

DEC 11 2009

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CITY OF NEWPORT BEACH

Janet Johnson Brown, Associate Planner
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3300 Newport Blvd. P.O. box 1768
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December 8, 2009

REF: Draft Environmental Impact Report (DEIR)
For Sunset Ridge Park Project

Ms. Brown:

PDF 4.5-1 The project includes landscaped berms between active parks uses and the Newport Crest attenuation.

- 1) Does this mean that excavated, polluted dirt is deposited along the existing wall?
- 2) How much space will there be between berms and the existing wall , that belongs to Newport Crest?
- 3) Does the berm encroach on the Newport Crest property? (Space between property line and actual wall. (set back)
- 4) The berms are not mitigating any adverse conditions, such as noise, dust, polluted air from parking lot and toilet facilities.
Berms are only effective on level land. In this case, it will only enhance the air flow upward and into the residences above. The existing wall will not!

Page 4.4-32: Correctly states that Newport Crest is at a higher elevation than the project and the first paragraph of Section 4.4-3 and page 4.4-11 states that "In general, the dominant land/sea breezes- winds are on shore during the day and reverse to off shore at night."

That is not totally true, as that only happens when the water mass (the ocean) gets warmer than the land, or we have Santa Ana wind conditions.

Berms, or walls are used to reduce noise and dust along highways or streets bordering on residential property of the same level. Newport Crest is elevated and exposed in its full height.

The noise, dust, heat from a parking lot and pollution from toilets are blown by the sea breeze to the berm. The berm deflects the sea breeze loaded with all the pollutants , upward and into the Newport Crest residences, which the wall does not do.

The berms are a health hazard and must be omitted.

It is not stated how the parking lots will be surfaced. If it is just a gravel lot, there will be a lot of dust. If it is asphalt, it will create a lot of heat. Both are nuisances which will continue to be present, long after the construction.

There were several letters sent to you concerning the pollutants during construction. I fully concur!

This is not acceptable, particularly for people with existing pulmonary and other health conditions.

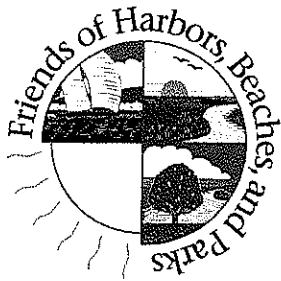
PDF 4.4-6: Approximately 130 to 140 trees shall be planted where there are no existing trees. It is a given! There are no existing trees. Have you ever seen a sports park with trees.

That needs to be clarified. Will that obstruct the views. Where will these trees be planted, on the berm, around the sports field? This too is an element that must be omitted.

There should not be an active sports park and I recommend the alternative. 1.5-2 C: Passive Parks and consider the health problems the project in question disregards and cannot mitigate.

I look forward to receiving a timely response from you and the City Council on this matter.

Waldemar Moosmann.



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PLANNING DEPARTMENT

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December 8, 2009

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CITY OF NEWPORT BEACH

SUBJECT: DEIR, Sunset Ridge Park Project

Friends of Harbors, Beaches and Parks would like to note the following areas of additional consideration for the DEIR as follows:

Supporting Organizations

Amigos de Bolsa Chica
Audubon, Sea & Sage Chapter
Caspers Wilderness Park Volunteers
Earth Resource Foundation
Equestrian Coalition of O.C.
Great Park Environmental Coalition
Huntington Beach Wetlands Conservancy
Huntington Beach Wildlife Care Center
Laguna Canyon Conservancy
Laguna Canyon Foundation
Laguna Greenbelt, Inc.
Sierra Club, Orange County
Surfrider, Newport Beach Chapter
Stop Polluting Our Newport
Upper Newport Bay Naturalists
& Friends
St. Mark Presbyterian Church
Ecophilians

Advisory Board

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Connie Boardman
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Debra Clarke
Laura Cohen
Debbie Cook
Joe Dunn
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Evelyn Hart
Evan Henry
Jack Keating
Vic Leipzig
Matt Rayl
Claire Schlotterbeck
Dan Silver, M.D.
Jack Skinner, M.D.
Nancy Skinner
Jan Vandersloot, M.D.
Dick Zembal

• **Habitat**

Many portions of the DEIR cover potential impacts and related mitigation as to habitat in general and gnatcatcher habitat in particular.

The DEIR notes that the project site is located within a designated critical habitat for the Threatened and Endangered coastal California Gnatcatcher (page 4.6-22). However, the related habitat acreages (primarily various scrubs) are quite small and are often fragmented and disturbed (page 4.6-28). The project would remove approximately 0.41 acres of coastal sage scrub, 0.06 acres of riparian vegetation, and other small acreages as well. **Note that the impact acreages in the text appear to differ from the impact acreages in Tables 4.6-4 (page 4.6-28)?**

However, according to the DEIR, the impact of this relatively small loss would be reduced to a less than significant level when mitigated by protection of remainder of the habitat during construction and restoration (page 4.6-27)

As to restoration, while a restoration plan will ultimately be required as a mitigation measure (page 4.6-33), it would be preferable, timely, and useful to identify now what areas on site and or off site will be designated for such restoration at a 2:1 ratio. We propose two possibilities. A portion of the entry road area designated on the conceptual Landscape Plan (Exhibit 3-11) as Expanded Habitat Area, CCS-Native could be expanded westerly into the area designated as Entry Planting-Non-irrigated, Non-native. Should additional mitigation still be required, then a contiguous area on the adjacent Banning property could be designated. In that regard, the discussion of cumulative impacts on biological resources (page 4.6-30) covers a number of general and distant projects but does not address the immediately adjacent greater Banning Ranch as it may relate to the park.. We believe some discussion is needed..

• ***Growth Inducing Impacts (and Traffic):***

This section (page 5-2/5-3) does not address the potential use of the park access road to serve additional Banning Ranch development to the north. Recognition of this growth inducing potential should be identified, characterized, and analyzed especially as the traffic study in the EIR Volume II does take into consideration a more intensely developed alternative for the Banning Ranch with access based in part on the northerly expansion of this park-serving road.

• ***Project Design:***

In the DEIR Volume II, a letter from Matt Irwin suggests that the parking lot (all or a portion) for the park be located elsewhere nearby to better use the more prime site on the bluff for recreation purposes. This is a worthy idea. Is there a response to comments on this point?

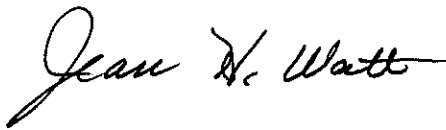
• ***Grading:***

The DEIR does not include a detailed description of the grading; but does note that there will be a net export of approximately 34,000 cubic yards to "identified locations on the adjacent Newport Banning Ranch property" (page 3-12); then continuing notes that "The potential environmental effects of this export are assumed in the environmental analysis for the Sunset Ridge Park Project." If these locations are the two proposed stock pile sites as shown on Exhibit 3-12, then further assessment needs to be required, as for example, the rather large northerly site appears to be located directly on top of a significant riparian area suggesting significant additional impacts which are not discussed herein.

Also the DEIR depicts Grading Option B – what/where is Option A?

Thank you for the opportunity to comment on this DEIR and we look forward to the response to comments.

Sincerely,



Jean H. Watt
President FHBP
949-673-8164
jwatt4@aol.com

Brown, Janet

From: Kevin Nelson [knelson@web-conferencing-central.com]
Sent: Friday, December 11, 2009 12:43 PM
To: Brown, Janet
Subject: Sunset Ridge Comments
Attachments: Sunset Ridge DEIR Comments Dec 11, 2009.doc

Janet Johnson Brown, Associate Planner
City of Newport Beach, Planning Department

Dear Ms. Brown:

The attached document contains my comments regarding the Sunset Ridge Park DEIR.

Please enter these comments into the DEIR comments record.

I will also deliver a hard copy to your office.

Thank you,

Kevin Nelson
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P.O. Box 1768
Newport Beach, CA 92658-8915

Subject: Comments on the Draft Environmental Impact Report for Sunset Ridge Park Project

Dear Ms. Brown:

The following are my comments regarding the Sunset Ridge Park DEIR.
Please enter these comments into the DEIR comments record.

For the purposes of my comments, it is necessary to define some key characteristics of the Banning Ranch environment so as to define the potential impacts of the project described in the DEIR.

The unique qualities of the Banning Ranch environment are:

- Uninterrupted Views to the South, North and West
- Native California habitat and species
- A functional ecosystem
- Almost total lack of on-property generated noise
- An area of limited light pollution
- Lack of structures (other than a number of fairly dispersed oil wells, which minimally impinge on the above aspects)
- Open space in which mans footprint is minimal

These qualities are real, measurable and consistent across the entire span of Banning Ranch. They are also an exceedingly rare resource in the entire Southern California basin outside of mountainous areas. And, unless public policy in regards to development undergoes significant change, these qualities will become ever harder to find and difficult if not impossible to mitigate or restore.

They will be affected by the types of uses and facilities chosen for Sunset Ridge and therefore should be given a more thorough analysis in the DEIR.

Impacts:

1. The Sunset Ridge DEIR does not adequately address the effects of the construction phase of Sunset Ridge and the many months of earthmoving activity on the bird and rodent species of Banning Ranch. The project area cuts across the heart of the ecosystem habitat in traversing the mesa to the soil dumping grounds. For instance, on any given day in a short period of time it is possible to observe Redtail Hawks foraging over the exact area of this project. The hawks are hunting the extensive squirrel population that might be severely disrupted by massive earthmoving activities. In addition, the dumping grounds are within yards of the main arroyo.
2. The Sunset Ridge DEIR does not adequately address the noise impacts of a large road onto this relatively quiet environment.
3. The DEIR does not address the effects of light onto what is now an area of very limited light pollution.
4. The DEIR does not address the aesthetic effects of the first major road into this environment.
5. The DEIR does not address the continuing disruption an active park and a large road will have on rode and bird species by scaring them away and disrupting foraging and hunting activities. In the past these species perhaps had other nearby land areas to occupy. Since this is no longer the case, any disruptions or intrusions to what is essentially a last refuge are greatly magnified.

18-Section 6.0_Alternatives to the Proposed Project

1. The alternative use for the Sunset Ridge as a natural setting low-impact gateway to a future Banning Ranch Park and Preserve was not adequately studied in the DEIR. This kind of use would be designed to encourage pedestrian and bicycle use of Sunset Ridge and might consist solely of a small grass area, bike racks, restored habitat and trails leading into the Banning Preserve. The promotion of non-motorized transportation will become more important as the requirements to limit greenhouse gases become more urgent and widespread. As this comment letter is being written, governments around the world are meeting in Copenhagen to reach agreements on cutting GHG emissions. Undoubtedly, these cuts will require significant changes in our lifestyles and use of transportation. A design for Sunset Ridge that fully envisions this future is one of the many contributions that we, locally, will have to make to this effort.

When the Banning Ranch Preserve is created, it will be necessary to create an entry for public use, and entry from Sunset Ridge represents the lowest impact entry point on the South side of Banning Ranch.

Since the preservation of open space is the preference in the Newport Beach General Plan and the stated goal of the Banning Ranch Conservancy, this eventuality must be

addressed by the DEIR in looking at alternative uses of Sunset Ridge.

17-Section 5.0_Long Term Implications of the Proposed Project

1. Given the significance and variety of impacts the project creates, the following statement in the DEIR is not supported by the facts and should invalidate the document:

"Implementation of the standard conditions and requirements and mitigation measures provided in Sections 4.1 through 4.11 would reduce these impacts to levels considered less than significant with the exception of short-term construction-related air quality and noise impacts."

2. In section 5.3 on growth Inducing Impacts of the Proposed Action the DIER states:

"A project can also remove infrastructure constraints, provide new access, or otherwise encourage growth which is not assumed as planned growth in the General Plans or growth projections for the affected local jurisdictions."

The DEIR must address the cumulative impacts of the park access road. It provides new access and therefore enables and presupposes growth on the Banning Ranch property. If the road park access road is built, it is logical to assume that it eventually may be used for routing traffic through to 19th street and other side streets. This is the definition of cumulative, as well as violating the established principle of "piecemeal" in which the initial stage of a project is proposed without consideration of the logical outcome of that initial action.

3. The road shown in the DEIR is much larger than required for park access, and the DEIR makes no explanation for this fact.

27-Appendix F Cultural and Paleontological Resources Technical

The DEIR does not adequately examine the following facts:

-On page 10 of this section it is stated that exploratory holes were dug in search of historical artifacts and/or other culturally significant indicators. The DEIR should show exactly where the shovel test pits were dug.

-Given the fact that the entire Banning Ranch and Sunset Ridge properties are located in what would have been the most desirable location for native peoples to make use of ocean resources, Santa Ana River resources, Newport Bay resources, as well as providing a natural viewpoint for defense and hunting, this property should undergo a full and complete site survey by a panel of archaeologists. A few shovel test pits do not provide for an adequate search on a site of this potential importance.

-Were these shovel test pits dug in the areas where excavated soil will be placed thereby destroying the possibility of finding artifacts in that area.

-Some of the shovel test pits appear to be outside of the actual project boundaries. Therefore, of what use are they?

24-Appendix C_Air Quality Impact Report

The DEIR fails to fully examine the effects of construction equipment on the defining environmental crisis of our generation: climate change

1. By any measure the emissions produced by heavy equipment operating for many months during the excavation and transportation of 34,000 cubic yards of soil should be considered significant.

2. In light of new EPA regulations on green house gases - see <http://www.epa.gov/climatechange/endangerment.html> , the DEIR does not adequately add or analyze the emissions generated by moving 34, 000 cubic yards of soil and other construction activity to the promotion of motorized vehicular traffic generated over the life of the project. Taken together, the emissions cost becomes more significant in relation to the benefits of the project as currently designed.

07-Section 4.2_Aesthetics

1. The DEIR fails to consider the view and aesthetic impacts to users of a future Banning Ranch Preserve.

2. The DEIR does not adequately assess the impacts to views, noise etc from the road on Newport Crest residents.

15-Section 4.10_Hydrology and Water Quality

In this section on Exhibit 4.10-7, a number of bioswales and other water quality modifications are described.

Many of these modifications near the access road appear to be located in areas where existing gnatcatcher habitat, native plants and wetlands indicators have been located. (Please view Hamilton Biological comments)

1. The DEIR does not adequately address the possible destruction or degradation of this key habitat that will be required to build the hydrological modifications.

2. The DEIR does not address the effects of polluted runoff generated by the project on the actual site and its species.

Brown, Janet

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Thank you,

Kevin Nelson
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PLANNING DEPARTMENT

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CITY OF NEWPORT BEACH

Dear Ms. Brown:

According to Threshold 4.4-4 in the Sunset Ridge DEIR, "There will be significant and unavoidable exposure to 'sensitive receptors' during the mass grading. During the construction period, construction activities would expose nearby residents (sensitive receptors) [and their pets] to pollutant concentrations. Exposure to carbon monoxide (CO), NO₂, and toxic air contaminants (TACS) would be less than significant. However, exposure to PM₁₀ and PM_{2.5} emissions would exceed thresholds at times during the mass grading phase. Long-term impacts would be less than significant. (*Significant and unavoidable impact*)"

Attached is a compilation of research by one of our most respected residents in Newport Crest, James Orstad. He was a member of the distinguished Flying Tigers, an aeronautical engineer and a resident of Newport Crest for more than 30 years until his death 18 months ago. Mr. Orstad's information was gleaned from newspaper clippings as well as government reports. He concentrated on Banning Ranch but Sunset Ridge and the Hoag property bordering PCH are also included because of the many "Wildcat" oil wells that were drilled on these properties. Mr. Orstad's findings tell of possible dire consequences of exposure to petroleum by-products and of serious problems that can occur with un-vented methane gas.

There are Newport Crest residents and visitors who have existing health problems or compromised immune systems. There is great concern during construction for their exposure to the chemicals listed above and to the chemicals that were recently applied by the City to eradicate the natural ground cover and the animals that made Sunset Ridge their home.

Should concerned residents seek alternative shelter during the construction process and should the City provide assistance in relocation?

Should the City install filtering devices in homes to protect residents and, besides constant monitoring of the pollutants during construction, should the City clean the homes, decks and common areas in Newport Crest of any contaminated debris?

And should Newport Crest residents have concern for their future exposure to these pollutants long after construction has concluded?

Sincerely,


Sharon Boles

BANNING RANCH HAZARDS

Researched by James Orstad

As a proponent of Banning becoming a Park or a Game Reserve, my efforts are directed in finding Reasons why Banning would be less suitable for development. In reviewing history, Environmental Impact Reports, New clippings and lawsuits; but more rewarding were Geological reports. A recent report by the department of Geological survey puts Banning in a very risky position.

There are several hazards present. Some may never be safely mitigated. Others may be too costly to mitigate. Coastal Committee guidelines found helpful.

The reasons for putting together this report are:
To alert all City, County, and State planners. Also to perhaps discourage any financial backers or Developers to risk the many liabilities they may well endure for many years.

James F. Orsted

6/3/2004

REEVALUATE BANNING HAZARDS

Planners and Contractors find no problems in developing Banning Ranch Oil Property into Residential and business. However history, geological Reports both new and old point out several HAZARDS, both natural and man-made. Many are not likely to be safely mitigated. Pollution is the 1st hurdle. Records from the Division of Oil and Gas prove there was crude oil outcrops, Gas and Wild Cat drilling in 1904. Crude oil is known to pollute an area and cause cancer and birth defects. Early drillers used toxic chemicals to clean their equipment. All wells had sludge pits where this toxic material was buried. It is also known early drillers left improperly sealed Abandon well sites. These continue to contaminate the soil. They must be located and Re-Abandoned. PCB was an effective cleaning agent very popular and its pollution found on many oil fields. Any direct contact or even inhaling its dust was devastating. Such areas were fenced off in Huntington Beach. Orange County reports over 900 deaths per year are attributed to inhaling toxic dust particles (SEE Register News Page 1 May 16 2002). If no precautions are taken it could present a danger if Banning construction would kick up dust and blown by Sea Breezes to surrounding communities. In 1999 the parent Oil company was cited for possible ENVIRONMENTAL VIOLATIONS. A thorough soil study should be mandatory before any planning proceeds.

- 2) METHANE GAS SEEPS ARE another HAZARD exposed by geological Reports and adjacent homeowners. Methane is highly explosive. Several new projects and schools REQUIRE VENTS and warning systems.
- 3) Unstable Bluffs, RISK any development

The bluffs on Banning Oil property are a HAZARD because of NATURAL AND MAN MADE CONDITIONS.

CONT

II

- A) In the 60's, Caltrans excavated a road through Banning, to link with a proposed Coast freeway. The idea was dropped. However Bluff hazards increased when their natural support was removed.
- B) World War II Gun emplacements were later removed, then FILLED. Other Fill reported in studies of the bluffs.
- C) BANNING WAS found to contain many old faults, some with displacements of 2 to 3 feet. Recent studies with an announcement by Luale M. Jones of the U.S Geological Survey, changes their status to a HAZARD. Late studies found Earthquake Epicenters effected land disturbance within a 100 mile radius. Newspapers HAVE Announced Ancient Volcanoes and faults were triggered into action. These Banning faults lie within this radius of 5 Epicent. Also they are magnified by a recent Thrust Fault found under our Coast Highway near Hoag Hospital.
(SEE the EIR Report No 142 REGARDING HOAG)
- d) Tension Cracks Reported on some bluffs
- e) Bluff composition not stable and prone to slides

COSTA MESA WAS sued in 1991 by several No. Mesa Verde homeowners and won their case for allowing construction that caused slide damage on the Greenville Banning property. Evidence seems to indicate there exist many circumstances on Banning property for potential law suits, if development persist. These HAZARDS should be made public, as hiding these facts are unlawful.

- NOTE -

All statements in this report is substantiated by EIR, Geological Reports, News Articles and various department correspondence.

JAMES L. ORSTAD

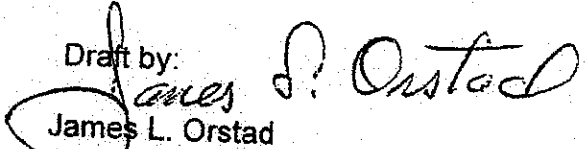
SUMMARY

- A. The Planning Department needs to know what liabilities it faces, if it approves construction.
- B. Investors, loan, insurance and real estate companies, as well as prospective buyers, have a legal right to be told of these hazards. Concealing these dangers is felonious.
- C. Unstable hazards make it impossible to safely mitigate.
- D. Construction will kick up dust pollutants and sea breezes will spread it to neighboring families. High bluffs make it difficult to control dust by watering. Excessive water will also spread contaminants. Even the "El Nino" rains are dangerous.

CONCLUSION

A far safer plan would be a Park and Wild Game Nature Preserve to attract tourists. There are hundreds of various birds, animals and reptiles, many of which are on the endangered species list. The Sierra Club is on record as desiring to develop Banning Ranch as well as enhancing its wetlands. This plan should satisfy the State, please the Coastal Commission, and delight our Mayor and the citizens of both Newport Beach and Costa Mesa.

Draft by:


James L. Orstad
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HUNTINGTON BEACH State to Notify Residents Near Contaminated Site

Residents who live within a mile of a Bolsa Chica site contaminated by a cancer-causing agent will receive notices from the state Department of Toxic Substances Control this month.

Officials have known for three years about the polychlorinated biphenyl, or PCB, contamination on 1 1/4 acres of unincorporated county land owned by Signal Landmark near the end of Graham Street.

The carcinogen is not carried in the air and is not expected to leach into the ground water, said Lucy Dunn, executive vice president of Hearthside Homes, which is trying to develop nearby land. Contact with the soil could be harmful, but the site has been fenced for more than a year. The source of the contamination is unknown, though it could be from past oil operations, illegal dumping or electrical transformers, officials said.

SUMMARY OF OPERATIONS

California Oil Fields

THIRTY-SECOND ANNUAL REPORT
OF THE
STATE OIL AND GAS SUPERVISOR
ISSUED BY
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL AND GAS

Vol. 32

SAN FRANCISCO, CAL., JULY-DEC., 1946

No. 2

WEST NEWPORT OIL FIELD

By GRAS. H. CORWIN*

INTRODUCTION

EXCERPTS

The West Newport oil field is in Orange County, just northwest of the old Newport oil field and near the southeast end of the Beverly Hills-Newport uplift line of folding. The field consists of four areas; namely, Banning, Atha, Callens, and Lyddon. The Banning area, with a relatively large number of wells, is more readily interpreted than the three remaining areas, each of which is far more complex structurally, and in which are comparatively few wells. Future development in the Callens, Atha, and Lyddon areas may furnish additional data which may slightly alter the present structural picture.

HISTORY

The presence of oil showing in seepages and outcrops caused numerous wildcat wells to be drilled in this area, some dating back to 1904. The discovery well (now known as Macco Corporation well No. "Banning" 1, Sec. 20, T. 6 S., R. 10 W., S. B. B. & M) which led to the development of a commercial field, was drilled on the Banning property in April, 1943, by D. W. Elliott.

STRUCTURE

The structure of the West Newport field is a northwesterly plunging nose that is highly complicated by both major and minor faulting. This faulting divides the area into several blocks, each of which will be discussed separately.

The present production in the Banning area is limited on the southwest by what is locally called the Inglewood fault. This fault, with the downthrown side to the southwest, has a strike of N. 45° W.; and its trace at the top of the "B" zone.

* Assistant Oil and Gas Engineer, Division of Oil and Gas.

Vulnerable to Vapors

Abandoned Oil Fields Leave Dangers of Methane Blasts

By JANET WILSON
TIMES STAFF WRITER

As if earthquakes weren't enough, there's another invisible danger lurking beneath the Los Angeles Basin, from Newport Beach north to Newhall.

It is methane—a colorless, odorless, highly explosive gas naturally produced by the 70-odd oil fields on top of which much of the metropolitan area is built. The fields are primarily clustered along the area's major fault lines, where oil seeps out of ruptured rock.

So, if your community is built on or near a fault, there's a good chance it's also sitting atop abandoned oil wells—and methane. If not properly vented, the gas can work its way through even concrete foundations and cause disastrous explosions.

Along the portion of Orange County's coast that roughly coincides with the Newport-Inglewood fault, everyone from hospital construction teams to developers of gated communities are taking measures to reduce the threat of methane—or to harness it as an energy source.

Ironically, when it comes to methane, it's better to have pumping oil wells in residential areas than abandoned wells without proper venting. Once a well is abandoned, or even sitting idle, "what Mother Nature did to create the oil field, Mother Nature is going to continue to do—fill that oil field back up," Baker said.

And with the seeping oil come swelling methane fumes. If they find a weak link in an old well, where air mixes with the fumes, they can and do explode outward, ignited by as little as a light switch being flicked on.

"If you have oxygen and gas and a spark, you get an explosion," Baker said.

It is impossible to know how fast an area of an oil field will repressurize, but there are telling examples.

