

CALIFORNIA COASTAL COMMISSION

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original staff report

W14d**ADDENDUM**

DATE: September 2, 2016
TO: Coastal Commissioners and Interested Parties
FROM: South Coast District Staff

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SUBJECT: **ADDENDUM TO ITEM W14d, APPLICATION NO. 5-15-2097 (Newport Banning Ranch, LLC) FOR THE COMMISSION MEETING OF WEDNESDAY, September 7, 2016.**

A. CHANGES TO THE STAFF REPORT

Commission staff recommends the following modification to the FINDINGS and SPECIAL CONDITIONS of the staff report and additional EXHIBITS. Language to be deleted from the staff report is identified by ~~strike-out~~ and language to be added is identified by **bold and underline**.

FINDINGS-

Page 6, in the summary:

In addition, the Commission must make findings that the approved project would be consistent with CEQA, specifically including a finding that the project approved is the least environmentally damaging **feasible** alternative. The proposed project is not the least environmentally damaging **feasible** alternative.

Page 17, project description:

On the southern Mesa the applicant proposes to construct an 11.9 acre mixed use colony which would include visitor serving commercial, a 75 room hotel with **approximately 43** residential units above, and a 20 bed lower- cost hostel, and a complex of 244 residential units with partial subterranean parking with access taken off Bluff Road from PCH.

Page 26:

While Commission staff is still reviewing this revised site plan and working with NBR to understand the proposed use of each area, based on previous versions, primary use areas are expected to be divided between **duplicate replicate** soil borrow/placement sites, soil stockpile or "clean soil flip" sites, concrete processing sites, equipment and material salvage areas, bioremediation areas and staging/stockpiling areas.

Page 38, correct the following paragraph:

Although the Commission is not limited to designated critical habitats when defining ESHA, the Commission can rely on critical habitat designations as one of the components supporting an ESHA determination. As detailed below, the Commission finds that portions of the proposed project area that are ~~currently or have previously been~~ specifically designated as critical habitat by the U.S. Fish and Wildlife Service (FWS) due to the recognized and established presence of federally listed threatened or endangered species and/or the importance of these areas to the conservation of threatened or endangered species and that contain the Primary Constituent Elements of gnatcatcher habitat in the form of coastal sage scrub and associated non-sage scrub habitats contained within the areas designated as coastal California gnatcatcher occupied areas by Drs. Dixon and Engel in their April 28, 2016 memorandum qualify as environmentally sensitive habitat areas, ESHAs. The primary constituent elements (**PCE**) for coastal California gnatcatchers are (1) coastal sage scrub habitats that provide space for individual and population growth, normal behavior, breeding, reproduction, nesting, dispersal and foraging; and (2) *non-sage scrub habitats such as chaparral, grassland, and riparian areas, in proximity to sage scrub habitats as described for PCE (1) above that provide space for dispersal, foraging, and nesting.*

Page 40, add the following:

Both plant communities persist on the NBR site, often found together, mainly along the coastal bluff faces and coastal and canyon bluff tops and they perform important functions by serving as habitat for special status species, **specifically Gnatcatchers.**

Page 41, add to last paragraph on the page under *Raptor Foraging Habitat*:

Both native and non-native grasslands provide important foraging opportunities for both Burrowing Owls and other raptors present on the NBR site. Much of the Mesa of the site is composed of both native and non-native grasses, and while it is used for foraging, delineating a particular, contiguous use area is difficult. While the grasslands that support Burrowing Owl foraging are identified as ESHA, the raptor grassland foraging areas of the site have not been delineated as ESHA, **because burrowing owl are a listed species and the raptors that forage in the grasslands are not listed species.** However, the native and non-native grasslands that serve **burrowing owl, for the most part, also serve raptors. If native and non-native grasslands** that serve raptor foraging **outside of the burrowing owl foraging areas** are disturbed as part of the soil-clean up or development project, they do require mitigation **and are to be replaced by native grasses,** pursuant to the Habitat Management Plan **Special Condition 14.**

Page 42, add at the end of the first paragraph under the heading “*Vernal Pools*”:

Approximately 0.16 acres of impacts to the Vernal Pool watershed would result from the proposed Urban Colony and North Family Village plan and an additional 0.1 acre of impact would result from the proposed Bluff Road. **The applicant’s representation that all impacts to ESHA as designated by Commission staff are avoided with the proposed development is incorrect. As noted, the proposed grading would result in some direct impact to ESHA and indirect impacts would also occur due to a reduced or no buffer. As revised through the conditions of approval, all impacts to ESHA would be avoided and adequate buffers to protect the ESHA provided.**

Page 42, add to the last paragraph:

Approximately 0.1 acre of riparian habitat would be permanently impacted by the development of the Bluff Road bridge over the Main Arroyo due to grading and construction of bridge

supports. The applicant's representation that all impacts to ESHA as designated by Commission staff are avoided with the proposed development is incorrect. As noted, the proposed grading would result in some direct impact to ESHA and indirect impacts would also occur due to a reduced or no buffer. As revised through the conditions of approval, all impacts to ESHA would be avoided and adequate buffers to protect the ESHA provided.

Page 43 insert the text below following the 2nd paragraph in the subsection titled "*Burrowing Owl Habitat*"

In consideration of the need to address the adequacy of foraging habitat for the burrowing owl, Commission staff sought input from the California Dept. of Fish and Wildlife (CDFW) through a letter dated August 15, 2016 and the Dept. replied in a letter dated August 25, 2016. (Exhibit 13c). In response to staff's request to CDFW, the applicant submitted a letter dated August 19, 2016 to Ed Pert, Regional Manager, California Department of Fish and Wildlife, regarding protection and conservation of the burrowing owl at Newport Banning Ranch, from Michael A. Mohler, Newport Banning Ranch LLC. As detailed below, all of the information included in the applicant's letter and attachments had been reviewed by Commission staff and considered as a basis for the staff's ESHA determination regarding foraging habitat for the burrowing owl. In addition, staff acknowledged the input received from Dr. Bloom and transmitted that information to CDFW.

In an email with attachments to Commissioners sent September 1, 2016, the applicant asserts that the applicant's technical analyses have been omitted by staff from the current staff report, while the opinions of other experts opposed to the project have been included. This is an incorrect characterization and minimization of the degree of evaluation Commission staff has given to the volumes of technical information provided by the applicant and interested parties for this project. Although the response from CDFW suggests the burrowing owl impact assessment that has occurred since 2008 may be incomplete, the Commission finds there is sufficient data and analysis provided by the applicant and others, to determine the contiguous non-native and native grasslands on the southern mesa should be retained as open space to provide foraging habitat for the burrowing owl on the subject site.

As stated, all the documents attached to the Mohler letter to Pert and the email to Commissioners were considered and are summarized and/or referenced in the ecologist's ESHA memo attached as Exhibit 13a to the staff report or in the staff report findings. This information was used by staff to make its independent determination regarding the extent of foraging habitat for the burrowing owl that should be protected within the habitat management plan for this property. It is not possible, nor is it Commission practice, to attach every submitted technical report to the staff report.

In a letter dated August 19, 2016 to Pert, regarding protection and conservation of the burrowing owl at Newport Banning Ranch, the applicant asserts the following points in italicized text below:

- *NBR has dedicated significant time and resources in response to prior CCC Staff inquiries relative to fully studying, documenting and identifying burrowing owl use of*

the site, along with identifying appropriate project design elements and mitigation measures, including substantial habitat conservation and restoration, to avoid potentially significant impacts to the species. Throughout the CCC review process, our biological team has reviewed and considered the direction contained in the CDFW 2008 Guidance for Burrowing Owl Conservation and the 2012 Staff Report on Burrowing Owl Mitigation as these guidelines may apply to wintering burrowing owl.

The information previously submitted by the applicant and used as a basis for staff's ESHA determination includes three complete burrowing owl survey reports for work done by their biological consultants in winter 2009 and 2014 and spring 2012. In addition, information on burrowing owl winter and spring surveys conducted by their biological consultants in 2008 and 2010 is reported in the project EIR. Their biological consultants also conducted detailed vegetation mapping of the site. These surveys and the vegetation mapping, contributed to the Commission ecologists decision to revise their burrowing owl ESHA burrow determination, along with review of comment letters from avian biologists, the peer-reviewed literature on burrowing owls, burrowing owl sightings on Banning Ranch made by the public every year between December and March from 2011 to 2016, the California Department of Fish and Wildlife's (CDFW) 2008 and 2012 burrowing owl conservation and mitigation guidelines, and other burrowing owl reports.

The Commission's staff ecologist is recommending that the Commission protect burrowing owl foraging habitat in accordance with the best available science and wildlife agency guidelines. This would be accomplished by addressing the need for a large, contiguous area of grassland which is the key habitat element missing from the acreage that would be left over to function as foraging habitat outside of the development footprint proposed by the applicant. A close review of the mitigation measure (MM 4.6-2) for this impact included in the EIR for burrowing owl indicates that it would also not provide adequate protection. This measure relies on the preservation and restoration of grassland areas lost as a result of the development and calls for the application of a 0.7:1 mitigation ratio for such areas. Under the larger project considered in the EIR, this would result in about 70 acres of grassland – 50 acres of restored native grasslands and 20 acres of preserved non-native grasslands. Although this would be a substantial area, the mitigation measure allows it to be comprised of areas within fuel modification zones (areas located in close proximity to development and subject to disturbance); alkali meadows in the lowlands (habitat that is not ideal foraging habitat for burrowing owl); as well as areas not located on the Banning Ranch site.

Therefore, to avoid extirpation of the burrowing owl from the site, the staff ecologist concludes it is necessary to apply the best available science and designate for protection the 64 acres of large, contiguous grasslands that are currently available for burrowing owl foraging and have many years of documented burrowing owl use.

- NBR completed the mapping efforts and documented a marked decline in PNGG on the site such that much of the PNGG initially mapped in 2012 and 2013 no longer met the CCC's minimum 10% cover threshold for mapping PNGG as a vegetation community. It is our understanding that CCC staff concurs with the mapping methods and results of these additional studies. Attached is a mark-up of the vegetation map provided by CCC Staff in their August 15, 2016 letter with areas of remaining PNGG circled in [sic] red. Our biological team has advised that the most likely contributing factors to the decline in native PNGG are current drought

conditions, increased herbivory by rabbits, an increase in Russian thistle (*Salsola sp: tumbleweed*) and cessation of annual vegetation mowing conducted by the oil field operator which likely controlled invasive plant species (e.g. Russian thistle) from spreading and affecting the health and composition of PNGG.

