

June 25, 2012

Client-Matter: 28934-032

VIA ELECTRONIC MAIL

Andrew Willis
California Coastal Commission
200 OceanGate, 10th Floor
Long Beach, CA 90802

Re: Newport Banning Ranch Fuel Modification Activities

Dear Andrew:

This letter is sent on behalf of Newport Banning Ranch LLC ("NBR"), the manager of the Banning Ranch property ("Property"), and the owners of the Property, Cherokee Newport Beach LLC and Aera Energy LLC. As you are aware, the Property is currently operated as an oil production facility under the management of West Newport Oil Company ("WNOC"). We received your letter dated June 22, 2012, which follows your conversation with April Winecki of Dudek, regarding the Commission staff's position that fuel modification at the Property requires a coastal development permit. This letter is in response to your June 22, 2012 letter and prior conversation with Ms. Winecki, and does not address any of the other issues that were raised in your prior letter dated May 18, 2012. We reserve the right to address separately the balance of the issues raised in your May 18, 2012 letter.

Fuel modification has been undertaken annually as part of the Property's weed abatement work to ensure that the site is maintained in a manner to minimize the potential for wildland fires that could jeopardize the safety of the residents and businesses that lie along the entire length of the eastern boundary of the Property. We are not aware of any precedent for this determination by Commission staff, and in fact, believe that Coastal Commission precedent has been to exempt fuel modification work from permit requirements because of the importance to protect public safety and existing developed areas from the risk of wildland fires. If you are aware of permits that have been issued by the Coastal Commission solely for the purpose of conducting fuel modification adjacent to and for the purpose of protecting existing, legal structures, we would appreciate it if you would provide those permits and precedents to us for our review so that we may discuss this at our upcoming meeting.

The fuel modification work that has been routinely conducted and which has been temporarily halted in response to your letter dated May 18, 2012, has been undertaken in order to protect both the existing adjacent, developed areas as well as the oil field production facilities, including but not limited to wells and pipelines, that have operated on the Property since the

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1940's and continue to do so today. All of the oil field facilities have been constructed pursuant to permits and authorizations from the County of Orange, the State of California, and the California Coastal Commission (Exemption No. E-7-27-73-144), and should be considered existing legal structures. Proper oil field maintenance, including weed abatement for fuel modification, is critically important to not only ensuring safe oil field operations, but to protect the adjacent urban uses that have been constructed since oil operations commenced – which include a private school, residences, and commercial and industrial developments.

Based upon our review of the Coastal Act and prior precedent, we believe that fuel modification is considered exempt from coastal development permitting requirements for the following reasons:

- **Fuel modification is an ongoing maintenance activity that does not result in an addition to, or enlargement or expansion of, the object of that maintenance activity.** (Coastal Act Section 30610(d).) We note that Section 30610(d) also provides that if the “commission determines that certain extraordinary methods of maintenance involve a risk of substantial adverse environmental impact, it shall, be regulation, require that a permit be obtained pursuant to this chapter.” We do not believe that annual fuel modification which is generally conducted by mowing would be considered an “extraordinary method of maintenance” requiring a permit. Section 13252 of the Coastal Commission’s regulations (14 Cal. Code of Regs. § 13252) identifies those “extraordinary methods of repair and maintenance” that require a coastal development permit. Although maintenance work in an environmentally sensitive habitat area is identified in Section 13252(a)(3), none of the areas subject to historic fuel modification such as the area within 100 feet from existing residences, have been designated environmentally sensitive habitat areas.
- **Fuel modification is consistent with the City’s Coastal Land Use Plan (“CLUP”).** Although the Property is within a deferred certification area and not subject to consistency with the City’s CLUP, the CLUP has been used as guidance and as such, specifically authorizes fuel modification to protect existing structures. Section 2.8.8 of the CLUP states as follows:

“Newport Beach employs two different methods for reducing the risk of fire in these urban wildland interface areas: hazard reduction and fuel modification. . . . Hazard reduction reduces the amount of fuel within 100 feet of any structure, thus creating a defensible space used to slow the rate and intensity of an advancing wildfire and to create an area for firefighters

to suppress the fire and save the structure. Fuel modification zone (sic) establishes a ribbon of land surrounding the homes designed to diminish the intensity of a wildfire as it approaches the homes.”

