

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

10 April 2009

CITY OF NEWPORT BEACH

RECEIVED BY
PLANNING DEPARTMENT
APR 10 2009

Re: BANNING DEVELOPMENT PROPOSAL AND PUBLIC COMMENTS

Dear Ms. Linn,

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

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

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


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

Some wordy objections or viewpoints follow:

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

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

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

Yours faithfully,  R.E Hageman / 7 Goodwill Court / 949.642.1998

Cc: Hon. Mayor
City Council

HAMILTON BIOLOGICAL

April 16, 2009

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

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

Dear Ms. Linn,

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

USE OF THE BEST AVAILABLE SCIENTIFIC INFORMATION

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

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

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

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

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

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

CHARACTERIZATIONS OF ESHA AND THE COASTAL ACT

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

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

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

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

POTENTIAL FOR *ATRIPLEX COULTERI* AND *DUDLEYA MULTICAULIS*

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

VERNAL POOL IMPACT ANALYSIS

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

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

NO "WALL OF DEATH"

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

ALTERNATIVES

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

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

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

CONCLUSION

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

Sincerely,



Robert A. Hamilton
President, Hamilton Biological, Inc.

From: Mansour Djadali [dj1327@gmail.com]

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

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

Subject: Banning Ranch

Dear Debby:

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

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

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

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

Respectfully,

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

From: James, Steven R. [sjames@Exchange.FULLERTON.EDU]

Sent: Friday, April 17, 2009 4:01 PM

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

Subject: Banning Ranch

Debby Linn, Contract Planner

City of Newport Beach

Planning Department

3300 Newport Boulevard

Newport Beach, CA 92658

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

Dear Ms. Linn,

The proposed Banning Ranch development should not be constructed and should be preserved as open space for endangered species and wetlands habitat, for its recreational values, and for the preservation of significant prehistoric and historic archaeological sites that are on the property.

Sincerely,

Steven R. James, Ph.D.

Attention: Cal State Fullerton's area code is changing soon! Beginning Saturday, May 30, 2009, all Fullerton campus phone numbers will have the area code 657.

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

April 16, 2009

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

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


Dear Ms. Linn,

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

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

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

Sincerely,


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

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PLANNING DEPARTMENT

APR 16 2009

CITY OF NEWPORT BEACH

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

April 13, 2009

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

Re: Notice of Preparation EIR for Banning Ranch Project

Dear Ms. Linn,

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

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

Sincerely,



Deborah Koken

From: Koken, Debby [HMA] [dkoken@hmausa.com]
Sent: Friday, April 17, 2009 2:06 PM
To: dlinn@city.newport-beach.ca.us
Subject: Here are my Banning Ranch NOP Comments

April 17, 2009

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

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

Dear Ms. Linn,

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

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

recreational cyclists to travel safely outside of traffic lanes.

5. The EIR should evaluate how views of Banning Ranch and the ocean from the Santa Ana River Bike trail will be affected by the proposed project, since this will impact the recreational value of the existing bike trail.
6. The EIR should consider how rescue crews would reach the area in the event of a major earthquake, in view of the traffic impacts of the proposed project.
7. The EIR should consider how residents can be evacuated, both from the development and from surrounding areas, in the event of an earthquake, in view of the increased population and the traffic impacts of the proposed project.
8. The EIR should include a detailed review of what evacuation plan could be devised to save local populations in the event of a tsunami, in view of the added population and the traffic impacts of the proposed project.
9. The EIR should consider the geological instability of the area. How would the proposed buildings, including multistory condos and commercial and hotel structures, be constructed to ensure safety when the Inglewood/Newport earthquake fault gives way?
10. The EIR should consider the geological instability of the vulnerable hillfiker walls supporting existing housing in the area, in view of the proximity of the Inglewood/ Newport earthquake fault. Any construction must be specifically planned to guard against weakening the existing structures.
11. The EIR should study the possibility that the weight and vibration caused by added construction and traffic could weaken the existing Inglewood/Newport fault and be a contributing cause of an earthquake.
12. The EIR should study the possibility that the weight and vibration caused by added construction and traffic could weaken the existing hillfiker walls and cause damage.
13. The EIR should study the possibility that erosion caused by runoff could weaken and increase erosion or cause damage to the existing hillfiker walls and adjacent neighborhoods.
14. The EIR should analyze the results of erosion caused by earthmoving, grading, construction traffic and other aspects of the construction process.
15. The EIR should study the effects of erosion on ESHA areas, both on the mesa and in the

wetlands below.

16. The EIR must study in detail the effects of runoff from the developed mesa both on the ESHA on the mesa and on the wetlands below. Paving the mesa will increase runoff from rainfall, which will carry pollutants from motor vehicles, pets, herbicides, fertilizers, etc. created by the inhabitants of the new construction.

17. The effects of runoff from landscape watering carrying pollutants from motor vehicles, pets, herbicides, fertilizers, etc. must also be studied.

18. Effects of runoff must be studied in view of the impact of a 200 year storm. Such storms are expected to occur far more frequently in the future due to climate change.

19. The EIR must review the effects of runoff on the sensitive plants and wildlife of the protected wetlands below the mesa, and also the ESHA areas on the mesa. Effects on the ecology as a whole as well as on each species of plant, animal and bird known to inhabit the area must be studied.

20. The EIR must review the effects of erosion on the sensitive plants and wildlife of the protected wetlands below the mesa, and also the ESHA areas on the mesa. Effects on the ecology as a whole as well as on each species of plant, animal and bird known to inhabit the area must be studied.

21. The EIR should study existing problems with drainage in the Newport/Mesa area which would be exacerbated by additional development. Current drainage through Newport is inadequate and causes flooding in Costa Mesa during approximately 10-year storms.

22. The EIR must include intensive detailed field surveys by qualified impartial biologists of all ESHA areas on the mesa. The developer's proposal tries to minimize the ESHA area by dismissing much of it as "fragmented" or "degraded." The Coastal Act does not allow ESHA to be discounted due to condition or fragmentation.

23. The EIR should include and examine all archival research, including all documentation prepared for previous projects (Taylor Woodrow, and earlier development proposals) as well as the studies used for the GPAC committee. Earlier biological studies are of particular importance as more recent studies are skewed by recent drought conditions.

24. The EIR should take into account adverse effects on endangered species of plants and animals observed on the mesa in prior studies.

25. The EIR should study adverse effects on the Cactus Wren, which is not yet listed as endangered, but has experienced a precipitous decline in population and available habitat. The mesa is known to be excellent habitat for Cactus Wrens as well as other species.
26. Impacts of noise and lighting on wildlife and specifically the species of concern should be studied.
27. The EIR should review adverse effects on ESHA in the light of climate change which means, among other problems, that current sea levels will rise, eliminating lower-elevation habitat.
28. The EIR should review the proposed project for provision of adequate buffer zones of at least 100 meters around all ESHA areas
29. The EIR should analyze the extent of development compatible with minimum 100 meter buffers for all ESHA.
30. The EIR should include reviews of alternative projects including development of the mesa as a passive park, native plant botanical garden or arboretum for public recreation.
31. In view of the huge scope and enormous impacts of this project, the EIR should allow the maximum possible period of time for public review.