The Commission ecologists agree with NBR that there has been a significant decrease in the percent cover of purple needlegrass on Banning Ranch due to the extended drought, excessive grazing, and drought facilitated invasion by Russian thistle. The Commission ecologists do not agree that annual vegetation mowing likely controlled invasive species from spreading and affecting the health and composition of PNGG. Rather Commission ecologists believe that the annual mowing on Banning Ranch has greatly contributed to the presence of many non-native and invasive species. The invasion of the grasslands on the site by Russian thistle is a response to the drought; Russian thistle is remarkably adapted to drought conditions and has been observed throughout disturbed areas in coastal Orange County (pers. comm, Christine Medak, USFWS, Marc 2016).

However, on this site, the decrease in the percent cover of purple needlegrass does not translate into a loss of suitable burrowing owl burrow and foraging habitat. According to the 2012 CDFW Staff Report on Burrowing Owl Mitigation “Burrowing owl habitat generally includes, but is not limited to, short or sparse vegetation (at least at some time of year), presence of burrows, burrow surrogates or presence of fossorial mammal dens, well-drained soils, and abundant and available prey.”

The 2008 CDFW Guidance for Burrowing Owl Conservation provides the following definition of burrowing owl habitat:

“Burrowing owl habitat can be found in annual and perennial grasslands, deserts, and scrublands characterized by low-growing vegetation (Zarn 1974). Suitable owl habitat may also include trees and shrubs if the canopy covers less than 30 percent of the ground surface. Burrows are the essential component of burrowing owl habitat: both natural and artificial burrows provide protection, shelter, and nests for burrowing owls (Henny and Blus 1981). Burrowing owls typically use burrows made by fossorial mammals, such as ground squirrels or badgers, but also may use man-made structures, such as cement culverts; cement, asphalt, or wood debris piles; or openings beneath cement or asphalt pavement.”

The burrowing owl burrow and foraging habitat on Banning Ranch consists of ground squirrel burrows within native (purple needlegrass grassland, salt grass flats) and non-native (European annual grasses) grassland, grassland interspersed with native and non-native shrubs, and ruderal and disturbed areas. While the purple needlegrass cover has decreased, non-native grasses and weeds have increased. This change in the character of the habitat does not impact burrowing owl prey and therefore does not decrease the value of the habitat for burrowing owl foraging.

- We believe that accurately depicting current site conditions, along with observed trends in vegetation community changes that have been documented onsite since 2012, provides important context for assessing potential project impacts and benefits to burrowing owls, given that long-term protection and maintenance of open grassland areas is fundamental to sustaining annual burrowing owl use of the site. In the case of

NBR, with the observed decline in native PNGG onsite, spread of invasive plant species (most notably Russian thistle), and transition of previously open grassland habitat to scrub vegetation (a monoculture of Encelia) since 2012, it is possible that much of the existing burrowing owl habitat onsite is currently transitioning to less suitable or unsuitable habitat types, irrespective of whether or not the proposed project moves forward.

Grassland and scrub habitats naturally fluctuate in cover and extent and level of admixture through time in response to natural disturbances such as drought, fire, and grazing interspersed by periods of calm. Human impacts such as invasive species, vegetation clearance, and fire suppression clearly influence the nature of landscapes. Coastal mesas are typically characterized by coastal prairie and scrub habitats. Scrub habitats tend to dominate bluffs and slopes while coastal mesas tend to be dominated by grassland partially in response to the underlying soils. Review of historical aerial photographs of Banning Ranch show that the relatively flat areas on the upper mesas consistently support grassland habitat while the slopes and edges of the slopes support the majority of the scrub habitat. Through the years the percent cover of these habitats do increase and decrease but this general pattern is consistent through time. The Commission ecologists believe that while the various habitats will invariably change through time with natural and human induced disturbance, the general pattern of the flat mesas on Banning Ranch supporting grassland habitat will continue going forward.

- Currently, the NBR property contains approximately 52 acres of native and non-native grasslands and 47 acres of disturbed/ruderal areas, most of which (but not all) is located on the mesa where wintering burrowing owls have been observed. As illustrated on the vegetation map, much of the grasslands and ruderal areas are isolated and interspersed among active oil field facilities including roads, oil well pads, structures, parking, staging and stockpile areas. Despite the presence of suitable habitat, there have been a number of years since 2001 where burrowing owls have not been observed onsite.

The 52 acres of native and non-native grasslands and 47 acres of disturbed/ruderal areas with scattered ground squirrel burrows on the upper mesa on Banning Ranch is exactly the type of habitat suitable for burrowing owls. The fact that the grassland is spread about in patches interspersed with ruderal/disturbed areas is irrelevant. The important thing is that these areas are rich in burrowing owl prey such as insects, reptiles, small mammals, and birds. Additionally, the largest area of burrowing owl foraging habitat we have identified is in the southern part of the mesa – an area that has not supported any active oil production operations, wells, or infrastructure for several decades. Existing use patterns in this portion of the site are very limited and it was specifically selected because it contains both the appropriate habitat for burrowing owl foraging and very limited amounts of human disturbance.

We are unaware of any burrowing owl surveys occurring between 2001 and 2007. However, one or more over-wintering burrowing owls have been observed by the applicant's biological consultants every year surveys have been conducted; 2008, 2009, 2010, and 2014. Furthermore, from the property boundary, the general public has observed burrowing owls on the site every year from 2011 through 2016. The 2012 CDFW Staff Report on Burrowing Owl Mitigation states the following regarding occupied burrowing owl habitat:

“Burrowing owls may use a site for breeding, wintering, foraging, and/or migration stopovers. Occupancy of suitable burrowing owl habitat can be verified at a site by an observation of at least one burrowing owl, or, alternatively, its molted feathers, cast pellets, prey remains, eggshell fragments, or excrement at or near a burrow entrance. Burrowing owls exhibit high site fidelity, reusing burrows year after year (Rich 1984, Feeney 1992). A site should be assumed occupied if at least one burrowing owl has been observed occupying a burrow there within the last three years (Rich 1984).” [emphasis added]

Following this guidance and considering the recent multi-year record of burrowing owls documented on the site, it should be considered an occupied site.

- *The preserved and enhance burrowing owl habitat onsite, combined with suitable habitat on other preserved open space areas immediately adjacent to the site are expected to provide adequate foraging habitat to support continued use of the site by the species.*

The Commission ecologists do not agree that the applicant’s proposal for preservation and enhancement of owl habitat on and offsite will result in the survival and persistence of burrowing owls on Banning Ranch for the reasons detailed above as well as the following:

- A. The applicant’s proposed burrowing owl mitigation consists of small fragmented patches of grassland habitat that would be immediately adjacent to development. As discussed above and detailed in the CDFW’s 2008 and 2012 burrowing owl conservation and mitigation documents, burrowing owls are very susceptible to disturbance and need large contiguous areas of suitable burrow and foraging habitat.
- B. Burrowing owls exhibit burrow site fidelity – they return to burrows they have used in the past breeding and over- wintering seasons. Disturbance or destruction of occupied burrow sites could cause burrowing owls to leave the area.
- C. Re-location of owls has not been successful so preserving occupied burrows in place is important.
- D. Despite NBR’s suggestion that “other preserved open space areas immediately adjacent to the site” would provide adequate foraging areas and support the site’s continued use by burrowing owls, it is not clear what areas NBR may be referring to. Other than the grasslands located on the site’s mesa, there are no other large, open burrow habitat and foraging areas shown to be suitable to burrowing owls immediately adjacent to the areas of the site that have been shown to support burrowing owls. While NBR may be referring to Talbert Park, the Commission ecologists are not aware of any documented use at that site and it is nearly a mile away from the nearest observed burrowing owl use site on the Banning Ranch site. Accessing Talbert Park from the documented burrow areas on Banning Ranch would involve passing over the proposed Urban Colony development area and an additional half-mile of unsuitable foraging habitat. While possible, it is unlikely that burrowing owls would remain on the Banning Ranch site if the open space at Talbert Park was the nearest available area with suitable foraging conditions. Further, Talbert Park is located adjacent to Fairview Park, an area where a burrowing owl has been observed that may be foraging at Talbert Park already.

Given the large area requirements of foraging burrowing owls, Talbert Park may not be able to support any additional influx of foraging burrowing owl.

Page 47:

As conditioned, a minimum of 50 foot buffers around sensitive vegetation and 100-164 foot buffers around sensitive wildlife habitat and wetlands with no vegetation maintenance activities in the buffers is required, **for the reasons explained in the ESHA memo. attached as Exhibit 13a.**

The applicant provided some information that asserts that the Commission has not applied consistent buffers in the past and cites several instances of varying buffer widths. The projects cited by the applicant were very different from the Banning Ranch site in various ways, and therefore were assigned buffers based on specific site characteristics.

For example, various buffer widths were assigned to habitat in the North Coast Corridor in San Diego involving the replacement/expansion of major infrastructure facilities including highway (I-5) and rail (LOSSAN). In this instance, the existing transportation corridors were, in some cases, already located directly adjacent to ESHA and wetlands and therefore, the buffers were based on the existing space available between the existing infrastructure and the habitat. The existing transportation corridors could not be relocated to an alternative location that would allow for an increased buffer.

Another example cited is the CDP 5-03-355 (Boeing) in Seal Beach, which imposed a reduced buffer of 25 feet around the unnatural features, for the following reasons: Typically, the Commission imposes buffers of 100 feet from the edge of habitat areas. However, in this case, the 25 foot buffer is expected to be effective because the wildlife usage on the site is limited to common avifauna, such as black phoebe, American crow, mourning dove, killdeer, and house finch which are adapted to the urban setting. Also, the limited amount of existing wetland is a mix of native and non-native herbaceous species that exhibit very limited habitat value. The ditches are not natural and were created as drainage conveyance devices. The existing habitat value is marginal and the proposed disturbance is minimal. The proposed CHCP will enhance the existing marginal on-site habitat areas. For these reasons, the Commission finds that, in this case, the proposed reduced buffers will be effective.

Part of the project site included the Los Alamitos Retarding Basin (LARB), for which the Commission imposed a larger setback from the development (a parking lot) ranging from 80 feet to 170 feet, with an average distance of 115 feet. Also, in this case, all habitat on-site was protected in place and expanded.

The differences between the habitat found around the ditches and the habitat found on the NBR site are vast, being mainly that the extent and significance of the habitat present is far greater and far more easily disturbed on the NBR site.

