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February 11, 2011

Mr. Michael Sinacori, P.E.
Public Works Department
City of Newport Beach
330 Newport Boulevard
Newport Beach, California 92663

VIA EMAIL
MSinacori@city.newport-beach.ca.us

Subject: Response to California Coastal Commission Correspondence Dated September 1, 2010 Regarding CDP Application No. 5-10-168 (City of Newport Beach – Sunset Ridge Park)

Dear Mr. Sinacori:

The following information is provided in response to a written comment raised by the California Coastal Commission (CCC) concerning potential wetland resources on the Sunset Ridge Park project site.

The CCC provided the following comment:

Bullet No. 5 (Wetlands Delineation) in the September 1, 2010, California Coastal Commission comment letter states that:

> *The Jurisdictional Delineation report included in Volume II of the EIR indicates that a three-parameter approach was the methodology used to identify wetlands according to Army Corps of Engineers definition of wetlands. Please submit a wetlands delineation using a methodology appropriate to the Coastal Commission definition of a wetland found under Coastal Act Section 30121 and the California Code of Administrative Regulations 13577(b).*

Response

The Jurisdictional Delineation Report was re-examined to determine what methodologies were used to identify the type and extent of resources under CCC jurisdiction.

Page 6 of the Jurisdictional Delineation Report includes the CCC's definition of wetlands under Section 30121 of the California Coastal Act:

> *"Wetland" means lands within the coastal zone which may be covered periodically or permanently with shallow water and includes salt marshes, freshwater marshes, open and closed brackish water marshes, swamps, mudflats, and fens.*

In addition, the project site was re-examined for compliance with Section 13577(b) of Title 14, Division 5.5, Article 18 of the *California Code of Regulations*, which states that:

> *(1) Measure 100 feet landward from the upland limit of the wetland. Wetland shall be defined as land where the water table is at, near, or above the land surface long enough to promote the formation of hydric soils or to support the growth of hydrophytes, and shall also include those types of wetlands where vegetation is lacking and soil is poorly developed or absent as a result of frequent and drastic fluctuations of surface water levels, wave action, water flow, turbidity or high concentrations of salts or other substances in the substrate. Such wetlands can be recognized by the presence of surface water or saturated substrate at some time during each year and their location within, or adjacent to, vegetated wetlands or deep-water habitats. For purposes of this section, the upland limit of a wetland shall be defined as:*
>
> *(A) the boundary between land with predominantly hydrophytic cover and land with predominantly mesophytic or xerophytic cover;*
>
> *(B) the boundary between soil that is predominantly hydric and soil that is predominantly nonhydric; or*
>
> *(C) in the case of wetlands without vegetation or soils, the boundary between land that is flooded or saturated at some time during years of normal precipitation, and land that is not.*
>
> *(2) For the purposes of this section, the term wetland shall not include wetland habitat created by the presence of and associated with agricultural ponds and reservoirs where:*
>
> *(A) the pond or reservoir was in fact constructed by a farmer or rancher for agricultural purposes; and*
>
> *(B) there is no evidence (e.g., aerial photographs, historical survey, etc.) showing that wetland habitat pre-dated the existence of the pond or reservoir. Areas with drained hydric soils that are no longer capable of supporting hydrophytes shall not be considered wetlands.*

Conclusions

Section 30121 of the Coastal Act

The project site does not contain areas which may be covered periodically or permanently with shallow water such as salt marshes, freshwater marshes, open and closed brackish water marshes, swamps, mudflats, and fens as defined under Section 30121 of the Coastal Act.

Section 13577(b) of the *California Code of Regulations*

(A) the boundary between land with predominantly hydrophytic cover and land with predominantly mesophytic or xerophytic cover

The site contains 1 small patch of willow scrub habitat and a patch of disturbed mule fat scrub habitat (0.20 acre within a 0.24-acre erosional feature) in the western portion of the project site. However, these two small patches of habitat appear to have established within an erosional feature during above-average seasonal rainfall in an area of the project site historically excavated

for the construction of a road that was never built. The area containing the willow scrub and disturbed mule fat scrub is surrounded by a high percentage of non-native invasive plants dominated by hottentot fig (*Carpobortus edulis*), myoporum (*Myoporum pacifica*), and bare disturbed areas. A soil sample was taken from Soil Test Pit No. 2 in the lowest part of the erosional feature with the highest potential for wetland hydrology, hydrophytic vegetation, and hydric soils. The soil in Soil Test Pit No. 2 was compact sand and hard pan, was dry, and no hydric soils were detected.

