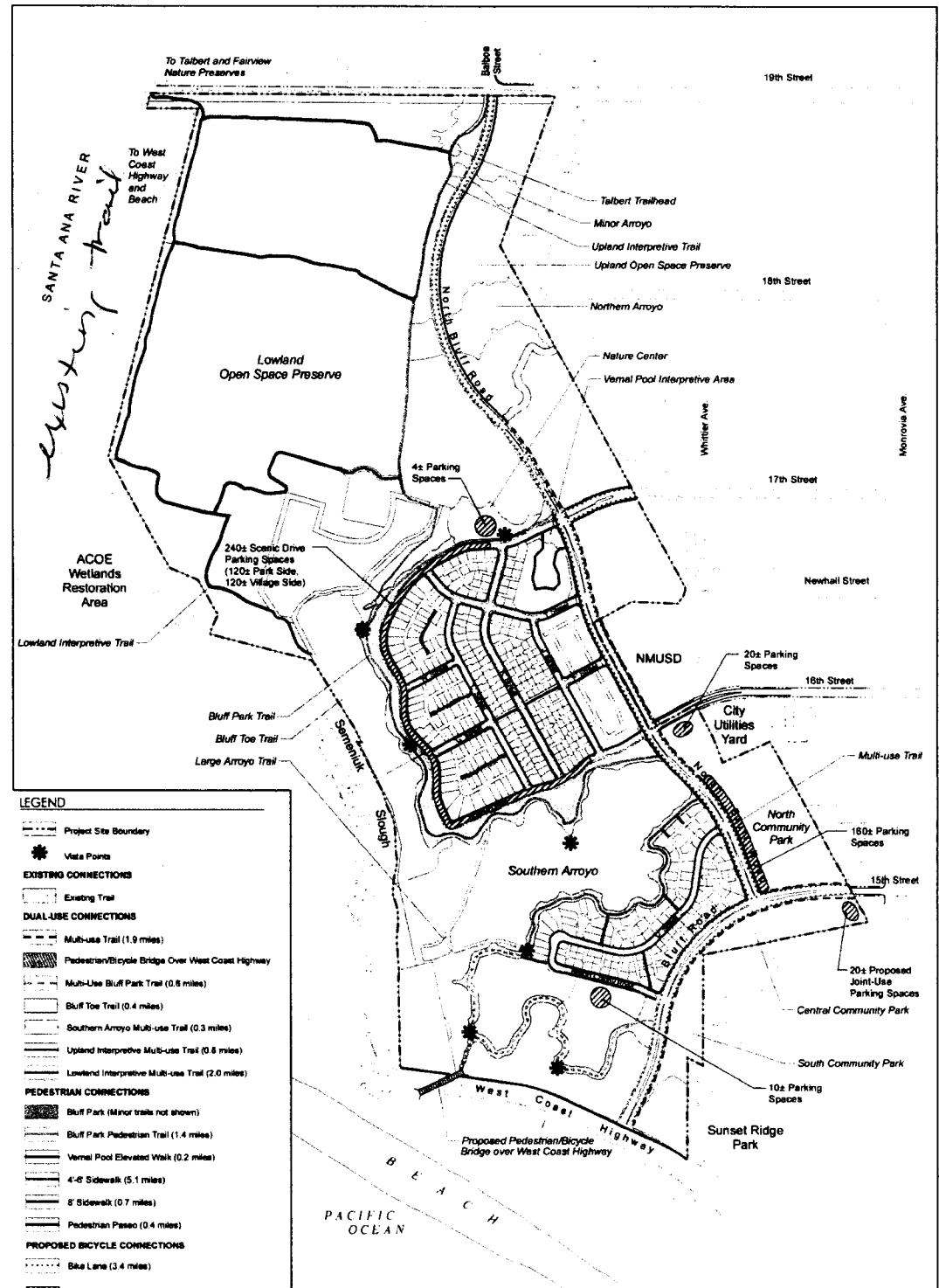
- Community Park
- Bluff Park / Interpretive Center
 - Development Buffer
- Additional Public Access
 - Trails – 7+ miles
- Pedestrian/Bicycle Bridge
- Total Parks & Trails
 - 32 Acres

