



DEPARTMENT OF CONSERVATION

DIVISION OF OIL, GAS AND GEOTHERMAL RESOURCES

5816 Corporate Avenue • Suite 200 • CYPRESS, CALIFORNIA, 90630-4731

PHONE 714 / 816-6847 • FAX 714 / 816-6853 • WEBSITE conservation.ca.gov

RECEIVED BY
PLANNING DEPARTMENT

March 24, 2009

MAR 26 2009

Ms. Debby Linn, Contract Planner
City of Newport Beach, Planning Department
3300 Newport Boulevard
Newport Beach, CA 92658

CITY OF NEWPORT BEACH

Subject: Notice of Preparation of a Program Environmental Impact Report for the Newport Banning Ranch Project, SCH 2009031061

Dear Ms. Linn:

The Department of Conservation's Division of Oil, Gas, and Geothermal Resources (Division) has reviewed the above referenced project. We offer the following comments for your consideration.

The Division is mandated by Section 3106 of the Public Resources Code (PRC) to supervise the drilling, operation, maintenance, and plugging and abandonment of wells for the purpose of preventing: (1) damage to life, health, property, and natural resources; (2) damage to underground and surface waters suitable for irrigation or domestic use; (3) loss of oil, gas, or reservoir energy; and (4) damage to oil and gas deposits by infiltrating water and other causes. Furthermore, the PRC vests in the State Oil and Gas Supervisor (Supervisor) the authority to regulate the manner of drilling, operation, maintenance, and abandonment of oil and gas wells so as to conserve, protect, and prevent waste of these resources, while at the same time encouraging operators to apply viable methods for the purpose of increasing the ultimate recovery of oil and gas.

The scope and content of information that is germane to the Division's responsibility are contained in Section 3000 et seq. of the Public Resources Code (PRC), and administrative regulations under Title 14, Division 2, Chapter 4, of the California Code of Regulations.

The proposed project is located within the administrative boundaries of the West Newport oil field. There are numerous active, idle, plugged and abandoned wells within or in proximity of the project boundaries. The wells are identified on Division map 136 and in Division records at the Cypress office. The Division recommends that all wells within or in close proximity to project boundaries be accurately plotted on future project maps.

No building intended for human occupancy should be located near any active well unless suitable safety, fire protection measures and setbacks are approved by the local fire department. For public safety, it is recommended that fencing required by the Division enclose oil operations (perimeter fencing) or all active/idle wells and associated equipment (individual fencing) within the project site. The proposed development must ensure that adequate access is maintained to all tank settings and

Ms. Debby Linn, Contract Planner for the City of Newport Beach

March 24, 2009

Page 2

well locations. Suitable secure gates and roads must be provided which are capable of allowing large workover equipment access into the well sites. The grade within the enclosed areas should be constructed so that potential spillage will be confined to the enclosure. To restrict access, the Department recommends that the placement of climbable landscaping around the perimeter of the oilfield facility be avoided.

Building over or in the proximity of idle or plugged and abandoned wells should be avoided if at all possible. If this is not possible, it may be necessary to plug or re-plug wells to current Division specifications. Also, the State Oil and Gas Supervisor is authorized to order the reabandonment of previously plugged and abandoned wells when construction over or in the proximity of wells could result in a hazard (Section 3208.1 of the Public Resources Code). If abandonment or reabandonment is necessary, the cost of operations is the responsibility of the owner of the property upon which the structure will be located. Finally, if construction over an abandoned well is unavoidable an adequate gas venting system should be placed over the well.

Furthermore, if any plugged and abandoned or unrecorded wells are damaged or uncovered during excavation or grading, remedial plugging operations may be required. If such damage or discovery occurs, the Division's district office must be contacted to obtain information on the requirements for and approval to perform remedial operations.

To ensure proper review of building projects, the Division has published an informational packet entitled, "Construction Project Site Review and Well Abandonment Procedure" that outlines the information a project developer must submit to the Division for review. Developers should contact the Division Cypress district office for a copy of the site-review packet. The local planning department should verify that final building plans have undergone Division review prior to the start of construction.

Thank you for the opportunity to comment on the Notice of Preparation. If you have questions on our comments, or require technical assistance or information, please call me at the Cypress district office: 5816 Corporate Avenue, Suite 200, Cypress, CA 90630-4731; phone (714) 816-6847.

Sincerely,



Paul Frost

Associate Oil & Gas Engineer, District 1 - Cypress
Division of Oil, Gas and Geothermal Resources

cc: Ms. Adele Lagomarsino – Division Headquarters
Sacramento

State Clearinghouse
P.O. Box 3044
Sacramento, CA 95812-3044

NATIVE AMERICAN HERITAGE COMMISSION

915 CAPITOL MALL, ROOM 364
SACRAMENTO, CA 95814
(916) 653-6251
Fax (916) 657-5390
Web Site www.nahc.ca.gov
e-mail: ds_nahc@pacbell.net



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PLANNING DEPARTMENT

APR 07 2009

CITY OF NEWPORT BEACH

April 2, 2009

Ms. Debby Linn
CITY OF NEWPORT BEACH
3300 Newport Boulevard
Newport Beach, CA 92685

Re: SCH#2007011061; CEQA Notice of Completion; draft Environmental Impact Report (DEIR); for the Newport Banning Ranch Project, City of Newport Beach, Orange County, California

Dear Ms. Linn:

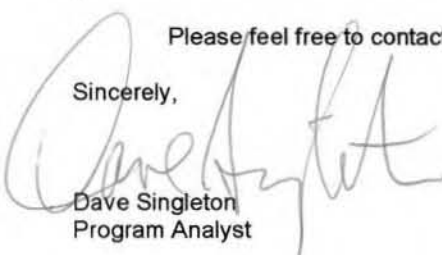
The Native American Heritage Commission (NAHC) is the state 'trustee agency' pursuant to Public Resources Code §21070 designated to protect California's Native American Cultural Resources. The California Environmental Quality Act (CEQA) requires that any project that causes a substantial adverse change in the significance of an historical resource, that includes archaeological resources, is a 'significant effect' requiring the preparation of an Environmental Impact Report (EIR) per the California Code of Regulations §15064.5(b)(c)(f) CEQA guidelines). Section 15382 of the 2007 CEQA Guidelines defines a significant impact on the environment as "a substantial, or potentially substantial, adverse change in any of physical conditions within an area affected by the proposed project, including ... objects of historic or aesthetic significance." In order to comply with this provision, the lead agency is required to assess whether the project will have an adverse impact on these resources within the 'area of potential effect (APE)', and if so, to mitigate that effect. To adequately assess the project-related impacts on historical resources, the Commission recommends the following action:

- ✓ Contact the appropriate California Historic Resources Information Center (CHRIS) for possible 'recorded sites' in locations where the development will or might occur.. Contact information for the Information Center nearest you is available from the State Office of Historic Preservation (916/653-7278)/ <http://www.ohp.parks.ca.gov>. The record search will determine:
 - If a part or the entire APE has been previously surveyed for cultural resources.
 - If any known cultural resources have already been recorded in or adjacent to the APE.
 - If the probability is low, moderate, or high that cultural resources are located in the APE.
 - If a survey is required to determine whether previously unrecorded cultural resources are present.
- ✓ If an archaeological inventory survey is required, the final stage is the preparation of a professional report detailing the findings and recommendations of the records search and field survey.
 - The final report containing site forms, site significance, and mitigation measures should be submitted immediately to the planning department. All information regarding site locations, Native American human remains, and associated funerary objects should be in a separate confidential addendum, and not be made available for public disclosure.
 - The final written report should be submitted within 3 months after work has been completed to the appropriate regional archaeological Information Center.
- ✓ The Native American Heritage Commission (NAHC) performed:
 - * A Sacred Lands File (SLF) search of the project 'area of potential effect (APE)': The results: Numerous known Native American Cultural Resources were identified within one-half mile of the 'area of potential effect' (APE).. However the NAHC SLF is not exhaustive and local tribal contacts should be consulted from the attached list and there are Native American cultural resources in close proximity..
 - The NAHC advises the use of Native American Monitors, also, when professional archaeologists or the equivalent are employed by project proponents, in order to ensure proper identification and care given cultural resources that may be discovered. The NAHC, FURTHER, recommends that contact be made with Native American Contacts on the attached list to get their input on potential IMPACT of the project (APE) on cultural resources.. In some cases, the existence of a Native American cultural resources may be known only to a local tribe(s) or Native American individuals or elders.
 - ✓ Lack of surface evidence of archeological resources does not preclude their subsurface existence.
 - Lead agencies should include in their mitigation plan provisions for the identification and evaluation of accidentally discovered archeological resources, per California Environmental Quality Act (CEQA) §15064.5 (f). In areas of identified archaeological sensitivity, a certified archaeologist and a culturally affiliated Native American, with knowledge in cultural resources, should monitor all ground-disturbing activities.
 - Again, a culturally-affiliated Native American tribe may be the only source of information about a Sacred Site/Native American cultural resource.

- Lead agencies should include in their mitigation plan provisions for the disposition of recovered artifacts, in consultation with culturally affiliated Native Americans.
- √ Lead agencies should include provisions for discovery of Native American human remains or unmarked cemeteries in their mitigation plans.
 - * CEQA Guidelines, Section 15064.5(d) requires the lead agency to work with the Native Americans identified by this Commission if the initial Study identifies the presence or likely presence of Native American human remains within the APE. CEQA Guidelines provide for agreements with Native American, identified by the NAHC, to assure the appropriate and dignified treatment of Native American human remains and any associated grave liens.
- √ Health and Safety Code §7050.5, Public Resources Code §5097.98 and Sec. §15064.5 (d) of the California Code of Regulations (CEQA Guidelines) mandate procedures to be followed, including that construction or excavation be stopped in the event of an accidental discovery of any human remains in a location other than a dedicated cemetery until the county coroner or medical examiner can determine whether the remains are those of a Native American. Note that §7052 of the Health & Safety Code states that disturbance of Native American cemeteries is a felony.
- √ Lead agencies should consider avoidance, as defined in §15370 of the California Code of Regulations (CEQA Guidelines), when significant cultural resources are discovered during the course of project planning and implementation

Please feel free to contact me at (916) 653-6251 if you have any questions.

Sincerely,



Dave Singleton
Program Analyst

Attachment: List of Native American Contacts

Cc: State Clearinghouse

Native American Contact

Orange County
April 2, 2009, 2009

Ti'At Society

Cindi Alvitre

6515 E. Seaside Walk, #C
Long Beach , CA 90803

calvitre@yahoo.com

(714) 504-2468 Cell

Gabrielino

Gabrielino Tongva Nation

Sam Dunlap, Tribal Secretary

P.O. Box 86908

Los Angeles , CA 90086

samdunlap@earthlink.net

Gabrielino Tongva

(909) 262-9351 - cell

Juaneno Band of Mission Indians Acjachemen Nation

David Belardes, Chairperson

32161 Avenida Los Amigos
San Juan Capistrano , CA 92675

DavidBelardes@hotmail.com

(949) 493-0959

(949) 493-1601 Fax

Juaneno

Juaneno Band of Mission Indians Acjachemen Nation

Anthony Rivera, Chairman

31411-A La Matanza Street
San Juan Capistrano , CA 92675-2674

arivera@juaneno.com

949-488-3484

949-488-3294 Fax

Juaneno

Tongva Ancestral Territorial Tribal Nation

John Tommy Rosas, Tribal Admin.

tattnlaw@gmail.com
310-570-6567

Gabrielino Tongva

Gabrielino Tongva Indians of California Tribal Council

Robert Dorame, Tribal Chair/Cultural Resources

P.O. Box 490

Bellflower , CA 90707

gtongva@verizon.net

562-761-6417 - voice

562-925-7989 - fax

Gabrielino Tongva

Gabrielino/Tongva San Gabriel Band of Mission

Anthony Morales, Chairperson

PO Box 693

San Gabriel , CA 91778

(828) 286-1262 -FAX

(626) 286-1632

(626) 286-1758 - Home

(626) 286-1262 Fax

Gabrielino Tongva

Juaneno Band of Mission Indians

Alfred Cruz, Culural Resources Coordinator

P.O. Box 25628

Santa Ana , CA 92799

alfredgcruz@sbcglobal.net

714-998-0721

slfredgcruz@sbcglobal.net

Juaneno

This list is current only as of the date of this document.

Distribution of this list does not relieve any person of statutory responsibility as defined in Section 7050.5 of the Health and Safety Code, Section 5097.94 of the Public Resources Code and Section 5097.98 of the Public Resources Code.

This list is only applicable for contacting local Native Americans with regard to cultural resources for the proposed SCH#2009031061; CEQA Notice of Preparation (NOP); draft Environmental Impact Report (DEIR) for the Newport Banning Ranch Project; City of Newport Beach; Orange County, California.

Native American Contact

Orange County
April 2, 2009, 2009

Juaneno Band of Mission Indians
Adolph 'Bud' Sepulveda, Vice Chairperson
P.O. Box 25828 Juaneno
Santa Ana , CA 92799
bssepul@yahoo.net
714-838-3270
714-914-1812 - CELL
bsepul@yahoo.net

Juaneño Band of Mission Indians
Sonia Johnston, Tribal Chairperson
P.O. Box 25628 Juaneno
Santa Ana , CA 92799
sonia.johnston@sbcglobal.net
(714) 323-8312

Juaneno Band of Mission Indians
Anita Espinoza
1740 Concerto Drive Juaneno
Anaheim , CA 92807
(714) 779-8832

Juaneno Band of Mission Indians
Joe Ocampo, Chairperson
1108 E. 4th Street Juaneno
Santa Ana , CA 92701
joeaocampo@netzero.com
(714) 547-9676
(714) 623-0709-cell

United Coalition to Protect Panhe (UCPP)
Rebecca Robles
119 Avenida San Fernando Juaneno
San Clemente , CA 92672
(949) 573-3138

Gabrielino-Tongva Tribe
Felicia Sheerman, Chairperson
501 Santa Monica Blvd, # 500 Gabrielino
Santa Monica , CA 90401
(310) 587-2203
(310) 428-7720 - cell
(310) 587-2281
fsheerman1@GabrielinoTribe.

Gabrielino-Tongva Tribe
Bernie Acuna
501 Santa Monica Blvd, # 500 Gabrielino
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(310) 587-2281

This list is current only as of the date of this document.

Distribution of this list does not relieve any person of statutory responsibility as defined in Section 7050.5 of the Health and Safety Code, Section 5097.94 of the Public Resources Code and Section 5097.98 of the Public Resources Code.

This list is only applicable for contacting local Native Americans with regard to cultural resources for the proposed SCH#2009031061; CEQA Notice of Preparation (NOP); draft Environmental Impact Report (DEIR) for the Newport Banning Ranch Project; City of Newport Beach; Orange County, California.



Linda S. Adams
Secretary for
Environmental Protection



Department of Toxic Substances Control

Maziar Movassaghi, Acting Director
5796 Corporate Avenue
Cypress, California 90630



Arnold Schwarzenegger
Governor

RECEIVED BY
PLANNING DEPARTMENT

April 6, 2009

APR 08 2009

Ms. Debby Linn
City of Newport Beach
3300 Newport Boulevard
Newport Beach, California 92685
dlinn@city.newport.ca.us

CITY OF NEWPORT BEACH

NOTICE OF PREPARATION FOR A PROGRAM ENVIRONMENTAL IMPACT REPORT FOR NEWPORT BANNING RANCH PROJECT, (SCH# 2009031061), CITY OF NEWPORT BEACH, ORANGE COUNTY

Dear Ms. Linn:

The Department of Toxic Substances Control (DTSC) has received your submitted Initial Study and Notice of Preparation (NOP) for a subsequent Program Environmental Impact Report (EIR) No. 507 for the above-mentioned Project. The following project description is stated in your document: "The Newport Banning Ranch Project (Project) proposes the development of up to 1,375 residential dwelling units, 75,000 square feet of commercial uses, and 75 overnight resort accommodations on the Project site of approximately 401 acres. These uses are consistent with the description of the proposed land uses for this property in the Newport General Plan, adopted by the City and its electorate. The Project site is generally bounded on the north by Talbert Nature Preserve/Regional Park; on the south by West Coast Highway, on the east by residential, light industrial, and office development; on the west by the U.S. Army Corps of Engineers (ACOE) wetlands restoration area and the Santa Ana River. The Project site is primarily undeveloped but has been in active operation as an oil field since the mid-1940s. Although the Project site has been disturbed by historic and ongoing permitted oil operations and is largely dominated by non-native vegetation, it contains diverse flora and fauna." DTSC has the following comments:

- 1) The EIR should identify the current or historic uses at the project site that may have resulted in a release of hazardous wastes/substances, and any known or potentially contaminated sites within the proposed Project area. For all identified sites, the EIR should evaluate whether conditions at the site may pose a threat to human health or the environment. Following are the databases of some of the pertinent regulatory agencies:
 - National Priorities List (NPL): A list maintained by the United States Environmental Protection Agency (U.S.EPA).

- Envirostor: A Database primarily used by the California Department of Toxic Substances Control, accessible through DTSC's website (see below).
 - Resource Conservation and Recovery Information System (RCRIS): A database of RCRA facilities that is maintained by U.S. EPA.
 - Comprehensive Environmental Response Compensation and Liability Information System (CERCLIS): A database of CERCLA sites that is maintained by U.S.EPA.
 - Solid Waste Information System (SWIS): A database provided by the California Integrated Waste Management Board which consists of both open as well as closed and inactive solid waste disposal facilities and transfer stations.
 - Leaking Underground Storage Tanks (LUST) / Spills, Leaks, Investigations and Cleanups (SLIC): A list that is maintained by Regional Water Quality Control Boards.
 - Local Counties and Cities maintain lists for hazardous substances cleanup sites and leaking underground storage tanks.
 - The United States Army Corps of Engineers, 911 Wilshire Boulevard, Los Angeles, California, 90017, (213) 452-3908, maintains a list of Formerly Used Defense Sites (FUDS).
- 2) The EIR should identify the mechanism to initiate any required investigation and/or remediation for any site that may be contaminated, and the government agency to provide appropriate regulatory oversight. If necessary, DTSC would require an oversight agreement in order to review such documents. Please see comment No. 11 below for more information.
- 3) All environmental investigations, sampling and/or remediation for the site should be conducted under a Workplan approved and overseen by a regulatory agency that has jurisdiction to oversee hazardous substance cleanup. The findings of any investigations, including any Phase I or II Environmental Site Assessment Investigations should be summarized in the document. All sampling results in which hazardous substances were found should be clearly summarized in a table.
- 4) Proper investigation, sampling and remedial actions overseen by the respective regulatory agencies, if necessary, should be conducted at the site prior to the new development or any construction. All closure, certification or remediation approval reports by these agencies should be included in the EIR.

- 5) If buildings or other structures, asphalt or concrete-paved surface areas are being planned to be demolished, an investigation should be conducted for the presence of other related hazardous chemicals, lead-based paints or products, mercury, and asbestos containing materials (ACMs). If other hazardous chemicals, lead-based paints or products, mercury or ACMs are identified, proper precautions should be taken during demolition activities. Additionally, the contaminants should be remediated in compliance with California environmental regulations and policies.
- 6) Project construction may require soil excavation or filling in certain areas. Sampling may be required. If soil is contaminated, it must be properly disposed and not simply placed in another location onsite. Land Disposal Restrictions (LDRs) may be applicable to such soils. Also, if the project proposes to import soil to backfill the areas excavated, sampling should be conducted to ensure that the imported soil is free of contamination.
- 7) Human health and the environment of sensitive receptors should be protected during the construction or demolition activities. If it is found necessary, a study of the site and a health risk assessment overseen and approved by the appropriate government agency and a qualified health risk assessor should be conducted to determine if there are, have been, or will be, any releases of hazardous materials that may pose a risk to human health or the environment.
- 8) If it is determined that hazardous wastes are, or will be, generated by the proposed operations, the wastes must be managed in accordance with the California Hazardous Waste Control Law (California Health and Safety Code, Division 20, Chapter 6.5) and the Hazardous Waste Control Regulations (California Code of Regulations, Title 22, Division 4.5). If it is determined that hazardous wastes will be generated, the facility should also obtain a United States Environmental Protection Agency Identification Number by contacting (800) 618-6942. Certain hazardous waste treatment processes or hazardous materials, handling, storage or uses may require authorization from the local Certified Unified Program Agency (CUPA). Information about the requirement for authorization can be obtained by contacting your local CUPA.
- 9) If during construction/demolition of the project, the soil and/or groundwater contamination is suspected, construction/demolition in the area should cease and appropriate health and safety procedures should be implemented.
- 10) If the site was used for agricultural, livestock or related activities, onsite soils and groundwater might contain pesticides, agricultural chemical, organic waste or other related residue. Proper investigation, and remedial actions, if necessary, should be conducted under the oversight of and approved by a government agency at the site prior to construction of the project.

Ms. Debby Linn
April 6, 2009
Page 4 of 4

- 11) DTSC can provide guidance for cleanup oversight through an Environmental Oversight Agreement (EOA) for government agencies, or a Voluntary Cleanup Agreement (VCA) for private parties. For additional information on the EOA or VCA, please see www.dtsc.ca.gov/SiteCleanup/Brownfields, or contact Ms. Maryam Tasnif-Abbasi, DTSC's Voluntary Cleanup Coordinator, at (714) 484-5489.

If you have any questions regarding this letter, please contact Mr. Rafiq Ahmed, Project Manager, at rahmed@dtsc.ca.gov or by phone at (714) 484-5491.

Sincerely,



Greg Holmes
Unit Chief
Brownfields and Environmental Restoration Program - Cypress Office

cc: Governor's Office of Planning and Research
State Clearinghouse
P.O. Box 3044
Sacramento, California 95812-3044
state.clearinghouse@opr.ca.gov

CEQA Tracking Center
Department of Toxic Substances Control
Office of Environmental Planning and Analysis
1001 I Street, 22nd Floor, M.S. 22-2
Sacramento, California 95814
nritter@dtsc.ca.gov

CEQA# 2520



California Native Plant Society

ORANGE COUNTY CHAPTER

P.O. Box 54891
Irvine, CA 92619-4891
occnps.org

April 12, 2009

The California Native Plant Society is a non-profit organization dedicated to the understanding and appreciation of California's native plants and how to conserve them and their natural habitats through education, science, advocacy, horticulture and land stewardship.

OCCNPS focuses that dedication on the native plants and remaining areas of natural vegetation in Orange County and adjacent Southern California.

Debby Linn, Contract Planner
City of Newport Beach
Planning Department
3300 Newport Boulevard
Newport Beach, California 92658

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APR 16 2009

RE: NOP for Newport Banning Ranch Project

CITY OF NEWPORT BEACH

Dear Ms. Linn:

The Orange County Chapter of the California Native Plant Society (OCCNPS) has long had an interest in Banning Ranch. Despite its long-degraded condition, it still contains quite a variety of functioning native coastal upland, riparian and wetland habitats, including vernal pools. These habitats support a number of special status species, including one of the largest remaining population of cactus wrens (a CDFG Species of Special Concern) in Orange County. The City and citizens of Newport Beach wisely showed their appreciation of the Ranch's existing and potential natural values when they approved Banning Ranch's priority use to be Open Space in the 2006 *City of Newport Beach General Plan*. OCCNPS concurs that the highest and best use of Banning Ranch would be to be fully restored to its native habitat, and be both the community and natural asset that it can be.

Comments on the NOP:

1. The NOP does not include a standard environmental checklist. The narrative discussions touch on only some of the impact areas, listed on pp. 20-21, that are required to be considered in the checklist. The discussions' information would be better presented in a standard checklist tabular format that includes information on all the impact areas.

2. OCCNPS is concerned that approximately 75 acres (58% of the approximately 131 acres designated Lowland Open Space/Public Trails and Facilities) are designated as "Third-party Mitigation Area ... to be used by entities outside of the Project site for restoration and/or payment for restoration in exchange for compensation for impacts from projects outside Newport Banning Ranch." The following aspects of this designation are not clear in the NOP and must be explained in detail in the EIR:

- a) What is the rationale for putting 75 acres into a mitigation bank rather than restoring all 131 acres?
- b) Why are those particular acres being banked, rather than other acres or configurations of acres within the 131-acre area?
- c) Are any outside entities currently known or expected to cover restoration of the 75 acres? In what timeframe?
- d) Will invasive non-natives be removed from the 75 acres, and that removal maintained while awaiting restoration by outside entities? The 75 acres are upwind of most of the restoration areas outlined in the *Overview of Habitat Program* (presented in Part V, Appendix A). All that program's work, or any other restoration work, will be for naught if seeds of invasives growing in the 75 acres are continually wind-borne into the restoration areas over the time (months? years?) those acres await restoration.

Thank you for the opportunity to comment on the Newport Banning Ranch Project NOP.

Respectfully,



Celia Kutcher
Conservation Chair

cc:
CNPS Conservation Team



State of California – The Resources Agency
DEPARTMENT OF FISH AND GAME

<http://www.dfg.ca.gov>
South Coast Region
4949 Viewridge Avenue
San Diego, CA 92123
(858) 467-4201

ARNOLD SCHWARZENEGGER, Governor



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APR 14 2009

CITY OF NEWPORT BEACH

April 13, 2009

Debby Linn
City of Newport Beach
3300 Newport Boulevard
Newport Beach, CA 92685
Phone (949) 718-1848
Fax (949) 644-3229

Subject: Notice of the Preparation of a Draft Environmental Impact Report for Newport Banning Ranch, Orange County (SCH # 2009031061)

Dear Ms. Linn:

The Department of Fish and Game (Department) has reviewed the above-referenced Notice of Preparation (NOP), for a Draft Environmental Impact Report relative to impacts to biological resources. The Project encompasses land located within the City of Newport Beach and unincorporated Orange County. The Project site is bound on the north by Talbert Nature Reserve that is part of the reserve system for the Department administered Orange County Natural Community Conservation Program (NCCP). The NCCP classified the project site as an Existing Use Area within the Coastal Sub-region. Bordering the site on the south and east are transportation roads, residential, commercial, and industrial land uses. Located west of the site is the United States Army Corps of Engineers wetlands restoration area and the Santa Ana River.

The project proposes to develop 68 acres for residential dwelling units, 45 acres of parks, 22 acres for roadways, 18 acres for mixed residential commercial zone, and 5 acres for resort with overnight visitor accommodations. The proposed Project designates approximately 243 acres of the project site's 401 acres for open space uses. The open space would comprise three categories: (1) Lowland Open space/Public Trails and Facilities; (2) Upland Open Space/Public Trails and Facilities; and (3) Consolidated Oil Facilities. The majority of existing oil wells within proposed development and open space areas would be abandoned and the area would be remediated. However, 20 acres of project open space would be utilized to consolidate two oil fields and would be subject to continuing oil extraction operations.

Native vegetation on the Project site is maritime succulent scrub and southern bluff scrub. Sensitive animal and plant species known to occur are the California gnatcatcher (*Poliottila californica californica*), coastal cactus wren (*Campylorhynchus brunneicapillus couesi*), and southern tarplant (*Centromadia parryi ssp australis*). Habitat is present on the lowlands for State Endangered Belding's savannah sparrow (*Passerculus sandwichensis beldingi*), least Bell's Vireo (*Vireo bellii pusillus*), southwestern willow flycatcher (*Empidonax traillii extimus*), and nesting raptors. Vernal pools are documented on site and may be occupied by federally listed San Diego fairy shrimp (*Branchinecta sandiegoensis*).

To enable Department staff to adequately review and comment on the proposed project we recommend the following information, where applicable, be included in the Draft Environmental Impact Report:

Ms. Debby Linn
April 8, 2009
Page 2

1. A complete, recent assessment of flora and fauna within and adjacent to the project area, with particular emphasis upon identifying endangered, threatened, and locally unique species and sensitive habitats (Attachment 1).
 - a. A thorough recent assessment of rare plants and rare natural communities, following the Department's Guidelines for Assessing Impacts to Rare Plants and Rare Natural Communities (Attachment 2).
 - b. A complete, recent assessment of sensitive fish, wildlife, reptile, and amphibian species. Seasonal variations in use of the project area should also be addressed. Recent, focused, species-specific surveys, conducted at the appropriate time of year and time of day when the sensitive species are active or otherwise identifiable, are required. Acceptable species-specific survey procedures should be developed in consultation with the Department and U.S. Fish and Wildlife Service.
 - c. Rare, threatened, and endangered species to be addressed should include all those which meet the California Environmental Quality Act (CEQA) definition (see CEQA Guidelines, Section 15380).
 - d. The Department's Wildlife Habitat Data Analysis Branch in Sacramento should be contacted at (916) 322-2493 to obtain current information on any previously reported sensitive species and habitats, including Significant Natural Areas identified under Chapter 12 of the Fish and Game Code. Also, any Environmentally Sensitive Habitats or any areas that are considered sensitive by the local jurisdiction that are located in or adjacent to the project area must be addressed.
2. A thorough discussion of direct, indirect, and cumulative impacts expected to adversely affect biological resources, with specific measures to offset such impacts. This discussion should focus on maximizing avoidance, and minimizing impacts.
 - a. CEQA Guidelines, Section 15125(a), direct that knowledge of the regional setting is critical to an assessment of environmental impacts and that special emphasis should be placed on resources that are rare or unique to the region.
 - b. Project impacts should also be analyzed relative to their effects on off-site habitats and populations. Specifically, this should include nearby public lands, open space, adjacent natural habitats, and riparian ecosystems. Impacts to and maintenance of wildlife corridor/movement areas, including access to undisturbed habitat in adjacent areas are of concern to the Department and should be fully evaluated and provided. The analysis should also include a discussion of the potential for impacts resulting from such effects as increased vehicle traffic, outdoor artificial lighting, noise and vibration.
 - c. A cumulative effects analysis should be developed as described under CEQA Guidelines, Section 15130. General and specific plans, as well as past, present, and anticipated future projects, should be analyzed relative to their impacts on similar plant communities and wildlife habitats.
 - d. Impacts to migratory wildlife affected by the project should be fully evaluated

Ms. Debby Linn
April 8, 2009
Page 3

including proposals to removal/disturb native and ornamental landscaping and other nesting habitat for native birds. Impact evaluation may also include such elements as migratory butterfly roost sites and neo-tropical bird and waterfowl stop-over and staging sites. All migratory nongame native bird species are protected by international treaty under the Federal Migratory Bird Treaty Act (MBTA) of 1918 (50 C.F.R. Section 10.13). Sections 3503, 3503.5 and 3513 of the California Fish and Game Code prohibit take of birds and their active nests, including raptors and other migratory nongame birds as listed under the MBTA.

- e. Impacts to all habitats from City or County required Fuel Modification Zones (FMZ). Areas slated as mitigation for loss of habitat shall not occur within the FMZ.
 - f. Proposed project activities (including disturbances to vegetation) should take place outside of the breeding bird season (February 1- September 1) to avoid take (including disturbances which would cause abandonment of active nests containing eggs and/or young). If project activities cannot avoid the breeding bird season, nest surveys should be conducted and active nests should be avoided and provided with a minimum buffer as determined by a biological monitor (the Department recommends a minimum 500-foot buffer for all active raptor nests).
3. A range of alternatives should be analyzed to ensure that alternatives to the proposed project are fully considered and evaluated. A range of alternatives which avoid or otherwise minimize impacts to sensitive biological resources including wetlands/riparian habitats, alluvial scrub, coastal sage scrub, Joshua tree woodlands, etc. should be included. Specific alternative locations should also be evaluated in areas with lower resource sensitivity where appropriate.
- a. Mitigation measures for project impacts to sensitive plants, animals, and habitats should emphasize evaluation and selection of alternatives which avoid or otherwise minimize project impacts. Compensation for unavoidable impacts through acquisition and protection of high quality habitat elsewhere should be addressed with offsite mitigation locations clearly identified.
 - b. The Department considers Rare Natural Communities as threatened habitats having both regional and local significance. Thus, these communities should be fully avoided and otherwise protected from project-related impacts (Attachment 2).
 - c. The Department generally does not support the use of relocation, salvage, and/or transplantation as mitigation for impacts to rare, threatened, or endangered species. Department studies have shown that these efforts are experimental in nature and largely unsuccessful.
4. A California Endangered Species Act (CESA) Permit must be obtained, if the project has the potential to result in "take" of species of plants or animals listed under CESA, either during construction or over the life of the project. CESA Permits are issued to conserve, protect, enhance, and restore State-listed threatened or endangered species and their habitats. Early consultation is encouraged, as significant modification to the proposed project and mitigation measures may be required in order to obtain a CESA Permit. Revisions to the Fish and Game Code, effective January 1998, require that the


Ms. Debby Linn
April 8, 2009
Page 4

Department issue a separate CEQA document for the issuance of a CESA permit unless the project CEQA document addresses all project impacts to listed species and specifies a mitigation monitoring and reporting program that will meet the requirements of a CESA permit. For these reasons, the following information is requested:

- a. Biological mitigation monitoring and reporting proposals should be of sufficient detail and resolution to satisfy the requirements for a CESA Permit.
 - b. A Department-approved Mitigation Agreement and Mitigation Plan are required for plants listed as rare under the Native Plant Protection Act.
5. The Department opposes the elimination of watercourses (including concrete channels) and/or the canalization of natural and manmade drainages or conversion to subsurface drains. All wetlands and watercourses, whether intermittent, ephemeral, or perennial, must be retained and provided with substantial setbacks which preserve the riparian and aquatic habitat values and maintain their value to on-site and off-site wildlife populations. The Department recommends a minimum natural buffer of 100 feet from the outside edge of the riparian zone on each side of a drainage.
- a. The Department requires a Streambed Alteration Agreement (SAA), pursuant to Section 1600 et seq. of the Fish and Game Code, with the applicant prior to any direct or indirect impact to a lake or stream bed, bank or channel or associated riparian resources. The Department's issuance of a SAA may be a project that is subject to CEQA. To facilitate our issuance of the Agreement when CEQA applies, the Department as a responsible agency under CEQA may consider the local jurisdiction's (lead agency) document for the project. To minimize additional requirements by the Department under CEQA the document should fully identify the potential impacts to the lake, stream or riparian resources and provide adequate avoidance, mitigation, monitoring and reporting commitments for issuance of the Agreement. Early consultation is recommended, since modification of the proposed project may be required to avoid or reduce impacts to fish and wildlife resources.

Thank you for this opportunity to provide comment. Please contact Mr. Matt Chirdon, Environmental Scientist, at (760) 757-3734 if you should have any questions and for further coordination on the proposed project.

Sincerely,



Helen Birss
Environmental Program Manager
South Coast Region

Attachments (2)

cc: Ms. Helen Birss, Las Alamos
HabCon-Chron
Department of Fish and Game
State Clearinghouse, Sacramento

Guidelines for Assessing the Effects of Proposed Projects on Rare, Threatened, and Endangered Plants and Natural Communities

State of California
THE RESOURCES AGENCY
Department of Fish and Game
December 9, 1983
Revised May 8, 2000

The following recommendations are intended to help those who prepare and review environmental documents determine **when** a botanical survey is needed, **who** should be considered qualified to conduct such surveys, **how** field surveys should be conducted, and **what** information should be contained in the survey report. The Department may recommend that lead agencies not accept the results of surveys that are not conducted according to these guidelines.