A Dominance Test and Prevalence Index were completed at each Soil Test Pit as a basic indicator of hydrophytic vegetation.

Dominance Test

The Dominance Test is a measurement of dominant plant species across all strata divided by dominant Obligate Wetland plants (OBL), Facultative Wetland plants (FACW), and Facultative wetland plants (FAC) identified by the USFWS in the State of California (Zone 0). Dominant species are chosen for each stratum of the community. These are usually the most abundant species that individually or collectively amount to 50 percent of the total vegetation coverage, plus any other species that, by itself, accounts for 20 percent of the total vegetation cover (also known as the "50/20 Rule"). The test must equal 50 percent for the presence of wetland plants to meet the Dominance Test for hydrophytic vegetation.

Prevalence Index

The Prevalence Index is a weighted average wetland indicator If all plant species in a sampling plot, where each indicator status category is given a numeric code (i.e., OBL = 1, FACW = 2, FAC = 3, and FACU = 4, and Upland plants [UPL] = 5) and weighting is by abundance based on absolute percent cover. The Prevalence Index value must be less than or equal to 3.0 to be considered hydrophytic vegetation.

The Dominance Text and Prevalence Index were met for Soil Test Pits No. 1 and No. 2. In response to comments received from CCC staff, data were collected at four additional Soil Test Pits (Nos. 5, 6, 7, and 8) on December 8, 2010, to provide additional detail regarding soil and vegetation conditions in the willow scrub and disturbed mule fat scrub area. The Dominance Test ranged from 0 to 0.5 percent and Prevalence Index ranged from 3.75 to 4.28 for the 8 soil test pit sites. Therefore, none of the additional test pit data passed the Dominance Test or Prevalence Index. These data are summarized in Table 1 below.

TABLE 1
DOMINANCE TEST AND PREVALENCE INDEX

Soil Test Pit	Dominance Test (>50%)	Prevalence Index ≤ 3.0	Passed Dominance Test	Passed Prevalence Index
1	50	2.82	Yes	Yes
2	50	2.55	Yes	Yes
3	0	3.83	No	No
4	0	3.83	No	No
5	0	4.28	No	No
6	0	4.25	No	No
7	0.5	3.75	No	No
8	0.5	4.06	No	No

In summary, Soil Test Pits Nos. 1 and 2 yielded data that passed the Dominance Test and Prevalence Test for hydrophytic vegetation. Soil Test Pit No. 1 is outside of the limits of project

disturbance. The data for the additional four Soil Test Pits (i.e., Nos. 5, 6, 7, and 8) did not pass the Dominance Test or Prevalence Index for hydrophytic vegetation. It was determined that, although the presence of these willow scrub and disturbed mule fat scrub habitat resources could be construed as meeting the CCC single-parameter definition of a wetland (in this case, hydrophytic vegetation), the area containing these resources did not pass the Dominance Test or Prevalence Index for hydrophytic vegetation. Also, the area is an erosional feature, not part of natural stream geomorphology. That is, these conditions are artificial and will likely be subject to successional vegetative conversion to upland species over time. Much of the understory of the willow scrub and disturbed mule fat scrub habitats includes hottentot fig and other upland species. Therefore, the conditions that provided the opportunity for the establishment of the willow scrub and disturbed mule fat scrub resources will not likely sustain these resources over time.

Nos. 3 and 4 also contain some hydrophytic vegetation within a seep area on a slope and V-ditch adjacent to Superior Avenue. However, the dominant species at this location is pampas grass. Soil Test Pit Nos. 3 and 4 did not pass the Dominance Test or Prevalence Index for hydrophytic vegetation.