In 1973, a Newport Beach cottage owned by a retired sea captain began filling up rapidly with crude oil.

The culprit was an abandoned oil well directly below.

The force of oil rising from the improperly sealed well cracked the concrete foundation and flooded the kitchen.

The house was partially torn down to get to the leaking well and properly cap it.

Several years earlier, a real estate agent preparing to show a house in Harbor Cove sparked an explosion fire by turning on a light switch.

No one was killed, but the house was gutted in the blaze, which was attributed to trapped methane from an old well.

The risk of methane explosions "is probably very small, but it's always a possibility," Chalk said. "It's that 1% chance that worries you.... The gas will seep up through cement and eventually come to the surface. It's just good oil-field practice to go ahead and vent something. Otherwise, an explosion can happen."

While oil fields could refill and repressurize, Chalk said Orange County beaches offer proof that a great deal of oil and related methane has been pumped out over several decades, reducing the risks.

Just down Pacific Coast Highway in Newport Beach, though, city and Hoag Memorial Hospital Presbyterian officials found the supply of underground methane to be endless—so they decided to harness it to power hospital boilers.

Hoag hospital is right across the highway from the neighborhood where the real estate agent turned on the light switch and blew up the house, and the hospital pumps out methane from under those houses now as a community service, according to Reveley.

No state law requires that permits be obtained to build on top of oil fields.

"We will always tell people, with the earthquakes, ground settling, all kinds of dynamics going on underground, the best way to mitigate is don't build over oil wells," Baker said. If they must build on them, then they need to vent, he said.

Any leaking well on the site, even if it is not near the planned building, must be reported immediately, and all wells under houses or businesses must be vented.

State engineers test for leaks and inspect capping and venting procedures before issuing a certificate.

Times staff writer Edward Boyer contributed to this story.

RICHARD BAKER IS DISTRICT DEPUTY FOR THE DEPARTMENT OF CONSERVATION, DIVISION OF OIL AND GAS, STATE OF CALIFORNIA.

Los Angeles Times

CALIFORNIA

ORANGE COUNTY EDITION

Tuesday, November 11, 2003

Methane Is Out Before School Is In

CONDENSED

At campus sites across the state, districts are struggling with stringent rules on pollutants. The explosive gas is high on the list for cleanup.

By JANET WILSON AND KRISTINA SAUERWEIN
Times Staff Writers

Two years after the Belmont Learning Center controversy led California to require testing for contaminants at proposed school construction sites, hundreds of districts have found harmful substances in the soil, leading to costly struggles to balance health risks, liability and cleanup costs.

From arsenic to zinc, inspectors have found a long list of chemicals in the soil and air at 317 of those sites.

"You got to do what you got to do," Krall said. But because children are often more vulnerable than adults to the effects of pollutants, diligence is needed for school sites, said Ron Baker, spokesman for the state Department of Toxic Controls and Substances, which oversees the state's testing program.

"We're more concerned about kids because, obviously, they're closer to the ground. They're small. Also, kids like playing in dirt and sticking their hands in their mouths," Baker said. "Breathing, touching and eating — we're always going to be looking at those three exposure pathways."

Studies indicate that long-term effects of DDT exposure include nervous system damage and increased cancer risk.

Lead is another enormous challenge — 42% of the sites where contaminants were found have lead in the soil.

Children can develop brain damage, anemia and muscle weakness by eating paint chips or breathing particles that contain high levels of lead. Childhood exposure to lead contributes to attention deficit/hyperactivity disorder and can increase the likelihood of having a reading disability, dropping out of high school and participating in antisocial behavior, according to research.

Lead was widely used in paint until 1978. While many cities and states require lead testing in older residences, no such requirement existed for California school sites until the new laws were passed, Baker said.

Some land uses and chemicals are not examined, such as sewage sludge or perchlorate, and testing is required only at new construction sites.

Under the new laws, local school districts are required to pay for testing potential sites for contamination. First, historic uses of the land are analyzed, using aerial photos and relevant documents. If that analysis indicates the site might be polluted, soil and air samples are taken.

If large amounts of toxic substances are found and a district still wants to build, state officials devise a mandatory cleanup plan.

Work on Belmont began in 1997 but was stopped three years later amid worries about methane from former oil wells beneath the 35-acre property. After extensive work to reduce the hazard, the school district voted in May to finish the school, which, at \$286 million, is the most expensive school construction project in state history. Environmentalists and regulators say that history lends support to the argument that testing sites before construction saves money in the long run.

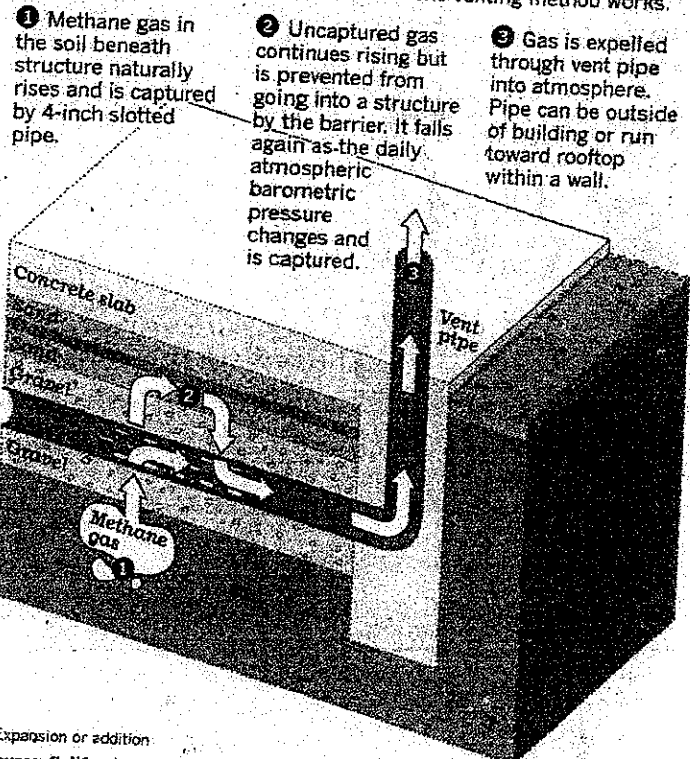
Banning Ranch and proposed School property are both Likely polluted

Removing methane gas

The state has identified 14 proposed schools or schools slated for expansion that have high levels of methane. Gas-venting systems must be installed in any area that has more than 5,000 parts per million of methane. An explosion is possible at sites with more than 53,000 parts per million of methane.

Venting system

Methane gas can be safely removed or vented using a variety of methods. Below is an illustration of how one venting method works.



*Expansion or addition

Source: California Department of Toxic Substances Control

SLIDES AND SUBSIDY

1. Kenneth Henderson, an official of the State Department of Conservation, Division of Gas and Oil, stated: The State needs additional inspections and test requirements on all old oil fields in our coastal zone. (L.A. Times, 12/29/93, page A3.)
2. The famous Geologist Arthur Sylester reported in the Science Journal: "Coastal oil fields pose a big worry to earth movement when old fault lines and fissures allow subterranean fluids to weaken and cause hillside disasters."
3. Geophysicists now use G.P.S. "Ground Positioning System" to pinpoint land subsidence within a few thousands of an inch. Also to determine how and where it is occurring. This method uses satellites. California's state law in 1956 required oil companies to inject as much fluid as it took out of the ground. This technique prevents subsidence. However, between 1935 and 1956 they created many cavities. Cavities cause movement, even sink holes. On January 15, 1993, Costa Mesa experienced a large sink hole very near the oil property, at Superior and 16th Street. No thorough investigations were made, but there were several theories.

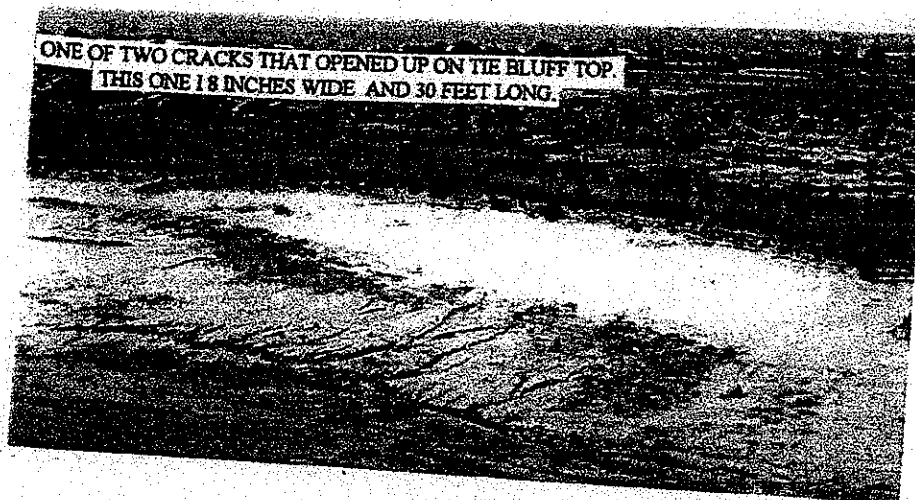
ANOTHER CITY GETS SUED

A city is not required to stabilize a bluff or hillside, but they are responsible to see the builder stabilizes it early in the project. If Banning Ranch is allowed to be developed with all their bluff problems, the safety and welfare of future buyers are at risk. A buyer must be given a full disclosure of the risks he takes. If not, it just presents another liability to be settled in court.

There appears to be no time limits or Deep Pockets defendants.

A BANNING BLUFF

Crack opened overnight May or June, 1993
Size: 18" wide and 30' long



GENERAL INFORMATION

1. The above crack prox. 40 feet from edge.
2. The above crack prox. 25 feet to our border.
3. A second crack in 1995, smaller and to the right.
4. Our units were getting cracks and strange noises.
5. Other photos available, show other unit problems. Also photos of an older well site before removal at the base of our bluff top.

LOS ANGELES TIMES
R/TUESDAY, JANUARY 19, 1993

B5

Laguna Beach engineering geologist Fred Pratley has been studying hillsides in the county for 30 years and has watched how heavy rains can cause mudslides and landslides that undermine buildings. After this weekend's storms, Pratley surveyed the damage to a group of houses on a Laguna Beach hillside where one home burned and another family was evacuated. Pratley answers often-asked questions about the stability of local hills and canyons.

Q: What makes a hillside unstable?

A: The presence of clay and high ground-water levels. That's oversimplified, but those two guys are dangerous. If you have clay units interspersed with bedrock, you have an unstable potential. But the water is really the culprit. Basically, it is water that causes these slides. That's the bottom line.

Q: What are the warning signs homeowners should look for?

A: Look at openings in the walls, such as doors and windows. They should be symmetrical. If they start to stick, it might be swelling from the rain, but it could be the shape of the wall. Check to see if the frames are symmetrical and if there are cracks that weren't there two weeks ago. If so, that might imply that you have movement in the foundation or movement in the material on which the foundation rests. Other clues are tension cracks in wet soils. This means the soil has moved, and it may reflect [that] the bedrock underneath is also creeping.

LAND SOIL MOVEMENT

GREENVILLE BANNING disaster 1991 borders this project. Excavating unstable soil, believed the culprit.

LOS ANGELES TIMES

TUESDAY, DECEMBER 24, 1991

B3

COSTA MESA/NEWPORT/IRVINE

COSTA MESA

Project Blamed for Damage to Homes

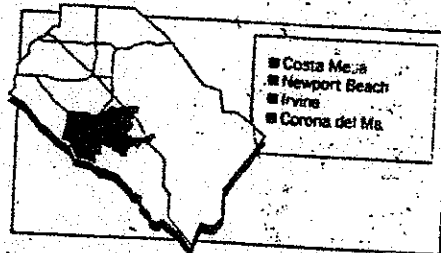
Lori Costa was awakened one night recently by "huge popping sounds like a hot water heater." When she got up to seek the source of the mysterious noise, she saw the Italian ceramic tiles that adorn her home cracking before her eyes.

Costa later conferred with neighbors and found that they were experiencing similar troubles—cracked pools, fences, floors, kitchen walls and cement foundations.

Last week, Costa and 10 other homeowners filed a lawsuit in Orange County Superior Court against several government agencies demanding compensation for the damage in their North Mesa Verde homes, which they contend have been severely damaged by construction of the nearby Greenville-Banning Flood Control Channel along the Santa Ana River.

"My patio is cracked in half," Costa said. "The concrete foundation of my house is crumbling and my walls are coming apart. They don't even touch any more."

The claim names the County of Orange Environmental Agency, the Orange County Flood Control District, Orange County Sanitation District and the City of Costa Mesa. The \$10-million Greenville-Banning project began in April and is scheduled to be complete in mid-1993. It is the first phase of the decade-long, \$1.4 billion public works improvement plan.



(link between the damage and the project has been established.

"It's hard to say why [the tiles] cracked," said Medeiros. "Some of the homes are quite a ways away from the project."

Fullerton attorneys Warren B. Wimer and Randall J. Friend said the 11 homeowners first noticed damage during the summer, when large amounts of soil were moved to widen the walls of the channel, which is within several blocks of their clients' homes.

"Some of these homes are not even marketable at this point," said Friend. The 11 homes, on New Hampshire, Europa and Sandpiper drives and Iowa Street, have market values ranging from \$260,000 to \$600,000, he said.

Costa, who bought her house a year ago, said if she had known about the construction project, she would not have bought the \$350,000 home.

"My home insurance does not cover damages from land soil movement," she said. "I could never sell it in this condition. Now I stand to lose everything because [the agencies] decided to dig behind my house and be negligent. I put every dime of my life savings into this house."

—DONNETTE DUNBAR
and LISA MASCARO

Pair Attorney R.J. Friend Reported Homeowners won their case

AT LEAST 63 INHABITED COASTAL HILLSIDES
GAVE WAY THIS LAST YEAR. STATE DIVISION
OF MINES AND GEOLOGY.

(LA TIMES 12/27/98 SECTION B)

GEOTECHNICAL REPORTS

Geological Evaluation of
Faulting Potential
West Newport Oil Field,
Orange County, California

THE EARTH TECHNOLOGY CORPORATION

Paul E. Guptill
Paul Guptill
Senior Engineering Geologist
C.E.G. 1981

Date: July 31, 1986
Project No.: 86-820-01

Marc Egli
Project Geologist

FAULTS¹ (SECTIONS 2.1 2.3 4.2)

2.1 Objectives

The principal objectives of our geologic investigation were to characterize the nature of apparent faulting on West Newport Mesa, to delineate individual fault traces, to interpret the origin and significance of fault traces, and to estimate the age of latest fault movement.

The site is presently a producing oil field. Operation of the oil field began in 1943, and since that time many modifications to the natural surface have resulted from oil field operations. Foremost among these modifications are road and drilling pad excavations, surface and subsurface pipelines and asphalt slope protection of the mesa bluff face. A deep road cut was excavated in the 1960's in a north-south trend along the eastern side of the study area as a possible extension of Balboa Boulevard. This cut is particularly useful for interpreting geologic relations on site. In this report, it is referred to as the Balboa Boulevard cut.

2.3 Previous Investigations

Previous investigations at the West Newport mesa had identified evidence of faulting at and near the W.N.O.C. property. Guptill and Heath (1981) reported offset soils at the mesa as well as one location where man-made fill appeared to be involved in faulting. R. Miller, of the California Division of Mines and Geology, also mapped displacements in the mesa sediments along the Santa Ana River and at the road cut along Superior Avenue (personal communication, 1986). For this report, we have interpreted subsurface faults to be related to the mesa faulting.

4.2 During our field investigation we identified numerous near-surface faults in the mesa escarpment along Balboa Boulevard and in trenches associated with the North Branch Splay fault. Faults were easily identifiable because the sediments are well-bedded. The majority of these faults are normal faults with less than 6 inches of apparent dip separation in late Pleistocene sediments. Some faults were mapped, however, that have displacements as great as 2 to 3 feet.

CLIFF AREA DEEMED HAZARDESS.
IN OLD FAULT ZONE • SLIPPAGEGeologists Say
Simi Fault
May Be Active

■ **Geology:** Researchers believe quake occurred there between 1,200 and 8,000 years ago, which means another one is possible.

Lettis and fellow geologists Chris Hitchcock and Jerome A. Treiman unveiled their preliminary findings to other scientists, consultants, and local and state government officials Wednesday.

So far, Lettis said, it looks as though the Simi fault could generate an earthquake with a maximum magnitude somewhere between 6.5 and 7.0. He also believes the fault is "slipping" at a rate between one-half millimeter to a millimeter a year.

Indeed, if the fault meets state activity criteria, geologists would draw up an earthquake fault zone map marking 500-foot buffers on either side of the shear. After about a year of review by the public and other geologists, that map would influence development and property sales around the fault.

Geologists study fault in the Arroyo Simi in northwest Simi Valley. State will decide whether to zone it as active.

Photos by MEL MELCON / Los Angeles Times

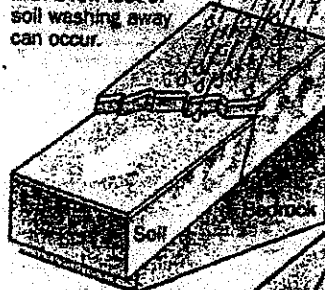
Saturating the Soil

Heavy rains can cause street flooding and minor mudslides, but a longer-term problem occurs when the soil gets oversaturated. Here is a look at what can happen during the rainy season from December through March:

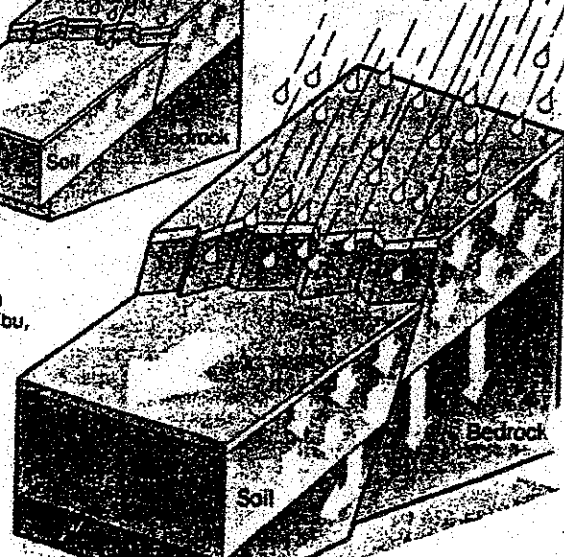
A When rainfall is less than 4 inches, there tend to be few problems.



B With rainfall of 6 to 10 inches, soil begins to saturate and can absorb less water. Small mudslides with a few feet of soil washing away can occur.



C With more than 10 inches, real problems begin. These include large mudslides during the storms and, later in the year, the chance of massive landslides as water undermines bedrock layers of compacted earth.



The Worst Case

A major long-term risk of saturated soil is that it will be weakened and later give way.

- In some areas of the Southland—especially in coastal places such as Pacific Palisades, Malibu, the Palos Verdes Peninsula and Laguna Beach—the underlying bedrock is not the usual granite but compacted earth.
- Heavy rainfall during the winter can seep into this weaker type of bedrock.
- The seepage can loosen the soil.
- In the fall, minor rains can make the weakened area vulnerable to a big slide.

January, 1992

Prepared for:

City of Newport Beach
Planning Department
3300 Newport Boulevard
Newport Beach, CA 92663-3884

Contact Person: Patricia Temple
(714) 644-3225

Prepared by:

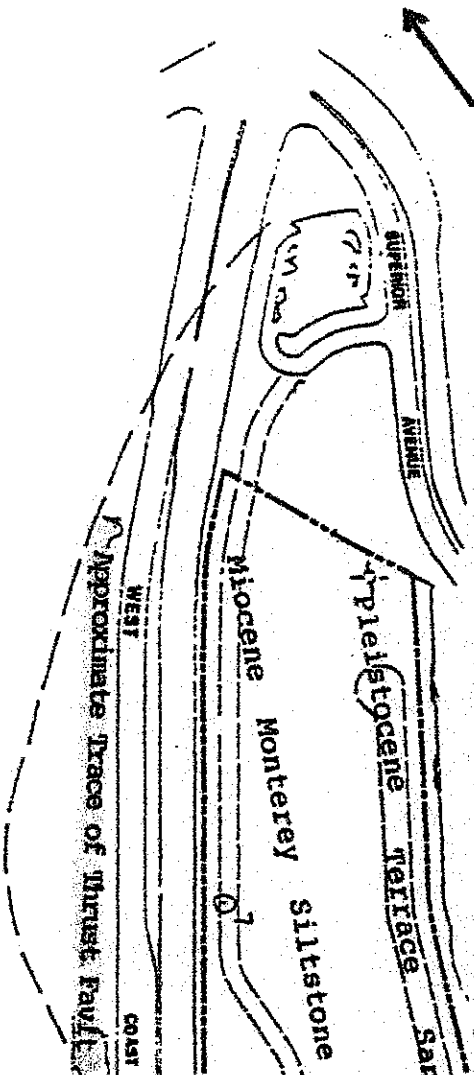
LSA Associates, Inc.
1 Park Plaza, Suite 300
Irvine, California 92714
(714) 553-0665

**SUPPLEMENTAL DRAFT
ENVIRONMENTAL IMPACT REPORT**

NO. 142 FOR
HOAG HOSPITAL MASTER PLAN
RCH #89061429

BANNING

Underlying Thrust Faults are a potential threat in any area: Steve Waller, Seismologist, U.S. Geological Survey 1998.



Los Angeles Times
Report on New Fault

WONDAY, NOVEMBER 1, 1999 B13 R

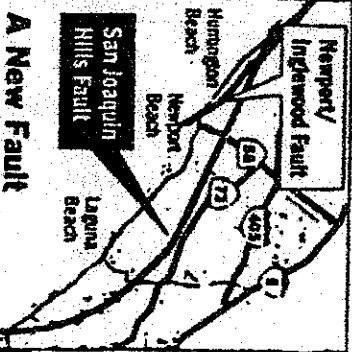
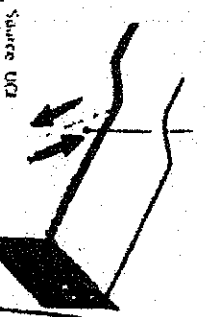
The work has been recognized as important because it helps understand more about a fault that was not known to have existed. Recent earthquakes, including the Hector Mine earthquake and the Northridge temblor, emanated from previously unidentified faults.

Prior to this work, most people considered the Newport-Inglewood to be the principal source of seismic activity in Orange County," said Tom Rockwell, geology group leader at the Southern California Earthquake Center. "One possible outcome of this research is that there are other blind thrust faults that we do not know about in the area."

A New Fault

UCI scientists have discovered a new blind thrust fault in south Orange County capable of generating a 7.3 magnitude earthquake.

A look at a blind-thrust fault: Blind fault thrusts upward, without breaking surface.



CONSTRUCTION HISTORY

Geology Notes added 1/92 NINYO & MOORE

HOAG MEMORIAL HOSPITAL PRESBYTERIAN

Del 22 Jan 1976

Source UCI

Call this to city people

-1-

☐ GEOLOGIC STABILITY OF BLUFFTOP DEVELOPMENT

(Adopted 5/3/77)

Section 30253 of the 1976 Coastal Act provides that "New development shall: (1) Minimize risks to life and property in areas of high geologic, flood and fire hazard; (2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs". Section 30251 provides that: "Permitted development shall be sited and designed...to minimize the alteration of natural landforms..." Alteration of cliffs and bluff tops, faces, or bases by excavation or other means should be minimized. Cliff retaining wall should be allowed only to stabilize slopes.

-3-

The applicant for a permit for blufftop development should be required to demonstrate that the area of demonstration is stable for development and that the development will not create a geologic hazard or diminish the stability of the area. The applicant should file a report evaluating the geologic conditions of the site and the effect of the development prepared by a registered geologist or professional civil engineer with expertise in soils or foundation engineering, or by a certified engineering geologist. *

- (1) cliff geometry and site topography, extending the surveying work beyond the site as needed to depict unusual geomorphic conditions that might affect the site;
- (2) historic, current and foreseeable cliff erosion, including investigation of recorded land surveys and tax assessment records in addition to the use of historic maps and photographs where available and possible changes in shore configuration and sand transport;
- (3) geologic conditions, including soil, sediment and rock types and characteristics in addition to structural features, such as bedding, joints, and faults;
- (4) evidence of past or potential landslide conditions, the implications of such conditions for the proposed development, and the potential effects of the development on landslide activity; *
- (5) impact of construction activity on the stability of the site and adjacent area; *
- (6) ground and surface water conditions and variations, including hydrologic changes caused by the development (i.e. introduction of sewage effluent and irrigation water to the ground water system; alterations in surface drainage);
- (7) potential erodibility of site and mitigating measures to be used to ensure minimized erosion problems during and after construction (i.e. landscaping and drainage design);
- (8) potential effects of seismic forces resulting from a maximum credible earthquake; *



Technical Consultation, Data Analysis and
Litigation Support for the Environment

RECEIVED BY

PLANNING DEPARTMENT

DEC 11 2009

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Matt Hagemann
Tel: (949) 887-9013
Email: mhagemann@swape.com

CITY OF NEWPORT BEACH

December 10, 2009

Janet Johnson Brown
City of Newport Beach Planning Department
3300 Newport Blvd.
Newport Beach, CA 92658

**Subject: Comments on the Draft Environmental Impact Report for the
proposed Sunset Ridge Park project**

Dear Ms. Brown:

On behalf of the Banning Ranch Conservancy, we have reviewed the 2009 Draft Environmental Impact Report (DEIR) for the proposed Sunset Ridge Park project ("Project site"), located just northwest of the intersection of Superior Avenue and Pacific Coast Highway in the City of Newport Beach, California. The Project site is described in the DEIR as follows (p. 3-1):

The Project site encompasses approximately 18.9 acres. Approximately 13.7 acres are located within the incorporated boundary of the City of Newport Beach (City), and approximately 5.2 acres are in unincorporated Orange County within the City's adopted Sphere of Influence, as approved by the Local Agency Formation Commission of Orange County.

