APPENDIX E

Letters of Concern and Opposition

From: John Landre
To: BanningRanchComments@Coastal
Subject: Banning Ranch Survey Results
Date: Friday, May 06, 2016 8:01:43 AM

I just wanted to write a quick note in hopes that the CCC staff reconsiders and re-studies the increase in potential development area at Banning Ranch.

This plot of land deserves further study in hopes that we don't forever lose it. The Coastal Act is an important piece of legislation – and represents the will of the people to protect our natural resources. As guardians of this act, I hope the CCC staff will take time to review their findings again.

To go from 11.5 acres to 55 acres of potential development area (an almost five-fold increase from October's report) clearly shows that there are probably some differences of opinion within the staff – and we should take more time to further study the land before we lose it forever to development. That's not to say some of it can't be developed/rehabilitated – but let's take another look at it due to the large variance between the October and March survey results.

Thank you,

John Landre
C: 949-836-4500

From: George Lesley
To: BanningRanchComments@Coastal
Subject: Proposed real estate development and new oil drilling at the Banning Ranch site in Newport Beach, California
Date: Sunday, July 31, 2016 12:18:28 AM

Proposed Real Estate Development:

I live in Newport Shores, which is the residential development just to the west of the proposed Banning Ranch real estate development and below the bluff. Newport Shores has approximately 445 single family residences. My wife and I have lived in The Shores for 15 years.

Traffic---My understanding is that Banning Ranch is requesting approval for approximately 845 residences. Assuming an average of 3 persons per household, that equates to 2,535 people. I think we can safely assume that this will also equate to 1,800 cars based on an average 2 cars per family. Banning Ranch is now requesting a street from the proposed new residences to Pacific Coast Highway (PCH), which was not in their original plan. I strenuously oppose this proposal. I drive south on PCH six days a week from Prospect Avenue to Superior Avenue and back north on PCH each evening , plus many times on the weekend. The stretch of PCH from Brookhurst Avenue in Huntington Beach to Superior Avenue (and beyond Superior) in Newport Beach is heavily impacted at present each morning and evening during the week and most of the weekend. Assuming that 2/3 of the autos leaving and entering Banning Ranch would do so via PCH---that would equate to 1,200 additional cars each day, not to mention additional traffic from visitors, vendors, construction worker, and others. This would create the " Nightmare on PCH". Banning Ranch will put untold millions of dollars in their pocket from this development, if approved. What do the folks who drive up and down the above described stretch of PCH get—other than a heck of a lot more traffic and frustration ? I beseech the Commission to deny the request for any road from the proposed development to PCH.

Set Back---During a tour of the Banning Ranch property several months ago, my wife and I were told by the Banning Ranch representative that all the homes would be set back about 200 yards from the bluff/cliff on the west---at the bottom of which is our Newport Shores neighborhood---and, therefore, there was no way we would be able to see any part of the new structures from Newport Shores. This is extremely important to us. At present, as we look east to the bluff, we see nature and cliffs. Looking in that direction, it feels like we are in a rural area. This is clearly an enhancement to the value of our homes and the quality of our life. However, we currently have no assurance that the promised set back of the structures will not be changed. I urge the commission to require in writing that the set back from the bluff/cliff to the west is such that we will not see any part of the new structures, if approved. Such a set back would not necessitate any change in the plans represented to us by Banning Ranch, but it will guarantee that Banning Ranch will not change their plans to our detriment.

Area Clean Up---On the tour of Banning Ranch we were told that the clean up of the oil wells and equipment would occur only as new homes were built. I am concerned that Banning Ranch may complete the homes and not follow through on the promised bike/walking trails and other clean up. One of the promises was that Banning Ranch would remove the telephone poles

and shed that are on the edge of the bluff overlooking Newport Shores. Again, we are looking for assurances that Banning Ranch will have a specific set of requirements, including time parameters for the clean up so they cannot find excuses for not following thru.

Oil Operations:

Earthquake Risk---Banning Ranch proposes to move all it's oil wells to a new location ad drill 82 new wells there. Unfortunately for those of us in Newport Shores, the plan is to drill these 82 wells on the Newport-Inglewood earthquake fault. I can't believe this ! I am unaware of any research done by anybody on the possible effect of drilling 82 new wells in this location. Please realize that the homes in Newport Shores are built on sand with the water level beneath our homes at only 4-10 feet. It would not take much of an earthquake on this infamous fault line to destroy our homes. The idea to drill the 82 new wells there is totally unacceptable !!! The homes in Newport shores are worth an estimated $1,500,000 average with the values on the rise. Is Banning Ranch willing to purchase an insurance policy of say $750,000,000, or more, to cover loss of homes, property ,and relocation in the event their drilling triggers an earthquake ? This does not consider the possible personal injury and/or loss of life. The same risk applies to home across PCH along the ocean front. They face the same risks.

Oil Drilling Noise Pollution---Aside from the earthquake risks of drilling in that location, there would be a tremendous noise problem for the Newport Shores residents if 82 wells are drilled in that location. Over the many past years of drilling, the noise from the drilling has been mostly blocked by the topography of the drill site as compared to our homes. But with the proposed new site for drilling 82 wells there would be no natural sound barrier. The new site is only a couple hundred yards across the lagoon to the north of our homes. There would be virtually nothing between the drill site and our homes ---other than air and water. We all know that sound travels over water unabated over such a short distance. Consequently, this drill site is unacceptable. Please deny Banning ranch from drilling in their current proposed location.

Oil Truck Traffic---Banning Ranch's current plan is to truck out all the oil from the proposed 82 new wells via the dirt road that runs parallel to the eastern perimeter of Newport Shores. With all the oil wells in one location, the oil truck traffic will be going 24/7 all year long. The noise and dust from such oil trucking is unimaginable. The road is only, say, 50 yards from the homes that run along 62nd street in Newport Shores next to the canal. The negative effect on the folks who live there would be horrendous. Banning Ranch needs to either construct a new avenue to transport the oil out the drilling site---or---pave the current dirt road the oil trucks use --and construct an effective sound barrier wall with appropriate landscaping.

Soil Remediation---My understanding is that Banning Ranch plans to cap and remove numerous current oil wells. As part of that, they plan to excavate the oil contaminated soil and pile it on top of the current groundlevel and that the sun and natural forces will somehow remediate the soil. I fear the odor from such a procedure—as well as the health danger from open piles of contaminated soil coming in contact with residents, including children, pets, and wildlife. I

urge the Commission to obtain clarification of their procedure and obtain research as to the wisdom and safety of such a plan.

Conclusion:

After considering all of the above, it seems to me that Banning Ranch should either:

- Build the homes (with the requirements and restrictions discussed above), or
- Forget the real estate development and continue their oil operations as they are now (and not drilling 82 new oil wells)
- I don't think oil drilling and residential construction go together in Newport Beach. We do not want to be the next Porter Ranch.

Thank You:

Thank you very much for reading my thoughts and concerns.

George M. Lesley
glesley@glesley-cpa.com

**Please note my email address has changed to glesley@glesley-cpa.com*

Unless the above message ("this message") expressly provides that the statements contained therein ("the statements") are intended to constitute written tax advice within the meaning of IRS Circular 230 §10.37, the sender intends by this message to communicate general information for discussion purposes only, and you should not, therefore, interpret the statements to be written tax advice or rely on the statements for any purpose. The sender will conclude that you have understood and acknowledged this important cautionary notice unless you communicate to the sender any questions you may have in a direct electronic reply

From:	Ryan Long
To:	Mike Sinacori; Sinacori, Mike; Rene Rimlinger; Nick Louis; Rick Westberg; Suzanne Gignoux,Realtor; Peter Hurley; Whit Batchelor; Carey Ransom; Howard Rich; Tori Rimlinger; Westberg, Rick; Tori Rimlinger; BanningRanchComments@Coastal
Subject:	Banning & West Newport Oil Letter
Date:	Tuesday, August 02, 2016 9:47:36 PM
Attachments:	California Coastal Commission - Newport Shores HOA.docx

Hello Everyone,

Attached is the letter I put together for Coastal Commission. Please let me know if you have any questions. Feel free to remove the HOA and send your behalf if you want: BanningRanchComments@coastal.ca.gov

Once we get closer to the hearing this September I will write up a stance for the HOA to vote on.

As a side note, I will start working on our new topic of Beautifying PCH.

Thanks again,
Ryan
949-413-6691

Dear California Coastal Commission,

In regards to Coastal Development Permits Number: 5-15-2097 and Permit Number: 9-15-1649, the Newport Shores Community Association would like to comment on the two (2) following permits submitted.

Permit Number: 5-15-2097

The Newport Shores Community Association supports the Costal Commissions Staff Report of May 2016. The staff gave a clear indication of what the maximum development allowed under the Coastal Act can be.

We would like to comment the following:

- No Bluff Road connecting 17th, 16th and 15th streets to PCH. Not only does this preserve valuable habitat, but it is the best traffic solution to have four separate developments each with one access point. This will minimize the impact on Coast Hwy, which already exceeds acceptable traffic loads.
- The preservation of Wetlands CC and C on the staff map. Not only does this preserve valuable habitat, it helps create a green buffer between the new development and Newport Shores
- Minimum setbacks from the bluff increased to 200 feet.
- Preservation of the currently paved truck road between the current North Oil Field triangle and 17 Street

Permit Number: 9-15-1649

The Newport Shores Community Association does not support the current proposal that has been submitted by The West Newport Oil Company. This current plan will affect the residents and community of Newport Shores in a negative way.

We would like the following permit to be rejected due to the following concerns.

- Excessive amount of new wells to be drilled. The requested amount is designed to deprive our community of future input. The proposed drilling should be no more than the wells that will be capped and replaced in a two-year period and each two years new CCC permits requests, so our community has an ongoing voice on the quality of life for our neighborhood.
- Using the canal road way to PCH to transport oil, the existing road (mentioned above that connects to 17th Street should continue to be the main oil road as it is being used today to transport) should be continued as the route.
- Twenty four (24) hour drilling is not practical for a densely populated area. The City Charter for Newport Beach does not allow any oil operations. It was amended in 2010 to accommodate this project. However, all construction in Newport Beach is from 7:00AM to 6:30PM Monday thru Friday and 8:00Am thru 6:00PM on Saturday with no work allowed on Sunday or Holidays. We should expect the same restrictions for this CDP.

Thank you for listening to our concerns.

The Newport Shores Community Association

511 Canal St, Newport Beach, CA 92663

Newportsca.com

Juaneño Band of Mission Indians

Acjachemen Nation

July 5, 2016

Teresa Henry, District Manager
California Coastal Commission
Via Email
Teresa.Henry@coastal.ca.gov

Amber Dobson, Coastal Program Analyst II
California Coastal Commission, South Coast Office
Via Email
Amber.Dobson@coastal.ca.gov

CC: Chris Yelich, Principal
Brooks Street Southern California
Via Email
yelich@brooks-street.com

RE: COASTAL DEVELOPMENT PERMIT APPLICATION 5-15-2097 (NEWPORT BANNING RANCH/VILLAGE OF GENGA)

Dear Ms. Henry and Ms. Dobson:

This letter is in regards to the above project known as the Newport Banning Ranch Project. The first topic we would like to address is our need for additional time to examine the information just provided to us from Michael Mohler on June 22 (15 days ago). In his email, he provided nine separate reports regarding the project and in order to assess these and make thorough recommendations, more time is needed.

Our main emphasis is to protect and preserve our ancestral sites. Based on our initial assessment, at a minimum we recommend the following conditions:

1) Native American and archaeological monitoring during oil rig decommissioning and site cleanup and additional testing for boundaries on the ancestral sites that are being preserved.

2) A thorough ethnographic study be conducted to document historical and oral traditions of the region we call Genga.

3) Additional testing on the ancestral sites that will be impacted by the Newport Banning Ranch Project development.

4) We request a meeting and would like to provide PSOMAS with our procedures and recommended methods of evaluation and testing in and out of the field.

31742 Via Belardes, SJC, California 92675 ◇ Office (949) 493-0959 ◇ Fax (949) 509-1061 ◇ Email:kaamalam@gmail.com

Lastly, Sacred Places Institute is facilitating a meeting with the Native American Land Conservancy. It is our desire that through this educational opportunity, we will be able to establish a tribal co-management land trust. This land trust would manage a portion of our traditional cultural landscape. In order to achieve this goal, a guaranteed endowment would be required.

We look forward to your response and are hopeful that we can come to an amicable solution to a very complex situation.

Oho'van,

Matias Belardes
Tribal Chairman

Joyce Stanfield Perry
Tribal Manager

CC: Angela Mooney D'Arcy
Sacred Places Institute

Recipient: BanningRanchComments@coastal.ca.gov and California Coastal Commission

Letter: Greetings,

STOP Bluff Road for Newport-Mesa!

Signatures

Name	Location	Date
C Black	costa mesa, CA, United States	2016-07-24
Wendy Brooks Leece	Costa Mesa, CA, United States	2016-07-24
Florence Martin-SaintClair	Costa Mesa, CA, United States	2016-07-24
Tom Egan	Costa Mesa, CA, United States	2016-07-24
Eleanor Egan	Costa Mesa, CA, United States	2016-07-24
Michelle Simpson	Costa Mesa, CA, United States	2016-07-25
Thomas Corbett	Costa Mesa, CA, United States	2016-07-25
Mitchell Saavedra	Lake Elsinore, CA, United States	2016-07-25
tracy jones	Seal Beach, CA, United States	2016-07-25
Terri Fuqua	Costa Mesa, CA, United States	2016-07-25
Andrea Bray	Huntington Beach, CA, United States	2016-07-25
Tina Reinemann	Costa Mesa, CA, United States	2016-07-25
Bill McCarty	Costa Mesa, CA, United States	2016-07-25
Sandie Frankiewicz	Costa Mesa, CA, United States	2016-07-25
Kimberly Bertrand	Costa Mesa, CA, United States	2016-07-25
Gay Royer	Costa Mesa, CA, United States	2016-07-25
Joan Susman	Costa Mesa, CA, United States	2016-07-25
Stacey Robinson	Newport Beach, CA, United States	2016-07-25
Paulette Pappas	Balboa, CA, United States	2016-07-25
Daisy McGarr	Costa Mesa, CA, United States	2016-07-25
Dayl Soule	Costa Mesa, CA, United States	2016-07-25
Estelle Hughes	Costa Mesa, CA, United States	2016-07-25
heather kasko	Newport Beach, CA, United States	2016-07-25
Hilary Mills	Orange, CA, United States	2016-07-25
Joel Schechter	Costa Mesa, CA, United States	2016-07-25
Eileen Truxton	Newport Beach, CA, United States	2016-07-25
Kathy Mellin	Costa Mesa, CA, United States	2016-07-25
cheryl ice	Costa Mesa, CA, United States	2016-07-25
Amy Adkins	San Bernardino, CA, United States	2016-07-25
john Phillips	La Jolla, CA, United States	2016-07-25

Name	Location	Date
isabelle phillips	Newport Beach, CA, United States	2016-07-25
lindzy butterfield	Newport Beach, CA, United States	2016-07-25
Kristina Eon	Costa Mesa, CA, United States	2016-07-25
Monique White	Costa, CA, United States	2016-07-25
Joshua Garrett	Costa Mesa, CA, United States	2016-07-25
Denise Burch	Costa Mesa, CA, United States	2016-07-25
April Stowell	Costa Mesa, CA, United States	2016-07-25
lizzie vierra	costa mesa, CA, United States	2016-07-25
Donna Birge	Long Beach, CA, United States	2016-07-25
erin last	Newport Beach, CA, United States	2016-07-25
Hoang-Lien Pham	Westminster, CA, United States	2016-07-25
Dr. Roger & Michelle Girion	Acton, CA, United States	2016-07-25
Kimberly Fabian	Newport Beach, CA, United States	2016-07-25
mary spadoni	costa mesa, CA, United States	2016-07-25
Laurene Keane	Costa Mesa, CA, United States	2016-07-25
Elizabeth Parker	Costa Mesa, CA, United States	2016-07-25
Nancy Pedersen	Newport Beach, CA, United States	2016-07-25
Monica Kerr	Newport Beach, CA, United States	2016-07-25
Sally Davenport	Costa Mesa, CA, United States	2016-07-25
William Harader	Costa Mesa, CA, United States	2016-07-25
Elizabeth Flowers	Mission Viejo, CA, United States	2016-07-25
Bonnie Copeland	Costa Mesa, CA, United States	2016-07-25
Dylan Lawrence	Irvine, CA, United States	2016-07-25
Sara Elmer	Foothill Ranch, CA, United States	2016-07-25
james quigg	Costa Mesa, CA, United States	2016-07-25
Anthony Murphy	North Haven, ME, United States	2016-07-25
Maena Whitelegge	Costa Mesa, CA, United States	2016-07-25
Kristi odden	Lake Elsinore, CA, United States	2016-07-25
Melissa Sprout	Newport Beach, CA, United States	2016-07-25
Michael Stewart	Costa Mesa, CA, United States	2016-07-25
jane morrison	Costa mesa, CA, United States	2016-07-25
Sheron Dresser	Costa Mesa, CA, United States	2016-07-25

Name	Location	Date
Karin Ahlf	Costa Mesa, CA, United States	2016-07-25
Susan Shaw	Costa Mesa, CA, United States	2016-07-25
Benjamin Hubbard	Costa Mesa, CA, United States	2016-07-25
Taoward Lee	Costa Mesa, CA, United States	2016-07-25
David Robinson	Newport Beach, CA, United States	2016-07-25
Steve Roth	Lake Forest, CA, United States	2016-07-26
Michael Long	Costa Mesa, CA, United States	2016-07-26
Max Fraley	Costa Mesa, CA, United States	2016-07-26
Darren Gordon	Costa Mesa, CA, United States	2016-07-26
Kevin Kassel	Newport Beach, CA, United States	2016-07-26
Ian Odden	Lake Elsinore, CA, United States	2016-07-26
Regina Lesley	Newport Beach, CA, United States	2016-07-26
Julie Bailey	Los Osos, CA, United States	2016-07-26
Jack Eidt	Los Angeles, CA, United States	2016-07-26
VALERIE BAIN	LAKEWOOD, CA, United States	2016-07-26
Melissa Chong	Newport Beach, CA, United States	2016-07-26
Paul Fuller	Costa Mesa, CA, United States	2016-07-26
juliette ceku	Richardson, TX, United States	2016-07-26
Gary Sutton	Costa Mesa, CA, United States	2016-07-26
Pete Becker	Newport Beach, CA, United States	2016-07-26
Ann Steps	Costa Mesa, CA, United States	2016-07-26
Karla Koepenick-Cochran	Huntington Beach, CA, United States	2016-07-26
VINCENT HANS	FOUNTAIN VALLEY, CA, United States	2016-07-26
Leith Speights	Costa Mesa, CA, United States	2016-07-26
Lawrence Taugher	Newport Beach, CA, United States	2016-07-26
Jessica Johnson	Newport Beach, CA, United States	2016-07-26
Julie Marshall	Costa Mesa, CA, United States	2016-07-26
Gary Reynolds	Costa Mesa, CA, United States	2016-07-26
Robert Hamilton	Long Beach, CA, United States	2016-07-26
Bill Rose	Huntington Beach, CA, United States	2016-07-26
Amanda Paret	New York, NY, United States	2016-07-26
Sheryl Whitecotton	Costa Mesa, CA, United States	2016-07-26

Name	Location	Date
Rob Moddelmog	Newport Beach, CA, United States	2016-07-26
Maru Howard	Costa Mesa, CA, United States	2016-07-26
Priscilla Rocco	Costa Mesa, CA, United States	2016-07-26
Allison Mann	Costa Mesa, CA, United States	2016-07-26
Steven Goetz	Irvine, CA, United States	2016-07-26
Jeanette Moon	Garden Grove, CA, United States	2016-07-26
christian whitney	Costa Mesa, CA, United States	2016-07-26
Yvonne MOLNAR	Newport Beach, CA, United States	2016-07-26
Frank Chla	Costa mesa, CA, United States	2016-07-26
Melinda Trizinsky	La Mesa, CA, United States	2016-07-27
Susan Harker	Costa Mesa, CA, United States	2016-07-27
Terry Welsh	Costa Mesa, CA, United States	2016-07-27
Rula Tuducan	Costa Mesa, CA, United States	2016-07-27
Diana Lugo	Newport Beach, CA, United States	2016-07-27
Jonathan Weiner	Newport Beach, CA, United States	2016-07-27
ursula hartunian	Huntington Beach, CA, United States	2016-07-27
crystal hickerson	Irvine, CA, United States	2016-07-27
Pam Brennan	Newport Beach, CA, United States	2016-07-27
heidi bean	newport beach, CA, United States	2016-07-27
Jill Prunella	Newport Beach, CA, United States	2016-07-27
patricia class	Newport Beach, CA, United States	2016-07-27
Nancy Alston	Newport Beach, CA, United States	2016-07-27
d rk	Costa Mesa, CA, United States	2016-07-27
Jen Ward	Costa Mesa, CA, United States	2016-07-27
Thomas Giles	Laguna Beach, CA, United States	2016-07-27
Tegan Hopp	Costa Mesa, CA, United States	2016-07-27
Paul Shaffer	Huntington Beach, CA, United States	2016-07-27
ANDREAS ARPIARIAN	Costa Mesa, CA, United States	2016-07-27
Seychelle Cannes	Newport Beach, CA, United States	2016-07-27
Scott Bearden	Huntington Beach, CA, United States	2016-07-27
BRADLEY SMITH	Costa Mesa, CA, United States	2016-07-27
David E Caruso Jr	Newport Beach, CA, United States	2016-07-27

Name	Location	Date
Carolyn Dick	Huntington Beach, CA, United States	2016-07-27
William Madigan	Costa Mesa, CA, United States	2016-07-27
Nathan Lacy	Fountain Valley, CA, United States	2016-07-27
Jeanne Schuster	Pasadena, CA, United States	2016-07-27
Laura Tait	Costa Mesa, CA, United States	2016-07-27
Linda Ashe	Newport Beach, CA, United States	2016-07-27
Alicia McCalla	Newport Beach, CA, United States	2016-07-27
Teryl Zarnow	Costa Mesa, CA, United States	2016-07-27
Andy Lingle	Newport Beach, CA, United States	2016-07-27
Stanley Rosenthal	Newport Beach, CA, United States	2016-07-27
D. Fachko	Buena Park, CA, United States	2016-07-27
Melvyn Ross	Newport Beach, CA, United States	2016-07-27
Susan Irani	Newport Beach, CA, United States	2016-07-27
Hillary Mayne	Costa Mesa, CA, United States	2016-07-27
Sandra McCaffrey	Newport Beach, CA, United States	2016-07-27
vicki callahan	huntington beach, CA, United States	2016-07-27
Ada Thornton	Costa Mesa, CA, United States	2016-07-27
Elizabeth Bodie	Huntington Beach, CA, United States	2016-07-27
Arlene Saxton-Hayden	Aliso Viejo, CA, United States	2016-07-27
William May	Costa Mesa, CA, United States	2016-07-27
John Lynch	Costa Mesa, CA, United States	2016-07-27
Reginald Durant	Santa Ana, CA, United States	2016-07-27
Kathe Caldwell	Costa Mesa, CA, United States	2016-07-27
Joan Ramstedt Andersen	Newport Beach, CA, United States	2016-07-27
Deborah Koken	Costa Mesa, CA, United States	2016-07-27
porter vaughan vaughan	newport beach, CA, United States	2016-07-27
Rebecca Flowers	New York, NY, United States	2016-07-27
Russell Willison	Costa Mesa, CA, United States	2016-07-27
Nancy Corthell	Upland, CA, United States	2016-07-27
Michelle Desmet	Costa Mesa, CA, United States	2016-07-27
Patricia Robinson	Costa Mesa, CA, United States	2016-07-27
Karen Walsh	Huntington Beach, CA, United States	2016-07-27

Name	Location	Date
Dianne Russell	Costa Mesa, CA, United States	2016-07-27
Dorothy Kraus	Newport Beach, CA, United States	2016-07-27
Lance Huante	Costa Mesa, CA, United States	2016-07-27
Erick Kelsen	Goleta, CA, United States	2016-07-27
Linda Marcovici	Huntington Beach, CA, United States	2016-07-27
Brandi Andrews	San Francisco, CA, United States	2016-07-27
Sharon O'Brien	Newport Beach, CA, United States	2016-07-27
Beth Morley	Costa Mesa, CA, United States	2016-07-27
Corinne Stover	Costa Mesa, CA, United States	2016-07-27
Linda Mellen	Newport Beach, CA, United States	2016-07-27
Booth FM	Newport Beach, CA, United States	2016-07-27
Diane Weinsheimer	Newport Beach, CA, United States	2016-07-27
Peterson Peterson	Costa Mesa, CA, United States	2016-07-27
Sharon Fuller	Costa Mesa, CA, United States	2016-07-27
Sylvia Reese	Costa Mesa, CA, United States	2016-07-27
Ryan Long	Newport Beach, CA, United States	2016-07-27
Victoria Carlson	Newport Beach, CA, United States	2016-07-27
Jean Wegener	Newport Beach, CA, United States	2016-07-27
Allison Chase	Costa Mesa, CA, United States	2016-07-27
Ed Van den Bossche	Newport Beach, CA, United States	2016-07-27
Karen Tuckerman	Newport Beach, CA, United States	2016-07-27
William Ebeling	Newport Beach, CA, United States	2016-07-27
Robert Bents	Costa Mesa, CA, United States	2016-07-27
David Keeler	Santee, CA, United States	2016-07-27
Kathleen Voorhees	Newport Beach, CA, United States	2016-07-27
Terri Blake	Newport Beach, CA, United States	2016-07-27
Kristen Gonzalez	Newport Beach, CA, United States	2016-07-27
J Maggs	Costa Mesa, CA, United States	2016-07-27
Margaret Graham	Costa Mesa, CA, United States	2016-07-27
Joseph Munday	Newport Beach, CA, United States	2016-07-27
Kim Hendricks	Costa Mesa, CA, United States	2016-07-27
Maureen Gates	Huntington Beach, CA, United States	2016-07-27

Name	Location	Date
Christopher McEvoy	Costa Mesa, CA, United States	2016-07-27
Karen Hanners	Newport Beach, CA, United States	2016-07-27
ERIC GARCIA	Costa Mesa, CA, United States	2016-07-27
Cynthia Corley	Costa Mesa, CA, United States	2016-07-27
dennis mchale	Silverado, CA, United States	2016-07-27
Henry Castignetti	Huntington Beach, CA, United States	2016-07-27
Norman Suker	Newport Beach, CA, United States	2016-07-27
mark tabbert	newport beach, CA, United States	2016-07-27
Jaime Nedza	Newport Beach, CA, United States	2016-07-27
Elizabeth Yost	Newport Beach, CA, United States	2016-07-27
David Wasserman	Newport Beach, CA, United States	2016-07-27
Lynn Friedman	Newport Beach, CA, United States	2016-07-27
Mia Gamble	Newport Beach, CA, United States	2016-07-27
Tristan Aley	Newport Beach, CA, United States	2016-07-27
James Teng	Newport Beach, CA, United States	2016-07-27
Georgette Quinn Quinn	Costa Mesa, CA, United States	2016-07-27
Jonathan Crawford	Costa Mesa, CA, United States	2016-07-27
Cheryl Van Ocker	Newport Beach, CA, United States	2016-07-27
Natalie Van Leekwijck	Deurne, OR, Belgium	2016-07-27
Jayson Gera	Costa Mesa, CA, United States	2016-07-27
Louise Costa	Newport Beach, CA, United States	2016-07-27
John Humphrey	Costa Mesa, CA, United States	2016-07-27
Amelia Wood	Newport Beach, CA, United States	2016-07-27
Richard Grabow	Newport Beach, CA, United States	2016-07-27
Patrick Copps	Costa Mesa, CA, United States	2016-07-27
John Radcliffe	Pittsburgh, PA, United States	2016-07-27
Karen Voigt	Costa Mesa, CA, United States	2016-07-27
Patrick Clark	Costa Mesa, CA, United States	2016-07-27
Suzan Forster	Newport Beach, CA, United States	2016-07-27
Sean Fahlen	Costa Mesa, CA, United States	2016-07-27
Dix Henneke	Anaheim, CA, United States	2016-07-27
Nancy Nielsen-Mirza	Huntington Beach, CA, United States	2016-07-28

Name	Location	Date
Megan VonAchen	Yorba Linda, CA, United States	2016-07-28
Penny Elia	Laguna Beach, CA, United States	2016-07-28
Mike Yule	Costa Mesa, CA, United States	2016-07-28
Sandra Fazio	Huntington Beach, CA, United States	2016-07-28
Cynthia Breatore	Costa Mesa, CA, United States	2016-07-28
Kathleen Tadlock	Costa Mesa, CA, United States	2016-07-28
Brigitte Heath	Anaheim, CA, United States	2016-07-28
Michele Ayres	Newport Beach, CA, United States	2016-07-28
Tonya Fannon	Santa Ana, CA, United States	2016-07-28
Kim Farthing	Irvine, CA, United States	2016-07-28
Erika Last	Tamuning, Guam	2016-07-28
Debra Haynes	Costa Mesa, CA, United States	2016-07-28
Eric Schlichter	Aliso Viejo, CA, United States	2016-07-28
Starlyn Howard	Laguna Woods, CA, United States	2016-07-28
Candice Marx	Temecula, CA, United States	2016-07-28
Stacy Penney	Newport Beach, CA, United States	2016-07-28
Jeannine Vandertoll	Newport Beach, CA, United States	2016-07-28
Diane Silvers	Newport Beach, CA, United States	2016-07-28
Philip Chipman	Costa Mesa, CA, United States	2016-07-28
Ann Harmer	Costa Mesa, CA, United States	2016-07-28
Rosemary Nasraway	Newport Beach, CA, United States	2016-07-28
sheila smith	honolulu, HI, United States	2016-07-28
Cindy Brenneman	Costa Mesa, CA, United States	2016-07-28
Paul Grybow	Costa Mesa, CA, United States	2016-07-28
merle moshiri	Huntington Beach, CA, United States	2016-07-28
Celine Miller	Costa Mesa, CA, United States	2016-07-28
Diane Castignetti	Huntington Beach, CA, United States	2016-07-28
Nin Chapman	Huntington Beach, CA, United States	2016-07-28
Michael R Kamps	Newport Beach, CA, United States	2016-07-28
Dennis Arp	Brea, CA, United States	2016-07-28
Caroline Quigg	Costa Mesa, CA, United States	2016-07-28
Jean Watt	Newport Beach, CA, United States	2016-07-28

Name	Location	Date
Ron Frankiewicz	Costa Mesa, CA, United States	2016-07-28
Allan Beek	Newport Beach, CA, United States	2016-07-28
Toni Roberts	Costa Mesa, CA, United States	2016-07-28
Julia Shunda	Newport Beach, CA, United States	2016-07-28
A Austin	Newport Beach, CA, United States	2016-07-28
Bobbi Schaaf	Newport Beach, CA, United States	2016-07-28
Michele Leal	Newport Beach, CA, United States	2016-07-28
Barbara Bellone	Newport Beach, CA, United States	2016-07-28
carol defreitas	Newport Beach, CA, United States	2016-07-28
Erik Ingersoll	Newport Beach, CA, United States	2016-07-28
Carrie Berg	Newport Beach, CA, United States	2016-07-28
Monica Boran	Newport Beach, CA, United States	2016-07-28
Timberly Eckelmann	Costa Mesa, CA, United States	2016-07-28
Lynn Lorenz	Newport Beach, CA, United States	2016-07-28
Henrik Frank	Newport Beach, CA, United States	2016-07-28
p weiss	Newport Beach, CA, United States	2016-07-28
Wendy Flotow	Newport Beach, CA, United States	2016-07-28
Harry Barton	Newport Beach, CA, United States	2016-07-28
Bonnie O'Neil	Newport Beach, CA, United States	2016-07-28
Gail Mooers	Newport Beach, CA, United States	2016-07-28
Mike Glenn	Newport Beach, CA, United States	2016-07-28
Nicolai Glazer	Newport Beach, CA, United States	2016-07-28
Christopher Natland	Newport Beach, CA, United States	2016-07-28
Susan Natland	Newport Beach, CA, United States	2016-07-28
Traci Medici	Newport Beach, CA, United States	2016-07-28
Liam Natland	Newport Beach, CA, United States	2016-07-28
Tate Natland	Newport Beach, CA, United States	2016-07-28
Shea Natland	Newport Beach, CA, United States	2016-07-28
Ladeana Young	CA, CA, United States	2016-07-28
Jerry Grant	Newport Beach, CA, United States	2016-07-28
Maureen McCormick	Newport Beach, CA, United States	2016-07-28
Dennis Gimpel	Newport Beach, CA, United States	2016-07-28

Name	Location	Date
Larry Schmitz	Newport Beach, CA, United States	2016-07-28
Linda Dolan	Newport Beach, CA, United States	2016-07-29
Julie Andrews	Huntington Beach, CA, United States	2016-07-29
Elizabeth Gimpel	Newport Beach, CA, United States	2016-07-29
james jamieson	Newport Beach, CA, United States	2016-07-29
Gloria Smith	Newport Beach, CA, United States	2016-07-29
Susan Kopicki	Newport Beach, CA, United States	2016-07-29
Sharyn Brown	Newport Beach, CA, United States	2016-07-29
Felicity Figueroa	Irvine, CA, United States	2016-07-29
Wende Zomnir	Newport Beach, CA, United States	2016-07-29
Jennifer Garrepy	Newport Beach, CA, United States	2016-07-29
Scott Bolt	Newport Beach, CA, United States	2016-07-29
Carol Mason	Newport Beach, CA, United States	2016-07-29
AnnieEm50@ail.com Quinn	Newport Beach, CA, United States	2016-07-29
Craig Preston	Costa Mesa, CA, United States	2016-07-29
James Paniagua	Newport Beach, CA, United States	2016-07-29
Jeanne Fobes	Newport Beach, CA, United States	2016-07-29
John Renauer	PAHOA, HI, United States	2016-07-29
douglas smith	Newport Beach, CA, United States	2016-07-29
JOHN LEVERE	Costa Mesa, CA, United States	2016-07-29
Ladeana Young	Newport Beach, CA, United States	2016-07-29
Ann Cantrell	Long Beach, CA, United States	2016-07-29
Camille Thompson	Seal Beach, CA, United States	2016-07-29
Jeanne Quigg	Costa Mesa, CA, United States	2016-07-29
Christina Quigg	Costa Mesa, CA, United States	2016-07-29
Diane Collings	Newport Beach, CA, United States	2016-07-29
Carol Lambert	Newport Beach, CA, United States	2016-07-29
Valerie Carson	Newport Beach, CA, United States	2016-07-29
Natasha Noriega	Costa Mesa, CA, United States	2016-07-29
Susana Tamayo	Newport Beach, CA, United States	2016-07-29
Dianne Felton	Newport Beach, CA, United States	2016-07-29
Kerri Hirsch	Newport Beach, CA, United States	2016-07-29

Name	Location	Date
Michael Reynolds	Los Angeles, CA, United States	2016-07-29
Mathew Forth	Garden Grove, CA, United States	2016-07-29
Teresa Iott	Newport Beach, CA, United States	2016-07-29
Shellie Gill	Costa Mesa, CA, United States	2016-07-29
Maria victoria Machado	Newport Beach, CA, United States	2016-07-29
Tom Baker	Newport Beach, CA, United States	2016-07-29
Aimee Camberos	Costa Mesa, CA, United States	2016-07-29
Brooke LaDouceur	Huntington Beach, CA, United States	2016-07-29
Anthony Ciscel	Costa Mesa, CA, United States	2016-07-29

7-2-16

To California Coastal Commission (CCC) staff:

Re: Letter from City of Newport Beach Fire Chief Poster, dated 6-21-16

Approximately 40 acres of Banning Ranch is located within the City of Newport Beach and under the jurisdiction of the Newport Beach Fire Department. In his 6-21-16 letter to the Deputy Director Sherilyn Sarb, City of Newport Beach Fire Chief Steve Poster implies that fuel modification Zone "C" should overlap with ESHA buffer. On page 2, Chief Poster states:

> *I understand that the NBR plan identifies a 10' wide non-combustible trail between the ESHA buffer and the development envelopes and an additional 20'of Zone A defensible space within the development envelops adjacent to the trail noted above and the first habitable structure.*

This statement would imply that fuel modification Zone C (a 50' – 100' wide fuel modification zone which consists of a mosaic pattern of fire resistive plants, and which is located outside of Zone A) is, in fact, the ESHA buffer. Chief Poster reinforces this concept of fuel modification Zone C acting as ESHA buffer with the diagram in Exhibit Z of his letter, where fuel modification Zone C is located directly between the above-mentioned 10' non-combustible trail and ESHA.

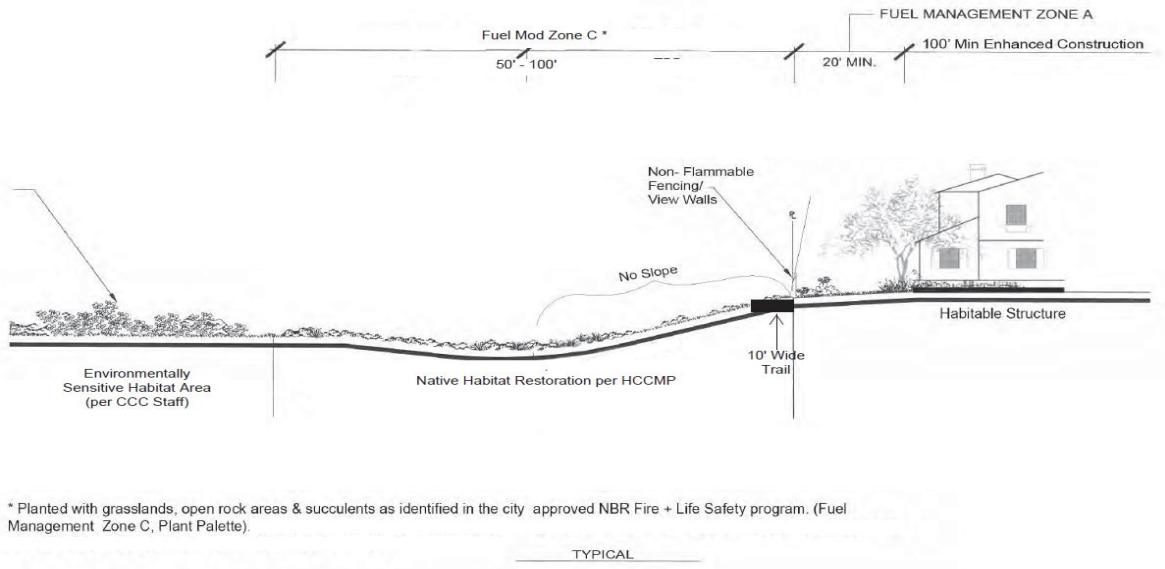

Exhibit Z

Fuel modification zones can't be allowed to overlap with ESHA buffers. Rather, all fuel modification zones must be contained within the development footprint.

The CCC has long made it well-known to the City of Newport Beach and the applicant that all fuel modification zones must not overlap with ESHA or ESHA buffers. In a 4-16-09 letter in response to the City's Notice of Preparation (NOP) for the planned EIR, the CCC staff addressed this issue clearly and directly.

> *Fuel modification requirements to address fire hazard should be set back (outside of buffers) so that the buffer areas serve their intended function of protecting ESHA from the disruption of habitat values. Again pursuant to Section 30240 of the Coastal Act development adjacent to ESHA must be compatible with the continuance of the ESHA. Fuel modification has generally not been considered to be compatible with protection of ESHA. In addition, this appears to be inconsistent with CLUP policies to provide a minimum 50-foot buffer area to ensure the biological integrity and preservation of the habitat they are designed to protect. Coastal LUP policy calls for buffer areas to be maintained with exclusively native vegetation to serve as transitional habitat, not as a fuel modification zone.*

In the 3-16-16 CCC staff report 5-15-2097, CCC staff again made it clear that any fuel modification zones must be contained within the development footprint. Special Condition 1.C.1 states:

> *A revised final site plan shall be provided that limits the residential, commercial and active park development footprint, including all supporting infrastructure such as roads, utilities, drainage facilities and fuel modification zones to the "potential development areas" as identified in Exhibit 25*

In their 4-29-16 biology memo contained within the CCC staff report 5-15-2097, Drs. Engel and Dixon state, no less than four times:

> *No fuel modification activities for fire safety should take place within the ESHA or ESHA buffer*

Drs. Engel and Dixon address the potential need for a fuel modification Zone C by stating:

> *If fuel modification zones are required by the local fire authority, additional setbacks or other protective measures may be required to prevent intrusion into ESHA and ESHA buffers.*

Fuel modification zones can't be allowed to overlap with ESHA buffers. Rather, all fuel modification zones must be contained within the development footprint.

It is strongly recommended that Chief Poster, and the applicant, be notified as soon as possible and instructed on the need for all fuel modification zones to be located within the "potential development areas" and not within ESHA or ESHA buffers.