Please include my comments in the Draft EIR.

Sincerely,

Deborah Koken
1778 Kenwood Place
Costa Mesa, CA 92627

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April 10, 2009

RECEIVED BY
PLANNING DEPARTMENT

APR 14 2009

CITY OF NEWPORT BEACH

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

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

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

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

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

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

Sincerely,



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



April 7, 2009

RECEIVED BY
PLANNING DEPARTMENT

APR 10 2009

CITY OF NEWPORT BEACH

CHAIR
SUSAN WILSON
Representative of
General Public

VICE CHAIR
PETER HERZOG
Councilmember
City of Lake Forest

CHERYL BROTHERS
Councilmember
City of Fountain Valley

BILL CAMPBELL
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Supervisor
2nd District

ARLENE SCHAFER
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Costa Mesa
Sanitary District

JOHN WITHERS
Director
Irvine Ranch Water District

ALTERNATE
PAT BATES
Supervisor
5th District

ALTERNATE
PATSY MARSHALL
Councilmember
City of Buena Park

ALTERNATE
RHONDA MCCUNE
Representative of
General Public

ALTERNATE
CHARLEY WILSON
Director
Santa Margarita
Water District

JOYCE CROSTHWAITE
Executive Officer

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

Subject: Notice of Preparation Draft Environmental Impact Report

Dear Ms. Linn,

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

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

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

- **Project Description**

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

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

- **Public Service and Facilities**

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

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

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

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

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

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

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

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

- **Utilities**

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

- **Water Quality**

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

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

Best Regards,

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

Joyce Crosthwaite
Executive Officer

From: leecefam@sbcglobal.net
Sent: Friday, April 17, 2009 3:25 PM
To: dlinn@city.newport-beach.ca.us
Subject: Banning Ranch

Debby Linn, Contract Planner

City of Newport Beach

Planning Dept.

3300 Newport Blvd.

Newport Beach, CA 92658

Dear Ms. Linn,

I am writing this as a resident of Costa Mesa.

I want to strongly state my opposition to the construction of "Bluff Road" in the proposed Master Land Use Plan of Banning Ranch.

All of the environmental effects need to be analyzed before going forward: noise, GHGs, impact on other streets.

Traffic from PCH may use this road as a cut through--that would include, trucks, motorcycles, etc.--not normally allowed in a residential area. Traffic on 19th Street would also be increased. It would be unfair for the City of Newport to place traffic burdens on the City of Costa Mesa residents due to a project in Newport Beach.

Also, what about the environmental effects on all the open space and nearby parks?

As a resident of Costa Mesa who lives in California Seabreeze, my quality of life will be impacted as a result of the proposed street.

Thank you for reading my comments.

Sincerely,
Wendy Leece
1804 Capetown Circle
Costa Mesa, CA 92627

April 16, 2009

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

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

Dear Ms. Linn,

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

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

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

Thank you.



Joann Lombardo
2916 Clay Street
Newport Beach, CA 92663

From: Conrad Maher [cemaher@gmail.com]

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

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

Subject: Newport Banning Ranch

Debby,

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

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

Geology

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

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

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

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

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

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

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

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

This production is from unconsolidated sands. While this is normally not a problem, we know from the subsidence in the Long Beach area that production can cause reorientation of the sand grains in unconsolidated sediments. This can lead directly to subsidence and or amplify subsidence during and earthquake.

Available Public Data

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

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

Geophysical program to extrapolate other data

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

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

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

Conrad Maher
16 Escapade Court
Neport Beach, CA 92663

949 645 4287

Paul Malkemus.txt

From: Paul Malkemus [pmalkemus@yahoo.com]
Sent: Wednesday, April 15, 2009 2:19 PM
To: dlinn@city.newport-beach.ca.us
Subject: Comments on Newport Banning Ranch NOP

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

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

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

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

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

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

Paul Malkemus
7 Aries Court
Newport Beach, CA
92663

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

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

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

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

Dear Ms. Linn:

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

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

houses, the resort, the commercial property, the traffic generated by these facilities, and the traffic generated by the increased traffic using the Banning Ranch roads to bypass Newport Beach. It is thought that the level of noise generated will be substantial and will have an extremely detrimental effect on the wildlife in adjoining ESHAs and wetlands, as well as on existing, adjoining, residential communities.

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

Thank you for your consideration.

Sincerely,

James T. Mansfield

Board Member of the Banning Ranch Conservancy and concerned local citizen

1857 Rhodes Drive

Costa Mesa, CA 92626

jtmansfield@ca.rr.com

714-751-2243

DEBBIE LINN, CONTRACT PLANNER
CITY OF NEWPORT BEACH
3300 NEWPORT BLVD.
NEWPORT BEACH, CA 92658

17 APRIL 2009

RECEIVED BY
PLANNING DEPARTMENT

APR 17 2009

RE: BANNING RANCH DEVELOPMENT

THIS IS TO INFORM YOU THAT I OPPOSE ANY CONSTRUCTION ON BANNING RANCH AND I AM IN THE PROCESS OF SECURING LEGAL SUPPORT TO OPPOSE ANY DEVELOPMENT OF THE SUBJECT PROPERTY WITH THE EXCEPTION OF DEVELOPING A PARK ESTABLISHMENT.

I AM A PROPERTY OWNER LOCATED AT 16 SUMMERWIND COURT ADJACENT TO BANNING RANCH.

SIGNED,

Frederick Marsh

FREDERICK MARSH
16 SUMMERWIND COURT
NEWPORT BEACH, CA.
92663
(949) 631-2243

CITY OF NEWPORT BEACH

April 15, 2009

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

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

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**BOWIE, ARNESON, WILES &
GIANNONE**
Legal Counsel

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

Dear Ms. Linn:

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

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

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

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

Sincerely,



Robert R. McVicker
District Engineer

cc: Lee Pearl, General Manager

From: paul moreno [bigrockcreek@msn.com]

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

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

Subject: banning ranch

Dear Ms. Linn,

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

Do you care at all?

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

I know that the first people built villages on the bluffs and mesas all along the Santa Ana River. So what makes you think they are not there?

Do you know for sure? If you don't, there shouldn't be any development until those questions can be answered and the Native Americans agree!