The applicant also cites the Marblehead project in San Clemente as having a ‘minimum 50’ buffer’. It's important to note that the conditions of approval on CDP 5-03-013 which authorized the Marblehead development require 100 foot buffers for wetlands and terrestrial ESHA as the standard rule, with certain selected exceptions made for reduced buffers.

Another buffer cited by the applicants was the City of Newport Beach LUP. The LUP requires a *minimum* 50 foot buffer, to be determined on a case-by-case basis, which is exactly what was done for this project.

Banning Ranch, compared to these other projects, is a blank slate and one of the last remaining large (401 acres), undeveloped properties susceptible to development in Newport Beach and along the coast of southern California. Although the property is located in Orange County and surrounded by an urban metropolis, it is actually quite isolated and protected from the surrounding development and disturbances because it is bordered on three sides by the Talbert Nature Preserve, the Santa Ana River and the ACOE wetlands, and in close proximity to the Pacific Ocean. The property is topographically and biologically diverse consisting of a low wetland area surrounded by coastal bluffs and canyons that rise to an upper mesa that is relatively flat except for several large arroyos that in total support a rich array of habitats and species, many of which are rare.

The Newport Beach LUP includes a 50 foot *minimum* buffer policy for sensitive habitats and species. Staff ecologists have taken this into consideration and have concluded that 50 foot buffers is not protective enough for the rare listed animals and their habitats on the site given the current setting, status of the site as critical habitat, and the nature of the proposed development. The reason these animals and habitats presently occur on Banning Ranch is because it is currently undeveloped and relatively free from disturbance. The staff ecologists have recommended buffers that are the absolute minimum to protect the rare animals and their habitats from the various types of disturbance that will result from the proposed development including noise, artificial lighting, domestic animals, traffic, invasive species, and herbicides and pesticides, to name a few.

Finally, the applicant asserted that staff has relied solely on information provided by the public and has disregarded information provided by the applicant in the determination of burrowing owl foraging ESHA. The Commission is legally required to review relevant technical information, and the Coastal Act provides for just such analysis based on all current available information. Commission staff reviewed the information provided by the public and professional biologists that suggested that the grasslands should be considered ESHA for owl foraging and buffers. However, the determination was not made without support from the data provided by the applicant in the form of multiple burrowing owl surveys and vegetation grassland surveys. The applicant ultimately provided the information upon which the determination was made, as explained above.

To ignore important scientific information, as well as general public comments and consensus, made available to staff would both violate the Coastal Act, and undercut the crucial and legal significance of public involvement in decisions made under the Coastal Act. Further, failure to address known information would expose the Commission to potential legal action.

Page 49:

The defensible space is a 60 foot setback between the ESHA buffer and the first habitable structure. As conditioned, the proposal must include a minimum of 60 feet of defensible space within the development footprint. With 60 feet of defensible space, and a 10 foot wide trail, there would be 70 feet of appropriate fire safety that could be divided into fuel modification zones. If in the event the Fire Department determines that 100 feet of clearance is necessary, then the

ESHA buffers would be intact and would still adequately protect the adjacent ESHA. Only as conditioned can the project be found consistent with Section 30240.

The applicant has argued that the project, as conditioned for a 60-foot defensible space setback, does not leave adequate room for development. It is misleading to say that the defensible space is not part of the development footprint, because this space can include many forms of development that are proposed and necessary for the project, such as: trails, roads, landscaping (fire resistant), hardscape, front and back yards, etc.

For example, the proposed project includes tennis courts (hardscape) at the northern-most point of the 8.8 acre area (Urban Colony), which would be considered an appropriate “fire safe” use in the defensible space (Exhibit 23). In this instance, the conditioned 60 foot setback would require no change the proposed plans. Another example is the narrow development footprint between the 8.8 acre area (Urban Colony) and the 1.8 acre area (North Family Village). This is the only logical place for a road to be situated to connect the two residential developments. It is part of the defensible space which can include roads and hardscape, and therefore requires no change to the applicant’s proposal. Several elements of the development appropriate for the defensible space are already elements of the proposed project, and therefore, imposing the 60 foot setback does not, in actuality, reduce the buildable footprint.

The area of the buildable footprint that is not subject to the 60 foot definable space setback is area that is suitable for habitable development, which would include houses and habitable structures. Within the 19.7 acres buildable footprint, there is 11 acres of area suitable for residential, habitable structures and 8.6 acres suitable for roads, trails, hardscape, driveways, front and back yards, etc.

As required by Special Condition 1, the applicant would submit revised plans for a revised site plan that can include alternative plans for the Urban Colony and North Family Village that maximize the area of habitable development by utilizing the defensible space for elements described above.

In some instances, reduced **modified** buffers may be acceptable to accommodate access to developable space where they can be designed to provide adequate protection of the resource. There are some locations on the subject site where the potential buffer is currently a road or disturbed area and development of such areas can include other measures to buffer the impact and allow a reduced buffer.

Between wetlands C and CC there is a small area “pinch-point” immediately northwest of pool CC that is currently a dirt road and that would require a buffer adjustment to merge the two wetland buffers together and allow a road immediately northwest of pool CC to access the 2.9 ac. of potential development area within North Village, as described more specifically in the findings below addressing Wetlands and Marine Quality. The development space in the buildable footprint immediately northwest of pool CC is approximately 50 feet wide. To minimize disturbance of resources, all road **right-of-ways** within the development including roads within habitat buffers, are conditioned to be no more than 50 feet wide, one lane of traffic in each direction, with on-street parking lanes on each side of the street. Bikelanes and sidewalks can only be constructed in areas where there is sufficient space in the identified buildable

footprint. Areas within the buildable footprints around wetlands C and CC, and between the Urban Colony and North Family Village, have narrow development footprints which may not be wide enough to accommodate on-street bike lanes and parallel sidewalks. In these cases pedestrian and multi-use trails can be designed to serve as alternatives to sidewalks and bike lanes where none can be provided within the buildable footprint.

Page 52, prior to the paragraph that starts to describe Special Condition 14:

The applicant has proposed, through the tentative tract map dated August 12, 2016 (TTM)(Exhibit 9) and a Habitat Management Plan, to protect and restore 324 acres of land as open space. These lands are identified on the TTM as “lettered” lots for ‘open space/conservation’ as opposed to the “numbered” lots and public streets that are planned for residential and commercial development. With conditions, the proposal can be found consistent with Sections 30233, 30240, and 30250 among others because it would result in the long term protection and enhancement of wetlands and ESHA. Special Condition 10 specifies that the proposed conservation areas are to be offered for dedication, in fee title as an easement, for habitat conservation and restoration purposes. Special Condition 10 also outlines the types of uses and development that are authorized at this time and those that may occur through a future Commission authorization.

The proposed open space conservation areas (OSCA) are spread across the site and include significant portions of the existing wetlands and ESHA that require protection. However, as noted on Exhibit 5 and 6, there are habitat areas that would not be protected by the proposed plan. The special conditions imposed through this action include limiting residential and commercial development on the site to the Urban Colony and North Family Village only and within the ‘buildable footprint outside of constraints’ identified on Exhibit 5, 6 and others. This would create an area of unprotected habitat and buffers adjacent to the approved development that are not within the proposed lettered lots. Thus Special Condition 10 includes a requirement that the OSCA be expanded to incorporate these lands adjacent to the ‘buildable footprint’, minus the 10 foot wide area at the edge of the buffer that would be used for a public trail that would be covered by the requirements of Special Condition 11 (Trails Within the Open Space/Conservation Area).

As described and depicted in Exhibits 6, 13a and 13b there is ESHA along the easterly and southerly portions of the site that would be impacted by the applicants proposed residential and commercial development plan (in the South Village, Mixed use Resort Colony and active parks). The conditions imposed through this action would not allow the proposed development to proceed at this time in those areas in order to protect ESHA. Since these areas were proposed for development, they are not within the proposed OSCA. Thus, one option would be to apply the requirements of Special Condition 10 to these areas. Doing so, however, would largely foreclose future consideration of potentially compatible uses in the areas that are not constrained by the presence of ESHA, wetlands, buffers, and archeological resources. Future uses in these areas should be considered in the context of an LCP planning effort. Thus, Special Condition 25b (Future Development) imposes a deed restriction over these areas stating that no development, as defined in Section 30106 of the Coastal Act, including but not limited to, alteration of landforms, removal of native vegetation or the erection of structures of any type, shall occur unless approved by this Commission as an amendment to this permit. Exhibit 22 (Open Space Conservation Area & Future Development Deed Restriction) graphically portrays the areas that would be subject to the requirements of Special Condition 10 versus Special Condition 25b.

The area to which Special Condition 10 applies does not include lettered lots F, Q and N on the TTM. The areas of lots F and Q were intended by the applicant for water quality improvement structures. However, given the reduction in development area authorized through this action, it's unclear whether these water quality improvement areas remain necessary for that purpose. In addition, there is ESHA present in these areas that would need to be considered. The area of Lot N is adjacent to the City of Newport Beach's Sunset Ridge Park (CDP 5-11-302) and has been identified by the City as one potential location for a park access road. Based on the location of ESHA present at this time and buffers (Exhibit 5a/b), such a road might be possible but would need further study. Given uncertainty about uses and the potential for compatible development in the areas of Lots F, Q and N, Special Condition 25b is applied to these areas.

Page 67:

Title 14 California Code of Regulations ("CCR") section 13577(b) defines "wetlands":

~~*Wetlands shall be defined as land where the water table is at, near or above the land surface long enough to promote the formation for hydric soils or to support the growth of hydrophytes.*~~

Measure 100 feet landward from the upland limit of the wetland. Wetland shall be defined as land where the water table is at, near, or above the land surface long enough to promote the formation of hydric soils or to support the growth of hydrophytes, and shall also include those types of wetlands where vegetation is lacking and soil is poorly developed or absent as a result of frequent and drastic fluctuations of surface water levels, wave action, water flow, turbidity or high concentrations of salts or other substances in the substrate. Such wetlands can be recognized by the presence of surface water or saturated substrate at some time during each year and their location within, or adjacent to, vegetated wetlands or deep-water habitats. For purposes of this section, the upland limit of a wetland shall be defined as:

(A) the boundary between land with predominantly hydrophytic cover and land with predominantly mesophytic or xerophytic cover;

(B) the boundary between soil that is predominantly hydric and soil that is predominantly nonhydric; or

(C) in the case of wetlands without vegetation or soils, the boundary between land that is flooded or saturated at some time during years of normal precipitation, and land that is not.