Thank you,

Terry Welsh

President, Banning Ranch Conservancy

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June 24, 2016

Dr. John Dixon
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105

SUBJECT: Review of Burrowing Owl Issues, Banning Ranch Project, Newport Beach, CA

Dear Dr. Dixon:

I have been a resident of Orange County, California since 1958 and have observed many ecological changes to wildlife populations, many of them negative. This letter, prepared on behalf of the Banning Ranch Conservancy, presents my professional, scientific opinion regarding the probable impacts to Burrowing Owls (*Athene cunicularia*) should the Banning Ranch development be permitted to move forward as proposed by Staff in the most recent Staff Report, dated March 1, 2016 (Th11c, Application No. 5-15-2097 by Newport Banning Ranch, LLC). My opinion provided here is based upon my own field research and that of other researchers published in the peer-reviewed literature, and a strong dose of common sense. In summary, I conclude that the existing expanses of suitable grassland/vernal pool habitat currently available to Burrowing Owls cannot be substantially diminished, fragmented, or otherwise degraded if the species' wintering population is to have a reasonable possibility of persisting on the property.

Review of Credentials

For the past 45 years I have studied Burrowing Owls and other raptors extensively throughout Orange County and the southern California region. In the early 2000s, when I worked with the Coastal Commission Staff on the Brightwater project, together we designed adequate foraging and burrow habitat to maintain a small wintering population of Burrowing Owls in the uplands around Bolsa Chica. I have authored or co-authored several reports and articles describing the species' habitat requirements and status in the region:

Bloom, P.H. 1996. Raptor Status and Management Recommendations for Naval Ordnance Center, Pacific Division, Fallbrook Detachment, and Naval Weapons Station, Seal Beach, 1993/95. Prepared for Department of Defense. 53 pgs.

Bloom, P.H. 2005. Avian Predator Abundance and Usage at Naval Weapons Station Seal Beach, 2004/05. Unpub. Rep. for Southwest Division, Naval Facilities Engineering Command, San Diego, CA 92132-5178.

Kidd, J.W., P. H. Bloom, C.W. Barrows, C.T. Collins. 2007. Status of Burrowing Owls in southwestern California. In Proceedings of the California Burrowing Owl symposium, November 2003. Bird populations monographs No. 1. Institute for Bird Populations and Albion Environmental, Inc.

Bloom, P.H., J.W. Kidd, and S.E. Thomas. 2010. Burrowing Owl, Management and Conservation Plan Naval Weapons Station Seal Beach – 2008. Prepared for Department of Defense. 31 pgs.

Bloom, P.H., M. Kuehn, M.C. England, and S.E. Thomas. 2013. Monitoring of the Population of Burrowing Owl and Bi-Monthly Census of Raptors at Naval Weapons Station Seal Beach 2009-2012. Prepared for Department of Defense.

My Curriculum Vitae is attached.

Burrowing Owl Status in the Coastal Zone of Southern California

Populations of the Burrowing Owl, both wintering and nesting, have declined dramatically in the California Coastal Zone, mainly as a result of development and other anthropogenic disturbances, and the associated loss and degradation of habitat (Desante et al. 2007, Lincer and Bloom 2007, Kidd et al. 2007). In particular, the loss of California ground squirrel (*Otospermophilus beecheyi*) colonies that provide nest and escape burrows has profoundly impacted Burrowing Owl populations. Raptors including Burrowing Owls tend to be philopatric to their natal sites (Bloom unpubl. data) and often show strong site fidelity to migratory routes and wintering areas (Bloom 2011, personal obs.). Due to steep statewide declines (DeSante et al. 2007, Wilkerson and Siegel 2010), the State of California recognizes the Burrowing Owl as a California Species of Special Concern.

The approximate 122 acres (49 ha) of land currently available to Burrowing Owls at Banning Ranch is a relatively small area compared to published home range sizes for Burrowing Owls (Rosenberg and Haley 2004, Rosenberg et al. 2009). Nonetheless, survey data show that this area supports a known minimum wintering owl population of up to several individuals annually. Importantly, no surveys have attempted to determine specific foraging areas used by wintering owls on Banning Ranch. The published literature and my own observations lead me to conclude that Burrowing Owls can be expected to utilize all of the available grassland/vernal pool and open grass/scrub habitats within the uplands of Banning Ranch. Any significant reduction, fragmentation, or degradation of potentially suitable Burrowing Owl foraging habitat would threaten the long term survival and existence of these individuals, as well as an unknown number of Burrowing Owls that can be expected to occur there during migration (migrants are seldom detected during the kinds of surveys that have been conducted at Banning Ranch). In my opinion, this habitat, and the wintering owl population that depends upon it, are threatened by the proposed project (as well as Staff's alternative proposed development footprint) in the following ways:

- Permanent loss of significant habitat for Burrowing Owls, including native and non-native grasslands and other relatively open, sparsely vegetated areas.
- Extensive fragmentation of remaining suitable Burrowing Owl habitat.
- Disturbance from human activity and pets (including dogs and domestic cats in particular).
- Loss or diminution of ground squirrel colonies that provide the Burrowing Owl's required burrow systems.

Throughout virtually the entire Coastal Zone of California, outside of the San Francisco Bay Area, Burrowing Owls are scarce, localized fall and winter visitors in the remaining expanses of relatively flat, open habitat (eBird data, DeSante et al. 2007, Wilkerson and Siegel 2010). Review of eBird records for the past 10 years, and inquiry with regional and state experts, indicate that the Burrowing Owl is now almost completely extirpated as a breeder from the Coastal Zone of California. Regular breeding is limited to a very small number of pairs in the San Francisco Bay area. A single pair of Burrowing Owls was found at Naval Weapons Station, Seal Beach (NWSSB) in 2013, and one

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to a few pairs have nested sporadically at North Island in San Diego Bay and at Ream Field in Imperial Beach (Tiffany Shepherd, US Navy, pers. comm.).

Status in Orange County

Historically, the Burrowing Owl was an "abundant resident on the lowlands and mesas" of the Los Angeles Basin (Grinnell 1889). As of the 1970s, the species remained a "fairly common resident . . . throughout coastal plain and foothills" of Orange County (Sexton and Hunt 1979). Twenty years later, the breeding population had dwindled to one pair near UC Irvine and 4–5 pairs at the NWSSB (Hamilton and Willick 1996). Review of eBird data (http://ebird.org), and inquiry with local birders, indicate that the species has been recorded nesting only at NWSSB during the past decade, most recently in 2013, when a single pair was observed with up to five fledglings. Nesting has not been recorded anywhere in Orange County during the past two years (Bloom unpubl. data).

Small numbers of Burrowing Owls regularly occur in Orange County during fall and winter (Hamilton and Willick 1996, eBird data). Review of eBird data for the past decade indicates that wintering owls are observed most regularly at NWSSB, Upper Newport Bay, and Bolsa Chica, with numbers typically in the range of 1–3 birds per winter at each of these sites. Thus, the 1–3 Burrowing Owls typically found at Banning Ranch (which is off-limits to the public, and therefore seldom included in eBird reports) represent a substantial proportion of the species' wintering population in Orange County. Most importantly, no night surveys were conducted at Banning Ranch when burrowing owls and other owl species are most active, meaning the estimate of 1–3 birds represents a minimum number. This includes both migrant Burrowing Owls passing through and the minimum of 1–3 known, presumably, wintering owls.

Burrowing Owl Habitat and Home Range Requirements in California

Habitat loss, fragmentation, and degradation resulting from residential and commercial developments have been the major contributors to the incremental extirpation of Burrowing Owls from nearly all of coastal southern California (Kidd et al. 2007, Lincer and Bloom (2007). For this reason, the proposed subdivision of the Banning Ranch clearly represents a significant threat to one of the very last significant expanses of unprotected Burrowing Owl habitat in all of coastal southern California. Habitat fragmentation, a primary driver in the extirpation/extinction process for many species, generally begins at the regional level and continues at the local level until the organism is gone, one habitat fragment at a time. To avoid the pattern of extirpation that we have seen repeated up and down the Coastal Zone of California, it is paramount that the proposed development maintains as much viable, unfragmented foraging habitat as possible. Furthermore, this preservation must be coupled with maintenance of the healthy California ground squirrel population that creates the abundant escape burrows that form a critically important component of viable Burrowing Owl habitat.

Habitat quality and space-use needs by individuals are both important elements predicting whether a species will occur in an area and whether it will continue to persist there. Fortunately, such studies evaluating habitat and space needs of Burrowing Owls have been conducted on Burrowing Owls in California's Imperial Valley (Rosenberg and Haley 2004) and at Naval Air Station (NAS) Lemoore, in the Central Valley (Rosenberg et al. 2009), and provide the following relevant information.

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From Rosenberg et al. (2009)

In reference to the authors' research at NAS Lemoore [emphasis added]:

Breeding home ranges tend to be quite large, with foraging trips extending beyond 3 km from the nest site. Mean home range sizes varied widely by individual owl even though only breeding males were radio tracked. Home range sizes based on 9 male owls averaged 177 hectares in 1998 (95% CI 52-302 hectares) using the minimum convex polygon method, and 189 hectares in 1999 based on 22 owls (95% CI 122-256 hectares) (Gervais et al. 2003). ***Owls range much more widely at night than during the day.***

And, in reference to a southern California population specifically:

Winter ranges for… [a southern California population of] …owls were four times the size of breeding ranges, and territoriality appeared to be absent outside of the breeding season (C. Winchell, USFWS, personal communication).

From Rosenberg and Haley (2004)

In reference to Burrowing owls in the Imperial Valley:

On average >80% of foraging locations were within 600 m of their nest (Fig. 5). The area traversed averaged 113.7 ± 30.4 ha (Table 6), with high (33.7 ± 3.4%) overlap among owls.

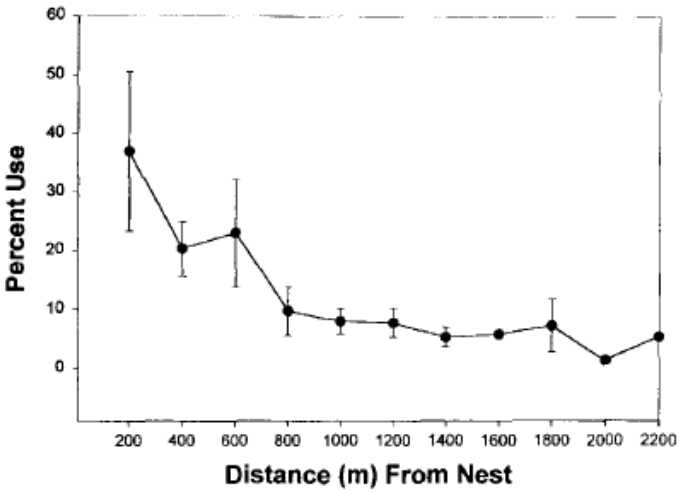

FIGURE 5. Frequency distribution of percent of locations ($\bar{X}$ ± SE) of six male Burrowing Owls radio-tracked in the Imperial Valley, CA (June–July 1998).

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Home range size is extremely variable among individuals and the methods used to calculate it. Even then, the smallest documented home range for one of six male Burrowing Owls studied during the breeding season was 8 ha (20 acres), whereas the largest was 491 ha (1,213 acres).

TABLE 6. ESTIMATED HOME RANGE SIZE FOR SIX RADIO-TAGGED MALE BURROWING OWLS NESTING WITHIN THE SONNY BONO SALTON SEA NATIONAL WILDLIFE REFUGE, IMPERIAL VALLEY, CA, MAY–JULY 1998

Owl	No. telemetry locations	Area estimate (ha)		
		100% MCP[a]	95% adaptive kernel	95% fixed kernel
A	71	158	191	13
B	17	68	187	8
C	55	247	491	122
D	77	80	73	65
E	29	63	85	53
F	52	66	80	11
Mean (SE)		113.7 (30.4)	184.5 (65.1)	45.3 (18.2)

[a] Minimum convex polygon.

The authors further noted:

The fixed-kernel estimates probably underestimated the area used because of the high concentration of locations near the nest, whereas the adaptive kernel probably overestimated area because of the few distant locations.

And:

>80% of the nocturnal telemetry locations were within 600 m of the nest during the breeding season in the agricultural matrix of the Central Valley, California, and Saskatchewan, Canada (Haug and Oliphant 1990, Gervais et al. 2003).

And that home range estimates (using the MCP method):

…ranged from 14-480 ha ($\bar{x}$ = 240 ha) in a matrix of grazed pastures and cereal crops in Canada (Haug and Oliphant 1990)…

Designating Adequate ESHA for Burrowing Owls at Banning Ranch

Burrowing Owls depend heavily on the security of their escape burrows during daylight hours, and during the day they may be consistently found near their favorite holes. At night, however, the birds pursue prey across large areas. As described previously, breeding home ranges for Burrowing Owls in two California studies, according to the least-biased MCP method[1], averaged 114 +/- 30 ha in the Imperial Valley, and from 177 to 189 ha (95% CI 52 to 256 ha) in the Central Valley; and data from the USFWS indicate that wintering ranges in California are four times larger than breeding home ranges. Home ranges in a Canadian population averaged 240 ha (range: 14 to 480 ha; Haug and Oliphant 1990).

[1] Importantly, these studies were conducted with VHF transmitter technology meaning a probable underestimate of actual space use relative to satellite transmitter technology.

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Since the foraging areas used at night are so much larger than the limited areas where owls are routinely seen during the day, it is not possible to designate adequate ESHA for wintering Burrowing Owls based on the results of diurnal surveys designed only to detect the species' presence or absence (i.e., the types of surveys conducted at Banning Ranch). Unfortunately, this is the approach that Staff has taken in designating a very small area of 1.17 acres (0.47 ha) of Burrowing Owl ESHA near the northern boundary of Banning Ranch. Comparing this area with the home range data reported in the scientific literature, it is clear that Staff's proposed ESHA includes only a small fraction of the habitat resources that Burrowing Owls require in order to persist on Banning Ranch.

Staff's approach to designating ESHA for Burrowing Owls was presented on Pages 22-23 of the technical memorandum dated April 28, 2016, prepared by Dr. Dixon and Dr. Engel:

As noted by the applicant (NBR 2015a) and the Banning Ranch Conservancy (Hamilton 2015) both native and non-native grasslands provide important foraging opportunities for raptors. For many years, there was no attempt to protect non-native grasslands and ruderal areas in coastal California because of their exotic status. However, more recently wildlife biologists have realized that most of the remaining raptor foraging habitat along the southern California coast was largely comprised of non-native species and, being unprotected, was rapidly being developed. As a result, the California Department of Fish and Wildlife (CDFW) began recommending in their CEQA analyses and Natural Community Conservation Planning that losses of such raptor foraging habitat be mitigated at a ratio of 0.5:1.0 (e.g., Tippet 2000).

Commission technical staff has also been concerned with this issue. There is certainly a rationale for identifying raptor foraging habitats as Environmentally Sensitive Habitat Areas because raptors will only occupy sections of the coast where such habitats are present and the amount of foraging habitat appears to be a limiting factor for both breeding success and the size and health of wintering populations. Therefore, foraging habitats are especially valuable due to their role in the ecosystem of supporting raptors, including sensitive species such as burrowing owls and white-tailed kites. However, Environmentally Sensitive Habitat refers to a particular "area," and defining such an area is difficult because potential areas could include hundreds of acres of annual grasses and ruderal vegetation. Even when there are data indicating the presence of foraging raptors, there is generally not sufficient information to identify those particular areas of habitat that are especially important. Therefore, in order to maintain critical foraging habitat for raptors staff has recommended and the Commission has implemented the policy adopted by CDFW (e.g., Hellman Properties 5-97-367-A1). Therefore, we recommend that at Banning Ranch, in order to protect foraging habitat for burrowing owls and other raptors all grassland and ruderal areas that are appropriate for raptor foraging and that are lost to development, be mitigated on the upper mesas at the ratio of 0.5 acres of preserved foraging habitat for every 1.0 acre of lost foraging habitat and that these areas be included in the approved HMP. The approximate extent of grassland foraging habitat at Banning Ranch is shown in Figure 8. Such mitigation has independently been proposed in the applicant's Habitat Conservation and Conceptual Mitigation Plan (Dudek 2013b).

The Staff ecologists assert that "there is generally not sufficient information to identify those particular areas of habitat that are especially important," yet the applicant has had many years and sufficient resources to conduct straightforward telemetry studies that would reveal detailed patterns of habitat use by wintering Burrowing Owls on Banning Ranch. This would involve outfitting of one or more owls with a telemetry unit and tracking nocturnal foraging patterns over a period of days, weeks, or months. I am confident, from all I know about the foraging habits of this species, that such a study would show Burrowing Owls ranging widely across the grasslands and other open, lightly vegetated habitats of Banning Ranch nightly in search of prey. If the applicant wanted to try to demonstrate that the owls actually used the more densely vegetated lowland marshes on the

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property, which are generally not planned for development, they could have done so with a telemetry study, yet they elected not to do so.

In the absence of site-specific information, Staff would normally review the best available scientific information (in this case, obtained from telemetry studies conducted elsewhere) in order to determine an appropriate area and configuration of ESHA needed to support the wintering population of Burrowing Owls on Banning Ranch. Instead of citing the relevant reports, however, Dr. Dixon and Dr. Engel cite only a 17-year-old letter from Bill Tippett[2] that recommends mitigating loss of generic raptor foraging habitat at Hellman Ranch at a ratio of 0.5:1.0. The Staff ecologists do not cite the State's more recent and more relevant Guidance for Burrowing Owl Conservation (California Department of Fish and Game 2008), which provides far more relevant information and analysis, including much of the same information about habitat requirements contained in this letter. Page 1 of the guidance report states:

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

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

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

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

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

These State guidelines on Burrowing Owl conservation say nothing about mitigating impacts to Burrowing Owl habitat at a ratio of 0.5:1.0. Instead, the guidelines describe serious deficiencies in the way State agencies and private developers have long approached the conservation of Burrowing

[2] Tippet, W.E. [CDFW]. 2000. Letter to D. Bartlett [Bartlett & Associates] regarding "Comments on the Hellman Ranch biological assessment (1/6/00), burrowing owl survey (2/23/00) and subsequent confirmation of the biological assessment (5/31/00)" dated June 19, 2000.

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Owls in California, and they call for "concerted conservation actions." It is hard not to see the current development proposal, and the alternative recommendations of Staff, at Banning Ranch as typifying the problems outlined in this 2008 State conservation guidance document.

Figure 1, below, shows Staff's most recent development alternative, overlain upon the area of potentially suitable Burrowing Owl foraging habitat, as well as the 1.17-acre area that Staff has identified as Burrowing Owl ESHA. Areas not shaded in yellow or green appear to be unsuitable, or at least rarely used for foraging by Burrowing Owls, as they do not fit the typical description of foraging habitat. The 55 acres that Staff has recommended as envelopes for residential/commercial development have been laid over the other two layers with transparent orange-tinted shading, revealing the extent of proposed Burrowing Owl habitat that would be permanently lost to development if Staff's recommendations are followed.

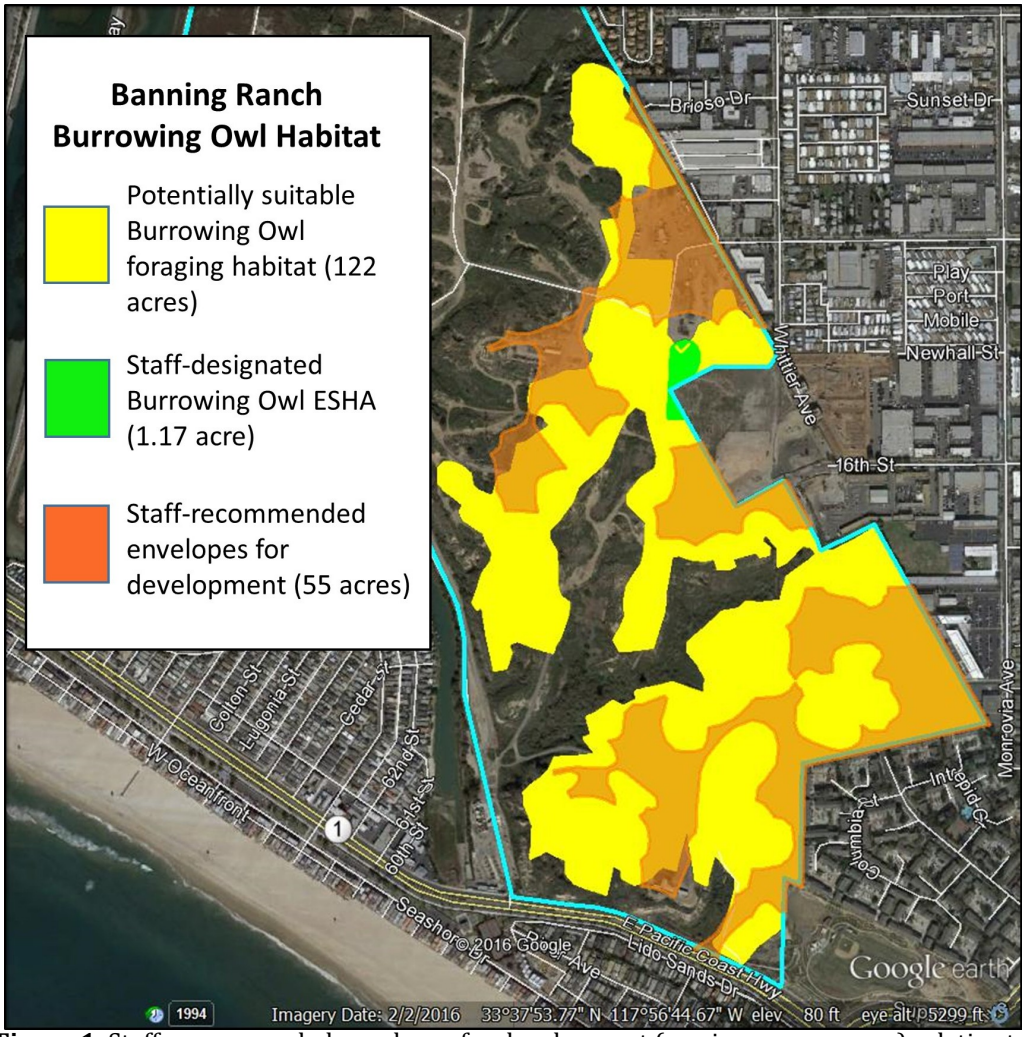

Figure 1. Staff-recommended envelopes for development (semi-opaque orange) relative to the approximately 122 acres (49 ha) of potentially suitable foraging habitat for Burrowing Owls (yellow), and the 1.17 acres (0.47 ha) that has been set aside as Burrowing Owl ESHA (green). Sources: Exhibit 13 in CCC Staff Report Th11c; Hamilton Biological, Inc.

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The best available scientific information (e.g., Gervais et al. 2008, other reports cited herein), and my own experience working with the species, lead me to conclude that Burrowing Owls require large areas of intact, unfragmented grasslands or other sparsely-vegetated habitats that support large, healthy populations of ground squirrels. On Banning Ranch, this type of habitat occurs mainly on the two upland mesas where both the applicant and the Staff propose some form of large, sprawling residential/commercial development.

Comparing the 49 ha of suitable Burrowing Owl foraging habitat present on Banning Ranch with the known habitat requirements for this species, as reported in the published scientific literature and discussed on Pages 3-5 of this letter (Rosenberg and Haley 2004, Rosenberg et al. 2009), it is not controversial to observe that the amount of suitable foraging habitat at Banning Ranch is near the low end of this species' documented area requirement. This leads to well-founded conclusion that any substantial reduction, fragmentation, and/or degradation of suitable owl habitat could very well result in the extirpation of this wintering population.

Identifying 1/100th of the potentially suitable Burrowing Owl foraging habitat as ESHA, and beyond that preserving a patchwork of fragmented grasslands and pools, rather than a large, intact core of undisturbed habitat, does not represent a viable conservation strategy for the Burrowing Owl. Repeatedly, over a period of many decades, we have seen the type of development pattern put forth by both the applicant and Staff result in the loss of Burrowing Owls. The assertion set forth by Dr. Dixon and Dr. Engel, that "there is generally not sufficient information to identify those particular areas of habitat that are especially important," is not the approach to this issue that the Commission and Staff took at Bolsa Chica/Brightwater more than ten years ago. Substantially more scientific information is now available to guide effective conservation planning for the Burrowing Owl now, compared with the early 2000s, yet the most recent technical memorandum from Staff fails to so much as cite or acknowledge any of the relevant studies in the peer-reviewed literature. For all of these reasons, it is disingenuous to suggest that "there is generally not sufficient information" upon which to conclude that these grassy mesas represent the foraging habitats of highest value to Burrowing Owls on Banning Ranch.

Ultimately, the focus must be on setting aside the appropriate amount and types of habitat, in an appropriate configuration, to sustain a wintering Burrowing Owl population of at least 1–3 individuals, as has been documented from biological surveys on site. In addition to ground-squirrel burrow complexes, where owls are detected during the daytime, reserve design must include expansive, unfragmented grassland habitat where the owls undoubtedly forage at night. Since the development plans proposed by the applicant involve grading and building upon the great majority of the grasslands on Banning Ranch, I am confident that the applicant's proposed plans would result in loss of the wintering owl population. The development footprint recommended by Staff is not much better, because it makes no effort to conserve an adequate area of suitable foraging habitat in a suitable configuration.

Both the applicant's plan and Staff's alternative would avoid only certain limited areas of vernal pools and stands of Purple Needle Grass Grassland (PNGG), and those areas would be isolated from each other by roads and other developed areas (see Figure 1 on Page 8 of this letter). Since the extent of recognizable vernal pools and the fine-scale distribution of PNGG may be strongly influenced by precipitation, the mapped distributions of these resources may fluctuate from year to year. During the current period of extreme drought, the mapped distributions of pools and PNGG are very patchy on Banning Ranch. By contrast, the mapped distribution of suitable Burrowing Owl foraging habitat does not vary from year to year, because the owls utilize vernal pools, native grasslands, and non-native grasslands interchangeably. For example, the last Burrowing Owl breeding territories in Orange County, at Naval Weapons Station Seal Beach, consisted largely of non-native grasslands and ruderal vegetation (Bloom 1996, Bloom et al. 2010, Bloom unpubl. data 2016). What is important for

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the persistence of Burrowing Owls is that the set-aside for owl foraging include, to the maximum extent possible, large and contiguous areas of vernal pools, native or non-native grasslands, and other open, sparsely vegetated habitats. Project planning to date falls far short of this standard.

The wintering Burrowing Owls at Banning Ranch persist in an area that likely approximates the 122 acres (49 ha) of identified suitable habitat, which is near the low end of this species' area requirements. Any development can be expected to result in some loss and fragmentation of habitat, as well as introducing cars, bikes, pets, and hikers into an area that has long existed quietly behind a fence. It is likely that the owls could withstand some incremental loss of foraging habitat on the edge of the existing grassland/vernal pool ecosystem, but that area should be very limited, and plans should maintain large areas of intact, unfragmented, grassland/vernal pool habitat subject to only minimal human disturbance. By contrast, the current proposals, by both the applicant and Staff, would result in the type of sprawling, road-connected development that has repeatedly led to the loss of Burrowing Owls from virtually every similar area in Orange County and elsewhere in the Coastal Zone of California. Based on everything known about the habitat requirements of the Burrowing Owl, as reported in the scientific literature, and my own direct experience with this species in Orange County, I feel very confident in concluding that implementation of either the applicant's plan or Staff's alternative would almost certainly lead to extirpation of the Burrowing Owl as a wintering species on Banning Ranch.

If you have any questions or comments regarding this letter, please call me at 949-272-0905.

Sincerely,

Bloom Research, Inc.

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cc: Dr. Jonna Engel
Dr. Laurie Koteen
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Kevin Hupf, Erinn Wilson, and Kelly Schmoker, CDFW
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Peter H. Bloom, Ph.D. | Zoologist

Qualifications

Peter Bloom has been a professional environmental consultant for more than 35 years, principally in California. He specializes in the environmental sciences, is an internationally recognized expert in raptor biology and conservation and is considered one of the best all-around field biologists in California with his extensive knowledge and experience with all terrestrial vertebrate groups (amphibians, reptiles, birds, and mammals) and the vascular plants. Corporate clients for whom he has prepared or contributed to the production of numerous biological assessments and environmental impact reports include The Irvine Company, Rancho Mission Viejo, Tejon Ranch, Newhall Ranch, Ahmanson Ranch, Metropolitan Water District, and Los Angeles Department of Water and Power. He has also worked extensively with the Department of Defense, U.S. Fish and Wildlife Service, National Park Service, Bureau of Land Management, U.S. Forest Service, California Department of Fish and Game, and various non-profit conservation groups providing valuable research and advice, primarily on raptor ecology and conservation. He has conducted avian and herpetological research in the western United States, Alaska, Peru, Ecuador, and India and has been responsible for a wide variety of biological, ecological, and conservation studies ranging from local biological assessments to regional conservation planning. Dr. Bloom has published more than 30 peer-reviewed scientific papers and technical reports and taught California natural history at a local junior college for more than 12 years.

Professional Experience

As founder and President of Bloom Biological, Inc., Dr. Bloom has prepared numerous biological assessments and worked on an array of avian research projects in the western United States, Alaska, Peru, Ecuador, and India, spending over 600 hours conducting helicopter and fixed-wing nest survey work and aerial radio-tracking of eagles, California condors, hawks, and herons. Experience includes:

- Providing expertise on eagle ecology and behavior for a study evaluating the efficacy of detection and deterrence technologies at an operating wind facility where golden eagle mortality is an issue;
- Surveys of nesting and wintering eagles and other birds of prey for the California Department of Fish and Game (CDFG), BLM, U.S. Forest Service, Department of Defense, and numerous private land owners;
- Trapping golden eagles and other raptors and marking with radio telemetry and gps transmitters
- Served in an advisory capacity in the development of multiple Eagle Conservation Plan (ECP) documents for alternative energy projects.
- Managed a long-term (30 yr.) raptor ecology study in California;
- Fiber-optics and electrical power line installation surveys and construction monitoring;
- Surveys of nesting and wintering birds of prey for the California Department of Fish and Game (CDFG), BLM, U.S. Forest Service, Department of Defense, and numerous private land owners;
- Transponder and radio-tagging of adult California red-legged frogs in Ventura County;
- Focused surveys for California gnatcatcher, southwestern willow flycatcher, least Bell's vireo, yellow-billed cuckoo, Swainson's hawks, golden eagles, arroyo toad, California red-legged frog, desert tortoise, Pacific pond turtle (including trapping and surveying habitat), coast horned lizard, flat-tailed horned lizard, Belding's orange-throated whiptail, coastal whiptail, southern rubber boa, coastal patch-nosed snake, California glossy snake, two-striped garter snake (including trapping and surveying habitat), red-diamond rattlesnake, southern flying squirrel, and Pacific pocket mouse;
- General herpetological, small mammal, breeding and winter bird surveys in southern California;

- Translocation of several hundred arroyo toads at Camp Pendleton Marine Corps Base;
- Sensitive herpetological, mammal, and raptor surveys for the Transportation Corridor Agency in Orange County; and
- A raptor status and management plan for Naval Weapons Station, Seal Beach and Fallbrook Detachment.

As a research biologist at the Western Foundation of Vertebrate Zoology, served on the Science Advisory Board of the South Orange County Natural Communities Conservation Program. During his tenure there he:

- Provided herpetological input into the Orange County environmental GIS and Cleveland National Forest environmental inventory.
- Managed a long-term (30 yr.) raptor ecology study in California;
- Managed a successful Great Blue Heron mitigation project designed to increase numbers of nesting herons through placement of artificial nest platforms;
- Supervised and performed predator management activities for USFWS related to protection of California least terns, snowy plovers, and light-footed clapper rails in southwestern California from avian and other vertebrate predators (locations included Vandenberg Air Force Base, Naval Weapons Station Seal Beach, Batiquitos Lagoon, Port of Long Beach, Port of San Diego, and Tijuana Slough National Wildlife Refuge);
- Supervised a two year CalTrans radio-telemetry study of nesting peregrine falcons and their relationship to California least terns in southwestern California; and
- Organized and finished seven years of a MAPS passerine monitoring station.
- Together with sub-permittees, banded ~ 45,000 birds, mostly nestlings (1970 – 2013).

While serving as a research biologist and advisor in India, responsibilities included educating local biologists in the various techniques needed to capture birds, and conducting radio-telemetry research.

Served as thesis advisor to seven students at CSU Long Beach, one student at CSU Humboldt, and one student at CSU Fullerton.

As research biologist for the National Audubon Society, was responsible for writing the grant proposal and ultimately the successful award of two grants totaling $300,000 for six years of fulltime research on the ecology of southern California raptor populations. Responsibilities included project management, personnel selection, supervision of 12 volunteers, proposal and budget preparation, method design, data analysis, report writing, and publication of results. Directed the effort to capture all wild free-flying California condors for transmitter placement or captive breeding. Radio-tracked condors and conducted contaminant studies involving condors and 180 golden eagles.

As a research biologist at the University of California, Santa Cruz was principal investigator on a three-year study designed to determine the status of northern goshawk populations in California for CDFG.

Trapped and placed transmitters on great gray owls for the National Park Service, prairie falcons for CDFG, and peregrine falcons in Peru for the Bodega Bay Institute of Pollution Ecology.

As a wildlife biologist for BLM, was principal investigator of a study designed to determine the status of the Swainson's hawk in California. Surveyed all semi-arid and desert regions, reviewed literature and museum records, assessed reproduction, banded adults and young, and prepared the final report. His efforts contributed to the state listing of Swainson's hawk as threatened.

Surveyed and reported on the ecology and distribution of raptors inhabiting the 200-square-mile Camp Pendleton Marine Corps Base.

While serving as a biological technician for BLM, conducted reptile, amphibian, small mammal, and avian surveys of 3.25 million acres of public land as part of a grazing EIS.

Education

Ph.D., Natural Resources, College of Natural Resources, University of Idaho, Moscow
M.S., Biology, California State University, Long Beach
B.S., Zoology, California State University, Long Beach

Awards

Graduation with Honors – Best Thesis Award School of Natural Sciences 1979
The Wildlife Society Western Section: Professional of the Year, 2005
Association of Field Ornithologists: Bergstrom Award, 1981
The Nature Conservancy: $27,000 for satellite transmitters, 2004 and 2006

Permits & Certifications

Federal endangered species recovery permit (TE-787376) for red-legged frog (including placement of transmitters and transponders), arroyo toad, California gnatcatcher (including banding), least Bell's vireo (including banding), southwestern willow flycatcher (including banding), California least tern, snowy plover, peregrine falcon (banding), bald eagle (banding), and Swainson's hawk (banding).

California scientific collecting permit and memorandum of understanding for all raptors, including state-threatened Swainson's hawk, reptiles, amphibians, small mammals, and many additional species of birds, including state-threatened western yellow-billed cuckoo, California least tern, snowy plover, peregrine falcon, and bald eagle
Federal Master Banding Permit No. 20431
- Federal Bird Marking and Salvage Permit
- Predator Management Permit
- Migratory Bird Relocation Permit (burrowing owl and other species)

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Banning Ranch
Conservancy

Help Save Banning Ranch from Massive Development

Say NO to massive Banning Ranch development in 30 seconds or less!

Tell the California Coastal Commissioners you want them to protect our precious coastal wildlife areas. Tell them to save Banning Ranch as 100% open space as the Newport Beach General Plan requires. The developers' application to the Coastal Commission has been accepted as complete and they are just ONE STEP AWAY from having their massive development plan approved. The final hearing is scheduled for October of this year!

Sign now and make your voice heard. This is YOUR letter to the Coastal Commissioners. You may sign the letter as is or add your comments at the beginning or end. The letters will be presented at a future Commission hearing. Letters with profanity or inappropriate comments will not be part of the package presented to the commissioners.

Thank you for helping save Banning Ranch as a coastal open space park for present and future generations.

Please sign the following letter to the California Coastal Commission:

Dear Honorable Chair Kinsey, Commissioners and Staff,

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

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

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

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

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

Name: Bruce Trotter

Email: —

Street Address: 800 KING'S RD.

City, State: NEWPORT BEACH CALIFORNIA

Zip/Postal Code: 92663

Banning Ranch Conservancy

Dear Honorable Chair Kinsey, Commissioners and Staff,

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(http://www.newportbeachca.gov/index.aspx?page=2096).

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

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- 2.5 million cubic yards of soil will be excavated and stockpiled to prepare the land for development, destroying the environment and exposing the public to unknown levels of contaminants.

- The destruction of environmentally sensitive habitat areas, threatened wildlife species, coastal wetlands and vernal pools—none of which is allowed by the Coastal Act.

- ONGOING RECORD DROUGHT: the Project's water demands will place a significant burden on our scarce water supply, increasing water shortages.

- Where's the water coming from? The Project's Water Supply Assessment Report is flawed and outdated by its own admission.

- TRAFFIC: 15,000+ more car trips on our roads, daily! Expect double and triple commutes, gridlocked intersections.

- POLLUTION: Air pollution from construction and traffic will exceed state standards.

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Sincerely,

CHRISTIANNE LEHMAN
CMLHUGZU@AOL.COM

879 ARBOR STREET
COSTA MESA, 92627

P.O.Box 15333
Newport Beach, CA
92659

(714) 719-2148

Additional references:

City of Newport Beach EIR, Section 4.6.7, Biological Resources, Environmental Impacts
City of Newport Beach EIR, Section 4.9, Transportation and Circulation
City of Newport Beach EIR, Section 4.10, Air Quality (Table 4.10-7 Estimated Maximum Daily Construction Emissions: Unmitigated)
City of Newport Beach EIR, Section 6.0, Long Term Implications of the Proposed Project

DATE: August 1, 2016

TO: Honorable Chair Steve Kinsey, Commissioners and Coastal Commission Staff

FROM: Suzanne Forster, Vice President, Banning Ranch Conservancy; David Coffin, Engineer and author of "Evaluation of the 2010 Newport Banning Ranch WSA and 2005 Newport Beach UWMP"

RE: Newport Banning Ranch, Coastal Development Permit Application No. 5-15-2097, Evaluation of City of Newport Beach 2015 Urban Water Management Plan (UWMP)

Honorable Chair Kinsey, Commissioners and Staff:

The Banning Ranch Conservancy is submitting the following review of the CNB 2015 UWMP. We ask that the comments, along with all references, be incorporated into the administrative record of the proceedings.

At the Conservancy's request, David Coffin, engineer and author of "Evaluation of the Newport Banning Ranch WSA and Newport Beach UWMP," which was submitted to the California Coastal Commission on September 21, 2015, and is attached herewith, has reviewed and commented on the 2015 UWMP. Mr. Coffin is also the creator of droughtmath.com, a highly regarded blog that addresses water supply issues in L.A. and Orange Counties.

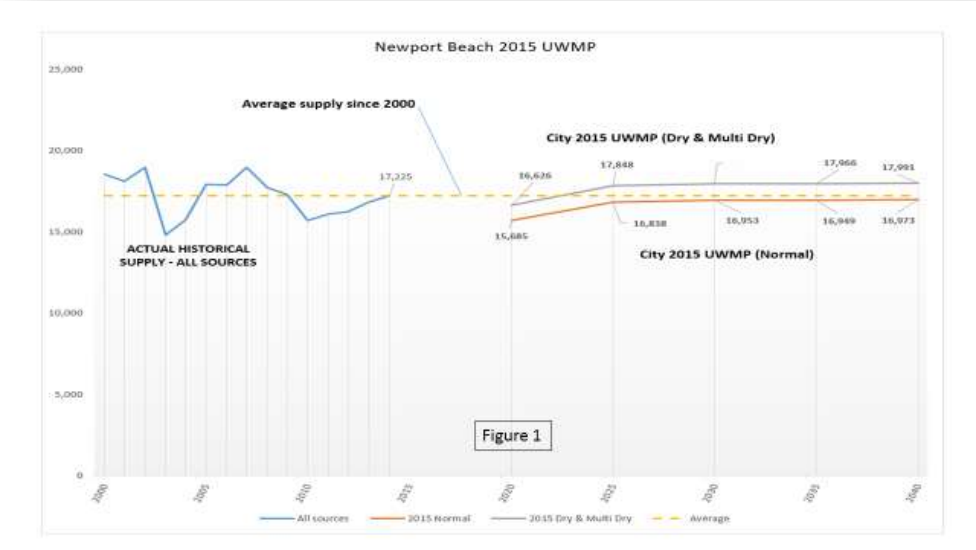
Mr. Coffin's comments regarding the plan, along with graphs that analyze the data, are listed as follows:

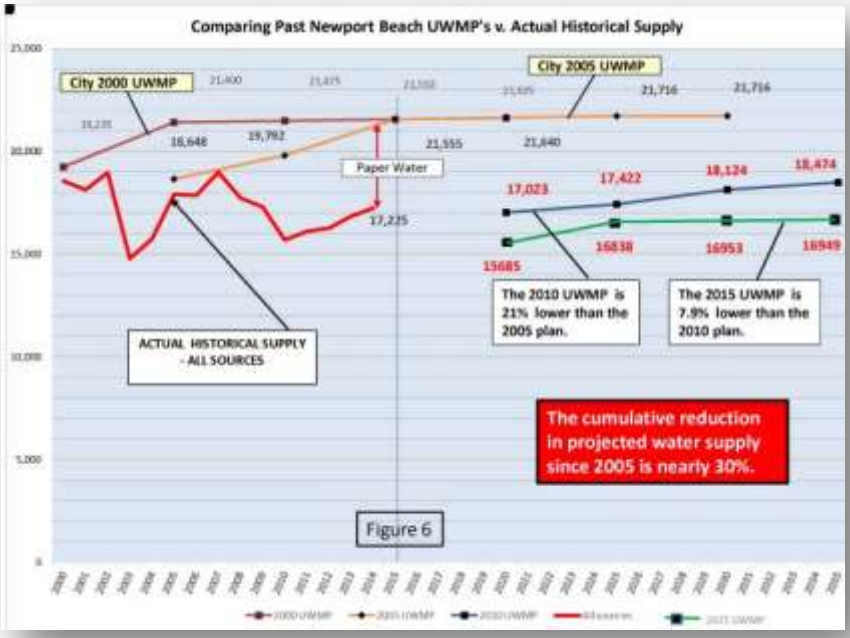
1. The 2015 UWMP dramatically reduces supply projections, eliminating the paper water found in past UWMPs. It also clearly shows us there is really no surplus of water for growth outside of the projected population figures found in Table 2-1. You can see by Figure 1 below, which contrasts the average Actual Historical Water Supply since 2000 with the projected supply in Dry/Multi-Dry and Normal years, that there is no surplus water available. Also, from my review of the City's 2010 UWMP, it's clear that once a plan is approved, a lot of growth can take place without any thought to water because very few EIRs are challenged on water, particularly if the projects are not subject to a Water Supply Assessment (WSA). (On page 4 of this submission, see "Show Me the Water's Failed Promise—the Newport Banning Ranch File," droughtmath.com, 11-1-15).

