NEWPORT BANNING RANCH

October 30, 2014

Mr. Karl Schwing
Ms. Amber Dobson
California Coastal Commission
200 Oceangate, Suite 1000
Long Beach, CA 90802-4302

Re: Coastal Development Permit Application 5-13-032 ("Application")
Newport Banning Ranch ("Project")

Dear Mr. Schwing and Ms. Dobson:

The purpose of this letter is to respond to the June 5, 2014 Notice of Incomplete Application. The NBR team is hopeful that with the meetings that have occurred with Coastal Planning Staff, subsequent follow-up correspondence and this response fully address all of CCC Staff's requests for information and additional data.

The original CDP application by NBR included the Project as it was approved by the City of Newport Beach in 2012. Our last response confirmed that the Project Description has been revised to substitute CCC Alternative Project 2 as the "Project" for purposes of CDP analysis. To that end, all of the planning documents referenced in your letter that require updating to reflect this Project have been included in this submittal. These include:

- Revised Project Description
- Site Lotting
- Foundation Plotting
- Height Analysis
- Revised Traffic Study
- Revised Elevations

Additionally, please note NBR's agreement with CCC Staff that the Federal Consistency Analysis for Abandonment and Remediation should be processed as an element of the Project CDP Application No. 5-13-032. Please see Attachment A, Oil Field Abandonment Plan.

Consistent with NBR's agreement with the Executive Director on February 19, 2014, the miscellaneous public comments provided with the NOIA Letter are not addressed, except where noted to clarify survey requirement and methods employed to respond to prior staff comments and questions regarding biological surveys. NBR remains

committed to working with CCC Staff to assist in addressing and responding to the comments as appropriate during the application and Commission deliberation process.

With the responses provided in this letter, we respectfully request that you agree deem CDP Application 5-13-032 complete. We note that subsequent to the NOIA Letter referenced in this response, that in a letter from the Executive Director, dated July 17, 2014, the Threshold Issues were deemed complete.

Sincerely,

Andrew T. Holstein
Project Manager
Newport Banning Ranch LLC

**Attachments**

A. Oil Field Abandonment Plan
B. Traffic Study
C. Focused California Gnatcatcher Survey, August 27, 2014
D. 2013/14 Wet Season Presence/Absence Survey for Federally-Listed Vernal Pool Branchiopods on the Newport Banning Ranch, September 29, 2014
E. TDM
F. ARP
G. Project Description
H. LEED-ND Registration
I. Letter of Credit

**Exhibits**

1. Sanitary Sewer Line Exhibit
2. Alternative Exhibits
    a. Lowland Water Quality Basin
    b. Pedestrian Bridge
    c. 60' Bluff Setback
    d. 60' Potential Bluff Edge Setback
    e. Bluff/Drainage Edge Grading
3. Project Acreage Calculation Exhibits
    a. Preserved Areas
    b. Open Space Restored Areas
    c. Development Footprint
    d. Development Open Space and Trails
4. Seasonal Features Abandonment - Remediation - Project Footprint Impacts
5. Fuel Management Zones
6. Coastal Bluff/Stream Delineation
7. Fault Setback Map
8. Allowable Building Heights
9. Community Basins
10. Building Elevations and Plans
11. Lotting, Foundations and Parking Exhibit
12. Interpretive Center Examples
13. Slop Analysis/Bluff Delineation
    a. Sheet 1
    b. Sheet 2
    c. Sheet 3
    d. Sheet 4

## I. Threshold Issues

*As has been stated in previous NOIAs, outstanding issues not related to the Threshold Issues and the completeness of the application are inherently based on the pending Threshold Issues and cannot be resolved until the Threshold Issues are resolved. Please see the NOIA dated December 6, 2013 for the details of the requested information regarding Threshold Issues.*

**Response:**

We note that subsequent to the NOIA Letter referenced in this response, that in a letter from the Executive Director, dated July 17, 2014, for purposes of the CDP Application the Threshold Issues are complete.

*1. Consolidation*

*Regarding planning:*

*The 30% grading plan that was submitted May 6, 2014 indicates that 2 water quality features will require development through and under the "consolidated oil production site (consolidation area). The pipes leading from the northern subdivision to the large water quality basin located in the lowlands are shown going through the consolidation site. As submitted, it is unclear how the storm water from the Southern Arroyo exits the arroyo and enters the Semeniuk slough. Does it sheet flow over the top of the road and into the slough (which is not appropriate for water quality)? If not, a pipe or culvert under the road of the consolidation area is necessary. These are examples of development occurring in the oil consolidation area (not covered by an exemption) and do require a CDP. Because both of these examples are related to the current CDP application, we continue to require additional information regarding proposed development in the consolidation area.*

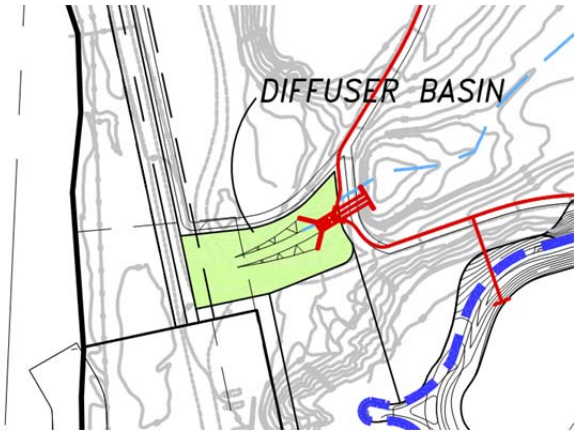
**Response:**

The project's design intent is to preserve the existing discharge point connection between the downstream end of the Southern Arroyo and the upstream end of the Semeniuk Slough. Under existing conditions, flows pond up at the downstream end due to the physical presence of an oil access road that is located between the terminus of the Southern Arroyo and the Semeniuk Slough. Flows pond up approximately 3-4 feet before spilling over the road and continuing to sheet flow over vegetated areas and an additional access road before draining into the Semeniuk Slough.

Under the proposed Project, flows will continue to drain and collect in a sump area due to the existing roadway. As part of the proposed Project improvements, storm drain flows from the southern and northern development areas will be collected in storm drain pipes and will connect into a proposed diffuser basin / energy dissipater (water quality basin) located within and under existing roadway. The structure will be designed to accept piped in flows and upstream flows from the Southern Arroyo and then transition the flows in a non-erosive manner to the downstream segment before sheet flowing into the Semeniuk Slough. Energy dissipation measures will be included downstream of the existing access road (shown in the green area in the image below) to reduce the flow

velocity and the existing roadways within this area will be removed. Flows will then enter the Semeniuk Slough after velocities have been reduced.

The storm drain pipes originating from the upstream development areas will be routed around the oil consolidation site prior to entering the proposed water quality basin in the Lowlands.




*Regarding enforcement:*
*Even if no new development is proposed for this area, the existing development within the consolidation area may or may not be authorized, or otherwise exempt, and will need to be evaluated in conjunction with the pending enforcement action. If we determine, as a result of the enforcement action, that unpermitted installation of wells and/or accessory structures and/or unpermitted vegetation removal was undertaken in this area, then this site is subject to the same mitigation and restoration efforts as the remainder of the property. Therefore, please submit plans for existing and, if applicable, proposed development specifically for the consolidation area. Please work with WNOC and CCC Enforcement staff to determine the scope of the development covered by the exemption(s) and the particular permitted and/or unpermitted development of the consolidation area to determine the site constraints before including the proposed development of the consolidation area as a part of your pending application.*

**Response:**
See Exhibit 1 that shows the sanitary sewer line connecting to the existing Orange County Sanitation District sewer main. Any work related to possible future oil field related activities are not a part of this application.

Within the southerly consolidation site potential development related improvements include a sewer main extension. The majority of the sewer main was constructed in conjunction with OCSD Butter Point Pump Station Improvements. Approximately 200 LF of 12" sewer is needed to extend the sewer to the northerly limit of the consolidation site. Additionally, consideration will be given to utilizing the oil consolidation site for staging of the pedestrian bridge

construction. Staging in this area will minimize construction impacts of the northerly pedestrian bridge landing.

*2. Vegetation and Fuel Modification Zone.*
*Please work with CCC enforcement staff and WNOC to develop appropriate Fuel Modification plans. See our December 6, 2013 NOIA for more details.*

**Response:**
We note that subsequent to the NOIA Letter referenced in this response, that in a letter from the Executive Director, dated July 17, 2014, for purposes of the CDP Application the Threshold Issues are complete. Any work related to possible future oil field related activities are not a part of this application.

## II. Planning Issues

*A. Alternatives*
*Thank you for submitting the alternative development plan that does not include access from West Coast Highway. We recognize you have concerns with the elimination of this proposed road. To help us understand your concerns, please provide the revised traffic data and alternatives analysis that is mentioned in your May submittal when they are available.*

**Response:**
Three roadways provide access from established neighborhoods to the coast between the Santa Ana River and Newport Bay. These roadways are Superior Avenue, Newport Boulevard, and Dover Drive. Neighborhoods east of State Route 55 (SR-55) use either Newport Boulevard or Dover Drive, while neighborhoods west of SR-55 focus their use on Superior Avenue. Regional visitors arriving via SR-55 use both Newport Boulevard and Superior Avenue to reach coastal resources.

Since 1956, the Master Plan of Arterial Highways (MPAH) has served as the guiding plan for future roadway improvements in Orange County. This plan is currently maintained by the Orange County Transportation Authority where it serves to guide inter-jurisdictional coordination of transportation facilities, benefitting mobility for all county residents. The latest version of the MPAH (October 1, 2014) includes Bluff Road through Newport Banning Ranch and two new connections between West Coast Highway and established neighborhoods west of SR-55. These two new connections are Bluff Road and another connection west of Bluff Road resulting from the extensions of 15th Street and 17th Street. The City's Circulation Element is effectively the same.

As envisioned by the MPAH and Circulation Element, the internal roadways would serve two purposes. The first is to provide access to land uses local to Newport Banning Ranch. The second purpose is to facilitate the flow of regional traffic between the coast and established inland neighborhoods. One of those roadways (15th Street) is proposed to be deleted by an MPAH amendment and a

General Plan amendment thus leaving only the Bluff Road connection through Newport Banning Ranch.

Further amending the MPAH and Circulation Element to reduce the size of Bluff Road to two lanes would reduce the ability of Bluff Road to serve its regional purpose. Eliminating the intersection of Bluff Road with West Coast Highway altogether would leave neighborhoods west of SR-55 with Superior Avenue alone to access coastal resources, potentially competing with regional coastal access trips utilizing the same access corridor.

Intuitively, fewer facilities for providing regional access to coastal resources would concentrate traffic to existing facilities. A traffic analysis was prepared to identify whether reductions or elimination of proposed transportation facilities at Newport Banning Ranch would result in a greater number of traffic impacts than were identified in the Environmental Impact Report. That traffic analysis is included as an attachment, See Attachment B. The traffic analysis finds that reducing or eliminating the proposed regional transportation facilities at Newport Banning Ranch will result in greater congestion at intersections near 15th Street and Superior Avenue, thereby affecting coastal access opportunities on the existing facilities for both residents and out of town visitors.

It should be carefully noted that the traffic model used to prepare the traffic analysis is the same as had been used to prepare the Environmental Impact Report. This allows for comparison with the results of the Environmental Impact Report.

*Although the May 6, 2014 cover letter listed the types of vegetation that would be eliminated by the construction of this section of the road, staff is reluctant to concur as we continue to work on remapping several areas of vegetation. Once the remapped vegetation has been completed, the plant communities in the path of this road will be clarified.*

**Response:**
As discussed, vegetation mapping as it relates to the application is complete. NBR understands CCC Staff has the information to complete any additional staff analysis and NBR and its consultants are available to assist as needed.

*Thank you for providing the alternatives suggested by CCC staff that show reduced grading and landform alteration in key areas, compared with the initial proposal. However, significant landform alteration remains part of the plan under the newly identified preferred alternative. Staff believes that grading and landform alteration could be reduced further. For example, grading inside the 60 foot bluff edge setback could be avoided; the grading of the hillside between the northern housing development and the oil consolidation site could be reduced or voided by relocating the trail; or the footprint of the housing and resort or commercial space could be further concentrated. These alternatives should be explored further.*

**Response:**
Thank you for the specific direction provided by staff in the latest NOIA letter with respect to additional project alternatives analysis requested to deem the application complete. In response, NBR has analyzed staff-required alternatives that could eliminate the following project elements:

1. Lowland water quality basin
2. Pedestrian bridge across West Coast Highway
3. Grading within the 60 ft. bluff setback
4. Grading/fill at or beyond the top of bluff, arroyo, riparian and/or drainage areas, including the slope located between the North Family Village and remainder oil field facility site (also identified as a potential bluff edge in response to staff's direction), and as delineated and described in response comments **C. Geology. 1 A-D below.**

The project alternatives analysis below is provided for analysis purposes-only of potential impact reductions that could result from the staff suggested alternatives. The following addresses CCC Staff's questions, but does not reflect NBR's proposed Project. Additionally, reductions to native habitat impacts in the alternatives below would result in corresponding reductions to HCCMP restoration obligations.

