



HAMILTON BIOLOGICAL

October 23, 2015

MEMORANDUM

FROM: ROBB HAMILTON

TO: SUSAN JORDAN

SUBJECT: POLLUTION ISSUES AT BANNING RANCH

At your request, this memorandum summarizes some issues related to statements made at the October 7, 2015, California Coastal Commission (CCC) hearing of the proposed development project at Banning Ranch, located in Newport Beach. The case is being made by the developer, Newport Banning Ranch (NBR), that their oil operation is very dirty and polluting, and that without CCC approval of their proposed project, a high level of pollution can be expected to continue on the site for decades to come.

Some Commissioners took up the developer's talking points in their remarks from the dais on October 7, and suggested that the CCC has a duty to facilitate the cleanup of a dangerous situation through approval of a residential/commercial development project that has an oilfield remediation component. That this would result in destruction of dozens of acres of ESHA was regrettable, and such destruction should be avoided to the extent feasible, but the attitude of several Commissioners was that this wasn't the kind of "pristine" area that they think of when they think of true ESHA, so they should be looking for ways to create a better overall environment that will be better suited to supporting ESHA conditions.

The remediation question opens up a number of issues, including weighing how much grading would be required to clean up a natural open space versus a residential neighborhood, and how much of the anticipated grading is for remediation versus creating building pads for development. For the time being, however, I am proposing that we focus only on responding to statements made by Commissioner Martha McClure on October 7. I have transcribed Commissioner McClure's words below, with time stamps from the "Complete MP-4" (http://www.cal-span.org/calspan-media/Video_Files/CCC/CCC_15-10-07/CCC_15-10-07.mp4). Note that the video would have different time stamps.

9:44:35

"And what alarms me is that I see a vernal pond during wet and dry times and I can actually see oil pipes in the vernal ponds. And it replicates itself with Vernal Pond 1, Vernal Pond 3, Vernal Pond 2. They all have oil stuff going through them. And for me, if we want to protect the vernal ponds, we have to figure out a way to do that."

9:46:02

“And if we choose to do nothing, because the oil company is still limping along, doing a barrel a week, or whatever it is they make, they don’t have to say that they are ceasing production. So we’ll never be able to reach, as Californians, to reach to clean that property up. And when I heard testimony today of people talking about how bad it smells, and how worried they are about cancer, and how worried they are about the health of their children. Well as long as this is just permeating the neighborhood, because it’s not going to just stay in one place when there’s a little bit of an oil leak. We know what happens. And so, to me, I want to err on the side of cleaning this property up. Because I find it a really sad state of affairs when I went on the property.”

9:51:30

“It drives me back every time to the environmental responsibility we have to clean up this 400-acre mess. Because that’s what I saw when we, when we went out on that property, it was like, ‘Oh my God, I can’t believe that this is in California.’ I thought possibly we were in Oklahoma. To see the destruction that had been left behind, and, and the pipes, and, and the leaking, and it really opened my eyes to see the condition of this 70-year-old piece of property that has intensive oil on it.”

9:53:58

“But I’m just thinking, why are we not moving to clean the property? And I think that this was an opportunity. Granted, I understand that an oil company is not required to do ‘jack’ until they cease all operations.”

9:56:09

“Because I want to see it cleaned up. That’s my ultimate goal here. Is that that piece of property needs to be cleaned up. Because if the kids are out there playing right now, and if it’s as contaminated a brownfield as it is, that’s a dangerous place.”

Note especially the third excerpt of testimony – “the destruction that had been left behind, and, and the pipes, and, and the leaking...” If they have oil leaks happening out there, that ought to be of interest to the relevant public agencies.

The story by Julie Cart in the Los Angeles Times on October 8 stated that Steve Bohlen, state oil and gas supervisor, acknowledged “systemic problems” in State oversight of oil operations in the Los Angeles Basin since at least 2007. This seems like a good time to be bringing a public campaign against Banning Ranch/West Newport Oil, given that they themselves are characterizing their oil operations as dangerous and dirty, with the support of certain Coastal Commissioners.