2. The 2015 water supply projections show a 7.9% drop of normal year supply from the 2010 UWMP. See Figure 6 below, (modified from "Evaluation of Newport Banning Ranch WSA and Newport Beach UWMP") which compares the City's Projections v. Actual Supply.

3. The dry year projections also show a 6.9% drop from the 2010 plan.

4. <u>The 2015 UWMP is missing retail water supplies for dry year and multi-dry year. Supplies are only provided for Normal year (ref Table 3-4).</u> The California water code (Ref CWC 10635a) requires this in an UWMP. Without this information, it is not possible to verify whether OCWD, MWDOC, and recycle projections can be met as stated in Table 3-7 (Single Dry Year) and Table 3-8 (Multi-dry year).





The following are the Conservancy's additional comments regarding the 2015 UWMP:

According to the plan, 75% of the City's groundwater supply comes from the Santa Ana River Basin. However, the river's flows have been substantially reduced in recent years.

The Orange County Water District's 2015 Groundwater Management Plan reports a significant overdraft of the Santa Ana River Basin. The river's base flow has declined from a high of 158,600 acre-feet in 1999 to a low of 64,900 acre-feet in 2014. That's a loss of 93,700 acre-feet, or 60% of the water basin's water supply, which is a steep decline.

Mr. Coffin also analyzed the Santa Ana River flows in his evaluation of the 2010 NBR WSA and the 2005 UWMP on which the WSA was based. He reported the following findings:

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

To verify what Mr. Markus intimated, we reviewed gage data located at an entry point in OCWD basin. The chart in Figure 8 below (from "Evaluation of Newport Banning Ranch WSA and Newport Beach UWMP") shows flows of the Santa Ana River at the gage (11074000") below Prado Dam between 2007 and 2015 and confirms both the General Manager's comments and the comments made by the Banning Ranch Conservancy of reduced flows.

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

*Note that the 10% difference in reduced flows is a result of the different time periods analyzed.

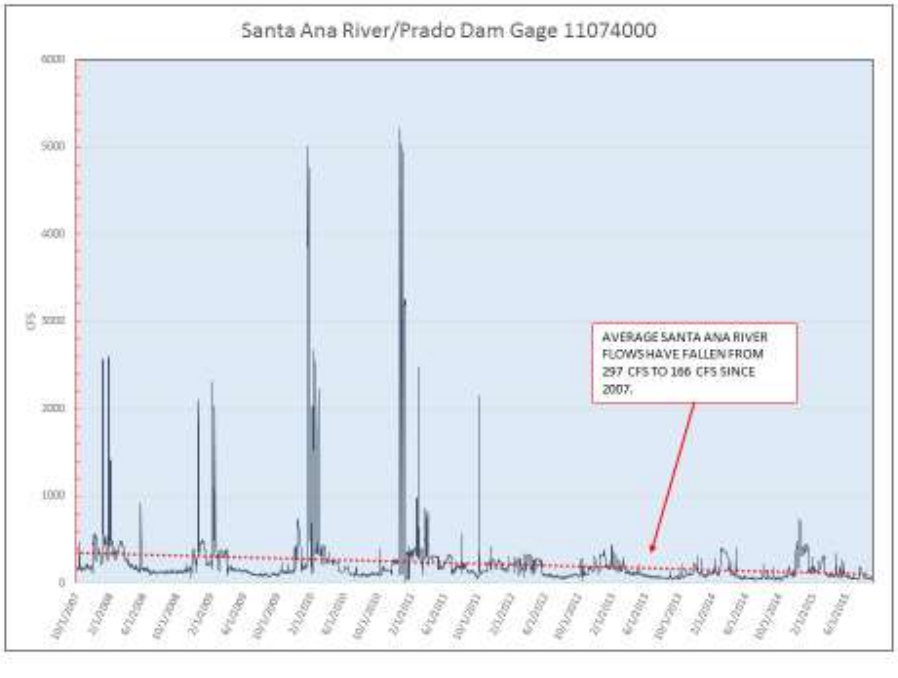


Figure 6, on page 2 of this submission, reveals a 21% drop in supply projections from the 2005 UWMP to the 2010 UWMP. It also shows a 7.9% reduction from the 2010 UWMP to 2015's plan. The cumulative drop of nearly 30% suggests that the 2005 projections, on which the 2010 Water Supply Assessment (WSA) for Newport Banning Ranch was based, were significantly overinflated with paper water.

Mr. Coffin's 11-1-15 article, "Show Me the Water's Failed Promise—the Newport Banning Ranch File," describes how additional paper water is created when cumulative housing construction is not reported.

http://droughtmath.com/2015/11/01/show-me-the-waters-failed-promise-the-newport-banning-ranch-file/

The following excerpt from the article describes this process:

"Growth's Contribution to Paper Water

[…] What about housing that doesn't trigger SB 610 requirements for a WSA? Failing to report cumulative housing construction would be another form of paper water. If a WSA doesn't acknowledge that new housing has been constructed since the city's Urban Water Management Plan was approved, the water demand from the unrecognized housing would be viewed as a surplus for new projects.

The Newport Banning Ranch water supply assessment was based on an increase of just 1,039 housing units over 20 years. That figure came from the city's Urban Water

Management Plan, which in turn comes from the RHNA allocations that are imposed on cities, a subject that I've written about extensively here:

http://droughtmath.com/2015/06/10/californias-challenge-to-reliable-water-isnt-infrastructure-its-rhna/

Right off the top, the NBR project's proposed 1,375 units exceeds the city's 20-year water plan by 336 units, meaning that new water supplies should have been identified in the WSA.

But that led me to the next question. Aside from the fact that the project is larger than the city's projected housing growth, how many units were built in the city since 2005 that did not trigger a water supply assessment? The answer was stunning.

In just five years the city's rise in housing exceeded the UWMP's 20-year projected growth by 380% or 5,017 units and there was still fifteen years to go. I didn't expect that growth could be so under-projected in a UWMP that it would decidedly tip the scale towards insufficient supplies in just five years. Shouldn't a water supply assessment capture this demand on water supply? You can't say you're Showing Me the Water if you're not disclosing the demand.

Not surprisingly, the water supply assessment didn't acknowledge this new housing, which meant the water could be viewed as an unused surplus. The project's WSA simply ignored the new housing. An acknowledgment that it was growing would have created pressure on the developer to find new water supplies. The Show Me the Water Law is supposed to link large projects to water supply. It should also assure that large projects are not claiming to have access to water that has already been committed to. […]"

As Mr. Coffin points out, smaller projects don't automatically trigger WSAs under SB 610, but given the significant overdrafts of the Santa Ana River Basin and the devastating drought conditions that have plagued Southern California for nearly five years—and given the water cuts already imposed on Newport Beach residents, isn't there a moral and ethical obligation to take cumulative water demand into consideration?

Is it fair to ask residents, many of whom have already demonstrably cut their water usage, to accept more water cuts, especially given the evidence that development in Newport Beach may have been justified by UWMPs based on paper water?

On May 12, the City voted to declare a Stage Three Water Shortage, which came with mandatory 25% water restrictions that will trigger fines and penalties. Residents are now required to cut their water usage by 25%. What further restrictions and cuts will be required to accommodate Newport Banning Ranch and other projects the City has approved and will approve?

And when we force these cutbacks on residents and businesses, aren't we robbing Peter to pay Paul?

CONCLUSION:

Based on Mr. Coffin's findings, the following conclusions can be drawn:

1. Figure 1 contrasts the average Actual Historical Water Supply since 2000 with the 2015 UWMP's projected supply in Dry/Multi-Dry and Normal years, which shows that there is no surplus available should the population exceed the levels expressed in Table 2-1 of the plan.

2. The actual water demand in the City's UWMPs is underreported, as shown by the how significantly housing in Newport Beach exceeded the 2005 UWMP's projections. Mr. Coffin's 11-1-15 article shows that the city's rise in housing exceeded the UWMP's projected growth by 380% or 5,017 units in the first five years of the 20-year period. By comparison, 5,017 units is more than five times the size of the Newport Banning Ranch project, for which the demand is 200 million gallons of water/year.

3. The missing retail water supplies for dry year and multi-dry year must be added to the 2015 UWMP. As noted by Mr. Coffin, supplies are only provided for Normal year (ref Table 3-4). The California water code (Ref CWC 10635a) requires this in an UWMP. Without this information, it is not possible to verify whether OCWD, MWDOC, and recycle projections can be met as stated in Table 3-7 (Single Dry Year) and Table 3-8 (Multi-dry year).

And finally, during the Conservancy's review of the 2015 UWMP, we found no reference regarding the need to address growth as a way to mitigate the demand for scarce water resources. In Section 3 there are grave warnings about water supply and demand imbalances due to climate change and long-term drought conditions. A 4-bullet point list of imperative future actions is offered. Reliability and overdraft conditions are also addressed. In Section 4, there is an extensive list of Water Waste Prevention Ordinances, all of which place the burden of conservation on Newport Beach residents and businesses. 4.4 Public Education and Outreach describes the City's ambitious efforts to educate its residents about water use. Nowhere is the City's responsibility for controlling future development or growth mentioned. Growth is addressed only in UWMPs and WSAs that in the past have relied heavily on underreported demand and paper water in order to claim ample surplus supplies.

Orange County is currently third in the nation for construction jobs. The county is experiencing a development boom, and yet the 2015 plan never acknowledges this issue and says nothing about the need to address the pace and intensity of development in Newport Beach.

The City's declaration of a Stage 3 Water Shortage is referenced above. A Stage 4 Water Shortage, the most extreme condition, mandates that the City will provide "no new potable water service, meters, or will serve letters will be provided" except under very limited conditions.

Newport Beach residents should not have to endure a severe water shortage before the City will begin to look at curbing development. Stop Polluting Our Newport (SPON) is also concerned about the rate of development in Newport Beach, which is facilitated by developer-driven piecemeal and spot zoning planning practices that are inconsistent with the City's 2006 voter approved General Plan and zoning codes. SPON and residents are worried about the impacts all this development will have on their quality of life; in particular traffic and water impacts.

Mr. Coffin's finding that surplus water isn't available for future growth in Newport Beach, and that based on his evaluation of the 2005 UWMP and the 2010 Newport Banning Ranch WSA, there isn't sufficient available water for the NBR project unless new sources of water are found, further confirms his assertion that UWMPs need to be evaluated in terms of the actual water available rather than the paper water that's routinely used to justify future development.

Further, the nearly 30% reduction in water supply projections from the 2005 UWMP to the 2015 plan, combined with Mr. Coffin's finding that significant paper water was used to approve the Newport Banning Ranch project should immediately trigger a new or revised water supply assessment for the project to determine if water supplies are sufficient.

Thank you for your consideration of these comments.

Suzanne Forster, Vice President
Banning Ranch Conservancy

cc: Terry Welsh, President, Banning Ranch Conservancy
Steve Ray, President, Executive Director, Banning Ranch Conservancy

Nature Commission

California Coastal Commission

200 Oceangate, Long Beach CA 90802

CDP Application 5-15-2097 - Banning Ranch

Coastal Commission Staff,

I have chosen to focus primarily on the issue of fragmentation and a general weakening of the Banning Ranch ecosystem that would be a consequence of the current development footprint proposed for this biologically rich and rare area along the Santa Ana River.

The studies cited in the last section of this comment are but a sampling of scientific concerns and warnings over the risk of unforeseen ecological declines that occur when ecosystems are separated and fragmented by human infrastructure or actions. In the aggregate, they reflect the need to greatly revise our impacts and usage of the environment.

On Banning Ranch, the proposals for Bluff Road, the access to the southern mesa off of PCH, the roads and structures near vernal pools, and the development footrints at both the western edge of the site and in the grasslands off the end of 15th St all place an extremely valuable ecosystem at risk over the long term.

Since we have paved and filled with few exceptions every available open space in the So Cal region and coast over only a few decades, it is highly reasonable to raise the standards and caution by which we protect an area as large, as diverse in landforms, as loaded with key species, as Banning Ranch.

In other words, to the species of this land and to people of the future, we have a significant nature-debt that we can begin to pay off by leaving this area wild and increasing, rather than decreasing, its biological potential. Science confirms the need for action and change on local levels where the impacts are actually generated. Banning is a golden opportunity to acknowledge and pursue balance with the natural world of which we are a part.

As a relatively intact resource, it should be conserved and protected until every last option to purchase or preserve it is exhausted, regardless of how long this takes.

The companies as Shell, Exxon and Aera Energy that bought the land rights for the purposes of development also owe a significant debt to the natural world that created the oil they drill and profit from but also producing the climate change that will relentlessly affect Banning's ecosystem while shrinking nearby beaches as sea-levels rise. In this situation, the companies come out ahead by avoiding the long term negative effects of their businesses while the public loses in multiple ways.

Nature Commission
949-939-9372 / kevin@naturecommission.org
PO Box 73126 San Clemente, Ca

The Coastal Commission can therefore fulfill its highest mission and the interests of people here now, and those in the future, by denying both the development and oil consolidation parts of this project.

Oil Facility Application

Connected with the development project is the local oil entity Horizontal Drilling's application for a new facility of up to 83 wells directly next to the Talbert Marsh lowlands. This new facility will serve to indefinitely extend the risks of oil spills such as those that occurred recently in Ventura and Refugio. The existing operation is so out of date that it poses a much more immediate risk, and is located near a known earthquake fault.

In addition, the new facility's operational noise, lighting, footprint and blocking of ground level access to PCH along the bluffs of Banning will significantly degrade the recreational and aesthetic value of the lowlands designated as parkland by NBR.

Below is the oil facility flooded on three sides in 2003.

Tour by the Public and Commissioners

During the June 2014 tour, commissioners and the public got their first on-site view of the area.

One purpose of this tour was to give participants an opportunity to evaluate the aesthetic and ESHA attributes of the land. But due to the effects of past mowing and ongoing drought, the tour created a false impression of low habitat value. This should be corrected.

There were two main stops on the trip. The first was next to PCH where a large violation occurred in 2005-2006 and where habitat was extremely weak due to compacted soils in something resembling a

parking lot. This location showed some rich vegetation, but was dominated by a bare area resembling a parking lot.

At the next main stop was on a bluff above the main oil facility, looking down on the lowlands. The mesa habitat next to the gathering point looked nothing like it had in the past.

Yet between those tour points lies some of the more valuable landforms and habitat on Banning, consisting of two significant arroyos, which were not seen on the tour.

Consequently, commissioners should insist on taking the time, at the right time of year when the land is healthy, before making a final decision on a large change to an important site.

The shot on left is the area within 50 yards of the first stop on the tour, as it was being deeply mowed in May 2012.

(Approximately one month later, surveys were conducted, yielding the Dudek biology report shot on the right of a mostly denuded land with the exception of invasive ice plant which has always been avoided in mowing)

M_02 – Ice Plant Mats: photograph 745. June 19, 2012.

In past years, the same area of the tour stop was in this condition.

Habitat Manipulation

Despite NBR and oil company claims to the contrary, it is quite clear that the extensive mowing, scraping and other activities were intentionally designed to limit the habitat and certain species that might be problematic for the development.

As a result, the site still shows many signs of the damage and little evidence that it has had sufficient time and rainfall to recover during the current multi-year drought.

Since Russian Thistle is known to be opportunistic based on soil disturbance and low rainfall, its new invasion onto the grasslands is one proof of the fact that the site has not recovered to its normal baseline condition. In the fifteen or more years I have observed the grasslands, there has never been an occurrence of this kind.

The mowing and disc treatments along with lack of rainfall have created a change in some grassland areas.

This image shows the intensity of past disc and mowing treatment, in an area noted to house rare Purple Needle Grass. The area has been invaded by Russian Thistle.

Yet below, in different rainfall and before mowing, the area shows large burrows and native Deerweed, but no Russian Thistle.


Fragmentation of the Banning Ecosystem

Many of the animal species on Banning Ranch are sensitive to human presence and will likely suffer declines if development and the consequent very significant increase in the numbers of people that will accompany development on the site.

For example, Bluff road runs down to PCH by crossing an area called Coyote Canyon. This route is heavily used by coyotes to reach hunting areas they seem to prefer. Coyotes also happen to be associated with Gnatcatchers population health, which are noted to occupy Coyote Canyon.

Image on the left is the upper part of Coyote Canyon, shown with dense native Deerweed before mowing. The coyote shots taken from nearby Newport Crest show them traversing the same canyon area, almost on a daily basis. This habitat use pattern has little chance of surviving if the road and development are built.



Added together, these elements are an extremely large change for the site, much greater than the 55 acre footprint would imply.

Studies and Research on Habitat Fragmentation

Given that the diverse mix of elements that make up the Banning Ranch ecosystem have become so rare in the region with many of the species that existing there in small fractions of original populations and habitats, the following quotes from researchers are highly relevant.

This concept of risk due to fragmentation is best explained by the paragraph below, which refers to ocean areas, but applies just as fittingly to the land habitats of Banning:

Continued ecosystem decline, despite increasingly stringent environmental standards and reviews, is caused by the cumulative impact of activities that co-occur in time or space. Multiple activities with a

similar impact or with a variety of impacts can substantially alter the structure and functioning of marine ecosystems. In particular, activities that combine to produce a synergistic impact—a total impact that is greater than the sum of all the parts—are of immediate concern. However, due to the nature of incremental change, many instances of cumulative impacts on the ecosystem go unnoticed until an ecosystem threshold is crossed and drastic changes have ensued.

The direct quotes from studies listed below represent a small percentage of what is published on this subject.

Habitat fragmentation in coastal southern California disrupts genetic connectivity in the cactus wren

(CCC report has stated that Cactus Wren have been extirpated from Banning as of 2009)

Achieving long-term persistence of species in urbanized landscapes requires characterizing population genetic structure to understand and manage the effects of anthropogenic disturbance on connectivity.

These results indicate that habitat fragmentation and alterations have reduced genetic connectivity and diversity of cactus wren populations in coastal southern California. Management efforts focused on improving connectivity among remaining populations may help to ensure population persistence.

Source: Molecular Ecology journal
http://onlinelibrary.wiley.com/doi/10.1111/mec.13176/abstract;jsessionid=89DCCF71A2EBBDA98AE0EDA59D0A504C.f02t04 U.S. Geological Survey, Western Ecological Research Center

Wetland Habitat Quality for Pool Amphibians

Much of the biodiversity associated with isolated wetlands requires aquatic and terrestrial habitat to maintain viable populations. Current federal wetland regulations in the United States do not protect isolated wetlands or extend protection to surrounding terrestrial habitat.

…we related the amount of high-quality terrestrial habitat surrounding isolated wetlands to the decline and risk of extinction of local amphibian populations. These simulations showed that current state-level wetland regulations protecting 30 m or less of surrounding terrestrial habitat are inadequate to support viable populations of pool-breeding amphibians.

Our results emphasize the essential role of adequate terrestrial habitat to the maintenance of wetland biodiversity and ecosystem function.

Source: http://www.ncbi.nlm.nih.gov/pubmed/18717698

Effects of fragmentation on rodent species richness - Thousand Oaks, Ca

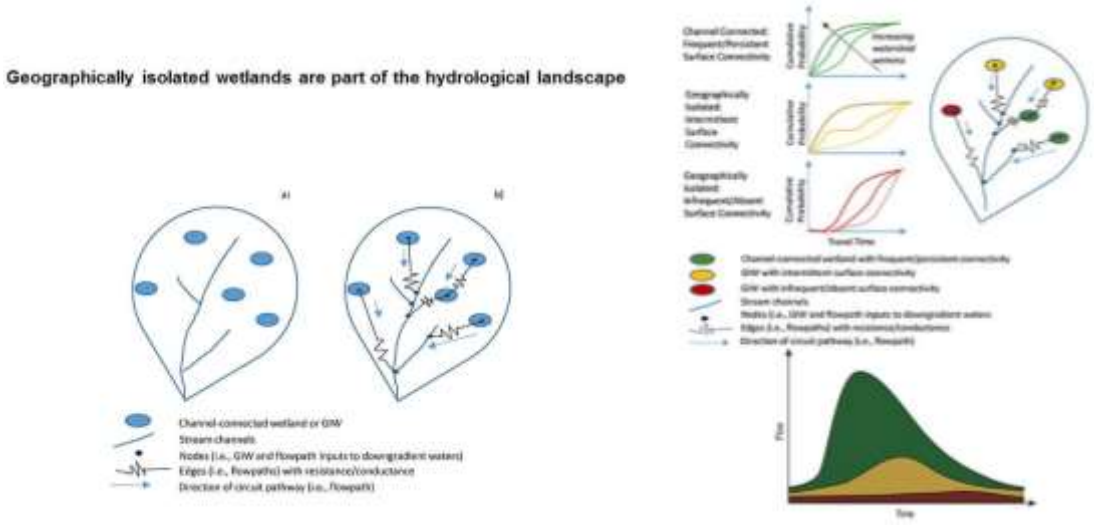
Habitat fragmentation plays a major role in species extinction around the globe. Previous research has determined that species richness in fragments is affected by a number of characteristics. These include fragment age, size, and isolation, edge effects, vegetation coverage, habitat heterogeneity, and matrix content. Although most studies focused on one or a few of these characteristics, multiple characteristics work together to affect species richness, showing that the effects of habitat fragmentation are complex. The goal of our study was to partition the complex effects of habitat fragmentation by determining the direct, indirect, and cumulative effects of multiple habitat fragment characteristics on rodent species richness. In 2013, we determined rodent species richness in 25 habitat fragments within Thousand Oaks, California.

Fragment size had the next greatest total effect on rodent species richness but this was nearly entirely indirect through its influence on habitat heterogeneity, suggesting that large fragments containing the greatest diversity of habitats will support the most species. Our study shows that large habitat fragments support the greatest habitat diversity, which provides the highest likelihood of conserving rodent species richness in an urban landscape.

Source: http://link.springer.com/article/10.1007/s11252-015-0513-1

Geographically isolated wetlands (GIWs) are part of the hydrological landscape

Vernal pools are ecosystems that have evolved in a balance between isolation and connectedness. Because of isolation at several scales, the vernal pools biota includes many regionally endemic species. Because of connectedness, vernal pools also share many taxa with continent-spanning distributions at the generic and species level. Vernal pools serve an important local biodiversity function because of their connection to surrounding terrestrial habitats. Along with other ephemeral wetlands, they are the primary habitat for animal species that require relatively predator-free pools for feeding or breeding, including many amphibians.



…from an opinion penned by Justice Anthony Kennedy, which states that non-adjacent wetlands, including non-adjacent GIWs, can be waters of the USA (WOUS) subject to regulation under the CWA if they, either individually or cumulatively, have a 'significant nexus' with the chemical, physical, and/or biological integrity of other, more traditionally defined WOUS (e.g. navigable waters). In other words, a GIW is a WOUS if it is connected to a downgradient WOUS, and this connection substantively contributes to the chemical, physical, and/or biological integrity of that downgradient WOUS.

The US Environmental Protection Agency recently completed a review of peer-reviewed literature, seeking to synthesize existing scientific understanding of how wetlands and streams, individually or in aggregate, affect the chemical, physical, and biological integrities of downstream waters (US Environmental Protection Agency, 2015). The report concludes that all wetlands located on floodplains and/or within riparian areas have significant chemical, physical, and/or biological connections with downgradient WOUS.

GIWs as Nodes in Hydrologic Networks

Hydrological flowpaths connect landscapes in four dimensions – longitudinal, lateral, vertical, and through time. This four-dimensional hydrological connectivity, operating at local to landscape scales, is a basic tenet of freshwater ecology. Hydrological flowpaths are extensive and dynamic, connecting landscapes within watersheds and across watershed divides. Fluxes of water along these hydrological flowpaths occur at varying frequencies, magnitudes, timings, durations, and rates, which are primarily determined by climate, geology, and topography and collectively control the physical integrity of downgradient waters. GIWs distributed throughout the landscape intercept and interact with water that flows along these flowpaths, and these GIWs are therefore integrally connected to uplands, other wetlands, and downgradient waters.

The cumulative effect results from water flowing from many GIWs to downgradient waters along a continuum of travel lengths and times, varying by GIW and over time. At a given moment in time, there might be no flow from some GIWs, relatively slow subsurface flow from other GIWs, and relatively rapid surface flow from still other GIWs. The cumulative effect of the many GIWs on downgradient streamflows emerges from the convolution of these travel times. In this convolution, time-varying flows – or the lack thereof – from each GIW cumulatively contribute to the maintenance of the natural flow regime. Because these flows are time varying, the effect on downgradient hydrographs is not fully realized until all GIWs have gone through complete annual and inter-annual cycles of connectivity, so altering any component of the convolved hydrological response could change the natural flow regime, with potential impacts to downgradient waters.

…GIWs certainly perform lag, sink, and source functions that can influence the chemical, physical, and/or biological integrities of downgradient waters, especially when considered in aggregate.

Understanding the emergent properties of GIWs at the landscape-scale requires that we consider more than just the typical behavior of a GIW or given class of GIW. Rather, it requires that we focus instead on the aggregate effects of a portfolio of functions and behaviors expressed by a network of GIWs and GIW complexes.

Nature Commission

Source: Hydrological Processes (journal) http://onlinelibrary.wiley.com/doi/10.1002/hyp.10610/full

Hydrologic considerations in defining isolated wetlands

Water that seeps from an isolated wetland into a gravel aquifer can travel many kilometers through the ground-water system in one year. In contrast, water that seeps from an isolated wetland into a clayey or silty substrate may travel less than one meter in one year. For wetlands that can spill over their surface watersheds during periods of wet climate conditions, their isolation is related to the height to a spill elevation above normal wetland water level and the recurrence interval of various magnitudes of precipitation. The concepts presented in this paper indicate that the entire hydrologic system needs to be considered in establishing a definition of hydrologic isolation.

Source: Wetlands-Journal of the Society of Wetland Scientists
http://link.springer.com/article/10.1672/02775212%282003%29023%5B0532%3AHCIDIW%5D2.0.CO%3B2

Minimum viable metapopulation size, extinction debt, and the conservation of a declining species.

A key question facing conservation biologists is whether declines in species' distributions are keeping pace with landscape change, or whether current distributions overestimate probabilities of future persistence.

The results suggest a widespread extinction debt among extant metapopulations of a declining species, necessitating conservation management or reserve designation even in apparent strongholds. For threatened species, metapopulation modeling is a potential means to identify landscapes near to extinction thresholds, to which conservation measures can be targeted for the best chance of success.

Assessing the risk of invasive spread in fragmented landscapes.

(Relevant to Russian Thistle since, without the continuous deep mowing, the grasslands now invaded and remapped with fewer Purple Needlegrass colonies, would be more diverse with Deerweed and other natives that were establishing in the grasslands before mowing events.)

Assuming that invasive species spread primarily through disturbed areas of the landscape, poor dispersers may spread better in landscapes in which disturbances are concentrated in space, whereas good dispersers are predicted to spread better in landscapes where disturbances are small and dispersed (i.e., fragmented landscape).

Invasive species are also more likely to persist and achieve positive population growth rates (successful establishment) in landscapes with clumped disturbance patterns, which can then function as population sources that produce immigrants that invade other landscapes. Finally, the invasibility of communities may be greatest in landscapes with a concentrated pattern of disturbance, especially below some critical

threshold of biodiversity. Below the critical biodiversity threshold, the introduction of a single species can trigger a cascade of extinctions among indigenous species.

Source: Risk Analysis – Society for Risk Analysis *http://www.ncbi.nlm.nih.gov/pubmed/15357801*

Lack of research on linkages between cumulative human impacts and ecosystem services hinders ecosystem-based management

Coastal and marine ecosystems provide critical living resources (e.g. fisheries) as well as services like water filtration and coastal protection from flooding and storm events. However, environmental degradation from coastal development, pollution, climate change, etc., are dramatically reducing the ability of these systems to thrive. The recognition that these human impacts often interact with one another, and arise from multiple sectors, has catalyzed a shift toward ecosystem-based management as a way to better protect habitats from multiple sources of impacts. Marine managers—from local governments all the way to the Office of the White House's National Ocean Council—are emphasizing the importance of considering the cumulative impacts of many human activities on the production of ecosystem services.

Source: *http://centerforoceansolutions.org/news-stories/lack-research-linkages-between-cumulative-human-impacts-and-ecosystem-services-hinders* The Center for Ocean Solutions, Stanford Woods Institute for the Environment and Hopkins Marine Station of Stanford University

Evaluation of the Newport Banning Ranch WSA & Newport Beach UWMP

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

Contents

Executive Summary

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

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

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

1. Projected Units

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

The proposed project's 1,375 units exceeds the 1,039 residential units accounted for in the 2005 UWMP by 387 units *(Figure 1)*.

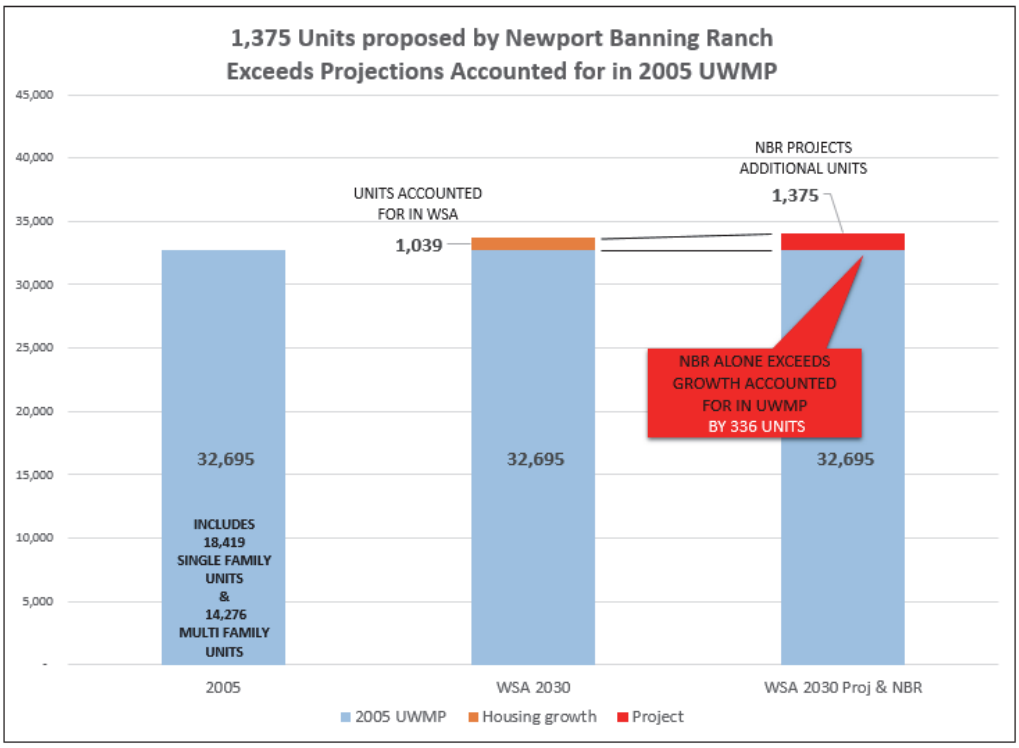


Figure 1 - Project Exceeds UWMP Projection

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

To convert residential accounts to units, we need to add a 'density' multiplier of 2.828 to multi-family accounts. The density multiplier is based on the 2000 Census[1] for housing and provides for the average number of units per multi-family account.

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

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

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

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

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

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

Figure 2 – Table showing UWMP Projected Housing Units[3]

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

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

As noted in the Section 1A above, the WSA reports that there was 23,467 single-family and multi-family 'accounts'. When density is factored in for multi-family accounts, we find there were 32,695 units in the city in 2005. The 2010[4] U.S. Census reports that the city's total housing rose 38,751 for a net increase of 5,017 units. This increase of 5,017 units *(See Figure 3)* is not accounted for in the WSA and far outstrips the 1,039 units that was projected in the 2005 UWMP. Adding the NBR project to the unaccounted for units increases the total to 6,392 units.

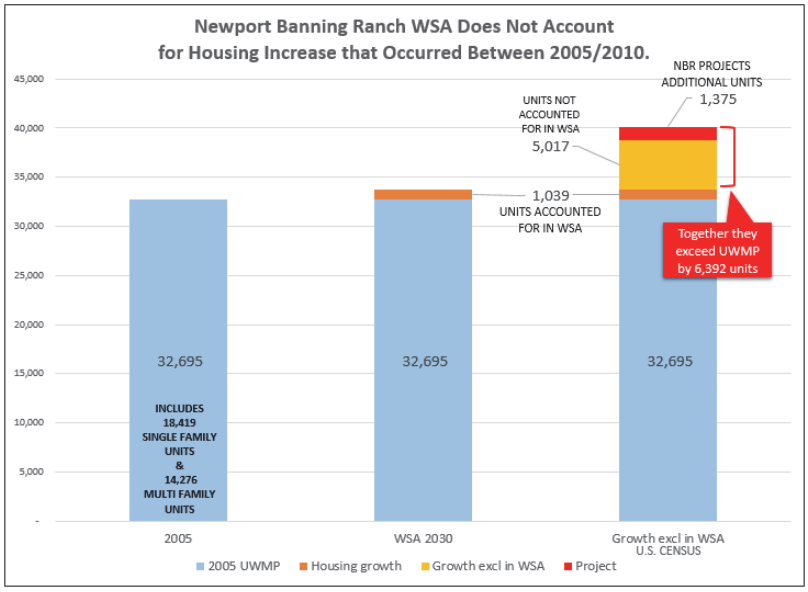


Figure 3 - City Growth Exceeds UWMP Projections

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

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

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

2. Population and GPCD

Actual available water supply fell dramatically between 2005 and 2010.

The WSA states in Table 7-2 (see *Figure 12*) the city's supply was 17,820 Af/y in 2005. With a population of 79,320[6] this would suggest an average city supply of 200.6 gallons per capita daily which would also include commercial, government, and landscape.

Generally, we find the supply values reported in UWMP to be quite close to actual supplies delivered in the year that the UWMP was published. However, in future years, water agencies usually *overestimate* supply to bank water[5] used by somebody else. We verified that this unfortunate tendency to overestimate future water supply also occurred in the 2005 UWMP by comparing projected supply with the historical records supplied by OCWD and MWDOC.

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

Citing a population of 85,250[6], the WSA states that the available water supply in 2010 would increase to 19,792 Af/y giving the city 220 GPCD and implying there will be a surplus of water. However, when we look back at the 'actual amount', we find that the City received only 15,688 AF. With less water and a larger than projected population of 85,185[6], the per capita supply fell 25 percent to just 164.4 GPCD. *(Figure 4)*

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

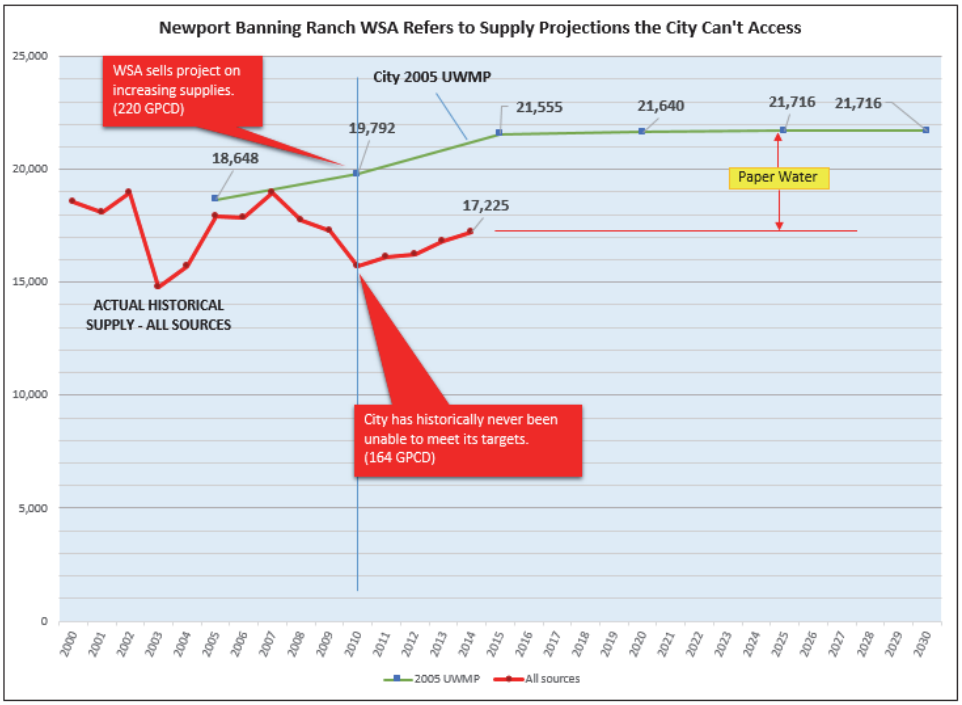


Figure 4 – Gallons per Capita Daily (GPCD)

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

[6] WSA, Table 5-1 on page 11

3. Supply Source Projections v. Actual Delivery

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

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

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

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

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

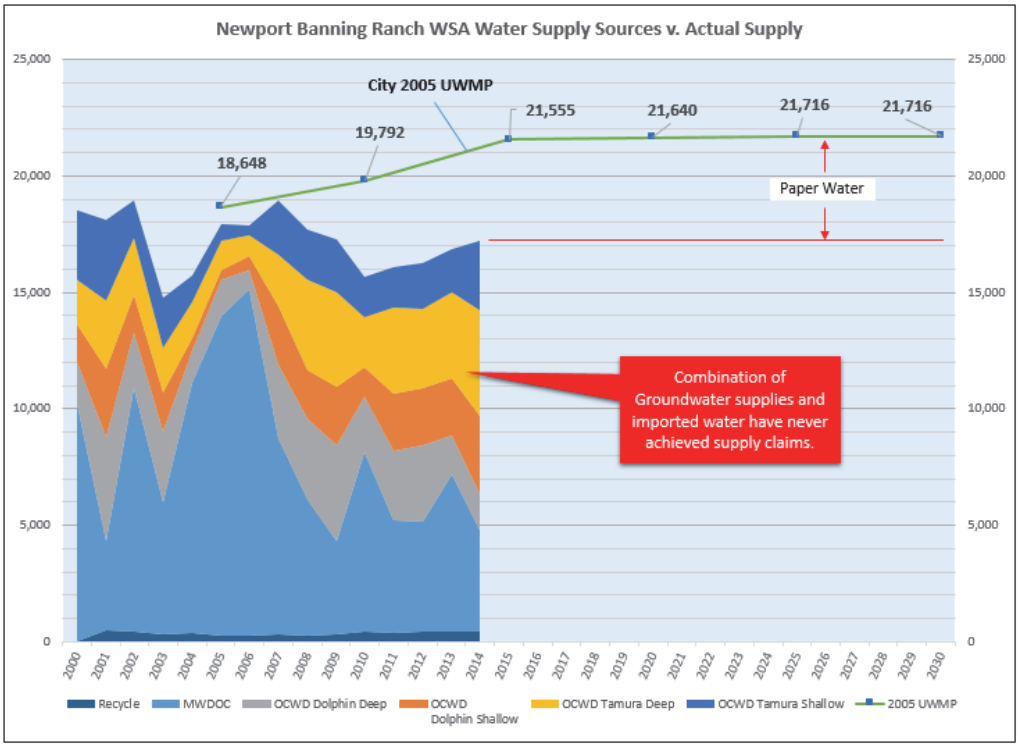


Figure 5 – Comparison of City of Newport Historical Supply to UWMP Projections

i. **Groundwater -** The WSA suggests that the City would have available to it and would be receiving 11,287 to 14,921 Af/y of groundwater between 2008 and 2015 *(Figure 12)*. However, the average supply from the four wells belonging to the City between 2008 and 2014 has been only 10,883 Af/y.

ii. **Imported Water -** The WSA suggests the City would have available to it and be receiving 3,743 Af/y of imported water in 2008 and increasing to 6,157 Af/y by 2015. However, the average supply to the City from MWDOC has only been 5,457 Af/y between 2008 and 2014.

iii. **Recycled Water –** Recycled water is purchased separately from OCWD through the Green Acres Project. Over the last 5 years the City has been purchasing an average of 422 Af/y which suggests that it's met its projections.