NEWPORT BANNING RANCH

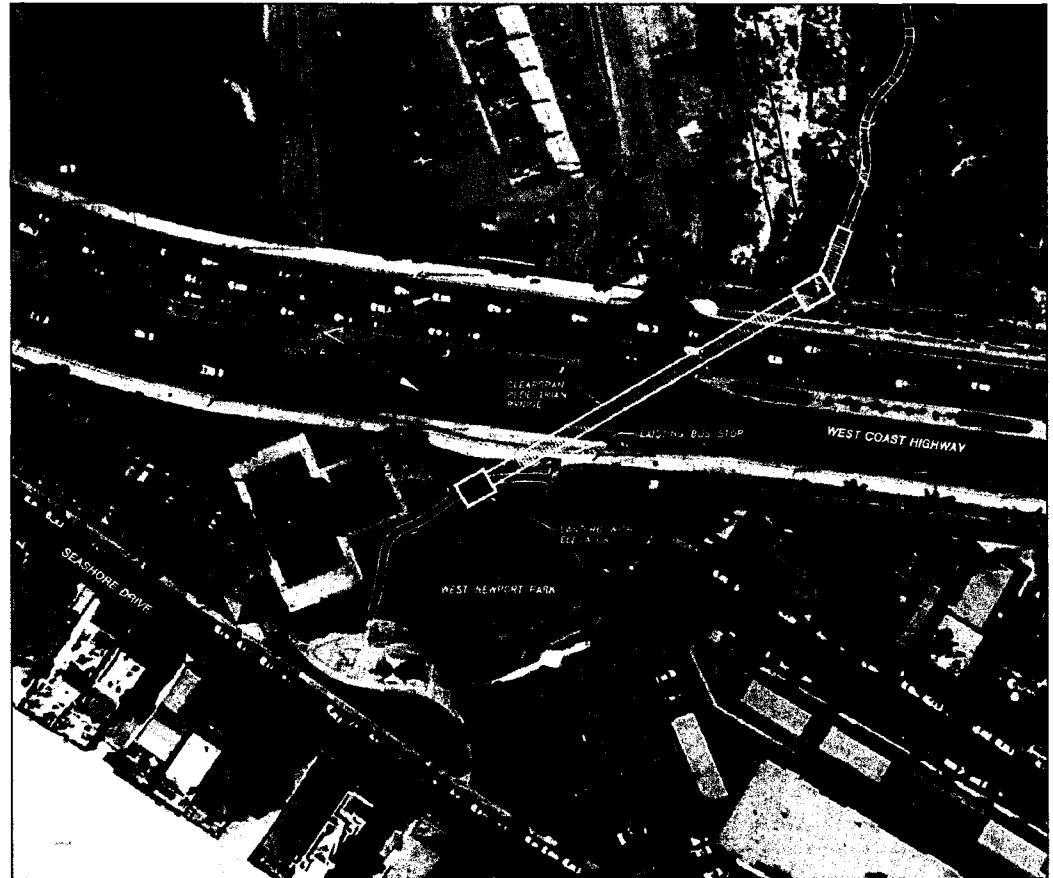


TRAILS & PUBLIC PARKING

NEWPORT BANNING RANCH



COASTAL ACCESS: PEDESTRIAN & BICYCLE BRIDGE



EXISTING VIEW FROM POINT A



PEDESTRIAN BRIDGE DESIGN
CONCEPT VIEW FROM POINT A

NEWPORT BANNING RANCH

NEWPORT BANNING RANCH

MASTER DEVELOPMENT PLAN
City of Newport Beach - California

Exhibit 4-2
West Coast Highway
Pedestrian Bridge Details

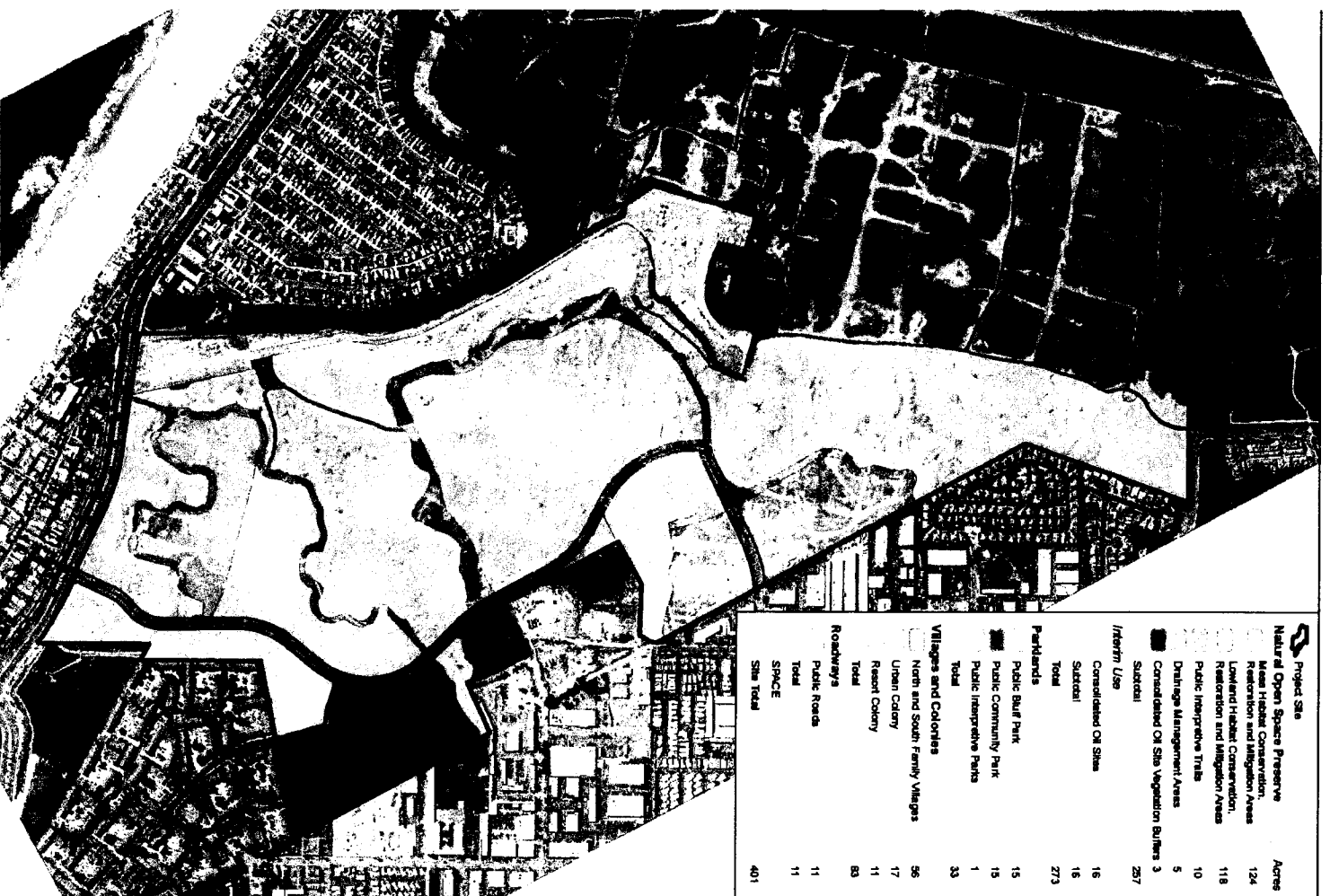
FUSCO FORMA
2011 04 14

TOTAL PROPOSED PUBLIC USE AREAS

- Deed Restricted
Open Space
- 17 acres
- Open Space
- 258 acres
- Parks & Trails
- 32 acres
- PERMANENT
PUBLIC OPEN SPACE
- 307 Acres, >77%