1. Botanical surveys are conducted in order to determine the environmental effects of proposed projects on all rare, threatened, and endangered plants and plant communities. Rare, threatened, and endangered plants are not necessarily limited to those species which have been "listed" by state and federal agencies but should include any species that, based on all available data, can be shown to be rare, threatened, and/or endangered under the following definitions:

A species, subspecies, or variety of plant is "endangered" when the prospects of its survival and reproduction are in immediate jeopardy from one or more causes, including loss of habitat, change in habitat, over-exploitation, predation, competition, or disease. A plant is "threatened" when it is likely to become endangered in the foreseeable future in the absence of protection measures. A plant is "rare" when, although not presently threatened with extinction, the species, subspecies, or variety is found in such small numbers throughout its range that it may be endangered if its environment worsens.

Rare natural communities are those communities that are of highly limited distribution. These communities may or may not contain rare, threatened, or endangered species. The most current version of the California Natural Diversity Database's List of California Terrestrial Natural Communities may be used as a guide to the names and status of communities.

2. It is appropriate to conduct a botanical field survey to determine if, or to the extent that, rare, threatened, or endangered plants will be affected by a proposed project when:

- a. Natural vegetation occurs on the site, it is unknown if rare, threatened, or endangered plants or habitats occur on the site, and the project has the potential for direct or indirect effects on vegetation; or
- b. Rare plants have historically been identified on the project site, but adequate information for impact assessment is lacking.

3. Botanical consultants should possess the following qualifications:

- a. Experience conducting floristic field surveys;
- b. Knowledge of plant taxonomy and plant community ecology;
- c. Familiarity with the plants of the area, including rare, threatened, and endangered species;
- d. Familiarity with the appropriate state and federal statutes related to plants and plant collecting; and,
- e. Experience with analyzing impacts of development on native plant species and communities.

4. Field surveys should be conducted in a manner that will locate any rare, threatened, or endangered species that may be present. Specifically, rare, threatened, or endangered plant surveys should be:

- a. Conducted in the field at the proper time of year when rare, threatened, or endangered species are both evident and identifiable. Usually, this is when the plants are flowering.

When rare, threatened, or endangered plants are known to occur in the type(s) of habitat present in the project

area, nearby accessible occurrences of the plants (reference sites) should be observed to determine that the species are identifiable at the time of the survey.

b. Floristic in nature. A floristic survey requires that every plant observed be identified to the extent necessary to determine its rarity and listing status. In addition, a sufficient number of visits spaced throughout the growing season are necessary to accurately determine what plants exist on the site. In order to properly characterize the site and document the completeness of the survey, a complete list of plants observed on the site should be included in every botanical survey report.

c. Conducted in a manner that is consistent with conservation ethics. Collections (voucher specimens) of rare, threatened, or endangered species, or suspected rare, threatened, or endangered species should be made only when such actions would not jeopardize the continued existence of the population and in accordance with applicable state and federal permit requirements. A collecting permit from the Habitat Conservation Planning Branch of DFG is required for collection of state-listed plant species. Voucher specimens should be deposited at recognized public herbaria for future reference. Photography should be used to document plant identification and habitat whenever possible, but especially when the population cannot withstand collection of voucher specimens.

d. Conducted using systematic field techniques in all habitats of the site to ensure a thorough coverage of potential impact areas.

e. Well documented. When a rare, threatened, or endangered plant (or rare plant community) is located, a California Native Species (or Community) Field Survey Form or equivalent written form, accompanied by a copy of the appropriate portion of a 7.5 minute topographic map with the occurrence mapped, should be completed and submitted to the Natural Diversity Database. Locations may be best documented using global positioning systems (GPS) and presented in map and digital forms as these tools become more accessible.

5. Reports of botanical field surveys should be included in or with environmental assessments, negative declarations and mitigated negative declarations, Timber Harvesting Plans (THPs), EIR's, and EIS's, and should contain the following information:

- a. Project description, including a detailed map of the project location and study area.
- b. A written description of biological setting referencing the community nomenclature used and a vegetation map.
- c. Detailed description of survey methodology.
- d. Dates of field surveys and total person-hours spent on field surveys.
- e. Results of field survey including detailed maps and specific location data for each plant population found. Investigators are encouraged to provide GPS data and maps documenting population boundaries.
- f. An assessment of potential impacts. This should include a map showing the distribution of plants in relation to proposed activities.
- g. Discussion of the significance of rare, threatened, or endangered plant populations in the project area considering nearby populations and total species distribution.
- h. Recommended measures to avoid impacts.
- i. A list of all plants observed on the project area. Plants should be identified to the taxonomic level necessary to determine whether or not they are rare, threatened or endangered.
- j. Description of reference site(s) visited and phenological development of rare, threatened, or endangered plant(s).
- k. Copies of all California Native Species Field Survey Forms or Natural Community Field Survey Forms.
- l. Name of field investigator(s).
- m. References cited, persons contacted, herbaria visited, and the location of voucher specimens.

Sensitivity of Top Priority Rare Natural Communities in Southern California

Sensitivity rankings are determined by the Department of Fish and Game, California Natural Diversity Data Base and based on either number of known occurrences (locations) and/or amount of habitat remaining (acreage). The three rankings used for these top priority rare natural communities are as follows:

- S1.# Fewer than 6 known locations and/or on fewer than 2,000 acres of habitat remaining.
- S2.# Occurs in 6-20 known locations and/or 2,000-10,000 acres of habitat remaining.
- S3.# Occurs in 21-100-known locations and/or 10,000-50,000 acres of habitat remaining.

The number to the right of the decimal point after the ranking refers to the degree of threat posed to that natural community regardless of the ranking. For example:

- S1.1 = very threatened
- S2.2 = threatened
- S3.3 = no current threats known

Sensitivity Rankings (February 1992)

<u>Rank</u>	<u>Community Name</u>
S1.1	Mojave Riparian Forest Sonoran Cottonwood Willow Riparian Mesquite Bosque Elephant Tree Woodland Crucifixion Thorn Woodland Allthorn Woodland Arizonan Woodland Southern California Walnut Forest Mainland Cherry Forest Southern Bishop Pine Forest Torrey Pine Forest Desert Mountain White Fir Forest Southern Dune Scrub Southern Coastal Bluff Scrub Maritime Succulent Scrub Riversidean Alluvial Fan Sage Scrub Southern Maritime Chaparral Valley Needlegrass Grassland Great Basin Grassland Mojave Desert Grassland Pebble Plains Southern Sedge Bog Cismontane Alkali Marsh

- S1.2 Southern Foredunes
Mono Pumice Flat
Southern Interior Basalt Flow Vernal Pool
- S2.1 Venturan Coastal Sage Scrub
Diegan Coastal Sage Scrub
Riversidean Upland Coastal Sage Scrub
Riversidean Desert Sage Scrub
Sagebrush Steppe
Desert Sink Scrub
Mafic Southern Mixed Chaparral
San Diego Mesa Hardpan Vernal Pool
San Diego Mesa Claypan Vernal Pool
Alkali Meadow
Southern Coastal Salt Marsh
Coastal Brackish Marsh
Transmontane Alkali Marsh
Coastal and Valley Freshwater Marsh
Southern Arroyo Willow Riparian Forest
Southern Willow Scrub
Modoc-Great Basin Cottonwood Willow Riparian
Modoc-Great Basin Riparian Scrub
Mojave Desert Wash Scrub
Engelmann Oak Woodland
Open Engelmann Oak Woodland
Closed Engelmann Oak Woodland
Island Oak Woodland
California Walnut Woodland
Island Ironwood Forest
Island Cherry Forest
Southern Interior Cypress Forest
Bigcone Spruce-Canyon Oak Forest
- S2.2 Active Coastal Dunes
Active Desert Dunes
Stabilized and Partially Stabilized Desert Dunes
Stabilized and Partially Stabilized Desert Sandfield
Mojave Mixed Steppe
Transmontane Freshwater Marsh
Coulter Pine Forest
Southern California Fellfield
White Mountains Fellfield
- S2.3 Bristlecone Pine Forest
Limber Pine Forest

4 pages

STATE OF CALIFORNIA

Arnold Schwarzenegger, Governor

NATIVE AMERICAN HERITAGE COMMISSION

915 CAPITOL MALL, ROOM 364
 SACRAMENTO, CA 95814
 (916) 653-6251
 Fax (916) 657-5390
 Web Site www.nahc.ca.gov
 e-mail: ds_nahe@pacbell.net



April 13, 2009 (Revised 4-20-09)

Ms. Debby Linn, Contract Planner
 CITY OF NEWPORT BEACH PLANNING DEPARTMENT

3300 Newport Boulevard
 Newport Beach, CA 92658

Fax to: (949) 644-3229

Re: SCH#2009031061: CEQA Notice of Preparation (NOP); draft Environmental Impact Report (DEIR); for the Newport Banning Ranch Project located in the City of Newport Beach, Orange County, California

Dear Ms. Linn:

The Native American Heritage Commission (NAHC) is the state 'trustee agency' pursuant to Public Resources Code §21070 designated to protect California's Native American Cultural Resources. The NAHC is also a 'reviewing agency' for both federal and state environmental documents circulated for review under both federal and state statutes and environmental regulations. The California Environmental Quality Act (CEQA) requires that any project that causes a substantial adverse change in the significance of an historical resource, that includes archaeological resources, is a 'significant effect' requiring the preparation of an Environmental Impact Report (EIR) per the California Code of Regulations §15064.5(b)(c)(f) CEQA guidelines). Section 15382 of the 2007 CEQA Guidelines defines a significant impact on the environment as "a substantial, or potentially substantial, adverse change in any of physical conditions within an area affected by the proposed project, including ... objects of historic or aesthetic significance." In order to comply with this provision, the lead agency is required to assess whether the project will have an adverse impact on these resources within the 'area of potential effect (APE)', and if so, to mitigate that effect. To adequately assess the project-related impacts on historical resources, the Commission recommends the following action:

- ✓ Contact the appropriate California Historic Resources Information Center (CHRIS) for possible 'recorded sites' in locations where the development will or might occur.. Contact information for the Information Center nearest you, the South Central Coastal Information Center (Contact Ms. Stacy St. James at 714-278-5395). The record search will determine:
 - If a part or the entire APE has been previously surveyed for cultural resources.
 - If any known cultural resources have already been recorded in or adjacent to the APE; in this case, CA-ORA-64 is near the proposed site; that site in the mid-1990s yielded hundreds of Native American human remains and thousands of artifacts.
 - If the probability is low, moderate, or high that cultural resources are located in the APE.
 - If a survey is required to determine whether previously unrecorded cultural resources are present.
- ✓ If an archaeological inventory survey is required, the final stage is the preparation of a professional report detailing the findings and recommendations of the records search and field survey.
 - The final report containing site forms, site significance, and mitigation measures should be submitted immediately to the planning department. All information regarding site locations, Native American human remains, and associated funerary objects should be in a separate confidential addendum, and not be made available for public disclosure.
 - The final written report should be submitted within 3 months after work has been completed to the appropriate regional archaeological information center.
- ✓ The Native American Heritage Commission (NAHC) performed:
 - A Sacred Lands File (SLF) search of the project 'area of potential effect (APE)': The results: Known Native American Cultural Resources were identified within one mile of the 'area of potential effect' (APE). The NAHC SLF is not exhaustive and local tribal contacts should be consulted from the attached list and there are Native American cultural resources in close proximity..
 - The NAHC advises the use of Native American Monitors, also, when professional archaeologists or the equivalent are employed by project proponents, in order to ensure proper identification and care given cultural resources that may be discovered. This is particularly true for this, proposed project, because of the *plethora of Native American human remains and archaeological features discovered during Phase I of the Playa Vista Project*. The NAHC, FURTHER, recommends that contact be made with Native American Contacts on the attached list to get their input on potential IMPACT of the project (APE) on cultural resources.. In some cases, the existence of a Native American cultural resources may be known only to a local tribe(s) or Native American individuals or elders.
 - ✓ Also, lack of surface evidence of archeological resources does not preclude their subsurface existence.

- Lead agencies should include in their mitigation plan provisions for the identification and evaluation of accidentally discovered archeological resources, per California Environmental Quality Act (CEQA) §15064.5 (f). In areas of identified archaeological sensitivity, a certified archaeologist and a culturally affiliated Native American, with knowledge in cultural resources, should monitor all ground-disturbing activities.
- Again, a culturally-affiliated Native American tribe may be the only source of information about a Sacred Site/Native American cultural resource.
- Lead agencies should include in their mitigation plan provisions for the disposition of recovered artifacts, in consultation with culturally affiliated Native Americans.
- ✓ Lead agencies should include provisions for discovery of Native American human remains or unmarked cemeteries in their mitigation plans.
 - CEQA Guidelines, Section 15064.5(d) requires the lead agency to work with the Native Americans identified by this Commission if the initial Study identifies the presence or likely presence of Native American human remains within the APE. CEQA Guidelines provide for agreements with Native American, identified by the NAHC, to assure the appropriate and dignified treatment of Native American human remains and any associated grave liens.

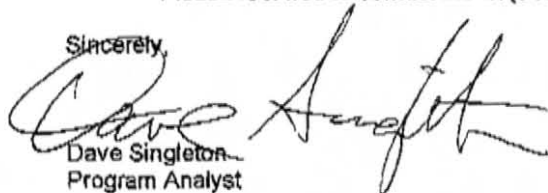
Moreover, the project since it requires a change of zone, will require a General Plan Amendment; this will require additional consultation with local tribal governments pursuant to California Government Code §§65352.3, 65352.4 and 65560 (Open Space).

FURTHERMORE, this project falls under the jurisdiction of the U.S. Army Corps of Engineers (ACOE) and may require an ACOE Permit and possibly a Programmatic Agreement of which the City of Newport Beach will be a signatory. The NAHC is also a 'reviewing agency' for environmental documents prepared under the National Environmental Policy Act (NEPA; 42 U.S.C 4321 *et seq*); Parts 1500 to 1508, USACE Regulations for Implementing NEPA, 33 CFR Part 220; and that are subject to the Tribal and interested Native American consultation requirements of the National Historic Preservation Act, as amended (Section 106) (16 U.S.C. 470). The provision of the Native American Graves Protection and Repatriation Act (NAGPRA) (25 U.S.C. 3001-3013) apply to this project if Native American human remains are inadvertently discovered during 'ground-breaking' activity. The NAHC is of the opinion that the federal standards, pursuant to the above-referenced Acts of the U.S. Congress and the President's Council on Environmental Quality (CSQ; 42 U.S.C. 4371 *et seq*) are similar to and in many cases more stringent with regard to the 'significance' of historic, including Native American items, and archaeological features, including those of Native American origin, than are the provisions of the California Environmental Quality Act (CEQA) of 1970, as amended. Therefore, the NAHC urges the City of Newport Beach to support and coordinate the federal tribal consultation and Native American cultural resource requirements with those provided for in state statutes and regulations also found in a Programmatic Agreement or memorandum of understanding (MOU).

✓ Health and Safety Code §7050.5, Public Resources Code §5097.98 and Sec. §15064.5 (d) of the California Code of Regulations (CEQA Guidelines) mandate procedures to be followed, including that construction or excavation be stopped in the event of an accidental discovery of any human remains in a location other than a dedicated cemetery until the county coroner or medical examiner can determine whether the remains are those of a Native American. . Note that §7052 of the Health & Safety Code states that disturbance of Native American cemeteries is a felony.
✓ Finally, Lead Agencies should consider avoidance, as defined in §15370 of the California Code of Regulations (CEQA Guidelines), when significant cultural resources are discovered during the course of project planning and implementation

Please feel free to contact me at (916) 653-6251 if you have any questions.

Sincerely,



Dave Singleton
Program Analyst

Attachment: List of Native American Contacts

Cc: State Clearinghouse

Native American Contact
Orange County
April 20, 2009

Ti'At Society
Cindi Alvitre
6515 E. Seaside Walk, #C
Long Beach , CA 90803
calvitre@yahoo.com
(714) 504-2468 Cell

Gabrielino

Gabrielino Tongva Nation
Sam Dunlap, Tribal Secretary
P.O. Box 86908
Los Angeles , CA 90086
samdunlap@earthlink.net

(909) 262-9351 - cell

Gabrielino Tongva

Juaneno Band of Mission Indians Acjachemen Nation
David Belardes, Chairperson
32161 Avenida Los Amigos
San Juan Capistrano , CA 92675
DavidBelardes@hotmail.com
(949) 493-0959
(949) 493-1601 Fax

Juaneno

Juaneno Band of Mission Indians Acjachemen Nation
Anthony Rivera, Chairman
31411-A La Matanza Street
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arivera@juaneno.com
949-488-3484
949-488-3294 Fax

Juaneno

Tongva Ancestral Territorial Tribal Nation
John Tommy Rosas, Tribal Admin.

tattnlaw@gmail.com
310-570-6567

Gabrielino Tongva

Gabrielino Tongva Indians of California Tribal Council
Robert Dorame, Tribal Chair/Cultural Resources
P.O. Box 490
Bellflower , CA 90707
gtongva@verizon.net
562-761-6417 - voice
562-925-7989 - fax

Gabrielino Tongva

Gabrieleno/Tongva San Gabriel Band of Mission
Anthony Morales, Chairperson
PO Box 693
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(828) 286-1262 -FAX
(626) 286-1632
(626) 286-1758 - Home
(626) 286-1262 Fax

Gabrielino Tongva

Juaneno Band of Mission Indians
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slfredgcruz@sbcglobal.net

Juaneno

This list is current only as of the date of this document.

Distribution of this list does not relieve any person of statutory responsibility as defined in Section 7050.5 of the Health and Safety Code, Section 5097.94 of the Public Resources Code and Section 5097.98 of the Public Resources Code.

This list is only applicable for contacting local Native Americans with regard to cultural resources for the proposed SCH#2009031061; CEQA Notice of Preparation (NOP); draft Environmental Impact Report (DEIR) for the Newport Banning Ranch Project, located in the City of Newport Beach; Orange County, California.

Native American Contact

Orange County

April 20, 2009

Juaneno Band of Mission Indians
Adolph 'Bud' Sepulveda, Vice Chairperson
P.O. Box 25828 Juaneno
Santa Ana , CA 92799
bssepul@yahoo.net
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714-914-1812 - CELL
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Juaneño Band of Mission Indians
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Juaneno Band of Mission Indians
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Juaneno Band of Mission Indians
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United Coalition to Protect Panhe (UCPP)
Rebecca Robles
119 Avenida San Fernando Juaneno
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(949) 573-3138

Gabrielino-Tongva Tribe
Felicia Sheerman, Chairperson
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Gabrielino-Tongva Tribe
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(310) 587-2281

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This list is only applicable for contacting local Native Americans with regard to cultural resources for the proposed SCH#2009031061; CEQA Notice of Preparation (NOP); draft Environmental Impact Report (DEIR) for the Newport Banning Ranch Project, located in the City of Newport Beach; Orange County, California.



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.**

April 14, 2009

Debby Linn, Contract Planner
City of Newport Beach
Planning Department
3300 Newport Boulevard
Newport Beach, CA 92658

RECEIVED BY
PLANNING DEPARTMENT

APR 17 2009

CITY OF NEWPORT BEACH

RE: Notice of Preparation Newport Banning Ranch Program Environmental Impact Report

Dear Ms. Linn,

The California Cultural Resources Preservation Alliance, Inc.(CCRPA) is against the development of Banning Ranch. The CCRPA is a 501 (c) 3 non-profit organization of archaeologists, historians, Native Americans, and individuals who are concerned about the continuing loss of archaeological and cultural properties. In addition to the open space, endangered species and wetland values, we believe that the property contains significant archaeological and cultural values, including the potential for the presence of Native American burials. The proposed development will have a disastrous effect on these significant values and the Banning Ranch property should be preserved as open space.

Prehistoric villages tend to be situated along the Santa Ana River and particularly on bluffs and mesas overlooking wetlands. It should be noted that archaeological sites and human remains have been found in similar environmental situations, even within those that have been used for oil production.

Please refer to the Sacred Sites bill, Senate Bill 18, regarding the notification of Native Americans when land is rezoned. In addition, SB 18 amended Government Code 66560 to include open space for the protection of cultural places as an allowable purpose of the open space element.

Sincerely,

A handwritten signature in cursive script that reads "Patricia Martz".

Patricia Martz, Ph.D.
President

Cc: Dave Singleton
California Native American Heritage Commission

STATE OF CALIFORNIA—BUSINESS, TRANSPORTATION AND HOUSING AGENCY

ARNOLD SCHWARZENEGGER, Governor

DEPARTMENT OF TRANSPORTATION

District 12

3337 Michelson Drive, Suite 380

Irvine, CA 92612-8894

Tel: (949) 724-2267

Fax: (949) 724-2592

*Flex your power!
Be energy efficient!***FAX & MAIL****April 15, 2009**

Ms. Debby Linn
City of Newport Beach
Planning Department
3300 Newport Blvd.
Newport Beach, CA. 92658

File: IGR/CEQA
SCH#: 20090031061
Log #: 2235
SR-1

Subject: Newport Banning Ranch Project

Dear Ms. Linn,

Thank you for the opportunity to review and comment on the **Notice of Preparation for the Newport Banning Ranch Project**. The proposed project calls for the development of 1,375 residential dwelling units, 75,000 square feet of commercial uses, and a 75 room resort on approximately 91 acres of the 401 total acres. Approximately 243 acres would be in open space, trails, and consolidated oil facilities, the latter comprising approximately 20 acres. Park facilities would be provided on approximately 45 acres; roadways would occupy approximately 22 acres. Roadways would be extended through the site to provide a north-south connection from West Coast Highway to 19th Street; additional roadway connections would be provided to 15th and 16th Streets. The nearest State routes to the project site are I-5, SR-55.

The California Department of Transportation (Department), District 12 is a commenting agency on this project and has the following comments:

1. If any project work (e.g. storage of materials, street widening, emergency access improvements, sewer connections, sound walls, storm drain construction, street connections, etc.) will occur in the vicinity of the Department's Right-of-Way, an encroachment permit is required prior to commencement of work. Please allow 2 to 4 weeks for a complete submittal to be reviewed and for a permit to be issued. When applying for an Encroachment Permit, please incorporate Environmental Documentation, SWPPP/ WPCP, Hydraulic Calculations, Traffic Control Plans, Geotechnical Analysis, Right-of-Way certification and all relevant design details including design exception approvals. For specific details on the Department's Encroachment Permits procedure, please refer to the Department's Encroachment Permits Manual. The latest edition of the manual is available on the web site:
<http://www.dot.ca.gov/hq/traffops/developserv/permits/>
2. The Department's Traffic Operations Branch requests all applicants to use the method outlined in the latest version of the Highway Capacity Manual (HCM) when analyzing traffic impacts on State Transportation Facilities. The use of HCM is preferred by the Department because it is

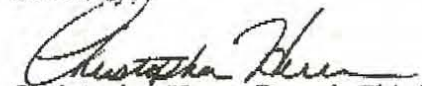
an operational analysis as opposed to the Intersection Capacity Utilization (ICU) method, which is a planning analysis. In the case of projects that have direct impacts on State Facilities, the Department recommends that the traffic impact analysis be based on HCM method. Should the project require an encroachment permit, Traffic Operations may find the Traffic Impact Study based on ICU methodology inadequate resulting in possible delay or denial of a permit by the Department. All input sheets, assumptions and volumes on State Facilities including ramps and intersection analysis should be submitted to the Department for review and approval. The EIR should include appropriate mitigation measures to offset any potential impacts.

The traffic impact on the state transportation system should be evaluated based on the Department's Guide for the Preparation of Traffic Impact Studies which is available at: <http://www.dot.ca.gov/hq/traffops/developserv/operationalsystems/reports/tisguide.pdf>.

3. Trips generated by the project should be based on ITE trip generation rates.
4. The EIR should include Traffic Analysis for existing and future (2040) conditions.

Please continue to keep us informed of this project and any future developments, which could potentially impact State transportation facilities. If you have any questions or need to contact us, please do not hesitate to call Damon Davis at (949) 440-3487.

Sincerely,



Christopher Herre, Branch Chief

Local Development/Intergovernmental Review

C: Terry Roberts, Office of Planning and Research



South Coast Air Quality Management District

21865 Copley Drive, Diamond Bar, CA 91765-4178
(909) 396-2000 • www.aqmd.gov

RECEIVED BY
PLANNING DEPARTMENT

March 20, 2009

MAR 26 2009

CITY OF NEWPORT BEACH

Ms. Debby Linn, Contract Planner
City of Newport Beach
Planning Department
3300 Newport Boulevard
Newport Beach, CA 92658

Dear Ms. Linn:

Notice of Preparation of a Draft Environmental Impact Report (Draft EIR) for the Newport Banning Ranch Project

The South Coast Air Quality Management District (SCAQMD) appreciates the opportunity to comment on the above-mentioned document. The SCAQMD's comments are recommendations regarding the analysis of potential air quality impacts from the proposed project that should be included in the draft environmental impact report (EIR). Please send the SCAQMD a copy of the Draft EIR upon its completion. **In addition, please send with the draft EIR all appendices or technical documents related to the air quality analysis and electronic versions of all air quality modeling and health risk assessment files. Electronic files include spreadsheets, database files, input files, output files, etc., and does not mean Adobe PDF files. Without all files and supporting air quality documentation, the SCAQMD will be unable to complete its review of the air quality analysis in a timely manner. Any delays in providing all supporting air quality documentation will require additional time for review beyond the end of the comment period.**

Air Quality Analysis

The SCAQMD adopted its California Environmental Quality Act (CEQA) Air Quality Handbook in 1993 to assist other public agencies with the preparation of air quality analyses. The SCAQMD recommends that the Lead Agency use this Handbook as guidance when preparing its air quality analysis. Copies of the Handbook are available from the SCAQMD's Subscription Services Department by calling (909) 396-3720. Alternatively, the lead agency may wish to consider using the California Air Resources Board (CARB) approved URBEMIS 2007 Model. This model is available on the SCAQMD Website at: www.urbemis.com.

The Lead Agency should identify any potential adverse air quality impacts that could occur from all phases of the project and all air pollutant sources related to the project. Air quality impacts from both construction (including demolition, if any) and operations should be calculated. Construction-related air quality impacts typically include, but are not limited to, emissions from the use of heavy-duty equipment from grading, earth-loading/unloading, paving, architectural coatings, off-road mobile sources (e.g., heavy-duty construction equipment) and on-road mobile sources (e.g., construction worker vehicle trips, material transport trips). Operation-related air quality impacts may include, but are not limited to, emissions from stationary sources (e.g., boilers), area sources (e.g., solvents and coatings), and vehicular trips (e.g., on- and off-road tailpipe emissions and entrained dust). Air quality impacts from indirect sources, that is, sources that generate or attract vehicular trips should be included in the analysis.

The SCAQMD has developed a methodology for calculating PM_{2.5} emissions from construction and operational activities and processes. In connection with developing PM_{2.5} calculation methodologies, the SCAQMD has also developed both regional and localized significance thresholds. The SCAQMD requests that the lead agency quantify PM_{2.5} emissions and compare the results to the recommended PM_{2.5} significance thresholds. Guidance for calculating PM_{2.5} emissions and PM_{2.5} significance thresholds can be found at the following internet address: http://www.aqmd.gov/ceqa/handbook/PM2_5/PM2_5.html.

In addition to analyzing regional air quality impacts the SCAQMD recommends calculating localized air quality impacts and comparing the results to localized significance thresholds (LSTs). LST's can be used in addition to the recommended regional significance thresholds as a second indication of air quality impacts when preparing a CEQA document. Therefore, when preparing the air quality analysis for the proposed project, it is recommended that the lead agency perform a localized significance analysis by either using the LSTs developed by the SCAQMD or performing dispersion modeling as necessary. Guidance for performing a localized air quality analysis can be found at <http://www.aqmd.gov/ceqa/handbook/LST/LST.html>.

It is recommended that lead agencies for projects generating or attracting vehicular trips, especially heavy-duty diesel-fueled vehicles, perform a mobile source health risk assessment. Guidance for performing a mobile source health risk assessment ("Health Risk Assessment Guidance for Analyzing Cancer Risk from Mobile Source Diesel Idling Emissions for CEQA Air Quality Analysis") can be found on the SCAQMD's CEQA web pages at the following internet address: http://www.aqmd.gov/ceqa/handbook/mobile_toxic/mobile_toxic.html. An analysis of all toxic air contaminant impacts due to the decommissioning or use of equipment potentially generating such air pollutants should also be included.

Mitigation Measures

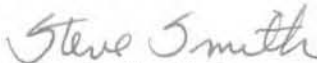
In the event that the project generates significant adverse air quality impacts, CEQA requires that all feasible mitigation measures that go beyond what is required by law be utilized during project construction and operation to minimize or eliminate significant adverse air quality impacts. To assist the Lead Agency with identifying possible mitigation measures for the project, please refer to Chapter 11 of the SCAQMD CEQA Air Quality Handbook for sample air quality mitigation measures. Additional mitigation measures can be found on the SCAQMD's CEQA web pages at the following internet address: www.aqmd.gov/ceqa/handbook/mitigation/MM_intro.html. Additionally, SCAQMD's Rule 403 – Fugitive Dust, and the Implementation Handbook contain numerous measures for controlling construction-related emissions that should be considered for use as CEQA mitigation if not otherwise required. Other measures to reduce air quality impacts from land use projects can be found in the SCAQMD's Guidance Document for Addressing Air Quality Issues in General Plans and Local Planning. This document can be found at the following internet address: <http://www.aqmd.gov/prdas/aqguide/aqguide.html>. In addition, guidance on siting incompatible land uses can be found in the California Air Resources Board's Air Quality and Land Use Handbook: A Community Perspective, which can be found at the following internet address: <http://www.arb.ca.gov/ch/handbook.pdf>. Pursuant to state CEQA Guidelines §15126.4 (a)(1)(D), any impacts resulting from mitigation measures must also be discussed.

Data Sources

SCAQMD rules and relevant air quality reports and data are available by calling the SCAQMD's Public Information Center at (909) 396-2039. Much of the information available through the Public Information Center is also available via the SCAQMD's World Wide Web Homepage (<http://www.aqmd.gov>).

The SCAQMD is willing to work with the Lead Agency to ensure that project-related emissions are accurately identified, categorized, and evaluated. Please call Daniel Garcia, Air Quality Specialist, CEQA Section, at (909) 396-3304 if you have any questions regarding this letter.

Sincerely,



Steve Smith, Ph.D.

Program Supervisor, CEQA Section

Planning, Rule Development and Area Sources

SS:DG:AK

ORC090319-03AK

Control Number



1919 S. State College Blvd.
Anaheim, CA 92806-6114



March 20, 2009

City of Newport Beach
3300 Newport Blvd.
Newport Beach, CA 92658

Attention: Debby Linn

Subject: EIR for Newport Banning Ranch.

Thank you for providing the opportunity to respond to this E.I.R. Document. We are pleased to inform you that Southern California Gas Company has facilities in the area where the aforementioned project is proposed. Gas service to the project can be provided from an existing gas main located in various locations. The service will be in accordance with the Company's policies and extension rules on file with the California Public Utilities Commission when the contractual arrangements are made.

This letter is not a contractual commitment to serve the proposed project but is only provided as an informational service. The availability of natural gas service is based upon conditions of gas supply and regulatory agencies. As a public utility, Southern California Gas Company is under the jurisdiction of the California Public Utilities Commission. Our ability to serve can also be affected by actions of federal regulatory agencies. Should these agencies take any action, which affect gas supply or the conditions under which service is available, gas service will be provided in accordance with the revised conditions.

This letter is also provided without considering any conditions or non-utility laws and regulations (such as environmental regulations), which could affect construction of a main and/or service line extension (i.e., if hazardous wastes were encountered in the process of installing the line). The regulations can only be determined around the time contractual arrangements are made and construction has begun.

Estimates of gas usage for residential and non-residential projects are developed on an individual basis and are obtained from the Commercial-Industrial/Residential Market Services Staff by calling (800) 427-2000 (Commercial/Industrial Customers) (800) 427-2200 (Residential Customers). We have developed several programs, which are available upon request to provide assistance in selecting the most energy efficient appliances or systems for a particular project. If you desire further information on any of our energy conservation programs, please contact this office for assistance.

Sincerely,

A handwritten signature in black ink, appearing to read "Mike Harriel".

Mike Harriel
Technical Services Supervisor
Pacific Coast Region - Anaheim

MH/mr
eir02.doc

RECEIVED BY
PLANNING DEPARTMENT

MAR 23 2009

CITY OF NEWPORT BEACH

From: Save Banning Ranch [mailto:info@savebanningranch.org]
Sent: Friday, March 20, 2009 10:37 PM
To: savebanningranch@yahoo.com
Subject: Banning Ranch Notice of Preparation (NOP) released Wednesday

The Notice of Preparation (NOP) for a large residential and commercial development at Banning Ranch in Newport Beach was just released Wednesday.

http://www.city.newport-beach.ca.us/PLN/Banning_Ranch/Environmental/NBR NOP-031609_1.pdf

The 412 acre Banning Ranch is the last large privately owned parcel of coastal open space remaining in Orange County.

It is USFWS-declared critical habitat for the California gnatcatcher and San Diego Fairy Shrimp, as well as habitat for the largest remaining population of Cactus Wrens in coastal Orange County.

The release of the NOP is a road we have not crossed before in our ten year effort to preserve the entire Banning Ranch as open space.

While we have some "open space veterans" in our effort, many of us are new to NOPs. We have 30 days to submit comments

I would encourage everyone who is interested in the preservation, acquisition, conservation, restoration and maintenance of the ENTIRE Banning Ranch as a permanent public open space, park and coastal nature preserve to review Banning Ranch NOP and submit appropriate comments. There are 16 areas of concern, listed on pages 20 and 21 of the NOP.

Please contact us if you need guidance.

If you would also, please review the entire development application with all its appendices and studies and give us specific advice on what to submit (or submit your own comments). This can be viewed by going to the Newport Beach website:

http://www.city.newport-beach.ca.us/PLN/Banning_Ranch/BanningRanchInfo.asp



ORANGE COUNTY FIRE AUTHORITY

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

Chip Prather, Fire Chief

(714) 573-6000

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PLANNING DEPARTMENT

APR 03 2009

CITY OF NEWPORT BEACH

March 24, 2009

Debby Linn, Contract Planner
City of Newport Beach
Planning Department
3300 Newport Blvd
Newport Beach, CA 92658

SUBJECT: Newport Banning NOP

Dear Ms. Linn:

Thank you for the opportunity to review the subject document. The Orange County Fire Authority (OCFA), has discussed the project with you, and understands that the project is anticipated to be annexed PRIOR to development. As such, OCFA supports an annexation as the area is best served by an agency other than OCFA since we do not have a station near the project area. However, the property is currently unincorporated and the listed information in this document identifies significant issues that would need to be addressed in the EIR if developed as an unincorporated parcel.

OCFA has identified that the project will present significant impacts to existing fire and rescue services. Currently, the OCFA is responsible for provision of these services to the Orange County section of the project area. While current station placement with mutual and automatic aid agreements are sufficient to ensure protection of the area in its current state, the development into the proposed use would pose significant new service needs, not only within the project area, but regionally as well.

OCFA would like the issue of annexation resolved before the initiation of the planning approval process. In addition, OCFA must be a signatory participant in any development agreement if developed prior to annexation. A Fire Master Plan approval would be based on County Standards and NOT City of Newport Beach if submitted prior to annexation. Since the annexation has not yet occurred, OCFA will assume for this document that for the majority of the project in unincorporated area, that all planning and inspection services, as well as emergency response will be the responsibility of our agency. As such, the project will be processed and developed under the County of Orange Fire Codes and Building Code standards.