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

> In an article that appeared in the **2005 California Water Update** called '*Water for Growth*'[7] the author noted that *"a majority of utilities are reporting substantial normal-year surpluses. The magnitudes involved—some 2 million acre-feet per year—**suggest that many utilities are banking on "paper water" already being used by someone else within the state's water system.**"*
>
> It further cites that ***"land-use authorities may not be led to adequately considering the water supply consequences of growth.** Second, even in jurisdictions with municipal water departments, elected officials may take a shorter-term view of resource adequacy than area residents do. If—as is often asserted—land-use authorities are aligned with pro- development forces, they may be inclined to favor growth..."*

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

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

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

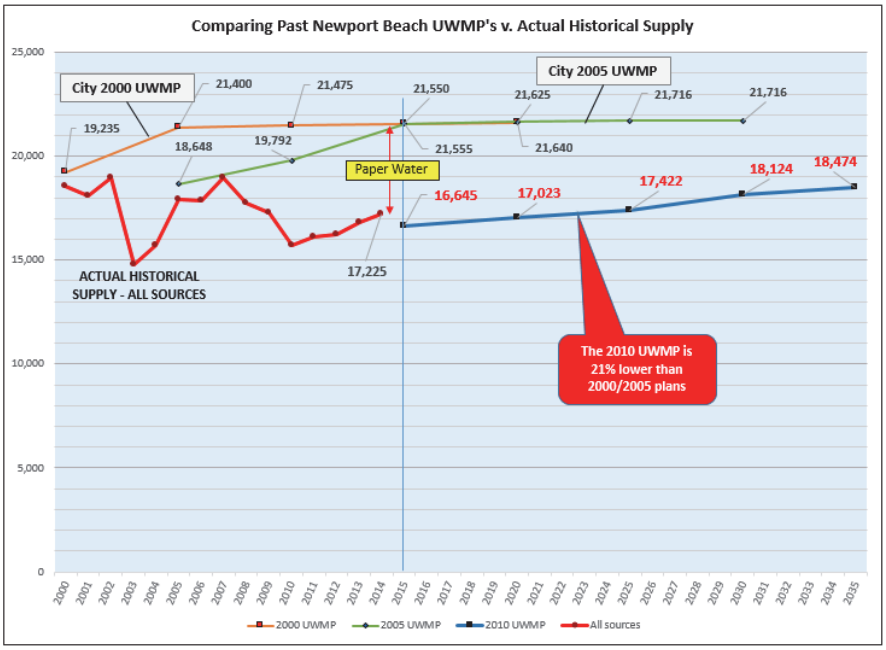


Figure 6 – Comparing the City's Projections v. Actual Supply

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

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

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

4. Dry Year Forecasts Point to Drought Recovery Flaw

WSA Exaggerated Dry Year forecasts point to drought recovery flaw

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

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

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

However, **in 2007 *we find that this strategy is no longer viable***. In that year, a court found that the huge deliveries of water through the State Water Project had a serious environmental downside and it ordered the DWR[9] to sharply cut back supplies to Central and Southern California. Multi-dry years weren't just a local problem; they were also a State problem.

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

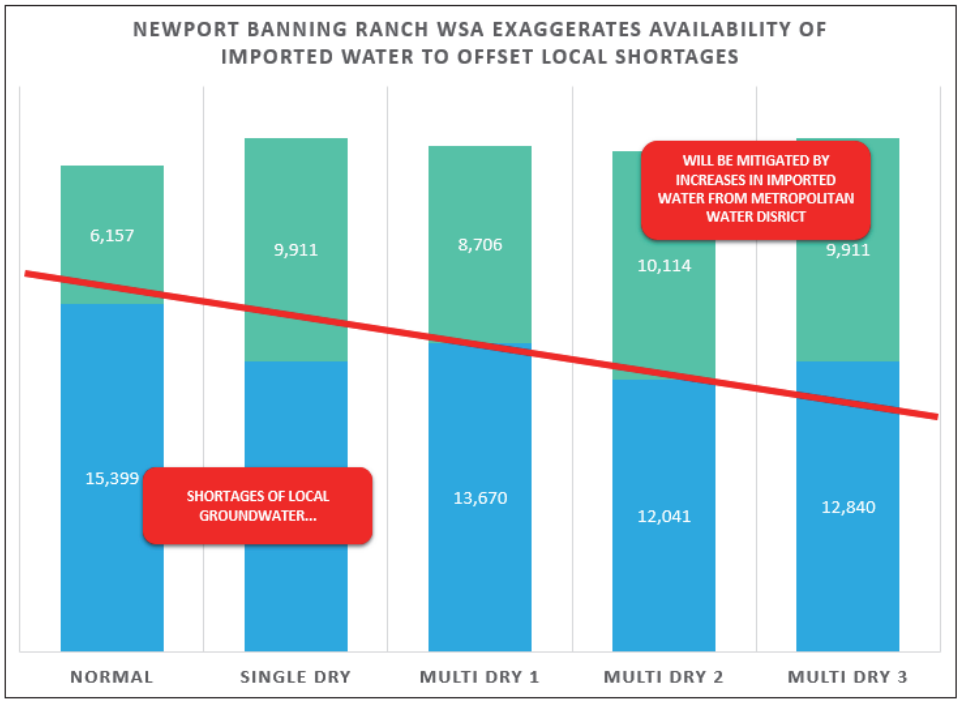


Figure 7 - Dry Year Source Strategy

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

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

5. Santa Ana River Supply

Santa Ana River flows are substantially reduced.

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

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

To verify what Mr. Markus intimated, we reviewed gage data located at an entry point into OCWD basin. The chart in Figure 8 shows flows of the Santa Ana River at the gage (11074000[10]) below Prado Dam between 2007 and 2015 and confirms both the General Manager's comments and the comments made by Banning Ranch Conservancy of reduced flows.

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

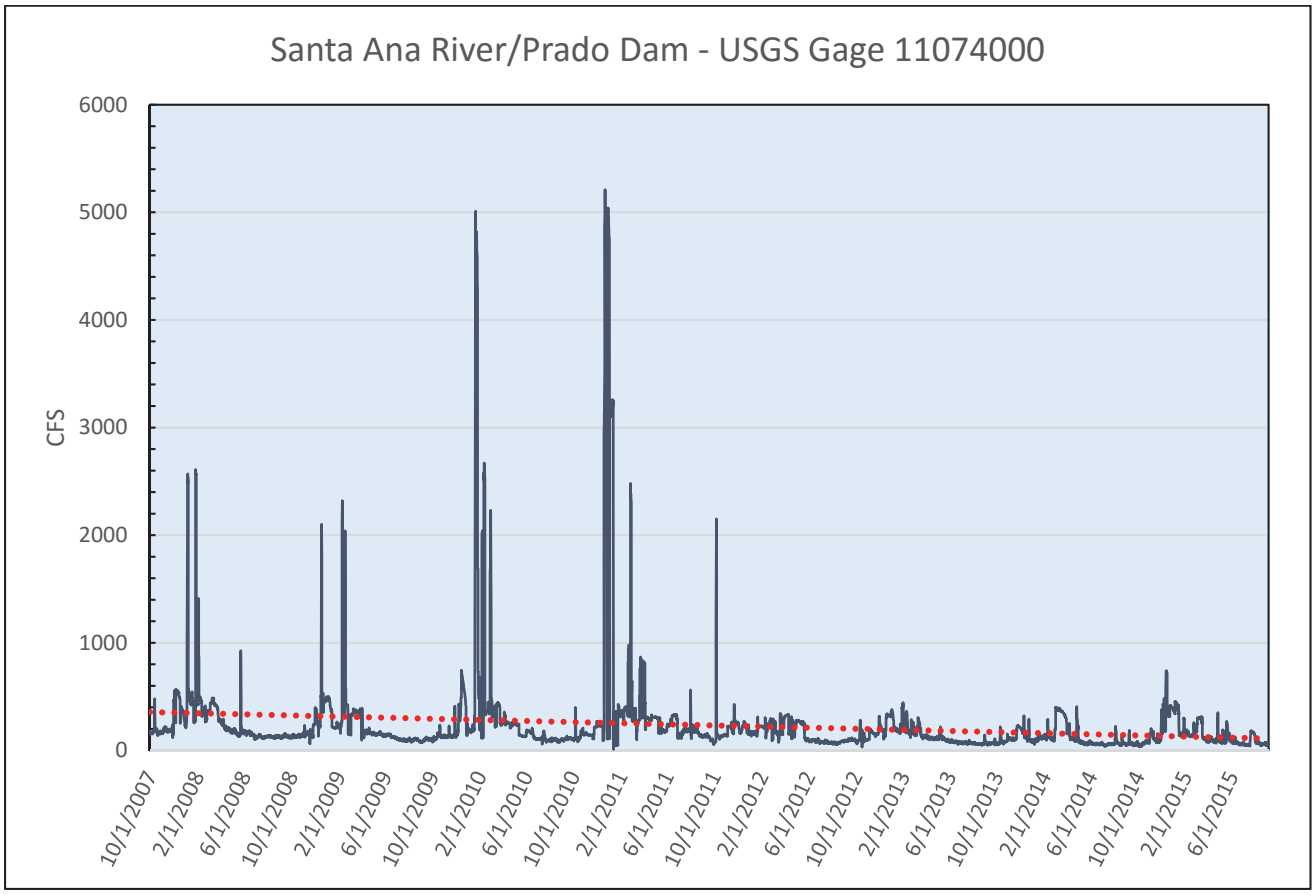


Figure 8 – Santa Ana River flow at OCWD basin

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

Conclusion

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

About

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

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

Appendix

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

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

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

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

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

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

	2005	2010	2015	2020	2025	2030
Population	79,320	80,250	81,052	81,863	82,681	83,508

SOURCE: City UWMP (December 2005).

Figure 11 – WSA Projected Population Growth

City of Newport Beach

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

Has Newport Beach been meeting these projections?

Table 7-2 – Existing and Projected Supplies

Supply Source	Annual Amount (af/yr)								
	FY 05-06	FY 06-07	FY 07-08	FY 08-09	2010	2015	2020	2025	2030
MWDOC (Imported)	14,012	15,093	3,743	5,843	5,758	6,157	6,362	6,226	6,256
OCWD (Groundwater)	3,558	3,605	14,338	11,287	13,590	14,921	14,778	14,990	14,960
Recycled Water	250	311	265	299	443	477	500	500	500
Total	**17,820**	**19,009**	**18,346**	**17,429**	**19,791**	**21,555**	**21,640**	**21,716**	**21,716**
% Potable from Groundwater	**20%**	**19%**	**79%**	**66%**	**70%**	**71%**	**70%**	**71%**	**71%**

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

Figure 12 – WSA Showing existing & projected water supply

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

Description		Annual Amount (af/yr)				
		Normal Year	Single Dry-Year	Multiple Dry-Years		
				Year 1	Year 2	Year 3
2015						
Total Projected Demand		21,555	22,751	22,376	22,155	22,751
Available Supply	MWDOC (Imported)	6,157	9,911	8,706	10,114	9,911
	OCWD (Groundwater)	14,921	12,363	13,193	11,564	12,363
	Recycled Water	477	477	477	477	477
Total Available Supply		21,555	22,751	22,376	22,155	22,751
% Potable Supply from Groundwater		71%	56%	60%	53%	56%
Difference		0	0	0	0	0

Figure 13 – Newport Banning Ranch WSA

2015	Normal Water Year (Average)	Single Dry Year (1961)	Multiple Dry Water Years		
			2008 (1959)	2009 (1960)	2010 (1961)
Local Supply	15,399	12,840	13,670	12,041	12,840
	% of Normal	83.4%	88.8%	78.2%	83.4%
Imported Supply	6,157	9,911	8,706	10,114	9,911
	% of Normal	161.0%	141.4%	164.3%	161.0%

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

ENDANGERED HABITATS LEAGUE
DEDICATED TO ECOSYSTEM PROTECTION AND SUSTAINABLE LAND USE

May 4, 2016

VIA ELECTRONIC MAIL

California Coastal Commission
45 Fremont Street,
Suite 2000
San Francisco, CA 94105
BanningRanchComments@coastal.ca.gov

RE: South Coast Item 11(c), May 12, 2016: Application No. 5-15-2097 (Newport Banning Ranch, LLC, Newport Beach) - *OPPOSITION*

Dear Chairperson Kinsey and Members of the Commission:

Endangered Habitats League (EHL) urges denial of this permit application. For your reference, EHL is Southern California's only regional conservation group. Our goal for this project is an outcome that respects Environmentally Sensitive Habitat Areas (ESHA) and delivers a biologically sound reserve design. The staff recommendation fails on both counts.

As you know, there is extensive ESHA on site, which must be avoided. These resources include:

- The vernal pool complex, and supporting watersheds
- Burrowing owl burrows and foraging area to support the 1 – 3 wintering owls
- Coastal sage and cactus scrub, particularly that used by the California gnatcatcher or cactus wren for nesting and foraging
- Purple needlegrass
- Least Bell's vireo use areas

Between the original staff report and the current one, the amount of ESHA identified has plummeted, and the amount of developable area has increased nearly 3-fold from 19 to 55 acres. Staff's proposal is very similar to the April 2016 offer from the applicant. Coincident with the ESHA revisions, we have observed, and been deeply troubled by, the following context:

- Continued misrepresentation of resource values by the applicant's consultants, particularly in regard to California gnatcatcher occupancy
- Direction from the Commission to Commission staff to increase the site's development potential

- Firing of the Commission's executive director in closed session on what appear to be bogus grounds
- Remarks by Commissioners during the April ESHA Workshop indicating unhappiness with Coastal Act ESHA requirements
- An irregular and unprecedented disavowal by the California Resources Agency – on thoroughly specious grounds – of completely appropriate biological input from the Department of Fish and Wildlife[1]

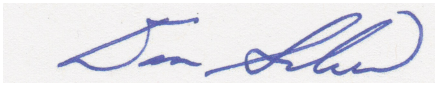
Biologically, the reduction in ESHA particularly errs by not including sufficient land to create viable burrowing owl wintering use areas for this sensitive species. The small patches of grassland and vernal pool habitat that would remain on site are not in a configuration or size useful to the owl.

Furthermore, the preserve design being recommended does not comport with the principles of conservation biology. It does not establish unfragmented and intact habitat blocks for the species identified through the ESHA process. Both the staff recommendation, as well as the applicant's April 2016 proposal, consist of many fingers of development and severely fragment *both* upland mesas. Indeed, what is before you is the worst of all worlds – neither strict enforcement of ESHA nor a reserve design that reduces edge effects by siting all new development in locations contiguous with existing development.

We call for denial of this project and direction to staff to 1) strictly identify ESHA and 2) preserve large intact habitat blocks on the mesas that are biologically meaningful for the burrowing owl and other species through a site design that places development in the several available locations *immediately adjacent to existing development*. These locations include the areas labeled 12.1, 5.9, 8.2, and 5.7 acres on Exhibit 22 of the Staff Report. The active recreation adjacent to Coastline Community College proposed by the City as an exaction should be converted to housing or commercial development. This is the core of a constructive solution upon which we urge all parties to focus.

Thank you for considering our views.

Yours truly,



Dan Silver
Executive Director

[1] The Departmental October 2015 memorandum supporting staff's original ESHA determination had ample biological basis and followed proper protocol, yet was denounced by the Resources Agency in public testimony. Similarly, the Agency provided no evidence to support its contention that the Department had completed a thorough Streambed Agreement analysis.

change.org

Recipient: BanningRanchComments@coastal.ca.gov and California Coastal Commission

Letter: Greetings,

STOP Bluff Road for Newport-Mesa!

Comments

Name	Location	Date	Comment
Wendy Brooks Leece	Costa Mesa, CA	2016-07-24	We do not want easy access to PCH. If we did, we'd let you know, so please dont assume you know what's best for us NBR. Costa Mesans demand scientific proof that not an inch of any proposed road intrudes on any protected habitat or species. Secondly, our city council should be the watchdog here, protecting Costa Mesans from traffic and noise from another city. It's so unjust. We'll suffer many negative impacts with zero benefits. Will my home value increase? Only God know that answer. Even if it did, the quality of my life and maybe the quiet enjoyment of my home would decrease.
Tom Egan	Costa Mesa, CA	2016-07-24	The petition is right on. It correctly explains why westside CM and NB residents overwhelmingly oppose the developer's "nice to have" roads. The roads will not make or break the project, but will certainly break westside CM and NB!
Eleanor Egan	Costa Mesa, CA	2016-07-24	Bluff Road would be a major noise and air pollution nuisance to the residential neighborhood it would cut through and would destroy wildlife habitat and drive coyotes into our yards, parks and streets.
michelle simpson	Costa Mesa, CA	2016-07-25	We already have coastal access. The developers don't care about the Westside and are just using this as a way to try To fool people into thinking it would be a good thing to have the additional traffic, noise and pollution that this development would bring to the neighborhood.
Thomas Corbett	Costa Mesa, CA	2016-07-25	I do not want any roads added to the bluff.
Terri Fuqua	Costa Mesa, CA	2016-07-25	Don"t want this area destroyed.
Tina Reinemann	Costa Mesa, CA	2016-07-25	The Westside of Costa Mesa does not need Bluff Road. We have more than enough traffic with the new high rise homes being built. We are already impacted by the Huntington Beachers coming up Victoria to get to and from the 55.
Sandie Frankiewicz	Costa Mesa, CA	2016-07-25	We don't support a Newport Beach project dumping high amounts of traffic on the streets of Costa Mesa and directly in front of my home.
Gay Royer	Costa Mesa, CA	2016-07-25	Please no road!
Stacey Robinson	Newport Beach, CA	2016-07-25	I do not want a road disturbing our quality of life. If the road is built it will be within feet of our home where we enjoy a nice quite life. We do not need another road to PCH.
Estelle Hughes	Costa Mesa, CA	2016-07-25	I do not want my town turned into a freeway onramp.
cheryl ice	Costa Mesa, CA	2016-07-25	i oppose the road plan and the density and the rremoval and danger presented by treatment of native animals
John Phillips	San Diego, CA	2016-07-25	I think it is very important protect open land in coastal California for future generations to enjoy
isabelle phillips	Newport Beach, CA	2016-07-25	Bluff Road is not needed! On the contrary, it will add only negative impacts to our neighborhoods. Massive additional traffic and foul air that will impact all three neighboring cities: Costa Mesa, Newport Beach and Huntington Beach that are already heavily impacted by the tremendous recent increase in development in the area. This is not even taking in account the impact on environmental sensitive habitat and endangered species that survive thanks to the precarious ecosystem now in place. This brings back also the concept of the 19th street bridge project. Bluff Road is not needed and not desired by any of the residents large and small! Thank you.

Name	Location	Date	Comment
lindzy butterfield	Newport Beach, CA	2016-07-25	I live on the western border of Newport Beach- the creation of this road would have ZERO positive impact to the neighborhood and would, in fact, destroy important ecological sites on the western border of C.M./N.B.
Kristina Eon	Costa Mesa, CA	2016-07-25	I live close to 19th and do not want more traffic in this area. Another road with access to another city will only bring more crime, because criminals will have easier access in & out of the nieghborhood as well as all the other people who don't live in this area, and are just using the road to cut down on their drive time.
Monique White	Costa Mesa, CA	2016-07-25	I think that we do not need another road connecting to PCH
Denise Burch	Costa Mesa, CA	2016-07-25	We live on 19th and Parkcrest. There are new condos being built at the end of Whittier that will impact traffic for us! We have had enough talk of a bluff road. NO!!
Lien Pham	Westminster, CA	2016-07-25	We have enough roads already, we need more nature instead
Kimberly Fabian	Newport Beach, CA	2016-07-25	We do not want nor do we need another road that "allows direct connection to the coast"! This is totally Developer driven, with only their profits in mind, giving no thought whatsoever to the negative impact to residents, and natural habitat, once gone would be irreplaceable! As a Newport resident, I strongly oppose this project!
mary spadoni	costa mesa, CA	2016-07-25	No!
Laurene Keane	Costa Mesa, CA	2016-07-25	I do not support creating this road- Residents lets unite and fight for less traffic and to save banning ranch!
Laurene Keane	Costa Mesa, CA	2016-07-25	I do not support this road, do not dump banning ranch residents into Costa Mesa streets. Shame on you! Stop the destruction.
Laurene Keane	Costa Mesa, CA	2016-07-25	Save the California coast, say no to this road project. Please. And Thank you!!
nancy pedersen	Newport Beach, CA	2016-07-25	We have never wanted or needed another road to the ocean. We voted against it before and we still do NOT want 19th street or any other street to go through to HB. Our neighborhoods are already a mess from all of the dense housing that has gone in on the West Side and we don't want our quality of life to suffer anymore because of it.
Monica Kerr	Newport Beach, CA	2016-07-25	I live there! With all the 3 story homes going in its already too crowded! Please no road!
Bill Harader	Costa Mesa, CA	2016-07-25	Coastal Commission is to protect our 1100 miles of beautiful coastline. Commissioners need to not be in the pockets of developers!
Elizabeth Flowers	dana point, CA	2016-07-25	The Coastal Act allows for reasonable development as long as it does not impact environmentally sensitive habitat areas. These areas, called ESHA for short, are legally protected by the Coastal Act, and the California Coastal Commission must protect them by using the best available science to determine whether or not development will affect the ESHA. The best available science says many of the protected species in this area will not survive further development, and the CCC's records show that the oil companies profiting from this development plan have intentionally mowed ESHA plants down to make it easier to make a case for development. Are we really going to build a road so a development can happen for developers that have been trying to kill off endangered plant and animal species for their own financial gain? UPHOLD THE COASTAL ACT IN THE WAY IT WAS INTENDED TO BE UPHELD.
Bonnie Copeland	Costa Mesa, CA	2016-07-25	I am against Bluff Road in any way, shape or form! It advantages the developer, not the citizens of Costa Mesa or Newport Beach. Stop Bluff Road!

Name	Location	Date	Comment
Sheron Dresser	Costa Mesa, CA	2016-07-25	The west side of Costa Mesa and Newport Beach were never designed to have the additional traffic. The west side has enough problems without adding a lot of new traffic to them.
Susan Shaw	Costa Mesa, CA	2016-07-25	This is not an idea that benefits anyone except the builders. There is no consideration for the traffic through Costa Mesa it increases.
Taoward Lee	Costa Mesa, CA	2016-07-25	I do not want a thoroughfare through our Costa Mesa neighborhoods. It will increase the traffic passing through the Westwide Costa Mesa Without the thoroughfare, our traffic is limited to residents and guest living in the neighborhood. I do NOT want a new subdivision in Newport Beach to access our roads which will increase our traffic with no benefit to our community.
Max Fraley	Costa Mesa, CA	2016-07-26	Definitely do not need nor want a West Bluff road. I agree we already have enough passages to PCH without stress or strain and certainly do not need the additional traffic that would come with another road.
Darren Gordon	Costa Mesa, CA	2016-07-26	Costa Mesa's roads are way too congested with thru traffic already. The city is largely a pass thru community for other areas, especially the coast. Additional access to the coast thru our neighborhoods will seriously degrade the quality of life, health and safety of those near them. 17th street would be the absolute worst of them all. Ever drive it?!
Gina Lesley	Newport Beach, CA	2016-07-26	Not fair to Costa Mesa to run Beach traffic thru their city. Don't need another stoplight on Pacific Coast Highway. Superior and PCH are already a disaster as far as accidents are concerned.
Julie Bailey	Palo Alto, CA	2016-07-26	Coastal Comission do your job! protect the coast from development If you intend to cave the special interests and resign your position and let someone do your job that is invested in the coastal initiative
Taoward Lee	Costa Mesa, CA	2016-07-26	WE DO NOT WANT A ROAD PASSING THROUGH OUR COMMUNITY. Such a road brings much more traffic from outsiders from other community through our neighborhood. The increased traffic and traffic noise is completely unwanted. WITH NO ROAD, our traffic will primarily remain predominantly residents and guest. This dramatically maintains better security and peace of mind. The "Quiet enjoyment" of our community will be preserved. WE DO NOT WANT THE ROAD!! PLEASE! NO ROAD!!
Anna Alia Sutton	Costa Mesa, CA	2016-07-26	Costa Mesa needs no more people living here.ive lived on the west side all of my life 48 years. Quit building shit here.
Ann Steps	Costa Mesa, CA	2016-07-26	No more new roads; we have enough!
VINCENT HANS	FOUNTAIN VALLEY, CA	2016-07-26	The proposed road with generate more traffic on existing roads. It will only benefit the developers, mo existing residents will have anything to gain from this road.
Leith Speights	Costa Mesa, CA	2016-07-26	Not needed we not need more housing or roads leave land open .
Jessica Johnson	Newport Beach, CA	2016-07-26	This isn't what's best for our community
Gary Reynolds	Costa Mesa, CA	2016-07-26	That area where coast developers want a road is a wonderful coastal open space and wilderness which should be preserved for the enjoyment of generations to come.

Name	Location	Date	Comment
Robert Hamilton	Long Beach, CA	2016-07-26	Bluff Road is unnecessary and would be very destructive to the ecology of Banning Ranch.
Bill Rose	Huntington Beach, CA	2016-07-26	The Developers can take their proposed road and destroy some other area as only they know how to do it seems with no concern for the environment whatsoever. Go pound Dirt some where else !!! City planners listen to your constituents.
Sheryl Whitecotton	Costa Mesa, CA	2016-07-26	This talk needs to stop. This is someone not caring about our homes because they want to make millions of dollars. This road will never go thru. It was voted Off the master plan for a reason. The voters have already spoken with those votes. Stop trying to get a road in the west side.
Allison Mann	Costa Mesa, CA	2016-07-26	We have great access to PCH... No need for any more connections.
Jeanette Moon	Garden Grove, CA	2016-07-26	We don't need more development of the coastline. There are too many condos and roads thar have destroyed California's coastline alreadt.
Frank Chla	Costa mesa, CA	2016-07-26	This will create an open door for more high density development in that area.
Melinda Trizinsky	La Mesa, CA	2016-07-27	I grew up in OC and know the existing roads well. Minimize the Banning Ranch footprint to lessen the impact on one of the few remaining coastal bluffs in OC.
susan harker	Costa Mesa, CA	2016-07-27	Coastal access by car, bike or walking already in place. Who told developers that West Side needs additional access?
Terry Welsh	Costa Mesa, CA	2016-07-27	The proposed Bluff Road is bad for the wildlife habitat of Banning Ranch. Furthermore, it is neither desired, nor needed, by local residents. NO BLUFF ROAD.
Rula Tuducan	Costa Mesa, CA	2016-07-27	I overlook the open space of the planned project and for over 19 years leave enjoyed the tranquility and natural beauty of the area, developing this will destroy this beautiful open space
Diana Lugo	Newport beach, CA	2016-07-27	Sick of traffic. It's a nightmare.
crystal hickerson	Irvine, CA	2016-07-27	we need this open space and to respect indigenous sacred land, not another road.
Pam Brennan	Newport Beach, CA	2016-07-27	This has clearly not been well considered. It makes NB look like amateurs. Traffic cluster...
Andreas Arpiarian	Huntington Beach beach, CA	2016-07-27	I don't more traffic!
Scott Bearden	Huntington Beach, CA	2016-07-27	South Huntington/West Newport is too crowded as it stands today! The last thing needed in the area is more development. Our Coastal Community already has a lack of open land. I don't want to see more become asphalt and concrete.
Laura Tait	Costa Mesa, CA	2016-07-27	I live at the top of the bluff. Too much traffic already. Would also remove affordable housing for a lot of seniors.
Linda Dominic Ashe	Costa Mesa, CA	2016-07-27	I want to preserve the beautiful Newport a beach where I was born, raised, and currently live.
Stanley Rosenthal	Newport Beach, CA	2016-07-27	I don't want the rode.
vicki callahan	huntington beach, CA	2016-07-27	this will destroy a neighborhood and not needed!
Elizabeth Bodie	Huntington Beach, CA	2016-07-27	No more traffic!!!
Arlene Hayden	Aliso Viejo, CA	2016-07-27	I'm concerned about the endangered species this road will negatively impact.
William May	Costa Mesa, CA	2016-07-27	There is no need for a road through the bluffs to connect 15,16 or 17th street. This is just a way to expand development in the bluffs.

Name	Location	Date	Comment
John Lynch	Costa Mesa, CA	2016-07-27	This road is a bad idea. Benifits nobody but the developer. Banning Ranch build out is a bad idea.
Kathe Caldwell	Costa Mesa, CA	2016-07-27	I object to the road, and the entire Banning Ranch plan.
Deborah Koken	Costa Mesa, CA	2016-07-27	Residents do not want Bluff Road!
porter vaughan vaughan	newport beach, CA	2016-07-27	Funneling more traffic into the PCH, Superior and Balboa Blvd. Area will only make a bad situation worse.
Russell Willison	Costa Mesa, CA	2016-07-27	As a Costa Mesa resident, I am tired of seeing all the new building and construction going on as it is. These three story cracker box track hack crap homes going up all over the city, are a blemish on the face, of a once beautiful unique city. Further more, now greedy developers and politicians want to sell off banning ranch to the highest bidder, all for a little cash in the pockets of the already well to do or wealthy. What about the "little people" the people that make it possible for fat cats to do ABSOLUTELY NOTHING, (but run their mouths) to make cash. We the people are sick and tired of seeing greedy people destroy small quaint and quiet communities all for money. This isn't any "needed" development. Its an absolute lie.
Patricia Robinson	Costa Mesa, CA	2016-07-27	The developers are concerned with their project and NOT what the community wants.
Karen Walsh	Huntington Beach, CA	2016-07-27	Do not add another road here. It will only add to the already congested city!!!! This has to stop!!!!!
Dorothy Kraus	Newport Beach, CA	2016-07-27	Dear Commission: Please don't be misled by false statements forwarded by NBR about what residents want for our City. They don't live here. Bluff Road impacts the critical habitat and the health,, safety and quality of life for 1000's of Newport Beach and Costa Mesa residents. Please uphold the Coastal Act!! Thanks so much.
Sharon O'Brien	Newport Beach, CA	2016-07-27	I'm signing because this road will be a disaster for the people and wildlife of this area.
Beth Morley	Costa Mesa, CA	2016-07-27	NO ROAD!
Corinne Stover	Costa Mesa, CA	2016-07-27	It will burden existing roads on the westside of Costa Mesa; will lead to an arterial from PCH through west, middle and north Costa Mesa, not part of Costa Mesa's traffic plan.
FM Booth	Newport Beach, CA	2016-07-27	Adding yet another access road to the beach would unalterably impact the Banning Ranch environment - which includes a canal protected by the Coastal Commission - add untold tons of carbon and congestion to an already overloaded planet and roadway, and for what ... a little extra money for Newport Beach, a city w/ so many less destructive ways of sourcing revenue from its high income denizens.
Jean Wegener	Newport Beach, CA	2016-07-27	I am opposed to another road to the coast. The over-development of this area of California has already ruined the environment.
David Keeler	Santee, CA	2016-07-27	No Bluff Road. The proposed 'Bluff Road' is only designed for the benefit of developers - at the expense of the residents, the environment & tranquility.
Kristen Gonzalez	Newport Beach, CA	2016-07-27	We do not need anymore congested traffic!!
Kim Hendricks	Costa Mesa, CA	2016-07-27	I do not want another road to the beach. I don't have any problems getting to the beach now and don't want more concrete. It's way out of control as it is with the ambush of development all around me.

Name	Location	Date	Comment
Christopher McEvoy	Costa Mesa, CA	2016-07-27	I already have access to the coast and bluff road doesn't increase my accessabililty. It will in fact decrease my quality of life. To be honest the developer needs the circulation numbers and doesn't care about my access.
Karen Hanners	Newport Beach, CA	2016-07-27	I do not want Bluff Road!
E G G	Huntington Beach, CA	2016-07-27	DON'T BELIEVE THE DEVELOPERS LIES!!
Dennis McHale	Silverado, CA	2016-07-27	This property should be preserved for future generations in whole, not with ANOTHER road to the beach.
Henry Castignetti	Huntington Beach, CA	2016-07-27	We don't need more traffic in the neighborhood! So. HB will also be adversely affected!
Taoward Lee	Costa Mesa, CA	2016-07-27	A quick poll of MY Westside Costa Mesa neighbors is 100% AGAINST the Road. I cannot see how the developers can honestly make the statement that it is wanted by the Westside Costa Mesa residents.
Elizabeth Yost	Newport Beach, CA	2016-07-27	I'm signing because I believe Newport Beach in general continues to be overdeveloped without consideration for the impact to existing neighborhoods, water conservation issues, noise and traffic increases. I believe the civic leaders should look at the long-term growth more responsibly.
Lynn Friedman	Newport Beach, CA	2016-07-27	We do not want this road
Mia Gamble	Newport Beach, CA	2016-07-27	We don't need more traffic and development in Newport Beach/ Costa Mesa.
Tristan Aley	Newport Beach, CA	2016-07-27	Too many cars on PCH.
Georgette Quinn	Costa Mesa, CA	2016-07-27	I live in the area and am just fine using Superior to PCH.
Cheryl Van Ocker	Newport Beach, CA	2016-07-27	Stop Bluff Road !
Louise Costa	Newport Beach, CA	2016-07-27	This road, with the commuter traffic and the proposed Banning Ranch project's traffic, will burden existing roads and intersections.
Jay Humphrey	Costa Mesa, CA	2016-07-27	Bluff Road will only push more traffic off PCH onto our local roads and overwhelm our streets.
Amelia Wood	Newport Beach, CA	2016-07-27	The streets are already crowded and cant handle more.
Patrick Copps	Costa Mesa, CA	2016-07-27	As former residents of Newport Beach and current residents of Costa Mesa, we do not need or want this road. Please do not allow the destruction of the small amount of wildlife habitat left in the Newport Mesa area.
John Radcliffe	Pittsburgh, PA	2016-07-27	It makes good sense!
Patrick Clark	Costa Mesa, CA	2016-07-27	Please No more traffic, congestion or gridlock for Westside Costa Mesa. Particularly for a controversial, proposed, development within another city.
Dix Henneke	Anaheim, CA	2016-07-27	Protecting natural open space is critical to health.
Megan VonAchen	yorba linda, CA	2016-07-28	We have enough housing... leave it alone!
Penny Elia	Laguna Beach, CA	2016-07-28	I am signing this because I am absolutely positive these residents do NOT want this road and do NOT want this project that will ruin their quality of life.
Erika Last	los angeles, CA	2016-07-28	I grew up in Newport Beach and most of my family still lives there. It is horrible to see how the over development has ruined the natural beauty of the beach and town not to mention all the wildlife that has disappeared. This insanity has to stop!!!
Debra Haynes	Costa Mesa, CA	2016-07-28	We do not need this road, there is already to much traffic
Eric Schlichter	Aliso Viejo, CA	2016-07-28	Enough!

Name	Location	Date	Comment
Diane Silvers	Newport Beach, CA	2016-07-28	Bluff Road will create more traffic and greater congestion. It will increase pollution and be harmful to sensitive habitat and the environment.
Ann Harmer	Costa Mesa, CA	2016-07-28	This is an absurd idea. As a local resident, I guarantee that a road from 17th to the coast will not help anyone but the developers, and will, in fact, cause MORE traffic in the area, not LESS.
Cindy Brenneman	Costa Mesa, CA	2016-07-28	I do not want another road on or near the bluff PERIOD!!!!
merle moshiri	Huntington Beach, CA	2016-07-28	we need to stop Banning Ranch development. Traffic is already a nightmare.
celine miller	costa mesa, CA	2016-07-28	There is no need for such a road. The numerous accesses are enough. There's no need for more traffic nor pollution.
Dennis Arp	Brea, CA	2016-07-28	We only get one chance to protect what little open space remains, and this is an instance when there is no overriding commuter need.
Ron Frankiewicz	Costa Mesa, CA	2016-07-28	I am not sure where the idea was born that we need this road. I was never asked by Mr. Mohler although he comes across and communicating with us Westsiders. We we very good, short access to the beach now. The only reason for the road is to help the developers not the Westside residences.
A Austin	Newport Beach, CA	2016-07-28	I do not want Bluff Road built. It will funnel additional and new traffic into West Costa Mesa and Newport Beach. We do NOT need it. Thanks!
Barbara Schaaf	Corona del Mar, CA	2016-07-28	We don't NEED it, nor do we WANT it! Between the increase in traffic and pollution plus the destruction to the endangered species already living there, let alone the impact on people living close by.....I find this idea of "Bluff Road" not to benefit anyone or anything..... except the developers!
Lynn Lorenz	Newport Beach, CA	2016-07-28	There is absolutely no road needed. This might be a diversion factor to have the CCC busy working on this when other issues that are much more important should be addressed .
Henrik Frank	Newport Beach, CA	2016-07-28	The development of Banning Ranch is an atrocity. The added traffic will be horrendous.
p weiss	Newport Beach, CA	2016-07-28	We do not need Bluff Road and we do not want Bluff Road.
Wendy Flotow	Newport Beach, CA	2016-07-28	Newport Beach is going to turning into Manhattan Beach. I've lived in Newport Beach for over 20 years now and the traffic is terrible! This project is all about greed and profit. Have you driven around that area lately. The plan will only increase traffic, congestion, crime and reduces the quality of life for the residents of this city which is grossly being over developed!!
Harry Barton	Newport Beach, CA	2016-07-28	stop this
Nicolai Glazer	Newport Beach, CA	2016-07-28	NO BLUFF ROAD!!!!!
Christopher Natland	Newport Beach, CA	2016-07-28	Have lived here for 46 years - no one on the West Side wants Bluff Road!
Susan Natland	Newport Beach, CA	2016-07-28	No body wants Bluff Road!!
Traci Medici	Newport Beach, CA	2016-07-28	We face enough traffic
Jerry Grant	Newport Beach, CA	2016-07-28	I am opposed to Banning Ranch Development.
Dennis Gimpel	Newport Beach, CA	2016-07-28	we do not need more traffic congestion & air pollution from increased traffic.
Linda Dolan	Newport Beach, CA	2016-07-29	As a 50 year plus resident/property owner in both Costa Mesa and Newport Beach, Bluff Road would seriously negatively impact both neighborhoods. Don't destroy neighborhoods by bringing lots more traffic through them.

Name	Location	Date	Comment
Julie Andrews	Huntington Beach, CA	2016-07-29	As a homeowner in Southeast Huntington Beach and part time resident of Balboa Island/Newport Beach I strongly oppose the Bluff Road proposal and the proposed development at Banning Ranch. Currently there are plenty of ways to access the coast via Beach Blvd, Magnolia and Brookhurst to the North, and Superior, Newport Blvd., Dover, Jamboree and Mac Arthur to the South. Bluff Road would serve to congest, rather than relieve traffic on PCH. There is only so much parking within walking distance of the beach anyway, so adding more traffic at PCH and the Proposed Bluff Road will only diminish the quality of life for residents while frustrating the public when there is not enough parking to accommodate the need. I strongly urge the California Coastal Commission to deny construction of Bluff Road and to FULLY decline ANY development proposed for Banning Ranch.
Wende Zomnir	Newport Beach, CA	2016-07-29	I don't want the road, and I am a West Newport Beach homeowner and business founder. Don't let developers convince you that this is what we want! thank you!!!
Scott Bolt	Newport Beach, CA	2016-07-29	I strongly oppose the proposed road due to the negative impact it will have on the Lido Sands Community where I reside.
Craig Preston	Costa Mesa, CA	2016-07-29	People's interests over developer interests.
James Paniagua	Newport Beach, CA	2016-07-29	Don't do it.
John Renauer	PAHOA, HI	2016-07-29	As a former NB resident i understand and have opposed the Banning Ranch Development since I became aware of it.
Camille Thompson	Seal Beach, CA	2016-07-29	we do not need this road.
Jeanne Quigg	Costa Mesa, CA	2016-07-29	I'm signing because I am strongly opposed to this road being built.
Christina Quigg	Costa Mesa, CA	2016-07-29	I'm signing this petition because its important to save what nature and wildlife we have left.
Valerie Carson	Newport Beach, CA	2016-07-29	I believe Banning Ranch should remain as open Space for the future generations of Calofornia as a place to go take a peaceful walk into the history of our coast. We do not née any more long term developments. Banning Ranch has been under seige for oil in the past, & now for development. It needs to st, rest, purge itself of its pollution which would be carried by the West Winds into our neighborhoods for the 15 years they say the project is expected to take. Plus we don't need any more cars on our roads from new residents of Newport Beach. banning Ranch is the last undeveloped piece of our coastline. We need to preserve it!
Valerie Carson	Newport Beach, CA	2016-07-29	I attempted to donate 25. to this cause , but at the end of the donation it said 25. A month which I do not agree to contribute
Valerie Carson	Newport Beach, CA	2016-07-29	I do not wish to contribute 25. A month. I was misled. It was a onetime contribution. Please take me off your list. I am offended with your tactics. Now I do not wish to contribute at all.