The second wetland parameter is the presence of hydric soils. Hydric Soils (NTCHS) defines a hydric soil as a soil that is formed under conditions of saturation, flooding, or ponding long enough during the growing season to develop anaerobic conditions or conditions of limited oxygen in soil located at or near the surface that favor the establishment of hydrophytic vegetation. Soils are considered hydric soils if they contain one of the following: redoximorphic features, buried organic matter, organic streaking, reduced soil conditions, gleyed or low-chroma soils, or sulfuric odor.

The presence of hydric soils must be mapped in accordance with Section 13577(b)1(B) of the *California Code of Regulations*:

(B) the boundary between soil that is predominantly hydric and soil that is predominantly nonhydric.

Soil Test Pit Nos. 1, 3, and 4 contained hydric soils. Hydric soils were not detected at Soil Test Pit Nos. 2, 5, 6, 7, and 8. Soil Test Pit No. 1 is outside the limits of project disturbance. Soil Test Pit Nos. 3 and 4 are located in an area that contains an artificial seep in a very small slope area above the lowest V-ditch on the manufactured slope along Superior Avenue. The artificial seep contains a very small area of hydric soils and some hydrophytic vegetation in an area dominated by non-native plant species (such as pampas grass). The area is a manufactured slope with erosion-control structures (i.e., bench drains and V-ditches); while the area does contain some hydrophytes, these soil test pit sites did not pass the Dominance Test or Prevalence Index for hydrophytic plants due to dominance of non-native plant species. In addition, although hydric soils were identified at some points above the V-ditch, the saturated soils that developed into hydric soils are artificial and would not likely be sustainable over time. Although the seep meets the hydric soils criteria for a wetland, the area of the artificial seep is not part of a natural drainage, is in a highly developed urban area, is isolated from any natural drainage or riparian resource, and is of very low function and value.

The last of the three wetlands parameters is hydrology that must be mapped in accordance with Section 13577(b)1(C) of the *California Code of Regulations*:

(C) in the case of wetlands without vegetation or soils, the boundary between land that is flooded or saturated at some time during years of normal precipitation, and land that is not.

Storm flows are conveyed through the site via a trapezoidal concrete flood-control channel in the central portion of the site and an erosional feature along the western portion of the project

site. Some limited portions of the erosional feature meet hydrophytic vegetation and the hydrology criteria.

On December 16, 2010, the City and its consultant team met with the CCC staff to review site resource conditions, the proposed project, and potential effects of the proposed project on the site's resources. During the meeting, CCC staff requested that specific habitat areas along Pacific Coast Highway and Superior Avenue be re-mapped at a smaller resolution. Exhibits illustrating the vegetation types on site and the additional detailed areas are included on Exhibits 1 and 2.

In addition, CCC staff stated that the seep may be considered non-jurisdictional if the seep is not fed by an aquifer. California Code of Administrative Regulations 13577(b) states that "wetland shall be defined as land where the water table is at, near or above the land surface long enough to promote the formation of hydric soils or to support the growth of hydrophytes...Areas with drained hydric soils that are not longer capable of supporting hydrophytes shall not be considered wetlands." A hydrology study prepared by Leighton Consulting for the City of Newport Beach demonstrated that the seep was not being fed by an aquifer. Test borings conducted by Leighton Consulting indicate that possible sources of seepage may include the residential development north of the proposed park site, and site-specific surface infiltrations from precipitation are expected to fluctuate seasonally. No aquifer is present on site. As previously stated, the saturated soils that developed into hydric soils are artificial, would not likely be sustainable over time, and are of very low function and value.

The Geotechnical Study for Sunset Ridge Park dated August 19, 2009 contained in the Final EIR was provided to the Coastal Commission Staff as part of the Coastal Development Permit Application.

Please contact Gary Medeiros at (714) 444-9199 if you have any questions.

