

**HABITAT ASSESSMENT FOR THE FENCING PROJECT**

**AT**

**975 W. 16<sup>TH</sup> STREET**

**NEWPORT BEACH, CALIFORNIA**

**Newport Beach USGS Topographic Quadrangle T6S R10W**

**Assessor's Parcel Numbers 114.170.51, 114.170.63, 114.170.64**

**RECEIVED**

South Coast Region

**PREPARED FOR:**

OCT 1 - 2014

Newport-Mesa Unified School District

2985 Bear Street

Costa Mesa CA 92626

Contact: Ara Zareczny

714-424-7522

CALIFORNIA  
COASTAL COMMISSION

**PREPARED BY:**

David Bramlet

Consulting Biologist

1691 Mesa Dr. No. A-2

Newport Beach CA 92660

714-549-0647

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## 1.0 INTRODUCTION

A chain link fence was recently installed on property owned by the Newport-Mesa Unified School District (NMUSD), which is a 11.5 acre parcel (project parcel) located at 975 W. 16 St. in the City of Newport Beach, occurring on Assessor's Parcel Numbers 114.170.51, 114.170.63, and 114.170.64 (NMUSD 2013). This parcel extends some 650 ft. west from the end of 16<sup>th</sup> Street and north to Whittier Avenue. The project parcel is located just east of the Newport Banning Ranch oil field and the general locality of this property is noted in Figure 1.

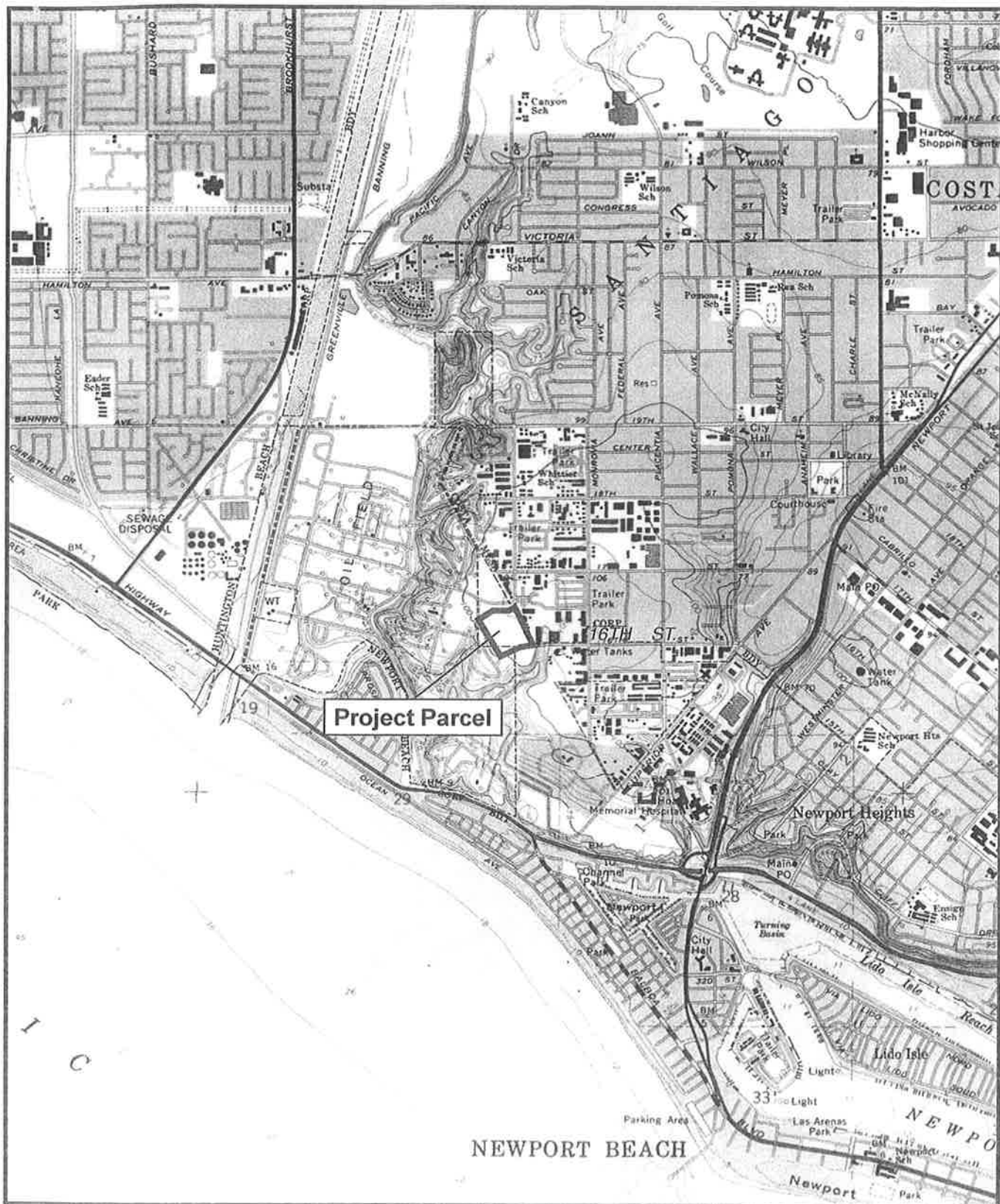
The project parcel is located on the Newport Beach 7.5 minute USGS topographic map T6S R10W, see Figure 2. The property is located on a coastal terrace, just east of the Santa Ana River, west of the developed community of Costa Mesa, and approximately one mile south of Fairview Park. The parcel is located about 3,100 ft. north of Pacific Coast Highway and is found at the terminus of west 16<sup>th</sup> Street. The approximate UTM coordinate for this parcel is 04 12 712mE X 37 21 869mN, and the property occurs at 102 ft. above mean sea level. A detailed topographic map and topographic/aerial survey were recently prepared for this property at a scale of 1"=40' (Salazar Surveying 2012a and 2012b).

Figure 3 shows the parcel on an aerial photograph and notes the boundary of the entire 11.5 acre property. The figure shows the areas of the project parcel, which currently consists of various construction equipment and storage yards. These include two other yards that are currently leased to contracting companies, a yard used by NMUSD for storage, and unused fenced yard areas. The parcel also includes the project site, which is the area of the parcel fenced in 2012 and the newly fenced boundaries are shown in red on this aerial.

### 1.1 Project Description

A total of 2,046 ft. of 6 ft. chain link fencing, surrounding previously unfenced areas of the parcel, was installed in 2012. Fence posts used attach the mesh were driven 2 ft. into the ground and concrete footing at a depth of 2 ft. was used to anchor the corner posts. The fence has tension wires at the top and bottom of the fence and bracing is used at the corner posts. A single 6 ft. by 12 ft. double gate was also installed to provide access to this area of the parcel. The total area of new fencing within the project site is shown in Figure 4, along with areas of existing fencing that define the area of the project site.

The NMUSD submitted an application for a coastal development permit concerning the fencing installation in November of 2013. The application described the fencing project, and other requested information on this parcel. In December of 2013 the NMUSD was sent notice of an incomplete application for a coastal development permit by the California Coastal Commission (Coastal Commission 2013). This notice requested that a



0 1,000 2,000 3,000 4,000 5,000  
feet

Figure 2  
Topographic Map  
NMUSD Parcel 975 W 16th Street



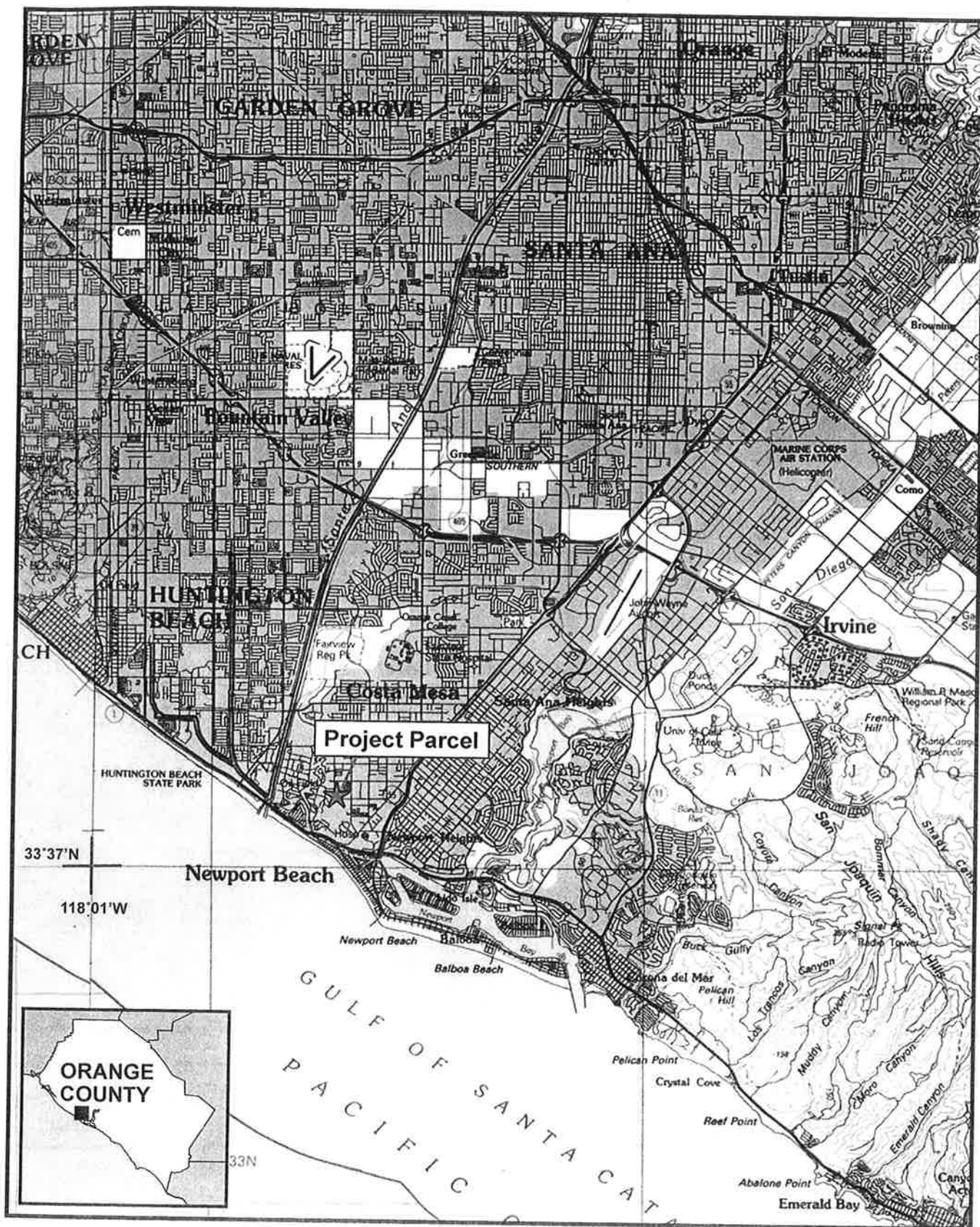
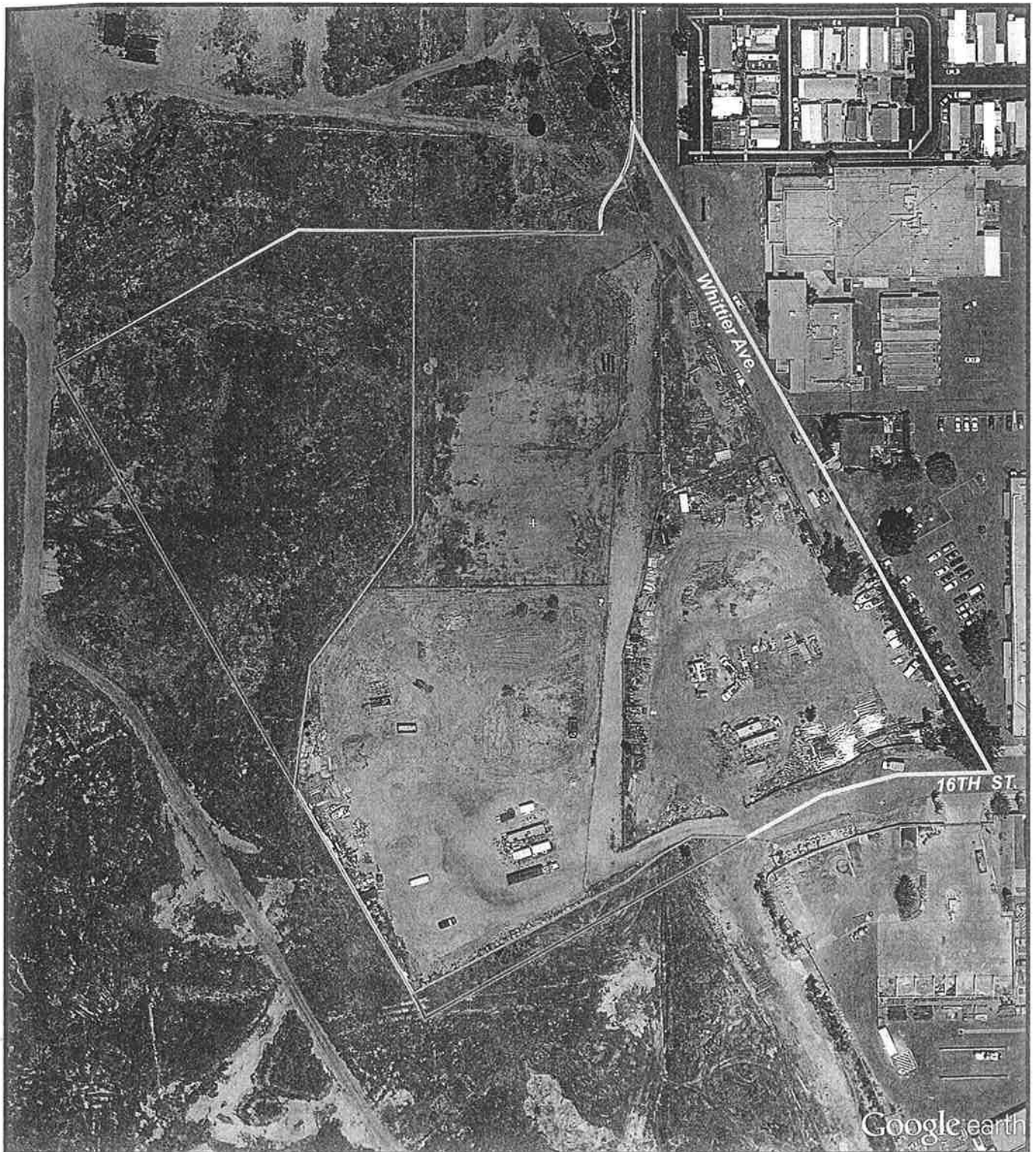
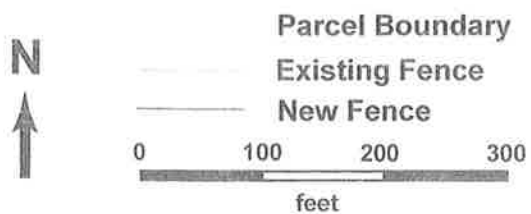


Figure 1  
Regional Location  
NMUSD Parcel 975 W 16th Street





Source: Google Earth Pro Imagery April 16, 2013. licensed by F.M. Roberts



**Figure 3**  
**Parcel Boundary**  
**NMUSD Parcel 975 W 16th Street**



interior fences = leased parcels

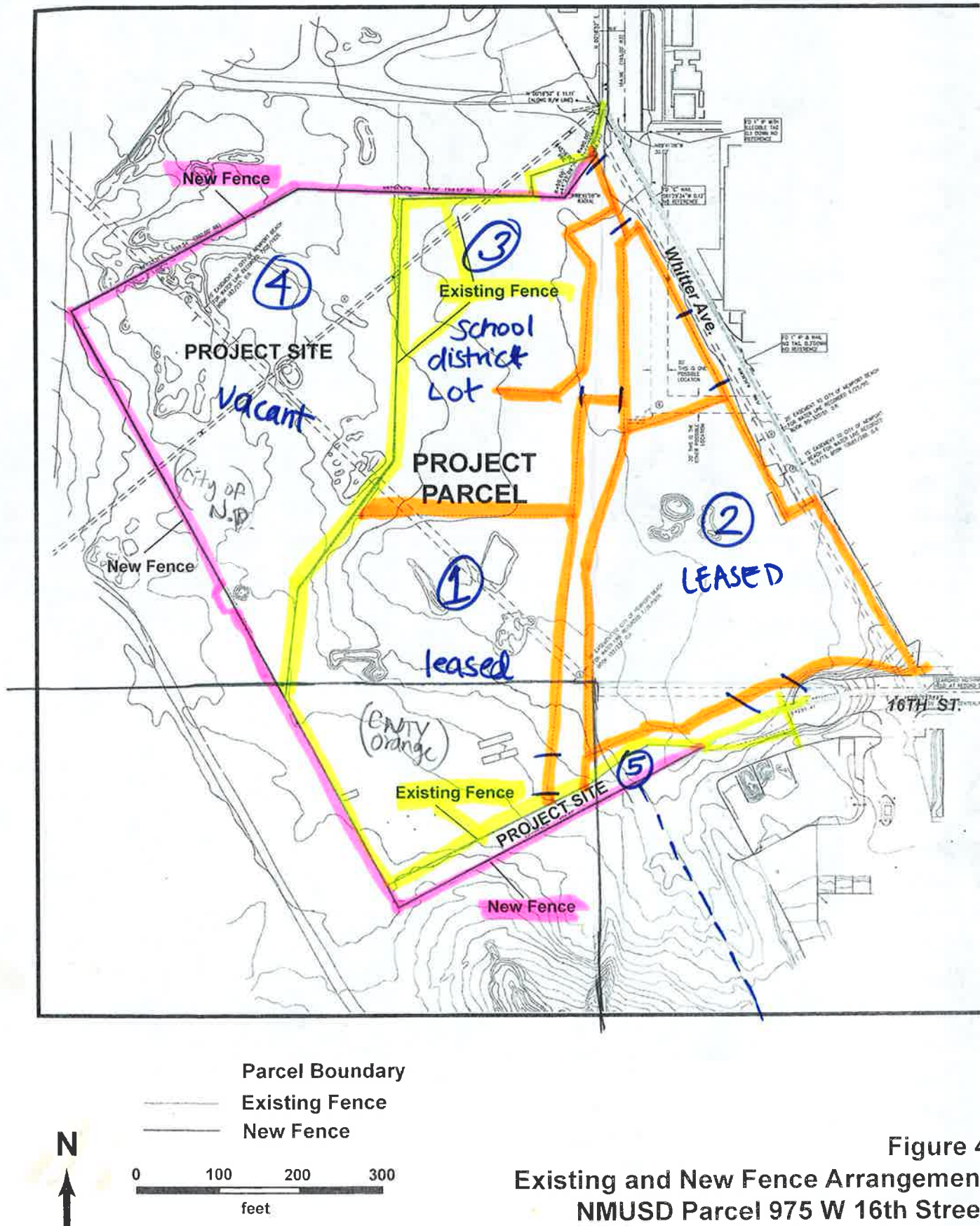


Figure 4  
Existing and New Fence Arrangement  
NMUSD Parcel 975 W 16th Street

biological report be prepared on the project site and that this report that would describe the plant communities found on this property. In addition, it was requested that this report assess the impacts of the fence installation to these communities. The NMUSD also received a letter from the Banning Ranch Conservancy (BRC 2013), that requested information on the fencing project. This letter also provided background information on biological resources on or adjacent to the property. This information was derived from previous biological studies on the Banning Ranch (BonTerra 2011b, and Lukos 2008a) and information that has been independently developed by the Conservancy (BRC 2011, Welsh 2012). A principal concern was the presence of seasonal wetlands on the project site, that may have been affected by the fencing project.

The notice of an incomplete application from the California Coastal Commission (Coastal Commission 2013), noted that a biological report would be required as part of the application. The report identifying the plant communities, and associated plant species found on the property, including any seasonal wetlands. This report will need to include a vegetation map, noting the boundary of each of these communities found on the entire property. The biological report will also have to address the potential direct and indirect impacts of the fence installation within the affected area of the parcel.

### **1.3 NMUSD Parcel and Project Site**

#### **1.3.1 Project Parcel**

The NMUSD 11.5 acre parcel is generally divided into a number of separate storage areas, see Figure 3. Two are currently being leased to construction companies as equipment and material storage areas. Another area is used by NMUSD as a storage area for obsolete equipment. Other yards are found on the parcel that are separately fenced and the surface has been covered with a layer of gravel, but these yards are not currently in use at this time. Photos of the current conditions found on the parcel are found in Appendix B.

#### **1.3.2 Project Site**

The project site, see Figure 4 represents a 3.18 acre area of the property that was not fenced until 2012, which includes two previously unfenced areas of the property. The main area is a 2.96 acre section of the project parcel, that is found in the northwest corner of the property, adjacent to the Banning Ranch oil field. This portion of the property was not used by the NMUSD or leased for other purposes. However, the area appears to have been a part of the oil field found at the Newport Banning Ranch. There are berms of broken up concrete and earthen debris in berms on the site. In addition several old concrete pads occur on this portion of the property. There is also an old oil pipe that is found within a dug out area (an oil sump).

A property boundary survey of the parcel conducted in 2012 (Salazar Surveying 2012a, 2012b) also noted other unfenced areas of the parcel. Therefore, the project site also



includes some small areas in the northeast corner of the property, where the area is double fenced to include the revised property boundary.

A strip of land (0.22 acres) along the southwest boundary of the parcel, is also included within the project site. The new fencing included a strip along the southern portion of the parcel, which extends from the southwest corner of the property, to an existing gate, to an adjacent parcel, along the current access road. Photos of the current conditions found on the project site are found in Appendix B.

## **1.4 Previous Studies**

There are no known previous biological surveys that have been conducted on the NMUSD 16<sup>th</sup> Street property. However, extensive biological surveys have been conducted on the Banning Ranch property, as part of the proposal to convert the oil field to residential development. These include detailed biological surveys as summarized by BonTerra (2011b) and Lukos (2008a and 2008b). Recently a series of new studies were conducted including a revised classification and mapping of grassland habitats on the project site (Dudek 2013a), along with additional surveys for special status wildlife species (Dudek 2013c and 2013d and Lukos 2013). These recent reports also summarized the known seasonal wetlands on the Ranch property and brachiopod studies conducted within these wetland features (Lukos and Dudek 2013, Dudek 2013b). These studies provide a detailed overview of the known biological resources adjacent to the NMUSD property.

## **1.5 Current Study**

The following report provides a habitat assessment of the NMUSD property found at 975 W. 16 Street in the City of Newport Beach. The report presents information on the type and distribution of plant communities found on the entire parcel (project parcel), and especially within the area that was enclosed by the current fencing effort (project site). This report also describes and denotes the presence of ephemeral wetlands that were observed on this parcel. The report notes the special status plant and animal species, potentially occurring at this locality, and an evaluation of the potential habitat for these species. Finally, the report notes the potential impacts of the fence installation to biological resources on the project site.