Name	Location	Date	Comment
Dianne Felton	Newport Beach, CA	2016-07-29	create too much impaction
Michael Reynolds	Alhambra, CA	2016-07-29	We don't need a road through one of the last undeveloped coastal spaces in Southern California.
Shellie Gill	Costa Mesa, CA	2016-07-29	No new road ,
Anthony Ciscel	Costa Mesa, CA	2016-07-29	Fuck your gentrification. You care for nobody but rich.
Hugh Lewis	Newport Beach, CA	2016-07-29	This road will create more congestion. I have kids and this road will make the area even more dangerous. Superior Ave is more than sufficient. Lastly, it will further impact endangered species in the area.
Bradley Hovda	Costa Mesa, CA	2016-07-29	There are already two access routes available.
Carol Kerr	Costa Mesa, CA	2016-07-29	It's wrong to change the whole area which is rural to become another city street which will impact the wildlife it currently supports, & the quality of life who live nearby. This road would be a horrible intrusion on a pastoral place. I'm against it. We don't need another road providing more traffic onto already packed roads. The roads would need expansion before adding more burden to them both at PCH & any other connecting roads.
Alexis conley	Costa Mesa, CA	2016-07-29	I live one house from the corner of 17th st on Monrovia Ave, and there is already so much traffic and sooo loud!

In addition to the previous documentation which I had provided earlier, I have since recorded the following additional BUOW sightings. Please add these to the record of BUOW sightings to include in your staff report.

Photos to follow.
All photos are date/time stamped.

1-21-2015 2:00 pm
1-30-2015 5:30 pm
2-09-2015 9:30 am no photo
2-11-2015 4:00 pm
2-25-2015 11:45 am

2-03-16 4:45 pm
2-20-16 5:00 pm
3-11-16 2:00 pm

Thank you,
Cindy Black

From: C B <cblack949@hotmail.com>
Sent: Friday, May 23, 2014 1:28 PM
To: Amber Dobson; Andrew Willis; karl.schwing@coastal.ca.gov
Subject: Burrowing Owl-Newport Banning Ranch

Attn: California Coastal Commission Staff
From: Cindy Black

I would like to share with you some of the well documented observations I've made of Burrowing Owls on the Banning Ranch property during the last couple of years from 2012 and 2014. A species which history shows was originally common or even abundant in the state, but is now considered mostly extirpated in Orange County, CA. I am providing this documentation to supplement the survey provided to you by the biological consultant Dudek, while although well written is lacking in observation.
All photos are named to include the date of observation. Additionally, the date each photo was taken is also displayed when viewing the photos 'properties'.

In 2013 I observed two Burrowing Owls at three distinct burrows within the location. Their burrows were within 150 feet of the next closest burrow. While I am not certain the Owls were a mated pair, they were observed during the breeding season for the species which in California

is March to August, but can begin as early as February and extend into December.
One of the property owners at the location is Cherokee Newport Beach LLC, with Newport Banning Ranch LLC acting as their representative. The other property owner is Newport Mesa Unified school District.
Both of the properties owners have demonstrated negligence in the preservation and protection of the Burrowing Owls.
The representative-Newport Banning Ranch LLC has a security truck, Beach Cities Security, which patrols the property.
From the CA Dept. of Fish and Wildlife:
The **California Endangered Species Act** (CESA) states that all native species of fishes, amphibians, reptiles, birds, mammals, invertebrates, and plants, and their habitats, threatened with extinction and those experiencing a significant decline which, if not halted, would lead to a threatened or endangered designation, will be protected or preserved.

After report of the Burrowing Owl sighting was provided to NBR LLC by USFWS the patrol truck increased its traffic at the location where the Owl's were present to several times each day.
Many times the truck would park and sit idling the vehicle within 10 feet of one of the burrows where an Owl was present.
The other property owner-Newport Mesa Unified School District was alerted to the Owl's presence and later an employee was seen disturbing the Owl. There was a palm tree on the property were one of the burrows for the Owl was located.
This tree provided shade and shelter for the burrow, as well as other wildlife.
The tree was cut down and its foliage was removed.
Neither property owner or representative claimed credit for this act.

The dates which I have observed an Owl(s) sighting are the following:
Month-Year-Day
Dec-2012-27, 30
Jan-2013-6, 8, 9, 23, 27(second owl appeared on site)
Feb-2013-12, 15, 19, 20, 21, 22, 25
Mar-2013-10,

Dec-2013-5, 6, 8, 19, 26, 27, 28
Jan-2014-2, 3, 4, 11, 12, 15, 20, 24, 26, 30, 31
(note: Dudek biologist(s) did not locate presence of Owl at this site during the month of January)
"Focused surveys for burrowing owl were conducted during the winter season (January 8 - January 30) by Dudek wildlife Biologists"...
Feb-2014-3, 7, 9, 15
Mar-2014-2, 8, 9, 10, 11(last observation)

I have attached photo's recorded on some of the dates, many more are available if needed. The previous years photos have already been submitted to the CA Coastal Commission.

Thank you for your dedication, hard work, and the many hours which you put into protecting our coastal resources.

Sincerely,
Cindy Black

Definition of a California Bird Species of Special Concern

California Bird Species of Special Concern are defined as those species, subspecies, or distinct populations of native birds that currently satisfy one or more of the following (not necessarily mutually exclusive) criteria:

- are extirpated from the state totally or in their primary seasonal or breeding role and were never listed as state threatened or endangered.
- are listed as federally, but not state, threatened or endangered.
- meet the state definition of threatened or endangered but have not formally been listed.
- are experiencing, or formerly experienced, serious (noncyclical) population declines or range retractions (not reversed) that, if continued or resumed, could qualify them for state threatened or endangered status.
- have naturally small populations exhibiting high susceptibility to risk from any factor(s) that if realized could lead to declines that would qualify them for state threatened or endangered status.

California Bird Species of Special Concern list

Seventy-four taxa are included on the current Bird Species of Special Concern list. The list is comprised of three priority categories derived through a scoring and ranking process and two unranked categories derived by definition (first two bullets above).
Current California Bird Species of Special Concern list (2008)

Attachments: Map, Photo's
Dec. 12-05-2014 Fence, 12-05-2014, 12-30-2014
Jan. 1-04-14, 1-15-2014, 1-24-2014
Feb. 2-03-2014, 2-07-2014, 2-09-2014
Mar. 3-11-2014


12/05/2013


Map
Traffic
100 ft
20 m

ALL EPHEMERAL POOLS ON BANNING RANCH MUST BE PROTECTED

GENE FLOW IS ESSENTIAL FOR THE HEALTH OF EPHEMERAL POOLS, EVEN IF THEY ARE NOT FORMALLY "ESHA"

By Elizabeth White Flowers, Environmental Ecologist 8/2/2016

INTRODUCTION

Ephemeral pools must not be seen as individual habitats to be protected, but as part of a larger ecosystem where genetics are being passed from pool to pool. Analysis of individual pools will not assist in protecting the overall ecology of Banning Ranch and the greater area of Orange County River Park unless an understanding of the importance of interactions between pools is established.

There are four main points to be discussed: 1. Ephemeral pools caused by underlying asphalt contribute genetic variations to other ephemeral pools regardless of whether they qualify as ESHA under formal measures. 2. This gene flow can occur through Dytiscids, and Orange County supports 27 Dytiscid species. 3. Birds also assist in the spread of gene flow between ephemeral pools. 4. We must study the genetics of Banning Ranch's vernal pools to test for unique evolutionary significant units "ESUs" in case there are isolated vernal pools.

EPHEMERAL POOLS CAUSED BY UNDERLYING ASPHALT CONTRIBUTE GENETIC VARIATIONS TO OTHER EPHEMERAL POOLS THAT INDISPUTABLY QUALIFY AS ESHA

The vernal pools on Banning Ranch, whether formed naturally by non-porous soil or due to underlying asphalt, are essential to the survival of a healthy gene pool for species like the San Diego fairy shrimp. Studies show that species surviving in vernal pools can spread via animal vectors to repopulate pools that have lost their species. Additionally, genetics pass between healthy pools as a result of these vectors, increasing the gene pool and therefore the health and survivability of the populations. Vectors such as birds and Dytiscids (water beetles) can consume and defecate eggs over a few mile radius. "Freshwater invertebrates occur in habitats that represent discrete sites surrounded by an inhospitable terrestrial landscape. Despite this lack of obvious connectivity among sites, many freshwater taxa have broad geographical ranges, as was noted by Darwin (1859).... Many, however, are incapable of dispersing themselves and rely on agents such as animal vectors, wind, or water flow to provide passive transport between sites" (Bilton, Freeland, & Okamura, 2001). Therefore, protecting vector species is an important portion of ensuring vernal pool species survive.

27 DYTISCIDS IN ORANGE COUNTY AS VECTORS FOR GENE FLOW BETWEEN EPHEMERAL POOLS

California presents a diverse environmental setting that provides many aquatic habitat types capable of supporting Dytiscidae (Coleoptera). "Distributional data for these aquatic beetles represent an ecological prospectus of the various aquatic habitat types that occur in each county" (G. Challet & R. Brett 1998). There are 27 Dytiscids found in Orange County, which are:

> Laccophilus fasciatus terminalis, L. maculosus decipiens, L. mexicanus mexicanus, Hydrovatus brevipes, Liodessus affinis, Neoclypeodytes quadripustulatus, Uvarus subtilis, Hygrotus hydropictus, H. lutescens, Strictotarsus deceptus, S. dolerosus, S. eximinus, S. funereus, S. striatellus, Hydroporus fortis, Agabus disintregatus, A. ilybiiformis, A. regularis, Agabinus glabrellus, Rhantus anisonychus, R. binotatus, R. gutticollis, Colymbetes exaratus incognitus, Thermonectus marmoratus californicus, Dytiscus marginicollis, and Cybister explanatus. (G. Challet & R. Brett 1998)

Dytiscidae adults (particularly males) are known to be excellent flyers and flightless species are rare due to the temporary nature of the ephemeral pools they rely on for resources (Sherman 1913). Multiple studies have shown that fairy shrimp eggs hatch after passing through the digestive tract of various species of these beetles. For example, Beladjal & Mertens in 2009 tested the viability of eggs after passing through the digestive tracts of three types of water beetles. The passage time varied from 1-4 days, and in some instances eggs showed a higher hatch rate after passing through the digestive tract than the control. In addition to dispersal of Fairy Shrimp eggs, similar dispersal patterns are believed to occur for other fresh-water taxa. "Patterns that apply to dispersal in freshwater invertebrates can be readily extended to other fresh-water taxa, since common challenges arise from the colonization of isolated aquatic Systems" (Bilton, Freeland, & Okamura, 2001).

> "Genetic exchanges from pond to pond within a region need a novel explanatory power, deviating from the mean trend of dispersal. We found that viable dormant stages of aquatic animals could be transported from [one] ephemeral pool to another in the digestive system of migrating insects… We observed that aquatic carnivorous insects could be vectors for temporary pool crustacean dispersal. Dytiscids are important vagile, components of isolated ephemeral pools, moving from pool to pool as resources change, defecating the eggs of crustaceans and possibly other species as well in new habitats…. In clear water pools and in turbid waters, where the visibility for shrimp observation was almost zero, they were good indicator for the presence of fairy shrimps (B. schaefferi and Streptocephalus torvicornis (Waga, 1942)). Dytiscids of less permanent habitats disperse over greater distances, resulting in larger range sizes (Ribera and Vogler, 2000). Accordingly, *most dytiscid species in temporary habitats have good flight abilities*, in contrast to dytiscids of permanent habitats (Schafer et al., 2006). *Dytiscids are reported to disperse over distances of several kilometers,* allowing them to use highly fragmented resources (Lundkvist et al., 2002). In studying the ecology and evolution of processes such as this long-distance dispersal, attention is usually focused on prevailing conditions, assuming that rare events are unimportant. Yet frequency and importance are not necessarily positively correlated. *Rare long-distance dispersal can be disproportionately important* (Nathan, 2006). The unidirectional movement of an individual away from its origin is a widespread phenomenon among organisms, and *of critical importance for the gene flow among communities*" (Beladjal & Mertens, 2009).

This except (unusually long, I admit, but too good to exclude), discusses 4 important points relevant to Banning Ranch. 1. The Dytiscids in temporary habitats, such as the ephemeral pools on Banning Ranch, have good flight abilities due to shifting resources. 2. This, in turn, means that the Dytiscids can disperse over distances of several kilometers, which emphasizes the point that the entirety of OCRP is likely to exchange genetic material of freshwater taxa such as the endangered San Diego Fairy shrimp. 3. That while long-distance dispersal may be rare in cases, the infrequency does not diminish the importance of carrying eggs of freshwater taxa to far ephemeral pools. 4. That far movement of Dytiscids and the freshwater taxa they carry in their digestive tract are of "critical importance for gene flow among communities".

BIRDS ALSO SPREAD FRESHWATER TAXA AND ASSIST WITH GENE FLOW IN EPHEMERAL POOLS

Birds are also a likely vector for the San Diego Fairy shrimp in Banning Ranch and OCRP. Exposure of brine shrimp eggs (which are in the same order as the fairy shrimp: Anostraca) to avian digestive enzymes had no effect on their hatching rate (Horne, 1966), and various crustacean eggs were found to be viable after passing through the digestive tract and removed from the feces of wild ducks (Proctor & Malone, 1965). "The ability of the eggs to resist the digestive action of an avian digestive tract for lengthy periods is of ecological importance in respect to the distance that viable disseminules may be internally transported by a flying bird." (Horne, 1966).

REBUTTAL TO DENIAL OF EPHEMERAL POOL GENE FLOW IN FRESHWATER TAXA

While there is extremely strong evidence for vernal pool interactions, it is important to consider (while unlikely), the effects of the development on vernal pools if there is no interactions between them. Vernal pools can have unique genetics if they do not interact, that could be considered for special conservation status. In 2005, "A genetic study based on mtDNA sequencing of [Branchinecta] sandiegonensis from across its range found two evolutionary significant units 'ESUs'" that qualified for unique conservation status (Bohonak, 2005). "Pool complexes that are in undisturbed areas are often genetically unique" (Bohonak, 2005). With genetic testing after at the end of a rainy period, gene flow or gene isolation can be determined within Banning Ranch and with the surrounding areas. We must study the genetics of Banning Ranch's vernal pools to test for unique evolutionary significant units "ESUs" in case there are isolated vernal pools. However, without genetic sampling of the vernal pools, we have not used science to the best of our ability to protect the San Diego Fairy Shrimp and other vernal pool species living on Banning Ranch.

CONCLUSION

It is a reasonable assumption that the vernal pools in Banning Ranch and the surrounding areas are exchanging the protected San Diego Fairy Shrimp's genes. With 27 Dytiscids in Orange County, as well as other obviously visible vectors such as birds, gene flow occurs throughout Banning Ranch and the surrounding parks. Loss of ephemeral pools, whether they qualify for ESHA protections or not (such as the asphalt caused pools), means loss of genetics. Even though some individuals may survive the 10+ year construction process, the loss of ephemeral pools can "significantly reduce the genetic diversity of local populations, very possibly dooming many of them to local extirpation. Some of the lost taxa may be important food sources for the very amphibians that are the target of conservation" (Colburn, Weeks, & Reed, 2007). With the best available science strongly supporting that gene flow occurs between vernal pools on Banning Ranch and between Banning Ranch and the surrounding areas such as the USACE area, Fairview Park, and Talbert Nature Preserve, it is our duty as scientists to deny any development which risks this beautiful ecological network.

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UPHOLDING THE COASTAL ACT THE WAY IT IS INTENDED TO BE UPHELD

By Elizabeth White Flowers, Environmental Ecologist 8/2/2016

INTRODUCTION

I have submitted two papers defending Banning Ranch from development, one on the ecological interactions of vernal pools, and one on the essentiality of a buffer for the Burrowing Owls greater than 100m. However, the ecology and human disturbance topics are only a portion of what my research into Banning Ranch has yielded. The possibility of the Coastal Commission approving development on Banning Ranch is quite obviously in violation of the Coastal Act.

While the Coastal Act does provide for some development to prioritize over the protections of coastal land, and it does provide for prioritization of concentrated coastal development instead of spreading development out further along the coast, neither of these provisions seem relevant as a result of 6 points. 1. Banning Ranch is part of a larger ecosystem, primarily interacting with Fairview Park and Talbert Nature Preserve. Animals do not adhere to anthropogenic geographic boundaries defined on a map. 2. The Least Bell's Vireo requires the mesa habitat proposed for development, particularly during the breeding season, which has not been recognized to my knowledge. 3. "Degraded ESHA" is still ESHA, and requires the same protections, if not greater protections, than ESHA. There is no mention of this term in the Coastal Act or any exemptions from protection for it. 4. We must set a precedent that degradation of ESHA will not lead to its removal from protections. 5. The Coastal Act does recognize the utmost importance of maintaining coastal ecosystems, and therefore the development of Banning Ranch is unlawful due to its clear ecological significance in the greater Orange County River Park region. 6. The public has shown strong opposition to the development, and the Coastal Act wrote into law that the "public has a right to fully participate in decisions affecting coastal planning, conservation, and development". Therefore, the development is unlawful under this section of the Coastal Act as well.

BANNING RANCH IS PART OF A LARGER ECOSYSTEM, PRIMARILY WITH FAIRVIEW PARK AND TALBERT NATURE PRESERVE. ANIMALS DO NOT ADHERE TO ANTHROPOGENIC GEOGRAPHIC BOUNDARIES DEFINED ON A MAP.

Animals do not understand human made boundaries and therefore cannot protect themselves by adhering to these limits. While some species return to previous sites consistently, some will wait many years to return. If we destroy their habitat when they are not present, then we are not protecting these species. Animals are nomads, and to assume they will not return to a space because they are not documented for a series of years shows inexperience with natural order.

In Banning Ranch's case, we are not only affecting species' habitats, we are changing and polluting their food and water sources, causing stress to them with human disturbance, decreased foraging space, and a decreased gene pool.

High site fidelity of the special status species on Banning Ranch, such as the California Gnatcatcher and the Burrowing Owl show that these species will repopulate the area if given the chance to do so. Much of this requires little help from the Coastal Commission, only for the site to be left undisturbed for an extended period of time.

After extensive research on the species of Banning Ranch and the ecological interactions between Banning Ranch and the surrounding parks such as Talbert Nature Preserve, Fairview Park, the OC Flood Plain, and the USACE Wetlands, the undeniable conclusion has been that the development of Banning Ranch as stated in the most recent Coastal Commission Report (March 1, 2016) must not proceed if we wish to protect the greater OCRP ecosystem.

PROTECTING THE MESA FOR THE LEAST BELL'S VIREO

Least Bell's Vireos are only one of the endangered birds living on Banning Ranch than require protection. While the March 1, 2016 CA Coastal Commission Report stated on page 130 that "…Construction shall be *prohibited within 500 feet of an active least Bell's vireo nest during the breeding season of this species* (March 15 to September 15)" and "Activities involving disturbance or removal of riparian vegetation shall be prohibited" during this time also, there is no recognition that vireos occur in upland habitats adjacent to breeding areas. These upland areas also must be protected when Vireos are present on Banning Ranch. The Vireos will not recognize limits on their territory that are assumed by biologists and construction workers.

While they require riparian habitats for nesting, "vireos also occur in upland habitats adjacent to breeding areas" (Kus & Miner, 1989.) The development suggested in the March 1, 2016 CCC report recommends a development area that would cover much of the upland available habitat adjacent to the Vireo's breeding areas. "The use of non-riparian habitats, primarily areas of coastal sage scrub and chaparral vegetation, varied over the nesting cycle…. These observations suggest that planning boundaries intended to protect resources essential for breeding vireos should include upland areas bordering riparian habitats" (Kus & Miner, 1989.)

DEGRADED ESHA REQUIRES GREATER PROTECTIONS

Degraded ESHA is not, as some have argued, entitled to less protection than un-degraded ESHA. Every portion of the coast, at some point in time, has been negatively impacted by human caused air, water, and noise pollution, fragmentation, climate change, development, etc. However, by removing the cause of degradation, areas can regrow and species can repopulate with some assistance. Assistance involves actions like community weeding, planting of natives (particularly primary plants that help other species establish), responsible pest control, and education of the community to be more responsible regarding things like use of pesticides, invasive seeds, and letting soapy water run into the street.

The argument that degraded ESHA is entitled to less protection that the Coastal Act is a manipulation of the Coastal Act's intentions. First off, nowhere in the Coastal Act does it talk about "degraded ESHA" or exceptions to ESHA protections. Species that are struggling, who have been affected by human caused degradation, are under the *greatest* protection under the California Endangered Species Act. In other words, "degraded species" are a special status species and require *significantly greater* protection than species that are flourishing. The Acts of the United States are not meant to be interpreted so literally than anything not expressly said is therefore allowed. The overall intentions of Acts such as the CESA and the Coastal Act must also be understood. Degraded ESHA requires *greater* protection than ESHA so that it may be shielded from human caused degradation and recover. If we set a precedent that degraded ESHA can be developed, then developers will jump at every opportunity to define ESHA as degraded. Illegal mowing, climate shifts over a period of a few years (such as the current CA drought), oil and waste spills, fires (whether naturally caused or human caused) will all give developers a chance to develop ESHA. If we set this precedent of allowing degraded ESHA to be developed, in the long-term ESHA will be completely eradicated. *Every* species, plant or animal, and *every* parcel of land they live on will struggle at some point and will qualify to be defined as "degraded ESHA". ESHA is ESHA, and must be restored not developed.

SETTING A PRECEDENT THAT WILL BE FOLLOWED FOREVER

Source: Coastal Commission Cease & Desist Order CCC-15-CD-01.

While the intentions of the illegal mowing of ESHA has spurred great debate, they are ecologically irrelevant. The mowed ESHA is a prime example of where the removal of the Coastal Act's ESHA protections are not appropriate, and a full-fledged restoration effort is the fitting response. Whether the mowing of ESHA was intentional or not, the areas mowed should be completely off limits for development to anyone to set a precedent for future actions. In the United States, precedents are evaluated and used in decisions just as much, if not more, than laws themselves. The Coastal Commission must set a precedent that illegal mowing and other types of degradation to ESHA will not be tolerated, and that the ESHA will be restored to its original condition either at the expense of the violator or through community collaboration. Developers are driven by profit, and if the CA Coastal Commission sets a precedent that ESHA protections are taken away from places considered "degraded ESHA", then they will use this against the Coastal Commission for future development projects. This is the nature of business. The decision used now regarding "degraded ESHA" will be used for generations to come.

THE COASTAL ACT INSISTS ON THE IMPORTANCE OF MAINTAINING COASTAL ECOSYSTEMS, MAKING THE DEVELOPMENT UNLAWFUL

The Coastal Act states in section 30001: "…(a) That the California coastal zone is a distinct and valuable natural resource of vital and enduring interest to all the people and exists as a delicately balanced ecosystem. (b) That the permanent protection of the state's natural and scenic resources is a paramount concern to present and future residents of the state and nation. (c) That to promote the public safety, health, and welfare, and to protect public and private property, wildlife, marine fisheries, and other ocean resources, and the natural environment, it is necessary to protect the ecological balance of the coastal zone and prevent its deterioration and destruction." This recognition that the coasts exists in a delicately balanced ecosystem, and that we must protect it by preventing its deterioration and destruction exemplifies that Banning Ranch must be preserved and restored where necessary to prevent further deterioration. Development on Banning Ranch is blatant destruction of the coast, where development spread irresponsibly before the establishment of the CA Coastal Commission in 1972. Once the precedent was set that people could build all the way up to the beach, this practice became the norm. Now is the chance to uphold the Coastal Act and set a new precedent: The Coastal Act protects the remaining ecosystem left on our coast, and the Coastal Commission and the People will stand together to protect it.

The Coastal Act section 30004 states its purpose to be, in part, "…(b) assuring the maintenance of the long-term productivity and economic vitality of coastal resources necessary

for the well-being of the people of the state, and to avoid long-term costs to the public and a diminished quality of life resulting from the misuse of coastal resources…." Development of Banning Ranch, due to its conflict with section 30001 of the Coastal act, qualifies as a misuse of coastal resources that will cause a diminished quality of life for the people of the state. Banning Ranch is the largest parcel of coastal land left in Orange County, and to develop it and deteriorate its ecosystem is misuse. Banning Ranch, with proper planning and the already existing significant community support and involvement, can be restored at minimal financial cost to the people so that its potential as an open space for the people of Orange County and visitors is maximized. Let me say, as a personal note, that I will be at the forefront of restoring Banning Ranch by 1. Organizing fundraisers. 2. Participating in pro-active long-term community outreach and 3. Working with specialists in the field to determine how volunteers can execute restoration under their guidance once Banning Ranch is acquired from NBR. This chance must be provided to the people now that they know development is the likely alternative if the public does not acquire Banning Ranch.

THE PUBLIC OPPOSES THE DEVELOPMENT, MAKING THE DEVELOPMENT UNLAWFUL UNDER THE COASTAL ACT

The Coastal Act Section 30006 states: "The Legislature further finds and declares that the public has a right to fully participate in decisions affecting coastal planning, conservation, and development; that achievement of sound coastal conservation and development is dependent upon public understanding and support; and that the continuing planning and implementation of programs for coastal conservation and development should include the widest opportunity for public participation". Thousands of people have participated in the signing of petitions, letters, verbal disagreement with development of Banning Ranch, and expressions of adoration for the open space and birds that Banning Ranch supports. On any given day, walking around Banning Ranch with a "Banning Ranch" T-shirt on, people will stop you and say how much they love Banning Ranch and want it to stay the way it is. Thousands of people live along its borders, or are within a few blocks and enjoy the view, long line of sight, and wildlife it provides with their families and friends. With the Coastal Act providing the people with a voice in decisions affecting coastal planning, conservation, and development, it is *irrefutable* that the Coastal Act provides for the denial of development of Banning Ranch.

The Coastal Act Section 30006.5 states that "The Legislature further finds and declares that sound and timely scientific recommendations are necessary for many coastal planning, conservation, and development decisions and that the commission should, in addition to developing its own expertise in significant applicable fields of science, interact with members of the scientific and academic communities in the social, physical, and natural sciences so that the commission may receive technical advice and recommendations with regard to its decision making, especially with regard to issues such as coastal erosion and geology, marine biodiversity, wetland restoration, the question of sea level rise, desalination plants, and the cumulative impact of coastal zone developments." While I have not seen all the of the letters sent in to the Coastal Commission by scientists, I can say that the scientific evidence is strongly against the development of Banning Ranch. Additionally, the scientific community that I am a part of outside of the Banning Ranch effort, comprised of wetland ecologists, earth scientists, conservation biologists, and aquatic chemists, along with multiple environmental politics

professors and lawyers, all agree that the development cannot proceed without extreme harm to the ecosystem and violation of the Coastal Act.

CONCLUSION

The Coastal Commission's Mission Statement is as follows: "The Commission is committed to protecting and enhancing California's coast and ocean for present and future generations. It does so through careful planning and regulation of environmentally-sustainable development, rigorous use of science, strong public participation, education, and effective intergovernmental coordination."

The strongest most blatantly clear portion of this mission statement is ***rigorous use of science*** **[and]** ***strong public participation.*** Rigorous scientific research has produced evidence that stalwartly dejects the feasibility of maintaining Banning Ranch's and OCRP's ecosystem during and after development. Strong public participation has shown not only solid opposition to Banning Ranch, but also a remarkable willingness to commit time and resources long-term to saving and restoring Banning Ranch. I personally have worked with dozens of people who have spent countless hours on saving Banning Ranch, and spoken to many hundreds of people who love Banning Ranch and would be willing to help restore it.

As stated in the Coastal Act, (section 30001.5), "the basic goals of the state for the coastal zone are to: (a) Protect, maintain, and, where feasible, enhance and restore the overall quality of the coastal zone environment and its natural and artificial resources…." The restoration of Banning Ranch is worth the cost of a bond, which can be lessened by public donations. The restoration of Banning Ranch once acquired, is undeniably feasible with community volunteers, hundreds of which are already involved and ready to help. Fairview Park in Costa Mesa has seen a great turn-out (I know as I have attended) for volunteering events for planting of natives and maintenance of the park. People want to learn more about the ecosystem in OCRP and have exhibited a great sense of enthusiasm, wonder, and pride when they have volunteered.

As a scientist and a citizen, I implore you to deny the development to the best of your ability under the authority given to the you, the Coastal Commission, by the Coastal Act. As a scientist, I understand the ecological significance of Banning Ranch and that it is a rare situation where 400 acres can survive undeveloped in an area such as Huntington Beach. As a citizen, I love Banning Ranch, not just for the Burrowing Owls or the Fairy Shrimp, but also for the awe that I have seen in people's eyes when they realize that Orange County still has 400 acres of coastal land that can be saved. Please let Banning Ranch survive!

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The Burrowing Owls Will Not Survive Development of Banning Ranch

By Elizabeth White Flowers, Environmental Ecologist 8/2/2016

INTRODUCTION

Burrowing Owls will not survive development of Banning Ranch. The current proposal surrounds the Burrowing Owl habitat with buildings and a road. Scientific studies support that 1. Juvenile Burrowing Owls are unable to navigate fragmented landscapes like the one the current proposed development would create, 2. Burrowing Owls need a buffer greater than 100m around their burrows due to their acknowledgment of intruders a minimum of 100m away and human disturbance being analogous to predation risk in terms of stress factors, 3. Burrowing Owls will be forced to leave Banning Ranch as a result of the development, and 4. Burrowing Owl's foraging habitat spans approximately 0.3km^2 around their burrows, and with the development plan proposed in the March 1, 2016 CA Coastal Commission report, 84% of this foraging habitat will be developed or disconnected from the burrowing area by the proposed road connecting the portions of development.

JUVENILE BURROWING OWLS ARE UNABLE TO CROSS ROADS

Breeding Burrowing Owls were thought to have been extirpated from Orange County, however it is now known that there are breeding pairs in Seal Beach. This makes it ever more important to provide for possible breeding pairs and for the survival of juvenile Burrowing Owls. If the development goes through as planned, fragmentation will make juvenile Burrowing Owl survival impossible if they choose to breed at their current nesting site on Banning Ranch. In *Pre-Migratory Movements by Juvenile Burrowing Owls in a Patchy Landscape* the authors stated that their "results, along with evidence [they] synthesized from previous studies, suggests that

juvenile Burrowing Owls in small patches are unwilling or unable to cross the cropland matrix of a fragmented landscape" (Poulin et. al, 2007). Due to high site fidelity by BUOW's it is unlikely that juveniles will be able to survive on Banning Ranch if development fragments their current foraging habitat surround their burrows. Banning Ranch is the largest area of coastal land left in Orange County, therefore loss of the potential breeding area could be detrimental to the recovery of Western Burrowing Owls.

BURROWING OWLS NEED A BUFFER GREATER THAN 100M

BURROWING OWLS ACKNOWLEDGE INTRUDERS AT LEAST 100M AWAY

A 2004 study supported that Burrowing Owls acknowledge intruders at least 100m away.

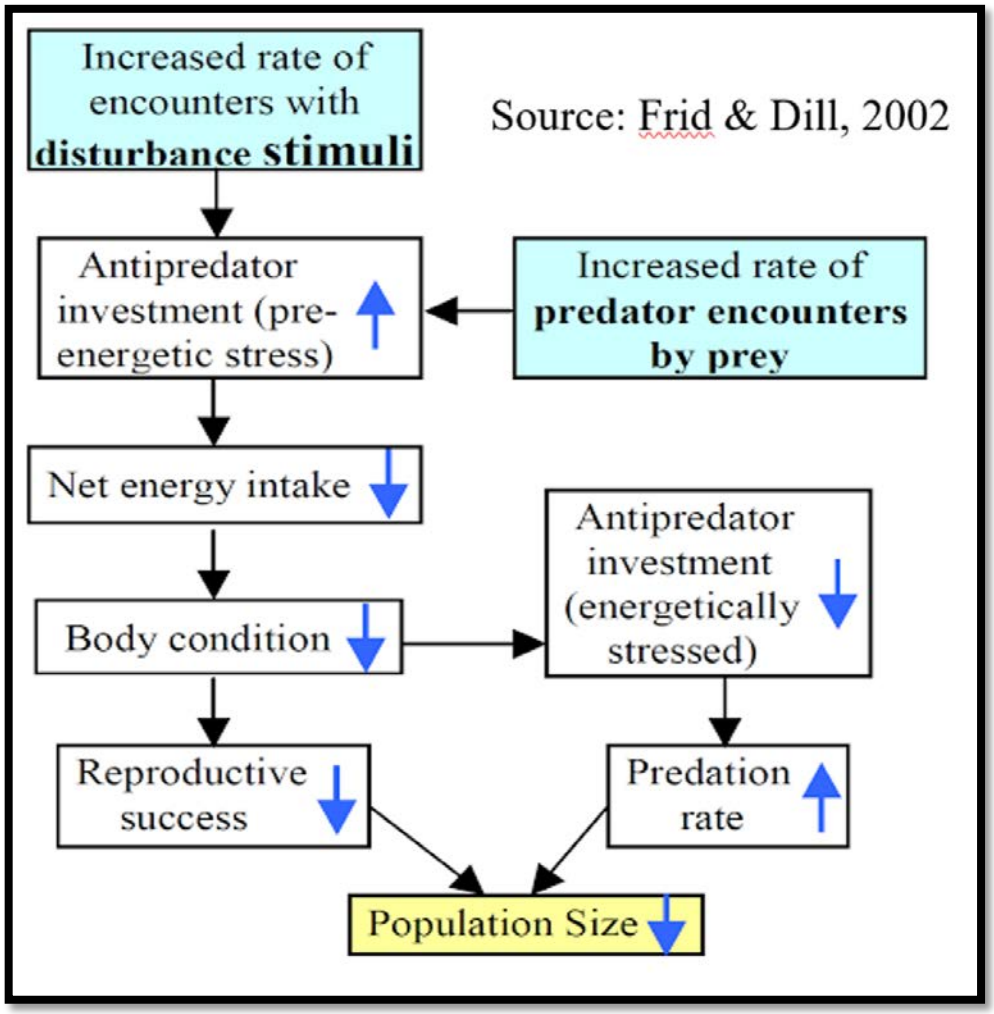
> "To investigate the potential expression of territorial behavior of Burrowing Owls (Athene cunicularia) in southwestern Idaho, we used a playback protocol to determine if Burrowing Owls actively defended their nesting site from conspecifics, and if so, to determine the extent of their territorial boundaries. Eighty-eight percent of male Burrowing Owls responded to the broadcast of conspecific primary calls…. [Our] findings suggest that owls actively defended their nesting site from conspecifics and that they defended an area larger than that immediately surrounding the nest burrow" (Molton, Brady, & Belthoff, 2004).

This study supports the 100m minimum buffer around the Burrowing Owl's nests, which is equivalent to 0.0314km^2. While development and human noises are not conspecific calls, this study shows that the Burrowing Owls defend a minimum of a 100m radius around their nesting sites, and disturbance, including noise emanating from within this radius, may cause disturbances to this endangered species.

HUMAN DISTURBANCE IS ANALOGOUS TO PREDATION RISK

A plethora of studies have studied the negative impacts of nonlethal human disturbance on animals' health and ability to reproduce. "Prey have evolved antipredator responses to generalized threatening stimuli, such as loud noises and rapidly approaching objects. Thus, when encountering disturbance stimuli ranging from the dramatic, low-flying helicopter to the quiet wildlife photographer, animal responses are likely to follow the same economic principles used by prey encountering predators…. similar to predation risk, disturbance stimuli can indirectly affect fitness and population dynamics via the energetic and lost opportunity costs of risk avoidance" (Frid & Dill, 2002).

Perceived predation risk causes prey to spend time and energy on avoidance, which decreases their ability to acquire resources and in turn affects survival rates and reproductive success. If high levels of predation risk (or perceived predation risk) continue, the animals show declining body condition (Hik 1995, review in Lima 1998, Morris & Davidson 2000). Declining body condition forces animals to search for food in more dangerous habitats where there is either a higher risk of predation or risk from anthropogenic factors. With the March 1, 2016 CCC proposed development plan for Banning Ranch, not only would there be increased perceived predation risk and therefore stress to the Burrowing Owls, but their habitat will be significantly reduced and fragmented. Declining and shifting habitat will displace the Burrowing Owls, cause



conspecific and heterospecific competition and crowding, all factors that are known to increase stress and decrease body condition of animals, including Burrowing Owls (Frid & Dill, 2002).

Figure 1 illustrates a conceptual model of the effects of disturbance stimuli. Downward blue arrows indicate a decrease, upward arrows indicate an increase.

THE BUOW'S WILL LEAVE THEIR CURRENT HABITAT AS A RESULT OF HUMAN DISTURBANCE

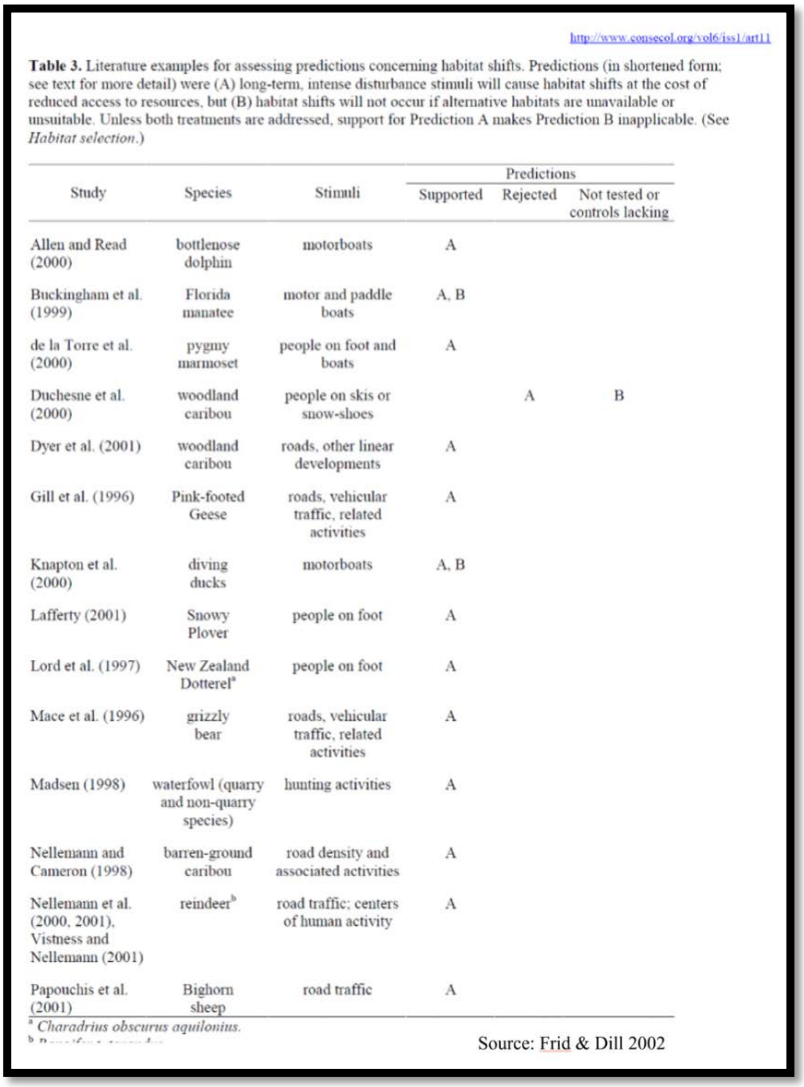


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Table 3. Literature examples for assessing predictions concerning habitat shifts. Predictions (in shortened form; see text for more detail) were (A) long-term, intense disturbance stimuli will cause habitat shifts at the cost of reduced access to resources, but (B) habitat shifts will not occur if alternative habitats are unavailable or unsuitable. Unless both treatments are addressed, support for Prediction A makes Prediction B inapplicable. (See *Habitat selection*.)