The comments below address what we believe to be shortcomings in DEIR Section 4.9, Hazards and Hazardous Materials.

1. The DEIR fails to identify an oil well at the 13.7-acre portion of the Project site

The DEIR states (p. 4.9-1):

No past or present oil field activities have occurred on the 13.7-acre portion of the Project site.

The DEIR further states (p. 3-3):

Exhibit 3-4, Oil Operations, depicts areas of the Project site that have previously been in oil operations.

Contrary to these findings in the DEIR, we mapped an abandoned well within the 13.7-acre portion of the Project site using a map available online from the California Division of Oil Gas and Geothermal Resources (DOGGR).¹ The map we prepared, shown below, shows the location of the well, identified as “T.S. Gesell 1,” to be within the area of the park that is proposed for a soccer field.

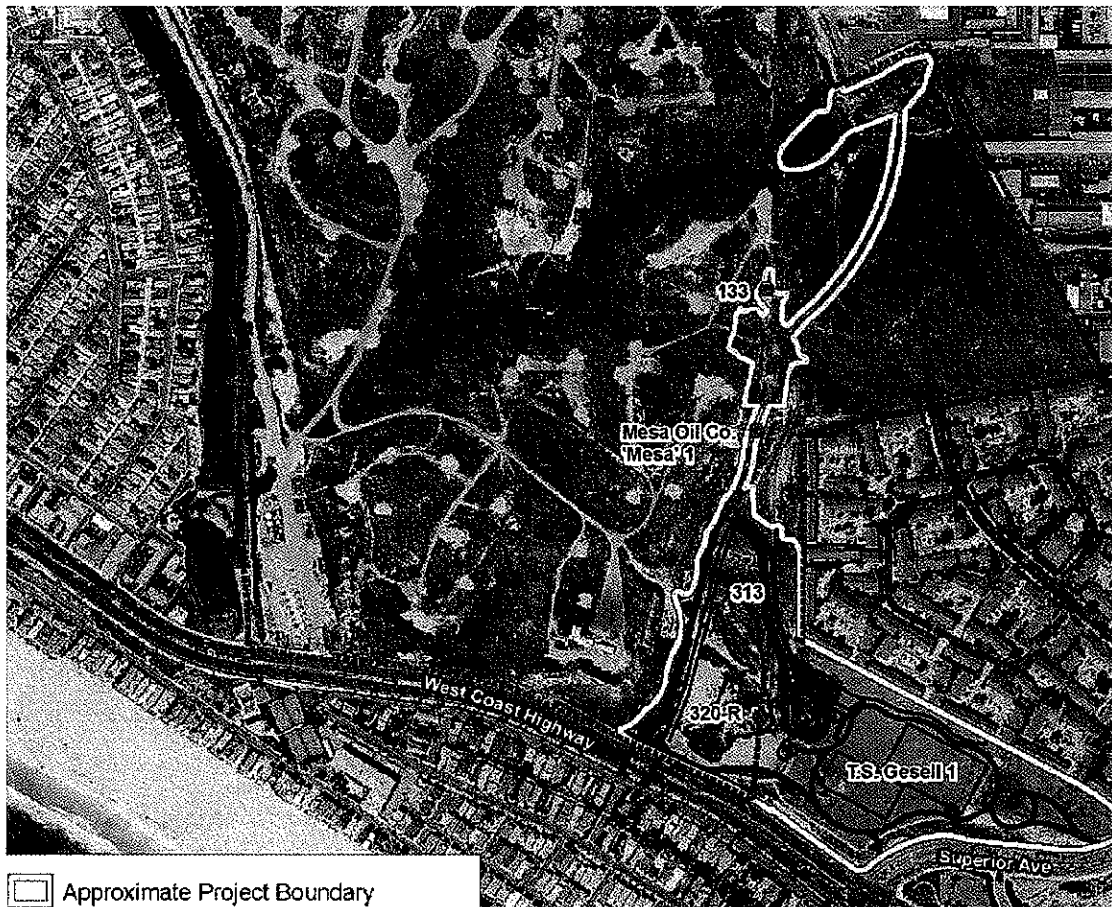


Figure prepared from Exhibit 3-3 of the DEIR and DOGGR map¹

The DEIR fails to describe this presence of the well and the well is not mapped on Exhibit 3-4 to the DEIR. The status code in the DOGGR database associated with the well is “004 – buried idle.” No records available at the DOGGR website show the well to have been abandoned.

¹ <ftp://ftp.consrv.ca.gov/pub/oil/maps/dist1/136/Map136.pdf>

Recommendation: The DEIR should be revised to identify the location of the oil well identified in the DOGGR map and as described in the DOGGR database. As recommended below, a study should be prepared to include the assessment of the condition of the well and provisions for proper abandonment, if necessary, to ensure adequate mitigation of potential health risks to construction workers and park goers.

2. Environmental conditions at the 13.7-acre portion of the Project site have been inadequately assessed

Field surveys and the review of available documents, conducted under the supervision of a licensed professional, were not conducted for the 13.7 acre portion of the Project site to support the preparation of the DEIR. For the 13.7-acre parcel of the Project site, the DEIR evaluates potential hazardous materials issues only on the basis of a report known as an Environmental Data Resources Radius Report. On the basis of the EDR report, the DEIR concludes (p. 4.9-2):

The EDR Report identifies sites with known or potential environmental issues related to hazardous materials or wastes within a two-mile radius of the Project site based on a search of federal, State, local, tribal, and other databases. The Project site was not listed on any of the databases searched by EDR.

The EDR reports are computer generated and are prepared from automated searches of environmental agency databases. They are commonly used as a tool for inclusion in what are known as Phase I Environmental Site Assessments (ESA) which include field surveys. The DEIR concludes only that the Project site was not listed on any agency databases but the DEIR fails to include an assessment of potential hazardous conditions at the Project site that is based on the judgment of a licensed professional from review of field conditions and a review of available documents. The failure to include the location of the oil well on the 13.7-acre portion of the Project site shows that the analysis of the hazardous waste conditions at the site to be inadequate and underscores the need for a more thorough assessment.

We note that a Phase I ESA Update² and a Phase II ESA³ (to have included soil sampling) have been prepared to include the 5.2-acre portion of the Project site that is part of the former Newport Banning Ranch property; however, the Phase I ESA Update and Phase II ESA did not include the 13.7-acre parcel of the Project site (see figure below).

² Draft Phase I Environmental Site Update, Newport Banning Ranch, April 16, 2008

³ Site Investigation, Newport Banning Ranch, November 2001

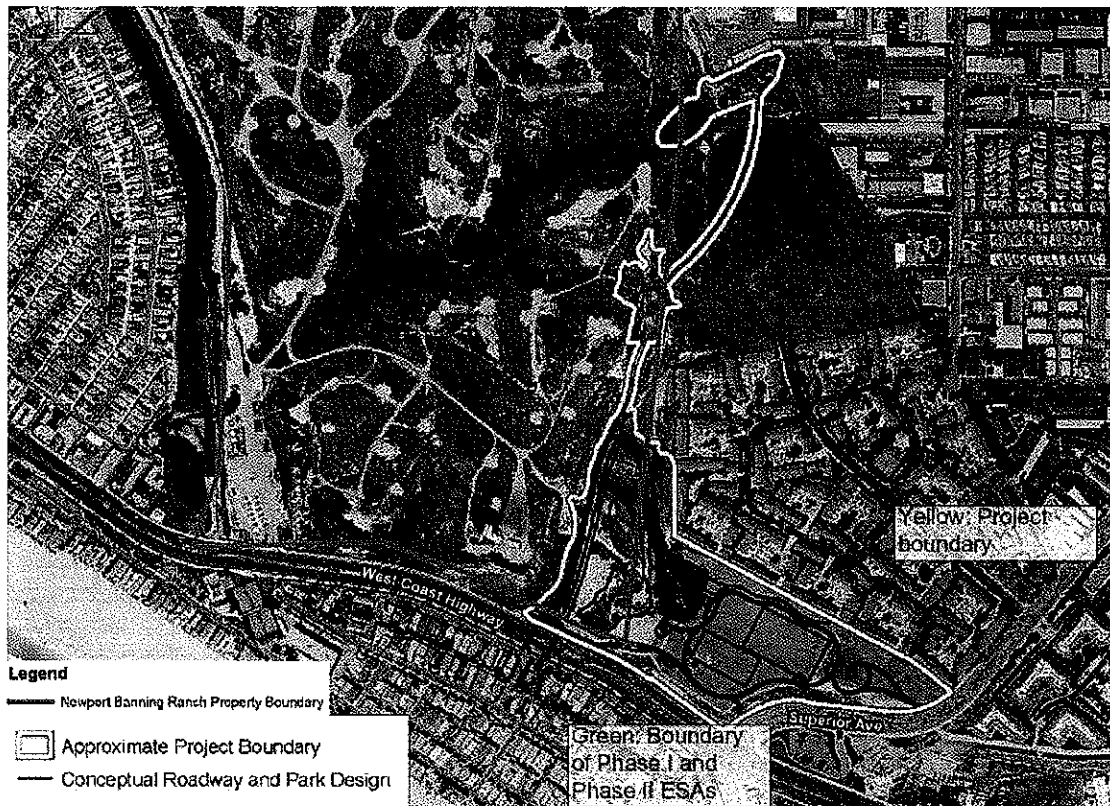


Figure prepared from Exhibit 3-3 of the DEIR and boundary of Phase I and Phase II studies

Recommendation: The DEIR should be revised to incorporate the findings of a Phase I ESA conducted on the 13.7-acre parcel of the Project site. A Phase I ESA is necessary because of the presence of an abandoned oil well on the 13.7-acre parcel of the Project site, a condition that was not recognized in the DEIR, and because of the extensive oil field development on the adjacent Banning Ranch property. The condition of the "T.S. Gesell 1" oil well should be a specific area of inquiry in the Phase I ESA along with the need for any soil or vapor sampling in a Phase II ESA that may be necessary to properly assess any potential health impacts to construction workers and park visitors. The preparation of the Phase I and the Phase II on the 13.7-acre parcel of the Project site should be completed for inclusion in a revised DEIR to ensure adequate disclosure of potential hazardous waste issues and to ensure proper mitigation.

3. Cleanup of soils in the 5.2-acre area of the Project Site on the Banning Ranch has not been documented

The DEIR states, with respect to the 5.2-acre area of the Project Site on the Banning Ranch property (p. 4.9-6):

there are active oil operations on the Newport Banning Ranch property, including two abandoned oil well sites and oil field access roads that are located on the western portion of the Project site in the vicinity of the proposed access road.

There are also two abandoned well sites located within the area of the proposed haul road and export soil sites on the Newport Banning Ranch property. The oil wells have been abandoned and soil around the wells were cleaned (Klancher, Aera Energy, 2009). However, the oil field access roads in these areas may contain gravel, crude oil hydrocarbons, tank bottoms, or other features that were used in the past as road base materials associated with oil field operations. These materials are similar to asphalt in character and quality (i.e., containing aggregate in a hydrocarbon binder).

The reference cited, Klancher, Aera Energy, 2009, was obtained from the City of Newport Beach and reviewed for the preparation of this comment. The reference is a thread of email correspondence between the City of Newport Beach, the developer and the consultants on the DEIR. In contrast to the above-cited statement in the DEIR that the "soil around the wells were cleaned" (sic), one email⁴ states only with respect to the abandoned wells:

While all the known active pipes were removed when these wells were abandoned there could be older pipe and remnants remaining within a few feet of the surface that are not on any current records. Also, while the records and aerial photos do not show that any oil sumps existed within this area there may be small isolated areas of crude oil remnants/impacts remaining near surface from past operations. While the likelihood of these events in this area is low, they are not uncommon in older oil fields.

Another email⁵ states:

We did have a request earlier for some basic remediation info around two wells on our property that are near the park site - because they would be in the access road area. I believe we already gave them some feedback and have not heard anything back so I am not working on anything additional. Let me know if you can get more specific info on what they are lacking or now requesting.

Contrary to the claim in the DEIR, no discussion of soil cleanup in the area of the abandoned wells is included in the email correspondence provided by the City in response to our request for the reference that was cited in the DEIR on p. 4.9-6 (Klancher, Aera Energy, 2009). The entire email correspondence is included as Attachment 1.

We also reviewed additional documents cited in the DEIR and obtained from the City, including a 2001 Phase II ESA and a 2008 Phase I ESA update for any information about cleanup of soils in the vicinity in the abandoned wells as claimed in the DEIR on p. 4.9-6 and as cited above. We found no reference to soil cleanup in the 5.2-acre area of the Project Site on the Banning Ranch property.

⁴ November 10, 2009 email from Dana Privitt, BonTerra Consulting, to Janet Brown, City of Newport Beach

⁵ August 25, 2009 email from MJ Kancher, Aera Energy, to Maurice White.

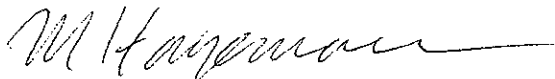
Finally, we note this statement in the DIER with respect to the cleanup of soils with the abandoned wells (DEIR, p. 4.9-3):

The oil wells have been abandoned as part of the abandonment and remediation program at Newport Banning Ranch known as the Environmental Restoration Plan (ERP), which began during the 1990s in order to abandon the least productive wells at that time. As part of this effort, the ERP was developed to cleanup soils associated with abandoned oil wells (Klancher, Aera Energy, 2009).

Again, no discussion of soil cleanup is provided in the email correspondence that was provided by the City in request for the reference in the DEIR (Klancher, Aera Energy, 2009) and no mention of the ERP is made in the emails.

Recommendation: A revised DEIR should be prepared to include a report, prepared by a licensed professional, to document cleanup of the soils in the area of the abandoned wells and oil field access roadways on 5.2-acre area of the Project site on the Newport Banning Ranch property to ensure protection of construction workers and the safety of park visitors.

Sincerely,

A handwritten signature in black ink, appearing to read "Matt Hagemann", followed by a long horizontal flourish.

Matt Hagemann, P.G.

Attachment 1

DEIR Citation, p. 4.9-6: Klancher, Aera Energy, 2009

Obtained from the City of Newport Beach, November 23, 2009

Brown, Janet

From: Dana Privitt [DPrivitt@bonterraconsulting.com]
Sent: Tuesday, November 10, 2009 4:56 PM
To: Brown, Janet
Cc: Kim Quinn; Mike Mohler; Susan Hori
Subject: Fwd: Newport Banning - Impact area from Sunset Ridge Park work
Attachments: DOC.PDF

>>> "Klancher MJ (Michael) at Aera" <MKKlancher@aeraenergy.com> 9/3/2009 5:37 PM >>>

Dana,

As you requested, I reviewed the area you had outlined as being within the grading, haul road, and dirt stockpile sites for the Sunset Ridge Park. Attached is a graphic of that area over a map showing the location of the oil operation wells, roads, etc. There are no active oil operations in this area though there are abandoned wells and oil field access/surveillance roads.

I highlighted in yellow those oil field access roads that are within this area as they may still contain gravel, crude oil hydrocarbons, tank bottoms, etc used in the past as road base materials. Please note the location of well #313 as being right on the line of your internal area that I assume is not graded. This well and wellpad is up on a higher elevation area - the well was abandoned in 1992 with the top of pipe about 6' below surface. If this area is cut/graded lower than 6' the casing pipe would be left sticking up in the air and would have to be lowered to remain below surface. Note that wells #132 and 133 are also within the designated area - the well casing top of these wells sits approximately 8' below surface. Any alterations to the casing of abandoned wells must be approved beforehand by the California Department of Oil, Gas, and Geothermal Resources (DOGGR) and any damage to an abandoned well casing would require repair, testing and re-approval of the DOGGR also. If in fill areas, the tops of the wells casings are required to be raised to remain within 6 to 10' of surface.

While all the known active pipes were removed when these wells were abandoned there could be older pipe and remnants remaining within a few feet of the surface that are not on any current records. Also, while the records and aerial photos do not show that any oil sumps existed within this area there may be small isolated areas of crude oil remnants/impacts remaining near surface from past operations. While the likelihood of these events in this area is low, they are not uncommon in older oil fields.

Please give me a call with any further questions. I would be glad to assist further as needed in the future.

Michael

Michael Klancher

Aera Energy
(714) 577-9276

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

From: Dana Privitt [mailto:DPrivitt@bonterraconsulting.com]
Sent: Tuesday, August 25, 2009 1:31 PM
To: Michael Mohler; Debby Linn

Cc: Klancher MJ (Michael) at Aera; Kim Quinn; Janet Brown; Eric Smalstig; 'MariceWhite'
Subject: RE: Banning - Abandoned Wells @ Sunset Ridge Park

I have attached an exhibit that shows the limits of grading for Sunset Ridge Park: park site, road, and dirt stockpile sites (with associated haul road). I need to know if there are any oil field-related facilities within this area: oil wells, infrastructure, etc. that would need to be removed, abandoned, remediated, other as a part of the park project. While I understand that some of the park project is on NBR property, we have to treat each project (Sunset Ridge Park and NBR) separately for purposes of the CEQA analysis. Any information would be appreciated.

Thank you,

Dana

>>> Michael Mohler <mohler@brooks-street.com> 8/25/2009 12:16 PM >>>
Dana,

Please take a look below. Are the two wells the ones referred to as "in the access road area"? If so, then: Michael: I believe Dana wants to understand the qualification on the abandonment of these two wells: i.e., 1) performed under what standards; 2) will there be additional work in the future, etc.

Michael A. Mohler
Brooks Street
Newport Banning Ranch LLC
1300 Quail Street, Suite 100
Newport Beach CA 92660
P: 949.833.0222
F: 949.833.1960
C: 949.439.6630
mohler@brooks-street.com

www.brooks-street.com

From: Klancher MJ (Michael) at Aera [mailto:MJKlancher@aeraenergy.com]
Sent: Tuesday, August 25, 2009 10:54 AM
To: 'Marice White'
Cc: Michael Mohler
Subject: RE: Banning - Abandoned Wells @ Sunset Ridge Park

Marice,

Not sure what this is. According to state records there was only one well on the Sunset Ridge site and it does not appear that it was ever produced. We have no information on this well as it was not associated with our property or partners - we are not pursuing anything on this.

We did have a request earlier for some basic remediation info around two wells on our property that are near the park site - because they would be in the access road area. I believe we already gave them some feedback and have not heard anything back so I am not working on anything additional. Let me know if you can get more specific info on what they are lacking or now requesting.

Thanks,
Michael

Michael Klancher

Aera Energy

(714) 577-9276

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

From: Marice White [mailto:Marice@SchubertFlintPA.com]

Sent: Tuesday, August 25, 2009 9:27 AM

To: Klancher MJ (Michael) at Aera

Cc: Mike Mohler

Subject: Banning - Abandoned Wells @ Sunset Ridge Park

Yesterday at our meeting with the city/Bonterra team a request for data on the abandoned wells over on the future Sunset Ridge Park site came up. They need data/info for the park CEQA process on the wells – I think there are two?

Mike can weigh in on the details and timing for the response.

mw

Marice H. White

Vice President & Managing Director

Schubert Flint Public Affairs

2020 Main Street, Suite 1160

Irvine, CA 92614

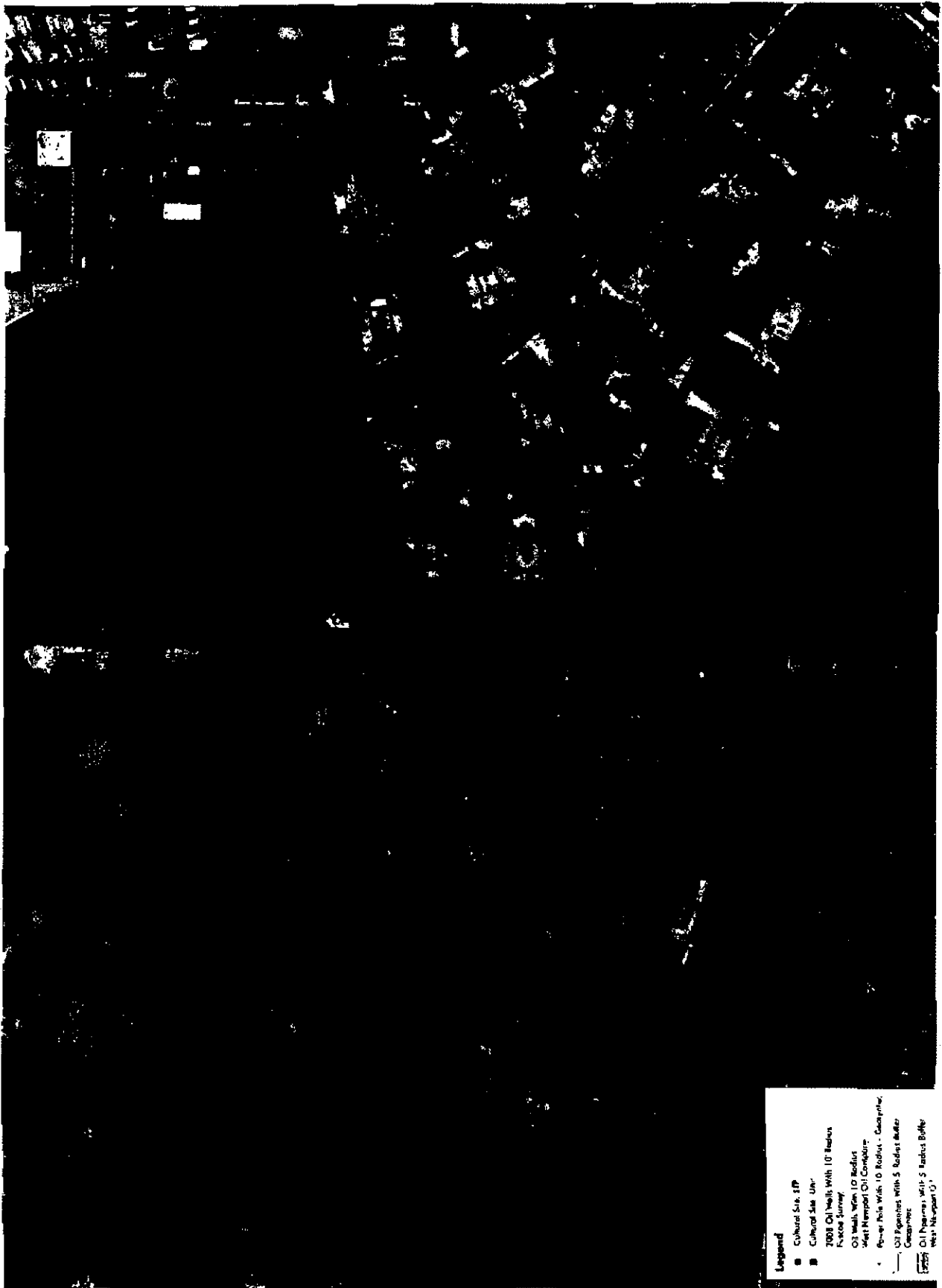
(949) 336-4500

(949) 336-4501, fax

(949) 433-4261, cell

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Legend

- Cultural Site (IP)
- Cultural Site (Un-)
- 2008 Oil Wells With 10' Radius Fence Survey
- Oil Wells With 10 Radius
- West Memphis Oil Conduits
- Power Pole With 10 Radius - Conspire
- Oil Pipelines With 5 Radius Buffer
- Conspire
- Oil Pipelines With 5 Radius Buffer
- West Memphis Oil

Brown, Janet

From: White, Kathy --- WW Acct Mgr-Corp Accts--- FTA [kathy.white@fedex.com]
Sent: Friday, December 11, 2009 4:50 PM
To: Don Bruner; Brown, Janet
Cc: urryk@pfm.com; Daigle, Leslie; Kiff, Dave; Rosansky, Steven; Selich, Edward; Gardner, Nancy; Henn, Michael; don2webb@earthlink.net
Subject: RE: Sunset Ridge Park DEIR Review of Biological Resources Issues

Ms. Brown, please note that I concur completely with Mr. Bruner and want to be entered into the record.
Thanks, kw

From: Don Bruner [mailto:don_bruner@hotmail.com]
Sent: Friday, December 11, 2009 3:10 PM
To: jbrown@newportbeachca.gov
Cc: urryk@pfm.com; lesliejdaigle@aol.com; dkiff@city.newport-beach.ca.us; parahdigm@aol.com; edselich@roadrunner.com; gardnerncy@aol.com; mfhenn@verizon.net; don2webb@earthlink.net
Subject: Sunset Ridge Park DEIR Review of Biological Resources Issues

Dear Ms. Brown:

Please enter the below mentioned comments regarding the Hamilton Biological Report dated November 10, 2009 and the DEIR for Sunset Ridge Park Project into the record.