## 2.0 METHODS

### 2.1 Literature Review

A review of the existing literature was conducted to determine the known biological resources within the area of the proposed project, especially the Newport Banning Ranch development project (BonTerra 2011a). These include a variety of environmental documentation and biological studies that have been performed for this project. The biological surveys completed for the DEIR are generally summarized by BonTerra (2011b), and Lukos (2008a and 2008b). More recent surveys within the Ranch area have been conducted by Dudek to revise the grassland mapping (Dudek 2013a) and a variety of surveys for special status wildlife species (Dudek 2013b through 2013e), along with other studies conducted by Glenn Lukos (Lukos 2009, 2011, and 2013) and a report prepared by Dudek and Lukos (2013) that summarized the fairy shrimp surveys performed on at this locality.

Other sources of documentation on the Newport Banning Ranch property included information developed by the Banning Ranch Conservancy (BRC), as comments on the DEIR and biological surveys performed for this project (Welsh 2012), along with a presentation on the ephemeral wetlands found on this parcel (BRC 2011).

Other studies in the vicinity of the study area were also reviewed for this study. These include the Sunset Park DEIR (BonTerra 2009a and 2009b), the southwest Costa Mesa sewer project (Dudek 2013f), and the biological survey of Fairview Park (Hamilton 1995).

The potential special status plant and wildlife species, potentially occurring on the parcel was evaluated using the California Natural Diversity Data Base, (CDFW 2014a). Other information regarding special status plant species included the CNPS Rare Plant Inventory (CNPS 2014), and the Consortium of California herbarium (Consortium 2014) to determine known voucher plant collections from the study area. Additional information on special status wildlife species was generally derived from the previous studies at Banning Ranch, Sunset Park, and Fairview Park.

To determine the potential determination of wetland habitats, California Coastal Commission's state side interpretive guidelines for wetlands and other wet environmentally sensitive habitats (Coastal Commission 1981, 1994) were carefully reviewed, along with the local coastal plan for Newport Beach (Newport Beach 2009). In addition, studies descriptions of vernal pools (Solomeshch et al. 2007 and Zedler 1987) or other seasonal wetlands (Ferren et al. 1995) in California were used to determine the definitions and the flora of these communities.

The previous wetland studies performed on the Newport Banning were reviewed to determine how these coastal wetlands were addressed in these reports, especially the summary of the ephemeral wetlands and brachiopod surveys performed on this property

were summarized in the report by Dudek and Lukos (2013), while other wetland types are described in the jurisdictional wetland delineations (BonTerra 2011b, Lukos 2008b). As previously noted, the information presented on these wetlands by the Banning Ranch Conservancy was also reviewed for this study (BRC 2011, Welsh 2012). Finally, aerial photos (Google Earth 2014) and photos presented by BRC (2011) were examined, to determine the extent of ponding on the project site in years where the depressions were filled with water.

## **2.2 Field Studies**

Field examinations of the project parcel and project site, was conducted by D. Bramlet, botanist on 22 April 2014 for the project parcel excluding the project site; 2 May 2014, and 21 May 2014 for the entire parcel areas, and especially along the recently installed fence line and on 6 June 2014 to conduct further surveys on the project site.

These site examinations were made to determine the existing plant communities, and dominant plant species found on the property. In addition, general wildlife observations were conducted during the three surveys on this parcel. The seasonal wetlands and depressional features were all dry at the time of the survey. Therefore, previous studies or unique features, e.g. shape of the depression, or dry plant species, were used to locate these depressions on the parcel.

Field notes were taken to note all of the plant and animal species noted on this property. In addition, a GPS receiver was used to note the locality of any potential seasonal wetland areas found on the parcel. Photos were also taken to document the existing conditions noted during the field examinations and any unique features found on the property, see Appendix B.

The precipitation during the 2013-2014 water year was below normal, some 4.42 inches, and the previous year was also below normal, 6.51 inches versus the average rainfall of 12.94 inches. It appears that there was no ponding of seasonal wetlands in 2014, and vernal pools at Fairview Park did not pond in 2013 or 2014. Therefore, potential indicator plant species in some of these features may have been absent during the site examination.

The observed plant communities were noted on an aerial photograph (Google Earth 2014) of the property. The mapping used the Orange County Habitat Classification system (Dames and Moore and Bramlet 1991, Jones and Stokes 1993) with some modifications. The aerial photograph was used to map the locality of the seasonal wetlands, although GPS waypoints and polygons were also used to note the locality of these features on the project parcel.

The scientific and common names for the native plant species in the text follow the Checklist of the vascular plants of Orange County (Allen and Roberts 2013, Roberts 2008), names for ornamental plants were generally derived from the Sunset Garden Book (Brenzel 2007). Nomenclature for wildlife species follows Stebbins and Peterson (2003) for reptiles and amphibians; Dunn and Alderfer (2011) for birds, and Jameson et al. (2003) for mammals.



### 3.0 EXISTING ENVIRONMENT

#### 3.1 Land Uses on the NMUSD Parcel

The NMUSD West 16th Street parcel is currently fenced in various storage yards, and most of this area is covered in gravel to ease access into these storage areas. In the southern portion of the parcel, two yard areas are currently leased to construction companies for use as equipment and material storage yards. Another yard in the northeast area of the property is used by NMUSD for storage of old equipment, and materials. Other yards are still graveled, but are not currently in used as storage areas. Soils are continually compacted and graded within active yards, depending on the activities being conducted at these facilities.

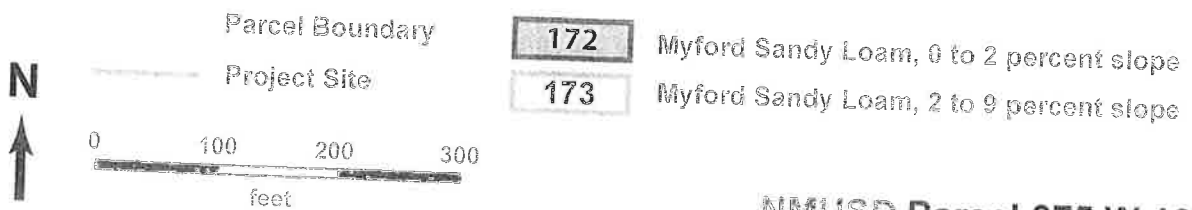
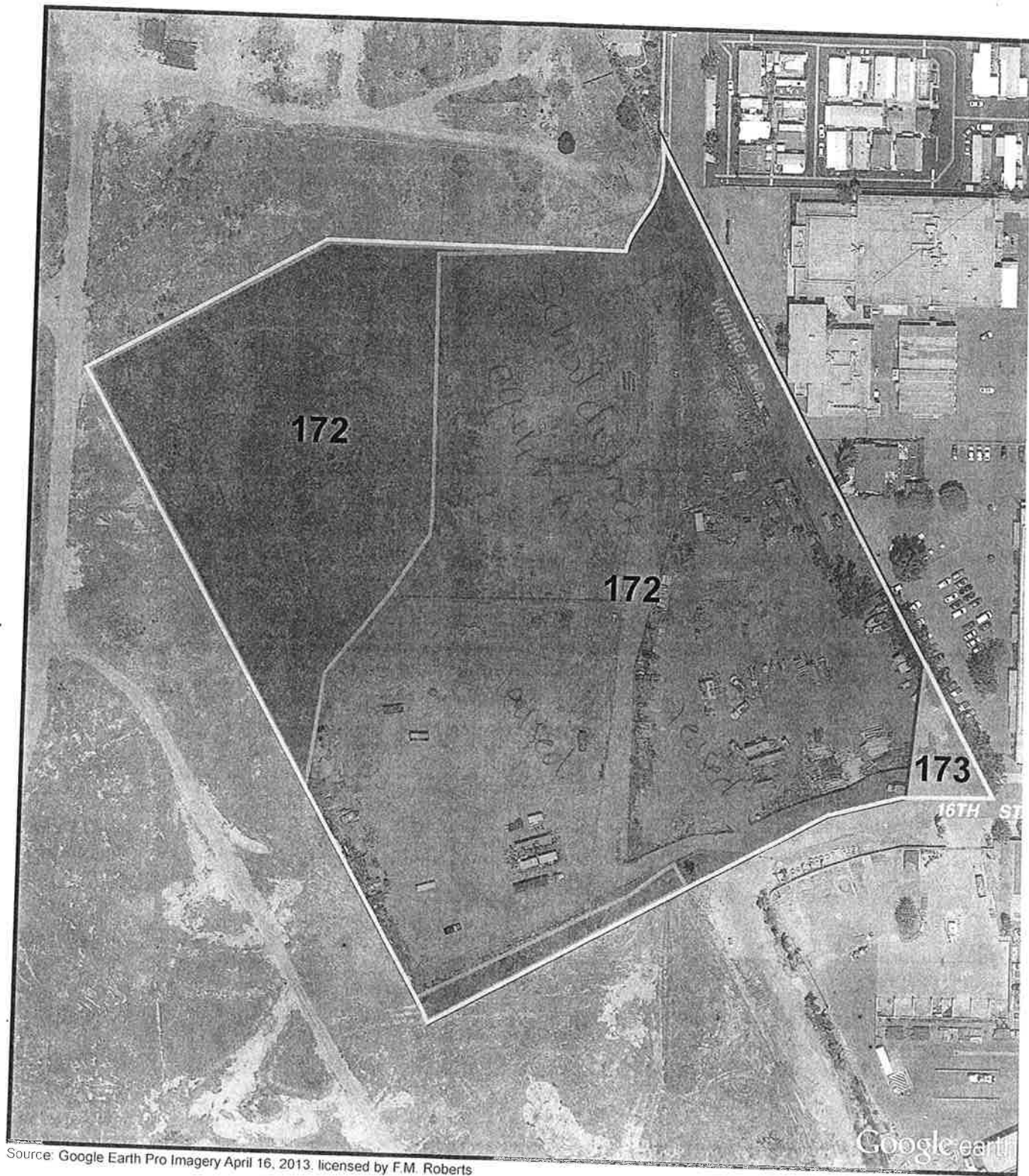
In contrast, the project site is an area that was not fenced, graded or graveled in the past. However, it does appear that it was used as part of the oil field operations area in the distant past, since concrete pads, and asphalt debris are evident on this site. Other existing features include a power line extending through the site, and an old oil sump found in the southwest corner of this locality. Fairly intensive disking was conducted on the northern area of this parcel, along with other offsite localities in 2011 (Google Earth 2014). In contrast to the northwest project site, the project area to the south did have some graveled areas, although the western part of this locality was apparently not previously used as a storage area in the past.

#### 3.2 Soils

The soils found on the project site are comprised of a Myford sandy loam, 0-2% slopes and these are shown in Figure 5. The Myford series is comprised of soils derived from sandy sediments that are found on marine terraces. The soil is typically comprised of an upper 4 inch layer of pale brown sandy loam. Beneath this layer, are 8 inches of a pinkish gray sandy loam. The subsoil is generally comprised of 6 inches of a brown sandy clay; 17 inches of a brown sandy clay loam; and 36 inches of a calcareous sandy clay loam, and sandy loam. Beneath this material is another layer of sandy loam to a depth of 79 inches. Generally runoff is slow from this soil, and the erosion hazard is moderate.

The Myford soil type (Map Symbol 172, and 173 Myford sandy loam 0-8 % slopes) found on the project site has been listed as a hydric soil type for ponded areas (depressions) within this mapping unit, in the NCRS field office list of hydric soils (NCRS 1992). However, the hydric nature of the soils found within the depressions occurring on the NMUSD property has not been confirmed.





**Figure 5**  
**Soils**  
**NMUSD Parcel 975 W 16th Street**

### 3.3 Plant Communities

The plant communities found on the property include: graded, ruderal, disturbed annual grassland, coastal sage scrub/disturbed annual grassland ecotone, mulefat scrub/disturbed annual grassland ecotone, ornamental, and developed mapping units and ephemeral wetlands (separately mapped). The following sections will describe the plant communities and other mapping units found on the project parcel and project site, the distribution of the communities is noted in Figure 6 (Vegetation) and the plant species observed on this property are noted in Appendix A. The total acreage for each of the communities/mapping units found on the project parcel and project site is provided in Table 1.

The vegetation mapping of the Newport Banning Ranch (BonTerra 2011b) noted the communities just west of the boundaries of the project parcel/site. The area west of the northern project parcel was mapped as ruderal. In contrast the southern segment of the project sites was mapped as annual grassland, and disturbed/developed mapping units.

**Table 1 Summary of the Plant Communities/Mapping Units found in the Project Parcel/Project Site**

<b>TABLE 1 SUMMARY OF PLANT COMMUNITIES/MAPPING UNITS FOUND ON THE PROJECT PARCEL AND PROJECT SITE</b>		
<b>Plant Community</b>	<b>Project Parcel</b>	<b>Project Site</b>
Graded	5.3 acres	0.02 acres
Ruderal	1.9 acres	0.2 acres
Developed	0.8 acres	0 acres
Ornamental	0.1 acres	0 acres
Disturbed Annual Grassland (DAngr)	0.42 acres	2.45 acres
Coastal Sage Scrub/DAngr Ecotone	0 acres	0.4 acres
Mulefat scrub/DAngr Ecotone	0 acres	0.01 acres
Seasonal Wetlands/Depressional Features	0.003 acres	0.10 acres

### 3.3.1 Project Parcel

The areas of the project parcel excluding the project site, were characterized by graded, ruderal, disturbed annual grassland, ornamental, and developed mapping units. A seasonal wetland found on the parcel is described in Section 3.4.

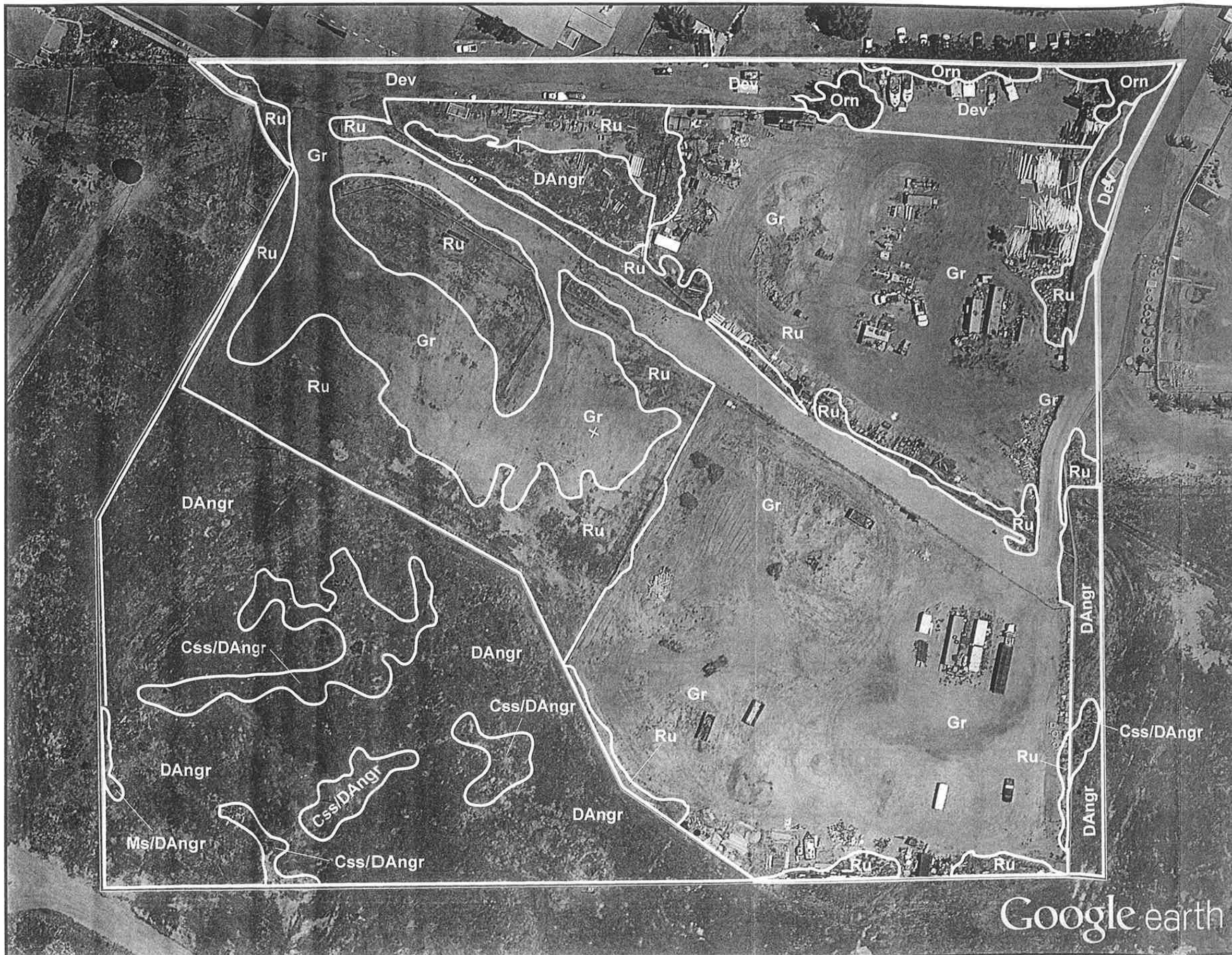
#### 3.3.1.1 Graded

The majority of the existing storage and equipment yards were mapped as graded mapping unit. This included the yards, including localities of equipment and material storage, along with open areas in these yards. Generally, these yards lack any vegetative cover and often have a layer of gravel covering the soil surface. However, a few sites have a scattered cover of summer mustard (*Hirschfeldia incana*), London rocket (*Sisymbrium irio*), red-stemmed filaree (*Erodium cicutarium*), dwarf nettle (*Urtica urens*), fascicled tarweed (*Deinandra fasciculata*), yellow sweet clover (*Melilotus indicus*), Russian thistle (*Salsola tragus*), spotted spurge (*Euphorbia maculata*), telegraph weed (*Heterotheca grandiflora*), lesser wartcress (*Lepidium didymium*), garland chrysanthemum (*Glebionis coronaria*), and alkali heliotrope (*Heliotropium curassavicum*).

#### 3.3.1.2 Ruderal

Ruderal areas consisted of stands of vegetation within or on the margins of the existing storage and equipment yards. These sites often contained stands of summer mustard, London rocket, telegraph weed, red-stemmed filaree, field mustard (*Brassica rapa*) red brome (*Bromus madritensis* ssp. *rubens*), fascicled tarweed, dwarf nettle, spotted spurge, horehound (*Marrubium vulgare*), yellow sweet clover and tocalote (*Centaurea melitensis*). Other less common species included Coulter's horseweed (*Conyza coulteri*), Russian thistle, lesser wartcress, slender-leaved malacothrix (*Malacothrix saxatilis*), tumbling pigweed (*Amaranthus albus*), Italian thistle (*Carduus pycnocephalus*), small primrose (*Camissonia micrantha*), common sow thistle (*Sonchus oleraceus*), rat-tail fescue (*Festuca myuros*), tall wreath plant (*Stephanomeria virgata*), weedy cudweed (*Pseudognaphalium luteoalbum*), alkali heliotrope, province sea lavender (*Limonium ramosissimum*), garland chrysanthemum, western ragweed (*Ambrosia psilostachya*), and tree tobacco (*Nicotiana glauca*). A few areas had some scattered shrubs including coyote brush (*Baccharis pilularis*), deerweed (*Acmispon glaber*), and mulefat (*Baccharis salicifolia*).





# LEGEND

- Gr - Graded
- Ru - Ruderal
- DAngr - Disturbed Annual Grassland
- CSS/DAngr - Coastal Sage Scrub/Disturbed Annual Grassland
- Ms/DAngr - Mulefat scrub/Disturbed Annual Grassland
- Orn - Ornamental
- Dev - Developed



- Parcel Boundary
- Existing Fence
- New Fence

0 50 100 150 200  
feet

Figure 6  
Vegetation  
NMUSD Parcel 975  
W 16th Street

### 3.3.1.3 Disturbed Annual Grassland

A few localities adjacent to the existing equipment and storage yards were mapped as a disturbed annual grassland. Typically this grassland was characterized by a variety of forbs and characteristic species included summer mustard, field mustard, dove weed (*Croton setiger*), red-stemmed filaree, scarlet pimpernel (*Anagallis arvensis*), yellow sweet clover, fascicled tarweed, long-beaked filaree (*Erodium botrys*), horehound, tocalote, California popcorn flower (*Plagiobothrys collinus* var. *californicus*), boccone's sand spurry (*Spergularia bocconei*), western ragweed, London rocket, dwarf nettle, telegraph weed, alkali heliotrope, and Coulter's horseweed. Grasses were sparse and included red brome, rat-tail fescue, and schismus (*Schismus barbatus*). A few scattered shrubs comprised of coastal goldenbush (*Isocoma menziesii*), deerweed, and coyote brush, were also found in these grasslands.

### 3.3.1.4 Ornamental

The stands of eucalyptus (*Eucalyptus spp.*) trees in the southeast corner of the parcel were mapped as ornamental vegetation.

### 3.3.1.5 Developed

The paved areas of Whittier Ave., and 16<sup>th</sup> Street found within the boundaries of the parcel were mapped as developed. This also included some areas of concrete pads within the storage and equipment yards.

## 3.3.2 Project Site

The project site is principally composed of disturbed annual grassland, along with smaller areas of a coastal sage scrub/disturbed annual grassland ecotone, mulefat scrub/disturbed annual grassland ecotone, ruderal habitat and graded areas. Seasonal wetlands found on the project site are described in Section 3.4.

### 3.3.2.1 Disturbed Annual Grassland

The property within the new fence line is characterized by a disturbed annual grassland, containing a variety of annual grasses and forbs. Forbs are dominant in this grassland and include summer mustard, fascicled tarweed, horehound yellow sweet clover, tocalote, field mustard, dove weed, dwarf nettle, scarlet pimpernel (*Anagallis arvensis*), London rocket, western ragweed, garland chrysanthemum, California popcorn flower, long-beaked filaree, dwarf nettle, Boccone's sand spurry, oriental mustard (*Sisymbrium orientale*), and lamb's quarter's (*Chenopodium album*). Grasses found in this community include red brome, rattail fescue, ripgut brome (*Bromus diandrus*), soft chess (*Bromus hordeaceus*), and schismus.



Open, bare areas within these grasslands contain summer mustard, fascicled tarweed, red-stemmed filaree, yellow sweet clover, tocalote, and red brome on the margins of these openings. Scattered over the areas of open soils is a scattered, open cover of small-flowered iceplant (*Mesembryanthemum nodiflorum*), crystal ice plant (*Mesembryanthemum crystallium*), and coast weed (*Amblyopappus pusillus*).

#### 3.3.2.2 Coastal Sage Scrub/Disturbed Annual Grassland Ecotone

Scattered stands of coastal goldenbush, coyote brush, and California encelia (*Encelia californica*) occur within the project site. Forbs and grasses in these open shrub stands include summer mustard, fascicled tarweed, red brome, yellow sweet clover, horehound, tocalote, red-stemmed filaree, scarlet pimpernel, nettle-leaved goosefoot (*Chenopodium murale*), small-flowered iceplant, and London rocket.

#### 3.3.2.3 Mulefat Scrub/Disturbed Annual Grassland Ecotone

A small, scattered, open stand of mulefat is located in the northeast corner of the project site. This community is composed of a few mulefat shrubs found on the on some earthen berms, along with coyote brush, summer mustard, horehound, western ragweed, alkali heliotrope, small-flowered iceplant, soft chess, garland chrysanthemum, dwarf nettle, and yellow sweet clover.

#### 3.3.2.4 Ruderal

An area of ruderal habitat was mapped in the southern area of the project site. This area contained an open cover of summer mustard, spotted spurge, Coulter's horseweed, telegraph weed, weedy cudweed, horehound, tumbling pigweed, Italian thistle, western ragweed, and field mustard.