The OCFA has significant concerns in the development of the project adjacent to open space where vegetation fires often occur. Adherence to special development conditions as well as all other standard conditions of the OCFA would be required during project submittal and

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RESIDENTIAL SPRINKLERS AND SMOKE DETECTORS SAVE LIVES

development. This may include wider streets, special building construction features and controlled landscaping as well as fuel modification. A full list of these requirements is available through the OCFA Planning and Development Section.

The Orange County Fire Authority (OCFA) provides fire protection and emergency medical services response to the project area. Services include: structural fire protection, emergency medical and rescue services, hazardous inspections and response, and public education activities. OCFA also participates in disaster planning as it relates to emergency operations, which includes high occupant areas and schools sites and may participate in community disaster drills planned by others.

Resources are deployed based upon a regional service delivery system, assigning personnel and equipment to emergency incidents without regard to jurisdictional boundaries. The equipment used by the department has the versatility to respond to both urban and wildland emergency conditions. The Orange County Fire Authority also provides all Fire Prevention services (Planning and Development) to all developments within unincorporated Orange County.

OCFA does not have a fire station in the area. Much of the proposed development is outside of the maximum response times for existing fire facilities. New fire station(s) are needed to serve the proposed development. As such, the developer will be required to enter into a secured fire protection agreement with the OCFA for provision of necessary facilities, apparatus, and fire and rescue supplies and equipment. In partial fulfillment of fire service mitigation needs, the proposed facility will require the applicant's dedication of a parcel presenting a minimum of one flat buildable acre, free from all infringing rights of way, easements, and/or setbacks. The site shall have full investigation for utilities and easements prior to Authority approval. The facility to be constructed shall be approximately 8500 square feet in size, and meet Authority strategic location needs.

The following are areas of interest to our Planning and Development Section:

- Street design will be a significant issue for the development of this planned community. Considering the fact that significant residential development will occur in the State mapped high fire areas, the design for local street width will be important for OCFA, as well as, the street design portion including the limit of lengths of cul-de-sac streets, communities needing more than two streets for access when exceeding 150 residences, and for turn-around for fire apparatus, etc.
- Fuel Modification is required. All fuel modifications plans shall be in accordance with the OFCA guidelines for development within VHFHSZ as outlined in Guidelines C-04, C-05 available on the OCFA website, and Chapter 7A of the 2007 CBC. Additional requirements such as sprinklers and enclosed eaves also fall under this provision.
- Residential Fire Service is not currently provided to the proposed development area. This area is outside our response time limits.

- The area is historically an oil well production zone. A soil and gas mitigation plan may be required. Soil sampling report will be required, and pre-sampling site approval needed prior to sampling.
- The developer will need to enter into a Secured Fire Protection Agreement with OCFA.

Mitigation: Prior to approval of any subdivision or comprehensive plan approval for the project, the designated site developer shall enter into a Secured Fire Protection Agreement with the Orange County Fire Authority. This Agreement shall specify the developer's pro-rata fair share funding of capital improvements necessary to establish adequate fire protection facilities and equipment, and/or personnel. Said agreement shall be reached as early as possible in the planning process, preferably for each phase or land use sector of the project, rather than on a parcel by parcel basis.

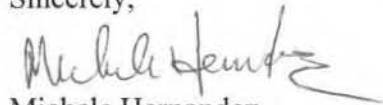
This agreement is typically entered into with developers on a project specific basis to contribute a pro rata share towards funding capital improvements necessary to establish adequate fire protection facilities and equipment. The Secured Fire Protection Agreement is not related to the provision of an "*adequate tax base directed to the Structural Fire Fund to offset short and long range costs*", but rather to mitigating the impact of a project on OCFA as it impacts capital and infrastructure needs.

- Any traffic signal upgrade or installation and all electrically operated gates must be installed with optical preemption devices.

In addition, we would like to point out that all standard conditions with regard to development, including water supply, built in fire protection systems, road grades and width, access, building materials, and the like will be applied to this project at the time of plan submittal.

Please contact me at 714-573-6199 if you need further information on this matter.

Sincerely,



Michele Hernandez
Management Analyst
Strategic Services



LOCAL AGENCY FORMATION COMMISSION

ORANGE COUNTY

April 7, 2009

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PLANNING DEPARTMENT

APR 10 2009

CITY OF NEWPORT BEACH

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Debby Linn, Contract Planner
City of Newport Beach
Planning Department
3300 Newport Boulevard
Newport Beach, California 92658

Subject: Notice of Preparation Draft Environmental Impact Report

Dear Ms. Linn,

The Orange County Local Agency Formation Commission (LAFCO) has reviewed the *Notice of Preparation of a Draft Environmental Impact Report* for the Newport Banning Ranch project. LAFCO appreciates this opportunity to review and comment on the NOP.

LAFCO was created pursuant to the Cortese-Knox Local Government Reorganization Act of 1985, now known as the Cortese-Knox-Hertzberg Local Government Reorganization Act as amended in 2000 ("Act"). (Govt. Code §56000 *et seq.*) Under the Act, LAFCO is required to make determinations regarding an annexation and to certify the environmental impact report of a Lead Agency (Govt. Code §56881). The Act also established the factors which LAFCO must consider in making its determinations, including any policies adopted by LAFCO to create planned, orderly and efficient patterns of development (Govt. Code §56668). Because of this role and pursuant to Section 21069 of the Public Resources Code, LAFCO is a responsible agency for the Banning Ranch project.

The Draft Environmental Impact Report ("DEIR") should address the impacts and any necessary mitigation, including but not limited to the annexation process. In particular, the DEIR should address the factors as identified in Government Code Section 56668. These factors include, but are not limited to, the following considerations:

- **Project Description**

Annexation: The “Project Summary” section of the NOP does not specifically discuss the future annexation of the project territory to the City of Newport Beach. The “Project Description” in the Draft EIR should clearly identify annexation of the unincorporated portions of the project area as part of the “whole of the project” requiring LAFCO review and approval. The Draft EIR should also discuss the timing of annexation relative to timing of the proposed development plans.

Other LAFCO Actions: In addition to annexation, the “Project Description” should adequately address all other related changes of organization affecting any public agencies in the project area that may result from the development of the proposed planned communities and annexation to the City of Newport Beach. These should include, but are not limited to the discussion of the concurrent annexation of the area to the Mesa Consolidated Water District and/or the Costa Mesa Sanitary District.

- **Public Service and Facilities**

Section 56653 of the Act requires that each application for a change of organization include “a plan for providing services within the affected territory.” Among other things, the plan for services must indicate “when those services can feasibly be extended to the affected territory.” (Govt. Code §56653(b)(3).) Although the focus of Subsection 56653(b)(3) is on the timing of the *initiation* of services, the point of this subsection, especially when considered with the remaining requirements of Section 56653, is on continuous, reliable services to the affected area. The EIR’s discussion of impacts in the area of public services should be made with reference to and consistent with the plan for services submitted under the Act, in particular, Section 56668, containing the criteria for approval of the annexation. (Similar discussion and references should be made in the analysis of Land Use/Planning and Population/Housing.)

The Public Services and Facilities discussion should also include a discussion of the ability of the City to provide services (Govt. Code §56668(j)). These services are discussed in detail below.

Water: The project area is currently not within the boundary of an agency that provides retail water services. The two agencies providing retail water services to surrounding areas are the City of Newport Beach and Mesa Consolidated Water District. The Draft EIR should identify and evaluate plans for the extension and delivery of retail water services to the project area.

Sewer: The project area is currently not within the boundary of an agency providing local retail sewer services. The two agencies providing local retail sewer services to surrounding

areas are the City of Newport Beach and the Costa Mesa Sanitary District. The Draft EIR should identify and evaluate plans for the extension and delivery of local retail sewer services to the project area. The Draft EIR should also evaluate the connection of local retail sewer services for the project to regional sewer facilities provided by the Orange County Sanitation District.

Waste Disposal: The project area is currently not within the boundary of an agency providing solid waste disposal services. The two agencies providing solid waste disposal services in the area are the Costa Mesa Sanitary District and the City of Newport Beach. The Draft EIR should identify and evaluate plans for the extension and delivery of solid waste disposal services to the project area.

Street Sweeping: The two agencies providing street sweeping services to surrounding areas are the City of Costa Mesa and the City of Newport Beach. The Draft EIR should identify and evaluate plans for the extension and delivery of street sweeping services to the project area.

Fire Protection and Emergency Response Services: The project area is currently not within the boundary of an agency providing fire protection and emergency response services. The two agencies responding to emergency calls in the surrounding areas are the City of Newport Beach and the City of Costa Mesa. The Draft EIR should identify and evaluate plans for the extension and delivery of fire protection and emergency response services to the project area.

- **Utilities**

This section or the Section of Public Services and Facilities should include a discussion of water supplies as required under Subsection 56668(k) of the Act, including a discussion of the project's consistency with relevant Urban Water Management Plans.

- **Water Quality**

The Draft EIR should address storm water permitting requirements, including (preparation of Stormwater Pollution Prevention Plan), change in surface imperviousness due to the Project, drainage basins, emergency response to spills, and general compliance with the regional stormwater permit.

April 7, 2008

NOP – Banning Ranch Project

Page 4 of 4

Thank you for this opportunity to respond to the NOP. Please send one complete set of the DEIR to me at the address above. If you have any questions or concerns regarding this response, please contact me or Benjamin Legbandt, Policy Analyst, either by email at blegbandt@oclafco.org or by phone at (714) 834-2556.

Best Regards,

A handwritten signature in cursive script that reads "Joyce Crosthwaite". The signature is written in dark ink and is positioned above the printed name and title.

Joyce Crosthwaite
Executive Officer

April 15, 2009

*District Mission:
Dedicated to Satisfying
our Community's
Water Needs*

Debby Linn, Contract Planner
City of Newport Beach
Planning Department
3300 Newport Boulevard
Newport Beach, California 92658

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GIANNONE**
Legal Counsel

Subject: Comments – Notice of Preparation (NOP) Draft Environmental Impact
Report – Newport Banning Ranch

Dear Ms. Linn:

Thank you for the opportunity to comment on the subject NOP. Mesa Consolidated Water District (Mesa) is pleased to provide the following comments on the scope of the Program Environmental Impact Report.

In your description of the existing setting please note that Mesa is currently providing water service to the property.

With respect to water service to the project please consider the potential greenhouse gas emissions related to the source of domestic water. Use of imported water requires a much greater amount of energy than use of local supply. Mesa has constructed a Colored Water Treatment Facility (CWTF) and is planning to improve the treatment technology and expand the capacity of the facility such that there will be a further reduction in greenhouse gas emissions with the improvements. The CWTF can provide local groundwater supply for domestic water service to the Newport Banning Ranch. Mesa is quantifying the greenhouse gas emissions for the existing and improved CWTF and can provide that information if requested.

Please consider connecting to the existing recycled water system as an alternative to providing separate, on-site systems to irrigate the parks, open space and common areas. The existing system is available at the east side of the Santa Ana River and the northern boundary of Talbert Regional Park. The County of Orange also has an irrigation line that extends down the river to West Coast Highway. Mesa can provide plans of the existing system if requested.

Sincerely,



Robert R. McVicker
District Engineer

cc: Lee Pearl, General Manager



13001 GARDEN GROVE BOULEVARD
GARDEN GROVE, CA 92843-2102
PHONE: (714) 971-2421 • (949) 654-2421

FAX: (714) 971-3940
E-MAIL: ocvcd@ocvcd.org
WEB SITE: www.ocvcd.org

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April 14, 2009
Page 1

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GERARD GOEDHART

City of Newport Beach
Planning Department
3300 Newport Boulevard
Newport Beach, California 92658

To: Debby Linn, Contract Planner

Concerning the City's Notice of Preparation (NOP) and Environmental Impact Report (EIR) for the Newport Banning Ranch Project, the Orange County Vector Control District (OCVCD) has a long history of controlling disease vectors on these properties. Within this property many vector issues exist with mosquitoes being the most prevalent but not to discount rats, ticks, ground squirrel fleas and Dear Mouse, OCVCD spends considerable resources each year performing vector control services at this site.

The development of the Newport Banning Ranch will undoubtedly change the quantity of work required by OCVCD to control disease vectors. By working with the staff of OCVCD during the developmental stages the change in workload can be in a positive direction. By being included in the planning process OCVCD can help avoid the creation of vector habitat and make the entire project healthier for the inhabitants and the surrounding communities.

OCVCD has jurisdiction over all properties in Orange County to enforce sections of the California Health and Safety Codes in respects to disease vectors and the creation and maintenance of vector habitats. This authority includes fines for property owners who provide vectors with habitat. Division 3, Chapter 1, Article 5, Sections 2060-2067 of the California Health and Safety Code spells out the powers given to OCVCD by the State of California. By working cooperatively OCVCD has rarely found it necessary to use these powers and by including OCVCD in the earliest stages of development planning we can avoid vector problems and better protect the public from vector borne disease.

"An Independent Special District Serving Orange County Since 1947"

The mission of the Orange County Vector Control District is to provide the citizens of Orange County with the highest level of protection from vectors and vector-borne diseases.



AIRPORT LAND USE COMMISSION

FOR ORANGE COUNTY

3160 Airway Avenue • Costa Mesa, California 92626 • 949.252.5170 fax: 949.252.6012

April 15, 2009

Debby Linn, Contract Planner
City of Newport Beach
Planning Department
3300 Newport Boulevard
Newport Beach, CA 92658

Subject: Newport Banning Ranch

Dear Ms.Linn:

Thank you for the opportunity to provide comments on the proposed Program Environmental Impact Report (EIR) for the Newport Banning Ranch Project. The project is a proposal for the development of up to 1,375 residential dwelling units, 75,000 square feet of commercial uses, and a 75-room resort on approximately 91 acres of the project's 401 acres. The proposed project area is not located within Noise Impact Zones, Notification Area, or Obstruction Imaginary Surfaces for John Wayne Airport (JWA). Therefore, the Airport Land Use Commission (ALUC) for Orange County has no comment on proposed Program EIR related to land use, noise or safety compatibility with the *Airport Environs Land Use Plan (AELUP) for JWA*.

Although the proposed development is located outside of the Airport Planning Areas, please be aware that development proposals which include the construction or alteration of a structure more than 200 feet above ground level, require filing with the Federal Aviation Administration (FAA). Projects meeting this threshold must comply with procedures provided by Federal and State law, with the referral requirements of the ALUC, and with all conditions of approval imposed or recommended by the FAA and ALUC including filing a Notice of Proposed Construction or Alteration (FAA Form 7460-1). The draft Program EIR should address these requirements if building heights in excess of 200 feet above ground level are to be permitted. In order to accurately identify if the proposed project surpasses the 200 feet above ground level threshold, the project description should include the proposed project elevations of each building using North American Vertical Datum 1988 (NAVD88).

In addition, the draft EIR should identify if the project allows for heliports as defined in the *Orange County AELUP for Heliports*. Should the development of heliports occur within your jurisdiction, proposals to develop new heliports must be submitted through

the city to the ALUC for review and action pursuant to Public Utilities Code Section 21661.5. Proposed heliport projects must comply fully with the state permit procedure provided by law and with all conditions of approval imposed or recommended by FAA, by the ALUC for Orange County and by Caltrans/Division of Aeronautics.

Thank you again for the opportunity to provide comments for the proposed Program EIR. Please contact Lea Umnas at (949) 252-5123 or via email at lumnas@ocair.com should you have any questions related to the Orange County Airport Land Use Commission.

Sincerely,



Kari A. Rigoni
Executive Officer



April 15, 2009

Debby Linn, Contract Planner
City of Newport Beach
Planning Department
3300 Newport Boulevard
Newport Beach, California 92658

Subject: Notice of Preparation Draft Environmental Impact Report
Project Title: Newport Banning Ranch

Dear Ms. Linn:

Please include the following in the preparation of the EIR for Newport Banning Ranch:

- Protection of open space habitat for the Cactus Wren. Cactus Wren populations have suffered a significant loss of habitat since the recent wildfires in Orange County. Cactus Wren have been seen on Banning Ranch acreage - this acreage must be protected as it is providing refuge for the dwindling populations of this species.
- Cumulative impacts of increased traffic and pollution along Pacific Coast Highway near Superior and around 19th Street, Fairview Park, various surrounding areas of Newport Beach and Costa Mesa, etc.
- Cumulative impacts of increased pollution of the Santa Ana River and the Newport Beach and Huntington Beach coastlines as a result of this impactful development.
- Address remedies for the fact that more than sixty years of wildcat oil drilling has occurred on Banning Ranch creating soil and groundwater contamination.
- Preservation of the indigenous coastal sage habitat for the purposes of soil retention and the protection of watershed. Additionally, this is considered ESHA and must be protected even if fragmented or degraded due to past development activity.
- Protection of open space is critical.

Thank you for the opportunity to submit these comments.

Sincerely,

Penny Elia
Sierra Club Task Force Chair – Save Hobo Aliso
30632 Marilyn Drive
Laguna Beach, CA 92651
949-499-4499



CITY OF COSTA MESA

P.O. BOX 1200 • 77 FAIR DRIVE • CALIFORNIA 92628-1200

DEVELOPMENT SERVICES DEPARTMENT

April 15, 2009

Ms. Debby Linn
City of Newport Beach
Planning Department
3300 Newport Blvd.
Newport Beach, CA 92658

Subject: Notice of Preparation for Draft EIR – Newport Banning Ranch

Dear Ms. Linn

Thank you for the opportunity to provide comments on the Notice of Preparation of the Draft Environmental Impact Report related to Newport Banning Ranch Development. The proposed development borders City of Costa Mesa on the north and on the east. In addition, the proposed circulation system is directly connected to the City of Costa Mesa's major thoroughfares and the proposed master plan includes extension of S Bluff Road to West 19th Street, which could have a direct impact on the Costa Mesa residential community of SeaBreeze.

The City of Costa Mesa encourages you to address the following comments in the environmental analysis for the Banning Ranch project:

1. Aesthetics:

- a. The development of this property offers a good opportunity to remove the manmade berm of dirt/construction debris in the area bordering the SeaBreeze Community.
- b. It is critical to include analysis of staggered building heights from 3 to 5 stories in proposed mixed-use areas, away from the westerly corporate limits of Costa Mesa. (Westside has 2-story height limit, with 4 stories allowed in overlay zones).
- c. It is important to include visual simulations of the proposed project from different vantage points in the SeaBreeze Community. The environmental analysis should identify potential view impacts as a result of proposed 50 feet height (resort) and 65 feet height (mixed-use) limits.

2. Air Quality:

- a. Please include a detailed analysis of air quality impacts from the proposed extension of Bluff Road to West 19th Street on the adjacent SeaBreeze Residential Community for the proposed project and during various construction stages of the project.

3. Biological Resources:

- a. The EIR analysis should identify cumulative impacts to wildlife in general and biological resources in Talbert Park specifically as a result of proposed development.
- b. Given the significance of the project site, the EIR should consider the Coastal Commission thresholds for impacts to wild life and endangered species rather than City of Newport Beach standards.

4. Land Use:

- a. Considering the proposed high-density development at the mixed-use areas, it is critical to include analysis of low to moderate intensity mixed-use development area to serve as a gradual transition of land use intensity between the Banning Ranch development and the industrial and residential uses in Westside Costa Mesa.

5. Noise:

- a. Since the proposed Bluff Road is in proximity to established residential neighborhoods, it is important to include analysis of traffic noise impacts from the proposed extension of Bluff Road to West 19th Street on the adjacent SeaBreeze Residential Community.
- b. The noise analysis should also include analysis of operational noise impacts of commercial uses in the proposed mixed-use development areas to the SeaBreeze Community.

6. Population/Housing:

- a. To the extent possible, the EIR should analyze the housing demand for low- to moderate-income households as a result of the new jobs created in the proposed mixed-use development.

7. Public Services:

- b. Given the magnitude of this development, it is important to include analyses of potential impacts to Newport Mesa Unified School District facilities, emergency/hospital services, and public services. The City encourages you to work with NMUSD to apply the appropriate student generation rate for this development versus a general standard.
- c. The EIR should include analysis related to potential increase in crime and projected need for increased police protection services as a result of proposed high-density mixed use project areas along the Costa Mesa boundaries.

8. Recreation:

- a. While the proposed development will include parkland and recreational trails, it is likely that park demand be increased for the parks in the City of Costa Mesa's jurisdiction. The environmental document should include analysis related to recreational demand per residential unit specifically for the mixed used units, potential impacts to regional parks (i.e., Fairview Park and Talbert Park), and identify appropriate mitigation measures
- b. In the Alternatives discussion, explore opportunities where a joint-use public/private parking lot could be a gateway between the Cities of Costa Mesa and Newport Beach to access the open space areas in Banning Ranch.

9. Transportation/Traffic:

- a. Trip Generation – The City of Costa Mesa is concerned about the factors that would be applied for interaction between the proposed uses. The City requests that in order to provide a conservative analysis, such reductions be minimized. In addition, the trip generation analysis for live-work units should be developed separately for live" portion and "work" portion separately, assuming residential and commercial rates.

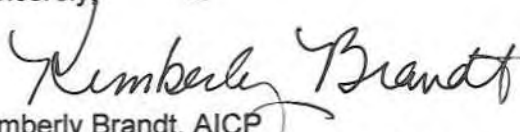
- b. Trip Distribution – The City is concerned about the circulation system provided for the site. Primary access for a majority of proposed development would be from Costa Mesa via 19th Street, 17th Street and 16th Street. The proposed concentration of high-intensity development at the City's boundary and the proposed circulation plan would result in disproportionately high impacts to the City of Costa Mesa. It is anticipated that approximately 75 percent of project trips will be routed through Costa Mesa streets resulting in impacts to many minor close by residential streets, as well as at several intersections throughout the City. The proposed distribution should be reviewed by the City prior to use in the study. The project should also consider additional access to the Pacific Coast Highway to reduce impacts to Costa Mesa streets.
- c. Circulation System/MPAH Revision –The proposed circulation system is significantly different from the County's Master Plan of Arterial Highways (MPAH). The City of Newport Beach should pursue the Orange County Transportation Authority's (OCTA) downgrade process of the arterials as proposed in the Banning Ranch proposal and incorporate any mitigation measures determined as part of that study.
- d. 19th Street Bridge – Several alternatives are proposed for analysis with and without the 19th Street Bridge. The mitigation measures should be determined based on assumption that the 19th Street Bridge is not implemented.
- e. SR-55 Freeway Extension – The MPAH currently shows the extension of SR-55 Freeway south of 19th Street to Industrial Way. However, as this project is being reviewed through various studies, an actual implementation of any given alternative is 10 to 15 years out. Accordingly, the mitigation measures for the impacts of the Banning Ranch proposal should be conditioned based on current conditions of Newport Boulevard, including improvements currently under construction.
- f. Traffic Study Procedure – The traffic analysis should include analysis of all intersections identified by the City of Costa Mesa, as well as, all intersections (signalized and un-signalized) where the project would add 50 or more peak hour trips. Signalized intersections within Costa Mesa jurisdiction should be analyzed with the Intersection Capacity Utilization (ICU) methodology. All intersections under the State of California Department of Transportation (Caltrans) jurisdiction, as well as all un-signalized intersections should be analyzed using the Highway Capacity Manual (HCM) methodology.

10. Construction Impacts:

- a. The City will experience much of the adverse impacts from this proposed development during construction. The City believes that a reasonably developed construction management plan should be included in the environmental document. While detailed analysis may not be possible at this time, the City discourages deferring this analysis or applying generic mitigation measures due to the magnitude of this phased development project.

We appreciate your consideration of the noted comments in preparation of the draft EIR and we look forward to participating in additional reviews.

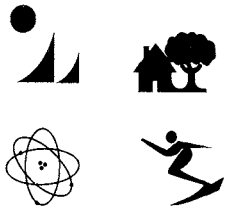
Sincerely,



Kimberly Brandt, AICP
Assistant Development Services Director

cc: Peter Naghavi
Raja Sethuraman
Claire Flynn
Minoo Ashabi

Mike Mohler
Newport Banning Ranch, LLC
1300 Quail Street, Ste. 100
Newport Beach, CA 92660



City of Huntington Beach

2000 MAIN STREET

CALIFORNIA 92648

DEPARTMENT OF PLANNING

April 15, 2009

Debby Linn, Contract Planner
Planning Department
City of Newport Beach
3300 Newport Boulevard
Newport Beach, CA 92658

Subject: Notice of Preparation of the Newport Banning Ranch Program EIR

Dear Ms. Linn:

The City of Huntington Beach has reviewed the Notice of Preparation (NOP) for the proposed Newport Banning Ranch project. The City of Huntington Beach has the following comments and requests that these issues be addressed in the Draft Environmental Impact Report (EIR) that will be prepared for this project.

Traffic Transportation

- The revised study area for traffic analysis appears to be adequate, but needs to be verified using the methodology identified in the draft scope of work for the project.
- The City of Huntington Beach requests that the City's methodology for evaluating intersection level of service and determining impact significance be used on all study intersections within the City, including Caltrans intersections. The City agrees that Caltrans methodology should also be used on Caltrans intersections.

Thank you for the opportunity to comment on the NOP. We look forward to reviewing the Draft Environmental Impact Report when it is available.

Sincerely,

Jennifer Villaseñor
Associate Planner

Cc: Mary Beth Broeren, Planning Manager

-----Original Message-----

From: Villaseñor, Jennifer [mailto:JVillaseñor@surfcity-hb.org]

Sent: Thursday, April 16, 2009 5:58 PM

To: dlinn@city.newport-beach.ca.us

Subject: Newport Banning Ranch project - City of HB - Additional NOP Comments

Debby,

Below are additional comments from the City of Huntington Beach on the Newport Banning Ranch project.

1. The Santa Ana River is on the draft 303d list for "Impacted Bodies of Water." This list is currently scheduled to be adopted later this month by the State Water Quality Resources Control Board. Since this body of water is directly downstream of the proposed development, potential adverse impacts on the Santa Ana River as a result of the proposed project should be addressed in the EIR.
2. The NOP states, "Approximately 1,600,000 cy of additional, corrective soil is anticipated" to be imported to the site. Any hauling through the City of Huntington Beach in excess of 5,000 cy requires a Haul Route permit from the City of Huntington Beach Public Works Department. This should be a consideration, if applicable, in the draft EIR.
3. The draft EIR should address the project's impacts on water supply. Given the major reductions in current and future MWD import supply to our Southern California region, how will the City of Newport Beach plan to either locate new sources of water for this project, or justify sufficient water conservation efforts to allow for such significant increase in development and water use?

Please confirm that you received these comments. Thank you.

Jennifer Villaseñor

City of Huntington Beach
Planning Department



ORANGE COUNTY SANITATION DISTRICT

April 17, 2009

Debby Linn, Contract Planner
City of Newport Beach
Planning Department
3300 Newport Boulevard
Newport Beach, CA 92658

SUBJECT: Orange County Sanitation District Comments to Newport Banning
Ranch Notice of Preparation of PIER

The Orange County Sanitation District (OCSD) is the regional sewerage service provider (collection and treatment) for the Northern and Central Orange County, including the City of Newport Beach. The Notice of Preparation does not identify OCSD's facilities, nor describes any impacts to sewerage utilities. When preparing the PEIR, please contact OCSD so that we can work together to understand, and document, any impacts to OCSD's facilities.

Some general potential impacts to OCSD facilities include, but are not limited to, the following:

- 1) Amount of sewage to be generated from the development
- 2) Locations of potential sewer connections to the Regional Sewer System
- 3) Encroachments over OCSD facilities (Note: OCSD must maintain access and abilities to repair and replace facilities. This includes above and below ground structures.)
- 4) Coordination of existing and proposed construction projects within the project area.

We look forward to working with your staff on this important project. Please send all future correspondences to Patrick McNelly at P.O. Box 8127, Fountain Valley, CA 92728-8127. Also, I would suggest that you, your staff, or your consultant(s) contact Patrick at 714-593-716, as soon as possible, to allow time to analyze any impacts to OCSD's facilities.


Jim Burror
Engineering Supervisor

JB:sa
EDMS:003889058 /1.12a

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Fountain Valley, CA
92708-7018

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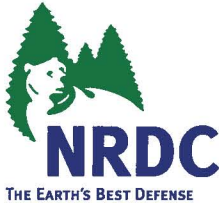
Yorba Linda

Costa Mesa
Sanitary District

Midway City
Sanitary District

Irvine Ranch
Water District

County of Orange



NATURAL RESOURCES DEFENSE COUNCIL

Via Email & U.S. Mail

April 17, 2009

Debby Linn, Contract Planner
City of Newport Beach
Planning Department
3300 Newport Boulevard
Newport Beach, California 92658
dlinn@city.newport-beach.ca.us

**RE: Notice of Preparation – Draft Environmental Impact Report, Newport
Banning Ranch Project**

Dear Ms. Linn:

On behalf of the Natural Resources Defense Council (“NRDC”) and its more than 1.2 million members and activists, I am writing in response to the above-referenced Notice of Preparation (“NOP”) to prepare a Program Environmental Impact Report (“EIR”) for the Newport Banning Ranch Project (“Project”).

NRDC’s 250,000 members and activists in California care deeply about our precious coastal resources, and for that reason we have been monitoring this project with great interest. In that regard, please add my name and contact information to your mailing list to be notified of the availability of the Draft EIR. We would also appreciate being notified if the schedule changes markedly from what is presently outlined in the NOP.

Very truly yours,

Damon Nagami
Staff Attorney

To: Debby Linn
Contract Planner
City of Newport Beach Planning Department
3300 Newport Blvd.
Newport Beach, CA 92658-8915

20 April 2009

From Environment Quality Affairs Citizens Advisory Committee (EQAC)

Subject: Comments on NOP for Newport Banning Ranch

Dear Ms. Linn:

The Environmental Quality Affairs Citizens Advisory Committee (“EQAC”) of the City of Newport Beach (“City”) thanks you for the opportunity to comment on the Notice of Preparation (“NOP”) for the Newport Banning Ranch Project (“Project”) and the scope and content of the Program Environmental Impact Report (“EIR”) that the City plans to prepare. EQAC’s comments are outlined below and relate to a number of areas, including, but not limited to, aesthetics, biological resources, cultural resources, geology, hazards, hydrology, land use, noise, and transportation.

First and foremost, the EIR needs to consider the General Plan’s clear preference that the entire Banning Ranch be preserved as permanent open space, along with the implementing strategy of actively pursuing the acquisition of the site as permanent open space. In addition, EQAC specifically requests that, where the EIR refers to the General Plan and its discussion of Banning Ranch, the EIR should cite to and quote the General Plan specifically.

Project Site. According to the City’s General Plan, Banning Ranch encompasses approximately 518 acres of primarily undeveloped land with some historic oil extraction infrastructure, including oil wells, pipelines, and buildings (General Plan, pp. 3-67 – 3-68). The General Plan states that “the area should be regarded as relatively high-quality wildlife habitat due to its size, habitat diversity, and continuity with the adjacent Semeniuk Slough and federally restored wetlands” (General Plan, p. 3-68). Banning Ranch provides wildlife with a “significantly large, diverse area for foraging, shelter, and movement” (General Plan, p. 3-68). The site contains about 69 acres with a habitat value rank of “1” with a high biological resource value, 96 acres with a rank of “2,” and 118 acres with a rank of “3.” In addition, “Banning Ranch exhibits distinctive topography that is a physical and visual resource for the community” (General Plan, p. 3-71).

Land Use. For these and other reasons, the General Plan “prioritizes the acquisition of Banning Ranch as an open space amenity for the community and region. Oil operations would be consolidated, wetlands restored, nature education and interpretative facilities provided, and an active park developed containing playfields and other facilities to serve residents of adjoining neighborhoods” (p. 3-71). To further this policy, the General Plan contains a strategy to “support active pursuit of the acquisition of Banning Ranch as permanent open space, which may be accomplished through the issuance of state bonds,

environmental mitigation fees, private fundraising, developer dedication, and similar techniques” (Strategy LU 6.3.2). If acquisition for open space is not successful, then the site may be developed as a high-quality residential community with supporting uses that provide revenue to restore and protect wetlands and important habitats (Goal LU 6.4).

Accordingly, the EIR must address the General Plan’s policy prioritizing the acquisition of Banning Ranch as an open space amenity for the community and region (Policy LU 3.4). Given the General Plan’s clear preference that the entire site be preserved as permanent open space, the EIR must discuss this preference..

Aesthetics. As stated in the General Plan, “Banning Ranch exhibits distinctive topography that is a physical and visual resource for the community,” and the site provides “an important visual backdrop from West Coast Highway” (p. 3-71). EQAC further understands that the undeveloped nature of the site is considered an asset by adjoining communities including Newport Shores, Newport Crest, and Lido Sands as well as residents, commuters and passers-by along West Coast Highway and parts of the Cities of Costa Mesa and Huntington Beach. Accordingly, the EIR must consider whether the Project will have a substantial adverse effect on scenic vistas, whether it will damage scenic resources, and whether it will substantially degrade the existing visual character or quality of the site and its surroundings.

Biological Resources. As discussed above, the General Plan states that “the area should be regarded as relatively high-quality wildlife habitat due to its size, habitat diversity, and continuity with the adjacent Semeniuk Slough and federally restored wetlands” (General Plan, p. 3-68). In addition, the City has identified Banning Ranch as an Environmentally Sensitive Habitat Area that contains one or more sensitive plant communities and many species of wildlife (General Plan, p. 10-8). The Natural Resources Element of the General Plan call for the protection of the sensitive and rare resources that occur on Banning Ranch; and, if future development is permitted, requires that an assessment be prepared delineating sensitive and rare habitat and wildlife corridors. The Natural Resources Element further requires “that development be concentrated to protect biological resources and coastal bluffs, and structures designed to not be intrusive on the surrounding landscape. Require the restoration or mitigation of any sensitive or rare habitat areas that are affected by future development” (General Plan, p. 10-27). Given the significant biological resources present at Banning Ranch, the EIR must consider whether the project would (1) have a substantial adverse effect on protected species, (2) have a substantial adverse effect on riparian habitats or other sensitive natural communities, (3) have a substantial adverse effect on federally protected wetlands, and (4) interfere substantially with the movement of any native or migratory fish or wildlife species or with established wildlife corridors.

Cultural Resources. The General Plan recognizes that Banning Ranch contains significant fossils and known paleontological deposits, including at least 14 documented sites of high significance (General Plan, p. 10-15). The EIR should consider whether the Project would cause a substantial adverse change in the significance of historical and

archaeological resources, whether it would directly or indirectly destroy unique paleontological resources, or disturb human remains.

Geology and Soils. Banning Ranch contains significant coastal bluffs, some of which are highly erodible and have experienced sliding over the years (General Plan, p. 3-71). The site is also located adjacent to the Newport-Inglewood Fault (NOP, p. 5). We understand the Project also calls for the restoration of some coastal bluffs (NOP, p. 18). The EIR will need to consider whether the Project would expose people or structures to potential adverse effects involving an earthquake fault and landslides, and whether the Project would result in substantial soil erosion or potentially result in landslides.

Hazards. Oil extraction activities at Banning Ranch date back at least 75 years (General Plan, p. 3-68). The Project contemplates that existing oil wells within the proposed development and open space areas would be abandoned with those areas remediated (NOP, p. 11). In addition, oil production would be allowed to continue within about 20 acres of the Project site within two specific consolidation sites (NOP, p. 15). Given the historic oil production at the site and the expected continuation of oil production, the EIR will need to consider (1) whether the existing oil infrastructure would create hazards to the public or the environment, and (2) whether the continued operation of oil wells will create any significant hazard to the public or the environment through reasonably foreseeable accident conditions.