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

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

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

Rediscover Hotmail®: Now available on your iPhone or BlackBerry [Check it out.](#)

NATIVE AMERICAN HERITAGE COMMISSION

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



RECEIVED BY
 PLANNING DEPARTMENT

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

APR 24 2009

Ms. Debby Linn, Contract Planner
 CITY OF NEWPORT BEACH PLANNING DEPARTMENT
 3300 Newport Boulevard
 Newport Beach, CA 92658

CITY OF NEWPORT BEACH

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

Dear Ms. Linn:

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

√ Contact the appropriate California Historic Resources Information Center (CHRIS) for possible 'recorded sites' in locations where the development will or might occur.. Contact information for the Information Center nearest you, the South Central Coastal Information Center (Contact Ms. Stacy St. James at 714-278-5395). The record search will determine:

- If a part or the entire APE has been previously surveyed for cultural resources.
 - If any known cultural resources have already been recorded in or adjacent to the APE; in this case, CA-ORA-64 is near the proposed site; that site in the mid-1990s yielded hundreds of Native American human remains and thousands of artifacts;
 - If the probability is low, moderate, or high that cultural resources are located in the APE.
 - If a survey is required to determine whether previously unrecorded cultural resources are present.
- √ If an archaeological inventory survey is required, the final stage is the preparation of a professional report detailing the findings and recommendations of the records search and field survey.
- The final report containing site forms, site significance, and mitigation measures should be submitted immediately to the planning department. All information regarding site locations, Native American human remains, and associated funerary objects should be in a separate confidential addendum, and not be made available for public disclosure.
 - The final written report should be submitted within 3 months after work has been completed to the appropriate regional archaeological Information Center.

√ The Native American Heritage Commission (NAHC) performed:

- * A Sacred Lands File (SLF) search of the project 'area of potential effect (APE)': The results: Known Native American Cultural Resources were identified within one mile of the 'area of potential effect' (APE). The NAHC SLF is not exhaustive and local tribal contacts should be consulted from the attached list and the there are Native American cultural resources in close proximity..
- The NAHC advises the use of Native American Monitors, also, when professional archaeologists or the equivalent are employed by project proponents, in order to ensure proper identification and care given cultural resources that may be discovered. This is particularly true for this, proposed project, because of the *plethora of Native American human remains and archaeological features discovered during Phase I of the Playa Vista Project*. The NAHC, FURTHER, recommends that contact be made with Native American Contacts on the attached list to get their input on potential IMPACT of the project (APE) on cultural resources.. In some cases, the existence of a Native American cultural resources may be known only to a local tribe(s) or Native American individuals or elders.
- √ Also, lack of surface evidence of archeological resources does not preclude their subsurface existence.

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

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


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

√ Health and Safety Code §7050.5, Public Resources Code §5097.98 and Sec. §15064.5 (d) of the California Code of Regulations (CEQA Guidelines) mandate procedures to be followed, including that construction or excavation be stopped in the event of an accidental discovery of any human remains in a location other than a dedicated cemetery until the county coroner or medical examiner can determine whether the remains are those of a Native American. Note that §7052 of the Health & Safety Code states that disturbance of Native American cemeteries is a felony.

√ Finally, Lead Agencies should consider avoidance, as defined in §15370 of the California Code of Regulations (CEQA Guidelines), when significant cultural resources are discovered during the course of project planning and implementation

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

Sincerely,


Dave Singleton
Program Analyst

Attachment: List of Native American Contacts

Cc: State Clearinghouse

Native American Contact

Orange County

April 20, 2009

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

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

(909) 262-9351 - cell

Juaneno Band of Mission Indians Acjachemen Nation
David Belardes, Chairperson
32161 Avenida Los Amigos
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(949) 493-0959
(949) 493-1601 Fax
Juaneno

Juaneno Band of Mission Indians Acjachemen Nation
Anthony Rivera, Chairman
31411-A La Matanza Street
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949-488-3294 Fax
Juaneno

Tongva Ancestral Territorial Tribal Nation
John Tommy Rosas, Tribal Admin.
tattnlaw@gmail.com
310-570-6567
Gabrielino Tongva

Gabrielino Tongva Indians of California Tribal Council
Robert Dorame, Tribal Chair/Cultural Resources
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gtongva@verizon.net
562-761-6417 - voice
562-925-7989 - fax
Gabrielino Tongva

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

Juaneno Band of Mission Indians
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Juaneno

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

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

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

Native American Contact

Orange County

April 20, 2009

Juaneno Band of Mission Indians
Adolph 'Bud' Sepulveda, Vice Chairperson
P.O. Box 25828 Juaneno
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bssepul@yahoo.net
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Juaneno Band of Mission Indians
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Juaneno Band of Mission Indians
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United Coalition to Protect Panhe (UCPP)
Rebecca Robles
119 Avenida San Fernando Juaneno
San Clemente , CA 92672
(949) 573-3138

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

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

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

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



NEWPORT-MESA Unified School District

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Jeffrey C. Hubbard, Ed.D., Superintendent

April 15, 2009

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APR 20 2009

CITY OF NEWPORT BEACH

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

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

Dear Ms. Linn:

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

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

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

Sincerely,

Ara K. Zareczny
Facilities Analyst

C: Paul H. Reed
Tim Marsh
James Lamond



NATURAL RESOURCES DEFENSE COUNCIL

Via Email & U.S. Mail

April 17, 2009

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PLANNING DEPARTMENT

APR 20 2009

CITY OF NEWPORT BEACH

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

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

Dear Ms. Linn:

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

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

Very truly yours,

Damon Nagami
Staff Attorney



ORANGE COUNTY SANITATION DISTRICT

April 17, 2009

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

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

10844 Ellis Avenue
Fountain Valley, CA
92708-7018

Mailing Address
P.O. Box 8127
Fountain Valley, CA
92728-8127

www.ocsd.com

Phone
(714) 962-2411

Fax
(714) 962-0356

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Sanitary District

Midway City
Sanitary District

Irvine Ranch
Water District

County of Orange

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

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

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

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


Jim Burror
Engineering Supervisor

JB:sa
EDMS:003889058 /1.12a



ORANGE COUNTY FIRE AUTHORITY

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

Chip Prather, Fire Chief

(714) 573-6000

March 24, 2009

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PLANNING DEPARTMENT

APR 03 2009

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

CITY OF NEWPORT BEACH

SUBJECT: Newport Banning NOP

Dear Ms. Linn:

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

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

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

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

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RESIDENTIAL SPRINKLERS AND SMOKE DETECTORS SAVE LIVES

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

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

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

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

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

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

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

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

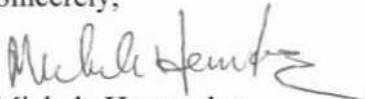
This agreement is typically entered into with developers on a project specific basis to contribute a pro rata share towards funding capital improvements necessary to establish adequate fire protection facilities and equipment. The Secured Fire Protection Agreement is not related to the provision of an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

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

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

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

Sincerely,



Michele Hernandez
Management Analyst
Strategic Services



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APR 24 2009

CITY OF NEWPORT BEACH

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April 21, 2009

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

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

Dear Ms. Linn:

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

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

Furthermore, please note the following:

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

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



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Chief Executive Officer

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

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

Sincerely,

Charles Larwood
Manager, Transportation Planning

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



13001 GARDEN GROVE BOULEVARD
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PHONE: (714) 971-2421 • (949) 654-2421

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WEB SITE: www.ocvcd.org

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April 14, 2009
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YORBA LINDA
JIM WINDER
COUNTY OF ORANGE
JOHN M. W. MOORLACH, C.P.A.
DISTRICT MANAGER
GERARD GOEDHART

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

To: Debby Linn, Contract Planner

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

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

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

"An Independent Special District Serving Orange County Since 1947"

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



13001 GARDEN GROVE BOULEVARD
GARDEN GROVE, CA 92843-2102
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COUNTY OF ORANGE
JOHN M. W. MOORLACH, C.P.A.
DISTRICT MANAGER
GERARD GOEDHART

April 14, 2009
Page 2

OCVCD wishes to be included and to have an opportunity to make comment throughout the process of planning and development of the Newport Banning Ranch properties. Please add the below listed persons as interested parties on behalf of the Orange County Vector Control District.