#### 3.3.2.5 Graded

The northern corner of the southern project area is noted as graded. This locality had a scattered cover of spotted spurge, coulter's horseweed, tumbling pigweed, slender-leaved malacothrix, weedy cudweed, western ragweed, red-stemmed filaree, Italian thistle, telegraph weed, yellow sweet clover, horehound, and tall wreath plant.

### 3.4 Seasonal Wetlands

Two documented seasonal (ephemeral) wetlands are found within the fenced area of the project site. These include Seasonal Feature (Wetland) K (Dudek and Lukos 2013), and Seasonal Wetland (Vernal pool/wetland ) No. 6 (BRC 2011). Three other small depressions were located on the project sites, and a "road rut" seasonal wetland was located on the project parcel. The locality of these seasonal wetlands is noted in Figure 7 and photos of these features are shown in Appendix C.

### 3.4.1 Project Parcel

**Seasonal Wetland No. 3.** A “road rut” seasonal (ephemeral) wetland (SW No. 3) was located in the storage yard occasionally used by the NMUSD. The ephemeral wetland area consists of a depression created by a tire rut. This depression contains yellow sweet clover, weedy cudweed, summer mustard, Tasmanian goosefoot (*Dysphania pumilo*), fascicled tarweed, spotted spurge, and lesser wart cress. Some scattered woolly marbles (*Psilocarphus brevissimus*), a facultative wetland species (FacW), were also present in this feature.

### 3.4.2 Project Site

#### 3.4.2.1 Seasonal Wetland No. 1

Seasonal Wetland No. 1 is formed from an oil pipe sump and has been noted as Vernal pool/wetland No. 6 by BRC (2011). This is a small pit some 14 ft. long by 12ft. wide and is roughly 52 inches deep. There is an old pipe in the center of this sump, which is assumed to be from the oil operations in this area. The sump is a steep sided pit, that would not allow for the development of typical vernal pool species along the side of the pit, although there is some potential for these species to form in the bottom on the sump.

There is evidence of ponding within the sump, although most of the species are upland plants. Plants noted in the bottom of the pit included summer mustard, red brome, Italian thistle, crystal ice plant, fascicled tarweed, and yellow sweet clover. A few pale spike rush (*Eleocharis palustris*) plants, an obligate wetland species (Obl), were found on the upper margin of the sump

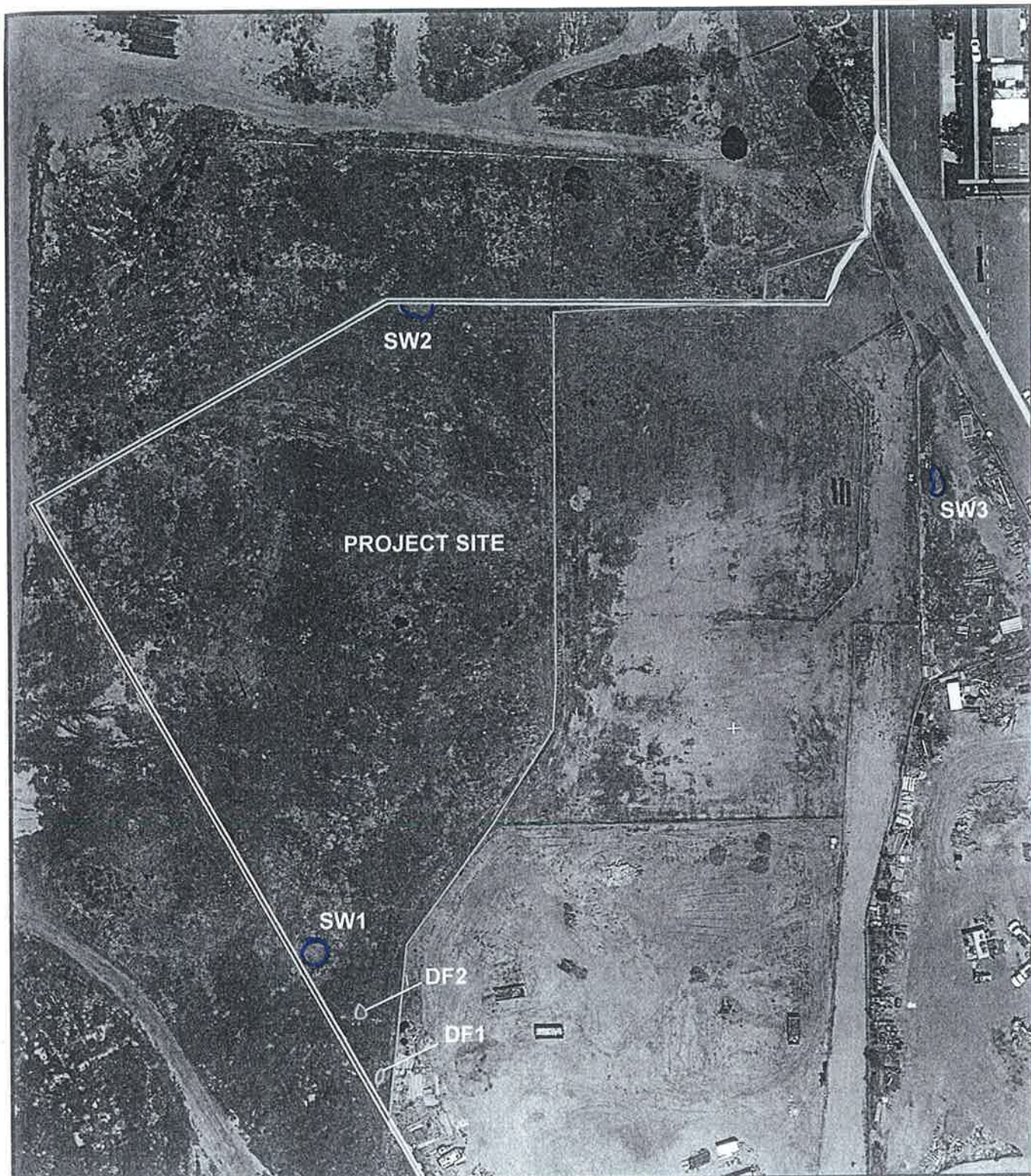
#### 3.4.2.2 Seasonal Wetland No. 2

Seasonal Wetland No. 2 is located in the northeast corner of the project site. This ephemeral wetland has been labeled as Seasonal Feature K by Lukos (Dudek and Lukos 2013), and as vernal pool/wetland No. 10 by BRC (2011). This depression is some 30 ft. in length (along the fence) and 16 ft. wide (extending into the project site)

This seasonal wetland is a shallow depression that extends on both sides of the two properties. The pool is generally characterized by an open, clayey surface. Plants found in the pool area include red-stemmed filaree, fascicled tarweed, summer mustard, Tasmanian goosefoot, alkali heliotrope, sand pygmy-stonecrop (*Crassula connata*), yellow sweet clover, field mustard, and woolly marbles. The woolly marbles are found scattered throughout this depression.







Source: Google Earth Pro Imagery April 16, 2013 licensed by F.M. Roberts

Parcel Boundary

Existing Fence

New Fence



0 50 100 150  
feet

SW1

Seasonal Wetland 1 (Seasonal Feature 6 (BRC 2010))

SW2

Seasonal Wetland 2 (Seasonal Feature K (Dudek & Lukos 2013))

SW3

Seasonal Wetland 3, Road Rut Ephemeral Wetland

DF1 & DF2

Depressional Features

**Figure 7**  
**Seasonal Wetland and Depressional Features**  
**NMUSD Parcel 975 W 16th Street**

100 ft. buffers





### 3.4.2.3 Depressional Features

Three other depressions were noted, that could contain seasonal wetlands were observed on the project site and these were mapped as “depressional features”. These are “tea cup” like depressions with fairly steep sides and a small area within the bottom of this feature. However, the potential status of these depressions could not be confirmed due to the lack of ponding during 2014. In addition, due to the small size of these depressions ponding could not be noted on older aerial photographs of the project site.

Two of these depressions were located in the southern corner of the project site and are combined as a single mapped feature (DF No. 1) were about 3 ft. by 2 ft. and some 6 inches deep. The other depression (DF No. 2) is located some 50 ft. north of the first set of features, and is about 1 ft. by 1.5 ft. in size and approximately 3 inches deep. The depressions had some evidence of ponding, small sticks accumulated in the bottom of the depression, but were occupied by upland plant species, i.e. summer mustard or with no plant cover. No evidence of any mesic or wetland plant species was noted in these depressions.

### 3.5 Wildlife

The wildlife species observed on the project parcel and project site consisted of relatively common species for the general area. Reptiles observed included the side-blotched lizard and western fence lizard.

Raptors noted on this property consisted of the red-tailed hawk. Other bird species included mourning dove, rock dove, black phoebe, Say’s phoebe, western kingbird, cliff swallow, American crow, common yellowthroat, California towhee, song sparrow, European starling, and house finch.

Mammals noted on or adjacent to this parcel consisted of the California ground squirrel, Audubon’s cottontail, domestic dog, and coyote.





## 4.0 SPECIAL STATUS SPECIES AND HABITATS

The potential occurrence of special status plant and wildlife species was assessed using the RareFind database (CDFW 2014a), and principally the previous biological surveys conducted on the Banning Ranch Property (BonTerra 2011b, Dudek and Lukos 2013, and Lukos 2008a). The surveys did not address special status species on the property, but extensive studies were performed adjacent to this parcel. Special status habitats are those declining communities, which are regulated by various state or federal agencies or those habitats recognized as declining in the region.

### 4.1 Special Status Plant Species

Table 2 presents those special status plant species potentially occurring in the vicinity of the NMUSD parcel. The species most likely to occur on the parcel is the southern tarplant, which is described in the following section. Other species have some potential for occurrence, but this is very low due to the habitats found on the property and the past disturbance at this locality.

#### 4.1.1 Southern tarplant (*Centromadia parryi* ssp. *australis*)

The southern tarplant is an annual, spiny tarplant with yellow flowers which blooms in the late spring into the summer. This species occurs in a number of highly fragmented populations from Santa Barbara County to northern Baja California. The southern tarplant is found in annual grasslands, around the margins of vernal pools, alkaline meadows, brackish marshes and estuaries. This tarplant is known from scattered localities in coastal Orange County.

The southern tarplant has been documented from the Newport Banning Ranch Area, with large populations, some 25,000 plants being located within this oil field (BonTerra 2011b). No localities of this tarplant have been documented near the boundary with the NMUSD property (BonTerra 2011b).

The southern tarplant was not observed during the 2014 field examinations of the NMUSD property, including the project site. Field surveys were conducted when this species would have been observable on this site. However, germination of this tarplant was poor in 2014 and there still a potential for this species to occur on the project parcel.



**TABLE 2**  
**SPECIAL STATUS PLANT SPECIES**  
**POTENTIALLY OCCURRING IN THE**  
**STUDY AREA**

Species	Status: <sup>1</sup>		Preferred habitat/Known Localities	Potential for Occurrence
	Federal /State	CRPR/ Local		
<i>Abronia maritima</i> Red sand verbena		4.2	Coastal dunes, coastal strand. Huntington Beach, Bolsa Chica, Upper Newport Bay, Crystal Cove	None. No suitable dune like habitats occur on the NMUSD property.
<i>Aphanisma blitoides</i> Aphanisma		1B.2	Coastal bluffs. Upper Newport Bay	.None. No bluff habitat occurs on the NMUSD property
<i>Atriplex coulteri</i> Coulter's saltbush		1B.2	Grassland, Sage Scrub, Eroded coastal terrace. Newport Beach, San Joaquin Hills, Laguna Beach	Very low. The highly disturbed habitat has little potential to support this species.
<i>Camissoniopsis lewisii</i> Lewis' primrose		3.0	Sand bars w/ in salt marsh. Upper Newport Bay	Low. Suitable sandy habitat does not appear to occur w/in the study area.
<i>Convolvulus simulans</i> Small-flowered morning glory		4.2	Clay soil grassland. SDC at the San Joaquin Marsh, UCI campus, Rancho Mission Viejo	Very low to none. No clay soils are present on the NMUSD property.
<i>Chloropyron maritimum</i> ssp. <i>maritimum</i> Salt marsh bird's beak	FE, SE	1B.2	Salt marsh (Upper marsh areas), Upper Newport Bay, Anaheim Bay	None. No salt marsh habitat occurs on the NMUSD property.
<i>Dudleya multicaulis</i> Many-stemmed dudleya		1B.2	Coastal sage scrub. UCI Ecological Reserve, Bonita Cyn.	None. Suitable habitat is not present on the NMUSD property.

TABLE 2 SPECIAL STATUS PLANT SPECIES POTENTIALLY OCCURRING IN THE STUDY AREA				
Species	Status: <sup>1</sup>		Preferred habitat/Known Localities	Potential for Occurrence
	Federal /State	CRPR/ Local		
<i>Echinodorus berteroi</i> Upright burhead		LC	Fresh Water marsh. Delhi Channel-Upper Newport Bay Wintersburg Channel -Bolsa Chica, Laguna, Irvine lake	None. No stream channel or marsh habitat occurs on the NMUSD property
<i>Eleocharis parvula</i> Little spike-rush		4.3	Stream channel, riparian herb. San Diego Creek Channel, Delhi channel	None. No stream channel or marsh habitat occurs on the NMUSD property
<i>Centromadia parryi</i> ssp. <i>australis</i> Southern tarplant		1B.1	Alkali meadows, grasslands. Newport Banning Ranch, Fairview Park, San Diego Creek, Upper Newport Bay, San Joaquin Marsh, UC Irvine, Mason Park, Costa Mesa	Moderate to high. Suitable habitat is present on the NMUSD property, but plants were not observed during the field surveys.
<i>Eryngium aristulatum</i> var. <i>parishii</i> San Diego button celery	FE, SE	1B.1	Vernal pools. Fairview Park	None. Suitable wetland habitat is not present on the NMUSD property.
<i>Hordeum intercedens</i> Vernal barley		3.2	Moist grasslands and alkali meadows. Fairview Park, Newport Beach, UCI Ecological Reserve.	Low. Existing grasslands are highly disturbed and unlikely to retain this species.
<i>Juncus acutus</i> ssp. <i>leopoldii</i> Southwestern spiny rush		4.2	Salt marsh, brackish marsh. Newport Banning Ranch, Newport Banning Ranch, Upper Newport Bay, Anaheim Bay, Bolsa Chica	Very low to None. No marsh habitat occurs on the NMUSD property

**TABLE 2**  
**SPECIAL STATUS PLANT SPECIES**  
**POTENTIALLY OCCURRING IN THE**  
**STUDY AREA**

Species	Status: <sup>1</sup>		Preferred habitat/Known Localities	Potential for Occurrence
	Federal /State	CRPR/ Local		
<i>Lasthenia glabrata</i> ssp. <i>coulteri</i> Coulter's goldfields		1B.1	Alkali meadows. Los Alamitos, Hellman Ranch, Garden Grove Crystal Cove (Historic)	None. Suitable wetland habitat is not present on the NMUSD property.
<i>Lycium californicum</i> California boxthorn		4.2	Coastal sage scrub (Bluffs). Newport Banning Ranch , Upper Newport Bay, Crystal Cove	Very low to none. Suitable sage scrub habitat is not found on the NMUSD property.
<i>Microseris douglasii</i> ssp. <i>platycarpa</i>		4.2	Clay soil grassland. Fairview Park, UC Irvine Ecological Reserve,	Very low. No suitable clay soil areas are present on the NMUSD property.
<i>Nama stenocarpum</i> Mud nama		2.2	Vernal pools, drying lake beds. Fairview Park, Basin adjacent to Peters Cyn. Channel, Laguna Lakes.	None. Suitable wetland habitat is not present on the NMUSD property.
<i>Myosurus minimus</i> var. <i>apus</i> Little mouse tail		3.2	Vernal pools. Fairview Park, Costa Mesa.	Very low to none. Suitable wetland habitat is not present on the NMUSD property
<i>Navarretia prostrata</i> Prostrate navarretia		1B.1	Vernal pools. Fairview Park	Very low to none. Suitable wetland habitat is not present on the NMUSD property.

**TABLE 2**  
**SPECIAL STATUS PLANT SPECIES**  
**POTENTIALLY OCCURRING IN THE**  
**STUDY AREA**

Species	Status: <sup>1</sup>		Preferred habitat/Known Localities	Potential for Occurrence
	Federal /State	CRPR/ Local		
<i>Nemacaulis denudata</i> var. <i>denudata</i> Coast woolly-heads		2.2	Coastal dunes, margins of salt marshes on fine sands. Upper Newport Bay Bolsa Chica	None. Suitable sandy dune like soils are not found on the NMUSD property.
<i>Orcuttia californica</i> <i>California orcutt grass</i>	FE	1B.1	Vernal pools. Fairview Park	None. Suitable wetland habitat is not present on the NMUSD property.
<i>Planodes virginicum</i> Virginia rock cress		LC	Grasslands on the margin of vernal pools. Fairview park	Low. Very limited suitable habitat is present on the NMUSD property & this species was not observed during the field surveys.
<i>Suaeda esteroa</i> Estuary seablite		1B.2	Salt marsh. Upper Newport Bay, Bolsa Chica, Seal Beach NWS	None. No marsh habitat occurs on the NMUSD property
<i>Suaeda taxifolia</i> Woolly seablite		4.2	Salt marsh, coastal bluff. Newport Banning Ranch, San Joaquin Marsh, Upper Newport Bay, Newport-Laguna Coast, Bolsa Chica	Very low to None. Suitable coastal bluff or marsh habitat is not present on the NMUSD property. Not observed during the field surveys.
<i>Symphotrichum defoliatum</i> San Bernardino aster		1B.2	Riparian or marsh habitats. Historically found in the Anaheim marsh, Upper Newport Bay, Bryant Ranch	None. No suitable riparian or marsh habitat occurs on the NMUSD property

<sup>1</sup> STATUS CATEGORIES:

**Federal Status:**

- FE - Listed as federally endangered.  
FT - Listed as federally threatened

**State Status:**

- SE - Listed as endangered by the state of California.  
CT - Listed as threatened by the state of California.

**California Native Plant Society:  
California Rare Plant Rank (CRPR)**

- CRPR 1A- Plants presumed extirpated in California and either rare or extinct elsewhere.  
CRPR 1B - Plants considered rare, threatened or endangered  
                  in California and elsewhere.  
CRPR 2A - Plants that are presumed extirpated in California but more common elsewhere.  
CRPR 2B - Plants rare, threatened or endangered in California but more common elsewhere.  
  
CRPR 3 - Plants about which we need more information - A review list.  
CRPR - Plants of limited distribution - A watch list.

CNPS Threat Extensions

- 0.1 Seriously endangered in California  
0.2 Fairly endangered in California  
0.3 Not very endangered in California



Other:

LC - Local Concern (Roberts 2008)

## 4.2 Special Status Wildlife Species

Table 3 presents the special status wildlife species, potentially occurring on the NMUSD property. Other than use by foraging raptors or winter burrowing owl, no special status wildlife species have been documented from the project parcel. The following section provides additional information on the San Diego fairy shrimp, burrowing owl, and coastal California gnatcatcher, which have been documented from the Newport Banning Ranch.

### 4.2.1 San Diego Fairy Shrimp (*Branchinecta sandiegonensis*)

The San Diego fairy shrimp is a small crustacean that is restricted to vernal pools in southwestern California, and northwestern Baja California. This fairy shrimp is generally restricted to vernal pools in coastal San Diego County, with one interior location, two localities in Orange County, a single locality in Santa Barbara County, and two general localities in Baja California. This species was listed as federally endangered (USFWS 1997), due to the continued loss of vernal pool habitat in southern California. Critical habitat for this species was designated in 2007 (USFWS 2007), and subunit 1c designated approximately 15 acres on the Newport Banning Ranch as critical habitat.

Numerous fairy shrimp studies have been conducted on the Newport Banning Ranch property (Lukos 2000, 2009, 2011) and these are summarized in the report by Dudek and Lukos in 2013 (Dudek and Lukos 2013). These studies documented the presence of the San Diego fairy shrimp on the Newport Banning Ranch, although many of the ephemeral wetland features contain only the versatile fairy shrimp (*Branchinecta lindahli*) or have no fairy shrimp populations.

Seasonal Feature I (BRC VP/Wet No. 8) is known to be occupied by the San Diego fairy shrimp and is located near the project fence line. This seasonal feature is located slightly east of the northwest corner of the project site. There are no natural features in this area, but there are several existing earthen dikes with mulefat found in this locality of the property. However, it is unknown if this portion of the property is part of the watershed of this seasonal wetland.

No fairy shrimp studies were conducted on the NMUSD project site. However, Ephemeral Wetland No. 2 was included in the Newport Banning Ranch fairy shrimp surveys as Seasonal Feature K. The survey found only the versatile fairy shrimp in this wetland. No studies have been conducted in Ephemeral Wetland No. 2 (BRC Pool No. 6), but photos taken from a model airplane noted tadpoles and ostracods in this seasonal wetland.

**TABLE 3  
SPECIAL STATUS WILDLIFE SPECIES POTENTIALLY OCCURRING  
IN THE STUDY AREA**

Species	Status	Notes
<b>Crustaceans</b>		
<i>Branchinecta sandiegoensis</i> San Diego fairy shrimp	FE	Occurs in vernal pools or other ephemeral wetlands. Documented from the Newport Banning Ranch, but not confirmed in any of the ephemeral wetlands on the project parcel.
<b>Amphibians</b>		
<i>Spea hammondi</i> Western spadefoot toad	CSC	Open sandy, gravelly soils in areas with temporary pools. Potential habitat exists for this species on the project site, but low potential of occurrence based on previous studies in the vicinity of the property.
<b>Reptiles</b>		
<i>Phrynosoma coronatum blainvillei</i> San Diego horned lizard	CSC	Inhabits coastal sage scrub, and the drier margins of riparian habitat. Very low potential for occurrence on the project parcel, due to the disturbed habitat on this property.
<i>Cnemidophorus tigris multiscutatus</i> Coastal western whiptail	CSC	Occurs in coastal sage scrub, and sandy habitats. Very low potential for occurrence on the project parcel, due to the disturbed habitat on this property.
<i>Anniella pulchra pulchra</i> Silvery California legless lizard	CSC	Prefers sandy washes and open areas with loose soil. Low potential to occur, due to the lack of loose sandy soils on the parcel.
<i>Salvadora hexalepis virgulata</i> Coast patch-nosed snake	CSC	Occurs in coastal sage scrub or chaparral. Very low potential for occurrence to the disturbed habitat on this property.
<b>Birds</b>		

**TABLE 3**  
**SPECIAL STATUS WILDLIFE SPECIES POTENTIALLY OCCURRING**  
**IN THE STUDY AREA**

<i>Accipiter cooperi</i> Cooper's hawk	CSC	An uncommon raptor, this species would be anticipated to occur in ornamental woodlands or riparian habitats. High potential for occurrence on the project parcel.
<i>Accipiter striatus</i> Sharp-shinned hawk	CSC	An uncommon migrant and winter visitor that frequents vegetated uplands and has been observed in the study area. This species has moderate to high potential for foraging but not nesting on the project parcel.
<i>Circus cyneus</i> (nesting) Northern harrier	CSC	Forages in grasslands, open scrub lands and marshes and has been observed in the study area. This species has high potential for foraging but not nesting on the project parcel.
<i>Buteo regalis</i> (non-breeding wintering) Ferruginous hawk	WL	Forages in grasslands and agricultural lands. Very low potential for occurrence on the project parcel.
<i>Elanus leucurus</i> (nesting) White-tailed kite	CFP	Forages in open grasslands and on the boundaries of grassland & woodland habitats. This species was observed on the Newport Banning Ranch
<i>Pandion haliaetus</i> (nesting) Osprey	WL	Forages over open bays and rivers. Observed perching on the Newport Banning Ranch site. Moderate potential for occurrence on the project parcel, but not anticipated to nest on this property.
<i>Falco columbarius</i> (nesting) Merlin	WL	Forages in grasslands and estuaries. Observed on the Newport Banning Ranch. This species has moderate to high potential to forage over the project parcel, but not anticipated to nest on this property
<i>Falco mexicanus</i> (nesting) Prairie falcon	WL	Forages over grassland and scrub habitats. Low potential for foraging over the property, but no nesting habitat occurs on the parcel.