In addition, CLUP Policy 2.8.8-1 states: “Apply hazard reduction, fuel modification, and other methods to reduce wildfire hazards to existing and new development in urban wildland interface areas.”

- **Fuel modification areas are not considered ESHA.** CLUP Policy 4.1.1-1 states in part: “Existing developed areas and existing fuel modification areas required by the City of Newport Beach Fire Department or the Orange County Fire Authority for existing, legal structures do not meet the definition of ESHA.” This policy, and similar policies in other certified land use plans and local coastal programs, reflects a recognition by the Coastal Commission of the high priority placed on public safety to ensure that existing developed areas are protected through fuel modification, and that areas subject to fuel modification activities do not meet the definition of ESHA even in areas where sensitive vegetation is present.
- **Fuel modification is necessary to abate a nuisance.** In its letter to the Orange County Fire Authority, South Coast District staff advised the Authority that vegetation/brush clearance in the coastal canyons of San Clemente did not require a coastal development permit even in light of the fact that the coastal canyons were identified as environmentally sensitive habitat in the City of San Clemente’s Land Use Plan. (Letter to Bryan Healey, Assistant Fire Marshall OCFA from Liliana Roman, Coastal Program Analyst, dated March 3, 2009.) As described in that letter,

“The course of action that OCFA requires of San Clemente coastal canyon property owners (i.e., provide a “defensible space” on the canyonward portion of the property that meets the minimum fire safety standards) is consistent with the course of action mandated under Government Code Section 51182 and Public Resources Code 4291. Moreover, failure to comply with the statutory mandate in Government Code § 51182 ‘may be considered a nuisance pursuant to Section 38773’ Cal. Government Code § 51187. . . . Because the Coastal Act expressly states that it does not create any limitation on ‘the power of any city or county or city and county to declare, prohibit, and abate nuisances,’ Cal. Public Resources Code 30005(b), the recommendations in your notices to San Clemente canyon

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property owners are beyond the Coastal Commission's jurisdiction in this case."

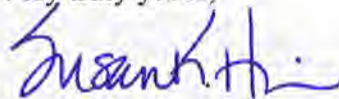
Similarly, the fuel modification work conducted annually at the Property is expressly undertaken to comply with the City's and County's weed abatement requirements.

In conclusion, based upon our understanding of how the Coastal Commission has traditionally addressed fuel modification and the importance of protecting existing residences and structures from the risk of wildland fires, we trust that the Coastal Commission is not altering its policies in the context of this particular Property to require a coastal development permit to conduct fuel modification work.

We have previously offered to meet with the Commission staff and WNOC to discuss WNOC's oil field maintenance activities and believe that engaging in those discussions would be helpful and productive – particularly as Newport Beach is now entering the summer season and Fourth of July is approaching where there is an increased potential for wildland fires due to the sale of fireworks. We are disappointed that the meeting requested in our response to you in May, will not be able to occur until late in July.

As the surface owner who would share in the liability should conditions on the Property put adjacent development at risk, we believe that it is only prudent to protect the existing residences and businesses by timely fuel modification efforts consistent with historic practices to provide a 100 foot fuel modification zone between existing structures and adjacent wildlands, and look forward to reviewing those efforts with you when we meet.

Very truly yours,



Susan K. Hori
Manatt, Phelps & Phillips, LLP

cc: Sharilyn Sarb, Deputy Director
Lisa Haage, Chief of Enforcement
Michael Mohler
George Basye
April Winecki
Tim Paone



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Tim Paone
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June 26, 2012

VIA ELECTRONIC MAIL

Andrew Willis
Enforcement Analyst
California Coastal Commission
200 Oceangate, Tenth Floor
Long Beach, CA 90802

Re: Notice of Violation V-5-11-005 / Newport Banning Ranch Oil Operations

Dear Mr. Willis:

I am writing on behalf of West Newport Oil Company ("West Newport"), the operator of the oilfield on the Newport Banning Ranch. West Newport has reviewed your May 18, 2012, "Notice of Violation of the California Coastal Act" (the "Notice") and feels compelled to address critical oversights contained in the Notice, particularly as it pertains to oilfield operations which are exempt from the permitting requirements of the Coastal Act.¹ We also are aware of your June 22, 2012, letter to Newport Banning Ranch LLC ("NBR") which addresses fuel modification issues and of NBR's response to that letter.