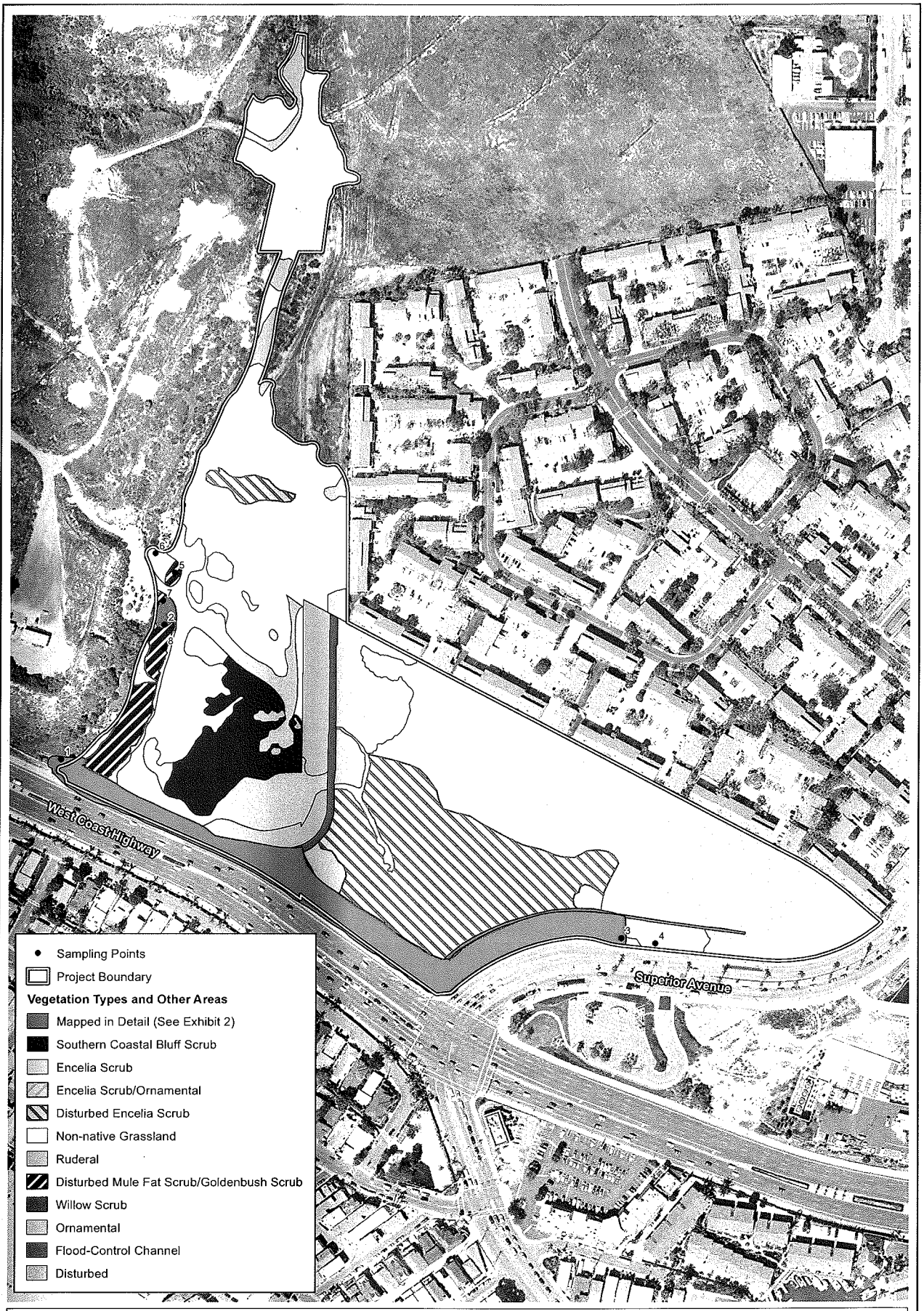
Sincerely,

BONTERRA CONSULTING

Gary A. Medeiros
Associate Principal

Enclosures: Exhibit 1 – Vegetation Types and Other Areas
Exhibit 2 – Detailed Vegetation Types and Other Areas

cc: Ann M. Johnston, BonTerra Consulting
Dana C. Privitt, BonTerra Consulting



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Vegetation Types and Other Areas

Exhibit 1

Sunset Ridge Park

N W E S

200 100 0 200 Feet

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Detailed Vegetation Types and Other Areas

Exhibit 2

Sunset Ridge Park

N W E S

100 50 0 100 Feet

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