Amber Semrow, Biologist
OFF: (714) 971-2421x140
FAX: (714) 971-0809
E-mail: asemrow@ocvcd.org

Jim Green, Vector Control
Investigator
OFF: (714) 971-2421
FAX: (714) 971-5450
Cell: (714) 876-3886
E-mail: jgreen@ocvcd.org

Sincerely,

Jim Green

"An Independent Special District Serving Orange County Since 1947"

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



STATE OF CALIFORNIA

GOVERNOR'S OFFICE OF PLANNING AND RESEARCH

STATE CLEARINGHOUSE AND PLANNING UNIT



ARNOLD SCHWARZENEGGER
GOVERNOR

RECEIVED BY
PLANNING DEPARTMENT
CYNTHIA BRYANT
DIRECTOR

Notice of Preparation

March 18, 2009

MAR 23 2009

CITY OF NEWPORT BEACH

To: Reviewing Agencies

Re: Newport Banning Ranch
SCH# 2009031061

Attached for your review and comment is the Notice of Preparation (NOP) for the Newport Banning Ranch draft Environmental Impact Report (EIR).

Responsible agencies must transmit their comments on the scope and content of the NOP, focusing on specific information related to their own statutory responsibility, within 30 days of receipt of the NOP from the Lead Agency. This is a courtesy notice provided by the State Clearinghouse with a reminder for you to comment in a timely manner. We encourage other agencies to also respond to this notice and express their concerns early in the environmental review process.

Please direct your comments to:

Debby Linn
City of Newport Beach
3300 Newport Boulevard
Newport Beach, CA 92685

with a copy to the State Clearinghouse in the Office of Planning and Research. Please refer to the SCH number noted above in all correspondence concerning this project.

If you have any questions about the environmental document review process, please call the State Clearinghouse at (916) 445-0613.

Sincerely,

Scott Morgan
Assistant Deputy Director & Senior Planner, State Clearinghouse

Attachments
cc: Lead Agency

**Document Details Report
State Clearinghouse Data Base**

SC# 2009024064
Project Title Newport Banning Ranch
Lead Agency Newport Beach, City of

Type **NOP** Notice of Preparation
Description Up to 1,375 residential dwelling units, 75,000 square feet of commercial uses, and 75 visitor serving resort units. Existing oil wells within proposed development and open space areas would be abandoned and the area would be remediated. Two consolidated oil fields would be retained (20 acres of the open space). The proposed Project designates approximately 243 of the project site's 401 acres for Open Space uses. The Open Space District comprises three categories: (1) Lowland Open space/Public Trails and Facilities (LLOS/PTF); (2) Upland Open Space/Public Trails and Facilities (UOS/PTF); and (3) Consolidated Oil Facilities (OF). Approximately 131 acres would be in open space including wetland restoration areas, water detention, trails and viewpoints, and habitat conservation areas. The project includes 45 acres for parks.

Lead Agency Contact

Name Debby Linn
Agency City of Newport Beach
Phone (949) 718-1848
email
Address 3300 Newport Boulevard
City Newport Beach
State CA **Zip** 92685
Fax

Project Location

County Orange
City Newport Beach
Region
Cross Streets north of Coast Highway; South of 19th Street; east of Santa Ana River
Lat / Long 33° 38' 9" N / 117° 56' 45" W
Parcel No.

Township	Range	Section	Base
-----------------	--------------	----------------	-------------

Proximity to:

Highways 1
Airports
Railways
Waterways Pacific Ocean, Santa Ana River
Schools ~ 18 (public & private)
Land Use Primarily undeveloped but has been in active operation as an oil field since the mid-1940s; General Plan Designation: Open Space/Residential Village (OS[RV]);
Z: 40 acres in the City of Production, Sign Restriction, Newport Beach: Planned Community District 25 (PC-25); 361 acres in unincorporated Orange County: R-4 Suburban Multi-family; C-1 Local Business Commercial; M1 Light Industrial Employment. Overlay zones include Oil Production, Sign Restriction, and Floodplain Zone 2.

Project Issues Aesthetic/Visual; Air Quality; Archaeologic-Historic; Biological Resources; Coastal Zone; Drainage/Absorption; Flood Plain/Flooding; Forest Land/Fire Hazard; Geologic/Seismic; Minerals; Noise; Population/Housing Balance; Public Services; Recreation/Parks; Schools/Universities; Sewer Capacity; Soil Erosion/Compaction/Grading; Solid Waste; Toxic/Hazardous; Traffic/Circulation; Vegetation; Water Quality; Water Supply; Wetland/Riparian; Wildlife; Growth Inducing; Landuse; Cumulative Effects

**Document Details Report
State Clearinghouse Data Base**

Reviewing Agencies Resources Agency; California Coastal Commission; Department of Conservation; Office of Historic Preservation; Department of Parks and Recreation; Department of Water Resources; Department of Fish and Game, Region 5; Office of Emergency Services; Native American Heritage Commission; California Highway Patrol; Department of Housing and Community Development; Caltrans, District 12; Department of Toxic Substances Control; Regional Water Quality Control Board, Region 8

Date Received 03/18/2009 **Start of Review** 03/18/2009 **End of Review** 04/16/2009

Resources Agency

Resources Agency
Nadell Gayou

Dept. of Boating & Waterways
Mike Sotelo

California Coastal
Commission
Elizabeth A. Fuchs

Colorado River Board
Gerald R. Zimmerman

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Jon Yego

S.F. Bay Conservation &
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Land and Game

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Scott Flint
Environmental Services Division