The attached Biological Letter Report refers to information that indicates the DEIR does not present the minimal standard report including where members of the public are having to point out the existence of extensive wetlands, the apparent illegality of mowing native plant communities that are designated as critical habitat for a listed species, the occurrence of the same listed species in areas the DEIR deems unoccupied, the suppressed or ignored results of previous survey efforts of the project site, and many other basic facts that the EIR preparer has either overlooked or misinterpreted, always in the client's favor the City of Newport Beach.

On behalf of the Banning Ranch Conservancy, Hamilton Biological, Inc., reviewed the Draft EIR for the proposed Sunset Ridge project and on November 10, 2009, submitted the attached Biological Letter Report to you with his review comments on Appendix E to the Sunset Ridge DEIR (BonTerra's biological technical report). As part of the review, Mr. Hamilton visited the project site on the afternoons of November 4 and 6, 2009. All photos included in the letter were taken on those two days. During the course of these two visits Mr. Hamilton walked the entire City parcel and looked out onto the Newport Banning Ranch parcel from public lands to the east. Mr. Hamilton took samples of some wetland plants to botanist David Bramlet for identification.

SUMMARY & CONCLUSION (COPIED FROM THE LETTER REPORT)

As documented herein, the biological resources section of the Sunset Ridge DEIR does not reflect the best available science and is severely deficient in many ways:

- Numerous plant communities are incorrectly mapped and classified, including the failure to identify one or more obvious wetland areas covering approximately 0.7 acre. All of the DEIR's errors in plant community mapping are made in the direction of under-representing native communities and overstating the extent of ruderal or other communities that the EIR preparer considers to be of low biological sensitivity.
- The compendium of plant species identified by the EIR preparer on the project site does not include numerous species that are conspicuous on the site, most of which are obligate or facultative wetland indicator species. These include Emory Baccharis (*Baccharis emoryi*), Marsh Fleabane (*Pluchea odorata*), Salt Heliotrope (*Heliotropium curassavicum*), Spike Bentgrass (*Agrostis exarata*), spike-rush

(*Eleocharis* sp.), Rabbitfoot Grass (*Polypogon monspeliensis*), Narrowleaf Cattail (*Typha angustifolia*), and American Tule (*Scirpus americanus*).

- The compendium of wildlife species identified by the EIR preparer on the project site does not include the Side-blotched Lizard (*Uta stansburiana*), which is ubiquitous on the site. The failure to record this species during the many surveys that were conducted is nearly as surprising as the failure to detect the site's extensive wetlands.
- The DEIR's evaluations and findings about the California Gnatcatcher and its habitat usage on the project site are inconsistent with the substantial body of scientific literature concerning this federally listed species and its habitat requirements. The DEIR states that various scrub communities on the project "would not be considered utilized by the gnatcatcher" even though these areas contain the Primary Constituent Elements of California Gnatcatcher critical habitat. During just two brief afternoon visits I observed one or more pairs of California Gnatcatchers foraging within three areas of coastal scrub on the project site that the EIR preparer characterized as being unsuitable for the species.
- The DEIR states that 3.64 acres of disturbed encelia scrub that lies within designated critical habitat for the California Gnatcatcher is "regularly mowed for fuel modification and weed abatement purposes," but fails to inform the public (a) that California Encelia is not a "weed;" (b) that the Orange County Fire Authority expressly allows California Encelia to remain "in all fuel modification wet and dry zones in all locations;" (c) that mowing of California Encelia extends as much as 570 feet away from any structure that might require fire protection; and (d) that the City has not consulted with the U.S. Fish and Wildlife Service to determine whether mowing of encelia scrub at this location would represent a violation of the federal Endangered Species Act. Only by ignoring these relevant facts can the DEIR justify its finding that 3.64 acres of disturbed encelia scrub may be graded without resulting in any significant biological impacts.
- After failing to disclose the positive results of 2008 surveys for the Burrowing Owl at Newport Banning Ranch, the EIR preparer characterized the project site's shortgrass grasslands as being only marginally suitable for Burrowing Owls, citing their own negative survey results in 2009. Applying the DEIR's logic, a project proponent could simply keep hiring consultants to conduct surveys until negative results were achieved, either by the consultant's negligence or by the species occurring on the site only during certain years or seasons. By ignoring all previous survey results, the desired finding of no significant impact could be made.
- The EIR preparer fails to recognize that dumping 34,000 cubic yards of fill from the park site into 4.6 acres of shortgrass grassland habitat, together with the associated construction of a new haul road to the dumping sites, would degrade habitat suitability for Burrowing Owls and many other grassland-dependent species that currently use these grasslands in abundance. In the project vicinity during the late 1980s, severe habitat degradation of precisely this type occurred at Fairview Park.
- The DEIR's characterization of the site's grasslands as having "low biological value," and the DEIR's conclusion that "they may occasionally be used by native species" are not based in fact. It is plain to see that the grasslands in question are teeming with native wildlife of many different species.
- The Cactus Wren was documented using habitats on the project site in 1994, and some large cactus remains in this area, so it is erroneous for the DEIR to conclude that "Suitable habitat for this subspecies (i.e., cactus) is not present on the Project site."

The standard under which CEQA operates is that impact analyses must be made using the best available scientific information, including consideration of the results of other biological surveys conducted at the project site and in nearby areas. The Sunset Ridge DEIR falls far short of this minimal standard, to the point where members of the public are having to point out the existence of extensive wetlands, the apparent illegality of mowing native plant communities that are designated as critical habitat for a listed species, the occurrence of the same listed species in areas the DEIR deems unoccupied, the suppressed or ignored results of previous

survey efforts on the project site, and many other basic facts that the EIR preparer has either overlooked or misinterpreted, always in their client's favor.

In cases such as this one, where project proponent also serves as the CEQA Lead Agency for the project, it is important that the public be assured that the Lead Agency and its consultants are not violating the public trust to serve their own, narrowly defined interests. The errors and unfounded analyses in this DEIR are of sufficient scope and magnitude that they call into question the basic competence of the EIR preparer and the impartiality and scientific validity of the CEQA document's findings and conclusions. For example, the public can have no confidence that project biologists conducted competent surveys for the Burrowing Owl, a cryptic species, when those same biologists were unable to identify Side-blotched Lizards or extensive wetlands that include large areas of mud, standing water, and cattails, as well as numerous other obligate wetland plants. In my opinion, the biological surveys must be repeated by a third-party consultant (other than me) that would be acceptable to the Banning Ranch Conservancy. The revised biological resources section of the DEIR should then be recirculated for another round of public review and comment.

I appreciate the opportunity to review the Sunset Ridge Draft EIR on behalf of the Banning Ranch Conservancy. Please provide any responses to these comments to me at the address specified on my letterhead. You may send e-mail to robb@hamiltonbiological.com.

Sincerely,

A rectangular box with a thin black border, containing a small square icon with an 'x' inside, indicating a redacted signature.

Robert A. Hamilton
President, Hamilton Biological, Inc.

Brown, Janet

From: don skrede [donskrede@sbcglobal.net]
Sent: Friday, December 11, 2009 3:29 PM
To: Brown, Janet
Subject: RE: Draft Environmental Impact Report Sunset Ridge Park

December 11, 2009

Janet Johnson Brown, Associate Planner
City of Newport Beach, Planning Department
3300 Newport Boulevard
P.O. Box 1768
Newport Beach, Ca 92658-8915

Re: Draft Environmental Impact Report -- Sunset Ridge Park

Dear Ms. Brown

I need to comment on two specific issues that are involved with this Environmental Impact Report for Sunset Ridge Park:

First, is the concern about the access road to the park through Banning Ranch. It appears that the Banning Ranch development group will allow an easement through their property, only if it conforms to their plans to develop this area. Why else would this roadway go a quarter of a mile into Banning Ranch and cut back at a severe angle to enter the park, if they didn't feel it was already part of their plans? There is already a service road that enters the park area from PCH to the purposed parking area. This would involve a smaller degree of easement into Banning Ranch, and leave Sunset Ridge Park project independent, no matter what happens with Banning Ranch.

Secondly, is the issue of the contaminated soil that may be involved with both areas, Banning Ranch and the Sunset Ridge land. I moved to Newport Crest in 2000, and my unit borders on the Banning Ranch land. When I first moved there, the chain-link fence that separates the two properties, had a sign attached that warned of the contaminated soil, and the cancer it could cause. Since nothing has been done to clean this soil, the health risks could be great, if this development does go forward. Since I moved to Newport Crest, the sign has blown off the fence, but I kept the sign. I hope this won't be a bad reminder of not taking care of the contamination issue before we proceed.

Don Skrede
25 Ima Loa Court
Newport Beach Ca

Brown, Janet

From: E [qzxmp@yahoo.com]
Sent: Friday, December 11, 2009 11:04 AM
To: Brown, Janet
Subject: Comment regarding the Sunset Ridge Park EIR

Dear Janet Brown,

We'd appreciate it very much if you could include the following comment regarding the Sunset Ridge Park EIR in the records:

* We strongly oppose the proposed road through the park leading up to the Banning Ranch area.

Sincerely,

V. & B. Jones

Torrance, CA

Brown, Janet

From: Terry Koken [tkoken@att.net]
Sent: Friday, December 11, 2009 11:16 AM
To: Brown, Janet
Subject: Comments on the Draft Environmental Impact Report for Sunset Ridge Park Project

Janet Johnson Brown
City of Newport Beach Planning Dept.
3300 Newport Blvd.
Newport Beach, CA 92658

This is clearly a land-grab designed to make an end-run around the controversy over Banning Ranch's proposed use as parkland. We have here a trumped-up situation artificially manufactured to "require" a four-lane road through the ranch because it is "the only feasible alternative". I have heard far better arguments from my children when they were five or six as to why I should buy them candy.

This must be considered in context.

I would also highly recommend that a close look be taken at just who would benefit monetarily from this project... Perhaps a few termites would fall out of the paperwork as a consequence of such scrutiny.

Terrell E. Koken
1778 Kenwood
Costa Mesa, CA

Brown, Janet

From: Sinacori, Mike
Sent: Monday, November 23, 2009 4:09 PM
To: 'Piotr Pramowski'
Cc: Brown, Janet
Subject: RE: sunset ridge park question

Hello Mr. Pramowski,

In our current plans, there will be no access from that location. The closest access point will be at Superior just south of Ticonderoga.

Michael J. Sinacori, P.E.

Assistant City Engineer
City of Newport Beach

Phone: 949-644-3342 * Fax: 949-644-3308 * Cell: 949-795-8948

Email: Msinacori@newportbeachca.gov

Public Works Department ~ A Well-Engineered Machine

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From: Piotr Pramowski [mailto:pramowski@gmail.com]
Sent: Monday, November 23, 2009 3:49 PM
To: Sinacori, Mike
Subject: sunset ridge park question

Mike,

I am looking forward to the new Sunset Ridge Park. I live at 8 Nautical Mile Dr. Newport Beach. Can you tell me if there are any plans or will there be a way to access the park (even a walking trail) from 15th street and Manrovia?

Thanks for your time,
Piotr Pramowski

Brown, Janet

From: Sinacori, Mike
Sent: Monday, November 23, 2009 4:09 PM
To: 'Piotr Pramowski'
Cc: Brown, Janet
Subject: RE: sunset ridge park question

Hello Mr. Pramowski,

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Michael J. Sinacori, P.E.

Assistant City Engineer
City of Newport Beach

Phone: 949-644-3342 * Fax: 949-644-3308 * Cell: 949-795-8948

Email: msinacori@newportbeachca.gov

Public Works Department ~ A Well-Engineered Machine

Protecting and providing quality public improvements and services

From: Piotr Pramowski [mailto:pramowski@gmail.com]
Sent: Monday, November 23, 2009 3:49 PM
To: Sinacori, Mike
Subject: sunset ridge park question

Mike,

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Thanks for your time,
Piotr Pramowski

Brown, Janet

From: Brown, Janet
Sent: Monday, November 09, 2009 11:11 AM
To: Dana Privitt; 'Kim Quinn'
Cc: Sinacori, Mike
Subject: FW: Sunset Ridge Park
Attachments: Bike racks.JPG; Colored bike lanes.JPG; 28th-Street-bike-racks.jpg; Unacceptable bike racks.JPG

FYI, although I don't think this qualifies as comments to the DEIR.

Janet Johnson Brown
Associate Planner
City of Newport Beach
(949) 644-3236
jbrown@newportbeachca.gov

From: Frank Peters [mailto:fxpeters@gmail.com]
Sent: Monday, November 09, 2009 8:34 AM
To: Brown, Janet
Subject: Sunset Ridge Park

Hi Janet,

I saw the front page story on Sunset Ridge Park in the Daily Pilot. May I share a comment:

As a member of the new Bike Safety Committee, I propose that the road entrance to the park be developed with bike paths, perhaps separated from the roadway and away from any roadside parallel parking. See attached 'Colored bike lanes' from the [LA Bicycle plan](#).

Also, bicycle racks: LA and Huntington Beach have this right and we don't. See photo of 28th Street bike racks, attached, versus LA's inverted U bicycle racks.

Thanks for listening and good luck with the project.

--

Frank
Chairman Emeritus, Tech Coast Angels
(949) 673-5022 studio
(949) 422-1749 mobile
Skype: fxpeters
<http://twitter.com/FrankPetersShow>
<http://theFrankPetersShow.com>
<http://AfterTheCottage.com>

5.8.2. Inverted - U Bicycle Racks

Design Summary

Rack Dimensions: 42.63" high by 30" long.

Construction: 2 3/8" x 2" x .188" wall single Schedule 40 ASTM A53 Steel pipe, constructed of a single 180 degree bend.

Base Plate will be constructed of ASTM A36 with a thickness of 3/8" and will be welded onto the steel pipe. The base plate should be welded to the steel pipe and be constructed to receive mounting hardware with three 0.50" diameter holes at 120 degrees of each plate.

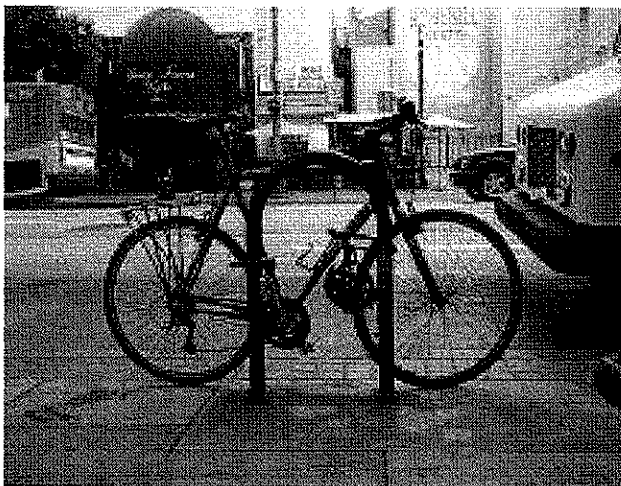
Mounting Hardware: Mushroom Head, Stainless Steel Spike, 2 3/4" long by 1/2" diameter or equivalent vandal resistant hardware. Unacceptable fasteners include "Threaded Spike" or anything that contains sharp edges or can be vandalized.

Coating Material Finish: Long wearing, mildew and ultraviolet ray resistant coating made of polyester, polyvinyl, thermoplastic or TGIC Powder Coating. Coated in the factory prior to delivery. Any damaged surface area resulted from the Contractor's operation shall be repaired with approved materials in accordance to the manufacturer's specifications.

Discussion

These racks are a common existing facility found in many areas in Los Angeles. Care should be taken to ensure that they are placed and installed correctly.

Design Example



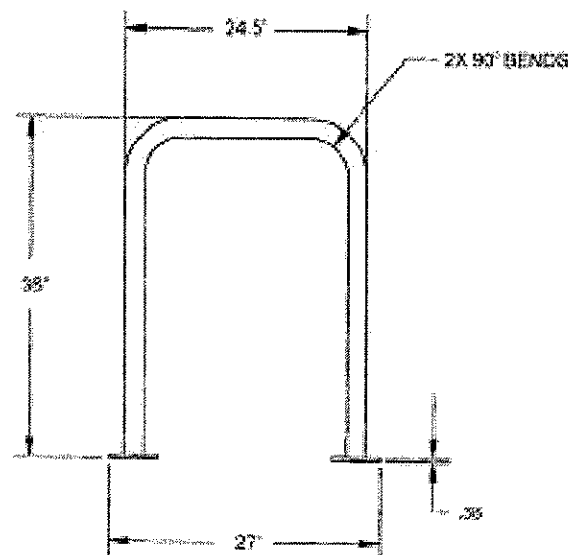
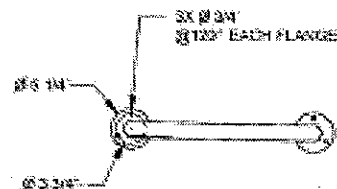
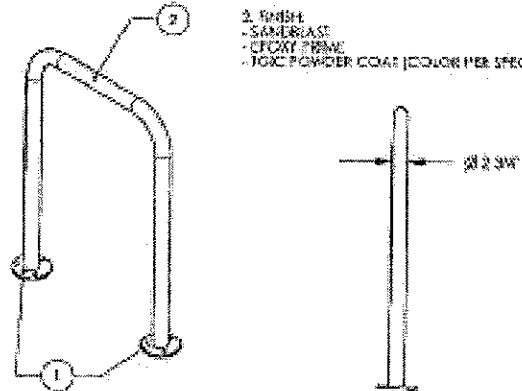
Guidance

- APBP Bicycle Parking Guidelines

Preferred Design

NOTES:

1. MATERIAL:
- PIPE: ASTM A53-3 SCHED 40 PIPE
- PLATE: ASTM A36-2007 PLATE
2. FINISH:
- SANDERBLAST
- EPOXY PRIMER
- TOXIC POWDER COAT (COLOR PER SPEC)



5.10.8. Colored Bicycle Lanes

Design Summary

Bicycle Lane Width:

5' minimum and 7' maximum. (See sections Chapter 1 and 5.4.3 for more detailed discussion of bicycle lane widths.)

Discussion

A contrasting color for the paving of bicycle lanes can also be applied to continuous sections of roadways. These situations help to better define road space dedicated to bicyclists and make the roadway appear narrower to drivers resulting in beneficial speed reductions.

Colored bicycle lanes require additional cost to install and maintain. Techniques include:

- Paint – less durable and can be slippery when wet
- Colored asphalt – colored medium in asphalt during construction – most durable.
- Colored and textured sheets of acrylic epoxy coating.
- Thermoplastic – Expensive, durable but slippery when worn.

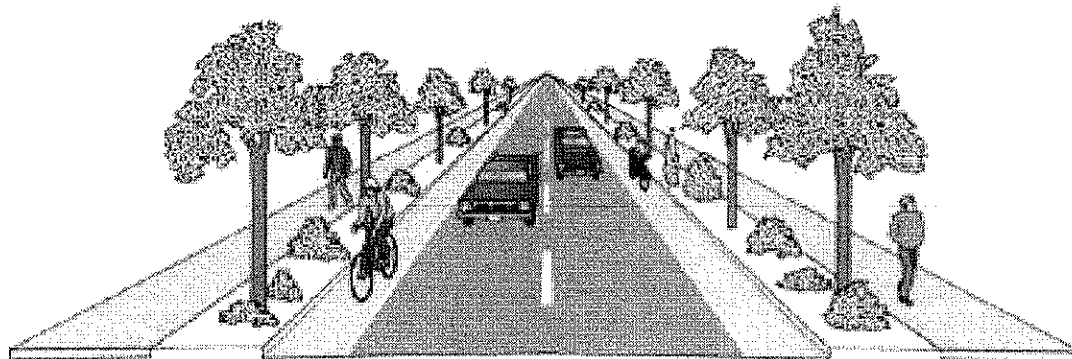
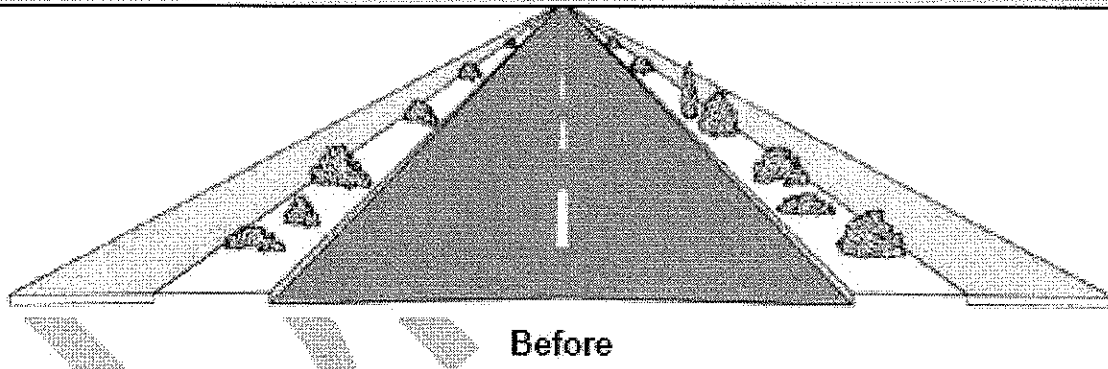
Design Example



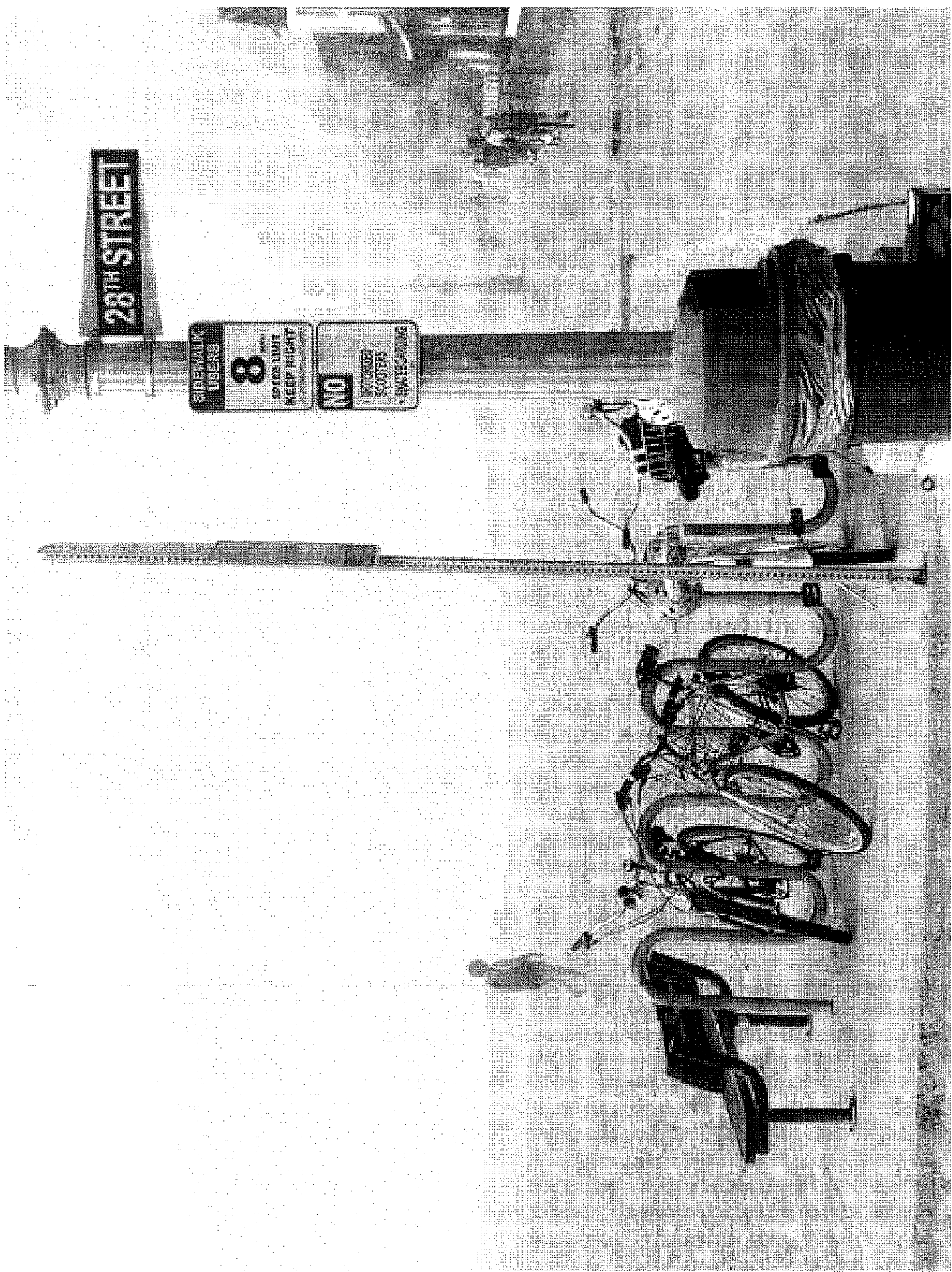
Guidance

- This treatment is not currently present in any State or Federal design standards