Lowland Water Quality Basin (See Exhibit 2a)

Vegetation impacts that would be avoided with a revised Project design that does not include the lowland water quality basin have been calculated and are presented in the below table. Eliminating this development plan element would reduce impacts to disturbed native vegetation communities (disturbed black willow thicket) by only 0.01 acre (the balance of the 1.05 acre impact area is a result of oil field abandonment and, therefore, the proposed water quality basin has no effect on this additional impact area). This particular water quality feature is considered an enhancement feature and is not necessary to ensure the project's overall stormwater treatment system results in improved conditions for stormwater runoff and water quality for both on and offsite resources. Accordingly, the feature could be removed from the proposed project without compromising the project's ability to enhance water quality and marine resources should the Commission determine this feature's vegetation impacts and reduced wetland buffers warrant its removal. This applies to the same comment below, pertaining to water quality. It is important to note however, that the lowland water quality basin would function as an extension of the adjacent wetland habitat and thereby would provide the same stormwater runoff retention and cleansing functions as natural wetlands, and with the added benefit of providing additional treatment of water resources prior to discharging to the Santa Ana River and slough that does not currently exist. Given the minimal impacts to disturbed native vegetation that would occur from installing the lowland water quality basin, the fact that the feature would replace 0.98 acre of developed,

disturbed and invasive vegetation areas with a wetland-vegetated basin, as well as the substantial water quality benefits it would provide, NBR believes the basin is appropriately designed and located for the proposed project.

| Vegetation Abbreviation | Vegetation Community | Acres |
|---|---|---|
| Abandonment | | |
| D | Disturbed | 0.35 |
| D-MFT | Disturbed Mulefat Thicket | 0.05 |
| PGP | Pampas Grass Patches | 0.42 |
| D-BWT | Disturbed Black Willow Thicket | 0.02 |
| DVLP | Developed | 0.21 |
| *Subtotal* | | *1.05* |
| Development Plan | | |
| D-BWT | Disturbed Black Willow Thicket | 0.01 |
| *Subtotal* | | *0.01* |
| **Total** | | **1.06** |

Pedestrian Bridge (See Exhibit 2b)

Vegetation impacts that would be avoided with a revised Project design that does not include the proposed pedestrian bridge across Coast Highway have been calculated and are presented in the below table. Elimination of this project feature would not substantially reduce project impacts to native vegetation as the bridge and associated grading would impact 0.25 acre of invasive and non-native vegetation and only 0.005 acre of disturbed California brittle bush scrub (0.01 acre of quailbush scrub impact would result from oil field abandonment within the footprint of the pedestrian bridge). No special status wildlife species (including California gnatcatcher), have been documented within the proposed pedestrian bridge footprint, and the bridge/grading footprint has been located to avoid all adjacent sensitive plant species, including California boxthorn and wooly seablite. It should be noted that the majority of the pedestrian bridge grading footprint is driven by the need to accommodate an ADA compliant pedestrian trail down the slope to a landing (at approximately the 36 ft. contour), from which the public would gain access across the highway. As such, the pedestrian bridge "structure" is located primarily at the base of the slope adjacent to Coast Highway, and therefore has little impact on the bluff face or adjacent habitat areas. The proposed pedestrian trail in this location would be accompanied by substantial coastal sage and maritime succulent scrub establishment, enhancement and revegetation improvements, all of which would displace the existing non-native and invasive vegetation and thereby significantly improve the habitat function and value of the area, particularly for the California gnatcatcher. The proposed habitat improvements would be implemented in concurrently with the public access infrastructure and would be compatible with long-term protection of the restored habitat area, while maximizing public access

opportunities to and from the shoreline, as well as the upland recreation areas included in the proposed project and provided by the adjacent Sunset Ridge Park.

| Vegetation Abbreviation | Vegetation Community | Acres |
|---|---|---|
| Abandonment | | |
| IPM | Ice Plant Mats | 0.01 |
| QS | Quailbush Scrub | 0.01 |
| *Subtotal* | | *0.02* |
| Development Plan | | |
| D-CBBS | Disturbed California Brittle Bush Scrub | 0.005 |
| IPM | Ice Plant Mats | 0.16 |
| MYP | Myoporum Grove | 0.08 |
| ABG | Annual Brome Grassland | 0.01 |
| *Subtotal* | | *0.255* |
| **Total** | | **0.275** |

60 ft. Bluff and Potential Bluff Setback Grading (See Exhibit 2d)

Vegetation impacts that would be avoided with a revised Project design that does not include grading within the 60 ft. bluff edge or potential bluff edge setback have been calculated and are presented in the below table. Eliminating portions of the development plan to avoid grading within the 60 ft. bluff edge setback would reduce impacts by 0.9 acre, 0.24 acre of which includes native vegetation (0.034 acre disturbed scrub communities, 0.2 acre purple needle grass, and 0.02 salt grass flats). The balance of the 1.98 acre impact area within the 60 ft. bluff edge setback area is a result of oil field abandonment as detailed in the table below.

Eliminating portions of the development plan to avoid grading within the 60 ft. potential bluff edge setback would reduce impacts by 0.35 acre, 0.32 acre of which includes native vegetation (0.01 acre disturbed mulefat thicket, 0.01 acre of scrub communities, 0.2 acre disturbed scrub communities, and 0.02 acre purple needle grass).The balance of the 2.9 acre impact area within the 60 ft. potential bluff edge setback area is a result of oil field abandonment and remediation as detailed in the table below.

Overall, eliminating grading within the 60 ft. bluff edge and potential bluff edge setback would primarily affect improvements planned for Bluff Park, including public trails, scenic view overlooks, informal play areas for children, tot lots, and a public amphitheater, and portions of the North Family Village.

| Vegetation Abbreviation | Vegetation Community | Acres |
|---|---|---|
| **Bluff Edge Setback** | | |
| Abandonment | | |
| ABG | Annual Brome Grassland | 0.37 |
| D | Disturbed | 0.25 |
| D-CBBS | Disturbed California Brittle Bush Scrub | 0.005 |
| D-CBBS-CPPS | Disturbed California Brittle Bush Scrub - Coastal Prickly Pear Scrub | 0.08 |
| D-M-CBBS | Disturbed Maintained California Brittle Bush Scrub | 0.31 |
| Debris | | 0.01 |
| DVLP | Developed | 0.73 |
| EG | Eucalyptus Groves | 0.001 |
| IPM | Ice Plant Mats | 0.03 |
| MYP | Myoporum Grove | 0.08 |
| PNGG | Purple Needle Grass Grassland | 0.01 |
| SGF | Salt Grass Flats | 0.10 |
| *Subtotal* | | *1.98* |
| Development Plan | | |
| ABG | Annual Brome Grassland | 0.31 |
| D | Disturbed | 0.13 |
| D-CBBS-CPPS | Disturbed California Brittle Bush Scrub - Coastal Prickly Pear Scrub | 0.03 |
| Debris | | 0.01 |
| DVLP | Developed | 0.01 |
| IPM | Ice Plant Mats | 0.09 |
| MYP | Myoporum Grove | 0.11 |
| PNGG | Purple Needle Grass Grassland | 0.02 |
| SGF | Salt Grass Flats | 0.19 |
| *Subtotal* | | *0.90* |
| ***Total*** | | ***2.88*** |
| **Potential Bluff Edge Setback** | | |
| Abandonment | | |
| CBBS | California Brittle Bush Scrub | 0.09 |
| CBBS-CPPS | California Brittle Bush Scrub - Coastal Prickly Pear Scrub | 0.01 |
| CBS | California Buckwheat Scrub | 0.01 |

| | | |
|---|---|---|
| D | Disturbed | 0.02 |
| D-CBBS | Disturbed California Brittle Bush Scrub | 0.55 |
| D-CPPS-MFT | Disturbed Coastal Prickly Pear Scrub - Mulefat Thicket | 0.02 |
| D-M-CBBS | Disturbed Maintained California Brittle Bush Scrub | 0.36 |
| D-MFT | Disturbed Mulefat Thicket | 0.11 |
| DVLP | Developed | 0.74 |
| IPM | Ice Plant Mats | 0.16 |
| UM | Upland Mustard | 0.43 |
| *Subtotal* | | *2.50* |
| Remediation | | |
| CBBS | California Brittle Bush Scrub | 0.01 |
| D-CBBS | Disturbed California Brittle Bush Scrub | 0.17 |
| D-CPPS-MFT | Disturbed Coastal Prickly Pear Scrub - Mulefat Thicket | 0.01 |
| D-M-CBBS | Disturbed Maintained California Brittle Bush Scrub | 0.02 |
| D-MFT | Disturbed Mulefat Thicket | 0.12 |
| IPM | Ice Plant Mats | 0.03 |
| PNGG | Purple Needle Grass Grassland | 0.03 |
| UM | Upland Mustard | 0.002 |
| *Subtotal* | | *0.392* |
| Development Plan | | |
| CBBS | California Brittle Bush Scrub | 0.08 |
| D | Disturbed | 0.01 |
| D-CBBS | Disturbed California Brittle Bush Scrub | 0.11 |
| D-CPPS-MFT | Disturbed Coastal Prickly Pear Scrub - Mulefat Thicket | 0.03 |
| D-M-CBBS | Disturbed Maintained California Brittle Bush Scrub | 0.06 |
| D-MFT | Disturbed Mulefat Thicket | 0.01 |
| DVLP | Developed | 0.002 |
| IPM | Ice Plant Mats | 0.02 |
| PNGG | Purple Needle Grass Grassland | 0.02 |
| UM | Upland Mustard | 0.005 |
| *Subtotal* | | *0.35* |
| ***Total*** | | ***3.26*** |

Grading/Fill -Top of Bluff, Riparian and/or Drainage Areas (See Exhibit 2e)

Vegetation impacts that would be avoided with a revised Project design that does not include grading at or beyond the topographic top of bluff, slopes or banks associated with arroyo, riparian and/or drainage areas, including the slope located between the North Family Village and remaining oil field facility site (also identified as a potential bluff edge in response to staff's direction), as identified by the top of slope and bank delineations conducted in response comments **C. Geology. 1 A-D below**, have been calculated and are presented in the below table. Eliminating portions of the development plan to avoid grading at or beyond the topographic top of bluff, slopes or banks would reduce impacts by 6.51 acres, 2.08 acres of which include native vegetation (0.01 arroyo willow thicket, 0.05 acre alkali heath marsh, 0.66 acre disturbed mulefat thicket, 0.22 acre scrub communities, 0.88 acre disturbed scrub communities, 0.25 acre purple needle grass, and 0.01 salt grass flats). Eliminating grading within these areas would affect improvements planned for the North Family Village. The balance of the 5.56 acre impact area due to grading at or beyond the topographic top of bluff, slopes or is a result of oil field abandonment and remediation as detailed in the table below.

| Vegetation Abbreviation | Vegetation Community | Acres |
|---|---|---|
| Abandonment | | |
| ABG | Annual Brome Grassland | 0.05 |
| ASH | Alkali Heath Marsh | 0.02 |
| CBBS | California Brittle Bush Scrub | 0.03 |
| CBBS-CPPS | California Brittle Bush Scrub - Coastal Prickly Pear Scrub | 0.12 |
| CBBS-MFT | California Brittle Bush Scrub - Mulefat Thicket | 0.07 |
| D | Disturbed | 0.31 |
| D-ABG | Disturbed Annual Brome Grassland | 0.01 |
| D-CBBS | Disturbed California Brittle Bush Scrub | 0.24 |
| D-CBBS-MFT | Disturbed California Brittle Bush Scrub - Mulefat Thicket | 0.11 |
| D-CPPS-MFT | Disturbed Coastal Prickly Pear Scrub - Mulefat Thicket | 0.02 |
| D-M-CBBS | Disturbed Maintained California Brittle Bush Scrub | 0.20 |
| D-MFT | Disturbed Mulefat Thicket | 0.12 |
| DVLP | Developed | 0.64 |
| IPM | Ice Plant Mats | 0.67 |

| Vegetation Abbreviation | Vegetation Community | Acres |
|---|---|---|
| MYP | Myoporum Grove | 0.02 |
| UM | Upland Mustard | 0.15 |
| *Subtotal* | | *2.80* |
| Remediation | | |
| ASH | Alkali Heath Marsh | 0.06 |
| CBBS | California Brittle Bush Scrub | 0.06 |
| CBBS-CPPS | California Brittle Bush Scrub - Coastal Prickly Pear Scrub | 0.19 |
| CBBS-MFT | California Brittle Bush Scrub - Mulefat Thicket | 0.09 |
| D | Disturbed | 0.12 |
| D-CBBS | Disturbed California Brittle Bush Scrub | 0.33 |
| D-CBBS-MFT | Disturbed California Brittle Bush Scrub - Mulefat Thicket | 0.21 |
| D-M-CBBS | Disturbed Maintained California Brittle Bush Scrub | 0.34 |
| D-MFT | Disturbed Mulefat Thicket | 0.32 |
| D-MGBS | Disturbed Menzies's Golden Bush Scrub | 0.05 |
| DVLP | Developed | 0.09 |
| IPM | Ice Plant Mats | 0.65 |
| MYP | Myoporum Grove | 0.03 |
| PNGG | Purple Needle Grass Grassland | 0.00 |
| UM | Upland Mustard | 0.24 |
| *Subtotal* | | *2.76* |
| Development Plan | | |
| ABG | Annual Brome Grassland | 0.57 |
| ARWT | Arroyo Willow Thicket | 0.01 |
| ASH | Alkali Heath Marsh | 0.05 |
| CBBS | California Brittle Bush Scrub | 0.02 |
| CBBS-CPPS | California Brittle Bush Scrub - Coastal Prickly Pear Scrub | 0.20 |
| CBS | California Buckwheat Scrub | 0.01 |
| D | Disturbed | 1.21 |
| D-ABG | Disturbed Annual Brome Grassland | 0.03 |
| D-CBBS | Disturbed California Brittle Bush Scrub | 0.65 |
| D-CBBS-PNGG | Disturbed California Brittle Bush Scrub - Purple Needle | 0.05 |

| Vegetation Abbreviation | Vegetation Community | Acres |
|---|---|---|
| | Grass Grassland | |
| D-CPPS-MFT | Disturbed Coastal Prickly Pear Scrub - Mulefat Thicket | 0.17 |
| D-M-CBBS | Disturbed Maintained California Brittle Bush Scrub | 0.92 |
| D-MFT | Disturbed Mulefat Thicket | 0.66 |
| DVLP | Developed | 0.05 |
| IPM | Ice Plant Mats | 1.02 |
| MYP | Myoporum Grove | 0.11 |
| PNGG | Purple Needle Grass Grassland | 0.25 |
| SGF | Salt Grass Flats | 0.01 |
| UM | Upland Mustard | 0.18 |
| *Subtotal* | | *6.15* |
| **Total** | | 6.15 |

*Additionally, staff has received public comment letters (enclosed) that highlight concerns about the use of the term "open space" throughout the proposal. Please define what is included in the 258 identified acres of "open space" and provide a breakdown of acreage that represents in detail the following categories (one figure/exhibit should be provided for each):*

1. *acreage of land not being graded or impacted in any way by development nor remediation (land outside the limits of work),*
2. *the acreage of land that is proposed to be impacted by development and/or remediation activities but restored and considered habitat conservation area,*
3. *the total acreage of land that will be developed with roads, homes, commercial and resort space, and the oil consolidation area,*
4. *the total acreage of land that will developed as parks, trails, landscaping and fuel modification areas, and water quality basins,*
5. *Lastly, please provide a map showing these areas as "impacted" and "non-impacted."*

**Response:**

Please see Exhibits 3a – d which illustrate the following:

1. Please see the Preserved Areas map (3a). The acreage of land not being graded or impacted in any way by development or remediation is 118 acres.
2. Please see the Open Space Restored Areas map (3b). The acreage of land that is proposed to be impacted by development and/or remediation activities but restored and considered habitat conservation area is 94.7 acres. Note this does not include site areas subject to habitat restoration/enhancement only, as identified in the HCCMP.