Page 78:

Off-site Runoff Treatment...

The system would provide an expected reduction in annual pollutant loads and annual pollutant concentrations. In addition the treatment of flows, the basin will also serve as a dissipation feature to control flows into the Main Arroyo. Controlling flows into the Arroyo will serve to reduce erosion potential within the Arroyo, reduce sediment transport to the Semeniuk Slough and improve habitat establishment along the bank. **The Basin would impact 0.75 acre of burrowing owl foraging grassland ESHA and the dissipater would impact riparian habitat. These features would improve the overall water quality of the water in the arroyo and would have a positive impact on the habitat if they were not located directly in the habitat. As conditioned by Special Condition 23, the final location of this Basin and associated dissipaters in the Main Arroyo shall be outside of site constraints consistent with Special**

Condition 1, and could be located in habitat buffers. If an alternative location for these features cannot be identified outside of the habitat constraints prior to permit issuance, the applicant could apply for a subsequent CDP or amendment to this permit to find a suitable location for these features without impacting habitat, or a construction design of these features that is consistent with the continuance of the habitat near which it is located.

Page 81:

Flood Hazards

The project site is partially within the floodplain of the Santa Ana River. However, the development, as conditioned, would be limited to the Mesa, which lies well above the floodplain, it would be safe from flood hazards. The project site also is partially within the Tsunami inundation zone, according to California Department of Conservation's official tsunami inundation maps (**Exhibit 24**).

Page 89:

Section 106

Because at least 3 archeological sites are eligible for listing on the National Register, SHPO will get involved in evaluation of the resources and to consult with local tribes when Section 106 Consultation¹ is required concurrently with Federal approvals, in this case, the Section 404 permit from the US Army Corps of Engineers (Army Corps).

In the case of Banning Ranch, **SHPO-Section 106** will require Army Corps to consult with the non-federally recognized tribes of the region, if they request it.

Page 90:

Section 106 regulations **in the Code of Federal Regulations, Title 36**, section 800.4(c)(1) requires federal agencies to acknowledge the special expertise of Native Americans and their cultural knowledge in assessing the eligibility of historic properties that may be of religious or cultural significance to them.

Page 91-92:

Governor's Order

Executive Order B-10-11 requires that all State Agencies **under Executive Control** engage in Government-to-Government Consultation. The 2011 order states: *it is the policy of this Administration that every state agency and department subject to my executive control shall encourage communication and consultation with California Indian Tribes.*

Executive Order B-10-11 ~~requires~~ **encourages** state agencies to: engage in the timely and active process of respectfully seeking, discussing and considering the views of California Indian Tribes, Tribal communities and Consortia in an effort to resolve concerns of as many parties as possible.

~~As required by~~ **Consistent with the intent of** the governor's order, staff has met with representatives of all the Native Nations on several occasions as a group, as well as separately, and with various tribal entities in an attempt to address the concerns expressed. While there is some disagreement among the parties, there is mostly a consensus that the land is a religious and sacred site and that the significance of the 401 acres is not diminished by the disturbed archaeological deposits found to date and the disturbed areas are not a representation of the archaeological and cultural resources and significance that exist on the site. Staff has attempted to

¹ **Section 106 of the National Historic Preservation Act is codified at 16 U.S.C. § 470f.**

address the concerns to the maximum extent feasible through the conditions of approval, discussed in detail below.

Page 93:

In past Court decisions (*Environmental Protection Information Center, Inc. v. Johnson (1985)* 170 Cal App 3rd 604), the Court held that the NAHC has jurisdiction and special expertise, as a state agency, over affected Native American resources impacted by proposed projects, including archeological places of religious significance to Native Americans, and to Native American burial sites.

All of the sites were found on the Western Newport Mesa, where Banning Ranch is located today. Because of this, Native Americans and some professional archeologists (see Appendix E) believe that the Banning Ranch site is another village site that has connections to the larger village of Genga.

Page 96:

When archeological documents were finally released to local tribal groups in June 2016, there were many concerns noted with the lack of adequate testing to date **and the undetermined impacts of the project upon known and unknown resources.**

Ordinarily, archaeological testing on sites where there are known archaeological resources should be carried out through a permit for the implementation of an ARP. The goal of the ARP is to determine where development can be allowed that will avoid impacts to archaeological resources and that those resources can be preserved in place. **Consistent with past Commission action,** the ARP must be peer reviewed and be subject to review and comment by the State Historic Preservation Officer (SHPO) , Native American Heritage Commission (NAHC) and affected tribal groups. Native American monitor(s) must also be present during implementation of the ARP. The ARP must also include the preparation and submittal of a final report.

Page 97:

Additionally, many Native Americans and professional archaeologists commented that the testing that had been done to date was inadequate to determine if there are additional archaeological sites within the proposed development footprint. Prior to August 2016, there was no investigation within the proposed development footprint, and the ARP did not discuss the potential for finding any more archaeological resources within the development footprint. In past Commission actions, the Commission has not approved a permit for development in locations of known archaeological significance without an ARP that has been peer reviewed and that adequately investigates the potential for additional archaeological resources within the proposed development footprint (**5-05-098/5-05-229 (Hellman Tank Farm).**)

Impacts of Soil Clean Up

Complete avoidance of resources during the clean-up activities is possible and could be achieved by capping or avoidance of known cultural resource locations. In contrast, the applicant proposes to mitigate for any impacts caused to any unknown archeological resources by excavating (data recovery or salvage) the resources and donating them to the Cooper Center in Santa Ana, CA. However, this mitigation option is not most protective of the cultural resources and is not an appropriate treatment method in the opinion of many tribal groups.

Instead of the most protective mitigation measure, i.e. capping or avoidance, the applicant proposes to remove any yet-to-be found resources if impacted by oil clean-up. Capping of the resource site is only proposed as a secondary measure, to prevent further impacts to the site from foot traffic, erosion, etc. Data recovery excavation, again, is proposed for unknown resources as opposed to capping or redesign of the project to avoid the impacts. The applicant's plans do not include capping these resources, including any human burials found during grading.

The applicant's proposal includes mitigation measures which require that a qualified archaeologist monitor the grading and excavation activities and conduct salvage excavation as necessary. Additionally, a Native American representative is proposed to be present onsite during all grading and excavation activities.

As conditioned by [Special Condition 8](#), sampling within 200 feet of all known archeological resources is required and shall be done in the least invasive way possible, to determine if clean-up is required in these areas. **Furthermore, Special Condition 17 establishes further requirements related to protection of cultural resources including but not limited to establishing monitoring procedures that are inclusive of all Native American groups that have an interest in the resources on the site.**

~~The test results have not yet been reviewed, nor have any comments yet been received, and are not reflected in this report.~~ **The August 23, 2016 submittal, "Banning Ranch Archaeological Testing Memorandum", was an executive summary describing the archaeological testing that was carried out on a portion of the project site from August 17 through August 21, 2016. The executive summary is a six page memo and eight additional pages containing a spreadsheet of the excavations and corresponding maps. Commission staff contacted the applicant and requested that the submittal also be shared with the Native American groups identified by NAHC to be culturally tied to the project area for their review and comment, as was required by the Administrative Permit that authorized the testing. No comments have been received to date from the Native American groups to whom the information was sent. Staff also requested the applicant submit the final report noting that the August 23, 2016 submittal was an executive summary.**

On September 1, 2016 the applicant submitted "Banning Ranch Archaeological Testing", a memorandum dated September 1, 2016 with an email stating the submittal constitutes the final report . The six page final report is contains several deficiencies including incomplete and unsupported statements.

The test results show that a portion of the development as proposed by the applicant encroaches into the known archaeological site CA-ORA-148. However, this encroachment is written off as insignificant with a statement that the portion of the archaeological site where the development is proposed was, "found to lack sufficient density, diversity, and integrity to address any research question relevant to the site and/or surrounding region". Despite this statement, CA-ORA-148 is a known archaeological site indicating that it is an area that was used by Native American tribes in prehistoric times. While it may or may not be able to address scientific research questions, this archaeological site as well as the other 7 known sites on the project site nonetheless have value to several Native American tribal groups as a documented traditional cultural use area. The Commission further notes that the entire 401 acre property has been designated by the NAHC as a Traditional Cultural Landscape and all 8 known archaeological sites have the NAHC designation of

Traditional Cultural Properties. The archaeological report fails to acknowledge these NAHC designations but instead discusses whether the known sites can answer unspecified scientific research questions or whether the sites are eligible for listing in the National Register of Historic Places.

Although the stated goal of the testing was to determine the boundaries of six known archaeological sites that are adjacent to the applicant's development footprint or within the oilfield cleanup areas, and the Testing Results Summary (page 1) of the 9/1/16 final report states, "3. Existing known boundaries of Cultural Resources Sites did not change as a result of the testing", the testing that was performed on the project site does not support this determination. Although the report includes maps showing the proposed development footprint and the shovel test pit (STP) excavation locations, the maps do not show the boundaries of the known archaeological sites. From the testing that has been done to date, it is not possible to conclude the proposed development will not encroach into the archaeological sites nearest the proposed development footprints because the boundaries of the site have not been determined. The boundary determination is especially critical where an archaeological site still retains significant midden soils, such as with CA-ORA-843 located west of the proposed North Family Village.

Additionally, the Commission finds that the archaeological testing carried out on the project site does not demonstrate that the project as proposed will not adversely impact known archaeological resources that are outside of the development footprint but that would be impacted by oilfield cleanup activities. Despite the fact that Testing Results Summary 5 states that avoidance measures that have been incorporated into the project design will eliminate impacts to "Historic Properties", no recommended avoidance measures were identified in the report. During the site visit on June 10, 2016 the developer and archaeologist stated they would carry out oilfield cleanup operations in a manner that would lessen or avoid impacts to the archaeological sites that are within the proposed open space areas, such as hand cutting and removal of pipelines and other oil infrastructure, the use of lighter weight mechanical equipment and vehicles where hand work is not feasible, and cap the archaeological sites and/or utilize a sensitive trail design to avoid public access impacts to the archaeological sites. However, none of these measures are contained within the report, or anywhere else in the project proposal, and, thus, for any development approved, such measures must be addressed through conditions of approval.