The Notice is particularly dismissive of the vested rights which have been determined to exist on this site for oil operations which have been ongoing since 1944. In fact, the Notice states that because an application to establish vested rights has not been filed under Section 30608 of the *Coastal Act*, "no such vested right has been established, nor does the oilfield operator or property owner assert that it has done such." This statement is perhaps technically accurate, but *only* with respect to the filing of an application *under Section 30608 of the Coastal Act*. As Commission staff is well aware, West Newport has consistently asserted that its oil operations not only are vested, but, in 1973, were specifically found to have been vested (the "Vested Rights Exemption")² by the California Coastal Zone Conservation Commission, the California Coastal Commission's predecessor. That Vested Rights Exemption was granted pursuant to an application under former Public Resources Code Section 27404 of the California Coastal Zone Conservation Plan. The Coastal Commission is bound by the Vested Rights Exemption (see

¹ We previously responded on May 24, 2012, indicating our willingness to meet to discuss a resolution of the issues raised in the Notice.

² The Vested Rights Exemption bears Exemption Number E-7-27-73-144.

Pardee Construction Company v. California Coastal Commission, 95 Cal.App.3d 471 (1979).³ The oil operator's rights which were found to have vested do not simply "unvest" through the passage of time. It is West Newport's view that there have been no substantial changes in the use of the oilfield since the granting of the Vested Rights Exemption.

Additionally, West Newport has been informed that in a recent telephone call between Commission staff and representatives of NBR, it was Commission staff's position that routine fuel modification related to the exempted oilfield operations are not within the scope of the Vested Rights Exemption for the simple reason that they are not specifically referenced in the Vested Rights Exemption. That position does not square with any reasonable interpretation of the Vested Rights Exemption. Obviously, the vested oil operations must include all routine maintenance activities which are needed to meet safety and legal requirements and are an essential aspect of normal oilfield operations. While the Vested Rights Exemption may not specifically use the words "mowing" or "fuel abatement," those activities were part of the historic pre-1973 oilfield activities which were found to be exempt.

West Newport desires not only that its Vested Rights Exemption be respected by the Commission, but that, in addition, the Commission treat West Newport in the same manner that it treats other landowners within the Coastal Zone. Therefore, as a separate matter, if it is Commission staff's position that fuel modification to protect adjacent residential properties is both (1) not within the scope of the Vested Rights Exemption and (2) not generally considered exempt by the Commission from the permitting requirements of the Coastal Act, West Newport would appreciate a clear explanation of Commission staff's reasoning.

The Notice demands that West Newport cease "all unpermitted development activity" on the site. Vested activities, however, do not require permits from the Commission. Therefore, West Newport does not believe that there is any "unpermitted development activity" to stop. To simply dismiss the existence of the Vested Rights Exemption or to attempt to unduly narrow its scope because of a pending application before the City of Newport Beach for development on the site would deny West Newport of its legal protections under the Constitutions of the United States and the State of California. The Notice recites/threatens actions that the Commission may take if West Newport does not accede to the Commission's demands. As a result, West Newport must respond, in turn, that if faced with any interim or permanent taking of its vested rights, it will pursue whatever actions may be needed to protect those rights. Nonetheless, within reason, West Newport intends to fully cooperate with Commission staff to address staff's concerns. However, West Newport will neither waive nor alter its established vested rights as part of that cooperation.