3. Please see the Development Footprint map (3c). The total acreage of land that will be developed with roads, homes, commercial and resort space, parks, trails and water quality features, and the oil consolidation area is 162.7 acres
4. Please see the Development Open Space and Trails map (3d). The total acreage of land that will developed as parks, trails, landscaping and fuel modification areas, and water quality basins (Upland) is 57.4 acres.

### *B. Biology*

Please see Attachment C, Focused California Gnatcatcher Survey, Newport Banning Ranch Project, prepared by Dudek, August 27, 2014. We understand additional California gnatcatcher surveys are not required for purposes of deeming the application complete, but have included this recent survey report to keep Commission staff informed of ongoing surveys efforts.

*1. HCCMP. Nothing further is needed for the HCCMP at this point, but may be required at a later date.*

**Response:**
Complete.

*2. Vernal Pool Sampling. Thank you for submitting the hand-written ACOE Wetland determination data forms. We understand that the site will be surveyed for Vernal Pool/Wet Season Surveys (USFWS Protocol) and consider this report necessary to complete the application. Public comments regarding the thoroughness of these surveys have indicated that there may be as many as 50 additional pools that were not surveyed specifically for Fairy shrimp (enclosed letter). Please include these additional pools in the future Vernal Pool Surveys.*

*Given the new preferred alternative, please clarify if any vernal pools and/or seasonal wetlands will be filled or impacted and please send an updated exhibit map overlaid with the outline of the limits of grading to reflect this.*

**Response:**
In addition, please see Attachment D, the 2013/14 Wet Season Presence/Absence Survey for Federally-Listed Vernal Pool Branchiopods on the Newport Banning Ranch, prepared by Dudek, September 29, 2014. Additionally, please see Exhibit 4, Seasonal Feature Abandonment – Remediation – Project Footprint Impacts map.

Several iterations of seasonal pool distribution mapping has been provided and summarized by qualified biologists for the proposed project. In addition, some members of the public have previously submitted model airplane photographs of the site and arguing that other pools occur. This information has been incorporated into updated protocol surveys, irrespective of the methods used to identify the "potential additional pools". No additional information was provided

during the last cycle of NOIA review (including the attached public comment letters) that suggests any additional pools have been identified or documented beyond those that have already cumulatively been identified and assessed in updated surveys.

Suggested identification of potential pools from the public using model airplanes or other unqualified photography should not be considered to be relevant for review of potential vernal pool or wetland habitat in place of the numerous protocol surveys that have been conducted on the site or the professional opinion provided by qualified biologists regarding known and potential fairy shrimp habitat on the site. The USFWS has established strict survey protocols for performing focused surveys for listed vernal pool species*: Interim Survey Guidelines to Permittees for Recovery Permits under Section 10(a)(1)(A) of the Endangered Species Act for the Listed Vernal Pool Branchiopods April 19, 1996*. Surveyors must receive training, perform surveys with other permitted biologists, and pass an exhaustive laboratory test prior to obtaining their permit. They must then retake the test every time their permit expires (generally every five years). The protocols outline appropriate methods for conducting surveys. The USFWS must be notified at least 10 days prior to conducting the survey and then surveyors must visit the pool or swale within 24 hours after a rain event to determine if the pool filled greater than 3cm's deep. If the pool does fill greater than 3cm deep, then repeat visits are made at two-week intervals to sample for fairy shrimp. Use of aerial photographs to identify puddled areas does not allow for the photograph interpreter to determine the depth of the water. A site visit must be made to determine if the water meets the minimum criteria for initiating a survey. These required "protocol" site visits were not made related to photographs cited in prior public comments and relied upon for staff's request for additional protocol surveys. Permitted biologists are required to make site visits – the USFWS would not agree to allow permitted biologists to make an assertion based on aerial photographs alone. Therefore non-permitted entities should not be allowed to do so. The photos simply show that there was water present right after a rain event. They do not indicate how long after the rain event water was present or how deep the water was. The most basic parameters of the survey protocol were not satisfied.

To date, there have been a total of 53 potential seasonal features identified through various efforts, including those ostensibly identified via model airplanes from offsite locations or other unqualified photography. The history of these studies has been summarized in detail within the report: *Jurisdictional Determination of Seasonal Features for the Newport Ranch* (Dudek 2013) and *Summary of Protocol Surveys for Federally-Listed Vernal Pool Branchiopods Conducted on Newport Banning Ranch (Dudek/GLA 2013)*. Four of these features were identified by the Banning Ranch Conservancy in 2011 (BRC 24b, 49a, 49b, and 6); these were either located off-site or were otherwise not found to be extant by permitted biologists, and thus are not discussed further. Therefore, there are 49 potential features which have been identified by permitted biologists and/or members of the public. Based on feedback from Commission staff and

representatives of the USFWS, we understand that some of these features may warrant additional focused survey review while others do not. It is customary for biologists to identify potential depressions for future follow-up and we believe that this has occurred on this site as detailed below. For those features that may warrant additional focused survey review, we have included a suggested Special Condition of approval to ensure impacts to potential, previously unidentified SDFS habitat are identified and mitigated prior to permit issuance. We believe that this has occurred on this site as detailed below.

The cumulative survey data for each potential feature as presented in survey reports and correspondence previously submitted as part of the CDP Application 5-13-032 is summarized below with a recommendation regarding the requirement for additional focused survey review and mitigation. In addition to the below summary data, please refer to Attachment D (2013/14 Wet Season Presence/Absence Survey for Federally-Listed Vernal Pool Branchiopods on the Newport Banning Ranch, prepared by Dudek, September 29, 2014) for this year's survey results.

- VP1, VP2, VP3, E, G, H, I, and J are all considered to be occupied by the listed San Diego fairy shrimp. All occupied features, with the exception of Feature E which is an oil sump and must therefore be remediated, will be protected and enhanced onsite as part of the proposed project, and Feature E will be mitigated pursuant to the proposed HCCMP. As such, no additional wet season surveys are required to evaluate potential project impacts to fairy shrimp for these 8 features.
- Feature A (subject to 4 wet season surveys) and feature W (subject to 2 wet season and 1 dry season survey) have no documented SDFS occurrence and will be protected and enhanced onsite as part of the proposed project. Feature II (subject to 1 wet season and 1 dry season survey) has no documented SDFS occurrence and will also be protected onsite. Again, additional wet season surveys for these 3 features should not be necessary for purposes of filing the application. Potential indirect project and/or proposed restoration impacts to SDFS associated with these 3 features would be addressed by completing additional wet season surveys prior to issuance of the coastal development to confirm presence/absence of SDFS and thus ensure proposed restoration activities address all potential impacts to SDFS habitat relative to these 3 features.
- Features K, L, V (subject to 2 wet season surveys), X (subject to 1 wet season and 1 dry season survey), Y (subject to 1 wet season and 1 dry season survey), HH (subject to 1 wet season and 1 dry season survey), JJ, and OO (subject to 1 wet season and 1 dry season survey) have no documented SDFS occurrence and would be subject to abandonment and remediation impacts only. Impacts to these non-occupied features would be mitigated per the proposed HCCMP. Again, additional wet season surveys for these 8 features should not be necessary for purposes of filing the application; potential abandonment and remediation project impacts to SDFS associated with these 8 features would

be addressed by completing additional wet season surveys prior to issuance of the consistency certification/coastal development permit for the remediation activities to confirm presence/absence of SDFS, and thus ensure additional mitigation for impacts to SDFS is incorporated into the HCCMP in the event additional wet season survey confirm presence of SDFS in these 8 features.

- As identified in the table below, an additional 25 features would be largely impacted (feature impact area of 50% or more) by abandonment and remediation activities within the proposed development plan footprint (features B, C, D, F, M, N, O, P, Q, R, S, T, U, Z, AA, CC, DD, EE, FF, GG, PP, QQ, RR, SS, and TT). Each of these features has been subject to at least two wet season surveys, or a combination of one wet season and one dry season survey and have no documented SDFS occurrence. Impacts and mitigation to these features are identified in the proposed HCCMP. Additional wet season surveys for these 25 features should not be necessary for purposes of filing the application; potential abandonment and remediation project impacts to SDFS associated with these 25 features would be addressed by completing additional wet season surveys prior to issuance of the consistency certification/coastal development permit for the abandonment and remediation activities to confirm presence/absence of SDFS. Should additional protocol surveys identify SDFS habitat in any of these features, additional mitigation will be required pursuant to a revised HCCMP. See the below table for a summary of feature characteristics, prior surveys conducted and abandonment/remediation impact.
- Features BB, a portion of KK, LL and MM would be permanently impacted by the proposed development plan only. Each of these features has been subject to at least two wet season surveys, or a combination of one wet season and one dry season survey and have no documented SDFS occurrence. Impacts and mitigation to these features are identified in the proposed HCCMP. Again, additional wet season surveys for these 4 features should not be necessary for purposes of filing the application; potential development plan impacts to SDFS associated with these 4 features would be addressed by completing additional wet season surveys prior to issuance of the coastal development permit to confirm presence/absence of SDFS. Should additional protocol surveys identify SDFS habitat in any of these features, additional mitigation will be required pursuant to a revised HCCMP.
- Feature NN does meet any of the 3 criteria used to identify a wetland pursuant to USACE or CCC regulations. Additional wet season surveys for this feature should not be necessary for purposes of filing the application.

| Seasonal Feature ID | Size (approx.) | #/Type of Surveys (Wet or Dry Season) | Species Presence or Absence | Impact (due to removal/remediation, etc.) |
|---|---|---|---|---|
| B | 0.030 acre, 20 cm. deep (avg.) | 2 wet season surveys | Occupied by VFS | Removal of stockpiled remediated soil adjacent to two inactive/abandoned oil wells |
| C | 0.001 acre, 10 cm. deep (avg.) | 2 wet season surveys | Occupied by VFS | Removal of stockpiled concrete and removal of oil pipeline |
| D | 0.002 acre, 7.5 cm. deep (avg.) | 3 wet season surveys & 1 dry season survey | Occupied by VFS | Removal and remediation (location contaminated by crude oil and debris from oil operations) |
| F | 0.030 acre, 9 cm. deep (avg.) | 2 wet season surveys & 1 dry season survey | Inconclusive (insufficient ponding) | Restoration/remediation due to excavation and berming |
| M | 0.014 acre, 6-9 cm. deep (avg.) | 2 wet season surveys & 1 dry season survey | Occupied by VFS | Removal and remediation of oil field pipe and material storage yard |
| N | 0.029 acre, 5-7 cm. deep (avg.) | 2 wet season surveys & 1 dry season survey | Occupied by VFS | Removal and remediation of gravel covered oil field pipe and material storage yard |
| O | 0.004 acre, 2 cm. deep (avg.) | 2 wet season surveys | Inconclusive (insufficient ponding) | Removal of gravel parking and equipment storage area |
| P | 0.009 acre, 5-8 cm. deep (avg.), some depths of 10 cm. | 2 wet season surveys & 1 dry season survey | Occupied by VFS | Removal/remediation of area where soil is stockpiled for remediation |
| Q | 0.004 acre, 5 cm. deep (avg.) | 2 wet season surveys & 1 dry season survey | Occupied-species not identifiable (cysts did not hatch) | Removal of paved and dirt roadway and shoulder |
| R | 0.006 acre, 5 cm. deep (avg.) | 2 wet season surveys & 1 dry season survey | Occupied by VFS | Removal of road/paved parking area |
| S | 0.003 acre, 4 cm. deep (avg.) | 2 wet season surveys & 1 dry season survey | Inconclusive (insufficient ponding) | Removal of gravel and dirt road |
| T | 0.004 acre, 12-15 cm. deep (avg.) | 2 wet season surveys | Occupied by VFS | Removal of paved parking area and access road |

| | | | | |
|---|---|---|---|---|
| U | 0.002 acre, 5 cm. deep (avg.) | 2 wet season surveys & 1 dry season survey | Inconclusive (insufficient ponding) | Removal of paved parking area |
| Z | 0.007 acre, 10 cm. deep (avg.) | 1 wet season survey & 1 dry season survey | Occupied by VFS | Remediation of trench used to contain oil spills |
| AA | 0.002 acre, 6.5 cm deep (avg.) | 1 wet season survey & 1 dry season survey | Inconclusive (insufficient ponding) | Removal/remediation of inactive/abandoned well pad |
| CC | 0.003 acre, 12-13 cm. deep (avg.) | 1 wet season survey & 1 dry season survey | Occupied by VFS | Removal/remediation of oil pipeline |
| DD | 0.003 acre, 4-5 cm. deep (avg.) | 1 wet season survey & 1 dry season survey | Occupied by VFS | Removal of stockpiled concrete |
| EE | 0.003 acre, 3-6 cm. deep (avg.) | 1 wet season survey & 1 dry season survey | Occupied by VFS | Removal/remediation of inactive/abandoned oil well pad |
| FF | 0.005 acre, 3 cm. deep (avg.) | 1 wet season survey & 1 dry season survey | Occupied by VFS | Removal/remediation of inactive/abandoned oil well pad |
| GG | 0.003 acre, 7-8 cm. deep (avg.) | 1 wet season survey & 1 dry season survey | Occupied by VFS | Removal/remediation of road within active oil well site |
| PP | 0.001 acre, 3 cm. deep (avg.) | 2 wet season surveys & 1 dry season survey | Occupied by VFS | Removal of paved oil field operation road |
| QQ | 0.003 acre, 5 cm. deep (avg.) | 1 wet season survey & 2 dry season surveys | Inconclusive (insufficient ponding) | Removal a dirt road |
| RR | 0.001 acre | no surveys | ------- | Remediate/restore area of depressed tire ruts |
| SS | 0.002 acre | no surveys | ------- | Removal/remediation of inactive/abandoned oil well pad |
| TT | 0.001 acre | no surveys | ------- | Remediate/restore depression in southeastern portion of site |

NOTES:
VFS = Versatile Fairy Shrimp (non-listed)
Inconclusive – Protocol wet-season surveys were inconclusive due to insufficient ponding
No surveys-- USFWS determined that feature not a vernal pool and exhibits no potential for supporting listed Fairy Shrimp

Suggested Seasonal Feature Surveys Special Condition

A. Prior to issuance of the Consistency Certification/Coastal Development Permit, the applicant shall retain the services of a qualified biologist, with qualifications

acceptable to the Executive Director, to conduct Vernal Pool/Wet Season Surveys (USFWS Protocol) on the subject site within the abandonment/remediation and development footprint to determine the presence of San Diego Fairy Shrimp (or Federally-listed vernal pool Branchiopods) and the applicant shall submit, for the review and approval of the Executive Director, two copies of the final surveys. In the event that San Diego Fairy Shrimp (or Federally-listed vernal pool Branchiopods) are identified by the surveys:

i) If adverse impacts to previously unidentified San Diego Fairy Shrimp habitat from abandonment/remediation and/or development activities are identified, the applicants shall be required to submit two copies of a revised, or supplemental habitat mitigation program, in coordination with the USFWS, to adequately mitigate such impacts in the identified vernal pool complex for the review and approval of the Executive Director.