NEWPORT BANNING RANCH

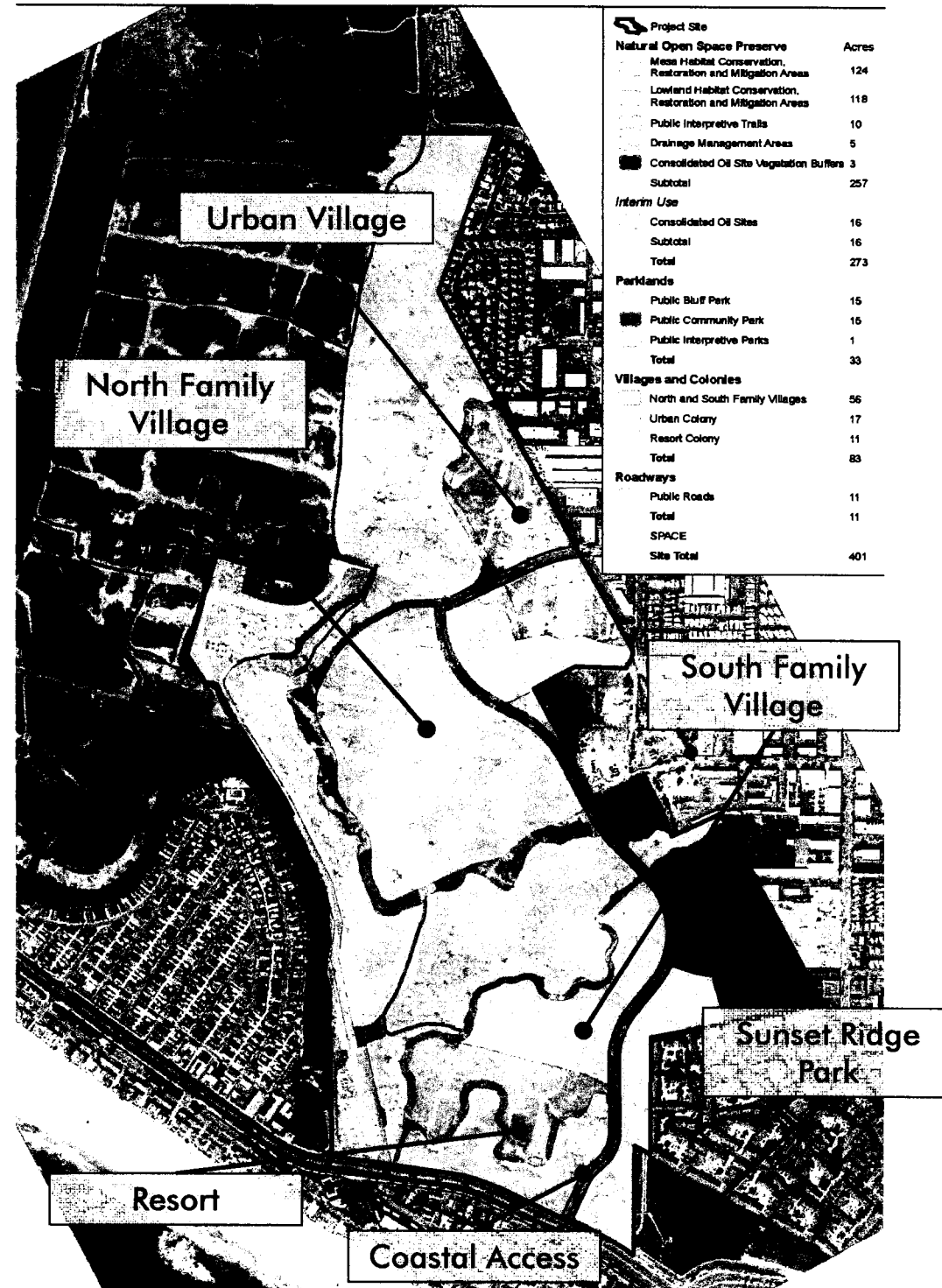
Project Site	
	Acres
Natural Open Space Preserve	
Wash. Habitat Conservation	124
Restoration and Mitigation Areas	
Lowerland Habitat Conservation	118
Restoration and Mitigation Areas	10
Public Interpretive Trails	5
Drainage Management Areas	3
Consolidated Old Site Vegetation Buffers	237
Subtotal	
/Interim Use	
Consolidated Old Sites	16
Subtotal	16
Total	273
Parklands	
Public Bluff Park	15
Public Community Park	15
Public Interpretive Parks	1
Total	33
Villages and Colonies	
North and South Family Villages	96
Urban Colony	17
Resort Colony	11
Total	83
Roadways	
Public Roads	11
Total	11
SPACE	
Total	401