Recommended Design



After

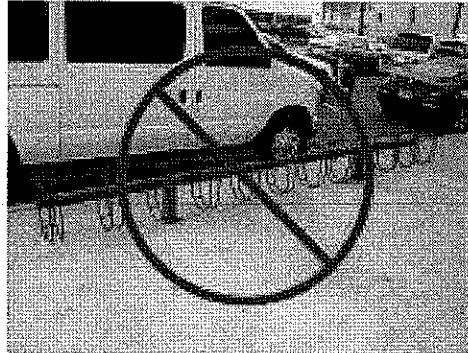
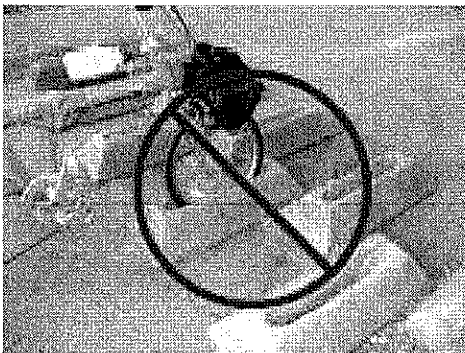
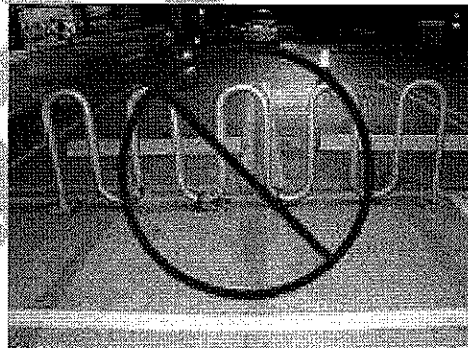
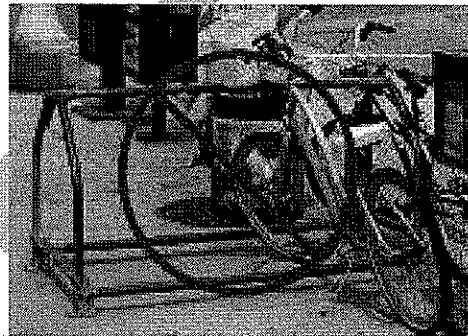
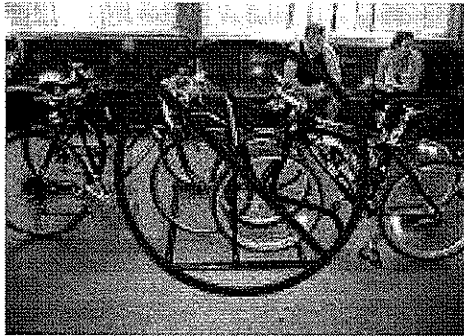


Additional Discussion - Unacceptable Bicycle Racks

Examples of inferior bicycle racks abound. The use of unacceptable bicycle parking facilities can discourage bicycling. Racks with the following characteristics should not be employed:

- Support bicycles at 1 point of contact;
- Support bicycles by one wheel;
- Allow bicycles to fall which bends the wheel and blocks the pedestrian right-of-way;
- Has sharp edges that can be hazardous to pedestrians;
- Suspends bicycle in the air in any way.

Examples of unacceptable bicycle racks.



Brown, Janet

From: Alford, Patrick
Sent: Monday, November 02, 2009 3:11 PM
To: Brown, Janet
Subject: FW: Contact the City from NewportBeachCA.gov

From: Jackson, Marilee
Sent: Monday, November 02, 2009 3:11 PM
To: Wood, Sharon; Alford, Patrick
Subject: FW: Contact the City from NewportBeachCA.gov

for the record ...

Marilee Jackson, PIO
City of Newport Beach
3300 Newport Boulevard
Newport Beach, CA 92663
mjackson@newportbeachca.gov
949-644-3031

From: Lisa Lawrence [mailto:lrllawrence@prodigy.net]
Sent: Monday, November 02, 2009 3:09 PM
To: Jackson, Marilee
Subject: Contact the City from NewportBeachCA.gov

To Newport Beach City Council and City Planners,
After reviewing the Sunset Ridge Park plans, I think it is wonderful to keep the park as open space as planned. I don't understand why a road extending off PCH that goes into Banning Ranch is included? All looks well and fine, just omit that road.
Keep it all as open space.
Thank you!
Lisa Lawrence
(949)631-4073
lrllawrence@prodigy.net

Brown, Janet

From: Don Bruner [don_bruner@hotmail.com]
Sent: Friday, December 11, 2009 1:58 PM
To: Brown, Janet
Cc: Curry, Keith; Daigle, Leslie; Kiff, Dave; Rosansky, Steven; Selich, Edward; Gardner, Nancy; Henn, Michael; don2webb@earthlink.net
Subject: FW: Sunset Ridge Park DEIR Comment III

Dear Ms. Brown:

I am in total agreement with Bruce Bartram attached December 11, 2009 email and his November 9, 2009 email regarding the DEIR for Sunset Ridge Park.

Please enter this comment regarding the DEIR for Sunset Ridge Park Project into the record.

Don Bruner
11 Serena Ct.
Newport Beach, CA

On **Fri, 12/11/09, Bruce Bartram <b.bartram@verizon.net>** wrote:

From: Bruce Bartram <b.bartram@verizon.net>
Subject: Sunset Ridge Park DEIR Comment III
To: "Brown, Janet" <JBrown@newportbeachca.gov>
Cc: "Terry Welsh" <terrymwelsh@hotmail.com>, slgenis@stanfordalumni.org, jtmansfield@ca.rr.com, mezzohiker@msn.com, dkoken@hmausa.com, marktabbert@sbcglobal.net, steveray4surfcity@hotmail.com, jenniferfrutig@aol.com, knelson@web-conferencing-central.com, greenp1@cox.net, jonfox7@yahoo.com, evenkeel4@sbcglobal.net, jimcassidy52@earthlink.net, jamesrquigg@yahoo.com, techcowboy@ca.rr.com, margaret.royall@gmail.com, cmcevoy@dusd.net, jessp77@gmail.com, bmlserv@juno.com, nopc@sbcglobal.net, christopherbunyan@yahoo.com, susantheresalee@msn.com, "Ginny Lombardi" <ginnylombardi@yahoo.com>, "Gary Garber" <garbergary@yahoo.com>, "Robb Hamilton" <robb@hamiltonbiological.com>
Date: Friday, December 11, 2009, 10:36 AM

December 11, 2009

Janet Johnson Brown, Associate Planner
City of Newport Beach, Planning Department
3300 Newport Boulevard
P.O. Box 1768
Newport Beach, CA 92658-8915

Re: Draft Environmental Impact Report (DEIR)
for Sunset Ridge Park Project Comment III

Dear Ms. Brown:

A review of Sunset Ridge Park Project DEIR Section 6.0 Alternatives to the Proposed Project reveals that, except for Alternatives A-No Project and B-Alternative Site, the Alternatives listed presuppose the need for on-site parking. With the on-site parking comes the need for the accompanying access road whether from West Coast Highway through Banning Ranch property or, as is perfunctorily discussed in the Superior Avenue Access Road Alternative, from Superior Avenue through City owned property. In rejecting this alternative is stated that "[T]his alternative would reduce the amount of active park facilities that would be provided by the proposed Project in order to accommodate the access road on this site."

What is not discussed in any of the Alternatives is that the City of Newport Beach has no requirement that City parks must provide off-street parking. As stated in Sunset Ridge Park Project DEIR Section 4.3 Traffic and Circulation Pg. 4.3-16 "[T]he City's Zoning Code (Chapter 20.66.030 Off-Street Parking and Loading Spaces Required) does not specify a parking rate for city parks, but rather indicates that the parking requirement for Park and Recreation Facilities would be 'As specified by Use Permit.'" This no on-site parking requirement obviously gives the City needed flexibility in providing park facilities. A survey of City parks reveals many examples of no on-site parking facilities being provided. These include such active City parks such as Irvine Terrace Park and Bob Henry Park as well as passive parks such as Castaways Park Yet, no discussion of this fact occurs anywhere in Section 6.0 Project Alternatives.

What makes this omission so egregious is the exclusion from any analysis in the DEIR of the existing City-owned 60 plus space parking lot located at Superior Avenue and PCH directly across from the proposed park site. The parking lot is clearly depicted in Sunset Ridge Park Project DEIR Section 3.0 Project Description Conceptual Site Plan Exhibit 3-9 and DEIR Section 4.2 Aesthetics Site Constraints Exhibit 4.2-1. Yet the existence of this facility is nowhere discussed DEIR Section 3.0 Project Description. Interestingly, the vacant property adjacent to the parking lot in Exhibit 3-9 is listed as for "Future Park Development." This indicates its City ownership and availability for provision of additional parking spaces. In DEIR Section 4.3 Traffic and Circulation Pg. 4.3-16 it is stated that the parking requirement for the proposed Sunset Ridge Park would be "96 spaces." It is submitted that expansion of the existing City-owned Superior Avenue and PCH parking lot could provide the necessary 96 parking spaces. Whether this could be an environmentally, let alone economically, superior alternative to the proposed Sunset Ridge Park on-site parking and the necessary access road should have been discussed but is not.

California Environmental Quality Act (CEQA) Guidelines Section 15126.6(a) and (b) provide guidance on the scope of alternatives to a proposed project that must be evaluated. The CEQA Guidelines state:

(a) An EIR shall describe a range of reasonable alternatives to the project, or to the location of the project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project, and evaluate the comparative merits of the alternatives. An EIR need not consider every conceivable alternative to a project. Rather it must consider a reasonable range of potentially feasible alternatives that will foster informed decision making and public participation. An EIR is not required to consider alternatives, which are infeasible. The lead agency is responsible for selecting a range of project alternatives for examination and must publicly disclose its reasoning for selecting those alternatives. There is no ironclad rule governing the nature or scope of the alternatives to be discussed other than the rule of reason.

(b) Because an EIR must identify ways to mitigate or avoid the significant effects that a project may have on the environment (Public Resources Code Section 21002.1), the discussion of alternatives shall focus on alternatives to the project or its location which are capable of avoiding or substantially lessening any significant effects of the project, even if these alternatives would impede to some degree the attainment of the project objectives, or would be more costly.

In light of the CEQA Guideline Section 15126.6 above one can only conclude the failure to include a non on-site parking alternative renders Sunset Ridge Park Project DEIR Section 6.0 Alternatives to the Proposed Project deficient. To list just one environmental impact that could be lessened through the use of the Superior Avenue and PCH parking lot and the elimination of the Banning Ranch access road DEIR Section 4.6 Biological Resources Pg. 4.6-22 states as follows: "The California gnatcatcher has been observed on the Newport Banning Ranch property (including the area proposed for the access road for the Park) over several years (BonTerra Consulting 2009c). The Project site is within designated critical habitat for this species." Just as critically, the lack of a non on-site parking alternative defeats "informed decision making and public participation" the fundamental purpose of the California Environmental Quality Act. Perhaps the best "impact" that results from the elimination of the Banning Ranch access road is that the Sunset Ridge Park Project's interrelationship, interconnection and interdependence with the Banning Ranch Project discussed in my November 9 and December 2, 2009 Sunset Ridge Park Project DEIR comments would be diminished.

Please let me know your response to the foregoing as soon as possible.

Bruce Bartram

2 Seaside Circle

Newport Beach, CA 92663

Brown, Janet

From: Don Bruner [don_bruner@hotmail.com]
Sent: Friday, December 11, 2009 3:10 PM
To: Brown, Janet
Cc: urryk@pfm.com; Daigle, Leslie; Kiff, Dave; Rosansky, Steven; Selich, Edward; Gardner, Nancy; Henn, Michael; don2webb@earthlink.net
Subject: Sunset Ridge Park DEIR Review of Biological Resources Issues
Attachments: Hamilton DRAFT Comments_Sunset Ridge DEIR_11-10-09[1].doc

Dear Ms. Brown:

Please enter the below mentioned comments regarding the Hamilton Biological Report dated November 10, 2009 and the DEIR for Sunset Ridge Park Project into the record.

The attached Biological Letter Report refers to information that the indicates the DEIR does not present the minimal standard report including where members of the public are having to point out the existence of extensive wetlands, the apparent illegality of mowing native plant plant communities that are designated as critical habitat for a listed species, the occurrence of the same listed species in areas the DEIR deems unoccupied, the suppressed or ignored results of previous survey efforts of the project site, and many other basic facts that the EIR preparer has either overlooked or misinterpreted, always in the client's favor the City of Newport Beach.

On behalf of the Banning Ranch Conservancy, Hamilton Biological, Inc., reviewed the Draft EIR for the proposed Sunset Ridge project and on November 10, 2009, submitted the attached Biological Letter Report to you with his review comments on Appendix E to the Sunset Ridge DEIR (BonTerra's biological technical report). As part of the review, Mr. Hamilton visited the project site on the afternoons of November 4 and 6, 2009. All photos included in the letter were taken on those two days. During the course of these two visits Mr. Hamilton walked the entire City parcel and looked out onto the Newport Banning Ranch parcel from public lands to the east. Mr. Hamilton took samples of some wetland plants to botanist David Bramlet for identification.

SUMMARY & CONCLUSION (COPIED FROM THE LETTER REPORT)

As documented herein, the biological resources section of the Sunset Ridge DEIR does not reflect the best available science and is severely deficient in many ways:

- Numerous plant communities are incorrectly mapped and classified, including the failure to identify one or more obvious wetland areas covering approximately 0.7 acre. All of the DEIR's errors in plant community mapping are made in the direction of under-representing native communities and overstating the extent of ruderal or other communities that the EIR preparer considers to be of low biological sensitivity.
- The compendium of plant species identified by the EIR preparer on the project site does not include numerous species that are conspicuous on the site, most of which are obligate or facultative wetland indicator species. These include Emory Baccharis (*Baccharis emoryi*), Marsh Fleabane (*Pluchea odorata*), Salt Heliotrope (*Heliotropium curassavicum*), Spike Bentgrass (*Agrostis exarata*), spike-rush (*Eleocharis* sp.), Rabbitfoot Grass (*Polypogon monspeliensis*), Narrowleaf Cattail (*Typha angustifolia*), and American Tule (*Scirpus americanus*).
- The compendium of wildlife species identified by the EIR preparer on the project site does not include the Side-blotched Lizard (*Uta stansburiana*), which is ubiquitous on the site. The failure to record this species during the many surveys that were conducted is nearly as surprising as the failure to detect the site's extensive wetlands.
- The DEIR's evaluations and findings about the California Gnatcatcher and its habitat usage on the project site are inconsistent with the substantial body of scientific literature concerning this federally

listed species and its habitat requirements. The DEIR states that various scrub communities on the project “would not be considered utilized by the gnatcatcher” even though these areas contain the Primary Constituent Elements of California Gnatcatcher critical habitat. During just two brief afternoon visits I observed one or more pairs of California Gnatcatchers foraging within three areas of coastal scrub on the project site that the EIR preparer characterized as being unsuitable for the species.

- The DEIR states that 3.64 acres of disturbed encelia scrub that lies within designated critical habitat for the California Gnatcatcher is “regularly mowed for fuel modification and weed abatement purposes,” but fails to inform the public (a) that California Encelia is not a “weed;” (b) that the Orange County Fire Authority expressly allows California Encelia to remain “in all fuel modification wet and dry zones in all locations;” (c) that mowing of California Encelia extends as much as 570 feet away from any structure that might require fire protection; and (d) that the City has not consulted with the U.S. Fish and Wildlife Service to determine whether mowing of encelia scrub at this location would represent a violation of the federal Endangered Species Act. Only by ignoring these relevant facts can the DEIR justify its finding that 3.64 acres of disturbed encelia scrub may be graded without resulting in any significant biological impacts.
- After failing to disclose the positive results of 2008 surveys for the Burrowing Owl at Newport Banning Ranch, the EIR preparer characterized the project site’s shortgrass grasslands as being only marginally suitable for Burrowing Owls, citing their own negative survey results in 2009. Applying the DEIR’s logic, a project proponent could simply keep hiring consultants to conduct surveys until negative results were achieved, either by the consultant’s negligence or by the species occurring on the site only during certain years or seasons. By ignoring all previous survey results, the desired finding of no significant impact could be made.
- The EIR preparer fails to recognize that dumping 34,000 cubic yards of fill from the park site into 4.6 acres of shortgrass grassland habitat, together with the associated construction of a new haul road to the dumping sites, would degrade habitat suitability for Burrowing Owls and many other grassland-dependent species that currently use these grasslands in abundance. In the project vicinity during the late 1980s, severe habitat degradation of precisely this type occurred at Fairview Park.
- The DEIR’s characterization of the site’s grasslands as having “low biological value,” and the DEIR’s conclusion that “they may occasionally be used by native species” are not based in fact. It is plain to see that the grasslands in question are teeming with native wildlife of many different species.
- The Cactus Wren was documented using habitats on the project site in 1994, and some large cactus remains in this area, so it is erroneous for the DEIR to conclude that “Suitable habitat for this subspecies (i.e., cactus) is not present on the Project site.”

The standard under which CEQA operates is that impact analyses must be made using the best available scientific information, including consideration of the results of other biological surveys conducted at the project site and in nearby areas. The Sunset Ridge DEIR falls far short of this minimal standard, to the point where members of the public are having to point out the existence of extensive wetlands, the apparent illegality of mowing native plant communities that are designated as critical habitat for a listed species, the occurrence of the same listed species in areas the DEIR deems unoccupied, the suppressed or ignored results of previous survey efforts on the project site, and many other basic facts that the EIR preparer has either overlooked or misinterpreted, always in their client’s favor.

In cases such as this one, where project proponent also serves as the CEQA Lead Agency for the project, it is important that the public be assured that the Lead Agency and its consultants are not violating the public trust to serve their own, narrowly defined interests. The errors and unfounded analyses in this DEIR are of sufficient scope and magnitude that they call into question the basic competence of the EIR preparer and the impartiality and scientific validity of the CEQA document’s findings and conclusions. For example, the public can have no confidence that project biologists conducted competent surveys for the Burrowing Owl, a cryptic species, when those same biologists were unable to identify Side-blotched Lizards or extensive wetlands that include large

areas of mud, standing water, and cattails, as well as numerous other obligate wetland plants. In my opinion, the biological surveys must be repeated by a third-party consultant (other than me) that would be acceptable to the Banning Ranch Conservancy. The revised biological resources section of the DEIR should then be recirculated for another round of public review and comment.

I appreciate the opportunity to review the Sunset Ridge Draft EIR on behalf of the Banning Ranch Conservancy. Please provide any responses to these comments to me at the address specified on my letterhead. You may send e-mail to robb@hamiltonbiological.com.

Sincerely,

A rectangular box with a thin black border, containing a small square icon with an 'x' inside, indicating a redacted signature.

Robert A. Hamilton
President, Hamilton Biological, Inc.



HAMILTON BIOLOGICAL

November 10, 2009

Janet Johnson Brown, Associate Planner
City of Newport Beach, Planning Department
3300 Newport Boulevard
P.O. Box 1768
Newport Beach, CA 92658-8915

**SUBJECT: DRAFT REVIEW OF BIOLOGICAL RESOURCES ISSUES
SUNSET RIDGE DRAFT EIR**

Dear Ms. Brown,

On behalf of the Banning Ranch Conservancy, Hamilton Biological, Inc., has reviewed the Draft EIR for the proposed Sunset Ridge project, located in the City of Newport Beach (City). The City proposes to develop an active and passive public park on 13.7 acres of City-owned property and 5.2 acres on the adjacent Newport Banning Ranch property, for a total of 18.9 acres of impact. In addition, project implementation would involve export of approximately 34,000 cubic yards of fill from the proposed park site to two areas on the Newport Banning Ranch property that would cover 4.6 acres, plus an additional 3.3 acres of impacts for construction of a new haul road to provide access to the dumping sites on the Newport Banning Ranch property. The City is currently processing a DEIR for the proposed Newport Banning Ranch residential and commercial development project, and the City has hired BonTerra Consulting, Inc., to serve as the biological consultant for both projects.

This letter report provides my review comments on Appendix E to the Sunset Ridge DEIR (BonTerra's biological technical report). As part of this review, I visited the project site on the afternoons of November 4 and 6, 2009. All photos in this letter were taken on those two days. During the course of these two visits I walked the entire City parcel and looked out onto the Newport Banning Ranch parcel from public lands to the east. I took samples of some wetland plants to botanist David Bramlet for identification. The attached Curriculum Vitae provides my qualifications to conduct this review.

PLANT COMMUNITY MAPPING ERRORS

During my field visit I checked the mapping of plant communities on the City parcel. I was not able to effectively check mapping of communities on the Newport Banning Ranch property, which is not open to the public. I found the mapping to be incorrect in several areas, as show in Figures 1-11 on the following pages.

TO: Janet Johnson Brown, Associate Planner

November 17, 2009

FROM: Environmental Quality Affairs Citizens' Advisory Committee (EQAC)

SUBJECT: Comments on Sunset Ridge Park DEIR, SCH. NO. 2009051036, dated
October 2009

EQAC is pleased to submit the following comments related to the Subject DEIR in hopes that they will contribute to a more complete understanding of the proposed project and a better project for the City of Newport Beach. Comments are presented in order of appearance in the DEIR with appropriate section and page references to help facilitate your responses.

1.0 EXECUTIVE SUMMARY

1.3 Project Summary (p.1-2): The DEIR is vague about total parking provided. It states that the lot at the end of the access road will provide 75 spaces and that an additional 22 spaces "may be provided along the park access road". This vagueness continues on p.3-8 with the projection of "up to 22 parallel parking spaces along the access road". The issue is not clarified in the parking plan shown in Exhibit 3-11 or in the analyses of Section 4.3, Transportation and Circulation. Please include a direct statement of the parking requirements with reference to the supporting analysis.

4.1 LAND USE

Arts and Cultural Element. The DEIR states that "no goals or policies of the Arts and Cultural Elements (sic) are applicable to the proposed Project" (DEIR, p. 4.18). However, the DEIR should address at least whether the proposed Project can or will further the goal contained in the Arts and Cultural Element of providing "improved and expanded arts and cultural facilities and programs to the community."

Coastal Development Permit. The DEIR states that the City of Newport Beach CLUP applies only to properties within the City's boundaries (DEIR, p. 4.1-9). Only 13.7 acres of the Project site are located within the City's boundaries. 5.2 acres of the site are located in unincorporated Orange County within the City's Sphere of Influence. The DEIR states that those 5.2 acres constitute a "Deferred Certification Area (DCA)", but the DEIR does not explain the significance of DCAs, including how they are processed and by whom. The DEIR should clearly state when and how a coastal development permit will be processed for the 5.2 acres located outside of the City's boundaries, and which agency will be responsible for doing so.

LAFCO Proceedings. The Land Use section of the DEIR does not make any mention of whether the City intends to annex the 5.2 acres currently located outside the City's boundaries but within its sphere of influence. The DEIR should clearly state whether or

not the City intends to annex those 5.2 acres, and whether any LAFCO proceedings will be initiated as part of the proposed Project. If not, the DEIR should clarify whether any approvals from the County of Orange will be required with respect to the 5.2 acres.

Zoning for the 5.2 Acres Outside the City's Boundaries. The DEIR states that the County of Orange zoning designation "for the portion of the Project site (5.2 acres) proposed for the access road is Local Business with an Oil Production Overlay [C1(O)] (DEIR, p. 4.1-12). The DEIR does not state whether a zone change will be required for that portion of the Project site to allow use of a park site. The DEIR should clarify this issue and explain whether the County would process that zone change or whether the City will annex that property and consequently change its zoning.

Thresholds of Significance. There are three thresholds of significance related to land use: (1) conflicting with any applicable land use plan, policy or regulation of an agency with jurisdiction over the Project, (2) physically dividing an established community and (3) conflicting with any applicable habitat conservation plan or natural community conservation plan. Section 4.1.6 is poorly organized and does not clearly delineate those three thresholds.