Hydrology and Water Quality. Drainage from upland areas in and adjoining the City of Costa Mesa have formed a number of arroyos with riparian habitats at Banning Ranch (General Plan, p. 3-71). We also understand that some stormwater drains pass through or under the Project site. The EIR will need to consider whether the Project would substantially alter the existing drainage pattern of the area, including the alteration of streams, and whether it would create or contribute runoff water that would exceed the capacity or existing or planned stormwater drainage systems.

Noise. The Project proposes 1375 dwelling units, 75,000 square feet of commercial use, 75 hotel rooms, and passive and active park uses, all of which will contribute to increased noise levels in a currently undeveloped area. We understand that increased noise levels are of particular concern to the nearby Newport Shores, Newport Crest and Lido Sands communities. Therefore, the EIR will need to consider whether the Project would (1) result in exposure of persons to noise levels in excess of established standards, and (2) result in a substantial permanent or temporary increase in ambient noise levels in the Project vicinity.

Traffic. The Project proposes an intersection into the Project site from West Coast Highway, the possible widening of West Coast Highway, the construction of Bluff Road from a southern terminus at West Coast Highway to a northern terminus at 19th Street, and the extension of 15th, 16th and 17th Streets. The EIR must consider whether these planned road improvements and extensions would (1) cause a substantial increase in traffic, (2) exceed established levels of service (either individually or cumulatively), (3) result in inadequate emergency access, or (4) result in inadequate parking capacity.

Cumulative Impacts. The EIR must consider all of these issues on a individual project-level basis. In addition, the EIR must consider the cumulative impacts of the project, especially noise, traffic and land use. The City will soon be considering an EIR for the proposed Sunset Ridge project, located immediately to the south east of the Project site. Because of their proximity both in time and location and their potential to significantly affect the neighboring communities, the environmental effects of both Banning Ranch and Sunset Ridge (and any other projects) must be considered together. Under the California Environmental Quality Act, “[t]he full environmental impact of a proposed ... action cannot be gauged in a vacuum.” *Whitman v. Board of Supervisors* (1979) 88 Cal.App.3d 397, 408. Thus, “[t]he requirement for a cumulative impact analysis must be interpreted so as to afford the fullest possible protection of the environment within the reasonable scope of the statutory and regulatory language.” *Citizens to Preserve the Ojai v. County of Ventura* (1985) 176 Cal.App.3d 421, 431-432. Therefore, “[i]t is vitally important that an EIR avoid minimizing the cumulative impacts. Rather, it must reflect a conscientious effort to provide public agencies and the general public with adequate and relevant detailed information about them.” *Id.* at 431.

Alternatives. An EIR must describe a reasonable range of alternatives to the project that could feasibly attain most of the objectives of the project while avoiding or substantially lessening any of the significant effects of the project. 14 Cal. Code Regs., § 15126.6. The NOP discusses an open space alternative, a no action/no development alternative, and a circulation alternative. In order to provide a reasonable range of alternatives for the public to consider, the EIR should include a “reduced footprint” alternative that would consist of development but at a reduced level lower than the proposed 1375 dwelling units.

We hope you find these comments helpful. Please contact the EQAC Committee should you have any questions.



BOARD OF DIRECTORS

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Director

Gregory T. Winterbottom
Director

Cindy Quon
Governor's
Ex-Officio Member

CHIEF EXECUTIVE OFFICE

James S. Kenan
Interim
Chief Executive Officer

April 21, 2009

Ms. Debby Linn, Contract Planner
City of Newport Beach
3300 Newport Boulevard
Newport Beach, CA 92658

**Subject: Notice of Preparation of a Draft Environmental Impact Report
for Newport Banning Ranch**

Dear Ms. Linn:

The Orange County Transportation Authority (OCTA) has reviewed the above referenced document. The following comments regarding the Orange County Master Plan of Arterial Highways (MPAH) and bus stops are provided for your consideration.

On Page 4 *Proposed General Plan Amendment*, it is stated that the proposed project may require an amendment to the MPAH. Based upon the information provided, an MPAH amendment will be required. Please note that the MPAH amendment process requires the local agency to submit a formal written request to OCTA describing the proposed amendment. A copy of the request shall also be submitted to adjoining cities. Following this formal request, the City and OCTA may determine that a cooperative study process must be initiated to proceed with the MPAH amendment. As a matter of procedure, the MPAH would need to be amended and approved by the OCTA Board prior to amendment of the City General Plan, in order for the City to maintain eligibility for Measure M funding.

Furthermore, please note the following:

On Page 11 *17th Street*, it is stated that 17th Street is designated as a Secondary Arterial in the City's General Plan. 17th Street east of Placentia to Newport Boulevard is currently designated as a Primary Arterial, and east of Newport Boulevard as a Major Arterial on the Orange County MPAH.

The OCTA currently operates Bus Route 1 on PCH. The OCTA intends to place a new bus stop on PCH near the proposed development. For further information please contact Mark Strickert at (714) 560-5883.



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Gregory T. Winterbottom
Director

Cindy Quon
Governor's
Ex-Officio Member

Additionally, it is recommended that proposed signals at Pacific Coast Highway (PCH) and the proposed Bluff Road alignment, and PCH and the proposed extension of 16th be coordinated with existing traffic signals at Superior and PCH.

If you have any questions or comments, please contact Hal McCutchan by phone at (714) 560-5759 or by email at hmcutchan@octa.net.

Sincerely,

Charles Larwood
Manager, Transportation Planning

c: Joseph Alcock, OCTA
Mark Strickert, OCTA
David Simpson, OCTA

CHIEF EXECUTIVE OFFICE

James S. Kenan
Interim
Chief Executive Officer

From: Debby Linn [linnassociates@verizon.net]

Sent: Wednesday, March 18, 2009 12:54 PM

To: Dotty Kaufenberg

Subject: RE: Newport Banning Project LLC

The project is still in the planning and review stages. Attached are some items you may find interesting. Also the City's website has all the current applications on it for public viewing.

-----Original Message-----

From: Dotty Kaufenberg [mailto:Dotty@beachwire.com]

Sent: Monday, March 16, 2009 9:43 AM

To: dlinn@city.newport-beach.ca.us

Subject: Newport Banning Project LLC

Hi Debby,

When will this project start any updates?

Thank you,
Dotty

Dotty Kaufenberg
15881 Chemical Lane
Huntington Beach, Ca. 92649
714-895-3522
800-309-2322
714-895-6603 Fax
Dotty@beachwire.com
www.beachwire.com

-----Original Message-----

From: cynthia breatore [mailto:cbreatore@yahoo.com]

Sent: Thursday, March 19, 2009 9:19 AM

To: CMCouncil

Cc: aprilly@gmail.com; bmlserv@juno.com; bnerhus@gmail.com;
brian@savebanningranch.org; Brian Burnett; christopherbunyan@yahoo.com;
dkoken@hmausa.com; evan@volklinvestmentsinc.com; hillarydbl@aol.com;
jennhamlin@gmail.com; jonv3@aol.com; jtmansfield@ca.rr.com; jwatt4@aol.com;
knelson@web-conferencing-central.com; lauracurran@mac.com;
margaret.royall@gmail.com; melanie@schlotterbeck.net; mezzohiker@msn.com;
Pat Conlon; james quigg; r.hageman@sbcglobal.net; redtail1@cox.net;
savebanningranch@yahoo.com; slgenis@stanfordalumni.org;
steveray4surfcity@hotmail.com; Terry Welsh
Subject: newport beach and aera energy plans for banning ranch

hi costa mesa council members,
(Please see attachment)

just curious; how does this sit with each one of you? i would really like to know.

doesn't this property sit entirely in the coastal zone? are we going to allow 5,000+ auto trips a day to go through our neighborhoods?

tell me you aren't actually considering a bridge at 19th street again are you? i hope not. and if you are, i really hope you give the opportunity for costa mesa residents input....

PLEASE dont accept any promises of public utilities or the like from the "developer" aera energy (exxon-mobile) in exchange for this development deal.

i know this is a "spere of influence" project for newport beach.... give me a break.

aera energy has taken advantage of the citizens of california at every turn-- we have more roads, more cars, more smog and sprawl and our state is out of money??

i grew up in los angeles area which once once a gorgeous place too.

please help the citizens of our state who have a right to clean air and some nature.

dont let them take our precious resources---- sensitive habitat, endangered speices, view corridor. i could go on and on.

thanks,

cynthia c. breatore
costa mesa
cbreatore@yahoo.com
949-645-8735

From: cynthia breatore [cbreatore@yahoo.com]
Sent: Thursday, March 19, 2009 10:11 AM
To: dlinn@city.newport-beach.ca.us
Subject: Newport Banning Ranch N.O.P. Draft Environmental Impact Report
hi debby,

please find my comments below sent to costa mesa city council members re:

The Newport Banning Ranch Notice of Preparation Draft Environmental Impact Report

hi costa mesa council members,
(Please see attachment)

just curious; how does this sit with each one of you? i would really like to know.

doesn't this property sit entirely in the coastal zone? are we going to allow 5,000+ auto trips a day to go through our neighborhoods?

tell me you aren't actually considering a bridge at 19th street again are you? i hope not. and if you are, i really hope you give the opportunity for costa mesa residents input....

PLEASE dont accept any promises of public utilities or the like from the "developer" aera energy (exxon-mobil) in exchange for this development deal.

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aera energy has taken advantage of the citizens of california at every turn-- we have more roads, more cars, more smog and sprawl and our state is out of money??

i grew up in los angeles area which once once a gorgeous place too.

please help the citizens of our state who have a right to clean air and some nature.

dont let them take our precious resources---- sensitive habitat, endangered speices, view corridor. i could go on and on.

thanks,

cynthia c. breatore
costa mesa
cbreatore@yahoo.com
949-645-8735

From: Save Banning Ranch [mailto:info@savebanningranch.org]
Sent: Friday, March 20, 2009 10:37 PM
To: savebanningranch@yahoo.com
Subject: Banning Ranch Notice of Preparation (NOP) released Wednesday

The Notice of Preparation (NOP) for a large residential and commercial development at Banning Ranch in Newport Beach was just released Wednesday.

http://www.city.newport-beach.ca.us/PLN/Banning_Ranch/Environmental/NBR NOP-031609_1.pdf

The 412 acre Banning Ranch is the last large privately owned parcel of coastal open space remaining in Orange County.

It is USFWS-declared critical habitat for the California gnatcatcher and San Diego Fairy Shrimp, as well as habitat for the largest remaining population of Cactus Wrens in coastal Orange County.

The release of the NOP is a road we have not crossed before in our ten year effort to preserve the entire Banning Ranch as open space.

While we have some "open space veterans" in our effort, many of us are new to NOPs. We have 30 days to submit comments

I would encourage everyone who is interested in the preservation, acquisition, conservation, restoration and maintenance of the ENTIRE Banning Ranch as a permanent public open space, park and coastal nature preserve to review Banning Ranch NOP and submit appropriate comments. There are 16 areas of concern, listed on pages 20 and 21 of the NOP.

Please contact us if you need guidance.

If you would also, please review the entire development application with all its appendices and studies and give us specific advice on what to submit (or submit your own comments). This can be viewed by going to the Newport Beach website:

http://www.city.newport-beach.ca.us/PLN/Banning_Ranch/BanningRanchInfo.asp

From: Steve Coyne [mailto:scoyne@smcoynecompany.com]

Sent: Sunday, March 22, 2009 11:14 AM

To: dlinn@city.newport-beach.ca.us

Subject: FW: Banning Ranch Notice of Preparation (NOP) released Wednesday

Dear Ms. Linn,

As a lifelong resident of Newport I really like the plan to develop the Banning Ranch. I think this NOP is informative and depicts a well thought out plan. I was wondering if there is any type of Development Agreement or Owner Participation Agreement that is also planned as part of the development. Knowing the high cost of development of coastal property I would think the developers would be requesting some form of assistance in this process...and nothing is mentioned in this NOP.

Thanks,

Steve Coyne
The SM Coyne Company
1400 Quail Street, Suite 260
Newport Beach, CA 92660
949-300-9632

From: torre@accurateresidentialappraisal.com [mailto:torre@accurateresidentialappraisal.com]

Sent: Monday, March 23, 2009 7:07 AM

To: dlinn@city.newport-beach.ca.us

Subject: Newport Banning Ranch Development

As a neighbor to the project, I live in California Seabreeze which actually backs the Banning Ranch property. This portion of Costa Mesa has wonderful ocean views, fresh ocean air and a lovely community to live in. The oil company leases over the years have been a blight on this area and I could never understand as it is the most valuable land in Costa Mesa due to the positive attributes listed above. As an appraiser I know the highest and best use of this property is for Residential Development as a premium will be paid by owners for the ocean view. Any improvements would be a positive step in highlighting Costa Mesa as a wonderful place to live and the additional Tax base increase for the city would be welcomed additional funding for the city.

You have my endorsement 100%.

Best Regards-

Torre Niles

"We strive to Exceed your expectations! Please let me know how we can improve our service to you. Remember to write us in on your next contract."

<http://www.accurateresidentialappraisal.com/>

Accurate Residential Appraisal	
Torre Niles	
	
	<p>www.AccurateResidentialAppraisal.com 1800 Capetown Circle Costa Mesa, Ca 92627 (714) 600-6899 Office (949) 514-0356 Fax Torre@AccurateResidentialAppraisal.com License # AL033260</p>

Get **FREE** Business Cards at **VistaPrint**

From: Bruce Bartram [mailto:b.bartram@verizon.net]
Sent: Tuesday, March 24, 2009 2:45 PM
To: dlinn@city.newport-beach.ca.us
Cc: Save Banning Ranch
Subject: Newport Banning Ranch NOP

Dear Ms. Linn:

According to the City of Newport Beach's website concerning the Banning Ranch's project status, the Applicant's Application was deemed "incomplete." The Case Log and Planning Activities web page states that you, Debby Linn, on October 13, 2008 sent a letter to the Project Applicant advising them of their application incompleteness. Since that date there has been no indication that the Project Application has been "completed." The link to the above webpage is: http://www6.city.newport-beach.ca.us/website/PlanningCaseLog/PlanningActivityEVT_DetlSing.asp?NUMBER_KEY=PA2008-114.

CEQA Guideline 15082 states that a Notice of Preparation of an Environmental Impact Report (NOP) must include " a description of the project..." My question is how can the City of Newport Beach issue an NOP for the Banning Ranch Project when the Project's Application is "incomplete?" The nature, scope and extent of the project might be changed as part of the "completing" of Project's Application and render the Project's description in the NOP inaccurate and/or misleading. As such the circulation of the NOP is premature.

Please let me know your thoughts concerning the above.

Very truly yours,

Bruce Bartram
2 Seaside Circle
Newport Beach, CA 92663

Sheryl Kristal - FW: Public Comment - Newport Banning Ranch

From: Sheryl Kristal
Subject: FW: Public Comment - Newport Banning Ranch

From: Koken, Debby [HMA] [mailto:dkoken@hmausa.com]
Sent: Wednesday, April 01, 2009 8:28 AM
To: CMCouncil
Subject: Protect Banning Ranch

Although Banning Ranch has fallen into the Newport Beach sphere of influence, the City of Costa Mesa must demand a say in an issue that will severely impact our streets and environment. Please take any steps necessary to prevent a bridge from being built at 19th Street and thousands of additional vehicles impacting Newport Blvd. and the 55 freeway.

Debby Koken
1778 Kenwood Place
Costa Mesa, CA 92627
949-574-0333

COMMENT SHEET

NEWPORT BANNING RANCH ENVIRONMENTAL IMPACT REPORT
PUBLIC SCOPING MEETING
APRIL 2, 2009

(PLEASE PRINT) NAME Dean Reinemann EMAIL SAPIENCE@PACBELL.n

ADDRESS 1877 Parkview Circle, Costa Mesa, CA 92627

REPRESENTING self

(This identification will be placed on the City's mailing list for this project, unless otherwise noted.)

I have the following comment(s) regarding the scope of the environmental analysis, alternatives evaluation, or mitigation measures that should be addressed in the Newport Banning Ranch EIR.

Light pollution mitigation measures should be considered.

RECEIVED BY
PLANNING DEPARTMENT

APR 06 2009

CITY OF NEWPORT BEACH

If you have comments and do not wish to speak during the Scoping Meeting, please take the opportunity to fill out this Comment Sheet. Comment Sheets will be collected at the end of this Scoping Meeting. They can also be mailed to the City of Newport Beach by folding, stapling, and sending this card to the address on the reverse.



GABRIELINO-TONGVA TRIBE

A California Indian Tribe historically known as San Gabriel Band of Mission Indians

501 Santa Monica Blvd., Ste. 500, Santa Monica, CA 90401-2490

www.gabrielinotribe.org • tel: (310) 587-2203 • fax: (310) 587-2281

April 6, 2009

Debby Linn, Contract Planner
City of Newport Beach
Planning Department
3300 Newport Boulevard
Newport Beach, CA 92658

Reference: Newport Banning Ranch
Native American Monitoring/Most Likely Descendant

Dear Debby:

The above referenced project is in a highly sensitive cultural area and the project can have potentially significant impacts to archaeological resources, paleontological resources and burial sites. Due to the fact it is our concern that the City of Newport Beach appoints Native American Monitors from the largest faction of the Tribe to represent this project.

We are the largest faction of the Gabrielino-Tongva Tribe, with over 85% of descendants of the historic Gabrielino Tribe. We have approximately 1,600 members and the next largest faction has less than 150 members. A membership Table is enclosed to help guide you through the various factions of the Tribe.

We strongly recommend the City of Newport Beach hire Native American monitors approved by our faction. The contact information for the six approved six monitors is enclosed. Their work is arranged through our administrative headquarters which is staffed fulltime.

The Tribe has had continuing problems in the past with Native American monitors that are not approved by the Tribe, including Anthony Morales, Sam Dunlap & Robert Dorame.

Native American Monitoring projects under the supervision of monitors not approved by our Tribe have been delayed, have caused controversy, and have lead to difficult inter- and intra-tribal relationships.

In particular, the above stated individuals and other Most Likely Descendents misrepresent our Tribe by failing to consult with our Tribe on sensitive archaeological findings and reburial issues. These controversies have been extremely painful for our elders who were not invited to participate in reburials for our ancestors.

Tribal Council

Hon. Bernie Acuna
Hon. Charles Alvarez
Hon. Linda Candelaria

Hon. Martha Gonzalez Lemos
Hon. Felicia Sheerman

Tribal Administrator: Barbara Garcia
Tribal Controller: Steven K. Johnson

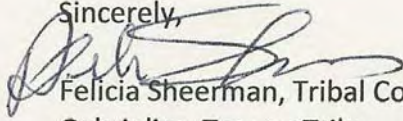


From left to right: Councilman Charles Alvarez, Councilwoman Linda Candelaria, Councilwoman Martha Gonzalez, Councilwoman Felicia Sheerman, Councilman Bernie Acuna

Name of Tribal Faction (Updated on January 29, 2009)	Class B Members (BIA documentation)	Class C Members (no documentation)
Gabrielino-Tongva Tribe, a California Indian Tribe historically known as San Gabriel Band of Mission Indians (www.gabrielinotribe.org) (1630 members, 85.7% of all members)	646 (87 %)	984 (85%)
Gabrielino/Tongva Nation (Sam Dunlap, Virginia Carmelo, www.tongvatribenet.net) (238 members, 12.5% of all members)	65 (9%)	173 (15%)
Gabrielino-Tongva Indians of San Gabriel Band, (Anthony Morales, www.tongva.com) (28 members, 1.5% of all members)	28 (4%)	None (0%)
Beaumont Group (no formal name, no website) (6 members, 0.32% of all members)	None (0%)	6 (1/2%)
Coastal Gabrielinos & Dieguenos (no formal name, no website)	Unknown	Unknown
Totals (1902 All Members)	739 (100%)	1163 (100%)

Please also see the attached most updated NA Contact List from the Native American Heritage Commission. We're requesting the City of Newport Beach in making the ethical choice in selecting a Native American Monitor/MLD for your project.

Sincerely,

A handwritten signature in black ink, appearing to read 'Felicia Sheerman', written over the printed name.

Felicia Sheerman, Tribal Councilwoman
Gabrielino-Tongva Tribe

Enclosures

Native American Contact
Los Angeles County
March 26, 2009

Ti'At Society
Cindi Alvitre
6515 E. Seaside Walk, #C
Long Beach , CA 90803
calvitre@yahoo.com
(714) 504-2468 Cell

Gabrielino

Gabrielino Tongva Indians of California Tribal Council
Robert Dorame, Tribal Chair/Cultural Resources
P.O. Box 490
Bellflower , CA 90707
gtongva@verizon.net
562-761-6417 - voice
562-925-7989 - fax

Tongva Ancestral Territorial Tribal Nation
John Tommy Rosas, Tribal Admin.

tattnlaw@gmail.com
310-570-6567

Gabrielino Tongva

Gabrielino-Tongva Tribe
Felicia Sheerman
501 Santa Monica Blvd, # 500
Santa Monica , CA 90401
(310) 587-2203
(310) 428-7720 - cell
(310) 587-2281 FAX
fsheerman1@GabrielinoTribe.org

Gabrielino/Tongva San Gabriel Band of Mission
Anthony Morales, Chairperson

PO Box 693
San Gabriel , CA 91778
(828) 286-1262 -FAX
(626) 286-1632
(626) 286-1758 - Home
(626) 286-1262 Fax

Gabrielino Tongva

Gabrielino Tongva Nation
Sam Dunlap, Tribal Secretary
P.O. Box 86908
Los Angeles , CA 90086
samdunlap@earthlink.net

Gabrielino Tongva

(909) 262-9351 - cell

This list is current only as of the date of this document.

Distribution of this list does not relieve any person of statutory responsibility as defined in Section 7050.5 of the Health and Safety Code, Section 5097.94 of the Public Resources Code and Section 5097.98 of the Public Resources Code.

This list is only applicable for contacting local Native Americans with regard to cultural resources for the proposed Telecommunications Facility Project No. IE25736-A; located in the City of Walnut; Los Angeles County, California for which a Sacred Lands File search and Native American Contacts list were requested.

List of Approved Native American Monitors/Most Likely Descendant

- 1) Robert Dominguez
- 2) Bernie Acuna
- 3) Charles Alvarez
- 4) Linda Candelaria
- 5) Martha Gonzalez Lemos
- 6) Felicia Sheerman

Please use the following contact information for all Monitors:

Gabrielino-Tongva Tribe
501 Santa Monica Blvd, Suite 500
Santa Monica, CA 90401
Phone: (310) 587-2203
Cell: (310) 428-7720
Fax: (310) 587-2281

Most Likely Descendant Approved by the Native American Heritage Commission:

Bernie Acuna, Gabrielino-Tongva, Most Likely Descendant

Please use the following contact information for MLD:

Gabrielino-Tongva Tribe
501 Santa Monica Blvd, Suite 500
Santa Monica, CA 90401
Phone: (310) 587-2203
Cell: (310) 428-7720
Fax: (310) 587-2281

Cynthia C. Breatore
Costa Mesa, CA
949-645-8735

April 7, 2009

The City of Newport Beach Planning Department
Attn: Debbie Linn, Contract Planner
3300 Newport Boulevard
Newport Beach, CA 92658

Re: Notice of Preparation EIR for Banning Ranch Project

Dear Ms. Linn,

Please submit my responses to all appropriate parties including the Coastal Commission.

In the Newport Banning Ranch Project Summary, the project is listed as being adopted by the City and its electorate in 2006. As I recall the vote was made in favor of keeping the entire project site as open space. I noticed though that over time the project has been amended many times to include changes in zoning. I don't know that the project as described in this current summary would have received a yes vote from the City of Newport Beach electorate.

I have been trying to research this project via public records from my home and have had quite a few issues with finding information. I hope future information will be easier to access on the Internet from the cities' web site.

I previously read that an "open space" option would be the first priority of the project and that any other versions would only be pursued after that option had been exhausted. I read that a fair dollar assessment of the value of the property would be available to the public. The current assessment is based on mitigation and future loss of oil production revenue; but per my telephone conversations with Sharon Wood, City of Newport Beach and David Myerson, Resource Opportunity Group, I was told that oil production would continue somewhere on the land "for the next 30-40 years". Is the published assessment based on the purchase of the entire property including currently abandoned wells?

Per the Coastal Commissions staff comments re: the cities current LCP, (from the Coastal Commissions' Agenda for April) though Banning Ranch is not included in the LCP, they did make the following suggestions:

NPB-MAJ-1-07
(Suggested Modifications Page 13 of 77)

CCC Staff Suggested Modification No. 12: In consultation with the Coastal Commission's mapping unit, modify all maps that depict the coastal zone boundary in the Banning Ranch area to accurately depict the location of the coastal zone boundary.

4. Mapping Issues

Maps submitted with the land use plan amendment inaccurately depict the coastal zone boundary in the vicinity of the Banning Ranch property. Thus, those maps must be denied as submitted.

.....

April 7, 2009
Page 2

Please provide these corrected maps for public viewing ASAP on your website.

The current project does not address impacts from greenhouse gasses, which contribute to global warming. I feel that the traffic impacts of the project would be unfair and unhealthful for the residents of Newport Beach as well as surrounding cities.

I do agree with the cities list of "Probable Environmental Effects of the Proposed Project" though I believe this current proposed project would have several "Potential Significant Impacts".

I look forward to viewing all of the data on sensitive habitat, birds and animals in compliance with all current laws. I believe that the city and residents will be happy and excited with the possibilities for preservation and the opportunity for learning about our environment this land holds! And very little mitigation of sensitive areas will be needed to keep this as true open space for the public.

This gorgeous piece of property would make an absolutely perfect "California State Park". And could very well be a "year round" destination for visitors to Newport Beach and Orange County.

If properly planned along with the owners, and in schedule with their current use of oil drilling, as the land becomes available, and cleaned of oil operations the owner, county, cities and residents could come to an agreement together, then, with public conservation groups and individuals we could raise funds from grants and other sources to preserve this land (in it's entirety) in perpetuity and allow it's natural (already abounding) beauty to survive and thrive.

Thank you,

Cynthia C. Breatore
Address on file

COMMENT SHEET

This plan would
Be A
DISASTER for
Newport Beach

NEWPORT BANNING RANCH ENVIRONMENTAL IMPACT REPORT

PUBLIC SCOPING MEETING

APRIL 2, 2009

RECEIVED BY

APR 08, 2009

(PLEASE PRINT)

NAME SHARON Wright EMAIL SharonWright@earthlink.net

ADDRESS 200 Via Antipas #3 Newport Beach CA 92663

REPRESENTING myself

(This identification will be placed on the City's mailing list for this project, unless otherwise noted.)

I have the following comment(s) regarding the scope of the environmental analysis, alternatives evaluation, or mitigation measures that should be addressed in the Newport Banning Ranch EIR.

With all the most thoughtful and varied concerns that people spoke about at the Scoping meeting which I agree wholeheartedly need to be investigated to the Maximum before any time is spent going further with this development plan.

Better yet - Scrap the entire project -
Save all the MAN hours and costs.
Banning Ranch needs to remain
Open Space in its entirety and developed
as an open space passive park & Natural
Preserve. Any development will be too
costly in resources. Time - Money - Natural

Hopefully our local decision makers can do better
than our National ones. We are in a crisis of Common Sense

If you have comments and do not wish to speak during the Scoping Meeting, please take the opportunity to fill out this Comment Sheet. Comment Sheets will be collected at the end of this Scoping Meeting. They can also be mailed to the City of Newport Beach by folding, stapling, and sending this card to the address on the reverse.

as well as Money. Locally one only needs to look
as far as The Great Park - K. Regional Airport

-----Original Message-----

From: Gary Gumbert [mailto:gumbert@gte.net]

Sent: Wednesday, April 08, 2009 10:11 AM

To: dlinn@city.newport-beach.ca.us

Subject: Banning Ranch project

I am opposed to the proposed Banning Ranch project. After the project is built the traffic in the area will be a nightmare. One more reason for people to move out of the area.

Thank you,

Gary Gumbert

-----Original Message-----

From: Mansour Djadali [mailto:dj1327@gmail.com]

Sent: Wednesday, April 08, 2009 5:38 PM

To: dlinn@city.newport-beach.ca.us

Subject: Banning Ranch

Dear Debby:

We live in the California Seabreeze community, located at the most western end of 18th Street in Costa Mesa, overlooking the bluff and PCH. Our biggest (and only local) enjoyment is walking and biking in the area along the Santa Ana River, whose banks has been developed so effectively for the enjoyment of bikers and nature lovers. We are so grateful and appreciative of that. The only eyesore is the huge ongoing water conservation project, but at least it's to do with the precious and life-giving commodity, water, and not for gobbling up more pristine land for real estate projects, more traffic, increased population density, inevitable increased pollution, years of construction activity, and (we firmly believe) loss of home values.

With all due respects to all the efforts expended in drafting the NOP and other documents, we don't really have to analyze the details of the NOP to feel strongly against the proposed project. This is because, based on over 20 years of experience in project management here and around the world, we know first hand how quickly the scale and scope of the best planned and the best intended projects can (and often do) increase almost immediately after starting. And once started, there's little political will to halt it. In that event, it's safe to assume that the first casualties will be green areas and open spaces, and not condos, hotels, and roads. To expect otherwise would be a classic case of total denial.

Add to that the people's loss of trust and confidence in the real estate business over the past year (thanks to so much lies, fraud, greed, and misrepresentation by high level government and business leaders), well, you can understand our reservation. We'll get over it eventually, but more than anything, what is totally unacceptable (slightly less than the project itself) is the principle and idea of destroying such pristine, fragile, and precious plant and animal life in favor of more concrete and steel -- as if there's a shortage of places for people to live in or stay at in southern California.

As for the oil fields and the dangling before our eyes of oil financed remediation projects as incentive, we'll take our chances with the status quo and forego change. That's the devil you know and there's plenty of established technology to deal with that -- it will happen sooner or later and at no risk or cost to the environment and the quality of life.

Respectfully,

Mansour & Mariam Djadali
1065 Catamaran Court
Costa Mesa, CA 92627-4584
949-642-4673
dj1327@gmail.com

RECEIVED BY
PLANNING DEPARTMENT

APR 09 2009

April 9, 2009

Attn: Debby Lynn

CITY OF NEWPORT BEACH

Subject: Proposed Development of Banning ranch

Dear Ms. Lynn,

I have been a resident of Newport Crest for the past 20+ years and have enjoyed all that it has offered, that being the quiet, the open space, the wild life, the sunset and ocean views and the sound of waves throughout the night.

The proposed development of Banning Ranch would undoubtedly change all that in a negative direction.

There are many concerns over this proposal; however, I wish to address just three of them. Each issue is posed as a question for the Planning Department to consider and answer.

1. The proposed road will bring traffic day and night. This proposed road will be directly under many bedroom windows along the west and north units of the Crest. ? What is the Planning Dept doing to address the following concerns over both the noise and the accompanying required lighting?
2. Many residents along the west and north facing units have ocean and coastline views. ? What is the Planning Dept doing to preserve and protect these views?
3. The proposed development brings the addition of over 1000 homes, each of them requiring water. ? What is the Planning Dept. doing to address the increase of water usage to support these additional homes?

The outcome of each of these issues will have a direct effect on both the future property values and the quality of life of the residents of Newport Crest. Your careful consideration is necessary and appreciated.

Sincerely,



Dave Sutherland

12 Summerwind Ct. Newport Beach

April 9, 2009

RECEIVED BY
PLANNING DEPARTMENT

APR 09 2009

Attn: Debby Lynn and Planning Commission
Subject: Banning Ranch Development

CITY OF NEWPORT BEACH

Dear Ms. Lynn,

I am a long time resident of Newport Crest and I am very concerned about the impact of the proposed development of the area west of us on the Banning Ranch oil fields and adjacent areas.

I am in favor of maintaining this area as open space, as are many residents of Newport Beach and environmental groups.

I am particularly concerned about the following issues.

1. The proposed location of the "Bluff Road" adjacent to the community of Newport Crest will create problems with noise and lighting issues. The community of Harbor View Hills was able to have the Bonita Canyon road moved away from the homes to mitigate the noise impact to the homes. Would Newport Crest be afforded the same consideration with the proposed road to our west border?
2. Many of our homes have ocean views. How will these views be protected ?
3. The grading and mitigation of the oil fields will create a great deal of dust and particulate matter in the air, which I feel will not be healthy for the surrounding areas.
4. Some of these areas are unstable bluff areas with a fault running close to this area. Is this being considered in the evaluations?

I am very concerned that the quality of life we have enjoyed for so long in Newport Crest and our health will be negatively impacted by the development.

Sincerely,



Natalie Fogarty
Summerwind Court

April 9, 2009

SCANNED

RECEIVED BY
PLANNING DEPARTMENT

APR 09 2009

Attn: Debby Lynn and Planning Commission
Subject: Banning Ranch Development

CITY OF NEWPORT BEACH

Dear Ms. Lynn,

I am a long time resident of Newport Crest and I am very concerned about the impact of the proposed development of the area west of us on the Banning Ranch oil fields and adjacent areas.

I am in favor of maintaining this area as open space, as are many residents of Newport Beach and environmental groups.

I am particularly concerned about the following issues.

1. The proposed location of the "Bluff Road" adjacent to the community of Newport Crest will create problems with noise and lighting issues. The community of Harbor View Hills was able to have the Bonita Canyon road moved away from the homes to mitigate the noise impact to the homes. Would Newport Crest be afforded the same consideration with the proposed road to our west border?
2. Many of our homes have ocean views. How will these views be protected ?
3. The grading and mitigation of the oil fields will create a great deal of dust and particulate matter in the air, which I feel will not be healthy for the surrounding areas.
4. Some of these areas are unstable bluff areas with a fault running close to this area. Is this being considered in the evaluations?

I am very concerned that the quality of life we have enjoyed for so long in Newport Crest and our health will be negatively impacted by the development.

Sincerely,



Natalie Fogarty
Summerwind Court

Debbie Linn, Contract Planner
City of Newport Beach
3300 Newport Blvd.
Newport Beach, Ca 92658.

10 April 2009

CITY OF NEWPORT BEACH

RECEIVED BY
PLANNING DEPARTMENT
APR 10 2009

Re: BANNING DEVELOPMENT PROPOSAL AND PUBLIC COMMENTS

Dear Ms. Linn,

This will acknowledge the only City sponsored informational meeting to discuss the impacts of the Banning Ranch "uber" development. All or selected populations of Newport citizenry were invited to city hall for the April 2 presentation. Public comments, objections and questions were invited to be in written form by April 17, 2009.

Fifteen (15) days are allowed to formally respond so that the Environmental Impact Report might consider valid public questions. However, the developers have had a year or two to freely access the City's departments with the developer's own professional staff. True, the developer has held a few informational meetings to make its case and charm the public. The disparity in review time is very significant!

Incidentally, the City's material handouts such as charts of the property to be developed, buildings or relative positions to existing residential areas are not provided. Perhaps the developer may cut a corner on full disclosure, but one would expect the city to fully divulge! Not even the city boundaries or main streets are shown. How can thoughtful studied objections be presented?

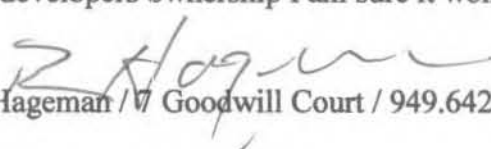
We request an extension of time for public input before the EIR is started, and the extension of time to start from the date the public is provided more accurate details.