Having said what must be said, it is not West Newport's desire to be obstinate. As we previously offered in our May 24 letter, we are willing to meet with Commission staff to see if there is common ground upon which the conflicting views of West Newport and Commission staff can

³ In *Pardee*, the Court of Appeals concluded that Section 30608 of the Coastal Act requires the Commission to recognize exemptions granted under Prop 20. *Id.* at 479. It characterized *Pardee's* vested right as something in the nature of a property right. "Neither statutory nor constitutional authority exists authorizing the State Commission to limit or deny a once recognized vested right basis for exemption." *Id.* at 480.

Andrew Willis
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be resolved. We understand that a meeting is being scheduled for the week of July 23 through representatives of NBR. In the meantime, please feel free to contact me directly at 949-260-4655 or by email at tpaone@coxcastle.com.

Sincerely,

A handwritten signature in black ink, appearing to read 'Tim Paone', with a long horizontal stroke extending to the right.

Tim Paone

cc: Lisa Haage, Chief of Enforcement

65411\4172857v6

June 29, 2012

Client-Matter: 28934-030

BY E-MAIL AWILLIS@COASTAL.CA.GOV

Andrew Willis
California Coastal Commission
200 Oceangate, 10th floor
Long Beach, CA 90802

Re: Fire at Banning Ranch; Need for Fuel Modification Work

Dear Andrew:

This past Wednesday night, a fire broke out at the Banning Ranch oil field at the mesa overlooking Newport Shores Community and the oil field tanks farm area, approximately 1/2 mile from the 17th Street entrance to the site. I have attached the news article regarding the fire and photos of the site that were taken yesterday showing some of the building and vegetation that burned. Luckily, through a combination of: (1) the quick response of fire crews from three cities; (2) the presence of ice plant surrounding the ignition point (a corrugated metal shed with railroad tie floors); and (3) the lack of strong winds, the fire did not spread too far beyond the ignition point. As you can see from the attached photos, however, the fire was in very close proximity to utilities and a transformer – which under different circumstances – could have resulted in considerable damage and explosions that would have spread the fire throughout a much larger area of the oil field and the surrounding community. In fact, had the fire been located as close as 20 feet in either direction, it would have been in areas of very dry vegetation closer to the oil facilities (i.e., the main transmission lines to the tank farm), or dry vegetation closer to occupied homes which would have resulted in significant public safety hazards.

To compound the dangers of wildland fires on this property, there is no water on site. Consequently, when a fire breaks out – like Wednesday night - the fire trucks have to use their on-board water tanks to extinguish the fire, and when emptied, they have to leave the site to refill and return. This only underscores the need for fuel modification to prevent the risk of fire spreading to the nearby homes or igniting the oil equipment, pipelines and storage tanks.

This type of brush fire is an example of why the Commission has traditionally exempted fuel modification work from permitting requirements as set forth in our letter to you dated June 25, 2012. The need to conduct fuel modification is underscored by the fact that brush fires have been set on this site several times in the very recent past, including an electrical fire in the lowland area last year.

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As the representative of the surface owners, and knowing that fires have and will continue to occur, we cannot put the public at risk from wildfires that could spread to surrounding homes by foregoing the fuel modification work that the oil operators have routinely conducted since oil operations began in the 1940's. In light of the public safety concerns evidenced by Wednesday night's fire, we reiterate our request to meet in the next few days to discuss the exemption determination so the fuel modification work can move forward and minimize the potential for additional losses to occur.

Very truly yours,



Susan K. Hori
Manatt, Phelps & Phillips, LLP

Enclosures

cc via e-mail:

Sharilyn Sarb
Lisa Haage
Michael Mohler
April Winecki
Tim Paone

dailypilot.com/news/tn-dpt-0629-fire-20120628,0,3851388.story

Daily Pilot

Firefighters put out Banning Ranch fire

12:04 PM PDT, June 28, 2012

Firefighters from three cities responded to a fire at the Banning Ranch oil field, authorities said Thursday. advertisement

Firefighters from Newport Beach, Huntington Beach and Costa Mesa responded to a call of a building ablaze near West 17th Street and Monrovia Avenue on the oil field about 8:16 p.m. Wednesday, said Newport Beach Fire Department spokeswoman Jennifer Schulz.