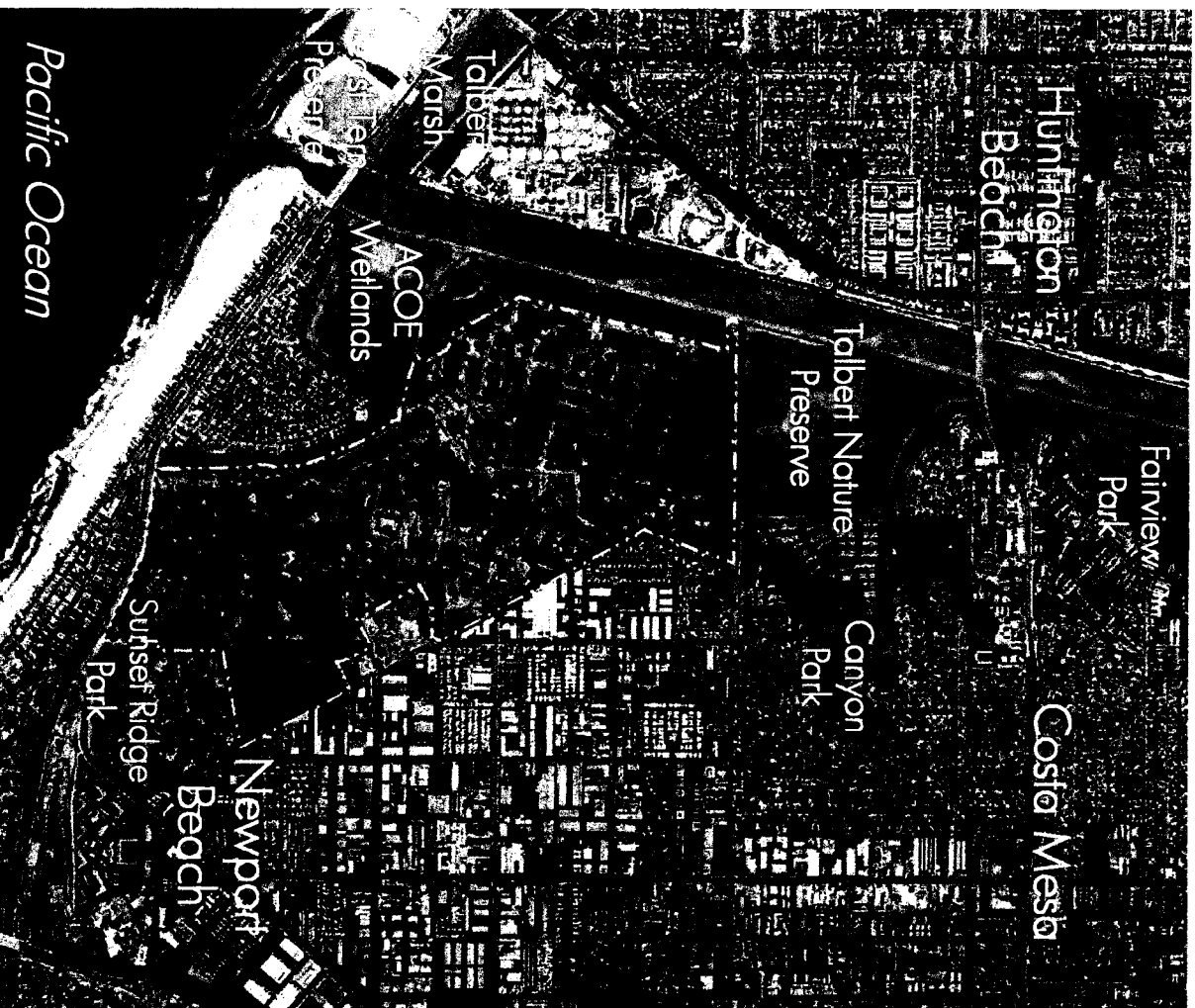
MIXED USE

- South Family Village
- North Family Village
- Urban Village
- Resort
- Proposed Plan
 - 1,375 homes
 - 75 room coastal inn
 - 75,000 sf. commercial
- Total Development
 - 83 Acres, <20%