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Donald Koch

Fish & Game Region 1E
Laurie Hamsberger

Fish & Game Region 2
Jeff Drongesen

Fish & Game Region 3
Robert Floerke

Fish & Game Region 4
Julie Vance

Fish & Game Region 5
Don Chadwick
Habitat Conservation Program

Fish & Game Region 6
Gabrina Getchel
Habitat Conservation Program

Fish & Game Region 6 I/M
Gabrina Getchel
Inyo/Mono, Habitat Conservation
Program

Dept. of Fish & Game M
George Isaac
Marine Region

Other Departments

Food & Agriculture
Steve Shaffer
Dept. of Food and Agriculture

Depart. of General Services
Public School Construction

Dept. of General Services
Anna Garbeff
Environmental Services Section

Dept. of Public Health
Bridgette Binning
Dept. of Health/Drinking Water

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Linda Flack

Office of Emergency Services
Dennis Castrillo

Governor's Office of Planning
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Native American Heritage
Comm.
Debbie Treadway

County. Orange

Public Utilities Commission
Leo Wong

Santa Monica Bay Restoration
Guangyu Wang

State Lands Commission
Marina Brand

Tahoe Regional Planning
Agency (TRPA)
Cherry Jacques

Business, Trans & Housing

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CEQA Coordinator
Housing Policy Division

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Caltrans, District 2
Marcelino Gonzalez

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Student Intern, 401 Water Quality
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Division of Water Quality

State Water Resources Control Board
Steven Herrera
Division of Water Rights

Dept. of Toxic Substances Control
CEQA Tracking Center

Department of Pesticide Regulation
CEQA Coordinator

SCH# - 2009031061

Regional Water Quality Control
Board (RWQCB)

RWQCB 1
Cathleen Hudson
North Coast Region (1)

RWQCB 2
Environmental Document
Coordinator
San Francisco Bay Region (2)

RWQCB 3
Central Coast Region (3)

RWQCB 4
Teresa Rodgers
Los Angeles Region (4)

RWQCB 5S
Central Valley Region (5)

RWQCB 5F
Central Valley Region (5)
Fresno Branch Office

RWQCB 5R
Central Valley Region (5)
Redding Branch Office

RWQCB 6
Lahontan Region (6)

RWQCB 6V
Lahontan Region (6)
Victorville Branch Office

RWQCB 7
Colorado River Basin Region (7)

RWQCB 8
Santa Ana Region (8)

RWQCB 9
San Diego Region (9)

Other _____



ARNOLD SCHWARZENEGGER
GOVERNOR

STATE OF CALIFORNIA

GOVERNOR'S OFFICE OF PLANNING AND RESEARCH
STATE CLEARINGHOUSE AND PLANNING UNIT



CYNTHIA BRYANT
DIRECTOR

RECEIVED BY
PLANNING DEPARTMENT

MAR 25 2009

Memorandum

CITY OF NEWPORT BEACH

Date: March 19, 2009
To: All Reviewing Agencies
From: Scott Morgan, Senior Planner
Re: SCH # 2009031061
Newport Banning Ranch

The State Clearinghouse is forwarding the attached material from the Lead Agency regarding some additional information for the above-mentioned document. All other project information remains the same.

cc: Debby Linn
City of Newport Beach
3300 Newport Boulevard
Newport Beach, CA 92685

Resources Agency

Resources Agency
Nadell Gayou

Dept. of Boating & Waterways
Mike Sotelo

California Coastal
Commission
Elizabeth A. Fuchs

Colorado River Board
Gerald R. Zimmerman

Dept. of Conservation
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Victorville Branch Office

RWQCB 7
Colorado River Basin Region (7)

RWQCB 8
Santa Ana Region (8)

RWQCB 9
San Diego Region (9)

Other _____

From: Patricia Barnes [mezzohiker@msn.com]
Sent: Thursday, April 16, 2009 10:16 PM
To: dlinn@city.newport-beach.ca.us
Subject: RE: Notice of Preparation-Draft Environmental Impact Report for Newport Banning Ranch Project
April 16, 2009

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

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

Dear Ms. Linn,

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

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

- 1. Protection of open space habitat for the Cactus Wren. Cactus Wren populations have suffered a significant loss of habitat since the recent wildfires in Orange County. Cactus Wren have been seen on Banning Ranch acreage; therefore, it is imperative that this acreage be protected as it is providing refuge for the dwindling populations of Cactus Wren, a species that is indigenous to our county.**
- 2. An evaluation of the effects of increased traffic and pollution that would occur along Pacific Coast Highway near Superior and around 17th and 19th Streets, Fairview Park, and within various surrounding residential communities such as Newport Shores as a result of construction/development on Banning Ranch acreage.**

- 3. An evaluation of the accumulative effects of pollution to Santa Ana River and to the Newport Beach and Huntington Beach coastlines that would result from the development of Banning Ranch.**
- 4. An evaluation of the soil and groundwater contamination that has resulted from more than sixty years of wildcat oil drilling occurring on Banning Ranch, and an analysis of the potential remedies for this highly toxic contamination.**
- 5. Preservation of the indigenous coastal sage habitat for the purposes of soil retention and the protection of watershed.**
- 6. Preservation of open space to meet the needs of those who reside in the densely populated area which surrounds all 412 acres of Banning Ranch.**

Thank you.

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

APR 17 2009

April 17, 2009

CITY OF NEWPORT BEACH

City of Newport Beach

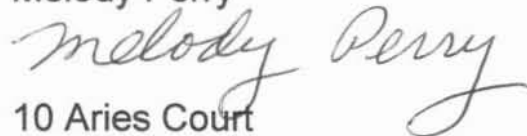
In regards to the proposed to expansion of the Banning Ranch, I am concerned about the environmental impact on the community, the added traffic and noise impact, air quality and wild life impact.

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

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

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

Melody Perry



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

4/12/2009

Greetings,

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

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

Thank you for your consideration.

Respectfully,
Gerard Proccacino
Lido Sands
Newport Beach, CA

RECEIVED BY
PLANNING DEPARTMENT

APR 16 2009

CITY OF NEWPORT BEACH

COMMENT SHEET

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

(PLEASE PRINT)
NAME Gerard Proccacino EMAIL GRAUYTRAIN1@Roadrunner.com
ADDRESS 5105 Lido Sands Dr, Newport Bch, CA 92663
REPRESENTING _____

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

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

PLEASE SEE ATTACHED

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

From: Norbert Puff [norbpuff@sbcglobal.net]
Sent: Friday, April 17, 2009 9:10 AM
To: dlinn@city.newport-beach.ca.us
Subject: Fw: EIR Newport Banning Ranch Project
Ms. Linn

Please indicate whether the enclosed comment has been received.
PS Note the school referred herein should be Whittier School.