**TABLE 3**  
**SPECIAL STATUS WILDLIFE SPECIES POTENTIALLY OCCURRING**  
**IN THE STUDY AREA**

<i>Falco americanus anatum</i> American peregrine falcon	CFP	Forages over most habitats. Low potential for foraging over the property, but no nesting habitat occurs on the parcel.
<i>Chararidus alexandrinus nivosus</i> (nesting) Western snowy plover	FT, CSC	Occurs in estuaries, salt marshes, beaches & tide flats. Not anticipated to occur on the project parcel.
<i>Laurus californicus</i> (nesting colony) California gull	WL	Occurs in coastal and interior lowlands, especially in estuaries, sandy beaches and intertidal areas and has been observed on the Newport Banning Ranch. This species has high potential foraging on the project parcel, but not anticipated to nest on this property
<i>Sternula antillarum browni</i> (nesting colony) California least tern	FE, SE, CFP	Nesting on sandy beaches, and sandy areas in estuaries. Not anticipated to occur on the project parcel.
<i>Asio flammeus</i> (nesting) Short-eared owl	CSC	Forages in marshes and grasslands, as a local winter resident in coastal areas. Not anticipated to occur on the project parcel.
<i>Athene cunicularia</i> Burrowing owl	CSC	A Resident in open grassland areas and fields. Wintering owls have been observed on the Newport Banning Ranch and the project site. No resident owls have been observed.
<i>Dendroica petechia morcomi</i> (brewsteri) (nesting) California (Western) yellow warbler	CSC	A somewhat common spring migrant in riparian woodlands. Not anticipated to occur on the project parcel, due to the lack of suitable habitat.
<i>Empidonax traillii</i> (nesting) Southwestern willow flycatcher	FE, SE	Occurs in riparian habitat with dense stands of mulefat. Not anticipated to occur on the project parcel, due to the lack of suitable habitat.
<i>Lanius ludovicianus</i> Loggerhead shrike	CSC	An uncommon resident in open habitats throughout the County. High potential for occurring in the study area.

**TABLE 3**  
**SPECIAL STATUS WILDLIFE SPECIES POTENTIALLY OCCURRING**  
**IN THE STUDY AREA**

<i>Vireo bellii pusillus</i> Least bell's vireo	FE, SE	Occurs in willow riparian habitats. Documented from the Newport Banning Ranch. Not anticipated to occur on the project parcel, due to the lack of suitable habitat
<i>Eremophila alpestris actia</i> California horned lark	WL	Occurs in grasslands or agricultural fields and this species has been observed from the Newport Banning Ranch. Moderate to high potential for occurrence on the project parcel.
<i>Campylorhynchus brunneicapillus sandiegensis</i> Coastal cactus wren	CSC	A resident of cactus scrub. Documented from the Newport Banning Ranch. Not anticipated to occur on the project parcel, due to the lack of suitable habitat.
<i>Poliophtila californica californica</i> Coastal California gnatcatcher	FT, CSC	A resident of coastal sage scrub. Nesting territories have been located on the Newport Banning Ranch. Moderate potential for foraging birds to occur on the property, but not anticipated to utilize the project parcel for nesting, due to the lack of suitable habitat.
<i>Dendroica petechia morcomi (brewsteri)</i> (nesting) California (Western) yellow warbler	CSC	A somewhat common spring migrant in riparian woodlands. Documented from the Newport Banning Ranch. Not anticipated to occur on the project parcel, due to the lack of suitable habitat
<i>Icteria virens</i> (nesting) Yellow-breasted chat	CSC	Rare summer resident of willow woodlands and forests. Documented from riparian areas of the Newport Banning Ranch. Not anticipated to occur on the project parcel, due to the lack of suitable habitat.
<i>Amiophila ruficeps canescens</i> (nesting) Rufous-crowned sparrow	WL	Occurs in coastal sage scrub habitats. Not anticipated to occur on the project parcel, due to the lack of suitable habitat and that the site is outside the currently known range of this species.
<i>Ammodramus savannarum</i> (nesting) Grasshopper sparrow	CSC	Occurs in open grassland habitats. Not anticipated to occur on the project parcel, due to the level of disturbance at this locality.



**TABLE 3**  
**SPECIAL STATUS WILDLIFE SPECIES POTENTIALLY OCCURRING**  
**IN THE STUDY AREA**

Passerculus sandwichensis beldingi Belding's savannah sparrow	SE	Occurs in salt marshes. Not anticipated to occur on the project parcel, due to the lack of suitable habitat.
Agelaius tricolor (nesting colony) Tri-colored blackbird	CSC	Inhabits freshwater marshes, dominated by cat-tails or bulrushes. Not anticipated to occur on the project parcel, due to the lack of suitable habitat.
<b>Mammals</b>		
Antrozous pallidus Pallid bat	CSC	Roosts in crevices of buildings, bridges, trees and cliffs. Low potential for occurrence on the project parcel.
Lasiurus cinereus Hoary bat	CSC	Roosts in dense foliage of trees. Low potential for occurrence on the project parcel.
Nyctinomops ferrosaccus Pocketed free-tailed bat	CSC	Roosts in crevices and rocky outcrops near streams. Low potential for occurrence on the project parcel.
Nyctinomops macrotus Big free-tailed bat	CSC	Roosts in crevices and rocky outcrops near sources of water. Low potential for occurrence on the project parcel.
Perognathus longimembris pacificus Pacific pocket mouse	FE, CSC	Occurs in coastal sage scrub on sandy soils. Not anticipated to occur on the project parcel, due to the lack of suitable habitat.
Neotoma lepida intermedia San Diego desert woodrat	CSC	Resident of cactus stands or other xeric areas in coastal sage scrub. Not anticipated to occur on the project parcel, due to the lack of suitable habitat.
Onychomys torridus ramona Southern grasshopper mouse	CSC	Occurs in open coastal sage scrub habitats with sandy soils. Not anticipated to occur on the project parcel, due to the level of disturbance on this property.

**TABLE 3**  
**SPECIAL STATUS WILDLIFE SPECIES POTENTIALLY OCCURRING**  
**IN THE STUDY AREA**

<i>Taxidea taxus</i> American badger	CSC	Inhabits scrub and grassland habitats throughout the region. Reported as a road kill from an area of the property. Not anticipated to occur on the project parcel, due to the level of disturbance on this property.
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**Status**

Federal Designations:

- FE = Listed by the Federal government as an endangered species.  
 FT = Listed by the Federal government as a threatened species.  
 FC = Federal Candidate for listing

State Designations:

- SE = Listed as endangered by the State of California.  
 ST = Listed by the State of California as a threatened species.  
 CSC = California Species of Special Concern  
 CFP = California Fully Protected  
 SA = California Department of Fish and Wildlife "Special Animal"  
 WL = Watch List

#### **4.2.2 Burrowing Owl (*Athene cunicularia*)**

The western burrowing owl was once a common resident in coastal southern California. However, habitat loss has resulted in drastic declines within the region, and only a few resident owls are known to occur in Orange County.

Surveys for burrowing owls have been conducted on the Newport Banning Ranch property. Surveys noted the presence of wintering (non-resident) on the NMUSD parcel in 2008 (Lukos 2008), and adjacent to the project site in 2009 (BonTerra 2009), and in 2012 (Lukos 2013).

The property contains suitable habitat for the western burrowing owl. Burrows were very common in specific localities of the project site. No burrowing owls were observed during the site examinations performed in 2014. However, no protocol burrow mapping or focused surveys for this owl have been performed on the property (CDFW 2012).

#### **4.2.3 Coastal California Gnatcatcher (*Polioptila californica californica*)**

The federally listed coastal California gnatcatcher has been documented from the Newport Banning Ranch (BonTerra 2011B, Lukos 2011). BonTerra (2011B) noted seventeen territories for the gnatcatcher, while Lukos (2011) reported some 19 Use Areas for the coastal California gnatcatcher, along with some other isolated sightings. In addition, areas of the Newport Banning Ranch are within the designated critical habitat Unit 7 for this species.

No surveys for the coastal California gnatcatcher have been performed on the NMUSD property. However, habitat is very limited or not present for this species on this property, and gnatcatchers have not been reported for areas adjacent to the property. Most of the property does not have any shrub cover and would not provide habitat for this species. The project site does contain a very open shrub cover in the coastal sage scrub/disturbed annual grassland ecotone areas. However, this would provide very limited habitat for the gnatcatcher and these habitats would generally be considered unsuitable for this species.

### 4.3 Special Status Habitats

Special status habitats are those habitat/communities, that are of concern to federal, state, or local agencies. These habitats may be covered under specific regulations, such as the Clean Water Act, or the California Coastal Act; have a specific designation, such as Environmentally Sensitive or jurisdictional wetland; and may be considered declining habitats by the California Dept. of Fish and Wildlife (2003) or other agencies.

#### 4.3.1 Seasonal Wetlands and Depressional Features

Three seasonal wetlands were identified on the project parcel, and two were noted on the project site. The two seasonal wetlands found on the project have previously been identified in previous studies or presentations. Seasonal Wetland No. 1 has been noted as vernal pool/wetland No. 6 (BRC 2011), and Seasonal Wetland No. 2, as Seasonal Feature K (Dudek and Lukos 2013), and vernal pool/wetland No. 10 (BRC 2011). Two localities of three depressional features were also located on the project site. These were small depressions that cannot be documented as seasonal wetlands at this time.

Although these depressions have been noted as seasonal wetlands in Section 3, a jurisdictional delineation, to determine if these depressions are jurisdictional wetlands, as defined under the three parameter wetland criteria used by Corps of Engineers (2008) or as wetlands under the single parameter definition of the Coastal Commission (1986), has been conducted on only one of these seasonal wetlands, as part of the studies on the Banning Ranch project (Dudek 2013g). Regardless of the determination of these ponded sites to meet the formal definition of a wetland, they all represent potential habitat for listed fairy shrimp.

**Seasonal wetland No. 1** appears to pond water for a long period of time, in years when this structure is filled. Due to the long term ponding that occurs in this pit and the presence of aquatic invertebrates (noted as Ostrocods in BRC 2011) it is assumed to meet the wetland hydrology criteria and would be considered a wetland under Coastal Commission jurisdiction. Plants found in this sump are generally characterized by upland species, although a few pale spike rush plants were found on the upper margin of the sump. No information is available on the potential for hydric soils to occur within this pit. A jurisdictional delineation study would be needed to confirm the presence of wetland hydrology or other wetland characteristics within this feature.

**Seasonal wetland No. 2** (Seasonal Feature K) has been considered a wetland within Coastal Commission jurisdiction in previous studies (see Section 5.4.14 of Dudek 2013g, and Lukos 2012). BonTerra (2011B), noted this pool as a 0.03 acre shallow oil field depression, characterized by annual grassland. The Dudek study (Dudek 2013g) determined that this seasonal wetland meets the wetland hydrology criteria, based on the presence of aquatic invertebrates (versatile fairy shrimp, and ostrocods).

This depression is known to support the versatile fairy shrimp and the pool area is characterized by a scattered cover of woolly marbles. However, the depression is generally characterized by an upland vegetative cover. Previous studies (Dudek 2013g) have noted that this seasonal wetland meets the wetland hydrology criteria

**Seasonal Wetland No. 3**, the “road rut” depression is located in the northeast corner of the project parcel. It is unknown if the ponding in this depression would meet the wetland hydrology criteria. However, it was sufficiently ponded to support woolly marbles in these road ruts, and this feature does provide potential habitat for fairy shrimp species.

**Depressional Features No. 1 and No.2** found on the project site, are likely to pond water for a short period of time, but are to be defined as wetland habitats. However, they would probably be considered potential habitat for listed fairy shrimp species.

To determine if these seasonal wetlands and depressional feature observed on the project site would be defined as jurisdictional wetlands under the single parameter definition of the Coastal Commission (1986), further studies would be required. These studies would need to examine the duration of ponding of these depressions, floristic composition, and the hydric nature of the soils. In addition, an evaluation of these depressions as potential habitat for listed fairy shrimp should be conducted.

#### **4.3.2 Critical Habitat**

The project parcel is found within critical habitat Unit 7 for the costal California gnatcatcher (USFWS 2007a). However, the site lacks the primary constituent elements for this species within the project site and the remaining areas of the property. These elements are lacking, since the existing sage scrub/grassland ecotone has such an open shrub cover. There is a low potential that gnatcatchers might occur in these habitats, but is very unlikely that these ecotonal areas would be used by this species for nesting territories. Therefore, although the property is found within the designated critical habitat area, it lacks the required habitat elements for this species.

The property is also within the designated area, Subunit 1C, for the San Diego fairy shrimp (USFWS 2007b). The primary constituent element for the critical habitat of this species would be considered to be ephemeral depressional wetlands occupied by San Diego fairy shrimp and their associated watersheds.

The presence of the San Diego fairy shrimp has not been documented on the property, and the potential for parcel to be considered critical habitat for this species is unknown at this time. However, the property may be within the watershed of Seasonal Feature I (VP/Wet No. 8) and could be part of the critical habitat associated with this seasonal wetland.



## 5.0 POTENTIAL IMPACTS

The NMUSD constructed a chain link fence around a 2.96 acre area in the northwest corner, and a small area of 0.22 acres in the southwest corner of the 975 West 16<sup>th</sup> Street Newport Mesa Unified School District property (project site). The total fencing comprised some 2,046 linear feet, and consisted of a chain link mesh, mounted on installed fence posts.

The principal impacts would have occurred during the fence installation, and would have consisted of the ground disturbance of crews gaining access with vehicles and other equipment to install the fence. In addition, the installation of the fence posts would have also resulted in some ground disturbance. However, concrete footings were only used in the corner posts, and the other posts were simply hammered into the ground, reducing the disturbance from the installation of this fence around the project site.

In examining the site there was no visible indications of ground disturbance such as tire tracks, areas of loose soil, or areas scraped of vegetation near the fence. No erosion or loss of vegetation was observed as a result of fence installation.

The fence installation disturbed approximately 0.047 acre of disturbed annual grassland, ruderal, and graded plant communities/mapping units. This disturbance generally did not remove any areas of vegetation, but did trample areas, disturbed soils, and compacted soil surfaces within the project site. This is considered a temporarily adverse, but not significant impact to these communities.

The fencing also affected two seasonal wetland localities, that occur on the project site. The fencing went around Seasonal Wetland No. 1 (BRC Vernal pool/wetland No. 6), and no impacts from fence installation were noted in the area of this oil sump. No other indirect impacts, such as soil casting, erosion, etc. were noted to have occurred from the fencing project.

→ The fence was installed through a portion of Seasonal Wetland No. 2 (Seasonal Feature K), which has been considered a Coastal Commission jurisdictional wetland in previous studies (Lukos 2012). Three fence posts were placed in the area of this feature, but no concrete footings for the posts were used within the area of this season wetland. The fence appears to have been installed when the feature was dry, as no obvious ground disturbance, e.g. footprints, tire tracks, etc. were noted in this feature. The main impact from installation would be the potential alteration of the duration that water is held in this feature, since the post holes may allow for additional drainage from this ephemeral wetland. This could result in a potentially significant impact to this ephemeral wetland.

→ Indirect impacts could include additional soil compaction, or alteration of hydrology due to fence placement. However, soils in this area are already disturbed and compacted, so potential impacts would have been minimal. In addition in the area of Ephemeral Wetland No. 2, the chain link mesh, would have only minimal effects on flows entering the feature or altering the filling of this wetland. In addition, the fencing would not alter

the "watershed" for these seasonal wetlands or depressional features located on the project site.

Indirect impacts to Seasonal Wetland I, may have also resulted from the fence installation. This seasonal wetland is found north of the fence line, but may occur within the watershed of this wetland. The fencing could have altered the hydrology of surface flows entering the wetland or adding sediment to this area. However, the chain link mesh would not be anticipated to altered overland flows and no loose soil was noted in the area of the fence that could be transported to the pool area. Therefore, impacts would be anticipated to be less than significant. However, the exact boundaries of this wetland are not known, and impacts could be more severe than anticipated.

Another indirect impact is the isolation of some wildlife from the project site, due the fencing of the project site. This would generally affect larger wildlife, such as mesopredators (probably coyotes). Wildlife digging under the fence was noted in two areas of the project site, but especially in Seasonal Wetland No. 2. This digging can alter the shape of the wetland and introduce loose soil in this feature. This could alter the shape of the pool, depth of filling, and increase the turbidity of the water in this ephemeral wetland. Continued wildlife digging beneath the fence in the area of this seasonal wetland, could be a potentially significant impact to this feature.

Overall, there appears to have been only minimal disturbance to the existing plant communities, from the installation of the fence at the project site and impacts to these communities would be considered less than significant. However, the placement of the fence posts within Seasonal Wetland No. 2 may result in potentially significant alteration of hydrology (water holding capacity). The isolation of wildlife species from prey inside the fenced area, has resulted in animals digging under the fence. This digging has resulted in potentially significant impacts to Seasonal Wetland No. 2.

Invasive weedy plant species could also be an issue on the project site. However, the area was already highly disturbed by previous oil field activities. No additional weed potential was introduced to the site from the fencing of this portion of the property and impacts would be less than significant.

## 6.0 POTENTIAL MITIGATION MEASURES

- MM-1 A study shall be conducted to inventory all seasonal wetland and depressional features on the project site, during a winter to spring survey period. The extent of these pools shall be mapped, and the flora and fauna in each pool described.

*potential SW*  
*delineation*  
This study would also monitor the hydrology of the seasonal wetlands and depressional features found on the project site. These features shall be monitored from the period when these seasonal wetlands/depressional features fill until they are the soils are dry.

The soils adjacent to the fence posts in seasonal wetland No. 2, will be examined to determine if these areas are causing excessive draining of the wetland and if remedial measures, such as clay in the soils around the fence posts, would be recommended.

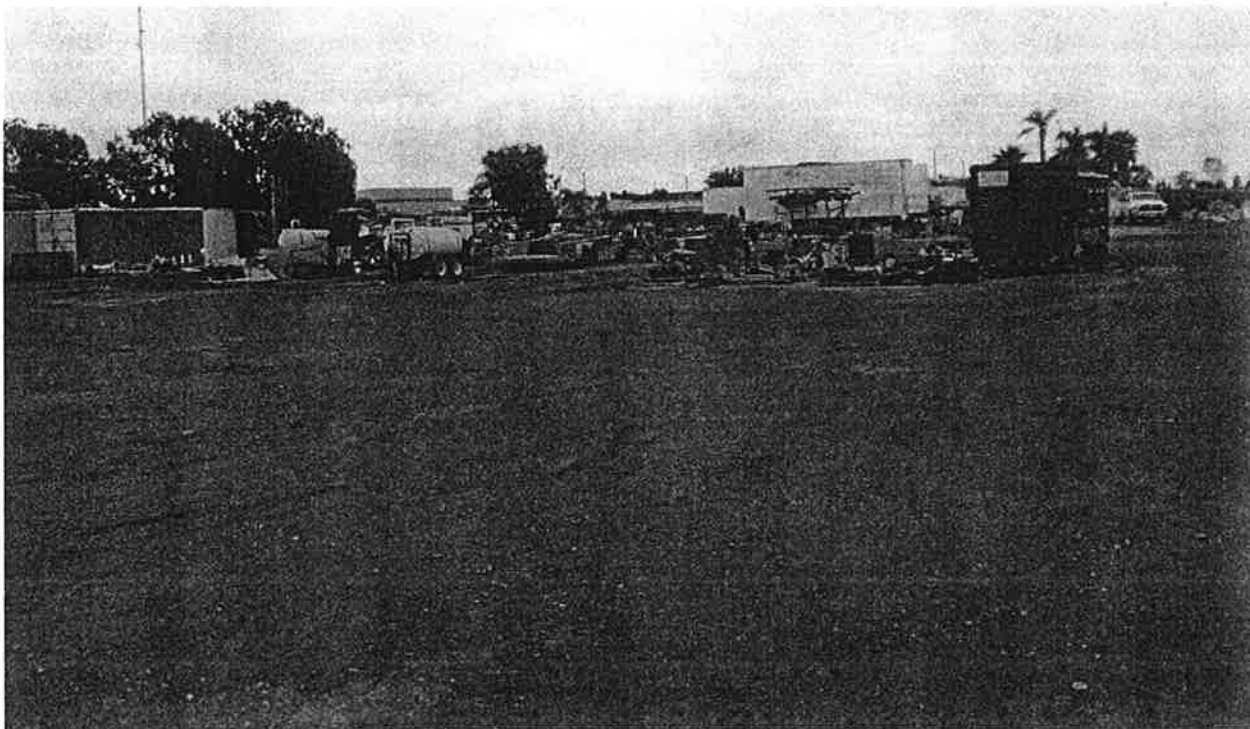
- MM-2 A fairy shrimp survey shall be conducted of all ephemeral wetlands and depressional features, to document the potential presence of listed brachipods. The survey shall be conducted by biologists permitted to conduct listed fairy shrimp surveys and shall consist of both wet and dry season surveys.
- MM-3 A survey shall be conducted, to map the existing disturbance in seasonal wetlands by wildlife, to provide access beneath the existing fence. Based on this mapping, recommendations shall be made to deter digging within the seasonal wetlands/depressional features found on the project site.