Firefighters confined the fire to an outbuilding used for storage, Schulz said. Unconfirmed reports said people were seen fleeing the area, she said.

Initially, Orange County Sheriff's Department deputies were on scene. Authorities cleared the area about 11:56 p.m. Wednesday.

About \$5,000 in damage was reported. An investigation into the cause is ongoing.

A second fire was called in at 9:06 p.m. near Santa Barbara Drive and Jamboree Road.

A 20-by-40-foot area with brush 4 to 7 feet tall caught fire, and it was put out in minutes, Schulz said.

— Lauren Williams

Twitter: [@lawilliams30](https://twitter.com/lawilliams30)







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August 30, 2012

VIA ELECTRONIC MAIL (awillis@coastal.ca.gov)

Andrew Willis
Enforcement Analyst
California Coastal Commission
200 Oceangate, Tenth Floor
Long Beach, CA 90802

Re: Notice of Violation V-5-11-005 / Oil Operations at Banning Ranch

Dear Mr. Willis:

I am writing on behalf of West Newport Oil ("WNO"), the oil operator on the Banning Ranch oil field (the "Oil Field"). For starters, let me thank you for taking the time to visit the Oil Field on August 17. Hopefully, the visit was instructive, particularly with respect to the risk that has been created by the Commission's claim that fire abatement activities on the Oil Field are in violation of the Coastal Act.

As you are aware, WNO's Oil Field operations are conducted pursuant to an exemption from the Coastal Act (the "Exemption"). We reiterated during your visit that it is our firm belief that all fire abatement activities which have been performed on the Oil Field are within the scope of the Exemption, consistent with historical practices both before and after the Exemption, and necessary for many reasons, including the protection of both the oil operations and adjacent properties.

During your visit, we asked you to let us know exactly what, if any, activities the Commission believes have been conducted which are outside the scope of the Exemption. Your response, clear and unequivocal, was that you didn't know. You stated that the burden was on the oil operator and the landowner to prove that the fire abatement actions were within the scope of the Exemption. As we replied at the time, we believe your position that WNO must justify each and every activity conducted within the scope of the exemption is incorrect. We know of no precedent or authority which would require the owner of an exemption to continually and repeatedly seek permission from the Commission to conduct those activities within the scope of its exemption. Such a requirement would turn both the Coastal Act and the Exemption on their respective heads. If the activities are exempt from the Coastal Act, then the Coastal Act does not apply to those activities.

It is disturbing that Commission staff would issue a Notice of Violation without having first visited the Oil Field and without being able to identify specific activities which it contends constitute the violation. Even more remarkable, the Notice of Violation demanded that fire abatement activities be ceased at the beginning of the fire season. The issuance of the Notice of Violation was not only unjustified, but dangerous to persons and property. For these reasons, WNO requests an immediate rescission of the Notice of Violation.

Additionally, WNO has received the attached directive from the Orange County Fire Authority to resume its fire abatement activities on the Oil Field. We intend to do so. Please carefully note that our fire abatement activities are based principally on the Exemption. Nothing more is required. Nonetheless, we hope that the directive from the OCFA will help Commission staff understand the urgency and necessity of continuing the fire abatement activities on the Oil Field.

We are providing this information to you so that, when our fire abatement activities resume, your office will be able to inform any callers inquiring about those activities of (1) the need for fire abatement, (2) OCFA's requirement that the fire abatement activities be resumed, and (3) that the fire abatement is being conducted within the scope of the Exemption.

We respect the Commission and intend to continue operating in full compliance with the Coastal Act, obtaining permits from the Commission when required. While we clearly heard your offer to negotiate a reduced level of fire abatement, absent any evidence that our fire abatement activities are in violation of the Coastal Act, we do not believe that the protection of persons and property is a matter to be negotiated with Commission staff.

If you have any questions regarding WNO's position, please feel free to contact me directly at 949-260-4655 or by email at tpaone@coxcastle.com.

Sincerely,

A handwritten signature in black ink, appearing to read 'Tim Paone', with a stylized flourish at the end.