B. The Permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Coastal Commission - approved amendment to the coastal development permit, unless the Executive Director determines that no amendment is required.

*3. Vegetation Mapping. Staff remains concerned that Dudek's category for "disturbed" vegetation may include areas that should be described as "disturbed native scrub" vegetation, based on our site visit observations. We plan to arrange additional field work days to visit the respective disturbed" vegetation category locations to observe current on- the-ground conditions and request assistance in adjusting the mapping as necessary.*

**Response:**
As discussed, vegetation mapping as it relates to the application is complete. NBR understands CCC Staff has the information to complete their analysis and NBR and its consultants are available to assist as needed.

*4. Burrowing Owl. Thank you for submitting the Wintering Owl Habitat Survey. Public comments regarding the thoroughness of these surveys have indicated that there may have been oversight during the survey and the actual number of owl spottings was inaccurate. Please see the enclosed letters and respond accordingly.*

**Response:**
The "2014 Focused Non-Breeding Season Burrowing Owl Surveys, Newport Banning Ranch Project" report, dated March 7, 2014, provided to Commission staff on May 1, 2014, documents survey results based on surveys conducted by qualified Dudek biologists in accordance with protocol developed by the CDFW.

We have reviewed the public comments related to burrowing owl surveys attached to the NOIA letter, and while NBR notes that responding to public comments during the application phase is inappropriate, the team's principal biologist has reviewed the matter to provide clarification to the misrepresentations made in the aforementioned public comments. The public comments do not point out any flaws in the report or surveys prepared by Dudek submitted as part of the application. Rather, the comments provide information regarding additional potential observations of burrowing owls on or near the subject site. For example, the commenter noted owl sightings on certain dates in January 2014 and points out that the Dudek surveys did not capture these sightings. However, the comments did not identify the timing and location of the sightings and it appears that the sightings were documented informally. Further, the comments document an owl observation on a single overlapping day with the Dudek surveys (January 30, 2014), where the commenter noted an owl sighting, but the Dudek survey did not observe owls. However, as the location and timing of the sightings were not provided in the comments, we are unable to compare the data provided by the commenter with the timing and locations surveyed by Dudek biologists as part of the CDFW protocol survey, documented in the March 7, 2014 report (see Table 1, Figures 1-3 ,and Appendices A-C of the report).

Because the specific location of the photographs were not disclosed, Dudek (Brock A. Ortega) revisited the site on August 12, 2014 to try to determine where the photographs were taken to provide better context. Dudek searched along the perimeter of the project site, comparing the photographs to the visual signature on the ground. Dudek attempted to locate the source of the 12/05/2013 photograph of the burrowing owl on top of a barb-wire fence. The location of the photograph is believed to be within or proximate to a neighboring fenced area, potentially outside of the study area or project area. Dudek searched along this area to locate the approximate location of the owls, using the proximity of the burrows to the fence. While Dudek adhered to the CDFW protocol for conducting burrowing owl surveys, we did not trespass onto adjacent land owners' properties, but instead searched using binoculars. This is allowed per the protocol.

Regardless, as outlined in the March 7, 2014 report, various survey efforts since at least 2008 have documented the presence of burrowing owls on the subject site. Thus, the periodic presence of the species on portions the project site is well documented and understood. Accordingly, the HCCMP includes restoration designed to address potential impacts to burrowing owl wintering habitat through the establishment of purple needlegrass and annual grassland, as well as native grassland restoration in temporary impact area locations. Specifically, grassland establishment within the vernal pool complexes will enhance wintering habitat for burrowing owl that has periodically been observed on site.

In addition, NBR will agree to conduct focused pre-construction surveys in the development area in accordance with permit conditions and follow CDFW guidelines, including following strict protocols if surveys identify burrowing owl

nests, such as implementing construction buffers and noise reduction measures, construction timing, avoidance of the nest site(s) until the nest is abandoned, and/or relocation, in consultation with CDFW. Lastly, the proposed HCCMP adequately provides habitat for the occasional wintering burrowing owl.

*5. Field Lighting. We understand field lighting is no longer included in this proposal.*

**Response:**
Complete

*6. Roadways. Thank you for providing a preferred alternative that reduces fill of riparian and wetland areas for the construction of roadways. It appears that the bridge spanning the southern arroyo may still require grading, and possibly fill, on the Northern side bridge abutment. Please confirm if the construction of the bridge completely avoids impacting the arroyo? If not, can it be constructed in a way that does?*

**Response:**
The Bluff Road Bridge spanning the arroyo between the North Family Village and South Family Village can be designed to avoid filling of any wetland riparian areas. Accordingly, NBR will agree to a Special Condition requiring, prior to permit issuance, submittal of revised project plans for the southern arroyo Bluff Road Bridge which demonstrate the bridge design avoids grading impacts to the arroyo by locating the bridge abutments and associated grading outside of the drainage top-of-bank as delineated per comment C. Geology. 1 A-D below.

*7. Storm Water Retention. The new location of the large water quality basin in the lowlands would not allow for a necessary wetlands buffer. We maintain that installing these features in environmentally sensitive areas is not consistent with the Coastal Act. Please identify alternative locations for this basin that will not impact environmentally sensitive areas and would allow for a necessary buffer. Please see 'Infiltration' below for additional details needed regarding storm water retention devices.*

**Response:**
Please see the response below under D. Development, 9. Infiltration.

*8. Fuel Modification Areas.*
*Thank you for submitting the information regarding the fuel modification zones. Please confirm that the fuel modification zones B and C activities, vegetation clearing or thinning, will not impact the bluff edge nor bluff face.*

**Response:**
Please see Exhibit 5, Fuel Management Zones. The fuel modification Area Exhibit has been updated based on the recent site lotting plan. Fuel modification Zone C does in some cases, cross over the bluff edge in the South Family Village area per the approved fire master plan.

*9. Constraint Maps. As stated in our last letter, our ESHA determination will be used to develop a biological constraints map that includes our biologist's buffer recommendations that we believe reflects the sensitive species and habitat onsite and provides the appropriate protection for these sensitive resources.*

**Response:**
Complete. NBR understands CCC Staff has the information to complete their analysis and NBR and its consultants are available to assist as needed.

*10. Remediation Plan. Thank you for supplying a draft of the Remediation Plan to Cassidy Teufel of our Energy and Ocean Resources Unit. As you have discussed with staff of the Energy and Ocean Resource Unit, there may be components of your proposed remediation plan (e.g., down-hole well abandonment work, removal of some surface infrastructure and pads) that may fall within the scope of Exemption E-7-27-73-144. However, after conferring with the State Department of Oil, Gas and Geothermal Resources (DOGGR) staff, we have concluded that most of the activities proposed in your Remediation Plan, (e.g., bioremediation) do not fall within the scope of this Exemption. We are happy to assist you in discerning which activities proposed in your Remediation Plan must be a part of the CDP application. Please also provide the following:*

A. *Please revise your CDP application project description to include the activities proposed in your Remediation Plan.*

**Response:**
Remediation is being included as part of this submission, so CCC Staff can process a Federal Consistency Analysis as element of the Project CDP. Please refer to the Newport Banning Ranch Oilfield Abandonment Plan (Attachment A) and associated ACOE Section 404 permit provided to Federal Consistency Staff.

B. *It's our understanding that the work proposed in the Remediation Plan is not being required by the Regional Water Quality Control Board (RWQCB), the Department of Toxics and Substance Control or any other agency, but is being proposed to support the applicant's desired residential and commercial development project. The remediation activities, as proposed, may result in potentially significant adverse habitat impacts. Therefore, we need to understand more fully the scope of remediation alternatives considered by the applicant and the reasoning for the remediation options chosen. Please describe how the proposed remediation is the least environmentally damaging alternative for each development type (residential, commercial, parks and open space) and provide details on what other alternatives are available and have been considered.*

**Response:**
Oil field closures require a Remedial Action Plan. With or without the residential and commercial development uses proposed by the Project, a Remedial Action

Plan (RAP) is required for oil field site closure. In addition to consultation with the CCC, the RAP for this site will need approval from the RWQCB and OCHCA.

Please see Attachment A, Oil Field Abandonment Plan, for a detailed discussion on remediation, including anticipated remediation levels required for the proposed land uses (open space/public access, commercial and residential) and possible remediation alternatives.

C. *Given sensitive species onsite, please address in your Remediation Plan the location and size of buffers planned at each specific remediation site. Identify specific circumstances and areas where pipe and surface facility removal can be performed without any impacts to sensitive species.*

**Response:**
Please refer to the Oilfield Abandonment Plan, which describes how the remediation plan is designed to avoid sensitive site areas, to the extent possible. This Plan also explains how the proposed remediation alternative avoids and minimizes abandonment and remediation activities that could affect sensitive site resources, including a detailed implementation process that will ensure pipe and surface facility removal is performed in manner that avoids and minimizes impacts to sensitive species to the maximum extent feasible.

***C. Geology***

*1. Bluff Edge Delineation. Thank you for submitting the revised bluff edge delineation maps.*

A. *The base map is unclear with extraneous lines (grading lines) and lines that appear to cross contours in some locations. Please provide the bluff edge delineation revisions on a clean topographic base map.*

**Response:**
The exhibit has been updated to remove tree and vegetation outlines from the existing topography. Please see Exhibit 13a – d.

B. *On sheet 2, near the southern edge of the sheet is an arroyo (also shown near the northern edge of sheet 3). Note that Commission staff disagrees with the location of the bluff edge in that area and believe it needs to be placed higher.*

C. *Currently, the bluff edge delineation ends just before the footprint of the proposed northern housing development. However, there is development (e.g. grading, road, trails) proposed further to the north of this point and the bluff edge setback should be determined according to the bluff edge delineation. Please continue the bluff edge delineation to the north, to include the most northern point of any proposed development (including grading).*

*D. Please determine the bluff edge of the arroyos and canyons using the same criteria as for coastal bluff edge as defined in CCR section 13577(h).*

**Response:**

As discussed in our prior meetings and correspondence, NBR disagrees with staff's suggested interpretation with respect to the bluff edge delineation on some portions of the site, however we understand you have determined that NBR has provided sufficient information for CCC Staff to complete their analysis and the application is complete with regards to this item.

Staff has requested additional information regarding the bluff edge delineation on the site, specifically relating to 1) extending the bluff edge northerly along the Uplands area "to include the most northern point of any proposed development (including grading)" and 2) delineating a bluff edge of the "arroyos and canyons" using the same criteria for coastal bluffs as defined in 14 CCR 13577(h). Related to and dependent on these additional information requests, staff has also requested that the NBR 1) complete an analysis evaluating the bluff/slope retreat rate of the "arroyos and canyons" on the site and 2) provide further alternatives that completely avoid fill in riparian areas.

For purposes of responding to Staff's request for this additional bluff delineations and retreat analysis, Staff refers NBR to 14 CCR 13577 (h)(2), and Coastal Act Section 30603 (a)(1) and (a)(2). We understand that Staff has determined that 14 CCR 13577(a) of the Commission's Regulations, which provides criteria to determine the top of bank for streams, does not apply to the arroyos and drainages identified on the site but, rather, these features' edges should be defined similar to the methods used to evaluate coastal bluffs as defined by 14 CCR 13577 (h) (2) and Coastal Act Section 30603 (a)(2). We disagree with Staff's direction for delineating additional bluff edges and evaluating bluff erosion/retreat rates for the northern Upland slopes and arroyos/drainages on the site in a manner similar to that utilized for coastal bluffs for the reason discussed below, but note that we have nonetheless provided the Staff requested information on Exhibit 6, Coastal Bluff/Stream Delineation, to ensure Staff has all the information needed regarding this matter to deem the application complete.

Exhibit 6 illustrates the following:

1. Top of Bluff (CCC March 2014), delineated per 14 CCR 13577 (h), and the 60 ft. bluff edge setback discussed with Staff in our prior meetings and communications.
2. Areas of the site delineated pursuant to pertinent parts of Coastal Act Section 30603 (a)(2), which specifies geographic areas of development that, if approved in a local government coastal development permit, make such approvals appealable to the Coastal Commission after LCP certification. Note that for purposes of delineating additional potential bluff edges on the site per Staff's comments, we've mapped what would be the "geographic appeals" area

only for wetlands as those features may be used by Staff to determine where additional bluffs occur because the toe of certain slopes/landforms lie within the geographic areas identified by Coastal Act Section 30603 (a)(2). (There are no tidelands, submerged lands, public trust lands, or estuaries on the site, and the "geographic appeals" area identified within 300 feet of the top of the seaward face of any coastal bluff is not applicable here, where Coastal Act Section 30603 (a)(2) specifically refers to situations where the toe of a slope/landform falls within areas identified in that Section). In addition, we mapped the "geographic appeals" area for streams as those features relate to delineating the top of bank for the sites' arroyos/drainages per our proposed methodology.