Rob Moddelmog and I have assembled information on how members of the public can contact/complain to various local and State agencies:

DOGGR

Should you come across an oil, gas or geothermal well that is leaking or otherwise hazardous, [contact the nearest Division district office](#).

<http://www.conservation.ca.gov/dog/Pages/emergency.aspx>

AQMD

Reporting smells: <https://sites.google.com/site/ccfascorg//report-oil-field-odors>

CalEPA

The complaint form is at the bottom of this page, below all the links (it's confusing):
http://www.dtsc.ca.gov/database/CalEPA_Complaint/index.cfm

RWQCB

They can be petitioned for failing to act

http://www.waterboards.ca.gov/public_notices/petitions/water_quality/wqpetition_instr.shtml

They want people to call them to report anything: 951-782-4130

OC Fire

General Questions For general questions, suggestions or concerns, please contact Chief Steve Edwards. [Send Email](#)

Newport Beach Fire (Orange County Unified Program Participating Agency)

Hazardous Materials, Nadine Morris, 949-644-3105, nmorris@nbfd.net

OC Health Care Agency- Environmental Health

Certified Unified Program Agency (CUPA), information and contact pages:

<http://occupainfo.com/>

<http://media.ocgov.com/civicax/filebank/blobdload.aspx?BlobID=14578>

Brian Carroll is the Hazardous Waste contact person for Newport Beach: 714-559-0106

<http://ohealthinfo.com/eh/contact/complaints>

Well Permitting:

<http://media.ocgov.com/gov/health/eh/water/well/default.asp>

Potential Fracking

It may be worth looking into whether West Newport Oil is fracking, and, if so, whether they are in compliance with the following:

“The California Legislature recently passed Senate Bill 4¹⁵⁰ (SB 4) as an alternative to a moratorium on fracking and drilling exploration. SB 4 requires California to study the environmental and health impacts of hydraulic fracturing.¹⁵¹ Specifically, SB 4 contains extensive notification and disclosure requirements for fracking jobs such that oil companies will not be allowed to frack or acidize in California unless they test the groundwater, notify neighbors, and list each and every chemical on the Internet.”

I’m very glad to learn that the Natural Resources Defense Council is interested in the Banning Ranch project, and in our efforts to ensure that large areas of sensitive habitat are not graded, then covered in roads and houses, in the name of cleaning up an oilfield that the operator has a responsibility to operate safely and ultimately remediate in compliance with existing laws and regulations.

If we do decide to move forward with a public campaign to draw attention to the oil operator’s responsibility to operate a lawful operation that cannot be characterized as “leaking” and “permeating the neighborhood,” we need to bear in mind that research by the Banning Ranch Conservancy suggests that the site probably ISN’T as polluted and dangerous as the developer and Commissioner McClure are claiming. 114 wells in the mid-1990s – excavation of approximately 4,500 cubic yards. Only 85 wells remain on the property, and some of those NBR agreed to abandon in the settlement of the enforcement action. Testing of the soil around the 114 wells abandoned during the mid-1990s found that 91% had soil clean enough for open space standards (1,000 parts-per-million), and 60% met residential standards (100 ppm).

My thinking in this is that citing factual information is only getting us so far with some of the Commissioners. Several of the Commissioners seem to have left the realm of facts and into emotional appeals about a dirty brownfield that is contaminating neighborhoods, and how the CCC needs to step in *now* and clean up the mess. It may be the case that this level of emotion needs to be met with an emotional reaction from the community that takes seriously Commissioner McClure's inflammatory words and uses them to request action from the public agencies charged with protecting public and environmental health. If those agencies find no grounds for concern, that takes the emotional urgency out of the equation - we can all agree that there is no emergency situation requiring the CCC to protect public and environmental health. If those agencies do find grounds for concern, we need to be ready to push for appropriate remedial action, which must be provided by the oil operator independent of the plan to destroy large areas of ESHA to build a residential/commercial project.

I look forward to working with you on these issues. Please feel free to call me any time at 562-477-2181 or send e-mail to robb@hamiltonbiological.com.