Finally, the Newport Banning Ranch property is located immediately adjacent to a once highly significant prehistoric Native American village known as "Genga". The archaeological testing that has been done to date has not addressed the extensive archaeological work done by others in the area, evidenced by only 3 references cited in the final report and no mention of the well-known and readily available past archaeological work (including but not limited to SERA, WPA, Paul Apodaca, Hank Koeper, Roger Mason and Nancy Wiley) in the body of the report. As conditioned, Special Condition 17 requires preparation of a revised ARP to address the deficiencies identified above and to consider any comments of the Native American tribal groups with ancestral ties to the area, other archaeologists (peer review) in designing the ARP, as well as any comments from NAHC and SHPO. By doing this, a research plan will be developed and implemented that will determine the location (boundaries) of archaeological/cultural resources on the project site identify project design features and mitigation measures that should be implemented to avoid adverse impacts to any significant intact cultural these resources..

Page 98:

The ARP explains that environmental changes in Newport Bay region are related to an absence of occupation in the early and middle intermediate period (3000-2500 YBP²) during a decrease in sea level converting the saltmarshes to freshwater, which resulted in a decrease in available shellfish (a main food source).

Page 100, last paragraph of the conclusion:

As of now, the site as a whole is not listed with SHPO and has not been deemed eligible for listing. However, additional testing may be necessary and additional review by Federal agencies is required. If the archeological sites are connected and NAHC or SHPO determines that it does constitute a traditional cultural landscape, then as conditioned the applicants are required to apply for a permit amendment to avoid parts of the land that are deemed eligible for listing on SHPO in order to be found consistent with Coastal Act policies. If burials or significant resources are found during grading, applicants are required to leave the burials in-situ and apply for a permit amendment to ~~avoid~~**address** them.

Page 102:

Section 30213 of the Coastal Act states, in part:

Lower cost visitor and recreational facilities shall be protected, encouraged and where feasible, provided. Developments providing public recreational opportunities are preferred.

Section 30214 of the Coastal Act states, in part:

The public access policies of this article shall be implemented in a manner that takes into account the need to regulate the time, place, and manner of public access depending on the facts and circumstances in each case include, but not limited to, the following:

- 1. Topographic and geologic site characteristics.**
- 2. The capacity of the site to sustain use and at what level of intensity.**
- 3. The appropriateness of limiting public access to the right to pass and repass depending on such factors as the fragility of the natural resources in the area and he proximity of the access area to adjacent residential uses...**

Section 30222 off the Coastal Act states:

The use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation shall have priority over private residential, general industrial, or general commercial development, but not over agriculture or coastal-dependent industry.

Page 103:

The approximate square footage per guest room would be 900 sq. ft. and there would be some number of suites, **with approximately 43 residential units above.**

These elements of the proposal are consistent with Sections **30222 and** 30252 above **in that they provide visitor-serving commercial recreational facilities on private lands and they enhance**

² **YBP stands for "Years before Present," a scale of temporal measurement used in Archeology. Because the "present" time changes, standard practice is to use January 1, 1950 as commencement date of the age scale.**

public access to the coast with the proposed shuttle service and provide for the recreational needs to new residents of the proposed residential communities with parks so as to avoid overloading nearby coastal recreation areas. The proposed hostel would be consistent with the above policies and with Section 30213 by providing an overnight lower-cost visitor serving facility. However, the resort, **hostel, retail,** and park would have permanent impacts to purple needle grass, gnatcatcher habitat and Burrowing Owl habitat, and ESHA scrub communities. As discussed in finding for ESHA above, these impacts cannot be found consistent with Section 30240 of the Coastal Act. As proposed, the project is inconsistent with Sections 30210 **and 30214** which requires that the development of public recreational opportunities shall not be at the expense of, **or** overuse of natural resources. Only as conditioned by **Special Condition 1** for a revised site plan that avoids ESHA can the project be found to be consistent with Sections 30210 and **30214**.

The proposed 7-mile trail network would be located within the proposed Open Space Preserve comprising the majority of the site, and would connect to the existing regional coastal trail network. The trail network is consistent with all the public recreational and access policies above, including the provision of a low cost visitor serving use, and can be constructed in a way that is consistent with Section 30240, as conditioned, and would not impact the sensitive resources on the site. As such, the Commission supports the development of the trail network and Open Space Preserve, but does not support the development of the visitor serving commercial, high-cost resort, low-cost hostel, and public park in the location proposed because of the impact they would have on sensitive resources of the Southern Mesa. The conditions of approval provide the opportunity for the applicant to relocate these elements within the 19.7 acre identified buildable footprint as an alternative to the proposed residential development.

The applicant has provided a response that suggests that the special conditions would remove all public access benefits from the project, which is inaccurate. The trail system and proposed public open space are public access and recreational elements supported by the conditions. The applicant has indicated if the proposed project is limited the 19.7 acres of buildable area identified outside of the site constraints, then the remainder of the site (approximately 365 acres) would continue to be closed to the public and the soil would not be cleaned-up or remediated. The Commission action on this coastal development permit is addressing the elements of the project, as proposed by the applicant, that can be found consistent with Chapter 3 policies of the Coastal Act. Elimination of all public access and recreation improvements in conjunction with new development of the site would likely not be found consistent with the Coastal Act.

Page 104:

Section 30252 of the Coastal Act requires that new development should maintain and enhance public access to the coast by facilitating the provision of transit service and providing adequate parking facilities. ~~Section 30253(d) of the Coastal Act requires that new development minimize energy consumption and vehicle miles traveled.~~ Therefore, in order to conform to the requirements of the Coastal Act, the proposed project must provide adequate parking in order not to negatively impact **existing parking for** coastal access.

The applicant proposes all on-site parking **in the public areas** to be free and open to the general public.

Page 107:

Conclusion

While the project ~~may~~ **will** provide public recreational opportunities in the form of trails, public open space, **public on-street** parking, visitor serving retail, and a resort colony, the project does not do so consistent with the protection of the natural resources on the site. Several elements of the project proposed for public access and recreation would have direct impacts to ESHA. The project is largely consistent with section 30252, but is inconsistent with Section 30210 **and 30214** which requires that the development of public recreational opportunities shall not be at the expense of the overuse of natural resources and inconsistent with Section 30240 for resource protection. Only as conditioned for revised plans to avoid all impacts to ESHA and wetlands can the project be found consistent with the sections **30210, 30213, 30214, 30222,** 30252, **and 30253(d) and 30210** above.

Page 113:

As conditioned, the project would be limited to residential development of approximately 411 units in the Urban Colony and 82 units in the North Family Village **or some similar development within the Buildable Footprint,** resulting in a further reduced water demand of the project.

Page 118, after the CEQA heading, add:

The City of Newport Beach is the Lead Agency for the CEQA review. An Environmental Impact Report (EIR) was done by BonTerra Consulting in 2011 for the City of Newport Beach. The EIR was certified by the City in 2012 with a statement of overriding consideration.

There are countless projects that could be designed within that footprint, so Commission staff did not attempt to redesign the applicant's project. However, any project that adheres to those constraints, as the proposed conditions would require, and that abides by the other conditions, would qualify as the least environmentally damaging alternative **feasible, while still accomplishing a project,** because the project would respect the ESHA, wetlands, archaeological and cultural resources and other on-site resource constraints and conform to all other resource-protection conditions, so that it could be found consistent with Ch. 3 of the Coastal Act.

SPECIAL CONDITIONS-

In all special conditions add the following bold sentence after each occurrence of:

In addition to conforming to the above-identified General Project Design Parameters and the General Exceptions to the Project Design Parameters, each of the plans identified below shall conform to the following, except in the isolated instances where the following would preclude implementation of the exceptions listed above, **in which case the exceptions listed above will take precedence:**

1. Submittal of Revised Plans

Trails for public access and recreation may be located within buffers identified on the map titled "ESHA, Wetlands and Buffers" in **Exhibit 3b** provided they are located in a fashion that minimizes impacts to the resources being buffered **and limited to the outer edges of said buffers.**

A. GRADING PLANS:

If necessary to provide access to the approximately 3 acre developable area southwest of wetland CC a road **and any associated sidewalks and bikelanes, limited to 50 feet wide may be constructed within the Buildable Footprint; the grading footprint for the road and any associated sidewalks and bikelanes,** may encroach into ~~be located in~~ the outer ~~50~~**20** feet of the northwestern portion of the 100-foot setback established around wetland CC and shown as a site constraint in **Exhibit 4** (Constraints on Banning Ranch), provided that mitigation measures to prevent poor water-quality or other impacts that would significantly degrade the wetlands are incorporated into the design of the entire portion of the road ~~that is within the~~ **adjacent to the** 100-foot setback, and provided that the remaining portion of the setback/buffer area around wetlands CC and C are, ~~at a minimum, increased in area equivalent to the reduced buffer to allow the road~~ **(road width right-of-way not to exceed 50 feet as consistent with Special Condition 3)** ~~and~~ made larger as necessary to merge the buffers for C and CC together to form a cohesive wetland complex.

B. SUBDIVISION/TRACT MAPS

A revised subdivision/tract map shall be submitted that identifies all areas identified as “Open Space Conservation Area” in **Special Condition 10** as “open space lots” that shall be subject to the restrictions on uses identified in **Special Condition 10 (Open Space/Conservation Area)**. **Lots shall be consolidated into the minimum quantity necessary to facilitate future dedication(s) and management.**

2. Architectural and Construction Plans

1. Foundation plans shall be submitted for each structure type limited to standard slab foundation systems. ~~Caisson foundations are not approved by this permit.~~

3. Circulation System Plans

6. (c) All trails and the trail network shall be sited outside of known cultural and archeological resources to the maximum extent feasible.

6. Fire Hazard Mitigation and Fuel Management Requirements

1. No fuel management zones shall be within areas identified as ESHA, Wetlands, or Watershed **or their buffers** as depicted on the map titled “ESHA, Wetlands and Buffers” in **Exhibit 3b**.

10. Open Space/Conservation Area

- A. The phrase “Open Space/Conservation Area” (or “OSCA”) shall refer to the areas generally depicted on Exhibit 9 (T.T.M. Lots dated August 12, 2016) as “Lettered Lots” A through E, G through **M, O, P, and R, and lands present between lots D, G, H and I and the ‘buildable footprint’ identified on Exhibit 4 to the staff report and** excluding the trails described in Special Condition 11 (Trails Within Open Space/Conservation Area), which area will be more precisely identified in formal legal descriptions and graphic depictions prepared by the applicant and submitted for the Executive Director’s review and approval prior to issuance of this permit.