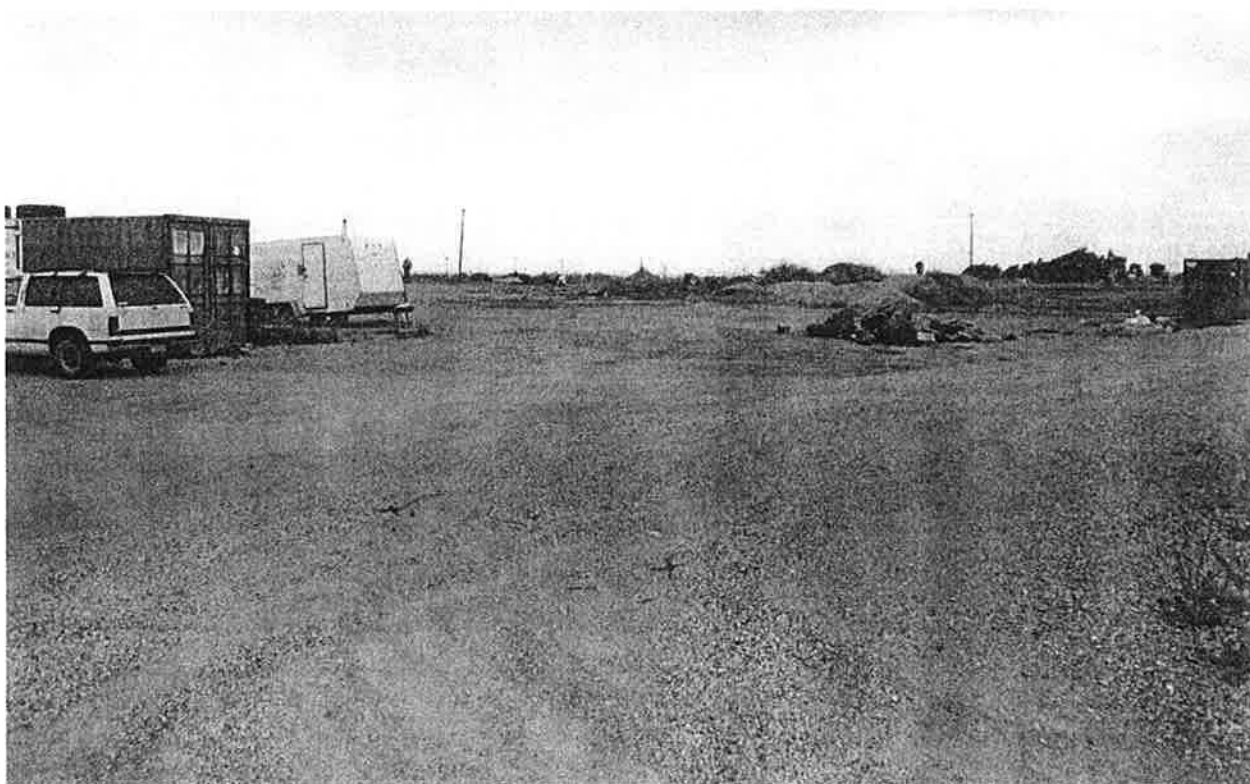
## **APPENDIX B**

### **PHOTOGRAPHS OF THE PROJECT PARCEL AND PROJECT SITE**





**Photo PP-1 Southeast corner of the parcel, showing the first construction storage yard.**



**Photo PP-2 Mid-southern area of the parcel, showing the second construction storage yard.**

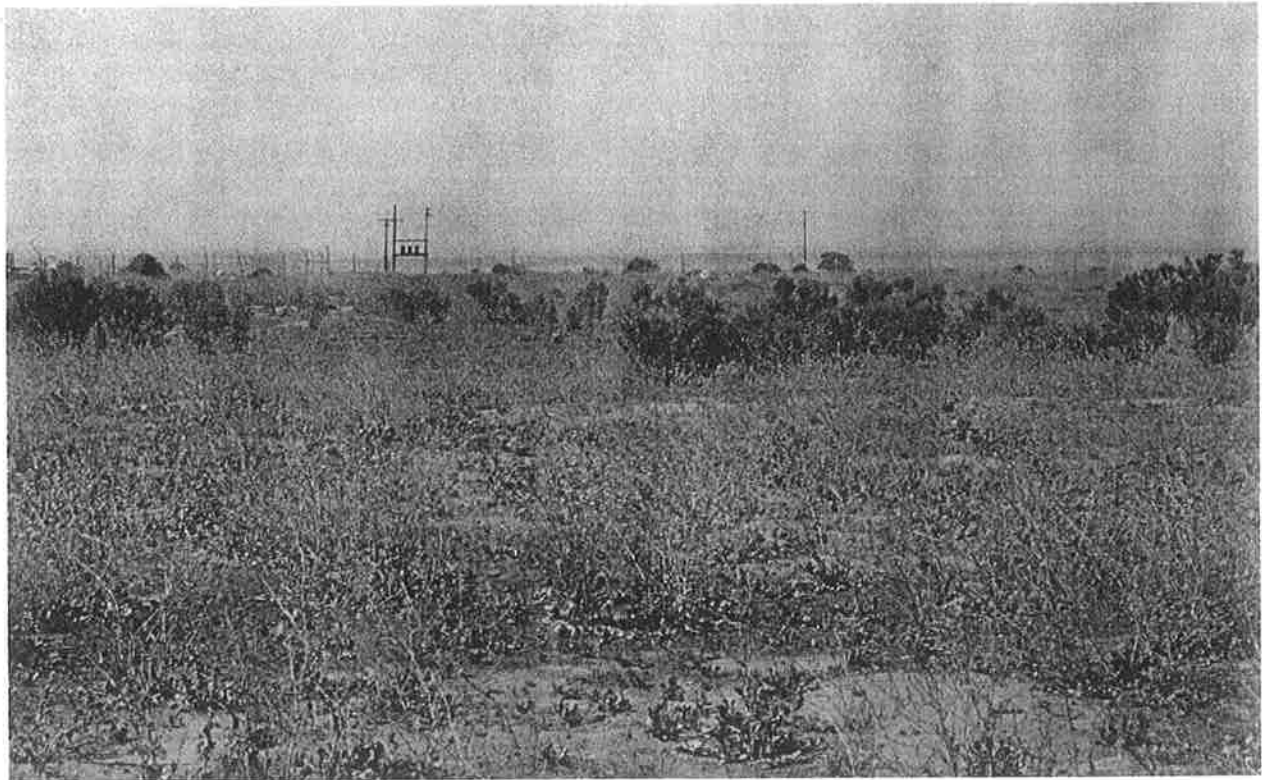


Photo PS-1 North Central area of the project site, looking southwest

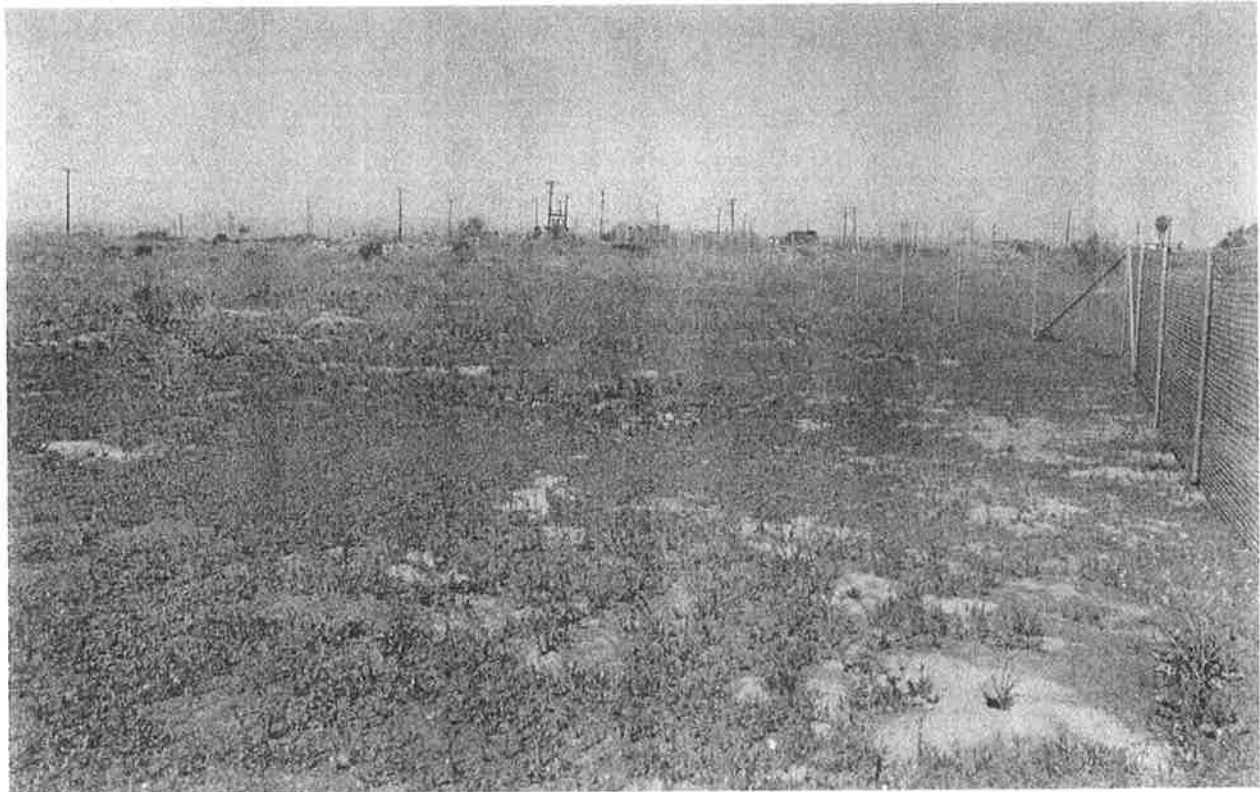


Photo PS-2 Northeast corner of the project site, looking west



Photo PP-3 Northeast corner of the parcel, showing the NMUSD storage yard.



Photo PP-4 Mid-northern area of the parcel, showing a unused storage yard.