Some wordy objections or viewpoints follow:

- Accepting the charge that the Newport Crest Development has created and been the 35 year forerunners to a long considered inferior view location in Newport we now find the "establishment" comes to capitalize on the areas potential at a great cost to us. Substantial premium prices have been paid which will disappear with loss of environmental attractions and views. A TRANSFER OF WEALTH OF MANY MILLIONS FOR THE BENEFIT OF THE "JOHNNIES COME LATELY." [This may be a point more directly addressed to the City fathers and not in the purview of the EIR]. PRESERVE VALUES AND VIEWS
- City water is at risk due to climate change already being encountered. Third year of local drought and nine years of drought from Colorado River sources. Newport water is largely well sourced, which too requires natural precipitation to avoid over drawing this resource. The required 20 year projections and other criteria required by Senate Bills 221 and 610 must contemplate adequacy for a long period of time, just as for public retirement benefits. Ground reserves are not inexhaustible sources! WE DO NOT NEED TO ADD 1500 HOOKUPS. A 6% INCREASE TO ADD TO THE 10% CURRENT WATER REDUCTION.

- Natural "virgin" land is being protected throughout the country-even in vast empty spaces, deserts, etc., and here a rare parcel of natural ocean bluff, unbroken by plow; grazing land in the midst of a densely populated area, is a resource even a non-environmentalist can appreciate. PRESERVE THIS NATURAL ENVIRONMENT. The owners have prospered we know.
- We know we are in the zone for serious quake. We are warned often. We have suffered one that damaged shelf décor items. Earthquake is one of your important EIR concerns. DO CONSIDER THE PUBLICS RISK REWARD RATIO.
- DENY THE HEIGHT CODE AMENDMENT THERE IS NO JUSTIFICATION FOR SUCH VARIANCES. WHAT IS THE CITIZENRY NOT BEING TOLD ABOUT THE DEVELOPMENT'S FAVORED CONSIDERATION?
- Should serious variances be slipped into the small print under the heading STATISTICAL SUMMARY? Note Table 1 b. TRANSFER OF DWELLING UNITS this and other aspects of this summary appear to be BLATANT MISDIRECTION that needs redress.
- Many, perhaps all 460 Crest units have substantial exhaust blowers in the lower levels. In 1973 or so, it was deemed unsafe with respect to explosive methane gases. IS IT RECOMMENDED THAT THEY MAY BE REMOVED? ARE THERE OTHER WAYS TO MITIGATE THESE RISKS? WILL GROUND DISTURBANCES RESULTING FROM CONSTRUCTION AND SITE IMPROVEMENT CAUSE POSSIBLE ILL EFFECTS?
- As to traffic concerns, a city official has estimated 14,000 additional automobile Trips daily will be incurred. A great detriment to the area and the city. Further, Crest residents WANT A FORMAL GUARANTEE THAT TICONDEROGA STREET BE MAINTAINED AS A PRIVATE DEVELOPMENT ROAD WITH NO EXTENSIONS!

Finally, consider the objections above and all those that others may be writing to you about, some a subject for the EIR to consider and some for the City. It would seem much too much in negative response and detrimental impacts to justify additional tax income or other unknown benefits. IT IS NOT A FAIR EXCHANGE. If Exxon Mobile has some tenuous interest in the developers ownership I am sure it won't cause them to need "tarping"

Yours faithfully, R.E Hageman /  Goodwill Court / 949.642.1998

Cc: Hon. Mayor
City Council

April 10, 2009

RECEIVED BY
PLANNING DEPARTMENT

APR 14 2009

CITY OF NEWPORT BEACH

TO: City of Newport Beach
Planning Department
3300 Newport Boulevard
Newport Beach, CA 92658-8915

FR: Mike and Dorothy Kraus
10 Wild Goose Court
Newport Beach, Ca 92663


Attn: Debby Linn, Contract Planner
Subject: Newport Banning Ranch

We are Newport Crest homeowners who will be severely impacted by the Newport Banning Ranch Development. In particular, flow of traffic on Bluff Road from 15th Street to PCH will negatively impact my family's quality of life due to its extreme close proximity to our unit located at 10 Wild Goose Court (and five other Courts that border Banning Ranch).

Constant traffic noise, pollution generated from motorized vehicles, and lights throughout the development will create a harmful situation for our health and well being. Throughout the lengthy construction process we will have to endure the noise and pollution associated with heavy equipment traffic and construction of homes so close to our property. Additionally, our property values and outlook to the Pacific Ocean will be seriously jeopardized as a result of this development.

Lastly, the drawings displayed at the April 2, 2009 Scoping meeting are not representative of this development. A model or drawings that show elevations and profiles of the development should be included in the EIR in order to honestly depict the impact that this development will have on Newport Crest homeowners.

Sincerely,



Mike and Dorothy Kraus
10 Wild Goose Court
Newport Beach, CA 92663
949-337-6651

-----Original Message-----

From: Robert Siebert [mailto:eesolar@sbcglobal.net]

Sent: Saturday, April 11, 2009 6:39 PM

To: dlinn@city.newport-beach.ca.us

Subject: Banning Ranch

To: City of Newport Beach

I would respectfully suggest that the City of Newport Beach retain all or most of the Banning Ranch property as open space. Benefits to be derived from this "long view" of our future include not having to solve traffic problems at Superior and 19th and nearby streets. Further the beach itself will benefit by reduction in the local runoff problem. Of course minimum disturbance of the soils at a site of long term oil drilling is again best for the city; lawsuits on land converted from oil fields to residential are not new nor pleasant for the affected city.

Finally, we just plain have to little open space in this crowded corner of Orange county.

Sincerely,

Robert Siebert
Orange

4/12/2009

Greetings,

I attended the 4/2 /09 Newport Banning EIR public scoping meeting. Along with agreeing with issues brought up that evening, I am very concerned about the environmental impact concerning traffic. I strongly urge the City of Newport Beach to be very deliberate and thorough with this matter. I am sure you realize the extreme consequences if even the smallest detail is overlooked.

One point of concern is the access to the proposed development from West Coast Highway. If I read the "conceptual master land use plan" (exhibit 2) correctly it looks like there will be a major intersection added to an already overwhelmed portion of West PCH. Does Newport Beach really need another traffic light controlled intersection on West PCH? I don't think so. It is a known fact that a motor vehicle expels the most pollutants while at idle and then accelerating. I am strongly against another major intersection on West PCH. If the development is approved I think a less intrusive approach to access would be to re-engineer, format and revise the existing intersection at West PCH, Superior and Balboa. A "Five Points" set up similar to Beach Blvd. in Huntington Beach. This would eliminate another stop and go, traffic backup, polluting, noisy intersection on West PCH. It would also discourage using Bull Road as a thru-way from Costa Mesa.

Thank you for your consideration.

Respectfully,
Gerard Proccacino
Lido Sands
Newport Beach, CA

RECEIVED BY
PLANNING DEPARTMENT

APR 16 2009

CITY OF NEWPORT BEACH

COMMENT SHEET

NEWPORT BANNING RANCH ENVIRONMENTAL IMPACT REPORT
PUBLIC SCOPING MEETING
APRIL 2, 2009

(PLEASE PRINT)

NAME Gerard Proccacino EMAIL GRAVYTRAIN1@Roadrunner.com

ADDRESS 5105 Lido Sands Dr, Newport Bch, CA 92663

REPRESENTING _____

(This identification will be placed on the City's mailing list for this project, unless otherwise noted.)

I have the following comment(s) regarding the scope of the environmental analysis, alternatives evaluation, or mitigation measures that should be addressed in the Newport Banning Ranch EIR.

PLEASE SEE ATTACHED

If you have comments and do not wish to speak during the Scoping Meeting, please take the opportunity to fill out this Comment Sheet. Comment Sheets will be collected at the end of this Scoping Meeting. They can also be mailed to the City of Newport Beach by folding, stapling, and sending this card to the address on the reverse.

RECEIVED BY
PLANNING DEPARTMENT

APR 16 2009

CITY OF NEWPORT BEACH

Deborah Koken
1778 Kenwood Place
Costa Mesa, CA 92627
949-574-0333

April 13, 2009

The City of Newport Beach Planning Department
Attn: Debbie Linn, Contract Planner
3300 Newport Boulevard
Newport Beach, CA 92658

Re: Notice of Preparation EIR for Banning Ranch Project

Dear Ms. Linn,

I ride my bicycle to work west on 19th Street to the end, then down into the open space and across to the Santa Ana River Bike Trail. If the Bluff Road goes through to 19th Street my ride will become extremely hazardous. It would be vital for dedicated off-road bikeways to be included in the plan, running alongside 19th Street as well as along all new roads in the area, to preserve recreational riding opportunities and bicycle commuting.

Please ensure that my comments are added to the record so that my concerns will be addressed.

Sincerely,



Deborah Koken

-----Original Message-----

From: melody f. [<mailto:maddiesmelody@yahoo.com>]

Sent: Tuesday, April 14, 2009 5:09 PM

To: dlinn@city.newport-beach.ca.us

Subject: Banning Ranch

April 14, 2009

Debby Linn, Contract Planner
City of Newport Beach
Planning Department
3300 Newport Boulevard
Newport Beach, CA 92658

Dear Ms. Linn,

I am against the development of Banning Ranch because it is one of the few open spaces for endangered species and it is in part a wetland. It also probably has archaeological deposits that haven't even been properly explored let alone preserved! This is land that was certainly occupied by the first peoples prior to the European invasion and that means it is culturally valuable!!! Do you know for sure that it doesn't have any burials there? Has it even been checked?? The development plan would destroy everything that makes it valuable other than a money maker for the developers.
Do you care at all?

Banning Ranch should be studied, preserved and valued for something other than a space to exploit!
I know that the first people built villages on the bluffs and mesas all along the Santa Ana River. So what makes you think they are not there? Do you know for sure? If you don't, there shouldn't be any development until those questions can be answered and the Native Americans agree!
I mean maybe you don't mind letting people build homes on graves but I think it's WRONG!

Has any one even talked to any of the local tribes about this? Are the developers ignoring laws or are you allowing them to be broken behind our backs?

Do the right thing now and re-think these developement plans because as they are now, they are really inconsiderate and destructive. Set a precedent and be the good guy. Someone has to start.

Monique Friend

From: sharon boles [mailto:sharon.boles@roadrunner.com]
Sent: Tuesday, April 14, 2009 5:12 PM
To: Olson, Gaylene
Subject: EIR for Banning Ranch

Dear Ms. Olson,

I would like to add my comment concerning the EIR for Banning Ranch.

As a resident and board member of the Newport Crest HOA, I am asking that any roadways that would be constructed on the Banning Ranch property be located as far away from the adjoining property of Newport Crest as is feasible.

Thank you for your consideration.

Sharon Boles
12 Kamalii Court

-----Original Message-----

From: Patricia Martz [mailto:p.martz@cox.net]

Sent: Thursday, April 16, 2009 11:20 AM

To: dlinn@city.newport-beach.ca.us

Subject: Banning Ranch Notice of Preparation

A hard copy on letterhead was mailed yesterday.

14, 2009 April

Debby Linn, Contract Planner
City of Newport Beach
Planning Department
3300 Newport Boulevard
Newport Beach, CA 92658

RE: Notice of Preparation Newport Banning Ranch Program Environmental Impact Report

Dear Ms. Linn,

The California Cultural Resources Preservation Alliance, Inc.(CCRPA) is against the development of Banning Ranch. The CCRPA is a 501 (c) 3 non-profit organization of archaeologists, historians, Native Americans, and individuals who are concerned about the continuing loss of archaeological and cultural properties. In addition to the open space, endangered species and wetland values, we believe that the property contains significant archaeological and cultural values, including the potential for the presence of Native American burials. The proposed development will have a disastrous effect on these significant values and the Banning Ranch property should be preserved as open space.

Prehistoric villages tend to be situated along the Santa Ana River and particularly on bluffs and mesas overlooking wetlands. It should be noted that archaeological sites and human remains have been found in similar environmental situations, even within those that have been used for oil production.

Please refer to the Sacred Sites bill, Senate Bill 18, regarding the notification of Native Americans when land is rezoned. In addition, SB 18 amended Government Code 66560 to include open space for the protection of cultural places as an allowable purpose of the open space element.

Sincerely,

Patricia Martz, Ph.D.
President

Cc: Dave Singleton
California Native American Heritage Commission

RECEIVED BY
PLANNING DEPARTMENT

APR 17 2003

CITY OF NEWPORT BEACH

April 14, 2009

Debby Linn, Contract Planner
City of Newport Beach
Planning Department
3300 Newport Boulevard
Newport Beach, CA 92658

RE: Notice of Preparation Newport Banning Ranch Program Environmental Impact Report

Dear Ms. Linn,

I'm against the development of Banning Ranch because of the loss of open space, the impact on endangered species and wetlands, as well as the reality that the property contains significant archaeological and cultural values including the likelihood of Native American burials. Banning Ranch property should be preserved as open space.

Sincerely,

Debra Stephen
Orange County Resident

Cc: Dave Singleton
California Native American Heritage Commission

-----Original Message-----

From: Norbert Puff [mailto:norbpuff@sbcglobal.net]

Sent: Wednesday, April 15, 2009 8:58 AM

To: dlinn@city.newport-beach.ca.us

Subject: EIR Newport Banning Ranch Project

City of Newport Beach

The circulation proposed for 1,375 units plus a resort and commercial uses is completely inadequate.

Feeder streets outlined in the Scope EIR of 15th, 16th and 19th streets will not handle the traffic that will ultimately feed into Newport Blvd. and the 55 Freeway.

19th street, for example, is already overcrowded from morning commuter traffic and traffic from Monrovia School. Further, traffic at 19th and the 55 Freeway requires multiple signal changes before one can access the 55. And this is under current conditions.

The feeder streets contemplated in the proposed plan are effectively one lane roads and were not designed for the load proposed by this development.

Finally 19th street is, I believe, substantially within the City of Costa Mesa which recently repaved and refurbished 19th to include medians, etc. Also 15th and 16th feed into Costa Mesa's circulation. I would be interested in Costa Mesa comments.

Sincerely

Norb Puff
Newport Beach

-----Original Message-----

From: Paul Malkemus [<mailto:pmalkemus@yahoo.com>]

Sent: Wednesday, April 15, 2009 2:19 PM

To: dlinn@city.newport-beach.ca.us

Subject: Comments on Newport Banning Ranch NOP

Why are primary arterial roads (125' Right of Way) being planned to be built in such close proximity to existing residential areas? It would appear that South Bluff Road will be less than 50' from existing property lines in at least one location. With all the available open space that is under consideration for this development, it does not seem reasonable to locate primary roads in an area that would adversely impact existing developments - developments that have been at that location for over 30 years. The specific area of concern is the existing Newport Crest development. Please reconsider the alignment of roads specifically in this area. The possibility of 34,000 vehicles per day (VPD) traveling through this area at rates of speed higher than 40 miles per hour is extremely troubling.

Further it would appear that extending 15th, 16th, 17th and 19th streets will essentially serve to create an excellent "short-cut" for commuters traveling both to and from the beach areas. This situation will surely impact, at the very least, West Newport. Granted, it will be an extremely opportune route for commuters who wish to avoid the inevitable Newport Boulevard bottlenecks and traffic jams. But, what about the traffic impacts on the City of Newport Beach as well as the City of Costa Mesa? There does not seem to be any indication as to how these smaller roads (15th, 16th, & 17th Street) will be engineered to accommodate the additional traffic loads. Are connections to all 3 of these existing roads really necessary? The connection or extensions of 15th and 16th streets appear to be potentially the more problematic.

The Zoning and municipal code changes, briefly mentioned in the document, that are apparently designed to accommodate greater building heights in this area are not fully explained. Aren't zoning changes somewhat contrary to what the newly adopted General Plan (as voted upon by the citizens of Newport Beach) is all about?

There are also some serious wildlife concerns. The report states that several special status species, including the coastal California gnatcatcher (*Poliophtila californica californica*), a federally listed species, the coastal cactus wren (*Campylorhynchus brunneicapillus couesi*), a California Department of Fish and Game (CDFG) Species of Special Concern and State listed Endangered Belding's savannah sparrow (*Passerculus sandwichensis beldingi*). The report also mentions the possibility of vernal pools that may be occupied by the San Diego fairy shrimp (*Branchinecta sandiegoensis*), a federally Endangered species.

Areas that currently serve as hunting grounds and travel corridors for coyote, skunk, fox, raccoon, owls, blue heron & hawks will be eliminated by this development.

The document listing of Probable Environmental Effects of the Proposed Project states there is potential for this project to significantly impact a number of environmental factors. This is very troublesome.

Paul Malkemus
7 Aries Court
Newport Beach, CA
92663



NEWPORT-MESA Unified School District

BOARD OF TRUSTEES

Dana Black • Dave Brooks • Michael Collier
Walt Davenport • Martha Fluor • Judy Franco • Karen Yelsey
Jeffrey C. Hubbard, Ed.D., Superintendent

April 15, 2009

Debby Linn, Contract Planner
City of Newport Beach
Planning Department
3300 Newport Blvd.
Newport Beach, Ca. 92658

**Re: Newport-Mesa Unified School District – District Response
Notice of Preparation - Newport Banning Ranch – EIR Scope and Content**

Dear Ms. Linn:

In response to the Notice of Preparation (NOP) dated March 16, 2009, the Newport-Mesa Unified School District (District) has reviewed the Project Summary and respectfully responds with the following comments to be considered. The District will be impacted by the development proposed. However, with the information available, the District is not yet able to determine the level of impact.

In addition, the plans provided in NOP identify improvements on the District property located immediately adjacent to the Banning Ranch. To date, the District has no agreement to build said improvements.

If you have any questions, please do not hesitate to contact me at (714) 424-7522.

Sincerely,

Ara K. Zareczny
Facilities Analyst

C: Paul H. Reed
Tim Marsh
James Lamond

-----Original Message-----

From: Bruce Bartram [mailto:b.bartram@verizon.net]

Sent: Thursday, April 16, 2009 8:25 AM

To: Debby Linn

Cc: Sandra Genis; Jan Vandersloot; Terry Welsh; joann@jalcps.com; Matt Irwin; evenkeel4@sbcglobal.net; Jim Cassidy; Chris McEvoy; jessp77@gmail.com; Dorothy Kraus; James Quigg; Jim Mansfield; Evan Volkl; Robb Hamilton; Debby Koken; Melanie Schlotterbeck; Jean Watt; Save Banning Ranch; redtail1@cox.net; Teresa Barnwell; bnerhus@gmail.com; Margaret Royall; Patricia Weber; mezzohiker@msn.com; Ed Guilmette; Brian Burnett; Cynthia Breatore; Chris Bunyan; Sherry Kallab; Sherry Kallab; Kevin Nelson; Patrick Conlon

Subject: Newport Banning Ranch EIR Scope and Contents

Dear Ms. Linn:

The proposed Environmental Impact Report (EIR) to be prepared in connection with the Newport Banning Ranch Project (Project) must include as part of its contents an analysis as to how construction of the Project would be consistent with Newport Beach General Plan which as is stated in the City's Notice of Preparation (NOP) was approved by the voters in 2006. According to the NOP:

"The Newport Banning Ranch Project (Project) proposes the development of up to 1,375 residential dwelling units, 75,000 square feet of commercial uses, and 75 overnight resort accommodations on a Project site of approximately 401 acres. These uses are consistent with the description of the proposed land uses for this property in the Newport Beach General Plan,...."

According to the Newport Beach Chamber of Commerce sponsored Coalition for General Plan Accountability website.....

"members of the General Plan Advisory Committee or GPAC – developed this (general plan) after thorough study of input from thousands of their neighbors that was received during the most extensive public outreach in the City's history.

After receiving community input, GPAC developed a "Vision Statement" – a description of the City that residents want Newport Beach to be now and in 2025 – to serve as a blueprint for this General Plan Update. GPAC, with the assistance of planning professionals and using the Vision Statement as a guide, then developed this General Plan to ensure that the City achieves the vision by, among many other things, doing the following (including):

- Reducing traffic citywide by nearly 30,000 trips each day over the life of the plan;
- Reducing potential new commercial and office space by more than 2,000,000 sq. ft.;
- Supporting efforts to acquire Banning Ranch for permanent open space ;
- Taking strong action to prevent or reduce water pollution in the bay and ocean;
- Enhancing natural resources such as Upper Newport Bay;
- Preserving public views of the ocean, harbor and bay; "

The NOP states that the Project has been identified as having a "Potential Significant Impact" in the following areas, including "Land Use and Planning." Obviously, the Project's scope will seriously impact the City's attainment of the voter approved General Plan goals listed above. The weblink to the Coalition for General Plan Accountability webpage stating the above is:

http://www.generalplanaccountability.org/planPriorities/?_c=xvnz4yj1wlxk0d.

In addition, the EIR must include the fact that the General Plan was amended by Newport Beach voters on February 5, 2008 by Measure B. The ballot measure approved the construction a new civic center on a 12-acre site in Newport Center that was slated to become a park. According to the City Attorney's analysis of the ballot measure the "zoning regulations identify the property as open space, including a 4 acre public park as a permitted use." This property is now slated to be the new Civic Center and not open space. Thus, the Project's impact on the now diminishing open space availability and possible City acquisition must also be addressed in the EIR. The weblink to the City Attorney's analysis of Measure B is: <http://ocvote.com/election/pri0208/NB%20WEBVERSION.pdf>.

Please let me know your thoughts concerning the above.

Very truly yours,

Bruce Bartram
2 Seaside Circle
Newport Beach, CA 92663



HAMILTON BIOLOGICAL

April 16, 2009

Debby Linn, Contract Planner
City of Newport Beach
Planning Department
3300 Newport Boulevard
Newport Beach, CA 92658

**SUBJECT: COMMENTS ON THE NOTICE OF PREPARATION FOR THE
NEWPORT BANNING RANCH EIR**

Dear Ms. Linn,

On behalf of the Banning Ranch Conservancy, I am submitting these comments on the Notice of Preparation (NOP) for the EIR to be prepared for the proposed Newport Banning Ranch project. I am a consulting biologist with 20 years experience preparing and reviewing CEQA documents primarily in Orange County, California. I am very familiar with the project site because, during the early 1990s while employed by the consulting firm of LSA Associates in Irvine, I conducted several days of biological surveys of the subject property, including focused surveys for the California Gnatcatcher and Cactus Wren.

USE OF THE BEST AVAILABLE SCIENTIFIC INFORMATION

Plant and wildlife populations often fluctuate considerably through time. Some species may occur only sporadically, or may be detectable only during certain years or through specialized survey methods. This is why biologists are typically careful to incorporate the results of earlier reliable studies when they attempt to characterize the biota of a given area. I recently reviewed copies of the LSA reports from the 1990s, and those prepared by the consulting firm of PCR, all of which are available from the Carlsbad Field Office of the U. S. Fish & Wildlife Service. To help ensure the DEIR's completeness and adequacy, we request that copies of all publicly-available biological information on the Banning Ranch be included as technical appendices to the DEIR. We also request that the Biological Resources section of the DEIR include a summary of all relevant information from those older reports, including reproductions of LSA's detailed maps showing the areas of observed habitat use for Cactus Wrens and California Gnatcatchers during the 1990s.

I reviewed the draft biological technical report for this project, which Glenn Lukos Associates (GLA) prepared and which was posted on the City's web page. The GLA report indicated that six pairs of Cactus Wrens were recently found on the project site. The

comprehensive focused surveys that I conducted across the 17,000-acre Coastal Reserve of the Nature Reserve of Orange County (NROC) in 2006 and 2007 indicate that even just six pairs would represent the largest concentration of Cactus Wrens remaining in coastal Orange County today. The entire population in the Coastal Reserve may now be less than 20 pairs, so the Banning Ranch population could be critical to re-establishing Cactus Wrens within the Coastal Reserve of the NROC (i.e., through a program of reintroduction of juvenile wrens into suitable unoccupied habitat in the Coastal Reserve).

The regional collapse of Cactus Wren populations has recently spurred the formation of a large and active Cactus Wren Working Group as well as various public and private efforts to map, survey for, and otherwise study Cactus Wrens throughout their range in coastal southern California. Since the Banning Ranch property has the potential to be critically important to future “hands-on” efforts to conserve this species in coastal Orange County, we request that the DEIR include as much information as is available on the current and former size of the on-site Cactus Wren population, including the numbers recorded and maps of the territories the birds have occupied.

As part of the DEIR’s summary discussion of the status and distribution of Cactus Wrens in coastal Orange County, we request that the EIR include a summary table showing the annual or biennial estimate of the Cactus Wren population in the NROC’s Coastal Reserve from 1996 to present. This information, which is readily available from the NROC, will help readers and decision-makers gauge the relative importance of the Banning Ranch population to the overall population of this species in coastal Orange County.

We also request a thorough and scientifically credible evaluation of the potential effects of the proposed project on the site’s Cactus Wren population. Specifically, we request that the DEIR discuss what has happened to the large Cactus Wren population in Irvine’s Shady Canyon area following development of the Shady Canyon residential/ golf course project during the 1990s and 2000s. We ask that the DEIR evaluate and discuss possible reasons why the Cactus Wren population adjacent to the Shady Canyon development has collapsed during the past 12 years despite the preservation and management of large areas of intact cactus scrub vegetation in that area.

CHARACTERIZATIONS OF ESHA AND THE COASTAL ACT

Since Banning Ranch is a “deferred certification area,” the City’s Coastal Land Use Plan (CLUP) does not apply to this site and any proposed development at Banning Ranch will require a Coastal Development Permit from the California Coastal Commission pursuant to the California Coastal Act (Public Resources Code Sections 30000–30900). Banning Ranch is a large and biologically rich coastal area that has no parallel within the City’s sphere of influence. Within the City, the Upper Newport Bay Ecological Reserve has somewhat comparable wetland and upland resources, but the land use issues are very different. For example, Upper Newport Bay does not support vernal pools, San Diego Fairy Shrimp, or Burrowing Owls, and the bay’s only Cactus Wrens were experimentally translocated there from Irvine in 2006. Moreover, when the City prepared its CLUP nobody was contemplating a high-intensity residential/commercial project on the remaining uplands that

surround Upper Newport Bay. Given the uniqueness of Banning Ranch and its ecological resources relative to areas that are addressed in the CLUP, it would be misleading for this DEIR to suggest that the City's CLUP provides a useful measure for evaluating the project's level of consistency with the provisions of the California Coastal Act.

Setting the boundaries of Environmentally Sensitive Habitat Areas (ESHA) at Banning Ranch shall be the sole responsibility of the California Coastal Commission, not the City or its biological consultants. Therefore, we request that the DEIR (a) not to give a false impression that project biologists have any authority to map or classify ESHA on the project site, and (b) not suggest that ESHA provisions or buffer standards contained in the City's CLUP apply to resources on the project site.

The draft report by GLA contained confusing references to "Coastal Land Use Policies," which GLA seemed to use interchangeably with the term "Coastal Land Use Plan" or "CLUP." For clarity, the DEIR should not use the ambiguous term "Coastal Land Use Policies" in a way that might be confused with "Coastal Land Use Plan."

POTENTIAL FOR *ATRIPLEX COULTERI* AND *DUDLEYA MULTICAULIS*

The draft report by GLA stated that Coulter's Saltbush (*Atriplex coulteri*) and Many-stemmed Dudleya (*Dudleya multicaulis*) have "no potential to occur on site due to lack of suitable microhabitat." Botanist David Bramlet has found small numbers of the very inconspicuous saltbush growing on a disturbed, eroding slope vegetated with annual grassland near Fashion Island, Newport Beach, a few miles southeast of the project site.¹ I have found this low-growing species growing on coastal bluffs at Crystal Cove State Park, a few miles southeast of the project site. Considering how much of Banning Ranch appears to offer habitat comparable or superior to that found at these known populations, and given that these plants can be very inconspicuous, especially during drought periods, it seems that the saltbush and dudleya have at least moderate potential for occurrence on the site. Botanical surveys conducted this spring should be careful to search for these easily overlooked plants.

VERNAL POOL IMPACT ANALYSIS

The site's vernal pool supports the endangered San Diego Fairy Shrimp, serves as a seasonal water source for wildlife during some periods, and supports vegetation suitable for use by California Gnatcatchers and many other wildlife species. The DEIR should analyze all of the potential adverse ecological effects associated with surrounding the site's vernal pool with buildings and roads, effectively cutting off the pool from its surroundings.

¹ http://ucjeps.berkeley.edu/cgi-bin/new_detail.pl?RSA655236

NO “WALL OF DEATH”

We request that the project not include any exterior clear window-like walls, such as the infamous “wall of death” installed recently at Bolsa Chica Mesa, which was documented as killing numerous birds that could not see the plexiglass well enough to avoid colliding with it. If any such walls are proposed, the DEIR must thoroughly evaluate their potential adverse effects, including focused studies of existing glass walls near the coast that exist at Upper Newport Bay and on the Bolsa Chica Mesa. To be valid, such studies must involve daily checks of the ground below these walls very early in the morning (before scavengers may have removed the carcasses) during September and October, the peak of fall migration. The walls themselves should also be carefully inspected, for marks left by birds that hit the wall and were able to leave the area stunned.

ALTERNATIVES

Section 15126.6(a) of the CEQA Guidelines requires that EIRs evaluate:

a range of reasonable alternatives to the Project, or to the location of the Project, which would feasibly attain most of the basic objectives of the Project but would avoid or substantially lessen any of the significant effects of the Project, and evaluate the comparative merits of the alternatives.

The NOP does not list anything close to “a range of reasonable alternatives to the Project.” Specifically, the DEIR should evaluate one or more alternatives that would remove one or both of the development “bubbles” that occupy the site’s two main grassland plateaus. Such an alternative may become necessary due to the reported wintering of Burrowing Owls in and near the site’s grasslands. Due to loss of nearly all habitats comparable to the shortgrass plateaus on Banning Ranch, the Burrowing Owl has become one of Orange County’s rarest species. The proposed project would not effectively conserve this California Species of Special Concern on the site, but increasing the area of preserved coastal plateau could allow for the owls to persist there. In order to truly provide “a range of reasonable alternatives to the Project,” the DEIR should include at least one alternative that allows for a portion of the project’s housing and other non-transportation objectives to be met while also allowing for the persistence of Burrowing Owls on the site.

CONCLUSION

I appreciate the opportunity to provide these NOP comments on behalf of the Banning Ranch Conservancy. Please add my name to your mailing list for this project.

Sincerely,



Robert A. Hamilton
President, Hamilton Biological, Inc.

-----Original Message-----

From: denny bean [mailto:bennydean@adelphia.net]

Sent: Thursday, April 16, 2009 2:43 PM

To: dlinn@city.newport-beach.ca.us

Subject: banning ranch

banning ranch has been an item of interest for a long time. it is a very large part of an even bigger plan for open space. in a congested heavily populated and trafficked area, open space is needed in all the forms that it takes being wetlands, hills, beaches, canyons, etc, we need it to assuage our aching souls. short periods spent away from bumper to bumper traffic, a demanding job, or vexing family life can pay off big time. we need a respite every once in a while to ease our minds and a walk in the wild will do it most every time.

more than that, we don't need more development. the water shortage is here with diminished supply and rising water prices, i want to say no to growth. we're the largest state in the nation and the majority of that population right here in southern california while, what water there is, is in the northern part of the state. unless you want to count all the states and one country vying for the colorado river supply. the colorado river supply that is the lowest its been due to suffering from an eight year drought and heavy competition for its supply.

denny bean
fullerton

April 16, 2009

Debby Linn, Contract Planner
City of Newport Beach
Planning Department
3300 Newport Boulevard
Newport Beach, California 92658

Subject: Notice of Preparation Draft Environmental Impact Report
Newport Banning Ranch

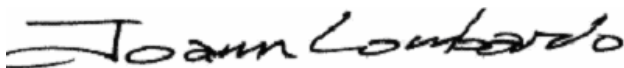
Dear Ms. Linn,

As a resident of the Newport Heights neighborhood, I am very concerned about the potential adverse environmental impacts that could result from the proposed project; and request that the EIR for the project address these potential impacts, listed below:

1. Traffic: The Newport Heights neighborhood contains an intermediate and high school that Banning Ranch residents would likely attend. School trips generated by Banning Ranch would add 2,000 to 3,000 peak hour vehicular trips to our neighborhood each day. Clay Street and Riverside Avenue would be particularly impacted. The EIR should describe mitigation measures for these impacts, including street closures and other traffic calming techniques that would direct the traffic to arterials rather than local streets.
2. Mixed use: Successful mixed use projects are typically located within commercial districts or adjacent to universities or other high traffic areas. The proposal to locate mixed use in Banning Ranch, which is physically isolated from nearby commercial districts, does not appear feasible. Should such a development actually be constructed, it is very likely that the retail or commercial components would remain vacant, creating physical blight, increasing crime and straining police services. The EIR should contain a detailed description of the type (percent residential to commercial and type of commercial) of mixed use proposed; and the type of conditions or mitigations that would be imposed to ensure the viability of the mixed use and to avoid potential impacts associated with blight and crime.
3. Height: A proposed height of 65 feet is out of character for residential properties in west Newport Beach. If approved, the height increase would cause potentially adverse physical and visual changes to the West Newport area. Further if approved, this increased height could create a precedent, resulting in further height increases in the mixed use areas along Old Newport Boulevard and PCH. The EIR should discuss how the proposed height increase could impact land use, physical character and visual appearance of the West Newport area, both directly and cumulatively.

4. Land Use: The project proposes to develop to the maximum densities permitted by the General Plan. At the same time, it proposes to place this maximum density in an ungainly mix of extremely high density residential and mixed use, traditional single family, biologically sensitive open space and oil drilling. The EIR should evaluate the compatibility of these uses with each other, and with the surrounding neighborhoods. Further, such a mix of uses does not appear to meet the General Plan stated vision to preserve and enhance "our character as a beautiful, unique residential community with diverse coastal and upland neighborhoods". The EIR should provide a thorough analysis of the project's compliance with the General Plan vision and supporting goals and policies.
5. Connection through 19th Street: The creation of an alternative n/s collector from PCH to 19th Street could divert traffic flow from Newport Boulevard. The EIR should quantify the affect of the proposed collector with and without project development on Newport Boulevard traffic flow.
6. Oil operations: The EIR should clearly describe existing oil related hazards on site, and, under a no project or open space alternative, if there are potential impacts associated with leaving the existing hazards in place.
7. Biological Resources: Creating a very dense urban environment adjacent to sensitive biological resources would likely result in the ultimate collapse of those resources. With urban development comes ground disruption, non-native plant species, herbicides, domestic animals, and traffic, noise, and air pollution, all of which would adversely impact existing biological resources. The EIR should fully examine impacts of urbanization on the biological resources.
8. Alternatives: The EIR should include a discussion of an oil production alternative. With the advances in oil drilling and excavation techniques, the long-term advantages of continued oil operation could outweigh the impacts associated with the proposed project development. Additionally, the EIR should include a discussion of replacing the project with a senior living community alternative, preferably with a substantially reduced unit count. A senior living alternative would clearly have less impacts on traffic and public services.

Thank you.

A handwritten signature in black ink that reads "Joann Lombardo". The signature is fluid and cursive, with the first name "Joann" and last name "Lombardo" clearly distinguishable.