Tim Paone

Enclosure

cc: Lisa Haage, Chief of Enforcement (lhaage@coastal.ca.gov)
Karl Schwing (kschwing@coastal.ca.gov)



ORANGE COUNTY FIRE AUTHORITY

P.O. Box 57115, Irvine, CA 92619-7115 • 1 Fire Authority Road, Irvine, CA 92602

Keith Richter, Fire Chief

(714) 573-6000

www.ocfa.org

August 24, 2012

West Newport Oil Company
Attn: Tom McClosky
1080 West 17th Street
Costa Mesa, CA 92627

Newport Banning Ranch LLC
Attn: Michael A. Mohler
1300 Quail Street, Suite 100
Newport Beach, CA 92660

Subject: Fire Hazard – Vegetation Management Requirements

Dear Mr. McClosky and Mr. Mohler,

The Orange County Fire Authority has identified that your facility is in an area subject to wildfires. With the expected Santa Ana Winds and the predicted fire season already having consumed thousands of acres, we need everyone to do their part for community safety. Your facility has experienced three fires (vegetation, exposure from a condo fire, and a vehicle fire) in the past 8 weeks any one of which could have resulted in a catastrophic event for the community had they impacted the oil pipelines or other oil facilities.

A visit to your property on August 24, 2012, revealed that the vegetation management practices completed by you in past years are not being accomplished and poses a fire hazard not only to your property, but to the surrounding community. You are requested to immediately abate the hazard by performing appropriate vegetation management. This includes removing all dry, dead, and dying vegetation and other combustible materials in accordance with Chapter 3 of the California Fire Code (with local amendments) and Orange County Fire Authority Vegetation Management Guidelines.

To ensure compliance, a reinspection will be conducted on or after September 27, 2012. If you have any questions please call Nick Pivaroff at (714) 573-6256 or me at (714) 573-6103.

Respectfully,

Jennifer Bower, Assistant Fire Marshal
Ready, Set, Go! Program Manager

Pc: Newport Beach Fire Department, Kevin Kitch, Fire Marshal

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Los Alamitos • Mission Viejo • Placentia • Rancho Santa Margarita • San Clemente • San Juan Capistrano • Santa Ana • Seal Beach • Stanton • Tustin • Villa Park
Westminster • Yorba Linda • and Unincorporated Areas of Orange County

RESIDENTIAL SPRINKLERS AND SMOKE ALARMS SAVE LIVES



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September 27, 2012

VIA ELECTRONIC MAIL

Andrew Willis
Enforcement Analyst
California Coastal Commission
200 Oceangate, Tenth Floor
Long Beach, CA 90802

Re: **Vegetation Maintenance at Banning Ranch Oil Field, Newport Beach, Orange County, California**

Dear Mr. Willis:

Cox, Castle & Nicholson LLP is counsel to West Newport Oil Company ("WNO"), the oil operator for the Banning Ranch oil field (the "Oil Field"). Since receiving a Notice of Violation (the "NOV") from the California Coastal Commission (the "Coastal Commission") in May of this year, representatives of WNO and Newport Banning Ranch LLC ("NBRLLC"), the Oil Field landowner, have communicated with staffs of the United States Fish and Wildlife Service ("USFWS") and the Coastal Commission in an effort to address concerns regarding oil operations and related vegetation maintenance activities within the Oil Field. Despite our mutual efforts, we still differ on the appropriate scope of those activities.

WNO has consistently reiterated the need to continue the historic patterns of oil operations, which include vegetation maintenance in the Oil Field. The purpose of this maintenance is to facilitate oil operations by, among other things, protecting Oil Field buildings and structures and surrounding persons and properties from the risk of fire which could result from the oil operations (or otherwise). Those historic patterns were the subject of a 1973 determination by the California Coastal Zone Conservation Commission, the California Coastal Commission's predecessor, that the rights to conduct the oil operations on the Oil Field had vested and were, therefore, exempt from regulation under the California Coastal Zone Conservation Plan (the "Vested Rights Exemption"). The same general pattern of vegetation maintenance related to the oil activities that was occurring at the time of the Vested Rights Exemption has continued for what soon will be the 40 years since that exemption was granted. It is worth noting that the Vested Rights Exemption preceded current fire regulations addressing brush clearance. Obviously, if current health and safety regulations require more clearing than what has historically been performed in the Oil Field, then more clearing would now be required. But if the operational practice which vested with approval of the Vested Rights Exemption is more

protective of the Oil Field and surrounding properties than the new regulations, then the rights which vested included the right to continue the more protective operational practice. That is precisely what has consistently occurred over time.