Height of Buffer. The DEIR states that the buffer between the Newport Crest development and the Project "would vary in height and would vary in width from approximately 60 feet to 80 feet" (DEIR, p. 4.1-14). The DEIR should state the height of the buffer.

Conclusory Statements about Compatibility with Adjacent Land Uses. CEQA requires that an EIR contain facts and analysis, not just bare conclusions. The section in the DEIR entitled "Compatibility with Surrounding Off-Site Land Uses" describes the project and the adjacent land uses but provides minimal analysis about compatibility with those land uses. The DEIR states only that a landscaped buffer would be provided between the Newport Crest community and the active park uses. Other than the mention of the buffer, there is no discussion about the Project's compatibility with Newport Crest. Likewise, the DEIR describes the existing land uses to the east and merely concludes that "the proposed Project is considered compatible with land uses east of the site" (DEIR, p. 4.1-15). The DEIR should provide additional analysis to support its conclusions that "the proposed Project is considered a compatible land use with existing and proposed land uses bordering the Project site. No significant land use compatibility impacts would be associated with the Project" (DEIR, p. 4.1-16).

Cumulative Impacts. Additional facts and analysis are needed to support the conclusion that "because the proposed project would result in a new community park that is compatible with surrounding land uses and is anticipated by these relevant planning documents, the Project's contribution to cumulative land use and planning impacts is less than significant" (DEIR, p. 4.1-17). The DEIR should also discuss cumulative land use impacts in light of the proposed Banning Ranch project.

General Plan Consistency Analysis

Land Use Element Goal LU 2. With respect to the goal of providing “a living, active, and diverse environment that complements all lifestyles and enhances neighborhoods, without compromising the valued resources that make Newport Beach unique,” the DEIR includes a conclusory statement that merely describes the Project without providing any analysis about the Project’s consistency with that goal. Additional facts and analysis are needed

Land Use Element Policy 2.6. Instead of simply describing the Project, the DEIR should include some analysis of how the Project will “provide uses that serve visitors to Newport Beach’s ocean, harbor, open spaces, and other recreational assets, while integrating them to protect neighborhoods and residents.”

Land Use Element Goal LU 3. This goal is for a “development pattern that retains and complements the City’s residential neighborhoods, commercial and industrial districts, open spaces and natural environment.” Again, the DEIR simply includes a conclusory statement about its compatibility with surrounding uses. The DEIR should contain specific facts and analysis about how the Project complements uses adjacent to the Project. This comment applies as well to Land Use Element Goal LU 5.6, LU Policy 5.6.1 (Compatible Development), and LU Policy 6.1.1 (Siting of New Development), where additional facts and analysis are also needed to support the conclusions.

LU Policy 6.2.5. This policy states that new uses “shall be designed to ensure compatibility with adjoining residential (sic) addressing such issues as noise, lighting and parking. The DEIR states that “compatibility with noise and parking are discussed below” and provides some descriptive information about the Project, but it does not contain sufficient analysis about whether the Project has been designed to ensure compatibility with adjoining residential uses. Additional facts and analysis should be provided.

LU Policy 6.3.2. The DEIR states that “the proposed Sunset Ridge Park uses would not preclude the future development of the Newport Banning Ranch property consistent with either the General Plan OS or RV land use designations.” The DEIR should discuss whether the proposed access road through the Banning Ranch site would affect development of Banning Ranch, and whether it would affect the City’s policy of supporting the active pursuit of the acquisition of Banning Ranch as permanent open space.

LU Policy 6.5.3. This policy is to “restore and enhance wetlands and wildlife habitats.” The DEIR only states that a biological assessment and jurisdictional delineation have been prepared and that permits will be obtained from regulatory agencies. This section of the DEIR should contain facts or analysis specifically addressing the policy of restoring and enhancing habitats.

NR Policy 1.2 (Use of Water Conserving Device). The DEIR mentions that the City's Water Conservation Ordinance requires an approved water use plan (DEIR, p. 4.1-43). The DEIR should state whether a water use plan been proposed for this Project. In addition, other than simply referring to the City's ordinance, the DEIR should contain some analysis about how the Project will "establish and actively promote use of water conserving devices and practices."

Natural Resources Element Goal NR 6 (Reduced mobile source emissions). The DEIR concludes that "the Project would reduce mobile emissions during construction as well as mobile emission sources." This DEIR should contain additional facts and analysis to support this conclusion.

Natural Resources Element Goal NR 20 (Preservation of significant visual resources). The DEIR concludes that "no public views would be adversely impacted with the Project." The DEIR should contain additional facts and analysis to support this conclusion, particularly given the Project's proximity to Newport Crest.

Coastal Land Use Plan Policy 2.1.9-1. With respect to this policy, this section of the DEIR merely includes some descriptive information about the Project but does not give any analysis about how the Project "shall be consistent with the Coastal Land Use Plan Map and all applicable LCP policies and regulations." Additional facts and analysis are needed.

Inconsistency Regarding California Gnatcatcher. On page 4.1-68, the DEIR states that "this habitat is not occupied by the California gnatcatcher." However, on page 4.1.81, the DEIR states "the Project site contains one pair of coastal California gnatcatchers." This inconsistency should be resolved.

4.2 AESTHETICS

The DEIR acknowledges that the "residents of the Newport Crest Condominium development located immediately to the north have expansive views of the Project site and the Pacific Ocean located approximately ½ mile further to the south." See Aesthetics," p. 4.2-3. The DEIR clearly acknowledges that "[i]mplementation of the proposed Sunset Ridge Park would alter the existing visual character and use of the Project site, and the *views from the surrounding land uses would be changed.*" See Aesthetics," p. 4.2-8.

Additionally, in the Executive Summary, under 1.6 AREAS OF CONTROVERSY AND ISSUES TO BE RESOLVED, the issue of impacts on public and private views is raised. The DEIR acknowledges that it must address "[w]hether the Project would adversely affect public and private views." See Executive Summary, page 1-5.

Further, under the classification of "Potentially Significant Impact," the NOP promised that "[t]he character of the existing aesthetic environment and visual resources, including

a discussion of views within the site and views of the site from *surrounding areas*, will be addressed in the EIR.” NOP, page 17.

However, there is no discussion in the DEIR of effects/impacts on the private views. The DEIR must be revised to include the promised/required discussion of the resolution of this identified “controversy/issue” as promised in the DEIR itself.

Section 15123(b)(3) of the CEQA Guidelines requires that an EIR contain a discussion of issues to be resolved. The Executive Summary states, “[t]he EIR has taken into consideration the comments received from the public, agencies, and jurisdictions” concerning the controversy/issue about adverse affects on public and private views. Some even opened their homes to the City to enable access and determination of the view issues. Yet, there is no discussion, at all, of the adverse effects/impact on the *private* views of the community of Newport Crest (the residential community to the north of, and abutting, the Project), which is significantly and extensively affected by the Project.

Notably, the DEIR presents numerous visual simulated views from every angle surrounding the Project *except* from the north, where Newport Crest is located. Such visual simulations would otherwise provide the data needed for a genuine discussion/resolution of the issue.

The only mention that might be construed as addressing private views is the statement in the DEIR that:

The Project would not adversely alter existing views of site or surrounding area; the Project allows for the development of a park with active and passive uses consistent with the General Plan. The Project would not degrade the visual character of the site or surrounding areas, nor would it impede views of or from the Project site (*Less than significant impact*). See Executive Summary, Threshold 4.2-2, pp. 1-8 through 1-9,

In the absence of any discussion of the private views, it appears the above-quoted DEIR passage at most *implicitly* disposes of that issue by doing no more than stating that the “active and passive uses” are “consistent with the General Plan.” However, evaluation of the adverse effects is and must be based on data, on the actual design of the Park, structures and all.

It must be emphasized that the issue of private views was raised by Newport Crest homeowners, a number of whom regularly attended study sessions, City Council Meetings and meetings of the Parks, Beaches and Recreation Commission concerning the Sunset Ridge Project. As found in one of the many letters that were written in response

to the NOP, of which some were copied into the DEIR's Appendix A, these views were raised and a significantly important area of concern:

We were assured by the City that every effort be made not to block/affect our ocean view [that we paid dearly for] would the shade structures for the overlook area and the picnic areas low enough to keep that promise? See Appendix A.

In other letters responding to the NOP, other Newport Crest homeowners ask that the DEIR address the following:

The impact the overlook area with a shade structure would have on the homes in Newport Crest. The impact the baseball backstop along third baseline would have on homes in Newport Crest. See Appendix A.

A viewshed analysis of the bluff inland of Coast Highway that will be altered by the grading for the access road should be contained in the EIR. It is not necessary that Coast Highway be a Scenic Highway. The view of the bluff itself is a scenic resource that is addressed by Section 30251 of the Coastal Act. The EIR should address the ramifications of section 30251 as it pertains to this project. See Appendix A.

Nothing in the DEIR addresses these legitimate points and concerns. The DEIR should be revised to include discussion of these concerns.

The DEIR concludes that there is no impact caused by the proposed lighting for the Project site. However, the basis on which this determination is made consists of data that is not based in fact (that anything in the area already causes similar lighting), and incomplete "Standard Conditions and Requirements." Further, the DEIR is incomplete until it is revised to include assessments as to Lighting based on actual or simulated impacts on the Newport Crest and other affected communities. The DEIR should be revised to include more data upon which a complete evaluation can be made.

On Lighting, the DEIR provides no data whatsoever. It states:

All outdoor lighting would be *appropriately* shielded and oriented in order to prevent light spillage on *adjacent, off-site land uses*. Outdoor lighting associated with the restroom facilities and parking lot *shall not adversely impact residential land uses to the north*, but shall provide sufficient illumination for access and security purposes. See "Project Design Features," p. 4.2-5.

The DEIR conclusion concerning the level of impact caused by Lighting is based in part on the above, which is not data or analysis, but a ‘design feature’ that the DEIR does not say is necessarily going to implemented. Further, the terms, “appropriately” and “not adversely impact,” are not defined.

This is especially confusing due to the accompanying discussion, under “Standard Conditions and Requirements,” which identifies the standard as: “shall not be *excessively illuminated*,” or it should not create an “*unacceptable negative impact*.” Under section SC 4.2-2, the DEIR states that the City will prepare a photometric study for approval by the Public Works Director and/or Planning Director, and that the “survey shall show that lighting values *are “1” or less* at all property lines. The DEIR does not identify the criteria for any of these standards. See pp. 4.2-5 – 4.2-6. The criteria should be disclosed in the DEIR.

The DEIR also states that the assessment of the level of lighting is “subjective” (see “Methodology 4.2.5” at p. 4.2-6) and that it will ultimately be up to the Public Works Director and/or Planning Director to make that subjective call. The current conclusion that there is NO IMPACT, then, is technically not accurate. In point of fact, the assessment on Lighting has been deferred to another time, after the photometric study. See section SC 4.2-2 at p. 4.2-6. Will the City issue a DEIR on Lighting once it has more data and/or design details so that it is put to the proper procedure and evaluation? If not, will the public be privy to the study and be invited for comment?

Without providing any data, the DEIR also claims that there is no impact because the Lighting “would not affect nighttime views as the Project site is in an urban environment that is currently subject to similar lighting.” Given that none of the expansive Project site currently has lighting, this statement, without any data to support it, is incomplete. What data support this statement?

Finally, the Methodology indicates that the assessments of the aesthetic/visual changes do not include any views from the north toward the Project site. See p. 4.2-6. Great concern is triggered by the fact that the views of the Project site from the residential communities to the north (i.e., Newport Crest) are not taken into consideration. Though the DEIR purports to be taking Lighting impacts on the northern neighbors into consideration, *it at the same time excludes them from the analysis*.

There was no discussion of the impact to all views that will result from litter and refuse left behind by visitors to the Park. Is there a budget for hourly maintenance of the expansive area? If not, how is the Project going to be maintained?

4.3 TRANSPORTATION

Ingress / Egress Road - Has the dedication (easement) been obtained from the owner of the Newport Banning Ranch property? Have any steps been taken in this regard? Are there any potential or perceived obstacles to obtaining this necessary aspect of the traffic plan?

With respect to the new signal intersection at West Coast Highway, are there any potential or perceived obstacles in obtaining the approval of CalTrans and/or Coastal Commission?

The proposed road ventures straight north before looping back down toward the parking area. Why is that path necessary? The road would be much shorter, and thereby possibly create more actual open park space, if it went straight from West Coast Highway to the parking area, diagonally. Also, the longer the road, the greater the risk of illegal parking as well as loitering at the dark, northern edge of the road late at night.

Parking - With two soccer fields that will be used simultaneously, are 97 spaces sufficient? Please provide the parking study to support this number of spaces.

4.4 AIR QUALITY

The DEIR states that all 34,000 cubic yards (cy) of excess material excavated from the site "would go to identified locations in the adjacent Banning Ranch property". There are no locations shown and no acknowledgement that an easement would be required from the Banning Ranch owner as was identified for the access road. What approvals and controls apply to the disposal of 34,000 cy of excavated material in Banning Ranch?

The assumption of disposing excavation material on Banning Ranch conflicts with the analysis of alternative disposal sites on Page 4.4- 31. Please clarify.

Page 4.4-32: The DEIR states (and Table 4.4-9 indicates) that when the grading work is within 50 meters (164 feet) of sensitive receptors (Do these include children and people with compromised immune systems?), the maximum daily estimated PM(10) (State or Federal requirement?) and PM(2.5) emissions would exceed the SCAQMD threshold, and that approximately 25% of the Project is located within 164 feet of the Newport Crest Condominium development. The second paragraph of this page states that due to this fact, the Project would require implementation of SCAQMD Rule 403 dust control measures and that Rule 403 represents the only feasible mitigation measure for dust control, however that any reduction cannot be quantified, and, as such, the local PM(10) and PM(2.5) impact would be significant and unavoidable near Newport Crest during the mass grading period. However, this second paragraph on this page states that Newport Crest is at a higher elevation than the Project, and the first paragraph of Section 4.4.3 on page 4.4-11 states, that on general, the dominate land/sea breezes-winds are onshore during the day and reverse to offshore at night. The Project is on a ridge that has direct exposure to wind off the ocean. However, no analysis of the strength of the wind at the

project was provided (other than the before referenced general Costa Mesa comments) or discussion on its possible effects on particulates. There is also no discussion concerning a mitigation measure that takes into account the prevailing winds and the elevation of Newport Crest, and one should be addressed.

Page 4.4-37: In the first paragraph of Section 4.4.8 on this page, it states that there are no known projects within one-half mile of the Project where major construction would occur concurrently with the proposed Project. A reference to the Banning Ranch project and its status/schedule should be made here.

Page 4.4-38: In the "Standard Conditions and Requirements" subsection of Section 4.4.9, entitled "Mitigation Program", only SCAQMD Rule 402 and 403 will be required during construction and included as notes on the Project Managers' specifications (air pollutant emissions not be a nuisance offsite, and fugitive dust be controlled, respectively). On page 4.4-39, the DEIR states that "no additional measures are feasible", without an analysis of confining grading to favorable wind conditions. In this regard, note that SCAQMD's May 12, 2009 response to the NOP specifically states that "in the event the Project generates significant adverse air quality impact, CEQA requires that all feasible mitigation measures that go beyond what is required by law be utilized during the project construction and operation to minimize and eliminate significant adverse air quality impacts." Please address these exceptional mitigation measures and when they will be employed.

Section 4.4 of the DEIR did not address the following which were raised in letters/emails submitted on the NOP:

The May 14, 2009 NOP letter from the California Department of Conservation, Division of Oil, Gas and Geothermal Resources states that if construction will be over an abandoned well, adequate gas venting system should be placed over the well. This letter also states there are three plugged and abandoned wells within or in proximity to the Project. Air emissions from possible gas venting systems were not addressed in Section 4.4 of the DEIR.

Both the June 8, 2009 NOP letter from the Newport Crest Homeowners Association and the June 3, 2009 NOP email from Gary Garber, a Newport Crest Resident, expressed concern about the excavation of dirt at the Project, and Mr. Garber questioned whether or not the subject soil has been tested for contamination. Contamination of the soils that may end up as dust during construction was not addressed in Section 4.4.

4.5 NOISE

Bottom of p. 4.5-13 thru top of p. 4.5-14 and Exhibit 4.5-3 – Land Use Compatibility
Exhibit 4.5-3 was provided to show that existing CNEL (Community Noise Equivalent Level) ambient noise level tests for current worst case conditions on an active portion of the Project site from the nearest main sources of noise and cumulative future anticipated ambient noise increases will not exceed the 65dBA CNEL ambient noise level considered

acceptable for park use per the City's land use compatibility guidelines (see Table 4.5.1 on page 4.5-4) thus justifying the Project as a compatible land use.

Noise level contour lines are shown on the Exhibit indicating the extent of future cumulative 60 and 65 dBA CNEL ambient noise on the Project. These results were based on recent typical noise levels as measured from what will be the southern edge of the southern soccer field to the center line of the nearest section of West Coast Highway.

Data in the DEIR do not support the conclusion stated above. The CNEL ambient noise data measurement referred to in the DEIR appears to have been made from only this single point yet the data contour lines shown in the Exhibit extend to the west beyond the Project and to the east to the northeastern most corner of the Project. It seems reasonable that multiple data measuring points along both West Coast Highway and Superior Avenue would be needed to construct the noise level contour lines shown in the Exhibit.

It is also not made clear what future assumptions about ambient noise level increases were used to develop the contour lines which represent both current and future CNEL ambient noise levels on the active portions of the Project site. While there is discussion in the DEIR of potential future traffic noise impacts at sensitive receptor locations at the northern edge of the Project (see Table 4.5-11), these assumptions do not include noise sources associated with the active portions of the Project.

Please provide a more detailed explanation of how the CNEL ambient noise contour lines were developed.

4.6 BIOLOGICAL RESOURCES

p.4.6-7: There is only one drainage feature on the Project site (the concrete trapezoidal flood control channel) in which water is expected to occur and only following storm events. This channel does not carry a permanent flow of water and no low flows or vegetation was present in this channel during the surveys which limits the potential for amphibian species to occur. Therefore, no amphibian species are expected to occur on the Project site.

Please describe the analysis completed regarding flows and vegetation that would support amphibian species. Have studies been done under varying conditions to confirm this finding?

p.4.6-9: Birds, bats, and urban-tolerant wildlife species (e.g., coyotes, opossums, and raccoons) would be able to move through the urban areas from the Reserves to the Project site. However, most terrestrial wildlife species would not be able to move from Newport Bay and the Bolsa Chica Ecological Reserve, through the urban matrix, and to the Project site. Regional movement through the Project site would not occur because much of the Project site borders existing development. However, local wildlife movement may occur between the open space in Newport Banning Ranch and the Project site.

The DEIR states that Regional movement would not be possible. What analysis was done to make this determination?

p.4.6-21: Special Status Wildlife Species-San Diego Fairy Shrimp

San Diego fairy shrimp (*Branchinecta sandiegonensis*) and Riverside fairy shrimp (*Streptocephalus woottoni*) are not expected to occur on the Project site due to lack of suitable habitat. The Project site is located outside of designated critical habitat areas for these species.

Please identify the suitable habitat for presence of the Special Status Wildlife Species under discussion: San Diego Fairy Shrimp, Fish, Amphibians, Reptiles, and Birds.

p.4.6-25: Special Status Plants

California boxthorn, *Lycium californicum*, a CNPS List 4.2 species, was observed in the southern coastal bluff scrub located in the central, preserved portion of the Project site. Impacts on this species would be considered adverse but less than significant due to the low status of this species and the relative abundance throughout its range.

Impact Summary: Less Than Significant.

The Project would not have a substantial adverse effect on any special status plant species.

Please provide a map to show the distribution of California Boxthorn, so that the areas impacted are known. What % of existing habitat for the California Boxthorn will be removed and where?

p.4.6-25: General Habitat Loss and Wildlife Loss

Removing or altering habitats on the Project site would result in the loss of small mammals, reptiles, amphibians, and other slow-moving animals that live in the proposed Project's direct impact area. More mobile wildlife species that are now using the Project site would be forced to move into the remaining areas of open space, which would consequently increase competition for available resources in those areas. This situation would result in the loss of individuals that cannot successfully compete.

The loss of native and non-native habitats that provide wildlife habitat is considered an adverse impact. However, the loss of habitat would not be expected to reduce wildlife populations below self-sustaining levels in the region. Therefore, this impact would be considered adverse, but less than significant.

Please provide an analysis of the potentially affected species, and the impacts to their self-sustaining levels. Would any of the species approach thresholds that could cause extirpation if unusual, but not impossible, environmental events occur, e.g. disease, fire, presence of a new predator?

Threshold 4.6-6: The DEIR states, "Would the project conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan? The Project site occurs within the Santa Ana River Mouth Existing Use Area of the Central/Coastal Subregion

NCCP/HCP. Existing Use Areas are comprised of areas with important populations of Identified Species

but which are geographically removed from the Reserve System. The NCCP/ HCP does not authorize Incidental Take within the Existing Use Areas; such activities must be submitted to the USFWS for review and approval, consistent with existing federal law. The Project would not conflict with the provisions of an adopted HCP/ NCCP because it does not impact areas identified as part of the Central/Coastal Subregion Reserve System nor does it utilize the Take allocations associated with projects in the Subregion that are outside the Existing Use Areas.

Impact Summary: No impact would occur.”

Please provide a diagram showing the relevant Central/Coastal Subregion Reserve System NCCP/HCP areas under discussion.

p.4.6-33, MM 4.6-4 and 4.6-5: Implementation of the Project would result in the loss of 0.41 acre of coastal sage scrub habitat. Permanent impacts on coastal sage scrub vegetation must be mitigated at a two-to-one (2:1) ratio on the Project site or in suitable off-site locations in the Newport Beach/ Costa Mesa area. Please identify appropriate areas for mitigation on site under discussion, and in other City locations. To what extent does the current Sunset Ridge Park landscaping plan promote mitigation on site, and maintain / reflect the natural character of the site, consistent with General Plan Natural Resources policy regarding coastal sage scrub?

4.7 CULTURAL & PALEONTOLOGICAL RESOURCES

Pursuant to THE SUMMARY OF SIGNIFICANT IMPACTS AND MITIGATION PROGRAM, Table 1-1, MM 4.7-1, 4.7-2, pages 1-22,23,24,25, harvesting of archaeological, paleontological artifacts, fossil remains, reports, maps, field notes, photographs etc. will be recorded and identified and noted in the Paleontological Resource Impact Mitigation Report and accessioned in the collections of a designated/accredited museum such as the Natural History Museum of Los Angeles or The San Diego Museum of Natural History.

Is it possible to note in the DEIR that consideration may be given to placing potential artifacts, fossils etc. into local collections at Cal State Fullerton or the University of California at Irvine?

4.8 GEOLOGY AND SOILS

Page 4.8-5, Section 4.8.7, regarding the need for Fill: The DEIR needs to clarify what the “Fill” material is exactly. The developer needs to make sure the Fill material is clean and tested if necessary before being picked up, delivered and used at the project site- not only for the general public, and parking areas, but especially for the children at the sport fields.

No discussion is included regarding the specifics of the needed compaction numbers of the fill when it's brought to the site and installed. These need to be discussed to assure stability of the fill locations at project completion.

Also, there is no discussion of the details of the construction of the proposed playing fields. What standards/specifications are being employed to:

1. assure safe top soil for youth sports
2. assure safe and durable playing surface turf
3. assure proper drainage with no erosion

4.9 HAZARDS AND HAZARDOUS MATERIALS

History of the area: In the report, Hazards... section, page 4.9-3, there is a brief history of the Newport Banning Ranch, of which the proposed Sunset Ridge Park is a neighbor and a proposed user of part of the Ranch's former oil operations area. Some noteworthy information from this history: Oil operations in the area began over 2 generations ago, in 1944. Predating the Coastal Commission, it was exempt from its regulations, by Coastal Commission action in 1973. It is still, in parts, an active oil operation, including 470 producing and abandoned oil well sites and 16 wells operated by the City of Newport Beach. The proposed park would be accessed by a road through part of the Banning Ranch, as an easement. This proposed easement area has two abandoned (remediated) oil wells within it and the proposed park access road would transit former oil field access roads which "may contain gravel, crude oil hydrocarbons, tank bottoms or other structures/materials that were used in the past as road based materials associated with oil field operations". (Report page 4.9-3)

The proposed process for clean up: The primary potential hazard material at the site is petroleum hydrocarbons, as indicated above. Remediation typically includes, but is not limited to, underground capping of former oil wells and hauling away potentially polluted top soil. The Environmental Data Resources, Inc. (EDR) report, cited as the source for this report, estimates that over 90,000 cubic yards of soil will need to be relocated on site, and over 30,000 cubic yards imported as fill. The movement of both of these soils and the polluted soil's disposition is also a potential health hazard. Is there a health hazards analysis to assure that this phase of the project is conducted safely?