Also revise subsection C.2 in Special Condition 10 AND Special Condition 11 (Trails Within the Open Space/Conservation Area) as follows:

C. (2) create an irrevocable offer to dedicate one of the items listed in the next paragraph to a public agency or non-profit entity, or some combination thereof, approved by the Executive Director and shown to have: (a) no conflict-of-interest with the provision of open space conservation, (b) a plan for substantive consultation with Native American tribal governments with ties to the land in developing and implementing plans for habitat restoration and preservation and environmental and cultural education, (c) demonstrated experience in land conservation and habitat restoration, (d) **to the extent practicable**, the support of the public, environmental and restoration organizations, and (e) a mission that reflects the maximum public interest;

13. Construction Staging and Corridors Plan

A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for review and approval of the Executive Director, two (2) sets of revised Construction Staging and Corridors Plan, with drawings to be supplied in size 11” x 17” or larger. The revised plans shall conform to the General Project Design Parameters and General Exceptions to Project Design Parameters as identified in **Special Condition 1 (Revised Plans)** **except in the isolated instances where the following would preclude implementation of the General Exceptions to Project Design Parameters listed in Special Condition 1.** The revised construction staging and corridors plan shall demonstrate that:

1. No ~~construction activity~~, construction staging, or **construction** materials, debris, waste or equipment storage shall occur outside the “buildable areas” as identified in **Exhibit 4 (Constraints on Banning Ranch)**;
2. Prior to commencement of soil clean up, site preparation, grading and construction, temporary barriers shall be placed at the limits of grading for these portions of the development that are adjacent to ESHA, wetlands, vernal pool watershed, archeological resources, and their buffers and all other identified constraints. The barriers shall be a minimum 8 feet tall and ~~one inch thick~~ in those areas adjacent to occupied gnatcatcher habitat.

5 (f.) Compliance with ‘Interim Erosion Control and Construction Responsibilities’ **Special Condition 26 23** of this coastal development permit.

14. Habitat Management Plan

1. The Final Habitat Management Plan (HMP) shall apply to the Open Space Conservation Area (OSCA) and **the area covered by the Future Development Deed Restriction required by Section B of Special Condition 25**, generally depicted as all areas of the 401 acre site not included in the “Buildable Footprint” or the “Oil Remainder Areas” footprints as shown in **Exhibit 4 (Constraints on Banning Ranch)** of the staff report. **The HMP shall not apply to the development areas supporting residential and associated development within the “buildable Footprint” and the “Oil Remainder Areas” footprints depicted on Exhibit 4.**

18. The plan **shall provide for** the calculation **of** the acreage of mitigation based on the ratios below.

20. If the permittee cannot identify sufficient area and acreage on the 401 acre site to locate all required mitigation at the ratios above, the applicant must apply for a permit amendment to reduce the acreage of the proposed residential ~~and commercial and park space~~ and increase the acreage of the open space in order to allow for additional acreage to accept the restoration and mitigation **or secure an off-site mitigation location with similar habitat and provide a detailed plan for the off-site mitigation.**

16. Signage Plan

A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for review and approval of the Executive Director, two (2) sets of revised final ~~Transportation Demand Management~~ **Signage** Plan, with drawings to be supplied in size 11” x 17” or larger.

17. Protection of Cultural Resources

- A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the permittee shall submit for the review and approval of the Executive Director a revised archeological research plan (ARP), prepared consistent with Subsections G, ~~H and I~~ **and all other applicable provisions** of this condition, which shall incorporate the following measures and procedures:

Additional Tasks Required Prior to Any Ground Disturbance for the Oilfield Abandonment/Remedial Action or for Residential/Commercial Development:

1. The applicant shall comply with all recommendations and mitigation measures contained in the document titled “Archeological Research Plan, Newport Banning Ranch, Newport Beach, California” by Bonterra-Psomas dated July 2014, except as further modified by the final “Newport Banning Ranch Archaeological Testing Plan – August 2016” by Bonterra-Psomas, approved by the Executive Director on August 17, 2016 and by the conditions below and any other applicable conditions of this permit;
2. If recommended by the archaeological peer review committee, Native American groups and agency review process described in Subsection G, the applicant shall undertake additional archeological testing to determine the boundary of known prehistoric archeological sites and, where necessary, testing (including the use of cadaver dogs or other test methods recommended by peer-review) to ensure that all other prehistoric archeological sites that may be present on the site are identified and accurately delineated (to the maximum extent practicable and in accordance with current professional archeological practices). The purpose of any further testing is to locate and delineate the boundaries of all prehistoric cultural deposits present on the site and to avoid disturbance to those deposits by any of the development contemplated by the applicant in its proposal. **Any disagreement among the parties shall be resolved using the procedure outlined in Subsection C.6.(a)–(d)** ;
3. If any cultural deposits, including but not limited to skeletal remains and grave-related artifacts, traditional cultural, religious or spiritual sites, midden and lithic material or artifacts, are discovered during the additional archeological testing they shall not be exposed and the testing shall be immediately halted in this location. Additional testing shall be conducted further from the center of the discovery until sterile conditions are encountered. The revised ARP does not authorize the excavation of any cultural deposits nor data recovery. Nothing in this condition shall prejudice the

ability to comply with applicable State and Federal laws if human remains are encountered. However, in compliance with applicable State and Federal laws the project archaeologist shall work with the County Coroner and other authorities to allow Native American human remains to be left in situ, to the maximum extent practical.

4. The revised ARP shall identify proposed mitigation measures for the recovery and/or relocation/reburial of prehistoric cultural deposits consistent with Native American Tribal guidance that shall be undertaken when the procedures outlined in the Clean-Up Target Confirmation Sampling in Sensitive Resource Areas condition (**Special Condition 8**) are completed and, only if the Executive Director has determined that impacts to cultural deposits are necessary and unavoidable to conform with State or Federal soil or water clean-up standards. Further, the revised ARP shall provide the method of construction associated with oilfield clean-up, including but not limited to the types and weight of mechanized equipment to be used, and the storage locations of such equipment. The Plan shall require that pipes and other oil infrastructure be removed by hand wherever possible, in order to avoid damage to archaeological resources;
 5. Archeological and cultural resource monitoring shall be **required during the implementation of the revised ARP and shall be carried out** consistent with **Subsection C** of this condition;
 6. Implementation of the revised ARP shall not occur until **approval of the final ARP by the Executive Director and** the coastal development permit has been issued **authorizing the work.**
- B. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the permittee shall submit for the review and approval of the Executive Director an archaeological mitigation plan, prepared by a qualified professional consistent with **Subsections G and all other applicable provisions, H and I** of this condition, which shall incorporate the following measures and procedures:
1. The permittee shall carry out significance testing of the cultural deposits that were excavated during archaeological testing in 2009 for the EIR process pursuant to **Subsection E** below, and, if cultural deposits are found by the Executive Director to be significant, additional investigation and mitigation, including but not limited to reburial of the items, in accordance with this special condition including all subsections shall be required. No significance testing, investigation or mitigation shall commence until the provisions of this special condition are followed, including all relevant subsections;
- C. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the permittee shall submit for the review and approval of the Executive Director an archaeological monitoring and mitigation plan for the protection of archaeological/cultural resources during project grading and construction activities, prepared by a qualified professional, consistent with **Subsections G, and all other applicable provisions H and I** of this condition, which shall incorporate the following measures and procedures:
1. During all digging, ground disturbance, and subsurface activity on the site, Archaeological monitor(s) qualified by the California Office of Historic Preservation (OHP) standards **shall be present on the site, and the One set of** Native American most likely descendants (MLDs) **as explained below, from each the Gabrieleño-**

- Tongva and Juaneño-Acjachemen tribal groups**, when State Law mandates identification of MLDs, shall be present on the site.
2. Also present during all digging, ground disturbance, and subsurface activity on the site shall be a minimum of 1 set of Native American monitors for every location of ground disturbance; 1 set shall include 2 individual monitors and be defined as one monitor representing the Gabrieleño-Tongva and one monitor representing the Juaneño-Acjachemen, as identified on the Native American Heritage Commission's list (NAHC list)³. Both Native American monitors in the set shall be present at the same time and monitoring the same location.
 3. More than 1 set of monitors on the site may be necessary during times with multiple grading and soil disturbance locations.
 4. Tribal representatives selected for the monitoring set shall be rotated equally and fairly among all tribal groups identified as Gabrieleño-Tongva and Juaneño-Acjachemen on the NAHC list, such that every tribal group has an equal opportunity to monitor on the site.
 5. During all digging, ground disturbance, and subsurface activity on the site, any Native American representatives of the Gabrieleño-Tongva and Juaneño-Acjachemen on the NAHC list are welcome to be present on the site and monitor, even if they are not the assigned set of monitors within the rotation for that day.
 6. The permittee shall provide sufficient archeological and Native American monitors to assure that all project grading or other development that has any potential to uncover or otherwise disturb cultural deposits is monitored at all times. All archaeological monitors, Native American monitors and Native American most likely descendants (MLD) shall be provided with a copy of the final revised ARP **required by Subsection A of this special condition, the approved archaeological monitoring and mitigation plan required by Subsection B of this permitspecial condition and the approved archaeological monitoring and mitigation plan required by Subsection C of this special condition.** Prior to commencement of grading, the applicant shall convene an on-site pre-grading meeting with the all archaeological monitors, Native American monitors and Native American most likely descendants (MLD) along with the grading contractor, the applicant and the applicant's archaeological consultant in order to ensure that all parties understand the procedures to be followed pursuant to the subject permit condition and the approved archaeological monitoring and mitigation plan, including the procedures for dispute resolution. At the conclusion of the meeting all attendees shall be required to sign a declaration, which has been prepared by the applicant, subject to the review and approval of the Executive Director, stating that they have received, read, discussed and fully understand the procedures and requirements of the approved archaeological monitoring and mitigation plan and agree to abide by the terms thereof. The declaration shall include contact phone numbers for all parties and shall also contain the following procedures to be followed if disputes arise in the field regarding the procedures and/or terms and conditions of the approved archaeological monitoring and mitigation plan, and ARP. Prior to commencement of grading a copy of the signed declaration shall be given to each signatory and to the Executive Director.
 - (a) Any disputes in the field arising among the archaeologist, archaeological monitors, Native American monitors, Native American most likely descendants (MLD), the

³ **Both the Native American Heritage Commission's current California Tribal Consultation list and SB 18 Contact list**

grading and construction contractors or the applicant regarding compliance with the procedures and requirements of the approved archaeological monitoring and mitigation plan or ARP shall be promptly reported to the Executive Director via e-mail and telephone.