Study	Species	Stimuli	Predictions		
			Supported	Rejected	Not tested or controls lacking
Allen and Read (2000)	bottlenose dolphin	motorboats	A		
Buckingham et al. (1999)	Florida manatee	motor and paddle boats	A, B		
de la Torre et al. (2000)	pygmy marmoset	people on foot and boats	A		
Duchesne et al. (2000)	woodland caribou	people on skis or snow-shoes		A	B
Dyer et al. (2001)	woodland caribou	roads, other linear developments	A		
Gill et al. (1996)	Pink-footed Geese	roads, vehicular traffic, related activities	A		
Knapton et al. (2000)	diving ducks	motorboats	A, B		
Lafferty (2001)	Snowy Plover	people on foot	A		
Lord et al. (1997)	New Zealand Dotterel[a]	people on foot	A		
Mace et al. (1996)	grizzly bear	roads, vehicular traffic, related activities	A		
Madsen (1998)	waterfowl (quarry and non-quarry species)	hunting activities	A		
Nellemann and Cameron (1998)	barren-ground caribou	road density and associated activities	A		
Nellemann et al. (2000, 2001), Vistness and Nellemann (2001)	reindeer[b]	road traffic; centers of human activity	A		
Papouchis et al. (2001)	Bighorn sheep	road traffic	A		

[a] *Charadrius obscurus aquilonius.*

Source: Frid & Dill 2002

The Burrowing Owls will undoubtedly be forced to leave their current burrows if the development proceeds as planned in the March 1, 2016 CCC report. Frid & Dill in their paper *Human-caused disturbance stimuli as a form of predation risk*, compiled the results of studies on various animals' responses to long-term intense disturbance stimuli. Overall, this table illustrates that this type of stimuli causes habitat shifts which reduced access to resources for the animals studied, many of which were birds. The same response and effects can reasonably be predicted for Burrowing Owls.

California ground squirrel burrows are reused by Burrowing Owls for burrowing. With the decline of the ground squirrel due, in part, to human pest control, finding a suitable burrow for the Burrowing Owls to relocate themselves will be difficult. With increased intense long-term human disturbance stimuli, and with increased mammal pest control by the encroaching development, relocating themselves within Orange County may be impossible for Banning Ranch's Western Burrowing Owls.

84% OF THE BUOW'S CURRENT FORAGING HABITAT WILL DISCONNECTED FROM THEM

Recent San Diego Zoo studies show that local Burrowing Owls only use about 0.3 km^2 of suitable habitat in proximity to their burrow, this is 74 acres. This is concerning because the location of the current burrows means that most of their current foraging habitat would be destroyed by development. The SD Zoo study also found that foraging areas were fairly similar between years (Hennessy, et. al 2015, p. 42-53). The Burrowing Owls' response to having construction occur in their foraging habitat for 10+ years is easy to predict based on Frid's and Dill's research. However, if they choose to stay, they will be fragmented into an area of only 0.048 km^2, only 16% of what San Diego's Burrowing Owl's required. The calculations are shown below, as well as the mapped ArcGIS polygon used for calculations.

To develop and fragment 84% of the Burrowing Owl's current foraging area would result in the Burrowing Owls leaving, dying due to increased predation risk caused by poor body condition, or crossing the road, a hazard for a bird that can often travels on foot. With the estimation of increased traffic in the area at 15,000 cars, Burrowing Owls have little chance of survival if the development proceeds with the current plans. This is a clear violation of the intentions of the Coastal Act and California Endangered Species Act, which both provide protections for this endangered species (Coastal Act ESHA provisions and CESA directly).

Polygon_area

OID *	Shape *	Name	Shape_Length	Shape_Area	SquareMeter	Squarefeet	SqKm
1	Polygon		1008.590658	47697.928771	47,697.93	513,414.18	0.047698

Link

Total RMS Error: Forward:0.837886

Link	X Source	Y Source	X Map	Y Map	Residual_x	Residual_y	Residual
1	208.793053	-181.849770	412200.572...	3722171.82...	-0.0944318	0.29099	0.305929
2	232.284886	-516.678698	412257.731...	3721262.49...	-0.193156	-0.12446	0.229781
3	243.023116	-385.912040	412290.505...	3721619.00...	0.457822	1.61308	1.67679
4	264.910407	-439.789185	412348.775...	3721470.25...	-0.029094	-0.713662	0.714255
5	245.385664	-370.468815	412296.851...	3721658.58...	0.0158661	-0.69964	0.69982
6	533.442210	-571.129952	413080.616...	3721112.68...	-0.177603	0.772384	0.79254
7	559.349143	-396.389663	413155.719...	3721585.87...	0.376521	0	0.376521
8	451.002345	-232.572225	412862.180...	3722031.58...	-0.143523	0.0653316	0.157693
9	411.705368	-437.398574	412750.114...	3721474.60...	-0.393158	-1.42467	1.47793
10	375.451557	-579.461893	412648.514...	3721091.06...	0.180757	0.225589	0.289074

Source: Elizabeth Thomas using ArcGIS Polygon tool

CONCLUSION

Burrowing Owls will not survive development of Banning Ranch. The current proposal surrounds the Burrowing Owl habitat with buildings and a road. Juvenile Burrowing Owls are unable or unwilling to navigate the fragmented landscape that will result from development if it proceeds. The current proposed development does not give an appropriate buffer for the Burrowing Owls, who need a buffer greater than 100m to be undisturbed when burrowing, or else the human disturbance becomes analogous to predation risk due to causing the same energetically expensive response from the Owls. Besides this fact, Burrowing Owls also need a $0.3km^2$ of foraging habitat around their burrows, and with the development plan proposed in the March 1, 2016 CA Coastal Commission report, 84% of this foraging habitat will be developed or separated from the Owl's burrows by a road, which greatly increases the risk of the Burrowing Owls being killed by being hit by a car. Whether development proceeds or not, the Burrowing Owls must have $0.3km^2$ of foraging habitat around their burrows, in addition to a 100m noise buffer around their nesting site.

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Image Source, Public Domain Image: burrowing-owl-bird-athene-cunicularia-hypugea-725x335.jpg uploaded 2015-01-22

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CCRPA **California Cultural Resource Preservation Alliance, Inc.**

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

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

May 3, 2016

Honorable Commissioners
California Coastal Commission

Item No. Th11c
Application No.: 5-15-2097
Denial of Application

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

Dear Honorable Commissioners:

We appreciate the fact that the staff report recognizes the spiritual and scientific significance of the eight known archaeological sites within the Banning Ranch project area. All eight sites are included within the "Banning Ranch Cultural Properties and Landscape" listed on the Native American Heritage Commission Sacred Lands Inventory. Three of the known archaeological sites are eligible for listing in the National Register of Historic Places.

Under orders from the Commission, staff has proposed a scaled down development that includes conditions that constrain development from portions of environmentally sensitive areas, including the eight archaeological sites. Banning Ranch is the last remaining open space within the Orange County coast and in spite of oil well development, it supports a valuable ecosystem. It is this ecosystem that led the Gabrielino and Juaneno/Acjachemen ancestors to settle here, collect the plants and animals, hold ceremonies, and bury their dead. It is this ecosystem that together with the archaeological sites forms the "Banning Ranch Cultural Properties and Landscape." In spite of the conditions that protect portions of this sacred landscape, the construction of a boutique hotel and housing will fragment and destroy sensitive habitat and will result in indirect impacts to the archaeological sites. The sites will be endangered by foot traffic and vandalism and it is almost certain that in spite of the protective conditions, they will be destroyed by the proposed oil well clean up and restoration.

Page 74 of Section H ARCHAEOLOGICAL AND CULTURAL RESOURCES refers to previous Commission (CDP 5-97-367, Hellman and HNB-MAJ-1-12, Ridge) and states that **"Special Condition 20** requires capping of the known sites and monitoring of grading and construction activities that have the potential of adversely impacting additional unknown sites and cultural resources that may be found during site grading and construction." Item 5 states that "In situ preservation and avoidance of cultural deposits shall be considered as the preferred mitigation, to be determined by the Executive Director in accordance with the process outlined in this condition, including all subsections."

While we support these conditions, Item 2 contradicts them. Rather than requiring preservation of human remains and intact cultural features in place (W14a Laguna Beach golf and bungalow Village, LLC pp.

51-52) Item 2 of Special Condition 20 calls for significance testing of cultural deposits including skeletal remains and grave-related artifacts, traditional cultural, religious or spiritual sites, midden and lithic material or artifacts. Significance criteria is based on eligibility for the National Register of Historic Places and does not take into consideration Native American values. This language is similar to that which resulted in the destruction of 11 acres of the cogged stone site at Bolsa Chica and could result in the same ill effects. The requirements for the "Significance Testing Plan" should be revised to ensure that the known archaeological sites are not damaged further as archaeology is a destructive process, and that the criteria for significance includes Native American values.

Please do not approve the construction of a hotel, roads, and a housing community within the last open space of its kind in Orange County. It should be preserved and opened to the public as a place where everyone can come to experience the peace and renewal that comes with nature.

Sincerely,

Patricia Martz, Ph.D.
President

635 of this letter received

From: Darris Nelson
To: BanningRanchComments@Coastal
Subject: New BRC Letter Campaign Submission
Date: Friday, April 29, 2016 3:26:22 PM

Letter Body

Dear Honorable Chair Kinsey, Commissioners and Staff,

The Banning Ranch Conservancy, its volunteers and supporters, and thousands of residents of the densely packed communities surrounding Banning Ranch, share grave concerns about the impacts of the proposed development of the Banning Ranch site. Far too many of these impacts exceed regulatory standards and are designated "significant and unavoidable" in the Newport Banning Ranch Environmental Impact Report. (http://www.newportbeachca.gov/index.aspx?page=2096).

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

+ Banning Ranch is the last large unprotected coastal open space in Orange County.

When it's gone, it's gone forever.

+ 2.8 million cubic yards of soil will be moved and much of it stockpiled on site to prepare the land for development, destroying the environment and exposing the public to unknown levels of contaminants.

+ The destruction of environmentally sensitive habitat areas, threatened wildlife species, coastal wetlands and vernal pools—none of which is allowed by the Coastal Act.

+ The Project's water demands will place a significant burden on our scarce water supply, increasing water shortages.

+ Where's the water coming from? The Project's Water Supply Assessment Report is flawed and outdated by its own admission.

+ TRAFFIC: 15,000 more car trips on our roads, daily! Expect longer commutes, gridlocked intersections.

+ POLLUTION: Air pollution from construction and traffic will exceed state standards.

+ POLLUTION: Noise from traffic and other sources will double allowable noise thresholds.

+ POLLUTION: Greenhouse gas emissions will contribute considerably to the Greenhouse Gas Inventory, accelerating global climate change and rising sea levels.

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

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

Sincerely,

Additional references:

City of Newport Beach EIR, Section 4.6.7, Biological Resources, Environmental Impacts

City of Newport Beach EIR, Section 4.9, Transportation and Circulation

City of Newport Beach EIR, Section 4.10, Air Quality (Table 4.10-7 Estimated Maximum Daily

Construction Emissions: Unmitigated)

City of Newport Beach EIR, Section 6.0, Long Term Implications of the Proposed Project

Name

Darris Nelson

Email

mamalovesthebeach@gmail.com

Address

Bodega Bay, CA 94923
United States
Map It

Saving Banning Ranch together!

We, the People from throughout California are concerned about the rapid loss of natural open space to unneeded development.

Additionally, we want to protect the habitats of our native wildlife. We show our concern through these letters and petitions to support NO DEVELOPMENT On Banning Ranch.

We ask that the California Coastal Act of 1976 be upheld to permanently protect the California Coast, our "distinct and valuable natural resource of vital and enduring interest to all people, which exists as a delicately balanced ecosystem".

Section 30240 of the Coastal Act requires that:
(a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.
(b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly
degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.

Coastal Act definition of ESHA (Section 30107.5)
"Environmentally sensitive area" means any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments.

These petitions represent citizens of the following cities:

Newport Beach, Huntington Beach, Costa Mesa, Long Beach, Westminster, Sunset Beach, Irvine, Sierra Madre, Menifee, Norwalk, Aliso Viejo, Garden Grove, Fountain Valley, Tustin, Seal Beach, Rancho Santa Margarita, Cerritos, Stanton, Escondido, Santa Ana, Orange, San Diego, La Mesa, Placentia, Rio Riviera, Corona, Mission Viejo, Yorba Linda, Anaheim, Brea, Los Angeles, Diamond Bar, Midway City, La Mirada, Lakewood, Laguna Hills, La Habra, Lake Elsinore, Laguna Niguel, La Palma, Lafayette, Bellflower, Fullerton, Lake Forest, Santa Barbara, Chino Hills, Corona del Mar, Fontana, Alhambra, Whittier, Temecula, Pico Rivera, and Rancho Cucamonga.

Thank you for your consideration,

The saving Banning Ranch together team

625 of this letter received

Saving Banning Ranch Together

Dear Honorable Chair Kinsey, Commissioners and Staff,

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

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

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

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

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

Name: Bobby Lee Guillen

Email: blguillen@gmail.com

Street Address: 7701 Warner

City, State: HB Zip/Postal Code 92647

3,275 of this letter received

From: KnowWho Services
To: BanningRanchComments@Coastal
Subject: Reject Application 5-15-2097 to Develop Banning Ranch
Date: Friday, April 29, 2016 2:10:44 PM

Dear CA Coastal Commission,

Dear Commissioners:

I write to urge you to reject Application 5-15-2097 to develop Banning Ranch.

That land currently provides habitat to endangered and threatened animals and plant species, and contains many environmentally sensitive habitat areas (ESHA).
The California Coastal Act rightfully requires that ESHAs be protected.

I urge you to follow the letter and spirit of the California Coastal Act and reject the proposal to develop Banning Ranch.

Sincerely,

Karen Donaldson
PO Box 3215
Grass Valley, CA 95945-
kdonaldson@nccn.net
(530) 555-1212

From: pelerinone@gmail.com
To: Dobson, Amber@Coastal
Subject: Banning Ranch
Date: Friday, August 05, 2016 1:39:38 PM

No development whatsoever, please! No oil derricks, hotels, apartments, condominiums-nothing!

Keep it as nature intended.

If one flies over Orange & Los Angeles Counties, the amount of open, green space is pathetic. There is almost nothing left. Housing tract after develpment after mall after strip malls, streets, etc., is what one sees from the air.

Develpment leads to more traffic congestion, noise, pollution, and a vast degradation of one's life.

Please let the little undeveloped space remain undeveloped. Do something for the future, for great grandchildren, who might be able to appreciate what their forbears did for them.

Thank you,
David E. Kelly
Laguna Beach

From: Theresa Fernald
To: BanningRanchComments@Coastal
Subject: Save Banning Ranch
Date: Tuesday, August 23, 2016 9:29:43 AM

Please do not develop the Banning Ranch. Preserve the natural habitat and beauty of open space for future generations. Maintain this portion of the delicate and historical element of the California Coast untouched by developers. Clean it from the oil extraction but leave it a nature preserve. It is a rare piece of beauty that needs protected like Our National parks. We have enough places to shop and live. Too much traffic congestion already. Banning Ranch is a natural sanctuary for our wildlife and our souls. Do NOT develop it, Protect Banning Ranch from development and make it a natural preserve like upper Newport Bay.
Theresa Fernald

Sent from my iPhone

From:	Brian Benoit
To:	BanningRanchComments@Coastal
Cc:	Turnbull-Sanders, Effie@Coastal; Vargas, Mark@Coastal; McClure, Martha@Coastal; Kinsey, Steve@Coastal; Uranga, Roberto@Coastal; Cox, Greg@Coastal
Subject:	Please say NO to Banning Ranch development
Date:	Wednesday, August 24, 2016 3:07:13 PM

Dear Commissioners and Staffmembers,

I am a resident of Newport Beach and write to voice my strong opposition to the Banning Ranch Development Project.

As you are well aware, the mission statement of the Commission is "to protect and enhance California's coast and ocean for present and future generations."

With that in mind, I find it very hard to see how the construction of nearly 1,000 new homes, 100 hotel/hostel rooms and 75,000 square feet of retail space in the middle of a sensitive coastal wetland aligns with your mission.

Banning Ranch is the largest undeveloped parcel remaining in coastal Southern California. It is a jewel, a resource that must be protected. It is home to endangered species and vernal pool habitats. We know very little about what is there since the property it is privately owned and operated by an oil company. Who knows what the true potential of this site could be with the proper stewardship and vision?

The development would mean years of pollution from heavy construction and earth moving. There would be tens of thousands of extra cars on the road each day, further taxing an already fragile infrastructure. And where would the water come from? To approve such a large development during the historic drought we are in the middle of would be egregious. We are supposed to be protecting our water resources, not contributing to their further depletion.

If you visit our town, you will be hard pressed to overhear our residents yearning for a new retail space to shop at or a luxury home to buy. There are currently 988 homes and condos for sale in Newport Beach / Costa Mesa. There is no shortage of hotel rooms and retail opportunities. Developing Banning Ranch attempts to address a problem that isn't broken. We simply don't need it.

I hope that you will help the residents protect this precious resource, now and for the future.

Respectfully,

Brian Benoit
Newport Beach

From: Aruna Prabhala
To: BanningRanchComments@Coastal
Subject: CBD Comment Letter on Banning Ranch
Date: Tuesday, August 23, 2016 1:43:06 PM
Attachments: CBD Comment on Banning Ranch Application 8_23_2016.pdf

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Please find the attached comment letter from the Center for Biological Diversity discussing our concerns about the proposed development on Banning Ranch. If you have any issues downloading the letter or have any questions about the letter, please contact me at the number below.

Sincerely,
Aruna Prabhala

Aruna Prabhala
Staff Attorney
Center for Biological Diversity
1212 Broadway, Suite 800
Oakland,CA 94612
Ph: 510-844-7100, ext. 322
aprabhala@biologicaldiversity.org

August 23, 2016

California Coastal Commission
45 Fremont Street
Suite 2000
San Francisco, CA 94105-2219
BanningRanchComments@coastal.ca.gov

Re: Opposition to Newport Banning Ranch Application

Dear Commissioners:

The Center for Biological Diversity ("Center") provides these comments to express our concerns about the proposed Newport Banning Ranch project, Application No. 5-15-2097 (Newport Banning Ranch, LLC, Newport Beach), which will be considered by the Coastal Commission in September 2016. The proposal from the project applicant that was scheduled for the Commission's May 2016 hearing would degrade and destroy important coastal habitat and wetlands, including rare coastal scrub. The project will harm federally endangered species by damaging or destroying California gnatcatcher critical habitat and vernal pool habitat of the San Diego fairy shrimp.

As the Center noted in its earlier comment letter, the Commission staff's prior changes and conditions failed to adequately protect irreplaceable coastal habitat and endangered wildlife. The project applicant's refusal to accept even those recommendations, ex-parte communications, and continued push for even more intensive development only increases our concerns about this project and the potential precedent it would set. Any relaxation or removal of the mitigation and conditions recommended by Commission staff in May will only exacerbate the significant environmental harm this project will cause.

The Banning Ranch proposal is a massive development project on a large tract of coastal open space in Orange County. This intensive residential, commercial, and resort project is inconsistent with the policies of the Coastal Act and should be denied by the Commission. Therefore, we urge the Commission and its staff to resist pressures to compromise protection of Environmentally Sensitive Habitat Areas (ESHA) and adhere to the biological assessments that formed the basis for the October 2015 and April 2016 staff reports on this project.

Our objections to the project include, but are not limited to: (1) the size and density of this development are incompatible with such an environmentally sensitive coastal property; (2) approval would undermine the Commission's mandate to protect Environmentally Sensitive Habitat Areas (ESHA); (3) the proposed roads would fragment and impair the habitat values on

site; (4) property owners are required by their current oil field abandonment plans to restore and enhance ESHA on the site rather than further developing the site or using their past degradation of ESHA to try to establish a new biological baseline; and (5) the proposed project may undermine state and federal protections for special status and listed species, designated critical habitat, and rare plant communities.

1. The massive project is incompatible with sound coastal development policy.

The Coastal Commission's mission is to protect and enhance the California coast and ocean, and the Legislature enacted the Coastal Act to "protect the ecological balance of the coastal zone and prevent its deterioration and destruction." (Pub. Res. Code § 30001(c).) The Coastal Act states "the California coastal zone is a distinct and valuable natural resource of vial and enduring interest to all the people." (Pub. Res. Code § 30001(a).) Approval of this project runs afoul of the Coastal Act, its goals and local coastal plan requirements.

The proposal to build 13.4 acres of roads, 895 residential units on 43.4 acres, 45,100 square feet of commercial uses, 3.9 acres of resort, and a 75-room hotel and 20-bed hostel along with ongoing oil operations will destroy and fragment important and increasingly rare habitats in the coastal zone. Rather than achieving a balance, the proposed project would sacrifice ecological values to development.

Approving a new massive development and ongoing oil operations on one of the largest undeveloped pieces of coastal property in Southern California is unsound coastal development policy. As Commission staff pointed out in its April 2016 report and the one it completed in October 2015, most of this 401-acre site is made up of protected wetlands, fault-zones, and Environmental Sensitive Habitat Areas (ESHA), protection of which is a top mandate for the Commission under the Coastal Act.

The staff's revised recommendation in the April 2016 report that 55 acres of land can be developed along with an additional 11 acres for continued oil extraction operations is a significant deviation from and expansion of the 18 acres it identified as non-ESHA land back in October 2015. The October staff report acknowledged the significant harmful impacts of the project on the sensitive habitat:

> The proposed project would have significant adverse impacts upon terrestrial and vernal pool ESHA, including impacts to important/rare upland habitats and wildlife species that are an important part of the existing functioning ecosystem that includes both the uplands and lowlands habitat areas.

Staff in April recommended approval of the project if proponents could squeeze it into the new footprint proposed by staff, which would require scaling back of the initial proposal. The decision by project Applicants to withdraw the project from consideration at the May meeting and argue for expanding the developable footprint – made in public statements and in private communications for Commission staff – increase our concerns about this project and its impacts.

The Commission should not and cannot make a finding that the proposed project is consistent with the California Environmental Quality Act (CEQA). The April staff report notes that going beyond the 55 acres it identified would be a violation of state law: "In addition, the Commission

must make findings that the approved project would be consistent with CEQA, specifically including a finding that the project approved is the least environmentally damaging alternative. The proposed project is not the least environmentally damaging alternative."

While we agree with the staff position that the Commission may not approve a project that allows development within ESHA and wetland areas, first all ESHA must be properly identified. Because the April 2016 staff report did not do this, we continue to have serious concerns about whether the staff recommendations will fully safeguard ESHA and protected species on the property.

For example, the project threatens the coastal California gnatcatcher, which thrives in the coastal scrub on this property. The rare bird is threatened with extinction by the rampant overdevelopment of Southern California, and this project further imperils it and would destroy and adversely modify its critical habitat.

The coastal California gnatcatcher was listed as threatened under the U.S. Endangered Species Act in 1993 and it was given critical habitat protections in 2007, habitat that includes Newport Banning Ranch. The gnatcatcher is a tiny gray songbird considered by biologists to be an indicator species of the overall health of this ecosystem. Currently much of the property is suitable habitat and occupied by the threatened gnatcatcher.

This unique stretch of coast in Orange County is home to the gnatcatcher, fairy shrimp, and other fragile California wildlife. An extensive urban-style development on Banning Ranch would threaten these species, violate the state's environmental laws and conflicts with Coastal Commission's core mission, which is to protect our valuable coastal resources and public access.

2. The April 2016 staff recommendations ignored identified ESHA and allowed ESHA to be developed in violation of the Coastal Act, with damaging environmental and legal consequences.

Under the Coastal Act, an "'Environmentally sensitive area' means any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments." (Pub. Res. Code § 30107.5.) It is undisputed that Banning Ranch contains such habitats including designated critical habitat for the California gnatcatcher and San Diego fairy shrimp, wetlands, and increasingly rare coastal sage scrub.

The Coastal Act mandates protections for ESHA.

> (a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.
>
> (b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.

(Pub. Res. Code § 30240.) Therefore, whether habitat on the site meets the ESHA criteria is a critical threshold question in determining whether a proposed project would be a permissible use within those areas and the significance of any impacts of a proposed project.

Previously, the Coastal Commission staff found the applicant's identification of ESHA faulty and proceeded with further analysis to identify ESHA on the project site. That resulted in a recommendation in the October 2015 staff report that the project's footprint be reduced to 18 acres to comply with the Coastal Act and avoid ESHA. Reversing that position in its April 2016 report, the revised recommendation relies on the old ESHA study the staff found inadequate and recommended an area more than three times that size for development. The proposed roads staff now endorses will significantly fragment habitat and undermine larger intact ESHA.

There are serious concerns that the approval of Banning Ranch would contravene the law and undermine ESHA provisions. Case law prohibits ESHA from being divided or relocated to satisfy the desires and designs of developers, expressed directly to staff or through members of the Commission. Designation of ESHA and development of such areas are not discretionary decisions afforded to the Commission, but are based on legal standards.

The California Court of Appeals affirmed that ESHA places strict requirements on the Commission in *Bolsa Chica Land Trust v. Superior Court*:

> Importantly, while the obvious goal of section 30240 is to protect habitat values, the express terms of the statute do not provide that protection by treating those values as intangibles which can be moved from place to place to suit the needs of development. Rather, the terms of the statute protect habitat values by placing strict limits on the uses which may occur in an ESHA.
>
> …
>
> There is simply no reference in section 30240 which can be interpreted as diminishing the level of protection an ESHA receives based on its viability. Rather, under the statutory scheme, ESHA's, whether they are pristine and growing or fouled and threatened, receive uniform treatment and protection.

(*Bolsa Chica Land Trust v. Superior Cour*t (1999) 71 Cal. App. 4th 493, 507-508 (citations omitted)). In fact, the Bolsa Chica property, located six miles to the north, had many of the same land features as Banning Ranch. Here, approval of the proposed massive development at Banning Ranch would destroy ESHA and violate the Coastal Act's requirement that ESHA shall not be disrupted.

3. The area slated for the Banning Ranch development was supposed to be rehabilitated and restored from prior oil developments, and it is improper for the Commission to rely on unlawfully degraded conditions to approve more development.

The site of oil operations on Banning Ranch are supposed to be restored. "When the oil production ceases (either through the termination of use of single wells or the entire operation), a variety of regulations come into play mandating that proper oilfield abandonment and infrastructure removal activities be conducted and completed," staff wrote in its October 2015

report, noting Newport Banning Ranch has entered into a contact with those operators to assume legal responsibilities for that cleanup and restoration obligation.

Rehabilitation of the site was already going to be a difficult task given the oil production work that began in the 1940s, peaked in the 1980s at 1.2 million barrels of oil being produced by 300 wells, before steadily declining to a few dozen wells today. Making the task of rehabilitation significantly more difficult is the history of unpermitted development and habitat removal in violation of the Coastal Act and environmental laws on this site. Indeed, between 1992 and 2012, the U.S. Fish and Wildlife Service (USFWS) documented the loss of 7.31 acres of native coastal bluff scrub from Banning Ranch.

The site has been increasingly degraded and not restored as required. Extensive unpermitted mowing, removal of coastal scrub, and clearing patches of coastal prickly-pear, California encelia, and other habitat-supporting vegetation goes back decades. As a result in August 2014, former Coastal Commission Director Charles Lester issued West Newport Oil Company and Newport Banning Ranch LLC an 11-page Notification of Intent to Commence Cease and Desist Order and Restoration Order Proceedings and Notification of Intent to Record a Notice of Violation:

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

The Commission followed up that warning with Consent Cease and Desist and Consent Restoration Orders the following year, although the damage to some important ESHA habitat on the property had already been done.

A developer should not be permitted to rely on past mismanagement of property and habitat destruction to justify further degradation and development later. It is further improper for the Commission to rely on unlawful destruction of habitat or failure to restore habitat to eliminate ESHA or approve additional acres for development. Degraded ESHA is not entitled to less protection than un-degraded ESHA. (*Bolsa Chica Land Trust v. Superior Court* (1999) 71 Cal. App. 4th 493.) The degradation of ESHA on the site cannot be used as an excuse for its development; instead the degraded ESHA must be restored.

4. "Balancing" or application of the "conflict resolution" procedures under Coastal Act Section 3007.5 is inappropriate here

The applicant, and at times Commissioners, have suggested that destruction of ESHA on Banning Ranch can be justified using the "balancing" or "conflict resolution" procedures of the Coastal Act. These procedures have no application here.

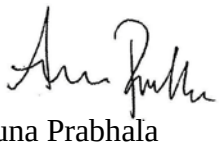
Section 30007.5 acknowledges that conflicts could occur between the policies of the Coastal Act and "therefore declares that in carrying out the provisions of this division such conflicts be resolved in a manner that on balance is the most protective of significant coastal resources." Courts have found this conflict resolution process is only applicable when there is a policy or interest of the Coastal Act which directly conflicts with the application of another policy or interest of the Coastal Act. (*Bolsa Chica Land Trust v. Superior Court* (1999) 71 Cal. App. 4th 493, 508-9.) In subsequent decisions by the Commission, balancing has only been used where the benefits and the impacts are both inherent to the "essential nature" of the project. (CDP No. 1-06-033, Staff Report at p. 15 (2006) (available at http://documents.coastal.ca.gov/reports/2006/10/F9d-10-2006.pdf).)

Here, a massive new development bringing 13.4 acres of roads, 895 residential units on 43.4 acres, 45,100 square feet of commercial use, 3.9 acres of resort, and a 75-room hotel and 20-bed hostel cannot be balanced against purported benefits such as oil remediation, public access and restoration of degrading habitat. No provision of the Coastal Act supports or encourages sprawling, destructive development on top of fragile coastal resources. The applicants' touted "benefits" are minor elements of the project, not the "essential nature" of the project. Most importantly, "balancing" must be resolved in the "most protective of significant coastal resources." Allowing this project to move forward as currently proposed would undermine the conflict resolution process and the goals of the Coastal Act.

Ultimately, this decision will be considered by many observers to be a test case for whether the Commission will retain its integrity in light of recent controversies. The Center and dozens of other conservation and coastal organization will be watching this decision carefully, and we intend to ensure that the Coastal Act and its ESHA protection are not eroded.

Banning Ranch is a rare and unique part of the California Coast; it is habitat for threatened and endangered species that needs to be protected not traded away to a developer. The Center urges the Commission to reject the proposed development at Banning Ranch, both as proposed by the developer and with the proposed changes suggested by staff in the April 2016 report, as inconsistent with the Coastal Act and other laws. If you have questions about the concerns raised in this letter, please contact me using the information provided below.

Sincerely,



Aruna Prabhala
Urban Wildlands Program Director
Center for Biological Diversity
1212 Broadway, Suite 800
Oakland, CA 94612
(510) 844-7100 ext. 322
aprabhala@biologicaldiversity.org

From: Todd DeMond
To: BanningRanchComments@Coastal
Subject: Banning Ranch Development
Date: Monday, August 22, 2016 3:07:27 PM

To Whom It May Concern;

Our home is adjacent to the proposed Banning Ranch development. We understand that the California Coastal Commission is considering a plan which would allow building residential units directly adjacent to our property. This would have a major impact on us. Our quality of life will be negatively affected! We have been in this Newport Crest home more than ten years.

Since the proposed building of units will be between us and the ocean, the dirt will blow onshore into our unit. We will not only lose our ocean view but will be unable to open our windows during the construction period.

The impact of having these buildings in such close approximation to our home will most likely cause us to sell our home. We will be forced to sell at a huge loss. We were planning on retiring here! Our home will be deemed undesirable by potential buyers due to the blowing dirt in our direction, the loss of view, and the construction noise. The fact that the proposed new units will be built adjacent to us, will only serve to hurt our property value. Please do not crush the current long time residents of this community in favor of a large, multi unit development.

We feel the California Coastal Commission is not considering the needs of the current residents in this area. There are other areas to consider building on in NBR. These new units don't need to be on top of my home.

We urge you to not favor the big Developer but to consider the residents of Newport Crest. Please don't allow any structures to be built next to our home.

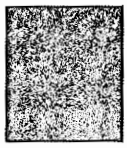
Sincerely,

Christine Grocki and Todd DeMond
15 Wild Goose Ct.
Newport Beach, CA 92663

Sent from Outlook

ROBERT ORBE

14 GOODWILL CT NEWPORT BEACH



8/19/2016

Robert Orbe
14 Goodwill Ct Newport Beach

Amber Dobson
California Coastal Commission
200 Oceangate, 10th FL
Long Beach, CA 90802
(562) 590-5071

Dear Ms. Dobson, **RE: Banning Ranch**

I have included two separate letters. The first is a property rights notification on behalf of myself and many of my neighbors who live on the front line of Banning Ranch.

The second letter is a separated notification of the known health risks of contaminated airborne particles.

Thank you for your assistance and feel free to contact me with any requests.

Regards,

Robert Orbe

NEWPORT CREST
NEWPORT BEACH

FROM: Front Line to Open Space Residents of Newport Crest

RE: Proposed Banning Ranch Development

Dear California Coastal Commissioners, August 16, 2016

Upon review of the California Coastal Commission staff's recommendation report for the potential re-zoning of Banning Ranch from agricultural/mineral to residential/commercial and its subsequent future development, the Newport Crest homeowners who directly connect to Banning Ranch, regard these recommendations as ill-advised. The recommendation does not appear to deliver in the spirit of the California Coastal Act and furthermore lacks any modern community lifestyle planning. As a result, the proposed design concept maximizes the negative financial impact to the existing property owners. In this capacity, the staff is exposing the California Coastal Commission to future liabilities estimated in the millions of dollars and potentially into the tens of millions of dollars, depending on the final development design.

The California State Constitution clearly cites that property owners are financially protected in these circumstances. I'd like to note that the California Coastal Commission staff's recommendation report references these protections when they wrote that their reduction in development size to NBR "did not constitute a "taking," however, they neglected to recognize the "taking" from the existing properties that have been a cornerstone to this community for more than 4 decades.

Please be advised that final approval for development in Banning Ranch by the California Coastal Commission will trigger the filing of claims with the City of Newport Beach from the estimated 47 Newport Crest homeowners who will be directly impacted. Depending upon the outcome of these claims, the California Coastal Commission could find itself party to future litigation.

Signed by Newport Crest Front Line Residents,

Robert Orbe 14 Goodwill Ct

NEWPORT CREST
NEWPORT BEACH

FROM: Front Line to Open Space Residents of Newport Crest

RE: Proposed Banning Ranch Development

Signature Page 3:

Dave Sutherland
dSand
12 Summerwind Ct
Newport Beach, CA 92663

Christy Schmitz
11 Summerwind Ct
Newport Beach, CA 92663

HENRIK FRANK
17 SUMMERWIND CT
NEWPORT BEACH, CA 92663

Judy Baker Marsh
16 Summerwind Ct.
Newport Beach, Ca.
92663

FROM: The Community within Breathing Distance of Banning Ranch

RE: Proposed Banning Ranch Development

Dear California Coastal Commissioners, August 18, 2016

With all the euphoria over the windfall profits, building fees and property taxes from the development of Banning Ranch, the serious health risks of disturbing that soil are being overlooked. This soil, if disturbed and released as airborne particles, is a serious contributor to things like Chronic Lower Repertory Disease (CLRP) which is a leading cause of death in the United States. In some national rankings CLRP is number 4 and in Orange County alone, an estimate 3,000 people per year die due to illnesses related airborne particles.

Remember what happened to many of those unfortunate victims of 9/11. One day of heavy exposure to airborne particles left many sick within 5 years and dead within 10 years.

These alarming statistics do not include the added heath risk from a California dirt fungus that once it is inhaled causes extended flu like symptoms and in some cases even death from a disease called coccidioidomycosis, also known as "cocci" or "Valley Fever." I've attached a fact sheet on Valley Fever from the State of California Department of Health and Human Services Agency.

As if this weren't enough, as clearly warned in California State Prop 65, this soil is also carcinogenic. After decades of past oil drilling, this soil is imbedded with petroleum deposits.

In summary, the plume of dirt released from excavating Banning Ranch coupled with our perfect on shore breeze, will expose thousands of unsuspecting men, women and children to serious health risks and even an epidemic. Please be advised that final approval of development for Banning Ranch by the California Coastal Commission could trigger health claims wiping out any financial or perceived benefits of this new development and depending upon the outcome of any future health claims, the California Coastal Commission could find itself party to litigation.

Signed,

Robert Orbe

14 Goodwill Ct. Newport Beach, CA

Foot note: http://www.wvdhhr.org/bph/hsc/pubs/other/clrd/national.htm

Valley Fever Fact Sheet

What is Valley Fever?

Valley Fever (coccidioidomycosis or "cocci") is an infectious disease caused by a fungus called *Coccidioides* which lives in the soil and dirt in certain areas. The fungus usually infects the lungs causing flu-like symptoms. Most of the time symptoms get better on their own.

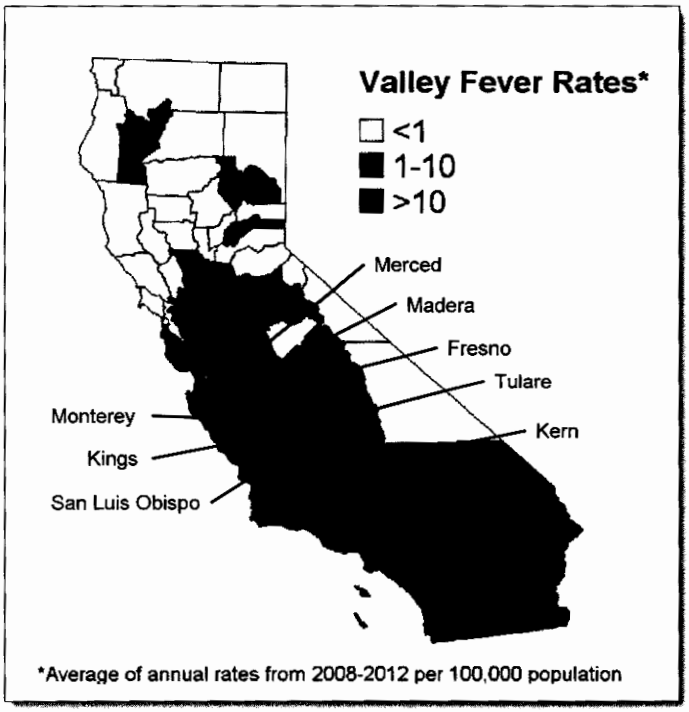
Some people with Valley Fever may develop severe disease. When Valley Fever is severe, patients may need to be hospitalized and in rare cases, the infection can spread beyond the lungs to other organs (this is called disseminated Valley Fever).

When and where do people get Valley Fever?

Valley Fever infection can occur year-round and tends to occur in areas with dry dirt and desert-like weather conditions that allow the fungus to grow.

Cases of Valley Fever have been reported from most counties in California. Over 75% of cases have been in people who live in the San Joaquin (Central) Valley. In California, the number of reported Valley Fever cases has increased greatly since 2000, with more than 4,000 cases reported in 2012.

Outside of California, Valley Fever is found in some areas of Arizona, Nevada, New Mexico, Utah, and Texas, and parts of Mexico and Central and South America.



Rates of reported Valley Fever cases in California counties from 2008–2012. Darkest colored counties had the highest rates of Valley Fever.

How do people get Valley Fever?

People can get Valley Fever by breathing in dust containing a form of the *Coccidioides* fungus called spores which are too small to be seen. Anyone who lives, works, or visits in an area with Valley Fever can be infected. Animals, including pets, can also be infected. Valley Fever is not contagious and cannot be spread from one person or animal to another.

What are the signs and symptoms of Valley Fever?

About 60% of people infected with Valley Fever have no symptoms and will fight off the infection naturally. The people who get sick usually develop a flu-like illness 1–3 weeks after exposure to the fungus.
Those who get sick can experience some of the following symptoms:

- Fever
- Tiredness
- Unexplained weight loss
- Muscle or joint aches
- Cough
- Chest pain
- Headaches
- Night sweats
- Rash

These symptoms can last a month or more but most people recover fully. Most people who have been infected become immune and will not get the infection again.

Valley Fever usually infects the lungs but it can spread outside of the lungs and infect the brain, joints, bone, skin, or other organs. This is called disseminated disease. This form of the disease is rare but can be very serious and could be fatal.

How is Valley Fever diagnosed and treated?

If you think you might have Valley Fever, visit your healthcare provider. Since Valley Fever symptoms are similar to those of other illnesses, your provider may order a blood test or other tests, such as a chest x-ray, to help diagnose Valley Fever.

Treatment is usually not necessary for mild infections, which often get better on their own. All persons with symptoms, however, should see a healthcare provider who can determine if treatment is needed.

If you are diagnosed with Valley Fever it is very important to follow instructions given by your healthcare provider about treatment, follow-up appointments, and testing.

Are certain people at greater risk for Valley Fever?

Anyone can get Valley Fever, even young and healthy people. People who live, work, or travel in areas with high rates of Valley Fever may be a higher risk of getting infected than others, especially if they:

- Participate in recreational activities where dirt and soil are disturbed
- Work in jobs where dirt and soil are disturbed, including construction, farming, military work, and archaeology.
  - If you work in a job where dirt or soil is disturbed in a place where Valley Fever is common, you and your employer may want to review the CDPH website for preventing work-related Valley Fever: http://www.cdph.ca.gov/programs/ohb/pages/cocci.aspx

Some groups are at greater risk for severe Valley Fever. These include:

- Older adults (≥60 years old)
- African Americans, Filipinos, and Hispanics
- Pregnant women especially in the later stages of pregnancy
- Persons with diabetes
- Persons with conditions that weaken their immune system such as:
    - Cancer
    - Human immunodeficiency virus (HIV) infection
    - Treatment with chemotherapy or steroids
    - Organ transplant

How can I reduce my risk of getting Valley Fever?