3. Potential Bluff Edge and associated 60 ft. bluff edge setback, which, per the direction of Staff, extends the bluff edge delineation along the northernmost slope of the Uplands to include the most northern point of any proposed development (including grading).
4. Top of Slope (and associated 60 ft. setback) for the arroyos and drainages on the site, which would be equivalent to the top of bluff under Staff's interpretation/direction.
5. Top of Bank for the arroyos and drainages on the site as delineated pursuant to 14 CCR 13577(a) of the Commission's Regulations, which provides criteria to determine the top of bank for streams and appropriately reflects both the landform and biology of these features as described in detail below. In addition, the top of bank delineation provides the information necessary to accurately respond to staff's request that further alternatives be evaluated to avoid fill in riparian areas (as described in responses to comment II. Planning Issues, A. Alternatives above).

The bluff edge definition, as outlined in 14 CCR Section 13577(h), applies to a "coastal bluff" and, if applied to northernmost slope of the Uplands area and all of the arroyos and canyons on the site, would not accurately characterize the top for slope, top of bank, hydrology or biology of those features. "Coastal bluff," according to 14 CCR Section 13577(h), means "(1) those bluffs, the toe of which is now or was historically (generally within the last 200 years) subject to marine erosion; and (2) those bluffs, the toe of which is not now or was not historically subject to marine erosion, but the toe of which lies within an area otherwise identified in Public Resources Code Section 30603(a)(1) or (a)(2)." To be considered a "coastal" bluff for application of the standards of 14 CCR Section 13577(h), the geologic features must first be identifiable as a "bluff."
14 CCR Section 13577(h) refers to a bluff as having a discernable "toe" and, pursuant to Staff, application of Section 30603 (a)(2) could further define a bluff where the toe of a slope or landform lies within the geographic areas defined by wetlands on the site (we note here again that the other geographic areas identified in Section 30603(a)(2) are not applicable as there are no tidelands, submerged lands, public trust lands, or estuaries on the site, and the area identified within 300 feet of the top of the seaward face of any coastal bluff is not applicable to identifying situations where the toe of a slope/landform falls within those areas). To the extent applicable based on site conditions, we have identified

the bluff edge based on 14 CCR Section 13577(h) on a revised topographic base map clearly depicting the existing site contour lines, as requested.

As it relates to the northernmost slope of the Uplands area, this slope does not rise steeply with a broad, flat, or rounded front as is characteristic of the bluffs already identified on the site, and we note that the toe of the slope in this portion of the site has not been subject to marine erosion and does not lie within an area otherwise defined Section 30603(a)(2) of the Coastal Act. Accordingly, we do not believe the northernmost Uplands area should be delineated as a coastal bluff, but we have nonetheless mapped a "Potential Bluff Edge" and associated 60 ft. bluff edge setback along the northernmost slope of the Uplands per Staff's direction.

The attached map also depicts the top of bank and top of slope of arroyos and drainages, as appropriate, based on the site's unique geologic features, which also include arroyos, streams, and erosional gullies.

For the geologic features on the site that clearly cannot be characterized as a "bluff" (rising steeply/having a broad flattened front and having an identified toe), such as arroyos and streams, and for areas that transition from a bluff-like feature to a drainage-like feature, we have determined the edge/top of slope or bank using top of bank definition in 14 CCR Section 13577(a). The toe of these features have never been subject to marine erosion, nor do they lie within a geographic area defined by Section 30603 (a)(2) of the Coastal Act as that Section applies to defining coastal bluffs. Rather, the arroyos and drainages on the site exhibit classic characteristics of streams and drainages (which would be used to delineate geographic appeals area for streams, not coastal bluffs, as required per Section 30603 (a)(2) of the Coastal Act), and are easily delineated per 14 CCR Section 13577(a, which) provides the following criteria to determine the top of bank for streams:

1. "The bank of a stream shall be defined as the watershed and relatively permanent elevation or acclivity at the outer line of the stream channel which separates the bed from the adjacent upland, whether valley or hill, and serves to confine the water within the bed and to preserve the course of the stream."
2. "In areas where a stream has no discernable bank, the boundary shall be measured from the line closest to the stream where riparian vegetation is permanently established. For purposes of this section, channelized streams not having significant habitat value should not be considered."

The submitted map (Exhibit 6) depicts the termini of the bluff edge delineation and the transition to a top of slope/top of bank delineation of the arroyos based on 14 CCR Section 13577(a). The map is based on an up-to-date topographical survey of the site in addition to a recent field survey. In accordance with 14 CCR Section 13577(a), the mapped stream bank/top of slope delineation was determined using site topography where the elevation at the outer line of the stream channel could be identified and, where no discernable bank could be

identified, the boundary was measured in the field from the line closest to the stream where riparian vegetation was permanently established.

The following methodology was used by Dudek's biologist to conduct the field survey for the top of bank delineation:

(1) Field truthing was conducted to determine the overall site condition and topography and document the channel morphology, flow characteristics, and relationship of the stream with adjacent uplands;

(2) The top of bank was identified by identifying the break in slope between the physical channel bank of the stream and the adjacent uplands;

(3) In cases where the channel bank topography was discontiguous or absent, the top of bank was defined by the drip line of riparian vegetation, in most cases mulefat and/or willows;

(4) In streams where riparian vegetation was lacking but evidence of hydrology was evident, the top of bank was delineated by closely reviewing the topography and relationship of the stream with the adjacent uplands taking into consideration channel type (ephemeral, intermittent, or perennial), hydrology sources (precipitation, runoff, etc.), landscape position (i.e., is the channel concave or flat, does it vary in elevation with humps and mounds, does it meander, is it narrow or wide, etc.), possible flow velocities based on hydrology sources, and the bankfull width (i.e., the width of a stream channel between the highest banks on either side of a stream) versus the natural top of bank. In these cases the top of bank was approximately 3-4 feet from the channel bottom. This was often marked by a clear, steep incision in the channel (near vertical in some cases);

(5) Special attention was paid to areas where evidence of classic gully erosion and rills were observed. A classic gully can be characterized by a branching or linear feature resembling large ditches or valleys formed by concentrated runoff during rain events. These areas formed a clearly discernible dendritic (branching) pattern typical of a classic gully erosional feature. Soils were loose and friable; no signs of hydrology were observed. Riparian vegetation was sparse and limited.

We believe the submitted information regarding geologic features on the site and corresponding erosion analysis for bluff edge and top of slope/stream (addressed below) provides an abundance of information for staff's analysis of the site's geologic characteristics and any potential hazards to determine the project's consistency with Coastal Act Section 30253 and other applicable Coastal Act policies and guidance.

*2. Bluff Retreat Rate. Thank you for providing the analysis of bluff retreat rate, Sea Level Rise and the information regarding flooding from the Santa Ana River. We*

*maintain that the minimum average bluff retreat rate is not appropriate for the analysis of the tidal bluffs, but require nothing further at this time. However, we do request an analysis evaluating the bluff/slope retreat rate of the arroyos and canyons on the site.*

**Response:**
With regard to Bluff Retreat Rate and Sea Level Rise, NBR understands that CCC Staff has added a new request that NBR provide arroyo and canyon edge delineation, including retreat rates. As described above, we believe the arroyos and drainages referenced in this comment do not meet the definition of a bluff, and as such, a bluff edge delineation and associated retreat rate is not applicable. However, NBR has provided an arroyo and drainage top of bank delineation per 14 CCR Section 13577(a), and has also provided a top of slope (and associated 60 ft. setback) for the arroyos and drainages on the site, which would be equivalent to the top of bluff under Staff's interpretation/direction.

With respect to the requested analysis of retreat rates of the arroyos and drainages, we note that the most significant erosional forces of these features are contained within the active stream channels delineated on the attached map, and therefore are within areas well setback from the proposed structural improvements. Accordingly, it is not anticipated that erosion within the site's arroyos and streams will threaten any portion of the proposed project. As indicated in the Geotechnical Report prepared for the project, the slopes that descend into the main arroyos are relatively much flatter than the bluff slope faces and generally average approximately 20 degrees in steepness; the slopes are also well vegetated and, therefore, in most cases do not exhibit active erosion beyond the defined top of bank on the upper slopes.

The Watershed Assessment Report prepared for the project analyzes the arroyo channel hydraulics to establish the flow depths, velocities, and water surface profiles under the existing and proposed conditions for the arroyos. The analysis concludes that the northern arroyo is in a stable channel condition and does not generate erosive velocities, even under the extreme 100-year condition event. The analysis states that the model result is consistent with field observations that exclude any evidence of erosion in the arroyo bed and bank. The Watershed Assessment Report notes that field observations indicate severe erosion and sloughing of sediment into the southern arroyo from the adjacent on-site tributary areas entering the arroyo. However, as noted above, the most significant erosional forces of the arroyo and adjacent drainages/tributaries are contained within the active stream channel, well setback for the proposed project, and according to the hydraulic performance of the channel and the proposed upstream control basin to reduce the peak flows entering the southern arroyo, the channel is expected to remain stable under the proposed condition.

*3. Alteration of Natural Landform. Thank you for submitting the 30% grading plans. It appears that there is fill extending over the canyon edge at several locations (an arroyo/canyon bluff edge delineation is necessary to confirm this), including the*

*northern abutment of the bridge spanning the southern arroyo. Please clarify by providing the bluff edge delineation of the arroyos and provide further alternatives that completely avoid fill in riparian areas. Also provide alternatives that reduce or eliminate grading the slope between the northern housing development and the consolidation area.*

**Response:**
Please see responses to comments C. Geology. 1 A-D above for a description of the additional bluff edge, arroyo and drainage top of slope/bank delineations that were conducted and then utilized to complete analysis of the alternatives suggested in this comment, as further detailed in responses to comment II. Planning Issues, A. Alternatives above.

*4. Pedestrian Bridge. Would the construction of the abutments for the pedestrian bridge spanning Coast Highway require caissons? Please provide preliminary foundation plans for this item. Additionally, please provide an alternative location for the proposed bridge that would not impact the bluff edge and/or bluff face.*

**Response:**
At the proposed location, grading for the structure and trail system to connect to the bluff top trail system is approximately 5,000 CY. Grading will be limited to providing a pad for the structure foundation and the trail system. Soil tests in the vicinity of the pedestrian bridge structure near the bluff edge have not been performed and as a result detailed calculations and foundation designs cannot be completed. Temporary shoring and cassions may be used to limit the footprint of construction to the soil disturbance area studied.

There is no alternative location for the bridge that would not impact the bluff edge and/or bluff face. The current location is the only location that does not impact habitat and also provides for a landing in an existing city park. Please also refer to responses to comment II. Planning Issues, A. Alternatives above, which assess a project alternative to delete the pedestrian bridge.

*5. Fault Setback Area. Please confirm that no structures for human habitation will be constructed in the fault setback area identified on attachment 30 of the CDP resubmittal of May 17 2013 by providing the most recent development footprint overlaid on a similar exhibit showing the fault setback area.*

**Response:**
Please see Exhibit 7, showing that no structures for human habitation will be constructed in the fault setback area.

***D. Development***

*1. Project Heights. Thank you for submitting the mapped heights of surrounding structures.*

*Please note that while we do have floor plans for the proposed buildings, we do not have complete conceptual plans for the residential, mixed-use, and commercial structures showing foundations, elevations, square footage, and height. This information is particularly important for the retail/commercial space and the resort as it relates to visual qualities, parking and other coastal concerns. Please provide complete conceptual plans for these use areas.*

**Response:**
Please see Exhibit 8.

*2. Pedestrian Bridge. Thank you for submitting additional information regarding the proposed pedestrian bridge. We still need to identify what impact the elevator structure will have on the bluff edge. Please submit a brief discussion from an engineer describing: how many cubic yards of cut of the bluff are required for this structure; how deep the cut will be; what specific alternatives have been explored that are less environmentally damaging? Are there alternatives locations that are appropriate for the structure that are a minimum of 25 feet away from the bluff? Please have a biologist confirm whether there are any sensitive vegetation and/or wildlife occupying this area and/or within 50 feet of the bluff.*

**Response:**
Please see response above and responses to comment II. Planning Issues, A. Alternatives above, which assess a project alternative to delete the pedestrian bridge and details vegetation types and special-status species occurring within and adjacent to the this area. Additionally, there is no elevator planned on the project side of the bridge, access will only be from the project site's southern village.

*3. Takings Information. Thank you for clarifying your position regarding the potential takings of the property. No further information is requested at this time.*

**Response:**
Complete

*4. Development Agreement No further information is requested at this time.*

**Response:**
Complete

*5. Other Agency Approvals. Staff is interested in learning more about the details of the pending ACOE Section 404 permit. Please provide when available to our Federal Consistency staff.*

**Response:**
On August 19, 2014 applications in support of a Section 404 Nationwide Permit, Section 401 Water Quality Certification, and a Section 1602 Streambed Alteration Agreement were submitted to the U.S. Army Corps of Engineers (USACE), Regional Water Quality Control Board (RWQCB), and California Department of Fish and Wildlife (CDFW) to authorize impacts to waters and wetlands of the U.S. and State resulting from implementation of the project. The applications were received by the resource agencies on August 20, 2014. On September 15, 2014 the RWQCB deemed the application for Section 401 Water Quality Certification complete via email. Along with the complete notification, RWQCB staff requested an additional permit processing fees to continue their review of the application along with a request to clarify the type of non-wetland waters that are proposed to be impacted within the development footprint. The RWQCB has between 60 days and 1 year in which to make a decision. During these next 60 days the RWQCB can request materials to clarify impacts, mitigation, or other aspects of the application that may require clarification. The Applicant will work closely with RWQCB staff to ensure that all questions are addressed in a timely manner to avoid delays. If processing and review of the 401 application is expected to take more than 60 days, the RWQCB may issue a written request to the USACE asking for additional time to complete their review. The CDFW and USACE are in the process of completing their initial 30-day review period. We expect to receive a notice of completeness from them by September 19, 2014.