Sincerely

Norb Puff
Newport Beach

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

From: Norbert Puff <norbpuff@sbcglobal.net>
Subject: EIR Newport Banning Ranch Project
To: dlinn@city.newport-beach.ca.us
Date: Wednesday, April 15, 2009, 9:58 AM

City of Newport Beach

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

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

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

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

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

Sincerely

Norb Puff
Newport Beach

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

Dear Ms. Linn,

Please address the following hazards:

- . special flood hazard areas, a federal designation;
- . potential flooding and inundation areas;
- . very high fire hazard severity zones;
- . wild land fire areas;
- . earthquake fault zones;
- . seismic hazard zones;
- . ground failure liquefaction;
- . provides tsunami inundation maps
- . also, FEMA's comments

Sincerely,
James R Quigg
1869 Park View Circle
Costa Mesa, CA 92627

04-17-09

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

Submitted via email to dlinn@city.newport-beach.ca.us

RE: Comments to Notice of Preparation (NOP) for Newport Banning Ranch Project (Project)

Ms. Linn,

I proffer the following comments to the Notice of Preparation (NOP) for the preparation of the Program Environmental Impact Report (EIR) (SCH# 2009031061) for the Newport Banning Ranch Project (Project) (PA 2008-114) on behalf of the Watershed Coordinating Council (WCC), of which I serve as President, and of the Banning Ranch Conservancy (Conservancy), of which I serve as a founding Board Member.

The comments are included both in the body of this submitted email and as an attachment, in Word format, thereto. The comments address (1) the scope and content of the EIR and (2) the environmental issues and alternatives to be addressed in the EIR pursuant to California Environmental Quality Act (CEQA) Guidelines #15082.

1. SCOPE, CONTENT and PROCESS

1.A. It may appropriate that sixteen (16) topics on the City's Environmental Checklist are identified as required for assessment in the EIR, excluding only Agricultural Resources. However, an Initial Study (IS), while optional, was not completed. The NOP does briefly describe existing environmental conditions, but any probable or specific environmental impacts are not stated. This makes it difficult for anyone (public agency, member of the public, me) to be adequately informed or capable of offering cogent comments. **This significant omission leaves the NOP wanting and warrants a reissue of the NOP and renewal of the process, which I herewith recommend.** This omission requires some extraordinary measures by the City to ensure adequate review and analysis by all other parties. I list some of them below. Not being reliant on a decision to reissue the NOP, I will attempt to provide comments on all potential issues to be addressed in the EIR. I will state herewith that any omission on my part is due to the inadequacy of the NOP.

1.B. Given the scope and anticipated size and complexity of the Draft EIR and its Appendices, I strongly recommend that the public review period for it be extended beyond the normal 45 days to, at least, 60 (sixty) days and, preferably, 90 (ninety) days. Bear in mind that, while the applicant and the City and other public agencies may have full-time paid staff, members of the public, generally, have other non-related jobs and family lives that occupy their time and are less experienced at reviewing and comprehending all of the information, methodologies, studies, statistics and conclusions contained in the Draft EIR and its Appendices. Having an engaged and fairly-treated public is critical to the intent of CEQA, for the City's relationship with its citizenry and for the applicant's public relations.

1.C. I recommend that the City Planning Commission and City Council hold public study sessions on the Draft EIR at least two weeks prior to the public hearing meetings of each body. With the review conducted by City staff, this provides a very informative session not only for the Commission/Council, but also for the public and the applicant, who can be available for any appropriate questions.

1.D. The City Planning Commission and City Council review, consideration and action on the EIR must be accomplished as a stand-alone process, not combined with the entitlement documentation. Combining both processes into one consideration and action is not fair to the public and raises questions of intent and prejudgement by the adjudicative bodies. Each action deserves its own separate hearing and consideration.

1.E. At public hearings of the Planning Commission and City Council, I recommend that the bodies permit members of the public to donate time – for instance, 3 members of the public being present and making the donation to another – so that a more comprehensive, thoughtful and meaningful presentation can be made by an organization or groups of citizens in concert. As a former chair of the Huntington Beach Planning Commission, I can attest as to the effectiveness of this provision and to its time-saving value.

1.F. As this property has been subject to previous attempts at development and has, accordingly, been subject to studies, surveys and other reviews, I ask that all such prior information gathering be included in the EIR preparation for comparative analysis and for comprehensive data collection, noted and made available to the applicant and the public.

1.G. The listing and comprehensive review and analysis of Alternatives and Cumulative Impacts are necessary to attain a complete and adequate EIR.

1.H. All written comments to the NOP as well as the transcript of the Public Scoping meeting held on April 2, 2009, should be included in the EIR.

2. ENVIRONMENTAL ISSUES and ALTERNATIVES

2.A. **Alternatives:** Alternatives outlined in the NOP are inadequate and incomplete.

Alternatives must also include the following options:

--- A Reduced Size Project based on the habitat value and locations of the Environmentally Sensitive Habitat Areas (ESHA's) extant on the property. All such habitats must be preserved. Additionally, buffers should be based on California Coastal Commission (CCC) standards established in previous coastal projects (such as 100 feet to 100 meters). These standards apply to both ESHA's and bluff areas.

--- A Reduced Height Project based on existing zoning limitations on height requirements for commercial and residential development. Any call for exception must be environmentally justified.

--- An Environmentally Progressive Project which meets LEED certification standards, preferably at the Platinum level.

--- A Relocation of the Project to another site in Newport Beach or other nearby city that would result in a significantly reduced environmental impact.

2.B. **Biological Resources:**

--- The NOP indicates use of the City's Coastal Land Use Plan (CLUP) to define an ESHA, to indicate potential ESHA's, to identify Environmental Study Areas (ESA's), to define buffer requirements and for other purposes. This is not acceptable. The CLUP does not apply to Banning Ranch, which is an area of "deferred certification" or, as specified by the CCC, a "white hole". Therefore, Coastal Act statutes and CCC standards are the only acceptable means to define and identify the environmental features and development requirements.

--- Removal of any valued habitat in any condition and replacement or restoration of habitat elsewhere is not an acceptable practice as determined in the well-known Bolsa Chica case. The EIR must not refute this standard and should fully identify environmental impacts caused by the development footprint.

--- Because plant habitats and wildlife species, especially avian, are sensitive to seasonal changes, variations in water availability and other acts of nature, it is highly recommended that multi-year studies be conducted to adequately assess their populations, patterns and constituents.

--- Any planned glass walls, whether they are a fence (such as the infamous "Wall of Death" at the Bolsa Chica Hearthsides development) or a building or other structure must be analyzed for potential avian mortality.

2.C. Transportation / Traffic:

--- The proposed project plan in some iterations calls for an extension of Bluff Road to 19th Street, while in other iterations, that extension is missing. There needs to be clarity on this issue.

--- If there is a connection to 19th Street, all potential traffic impacts must be analyzed. It will become a thru-way for anyone and everyone wanting a short cut between the west side of Costa Mesa and Pacific Coast Highway. All that probable traffic through the project site as well as on 19th Street and the nearby Costa Mesa west side must be included in any analysis. It will occasion calls for the extension of 19th Street to the River and completion of the 19th Street / Banning Street bridge. Both Huntington Beach and Costa Mesa are on record opposing the bridge. Traffic studies and all alternatives must exclude the bridge from any consideration. Too many obstacles - environmental, financial and political - exist to consider it a reasonable solution to the increased traffic issues for this project. It should also be removed from the Master Plan of Arterial Highways, with such removal included in the project plan.

