



December 2, 2015

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

Re: Newport Banning Ranch Coastal Development Permit Application 5-13-032

Dear Mr. Schwing and Ms. Dobson:

Newport Banning Ranch LLC (NBR) would like to thank Commission Staff for the time spent the last several weeks to review our revised project proposal, and reevaluate key questions and concerns from the October 2015 Staff Report. As follow-up to those discussions and the November 12, 2015 site visit, enclosed please find the following materials intended to supplement the revised project materials submitted on November 4, 2015, and to further respond to additional questions/comments from Commission Staff during our discussions/site visit:

- Revised TTM
- Revised Grading Plans
- Revised Water Quality Memorandum
- Focused Issue Area Technical Memos
 - Abandonment and Remediation
 - Vernal Pools
 - California Gnatcatcher
 - Purple Needlegrass
 - Burrowing Owl
- Previously submitted to Energy Staff by M. Klancher (not attached)
 - Revised Soil Remediation Plan
 - Results of Abandonment and Remediation Plan Field Verification

The following table summarizes the Project changes, intended to respond to comments provided by the Commission October 7, 2015:

Summary of Project Changes	10/7/2015	12/1/2015*
Open Space Preserve, Public Parks, Access and Parking	309 acres	323 acres
Visitor Serving Retail – Square Footage	45,100 s.f.	45,100 s.f.
Neighborhood Commercial	29,900 s.f.	None
Visitor Serving Retail – Acreage	4 acres	3.4 acres
Overnight Accommodations – Coastal Inn	75	75
Low Cost Overnight Accommodations – Hostel	20	20
Overnight Accommodations – Acreage	6 acres	6.5 acres
Residential Density	1,174 units	895 units
Residential Acreage	67 acres	52.5 acres
Grading Volume	3.6 million c.y.	2.8 million c.y.
Total	386 acres	386 acres

*Final calculation adjustments/updates to figures provided on 11/4/15.

We appreciate the time Commission Staff is taking to consider our proposed changes. Please note that the focused technical memos included herein address the analysis as presented in the October 2015 Staff Report and our November 4, 2015 revisions, and therefore do not yet have

the benefit of additional Staff review and analysis from our meetings/site visit. In preparation for our January 2016 hearing, we look forward to continued discussions and request a meeting or teleconference with Staff as soon as possible to assist Staff in their analysis of our CDP application.

Summary of Focused Issue Technical Memos

NBR has prepared five focused technical memos with the intent of providing clarification of NBR's position on two key matters, Abandonment and Remediation and Staff's ESHA recommendation, both discussed at length in the prior Staff Report, during the October 2015 hearing, and in our subsequent discussions with Staff. The memos are also intended to provide updated analyses that reflect the revised project proposal, which includes a smaller development footprint (reduced from 77.4 to 62.4 acres), reduced residential density (1,174 to 895 units), reduced grading (3.6 to 2.8 million cu. yds.), and increased open space, public parks and access amenities (314 to 322 acres).

Abandonment and Remediation

Staff analysis suggests that the proposed abandonment and remediation plan (A&R plan) was intended and designed solely for the purpose of facilitating residential and commercial development of the site, and that a substantially different A&R plan with significantly reduced impacts would be feasible absent the residential and commercial proposal. NBR's primary responses:

- Throughout the entire property, the A&R Plan targets only those areas necessary to remove historic industrial infrastructure, wastes and pollution from the 70+ years of oil production activity. NBR maintains that the plan proposed for the site is the least environmentally damaging alternative, irrespective of the ultimate type and extent of land uses approved by the Commission. This is unquestionably the case for A&R activities slated for the 322 acres of proposed open space, parks and public access amenities (80% of the property) for which the proposed type, level and extent of A&R activities are in no way influenced or otherwise affected by the residential and commercial uses proposed.
- The A&R Plan integrates onsite bioremediation, recycling, and reuse plan elements that align with the principles recommended for Greener Clean-ups as outlined by the US EPA Office of Solid Waste and Emergency Response (OSWER). The scope, location, and type of remediation activities are not currently, and have never been, dependent on, or designed solely to support the proposed development plan footprint. The proposed A&R has been planned as an integral element of the development plan footprint to accomplish the environmental benefits of onsite bioremediation, recycling, and reuse, while avoiding community and resource impacts otherwise associated with increased on- and off-site hauling and disposal of A&R related materials and equipment/traffic and an extended A&R duration.

The proposed A&R plan is the least environmentally damaging alternative in properly retiring this industrial site.