NEWPORT BANNING RANCH



2002 OCRP Vision Plan: NBR, 145 acres



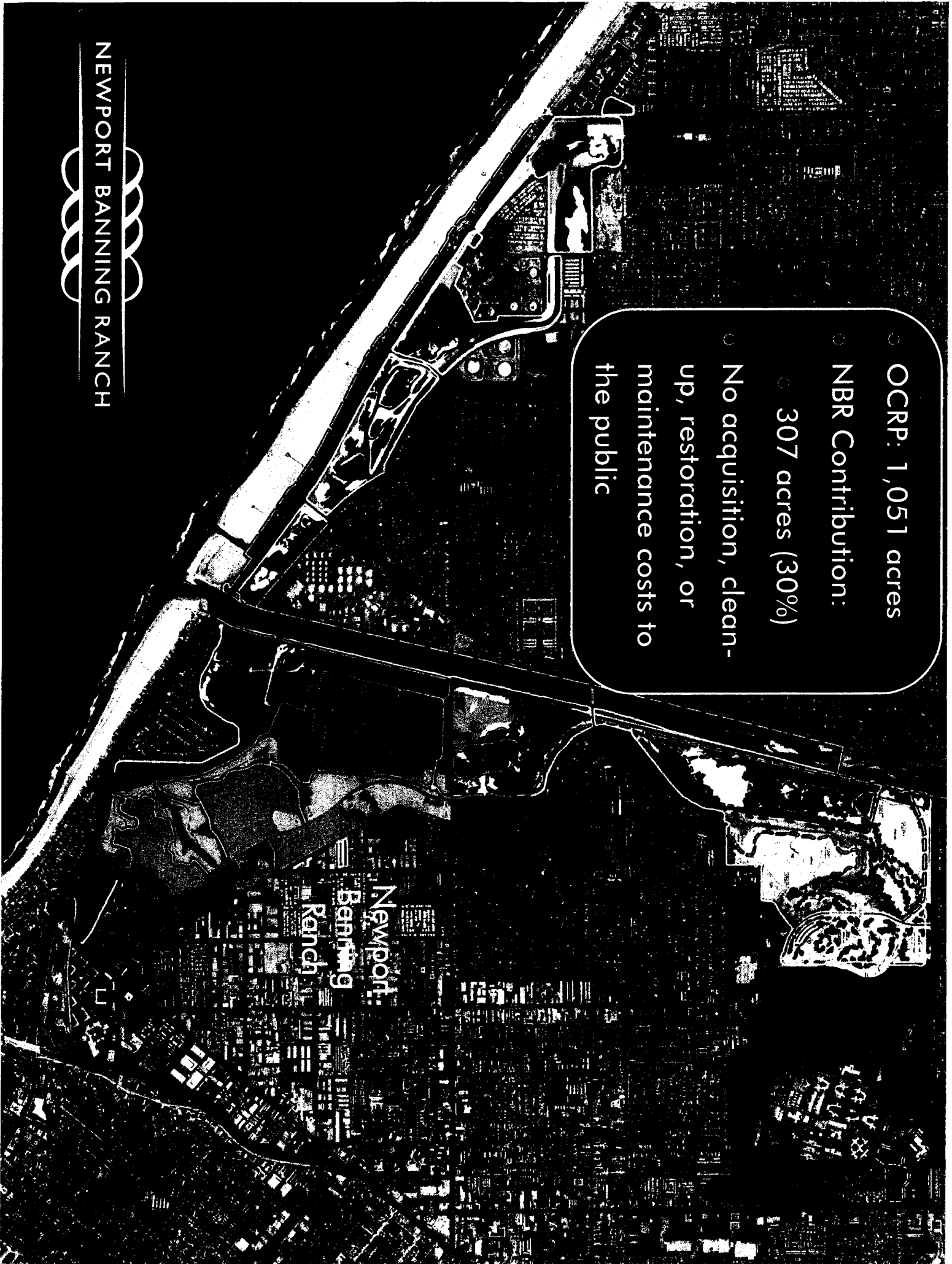
Updated OCRP Vision Plan: NBR, 307 acres



ORANGE COAST RIVER PARK CONTRIBUTION

- OCRP: 1,051 acres
- NBR Contribution:
 - 307 acres (30%)
- No acquisition, clean-up, restoration, or maintenance costs to the public

NEWPORT BANNING RANCH



**FORM FOR DISCLOSURE
OF EX PARTE
COMMUNICATION**

Date and time of communication: September 21, 2015 1:30 PM

Location of communication: Hollywood, CA

Person(s) initiating communication: Mike Mohler, George Basye & Chris Yelich, Newport Banning Ranch

Person(s) receiving communication: Mark Vargas

Name or description of project: CDP 05-13-032 Newport Banning Ranch

Detailed substantive description of content of communication:

NBR Representatives indicated their understanding and disappointment that CCC staff will be recommending denial on October 7th, rather than an approval with conditions. There appears to be strong disagreement in areas of site conditions and possible ESHA recommendations.

NBR Representatives highlighted project features including:

1. Oil Field Issues – the need for clean up
2. Public Access and Recreation – including trails, public parking and a pedestrian bridge to the beach
3. Habitat Protection and Restoration – a comprehensive program to address all onsite species
4. Visitor-Serving Retail Uses – inviting more public participation
5. Low Cost Affordable Overnight Lodging – integrated with the hotel
6. Water Quality – treating run on from adjacent industrial development.



9/29/2015

Date

Commissioner

RECEIVED
South Coast Region

SEP 30 2015

**FORM FOR DISCLOSURE
OF EX PARTE
COMMUNICATION**

**CALIFORNIA
COASTAL COMMISSION**

Date and time of communication: September 21, 2015 2PM

Location of communication: 1210 W 4th St, Los Angeles, CA 90017

Person(s) initiating communication: Steve Ray, Terry Welsh, of Banning Ranch Conservancy

Person(s) receiving communication: Mark Vargas

Name or description of project: CDP 05-13-032 Newport Banning Ranch

Detailed substantive description of content of communication:

1. Brief discussion of Banning Ranch Conservancy
2. The proposed project at Banning Ranch is much larger than other Orange County coastal projects (The two previous largest projects built, in recent memory, along the Orange County coast: Crystal Cove = 600 homes on 900 acres, Bolsa Chica = 380 homes on 1700 acres)
3. By California law, the oil field owner is required to clean up the oil field after abandonment; it is not the public's responsibility. The timeline as when to abandon an oil field is the owner's decision. Data suggests that most of the estimated oil in the Banning Ranch oil field has already been pumped out.
4. Data shows that the soil contamination level at Banning Ranch is not toxic, and, for the vast majority of wells, is already clean enough for open space standards.
5. The biological resources on Banning Ranch are very rich and unique. The vernal pool complex is one of only two remaining in Orange County and the only one containing USFWS critical habitat for the SD Fairy Shrimp. Burrowing Owls are extremely rare (by one study considered extinct in Orange County) yet 1 -3 Burrowing Owls winter on Banning Ranch each year. The entire Banning Ranch is USFWS critical habitat for the California Gnatcatcher.
6. Under the Coastal Act, development in ESHA can't occur unless it is resource-based. Under the Bolsa Chica decision, destruction of ESHA can't be mitigated by transporting the ESHA somewhere else. ESHA must be left in place.
7. If the proposed project is changed either before or during the hearing, the applicant should withdraw and re-submit the application.
8. Most of the open space areas in the proposed project are areas where the applicant can't develop because these areas are protected by law. Much of the open space

on the mesa will first be graded, and then re-planted. The applicant is counting lighted sports fields and the oil remainder area as open space.