--- Traffic increases studied for the 17th Street, 16th Street and 15th Street connections should also include the realistic probabilities of the short cut traffic, not just the classic model of traffic accessing the proposed project.

--- Traffic impacts to Pacific Coast Highway, not just at the junction with the proposed project's Bluff Road, but throughout Newport Beach and Huntington Beach, must include not only project traffic but also the short cut traffic described above. Given that Pacific Coast Highway is reported to be at or near capacity, scenarios to handle the new load must be sufficiently identified.

2.D. Water:

--- What is the source of water supply for this project? Given that California is in a declared state of drought and water emergency, with supply cuts being announced and conservation measures required, an adequate supply of water - not just "the City will supply it" - must be identified for the long term, a period of at least 50 to 100 years.

2.E. Other issues that must be addressed in significant detail:

--- The increased building heights will seriously impact the viewshed and, thus, property values of current local residents. How are those inequities to be addressed?

--- What will be the impact of the inclusionary housing on existing local residents?

--- What are the impacts of lighting and glare for local residents, wildlife and plant habitats?

- How will public services – police, fire protection, schools, etc – be provided?
- Water quality, hydrology, sewer systems, runoff impacts, water retention and reuse, reclamation – all of these water related issues and potential impacts will need full analysis and mitigation.
- How to mitigate for the loss of open space and recreational opportunities that would be realized through the open space alternative?

2.F. Cumulative Impacts:

- All of the impacts of this project must be properly considered in the analysis of Alternatives to the Project plan.
- The impact of this project on the cities of Newport Beach, Costa Mesa and Huntington Beach and all past, current and potential future projects must be evaluated and considered in their entirety to determine the appropriateness of this project as a whole, as a reduced project, or as open space.
- What is the impact of the loss of this last large parcel of coastal open space of wetlands, bluffs, arroyos and mesas not only to Newport Beach and its neighbor cities, but to all of Orange County, indeed to Southern California? Once it is lost, it is gone forever. How do we account to future generations that we lost Nature's Last Stand on our precious coast?

Thank you for the opportunity to comment.

Steve Ray/s/

Please add me to the mailing list for this Project. My addresses and emails are:

Steve Ray, President
Watershed Coordinating Council
17231 Ash Street, Suite 5
Huntington Beach, CA 92647
Email: watershed1@hotmail.com
Phone: 310.961.7610

and

Steve Ray, Board Member
Banning Ranch Conservancy
P.O. Box 16071
Newport Beach, CA 92569
Email: steveray4surfcity@hotmail.com

COMMENT SHEET

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

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

ADDRESS 1877 Parkview Circle, Costa Mesa, CA 92627

REPRESENTING self

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

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

Light pollution mitigation measures should be considered.

RECEIVED BY
PLANNING DEPARTMENT
APR 05 2009
CITY OF NEWPORT BEACH

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

From: Johntommy Rosas [tattnlaw@gmail.com]

Sent: Friday, April 10, 2009 9:29 AM

To: Debby Linn

Subject: Re: Banning Ranch

HI THANKS - I HAVE JUST TODAY RECEIVED THESE DOCUMENTS -SO NO TIME CONSTRAINTS EXIST ON US, ALSO THE REQUIRED SB 18 TC HAS NOT OCCURRED SO THE 2006-GEN PLAN AMEND. IS DEFECTIVE AND ILLEGAL.

I CONFIRM RECEIPT OF THESE DOCUMENTS AND WILL RESPOND TO THE NB GOVERNMENT DIRECTLY,

AND WE ARE STATING FOR YOU AND THE RECORD THAT WE OBJECT AND OPPOSE THIS PROPOSED DEVELOPMENT.

/S/ JOHNTOMMY ROSAS

On Fri, Apr 10, 2009 at 10:12 AM, Debby Linn <linnassociates@verizon.net> wrote:

attached are the NOP for the Banning Ranch project and the correspondence received to date from the Native Americal Cultural Commission.

Debby Linn
Linn & Associates
826 Molino Avenue Long Beach, CA 90804

Phone (562) 433-9444 Fax (562) 433-7190

--

JOHN TOMMY ROSAS
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TRIBAL LITIGATOR
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*Sea &
Sage Audubon*

P.O. BOX 5447, IRVINE, CA 92616-5447

April 16, 2009

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

RE: Newport Banning Ranch Notice of Preparation Comments

Dear Ms. Linn:

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

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

Various Road Easements

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

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

19th Street Extension

The City of Costa Mesa has historically opposed the extension of 19th Street across the and into Huntington Beach, while the City of Newport Beach has been overwhelmingly supportive of the extension. The annexation of the Banning Ranch Property into the City of Newport Beach will therefore have a direct effect outcome of the extension of 19th Street and it would be perfectly reasonable to assume that the extension will be pursued because of the annexation and this project. The extension of 19th Street would be a clear and foreseen cumulative impact of the project.

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

Biology

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

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

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

ESHA

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

Development Footprint

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

Vernal Pools

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

Biologically Superior Alternatives

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

Thanks you for your considerations

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

Delivered by email to: dlinn@city.newport-beach.ca.us

From: Mike Siebert [mike.siebert@apexlogisticsllc.com]

Sent: Friday, April 17, 2009 3:27 PM

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

Cc: watershed1@hotmail.com

Subject: Banning Ranch NOP

To Debby Linn

My home is backed up to Banning Ranch at 9 Aries CT Newport Beach CA 92663.

My concerns are as follows:

- 1) The noise levels from the new Bluff RD. at my bedrooms and kitchen windows, we do not have A/C and have to leave them open.
- 2) The pollution from the cars driving on the new Bluff RD coming in my bedrooms and kitchen windows because we have no A/C.
- 3) Blocking our view of the wild life, ocean and mountains.
- 4) There is a vernal pond that forms when it rains where the new Bluff RD will go through and the Ducks and birds and other wild life feed there.
- 5) I moved into this home on July 15 2000 because of the Aesthetics and Visual Resources at my back door.
- 6) The movement from all the dirt and clean up of the 40 miles of oil piping will cause a health risk to every one in the area.
- 7) The Biological effects could bring Valley Fever because any dirt disturbed 2 feet or below when the wind is blowing can be inhaled by any one near by and it can cause death.
- 8) There is already to much traffic on PCH per studies from CalTrans, Newport Beach and Huntington Beach.
- 9) There is a water shortage all ready in California as I was informed at the last Water District meeting at Babcock Labs.
- 10) For 9 years I have watched all the wild life live on the Banning Ranch land such as Cranes, Owls, Hawks, Doves and hundreds more.
- 11) With the public beach only blocks away we do not need more man made parks in this area.
- 12) This land is an historic site in the 1940s the military set up a gunnery on the Banning Ranch land.
- 13) The run off from this project may end up in the Wet Lands.
- 14) When Taylor Woodrow turned in there plans to build on Banning Ranch they had a bridge over the Vernal Pond because they stated it was the only way for the water to run through the Banning Ranch from above.
- 15) There are 36 home owners along Banning Ranch that I am speaking for today and for the 450 home owners in Newport Crest which I have sat on the NCHA Board.