*Please provide details about your in-process approval from other agencies, specifically Cal F&W, RWQCB, USFWS, OC Heath Dept., and DOGGR. Please include the status of approvals from Caltrans for off-site improvements in the public park related to the construction of the pedestrian bridge.*

*6. Co-Application Invitation. Nothing further is required at this time.*

**Response:**
Complete

*7. Chain of Title. No further information is needed at this time.*

**Response:**
Complete

*8. Parking. See the below discussion regarding the TDM Plan.*

**Response:**
See response to item 13 below.

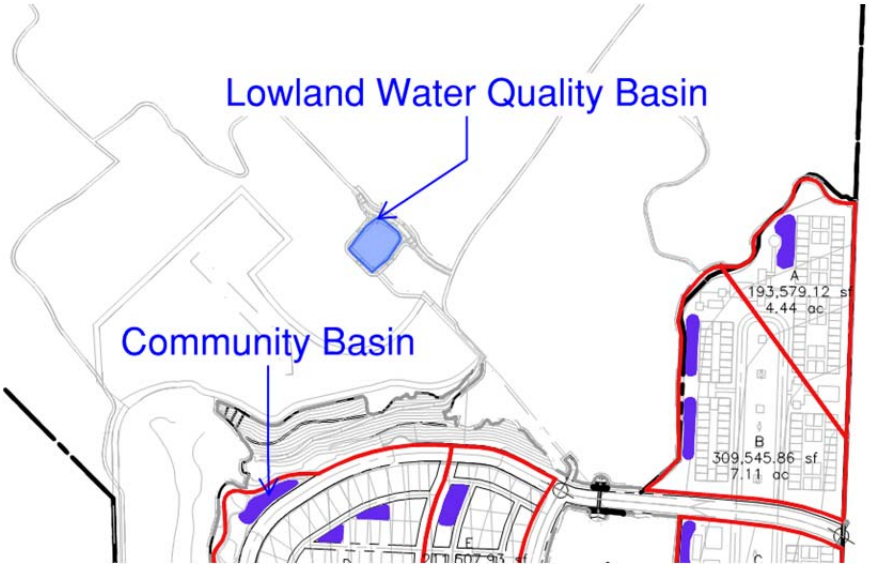
*9. Infiltration. Please provide the dimensions, construction specifications, and cross sections for all water quality basins. Staff also requests to see information regarding the following:*

*A. Lowland Water Quality Basin.*

I. *The Water Quality Management Plan (Exhibits 91 and 9-2) show the large 'Perimeter Zone Water Quality Basin' in the lowlands will be treating runoff from the residential area of the northern housing development as indicated by the two 20' wide storm drain easements between the development drainage areas D and E. Are these storm drain easements open bioswales, channels, underground pipes or other?*

II. *Please provide details for the capacity needs of the development run-off and existing run-on water and the sizing requirements of this basin, as well as the drainage paths in/out.*

**Response:**
The storm drain easements will be for underground pipes to convey treated low flows and high flows from development areas D & E. The required capacity of the Lowland Water Quality Basin to meet water quality regulations is zero cubic feet. All runoff originating from the development areas will be treated in community water quality bio-treatment basins sized to meet regulatory requirements prior to discharging into the Lowland Basin. There is no sizing criteria associated with the Lowland Basin because all water quality treatment requirements will be fulfilled in the development area of the mesa. The purpose of the water quality basin is two-fold: 1) collect flows from the upstream development area, provide energy dissipation and transition the flows into the Lowlands in a controlled manner; 2) provide additional water quality polishing with native wetland/riparian habit within a maintainable feature. Flows will enter the basin through a forebay to initiate the energy dissipation. Flows will then transition into a flat basin floor and will discharge into the lowlands via an orifice controlled outlet structure.




B. *Community Basins. There are 15 detention/infiltration water quality treatment basins labeled "community basins" in Exhibit 9-2. Please provide the specifics regarding these basins such as: size and capacity, drainage paths in/out, and construction specifications. Please specify the originating location of runoff that*

*they are designed to treat. Many of these community basins are located in the parkway areas along the bluff top, between the housing development and the bluff edges. Given their proximity to the bluff edge, how will these be designed to prevent bluff instability and erosion? Some of the community basins are depicted within individual parcels, possibly in individual homeowners' backyards and front yards. Please clarify the details of these basins and provide updated maps to indicate where these will be placed, and provide details regarding how they will be maintained if on individual parcels.*

**Response:**
In total, there are approximately 23 Community Basins proposed to provide treatment of all development runoff prior to discharging into the lowlands. See Exhibit 9 for a depiction of all the proposed Community Basins. The location of the basins took into account the proximity of the bluff edges. Due to the significant constraints to infiltration previously documented, all community water quality basins will be designed as flow-through biofiltration basins with impermeable liners to prevent infiltration and incidental seepage. With the inclusion of the impermeable liners, concerns about bluff instability and erosion will be minimized. The table below summarizes the tributary areas associated with each storm drain line, the water quality basin ID's associated with each tributary area, the treatment required, the footprint and the ponding depth. A total treatment summary is also provided.

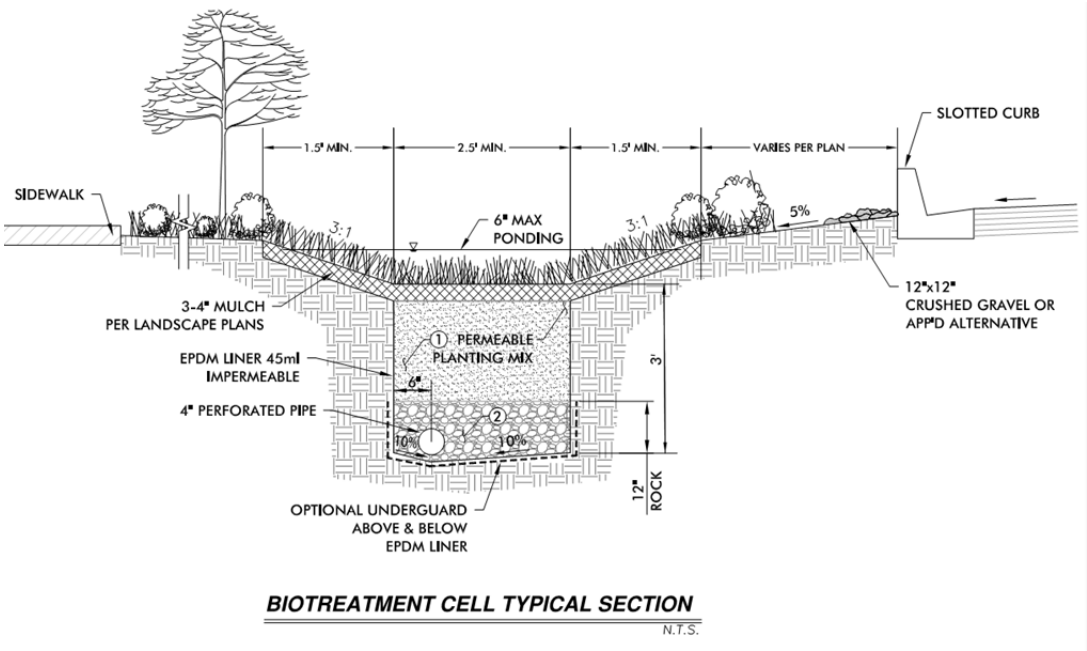
| Drainage Area Name / DMA | Land Use Type | Total Drainage Area (acres) | Assumed % impervious | Runoff Coefficient | Design Storm Depth (in) | Simple Method DCV ($ft^3$) | Ponding Depth (ft) | Depth Filtered (ft) | Surface Area Needed ($ft^2$) | Surface Area x 10% Contingency ($ft^2$) |
|---|---|---|---|---|---|---|---|---|---|---|
| A | Mixed-Use | 4.444 | 80% | 0.750 | 0.7 | **8,469.2** | 1.0 | 0.625 | 7,817.7 | **8,599.4** |
| B | Mixed-Use | 7.106 | 80% | 0.750 | 0.7 | **13,542.3** | 1.0 | 0.625 | 12,500.5 | **13,750.6** |
| C | Mixed-Use | 6.214 | 80% | 0.750 | 0.7 | **11,842.3** | 1.0 | 0.625 | 10,931.4 | **12,024.5** |
| D | Low Density Res | 9.373 | 60% | 0.600 | 0.7 | **14,290.1** | 1.0 | 0.625 | 13,190.8 | **14,509.9** |
| E | Low Density Res | 4.856 | 60% | 0.600 | 0.7 | **7,403.5** | 1.0 | 0.625 | 6,834.0 | **7,517.4** |
| F | Low Density Res | 4.938 | 60% | 0.600 | 0.7 | **7,528.5** | 1.0 | 0.625 | 6,949.4 | **7,644.3** |
| G | Low Density Res | 4.572 | 60% | 0.600 | 0.7 | **6,970.5** | 1.0 | 0.625 | 6,434.3 | **7,077.7** |
| H | Med Density Res | 3.358 | 80% | 0.750 | 0.7 | **6,399.5** | 1.0 | 0.625 | 5,907.2 | **6,498.0** |
| I | Park | 0.655 | 15% | 0.263 | 0.7 | **437.7** | 1.0 | 0.625 | 404.1 | **444.5** |
| J | Low Density Res | 7.852 | 60% | 0.600 | 0.7 | **11,971.2** | 1.0 | 0.625 | 11,050.3 | **12,155.3** |
| K | Low Density Res | 8.299 | 60% | 0.600 | 0.7 | **12,652.7** | 1.0 | 0.625 | 11,679.4 | **12,847.3** |
| L | Med Density Res | 4.713 | 80% | 0.750 | 0.7 | **8,981.8** | 1.0 | 0.625 | 8,290.9 | **9,120.0** |
| M | N/A | 1.840 | 0% | 0.150 | 0.7 | **701.3** | 1.0 | 0.625 | 647.4 | **712.1** |
| N | Park | 11.285 | 15% | 0.263 | 0.7 | **7,541.6** | 1.0 | 0.625 | 6,961.5 | **7,657.6** |
| O | Park | 3.247 | 15% | 0.263 | 0.7 | **2,169.9** | 1.0 | 0.625 | 2,003.0 | **2,203.3** |
| P | Med Density Res | 4.318 | 80% | 0.750 | 0.7 | **8,229.0** | 1.0 | 0.625 | 7,596.0 | **8,355.6** |
| Q | Med Density Res | 4.331 | 80% | 0.750 | 0.7 | **8,253.8** | 1.0 | 0.625 | 7,618.9 | **8,380.8** |
| R | Commercial | 5.778 | 80% | 0.750 | 0.7 | **11,011.4** | 1.0 | 0.625 | 10,164.4 | **11,180.8** |
| S | Resort | 5.083 | 80% | 0.750 | 0.7 | **9,686.9** | 1.0 | 0.625 | 8,941.8 | **9,836.0** |
| T | Condos | 5.902 | 80% | 0.750 | 0.7 | **11,247.7** | 1.0 | 0.625 | 10,382.5 | **11,420.8** |

Total Volume for Treatment: 3.88 Ac-ft (169,330 cubic feet)

Total Biotreatment Surface Area: 3.9 Acres (171,935 sf)

In addition, a typical cross section and typical specifications are provided for additional details on the proposed community water quality basins.

## Typical Biotreatment Cross Section & Detail:




***BIOTREATMENT CELL TYPICAL SECTION***
N.T.S.

## Specifications for Biotreatment Soil Media:

① 24" PLANTING MEDIA THAT IS SUFFICIENTLY PERMEABLE TO ACHIEVE A LONG TERM, IN-PLACE FILTRATION RATE OF AT LEAST 5 INCHES PER HOUR AND SUPPORT VIGOROUS PLANT GROWTH. PLANTING MEDIA SHALL CONSIST OF THE FOLLOWING MIXTURE OF FINE SAND AND COMPOST, MEASURED ON A VOLUME BASIS: 70%-80% SAND, AND 20%-30% COMPOST. SEE LANDSCAPE PLANS FOR ADDITIONAL DETAILS ON SOIL/PLANTING MIX.

SAND SHALL BE FREE OF WOOD, WASTE, COATING SUCH AS CLAY, STONE DUST, CARBONATE, ETC. OR ANY OTHER DELETERIOUS MATERIAL. ALL AGGREGATE PASSING THE NO. 200 SIEVE SHALL BE NON-PLASTIC. SAND FOR PLANTING MEDIA SHALL BE ANALYZED BY AN ACCREDITED LAB USING ASTM D 422, AND COMPLY WITH GRADATION REQUIREMENTS PER SPECIFICATIONS INCLUDED IN LANDSCAPE PLANS. SEE ALSO BMP FACT SHEET MISC-1 FOR ADDITIONAL PLANTING MEDIA DETAILS AND SPECIFICATIONS..

COMPOST SHALL BE A WELL DECOMPOSED, STABLE, WEED-FREE ORGANIC MATTER SOURCE DERIVED FROM WASTE MATERIALS CERTIFIED THROUGH USCC SEAL OF TESTING ASSURANCE (STA) PROGRAM. ORGANIC MATTER CONTENT SHALL BE 35%-75% BY DRY WEIGHT, AND PH BETWEEN 6.5 AND 8. REFER TO BMP FACT SHEET MISC-1 FOR ADDITIONAL PLANTING MEDIA SPECIFICATIONS AND TESTING REQUIREMENTS.

② UNDERDRAIN GRAVEL AASHTO M-43, PEA GRAVEL SIZE FROM 0.5" TO 1" DIAMETER. AT LEAST 6" OF WASHED AGGREGATE MUST BE PLACED BELOW, TO THE TOP, AND TO THE SIDES OF THE UNDERDRAIN PIPE(S).

③ IMPERMEABLE LINER 45 MIL EPDM WITH UNDERGUARD TO BE PLACED ABOVE AND BELOW.

It is clear in the WQMP exhibit that some of the community basins fall within individual parcels. The purpose of the WQMP exhibit is to identify the maximum space needed to fulfill the biofiltration LID treatment requirements for treatment and flow attenuation. During final design, the lot configurations and sizes will be adjusted to incorporate the appropriate footprint needed for the biofiltration BMPs. The biofiltration BMPs will not occur within the individual parcels and all will be located in common space areas accessible for HOA maintenance.