9. The Regional Water Quality Control Board recently issued a "Denial without Prejudice" in response to the applicant's request for a section 401 Water Quality Certification.

September 29, 2015



Date

Commissioner

EX PARTE COMMUNICATION DISCLOSURE FORM

Filed by Commissioner: Mary Luevano_

1) Name or description of project: Newport Banning Ranch 5-13-032 (Newport Banning Ranch, LLC, Newport Beach)

2) Date and time of receipt of communication: September 17, 2015, 11:30am

3) Location of communication: Malibu

(If not in person, include the means of communication, e.g., telephone, e-mail, etc.)

4) Identity of person(s) initiating communication: Tom Darden

5) Identity of person(s) on whose behalf communication was made: William McDonough

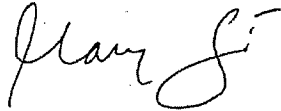
6) Identity of persons(s) receiving communication: Mary Luevano

7) Identity of all person(s) present during the communication: William McDonough, Mary Luevano

Complete, comprehensive description of communication content (attach complete set of any text or graphic material presented):

Mr. McDonough is the Sustainability Advisor to Cherokee Partners. He discussed his role generally as an advisor on a wide range of projects. He also discussed the sustainability aspects of the Newport Banning Ranch project, specifically that the project is aiming to receive LEED for Neighborhood Development certification.

September 28, 2015



TIMING FOR FILING OF DISCLOSURE FORM: File this form with the Executive Director within seven (7) days of the ex parte communication, if the communication occurred seven or more days in advance of the Commission hearing on the item that was the subject of the communication. If communication occurred within seven days of the hearing, provide the information orally on the record of the proceeding and provide the Executive Director with a copy of any written material that was part of the communication. This form may be filed with the Executive Director in addition to the oral disclosure.

EX PARTE COMMUNICATION DISCLOSURE FORM

Filed by Commissioner: Mary
Luevano _____

- 1) Name or description of project: Application No. 5-13-032 (Newport Banning Ranch, LLC, Newport Beach)
- 2) Date and time of receipt of communication: September 23, 2015, 1:00pm
- 3) Location of communication: Newport Banning Ranch property
(If not in person, include the means of communication, e.g., telephone, e-mail, etc.)
- 4) Identity of person(s) initiating communication: David Neish
- 5) Identity of person(s) on whose behalf communication was made: Mike Mohler
- 6) Identity of persons(s) receiving communication: Mary Luevano
- 7) Identity of all person(s) present during the communication: Mike Mohler, George Basye,, Sherilyn Sarb

Complete, comprehensive description of communication content (attach complete set of any text or graphic material presented):

Mr. Mohler is the Project Manager for NBR and provided a tour of the property. We discussed all aspects of the project, the history of the property as an oil drilling site, the environmental attributes (vernal pools, native plants and animal species. We drove the entire area of the property so that the developer could show me where the various aspects of development are planned. They discussed the need for grading some of the property, and removal of vegetation, also revegetation and restoration of approximately 75% of the site as open space.

September 28, 2015



TIMING FOR FILING OF DISCLOSURE FORM: File this form with the Executive Director within seven (7) days of the ex parte communication, if the communication occurred seven or more days in advance of the Commission hearing on the item that was the subject of the communication. If communication occurred within seven days of the hearing, provide the information orally on the record of the proceeding and provide the Executive Director with a copy of any written material that was part of the communication. This form may be filed with the Executive Director in addition to the oral disclosure.

EX PARTE COMMUNICATION DISCLOSURE FORM

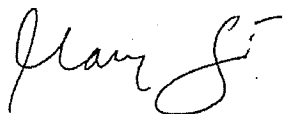
Filed by Commissioner: Mary
Luevano _____

1. Name or description of project: Application No. 5-13-032 (Newport Banning Ranch, LLC, Newport Beach)
- 2) Date and time of receipt of communication: September 23, 2015, 10:03am
- 3) Location of communication: Coastline Community College, Newport Beach
(If not in person, include the means of communication, e.g., telephone, e-mail, etc.)
- 4) Identity of person(s) initiating communication: Terry Welsh
- 5) Identity of person(s) on whose behalf communication was made: Terry Welsh
- 6) Identity of persons(s) receiving communication: Mary Luevano
- 7) Identity of all person(s) present during the communication: Terry Welsh, Steve Ray, Mary Luevano

Complete, comprehensive description of communication content (attach complete set of any text or graphic material presented):

Mr. Welsh is the President and Mr. Ray is the Executive Director of the Banning Ranch Conservancy, a non profit organization dedicated to preserving Banning Ranch. Mr. Welsh and Mr. Ray wanted to discuss their opposition to the permit application of Newport Banning Ranch, LLC. They described the property as an "ecological staircase" and described the scope of the project as 1375 homes on 401 acres which they stated is disproportionately large relative to other similar development projects in Orange County such as Crystal Cove and Bolsa Chica. Since the site has been an oil field for many years, they mentioned that they do not consider the contamination to be extreme and that the site is appropriate for open space. They discussed the biology of the area including the vernal pools (which they estimate to number about 50) and stated that 80% of the vernal pool complex will be wiped out if the development as proposed is approved. They also discussed the watershed impacts to various species including the burrowing owl and the gnat catcher which they stated is federally threatened. They shared that the project recently was denied a permit from the Regional Quality Water Board. They also discussed the Conservancy's desire to purchase the property if the owner is willing to negotiate.