Since 2001, two separate Environmental Assessments (EAs) have been done on the Banning Ranch. They differentiated between Potential Environment Concerns (PEC), finding 23, and Recognized Environment Concerns (REC) finding 34. Of the 34 RECs, one is within the boundaries of the Sunset Ridge project. This REC, #27, was found to have "impacted soil", but the 2001 study stated "the amount of soil that would need to be removed was not determined" (Report, page 4.9-4, para #4). Given this, it is reasonable to conclude that the amount of soil movement, both out and in, may well be over the totals indicated in the above paragraph. This would affect both the time and money spent on this phase of the project. Please clarify the details of the "impacted soils" handling procedures with emphasis on the health hazards associated with these operations.

It is equally unclear if there are still pipes remaining from the wells that have been abandoned, and, if so, how many. "...all known active pipes were removed. However, it is possible that older subsurface pipes or other equipment could be present that have not been recorded. Records and aerial photos do not show the presence of any oil sumps in the area." Later, same paragraph (Report, page 4.9-7, para. #4): "Should any subsurface equipment or crude oil hydrocarbons be discovered, the equipment and contaminated soil would need to be removed". Aren't there other investigative steps that can be taken, other than the "Records and aerial photos", to discover any existing oil sumps?? Have engineers, trained in this discipline, not walked and checked out the area? Where are their reports, if they have?

There are too many of the hazards and hazardous reports findings, important to the overall public safety involving hazardous materials, left to estimates that appear to be based on dated and vague information. The result (were the estimates to be too low and too conservative in any required mitigation), could well lead to a project that is much longer in preparation and construction and/or a public hazard risk. A prudent recommendation would be to undertake more recent and intense investigations of the site to resolve all or most of these potential hazards.

4.10 HYDROLOGY AND WATER QUALITY

Page 4.10-18 P1 5th Sentence RE: Exported Materials—would this excavation adversely affect the hydrology of Banning Ranch? Are there any BMPs in place for both the exportation of these materials and the vegetation that is to be removed to facilitate the exportation?

RE: same as above: What is the quality of the vegetation to be removed? If of high native quality is there any way to preserve or replant said materials?

Page 4.10-19: Water Quality Treatment BMPs P2 3rd Sentence: *Water quality treatment system design will "continue to evolve during project design"*. This is too vague to be useful. What BMP's are being considered and how are they expected to evolve? Does the project expect to publish new BMP's at the end of the project? If so, how do these find their way into common usage for future projects.

Page 4.10-22 P2 3rd Sentence: *"..... BMPs would likely have a positive effect on environmental resources..."* The EIR doesn't specify why or how or give any quantitative or qualitative reasoning why the BMPs would have a positive effect.

Page 4.10-22 P4 5th Sentence: ... *"Detained flows is expected to be minor and would not result in creation or exacerbation of downstream risk of flooding"*. Where is the analysis to support this very important assertion?

Page 4.10-26 SC 4.10-4: Are there any checks in place to determine if “good housekeeping” practices are maintained and if yes, are there any repercussions if they are not being maintained? What standards are being applied?

4.11 PUBLIC SERVICES AND UTILITIES

What consideration has been given to incorporating renewable/clean energy technologies in this project? The following should be considered: energy efficient lighting, astronomical timers, low flow and/or reclaimed water fixtures and irrigation.

Please present an analysis justifying the adequacy of public restroom facilities.

EQAC appreciates the opportunity to comment on this important project for the City of Newport Beach. We hope that our comments are constructive and help in development of the best project for the City and the residents.

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RECEIVED BY
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November 5, 2009

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NOV 06 2009

CITY OF NEWPORT BEACH

Ref: Draft Environmental Impact Report (DEIR)
For Sunset Ridge Park Project

Ms. Brown:

The Summary Of Significant Environmental Impacts in the DEIR Executive Summary indicates under Air Quality that "During the three-month mass grading phase, on days when and if, soil is exported to distant off-site soils locations, nitrogen oxide (NOx) emissions could exceed the South Coast Air Quality Management District's (SCAQMD) CEQA significant thresholds. This temporary impact would be significant and unavoidable." It further indicates "During the periods of mass grading when work would be concentrated within 164 feet of the Newport Crest condominiums, particulate emissions from the Project site have the potential for short-term exceedance of the 24-hour PM10' and PM2.5 ambient air quality standards at the nearest residents. This temporary, local impact would be significant and unavoidable."

Section 4.4-2 discusses various Significant Impacts and Mitigation Measures for Air Quality. There is no discussion and or Mitigation Measures cited for those individuals with respiratory and heart disease in Newport Crest who live within the 164 feet of the construction site. The NOx emissions and exceedance of 24-hour PM10' and PM2.5 ambient quality standards could have a major effect on these individuals short and long term health. I am one of these individual that has a heart condition and asthma. I daily take medication for both. I am also aware of at least four other individuals that live within 164 feet of the construction site that have similar conditions. My concern along with others is that environmental impact due to the construction does not take into effect ocean breezes that will blow even more contaminates into our homes. I do not believe the DEIR takes this into consideration. My concern also is that three months of being exposed to condiments and poor quality air will have serous effects on my heart and asthma conditions. Additional Mitigation Measures that should be considered is the City should install air conditioning filtration system in all affected units. A further Mitigation Measure that should be considered is installing triple pain windows and sliding doors in all affected units to decrease drafts allowing pollutants in. This would help alleviate possible damage claims against the City in the future due to health issues becoming worst due to exposure of all construction contaminates. I realize that all Significant Impacts of

the construction can not be avoided. At least an attempt needs to be made by the City to alleviate any health hazards.

It is also my understanding that soil being moved possibly contains contaminants that are known to cause cancer. Significant Impact and Mitigation Measures do not address this issue. This is a major concern of individuals already dealing with cancer.

It is indicated that the mass grading will only take three months. Is this guaranteed? If it takes more then three months what is the Significant Impact and Mitigation Measures that will be taken?

I have brought up many of the above issues and other issues with City Council and the previous City Manager in the past.

I look forward to receiving a timely response from you and the City Council on this matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'Gary A. Garber', is written over the word 'Sincerely,'. The signature is fluid and cursive, with a large initial 'G'.

Gary A. Garber

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November 12, 2008

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RECEIVED BY
PLANNING DEPARTMENT

NOV 13 2009

Re: Draft Environmental Impact Report (DEIR)
for Sunset Ridge Park Project

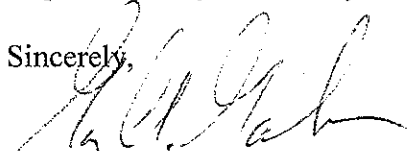
CITY OF NEWPORT BEACH

Dear Ms. Brown:

Please note I am in complete agreement with Bruce Bartram November 9th letter (**see below**) to you regarding the Draft Environmental Impact Report (DEIR) for Sunset Ridge Park Project. I concur that Sunset Ridge Park and the Newport Banning Ranch comprise one "Project." Sunset Ridge Park is Phase one of this project since proposed "South Bluff Road" is part of road system for Newport Banning Ranch. This overlapping common road system for Sunset Ridge Park and Newport Banning Ranch appears to constitute one project with Sunset Ridge being Phase One. Based on this I concur they must be subject to a single environmental review under CEQA by the City of Newport Beach. I also agree it appears that separate EIRS for each "project" are being prepared. The EIRS should be considered at a combined joint hearing by the City of Newport Beach. This is needed so both the City and its citizens will know the full costs both "they -and the environment will have to give up" in order for the entire Sunset Ridge Park and the Newport Banning Ranch "Project" to be constructed.

See below Mr. Bartram's November 9th letter and fax to you. I look forward to receiving a timely response from you and City Council regarding this issue.

Sincerely,



Gary A. Garber
8 Landfall Court
Newport Beach, CA

November 9, 2009

Janet Johnson Brown, Associate Planner
City of Newport Beach, Planning Department
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Newport Beach, CA 92658-8915

Re: Draft Environmental Impact Report (DEIR)
for Sunset Ridge Park Project

Dear Ms. Brown:

According to Section 1.3 Project Summary of the Draft Environmental Impact Report (DEIR) for Sunset Ridge Park Project "Vehicle ingress and egress would be provided via an access easement from West Coast Highway through the Newport Banning Ranch property. Use of this adjacent property for the park access road would require an access easement from the Newport Banning Ranch property owner." In additional, "As a part of the Project, the City proposes to widen a portion of the northern side of West Coast Highway from Superior Avenue to a point west of the proposed access road...The City (of Newport Beach) is proposing a signal on West Coast Highway at the proposed access road...Where widening would occur on Newport Banning Ranch property, a dedication from the Newport Banning property owner would be required." The proposed access road on West Coast Highway is depicted as part of Conceptual Site Plan Exhibit 3-9 to the Sunset Ridge Park DEIR.

On Page 4.1-15 in Section 4.1 Land Use and Related Planning Programs of the DEIR it is mentioned "[T]he Newport Banning Ranch property is currently proposed for development with up to 1,375 residential dwelling units, 75,000 square feet of commercial uses, and a 75 room hotel; no actions have been taken by the City (of Newport Beach) regarding this proposal." On or about March 16, 2009 the City of Newport Beach issued the Notice of Preparation (NOP) of Draft Environmental Impact Report for the Newport Banning Ranch Project. Consistent with above description the NOP's Project Summary states "[T]he Newport Banning Ranch Project proposes the development of up to 1,375 residential dwelling units, 75,00 square feet of commercial, and 75 overnight resort accommodations on a Project site of approximately 401 acres." The adjacent proposed Sunset Ridge Park is depicted in Exhibits 3 and 5 to the NOP.

In the NOP, the proposed park access road for Sunset Ridge Park is named "South Bluff Road" for the Newport Banning Ranch Project. It is part of road system designated "Bluff Road" described as "backbone roads" for the Newport Banning Ranch Project. According to the Circulation Section of the NOP "[A]s a part of the (Newport Banning Ranch) Project, Bluff Road would be constructed from a southern terminus a West Coast Highway to a northern terminus at 19th Street...Bluff Road would serve as the primary roadway through the Project site, would intersect with the proposed extensions of 15th Street, 16th Street and 17th Street within the Project site, and would connect to 19th Street to the north...The implementation of Bluff Road may be phased. Access into the City of Newport Beach's proposed Sunset Ridge Park is proposed from Bluff Road within the Project site. An interim connection from Bluff Road through the Project site connecting to Sunset Ridge Park may be constructed as a part of the Sunset Ridge project."

As shown above, from their adjacent locations, their overlapping project sites and their proposed common road system the Sunset Ridge Park Project and the Newport Banning Ranch Project constitute one "Project." Indeed, to paraphrase the above, the Sunset Ridge Park is "Phase One" of the Newport Banning Ranch Project. This is expressly stated on Pg. 18 in the "Development Phasing/Project Implementation" section of the Newport Banning Ranch NOP. The section states in pertinent part as follows:

"The Project Applicant (Newport Banning Ranch property owners) proposes to implement the (Newport Banning Ranch) Project starting in the southern portion of the Project site closest to West Coast Highway. Initial phases would include the development of residential uses, resort uses, and a portion of the proposed Community Park, along with internal roadway access and infrastructure improvement..."

The California Environmental Quality Act (Public Resources Code 21000 et. seq.) (CEQA) embodies California policy that "the long-term protection of the environment shall be the guiding criterion in public decisions" No Oil, Inc. v. City of Los Angeles (1974) 13 Cal. 3d 68, 74. The law's purpose is not only to protect the environment but also to inform the public and responsible officials of the environmental consequences of their decisions before they are made. Id. at 79. The CEQA authorized environmental impact report (EIR) is "intended to furnish both the road map and the environmental price tag for a project, so the decision maker and the public both know before the journey begins, just where the journey will lead, and how much they -and the environment will have to give up in order to take that journey." National Resources Defense Council v. City of Los Angeles (2002) 103 Cal. App. 4th 268, 271.

As the Sunset Ridge Park and the Newport Banning Ranch comprise one "Project" they must be subject to a single environmental review under California law. For the City of Newport Beach to consider separate EIRs for each "project" would constitute a violation of California law, specifically, CEQA, which prohibits piecemeal environmental review. Orinda Ass'n v. Board of Supervisors (1986) 182 Cal. App.3d 1145. Under clear California

law, specifically CEQA, a public agency may not "piecemeal" or divide a single project into smaller individual subprojects to avoid responsibility for considering the environmental impact of the project as a whole. Id; Sierra Club v. West Side Irrigation District (2005) 128 Cal. App.4th 690. CEQA "'cannot be avoided by chopping proposed projects into bite-sized pieces' which when taken individually, may have no significant effect on the environment.'" Id.; Tuolumne County Citizens for Responsible Growth v. City of Sonora (2007) 155 Cal. App. 4th 1214,1223.

In summary, the Sunset Ridge Park and the Newport Banning Ranch comprise one "Project." As such, they must be subject to a single environmental review under CEQA by the City of Newport Beach. Since it appears that separate EIRS for each "project" are being prepared the EIRS should be considered at a combined joint hearing by the City of Newport Beach. This so both the City and its citizens will know the full costs both "they -and the environment will have to give up" in order for the entire Sunset Ridge Park and the Newport Banning Ranch "Project" to be constructed.

Please let me know your response to the foregoing as soon as possible. A hard copy of this email along with copies of Exhibit 3-9 and the Newport Beach NOP mentioned above will be sent to you by US Mail.

Very truly yours,

Bruce Bartram
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November 29, 2009

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DEC 02 2009

CITY OF NEWPORT BEACH

Re: Draft Environmental Impact Report – 4.2 Aesthetics (LIGHTING) for Sunset Ridge Park Project

Dear Ms. Brown:

The following represents my comments regarding lighting in Section 4.2 Aesthetics of the DEIR for Sunset Ridge Park Project.

The DEIR concludes that there is no impact caused by the proposed lighting for the Project site. The basis on which this determination is made consists of data that is not based in fact (that anything in the area already causes similar lighting), and incomplete “Standard Conditions and Requirements.” The DEIR is incomplete until it is revised to include assessments as to Lighting based on actual or simulated impacts on the Newport Crest and other affected communities. The DEIR should be revised to include more data upon which a complete evaluation can be made. There should also be a study undertaken to determine if there is a Market Value change in Newport Crest units and other communities due to change in lighting in Sunset Ridge project. The DEIR does not address this issue.

On Lighting, the DEIR provides no data whatsoever. It states:

All outdoor lighting would be *appropriately* shielded and oriented in order to prevent light spillage on *adjacent, off-site land uses*. Outdoor lighting associated with the restroom facilities and parking lot *shall not adversely impact residential land uses to the north*, but shall provide sufficient illumination for access and security purposes. See “Project Design Features,” p. 4.2-5.

The DEIR conclusion concerning the level of impact caused by the Lighting is based in part on the above, which is not data or analysis, but a “design feature” that the DEIR does not say is necessarily going to implemented. Further, the terms, “appropriately” and “not adversely impact,” are not defined.

This is especially confusing due to the accompanying discussions, under “Standard Conditions and Requirements,” which identifies the standard as: “shall not be *excessively illuminated*,” or it should not create an *unacceptable negative impact*.” Under sections SC 4.2-2, the DEIR states that the City will prepare a photometric study for approval by the Public Works Director and/or Planning Director, and that the “survey shall show that lighting values are *“1” or less* at all.

property lines. The DEIR does not identify the criteria for any of these standards. See pp. 4.2-5 – 4.2-6. The criteria should be disclosed in the DEIR. Adequate support for statement “not adversely impact” would be a Fair Market Appraisal of Newport Crest Units with current lighting and after proposed lighting is installed in Sunset Ridge Park.

The DEIR also states that the assessment of the level of lighting is “subjective: (see “Methodology 4.2.5” as p. 4.2-6) and that it will ultimately be up to the Public Works Director and /or Planning Director to make that subjective call. The current conclusion that there is NO IMPACT, then, is technically not accurate. In point of fact, the assessment on Lighting has been deferred to another time, after the photometric study. See section SC 4.2-2 at p. 4.2-6. Will the City issue a DEIR on Lighting once it has more data and/or design details so that it is put to the property procedure and evaluation? If not, will the public be privy to the study and be invited for comment?

Without providing any data, the DEIR also claims that there is no impact because the Lighting “would not affect nighttime views as the Project site is in an urban environment that is currently subject to similar lighting.” Given that none of the expansive Project site currently has lighting, this statement, without any data to support it, is incomplete. What data supports this statement? Finally, the Methodology indicates that the assessments of the aesthetic/visual changes do not include any views from the north toward the Project site. See p. 4.2-6. Great concern is triggered by the fact that the views of the Project site from the residential communities to the north (i.e., Newport Crest) are not taken into consideration. Another concern is how the new lighting will affect front line residents at Newport Crest when it is time to go to bed. Though the DEIR purports to be taking Lighting impacts on the northern neighbors into consideration, it at the same time excludes them from the analysis. A before and after appraisal of the Newport Crest front line units should be undertaken to determined effect of proposed new lighting at Sunset Ridge.

If the park goes in, Mitigation Measures that should be incorporated in the EIR is that the City should install tinted windows in all affected units to reduce effect of lighting in Sunset Ridge Park at night.

All of the above issues are a major valuation concern since Newport Crest units are major investment for the homeowners. I have brought up many of the above issues and other issues with City Council and the previous City Manager. I seriously object to the approval of this project in its present form. The above comments and all references contained therein are hereby incorporated into official record of proceeding of this project and its successors.

I look forward to receiving your timely response from you and the City Council on this matter.

Sincerely,



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RECEIVED BY
PLANNING DEPARTMENT

DEC 02 2009

CITY OF NEWPORT BEACH

November 28, 2009

Janet Johnson Brown, Associate Planner
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P.O. Box 1768
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Re: Draft Environmental Impact Report – 4.2 Aesthetics (PRIVATE VIEWS) for Sunset Ridge Park Project

Dear Ms. Brown:

The following represents my comments regarding Views in Section 4.2 Aesthetics of the DEIR for Sunset Ridge Park Project.

The DEIR acknowledges that the “residents of the Newport Crest condominium development located immediately to the north have expansive views of the Project site and the Pacific Ocean located approximately ½ mile further to the south.” *See Aesthetics,*” p. 4.2-3. The DEIR clearly acknowledges that “implementation of the proposed Sunset Ridge Park would alter the existing visual character and use of the Project site, and the *views from the surrounding land uses would be changed.*” *See Aesthetics,*” p. 4.2-8. There should be a study undertaken to determine if there is a Market Value change in Newport Crest units due to change of visual character and use of the Sunset Ridge project. The DERI does not address this issue.

Additionally, in the Executive Summary, under 1.6 AREAS OF CONTROVERSAY AND ISSUES TO BE RESOLVED, the issue of impacts on public and private views is raised. The DEIR acknowledges that it must address “whether the Project would adversely affect public and private views.” *See Executive Summary,* page 1-5.

Further, under the classification of “Potentially Significant Impact,” the NOP promised that “the character of the existing aesthetic environment and visual resources, including a discussion of views within the site and views of the site from *surrounding areas*, will be addressed in the EIR.” NOP, page 17. The EIR should address and support potential value changes of Newport Crest units due to changes in character of the existing aesthetic environment.

However, there is no discussion in the DEIR of effects/impacts on the private views. The DEIR must be revised to include the promised/required discussions of the resolution of this identified controversy/issue” as promised in the DEIR itself.

Section 15123 (b) (3) of the CEQA Guidelines requires that an EIR contain a discussion of issues to be resolved. The Executive Summary states, “the EIR has taken into consideration the comments received from the public, agencies, and jurisdictions” concerning the controversy/issue above adverse affects on public and private views. Some even opened their homes to the City to enable access and determination of the view issues. There is no discussion, at all, of the adverse effects/impact (possible negative Market Value change) on the *private* views of the community of Newport Crest (the residential community of the north of, and abutting, the Project), which is significantly and extensively affected by the Project.

Notably, the DEIR presents numerous visual simulated views from every angle surrounding the Project *except* from the north, where Newport Crest is located. Such visual simulations would otherwise provide the data needed for a genuine discussion/resolution of the issue.

The only mention that might be construed as addressing private views is the statement in the DEIR that:

The Project would not adversely alter existing views of the site or surrounding area; the Project allows for the development of a park with active and passive uses consistent with the General Plan. The Project would not degrade the visual character of the site or surrounding area, nor would it impede views of or from the Project site (*Less than significant impact*). See Executive Summary, Threshold 4.2-2, pp. 1-8 through 1-9.

In the absence of any discussion of the private views, it appears the above-quoted DEIR passage at most *implicitly* disposes of that issue by doing no more than stating that the “active and passive uses” are “consistent with the General Plan.” Evaluation of the adverse effects is and must be based on data, on the actual design of the Park, structures and all. There needs to be a study regarding estimated Market Value of Newport Crest units before the project was announced and after development is completed to determine if there is a negative Market Value change.

It must be emphasized that the issue of private views was raised by Newport Crest homeowners, a number of whom regularly attended study sessions, City Council Meetings and meetings of the Parks, Beaches and Recreation Commission concerning the Sunset Ridge Project. As found in one of the many letters that were written in response to the NOP, of which some were copied into the DEIR’s Appendix A, these views were raised and significantly important area of concern:

We were assured by the City that every effort would be made not to block/affect our ocean view [that we paid dearly for] would the shade structures for the overlook area and the picnic areas low enough to keep that promise? See Appendix A.

In other letters responding to the NOP, other Newport Crest homeowners ask that the DEIR address the following:

The impact the overlook area with a shade structure would have on the homes in Newport Crest. The impact the baseball backstop along third baseline would have on homes in Newport Crest. See Appendix A.

A view shed analysis of the bluff inland of Coast Highway That will be altered by the grading for the access road should be contained in the EIR. It is not necessary that Coast Highway be a Scenic Highway. The view of the bluff itself is a scenic resource that is addressed by Section 30251 of the Coastal Act. The EIR should address the ramifications of section 30251 as it pertains to this project. See Appendix A.

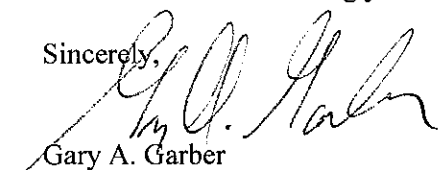
There was no discussion of the impact to all views that will result from litter and refuse left behind by visitors to the Park. Is there a budget for hourly maintenance of the expansive area? If not, how is the Project going to be maintained?

Nothing in the DEIR addresses these legitimate points and concerns. The DEIR should be revised to include discussion of these concerns. There needs to be an appraisal of Newport Crest individual units before the project was announced and as of date of completion of Sunset Ridge Park to determine if there is a Market Value change in units due to the project. This is known as a before and after development appraisal.

All of the above issues are a major valuation concern since Newport Crest units are major investment for the homeowners. I have brought up many of the above issues and other issues with City Council and the previous City Manager. I seriously object to the approval of this project in its present form. The above comments and all references contained therein are hereby incorporated into official record of proceeding of this project and its successors.

I look forward to receiving your timely response from you and the City Council on this matter.

Sincerely,


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November 28, 2009

DEC 02 2009

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CITY OF NEWPORT BEACH

Re: Draft Environmental Impact Report – 4.4 Air Quality for Sunset Ridge Park Project

Dear Ms. Brown:

The following represents my comments regarding the Section 4.4 Air Quality of the DEIR for Sunset Ridge Park Project.

Page 4.4- 31: The first paragraph states that NOx emissions during the mass grading phase of construction will exceed the SCAQMD threshold for maximum daily emissions, resulting in a significant impact, if the projected 34,000 cubic yard export of soil is disposed of other than at the neighboring Newport Banning Ranch property. If such soil is exported, the only mitigation that was addressed is the reduction of haul truck vehicle miles traveled which would extend the estimated 13 week export period to 30 weeks, which the DEIR states is unreasonable mitigation because of the substantial extension of the mass grading period and the prolonged problems of noise and other negative impacts. Since the NOx emissions threshold would not be exceeded if exported soil is exported only to the Newport Banning Ranch property, why is this not made a mitigation/construction requirement?

Page 4.4-31: In the third line of the second paragraph, should the phrase “spoils site” be “soils site”?

Page 4.4-32: The DEIR states (and Table 4.4-9 indicates) that when the grading work is within 50 meters (164) of sensitive receptors, the maximum daily estimated PM (10) and PM (2.5) emissions would exceed the SCAQMD threshold, and that approximately 25% of the Project is located within 164 feet of the Newport Crest Condominium development. Does this include Adults and children with compromised immune systems? The second paragraph of this page states that due to this fact, the Project would require implementation of SCAQMD Rule 403 dust control measures and that Rule 403 represents the only feasible mitigation measure of dust control, however that any reduction cannot be quantified, and, as such, the local PM (10) and PM (2.5) impact would be significant and unavoidable near Newport Crest during the mass grading period. However, this second paragraph on this page states that Newport Crest is at a higher elevation than the Project, and the first paragraph of Section 4.4.3 on page 4.4-11 states, that on general, the dominate land/sea breezes-winds are onshore during the day and reverse to offshore at night. The Project is on a ridge that has direct exposure to wind off the ocean. No analysis of the strength of the wind at the project was provided (other than the before referenced general Costa Mesa comments) or discussion on its possible effects on particulates. There is also no discussion concerning a mitigation measure that takes into account the prevailing winds and the elevation of Newport Crest. This should be addressed.