- (b) All work shall be halted in the area(s) of dispute. Work may continue in area(s) not subject to dispute, in accordance with all provisions of this special condition.
 - (c) Disputes shall be resolved by the Executive Director, in consultation with the archaeological peer reviewers, Native American monitors, Native American MLD, the archaeologist and the applicant.
 - (d) If the dispute cannot be resolved by the Executive Director in a timely fashion, said dispute shall be reported to the Commission for resolution at the next regularly scheduled Commission meeting.
7. If any cultural deposits are discovered during project grading or construction, including but not limited to skeletal remains and grave-related artifacts, traditional cultural sites, religious or spiritual sites, or other artifacts, the permittee shall carry out significance testing of said deposits and, if cultural deposits are found by the Executive Director to be significant pursuant to **Subsection E** of this condition and any other relevant provisions, additional investigation and mitigation in accordance with all subsections of this special condition;
 8. If any cultural deposits are discovered, including but not limited to skeletal remains and grave-related artifacts, traditional cultural sites, religious or spiritual sites, or other artifacts, all development shall cease in accordance with **Subsection D** of this special condition;
 9. In-situ preservation and avoidance of cultural deposits shall be considered as the preferred mitigation option, to be determined in accordance with the process outlined in this condition, including all subsections. A setback shall be established between the boundary of cultural deposits preserved in-situ and/or reburied on-site and any proposed development; the setback shall be no less than 50 feet and may be larger if necessary to protect the cultural deposits;
 10. If human remains are encountered, the permittee shall comply with applicable State and Federal laws. Procedures outlined in the monitoring and mitigation plan shall not prejudice the ability to comply with applicable State and Federal laws. The range of investigation and mitigation measures considered shall not be constrained by the approved development plan. Where appropriate and consistent with State and Federal laws, the treatment of remains shall be decided as a component of the process outlined in the other subsections of this condition.

D. Discovery of Cultural Deposits. If an area of cultural deposits, including but not limited to skeletal remains and grave-related artifacts, traditional cultural sites, religious or spiritual sites, or other artifacts, is discovered during the course of the project, all grading and construction activities in the area of the discovery that have any potential to uncover or otherwise disturb cultural deposits in the area of the discovery and all construction that may foreclose mitigation options or the ability to implement the requirements of this condition shall cease and shall not recommence except as provided in **Subsections E and F** and other subsections of this special condition. In general, the area where construction activities must cease shall be 1) no less than a 200-foot wide buffer around the cultural deposit; and 2) no more than the residential enclave area within which the discovery is made.

E. Significance Testing Plan Required Following the Discovery of Cultural Deposits.

An applicant seeking to recommence construction following discovery of the cultural deposits shall submit a Significance Testing Plan for the review and approval of the Executive Director. The Significance Testing Plan shall identify the testing measures that will be undertaken to determine whether the cultural deposits are significant. The Significance Testing Plan shall be prepared by the project archaeologist(s), in consultation with the Native American monitor(s), and the Most Likely Descendent (MLD) when State Law mandates identification of a MLD. Once a plan is deemed adequate, the ~~Executive Director will make a~~ **following steps shall occur in the** determination ~~regarding of~~ the significance of the cultural deposits discovered:-

- (1) If the Executive Director approves the Significance Testing Plan and determines that the Significance Testing Plan's recommended testing measures are de minimis in nature and scope, the significance testing may commence after the Executive Director informs the permittee of that determination.
- (2) If the Executive Director approves the Significance Testing Plan but determines that the changes therein are not de minimis, significance testing may not commence until after the Commission approves an amendment to this permit.
- (3) Once the measures identified in the significance testing plan are undertaken, the permittee shall submit the results of the testing to the Executive Director for review and approval. The results shall be accompanied by the project archeologist's recommendation as to whether the findings should be considered significant. The project archeologist's recommendation shall be made in consultation with the Native American monitors and the MLD when State Law mandates identification of a MLD. If there is disagreement between the project archeologist and the Native American monitors and/or the MLD, both perspectives shall be presented to the Executive Director. The Executive Director shall make the determination as to whether the deposits are significant based on the information available to the Executive Director. If the deposits are found to be significant, the permittee shall prepare and submit to the Executive Director a supplementary Archeological Plan in accordance with **Subsection F** of this condition and all other relevant subsections. If the deposits are found to be not significant by the Executive Director, then the permittee may recommence grading in accordance with any measures outlined in the significance testing program.

F. Supplementary Archaeological Plan Required Following an Executive Director Determination that Cultural Deposits are Significant.

An applicant seeking to recommence construction following a determination by the Executive Director that the cultural deposits discovered are significant shall submit a Supplementary Archaeological Plan for the review and approval of the Executive Director. The Supplementary Archeological Plan shall be prepared by the project archaeologist(s), in consultation with the Native American monitor(s), the Most Likely Descendent (MLD) when State Law mandates identification of a MLD, as well as others identified in subsection E of this condition. The supplementary Archeological Plan shall identify proposed investigation and mitigation measures. If there is disagreement between the project archeologist and the Native American monitors and/or the MLD, both perspectives shall be presented to the Executive Director. The range of investigation and mitigation measures considered shall not be constrained by the approved development plan. Mitigation measures considered shall range from in-situ preservation to recovery and/or relocation. A good faith effort shall be made to avoid impacts to cultural resources through methods such as,

but not limited to, project redesign, capping, and creating an open space area around the cultural resource areas. In order to protect cultural resources, any further development may only be undertaken consistent with the provisions of the final, approved, Supplementary Archaeological Plan.

- (1) If the Executive Director approves the Supplementary Archaeological Plan and determines that the Supplementary Archaeological Plan's recommended changes to the proposed development or mitigation measures are de minimis in nature and scope, construction may recommence after the Executive Director informs the permittee of that determination.
- (2) If the Executive Director approves the Supplementary Archaeological Plan but determines that the changes therein are not de minimis, construction may not recommence until after the Commission approves an amendment to this permit.

G. Review of Plans Required by Archaeological Peer Review Committee, Native American Groups and Agencies.

Prior to submittal to the Executive Director, all plans required to be submitted pursuant to this special condition, including the revised ARP, the mitigation plan for the cultural deposits that were excavated during archaeological testing for the EIR process, and the monitoring and mitigation plan during project grading, excepting any Significance Testing Plan, shall have received review and written comment by a peer review committee convened in accordance with current professional practice. Names and qualifications of selected peer reviewers shall be submitted for review and approval by the Executive Director. Representatives of Native American groups with documented ancestral ties to the area, as determined by the NAHC, shall also be invited to review and comment on the above required plans. The plans submitted to the Executive Director shall incorporate the recommendations of the peer review committee and the Native American groups or an explanation provided as to why the recommendations were rejected. Furthermore, upon completion of the peer review and Native American review process, and prior to submittal to the Executive Director, all plans shall be submitted to the California Office of Historic Preservation (OHP) and the NAHC for their review and an opportunity to comment. The plans submitted to the Executive Director shall incorporate the recommendations of the OHP and NAHC **or an explanation provided as to why the recommendations were rejected.** If any of the entities contacted for review and comment do not respond within 30 days of their receipt of the plan, the requirement under this permit for those entities' review and comment shall expire, unless the Executive Director extends said deadline for good cause. All plans shall be submitted for the review and approval of the Executive Director.

- H. At the completion of the revised ARP, the mitigation plan for the cultural deposits that were excavated during archaeological testing for the EIR process, and the archaeological grading monitoring and mitigation plan, the applicant shall prepare a report, subject to the review and approval of the Executive Director, which shall include but not be limited to, detailed information concerning the quantity, types, location, and detailed description of any cultural resources discovered on the project site, analysis performed and results and the treatment and disposition of any cultural resources that were excavated. The report shall be prepared consistent with the State of California Office of Historic Preservation Planning Bulletin #4, "Archaeological Resource Management Reports (ARMR): Recommended Contents and Format". The final report shall be disseminated to the Executive Director and the South Central Coastal Information Center at California State University at Fullerton.

I. The permittee shall undertake development in conformance with the approved plans unless the Commission amends this permit or the Executive Director determines that no amendment is legally required for any proposed minor deviations.

Delete all of Special conditions 23 and 24 and replace with the following:

23. Interim Erosion Control Plan and Construction Responsibilities

A. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director an Interim Erosion Control and Construction Best Management Practices Plan, prepared by a qualified, licensed professional. The qualified, licensed professional shall certify in writing that the Interim Erosion Control and Construction Best Management Practices (BMPs) plan are in conformance with the following requirements, in significant conformance with the Draft storm water pollution prevention plan (SWPPP) dated 1/28/2015, and the following requirements:

1. Erosion Control Plan:

- a. The plan shall delineate the areas to be disturbed by grading or construction activities and shall include any temporary access roads, staging areas and stockpile areas. The natural areas on the site shall be clearly delineated on the plan and on-site with fencing or survey flags.**
- b. Include a narrative report describing all temporary run-off and erosion control measures to be used during construction.**
- c. The plan shall identify and delineate, on a site or grading plan, the locations of all temporary erosion control measures, and include the BMP installation and/or implementation schedule for all phases of construction activities.**
- d. The plan shall specify that grading shall take place only during the dry season (April 1 – October 31). This period may be extended for a limited period of time if the situation warrants such a limited extension, if approved by the Executive Director.**
- e. The applicant shall install or construct temporary sediment basins (including debris basins, desilting basins, or silt traps), temporary drains and swales, sand bag barriers, silt fencing, and shall stabilize any stockpiled fill with geofabric covers or other appropriate cover, and install geotextiles or mats on all cut or fill slopes, and close and stabilize open trenches as soon as possible. Basins shall be sized to handle not less than a 10 year, 6 hour duration rainfall intensity event.**
- f. The erosion control measures shall be required on the project site prior to or concurrent with the initial grading operations, and maintained throughout the development process, to minimize erosion and sediment from contacting runoff waters during construction. All sediment should be retained on-site,**

unless removed to an appropriate, approved dumping location either outside of the coastal zone or within the coastal zone to a site permitted to receive fill.