Vernal Pools

Staff identifies a total of 40 "vernal pools" (referred to herein as seasonal features) as ESHA, based largely on the presence of 1) federally listed San Diego Fairy Shrimp, 2) vernal pool plant indicators, and 3) non-listed common versatile fairy shrimp. NBR's primary responses:

- The proposed development plan provides for protecting and restoring, in-place, all but one (Feature E - a historic oil sump that requires clean-up) of the 8 seasonal features occupied by the federally listed San Diego fairy shrimp.
- The proposed development plan will protect and restore in-place all the seasonal features that contain native plant species endemic to vernal pools.
- The remaining 32 seasonal features, only 18 are located within the project footprint, and none qualify as vernal pool ESHA as they are extremely common features, the direct result of oil operation activities and consisting of excavated facilities, road ruts, paved pot holes, etc. These features contain invasive plant species and/or non-listed versatile fairy shrimp, the presence of which actually poses a threat to the federally listed San Diego fairy shrimp as it has been shown to hybridize with the versatile fairy shrimp.

California Gnatcatcher

Staff's recommendation identifies a total of 99 acres that qualify as CAGN ESHA based on observed use areas and/or the occurrence of scrub. While Staff's analysis does identify the core CAGN habitat areas along the bluffs and within the site's drainages, it also includes developed/disturbed areas, non-native/invasive vegetation, and scrub vegetation that is disturbed and/or fragmented by developed areas and ongoing oil field operations. NBR's primary responses:

- The proposed development plan provides for protecting and restoring, in-place, 74 acres of Staff's recommended CAGN ESHA area, including all bluff and arroyo habitats that play a critical role for supporting gnatcatcher onsite.
- More than half of Staff's September 25, 2015 recommended CAGN ESHA within the proposed development footprint consists of developed, disturbed and non-native invasive plant species that have little to no habitat function or value for CAGN. The remaining portion of Staff's recommended designation consists of highly disturbed and fragmented native vegetation which has only marginal function and value for CAGN. Accordingly, these areas do not qualify as ESHA given their degraded condition, fragmentation and limited habitat value for CAGN.

Purple Needlegrass

Staff's recommendation identifies purple needlegrass (PNGG) as ESHA, concluding that it is a rare or high priority vegetation community and that it provides an especially valuable ecosystem function as foraging habitat for numerous species of mammals, reptiles, and birds. NBR's primary responses:

- Although PNGG occurs on the site, the patches classified as PNGG are mostly isolated from other native habitats and suffer from an abundance of invasive non-native plant species and low plant diversity (many areas mapped as PPNG contain 70 to 80 percent absolute cover by non-native grasses and forbs).
- The large majority of the mesa where PNGG has been observed is covered with non-native, invasive plant species, which pose a threat to native flora and fauna. Since oil field site maintenance was reduced, an observed decline of 3.2 acres (32%) in cover of purple needlegrass has been documented during native grassland assessments between 2012 and 2015, and observation that has thus far been omitted from Staff's analysis. Without active management of these invasives, conditions will continue to worsen and likely threaten other adjacent native habitats.

- As observed during the November 12, 2015 site visit with CCC Staff, the large affected area, some 30 acres, has been taken over by non-native Russian Thistle (tumbleweed) – not previously seen on site.
- The level of degradation and disturbance of PNGG, coupled with ongoing site disturbances from the active oil field, differentiate the PNGG areas on NBR from other PNGG occurrences which the Commission has considered ESHA.

Burrowing Owl

Staff identifies burrowing owl ESHA on the site based and recommends that a 50-m (164-ft) buffer be established around the defined burrowing owl habitat. NBR's primary responses are as follows:

- All of the Staff recommended burrowing owl ESHA area will be avoided with the proposed development plan.
- The recommended ESHA area is located immediately adjacent to one of the most intensely used portions of the oil field, consists almost entirely of areas mapped as disturbed and developed, and has never been buffered from existing oil facilities.
- The proposed project would implement for the first time restored buffer areas to separate development from the restored, recommended burrowing owl ESHA area.
- No breeding burrowing owls have ever been observed on the site. Burrowing owls have only been observed at NBR during the winter period – and for varying periods of time – indicating ephemeral and migratory use of the site only. CDFW buffer recommendations apply to occupied burrows and typically relate to construction activities and not permanent impacts once applied. Given the intermittent use of the site for wintering burrowing owls and the extent of existing degraded site conditions, the proposed development plan with newly established and permanent buffers from Staff's recommended burrowing owl ESHA are appropriate.

Sincerely,



Michael A. Mohler
Senior Project Manager

Encl.

cc: Dr. Charles Lester, California Coastal Commission
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