The best way to reduce your risk of getting Valley Fever is to avoid breathing in dirt or dust in areas where Valley Fever is common. Valley Fever can be difficult to prevent but some common sense recommendations that may help are below:

When it is windy outside and the air is dusty, especially during dust storms:

- Stay inside and keep windows and doors closed.
- While driving, keep car windows shut and use "recirculating" air conditioning if available.
- If you must be outdoors in dusty air, consider wearing an N95 mask or respirator.
    - N95 masks are available at drug and hardware stores
    - To be effective, N95 masks must be fitted properly. Instructions can be found at several online sites, including: http://www.youtube.com/watch?v=0d_RaKdqeck&feature=player_embeddedd

When working or playing in areas with open dirt:

- Wet down soil before disturbing it to reduce dust.
- Consider wearing an N95 mask or respirator.

Other things you can do:

- Cover open dirt areas around your home with grass, plants, or other ground cover.
- After work or play, change out of clothes if covered with dirt.
    - Take care not to shake out clothing and breathe in the dust before washing. Warn the person washing these clothes if you are not washing them yourself.
- Carry a couple of N95 masks or respirators in the car in case they are needed.

What is being done about Valley Fever in California?

State and local health departments:

- Monitor the numbers of people who get Valley Fever in California
- Raise awareness of Valley Fever among healthcare providers and the public

Where can I get more information about Valley Fever?

Contact your local health department or visit the CDPH and the US Centers for Disease Control and Prevention websites for more information:

http://www.cdph.ca.gov/HealthInfo/discond/Pages/Coccidioidomycosis.aspx

http://www.cdc.gov/fungal/diseases/coccidioidomycosis/index.html

HAMILTON BIOLOGICAL

August 22, 2016

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

SUBJECT: COMPILATION OF BURROWING OWL OBSERVATION DATA NEWPORT BANNING RANCH APPLICATION NO. 5-13-032

Dear Dr. Engel,

On behalf of the Banning Ranch Conservancy, Hamilton Biological, Inc. provides this summary of information known to the public regarding the occurrence of Burrowing Owls on the Banning Ranch property in Newport Beach, Orange County, California, during recent years (back to 2008). Additional relevant information may exist, but this letter summarizes the credible information known to me at this time. Many of the records attributed to amateurs are supported by photo exhibits and legal declarations, attached to this letter.

2008 SURVEYS BY GLENN LUKOS ASSOCIATES

Glenn Lukos Associates (GLA) conducted focused surveys for Burrowing Owls in preparation for a Draft EIR for an earlier version of the proposed project. The City of Newport Beach published GLA's draft report online, and I downloaded it, but that DEIR was not certified. The report, dated August 2008, is entitled, "Biological Technical Report for the Newport Banning Ranch Property, Newport Beach, California." Page 13 in this draft report states:

> Focused Surveys for Burrowing Owl
>
> In 2008, GLA Biologists conducted focused surveys for burrowing owl (*Athene cunicularia*) in accordance with the guidelines published by the Burrowing Owl Consortium as well as by CDFG. Surveys included wintering season surveys, conducted on January 20, 21, 22 and 25, 2008 as well as breeding surveys conducted between on March 21, 22, April 8, and 14, 2008. A summary of the survey times and conditions are included in Table 2-5, and the locations are depicted on Exhibit 7.

316 Monrovia Avenue — Long Beach, CA 90803 — 562-477-2181 — robb@hamiltonbiological.com

The draft report by GLA does not specify the dates when Burrowing Owls were detected on Banning Ranch, but Exhibit 7, reproduced below, shows the locations of the three wintering Burrowing Owls documented during their 2008 surveys:

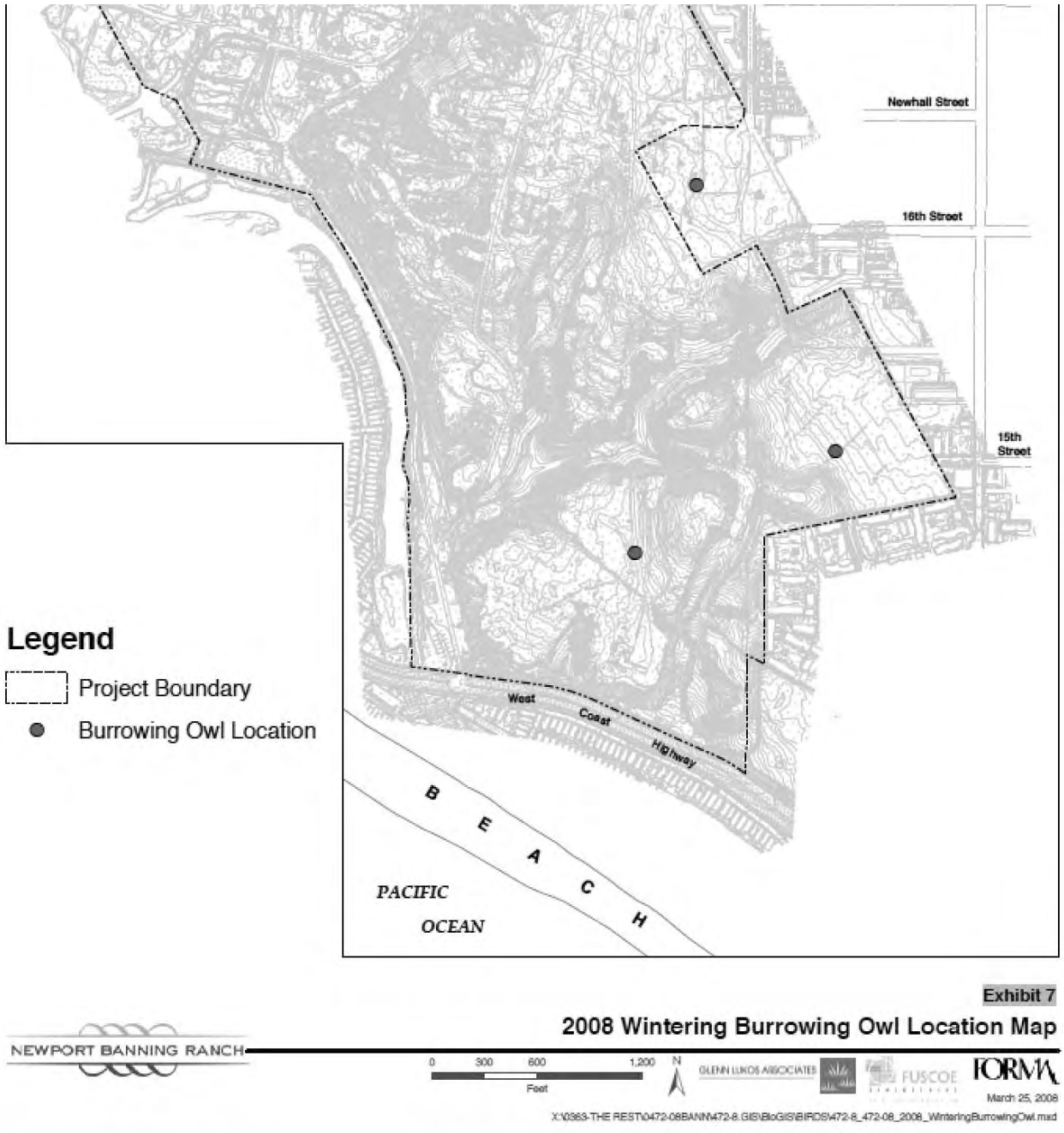


Exhibit 7 from GLA's August 2008 draft Biological Technical Report. Between January and April, 2008, GLA biologists documented three wintering Burrowing Owls on and adjacent to the Banning Ranch property.

2009 AND 2010 SURVEYS FOR DRAFT EIR

Exhibit 4.6-2a in the Draft EIR for the Banning Ranch project, prepared by BonTerra for the City of Newport Beach, shows (inside the red circle) the locations where BonTerra and Glenn Lukos Associates (GLA) observed a Burrowing Owl in 2009, and where GLA observed an owl in 2010:

2011 INCIDENTAL OBSERVATION BY KEVIN NELSON

On February 16, 2011, Kevin Nelson photographed a Burrowing Owl on the southern mesa, near the location of the two owls reported by Glenn Lukos Associates in 2008.

Burrowing Owl and occupied burrow photographed on February 16, 2011, by Kevin Nelson on the southern mesa. This record was not made as part of a formal owl survey; no legal declaration is attached to this record.

2014 DUDEK WINTER SURVEY

During focused winter surveys for the Burrowing Owl conducted on a limited part of Banning Ranch by Dudek in January 2014, an owl was observed twice on the southern mesa:

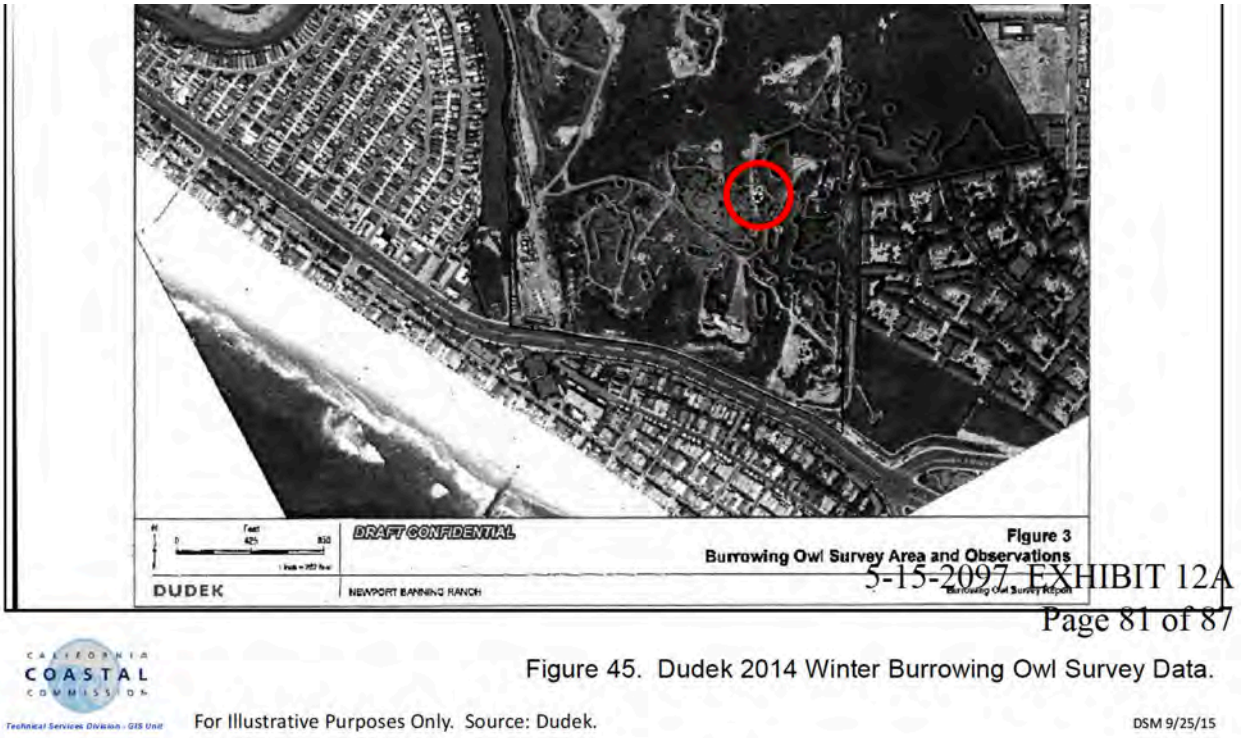


Figure 45 from the Coastal Commission staff report dated April 29, 2016, showing the location where Dudek reported a Burrowing Owl on two occasions during winter surveys in 2014.

Additionally, Dudek reported the following on a California Native Species Field Survey Form that they submitted to the California Natural Diversity Data Base:

Habitat Description (plants & animals) *plant communities, dominants, associates, substrates/soils, aspects/slope.*
Animal Behavior *(Describe observed behavior, such as territoriality, foraging, singing, calling, copulating, perching, roosting, etc., especially for avifauna)*

One burrowing owl individual detected perched on a mound adjacent to a burrow with sign (i.e.,white-wash and pellets). Another suitable burrow with burrowing owl sign observed approximately 0.30 mile northeast of the burrow where the burrowing owl was sighted.

The second burrow with Burrowing Owl sign was not mapped or mentioned in Dudek's letter report, but it is significant that another apparently occupied owl location was observed during their surveys. The two locations identified by Dudek are in addition to another Burrowing Owl documented on multiple dates by Cindy Black during January 2014, when Dudek was conducting their surveys (Ms. Black's observations are discussed on the next page).

Dudek's 2014 survey area was described on Page 4 of their report:

> **Results**
>
> Approximately 29.75 acres of appropriate survey area for burrowing owl was identified on the project site (Figure 3). Suitable survey area across the project site was predominantly identified in disturbed, annual brome grassland, wild oat grassland, salt grass flats and purple needle grass grassland, with the majority of it located in the southern portion of the project site (Figure 3).

In a letter to Dr. John Dixon, formerly of the Coastal Commission staff, dated June 24, 2016, Burrowing Owl specialist Dr. Peter H. Bloom identified approximately 122 acres of suitable habitat for Burrowing Owls on Banning Ranch ("Review of Burrowing Owl Issues, Banning Ranch Project, Newport Beach, CA"). As stated by Dr. Bloom:

> The published literature and my own observations lead me to conclude that Burrowing Owls can be expected to utilize all of the available grassland/vernal pool and open grass/scrub habitats within the uplands of Banning Ranch.

Covering only a quarter of the suitable habitat, it is not surprising that Dudek failed to detect another Burrowing Owl that local resident Cindy Black monitored and photo-documented during the same period (discussed subsequently).

2012-2016 OBSERVATIONS BY CINDY BLACK AND SHYANG RAY

Cindy Black, a local resident, has frequently recorded one to two Burrowing Owls on Banning Ranch, most frequently along the northern property line between approximately 16th Street and 17th Street (see map on next page). Ms. Black has documented the dates in email messages that are on file with the Coastal Commission, and has also submitted numerous photos in support of these records. Several of these photos are attached as an appendix to this letter, with legal declarations of authenticity. In summary:

- On 15 dates between December 27, 2012, and March 10, 2013, Ms. Black detected up to two Burrowing Owls on Banning Ranch. Shyang Ray photographed one of the owls on December 28, 2012.
- On 27 dates between December 5, 2013, and March 11, 2014, Ms. Black detected at least one Burrowing Owl on Banning Ranch. This owl was different than the one or two documented on the southern mesa, as reported by Dudek in the 2014 report discussed previously.
- On three dates between January 30 and February 11, 2015, Ms. Black detected two Burrowing Owls on Banning Ranch, one between 16th Street and 17th Street, and the other heard vocalizing from the southern mesa, near Carden Hall School.
- On four dates between December 24, 2015, and March 12, 2016, Ms. Black detected a Burrowing Owl between 16th Street and 17th Street. I observed this same owl on March 15, and photo-documented it in eBird (http://ebird.org/ebird/view/checklist/S28244003).

Aerial photo showing in red the area where Cindy Black has regularly observed and photo-documented one or two Burrowing Owls during winter between 2012/2013 and 2015/2016. The Banning Ranch property boundary is shown in turquoise.

2015 Observation by Coastal Commission Staff

On January 28, 2015, while inspecting an unpermitted fence between the Banning Ranch property and the Newport Mesa Unified School District property, Dr. Jonna Engel of the Coastal Commission staff "confirmed the presence of burrowing owls" at two large, earthen berms located along the parcel boundary. It is not clear whether one or more owls were observed. Page 17 of the Coastal Commission staff report states:

Burrowing Owl

Two large earthen berms in this area likely provide habitat for the burrowing owls documented onsite. Commission staff confirmed the presence of burrowing owls in this location at a site visit on January 28, 2015. Western burrowing owls (*Athene cunicularia*) are a California Species of Special Concern that are rare in Orange County due to loss of suitable grasslands to development, especially near the coast. Western burrowing owls are often found in burrows created by ground squirrels, of which there are countless in the project location. Most Western burrowing owls nesting in California remain at their breeding grounds throughout the winter, sometimes staying in the same burrows and sometimes wandering within the region.[6]

2016 Incidental Observations by Steve Ray

On April 29 and May 4, 2016, while leading tours, Banning Ranch Conservancy Executive Director Steve Ray observed a Burrowing Owl perched near a burrow located on the Banning Ranch property, a short distance west of Coastline College. Other participants of the tours also observed the Burrowing Owl, but no adequate photos were obtained. These observations were made during the normal breeding season of the Burrowing Owl, suggesting that the species could nest on the site, after all. All observations were made from the terrace of the Coastline Community College, public property located adjacent to Banning Ranch. Mr. Ray's legal declarations of authenticity are attached to this letter.

Summary Map of Observations, 2008 to 2016

The aerial photo exhibit below shows all of the locations where Burrowing Owls have been reliably reported between 2008 and 2016. This map demonstrates that Burrowing Owls regularly winter on Banning Ranch, and are not limited to any small area of the property, even during the daylight hours when the birds are most readily observed. At night, when the owls leave their burrows to forage, they can be expected to occur across a much wider area than what is shown in this exhibit.

Aerial photo showing locations where Burrowing Owls have been documented wintering on Newport Banning Ranch during certain years between 2008 and 2016, including attributions of sources. In this exhibit, "GLA" stands for Glenn Lukos Associates. The discussions in this letter provide details of each documented observation; see also the attached exhibits and declarations.

SUMMARY AND CONCLUSION

The focused survey data consist of a limited number of visits to a fraction of the suitable habitat, and only during certain years. Since most parts of the project site cannot be effectively surveyed from adjacent public lands, it is likely that additional owls wintered undetected on the site in recent years. For example, as discussed herein, Dudek conducted focused surveys "during the winter season (January 8 - January 30)" yet did not find the owl that Cindy Black recorded ***eleven times*** during the month of January 2014.

Furthermore, since no surveys have been conducted in order to determine the areas of the site regularly used by foraging owls, the baseline assumption must be that the owls use all of the roughly 122 acres of suitable foraging habitat available to them.

As concluded by Dr. Peter H. Bloom:

> Based on everything known about the habitat requirements of the Burrowing Owl, as reported in the scientific literature, and my own direct experience with this species in Orange County, I feel very confident in concluding that implementation of either the applicant's plan or Staff's alternative would almost certainly lead to extirpation of the Burrowing Owl as a wintering species on Banning Ranch.

The only way to allow for the potential for a wintering population of Burrowing Owls to persist on Banning Ranch would be to identify an area of grassland/vernal pool ecosystem of sufficient size and proper configuration to satisfy the habitat requirements of Burrowing Owls, as determined through review of the best available scientific information.

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

Sincerely,

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

attachments: exhibits and legal declarations for Burrowing Owl observations

cc: Jack Ainsworth, CCC
Sherilyn Sarb, CCC
Chris Pederson, CCC
Alex Helperin, CCC
Lisa Haage, CCC

Andrew Willis, CCC
Karl Schwing, CCC
Liliana Roman, CCC
Dr. Laurie Koteen, CCC
Amber Dobson, CCC
Christine Medak, USFWS
Kevin Hupf, CDFW
Erinn Wilson, CDFW
Kelly Schmoker, CDFW
Steve Ray, Banning Ranch Conservancy
Dr. Terry Welsh, Banning Ranch Conservancy

APPENDIX

to

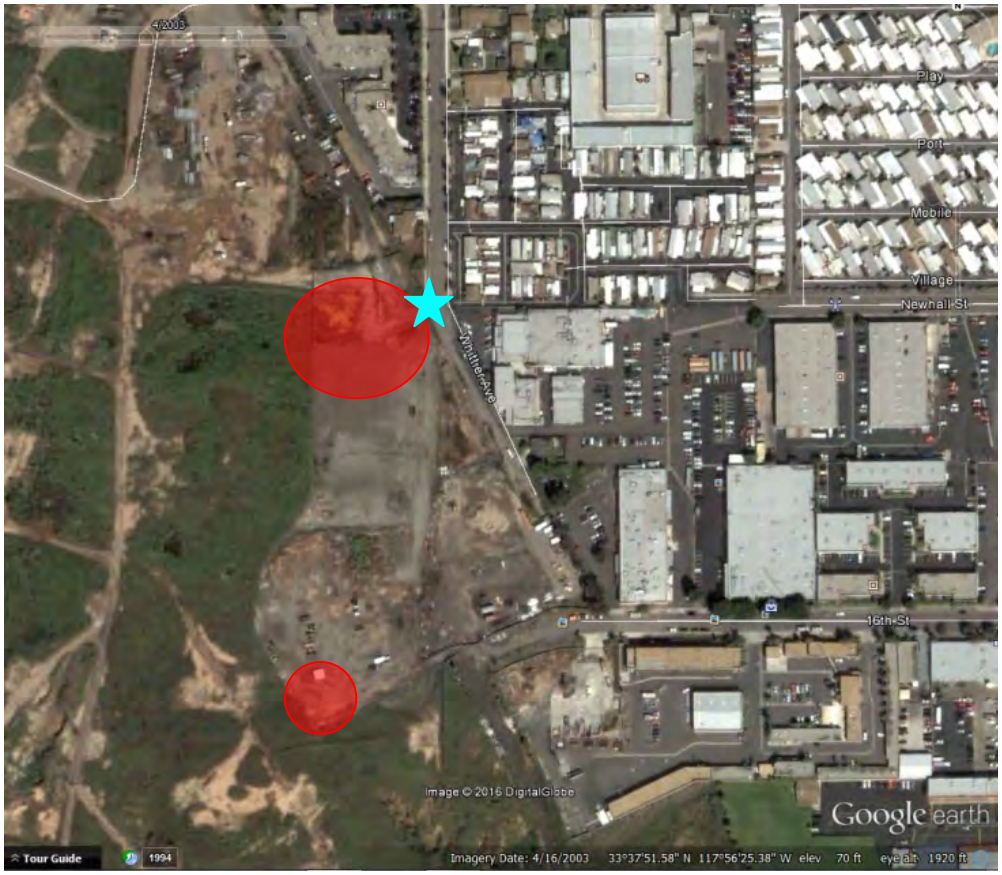
HAMILTON BIOLOGICAL LETTER

to
CALIFORNIA COASTAL COMMISSION
dated August 22, 2016
Re: Application No. 5-13-032

EXHIBITS, MAPS and DECLARATIONS of Cindy Black, Shyang Ray, and Steve Ray Documenting Sightings of Burrowing Owls on Newport Banning Ranch

EXHIBIT A

Burrowing Owl Sightings by Cindy Black and Shyang Ray



Burrowing Owl sightings

Observation Point (Cindy Black and Shyang Ray)

EXHIBIT B

Burrowing Owl Sightings by Steve Ray

EXHIBIT C
Documented Burrowing Owl Sightings by Cindy Black:

The dates that I have observed a burrowing owl(s) on Banning Ranch are the following:

Winter Season
Dec-27-2012
Dec-30-2012*
Jan-06-2013
Jan-08-2013
Jan-09-2013
Jan-23-2013
Jan-27-2013 (second owl appeared on site)
Jan-28-2013*
Jan-29-2013
Feb-06-2013*
Feb-12-2013
Feb-15-2013
Feb-19-2013
Feb-20-2013
Feb-21-2013
Feb-22-2013
Feb-25-2013
Mar-10-2013*

Winter Season
Dec-05-2013*
Dec-06-2013
Dec-08-2013
Dec-19-2013
Dec-26-2013
Dec-27-2013
Dec-28-2013
Dec-30-2013*
Jan-02-2014
Jan-03-2014
Jan-04-2014
Jan-11-2014
Jan-12-2014
Jan-15-2014
Jan-20-2014
Jan-24-2014*

Jan-26-2014
Jan-30-2014
Jan-31-2014

(NOTE: Dudek biologist(s) did not locate presence of Owl at this site during the month of January) *"Focused surveys for burrowing owl were conducted during the winter season (January 8 - January 30) by Dudek wildlife Biologists...*"

Feb-03-2014*
Feb-07-2014
Feb-09-2014
Feb-15-2014
Mar-02-2014
Mar-08-2014
Mar-09-2014
Mar-10-2014
Mar-11-2014*

Winter Season
Jan-04-2015
Jan-12-2015
Jan-21-2015*
Jan-30-2015 (no photo)
Feb-09-2015 (no photo)
Feb-11-2015*
Feb-25-2015

Winter Season
Feb-03-2016*
Feb-20-2016*
Mar-11-2016*

* Dates marked are included as Exhibits in Appendix to Hamilton Report

See Attached EXHIBIT A for Locations of Following Exhibits 1 - 18

EXHIBIT 1.

Dec-30-2012 Burrowing Owl #1 on Burrow Direction: West Cindy Black

EXHIBIT 2.

Jan-28-2013 Burrowing Owl #1 on Burrow Direction: West Cindy Black

EXHIBIT 3.

Jan-28-2013 Burrowing Owl #2 on Burrow Direction: West Cindy Black

EXHIBIT 4.

Feb-06-2013 Burrowing Owl #1 on Burrow Direction: West Cindy Black

EXHIBIT 5.

Feb-06-2013 Burrowing Owl #2 on Burrow Direction: West Cindy Black

EXHIBIT 6.

Mar-10-2013 Burrowing Owl #2 at Burrow Direction: West Cindy Black

EXHIBIT 7.

Dec-05-2013 Burrowing Owl on Fence Direction: Southwest Cindy Black

EXHIBIT 8.

Dec-30-2013 Burrowing Owl #2 on Burrow Direction: West Cindy Black

EXHIBIT 9.

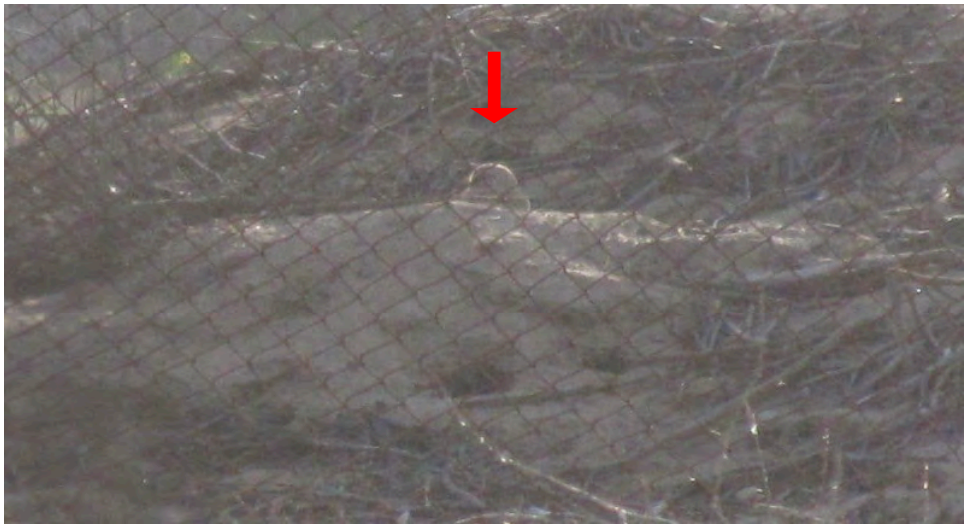
Jan-24-2014 Burrowing Owl #2 on Burrow Direction: West Cindy Black

(NOTE: Dudek biologist(s) did not locate presence of Owl at this site during the month of January).
"Focused surveys for burrowing owl were conducted during the winter season (January 8 - January 30) by Dudek wildlife Biologists..."

EXHIBIT 10.

Feb-03-2014 Burrowing Owl #2 on Burrow Direction: West Cindy Black

EXHIBIT 11.



Mar-11-2014 Burrowing Owl #2 on Burrow Direction: West Cindy Black

EXHIBIT 12.

Jan-21-2015 Burrowing Owl #2 on Burrow Direction: West Cindy Black

EXHIBIT 13.

Feb-11-2015 Burrowing Owl #2 on Burrow Direction: West Cindy Black

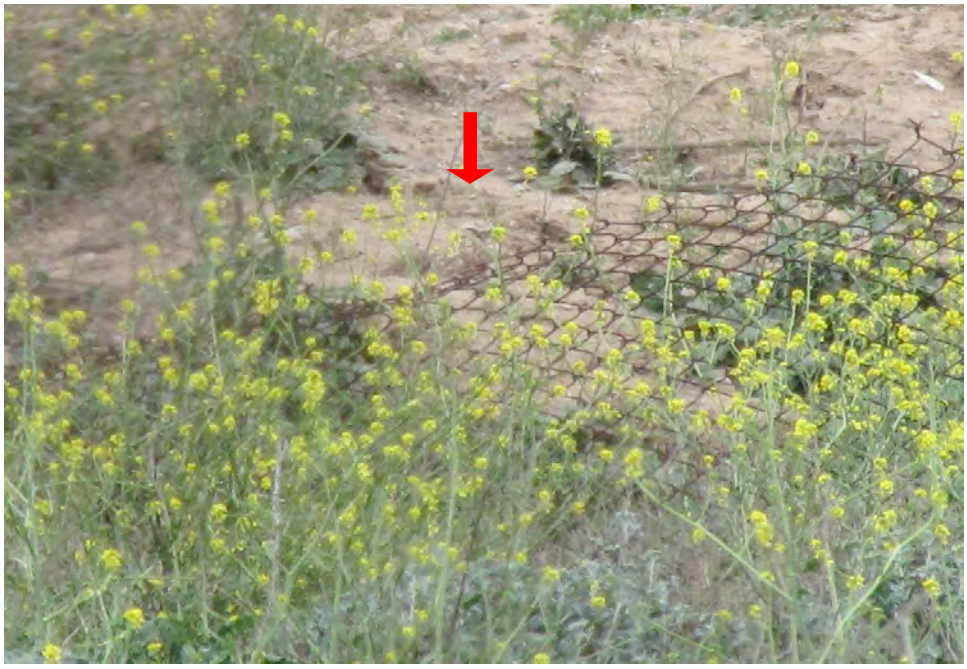
EXHIBIT 14.

Feb-03-2016 Burrowing Owl #2 on Burrow Direction: West Cindy Black - with Squirrel

EXHIBIT 15.

Feb-20-2016 Burrowing Owl #2 on Burrow Direction: West Cindy Black

EXHIBIT 16.



Mar-11-2016 Burrowing Owl #2 on Burrow Direction: West Cindy Black

EXHIBIT 17.

Dec-28-2012 Burrowing Owl on Burrow Direction: West Shyang Ray

EXHIBIT 18.

Dec-28-2012 Burrowing Owl on Burrow Direction: West Shyang Ray - close up

DECLARATION OF CINDY BLACK

I, Cindy Black, declare and state as follows:

1. All of the information set forth below is personally known to me, except when noted by me as being based on information and belief. If called and sworn as a witness, I could and would competently and truthfully testify to the information set forth below.

2. I am familiar with the Newport Banning Ranch property. I live approximately one mile from the property and visit the perimeter of the site constantly, sometimes daily. I am familiar with Southern California plant habitats and wildlife, including burrowing owls, and have been photographing Banning Ranch for six years. I serve as the Facebook Administrator for the Banning Ranch Conservancy and am also an active participating member of the Sierra Club Banning Ranch Park and Preserve Task Force. I have previously submitted documentation and/or photos of Banning Ranch plant habitats and/or wildlife to the California Coastal Commission (including most of those listed on attached Exhibit C).

3. On the dates and times documented on the attached photo Exhibits ascribed to me, I visited the perimeter of the Banning Ranch property to observe, photograph and otherwise document burrowing owls on the property. All observations/photographs were made from public property located adjacent to Banning Ranch. A map showing the position of the photographer and the location of sightings of Burrowing Owls is attached hereto as Exhibit A.

4. I personally observed and photographed the Burrowing Owl(s) in the photo Exhibits that I am submitting. I took all my photos of the owls with my camera. True and correct copies of the photographs I took are attached hereto as photo Exhibits 1 - 16. The photos have been produced via jpeg format, emailed via pdf format and hand delivered to California Coastal Commission offices.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Signed this 21st day of August, 2016.

By: Cindy Black

Cindy Black

DECLARATION OF SHYANG RAY

I, Shyang Ray, declare and state as follows:

1. All of the information set forth below is personally known to me, except when noted by me as being based on information and belief. If called and sworn as a witness, I could and would competently and truthfully testify to the information set forth below.

2. I am familiar with the Newport Banning Ranch property. I have visited the perimeter of the site often. As a nature photographer, I am familiar with Southern California plant habitats and wildlife, including burrowing owls, and have been photographing Banning Ranch for eight years. I am a member of the Banning Ranch Conservancy. I have previously helped to submit documentation and/or photos of Banning Ranch plant habitats and/or wildlife to the City of Newport Beach and the California Coastal Commission.

3. On the dates and times documented on the attached Photo Exhibits ascribed to me, I visited the perimeter of the Banning Ranch property to observe, photograph and otherwise document burrowing owls on the property. All observations/photographs were made from public property located adjacent to Banning Ranch. A map showing the position of the photographer and the direction of each Photo Exhibit is attached hereto as Exhibit A.

4. I personally observed and photographed the burrowing owl(s) in the Photo Exhibits that I am submitting. I took all my photos of the owls with my camera. True and correct copies of the photographs I took are attached hereto as Photo Exhibits 17 and 18. The photos have been produced via jpeg format, emailed via pdf format and hand delivered to California Coastal Commission offices.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Signed this 21st day of August, 2016. By: _____

Shyang Ray

DECLARATION OF STEVE RAY

I, Steve Ray, declare and state as follows:

1. All of the information set forth below is personally known to me, except when noted by me as being based on information and belief. If called and sworn as a witness, I could and would competently and truthfully testify to the information set forth below.

2. I am familiar with the Newport Banning Ranch property and visit the perimeter of the site almost every day. I have been active in environmental advocacy and conservation management for over 45 years, the last 37 years in Southern California and I am very knowledgeable of Southern California plant habitats and wildlife, including burrowing owls. I am co-founder of the Banning Ranch Conservancy and for the past 8 years have served as Executive Director and Board Member of the Conservancy. The mission of the Conservancy is to "preserve, acquire, conserve and manage the entire Banning Ranch as permanent public open space, park and coastal nature preserve". I am an active participating member of the Sierra Club Banning Ranch Park and Preserve Task Force. I have also served as Director of Conservation and Education for the Catalina Island Conservancy, headed the Santa Ana River Watershed Alliance, was President of the Orange County League of Conservation Voters, oversaw the restoration and management of the Shipley Nature Center (Huntington Beach), and was Chair of the Huntington Beach Planning Commission, among other professional qualifications. I have previously submitted documentation and/or photos of Banning Ranch plant habitats and/or wildlife to the City of Newport Beach and the California Coastal Commission and testified extensively before many public agencies, including the Coastal Commission.

3. On April 29, 2016, at 10:00 AM, and on May 4, 2016, at 11:00 AM, I conducted tours for City of Huntington Beach Environmental Board members and members of the public, respectively, of the perimeter of the Banning Ranch property.

During both tours, I personally observed a burrowing owl perched on its burrow on the property. Other participants of the tours also observed the burrowing owl. Cell phone photos were taken but were not of sufficient quality to file with this report. All observations were made from the terrace of the Coastline Community College, public property located adjacent to Banning Ranch. A map showing the locations of the observer(s) and of the burrowing owl, which were the same on both visits, are shown on the attached map designated as Exhibit B.

4. I also accompanied Cindy Black and Shyang Ray on some of their photo shoots of burrowing owls that are also included in this submission and can fully attest to the observations and photo Exhibits that they are submitting with this package.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Signed this 21st day of August, 2016.

By: _____

Steve Ray

From:	Susan Skinner
To:	BanningRanchComments@Coastal
Subject:	Please deny the Banning Ranch request
Date:	Sunday, August 21, 2016 9:27:01 PM

Dear Coastal Commission:

Please deny the Banning Ranch project as it currently stands. This large parcel of property is an environmentally important property and the development of the Banning Ranch to the degree that it is planned right now will be destructive to critical habitats.

I would prefer to have no development at all on this property and would suggest allowing the smallest footprint possible for development.

Thank you,

Susan Skinner
2042 Port Provence Place
Newport Beach, CA

From:	Mike and Dorothy Kraus
To:	BanningRanchComments@Coastal
Cc:	medjkraus@yahoo.com
Subject:	Application No. 5-15-2097, Newport Banning Ranch, LLC, Newport Beach
Date:	Saturday, August 20, 2016 1:36:06 PM

Dear Coastal Commissioners,

We have been advised that the California Coastal Commission is considering for approval a plan that would allow the applicant to build dwelling units that back up to our property at 10 Wild Goose Court, Newport Beach, located in the Newport Crest community. Those structures would block our ocean views and stop the ocean breezes we currently enjoy, among other negative impacts. As California Coastal Commissioners, we believe that you have a legal, ethical and moral responsibility to not favor a private developer, that will make a huge profit, over the residents in a neighborhood that has been there for over forty years.

Furthermore, it is our understanding that the applicant has made false claims to the Newport Crest Board of Directors that Coastal staff told the applicant that homes abutting Newport Crest was the "preferred land use". As you know, staff is responsible for upholding the Coastal Act in analyzing any project that is submitted for Commission review and approval. Staff is not responsible for designing an applicant's project for them. It is our understanding that, in fact, staff suggested that areas near an arroyo be left as open space or low intensity development, and that the residential be relocated elsewhere. The applicant chose to move residential units from their original plan, and at that time located within proximity of this arroyo, to directly abutting our property in Newport Crest. Additionally, in another submittal, the applicant professed to be Newport Crest's "good neighbors", yet another falsehood to create an image to the Coastal Commission of the "greater good" or "doing the right thing for the community".

See below for an extract from the applicant's July 2016 submittal, page 2 "Attachment 5 CCC Staff Suggested Land Use Changes". The red arrow points to the Newport Crest community and the blue arrow is our property location.

A plan with dwelling units that backs up to our property would in essence be a taking by a private third party developer for profit at the expense of the community next to these structures. Once again, our homes would be less desirable due to the loss of ocean views and air flow, to name only a few negative impacts. Therefore we would suffer a loss of value, so a private developer could make a huge profit. This is wrong and there are alternatives to such a proposal that would still meet the requirements of the California Coastal Act.

Please do not favor a large developer over the rights of the Newport Crest residents. We urge you to not approve any plan that would allow structures immediately adjacent to the Newport Crest community. Thank you.
Respectfully submitted,

Michael and Dorothy Kraus
10 Wild Goose Court
Newport Beach, CA 92663

From:	Lizz Flowers
To:	BanningRanchComments@Coastal
Subject:	Papers for Submission to the Coastal Commission
Date:	Tuesday, August 02, 2016 4:08:14 PM
Attachments:	CCC SUBMISSION The burrowing owl will not survive the development.pdf CCC SUBMISSION UPHOLD THE COASTAL ACT.pdf CCC SUBMISSION Vernal pools paper for Banning Ranch.pdf

Hi Coastal Commission!

I hope this email finds you well, I am sending along three papers which I have written as a 3rd year student of Environmental Ecology at Chapman University. I greatly appreciate the time it takes you to read through these papers, so I have made them as organized and concise as possible. I love Banning Ranch, lets save it!

Sincerely,
Elizabeth White Flowers

C: +1 917 428 2281

“Everybody is a genius. But if you judge a fish by its ability to climb a tree, it will live its whole life believing that it is stupid.” -Albert Einstein

The Burrowing Owls Will Not Survive Development of Banning Ranch

By Elizabeth White Flowers, Environmental Ecologist 8/2/2016

INTRODUCTION

Burrowing Owls will not survive development of Banning Ranch. The current proposal surrounds the Burrowing Owl habitat with buildings and a road. Scientific studies support that 1. Juvenile Burrowing Owls are unable to navigate fragmented landscapes like the one the current proposed development would create, 2. Burrowing Owls need a buffer greater than 100m around their burrows due to their acknowledgment of intruders a minimum of 100m away and human disturbance being analogous to predation risk in terms of stress factors, 3. Burrowing Owls will be forced to leave Banning Ranch as a result of the development, and 4. Burrowing Owl's foraging habitat spans approximately 0.3km^2 around their burrows, and with the development plan proposed in the March 1, 2016 CA Coastal Commission report, 84% of this foraging habitat will be developed or disconnected from the burrowing area by the proposed road connecting the portions of development.

JUVENILE BURROWING OWLS ARE UNABLE TO CROSS ROADS

Breeding Burrowing Owls were thought to have been extirpated from Orange County, however it is now known that there are breeding pairs in Seal Beach. This makes it ever more important to provide for possible breeding pairs and for the survival of juvenile Burrowing Owls. If the development goes through as planned, fragmentation will make juvenile Burrowing Owl survival impossible if they choose to breed at their current nesting site on Banning Ranch. In *Pre-Migratory Movements by Juvenile Burrowing Owls in a Patchy Landscape* the authors stated that their "results, along with evidence [they] synthesized from previous studies, suggests that

juvenile Burrowing Owls in small patches are unwilling or unable to cross the cropland matrix of a fragmented landscape" (Poulin et. al, 2007). Due to high site fidelity by BUOW's it is unlikely that juveniles will be able to survive on Banning Ranch if development fragments their current foraging habitat surround their burrows. Banning Ranch is the largest area of coastal land left in Orange County, therefore loss of the potential breeding area could be detrimental to the recovery of Western Burrowing Owls.