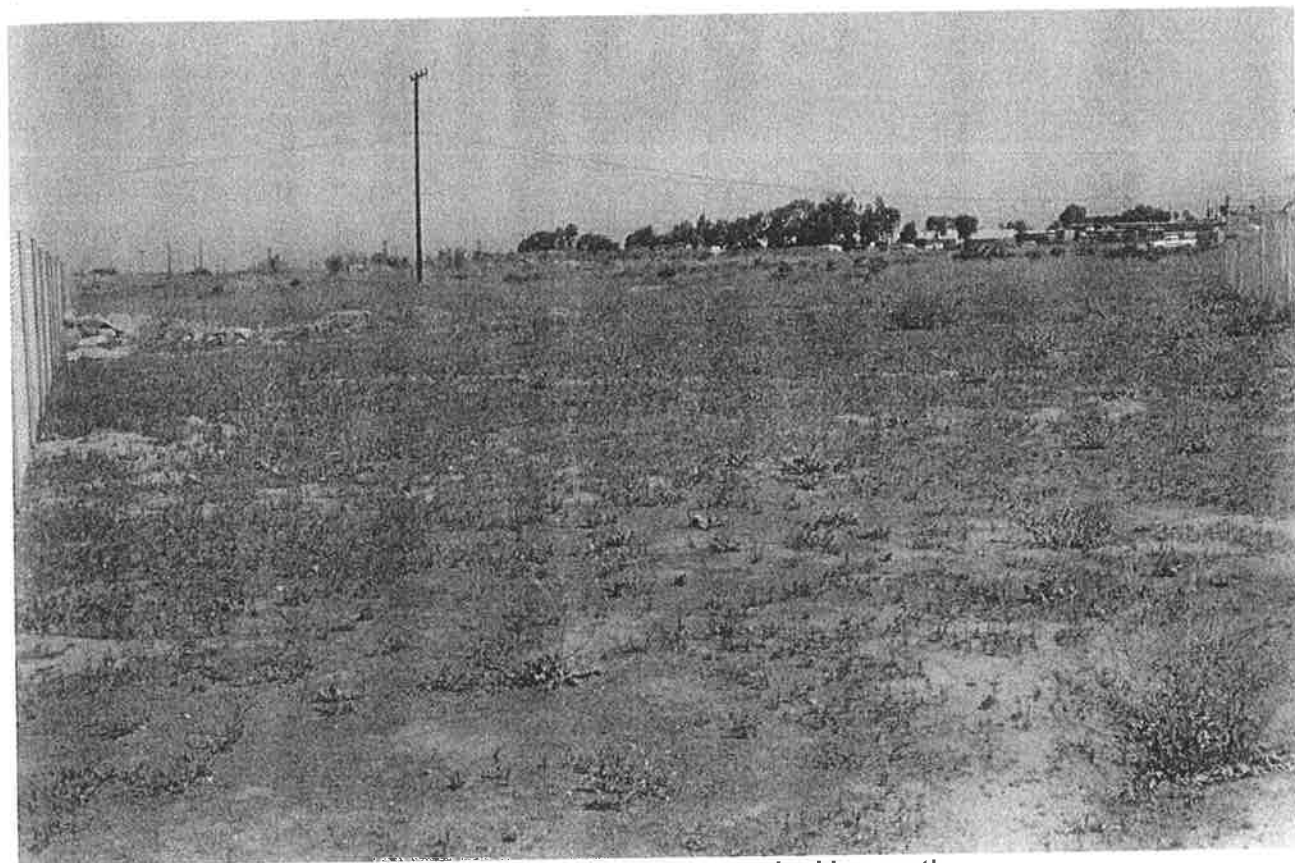


Photo PS-5 Southwest corner looking north

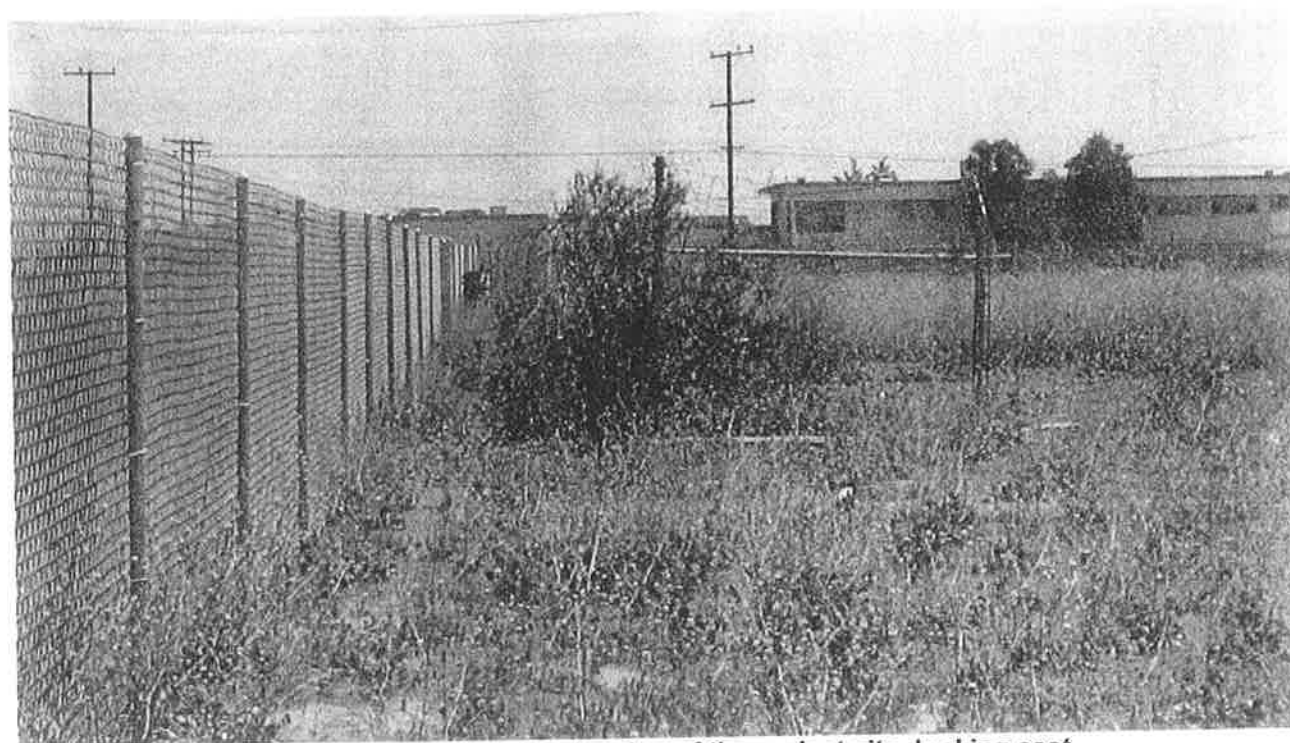


Photo PS-6 Northeast extension of the project site, looking east

Appendix B  
Project Site Photographs

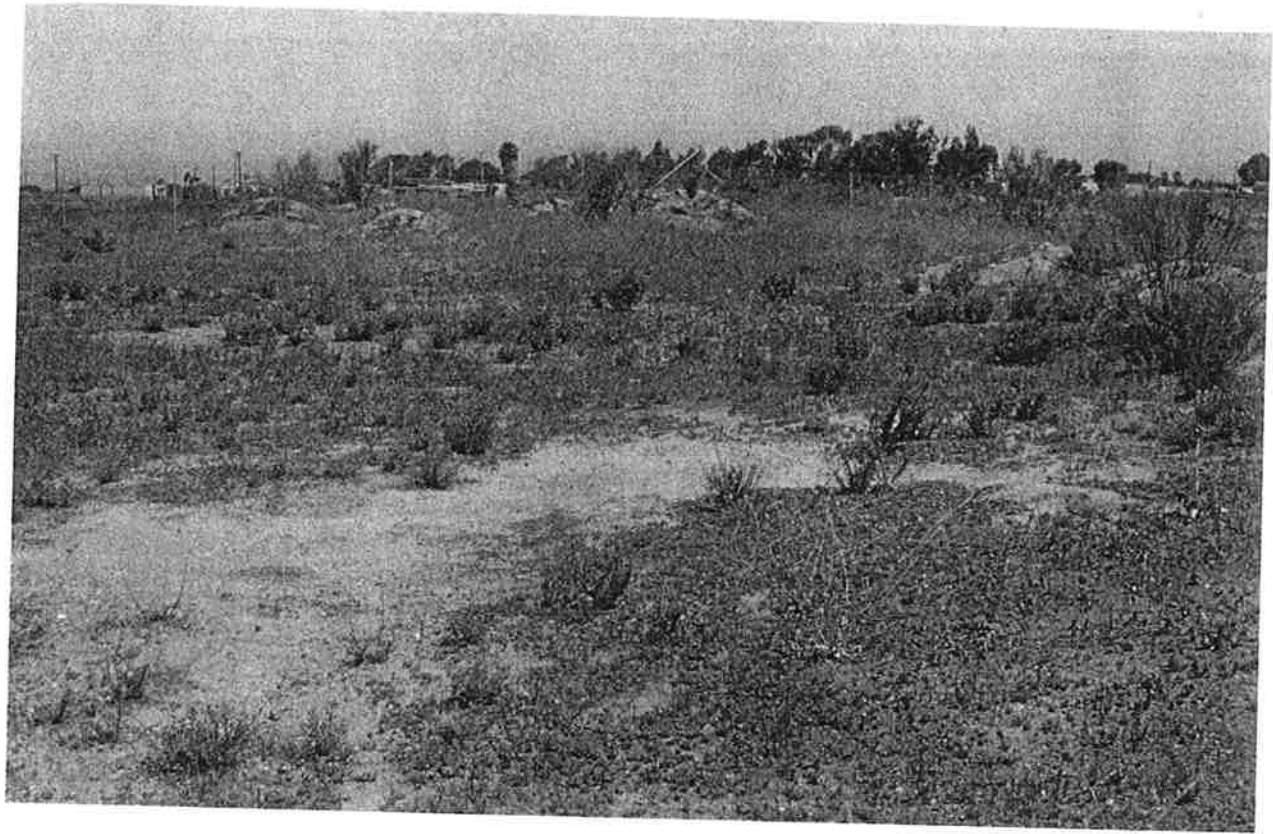


Photo PS-3 Northwest area of the project site, looking north to the fence

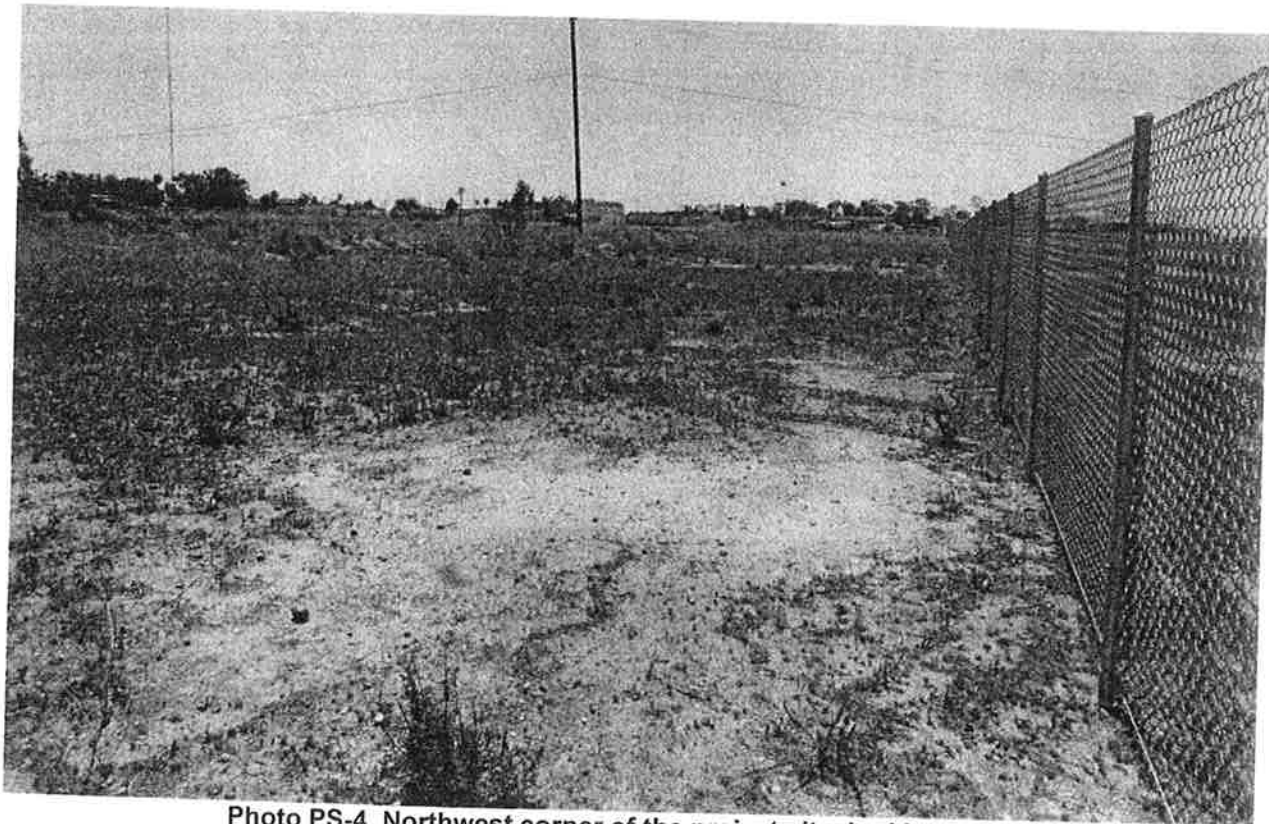


Photo PS-4 Northwest corner of the project site, looking south



## **APPENDIX C**

### **PHOTOGRAPHS OF SEASONAL WETLANDS AND DEPRESSIONAL FEATURES**



Photo PS-7 Southern extension (west end) of the project site, looking east

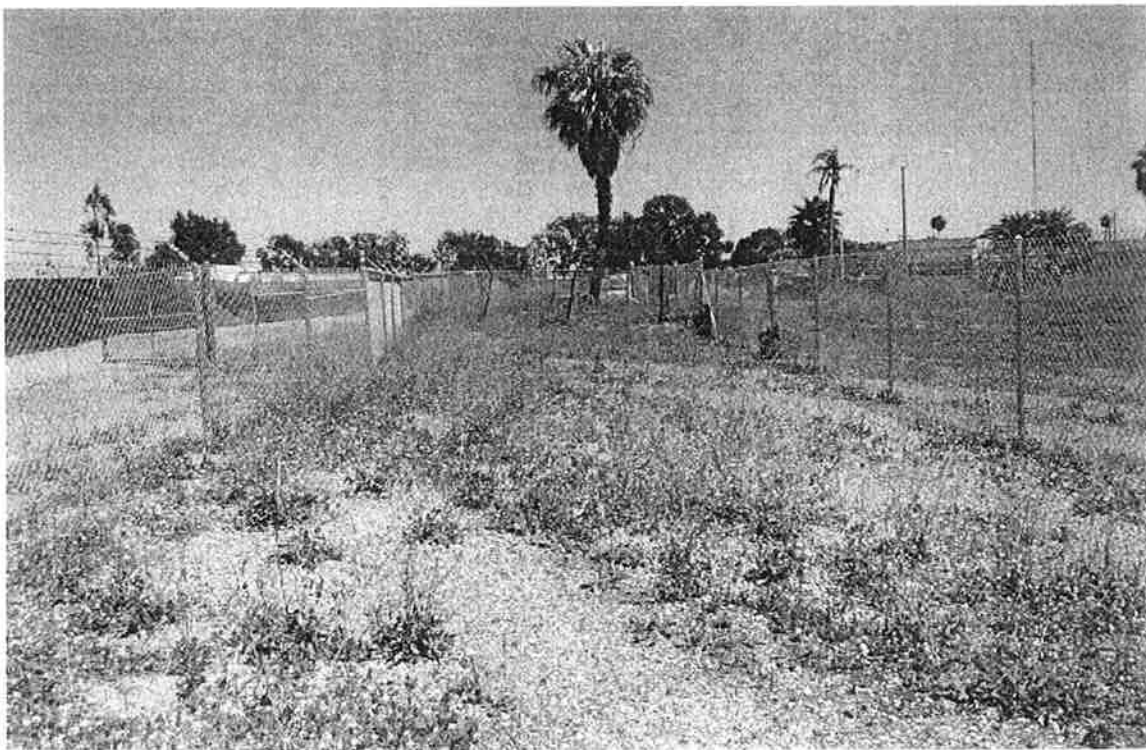
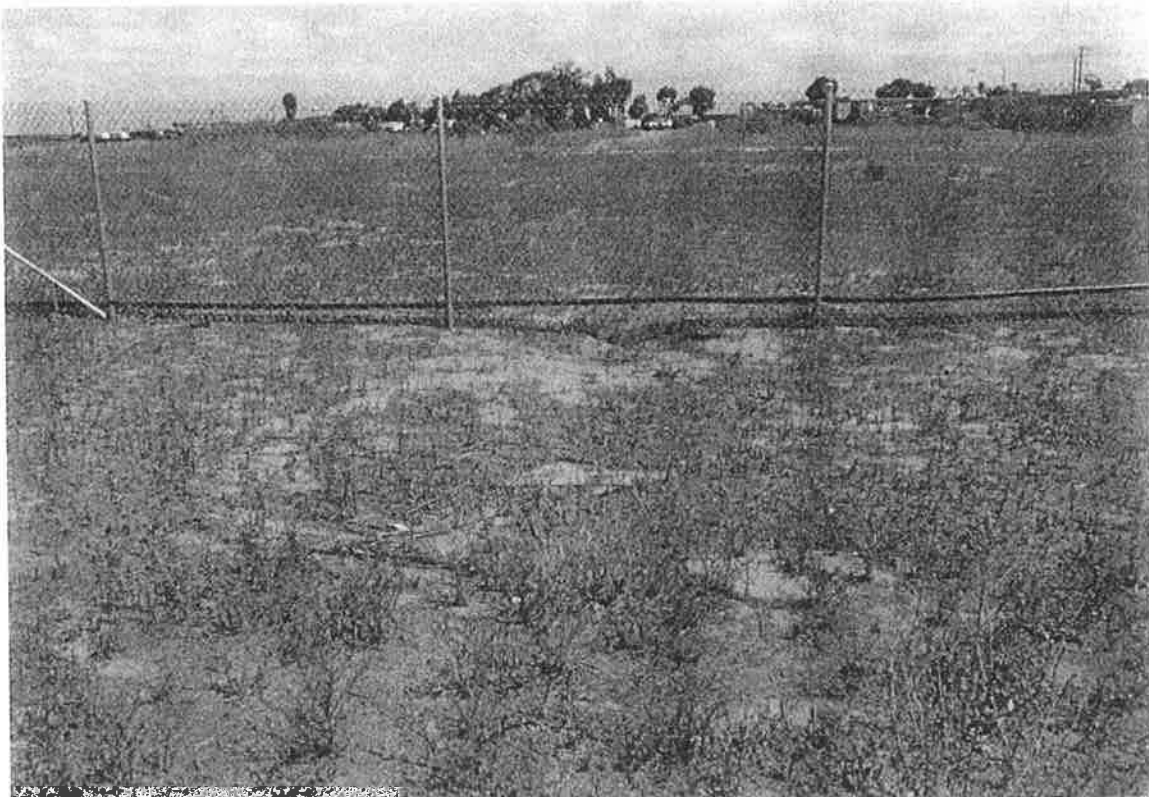


Photo PS-8 Southern extension of the project site, looking east

Appendix B  
Project Site Photographs



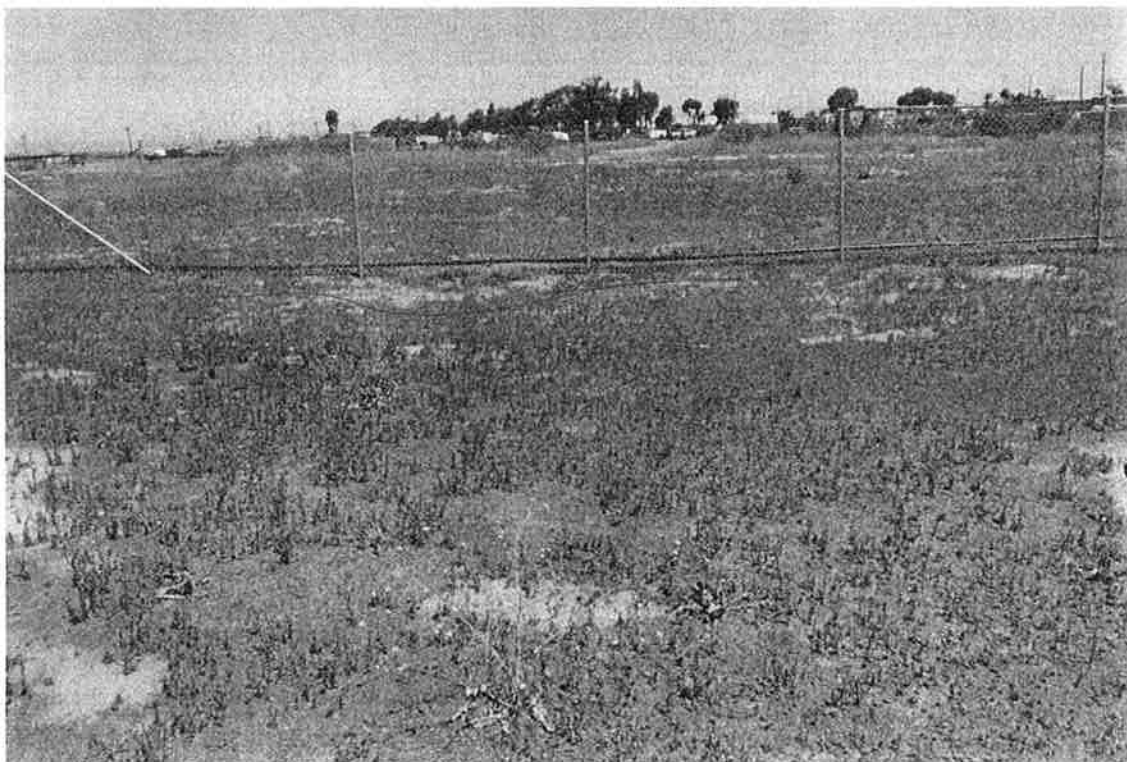
SW Photo 3– Seasonal Wetland No. 2 – Note the open vegetative cover in this depression.



SW Photo 4– Seasonal Wetland No. 3 – A road rut depression on the project parcel.



SW Photo 1 – Seasonal Wetland No. 1 – An oil sump found in the SW corner of the project site.



SW Photo 2 – Seasonal Wetland No. 2 – A shallow depression found in the northeast corner of the project site.



# SCIENCE/ENGINEERING TECHNICAL SERVICES UNIT WORK REQUEST FORM

FOR ALL WORK EXCEPT MAPPING/CARTOGRAPHY/BOUNDARY DETERMINATIONS, ETC.

DATE SENT:

• **OCTOBER 15, 2014**

DATE RECEIVED:

• **OCTOBER 1, 2014**

## TYPE OF WORK BEING REQUESTED

(PLEASE CHECK ALL THAT APPLY)

☒ Biology

☐ Engineering

☐ Geology

NAME OF ANALYST WHO IS REFERRING THE PROJECT:

LILIANA ROMAN

OFFICE OF ANALYST WHO IS REFERRING THE PROJECT:

Long Beach

APPLICATION NUMBER:

5-13-1100

APPLICANT NAME OR PROJECT NAME:

Newport-Mesa Unified School District (NMUSD)

PROJECT ADDRESS/LOCATION:

975 W. 16<sup>th</sup> Street, Newport Beach - NMUSD property adjacent to Newport Banning Ranch

WHAT IS THE PROPOSED PROJECT?:

ATF approval of a 6' tall chain link fence around the property perimeter.

LIST OF MATERIALS BEING PROVIDED:

Habitat Assessment for the Fencing Project at 975 W. 16<sup>th</sup> Street, Newport Beach

PROJECT STATUS (FILED; AGENDIZED; COMMITMENT TO EXPEDITE; ATF; APPEAL; OTHER):

Study submitted in response to Incomplete Notice mailed 12/11/13 - next 30<sup>th</sup> day: 10/30/14

WHAT ASPECTS OF THE PROJECT SHOULD BE REVIEWED:

POSSIBLE ALTERNATIVES? IMPACTS UNAVOIDABLE? MITIGATION PLAN?

IMPORTANT PROJECT OR SITE CHARACTERISTICS:

IN YOUR OPINION, IS A SITE VISIT WARRANTED?

IF SO, WHEN? DATES:

no

IF THERE HAVE BEEN PREVIOUS PERMITS FOR THIS SITE OR PREVIOUS APPLICATIONS FOR SIMILAR WORK AT THIS SITE, PLEASE PROVIDE PERMIT NUMBERS AND ATTACH ANY RELEVANT INFORMATION.

n/a -

WHO SHOULD BE CONTACTED FOR FURTHER PROJECT INFORMATION?

Liliana Roman

IF THE APPLICANT OR THEIR REPRESENTATIVES SHOULD BE CONTACTED DIRECTLY, PLEASE PROVIDE CONTACT INFORMATION (NAME, PHONE NUMBER, E-MAIL, ETC.)

WHEN ARE WRITTEN COMMENTS NEEDED?

OR FOR WHICH HEARING?

Before 30<sup>th</sup> day on Oct. 30, 2014







*First American Title*

## **First American Title Company**

**10535 Foothill Blvd, Suite 282  
Rancho Cucamonga, CA 91730**

Mike Mohler  
NBR, LLC  
1300 Quail Street, Suite 100  
Newport Beach, CA 92660-2711

Customer Reference: Newport Mesa Unified School District Property

Order Number: OSA-3008649 (18)

Title Officer: Ed Luque  
Phone: (909)257-3960  
Fax No.: (714)913-6235  
E-Mail: eluque@firstam.com  
Buyer:  
Property: Newport Beach, CA

### **PRELIMINARY REPORT**

In response to the above referenced application for a policy of title insurance, this company hereby reports that it is prepared to issue, or cause to be issued, as of the date hereof, a policy or policies of title insurance describing the land and the estate or interest therein hereinafter set forth, insuring against loss which may be sustained by reason of any defect, lien or encumbrance not shown or referred to as an exception below or not excluded from coverage pursuant to the printed Schedules, Conditions and Stipulations of said policy forms.

The printed Exceptions and Exclusions from the coverage and Limitations on Covered Risks of said policy or policies are set forth in Exhibit A attached. *The policy to be issued may contain an arbitration clause. When the Amount of Insurance is less than that set forth in the arbitration clause, all arbitrable matters shall be arbitrated at the option of either the Company or the Insured as the exclusive remedy of the parties.* Limitations on Covered Risks applicable to the CLTA and ALTA Homeowner's Policies of Title Insurance which establish a Deductible Amount and a Maximum Dollar Limit of Liability for certain coverages are also set forth in Exhibit A. Copies of the policy forms should be read. They are available from the office which issued this report.

**Please read the exceptions shown or referred to below and the exceptions and exclusions set forth in Exhibit A of this report carefully. The exceptions and exclusions are meant to provide you with notice of matters which are not covered under the terms of the title insurance policy and should be carefully considered.**

**It is important to note that this preliminary report is not a written representation as to the condition of title and may not list all liens, defects, and encumbrances affecting title to the land.**

This report (and any supplements or amendments hereto) is issued solely for the purpose of facilitating the issuance of a policy of title insurance and no liability is assumed hereby. If it is desired that liability be assumed prior to the issuance of a policy of title insurance, a binder or commitment should be requested.

*First American Title*

Dated as of April 25, 2011 at 7:30 A.M.

The form of Policy of title insurance contemplated by this report is:

To Be Determined

A specific request should be made if another form or additional coverage is desired.

Title to said estate or interest at the date hereof is vested in:

COSTA MESA UNION SCHOOL DISTRICT OF ORANGE COUNTY, CALIFORNIA

The estate or interest in the land hereinafter described or referred to covered by this Report is:

A fee.

The Land referred to herein is described as follows:

(See attached Legal Description)

At the date hereof exceptions to coverage in addition to the printed Exceptions and Exclusions in said policy form would be as follows:

1. General and special taxes and assessments for the fiscal year 2011-2012, a lien not yet due or payable.
2. General and special taxes and assessments for the fiscal year 2010-2011 are exempt.
3. The lien of supplemental taxes, if any, assessed pursuant to Chapter 3.5 commencing with Section 75 of the California Revenue and Taxation Code.
4. A right of way for pipe lines in Whittier Avenue and Sixteenth Street as said streets are shown on the map of said Newport Mesa Tract, as conveyed to La Habra Valley Land and Water Company by deed recorded May 1, 1920 in Book 368, Page 76 of Deeds.
5. An easement to construct, lay, operate, maintain and repair a 12-inch diameter water pipe line and incidental purposes, recorded July 26, 1928 in Book 182, Page 237 of Official Records.  
In Favor of: The City of Newport Beach  
Affects: Said land
6. An easement for pipe lines and incidental purposes, recorded May 14, 1954 in Book 2728, Page 488 of Official Records.  
In Favor of: Southern Counties Gas Company  
Affects: Southwesterly 20 feet of said Lot 1111

7. The effect of a map purporting to show the land and other property, filed in Book 65, Page 31 of Record of Surveys.
8. Rights of parties in possession.

**Prior to the issuance of any policy of title insurance, the Company will require:**

9. With respect to Costa Mesa Union School District of Orange County, California, we will require copies of the articles of organization, bylaws, and other governing documents and any amendments thereto. Other requirements will be made following a review of such documents.

<b>INFORMATIONAL NOTES</b>
----------------------------

Note: The policy to be issued may contain an arbitration clause. When the Amount of Insurance is less than the certain dollar amount set forth in any applicable arbitration clause, all arbitrable matters shall be arbitrated at the option of either the Company or the Insured as the exclusive remedy of the parties. If you desire to review the terms of the policy, including any arbitration clause that may be included, contact the office that issued this Commitment or Report to obtain a sample of the policy jacket for the policy that is to be issued in connection with your transaction.

1. We find no open deeds of trust. Escrow please confirm before closing.

Order Number: OSA-3008649 (18)

Page Number: 5

**WIRE INSTRUCTIONS**

**First American Title Company, Demand/Draft Sub-Escrow Deposits  
Orange County, California**

**First American Trust, FSB**  
5 First American Way  
Santa Ana, CA 92707

**ABA 122241255**  
**Credit to First American Title Company**  
**Account No. 2000015030**  
**Reference Title Order Number 3008649 and Title Officer Ed Luque**

**Please wire the day before recording. Also, notify the Title Officer of your intent to wire.**

The map attached, if any, may or may not be a survey of the land depicted hereon. First American expressly disclaims any liability for loss or damage which may result from reliance on this map except to the extent coverage for such loss or damage is expressly provided by the terms and provisions of the title insurance policy, if any, to which this map is attached.

### LEGAL DESCRIPTION

Real property in the City of Newport Beach, County of Orange, State of California, described as follows:

THAT PORTION OF BLOCK C OF THE BANNING TRACT, AS SHOWN ON A MAP ATTACHED TO REPORT OF THE REFEREES FILED APRIL 14, 1890 IN CASE NO. 6385 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA, IN AND FOR THE COUNTY OF LOS ANGELES AND THAT PORTION OF LOTS 1111 AND 1112 AND PORTION SIXTEENTH STREET AND WHITTIER AVENUE ADJOINING, AS SHOWN ON THE MAP OF NEWPORT MESA TRACT, RECORDED IN BOOK 5, PAGE 1 OF MISCELLANEOUS MAPS, RECORDS OF ORANGE COUNTY, CALIFORNIA, DESCRIBED AS A WHOLE AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE CENTER LINE OF SAID SIXTEENTH STREET WITH THE SOUTHWESTERLY BOUNDARY LINE OF FIRST ADDITION TO NEWPORT MESA TRACT, AS SHOWN ON A MAP RECORDED IN BOOK 8, PAGE 61 OF MISCELLANEOUS MAPS, RECORDS OF ORANGE COUNTY, CALIFORNIA; THENCE SOUTH 89° 21' 50" WEST 16.50 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE SOUTHERLY AND HAVING A RADIUS OF 500.00 FEET; THENCE WESTERLY ALONG SAID CURVE THROUGH AN ANGLE OF 28° 48' 33", A DISTANCE OF 251.41 FEET TO A LINE TANGENT; THENCE SOUTH 60° 33' 17" WEST ALONG SAID LINE TANGENT, A DISTANCE OF 404.60 FEET; THENCE NORTH 29° 26' 43" WEST 804.50 FEET; THENCE NORTH 60° 33' 17" EAST 300.00 FEET; THENCE SOUTH 88° 48' 26" EAST 316.57 FEET TO A POINT IN A CURVE CONCAVE SOUTHEASTERLY AND HAVING A RADIUS OF 50.00 FEET, A RADIAL LINE FROM SAID POINT BEARS NORTH 89° 21' 50" EAST; THENCE NORTHERLY ALONG SAID CURVE, THROUGH AN ANGLE OF 44° 24' 55", A DISTANCE OF 38.76 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE WESTERLY AND HAVING A RADIUS OF 90.00 FEET; THENCE NORTHERLY ALONG SAID CURVE THROUGH AN ANGLE OF 44° 24' 55", A DISTANCE OF 69.77 FEET TO A LINE TANGENT; THENCE NORTH 0° 38' 10" WEST ALONG SAID LINE TANGENT, A DISTANCE OF 11.11 FEET TO THE SAID SOUTHWESTERLY BOUNDARY LINE OF FIRST ADDITION TO NEWPORT MESA TRACT; THENCE SOUTH 29° 26' 43" EAST ALONG SAID SOUTHWESTERLY BOUNDARY LINE, A DISTANCE OF 789.32 FEET TO THE POINT OF BEGINNING.

EXCEPTING THEREFROM ALL THE OIL, GAS AND OTHER HYDROCARBON SUBSTANCES AND MINERALS IN, ON AND UNDER THAT PORTION OF SAID LAND LYING BELOW A DEPTH OF 100 VERTICAL FEET BELOW THE SURFACE OF SAID LAND, BUT WITHOUT RIGHT OF ENTRY UPON SAID LAND OR WITHIN THE SAID TOP 100 FEET THEREOF FOR ANY PURPOSE WHATSOEVER.

APN: 114-170-51 and 114-170-63 and 114-170-64



***NOTICE***

Section 12413.1 of the California Insurance Code, effective January 1, 1990, requires that any title insurance company, underwritten title company, or controlled escrow company handling funds in an escrow or sub-escrow capacity, wait a specified number of days after depositing funds, before recording any documents in connection with the transaction or disbursing funds. This statute allows for funds deposited by wire transfer to be disbursed the same day as deposit. In the case of cashier's checks or certified checks, funds may be disbursed the next day after deposit. In order to avoid unnecessary delays of three to seven days, or more, please use wire transfer, cashier's checks, or certified checks whenever possible.

If you have any questions about the effect of this new law, please contact your local First American Office for more details.

**EXHIBIT A**  
**LIST OF PRINTED EXCEPTIONS AND EXCLUSIONS (BY POLICY TYPE)**

**1. CALIFORNIA LAND TITLE ASSOCIATION STANDARD COVERAGE POLICY - 1990**  
**SCHEDULE B**

**EXCEPTIONS FROM COVERAGE**

This policy does not insure against loss or damage (and the Company will not pay costs, attorneys' fees or expenses) which arise by reason of:

1. Taxes or assessments which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the public records. Proceedings by a public agency which may result in taxes or assessments, or notice of such proceedings, whether or not shown by the records of such agency or by the public records.
2. Any facts, rights, interests, or claims which are not shown by the public records but which could be ascertained by an inspection of the land or which may be asserted by persons in possession thereof.
3. Easements, liens or encumbrances, or claims thereof, which are not shown by the public records.
4. Discrepancies, conflicts in boundary lines, shortage in area, encroachments, or any other facts which a correct survey would disclose, and which are not shown by the public records.
5. (a) Unpatented mining claims; (b) reservations or exceptions in patents or in Acts authorizing the issuance thereof; (c) water rights, claims or title to water, whether or not the matters excepted under (a), (b), or (c) are shown by the public records.

**EXCLUSIONS FROM COVERAGE**

The following matters are expressly excluded from the coverage of this policy and the Company will not pay loss or damage, costs, attorneys' fees or expenses which arise by reason of:

1. (a) Any law, ordinance or governmental regulation (including but not limited to building and zoning laws, ordinances, or regulations) restricting, regulating, prohibiting or relating to (i) the occupancy, use, or enjoyment of the land; (ii) the character, dimensions or location of any improvement now or hereafter erected on the land; (iii) a separation in ownership or a change in the dimensions or area of the land or any parcel of which the land is or was a part; or (iv) environmental protection, or the effect of any violation of these laws, ordinances or governmental regulations, except to the extent that a notice of the enforcement thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.  
(b) Any governmental police power not excluded by (a) above, except to the extent that a notice of the exercise thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.
2. Rights of eminent domain unless notice of the exercise thereof has been recorded in the public records at Date of Policy, but not excluding from coverage any taking which has occurred prior to Date of Policy which would be binding on the rights of a purchaser for value without knowledge.
3. Defects, liens, encumbrances, adverse claims or other matters:
  - (a) whether or not recorded in the public records at Date of Policy, but created, suffered, assumed or agreed to by the insured claimant;
  - (b) not known to the Company, not recorded in the public records at Date of Policy, but known to the insured claimant and not disclosed in writing to the Company by the insured claimant prior to the date the insured claimant became an insured under this policy;
  - (c) resulting in no loss or damage to the insured claimant;
  - (d) attaching or created subsequent to Date of Policy; or
  - (e) resulting in loss or damage which would not have been sustained if the insured claimant had paid value for the insured mortgage or for the estate or interest insured by this policy.
4. Unenforceability of the lien of the insured mortgage because of the inability or failure of the insured at Date of Policy, or the inability or failure of any subsequent owner of the indebtedness, to comply with applicable "doing business" laws of the state in which the land is situated.
5. Invalidity or unenforceability of the lien of the insured mortgage, or claim thereof, which arises out of the transaction evidenced by the insured mortgage and is based upon usury or any consumer credit protection or truth in lending law.
6. Any claim, which arises out of the transaction vesting in the insured the estate or interest insured by their policy or the transaction creating the interest of the insured lender, by reason of the operation of federal bankruptcy, state insolvency or similar creditors' rights laws.