Joann Lombardo
2916 Clay Street
Newport Beach, CA 92663

Alfred G Cruz, Jr.
2428 E. Altura Ave.
Orange, Ca 92867-1803

April 16, 2009

Debby Linn, Contract Planner
City of Newport Beach
Planning Department
3300 Newport Boulevard
Newport Beach, CA 92658

RE: Notice of Preparation Newport Banning Ranch Program Environmental Impact Report

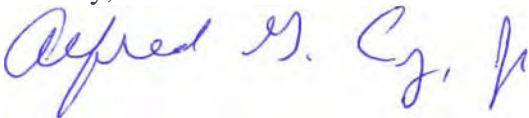
Dear Ms. Linn,

I Alfred G. Cruz, Jr. am against the development of Banning Ranch. In addition to the open space, endangered species and wetland values, I believe that the property contains significant archaeological and cultural values, including the potential for the presence of Native American burials. The proposed development will have a disastrous effect on these significant values. The Banning Ranch property should be preserved as open space.

Prehistoric villages tend to be situated along the Santa Ana River and particularly on bluffs and mesas overlooking wetlands. It should be noted that archaeological sites and human remains have been found in similar environmental situations, even within those that have been used for oil production.

Please refer to the Sacred Sites bill, Senate Bill 18, regarding the notification of Native Americans when land is rezoned. In addition, SB 18 amended Government Code 66560 to include open space for the protection of cultural places as an allowable purpose of the open space element.

Sincerely,

A handwritten signature in blue ink that reads "Alfred G. Cruz, Jr." with a stylized flourish at the end.

Alfred G. Cruz, Jr.
Juaneño Band of Mission Indians
Acjachemen Nation

-----Original Message-----

From: Patricia Barnes [mailto:mezzohiker@msn.com]

Sent: Thursday, April 16, 2009 10:16 PM

To: dlinn@city.newport-beach.ca.us

Subject: RE: Notice of Preparation-Draft Environmental Impact Report for Newport Banning Ranch Project

April 16, 2009

**Debby Linn, Contract Planner
City of Newport Beach
Planning Department
3300 Newport Boulevard
Newport Beach, CA 92658**

**RE: Notice of Preparation-Draft Environmental Impact Report
Project: Newport Banning Ranch**

Dear Ms. Linn,

Banning Ranch consists of approximately 412 acres of open space. It is the largest remaining portion of undeveloped open space that yet exists within West Newport Beach and within the very densely constructed and populated Newport coastal area. It is home to several species of endangered flora and fauna, including the California Gnatcatcher, fairy shrimp, and the Least Bell's Vireo. Banning Ranch also serves as an important link amidst publicly owned lands within the cities of Newport Beach, Costa Mesa, and Huntington Beach. Furthermore, the preservation of the remaining acreage of Banning Ranch as "entirely open space" is defined as the preferred option within the Newport Beach General Plan approved by voters in 2006. Therefore, the proposed Environmental Impact Report to be prepared in reference to the Newport Banning Ranch Project must include a large number of topics for analysis in order to be consistent with the aforementioned General Plan.

I respectfully request that the following be included in your preparation of the Environmental Impact Report for the Newport Banning Ranch Project:

- 1. Protection of open space habitat for the Cactus Wren. Cactus Wren populations have suffered a significant loss of habitat since the recent wildfires in Orange County. Cactus Wren have been seen on Banning Ranch acreage; therefore, it is imperative that this acreage be protected as it is providing refuge for the dwindling populations of Cactus Wren, a species that is indigenous to our county.**
- 2. An evaluation of the effects of increased traffic and pollution that would occur along Pacific Coast Highway near Superior and around 17th and 19th Streets, Fairview Park, and within various surrounding residential communities such as Newport Shores as a result of construction/development on Banning Ranch acreage.**
- 3. An evaluation of the accumulative effects of pollution to Santa Ana River and to the Newport Beach and Huntington Beach coastlines that would result from the development of Banning Ranch.**
- 4. An evaluation of the soil and groundwater contamination that has resulted from more than sixty years of wildcat oil drilling occurring on Banning Ranch, and an analysis of the**

potential remedies for this highly toxic contamination.

5. Preservation of the indigenous coastal sage habitat for the purposes of soil retention and the protection of watershed.

6. Preservation of open space to meet the needs of those who reside in the densely populated area which surrounds all 412 acres of Banning Ranch.

Thank you.

**Patricia Barnes
Chairperson
Orange County Group Executive Committee
Sierra Club, Angeles Chapter
10736 Lynn Circle
Cypress, CA 90630**

-----Original Message-----

From: paul moreno [mailto:bigrockcreek@msn.com]

Sent: Thursday, April 16, 2009 8:30 PM

To: dlinn@city.newport-beach.ca.us

Subject: banning ranch

Dear Ms. Linn,

I am against the development of Banning Ranch because it is one of the few open spaces for endangered species and it is in part a wetland. It also probably has archaeological deposits that haven't even been properly explored let alone preserved! This is land that was certainly occupied by the first peoples prior to the European invasion and that means it is culturally valuable!!! Do you know for sure that it doesn't have any burials there? Has it even been checked?? The development plan would destroy everything that makes it valuable other than a money maker for the developers.

Do you care at all?

Banning Ranch should be studied, preserved and valued for something other than a space to exploit!

I know that the first people built villages on the bluffs and mesas all along the Santa Ana River. So what makes you think they are not there? Do you know for sure? If you don't, there shouldn't be any development until those questions can be answered and the Native Americans agree!

I mean maybe you don't mind letting people build homes on graves but I think it's WRONG!

Has any one even talked to any of the local tribes about this? Are the developers ignoring laws or are you allowing them to be broken behind our backs?

Do the right thing now and re-think these development plans because as they are now, they are really inconsiderate and destructive. Set a precedent and be the good guy. Someone has to start.

-----Original Message-----

From: Terry Welsh [mailto:terrymwelsh@hotmail.com]

Sent: Thursday, April 16, 2009 11:55 PM

To: linnassociates@verizon.net; dlinn@city.newport-beach.ca.us

Subject: NOP comments

Debby, here are some comments for the draft EIR. Thank you for making them part of the record.

NOP Comments for Newport Banning Ranch Project:

1. All previous biology and cultural/anthropology studies for Banning Ranch, including those prepared for previous projects (Taylor Woodrow, and earlier development proposals) as well as the studies used for the GPAC committee should be included in the draft EIR. These should include all studies referred to in the above mentioned studies.
2. Alternative projects based on the assumption that 100 meter ESHA buffers will be used and all POTENTIAL ESHAs will be considered as ESHAs should be evaluated in the draft EIR.
3. Studies on how the 19 St road connection will affect ESHAs in the North portion of the property should be included in the draft EIR.
4. Studies on how lighting and noise from the project will affect nearby wildlife, specifically the bird and mammal populations, with emphasis placed on each species, should be included in the draft EIR.
5. The draft EIR should study aspects of the current project that weren't included in the Taylor Woodrow project. The EIR should address why any such aspects included in the current project weren't included in the Taylor Woodrow project.
6. Due to the complexity of this project, the maximum time should be available for review of the draft EIR (90 days).
7. Since it is unlikely that the 19th St. bridge will be built, an alternative traffic study should be done without the 19th St. bridge included.
8. The draft EIR should study Native American artifacts by using augers to evaluate soil for deposits of carbon and shell middens. This should be done every 5 - 10 feet.
9. The draft EIR should evaluate whether views of Banning Ranch from the Santa Ana River Bike trail and Pacific Coast Highway will be altered by the proposed project.
10. The draft EIR should include thorough study to evaluate Native American artifacts and history of Native American history of Banning Ranch. This should include an exhaustive search of ALL available records at all of the local colleges, universities and museums as well as input from ALL local scholars on local Native American life. Local tribes (Juaneno and Gabrieleno) should be consulted. If any artifacts are identified, all of the above mentioned groups and individuals should be notified and no development be allowed to proceed until ALL of the above mentioned groups and individuals are satisfied that proper steps have been taken to catalogue, relocate, or, if necessary, leave alone and re-plan the project.
11. A few more thoughts on Native American artifacts.....

The site is known to include cultural resources. About 10 years ago, archaeologists with The Keith Companies conducted archival research and a field survey. Based on records and surface evidence (i.e. artifacts on the surface) they identified a number of prehistoric and

historical archaeological deposits. The depth, horizontal extent and full contents of these deposits are as yet undetermined. Human remains may be present.

Again, the draft EIR should include comprehensive, early, frequent and sustained consultation with Native Americans including all representatives of the Juaneno and Gabrielino, and the California Native American Heritage Commission.

The above mentioned groups should generally agree on any Native American consultants hired to evaluate the project should construction begin and such Native American consultants should be respected by the above mentioned groups as capable and competent.

The draft EIR should review all archival research, minimally including SCCIC and GLO records, and the Sacred Lands Inventory.

The draft EIR should include intensive, full-coverage field survey by qualified archaeologists. Test excavation to determine the depths, horizontal extents, contents and scientific significance of all archaeological deposits.

The draft EIR should recommend reservation in place of all cultural resources ("historic resources" as defined by CEQA Guidelines).

12. The draft EIR should refer to the Sacred Sites bill, Senate Bill 18, regarding the notification of Native Americans when land is rezoned. In addition, SB 18 amended Government Code 66560 to include open space for the protection of cultural places as an allowable purpose of the open space element.

13. Native American artifacts have been found on other mesas overlooking historic routes of the Santa Ana river (Bolsa Chica and the "cogwheels" findings and the many remains found in the Newport Back Bay). There is every reason to expect such similar significant findings on Banning Ranch and therefore the draft EIR should be absolutely exhaustive in its effort to evaluate Native American artifacts on Banning Ranch.

Thank you

Terry Welsh

President, Banning Ranch Conservancy
Chairperson, Sierra Club Banning Ranch Park and Preserve Task Force

3086 Ceylon Rd
Costa Mesa, CA 92626
714-999-3865

-----Original Message-----

From: Jim Mansfield [mailto:jtmansfield@ca.rr.com]

Sent: Thursday, April 16, 2009 7:34 PM

To: dlinn@city.newport-beach.ca.us

Subject: Response to the March 16, 2009 Notice of Preparation, DEIR, Newport Banning Ranch

Dear Ms. Linn:

Pursuant to CEQA §21080.4, I am submitting the following comments for consideration in response to the March 16, 2009 Notice of Preparation, Draft Environmental Impact Statement, Newport Banning Ranch.

- The DEIR should consider the findings of all past environmental studies done on the Banning Ranch property, including the Taylor Woodrow studies done around the year 2000. These older studies may show migration of plant and wildlife species within the Banning Ranch and point to the need to consider wider use of the property by these species than a single, current survey would indicate.
- The DEIR should study the effect of the development on local water supplies. It is expected that the broad, divided roads planned for the development, the resort, and the 1375 dwellings will require large amounts of water for landscaping. Native plants, with low water usage, should be considered throughout the development, both to lower water usage and in keeping with the large number of native plants already on the property.
- The DEIR should include an estimate of the number of school-age children that will be living in the development and show how they will be accommodated within the Newport-Mesa school district. At present I believe the school district is operating near capacity in this area, with no plans to build additional schools.
- The DEIR should address all changes in traffic flow and traffic density that may be caused by this development. These changes may be substantial and complex – far exceeding the trip-ends from the development alone – because the development will create many new connecting arteries between West Coast Highway and the east-west streets (15th-19th Streets) leading to Newport Boulevard, the I-55, and the I-405.
- The DEIR should address the effect of the tall (65 foot) buildings (planned for the northeast portion of the development) on on-shore winds. The prevailing on-shore winds come off the ocean from the southwest and are vital to cooling southwest Costa Mesa. If these winds are blocked by this line of tall buildings, many residences in southwest Costa Mesa will need to add air-conditioning – to the detriment of the environment.
- The DEIR should include an estimate of the noise pollution generated by the 1375 houses, the resort, the commercial property, the traffic generated by these facilities, and the traffic generated by the increased traffic using the Banning Ranch roads to bypass Newport Beach. It is thought that the level of noise generated will be substantial and will have an extremely detrimental effect on the wildlife in adjoining ESHAs and wetlands, as well as on existing, adjoining, residential communities.

- The DEIR should address the modifications made to the property over the past 50 years and how oil-drilling has degraded the land. New roads that have been built across ESHAs during that time should be identified, and the DEIR should indicate how these ESHAs will be restored and/or rejoined.
- The DEIR should identify any additional areas that qualify as wetlands due to the presence of water during the local rainy season, such as the area known locally as "Lake Perry."
- The DEIR should show how local water run-off from the Banning Ranch, including water that will run through Banning Ranch from higher ground, will be accommodated without contaminating the adjacent wetlands. Just as the adjacent Santa Ana River is analyzed from the viewpoint of the "100-year storm", Banning Ranch run-off should be required to meet similar criteria.

Thank you for your consideration.

Sincerely,

James T. Mansfield

Board Member of the Banning Ranch Conservancy and concerned local citizen

1857 Rhodes Drive

Costa Mesa, CA 92626

jtmansfield@ca.rr.com

714-751-2243

-----Original Message-----

From: Jim Mansfield [mailto:jtmansfield@ca.rr.com]

Sent: Thursday, April 16, 2009 7:34 PM

To: dlinn@city.newport-beach.ca.us

Subject: Response to the March 16, 2009 Notice of Preparation, DEIR, Newport Banning Ranch

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Thank you for your consideration.

Sincerely,

James T. Mansfield

Board Member of the Banning Ranch Conservancy and concerned local citizen

1857 Rhodes Drive

Costa Mesa, CA 92626

jtmansfield@ca.rr.com

714-751-2243

April 16, 2009

Debby Linn, Contract Planner
City of Newport Beach
Planning Department
3300 Newport Boulevard
Newport Beach, California 92658

RECEIVED BY
PLANNING DEPARTMENT

APR 17 2009

CITY OF NEWPORT BEACH

RE: Newport Banning Ranch Notice of Preparation Comments

Dear Ms. Linn:

I am writing on behalf of Sea and Sage Audubon Society. We appreciate the opportunity to comment on the Notice of Preparation for the Draft Environmental Impact Report for Newport Banning Ranch, City of Newport Beach, California.

We have concerns that development of this property will severely reduce the rich biological resources and habitats found here. We support the complete acquisition alternative that would protect the entire property as identified an option in the City's General Plan. In addition would like to request that the following alternatives and considerations be addressed in the Draft Environmental Impact Report.

Various Road Easements

In the Notice of Preparation (NOP) and at the Public Scoping Hearing it is indicated that several road alignments which bisect proposed open space areas remain as easements for future construction, even though they will not be built immediately as part of the proposed project. Any alternative that shows any one, or more, of these easements must base all biological resource and traffic impact assessments on the premise that the roads will be built. The assessments of impacts cannot be completed without consideration of the roads, because they are directly connected to the project and it must be assumed that they will be built. Impacts to the natural resources would be greatly increased by the construction of any or all the roads identified. Mitigation after the fact would not be possible.

Alternative analysis that assumes no impacts from any or all of the roads should only be considered if the road easements are permanently removed and identified as removed in that particular alternative analysis.

19th Street Extension

The City of Costa Mesa has historically opposed the extension of 19th Street across the and into Huntington Beach, while the City of Newport Beach has been overwhelmingly supportive of the extension. The annexation of the Banning Ranch Property into the City

of Newport Beach will therefore have a direct effect outcome of the extension of 19th Street and it would be perfectly reasonable to assume that the extension will be pursued because of the annexation and this project. The extension of 19th Street would be a clear and foreseen cumulative impact of the project.

However, at the NOP Scoping Hearing the City of Newport indicated that the extension of 19th Street will not be included in the DEIR analysis. We feel that the DEIR must include both an assessment of the impacts of the extension, and should identify any and all decision making processes and communications about why or why not to include and consider the extension of 19th Street. To simply state that the extension is not going to be considered is inadequate and inappropriate. To intentionally ignore the impacts of the road extension would be very poor public policy.

Biology

Impacts to the biological resources at Banning Ranch, including all sensitive birds, must be analyzed inclusively, in all alternatives and models, with all the features of the associated habitats on the Newport Banning Ranch properties included in the analysis, in an easy to understand format. Impacts cannot be adequately analyzed by considering independently, separate micro habitat features or sub associations of plant communities, or any other system that does not recognize the ecological connection between the organisms and all the features that make up these communities on the property. Many of the sensitive species that will be analyzed are dependent upon interactions with multiple habitats, including degraded and non-native plant communities and habitats.

Impacts to sensitive birds and other wildlife species that have been noted only irregularly on the property must be assessed, in all alternatives, as if the species exist year round, unless there have been regular surveys completed year round that indicate otherwise. It would create an unscientific bias to consider species as visitors based on only a limited number of observations.

Included with the complete assessments of impacts to listed, protected, and identified sensitive species, including but not limited to California Gnatcatchers, White-tailed Kites, Least Bell's Vireos, and Burrowing Owls, the DEIR needs to identify the impacts and risks to Coastal Cactus Wrens, which are widely recognized by conservation organizations and wildlife agencies as suffering from unprecedented declines. Newport Banning Ranch has a robust satellite population of Cactus Wrens. Currently there is much concern that larger reserves in Orange County are failing to protect the species as designed and there is reasonable concern that the species may need further protection. It would be unjustified to ignore impacts to Coastal Cactus Wrens from development at Newport Banning Ranch while determinations about the larger population in southern California are in doubt.

ESHA

All habitats should be assessed in compliance with the California Coastal Act provisions. All areas deemed Environmentally Sensitive Habitat Areas (ESHA) must be treated as such under the Coastal Act including full protection and proper setbacks and buffers in the wetlands, riparian areas, grasslands, coastal sage scrub communities, and the disturbed habitats that interconnect them all.

Development Footprint

The footprint of the proposed development in the upland habitats, as shown in NOP maps, grossly bisects the upland habitats into basically three distinct units, with very little upland connection between the areas. An alternative that reduces the fragmentation of these areas should be included.

Vernal Pools

The NOP maps and discussion, place development and roads completely surrounding an established vernal pool. It is unconceivable that an adequate DEIR could address the impacts to the vernal pool and include such an alternative. A vernal pool cannot function surrounded by walls as if it were a swimming pool. In addition to innumerable threats to the pool itself such as run-off, pollution, disturbance from human and pets, non-native species intrusions and isolation from other natural features, the function of the pool as a water source for all the other wildlife existing on the Newport Banning Ranch is cut-off. None of the alternatives should include a configuration as shown in the current NOP maps.

Biologically Superior Alternatives

In addition to the complete acquisition alternative, which is the most biologically superior alternative, other alternatives should include a fully functioning and non-isolated vernal pool system, combined with a much smaller overall development footprint, with greatly reduced fragmentation of the uplands, less impact on Coastal Sage Scrub and associated habitats, less impacts on upland grasslands, the removal of road easements, and a fully inclusive assessment of all biological and ecological impacts.

Thanks you for your considerations

Scott Thomas
Conservation Director, Sea and Sage Audubon Society
(949)261-7962
Redtail1@cox.net

-----Original Message-----

From: Norbert Puff [mailto:norbpuff@sbcglobal.net]

Sent: Friday, April 17, 2009 9:10 AM

To: dlinn@city.newport-beach.ca.us

Subject: Fw: EIR Newport Banning Ranch Project

Ms. Linn

Please indicate whether the enclosed comment has been received.

PS Note the school referred herein should be Whittier School.

Sincerely

Norb Puff
Newport Beach

--- On **Wed, 4/15/09**, Norbert Puff <norbpuff@sbcglobal.net> wrote:

From: Norbert Puff <norbpuff@sbcglobal.net>

Subject: EIR Newport Banning Ranch Project

To: dlinn@city.newport-beach.ca.us

Date: Wednesday, April 15, 2009, 9:58 AM

City of Newport Beach

The circulation proposed for 1,375 units plus a resort and commercial uses is completely inadequate.

Feeder streets outlined in the Scope EIR of 15th, 16th and 19th streets will not handle the traffic that will ultimately feed into Newport Blvd. and the 55 Freeway.

19th street, for example, is already overcrowded from morning commuter traffic and traffic from Monrovia School. Further, traffic at 19th and the 55 Freeway requires multiple signal changes before one can access the 55. And this is under current conditions.

The feeder streets contemplated in the proposed plan are effectively one lane roads and were not designed for the load proposed by this development.

Finally 19th street is, I believe, substantially within the City of Costa Mesa which recently repaved and refurbished 19th to include medians, etc. Also 15th and 16th feed into Costa Mesa's circulation. I would be interested in Costa Mesa comments.

Sincerely

Norb Puff
Newport Beach

-----Original Message-----

From: Conrad Maher [mailto:cemaher@gmail.com]

Sent: Friday, April 17, 2009 1:18 PM

To: dlinn@city.newport-beach.ca.us

Subject: Newport Banning Ranch

Debby,

Sorry for the late submission, but I have been out of the country for many months and have just come across the notice for the public meeting while going through a massive amount of mail.

I am a geological/petroleum engineer with experience in construction and 52 years of experience in the petroleum industry in 11 countries on four continents.

Geology

My first thoughts about any construction on Banning Ranch are about the suitability of the geology and the safety of the people who might live in Banning Ranch and all of the people living in housing surrounding the ranch.

There is geological information available which shows the area of the Banning Ranch to be unsuitable and dangerous for building homes of any kind.

It is likely that the sediments of Banning Ranch overlie unconsolidated, silty, clayey, saturated sediments which will liquify with even modest movement along the Newport-Inglewood. This fault is located just offshore of Newport and approximately parallel to the coast. Movement along the fault in 1933 resulted in 6.25 magnitude earthquake and substantial. There was relatively few buildings and homes built on the floodplain area of the Santa Ana River at that time.

Modern Information regarding the suitability of construction on the Santa Ana Floodplain.

Hoag Hospital Industrial Plant (east of Superior Ave and at the toe of the mesa)

Hoag Hospital were allowed to build a power plant with four large diesel powered generators, a large cooling tower with four cells and all of the associated pumps and pumping required to move liquids between the hospital and the industrial plant. During this construction, the large Caterpillar tractors caused serious vibrations in the housing on the Meas on both side of Superior.

The continuing vibrations from the plant with both horizontal and vertical movement impart vibrations strong enough to be very irritating and on occasion wake me in the middle of the night. My experience as a geologist indicates this is caused in part because all machinery of this type vibrates, but in the case of the Hoag Industrial Plant, it is magnified by the unconsolidated and saturated sediment which underly the plant at the toe of the Mesa.

Production from the oil field that underlies Banning Ranch and area to the east of the ranch.

This production is from unconsolidated sands. While this is normally not a problem, we know from the subsidence in the Long Beach area that production can cause reorientation of the sand

grains in unconsolidated sediments. This can lead directly to subsidence and or amplify subsidence during and earthquake.

Available Public Data

Some of the wells drilled in the Banning Ranch will have measurements in the Top Hole and this data should be available in the public domain. There should also be sample descriptions of the sediments in some of these wells.

This data should be collected and studied. It is imperative that geologists with relative experience be involved in the study. Civil Engineers by their charter do not require any input from geologists and this can lead to very misleading reports. Subsequent lawsuits against might eventuate if they have been used to planning on construction sites which are later determined to have been unsuitable for the use approved in the report.

Geophysical program to extrapolate other data

After all relevant and available data has been collected and studied, a geophysical program to study the shallow sediments underlying the Santa Ana Floodplain in the Banning ranch can be undertaken. This will require the input of geophysicists with relevant experience in this type of data gathering to gather the data required and keep the costs from going off scale.

The geophysical data will enable the planners to extrapolate the data gathered from oil wells and other sources in the Banning Ranch Area and build up a strong, science based understanding of the shallow sediments beneath the ranch and the likely response in earthquakes of various magnitudes.

I thank you for this opportunity to submit these comments and apologize for the late submission.

Conrad Maher
16 Escapade Court
Neport Beach, CA 92663

949 645 4287

-----Original Message-----

From: JonV3@aol.com [mailto:JonV3@aol.com]

Sent: Friday, April 17, 2009 10:28 AM

To: dlinn@city.newport-beach.ca.us

Subject: Banning Ranch NOP Comments

April 17, 2009

Debby Linn, Contract Planner
City of Newport Beach
Planning Department
3300 Newport Blvd.
Newport Beach, CA 92663

Re: Notice of Preparation Draft Environmental Impact Report
Newport Banning Ranch Project
PA2008-114

Dear Ms Linn,

Thank you for the opportunity to comment on the NOP for Newport Banning Ranch project. The following are my suggestions that the EIR should address for this project:

The environmental documentation should use the Coastal Act rather than the Newport Beach CLUP as the standard of review for the Newport Banning Ranch project. The Newport Beach CLUP differs from the Coastal Act in numerous ways, especially in the ways Environmentally Sensitive Habitat Areas (ESHA's) are defined and protected.

Section 30107.5 of the Coastal Act defines environmentally sensitive areas in the coastal zone. In the Coastal Act, "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.

Certainly, Banning Ranch with its diversity of flora and fauna meets the Coastal Act definition of an environmentally sensitive area. As stated in the NOP, page 5:

"Native vegetation that remains intact on the Project site consists of several large patches of maritime succulent scrub and southern coastal bluff scrub. This vegetation supports several special status species, including the coastal California gnatcatcher (*Polioptila californica californica*), a federally listed species, and the coastal cactus wren (*Campylorhynchus brunneicapillus couesi*), a California Department of Fish and Game (CDFG) Species of Special Concern. The lowland supports special status plants (e.g., southern tarplant [*Centromadia parryi* ssp. *australis*]) and a number of wetland habitats, including areas of tidal coastal salt marsh that support the Statelisted Endangered Belding's savannah sparrow (*Passerculus sandwichensis beldingi*); southern willow scrub; and southern willow forest that support the State and federally listed Endangered least Bell's vireo (*Vireo bellii pusillus*) and a variety of special status nesting raptors. In addition, vernal pools occur on the Project site and may be occupied by the San Diego fairy shrimp (*Branchinecta sandiegoensis*), a federally Endangered species."

The burrowing owl, another California Species of Special Concern, is also found on the site, as well as the sensitive vegetation types of coastal sage scrub (CSS) and native grasslands which should be quantified and mapped in the EIR..

Thus, the Banning Ranch qualifies as an environmentally sensitive area under the Coastal Act definition.

Section 30240 of the Coastal Act is the section that defines and protects ESHA in the coastal zone. Section 30240 states:

- (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.

In Section 30107.5 and Section 30240 above, there is no mention of fragmentation, isolation, or degradation when designating areas of ESHA. However, the Newport Beach CLUP contains these terms that denigrate habitat values in areas that otherwise are ESHA under the Coastal Act definition. These terms of fragmentation, isolation, and degradation, were extensively used in the biology report submitted by the consultant Glenn Lukos for the Newport Banning Ranch application to the city to denigrate the ESHA values at the Banning Ranch site. Since this project is not governed by the Newport Beach CLUP, and is an area of deferred certification that goes directly to the Coastal Commission, these terms should not be used in the biology report prepared for the EIR. In the landmark California Court of Appeals “Bolsa Chica Decision” of 1999, ESHA was ESHA and it did not matter whether or not it was degraded. ESHA can not be built upon by houses or any uses that are not compatible with the resource functions of the ESHA, and the adjacent development has to be compatible with the continuance of the resource values.

Instead, the biology report prepared for the EIR should document where coastal sage scrub and other sensitive vegetation exists and all these areas should be designated as ESHA, whether or not the areas are crossed by dirt roads, paths, or have non-native vegetation within the areas of CSS. A bird such as the coastal California gnatcatcher or a small animal is not going to be deterred from using habitat because an area of open space like a dirt road or weeds intervenes within the overall expanse of CSS. In fact, the biology report prepared by Glenn Lukos acknowledged that open space is seen within habitat areas, and in fact, is an integral part of habitat.

The whole area of Banning Ranch is designated Critical Habitat for the coastal California gnatcatcher by the USFWS, so the whole Banning Ranch should be considered ESHA in the EIR, with only the heavily disturbed and paved areas that have serve as oil operation staging areas such as the end of 17th Street subtracted from the ESHA for purposes of development. The areas of urbanized development can be easily seen on aerial photographs of the property.

The areas of paved urban development that exists on the property should be clearly demarcated in the EIR and an alternative project that preserves the entire site as open space except for the paved areas should be considered in the EIR. Such an alternative should also estimate the acreage that is currently occupied by pavement, buildings, pipes, tanks, and storage of equipment, etc. This acreage can then be used to develop a project consisting of housing, etc.

Such an alternative, with development located only on existing paved areas within the project would help to preserve the maximum open space consistent with the Newport Beach General

Plan preferred alternative for Banning Ranch as open space. The proposed Newport Banning Ranch is not consistent with the preferred alternative of open space within the General Plan, and instead, does major damage to the existing open space values that includes habitat for sensitive species such as the Burrowing Owl, the Cactus Wren, and the Coastal California Gnatcatcher.

The grasslands of the mesa tops should be protected in an alternative for Banning Ranch for the purposes of preserving burrowing owl habitat, as well as habitat for the cactus wren and the gnatcatcher which have been located on the mesas in previous biologic studies of Banning Ranch.

Previous biologic studies of Banning Ranch ought to be reviewed and pertinent sections included in the EIR, including previous locations of cactus wrens, gnatcatchers, and burrowing owls in biology reports prepared by LSA in the 1990's.

Also all documents that have previously designated ESHA within Banning Ranch should be made available as part of the EIR in the form of appendices to allow readers to determine the value of Banning Ranch as ESHA when considering the whole of the site, including the reports submitted to the Newport Beach General Plan Advisory Committee (GPAC) from 2002 to 2005. At GPAC, a document was prepared by a consultant which recommended designating the whole of Banning Ranch as ESHA, "based on its high and sensitive biological value, and diverse biological communities" ("Identification of Biological; Habitats and Communities Within the City of Newport Beach Environmental Sensitive Habitat Areas And Environmental Policies", prepared by Chambers Group for the City of Newport Beach Planning Department, December 2002). This document should be made available in the EIR.

Included within ESHA should be all areas on the property containing native grasslands such as Nassella species, and these areas of native grasslands should be accurately sized and mapped in the EIR. Significant parts of the mesas contain Nassella species which were not identified and mapped in the biology report for the application. These areas correspond with the burrowing owl habitat. Preservation of the native grasslands on the site as ESHA would also preserve the habitat for the burrowing owl.

The EIR should document the declining populations of the burrowing owl in the local and regional context and analyze the Banning Ranch habitat for support of this dwindling species in Orange County. The mesas have numerous burrows from ground squirrel activity that are used for habitat by the burrowing owl. This habitat will become more and more valuable as comparable habitat disappears under development pressure in Orange County. A burrowing owl survey and mitigation plan consistent with the "Burrowing Owl Survey Protocol and Mitigation Guidelines" prepared by the California Burrowing Owl Consortium, dated 1993 and the "Staff Report on Burrowing Owl Mitigation" prepared by the California Department of Fish and Game, Environmental Services Division, dated September 25, 1995 should be included in the EIR.

Similarly, the EIR should evaluate the declining populations of the cactus wrens in Orange County, especially from the recent fires in inland areas that provided habitat for this declining species. Banning Ranch, with its known populations of cactus wrens, provides a haven for this species should fire in inland areas be a continuing source of loss of habitat.

The EIR should consider the dirt oil roads and oil pads around the oil wells on the property as part of the ESHA habitat. Within the past year, native vegetation has revegetated spontaneously in these oil roads and pads, only to be recently scraped off within the past few months to maintain the roads and pads for oil operations. However, when these oil operations eventually

are discontinued, the native vegetation will grow back spontaneously, indicating the natural role of these areas as part of the overall ESHA habitat.

All ESHA on the property should have appropriate buffers using Coastal Act standards, not Newport Beach CLUP standards which only apply 50 foot buffers to ESHA. Since Banning Ranch is one large open space area, there are no development sites within it that would necessitate only a 50-foot buffer. Recent buffers from ESHA in a nearby project at Bolsa Chica ranged from 150 feet to 382 feet for the Eucalyptus ESHA, similar to the Banning Ranch large arroyo ESHA. A buffer of 164 feet was required for burrowing owl habitat at Bolsa Chica, similar to the Banning Ranch grassland mesas.

Fuel modification zones should be clearly identified, where fuel modification cannot replace unirrigated ESHA buffer. At Bolsa Chica, where the buffer for burrowing owl habitat was 164 feet, only the first 50 feet next to the houses was allowed for drip-irrigated fuel modification.

The revised findings of the Coastal Commission action at Bolsa Chica in their approval of the Brightwater project on April 14, 2005, with revised findings approved at the October 2005 Coastal Commission meeting, should be analyzed in the EIR, especially with respect to ESHA, buffers, wetlands including vernal pool, fuel modification zones, etc. Banning Ranch is very similar to Bolsa Chica in its habitat values. In many ways, the habitat values at Banning Ranch are superior to the habitats at Bolsa Chica and will require more stringent resource protections. The staff report with the revised findings can be found at:

<http://www.coastal.ca.gov/lb/Th11a-10-2005.pdf>

The extent and costs of cleanup of the contamination from oil operations should be clearly analyzed in the EIR. The difference between cleanup standards for natural open space wildlife habitat purposes as compared to human habitation in the form of houses, hotels, and retail operations should be stated in the EIR, as feasibility of preservation or development will be heavily impacted by cleanup costs. As far as wildlife habitat is concerned, it appears that if oil wells are properly capped and abandoned, then much of the property will naturally revegetate without much active restoration. This would include all of the dirt roads and currently scraped off oil well pads on the mesas.

Similar to the way the biology report for the Newport Banning Ranch application shortchanges ESHA designations required by Section 30240 of the Coastal Act, the report also shortchanges protections of wetlands that are supposed to be protected by Section 30233 of the Coastal Act.

The biology report in the EIR should identify all wetlands as defined by the one-parameter approach used by the Coastal Commission, including riparian habitats and mule fat scrub, as being protected by Section 30233 using the vegetation criteria.

There are large patches of wetland vegetation in areas that are proposed to be used by the entrance road off Pacific Coast Highway that meet the definition of wetlands under the Coastal Act.

There are also concentrations of mule fat (FACW) and other wetland species bordering the south and eastern edges of the property near 17th and 18th Street bordering Costa Mesa urban areas that qualify as wetlands under the Coastal Act.

There are many patches of mule fat plants scattered throughout the proposed development areas on the mesas that will qualify for wetlands under the Coastal Act that ought to be acknowledged

and preserved in the EIR. Since there is no irrigation on the mesas, the water needed for these wetlands indicators may come from seeps, hence the name for mule fat as “seep willows”.

All wetlands identified using Coastal Commission criteria should be mapped and buffers of at least 100 feet required in any development alternative, including the vernal pools which are also wetlands. The vernal pools should have natural connections to other open space areas so as to prevent them from being isolated.

Section 30251 of the Coastal Act protects scenic and visual qualities of coastal areas including Banning Ranch. The EIR should conduct a scenic and view analysis not only of views towards the coast, but of public views looking towards Banning Ranch from Pacific Coast Highway, which will be heavily impacted by development on the mesa of Banning Ranch. Section 30251 also minimizes alteration of natural landforms. The EIR should ensure that alterations of all the gullies and ravines at Banning Ranch are minimized or eliminated, and the proposed fill areas of 60 feet eliminated.

Section 30253 of the Coastal Act minimizes risks to life and property by new development in areas of high geologic, flood and fire hazard, and also assures stability and structural integrity by requiring that new development neither creates nor contributes significantly to erosion, geologic instability, or destruction of the site or in any way, or requires the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs. Banning Ranch is in a high geologic and flood hazard zone, with branches of the Newport Inglewood earthquake fault crossing the mesa causing a large erosive gully where bluff road is proposed to be located. The EIR should identify all the areas of proposed fill of natural gullies and arroyos on the property and eliminate proposed fill areas of 60 feet which is patently absurd if alteration of natural landforms is to be minimized. All proposed cut and fill areas should be accurately sized and mapped in the EIR.