September 28, 2015



TIMING FOR FILING OF DISCLOSURE FORM: File this form with the Executive Director within seven (7) days of the ex parte communication, if the communication occurred seven or more days in advance of the Commission hearing on the item that was the subject of the communication. If communication occurred within seven days of the hearing, provide the information orally on the record of the proceeding and provide the Executive Director with a copy of any written material that was part of the communication. This form may be filed with the Executive Director in addition to the oral disclosure.

**FORM FOR DISCLOSURE
OF EX PARTE
COMMUNICATION**

Date and time of communication: September 23, 2015 12:00

Location of communication: Malibu, CA Meeting

Person(s) initiating communication: David Neish

Person(s) receiving communication: Roberto Uranga

Name or description of project: CDP 05-13-032 Newport Banning Ranch

Detailed substantive description of content of communication:

NBR Representatives indicated their understanding and disappointment that the CCC Staff will be recommending denial on October 7th, rather than an approval with conditions. There appears to be strong disagreement in areas of site conditions and possible ESHA recommendations.

NBR Representatives highlighted project features including:

1. Oil Field Issues – the need for cleanup
2. Public Access and Recreation – including trails, public parking and a pedestrian bridge to the beach
3. Habitat Protection and Restoration – a comprehensive program to address all onsite species
4. Visitor-Serving Retail Uses – inviting more public participation
5. Low Cost Affordable Overnight Lodging – integrated with the hotel
6. Water Quality – treating run on from adjacent industrial development

Sept. 25, 2015
Date


Signature of Commissioner

EX PARTE COMMUNICATION DISCLOSURE FORM

Filed by Commissioner: Greg Cox

- 1) Name or description of project: Newport Banning Ranch
- 2) Date and time of receipt of communication: September 28, 2015 at 9:30am
- 3) Location of communication: San Diego
(If not in person, include the means of communication, e.g., telephone, e-mail, etc.)
- 4) Identity of person(s) initiating communication:
Terry Welsh
- 5) Identity of person(s) on whose behalf communication was made:
Newport Banning Ranch Conservancy
- 6) Identity of persons(s) receiving communication:
Greg Cox, and Greg Murphy
- 7) Identity of all person(s) present during the communication:
Terry Welsh and Steve Ray

Complete, comprehensive description of communication content (attach complete set of any text or graphic material presented):

Representatives of the Newport Banning Ranch Conservancy provided their general support for staff's recommendation and gave a brief history of the project and ownership of the property. They stressed 4 main points. 1) The remaining 401 acres on NBR that is being proposed for development is the compromise property from past developments on NBR that was always supposed to be set aside as a preserve. 2) Cleanup of the oil fields is already the responsibility of the oil field operators; they don't think a developer is needed to pay for cleanup. 3) This property has significant and rare biological resources that are mandated to be preserved, including a significant vernal pool complex 4) They acknowledged that the proposed project will set aside 75% of the property for open space, but they stressed this is a result of half the property being wetland marsh anyway and the other 25% being graded and revegetated with ball fields, etc., which shouldn't count as open space in their opinion. They also stated they are confident that the Conservancy will have access to funds for the acquisition, conservation and management of the entire NBR property including a \$5 million pledge from a private donor and funds created for open space acquisition through a County ½ cent sales tax. They urge the Commission to deny the project.

9/29/15
Date

Greg Cox
Signature of Commissioner

TIMING FOR FILING OF DISCLOSURE FORM: File this form with the Executive Director within seven (7) days of the ex parte communication, if the communication occurred seven or more days in advance of the Commission hearing on the item that was the subject of the communication. If the communication occurred within seven (7) days of the hearing, provide the information orally on the record of the proceeding and provide the Executive Director with a copy of any written material that was part of the communication. This form may be filed with the Executive Director in addition to the oral disclosure.

Must Read

Item W9b

EX PARTE COMMUNICATION DISCLOSURE FORM

Filed by Commissioner: Greg Cox

- 1) Name or description of project: **CDP 05-13-032 Newport Banning Ranch**
- 2) Date and time of receipt of communication: October 2, 2015 at 2:30pm
- 3) Location of communication: San Diego
(If not in person, include the means of communication, e.g., telephone, e-mail, etc.)
- 4) Identity of person(s) initiating communication:
David B. Neish
- 5) Identity of person(s) on whose behalf communication was made:
Newport Banning Ranch, Inc.
- 6) Identity of persons(s) receiving communication:
Greg Cox, and staff Greg Murphy
- 7) Identity of all person(s) present during the communication:
David B. Neish, David J. Neish, Chris Yelich, and George Basye

Complete, comprehensive description of communication content (attach complete set of any text or graphic material presented):

NBR Representatives indicated their understanding and disappointment that the CCC Staff will be recommending denial on October 7th, rather than an approval with conditions. There appears to be strong disagreement in areas of site conditions and possible ESHA recommendations.