BURROWING OWLS NEED A BUFFER GREATER THAN 100M

BURROWING OWLS ACKNOWLEDGE INTRUDERS AT LEAST 100M AWAY

A 2004 study supported that Burrowing Owls acknowledge intruders at least 100m away.

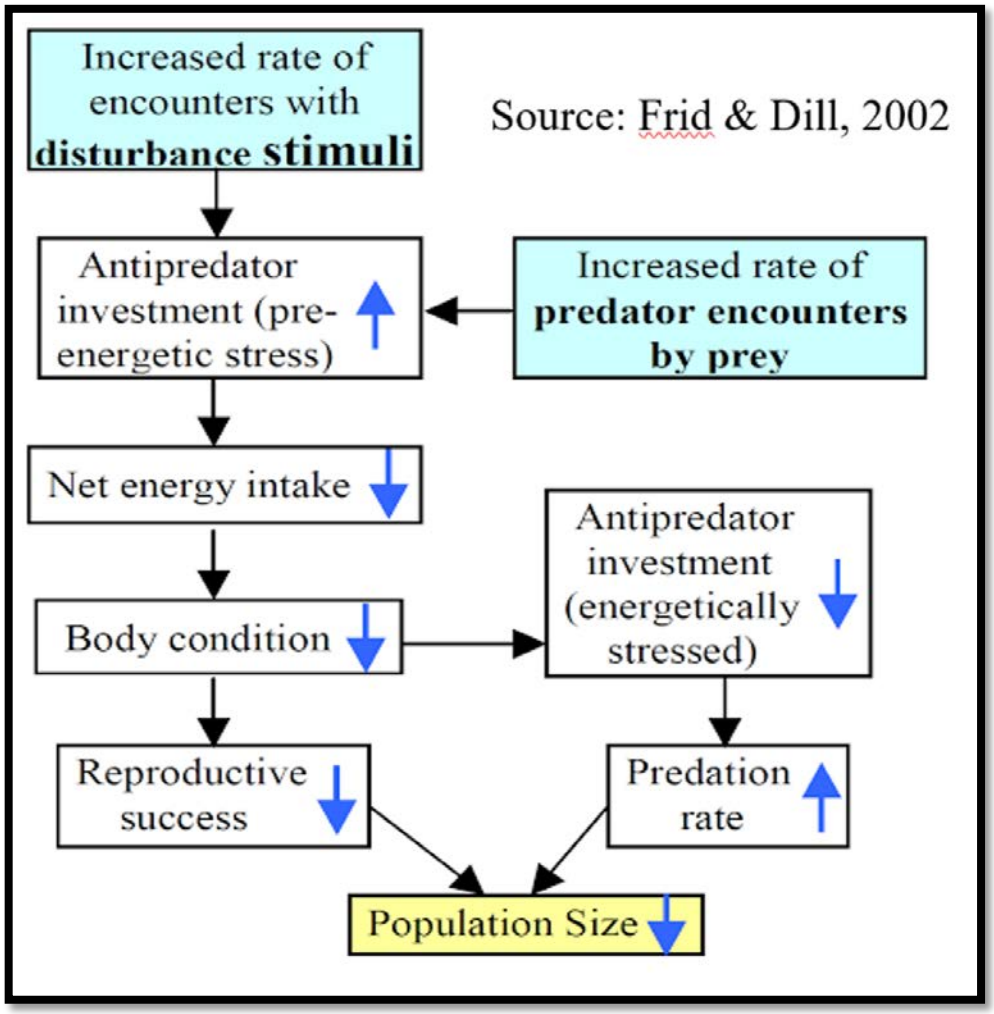
> "To investigate the potential expression of territorial behavior of Burrowing Owls (Athene cunicularia) in southwestern Idaho, we used a playback protocol to determine if Burrowing Owls actively defended their nesting site from conspecifics, and if so, to determine the extent of their territorial boundaries. Eighty-eight percent of male Burrowing Owls responded to the broadcast of conspecific primary calls…. [Our] findings suggest that owls actively defended their nesting site from conspecifics and that they defended an area larger than that immediately surrounding the nest burrow" (Molton, Brady, & Belthoff, 2004).

This study supports the 100m minimum buffer around the Burrowing Owl's nests, which is equivalent to $0.0314km^2$. While development and human noises are not conspecific calls, this study shows that the Burrowing Owls defend a minimum of a 100m radius around their nesting sites, and disturbance, including noise emanating from within this radius, may cause disturbances to this endangered species.

HUMAN DISTURBANCE IS ANALOGOUS TO PREDATION RISK

A plethora of studies have studied the negative impacts of nonlethal human disturbance on animals' health and ability to reproduce. "Prey have evolved antipredator responses to generalized threatening stimuli, such as loud noises and rapidly approaching objects. Thus, when encountering disturbance stimuli ranging from the dramatic, low-flying helicopter to the quiet wildlife photographer, animal responses are likely to follow the same economic principles used by prey encountering predators…. similar to predation risk, disturbance stimuli can indirectly affect fitness and population dynamics via the energetic and lost opportunity costs of risk avoidance" (Frid & Dill, 2002).

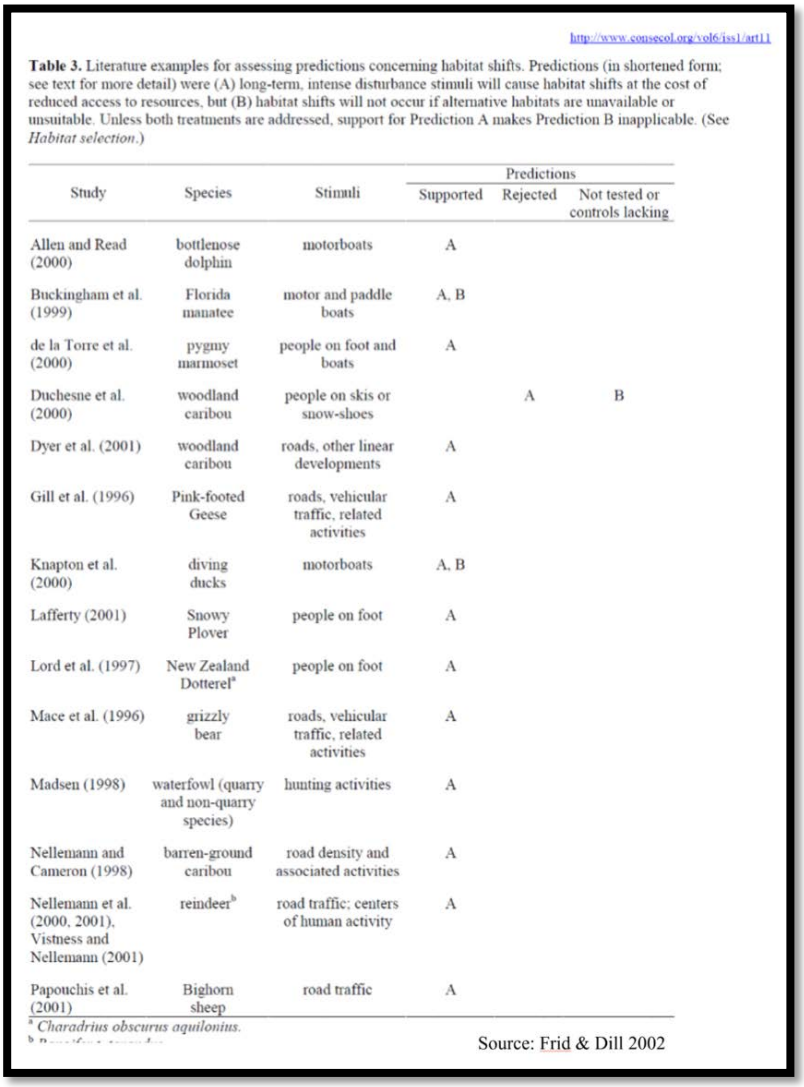
Perceived predation risk causes prey to spend time and energy on avoidance, which decreases their ability to acquire resources and in turn affects survival rates and reproductive success. If high levels of predation risk (or perceived predation risk) continue, the animals show declining body condition (Hik 1995, review in Lima 1998, Morris & Davidson 2000). Declining body condition forces animals to search for food in more dangerous habitats where there is either a higher risk of predation or risk from anthropogenic factors. With the March 1, 2016 CCC proposed development plan for Banning Ranch, not only would there be increased perceived predation risk and therefore stress to the Burrowing Owls, but their habitat will be significantly reduced and fragmented. Declining and shifting habitat will displace the Burrowing Owls, cause



conspecific and heterospecific competition and crowding, all factors that are known to increase stress and decrease body condition of animals, including Burrowing Owls (Frid & Dill, 2002).

Figure 1 illustrates a conceptual model of the effects of disturbance stimuli. Downward blue arrows indicate a decrease, upward arrows indicate an increase.

THE BUOW'S WILL LEAVE THEIR CURRENT HABITAT AS A RESULT OF HUMAN DISTURBANCE



http://www.consecol.org/vol6/iss1/art11

Table 3. Literature examples for assessing predictions concerning habitat shifts. Predictions (in shortened form; see text for more detail) were (A) long-term, intense disturbance stimuli will cause habitat shifts at the cost of reduced access to resources, but (B) habitat shifts will not occur if alternative habitats are unavailable or unsuitable. Unless both treatments are addressed, support for Prediction A makes Prediction B inapplicable. (See *Habitat selection*.)

Study	Species	Stimuli	Predictions		
			Supported	Rejected	Not tested or controls lacking
Allen and Read (2000)	bottlenose dolphin	motorboats	A		
Buckingham et al. (1999)	Florida manatee	motor and paddle boats	A, B		
de la Torre et al. (2000)	pygmy marmoset	people on foot and boats	A		
Duchesne et al. (2000)	woodland caribou	people on skis or snow-shoes		A	B
Dyer et al. (2001)	woodland caribou	roads, other linear developments	A		
Gill et al. (1996)	Pink-footed Geese	roads, vehicular traffic, related activities	A		
Knapton et al. (2000)	diving ducks	motorboats	A, B		
Lafferty (2001)	Snowy Plover	people on foot	A		
Lord et al. (1997)	New Zealand Dotterel[a]	people on foot	A		
Mace et al. (1996)	grizzly bear	roads, vehicular traffic, related activities	A		
Madsen (1998)	waterfowl (quarry and non-quarry species)	hunting activities	A		
Nellemann and Cameron (1998)	barren-ground caribou	road density and associated activities	A		
Nellemann et al. (2000, 2001), Vistness and Nellemann (2001)	reindeer[b]	road traffic; centers of human activity	A		
Papouchis et al. (2001)	Bighorn sheep	road traffic	A		

[a] *Charadrius obscurus aquilonius.*

Source: Frid & Dill 2002

The Burrowing Owls will undoubtedly be forced to leave their current burrows if the development proceeds as planned in the March 1, 2016 CCC report. Frid & Dill in their paper *Human-caused disturbance stimuli as a form of predation risk*, compiled the results of studies on various animals' responses to long-term intense disturbance stimuli. Overall, this table illustrates that this type of stimuli causes habitat shifts which reduced access to resources for the animals studied, many of which were birds. The same response and effects can reasonably be predicted for Burrowing Owls.

California ground squirrel burrows are reused by Burrowing Owls for burrowing. With the decline of the ground squirrel due, in part, to human pest control, finding a suitable burrow for the Burrowing Owls to relocate themselves will be difficult. With increased intense long-term human disturbance stimuli, and with increased mammal pest control by the encroaching development, relocating themselves within Orange County may be impossible for Banning Ranch's Western Burrowing Owls.

84% OF THE BUOW'S CURRENT FORAGING HABITAT WILL DISCONNECTED FROM THEM

Recent San Diego Zoo studies show that local Burrowing Owls only use about 0.3 km^2 of suitable habitat in proximity to their burrow, this is 74 acres. This is concerning because the location of the current burrows means that most of their current foraging habitat would be destroyed by development. The SD Zoo study also found that foraging areas were fairly similar between years (Hennessy, et. al 2015, p. 42-53). The Burrowing Owls' response to having construction occur in their foraging habitat for 10+ years is easy to predict based on Frid's and Dill's research. However, if they choose to stay, they will be fragmented into an area of only 0.048 km^2, only 16% of what San Diego's Burrowing Owl's required. The calculations are shown below, as well as the mapped ArcGIS polygon used for calculations.

To develop and fragment 84% of the Burrowing Owl's current foraging area would result in the Burrowing Owls leaving, dying due to increased predation risk caused by poor body condition, or crossing the road, a hazard for a bird that can often travels on foot. With the estimation of increased traffic in the area at 15,000 cars, Burrowing Owls have little chance of survival if the development proceeds with the current plans. This is a clear violation of the intentions of the Coastal Act and California Endangered Species Act, which both provide protections for this endangered species (Coastal Act ESHA provisions and CESA directly).

Polygon_area

OID *	Shape *	Name	Shape_Length	Shape_Area	SquareMeter	Squarefeet	SqKm
1	Polygon		1008.590658	47697.928771	47,697.93	513,414.18	0.047698

Link

Total RMS Error: Forward:0.837886

Link	X Source	Y Source	X Map	Y Map	Residual_x	Residual_y	Residual
1	208.793053	-181.849770	412200.572...	3722171.82...	-0.0944318	0.29099	0.305929
2	232.284886	-516.678698	412257.731...	3721262.49...	-0.193156	-0.12446	0.229781
3	243.023116	-385.912040	412290.505...	3721619.00...	0.457822	1.61308	1.67679
4	264.910407	-439.789185	412348.775...	3721470.25...	-0.029094	-0.713662	0.714255
5	245.385664	-370.468815	412296.851...	3721658.58...	0.0158661	-0.69964	0.69982
6	533.442210	-571.129952	413080.616...	3721112.68...	-0.177603	0.772384	0.79254
7	559.349143	-396.389663	413155.719...	3721585.87...	0.376521	0	0.376521
8	451.002345	-232.572225	412862.180...	3722031.58...	-0.143523	0.0653316	0.157693
9	411.705368	-437.398574	412750.114...	3721474.60...	-0.393158	-1.42467	1.47793
10	375.451557	-579.461893	412648.514...	3721091.06...	0.180757	0.225589	0.289074

Source: Elizabeth Thomas using ArcGIS Polygon tool

CONCLUSION

Burrowing Owls will not survive development of Banning Ranch. The current proposal surrounds the Burrowing Owl habitat with buildings and a road. Juvenile Burrowing Owls are unable or unwilling to navigate the fragmented landscape that will result from development if it proceeds. The current proposed development does not give an appropriate buffer for the Burrowing Owls, who need a buffer greater than 100m to be undisturbed when burrowing, or else the human disturbance becomes analogous to predation risk due to causing the same energetically expensive response from the Owls. Besides this fact, Burrowing Owls also need a $0.3km^2$ of foraging habitat around their burrows, and with the development plan proposed in the March 1, 2016 CA Coastal Commission report, 84% of this foraging habitat will be developed or separated from the Owl's burrows by a road, which greatly increases the risk of the Burrowing Owls being killed by being hit by a car. Whether development proceeds or not, the Burrowing Owls must have $0.3km^2$ of foraging habitat around their burrows, in addition to a 100m noise buffer around their nesting site.

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Image Source, Public Domain Image: burrowing-owl-bird-athene-cunicularia-hypugea-725x335.jpg uploaded 2015-01-22

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UPHOLDING THE COASTAL ACT THE WAY IT IS INTENDED TO BE UPHELD

By Elizabeth White Flowers, Environmental Ecologist 8/2/2016

INTRODUCTION

I have submitted two papers defending Banning Ranch from development, one on the ecological interactions of vernal pools, and one on the essentiality of a buffer for the Burrowing Owls greater than 100m. However, the ecology and human disturbance topics are only a portion of what my research into Banning Ranch has yielded. The possibility of the Coastal Commission approving development on Banning Ranch is quite obviously in violation of the Coastal Act.

While the Coastal Act does provide for some development to prioritize over the protections of coastal land, and it does provide for prioritization of concentrated coastal development instead of spreading development out further along the coast, neither of these provisions seem relevant as a result of 6 points. 1. Banning Ranch is part of a larger ecosystem, primarily interacting with Fairview Park and Talbert Nature Preserve. Animals do not adhere to anthropogenic geographic boundaries defined on a map. 2. The Least Bell's Vireo requires the mesa habitat proposed for development, particularly during the breeding season, which has not been recognized to my knowledge. 3. "Degraded ESHA" is still ESHA, and requires the same protections, if not greater protections, than ESHA. There is no mention of this term in the Coastal Act or any exemptions from protection for it. 4. We must set a precedent that degradation of ESHA will not lead to its removal from protections. 5. The Coastal Act does recognize the utmost importance of maintaining coastal ecosystems, and therefore the development of Banning Ranch is unlawful due to its clear ecological significance in the greater Orange County River Park region. 6. The public has shown strong opposition to the development, and the Coastal Act wrote into law that the "public has a right to fully participate in decisions affecting coastal planning, conservation, and development". Therefore, the development is unlawful under this section of the Coastal Act as well.

BANNING RANCH IS PART OF A LARGER ECOSYSTEM, PRIMARILY WITH FAIRVIEW PARK AND TALBERT NATURE PRESERVE. ANIMALS DO NOT ADHERE TO ANTHROPOGENIC GEOGRAPHIC BOUNDARIES DEFINED ON A MAP.

Animals do not understand human made boundaries and therefore cannot protect themselves by adhering to these limits. While some species return to previous sites consistently, some will wait many years to return. If we destroy their habitat when they are not present, then we are not protecting these species. Animals are nomads, and to assume they will not return to a space because they are not documented for a series of years shows inexperience with natural order.

In Banning Ranch's case, we are not only affecting species' habitats, we are changing and polluting their food and water sources, causing stress to them with human disturbance, decreased foraging space, and a decreased gene pool.

High site fidelity of the special status species on Banning Ranch, such as the California Gnatcatcher and the Burrowing Owl show that these species will repopulate the area if given the chance to do so. Much of this requires little help from the Coastal Commission, only for the site to be left undisturbed for an extended period of time.

After extensive research on the species of Banning Ranch and the ecological interactions between Banning Ranch and the surrounding parks such as Talbert Nature Preserve, Fairview Park, the OC Flood Plain, and the USACE Wetlands, the undeniable conclusion has been that the development of Banning Ranch as stated in the most recent Coastal Commission Report (March 1, 2016) must not proceed if we wish to protect the greater OCRP ecosystem.

PROTECTING THE MESA FOR THE LEAST BELL'S VIREO

Least Bell's Vireos are only one of the endangered birds living on Banning Ranch than require protection. While the March 1, 2016 CA Coastal Commission Report stated on page 130 that "…Construction shall be *prohibited within 500 feet of an active least Bell's vireo nest during the breeding season of this species* (March 15 to September 15)" and "Activities involving disturbance or removal of riparian vegetation shall be prohibited" during this time also, there is no recognition that vireos occur in upland habitats adjacent to breeding areas. These upland areas also must be protected when Vireos are present on Banning Ranch. The Vireos will not recognize limits on their territory that are assumed by biologists and construction workers.

While they require riparian habitats for nesting, "vireos also occur in upland habitats adjacent to breeding areas" (Kus & Miner, 1989.) The development suggested in the March 1, 2016 CCC report recommends a development area that would cover much of the upland available habitat adjacent to the Vireo's breeding areas. "The use of non-riparian habitats, primarily areas of coastal sage scrub and chaparral vegetation, varied over the nesting cycle…. These observations suggest that planning boundaries intended to protect resources essential for breeding vireos should include upland areas bordering riparian habitats" (Kus & Miner, 1989.)

DEGRADED ESHA REQUIRES GREATER PROTECTIONS

Degraded ESHA is not, as some have argued, entitled to less protection than un-degraded ESHA. Every portion of the coast, at some point in time, has been negatively impacted by human caused air, water, and noise pollution, fragmentation, climate change, development, etc. However, by removing the cause of degradation, areas can regrow and species can repopulate with some assistance. Assistance involves actions like community weeding, planting of natives (particularly primary plants that help other species establish), responsible pest control, and education of the community to be more responsible regarding things like use of pesticides, invasive seeds, and letting soapy water run into the street.

The argument that degraded ESHA is entitled to less protection that the Coastal Act is a manipulation of the Coastal Act's intentions. First off, nowhere in the Coastal Act does it talk about "degraded ESHA" or exceptions to ESHA protections. Species that are struggling, who have been affected by human caused degradation, are under the *greatest* protection under the California Endangered Species Act. In other words, "degraded species" are a special status species and require *significantly greater* protection than species that are flourishing. The Acts of the United States are not meant to be interpreted so literally than anything not expressly said is therefore allowed. The overall intentions of Acts such as the CESA and the Coastal Act must also be understood. Degraded ESHA requires *greater* protection than ESHA so that it may be shielded from human caused degradation and recover. If we set a precedent that degraded ESHA can be developed, then developers will jump at every opportunity to define ESHA as degraded. Illegal mowing, climate shifts over a period of a few years (such as the current CA drought), oil and waste spills, fires (whether naturally caused or human caused) will all give developers a chance to develop ESHA. If we set this precedent of allowing degraded ESHA to be developed, in the long-term ESHA will be completely eradicated. *Every* species, plant or animal, and *every* parcel of land they live on will struggle at some point and will qualify to be defined as "degraded ESHA". ESHA is ESHA, and must be restored not developed.

SETTING A PRECEDENT THAT WILL BE FOLLOWED FOREVER

Source: Coastal Commission Cease & Desist Order CCC-15-CD-01.

While the intentions of the illegal mowing of ESHA has spurred great debate, they are ecologically irrelevant. The mowed ESHA is a prime example of where the removal of the Coastal Act's ESHA protections are not appropriate, and a full-fledged restoration effort is the fitting response. Whether the mowing of ESHA was intentional or not, the areas mowed should be completely off limits for development to anyone to set a precedent for future actions. In the United States, precedents are evaluated and used in decisions just as much, if not more, than laws themselves. The Coastal Commission must set a precedent that illegal mowing and other types of degradation to ESHA will not be tolerated, and that the ESHA will be restored to its original condition either at the expense of the violator or through community collaboration. Developers are driven by profit, and if the CA Coastal Commission sets a precedent that ESHA protections are taken away from places considered "degraded ESHA", then they will use this against the Coastal Commission for future development projects. This is the nature of business. The decision used now regarding "degraded ESHA" will be used for generations to come.

THE COASTAL ACT INSISTS ON THE IMPORTANCE OF MAINTAINING COASTAL ECOSYSTEMS, MAKING THE DEVELOPMENT UNLAWFUL

The Coastal Act states in section 30001: "…(a) That the California coastal zone is a distinct and valuable natural resource of vital and enduring interest to all the people and exists as a delicately balanced ecosystem. (b) That the permanent protection of the state's natural and scenic resources is a paramount concern to present and future residents of the state and nation. (c) That to promote the public safety, health, and welfare, and to protect public and private property, wildlife, marine fisheries, and other ocean resources, and the natural environment, it is necessary to protect the ecological balance of the coastal zone and prevent its deterioration and destruction." This recognition that the coasts exists in a delicately balanced ecosystem, and that we must protect it by preventing its deterioration and destruction exemplifies that Banning Ranch must be preserved and restored where necessary to prevent further deterioration. Development on Banning Ranch is blatant destruction of the coast, where development spread irresponsibly before the establishment of the CA Coastal Commission in 1972. Once the precedent was set that people could build all the way up to the beach, this practice became the norm. Now is the chance to uphold the Coastal Act and set a new precedent: The Coastal Act protects the remaining ecosystem left on our coast, and the Coastal Commission and the People will stand together to protect it.

The Coastal Act section 30004 states its purpose to be, in part, "…(b) assuring the maintenance of the long-term productivity and economic vitality of coastal resources necessary

for the well-being of the people of the state, and to avoid long-term costs to the public and a diminished quality of life resulting from the misuse of coastal resources…." Development of Banning Ranch, due to its conflict with section 30001 of the Coastal act, qualifies as a misuse of coastal resources that will cause a diminished quality of life for the people of the state. Banning Ranch is the largest parcel of coastal land left in Orange County, and to develop it and deteriorate its ecosystem is misuse. Banning Ranch, with proper planning and the already existing significant community support and involvement, can be restored at minimal financial cost to the people so that its potential as an open space for the people of Orange County and visitors is maximized. Let me say, as a personal note, that I will be at the forefront of restoring Banning Ranch by 1. Organizing fundraisers. 2. Participating in pro-active long-term community outreach and 3. Working with specialists in the field to determine how volunteers can execute restoration under their guidance once Banning Ranch is acquired from NBR. This chance must be provided to the people now that they know development is the likely alternative if the public does not acquire Banning Ranch.

THE PUBLIC OPPOSES THE DEVELOPMENT, MAKING THE DEVELOPMENT UNLAWFUL UNDER THE COASTAL ACT

The Coastal Act Section 30006 states: "The Legislature further finds and declares that the public has a right to fully participate in decisions affecting coastal planning, conservation, and development; that achievement of sound coastal conservation and development is dependent upon public understanding and support; and that the continuing planning and implementation of programs for coastal conservation and development should include the widest opportunity for public participation". Thousands of people have participated in the signing of petitions, letters, verbal disagreement with development of Banning Ranch, and expressions of adoration for the open space and birds that Banning Ranch supports. On any given day, walking around Banning Ranch with a "Banning Ranch" T-shirt on, people will stop you and say how much they love Banning Ranch and want it to stay the way it is. Thousands of people live along its borders, or are within a few blocks and enjoy the view, long line of sight, and wildlife it provides with their families and friends. With the Coastal Act providing the people with a voice in decisions affecting coastal planning, conservation, and development, it is *irrefutable* that the Coastal Act provides for the denial of development of Banning Ranch.

The Coastal Act Section 30006.5 states that "The Legislature further finds and declares that sound and timely scientific recommendations are necessary for many coastal planning, conservation, and development decisions and that the commission should, in addition to developing its own expertise in significant applicable fields of science, interact with members of the scientific and academic communities in the social, physical, and natural sciences so that the commission may receive technical advice and recommendations with regard to its decision making, especially with regard to issues such as coastal erosion and geology, marine biodiversity, wetland restoration, the question of sea level rise, desalination plants, and the cumulative impact of coastal zone developments." While I have not seen all the of the letters sent in to the Coastal Commission by scientists, I can say that the scientific evidence is strongly against the development of Banning Ranch. Additionally, the scientific community that I am a part of outside of the Banning Ranch effort, comprised of wetland ecologists, earth scientists, conservation biologists, and aquatic chemists, along with multiple environmental politics

professors and lawyers, all agree that the development cannot proceed without extreme harm to the ecosystem and violation of the Coastal Act.

CONCLUSION

The Coastal Commission's Mission Statement is as follows: "The Commission is committed to protecting and enhancing California's coast and ocean for present and future generations. It does so through careful planning and regulation of environmentally-sustainable development, rigorous use of science, strong public participation, education, and effective intergovernmental coordination."

The strongest most blatantly clear portion of this mission statement is ***rigorous use of science*** **[and]** ***strong public participation.*** Rigorous scientific research has produced evidence that stalwartly dejects the feasibility of maintaining Banning Ranch's and OCRP's ecosystem during and after development. Strong public participation has shown not only solid opposition to Banning Ranch, but also a remarkable willingness to commit time and resources long-term to saving and restoring Banning Ranch. I personally have worked with dozens of people who have spent countless hours on saving Banning Ranch, and spoken to many hundreds of people who love Banning Ranch and would be willing to help restore it.

As stated in the Coastal Act, (section 30001.5), "the basic goals of the state for the coastal zone are to: (a) Protect, maintain, and, where feasible, enhance and restore the overall quality of the coastal zone environment and its natural and artificial resources…." The restoration of Banning Ranch is worth the cost of a bond, which can be lessened by public donations. The restoration of Banning Ranch once acquired, is undeniably feasible with community volunteers, hundreds of which are already involved and ready to help. Fairview Park in Costa Mesa has seen a great turn-out (I know as I have attended) for volunteering events for planting of natives and maintenance of the park. People want to learn more about the ecosystem in OCRP and have exhibited a great sense of enthusiasm, wonder, and pride when they have volunteered.

As a scientist and a citizen, I implore you to deny the development to the best of your ability under the authority given to the you, the Coastal Commission, by the Coastal Act. As a scientist, I understand the ecological significance of Banning Ranch and that it is a rare situation where 400 acres can survive undeveloped in an area such as Huntington Beach. As a citizen, I love Banning Ranch, not just for the Burrowing Owls or the Fairy Shrimp, but also for the awe that I have seen in people's eyes when they realize that Orange County still has 400 acres of coastal land that can be saved. Please let Banning Ranch survive!

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ALL EPHEMERAL POOLS ON BANNING RANCH MUST BE PROTECTED

GENE FLOW IS ESSENTIAL FOR THE HEALTH OF EPHEMERAL POOLS, EVEN IF THEY ARE NOT FORMALLY "ESHA"

By Elizabeth White Flowers, Environmental Ecologist 8/2/2016

INTRODUCTION

Ephemeral pools must not be seen as individual habitats to be protected, but as part of a larger ecosystem where genetics are being passed from pool to pool. Analysis of individual pools will not assist in protecting the overall ecology of Banning Ranch and the greater area of Orange County River Park unless an understanding of the importance of interactions between pools is established.

There are four main points to be discussed: 1. Ephemeral pools caused by underlying asphalt contribute genetic variations to other ephemeral pools regardless of whether they qualify as ESHA under formal measures. 2. This gene flow can occur through Dytiscids, and Orange County supports 27 Dytiscid species. 3. Birds also assist in the spread of gene flow between ephemeral pools. 4. We must study the genetics of Banning Ranch's vernal pools to test for unique evolutionary significant units "ESUs" in case there are isolated vernal pools.

EPHEMERAL POOLS CAUSED BY UNDERLYING ASPHALT CONTRIBUTE GENETIC VARIATIONS TO OTHER EPHEMERAL POOLS THAT INDISPUTABLY QUALIFY AS ESHA

The vernal pools on Banning Ranch, whether formed naturally by non-porous soil or due to underlying asphalt, are essential to the survival of a healthy gene pool for species like the San Diego fairy shrimp. Studies show that species surviving in vernal pools can spread via animal vectors to repopulate pools that have lost their species. Additionally, genetics pass between healthy pools as a result of these vectors, increasing the gene pool and therefore the health and survivability of the populations. Vectors such as birds and Dytiscids (water beetles) can consume and defecate eggs over a few mile radius. "Freshwater invertebrates occur in habitats that represent discrete sites surrounded by an inhospitable terrestrial landscape. Despite this lack of obvious connectivity among sites, many freshwater taxa have broad geographical ranges, as was noted by Darwin (1859).... Many, however, are incapable of dispersing themselves and rely on agents such as animal vectors, wind, or water flow to provide passive transport between sites" (Bilton, Freeland, & Okamura, 2001). Therefore, protecting vector species is an important portion of ensuring vernal pool species survive.

27 DYTISCIDS IN ORANGE COUNTY AS VECTORS FOR GENE FLOW BETWEEN EPHEMERAL POOLS

California presents a diverse environmental setting that provides many aquatic habitat types capable of supporting Dytiscidae (Coleoptera). "Distributional data for these aquatic beetles represent an ecological prospectus of the various aquatic habitat types that occur in each county" (G. Challet & R. Brett 1998). There are 27 Dytiscids found in Orange County, which are:

> Laccophilus fasciatus terminalis, L. maculosus decipiens, L. mexicanus mexicanus, Hydrovatus brevipes, Liodessus affinis, Neoclypeodytes quadripustulatus, Uvarus subtilis, Hygrotus hydropictus, H. lutescens, Strictotarsus deceptus, S. dolerosus, S. eximinus, S. funereus, S. striatellus, Hydroporus fortis, Agabus disintregatus, A. ilybiiformis, A. regularis, Agabinus glabrellus, Rhantus anisonychus, R. binotatus, R. gutticollis, Colymbetes exaratus incognitus, Thermonectus marmoratus californicus, Dytiscus marginicollis, and Cybister explanatus. (G. Challet & R. Brett 1998)

Dytiscidae adults (particularly males) are known to be excellent flyers and flightless species are rare due to the temporary nature of the ephemeral pools they rely on for resources (Sherman 1913). Multiple studies have shown that fairy shrimp eggs hatch after passing through the digestive tract of various species of these beetles. For example, Beladjal & Mertens in 2009 tested the viability of eggs after passing through the digestive tracts of three types of water beetles. The passage time varied from 1-4 days, and in some instances eggs showed a higher hatch rate after passing through the digestive tract than the control. In addition to dispersal of Fairy Shrimp eggs, similar dispersal patterns are believed to occur for other fresh-water taxa. "Patterns that apply to dispersal in freshwater invertebrates can be readily extended to other fresh-water taxa, since common challenges arise from the colonization of isolated aquatic Systems" (Bilton, Freeland, & Okamura, 2001).

> "Genetic exchanges from pond to pond within a region need a novel explanatory power, deviating from the mean trend of dispersal. We found that viable dormant stages of aquatic animals could be transported from [one] ephemeral pool to another in the digestive system of migrating insects… We observed that aquatic carnivorous insects could be vectors for temporary pool crustacean dispersal. Dytiscids are important vagile, components of isolated ephemeral pools, moving from pool to pool as resources change, defecating the eggs of crustaceans and possibly other species as well in new habitats…. In clear water pools and in turbid waters, where the visibility for shrimp observation was almost zero, they were good indicator for the presence of fairy shrimps (B. schaefferi and Streptocephalus torvicornis (Waga, 1942)). Dytiscids of less permanent habitats disperse over greater distances, resulting in larger range sizes (Ribera and Vogler, 2000). Accordingly, *most dytiscid species in temporary habitats have good flight abilities*, in contrast to dytiscids of permanent habitats (Schafer et al., 2006). *Dytiscids are reported to disperse over distances of several kilometers,* allowing them to use highly fragmented resources (Lundkvist et al., 2002). In studying the ecology and evolution of processes such as this long-distance dispersal, attention is usually focused on prevailing conditions, assuming that rare events are unimportant. Yet frequency and importance are not necessarily positively correlated. *Rare long-distance dispersal can be disproportionately important* (Nathan, 2006). The unidirectional movement of an individual away from its origin is a widespread phenomenon among organisms, and *of critical importance for the gene flow among communities*" (Beladjal & Mertens, 2009).

This except (unusually long, I admit, but too good to exclude), discusses 4 important points relevant to Banning Ranch. 1. The Dytiscids in temporary habitats, such as the ephemeral pools on Banning Ranch, have good flight abilities due to shifting resources. 2. This, in turn, means that the Dytiscids can disperse over distances of several kilometers, which emphasizes the point that the entirety of OCRP is likely to exchange genetic material of freshwater taxa such as the endangered San Diego Fairy shrimp. 3. That while long-distance dispersal may be rare in cases, the infrequency does not diminish the importance of carrying eggs of freshwater taxa to far ephemeral pools. 4. That far movement of Dytiscids and the freshwater taxa they carry in their digestive tract are of "critical importance for gene flow among communities".

BIRDS ALSO SPREAD FRESHWATER TAXA AND ASSIST WITH GENE FLOW IN EPHEMERAL POOLS

Birds are also a likely vector for the San Diego Fairy shrimp in Banning Ranch and OCRP. Exposure of brine shrimp eggs (which are in the same order as the fairy shrimp: Anostraca) to avian digestive enzymes had no effect on their hatching rate (Horne, 1966), and various crustacean eggs were found to be viable after passing through the digestive tract and removed from the feces of wild ducks (Proctor & Malone, 1965). "The ability of the eggs to resist the digestive action of an avian digestive tract for lengthy periods is of ecological importance in respect to the distance that viable disseminules may be internally transported by a flying bird." (Horne, 1966).

REBUTTAL TO DENIAL OF EPHEMERAL POOL GENE FLOW IN FRESHWATER TAXA

While there is extremely strong evidence for vernal pool interactions, it is important to consider (while unlikely), the effects of the development on vernal pools if there is no interactions between them. Vernal pools can have unique genetics if they do not interact, that could be considered for special conservation status. In 2005, "A genetic study based on mtDNA sequencing of [Branchinecta] sandiegonensis from across its range found two evolutionary significant units 'ESUs'" that qualified for unique conservation status (Bohonak, 2005). "Pool complexes that are in undisturbed areas are often genetically unique" (Bohonak, 2005). With genetic testing after at the end of a rainy period, gene flow or gene isolation can be determined within Banning Ranch and with the surrounding areas. We must study the genetics of Banning Ranch's vernal pools to test for unique evolutionary significant units "ESUs" in case there are isolated vernal pools. However, without genetic sampling of the vernal pools, we have not used science to the best of our ability to protect the San Diego Fairy Shrimp and other vernal pool species living on Banning Ranch.

CONCLUSION

It is a reasonable assumption that the vernal pools in Banning Ranch and the surrounding areas are exchanging the protected San Diego Fairy Shrimp's genes. With 27 Dytiscids in Orange County, as well as other obviously visible vectors such as birds, gene flow occurs throughout Banning Ranch and the surrounding parks. Loss of ephemeral pools, whether they qualify for ESHA protections or not (such as the asphalt caused pools), means loss of genetics. Even though some individuals may survive the 10+ year construction process, the loss of ephemeral pools can "significantly reduce the genetic diversity of local populations, very possibly dooming many of them to local extirpation. Some of the lost taxa may be important food sources for the very amphibians that are the target of conservation" (Colburn, Weeks, & Reed, 2007). With the best available science strongly supporting that gene flow occurs between vernal pools on Banning Ranch and between Banning Ranch and the surrounding areas such as the USACE area, Fairview Park, and Talbert Nature Preserve, it is our duty as scientists to deny any development which risks this beautiful ecological network.

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From: Lyle Abbott
To: BanningRanchComments@Coastal
Subject: Banning Ranch & Oil Wells
Date: Tuesday, August 02, 2016 9:27:52 AM

Hello,

I would like to see the Banning Ranch area turn into Torry Pines in San Diego. We have such a great opportunity to create something that is truly great. A huge public park like Torry Pines in Orange County would be a model for other areas. Worse case it should be come a golf course, that way the land can be preserved better then having homes.

Also, the oil wells need to be reduced and managed with much more over sight. There are too many people and children that live in the area. I hate to see a Porter Ranch like issue happen here.

Thank you,
Lyle Abbott
Newport Beach Resident

From: bvthibault@aol.com
To: BanningRanchComments@Coastal
Subject: Banning Ranch
Date: Tuesday, August 02, 2016 8:11:20 AM

To whom it may concern:
We have lived in Newport Shores for 40 years, on the Seminuk Slough for 36 years. We have enjoyed our quiet paradise, particularly the bird life and wildlife that thrives here.
I would like to add my opposition to the large number of others who oppose the impending development of Banning Ranch.
Regarding Permit 5-15-2097: I support the Coastal Commission report recommending development of 55 acres of the available land, with certain restrictions

.I also oppose the request by the applicant to add Bluff Road, running into PCH. as this highway is all ready impossible for many hours of the morning. Gridlock for all who are forced to travel this road would be the result. I cannot believe that traffic studies have not pointed this out. As usual, the developers will leave and citizens will pay the price.

Regarding Permit 9-15-1649: I recommend denial of this request to drill 80 or more new wells near wetlands and the community pool. An EIR or ARQA review needs to look at this as a separate project.

Thank you.

Barbara Thibault
358 62nd Street
Newport Beach, CA 92663

From:	Thomas Schottmiller
To:	BanningRanchComments@Coastal
Cc:	Thomas Schottmiller
Subject:	Banning Ranch Development
Date:	Friday, August 19, 2016 10:00:45 AM

Our property at 16 Wild Goose Ct, Newport Beach backs up to the proposed Banning Ranch development. We have been advised that the California Coastal Commissioners are considering for approval a plan that would allow the developer to build houses or condominiums directly next to our property.Those structures would block our ocean views and stop the ocean breezes we currently enjoy.

As California Coastal Commissioners, you have a legal, ethical and moral responsibility to not favor a private developer, that will make a huge profit, over the residents in a neighborhood that has been there for over forty years

The plan you are considering would in essence be a taking by a private third party developer for profit at the expense of the community next to the buildings. Our homes would be less desirable due to the loss of ocean views and air flow. Therefore we would suffer a loss of value, so a private developer could make a huge profit. That is wrong!

There are other areas that the developer can build on and still meet the California Coastal Act requirements.

Please don"t favor a large developer over the rights of the Newport Crest residents. We urge you to not approve any plan that would allow structures next to our Newport Crest community. Thank you.

Thomas and Margaret Schottmiller
16 Wild Goose Ct
Newport Beach Ca 92663