*C. Bio-cells. Where will the bio-cell enhancement and green street bioswales be constructed, and how many are proposed? Please provide a map showing these items in the development. Are the proposed bioswales on 8, K, G streets enough to capture runoff for the whole development? Should bioswales be constructed on all streets? If the bioswales were located on L, J, S, E streets and at the entry of I street, they would avoid the bluff top and potential erosion in the future. Please revise.*

**Response:**
The proposed biocell enhancement features and stand-alone green street biocells are strategically located to maximize opportunities for treatment of runoff from the proposed street network. The use of biocells in all streets is not feasible due to grading constraints, slope and other factors. However, biocells are proposed in the 15th, 16th and 17th street extensions and Streets B, C, G & K in various locations as depicted on Exhibit 9. The biocells are located at the low points adjacent to the proposed storm drain system where it is feasible to tie the sub-drain associated with the biocells back into the storm drain line. The use of biocells assists with the treatment of the road runoff primarily. It is not feasible to incorporate biocells in the parkways to such an extent that would allow for treatment of the entire project and eliminate the use of the community basins. A combination of both the biocells in the parkways and the community basins are required to treat all project runoff (roadways and residential lots) to the standards identified in the WQMP. No additional biocells are proposed at this time.

*D. Perimeter Zone water quality Basins (in lowlands and near 16th St.).*

*I. The design calculations for the two large water quality basins (capture volume and drainage area) are based on models. Please provide the actual calculations based on the development plans and capacity needs, as well as the construction specifications for both basins.*

**Response:**
As explained in the original documents and prior correspondence, a summary of the proposed water quality basins and their functionality are provided below:

- 16th Street Basin for Off-site Runoff: The proposed basin will provide treatment of runoff from off-site urban areas prior to discharging into the Southern Arroyo. The proposed basin is not a mandatory requirement of the project. The purpose of the basin is to provide as much treatment as possible within the available project footprint as a public benefit. The modeling conducted for this basin identified the off-site tributary area, the volume of water the basin could accommodate for treatment on annual basis and an estimate of pollutant removals based on the volume treated. The modeling methodology is a standard methodology for evaluating water quality and is the most accurate level of detail at this time.

- Lowland Water Quality Basin: The proposed basin will provide an area to accept treated water from the development footprint and additional storm water flows from the project site. Based on the P-WQMP, no water from the development footprint on the mesa will go untreated prior to discharging into the Lowland Water Quality Basin. All water up to the 85$^{th}$ percentile storm event will be treated through Hydrologic Source Controls (HSC's) and biofiltration BMPs prior to entering the lowland basin. If this basin were eliminated from the site plan, it would not affect the proposed water quality plan. However, it does provide water "polishing" benefits and would also serve as a hydrologic benefit to the lowlands by distributing the water in a controlled format to the lowland restoration area. Therefore, there is no required capacity for the proposed basin. It solely represents a project feature that would benefit the long-term viability of the future preservation and restoration of the Lowlands.

*E. BMPs.*

*I. Thank you for providing the information on the HSC water quality BMPs. Please provide the extended details and indicate if these details change, and how, due to the requested alternative location of the large water quality basin located in the lowlands.*

**Response:**
Removal of relocation of the lowland water quality basin would have no effect on the proposed HSC's. The HSC's are part of the water quality strategy to reduce runoff and pollutants at the source but have not been accounted for any water quality credit. All downstream BMPs are sized as if the HSC's are not in place. In addition, the lowland water quality basin does not provide any of the required treatment of the 85th percentile storm event as all biofiltration is performed on the mesa within the development footprint.

No additional details of the HSC's are provided at this time. Prior responses and exhibits have fulfilled this request.

*II. Please provide specific commercial and resort space water quality BMPs based on the most recent alternative. If there will be any delivery service areas, what procedures will be in place to protect water quality, specify containments, prevent spills etc.? Please indicate how the ongoing operations and maintenance of all BMPs associated with these development areas will be carried out.*

**Response:**
As part of the effort to provide Coastal Commission staff additional details on the commercial and resort area, a site planning effort is underway to provide a conceptual plan and layout. The conceptual play and layout is not anticipated to include the precise level of detail to demonstrate specific locations of delivery service areas, loading docks, and spill location kits. However, the County of Orange Drainage Area Management Plan (OC DAMP) does provide design details

for source control BMPs including Maintenance Bays and Docks, Trash Storage Areas, Vehicle washing areas, Outdoor material Storage Areas, Outdoor Work Areas, Outdoor Processing Areas Loading Dock Area. As part of the Final WQMP processed through the City of Newport Beach, the project is required to follow the design standards in the OC DAMP for these specific commercial and resort features such as the previously noted loading docks, material storage areas, trash storage areas and work areas.

F. *Diffuser basin in Arroyo. How will the runoff from the southern arroyo enter into the Semeniuk Slough? Will there be an underground culvert? Will the water sheet flow over the existing road? Please provide detailed plans for this.*

**Response:**
See Response to Question No. 1 above.

*10. Dedication of Preserve Areas. We understand that NBR LLC will provide the funding necessary for the implementation of the HCCMP, land transfer, and for the long-term maintenance and management of the site after such a time that NBLT will be responsible for these costs. Before the completion of the application, please clarify which funding mechanism(s) will be part of the agreement.*

**Response:**
NBR understands that the ongoing maintenance and management post HCCMP implementation is a critical component of the Project. NBR is committed to working with CCC Staff and Commissioners on draft conditions of approval to ensure success. As previously discussed, following implementation of the HCCMP, it is proposed NBLT will be funded through a hierarchy of funding mechanisms, the final details of which will be worked out prior to issuance of a CDP. These include:

1. Property Transfer Fees
2. Special Assessment Districts
3. HOA Fees
4. Third-party mitigation programs
5. Fundraising
6. Grants
7. Project Endowment

| Mechanism | Purpose/Function |
|---|---|
| Property Transfer Fee (0.25% on Resale of Residential Units) | Any property transfer on NBR to an independent party after initial purchase. Money flows through escrow to NBLT. |
| Open Space Management | Monthly fee paid by homeowners. |

| | |
|---|---|
| District | |
| HOA Fees | Established in CC&R's recorded with first final map. |
| Third-party mitigation programs | Potential sale of mitigation credits to third-parties in need of mitigation for impacts to off-site projects |
| Fundraising | Special projects/efforts of NBLT in future for activities and projects outside of open space maintenance. |
| Grants | Special projects/efforts of NBLT in future for activities and projects outside of open space maintenance. |
| Project Endowment | Capital funds from NBR to NBLT to a monetary fund to pay for future maintenance and management post HCCMP implementation |

*11. Archeology. The CDP application does not include a request for approval and implementation of an Archaeological Research Plan (ARP). Although the construction of the proposed preferred alternative will not impact the current known locations of cultural resources, it is unclear whether deconstruction of the oil field operations and the subsequent oil remediation will have impacts to known archaeological sites.*

*Based on past Commission experience with other properties containing mapped archaeological sites, human burials and artifacts have been found outside of the boundaries of the mapped archaeological sites. Therefore, we continue to request that you submit as part of this CDP application a request to perform the necessary ARP to determine how best to avoid any known, as well as unknown, archaeological resources that exist on the project site. Methods of removal of oil field infrastructure that would have the least impact to any known or unknown buried archaeological resources should be explored.*

**Response:**
Pursuant to the revised project (CCC Alt 2) there are no impacts to potentially significant sites from the development plan. Accordingly, any additional analysis of potential impacts to known cultural resources should be limited to site abandonment and remediation. The requested ARP is included herein, Attachment F. As identified in the ARP, measures to avoid impacts to known and unknown sensitive cultural resources have been identified and were implemented during the Extended Phase I site testing conducted during the city's environmental review process pursuant to CEQA, and will be implemented during site abandonment and remediation. These measures included Native American consultation and monitoring, limiting subsurface excavations to locations immediately adjacent to site areas previously subject to prior cultural investigations (CA-ORA-839 tested by Van Horn, results reviewed by CCC under earlier CDP application), previously disturbed by oil field development/activities (CA-ORA-844B), and/or limiting subsurface excavations to the minimum necessary (CA-ORA-906 – only 1 control unit excavated), and requiring that any intact resources be documented, preserved in place, and reburied The ARP also

incorporates procedures to follow if human remains are encountered. These measures assure that all work will be carried out in manner most protective of any known and potential archaeological resources on the subject site.

The Archaeological Resources Assessment includes the findings of the limited site testing conducted to determine site significance and possible contribution of identified sites to the research questions outlined in the ARP. While the ARP was not peer reviewed or subject to review and comment by the State Historic Preservation Officer, Native American Heritage Commission and affected tribal groups, the Archaeological Resources Assessment was.

As a result of the archaeological resource assessment conducted, the below mitigation measures have been identified to ensure no significant impacts to archaeological resource would occur from project activities.

**MM 4.13-1** Prior to the issuance of the first grading permit and/or action that would permit Project site disturbance, the Applicant/Contractor shall provide written evidence to the City of Newport Beach Community Development Department that the Applicant/Contractor has retained a qualified Archaeologist to observe grading activities and to salvage and catalogue archaeological resources, as necessary. The Archaeologist shall be present at the pre-grade conference; shall establish procedures for archaeological resource surveillance; and shall establish, in cooperation with the Applicant/Contractor, procedures for temporarily halting or redirecting work to permit the sampling, identification, and evaluation of the artifacts, as appropriate. If archaeological resources are found to be significant, the Archaeologist shall determine appropriate actions, in cooperation with the City and Applicant/Contractor, for exploration and/or salvage. These actions, as well as final mitigation and disposition of the resources, shall be subject to the approval of the Community Development Director. Based on their interest and concern about the discovery of cultural resources and human remains during Project grading, a qualified Native American Monitor(s) shall be retained to observe some or all grading activities. Nothing in this mitigation measure precludes the retention of a single cross-trained observer who is qualified to monitor for both archaeological and paleontological resources.

**MM 4.13-2** The State CEQA Guidelines (14 CCR §15126.4[b][3]) direct public agencies, wherever feasible, to avoid damaging historical resources of an archaeological nature, preferably by preserving the resource(s) in place. Several possibilities suggested by the State CEQA Guidelines include (1) planning construction to avoid the site; (2) incorporating the site into open space; (3) capping the site with a chemically stable soil; and/or (4) deeding the site into a permanent conservation easement.

The following is applicable for the three sites deemed eligible for listing on the CRHR or the NRHP as historical resources. Only CA-ORA-839 is also considered a unique archaeological resource. In this instance, mitigation is the same for both types of resources.

CA-ORA-839
possible to preserve the vast majority of the site in place in perpetuity to avoid further disturbance to it. However, it appears that the planned removal of oilfield infrastructure may impact portions of the site. In that event, the site shall undergo a data recovery excavation of those areas that would be impacted.

*Research Design/Treatment and Mitigation Plan*

A Research Design/Treatment and Mitigation Plan (data recovery plan) shall be prepared by a qualified Archaeologist and approved by the City of Newport Beach Community Development Director prior to any excavation being undertaken. The Plan shall explicitly lay out the methods to be used in the excavation and the scientifically consequential questions that the study will hope to answer;

*Data Recovery*

Data recovery excavation shall be completed prior to Project grading and shall be designed to recover the consequential data present on the site. Data recovery shall be sufficient to collect a representative sample of site constituents, including organic materials, to permit additional absolute dating of the deposit. The study shall include:

a. Excavation of a sufficient number of Control Units and shovel test pits (STPs) to recover a representative sample of site constituents;
b. Laboratory analysis of all recovered materials and creation of a computerized database of artifacts recovered;
c. Completion of a Data Recovery Excavation/Mitigation Report detailing the results of the study; and
d. Curation of excavated cultural material in a museum or other scientifically accredited institution that would make the collections available to future researchers.

*Capping*

In addition, secondary impacts (e.g., increased foot traffic, erosion) could occur at the site after the Project has been constructed; therefore, the site shall be capped with chemically stable soil to preserve it in perpetuity. During grading operations, excess dirt shall be placed on the site to a sufficient depth to protect the deposit, but not cause unintended damage to it. Shallow-rooted vegetation (such as native coastal sage scrub) may be planted on the new surface. To ensure the integrity of the archaeological deposit, the current ground surface shall initially be covered with some form of horizon marker (e.g., by *Mirafi,* a polypropylene geotextile) to prevent the deposit from mixing with the covering material and to serve as a marker of the site if the covering is ever removed. The following relies on guidance provided by the National Park Service's Brief #5 *Intentional Site Burial: A Technique to Protect Against Natural or Mechanical Loss* (NPS 1989, revised 1991).

The capping program must include submittal to the Community Development Department of a Site Capping Plan that includes:

a. An evaluation by a qualified Archaeologist of the classes of archaeological components to be preserved and their suitability for preservation;
b. An analysis by a qualified Soils Scientist of the pH levels, compression strength, and permeability of the horizon marker and capping material to be used to ensure they fit the preservation needs of the site's constituents;
c. Formulation of a plan by a qualified Civil/Structural Engineer that details how the cap would be physically constructed to ensure that (1) hydraulic changes over time, (2) erosion, and (3) the physical placement of the cap itself do not adversely impact the deposit;
d. Archaeological monitoring during placement of the capping material;
e. A Revegetation Plan, prepared by a qualified Biologist/Restoration Specialist, that is designed to help stabilize the new land surface and to prevent future erosion at the cap surface;
f. A plan of future monitoring of the site to ensure the long-term success of the capping program; and
g. A report detailing the results of the capping effort.

CA-ORA-844 Locus B

CA-ORA-844B is not expected to be directly impacted by development. Oil infrastructure removal activities that would occur prior to grading are expected to adversely impact portions of the site. Indirect impacts from additional erosion of the unstable surface and increased population in the vicinity of the site as a result of the future development could cause further damage over time.
Both capping and data recovery excavation are viable options for treating the site; however, because it has been disturbed by erosion and oil extraction activities, capping the deposit would be difficult and possibly more expensive and time consuming and may produce less desirable results than data recovery excavation. Considering these circumstances, two options are provided: (1) successful capping of the site, while likely difficult to accomplish, would be designed to protect the site in perpetuity or, preferably, (2) data recovery shall be undertaken prior to grading to collect the scientifically consequential data that is present in the site since it appears that only a small, yet important, portion of the site remains. Because of the limited size of this site, this option would enable the removal and analysis of the site in its entirety.