Since Banning Ranch overlies the same geologic structures as Hoag Hospital that had problems with underground methane and hydrogen sulfide gas, and was required to do a detailed hydrogen sulfide gas report in its 1992 Master Plan Supplemental EIR, the Banning Ranch EIR should do the same.

The traffic studies should include traffic predicted to attend the nearby high schools. The closest high school, Estancia High School, would be the logical high school for the children of the development, but that high school is in Costa Mesa. If the Newport Harbor high school is predicted to be the high school, traffic mitigations will need to be implemented in the Newport Heights section of Newport Beach, including Clay street, 15th street and 16th street. A mitigation requirement including restricting access to these streets to encourage use of 17th Street should be considered.

Since the Project has so many complex elements of environmentally sensitive areas, oil contamination, geotechnical considerations, view considerations and other Chapter 3 Coastal Act issues, as well as local traffic concerns, etc., I request that the public have the maximum amount of time to review the Draft EIR when it is completed, such as 60 days. The oil operators are going to be continuing their operations for years and imminent development is unlikely. The Newport General Plan land use priority for this site is open space preservation and acquisition, so the maximum amount of time to study and review the extreme complexities of the Project site should be granted to the public.

Thanks again for the opportunity to comment on the NOP.
Please include me on any notices involving this project.

You should send notices by email to me at: JonV3@aol.com, or by US Mail to:

Jan D. Vandersloot, M.D.
2221 E 16th Street
Newport Beach, CA 92663

Sincerely,

Jan D. Vandersloot, M.D.

Jan D. Vandersloot, M.D.

-----Original Message-----

From: Koken, Debby [HMA] [mailto:dkoken@hmausa.com]

Sent: Friday, April 17, 2009 2:06 PM

To: dlinn@city.newport-beach.ca.us

Subject: Here are my Banning Ranch NOP Comments

April 17, 2009

Debby Linn, Contract Planner
City of Newport Beach
3300 Newport Boulevard
Newport Beach, CA 92685-8915

Subject: NOP, Newport Banning Ranch (PA 2008-114)

Dear Ms. Linn,

As a Costa Mesa resident and a member of the Banning Ranch Conservancy, I appreciate the opportunity to comment on the Notice of Preparation (NOP) for an environmental impact report (EIR) (SCH# 2009031061) for the Newport Banning Ranch project (PA 2008-114).

1. The EIR should include analysis of how traffic will be mitigated throughout Newport Beach and Costa Mesa when Pacific Coast Highway (PCH), Newport Blvd., and numerous intersections including 17th and Newport, 17th and Superior, Newport and Harbor, Newport and 19th, and others, are already at capacity and beyond, and no further mitigation is possible because all possible mitigations have been carried out.
2. The EIR should include analysis of how traffic will be mitigated throughout Newport Beach and Costa Mesa without building a bridge across the Santa Ana River at 19th Street or elsewhere.
3. The EIR should examine how the development can be built without the proposed Bluff Road, which is planned to be built across acknowledged Environmentally Sensitive Habitat Areas (ESHA). No such proposal will pass Coastal Commission review.
4. The effect of the proposed project on recreational and commuter bicycling should be studied and remediation planned. Cyclists will be discouraged by the increased traffic on Pacific Coast Highway, 19th Street, and the other streets impacted by development traffic during and after the construction period. Every bicycle trip relieves traffic pressure and results in less air pollution, and this benefit will be reduced unless dedicated off-road bicycle trails are provided on existing streets as well as along roads within the development to allow bicycle commuters and recreational cyclists to travel safely outside of traffic lanes.
5. The EIR should evaluate how views of Banning Ranch and the ocean from the Santa Ana River Bike trail will be affected by the proposed project, since this will impact the recreational value of the existing bike trail.
6. The EIR should consider how rescue crews would reach the area in the event of a major earthquake, in view of the traffic impacts of the proposed project.

7. The EIR should consider how residents can be evacuated, both from the development and from surrounding areas, in the event of an earthquake, in view of the increased population and the traffic impacts of the proposed project.
8. The EIR should include a detailed review of what evacuation plan could be devised to save local populations in the event of a tsunami, in view of the added population and the traffic impacts of the proposed project.
9. The EIR should consider the geological instability of the area. How would the proposed buildings, including multistory condos and commercial and hotel structures, be constructed to ensure safety when the Inglewood/Newport earthquake fault gives way?
10. The EIR should consider the geological instability of the vulnerable hilfiker walls supporting existing housing in the area, in view of the proximity of the Inglewood/ Newport earthquake fault. Any construction must be specifically planned to guard against weakening the existing structures.
11. The EIR should study the possibility that the weight and vibration caused by added construction and traffic could weaken the existing Inglewood/Newport fault and be a contributing cause of an earthquake.
12. The EIR should study the possibility that the weight and vibration caused by added construction and traffic could weaken the existing hilfiker walls and cause damage.
13. The EIR should study the possibility that erosion caused by runoff could weaken and increase erosion or cause damage to the existing hilfiker walls and adjacent neighborhoods.
14. The EIR should analyze the results of erosion caused by earthmoving, grading, construction traffic and other aspects of the construction process.
15. The EIR should study the effects of erosion on ESHA areas, both on the mesa and in the wetlands below.
16. The EIR must study in detail the effects of runoff from the developed mesa both on the ESHA on the mesa and on the wetlands below. Paving the mesa will increase runoff from rainfall, which will carry pollutants from motor vehicles, pets, herbicides, fertilizers, etc. created by the inhabitants of the new construction.
17. The effects of runoff from landscape watering carrying pollutants from motor vehicles, pets, herbicides, fertilizers, etc. must also be studied.
18. Effects of runoff must be studied in view of the impact of a 200 year storm. Such storms are expected to occur far more frequently in the future due to climate change.
19. The EIR must review the effects of runoff on the sensitive plants and wildlife of the protected wetlands below the mesa, and also the ESHA areas on the mesa. Effects on the ecology as a whole as well as on each species of plant, animal and bird known to inhabit the area must be studied.
20. The EIR must review the effects of erosion on the sensitive plants and wildlife of the protected wetlands below the mesa, and also the ESHA areas on the mesa. Effects on the ecology

as a whole as well as on each species of plant, animal and bird known to inhabit the area must be studied.

21. The EIR should study existing problems with drainage in the Newport/Mesa area which would be exacerbated by additional development. Current drainage through Newport is inadequate and causes flooding in Costa Mesa during approximately 10-year storms.
22. The EIR must include intensive detailed field surveys by qualified impartial biologists of all ESHA areas on the mesa. The developer's proposal tries to minimize the ESHA area by dismissing much of it as "fragmented" or "degraded." The Coastal Act does not allow ESHA to be discounted due to condition or fragmentation.
23. The EIR should include and examine all archival research, including all documentation prepared for previous projects (Taylor Woodrow, and earlier development proposals) as well as the studies used for the GPAC committee. Earlier biological studies are of particular importance as more recent studies are skewed by recent drought conditions.
24. The EIR should take into account adverse effects on endangered species of plants and animals observed on the mesa in prior studies.
25. The EIR should study adverse effects on the Cactus Wren, which is not yet listed as endangered, but has experienced a precipitous decline in population and available habitat. The mesa is known to be excellent habitat for Cactus Wrens as well as other species.
26. Impacts of noise and lighting on wildlife and specifically the species of concern should be studied.
27. The EIR should review adverse effects on ESHA in the light of climate change which means, among other problems, that current sea levels will rise, eliminating lower-elevation habitat.
28. The EIR should review the proposed project for provision of adequate buffer zones of at least 100 meters around all ESHA areas
29. The EIR should analyze the extent of development compatible with minimum 100 meter buffers for all ESHA.
30. The EIR should include reviews of alternative projects including development of the mesa as a passive park, native plant botanical garden or arboretum for public recreation.
31. In view of the huge scope and enormous impacts of this project, the EIR should allow the maximum possible period of time for public review.

Please include my comments in the Draft EIR.

Sincerely,

Deborah Koken
1778 Kenwood Place
Costa Mesa, CA 92627

-----Original Message-----

From: Linda Vas [mailto:auzwombat@hotmail.com]

Sent: Friday, April 17, 2009 8:37 AM

To: dlinn@city.newport-beach.ca.us

Subject: Re: EIR

Dear Ms Linn,

I am sending my concerns regarding the proposed development of the wetlands and wilderness area of Banning Ranch. If developed in the manner proposed it would not only destroy habitat for a variety of species of birds and other wildlife but threatens several endangered species, as well. Additionally, I have grave concern about the severe impact on the peace and serenity of our community life here in Newport Beach. We already navigate overburdened streets and a busy and often congested Pacific Coast Highway as we use go about our daily activities. To put so much more congestion and vehicles in this area in favor of protecting our few spaces of natural enviroment for the public would be a shame. However, a nature preserve with public access and minimal development would be a benefit to all. I can speak for my neighbors in our community who share my concerns.

Sincerely, Linda Vas, Homeowner
17 Odyssey Court
Newport Beach, CA



Technical Consultation, Data Analysis and
Litigation Support for the Environment

3110 Main Street, Suite 205
Santa Monica, California 90405
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Matt Hagemann
Tel: (949) 887-9013
Email: mhagemann@swape.com

April 17, 2009

Ms. Debby Linn
City of Newport Beach
Planning Department
3300 Newport Boulevard
Newport Beach, California 92658

Subject: Comments on the Notice of Preparation, Draft Environmental Impact Statement, Newport Banning Ranch

Dear Ms. Linn:

On behalf of Save Banning Ranch, we are submitting these comments on the March 16, 2009 Notice of Preparation, Draft Environmental Impact Statement, Newport Banning Ranch. Following review of the NOP and supporting documents, we believe that significant risks may be posed to construction workers and future residents of the proposed development without a thorough assessment of oil wells and cleanup of associated contaminants. Additionally, wildlife in the adjacent waterways may be at risk from contaminant loading from oilfield activities during excavation and grading without the identification and quantitative evaluation of best management practices.

The NOP states (p. 2):

The Project site contains approximately 500 producing/potentially producing and abandoned oil well sites and related oil facility infrastructure, including but not limited to pipelines, storage tanks, power poles, machinery, improved and unimproved roadways, buildings, and oil processing facilities. Of the approximately 500 oil well sites, the City of Newport Beach operates 16 wells and an oil processing facility proximate to the southwestern boundary of the Project site, accessed from West Coast Highway. West Newport Oil Company, the current operator of the oil field, operates approximately 90 producing/potentially producing oil well sites.

The NOP further states:

To allow for the implementation of the Project, existing oil wells that are located within proposed development and open space areas would be abandoned and these areas would be remediated. No active wells would be retained within these areas. All producing/potentially producing and abandoned oil well sites would be abandoned and/or re-abandoned in compliance with State and local regulatory requirements. Oilfield tanks, equipment, pipelines, structures, roadways, and related facilities would be demolished and removed from the Project site. Soil impacted by oil operations would be remediated to applicable oversight agency standards. It is anticipated that a certain percentage of the soil/material from the oil remediation and oil well closure process would not be recyclable or suitable for use on site and would be exported for proper disposal at permitted facilities.

The DEIR should be prepared to include a detailed map that identifies accurate locations of all oil wells in relation to project features, including housing locations (site plan) and other inhabited structures. The DEIR should include documentation that all oil wells have been or will be abandoned to Department of Oil Gas and Geothermal Resources standards and that no soil contaminants remain that would pose a risk to construction workers or future residents. To ensure that risks to human health have been addressed, the DEIR should include sampling results from all former mud pits and drilling pad locations that compare soil analytical results to commonly accepted screening values, including California Human Health Screening Levels and U.S. EPA Preliminary Remediation Goals PRGs. Finally, the DEIR should include documentation that cleanup of any soil contaminants in excess of screening values or hazardous waste criteria have been remediated to the satisfaction of the California Department of Toxic Substances Control (DTSC). Consideration of neighboring residents to breathe contaminants adsorbed to dust particles should be included in the analysis sent to DTSC. We recommend the project applicant consider a voluntary cleanup agreement with DTSC to ensure all assessment and cleanup activities are conducted to the satisfaction of the agency.

Additionally, the DEIR should include a stormwater pollution prevention plan that identifies best management practices (BMPs) to ensure that adjacent waterways are not impacted during excavation and grading activities. The stormwater pollution prevention plan should include a quantitative evaluation of the BMPs to demonstrate their effectiveness in reducing oilfield related contaminant loading to the adjacent waterways and an evaluation of potential impact on ecologic receptors.

Sincerely,

A handwritten signature in dark ink, appearing to read 'M Hagemann', with a long horizontal flourish extending to the right.

Matt Hagemann, P.G.

April 17, 2009

Ms. Debby Linn, Contract Planner
City of Newport Beach
Planning Department
3300 Newport Boulevard
Newport Beach, CA 92658

RECEIVED BY
PLANNING DEPARTMENT

APR 17 2009

CITY OF NEWPORT BEACH

Dear Ms. Linn:

As a Costa Mesa resident and owner of a home in the California Seabreeze development, located adjacent to the Banning Ranch property, I would like to submit comments regarding the Scoping Meeting and the Environmental Impact Report.

1. The draft EIR should study what structural impacts there might be to the stability of the Hilfiker wall that supports the area (residential back yards) behind several homes in California Seabreeze, specifically several homes located on Capetown Circle and Nantucket Place, should any development of Banning Ranch take place.
2. The draft EIR should study how the water runoff through the easement located on Capetown Circle will be affected by any development of the Banning Ranch property.
3. The draft EIR should study the environmental impacts of this project on the entire enclave of California Seabreeze. The quality of life for residents of California Seabreeze could dramatically change. Some homeowners may lose the current views they have of the open space and the Pacific Ocean. Some homes may be in the shadow of the multi-story buildings proposed for the Mixed Use Residential area, possibly resulting in a reduction of sun exposure, a loss of privacy, and a reduction in the peace and quiet the residents now enjoy.
4. The draft EIR should study how the grading of Banning Ranch land and the clean up of oil operations might affect the exterior of residential structures, the air quality, and the health and well being of the residents of California Seabreeze and other adjoining neighborhoods such as Newport Crest.
5. The draft EIR should contain all information and documents pertaining to the previous effort by Taylor Woodrow Homes to build residential homes on Banning Ranch. I would like to know the reasons why Taylor Woodrow decided to abandon their project. If a residential project was not previously feasible due to environmental conditions, why is developing this land now feasible?
6. The draft EIR should contain detailed studies as to the strength, stability, and suitability of the ground in bluff areas marked for buildings, especially in the Mixed Use Residential area of the developer's map. Residents of California

Seabreeze (myself included) have witnessed areas that have crumbled and slid down from the mesa or bluff areas, especially in times of heavy rains.

7. The draft EIR should study how the development of Banning Ranch will affect all species of wildlife that currently exist on this property. The study should look at each species individually and determine how the wildlife (such as gnat catchers, cactus wrens, and burrowing owls) would be impacted by traffic, noise, lighting, and the dramatic influx of homes, businesses, and newly constructed roads to their natural habitat.
8. The draft EIR should include detailed studies to evaluate Native American artifacts and the Native American history of Banning Ranch. It should also include a determination as to whether or not Native American remains may be present on this property.
9. Due to the complexity of this proposed project, the maximum time should be allowed for the review of the draft EIR (90 days).

Thank you.

Respectfully submitted,

A handwritten signature in cursive script that reads "Teresa Barnwell". The signature is written in dark ink and is positioned above the printed name and address.

Teresa Barnwell
1793 Capetown Circle
Costa Mesa, CA 92627
949-722-6514

April 17, 2009

APR 17 2009

City of Newport Beach

CITY OF NEWPORT BEACH

We have lived on the S.E. perimeter of Banning Ranch for 25 years, with an ocean view from Palos Verde too the N. end of Catalina Island, at 10 Aries Ct. in Newport Crest

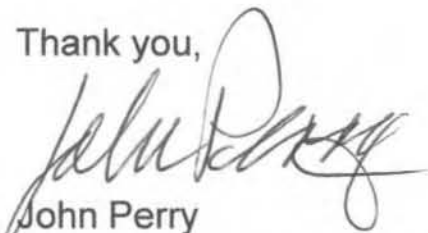
*Animal habitat for:

Red Hawks, Blue Herons, Owls, Rabbits, Squirrels, Possums, Skunks, Coyotes.

Want to make sure that the scope of the EIR includes:

1. Impact of our view.
2. Impact of noise.
3. Impact on Animal habitats.*
4. Impact of proposed land fills.
5. Impact on water supply.
6. Impact on drainage.
7. Impact of traffic on us. South Bluff Rd. passes within a few ft.
8. Impact of traffic on Coast Highway.
9. Impact on school system.
10. Impact on Fire Services.
11. Impact on Police Services.
12. Impact on Garbage Services.
13. Earthquake fault studies.
14. Tsunami impact studies.
15. Prior project EIRs for this sight.

Thank you,



John Perry

10 Aries Court

Newport Beach, CA 92663-2348

jp_seque@msn.com

APR 17 2009

April 17, 2009

CITY OF NEWPORT BEACH

City of Newport Beach

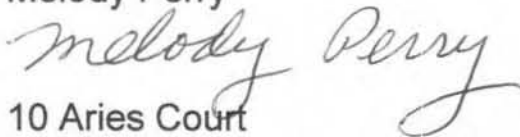
In regards to the proposed to expansion of the Banning Ranch, I am concerned about the environmental impact on the community, the added traffic and noise impact, air quality and wild life impact.

It has already been announced we have a water shortage. Where will the additional water come from for the proposed homes and hotels??

Has a historical study been done on previous proposed expansions e.g. Taylor Woodrow project and the fact that the property is on an earthquake fault?

The South bluff road is too close to the residential area of Newport Crest.

Melody Perry



10 Aries Court
Newport Beach, CA 92663-2348
(949) 650-5683
swellmel4@juno.com

1.
Debby Linn
Planning Department
City of Newport Beach
3300 Newport Blvd
Newport Beach, CA 92663

RECEIVED BY
PLANNING DEPARTMENT

APR 17 2009

CITY OF NEWPORT BEACH

Dear Ms Linn,

Please enter this list of comments and impacts into the record on the Banning Ranch Project.

Also, please include me in any notifications of any meetings, events or discussions in regards to the project.

My email is knelson@web-conferencing-central.com.

My affiliation with the Banning Ranch Conservancy should also be noted.

Thank you,

Kevin Nelson
1539 Monrovia Av Ste 11
Newport Beach, Ca 92663
949-631-0274

2.

NOP Comments on Impacts of the Newport Banning Ranch Project

WATER SUPPLY

In consideration of credible studies done by Scripps Oceanography Institute Climatologists and others on potentially severe droughts the western US may experience as a result of Climate Change, we request the EIR examine the long term viability of California's water supply to support this project.

Water supply projections should fully consider the fact that climate change is an evolving phenomena that appears to be having greater rather than lesser effects than studies of a few years ago had predicted would be the case at this point in time. In addition, there appears to be no scientific doubt that Climate Change effects are going to continue to increase.

In light of this situation, water supply projections should look at 50, 100 and 150 year periods. These projections should not assume new supplies created by new infrastructure or technologies that may or may not be approved, financed or perfected in the future. Projections should use only current infrastructure and current trends, which are not cause for optimism.

As examples, desalinization may prove to be too costly in terms of energy use and recycled/grey water recharge of aquifers may yet prove to have unforeseen consequences such as pharmacological compound accumulation in the environment. Even if recycled water is used successfully, the addition to the water supply will not come close to making up the shortfall of massive overuse.

Since water rationing is already under consideration, a prudent approach would include projections that factor in worst case scenarios to a greater extent than in the past. Projections should include reviews by independent experts with a proven background on the effects of climate change. Reliance on Water Department projections under the influence of political pressure should not be the sole criteria.

Associated Water Supply Issues:

- The EIR should study the increased cost of food this project will cause as water is taken from farming activities to supply this project and others.

- The EIR should study the increased cost of water all residents will bear as a result of this project.

- The EIR should study the potential for water rationing this project will cause.

CLIMATE CHANGE

3.

The EIR should consider the added greenhouse gases a housing project on Banning will contribute in the following ways:

- Construction equipment emissions that will be produced in the extensive remediation and grading this project will require.

- A study should look at the additional emissions caused when local residents drive elsewhere to exercise and recreate. This "replacement value impact" should include a significant percentage of longer trips that families would likely take to locations such as Yosemite, Joshua Tree, California central coast, etc. in search on the kind of experience that a Talbert/Banning park would provide.

ALTERNATIVE USES

Emergency uses of Banning:

- There is strong consensus among seismologists as to the high probability of a large earthquake hitting Southern California in the near future. If the event is severe, there will surely be hundreds of thousands of homeless. Therefore, the EIR should consider the potential use of Banning acreage as an emergency staging, housing and logistical area. In the case of the recent 6.3 earthquake in central Italy, a much less populated area than So Cal, there were over 20,000 homeless. Many were relocated to tent communities. Banning will provide an extremely important resource/dual purpose when this occurs.

- One of the main effects of Global Warming will be a rise in sea levels caused by melting ice. As this occurs, the low lying areas of Newport Beach and other coastal communities could become inundated resulting in loss of current beach area and the need for relocation of those residents. The EIR should therefore consider the critical use of the Banning Ranch mesa as a resource in this situation.

- With sea level rise, it may become necessary to build dikes or attempt to raise low lying areas to protect coastal areas. The EIR should study the potential need for Banning as a staging area for the massive amount of materials needed in this event.

Community uses of Banning

- The alternative use of Banning as a community farming area should be considered.

- The alternative use of the area as an Arts and Community Facilities area should be considered.

Health Effects:

- If Banning were preserved as a park with a large network of hiking/biking trails, the EIR should address increased health costs of heart disease that would result from the loss of this resource.

- The EIR should study the psychological benefits of open space and parklands to the general populace, then calculate the loss of those benefits to a more densely populated region in the future.

VIEWSHED IMPACTS

4.

- The EIR should look at the view impacts to the large number of recreational users along the Santa Ana River Trail, and the Talbert Preserve area. Currently, these views are completely unobstructed providing a unique experience when looking east from any point along the river from PCH to Victoria St bridge.

- Views of all business district buildings along Monrovia, Whittier, 17th, 16th and 15th streets should be considered

ECOSYSTEM HEALTH

- The EIR should address the value of the totality of the ecosystem represented by the Fairview park area, the Talbert park area, the Corp of Engineer's marsh area and the Banning area.

- The study should look not only at the current and past state of the ecosystem, but the future potential of the combined area. As the Talbert area native habitat plantings mature, it is highly likely that new resident species or expanded populations of existing species may require the entire combined area for long term viability.

- The EIR should address a future point in time when currently approved, but not built developments will further restrict critical habitat for animal and plant species.

- The EIR should look specifically at impacts to avian species who regularly forage along the bluffs. This behavior may be critical to their survival and may be completely disrupted by development or activities of any kind along or near the bluff edge.

- The EIR should catalog any and all uses of the mesa grasslands area by avian and other species, whether classified as endangered or not. The idea that an endangered species can be sustained in isolation while nearby land and species are decimated by development is not proving to be the case as shown by consistent population drops in critical species that seem to have no other explanations. Common sense dictates that species need room to move, and the current plan for this project does not provide for that.

SOCIAL EFFECTS

- A study should look at the high densities proposed for the eastern side of the project and how this would exacerbate crime trends in an already overcrowded area of Costa Mesa.

- Noise impacts on residents of Newport Crest.

- Incompatibility of multi-story, high density residential with the business district -The EIR should address a future point in time when currently approved, but not built developments will leave Banning Ranch as one of the very few open space and recreational areas left in Orange County and indeed the So Cal basin.

BLUFF STABILITY

It has been reported that parts of the bluffs are unstable in the northern bluff area. Therefore, the DEIR should address any and all stresses that may occur as a result of grading, remediation, construction and other activities caused by this project. This should include risks to the helix wall on the border of the Sea Breeze project.

ROAD IMPACTS

-Because the main arroyo provides critical habitat within a small area, the DEIR should study any and all impacts of a Bluff Road bridge over the arroyo environment. The impacts should include any footings and footprint of the finished bridge.

The North-South Road Impacts:

- The EIR should cover the effects of a busy road terminating at 19th on the entire lowland area south of Victoria.

-There should be close consideration of any and all, regardless of how small, areas of habitat destroyed to build roads on the property. Existing dirt roads currently serve as opportunities for many plant species.

-The disruption caused by a large impediment to animals that now traverse the lowlands area, and to native plant propagation -The study should cover lighting pollution in what is now a fairly dark area.

-The overall degradation of the recreational and natural experience for the many users of the current Talbert Preserve and the future Banning marsh/lowlands area.

-The effect of creating more pressure for a 19th St bridge to Huntington Beach, which would severely damage the Talbert Nature Preserve and degrade the recreational experience of the adjacent Banning Ranch lowlands. Since a large part of the justification for this project rests on the lowland restoration and use, the degradation of that benefit by the road should be looked at very closely.

TRAFFIC IMPACTS

-The major intersections surrounding the property are at or above reasonable capacity. These include west 19th, 17th and Newport Blvd and Pacific Coast Highway.

-The EIR should fully address the east-west traffic impacts as they hinder emergency services from Hoag Hospital.

CONSTRUCTION IMPACTS

The report should catalog all construction and remediation activities that will be required to build the project, then examine the disruption each of those activities will cause to existing habitat and wildlife.

CUMULATIVE IMPACTS

All negative impacts of this project should be added to the fact that this is a rare parcel of land with exceptional value as habitat and open space, then weighed against any supposed benefits of the project.

MITIGATION OF IMPACTS

Mitigation as a way of lessening or justifying the many impacts of this project should not be used in light of the fact that Banning Ranch is one of the last slivers of coastal mesa/bluff habitat left in Orange County. Its very uniqueness should preclude standard development mitigation techniques.

-----Original Message-----

From: Mike Siebert [mailto:mike.siebert@apexlogisticsllc.com]

Sent: Friday, April 17, 2009 3:27 PM

To: dlinn@city.newport-beach.ca.us

Cc: watershed1@hotmail.com

Subject: Banning Ranch NOP

To Debby Linn

My home is backed up to Banning Ranch at 9 Aries CT Newport Beach CA 92663.

My concerns are as follows:

- 1) The noise levels from the new Bluff RD. at my bedrooms and kitchen windows, we do not have A/C and have to leave them open.
- 2) The pollution from the cars driving on the new Bluff RD coming in my bedrooms and kitchen windows because we have no A/C.
- 3) Blocking our view of the wild life, ocean and mountains.
- 4) There is a vernal pond that forms when it rains where the new Bluff RD will go through and the Ducks and birds and other wild life feed there.
- 5) I moved into this home on July 15 2000 because of the Aesthetics and Visual Resources at my back door.
- 6) The movement from all the dirt and clean up of the 40 miles of oil piping will cause a health risk to every one in the area.
- 7) The Biological effects could bring Valley Fever because any dirt disturbed 2 feet or below when the wind is blowing can be inhaled by any one near by and it can cause death.
- 8) There is already too much traffic on PCH per studies from CalTrans, Newport Beach and Huntington Beach.
- 9) There is a water shortage all ready in California as I was informed at the last Water District meeting at Babcock Labs.
- 10) For 9 years I have watched all the wild life live on the Banning Ranch land such as Cranes, Owls, Hawks, Doves and hundreds more.
- 11) With the public beach only blocks away we do not need more man made parks in this area.
- 12) This land is an historic site in the 1940s the military set up a gunnery on the Banning Ranch land.
- 13) The run off from this project may end up in the Wet Lands.
- 14) When Taylor Woodrow turned in there plans to build on Banning Ranch they had a bridge over the Vernal Pond because they stated it was the only way for the water to run through the Banning Ranch from above.
- 15) There are 36 home owners along Banning Ranch that I am speaking for today and for the 450 home owners in Newport Crest which I have sat on the NCHA Board.

You may respond back by email or send it to my home.

Thank You

Michael C Siebert

9 Aries CT

Newport Beach CA 92663

Cell 949-413-6632

-----Original Message-----

From: leecefam@sbcglobal.net [mailto:leecefam@sbcglobal.net]

Sent: Friday, April 17, 2009 3:25 PM

To: dlinn@city.newport-beach.ca.us

Subject: Banning Ranch

Debby Linn, Contract Planner

City of Newport Beach

Planning Dept.

3300 Newport Blvd.

Newport Beach, CA 92658

Dear Ms. Linn,

I am writing this as a resident of Costa Mesa.

I want to strongly state my opposition to the construction of "Bluff Road" in the proposed Master Land Use Plan of Banning Ranch.

All of the environmental effects need to be analyzed before going forward: noise, GHGs, impact on other streets.

Traffic from PCH may use this road as a cut through--that would include, trucks, motorcycles, etc.--not normally allowed in a residential area. Traffic on 19th Street would also be increased. It would be unfair for the City of Newport to place traffic burdens on the City of Costa Mesa residents due to a project in Newport Beach.

Also, what about the environmental effects on all the open space and nearby parks?

As a resident of Costa Mesa who lives in California Seabreeze, my quality of life will be impacted as a result of the proposed street.

Thank you for reading my comments.

Sincerely,

Wendy Leece

1804 Capetown Circle

Costa Mesa, CA 92627

-----Original Message-----

From: Brian Burnett [\[mailto:techcowboy@ca.rr.com\]](mailto:techcowboy@ca.rr.com)

Sent: Friday, April 17, 2009 3:20 PM

To: dlinn@city.newport-beach.ca.us

Cc: bburnett@occ.cccd.edu

Subject: Banning Ranch EIR Scoping Comments

Dear Debby Linn,

Thank you so much for letting us send in our comments about the scope of the EIR report for Banning Ranch. I have a few things that I would like to bring up.

1. Please have the people responsible for the Banning Ranch EIR look at the vegetation and wildlife at Fairview Park, Talbert Nature Preserve, The Santa Ana River, the Army Corps wetlands, and other neighboring ecosystems that will be affected by this project. I think they should look at all of the previous studies that have been commissioned for these areas and realize that any kind of urban development on Banning Ranch will, without a doubt, have an enormous negative impact on the surrounding ecosystems. I have personally seen predatory birds hunt in all of these areas. It's clear to me that this development would decrease the food supply for threatened and endangered animals that live not just on Banning Ranch, but the surrounding nature preserves and ecosystems.

2. Please take into consideration the historical significance as well. We are missing out on an opportunity to save the last piece of what was a much larger Banning Ranch at one time. A lot of people have no idea why this area is even called Banning Ranch. It also is famous for protecting California from a Japanese invasion during World War II with it's 2 155mm panama mount guns. It's officially listed as gun battery #8 in Costa Mesa. At that time Banning Ranch was considered to be part of Costa Mesa. It also has Native American significance. I can just imagine the tribe that lived there looking out over Catalina and thinking, if we had a canoe and the wind was just right, we could make it!

3. Last but not least. This area is beautiful. It makes life worth living. The owner has a price tag on it but the value of this as open space is priceless. We need areas like this to feel human again and get in touch with ourselves. Human beings need this designated as a nature preserve just as much as the wildlife that lives there. It reminds us that we are not robots. Without it, it's hard to remember a time before electricity, the internet, traffic, and urbanization.

Thanks again for the opportunity to send in my comments,

Sincerely,

Brian Burnett

P.S. Can you let me know if you received this? I want to make sure I got the address right and it doesn't show up in junk mail.

-----Original Message-----

From: jquigg1@ca.rr.com [<mailto:jquigg1@ca.rr.com>]

Sent: Friday, April 17, 2009 3:37 PM

To: dlinn@city.newport-beach.ca.us

Subject: Banning Ranch NOP Comments

Debby Linn, Contract Planner
City of Newport Beach
Planning Department
Newport Beach, CA 92663

Dear Ms. Linn,

Please address the following hazards:

- . special flood hazard areas, a federal designation;
- . potential flooding and inundation areas;
- . very high fire hazard severity zones;
- . wild land fire areas;
- . earthquake fault zones;
- . seismic hazard zones;
- . ground failure liquefaction;
- . provides tsunami inundation maps
- . also, FEMA's comments

Sincerely,
James R Quigg
1869 Park View Circle
Costa Mesa, CA 92627

April 17, 2009

RECEIVED BY
PLANNING DEPARTMENT

APR 17 2009

Debby Linn, Contract Planner
City of Newport Beach
3300 Newport Boulevard
Newport Beach, CA 92685-8915

CITY OF NEWPORT BEACH

Via e-mail to dlinn@city.newport-beach.ca.us and hand delivered

Subject: NOP, Newport Banning Ranch (PA 2008-114)

Dear Ms. Linn,

Thank you for the opportunity to comment on the Notice of Preparation (NOP) for an environmental impact report (EIR) (SCH# 2009031061) for the Newport Banning Ranch project (PA 2008-114) located on a 401-acre at the northwesterly edge of the City of Newport Beach, Orange County, California. These comments are submitted on behalf of the Banning Ranch Conservancy and myself.

The project involves development of up to 1,375 dwelling units, 75,000 square feet of commercial uses, and 75 overnight resort visitor accommodations. Oil well operations currently occurring on the site will be consolidated and contaminated sites will be remediated. Earth movement will include 1,200,000 cubic yards of grading for project development and 1,600,000 cubic yards of grading for what is described as "corrective/remedial grading" (NOP p. 18) As noted on Page 19 of the NOP, the project will entail approval of:

- Potential amendment of Circulation Element Master Plan of Streets and Highways
- Pre-zoning to designate the site as Planned Community (CA 2008-004)
- Amendment to the Banning-Newport Ranch PlannedCommunity (PC-25) District Regulations to remove the site from the boundaries of PC-25.
- Amendment to the City of Newport Beach Municipal Code Chapter 20.65, Height Limits, to permit a maximum building height of 50 feet in the Visitor-Serving Resort District and Residential District and a maximum height of 65 feet within portions of the Mixed-Use/Residential Land Use District of the project site.
- Planned Community Development Plan including land use districts/permitted land uses, community regulations, site development standards/regulations, and design guidelines.
- Master Site Plan, anticipated to include: habitat restoration plan, fuel management plan, master grading, master roadway improvements, master infrastructure and utilities, master water quality plans, master landscape plans, master architectural design, and community transition/interface plans.
- Traffic Phasing Ordinance (TPO) analysis.
- Pre-Annexation and Development Agreement.
- Vesting Tentative Tract Map.

The City of Newport Beach will be the lead agency for the project. Approximately 40 acres of the site are currently within the City with the remainder in unincorporated Orange County. As noted on Page 20 of the NOP, approval of the Local Agency Formation Commission will be required in order to annex the unincorporated portion of the site into Newport Beach.

Responsible agencies include:

- California Department of Fish and Game
- United States fish and Wildlife Service
- United States Army Corps of Engineers
- California Coastal Commission
- Regional Water Quality Control Board
- Local Agency Formation Commission
- Caltrans
- California Department of Conservation, Division of Oil, Gas and Geothermal Resources
- Orange County Transportation Authority
- Orange County Health Care Agency:

The EIR must provide sufficient information to enable each of the responsible agencies to evaluate the environmental ramifications of agency action on this project. Analyses based on protocols and criteria utilized by each responsible agency must be provided.

The NOP

No Initial Study (IS) accompanies the NOP. Inclusion of an Initial study with a NOP is optional. However, in accordance with Section 15082 (a) of the Guidelines for the Implementation of the California Environmental Quality Act (CEQA), at a minimum, a notice of preparation shall include:

- (A) Description of the project,
- (B) Location of the project, and
- (C) Probable environmental effects of the project.

An IS is often utilized to fulfill the function of (C) above.