**2. AMERICAN LAND TITLE ASSOCIATION OWNER'S POLICY FORM B - 1970**  
**SCHEDULE OF EXCLUSIONS FROM COVERAGE**

1. Any law, ordinance or governmental regulation (including but not limited to building and zoning ordinances) restricting or regulating or prohibiting the occupancy, use or enjoyment of the land, or regulating the character, dimensions or location of any improvement now or hereafter erected on the land, or prohibiting a separation in ownership or a reduction in the dimensions of area of the land, or the effect of any violation of any such law, ordinance or governmental regulation.
2. Rights of eminent domain or governmental rights of police power unless notice of the exercise of such rights appears in the public records at Date of Policy.
3. Defects, liens, encumbrances, adverse claims, or other matters (a) created, suffered, assumed or agreed to by the insured claimant; (b) not known to the Company and not shown by the public records but known to the insured claimant either at Date of Policy or at the date such claimant acquired an estate or interest insured by this policy and not disclosed in writing by the insured claimant to the Company prior to the date such insured claimant became an insured hereunder; (c) resulting in no loss or damage to the insured claimant; (d) attaching or

created subsequent to Date of Policy; or (e) resulting in loss or damage which would not have been sustained if the insured claimant had paid value for the estate or interest insured by this policy.

### **3. AMERICAN LAND TITLE ASSOCIATION OWNER'S POLICY FORM B - 1970 WITH REGIONAL EXCEPTIONS**

When the American Land Title Association policy is used as a Standard Coverage Policy and not as an Extended Coverage Policy the exclusions set forth in paragraph 2 above are used and the following exceptions to coverage appear in the policy.

#### **SCHEDULE B**

This policy does not insure against loss or damage by reason of the matters shown in parts one and two following:

1. Taxes or assessments which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the public records.
2. Any facts, rights, interests, or claims which are not shown by the public records but which could be ascertained by an inspection of said land or by making inquiry of persons in possession thereof.
3. Easements, claims of easement or encumbrances which are not shown by the public records.
4. Discrepancies, conflicts in boundary lines, shortage in area, encroachments, or any other facts which a correct survey would disclose, and which are not shown by public records.
5. Unpatented mining claims; reservations or exceptions in patents or in Acts authorizing the issuance thereof; water rights, claims or title to water.
6. Any lien, or right to a lien, for services, labor or material heretofore or hereafter furnished, imposed by law and not shown by the public records.

### **4. AMERICAN LAND TITLE ASSOCIATION LOAN POLICY - 1970 WITH A.L.T.A. ENDORSEMENT FORM 1 COVERAGE SCHEDULE OF EXCLUSIONS FROM COVERAGE**

1. Any law, ordinance or governmental regulation (including but not limited to building and zoning ordinances) restricting or regulating or prohibiting the occupancy, use or enjoyment of the land, or regulating the character, dimensions or location of any improvement now or hereafter erected on the land, or prohibiting a separation in ownership or a reduction in the dimensions or area of the land, or the effect of any violation of any such law ordinance or governmental regulation.
2. Rights of eminent domain or governmental rights of police power unless notice of the exercise of such rights appears in the public records at Date of Policy.
3. Defects, liens, encumbrances, adverse claims, or other matters (a) created, suffered, assumed or agreed to by the insured claimant, (b) not known to the Company and not shown by the public records but known to the insured claimant either at Date of Policy or at the date such claimant acquired an estate or interest insured by this policy or acquired the insured mortgage and not disclosed in writing by the insured claimant to the Company prior to the date such insured claimant became an insured hereunder, (c) resulting in no loss or damage to the insured claimant; (d) attaching or created subsequent to Date of Policy (except to the extent insurance is afforded herein as to any statutory lien for labor or material or to the extent insurance is afforded herein as to assessments for street improvements under construction or completed at Date of Policy).
4. Unenforceability of the lien of the insured mortgage because of failure of the insured at Date of Policy or of any subsequent owner of the indebtedness to comply with applicable "doing business" laws of the state in which the land is situated.

### **5. AMERICAN LAND TITLE ASSOCIATION LOAN POLICY - 1970 WITH REGIONAL EXCEPTIONS**

When the American Land Title Association Lenders Policy is used as a Standard Coverage Policy and not as an Extended Coverage Policy, the exclusions set forth in paragraph 4 above are used and the following exceptions to coverage appear in the policy.

#### **SCHEDULE B**

This policy does not insure against loss or damage by reason of the matters shown in parts one and two following:

1. Taxes or assessments which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the public records.
2. Any facts, rights, interests, or claims which are not shown by the public records but which could be ascertained by an inspection of said land or by making inquiry of persons in possession thereof.
3. Easements, claims of easement or encumbrances which are not shown by the public records.
4. Discrepancies, conflicts in boundary lines, shortage in area, encroachments, or any other facts which a correct survey would disclose, and which are not shown by public records.
5. Unpatented mining claims; reservations or exceptions in patents or in Acts authorizing the issuance thereof; water rights, claims or title to water.
6. Any lien, or right to a lien, for services, labor or material theretofore or hereafter furnished, imposed by law and not shown by the public records.

**6. AMERICAN LAND TITLE ASSOCIATION LOAN POLICY - 1992  
WITH A.L.T.A. ENDORSEMENT FORM 1 COVERAGE  
EXCLUSIONS FROM COVERAGE**

The following matters are expressly excluded from the coverage of this policy and the Company will not pay loss or damage, costs, attorneys' fees or expenses which arise by reason of:

1. (a) Any law, ordinance or governmental regulation (including but not limited to building and zoning laws, ordinances, or regulations) restricting, regulating, prohibiting or relating to (i) the occupancy, use, or enjoyment of the land; (ii) the character, dimensions or location of any improvement now or hereafter erected on the land; (iii) a separation in ownership or a change in the dimensions or area of the land or any parcel of which the land is or was a part; or (iv) environmental protection, or the effect of any violation of these laws, ordinances or governmental regulations, except to the extent that a notice of the enforcement thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy;  
(b) Any governmental police power not excluded by (a) above, except to the extent that a notice of the exercise thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.
2. Rights of eminent domain unless notice of the exercise thereof has been recorded in the public records at Date of Policy, but not excluding from coverage any taking which has occurred prior to Date of Policy which would be binding on the rights of a purchaser for value without knowledge.
3. Defects, liens, encumbrances, adverse claims, or other matters:  
(a) whether or not recorded in the public records at Date of Policy, but created, suffered, assumed or agreed to by the insured claimant;  
(b) not known to the Company, not recorded in the public records at Date of Policy, but known to the insured claimant and not disclosed in writing to the Company by the insured claimant prior to the date the insured claimant became an insured under this policy;  
(c) resulting in no loss or damage to the insured claimant;  
(d) attaching or created subsequent to Date of Policy (except to the extent that this policy insures the priority of the lien of the insured mortgage over any statutory lien for services, labor or material or the extent insurance is afforded herein as to assessments for street improvements under construction or completed at date of policy); or  
(e) resulting in loss or damage which would not have been sustained if the insured claimant had paid value for the insured mortgage.
4. Unenforceability of the lien of the insured mortgage because of the inability or failure of the insured at Date of Policy, or the inability or failure of any subsequent owner of the indebtedness, to comply with the applicable "doing business" laws of the state in which the land is situated.
5. Invalidity or unenforceability of the lien of the insured mortgage, or claim thereof, which arises out of the transaction evidenced by the insured mortgage and is based upon usury or any consumer credit protection or truth in lending law.
6. Any statutory lien for services, labor or materials (or the claim of priority of any statutory lien for services, labor or materials over the lien of the insured mortgage) arising from an improvement or work related to the land which is contracted for and commenced subsequent to Date of Policy and is not financed in whole or in part by proceeds of the indebtedness secured by the insured mortgage which at Date of Policy the insured has advanced or is obligated to advance.
7. Any claim, which arises out of the transaction creating the interest of the mortgagee insured by this policy, by reason of the operation of federal bankruptcy, state insolvency, or similar creditors' rights laws, that is based on:  
(i) the transaction creating the interest of the insured mortgagee being deemed a fraudulent conveyance or fraudulent transfer; or  
(ii) the subordination of the interest of the insured mortgagee as a result of the application of the doctrine of equitable subordination; or  
(iii) the transaction creating the interest of the insured mortgagee being deemed a preferential transfer except where the preferential transfer results from the failure:  
(a) to timely record the instrument of transfer; or  
(b) of such recordation to impart notice to a purchaser for value or a judgment or lien creditor.

**7. AMERICAN LAND TITLE ASSOCIATION LOAN POLICY - 1992  
WITH REGIONAL EXCEPTIONS**

When the American Land Title Association policy is used as a Standard Coverage Policy and not as an Extended Coverage Policy the exclusions set forth in paragraph 6 above are used and the following exceptions to coverage appear in the policy.

**SCHEDULE B**

This policy does not insure against loss or damage (and the Company will not pay costs, attorneys' fees or expenses) which arise by reason of:

1. Taxes or assessments which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the public records.
2. Any facts, rights, interests, or claims which are not shown by the public records but which could be ascertained by an inspection of said land or by making inquiry of persons in possession thereof.
3. Easements, claims of easement or encumbrances which are not shown by the public records.
4. Discrepancies, conflicts in boundary lines, shortage in area, encroachments, or any other facts which a correct survey would disclose, and which are not shown by public records.
5. Unpatented mining claims; reservations or exceptions in patents or in Acts authorizing the issuance thereof; water rights, claims or title to water.
6. Any lien, or right to a lien, for services, labor or material theretofore or hereafter furnished, imposed by law and not shown by the public records.

**8. AMERICAN LAND TITLE ASSOCIATION OWNER'S POLICY - 1992**

*First American Title*

**EXCLUSIONS FROM COVERAGE**

The following matters are expressly excluded from the coverage of this policy and the Company will not pay loss or damage, costs, attorneys' fees or expenses which arise by reason of:

1. (a) Any law, ordinance or governmental regulation (including but not limited to building and zoning laws, ordinances, or regulations) restricting, regulating, prohibiting or relating to (i) the occupancy, use, or enjoyment of the land; (ii) the character, dimensions or location of any improvement now or hereafter erected on the land; (iii) a separation in ownership or a change in the dimensions or area of the land or any parcel of which the land is or was a part; or (iv) environmental protection, or the effect of any violation of these laws, ordinances or governmental regulations, except to the extent that a notice of the enforcement thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.  
(b) Any governmental police power not excluded by (a) above, except to the extent that a notice of the exercise thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.
2. Rights of eminent domain unless notice of the exercise thereof has been recorded in the public records at Date of Policy, but not excluding from coverage any taking which has occurred prior to Date of Policy which would be binding on the rights of a purchaser for value without knowledge.
3. Defects, liens, encumbrances, adverse claims, or other matters:
  - (a) created, suffered, assumed or agreed to by the insured claimant;
  - (b) not known to the Company, not recorded in the public records at Date of Policy, but known to the insured claimant and not disclosed in writing to the Company by the insured claimant prior to the date the insured claimant became an insured under this policy;
  - (c) resulting in no loss or damage to the insured claimant;
  - (d) attaching or created subsequent to Date of Policy; or
  - (e) resulting in loss or damage which would not have been sustained if the insured claimant had paid value for the estate or interest insured by this policy.
4. Any claim, which arises out of the transaction vesting in the insured the estate or interest insured by this policy, by reason of the operation of federal bankruptcy, state insolvency, or similar creditors' rights laws, that is based on:
  - (i) the transaction creating the estate or interest insured by this policy being deemed a fraudulent conveyance or fraudulent transfer; or
  - (ii) the transaction creating the estate or interest insured by this policy being deemed a preferential transfer except where the preferential transfer results from the failure:
    - (a) to timely record the instrument of transfer; or
    - (b) of such recordation to impart notice to a purchaser for value or a judgment or lien creditor.

**9. AMERICAN LAND TITLE ASSOCIATION OWNER'S POLICY - 1992  
WITH REGIONAL EXCEPTIONS**

When the American Land Title Association policy is used as a Standard Coverage Policy and not as an Extended Coverage Policy the exclusions set forth in paragraph 8 above are used and the following exceptions to coverage appear in the policy.

**SCHEDULE B**

This policy does not insure against loss or damage (and the Company will not pay costs, attorneys' fees or expenses) which arise by reason of:

1. Taxes or assessments which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the public records.
2. Any facts, rights, interests, or claims which are not shown by the public records but which could be ascertained by an inspection of said land or by making inquiry of persons in possession thereof.
3. Easements, claims of easement or encumbrances which are not shown by the public records.
4. Discrepancies, conflicts in boundary lines, shortage in area, encroachments, or any other facts which a correct survey would disclose, and which are not shown by public records.
5. Unpatented mining claims; reservations or exceptions in patents or in Acts authorizing the issuance thereof; water rights, claims or title to water.
6. Any lien, or right to a lien, for services, labor or material theretofore or hereafter furnished, imposed by law and not shown by the public records.

**10. AMERICAN LAND TITLE ASSOCIATION RESIDENTIAL  
TITLE INSURANCE POLICY - 1987  
EXCLUSIONS**

In addition to the Exceptions in Schedule B, you are not insured against loss, costs, attorneys' fees and expenses resulting from:

1. Governmental police power, and the existence or violation of any law or government regulation. This includes building and zoning ordinances and also laws and regulations concerning:
 

* land use	* land division
* improvements on the land	* environmental protection

This exclusion does not apply to violations or the enforcement of these matters which appear in the public records at Policy Date.  
This exclusion does not limit the zoning coverage described in items 12 and 13 of Covered Title Risks.
2. The right to take the land by condemning it, unless:



- \* a notice of exercising the right appears in the public records on the Policy Date
- \* the taking happened prior to the Policy Date and is binding on you if you bought the land without knowing of the taking.

3. Title Risks:
  - \* that are created, allowed, or agreed to by you
  - \* that are known to you, but not to us, on the Policy Date - unless they appeared in the public records
  - \* that result in no loss to you
  - \* that first affect your title after the Policy Date - this does not limit the labor and material lien coverage in Item 8 of Covered Title Risks
4. Failure to pay value for your title.
5. Lack of a right:
  - \* to any land outside the area specifically described and referred to in Item 3 of Schedule A, or
  - \* in streets, alleys, or waterways that touch your land
 This exclusion does not limit the access coverage in Item 5 of Covered Title Risks.

#### 11. EAGLE PROTECTION OWNER'S POLICY

#### CLTA HOMEOWNER'S POLICY OF TITLE INSURANCE - 1998

#### ALTA HOMEOWNER'S POLICY OF TITLE INSURANCE - 1998

**Covered Risks 14 (Subdivision Law Violation). 15 (Building Permit). 16 (Zoning) and 18 (Encroachment of boundary walls or fences) are subject to Deductible Amounts and Maximum Dollar Limits of Liability**

#### EXCLUSIONS

In addition to the Exceptions in Schedule B, you are not insured against loss, costs, attorneys' fees, and expenses resulting from:

1. Governmental police power, and the existence or violation of any law or government regulation. This includes ordinances, laws and regulations concerning:
 

<ol style="list-style-type: none"> <li>a. building</li> <li>c. land use</li> <li>e. land division</li> </ol>	<ol style="list-style-type: none"> <li>b. zoning</li> <li>d. improvements on the land</li> <li>f. environmental protection</li> </ol>
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This exclusion does not apply to violations or the enforcement of these matters if notice of the violation or enforcement appears in the Public Records at the Policy Date.  
This exclusion does not limit the coverage described in Covered Risk 14, 15, 16, 17 or 24.
2. The failure of Your existing structures, or any part of them, to be constructed in accordance with applicable building codes. This Exclusion does not apply to violations of building codes if notice of the violation appears in the Public Records at the Policy Date.
3. The right to take the Land by condemning it, unless:
  - a. a notice of exercising the right appears in the Public Records at the Policy Date; or
  - b. the taking happened before the Policy Date and is binding on You if You bought the Land without Knowing of the taking.
4. Risks:
  - a. that are created, allowed, or agreed to by You, whether or not they appear in the Public Records;
  - b. that are Known to You at the Policy Date, but not to Us, unless they appear in the Public Records at the Policy Date;
  - c. that result in no loss to You; or
  - d. that first occur after the Policy Date - this does not limit the coverage described in Covered Risk 7, 8.d, 22, 23, 24 or 25.
5. Failure to pay value for Your Title.
6. Lack of a right:
  - a. to any Land outside the area specifically described and referred to in paragraph 3 of Schedule A; and
  - b. in streets, alleys, or waterways that touch the Land.
 This exclusion does not limit the coverage described in Covered Risk 11 or 18.

#### LIMITATIONS ON COVERED RISKS

Your insurance for the following Covered Risks is limited on the Owner's Coverage Statement as follows:

Covered Risk 14, 15, 16 and 18, Your Deductible Amount and Our Maximum Dollar Limit of Liability shown in Schedule A.

The deductible amounts and maximum dollar limits shown on Schedule A are as follows:

<u>Your Deductible Amount</u>	<u>Our Maximum Dollar Limit of Liability</u>
Covered Risk 14: 1% of Policy Amount or \$5,000.00 (whichever is less)	\$10,000.00
Covered Risk 15: 1% of Policy Amount or \$5,000.00 (whichever is less)	\$25,000.00
Covered Risk 16: 1% of Policy Amount or \$5,000.00 (whichever is less)	\$25,000.00

Covered Risk 18: 1% of Policy Amount or \$2,500.00 (whichever is less)

\$5,000.00

**12. SECOND GENERATION EAGLE LOAN POLICY AMERICAN LAND TITLE ASSOCIATION EXPANDED COVERAGE RESIDENTIAL LOAN POLICY (10/13/01)****EXCLUSIONS FROM COVERAGE**

The following matters are expressly excluded from the coverage of this policy and the Company will not pay loss or damage, costs, attorneys' fees or expenses which arise by reason of:

1. (a) Any law, ordinance or governmental regulation (including but not limited to building and zoning laws, ordinances, or regulations) restricting, regulating, prohibiting or relating to (i) the occupancy, use, or enjoyment of the Land; (ii) the character, dimensions or location of any improvement now or hereafter erected on the Land; (iii) a separation in ownership or a change in the dimensions or area of the Land or any parcel of which the Land is or was a part; or (iv) environmental protection, or the effect of any violation of these laws, ordinances or governmental regulations, except to the extent that a notice of the enforcement thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the Land has been recorded in the Public Records at Date of Policy. This exclusion does not limit the coverage provided under Covered Risks 12, 13, 14 and 16 of this policy.  
(b) Any governmental police power not excluded by (a) above, except to the extent that a notice of the exercise thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the Public Records at Date of Policy. This exclusion does not limit the coverage provided under Covered Risks 12, 13, 14 and 16 of this policy.
2. Rights of eminent domain unless notice of the exercise thereof has been recorded in the Public Records at Date of Policy, but not excluding from coverage any taking which has occurred prior to Date of Policy which would be binding on the rights of a purchaser for value without Knowledge.
3. Defects, liens, encumbrances, adverse claims or other matters:  
(a) created, suffered, assumed or agreed to by the Insured Claimant;  
(b) not Known to the Company, not recorded in the Public Records at Date of Policy, but Known to the Insured Claimant and not disclosed in writing to the Company by the Insured Claimant prior to the date the Insured Claimant became an Insured under this policy;  
(c) resulting in no loss or damage to the Insured Claimant;  
(d) attaching or created subsequent to Date of Policy (this paragraph does not limit the coverage provided under Covered Risks 8, 16, 18, 19, 20, 21, 22, 23, 24, 25 and 26); or  
(e) resulting in loss or damage which would not have been sustained if the Insured Claimant had paid value for the Insured Mortgage.
4. Unenforceability of the lien of the Insured Mortgage because of the inability or failure of the Insured at Date of Policy, or the inability or failure of any subsequent owner of the indebtedness, to comply with applicable doing business laws of the state in which the Land is situated.
5. Invalidity or unenforceability of the lien of the Insured Mortgage, or claim thereof, which arises out of the transaction evidenced by the Insured Mortgage and is based upon usury, except as provided in Covered Risk 27, or any consumer credit protection or truth in lending law.
6. Real property taxes or assessments of any governmental authority which become a lien on the Land subsequent to Date of Policy. This exclusion does not limit the coverage provided under Covered Risks 7, 8 (e) and 26.
7. Any claim of invalidity, unenforceability or lack of priority of the lien of the Insured Mortgage as to advances or modifications made after the Insured has Knowledge that the vestee shown in Schedule A is no longer the owner of the estate or interest covered by this policy. This exclusion does not limit the coverage provided in Covered Risk 8.
8. Lack of priority of the lien of the Insured Mortgage as to each and every advance made after Date of Policy, and all interest charged thereon, over liens, encumbrances and other matters affecting title, the existence of which are Known to the Insured at:  
(a) The time of the advance; or  
(b) The time a modification is made to the terms of the Insured Mortgage which changes the rate of interest charged, if the rate of interest is greater as a result of the modification than it would have been before the modification.  
This exclusion does not limit the coverage provided in Covered Risk 8.
9. The failure of the residential structure, or any portion thereof to have been constructed before, on or after Date of Policy in accordance with applicable building codes. This exclusion does not apply to violations of building codes if notice of the violation appears in the Public Records at Date of Policy.

**13. SECOND GENERATION EAGLE LOAN POLICY AMERICAN LAND TITLE ASSOCIATION EXPANDED COVERAGE RESIDENTIAL LOAN POLICY (10/13/01)  
WITH REGIONAL EXCEPTIONS**

When the American Land Title Association loan policy with EAGLE Protection Added is used as a Standard Coverage Policy and not as an Extended Coverage Policy the exclusions set forth in paragraph 12 above are used and the following exceptions to coverage appear in the policy.

**SCHEDULE B**

This policy does not insure against loss or damage (and the Company will not pay costs, attorneys' fees or expenses) which arise by reason of:

1. Taxes or assessments which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the public records.
2. Any facts, rights, interests, or claims which are not shown by the public records but which could be ascertained by an inspection of said land or by making inquiry of persons in possession thereof.

3. Easements, claims of easement or encumbrances which are not shown by the public records.
4. Discrepancies, conflicts in boundary lines, shortage in area, encroachments, or any other facts which a correct survey would disclose, and which are not shown by public records.
5. Unpatented mining claims; reservations or exceptions in patents or in acts authorizing the issuance thereof; water rights, claims or title to water.
6. Any lien, or right to a lien, for services, labor or material theretofore or hereafter furnished, imposed by law and not shown by the public records.