Capping the deposit or data recovery would result in temporary impacts to approximately 0.92 acre of coastal sage scrub (0.29 acre of encelia scrub and 0.63 acre of cactus scrub). The Mitigation Program set forth in Section 4.6, Biological Resources, addresses this impact.

*Capping*

If option 1 is chosen, the site shall be capped with chemically stable soil to preserve it in perpetuity. During grading operations, excess dirt shall be placed on the site to a sufficient depth to protect the deposit, but not cause unintended damage to it. Shallow-rooted vegetation (such as native coastal sage scrub) may be planted on the new surface. To ensure the integrity of the archaeological deposit, the current ground surface shall initially be covered with some form of horizon marker (e.g., by *Mirafi,* a polypropylene geotextile) to prevent the deposit from mixing with the covering material and to serve as a marker of the site if the covering is ever removed. The following relies on guidance provided by the National Park Service's Brief #5 *Intentional Site Burial: A Technique to Protect Against Natural or Mechanical Loss* (NPS 1989, revised 1991).
The capping program must include submittal to the Community Development Department of a Site Capping Plan that includes:

a. An evaluation by a qualified Archaeologist of the classes of archaeological components to be preserved and their suitability for preservation;
b. An analysis by a qualified Soils Scientist of the pH levels, compression strength, and permeability of the horizon marker and capping material to be used to ensure they fit the preservation needs of the site's constituents;
c. Formulation of a plan by a qualified Civil/Structural Engineer that details how the cap would be physically constructed to ensure that (1) hydraulic changes over time, (2) erosion, and (3) the physical placement of the cap itself do not adversely impact the deposit;
d. Archaeological monitoring during placement of the capping material;
e. A Revegetation Plan, prepared by a qualified Biologist/Restoration Specialist, that is designed to help stabilize the new land surface and to prevent future erosion at the cap surface;
f. A plan of future monitoring of the site to ensure the long-term success of the capping program; and
g. A report detailing the results of the capping effort.

*Data Recovery*

If option 2 is selected, data recovery excavation at CA-ORA-844B shall be completed prior to Project grading and shall be designed to recover the consequential data present in the site and to remove site constituents. The study shall include:

a. Development of a Research Design/Treatment and Mitigation Plan to explicitly lay out the methods to be used in the excavation and the scientifically consequential questions that the study will hope to answer.
b. Excavation of a sufficient number of Control Units and STPs to recover a representative sample of site constituents.
c. Controlled demolition/removal of the site by a small scraper under the direction of a qualified Archaeologist to ensure the removal of

all midden and other cultural constituents of the site. Controlled demolition permits the discovery and recovery of larger features not typically found during hand excavation and reduces the number of hand-excavated control units necessary.

d. Laboratory analysis of all recovered materials and creation of a computerized database of artifacts recovered.
e. Completion of a Data Recovery Excavation/Mitigation Report detailing the results of the study.
f. Curation of excavated cultural material in a museum or other scientifically accredited institution that would make the collections available to future researchers.

CA-ORA-906

CA-ORA-906 would be directly impacted as a result of development as well as oil infrastructure removal. Data recovery excavation at the site shall be completed prior to Project grading and shall be designed to recover the consequential data present in the site and to remove the site constituents. Mitigation shall be in the form of data recovery excavation to collect the scientifically consequential data that the site retains prior to its destruction by Project grading. The study shall include:

a. Development of a Research Design/Treatment and Mitigation Plan to explicitly lay out the methods to be used in the excavation and the scientifically consequential questions that the study will hope to answer.
b. Excavation of a sufficient number of Control Units and STPs to recover a representative sample of site constituents.
c. Controlled demolition/removal of the site by a small scraper under the direction of a qualified Archaeologist to ensure the removal of all midden and other cultural constituents of the site. Controlled demolition permits the discovery and recovery of larger features not typically found during hand excavation and reduces the number of hand-excavated control units necessary.
d. Laboratory analysis of all recovered materials and creation of a computerized database of artifacts recovered.
e. Completion of a data recovery excavation/mitigation report detailing the results of the study.
f. Curation of excavated cultural material in a museum or other scientifically accredited institution that would make the collections available to future researchers.

*12. Trails. Given the recent conclusions regarding BRR and impacts of SLR, can the geologists of the site confirm that the bluff trails will remain in existence for the economic life (75 to 100 years) of the development and need not be relocated inland? Would space be available for such relocation?*

**Response:**
It is anticipated that the trails can be relocated inland in some areas as needed to address BRR and SLR. Since the timing and severity of both BRR and SLR are not certain during the economic life of the project, trail locations in the potentially impacted areas are not included in the statistics as project features. See Exhibit 6.

*13. TDM. The submitted TDM plan lacks sufficient information for the urban colony, resort and commercial space, and does not address topics such as: 24-hour valet service for resort guests, bike rack in all parks and parking lots, commercial and resort area circulation patterns, etc. Will resort guests and the public have access to rental bikes? Will employees of the shopping center and resort be offered discounted public transportation to get to work or offered a carpool program? Give the sites proximity to the beach, how will public parking be handled in the shopping area: Paid parking, 2-hour time limits, validation, etc. Although the City of Newport Beach will not require these items until a later date, staff considers it necessary to complete the application.*

*The project description implies that additional parking will be available to the public using the parks, trails, and other public facilities proposed. However, it is not clear if the proposed number of parking spaces is adequate without the details of the TDM plan.*

*Additionally, the number of retail spaces, the square footage of each store, the use of each store, and the square footage of the main resort areas are all factors in determining the number of necessary parking spaces for the proposed development. Please provide these details.*

**Response:**
See Attachment E, TDM. The TDM plan has been updated to provide more details, as requested, for the urban colony, resort, and commercial space and also provides answers to staff's specific questions as follows:

- Will 24-hour valet service be provided for resort guests? Yes
- Will bike racks be provided in all parks and parking lots? Yes, the EIR and City of Newport Beach Conditions of Approval stipulate the following: At least 30 bicycle racks will be provided for the commercial development in the Urban Colony and bicycle racks will be provided at a rate of at least 1 per 10 residential dwelling units in the Urban Colony. Bicycle racks will be provided at a rate of at least one bicycle space per 2,500 gross square feet of the resort building, bicycle parking for employees will be easily accessible and secure, and bicycle parking for visitors will be visible from the primary entrance. Bicycle racks will also be provided at each of the community parks.

- What are the commercial and resort area circulation patterns? These patterns are explained in the TDM plan, including bikeways.
- Will resort guests and the public have access to rental bikes? Rental bikes will be available for hotel guests and the public.
- Will employees of the shopping center and resort be offered discounted public transportation to get to work or offered a carpool program? It is anticipated that the shopping center employees will be offered a carpool program and discounted public transportation as part of the TDM plan.
- How will parking be handled in the shopping center area (paid parking, 2-hour time limits, validation, etc.)? Overnight parking will be prohibited in the shopping center area. Unrestricted parking during operation hours is proposed.
- The TDM plan explains how the proposed number of parking spaces is adequate for members of the public using the parks, trails, and other public facilities proposed (see pgs. 4-6 of the TDM plan).
- The number of retail spaces, the square footage of each store, the use of each store, and the square footage of the main resort area are requested in order to determine the number of necessary parking spaces for the proposed development. The retail has been programmed to accommodate 5 parking spaces/1,000 square-feet for retail. The proposed uses and square footages for both the retail and resort area are detailed in the response below. As the TDM explains, parking for residential uses will be provided in accordance with Newport Beach Municipal Code which requires 2.0 garage parking spaces for each single-unit residential dwelling, 2.0 covered resident spaces and 0.5 guest spaces for each multi-unit residential dwelling, and 1.0 parking space for each 200 sq. ft. of commercial shopping center space, and per the Newport Beach Municipal Code, “as required by conditional use permit” for hotels.

**South Family Village**

| Commercial Use | Visitor-Serving | Size | Example(s) |
|---|---|---|---|
| Art gallery | Y | 3,000 | Art Gallery, Showroom |
| Bicycle rentals | Y | 3,000 | Bicycle Rental & Sales |
| Commercial Personal Services | N | 2,000 | Hair Salon, Nail Salon |
| Health/fitness centers | N | 3,000 | Gym, Yoga, Pilates |
| Offices | Y | 1,500 | Real Estate Office |
| Restaurant | Y | 6,750 | Sit-down, Fast Casual, Café |
| Tourist information center | Y | 100 | Kiosk |
| Visitor-serving retail | Y | 25,750 | Apparel, Specialty Food, Market, Ice Cream/Yogurt, Newstand, Souvenir Shop, Surf Shop |

| | |
|---|---|
| **Total Square-Feet:** | **45,100** |
| **Total Visitor-Serving:** | **40,100** |
| **Parking Required:** | **226** |

**Urban Colony**

| Commercial Use | Visitor-Serving | Size | Example(s) |
|---|---|---|---|
| Artist Studios | N | 1,000 | Art Studio |
| Financial institution | N | 2,500 | Bank, Atm |
| Health/fitness centers | N | 5,000 | Gym, Yoga, Pilates |
| Restaurant | Y | 4,250 | Sit-down, Fast Casual, Café |
| Retail sales | N | 2,500 | Dry-Cleaner, Butcher |
| Studios for instruction (dance, | N | 3,000 | Dance Studio |
| Visitor-serving retail | Y | 11,650 | Coffee, Market, Pharmacy |

| | |
|---|---|
| **Total Square-Feet:** | **29,900** |
| **Total Visitor-Serving:** | **15,900** |
| **Parking Required:** | **150** |

| | |
|---|---|
| **Total Square-Feet:** | **75,000** |
| **Total Visitor-Serving:** | **56,000** |
| **Parking Required:** | **376** |

*14. Proposed Commercial Uses. While we understand that the City of Newport Beach has preferences for commercial uses, we continue to request an analysis that includes a breakdown of approximate square footage that will be used for visitor-serving commercial and retail related to the nearby residents. In the letter received May 6, 2014, it is stated that the proposed Coastal Inn and retail space will require their own CDPs; however these structures are included in the project description of the application and we must consider that information at this time, under the current CDP application. To date, complete conceptual plans with foundations, floor plans, square footage, etc. for the retail and resort have not been received. Please provide this information as part of this CDP application.*

*Accordingly, please submit detailed conceptual plans for the proposed resort and the retail space. How many retail spaces are proposed and what is the square footage of each store? What percentage of the resort rooms will be offered at a low-cost to the public? What is the square footage of the spa and restaurant and other multi-purpose rooms in the resort? Will these amenities be open to the public or for resort guests only? How many parking spaces are proposed for the resort and how many are proposed for the commercial space? Where are these parking spaces located?*

**Response:**

Please see revised Project Description, Attachment G, and project plans, including building layouts, floor plans, foundation plans and elevations for the revised Project enclosed herein, Exhibits 10 and 11. Please see response above

under TDM for breakouts of commercial. The project data for proposed resort and commercial related uses specifically requested is as follows:

**Resort**
All general commercial retail uses within the resort would be available to the public, including the spa, restaurant, retail spaces, and conference amenities. The project does not include resort rooms that will be designated as low-cost visitor-serving amenities. NBR is committed to working with staff on this policy consistency analysis.

| Hotel | Square-Feet |
|---|---|
| 75 keys | |
| Restaurants | 12,000 |
| Meeting Rooms | 10,000 |
| Spa | 10,000 |
| Lobby/Public Gathering | 5,000 |
| Lobby Lounge | 1,500 |
| Back of House/Employee Services | 10,000 |
| Total Ancillary Uses: | 48,500 |

**Commercial Retail**
See responses and table above regarding proposed commercial. In addition, as indicated on the enclosed project plans, please note that the current project proposes to distribute visitor-serving commercial uses between the north and south portions of the property, along with increasing density to reduce the overall project footprint, to better serve visitor and neighborhood uses. This project revision results in a more clustered and concentrated mixed-use development pattern connected by an extensive system of trails and sidewalks to maximize walkability and bicycling and with residential and commercial retail densities supportive of the new transit services planned for project area, consistent with Smart Growth principles.

**Interpretive Center**
Please see Exhibit 12 for architectural examples of the Interpretive Center footprint/foundation identified on the Lotting, Foundation and Parking Exhibit, Exhibit 11. While these examples are illustrative, any structure will be single story and limited to no more than 25' in height to allow for architectural features.

*15. Public Comments. Public comments regarding items above have been received and are enclosed here. Please respond to the concerns presented in these letters.*

**Response:**
Consistent with NBR's agreement with the Executive Director on February 19, 2014, the public comments provided are not addressed.

It should be noted that NBR agrees to continue to work with CCC Staff to assist in addressing and responding to the comments as appropriate during the application and Commission deliberation process.

*16. Filing Fees. Please provide a copy of the "Conditional Approval of the LEED ND plan" which is received after registration with LEED. This will provide enough details ensuring the entire project (neighborhoods), not building by building, will qualify for LEED.*

**Response:**
Recent communications with CCC staff have indicated that the LEED Registration and Letter of Credit issued by First Southern National Bank, see Attachment H, are sufficient at this stage to fulfill the filing fee. However, if the Executive Director does not find this sufficient, NBR is prepared to submit the balance of the fee. Please see Attachment I, which requires a signature to revoke the letter of credit. Once the signed letter has been returned to First Southern National Bank (bank) by the Coastal Commission, the bank will release the funds to the CCC. When NBR receives LEED-ND, it is our understanding that we will be eligible to file for the fee reduction and refund of funds.

*We encourage the NBR team and representatives to continue to work with CCC staff and resolve the outstanding planning issues; however the resolution of the threshold issues and the establishment of the baseline condition of the site is essential to the CDP process. As you are aware, the resolution of the threshold issues is a significant part of the application and the fulfillment of the outstanding remaining planning issues will not result in a complete application. As always, please feel free to submit any information beyond the requested items above. You may submit any information you feel may assist the Commission staff in gaining a clear understanding of the scope of the project.*