More recently, without altering or waiving its rights under the Vested Rights Exemption and since receiving the NOV, WNO has voluntarily delayed ongoing vegetation maintenance this summer. Today, however, WNO believes it is necessary to recommence vegetation maintenance activities, as we are well into the fire season. This maintenance is necessary, appropriate, and authorized by the Vested Rights Exemption. We will perform our work in two phases in an effort to allow for further discussion with Commission staff regarding the scope of the Vested Rights Exemption. Those phases are as follows:

First Phase: WNO will begin vegetation maintenance activities by performing fuel modification within a 100 foot wide area along the eastern boundary of the Banning Ranch. The enclosed exhibits show the area which will be cleared. To ensure that the work will not impact any sensitive species, NBRLLC's biologists will monitor the work. Weather permitting, we will begin the work on Wednesday, October 3, and expect to complete it by Friday, October 5.

We recognize that this approach differs from your most recent proposal to allow clearing within 100 feet of any "home" (we assume your use of the term "home" was an oversight, since (1) there is a school and other buildings which are adjacent to the Oil Field, (2) there are many structures within the Oil Field itself, (3) the City's regulations do not limit fuel modification to the protection of "homes," and (4) the Orange County Fire Authority's Vegetation Management Technical Design Guideline provides protection to all "structures.") However, absent this practical approach, it would be virtually impossible for the driver of a tractor to follow a dramatically meandering and shifting line to stay precisely 100 feet from each adjacent structure, not to mention the difficulty of starting and stopping the process if there is not an adjacent structure. Our goal, as it always has been, is to be reasonable in protecting surrounding properties and the Oil Field itself.

In addition to the vegetation maintenance along the property line, we will soon be performing vegetation maintenance near well pads, oil and gas lines, utility poles and lines, Oil Field buildings and structures, roads, and existing bare areas, consistent with the Vested Rights Exemption, historical practices, and our discussions with USFWS.

The limited scope of this first phase is not intended to waive any of WNO's rights under the Vested Rights Exemption. It simply means that we will begin our vegetation maintenance in those areas which appear to be less objectionable to Coastal Commission staff and the USFWS. While this limited effort is underway, we are available to work with you with the hope that, before we proceed to the second phase of vegetation maintenance, Commission staff will understand that all proposed vegetation maintenance is within the scope of the Vested Rights Exemption and, therefore, not subject to further regulation under the Coastal Act.

Second Phase: Following the first phase of vegetation maintenance, WNO intends to complete its vegetation maintenance activities consistent with historic practices. Maps depicting the vegetation maintenance areas will be provided to you in advance of the work.