While the NOP includes a lengthy project description and location map, discussion of probable environmental effects of the project is for the most part lacking. The NOP merely indicates that the following broad topics are proposed to be examined in the EIR:

- Aesthetics/visual resources
- Air quality
- Biological resources
- Climate change
- Cultural resources
- Geology and soils
- Hazards/hazardous materials

- Hydrology/water quality
- Land use/planning
- Mineral resources
- Noise
- Population and Housing
- Public Services
- Recreation
- Transportation/traffic
- Utilities and Service Systems

and that the following topic is not:

- Agricultural resources

Existing environmental conditions of the site are briefly described in approximately one page of the NOP, but probably environmental effects are not. Thus, agencies receiving the NOP would have little knowledge of the potential for impacts to such resources. These include such diverse areas of study as transportation and cultural resources. For example, while the NOP mentions potential need for alteration of West Coast Highway, another potentially affected State roadway, Newport Boulevard, is not mentioned at all. Because project tracking and degree of scrutiny by the agencies may be established at the NOP stage, this omission is significant. The NOP must be revised to include a description of probable environmental effects of the proposed project consistent with Guidelines Section 15082(a) and re-circulated.

The NOP states that agriculture is the only topic which will be excluded from consideration in the EIR, and lists sixteen general topics to be examined. However, it is not clear what impacts the EIR is anticipated to address. No exclusions other than agriculture are mentioned. Is one to assume, then, that every aspect of a given subject is considered potentially significant and will be exhaustively examined? Sample questions on the Environmental Checklist included in Appendix G to the Guidelines address a range of hazards, including but not limited to ground rupture, liquefaction, flooding, expansive soils, and routine transport of hazardous materials. Based on the broad brush approach of the NOP, one would assume that all of these would be addressed in the EIR, but what if that assumption is incorrect? It must not be assumed that if those responding to the NOP fail to address an issue that the respondent is not concerned that an impact may occur. Rather, respondents may easily assume that it is not necessary to call out specifics where a subject area is listed globally.

Project Alternatives

The EIR must include a meaningful, good-faith analysis of alternatives. In addition to the proposed project, no project, and open space alternatives, the following must be examined:

1. No "remedial/corrective grading" of bluffs, with all development set back from bluff faces adequately to provide for continued erosion over the economic life of the project.
2. Development within existing zoning height districts established by Newport Beach Municipal Code Chapter 20.65 for residential and commercial development, including

adherence to the 24/28 foot height limit for single family residential development, 28/32 height limit for multi-family residential development, and 32/50 foot height limit for non-residential development, with no provision for additional building height.

3. Alternate sites, including transfer of development to other locations in Newport Beach, such as the airport area, or development at former military bases in Orange County.
4. Preservation of all habitat, whether degraded or not.
5. Provision of minimum 100 meter buffers for all habitat.
6. Preservation of archaeological resources in place, with adequate drainage diversion to minimize damage to any such sites.
7. Project LEED certified at the Platinum level.

Project Description

A stable, complete, and accurate project description is the most basic and important factor in preparing a lawful EIR. It is the denominator of the document and, thus, of the public's and decision-maker's review. It is critical that the project description be as clear and complete as possible so that the issuing agency and other responsible agencies may make informed decisions regarding the proposed project. This must include not only the project itself but related infrastructure necessary for successful implementation of the proposed development, whether on or off the project site.

All offsite areas subject to project activities must be identified. These include but are not limited to any off-site infrastructure improvements, storage or staging areas, haul routes for construction materials and oil field residues, and disposal sites for oil field residues.

The project description must identify any construction staging areas, including staging areas for infrastructure improvements. The EIR must identify areas outside the anticipated building footprints that will be subject to construction activities, whether for storage of materials, grading, or other activities. Any construction related activities which will occur in areas designated for open space must be identified.

As stated in the NOP (p.19), the project will potentially entail approval of habitat restoration plan, fuel management plan, master grading, master roadway improvements, master infrastructure and utilities, master water quality plans, master landscape plans, master architectural design, and community transition/interface plans. The EIR must provide sufficient information about each of these plans to allow decision makers and the public generally to fully understand the environmental implications of each of these plans.

Potential Impacts

Based on the limited information included in the NOP, it is anticipated that, at a minimum, all of those topics and subtopics included in the City's Environmental Checklist will be examined in the EIR. The following highlights concerns regarding specific impacts which must be examined in the EIR, but is not intended to exclude those issues normally provided in an EIR for a project of this scale and implied by the global listing of subject areas on Page 19 of the NOP.

Aesthetics

The proposed project will result in loss of open space and landform alteration over a large area. The applicant proposes to develop structures at higher than the typical height permitted in the area.

While it is expected that visual renderings of the site will be provided, such renderings may not include all important vantage points. Therefore, it is requested that story poles be erected on the project site reflecting the maximum potential building envelope. The story poles must remain in place for at least thirty days, preferably longer, so that people living, working, and visiting the area may be afforded the opportunity to see potential impacts for themselves, absent the filter of another observer. A few balloons left blowing in the wind for a few hours will not suffice.

In addition, the following must be addressed:

1. The analysis must address impacts to bluffs and other landforms.
2. Aesthetic analyses must include impacts from public waterways as well as from land based viewing areas, such as West Coast Highway, Sunset Ridge Park, West Newport Park, the Santa Ana River bicycle trail, and surrounding residential and commercial areas.
3. Rendered photographs from these various vantage points must be provided.
4. The EIR must address the potential that 65-foot tall structures in the Mixed Use area will wall off areas to the north and east in Costa Mesa. Potential mitigation must be identified and windows to the ocean must be provided wherever possible.
5. Potential for light and glare must be addressed, with special attention given to any large expanses of glass.
6. Aesthetic effects of shade and shadow must be analyzed, with the analysis focused on times of day that people are most likely to be utilizing affected outdoor areas, e.g. after school hours for parks and playing fields, morning and evening hours for residential areas where, at mid-day most residents are at work, school or other locations away from home. This would differ from shade and shadow impacts related to use of solar energy, when mid-day impacts are of greatest concern.

Air Quality

The project site is located in proximity to residential uses, healthcare facilities including senior/convalescent residential facilities, a public school, and two private schools. Thus, any localized impacts on air quality are important. The EIR must take these facilities into consideration.

In addition, the following must be addressed:

1. Air quality analyses must address both existing air quality standards and those that are adopted and slated to go into effect within the time frame for this project.
2. Localized micro climates must be included in air quality analyses and local air pollution hot spots must be identified and mitigated, including any hot spots created or

- exacerbated as a result of additional traffic created by the proposed project. Effects on children, the elderly and other sensitive individuals are of special concern.
3. The analysis must address localized emissions, particularly during construction. This includes fugitive dust and diesel emissions from on-site construction equipment as well as any hot spots along haul routes or those created due to construction congestion or detours.
 4. Emissions associated with consolidation of oil field operations and remediation must be addressed.
 5. Odors associated with consolidation of oil field operations and remediation must be addressed.
 6. If below grade parking is contemplated, the analysis must address potential venting of any below grade parking, particularly any areas where concentrations of garage exhaust may vent toward neighbors.
 7. Realistic trip lengths must be utilized in calculating vehicle emissions.
 8. Emissions from out-of-state vehicles must be included when calculating mobile emissions, particularly when applied to visitor-serving facilities.
 9. Air quality analyses must include increased emissions due to increased traffic congestion.
 10. Emissions due to consumption of natural gas and generation of electricity from the grid to be consumed within the proposed project must be addressed.

Biological Resources

Potential project approvals include a habitat restoration plan. Any efforts to restore existing habitat are applauded. However, removal of habitat and “restoration” of habitat elsewhere is not consistent with the Coastal Act and should not be contemplated.

As stated in *Bolsa Chica Land Trust v. The Superior Court of San Diego County*, (71 Cal. App. 4th 493; 83 Cal. Rptr. 2d 850)

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

In addition, habitat must not be discounted because it is fragmented or degraded. The site is not so large that birds and other fauna cannot easily make their way from one section of the site to another. Again from *Bolsa Chica*:

section 30240 does not permit its restrictions to be ignored based on the threatened or deteriorating condition of a particular ESHA... section 30240 does not itself provide Commission power to alter its strict limitations. (12 Cal. App. 4th at p. 617.) 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

Thus, habitat areas that are degraded or small and disconnected must not be dismissed. Rather the project should include restoration of degraded habitat and provision of connecting corridors to habitat areas which are isolated.

At a minimum, all surveys must be conducted according to protocols established by the various resource agencies. Multi-year surveys are preferred. This is especially critical for wetlands, due to recent drought conditions.

In addition, the following must be addressed:

1. All high interest species must be addressed, whether or not they are formally listed as rare, threatened, or endangered.
2. Adequate buffers must be identified and provided.
3. Glass walls which can create a hazard for birds must not be utilized.
4. The EIR must examine impacts on habitat due to increased human activity.
5. The EIR must examine impacts on habitat due to consolidation of oil field operations.
6. The EIR must examine impacts on avifauna due to reflective surfaces.
7. Impacts due to noise and night lighting must be examined.
8. The EIR must examine impacts due to increased predation on sensitive species as upland forage areas are developed with housing.
9. Impacts on biological resources due to impacts on water quality must be addressed.

Climate Change

The EIR must address not only greenhouse gas emissions but the effects of greenhouse gas emissions as they relate to the project. As stated in Assembly Bill 32, also known as the California Global Warming Solutions Act of 2006:

The potential adverse impacts of global warming include the exacerbation of air quality problems, a reduction in the quality and supply of water to the state from the Sierra snowpack, a rise in sea levels resulting in the displacement of thousands of coastal businesses and residences, damage to marine ecosystems and the natural environment, and an increase in the incidences of infectious diseases, asthma, and other human health-related problems.

(California Health and Safety Code Section 38501(a))

Greenhouse gases and climate change must be addressed in terms of:

1. Greenhouse gases to be generated by the proposed project.
2. Increased demand for electricity and natural gas with associated increase in greenhouse gas emissions due to shade and shadow in the surrounding area.

3. Increased flood peaks, including placement of structures to avoid expanded flood hazard areas and retention of stormwater on-site to reduce runoff.
4. Reduced availability of water due to reduced snowpack
5. Provision of areas for habitat retreat as sea level rises and portions of existing lowland habitat are inundated.
6. Measures to address increased stress on habitat including reducing non-climate stressors on ecosystems, controlling opportunistic invasive species, and accommodating sea level rise through provision of adequate buffers.
7. Oil operations must not be consolidated in any areas which will likely be inundated under State-predicted rises in sea level.

Cultural Resources

Bluff top sites throughout the area, including Fairview Park, Bolsa Chica, and sites adjacent to Newport Bay have been found to contain a wealth of archaeological resources. Preservation in place is the preferred alternative and must be pursued to the fullest extent feasible. Any remains or artifacts must be treated with respect.

During World War II gun turrets were placed on the site. It is not known if any of these remain. This should be investigated as part of the EIR process.

Geology and Soils

Bluff areas would be considered unique physical features. Any impacts on landform/bluffs must be examined, whether direct or indirect, i.e. erosion.

In addition, the following must be addressed:

1. The EIR must include grading plans and representative cross sections.
2. Adequate setbacks must be provided from any areas potentially subject to ground rupture or other hazards.
3. Impacts on off-site areas must be addressed including debris flows and effects on nearby areas due to earthmoving activities or vibration.
4. The EIR must address land instability due to landscape irrigation.
5. On-site areas must not be utilized as fill or borrow sites simply because it would be convenient to obtain additional fill or dispose of cut materials on portions of the site that would otherwise remain undisturbed.
6. Any areas where blasting may be necessary must be identified and all impacts of blasting, including noise, vibration and potential for property damage must be examined
7. Any areas where pile driving may be necessary must be identified and all impacts of pile driving, including noise, vibration and potential for property damage must be examined

Hazards/Hazardous Materials

The subject property has been used for oil extraction for decades. Thus hazards associated with current and past oil field activities are of great importance.

In addition, the following must be addressed:

1. The EIR must address materials which may be released into the air or water during oil field consolidation.
2. The EIR must examine the effect of construction activities on evacuation routes and emergency response.
3. The EIR must address any toxic or hazardous materials that may be on the property from previous uses and examine how residual contaminants in the soil will be removed.
4. The EIR must consider potential hazards from methane gas as have occurred elsewhere in the area.
5. The EIR must examine the effects of increase traffic on emergency response.
6. Any increase in response times must be mitigated.
7. The EIR must examine the effect of construction activities on evacuation routes.
8. Underground streams have created sink holes from time to time in the southwest area of Costa Mesa. The EIR must address this potential hazard on the project site.

Hydrology/Water Quality

Water quality in lowland areas near the mouth of the Santa Ana River, including Semeniuk Slough, has long been of concern to local residents. Factors include poor circulation, urban runoff and oil field operations. The EIR must examine impacts on water quality in the area as well as opportunities to improve existing problems.

1. The analysis must address impacts due to ongoing oil operations and proposed consolidation of these operations.
2. Impacts due to urban runoff must be addressed.
3. The EIR must identify any construction or placement of fill in floodways or floodplains which could result in any increase in flood levels elsewhere. This must be considered for the specific Banning Ranch project and for cumulative development in the watershed.
4. The EIR must address how the project will comply with Santa Ana Regional Water Quality Control Board (SARWQCB) Order No. R8-2002-0010/ NPDES No. CAS618030/Tentative Order No. R8-2008-0030/NPDES No. CAS618030.

Land Use/Planning

While the California Environmental Quality Act (CEQA) is designed to address the quality of the physical environment, this does not mean that economic and social issues are to be completely excluded from the environmental review process. On the contrary, the Guidelines for the Implementation of CEQA and judicial history indicate that economic and social factors are important on two scores:

- Economic and social factors may bear on the significance of a physical change; and
- Economic and social effects of a project may result in physical changes which are themselves significant.

Guidelines Sections 15064(e), 15382, and 15131 (b) all recognize the importance of social and economic effects in determining the significance of a project's actual physical effects on the environment.

In accordance with Guidelines Section 15131(a):

An EIR may trace a chain of cause and effect from a proposed decision on a project through anticipated economic or social changes resulting from the project to physical changes caused in turn by the economic or social changes.

In *Citizens Assn. for Sensible Development of Bishop Area v. County of Inyo* (1985) 172 Cal.App.3d 151 [217 Cal.Rptr. 893], the court held that:

...the lead agency shall consider the secondary or indirect environmental consequences of economic and social changes, but may find them to be insignificant. Such an interpretation is unequivocally consistent with the mandate that secondary consequences of projects be considered... subdivision (f) [of Guidelines Sec. 15064, since re-enumerated] expressly gives the agency discretion to determine whether the consequences of economic and social changes are significant, which is not the same as discretion to not consider these consequences at all... Indeed, **the physical change caused by economic or social effects of a project may be regarded as a significant effect in the same manner as any other physical change resulting from the project may be regarded as a significant effect.** [emphasis added]

Thus, the Court very clearly required that the public agency address the potential that physical blight would be caused by the proposed project.

The City of Costa Mesa has been working to improve the area of southwest Costa Mesa known as the "West Side". Blighting conditions have been identified in the area and City programs have been adopted to eliminate that blight. A key factor mentioned by many public officials has been taking advantage of the proximity to the ocean and provision of bluff top views. The EIR must address how development of a 65-foot-tall affordable housing project will affect these efforts. The EIR must examine how increased cut through traffic, shade, shadow, and creation of a visual barrier to points south and west may contribute to blight on the West side.

In addition, the following must be addressed:

1. The EIR must examine the precedent the proposed project will represent with regard to its increase in allowable building height and the cumulative impact that could result.
2. The EIR must discuss any inconsistencies between the proposed project and existing planning programs. A litany of policies with which the project conforms is neither required nor necessary, only identification of potential inconsistencies.
3. The EIR must identify any off-site land that will be needed for roadways or other infrastructure.

4. The EIR must identify any existing uses that will be displaced in order to provide for roadways of other infrastructure.

Noise

Noise will be generated during construction of the proposed project. In addition, noise will be generated by vehicular traffic during both construction and operation of the project. These must be examined as follows:

1. SENELs as well as CNELs must be addressed.
2. Noise must be addressed in terms disturbance or discomfort to humans, not just conformance with ordinances that may exempt certain types of noise from regulation.
3. Temporary relocation of sensitive receptors must be considered as mitigation.
4. The EIS/EIR must address increased vehicle noise resulting from increased traffic generated or facilitated by the proposed project.
5. Noise analyses must address specific frequencies that may carry or resonate to a greater degree, such as certain helicopter noise.

Transportation/Traffic

The proposed project is planned to take access via 19th Street in Costa Mesa, among other locations. The street currently ends east of the Santa Ana River. The Orange County Master Plan of Arterial Highways includes a connection over the Santa Ana River from 19th Street in Costa Mesa to Banning Avenue in Huntington Beach. However, the cities of Costa Mesa and Huntington Beach, the cities where any bridge and approaches to the bridge would be located, have both gone on record in opposition to construction of a bridge at that location. In addition, numerous hurdles would exist to bridge construction, including but not limited to biological, geological, and economic constraints. It is quite possible that the bridge may never be constructed, and it is certain that the bridge would not be built by the time development of the proposed project is planned to occur. Thus, traffic analyses must not rely on the presence of a 19th Street/Banning Avenue bridge or similar connection in order for traffic to flow adequately. Analysis of future traffic conditions must include a “no bridge” scenario.

In addition, the following must be addressed:

1. Impacts on haul routes must be addressed.
2. Impacts on emergency response and evacuation routes must be addressed.
3. Mitigation strategies must provide for adequate access during construction along West Coast Highway
4. The EIR must evaluate sight distance including such factors as roadway grades and curves.
5. The EIR must address any increase in hazards on existing roads due to increased traffic from the project.
6. The EIR must address stacking at any access gates, whether during construction or upon occupancy of the project.

7. Any need for new surface transportation infrastructure must be examined and responsibility for implementation of improvements assigned.
8. Infrastructure improvements must be phased with development so that improvements do not lag behind impacts sustained by the community.
9. Mitigation measures must include means of reducing traffic and must be practical and verifiable.
10. Traffic impacts must be examined in the light of the Congestion Management Plan and other adopted transportation plans.
11. Analyses must not be limited to only the largest intersections listed in the Congestion Management Plan, but must include other intersections in the vicinity that operate or are anticipated to operate at unacceptable levels.
12. Analyses must not be limited to only Newport Beach, but must include intersections in the adjacent communities of Costa Mesa and Huntington Beach.
13. The EIR must address changes in traffic patterns due to construction of new roadways, particularly cut-through traffic on east-west trending roadways in Costa Mesa. This includes the Dover-Mariners-19th Street route.
14. The EIR must address how the proposed project may increase demand for construction of a 19th Street/Banning Avenue bridge.
15. The EIR must address how the proposed project may increase demand for extension of the 57 Freeway further south.
16. The EIR must address how the proposed project may increase passenger loads and demand for additional flights at John Wayne/Orange County Airport.

Population and Housing

The project must be evaluated in light of local and regional growth policies. The EIR must address:

1. City policies regarding inclusionary housing.
2. The project must be evaluated in light of housing requirements in the coastal zone stipulated in Section 65590 of the California Government Code.
3. The EIR must identify any housing or other uses which may be displaced by construction on West Coast Highway.
4. Jobs/housing balance must be addressed in terms of the anticipated demographic profile of persons to be employed at future commercial uses and future housing.

Public Services

Direct physical impacts as well as indirect, growth inducing impacts of installation of infrastructure in conjunction with the proposed project must be examined. The EIR must address:

1. Impacts on public services, including but not limited to police protection, fire protection, paramedics, schools, and libraries.
2. Any potential for disruption of public services and utilities during construction.

Recreation

Impacts on nearby recreation facilities such as Sunset Ridge Park and local bicycle trails must be examined, including construction impacts such as noise and dust. Streets within the project must be available to the public and public parking must be provided for recreational amenities on-site.

Utilities and Service Systems

Analyses in the EIR must utilize realistic utility consumption rates, based on actual historic use for similar uses in the community. Unreasonably optimistic consumption rates must not be used to calculate impacts on utilities and service systems.

Likewise, analysis of utility availability must not be unrealistically optimistic. Analysis of water availability required pursuant to SB 221 (Kuehl, 2001) and SB 610 (Costa, 2001) must take into consideration State estimates regarding future reduction in snowpack and reductions in available water from northern California due to habitat needs in the Sacramento Delta.

Growth Inducing Impact

The project includes amendment of Newport Beach Municipal Code Section 20.65 to permit a maximum building height of 50 feet in the Visitor-Serving Resort District and Residential District and a maximum height of 65 feet within portions of the Mixed-Use/Residential Land Use District. The EIR must address how this might set a precedent for additional height elsewhere in the City. This is especially critical as the City moves to implement mixed use zoning in areas within the Coastal Zone. A 65 foot height limit must not become the standard for mixed use throughout the City.

The project will include connections between West Coast Highway and various streets in Costa Mesa. Improvements to West Coast Highway are also contemplated as part of the project. The EIR must address how the additional roadways could remove obstacles to growth and facilitate growth elsewhere that could significantly affect the environment, either individually or cumulatively. This would apply to any other additional infrastructure, such as water facilities, as well.

The EIR must examine how the proposed project would increase demand for new infrastructure such as construction of the 19th Street/Banning Avenue bridge or the Poseidon desalination plant in Huntington Beach. Construction of these facilities could in turn foster additional growth.

Cumulative Impacts

All impacts must be examined in the light of other past, present and reasonably foreseeable growth in the area, both within the City of Newport Beach and in nearby communities. This must not be limited only to projects that have been identified to have significant impacts on their own, but include other projects which may have individually insignificant but greater than minimal impacts. Individual and cumulative impacts must be fully mitigated. This must be

presented in a manner that makes clear the impacts to be created by the proposed project alone as well as with cumulative development.

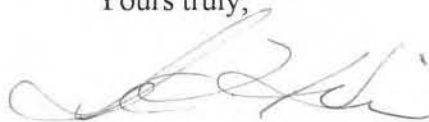
EIR Process

The city anticipates a 45-day public review period for the Draft EIR. The Newport Banning Ranch project is one of the largest projects ever contemplated by the City of Newport Beach. It is located on the last major undeveloped parcel along the Orange County coast and is of regional significance. The project is highly complex. By the applicant's own admission, the developer's team has been studying the site for at least two years. A 45-day period for review of environmental documentation for a project of this scope and complexity is not adequate. A sixty to ninety day public review period must be provided for the Draft EIR.

Thank you for this opportunity to comment. Please include these comments and all other comments on the NOP and a transcript of the Scoping Meeting in the Draft EIR.

Please keep us informed as the project moves forward. We look forward to reviewing the DEIR when it becomes available.

Yours truly,

A handwritten signature in dark ink, appearing to read 'Sandra L. Genis', with a stylized, flowing script.

Sandra L. Genis

04-17-09

Debby Linn, Contract Planner
City of Newport Beach
Planning Department
3300 Newport Boulevard
Newport Beach, CA 92658

Submitted via email to dlinn@city.newport-beach.ca.us

RE: Comments to Notice of Preparation (NOP) for Newport Banning Ranch Project (Project)

Ms. Linn,

I proffer the following comments to the Notice of Preparation (NOP) for the preparation of the Program Environmental Impact Report (EIR) (SCH# 2009031061) for the Newport Banning Ranch Project (Project) (PA 2008-114) on behalf of the Watershed Coordinating Council (WCC), of which I serve as President, and of the Banning Ranch Conservancy (Conservancy), of which I serve as a founding Board Member.

The comments are included both in the body of this submitted email and as an attachment, in Word format, thereto. The comments address (1) the scope and content of the EIR and (2) the environmental issues and alternatives to be addressed in the EIR pursuant to California Environmental Quality Act (CEQA) Guidelines #15082.

1. SCOPE, CONTENT and PROCESS

1.A. It may appropriate that sixteen (16) topics on the City's Environmental Checklist are identified as required for assessment in the EIR, excluding only Agricultural Resources. However, an Initial Study (IS), while optional, was not completed. The NOP does briefly describe existing environmental conditions, but any probable or specific environmental impacts are not stated. This makes it difficult for anyone (public agency, member of the public, me) to be adequately informed or capable of offering cogent comments. **This significant omission leaves the NOP wanting and warrants a reissue of the NOP and renewal of the process, which I herewith recommend.** This omission requires some extraordinary measures by the City to ensure adequate review and analysis by all other parties. I list some of them below. Not being reliant on a decision to reissue the NOP, I will attempt to provide comments on all potential issues to be addressed in the EIR. I will state herewith that any omission on my part is due to the inadequacy of the NOP.

1.B. Given the scope and anticipated size and complexity of the Draft EIR and its Appendices, I strongly recommend that the public review period for it be extended beyond the normal 45 days to, at least, 60 (sixty) days and, preferably, 90 (ninety) days. Bear in mind that, while the applicant and the City and other public agencies may have full-time paid staff, members of the public, generally, have other non-related jobs and family lives that occupy their time and are less experienced at reviewing and comprehending all of the information, methodologies, studies, statistics and conclusions contained in the Draft EIR and its Appendices. Having an engaged and fairly-treated public is critical to the intent of CEQA, for the City's relationship with its citizenry and for the applicant's public relations.

1.C. I recommend that the City Planning Commission and City Council hold public study sessions on the Draft EIR at least two weeks prior to the public hearing meetings of each body. With the review conducted by City staff, this provides a very informative session not only for the Commission/Council, but also for the public and the applicant, who can be available for any appropriate questions.

1.D. The City Planning Commission and City Council review, consideration and action on the EIR must be accomplished as a stand-alone process, not combined with the entitlement documentation. Combining both processes into one consideration and action is not fair to the public and raises questions of intent and prejudgement by the adjudicative bodies. Each action deserves its own separate hearing and consideration.

1.E. At public hearings of the Planning Commission and City Council, I recommend that the bodies permit members of the public to donate time – for instance, 3 members of the public being present and making the donation to another – so that a more comprehensive, thoughtful and meaningful presentation can be made by an organization or groups of citizens in concert. As a former chair of the Huntington Beach Planning Commission, I can attest as to the effectiveness of this provision and to its time-saving value.

1.F. As this property has been subject to previous attempts at development and has, accordingly, been subject to studies, surveys and other reviews, I ask that all such prior information gathering be included in the EIR preparation for comparative analysis and for comprehensive data collection, noted and made available to the applicant and the public.

1.G. The listing and comprehensive review and analysis of Alternatives and Cumulative Impacts are necessary to attain a complete and adequate EIR.

1.H. All written comments to the NOP as well as the transcript of the Public Scoping meeting held on April 2, 2009, should be included in the EIR.

2. ENVIRONMENTAL ISSUES and ALTERNATIVES

2.A. **Alternatives:** Alternatives outlined in the NOP are inadequate and incomplete. Alternatives must also include the following options:

--- A Reduced Size Project based on the habitat value and locations of the Environmentally Sensitive Habitat Areas (ESHA's) extant on the property. All such habitats must be preserved. Additionally, buffers should be based on California Coastal Commission (CCC) standards established in previous coastal projects (such as 100 feet to 100 meters). These standards apply to both ESHA's and bluff areas.

--- A Reduced Height Project based on existing zoning limitations on height requirements for commercial and residential development. Any call for exception must be environmentally justified.

--- An Environmentally Progressive Project which meets LEED certification standards, preferably at the Platinum level.

--- A Relocation of the Project to another site in Newport Beach or other nearby city that would result in a significantly reduced environmental impact.

2.B. **Biological Resources:**

- The NOP indicates use of the City's Coastal Land Use Plan (CLUP) to define an ESHA, to indicate potential ESHA's, to identify Environmental Study Areas (ESA's), to define buffer requirements and for other purposes. This is not acceptable. The CLUP does not apply to Banning Ranch, which is an area of "deferred certification" or, as specified by the CCC, a "white hole". Therefore, Coastal Act statutes and CCC standards are the only acceptable means to define and identify the environmental features and development requirements.
- Removal of any valued habitat in any condition and replacement or restoration of habitat elsewhere is not an acceptable practice as determined in the well-known Bolsa Chica case. The EIR must not refute this standard and should fully identify environmental impacts caused by the development footprint.
- Because plant habitats and wildlife species, especially avian, are sensitive to seasonal changes, variations in water availability and other acts of nature, it is highly recommended that multi-year studies be conducted to adequately assess their populations, patterns and constituents.
- Any planned glass walls, whether they are a fence (such as the infamous "Wall of Death" at the Bolsa Chica Hearthsides development) or a building or other structure must be analyzed for potential avian mortality.

2.C. Transportation / Traffic:

- The proposed project plan in some iterations calls for an extension of Bluff Road to 19th Street, while in other iterations, that extension is missing. There needs to be clarity on this issue.
- If there is a connection to 19th Street, all potential traffic impacts must be analyzed. It will become a thru-way for anyone and everyone wanting a short cut between the west side of Costa Mesa and Pacific Coast Highway. All that probable traffic through the project site as well as on 19th Street and the nearby Costa Mesa west side must be included in any analysis. It will occasion calls for the extension of 19th Street to the River and completion of the 19th Street / Banning Street bridge. Both Huntington Beach and Costa Mesa are on record opposing the bridge. Traffic studies and all alternatives must exclude the bridge from any consideration. Too many obstacles - environmental, financial and political - exist to consider it a reasonable solution to the increased traffic issues for this project. It should also be removed from the Master Plan of Arterial Highways, with such removal included in the project plan.
- Traffic increases studied for the 17th Street, 16th Street and 15th Street connections should also include the realistic probabilities of the short cut traffic, not just the classic model of traffic accessing the proposed project.
- Traffic impacts to Pacific Coast Highway, not just at the junction with the proposed project's Bluff Road, but throughout Newport Beach and Huntington Beach, must include not only project traffic but also the short cut traffic described above. Given that Pacific Coast Highway is reported to be at or near capacity, scenarios to handle the new load must be sufficiently identified.

2.D. Water:

- What is the source of water supply for this project? Given that California is in a declared state of drought and water emergency, with supply cuts being announced and conservation measures required, an adequate supply of water - not just "the City will supply it" - must be identified for the long term, a period of at least 50 to 100 years.

2.E. Other issues that must be addressed in significant detail:

- The increased building heights will seriously impact the viewshed and, thus, property values of current local residents. How are those inequities to be addressed?
- What will be the impact of the inclusionary housing on existing local residents?
- What are the impacts of lighting and glare for local residents, wildlife and plant habitats?

- How will public services – police, fire protection, schools, etc – be provided?
- Water quality, hydrology, sewer systems, runoff impacts, water retention and reuse, reclamation – all of these water related issues and potential impacts will need full analysis and mitigation.
- How to mitigate for the loss of open space and recreational opportunities that would be realized through the open space alternative?

2.F. Cumulative Impacts:

- All of the impacts of this project must be properly considered in the analysis of Alternatives to the Project plan.
- The impact of this project on the cities of Newport Beach, Costa Mesa and Huntington Beach and all past, current and potential future projects must be evaluated and considered in their entirety to determine the appropriateness of this project as a whole, as a reduced project, or as open space.
- What is the impact of the loss of this last large parcel of coastal open space of wetlands, bluffs, arroyos and mesas not only to Newport Beach and its neighbor cities, but to all of Orange County, indeed to Southern California? Once it is lost, it is gone forever. How do we account to future generations that we lost Nature's Last Stand on our precious coast?

Thank you for the opportunity to comment.

Steve Ray/s/

Please add me to the mailing list for this Project. My addresses and emails are:

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and

Steve Ray, Board Member
Banning Ranch Conservancy
P.O. Box 16071
Newport Beach, CA 92569
Email: steveray4surfcity@hotmail.com

-----Original Message-----

From: James, Steven R. [mailto:sjames@Exchange.FULLERTON.EDU]

Sent: Friday, April 17, 2009 4:01 PM

To: 'dlinn@city.newport-beach.ca.us'

Subject: Banning Ranch

Debby Linn, Contract Planner
City of Newport Beach
Planning Department
3300 Newport Boulevard
Newport Beach, CA 92658

RE: Notice of Preparation Newport Banning Ranch Program Environmental Impact Report

Dear Ms. Linn,

The proposed Banning Ranch development should not be constructed and should be preserved as open space for endangered species and wetlands habitat, for its recreational values, and for the preservation of significant prehistoric and historic archaeological sites that are on the property.

Sincerely,

Steven R. James, Ph.D

DEBBIE LINN, CONTRACT PLANNER
CITY OF NEWPORT BEACH
3300 NEWPORT BLVD.
NEWPORT BEACH, CA 92658

17 APRIL 2009

RECEIVED BY
PLANNING DEPARTMENT

APR 17 2009

RE: BANNING RANCH DEVELOPMENT

THIS IS TO INFORM YOU THAT I OPPOSE ANY CONSTRUCTION
ON BANNING RANCH AND I AM IN THE PROCESS OF SECURING
LEGAL SUPPORT TO OPPOSE ANY DEVELOPMENT OF THE SUBJECT
PROPERTY WITH THE EXCEPTION OF DEVELOPING A PARK
ESTABLISHMENT.

I AM A PROPERTY OWNER LOCATED AT 16 SUMMERWIND COURT
ADJACENT TO BANNING RANCH.

SIGNED,



FREDERICK MARSH
16 SUMMERWIND COURT
NEWPORT BEACH, CA.
92663
(949) 631-2243

-----Original Message-----

From: Matthew Erwin [<mailto:jonfox7@yahoo.com>]

Sent: Saturday, April 18, 2009 1:08 PM

To: dlinn@city.newport-beach.ca.us

Subject: Banning Ranch

Dear Ms. Linn,

I hope the City offers its own unique opinion on the boundaries of "the property" reflecting the public as sovereign over tidelands and river banks, rights not limited by "travers[ing]" and long extending to "lowlands 1 to 10 feet above sea level" in a "tidal coastal salt marsh." Moreover, these "remnant channel[s] of the Santa Ana River Delta," naturally a "flood plane zone" well up their "sloping hillsides," are indeed "unique farmland" for the "shrimp" and "ducks," as well as the crabs perhaps too disturbed to show for the owners now.

Best wishes,

Matt Erwin
1 Kialoa Ct.

NEWPORT BANNING RANCH ENVIRONMENTAL IMPACT REPORT
PUBLIC SCOPING MEETING
APRIL 2, 2009

CITY OF NEWPORT BEACH

(PLEASE PRINT)

NAME PAUL GOLD EMAIL PLYGOLD@CS.COM

ADDRESS 1833 Nantucket Place, Costa Mesa

REPRESENTING _____

(This identification will be placed on the City's mailing list for this project, unless otherwise noted.)

I have the following comment(s) regarding the scope of the environmental analysis, alternatives evaluation, or mitigation measures that should be addressed in the Newport Banning Ranch EIR.

I want to say I do like the Project that the owners of Banning Ranch have proposed to us. As long as the open space that is promise to the public is going to happen and be protected.

I do not like the add of a road to 19th st.
 == this was never spoken about @ the meetings!
 It's going to spoil all the effort made to keep open space,

Not to mention the added noise and traffic through Costa Mesa down 19th street.
 the lights and pollution from the street will destroy my way of life and the peaceful open space we enjoy on the bluff.

Please do not place a road to 19th street.
 Thank you for doing what you can to protect the public's right for open space,
 PAUL GOLD

If you have comments and do not wish to speak during the Scoping Meeting, please take the opportunity to fill out this Comment Sheet. Comment Sheets will be collected at the end of this Scoping Meeting. They can also be mailed to the City of Newport Beach by folding, stapling, and sending this card to the address on the reverse.