Page 4.4-35: The last paragraph of this page states that “GHGs would be emitted by off road and on road construction equipment and worker vehicles, and that the same would vary depending on how much soil is

exported to Newport Banning Ranch property and how much soil would be exported to an undetermined destination site. The DEIR has no discussion of why all soil exportation would not be limited to the Banning Ranch property. In fact, the DEIR states (p.1-2) that "The City proposes that all of the exported soil (34,000 cubic yards) would go to identified locations on the adjacent Banning Ranch property". This inconsistency needs to be clarified.

Page 4.4-37: In the first paragraph of section 4.4.8 on this page, it states that there are no known projects within one-half mile of the Project where major construction would occur concurrently with the proposed Project. Why was there no reference to the Banning Ranch project and its status/schedule?

Page 4.4-38: In the :Standard Conditions and Requirements: subsection of Section 4.4.9, entitled "Mitigation Program", only SCAQMD Rule 402 and 403 will be required during construction and included as notes on the Project Managers' specifications (air pollutant emissions not be a nuisance offsite, and fugitive dust be controlled, respectively). On page 4.4-39 the DEIR states that "no additional measures and feasible", without an analysis of confining grading to favorable wind conditions. In this regard, note that SCAQMD's May 12, 2009 response to the NOP specifically states that "in the event the Project generates significant adverse air quality impact, CEQA requires that all feasible mitigation measures that go beyond what is required by law be utilized during the project construction and operation to minimize and eliminate significant adverse air quality impacts." These exceptional mitigation measures and when they will be employed should have and need to be addressed.

Section 4.4 of the DEIR did not address the following which were raised in letters/emails submitted on the NOP:

The May 14, 2009 NOP letter from the California Department of Conservation, Division of Oil, Gas and Geothermal Resources states that if construction will be over an abandoned well, adequate gas venting system should be placed over the well. This letter also states there are three plugged and abandoned wells within or in proximity to the Project. Air emissions from possible gas venting systems were not addressed in Section 4.4 of the DEIR. Why?

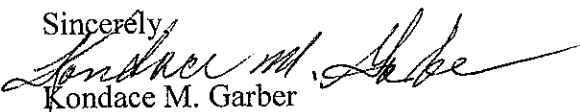
Both the June 8, 2009 NOP letter from the Newport Crest Homeowners Association and my husbands (Gary A. Garber) June 3, 2009 NOP email expressed concern about the excavation of dirt at the Project. My husband also questioned whether or not the subject soil has been tested for contamination. Contamination of the soils that may end up as dust during construction was not address in Section 4.4. Why? Was the soil tested?

All of the above issues are a major concern since my husband and many neighbors in Newport Crest have serious repertory and heart problems. There are also many individuals that are battling cancer.

My husband has brought up many of the above issues and other issues with City Council and the previous City Manager. I seriously object to the approval of this project in its present form. The above comments and all references contained therein are hereby incorporated into official record of proceeding of this project and its successors.

I look forward to receiving your timely response from you and the City Council on this matter.

Sincerely,


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November 29, 2009

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DEC 02 2009

CITY OF NEWPORT BEACH

Re: Draft Environmental Impact Report – 4.5 Noise for Sunset Ridge Park Project

Dear Ms. Brown:

The following represents my comments regarding Section 4.5 Noise of the DEIR for Sunset Ridge Park Project.

Bottom of fp. 4.5-13 thru top of p. 4.5-14 and Exhibit 4.5-3 – Land Use Compatibility
Exhibit 4.5-3 was provided to show that existing CNEL (Community Noise Equivalent Level) ambient noise level tests for current worst case conditions on an active portions of the Project site from the nearest main sources of noise and cumulative future anticipated ambient noise increases will not exceed the 65dBA CNEL ambient noise level considered acceptable for park use per the City's land use compatibility guidelines (see Table 4.5.1 on page 4.5-4) thus justifying the Project as a compatible land use.

Noise level contour lines are shown on the Exhibit indicating the extent of future cumulative 60 and 65 dBA CNEL ambient noise on the Project. These results were based on recent typical noise levels as measured from what will be the southern edge of the southern soccer field to the center line of the nearest section of West Coast Highway.

Data in the DEIR do not support the conclusion stated above. The CNEL ambient noise data measurement referred to in the DEIR appears to have been made from only this single point yet the date contour lines shown in the Exhibit extend to the west beyond the Project and to the east to the northeastern most corner of the Project. It seems reasonable that multiple date measuring points along both West Coast Highway and Superior Avenue would be needed to construct the noise level contour lines shown in the Exhibit.

It is also not made clear what future assumptions about ambient noise level increases were used to develop the contour lines which represent both current and future CNEL ambient noise levels on the active portions of the Project site. While there is discussion in the DEIR of potential future traffic noise impacts at sensitive receptor locations at the northern edge of the Project (see Table 4.5-11), these assumptions do not include noise sources associated with the active portions of the Project.

There should also be a study undertaken to determine if there is a Fair Market Value change in Newport Crest units and other communities due to additional noise in proposed Sunset Ridge project. The study should contain estimates of Fair Market Value Appraisal of all units before the project is started and after completed. The DEIR does not address this issue.

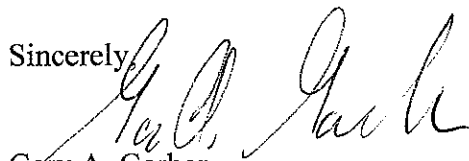
Noise during the day is a major issue with me and many neighbors since we work at home with our windows open. My work area overlooks the proposed Sunset Ridge Park. If the park goes in, Mitigation Measures that should be incorporated in the EIR is that the City should install air conditioning units in all affected units so there is no need for opening windows and doors. A further Mitigation Measure that should be considered is installing triple pain windows and sliding glass doors in all affected units to decrease the noise level. Presently noise levels during the day are acceptable for a good work environment. The DEIR does not take this into consideration. There are also individuals that work at night and sleep during the day. Presently noise levels during the day are acceptable for sleeping. The DEIR does not take this into consideration. There is also a concern regarding noise levels at night might increase due to some of the improvements.

Please provide a more detailed explanation of how the CNEL ambient noise contour lines were developed.

All of the above issues are a major valuation concern since Newport Crest units are major investment for the homeowners. I have brought up many of the above issues and other issues with City Council and the previous City Manager. I seriously object to the approval of this project in its present form. The above comments and all references contained therein are hereby incorporated into official record of proceeding of this project and its successors.

I look forward to receiving your timely response from you and the City Council on this matter.

Sincerely,



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December 1, 2009

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DEC 03 2009

CITY OF NEWPORT BEACH

Re: Draft Environmental Impact Report – **4.6-25 General Habitat Loss and Wildlife Loss**

Dear Ms. Brown:

The following represents my comments regarding Section 4.6 Biological Resources - p.4.6-25 General Habitat Loss and Wildlife Loss.

Removing or altering habitats on the Project site would result in the loss of small mammals, reptiles, amphibians, and other slow-moving animals that live in the proposed Project's direct impact area. More mobile wildlife species that are now using the Project site would be forced to move into the remaining areas of open space, which would consequently increase competition for available resources in those areas. This situation would result in the loss of individuals that cannot successfully compete. The loss of native and non-native habitats that provide wildlife habitat is considered an adverse impact. However, the loss of habitat would not be expected to reduce wildlife populations below self-sustaining levels in the region. Therefore, this impact would be considered adverse, but less than significant.

There is no analysis of the potentially affected species, and the impacts to their self-sustaining levels. Would any of the species approach thresholds that could cause extirpation if unusual, but not impossible, environmental events occur, e.g. disease, fire, presence of a new predator? Please provide analysis of the potentially affected species, and impacts to their self sustaining levels.

Where have all the birds and ground squirrels gone?

- **Please see attached five photos taken over the years since 1997 of various birds that I once was able to see from my balcony overlooking Sunset Ridge Park. Please note three birds are sitting on my balcony railing.**
- **Also note in three cases there is green ground cover in background. In one case there is some green ground cover,**
- **In one case (most recent photo of bird) only dead ground cover in background due to what appears to be grass and weed killing agents.**

- **At present the dirt is now darkened and most if not all of the lovely ground squirrels are dead. Only their holes are left. I would be happy to send you photographs of the area now after someone dropped poison down the ground squirrel wholes.**

Threshold 4.6-6: Would the project conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan? The Project site occurs within the Santa Ana River Mouth Existing Use Area of the Central/Coastal Subregion NCCP/HCP. Existing Use Areas are comprised of areas with important populations of Identified Species but which are geographically removed from the Reserve System. The NCCP/HCP does not authorize Incidental Take within the Existing Use Areas; such activities must be submitted to the USFWS for review and approval, consistent with existing federal law. The Project would not conflict with the provisions of an adopted HCP/NCCP because it does not impact areas identified as part of the Central/Coastal Subregion Reserve System nor does it utilize the Take allocations associated with projects in the Subregion that are outside the Existing Use Areas. Impact Summary: No impact would occur.

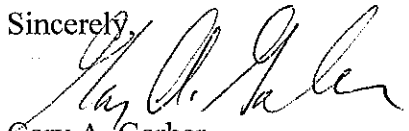
A diagram showing the relevant Central/Coastal Subregion Reserve System NCCP/HCP areas under discussion should be provided.

p.4.6-33, MM 4.6-4 and 4.6-5: Implementation of the Project would result in the loss of 0.41 acres of coastal sage scrub habitat. Permanent impacts on coastal sage scrub vegetation must be mitigated at a two-to-one (2:1) ratio on the Project site or in suitable off-site locations in the Newport Beach/Costa Mesa area. Identify appropriate areas for mitigation on site under discussion, and in other City locations. To what extent does the current Sunset Ridge Park landscaping plan promote mitigation on site, and maintain / reflect the natural character of the site?

All of the above issues are a major valuation concern since Newport Crest front line unit owners paid a premium for their units to be close to nature and watch the wonders of wildlife from their balconies. I have brought up many of the above issues and other issues with City Council and the previous City Manager. I seriously object to the approval of this project in its present form. The above comments and all references contained therein are hereby incorporated into official record of proceeding of this project and its successors.

I look forward to receiving your timely response from you and the City Council on this matter.

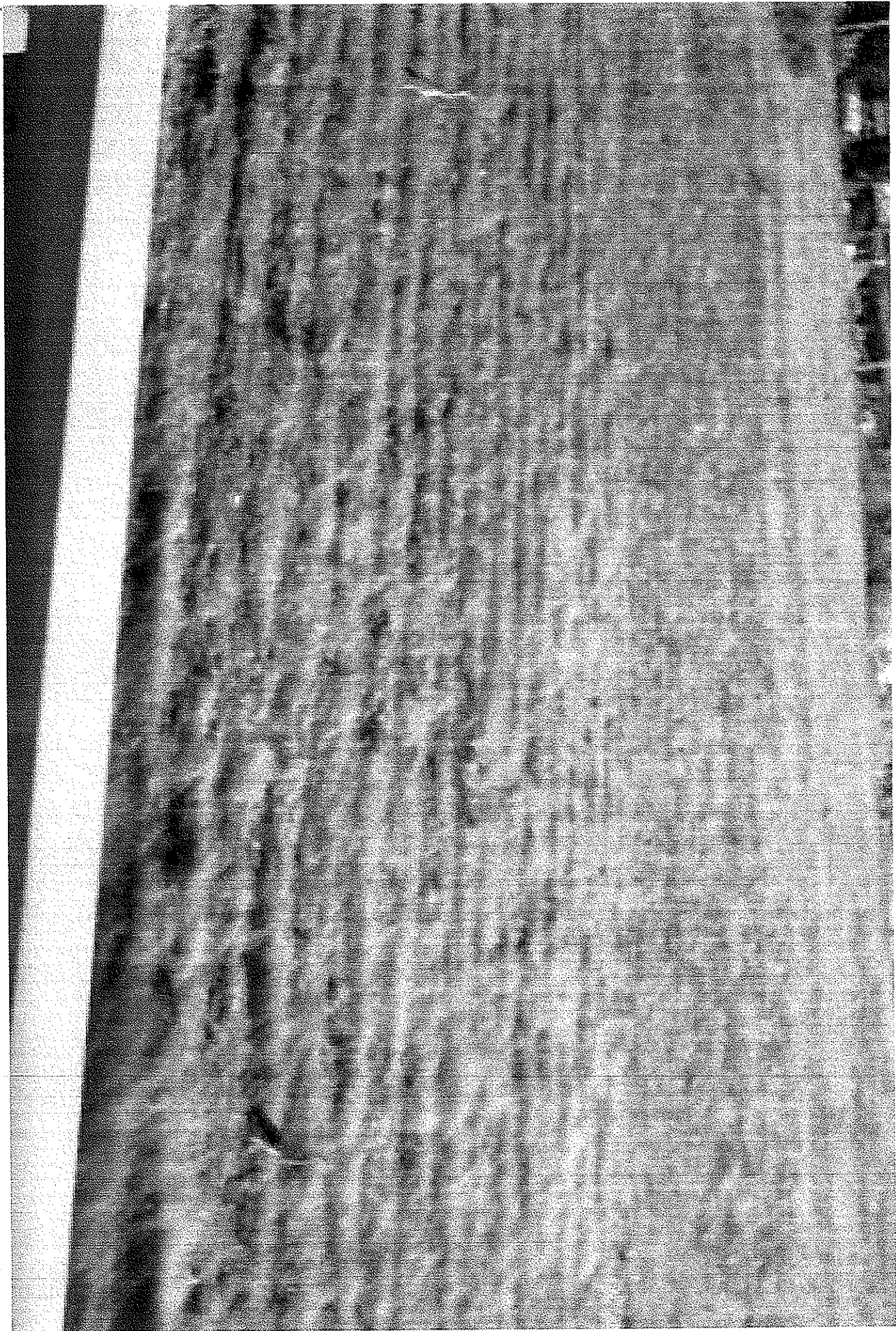
Sincerely,


 Gary A. Garber
 8 Landfall Court
 Newport Beach

Attachments

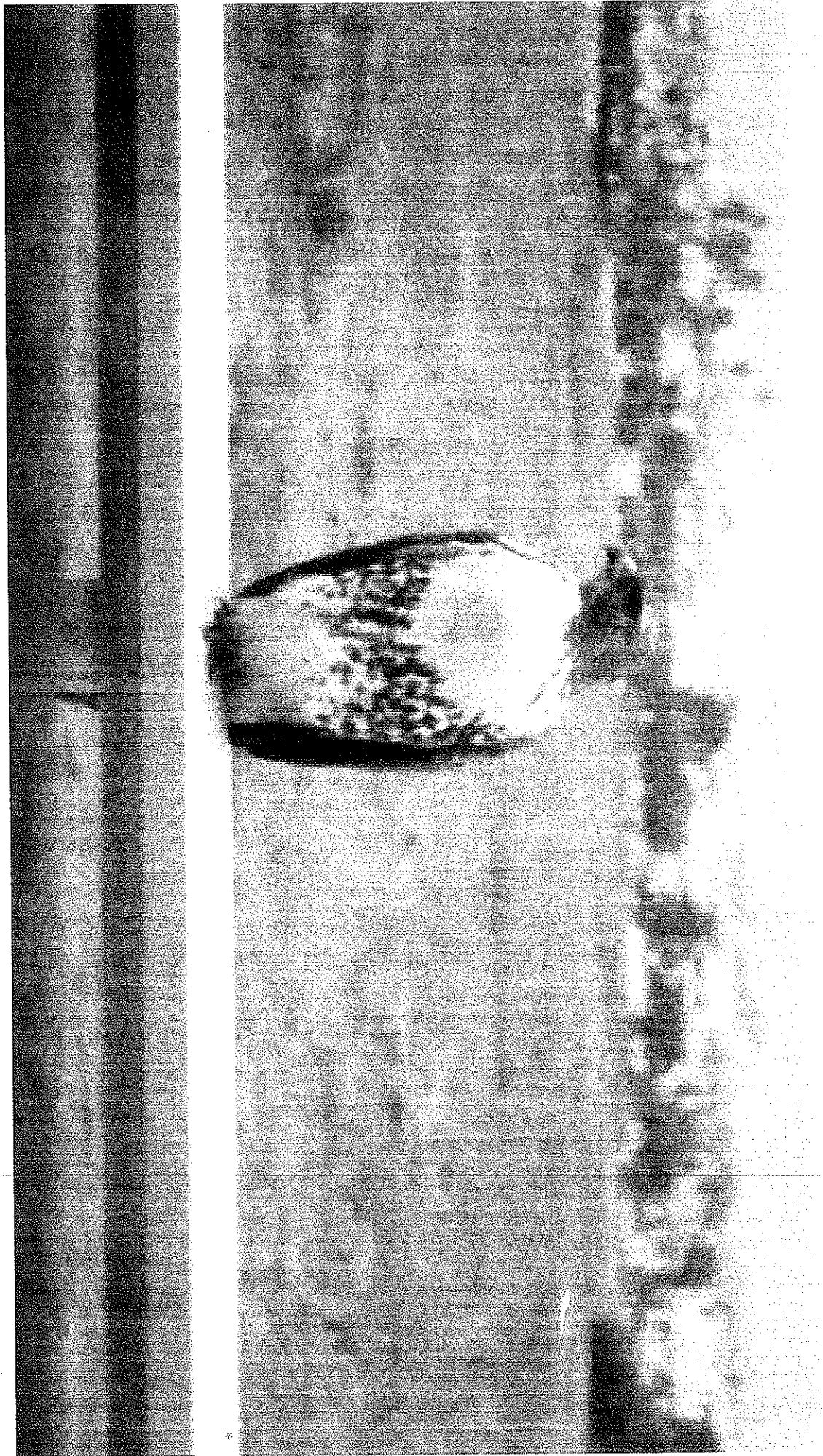


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Brown, Janet

From: Gary Garber [garbergary@yahoo.com]
Sent: Friday, December 11, 2009 12:26 PM
To: Brown, Janet
Subject: Fw: Sunset Ridge Park DEIR Comment III

Ms. Brown

I am in one hundred percent agreement with Bruce Bartram attached December 11, 2009 e-mail to you as I was with his November 9, 2009 e-mail regarding the DEIR for Sunset Ridge Park.

Please enter this comment regarding the DEIR for Sunset Ridge Park Project into the record.

Gary A. Garber
8 Landfall
Newport Beach, CA

--- On Fri, 12/11/09, Bruce Bartram <b.bartram@verizon.net> wrote:

From: Bruce Bartram <b.bartram@verizon.net>
Subject: Sunset Ridge Park DEIR Comment III
To: "Brown, Janet" <JBrown@newportbeachca.gov>
Cc: "Terry Welsh" <terrymwelsh@hotmail.com>, slgenis@stanfordalumni.org, jtmansfield@ca.rr.com, mezzohiker@msn.com, dkoken@hmausa.com, marktabbert@sbcglobal.net, steveray4surfcity@hotmail.com, jenniferfrutig@aol.com, knelson@web-conferencing-central.com, greenpl@cox.net, jonfox7@yahoo.com, evenkeel4@sbcglobal.net, jimcassidy52@earthlink.net, jamesrquigg@yahoo.com, techcowboy@ca.rr.com, margaret.royall@gmail.com, cmcevoy@dusd.net, jessp77@gmail.com, bmlserv@juno.com, nopc@sbcglobal.net, christopherbunyan@yahoo.com, susantheresalee@msn.com, "Ginny Lombardi" <ginnylombardi@yahoo.com>, "Gary Garber" <garbergary@yahoo.com>, "Robb Hamilton" <robb@hamiltonbiological.com>
Date: Friday, December 11, 2009, 10:36 AM

December 11, 2009

Janet Johnson Brown, Associate Planner
City of Newport Beach, Planning Department
3300 Newport Boulevard
P.O. Box 1768
Newport Beach, CA 92658-8915

Re: Draft Environmental Impact Report (DEIR)
for Sunset Ridge Park Project Comment III

Dear Ms. Brown:

A review of Sunset Ridge Park Project DEIR Section 6.0 Alternatives to the Proposed Project reveals that, except for Alternatives A-No Project and B-Alternative Site, the Alternatives listed presuppose the need for on-site parking. With the on-site parking comes the need for the accompanying access road whether from West Coast Highway through Banning Ranch property or, as is perfunctorily discussed in the Superior Avenue Access Road Alternative, from Superior Avenue through City owned property. In rejecting this alternative is stated that "[T]his alternative would reduce the amount of active park facilities that would be provided by the proposed

Project in order to accommodate the access road on this site."

What is not discussed in any of the Alternatives is that the City of Newport Beach has no requirement that City parks must provide off-street parking. As stated in Sunset Ridge Park Project DEIR Section 4.3 Traffic and Circulation Pg. 4.3-16 "[T]he City's Zoning Code (Chapter 20.66.030 Off-Street Parking and Loading Spaces Required) does not specify a parking rate for city parks, but rather indicates that the parking requirement for Park and Recreation Facilities would be 'As specified by Use Permit.'" This no on-site parking requirement obviously gives the City needed flexibility in providing park facilities. A survey of City parks reveals many examples of no on-site parking facilities being provided. These include such active City parks such as Irvine Terrace Park and Bob Henry Park as well as passive parks such as Castaways Park. Yet, no discussion of this fact occurs anywhere in Section 6.0 Project Alternatives.

What makes this omission so egregious is the exclusion from any analysis in the DEIR of the existing City-owned 60 plus space parking lot located at Superior Avenue and PCH directly across from the proposed park site. The parking lot is clearly depicted in Sunset Ridge Park Project DEIR Section 3.0 Project Description Conceptual Site Plan Exhibit 3-9 and DEIR Section 4.2 Aesthetics Site Constraints Exhibit 4.2-1. Yet the existence of this facility is nowhere discussed DEIR Section 3.0 Project Description. Interestingly, the vacant property adjacent to the parking lot in Exhibit 3-9 is listed as for "Future Park Development." This indicates its City ownership and availability for provision of additional parking spaces. In DEIR Section 4.3 Traffic and Circulation Pg. 4.3-16 it is stated that the parking requirement for the proposed Sunset Ridge Park would be "96 spaces." It is submitted that expansion of the existing City-owned Superior Avenue and PCH parking lot could provide the necessary 96 parking spaces. Whether this could be an environmentally, let alone economically, superior alternative to the proposed Sunset Ridge Park on-site parking and the necessary access road should have been discussed but is not.

California Environmental Quality Act (CEQA) Guidelines Section 15126.6(a) and (b) provide guidance on the scope of alternatives to a proposed project that must be evaluated. The CEQA Guidelines state:

(a) An EIR shall describe a range of reasonable alternatives to the project, or to the location of the project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project, and evaluate the comparative merits of the alternatives. An EIR need not consider every conceivable alternative to a project. Rather it must consider a reasonable range of potentially feasible alternatives that will foster informed decision making and public participation. An EIR is not required to consider alternatives, which are infeasible. The lead agency is responsible for selecting a range of project alternatives for examination and must publicly disclose its reasoning for selecting those alternatives. There is no ironclad rule governing the nature or scope of the alternatives to be discussed other than the rule of reason.

(b) Because an EIR must identify ways to mitigate or avoid the significant effects that a project may have on the environment (Public Resources Code Section 21002.1), the discussion of alternatives shall focus on alternatives to the project or its location which are capable of avoiding or substantially lessening any significant effects of the project, even if these alternatives would impede to some degree the attainment of the project objectives, or would be more costly.

In light of the CEQA Guideline Section 15126.6 above one can only conclude the failure to include a non on-site parking alternative renders Sunset Ridge Park Project DEIR Section 6.0 Alternatives to the Proposed Project deficient. To list just one environmental impact that could be lessened through the use of the Superior Avenue and PCH parking lot and the elimination of the Banning Ranch access road DEIR Section 4.6 Biological Resources Pg. 4.6-22 states as follows: "The California gnatcatcher has been observed on the Newport Banning Ranch property (including the area proposed for the access road for the Park) over several years (BonTerra Consulting 2009c). The Project site is within designated critical habitat for this species." Just as critically, the lack of a non on-site parking alternative defeats "informed decision making and public participation" the fundamental purpose of the California Environmental Quality Act. Perhaps the best "impact" that results from the elimination of the Banning Ranch access road is that the Sunset Ridge Park Project's interrelationship, interconnection and interdependence with the Banning Ranch Project discussed in my November 9 and December 2, 2009 Sunset Ridge Park Project DEIR comments would be diminished.

Please let me know your response to the foregoing as soon as possible.

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