Andrew Willis
September 27, 2012
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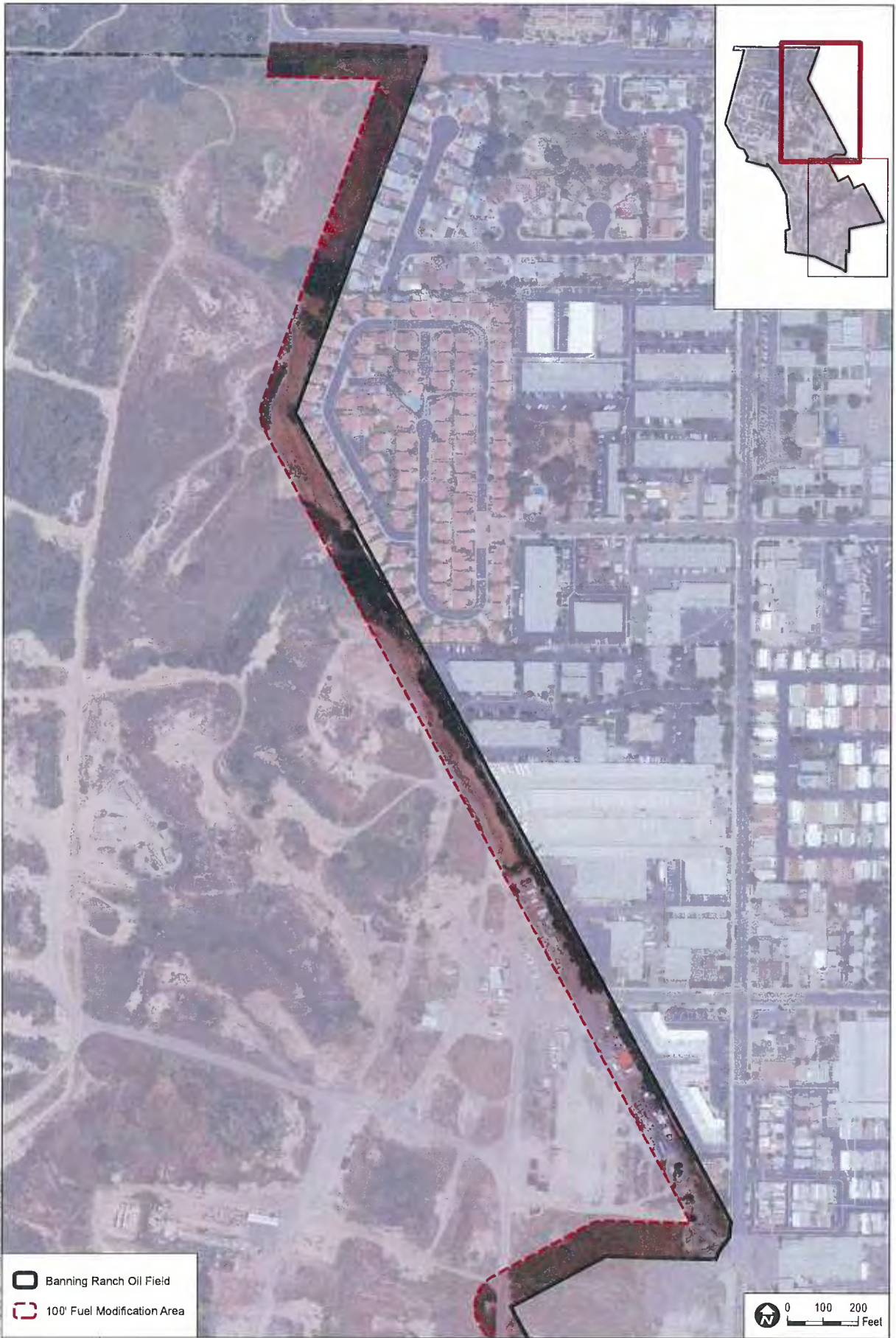
It is important that we meet soon to share with you information we have assembled which demonstrates the consistent vegetation maintenance practices within the Oil Field for more than sixty years. It remains our goal to resolve the disagreements we have with Coastal Commission staff regarding the scope of the Vested Rights Exemption. Please contact me at your earliest convenience so that we can set a date for a meeting.



Sincerely,

A handwritten signature in black ink, appearing to read 'Tim Paone', with a stylized flourish at the end.

Tim Paone


Enclosures: Initial Seasonal Vegetation Maintenance Program Implementation Exhibits



 Banning Ranch Oil Field
 100' Fuel Modification Area

DUDEK
7248-01
SEPTEMBER 2012

SOURCE: ESRI Online BING Satellite
Initial Seasonal Vegetation Maintenance Program Implementation - 100' Fuel Modification Area
NEWPORT BANNING RANCH

 0 100 200 Feet

NORTH VIEW



DUDEK

7248-01
SEPTEMBER 2012

SOURCE: ESRI Online BING Basemap

Initial Seasonal Vegetation Maintenance Program Implementation - 100' Fuel Modification Area
NEWPORT BANNING RANCH

SOUTH VIEW