**14. AMERICAN LAND TITLE ASSOCIATION LOAN POLICY - 2006**  
**EXCLUSIONS FROM COVERAGE**

The following matters are expressly excluded from the coverage of this policy, and the Company will not pay loss or damage, costs, attorneys' fees, or expenses that arise by reason of:

1. (a) Any law, ordinance, permit, or governmental regulation (including those relating to building and zoning) restricting, regulating, prohibiting, or relating to
  - (i) the occupancy, use, or enjoyment of the Land;
  - (ii) the character, dimensions, or location of any improvement erected on the Land;
  - (iii) the subdivision of land; or
  - (iv) environmental protection;
 or the effect of any violation of these laws, ordinances, or governmental regulations. This Exclusion 1(a) does not modify or limit the coverage provided under Covered Risk 5.  
 (b) Any governmental police power. This Exclusion 1(b) does not modify or limit the coverage provided under Covered Risk 6.
2. Rights of eminent domain. This Exclusion does not modify or limit the coverage provided under Covered Risk 7 or 8.
3. Defects, liens, encumbrances, adverse claims, or other matters
  - (a) created, suffered, assumed, or agreed to by the Insured Claimant;
  - (b) not Known to the Company, not recorded in the Public Records at Date of Policy, but Known to the Insured Claimant and not disclosed in writing to the Company by the Insured Claimant prior to the date the Insured Claimant became an Insured under this policy;
  - (c) resulting in no loss or damage to the Insured Claimant;
  - (d) attaching or created subsequent to Date of Policy (however, this does not modify or limit the coverage provided under Covered Risk 11, 13, or 14); or
  - (e) resulting in loss or damage that would not have been sustained if the Insured Claimant had paid value for the Insured Mortgage.
4. Unenforceability of the lien of the Insured Mortgage because of the inability or failure of an Insured to comply with applicable doing-business laws of the state where the Land is situated.
5. Invalidity or unenforceability in whole or in part of the lien of the Insured Mortgage that arises out of the transaction evidenced by the Insured Mortgage and is based upon usury or any consumer credit protection or truth-in-lending law.
6. Any claim, by reason of the operation of federal bankruptcy, state insolvency, or similar creditors' rights laws, that the transaction creating the lien of the Insured Mortgage, is
  - (a) a fraudulent conveyance or fraudulent transfer, or
  - (b) a preferential transfer for any reason not stated in Covered Risk 13(b) of this policy.
7. Any lien on the Title for real estate taxes or assessments imposed by governmental authority and created or attaching between Date of Policy and the date of recording of the Insured Mortgage in the Public Records. This Exclusion does not modify or limit the coverage provided under Covered Risk 11(b).

**15. AMERICAN LAND TITLE ASSOCIATION LOAN POLICY - 2006**  
**WITH REGIONAL EXCEPTIONS**

When the American Land Title Association policy is used as a Standard Coverage Policy and not as an Extended Coverage Policy the exclusions set forth in paragraph 14 above are used and the following exceptions to coverage appear in the policy.

**SCHEDULE B**

This policy does not insure against loss or damage (and the Company will not pay costs, attorneys' fees or expenses) which arise by reason of:

1. (a) Taxes or assessments that are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the Public Records; (b) proceedings by a public agency that may result in taxes or assessments, or notices of such proceedings, whether or not shown by the records of such agency or by the Public Records.
2. Any facts, rights, interests, or claims that are not shown by the Public Records but that could be ascertained by an inspection of the Land or that may be asserted by persons in possession of the Land.
3. Easements, liens or encumbrances, or claims thereof, not shown by the Public Records.
4. Any encroachment, encumbrance, violation, variation, or adverse circumstance affecting the Title that would be disclosed by an accurate and complete land survey of the Land and not shown by the Public Records.
5. (a) Unpatented mining claims; (b) reservations or exceptions in patents or in Acts authorizing the issuance thereof; (c) water rights, claims or title to water, whether or not the matters excepted under (a), (b), or (c) are shown by the Public Records.

#### **16. AMERICAN LAND TITLE ASSOCIATION OWNER'S POLICY - 2006 EXCLUSIONS FROM COVERAGE**

The following matters are expressly excluded from the coverage of this policy and the Company will not pay loss or damage, costs, attorneys' fees or expenses which arise by reason of:

1. (a) Any law, ordinance, permit, or governmental regulation (including those relating to building and zoning) restricting, regulating, prohibiting, or relating to
  - (i) the occupancy, use, or enjoyment of the Land;
  - (ii) the character, dimensions, or location of any improvement erected on the Land;
  - (iii) the subdivision of land; or
  - (iv) environmental protection; or the effect of any violation of these laws, ordinances, or governmental regulations. This Exclusion 1(a) does not modify or limit the coverage provided under Covered Risk 5.
- (b) Any governmental police power. This Exclusion 1(b) does not modify or limit the coverage provided under Covered Risk 6.
2. Rights of eminent domain. This Exclusion does not modify or limit the coverage provided under Covered Risk 7 or 8.
3. Defects, liens, encumbrances, adverse claims, or other matters
  - (a) created, suffered, assumed, or agreed to by the Insured Claimant;
  - (b) not Known to the Company, not recorded in the Public Records at Date of Policy, but Known to the Insured Claimant and not disclosed in writing to the Company by the Insured Claimant prior to the date the Insured Claimant became an Insured under this policy;
  - (c) resulting in no loss or damage to the Insured Claimant;
  - (d) attaching or created subsequent to Date of Policy (however, this does not modify or limit the coverage provided under Covered Risks 9 and 10); or
  - (e) resulting in loss or damage that would not have been sustained if the Insured Claimant had paid value for the Title.
4. Any claim, by reason of the operation of federal bankruptcy, state insolvency, or similar creditors' rights laws, that the transaction vesting the Title as shown in Schedule A, is
  - (a) a fraudulent conveyance or fraudulent transfer; or
  - (b) a preferential transfer for any reason not stated in Covered Risk 9 of this policy.
5. Any lien on the Title for real estate taxes or assessments imposed by governmental authority and created or attaching between Date of Policy and the date of recording of the deed or other instrument of transfer in the Public Records that vests Title as shown in Schedule A.

#### **17. AMERICAN LAND TITLE ASSOCIATION OWNER'S POLICY - 2006 WITH REGIONAL EXCEPTIONS**

When the American Land Title Association policy is used as a Standard Coverage Policy and not as an Extended Coverage Policy the exclusions set forth in paragraph 16 above are used and the following exceptions to coverage appear in the policy.

##### **SCHEDULE B**

This policy does not insure against loss or damage (and the Company will not pay costs, attorneys' fees or expenses) which arise by reason of:

1. (a) Taxes or assessments that are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the Public Records; (b) proceedings by a public agency that may result in taxes or assessments, or notices of such proceedings, whether or not shown by the records of such agency or by the Public Records.
2. Any facts, rights, interests, or claims that are not shown by the Public Records but that could be ascertained by an inspection of the Land or that may be asserted by persons in possession of the Land.
3. Easements, liens or encumbrances, or claims thereof, not shown by the Public Records.
4. Any encroachment, encumbrance, violation, variation, or adverse circumstance affecting the Title that would be disclosed by an accurate and complete land survey of the Land and not shown by the Public Records.
5. (a) Unpatented mining claims; (b) reservations or exceptions in patents or in Acts authorizing the issuance thereof; (c) water rights, claims or title to water, whether or not the matters excepted under (a), (b), or (c) are shown by the Public Records.

## PRIVACY POLICY

### We Are Committed to Safeguarding Customer Information

In order to better serve your needs now and in the future, we may ask you to provide us with certain information. We understand that you may be concerned about what we will do with such information – particularly any personal or financial information. We agree that you have a right to know how we will utilize the personal information you provide to us. Therefore, together with our parent company, The First American Corporation, we have adopted this Privacy Policy to govern the use and handling of your personal information.

### Applicability

This Privacy Policy governs our use of the information which you provide to us. It does not govern the manner in which we may use information we have obtained from any other source, such as information obtained from a public record or from another person or entity. First American has also adopted broader guidelines that govern our use of personal information regardless of its source. First American calls these guidelines its *Fair Information Values*, a copy of which can be found on our website at [www.firstam.com](http://www.firstam.com).

### Types of Information

Depending upon which of our services you are utilizing, the types of nonpublic personal information that we may collect include:

- Information we receive from you on applications, forms and in other communications to us, whether in writing, in person, by telephone or any other means;
- Information about your transactions with us, our affiliated companies, or others; and
- Information we receive from a consumer reporting agency.

### Use of Information

We request information from you for our own legitimate business purposes and not for the benefit of any nonaffiliated party. Therefore, we will not release your information to nonaffiliated parties except: (1) as necessary for us to provide the product or service you have requested of us; or (2) as permitted by law. We may, however, store such information indefinitely, including the period after which any customer relationship has ceased. Such information may be used for any internal purpose, such as quality control efforts or customer analysis. We may also provide all of the types of nonpublic personal information listed above to one or more of our affiliated companies. Such affiliated companies include financial service providers, such as title insurers, property and casualty insurers, and trust and investment advisory companies, or companies involved in real estate services, such as appraisal companies, home warranty companies, and escrow companies. Furthermore, we may also provide all the information we collect, as described above, to companies that perform marketing services on our behalf, on behalf of our affiliated companies, or to other financial institutions with whom we or our affiliated companies have joint marketing agreements.

### Former Customers

Even if you are no longer our customer, our Privacy Policy will continue to apply to you.

### Confidentiality and Security

We will use our best efforts to ensure that no unauthorized parties have access to any of your information. We restrict access to nonpublic personal information about you to those individuals and entities who need to know that information to provide products or services to you. We will use our best efforts to train and oversee our employees and agents to ensure that your information will be handled responsibly and in accordance with this Privacy Policy and First American's *Fair Information Values*. We currently maintain physical, electronic, and procedural safeguards that comply with federal regulations to guard your nonpublic personal information.



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MONROVIA, CALIF.

W. 10TH STREET

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**File Copy**

# **NOTICE OF PENDING PERMIT**

**A PERMIT APPLICATION FOR DEVELOPMENT ON THIS SITE IS  
PENDING BEFORE THE CALIFORNIA COASTAL COMMISSION.**

**PROPOSED DEVELOPMENT:**

After-the fact approval for construction of a 2,046 foot long, 6 foot high chain link fence near the property line.

**LOCATION:**

975 – 16<sup>TH</sup> STREET, NEWPORT BEACH (ORANGE COUNTY)

**APPLICANT(S):**

Tim Marsh, Executive Director Facilities, Newport-Mesa Unified School District – Facilities.

**APPLICATION NUMBER:** 5-13-1100

**DATE NOTICE POSTED:** \_\_\_\_\_

For further information, please phone or write the office listed below between 8 AM and 5 PM, weekdays.

**CALIFORNIA COASTAL COMMISSION**

South Coast District Office  
200 Oceangate, 10th Floor  
Long Beach, California 90802-4416  
PH (562) 590-5071 FAX (562) 590-5084



[illegible]

STATE OF CALIFORNIA  
COUNTY OF LOS ANGELES  
SUPERIOR COURT  
IN RE: [Name], Debtor.  
Case No. [Number]

TOPOGRAPHIC / AERIAL SURVEY

16TH STREET PROPERTY  
(BANNING)



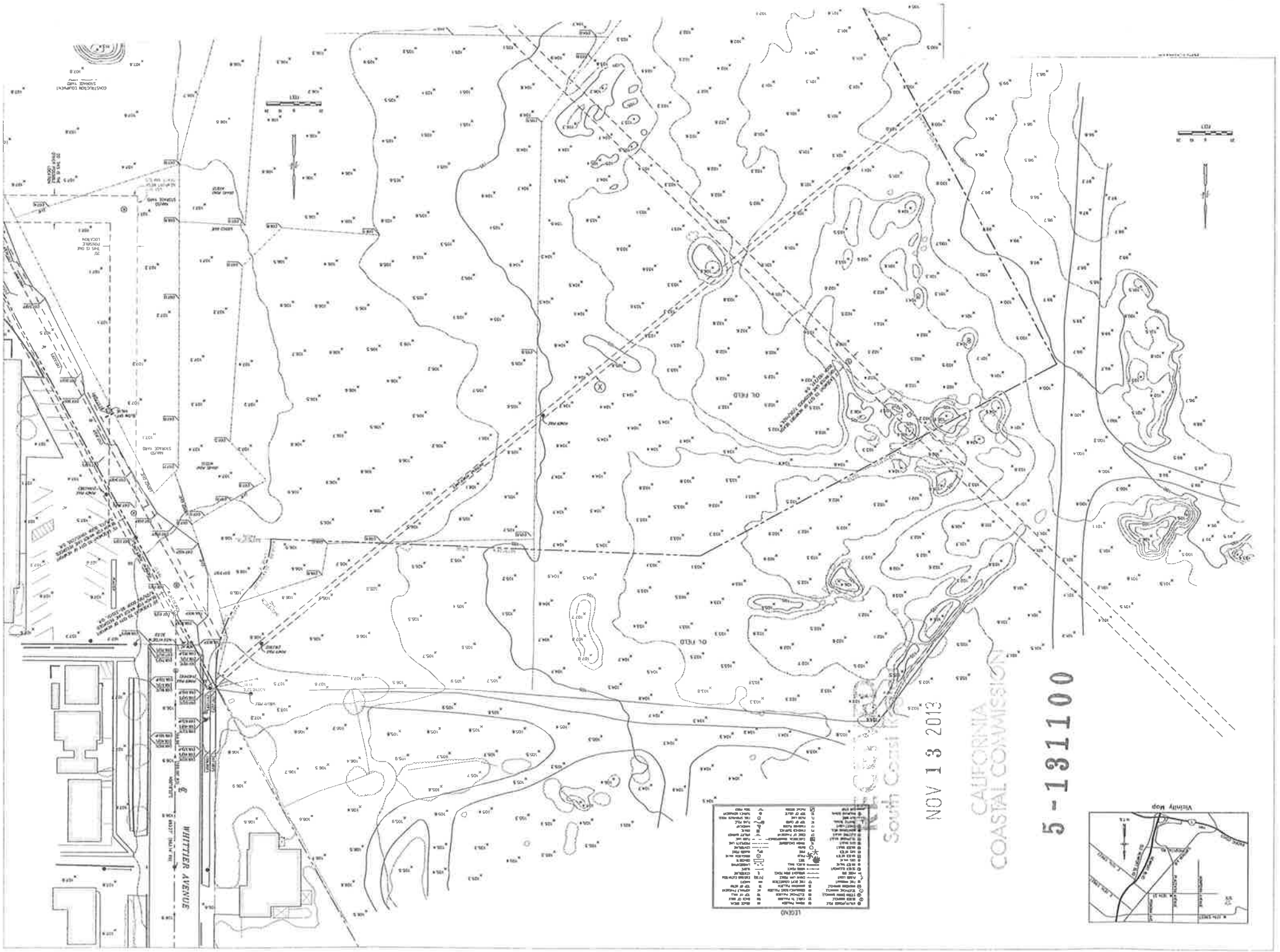


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CALIFORNIA  
COASTAL COMMISSION

5-131100





**CALIFORNIA COASTAL COMMISSION**

South Coast Area Office  
200 Oceangate, Suite 1000  
Long Beach, CA 90802-4302  
(562) 590-5071

**Notice of Incomplete Application**

December 11, 2013

Newport-Mesa Unified School District - Facilities  
Ara Zareczny, Facilities Analyst and Tim Marsh, Executive Director Facilities  
2985 Bear St. Building E  
Costa Mesa, CA 92626

**RE: NOTICE OF INCOMPLETE APPLICATION**

Newport-Mesa Unified School District - Facilities; Applicant  
975 16<sup>th</sup> Street, Newport Beach (Orange County); Location  
**Coastal Development Permit Application No. 5-13-1100**

Dear Sirs,

The above referenced application was received in this office on November 13, 2013. The proposed project is for the installation of approximately 2,046 feet of 6 foot tall chain link fence along the perimeter of the Newport-Mesa Unified School District property at 975 16<sup>th</sup> Street, Newport Beach. Additional information is necessary to adequately analyze the proposed project. Consequently, the application has been deemed incomplete pending receipt of the following items:

- **Unpermitted Development:** The Coastal Development Permit (CDP) application appears to be in response to a notice of violation for unpermitted development issued by the Commission's enforcement division and therefore the proposed project should be characterized in the CDP application as a request for after-the-fact (ATF) authorization for the installation of the 6 foot chain link fence. Please modify the application's project description to clarify which aspects of the proposed project are considered "after-the-fact." The Commission is not able to issue an administrative permit to an application requesting after-the-fact (ATF) authorization of unpermitted development. Therefore, the application will be scheduled as a Regular Calendar item with a full public hearing at a future Commission meeting.
- **Additional Filing Fee and ATF fee:** The "Administrative Permit" fee of \$2,690 was submitted with the original CDP application. However, as unpermitted development that previously occurred on the subject sites must first be resolved in order for the proposed project to be approvable, an actual Coastal Development Permit is required. The applicable filing fee for the proposed project is based on commercial development cost for development cost up to and including \$100,000; therefore the filing fee is \$3,228.

Furthermore, fees for a CDP application requesting after-the-fact (ATF) authorization for development differ from fees for regular CDP applications. According to Section 13055 of the Commission's Regulations:

*"fees for after-the-fact permit applications shall be five times the regular permit application fee unless the Executive Director reduces the fee to no less than two times the regular permit application fee. The Executive Director may reduce the fee if it is determined that either: (1) the ATF application can be processed by staff without significant additional review time (as compared to the time required for the processing of a regular permit,) or (2) the owner did not undertake the development for which the owner is seeking the ATF permit."*

In this case, the filing fee may be reduced to two times the regular permit application fee as staff can make the finding that the ATF application will not take significant additional review time as compared to the time required to process a regular permit. Therefore, the minimum amount that is required to file the application as complete is two times the regular permit fee ( $3,228 \times 2 = \$6,456$ ). Minus the \$2,690 originally submitted, an additional \$3,766 is required for a total of \$6,456 in ATF Regular Calendar Permit fees.

- **Project Plans:** When the Commission receives a permit application requesting after-the-fact (ATF) authorization for development, staff must consider the proposed development as "new development" as if the development has not occurred. Consideration of the permit application by the Commission is based solely on the consistency of the proposed development with the policies of Chapter 3 of the Coastal Act. Therefore, any previous development which took place as part of the development currently requested for approval under this CDP application should be included in the permit application's project description (i.e., mowing/disking, vegetation removal, grading/leveling for the creation of the existing building pads, etc.). Please revise the application's project description if necessary.

Furthermore, please provide two sets of **full size** site plans including topography and depicting all *existing and proposed* development on the site (i.e., fencing, retaining walls, paved surfaces, vegetated areas, structures, accessory structures, etc.). The submitted application only included an 8 ½ x 11 topographic/aerial survey of the site that requires the use of a magnifying glass to make out the legend, lines and text. It's unclear whether the proposed development is even depicted on the submitted site plan. The submitted 8 ½ x 11 three page topographic/aerial survey of the site shows multiple fences bisecting and sectioning the property, however, the proposed fence along the site's property lines does not appear to be depicted on the site plan. Please clarify if the intent is to remove existing fences for a single perimeter fence and provide two sets of full size plans clearly delineating the location of new fence segments, segments where an existing fence was removed and replaced, segments where the fence was completely removed and segments of fencing proposed to be retained. Additionally, please provide a detailed specifications sheet (including cross-sections) depicting the design details of the proposed fencing material.

- **Biological Report:** The project site appears to be mostly undeveloped open space and is also adjacent to a larger mostly undeveloped open space parcel known as Banning Ranch. Staff has received reports from the Banning Ranch Conservancy that the proposed fence is located in and around an environmentally sensitive habitat area with direct impacts to vernal pool(s). Please provide a Biological Report prepared by a licensed professional familiar with coastal environments and vernal pools identifying the type of vegetation and vegetation communities/habitat present on the entire property and an assessment of direct and indirect impacts caused by the installation of the fence. The biological report must include a habitat map depicting the location and boundaries of vegetation communities with detailed information within 50-100 feet of the proposed fence.

Please do not limit your submittal to the above-mentioned items. You may submit any information, which you feel, may help Commission staff gain a clear understanding of the scope of your project. Commission staff is available and open to discuss your options for moving forward in the resolution of the unpermitted development at this site and staff is available to discuss our requests for information in this letter to aid your decision making moving forward. Thank you for your attention to these matters. We look forward to working with you.

Upon receipt of the requested materials, we will proceed with determining the completeness of your application. If you have any questions, you may contact me at (562) 590-5071.

Sincerely,

Liliana Roman  
Coastal Program Analyst



# **NEWPORT-MESA Unified School District**

**2985 Bear Street • Costa Mesa • California 92626 • (714) 424-5000**

**BOARD OF TRUSTEES**

**Dana Black • Dave Brooks • Walt Davenport  
Martha Fluor • Katrina Foley • Judy Franco • Karen Yelsey**

**Frederick Navarro, Ed.D., Superintendent**

**5 - 131100**

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South Coast Region

**NOV 13 2013**

October 28, 2013

**CALIFORNIA  
COASTAL COMMISSION**

Residents of Island View Mobile Home Park  
1660 Whittier Ave.  
Newport Beach, CA 92627

Dear Resident:

This letter is to inform you that Newport Mesa Unified School District (District) is correcting a procedural oversight and has submitted a Permit Application for Development to the California Coastal Commission for the existing chain link fence on the school property located at 975 16<sup>th</sup> Street. This is not an application for a new fence or a change to the existing fence though it is possible that the Coastal Commission might order some change as a condition of approval. The fence was constructed in advance of the application being submitted.

If you have any questions or concerns, please contact us at 714-424-7522 or email [azareczny@nmusd.us](mailto:azareczny@nmusd.us).

Sincerely,

Paul H. Reed  
Deputy Superintendent and Chief Business Official



# NEWPORT-MESA Unified School District

2985 Bear Street • Costa Mesa • California 92626 • (714) 424-5000

## BOARD OF TRUSTEES

Dana Black • Walt Davenport • Martha Fluor  
Katrina Foley • Judy Franco • Vicki Snell • Karen Yelsey  
Frederick Navarro, Ed.D., Superintendent

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South Coast Region

September 26, 2014

OCT 1 - 2014

California Coastal Commission  
Liliana Roman, Coastal Program Analyst  
South Coast Area Office  
200 Oceangate, Suite 1000  
Long Beach, CA 90802-4302

CALIFORNIA  
COASTAL COMMISSION

### RE: NOTICE OF INCOMPLETE APPLICATION

Newport-Mesa Unified School District – Facilities; Applicant  
975 16<sup>th</sup> Street, Newport Beach (Orange County); Location  
Coastal Development Permit Application No. 5-13-1100

Please find enclosed additional information necessary to adequately analyze the proposed project.

- **Unpermitted Development:** Proposed project has been characterized in the CDP application as a request for after-the-fact authorization for the installation of the 6 foot chain link fence.
- **Additional Filing Fee and ATF fee:** After-the-fact fee of \$3,766 is included with this application.
- **Project Plans:** Plans were not developed for this project. However, the fencing was installed as follows: The corner posts are 2 7/8" steel set in concrete footings. The footings are a depth of 2' and 18" diameter. All the line posts are 2 3/8" steel and do not have a concrete footing. The line posts were driven into the soil. The chain line and posts are a height of 6' above finish grade.
- **Biological Report:** Biological report prepared by a licensed professional familiar with coastal environments and vernal pools identifying the type of vegetation and vegetation communities/habitat present on the entire property and an assessment of direct and indirect impacts caused by the installation of the fence is included.

If you have any questions, please contact me at 714-424-7522 or [azareczny@nmusd.us](mailto:azareczny@nmusd.us).

Sincerely,

  
Ara Zareczny  
Facilities Analyst