You may respond back by email or send it to my home.

Thank You

Michael C Siebert

9 Aries CT

Newport Beach CA 92663

Cell 949-413-6632



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



March 20, 2009

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

Attention: Debby Linn

Subject: EIR for Newport Banning Ranch.

RECEIVED BY
PLANNING DEPARTMENT
MAR 23 2009
CITY OF NEWPORT BEACH

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

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

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

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

Sincerely,

Mike Harriel
Technical Services Supervisor
Pacific Coast Region - Anaheim

MH/mr
eir02.doc

From: Robert Siebert [eesolar@sbcglobal.net]

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

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

Subject: Banning Ranch

To: City of Newport Beach

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

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

Sincerely,

Robert Siebert
Orange



April 15, 2009

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

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

Dear Ms. Linn:

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

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

Thank you for the opportunity to submit these comments.

Sincerely,

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



South Coast Air Quality Management District

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

RECEIVED BY
PLANNING DEPARTMENT

March 20, 2009

MAR 26 2009

CITY OF NEWPORT BEACH

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

Dear Ms. Linn:

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

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

Air Quality Analysis

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

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

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

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

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

Mitigation Measures

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

Data Sources

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

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

Sincerely,



Steve Smith, Ph.D.

Program Supervisor, CEQA Section

Planning, Rule Development and Area Sources

SS:DG:AK

ORC090319-03AK

Control Number

RECEIVED BY
PLANNING DEPARTMENT

APR 09 2009

CITY OF NEWPORT BEACH

April 9, 2009

Attn: Debby Lynn

Subject: Proposed Development of Banning ranch

Dear Ms. Lynn,

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

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

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

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

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

Sincerely,



Dave Sutherland

12 Summerwind Ct. Newport Beach

April 9, 2009

RECEIVED BY
PLANNING DEPARTMENT

APR 09 2009

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

CITY OF NEWPORT BEACH

Dear Ms. Lynn,

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

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

I am particularly concerned about the following issues.

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

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

Sincerely,



Natalie Fogarty
Summerwind Court

From: torre@accurateresidentialappraisal.com

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

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

Subject: Newport Banning Ranch Development

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

You have my endorsement 100%.

Best Regards-

Torre Niles

"We strive to Exceed your expectations! Please let me know how we can improve our service to you. Remember to write us in on your next contract." <http://www.accurateresidentialappraisal.com/>

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From: JonV3@aol.com
Sent: Friday, April 17, 2009 10:28 AM
To: dlinn@city.newport-beach.ca.us
Subject: Banning Ranch NOP Comments
April 17, 2009

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

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

Dear Ms Linn,

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

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

Section 30107.5 of the Coastal Act defines environmentally sensitive areas in the coastal zone. In the Coastal Act, "environmentally sensitive area" means any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments.

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

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

the San Diego fairy shrimp (*Branchinecta sandiegoensis*), a federally Endangered species.”

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

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

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

Section 30240 states:

(a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.

(b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.

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

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

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

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

Such an alternative, with development located only on existing paved areas within the project would help to preserve the maximum open space consistent with the Newport Beach General Plan preferred alternative for Banning Ranch as open space. The proposed Newport Banning Ranch is not consistent with the preferred alternative of open space within the General Plan, and instead, does major damage to the existing open space values that includes habitat for sensitive species such as the Burrowing Owl, the Cactus Wren, and the Coastal California Gnatcatcher.

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

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

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

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

The EIR should document the declining populations of the burrowing owl in the local and regional context and analyze the Banning Ranch habitat for support of this dwindling species in Orange County. The mesas have numerous burrows from ground squirrel activity that are used for habitat by the burrowing owl. This habitat will become more and more valuable as comparable habitat disappears under development pressure in Orange County. A burrowing owl survey and mitigation plan consistent

with the “Burrowing Owl Survey Protocol and Mitigation Guidelines” prepared by the California Burrowing Owl Consortium, dated 1993 and the “Staff Report on Burrowing Owl Mitigation” prepared by the California Department of Fish and Game, Environmental Services Division, dated September 25, 1995 should be included in the EIR.

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

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

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

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

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

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

The extent and costs of cleanup of the contamination from oil operations should be clearly analyzed in the EIR. The difference between cleanup standards for natural open space wildlife habitat purposes as compared to human habitation in the form of houses, hotels, and retail operations should be stated in the EIR, as feasibility of preservation or development will be heavily impacted by cleanup costs. As far as wildlife habitat is concerned, it appears that if oil wells are properly capped and abandoned, then much

of the property will naturally revegetate without much active restoration. This would include all of the dirt roads and currently scraped off oil well pads on the mesas.

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

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

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

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

There are many patches of mule fat plants scattered throughout the proposed development areas on the mesas that will qualify for wetlands under the Coastal Act that ought to be acknowledged and preserved in the EIR. Since there is no irrigation on the mesas, the water needed for these wetlands indicators may come from seeps, hence the name for mule fat as “seep willows”.

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

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

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

which is patently absurd if alteration of natural landforms is to be minimized. All proposed cut and fill areas should be accurately sized and mapped in the EIR.

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

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

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

Thanks again for the opportunity to comment on the NOP.

Please include me on any notices involving this project.

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

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

Sincerely,

Jan D. Vandersloot, M.D.

Jan D. Vandersloot, M.D.

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From: Linda Vas [auzwombat@hotmail.com]

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

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

Subject: Re: EIR

Dear Ms Linn,

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

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

From: Terry Welsh [terrymwelsh@hotmail.com]

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

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

Subject: NOP comments

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

NOP Comments for Newport Banning Ranch Project:

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

ALL of the above mentioned groups and individuals are satisfied that proper steps have been taken to catalogue, relocate, or, if necessary, leave alone and re-plan the project.

11. A few more thoughts on Native American artifacts.....

The site is known to include cultural resources. About 10 years ago, archaeologists with The Keith Companies conducted archival research and a field survey. Based on records and surface evidence (i.e. artifacts on the surface) they identified a number of prehistoric and historical archaeological deposits. The depth, horizontal extent and full contents of these deposits are as yet undetermined. Human remains may be present.

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

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

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

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

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

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

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

Thank you

Terry Welsh

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

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

This plan would
Be A
DISASTER for
Newport Beach

COMMENT SHEET

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

RECEIVED BY
APR 08, 2009

(PLEASE PRINT)

NAME SHARON Wright EMAIL SharonDwright@earthlink.net

ADDRESS 200 Via Ant. bes #3 Newport Beach CA 92663

REPRESENTING myself

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

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

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

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

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

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

as well as Money. Locally one only needs to look as far as The Great Park - 1/2 Regional Airport \$100,000,000 - Spend all money