NBR Representatives highlighted project features including:

1. Oil Field Issues – the need for cleanup
2. Public Access and Recreation – including trails, public parking and a pedestrian bridge to the beach
3. Habitat Protection and Restoration – a comprehensive program to address all onsite species
4. Visitor-Serving Retail Uses – inviting more public participation
5. Low Cost Affordable Overnight Lodging – integrated with the hotel
6. Water Quality – treating run on from adjacent industrial development

10/2/15
Date

Greg Cox
Signature of Commissioner

TIMING FOR FILING OF DISCLOSURE FORM: File this form with the Executive Director within seven (7) days of the ex parte communication, if the communication occurred seven or more days in advance of the Commission hearing on the item that was the subject of the communication. If the communication occurred within seven (7) days of the hearing, provide the information orally on the record of the proceeding and provide the Executive Director with a copy of any written material that was part of the communication. This form may be filed with the Executive Director in addition to the oral disclosure.

**FORM FOR DISCLOSURE
OF EX PARTE
COMMUNICATION**

Date and time of communication: August 6, 2015 10:30 am

Location of communication: Meeting in San Diego, CA

Person(s) initiating communication: David Neish, David Neish Jr., Mike Mohler, George Basye

Person(s) receiving communication: Greg Murphy, for Greg Cox

Name or description of project: Newport Banning Ranch

**Detailed substantive description of
content of communication:**

Applicants and representatives provided an overview of the project plan and discussed the application history to date. Exhibits that had previously been submitted to staff were presented that identified project location, discussion of the proposed project, a description of the project purpose and benefits, a discussion of the impact on Coastal Resources, and regulatory oversight.

It was indicated the CCC Staff has deemed the application complete and there was a discussion on the plan modifications that have been made since the application was deemed complete. These modifications included the elimination of some roadways, reduced widths of some roads, modifications to the public parks, expansion of the vernal pool habitat area, a pedestrian overpass bridge, and the incorporation of a hostel facility that would be in conjunction with a commercial area.

A discussion of the time frame for Commission review was also indicated. The Applicants have been told that a tentative hearing would be scheduled for the month of October. At this point they would be preparing for a CCC hearing for the October meeting.

8/11/15

Date

Greg Cox

Commissioner

EX PARTE COMMUNICATION DISCLOSURE FORM

Filed by Commissioner: Bocho

- 1) Name or description of project: w/96 Banning Ranch
- 2) Date and time of receipt of communication: 9/22 2:15
- 3) Location of communication: my office
(If not in person, include the means of communication, e.g., telephone, e-mail, etc.)
- 4) Identity of person(s) initiating communication: David Neish
- 5) Identity of person(s) on whose behalf communication was made: Banning Ranch - developer
- 6) Identity of persons(s) receiving communication: Bocho
- 7) Identity of all person(s) present during the communication: Mike Moller
Gorge Basye Chris Yellich

Complete, comprehensive description of communication content (attach complete set of any text or graphic material presented):

See attached

Date

9/24/15

Signature of Commissioner

[Signature]

TIMING FOR FILING OF DISCLOSURE FORM: File this form with the Executive Director within seven (7) days of the ex parte communication, if the communication occurred seven or more days in advance of the Commission hearing on the item that was the subject of the communication. If the communication occurred within seven (7) days of the hearing, provide the information orally on the record of the proceeding and provide the Executive Director with a copy of any written material that was part of the communication. This form may be filed with the Executive Director in addition to the oral disclosure.

Normally, I do not take ex partes before reading staff report. However, since the report was not available, and the Applicants wanted to meet in person with as many Commissioners as possible before the hearing, I agreed to meet without seeing the report.

The Applicants were very disappointed because they recently had been told that the report would recommend denial with no conditions for going forward with a possible project. Staff had declared 90% of the property ESHA: Celia Grass, Purple Needle Grass and some wetlands. The Applicants reminded me that this property is presently (and has been for many years before the Coastal Act) an active oil field. There are large areas of disturbance, with numerous concreted broken blocks from the oil drilling.

Applicants were also surprised that after 4 1/2 years and thousands of pages of documents, revised plans, etc. that staff did not have a project that could be recommended.

Applicants stated that the City of Newport Beach had approved all of their plans for up to 1375 houses, a hotel of 75 rooms and 75,000 sq ft of commercial space. In an attempt to satisfy what they thought the Commission would require, they moved, shortened and narrowed the entrance, included a hostel on the seaward side of the property, included commercial space that would provide visitor serving amenities and plans to restore 300 acres of the 400 to wetlands, native habitat and plant species and public trails. The wetland/park area would be contiguous to Talbort Park and Fairview Park so there would be 1000 acres of continuous open space. The hostel would be run

by the hotel and would offer amenities and services from the hotel.

Applicants stated that they were able to negotiate the oil co's drilling in 2 small areas. The rest will be restored ^{80%} +/or developed ^{20%}

**FORM FOR DISCLOSURE
OF EX PARTE
COMMUNICATION**

Date and time of communication: July 21, 2015 5:00 pm

Location of communication: San Rafael, CA

Person(s) initiating communication: Mike Mohler, George Basye

Person(s) receiving communication: Steve Kinsey

Name or description of project: CDP 05-13-032 Newport Banning Ranch

Detailed substantive description of content of communication:

Applicants' representatives provided an overview of the project plan, purpose and benefits and discussed the application history to date.

Upcoming desired meetings include another possible on-site meeting with CCC Staff biologist and meetings planned with CCC permitting staff. The Applicant also expressed a strong desire to have the Commission hearing in October 2015 in Long Beach.

The Applicants indicated that seasonal bird surveys were completed.

There was a discussion on the subject of affordable overnight accommodations. The Applicants indicated they had been following Commission discussions and workshops on the subject. They also indicated that they had been touring hostels in Northern and Southern California to understand how they worked and to analyze whether they could propose solutions on-site.

Finally, there was a brief discussion of the Applicants desire to make the neighborhood commercial element of their project proposal more visitor-serving.

8/11/15
Date


Commissioner