- g. The plan shall also include temporary erosion control measures should grading or site preparation cease for a period of more than 30 days, including but not limited to: stabilization of all stockpiled fill, access roads, disturbed soils and cut and fill slopes with geotextiles and/or mats, sand bag barriers, silt fencing; temporary drains and swales and sediment basins. The plans shall also specify that all disturbed areas shall be seeded with native grass species and include the technical specifications for seeding the disturbed areas. These temporary erosion control measures shall be monitored and maintained until grading or construction operations resume.
 - h. To minimize wildlife entanglement and plastic debris pollution, the use of temporary rolled erosion and sediment control products with plastic netting (such as polypropylene, nylon, polyethylene, polyester, or other synthetic fibers used in fiber rolls, erosion control blankets, and mulch control netting) is prohibited. All temporary, construction related erosion control materials shall be comprised of bio-degradable materials (natural fiber, not photo-degradable plastics), constructed in a loose weave design with movable joints between the horizontal and vertical twines, and must be removed when permanent erosion control measures are in place. Bio-degradable erosion control materials may be left in place if they have been incorporated into the permanent landscaping design.
- 2. Construction Best Management Practices:**
- a. No demolition or construction materials, debris, or waste shall be placed or stored where it may enter sensitive habitat, receiving waters or a storm drain, or be subject to wave, wind, rain, or tidal erosion and dispersion.
 - b. No demolition or construction equipment, materials, or activity shall be placed in or occur in any location that would result in impacts to environmentally sensitive habitat areas, streams, wetlands or their buffers.
 - c. Demolition or construction debris and sediment shall be removed from work areas each day that demolition or construction occurs to prevent the accumulation of sediment and other debris that may be discharged into coastal waters.
 - d. All trash and debris shall be disposed in the proper trash and recycling receptacles at the end of every construction day.
 - e. Any and all debris resulting from demolition or construction activities shall be removed from the project site within 24 hours of completion of the project.
 - f. The applicant shall provide adequate disposal facilities for solid waste including excess concrete produced during demolition or construction.

- g. Debris shall be disposed of at a permitted disposal site or recycled at a permitted recycling facility. If the disposal site is located in the coastal zone, a coastal development permit or an amendment to this permit shall be required before disposal can take place unless the Executive Director determines that no amendment or new permit is legally required.
 - h. Erosion and sediment control devices, such as silt fences, straw wattles, or catch basins, shall be placed below all construction activities at the edge of surface water features to intercept sediment before it reaches waterways. These structures shall be installed prior to any clearing or grading activities. Sediment built up at the base of structures shall be removed before structure removal to avoid any accumulated sediments from being mobilized post-construction.
 - i. The applicant shall monitor the weather and assure appropriate erosion and sediment control devices are in place prior to the onset of rainfall events with a 50 percent or greater chance of producing precipitation in the project area of 0.5 inch or more; and shall monitor these BMPs during rain events to identify and replace BMPs that have failed, or that could fail to operate as intended.
 - j. All stock piles and construction materials shall be covered, enclosed on all sides, shall be located as far away as possible from drain inlets and any waterway, and shall not be stored in contact with the soil.
 - k. Machinery and equipment shall be maintained and washed in confined areas specifically designed to control runoff. Thinners or solvents shall not be discharged into sanitary or storm sewer systems.
 - l. The discharge of any hazardous materials into any receiving waters shall be prohibited.
3. Best Management Practices (BMPs) and Good Housekeeping Practices (GHPs): Various actions designed to prevent spillage and runoff of demolition or construction-related materials, and to contain sediment or contaminants associated with demolition or construction activity, shall be implemented prior to the on-set of, and/or during, construction to prevent the release of pollutants, trash, or sediment into the environment during construction phase of activity.
- a. During equipment access and/or staging in or near wetlands, protective pads (metal/wood/rubber sheets) shall be placed on top of wetlands where equipment access and/or staging would be required to prevent rutting and compression of soils and uprooting or destroying existing wetland vegetation.
 - b. Any fueling, maintenance, and washing of construction equipment shall occur in confined upland areas specifically designed to control runoff and located more than 100 feet away from coastal waters.
 - c. Spill prevention and control measures shall be implemented to ensure the proper handling and storage of petroleum products and other construction

materials. Measures shall include a designated fueling and vehicle maintenance area, with appropriate berms and protection, to prevent any spillage of gasoline or related petroleum products or contact with runoff. The area shall be located as far away from the receiving waters and storm drain inlets as possible.

- d. A tire wash area shall be located at all stabilized construction access points to remove sediment from tires and undercarriages, and to prevent sediment from being transported onto public roadways; including drainage to convey the runoff from the wash area to an appropriate sediment trapping device.
- e. No uncured concrete or runoff from uncured concrete shall be allowed to enter coastal waters. Concrete paving and grinding operations, and storm drain inlet protection BMPs shall be employed to prevent concrete grindings, cutting slurry, and paving rinsate from entering drop inlets or sheet-flowing into coastal waters. Concrete delivery vehicle wash-out maintenance at the project site is prohibited.
- f. Equipment when not in use shall be stored in upland areas at least 100 feet away from surface water features, including Semeniuk Slough, Santa Ana River, and/or stormdrain inlets with direct connection to these coastal waters and the ocean.
- g. Fuels, lubricants, and solvents shall not be allowed to enter coastal waters or wetlands. Hazardous materials management equipment including oil containment booms and absorbent pads shall be available immediately on-hand at the project site. Any accidental spill shall be rapidly contained and cleaned up.
- h. Equipment used in and around wetlands or ESHA shall use non-toxic vegetable oil for operating hydraulic equipment instead of conventional hydraulic fluids.
- i. Absorbent materials shall be placed under asphaltic concrete paving equipment while not in use to catch and contain drips and leaks.
- j. All Erosion and Water Quality protective BMPs shall be maintained in a functional condition throughout the duration of construction activity; and shall be in place and functional prior to any predicted rain event expected to be greater than 0.2 inch rainfall.
- k. Pre-construction training shall be provided for all on-site contractors by a qualified biologist to educate personnel on the biological restrictions and sensitivity of habitats in and adjacent to the construction area.

B. The final Interim Erosion Control and Construction Best Management Practices Plan shall be in conformance with the site/development plans approved by the Coastal Commission. Any necessary changes to the Coastal Commission approved site/development plans required by a qualified, licensed professional shall be reported to the Executive Director. No changes to the Coastal Commission approved

final site/development plans shall occur without an amendment to the coastal development permit, unless the Executive Director determines that no amendment is required.

24. **Water Quality Management Plan (WQMP)**

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director, two (2) copies of a final Water Quality Management Plan including post-construction Drainage Plan, Water Quality and Hydrology Plan, Runoff Control Plan, Operations and Maintenance Plan, and Water Quality Monitoring Plan, each detailing the pollution prevention and water quality protection strategies for the developed site.

The WQMP shall describe the drainage and runoff management, pollutant and hydrologic source control BMPs, any water quality treatment or other measures the applicant will implement to minimize stormwater pollution and changes in runoff flows from the site after development is completed to eliminate adverse water quality and hydrologic impacts originating from the development, to protect and, where feasible, restore the quality of coastal waters.

The final plan shall demonstrate substantial conformance with the Preliminary Water Quality Plan dated 2/3/2012 prepared by FUSCOE Engineering Inc. and updated 8/11/2016 except it shall be modified as required to conform to this coastal development permit. These plans shall be prepared by a qualified licensed water quality professional. The final WQMP shall include details on all aspects of water quality protection for the post-construction environment of this project, including detailed drainage and runoff control plan sheets, and all supporting BMP sizing calculations.

1. **Drainage Plan:**

As proposed, this project includes the delineation of Drainage Management Areas (DMA) as defined by the Orange County Drainage Area Management Plan (DAMP), each with specific water quality protection practices, or suites of practices based on the development type, to reduce runoff and pollutants from leaving each unit. Consistent with Special Condition 1 for a revised site plan, the DMAs shall be limited to those required for the Urban Colony and the North Family Village (DMAs 1, 2, A, and B).

Final Drainage Plans shall be developed for each DMA that detail the movement and discharge of runoff within the delineated DMA. These plans shall include discharge directional indicators, placement, and sizing calculations for all associated BMPs included within the DMA for the final post-construction development.

2. **Water Quality and Hydrology Plan:**

The Water Quality and Hydrology Plan shall be developed for this project which incorporates long-term post-construction Best Management Practices (BMPs) that protects water quality and minimizes increases in runoff volume and rate in the completed project. A qualified licensed water quality professional shall

certify that the Water Quality and Hydrology Plan are in significant conformance with the preliminary WQMP dated 2/3/2012 and updated 8/11/2016 and the following requirements.

Per the “Water Quality Approach Technical Memorandum” (FUSCO, Co., 11/30/2015), and the Addendum to that memo (FUSCO, Co., 8/11/16), there are specific water quality practices which shall be implemented throughout the developed areas:

- a. On-lot BMPs classified as Hydrologic Source Controls (HSC)– including, rain catchment on individual residential units; and dispersion of rain and runoff flows from impervious surfaces to landscaped areas.
- b. Harvest and Reuse Area BMPs– including both above-ground and below-ground cisterns with a design capture volume (DCV) of at least the 85th percentile storm event for the DMA tributary area, capture 40% or greater of the tributary volume for reuse, and overflow to biofiltration areas prior to discharge into coastal waters
- c. Biotreatment Area BMPs including:
 - i. (3.a) Community Biofiltration Basins, which are designed as flow through filtration systems to filter out sediments and pollutants associated with urban runoff at 1.5 times the DCV for each DMA.
 - ii. (3.b) Street and Parkway Biotreatment BMPs, including modular wetland systems to be employed for filtering and treating roadway runoff, and designed to meet street design Biotreatment BMP specifications consistent with Buildable Areas of Special Condition 1.
- d. Off-site Runoff Treatment Basin- Basin and associated dissipaters to address run-on to the project site from adjacent areas; the project will include an on-site water quality treatment basin designed to treat runoff entering the development from external sources prior to discharge into the Main Arroyo, semeniuk slough, and subsequent coastal waters. The final location of this Basin and associated dissipaters shall be outside of site constraints consistent with Special Condition 1.
- e. The use of chemical pesticides, herbicides, and rodenticides containing any anticoagulant compounds (including, but not limited to, Warfarin, Brodifacoum, Bromadiolone or Diphacinone), shall be prohibited. The use of fertilizers shall be minimized to the maximum extent practicable. An Integrated Pest Management Program (IPM) shall be implemented in all common area landscaping and encouraged in other development areas. The IPM Program shall be designed and implemented for all of the proposed landscaping/planting on the project site and shall include the following IPM features, as appropriate:
 - i. Bacteria, viruses and insect parasites shall be considered and employed as a pest management measure, where feasible.

- ii. Manual weeding, hoeing and trapping
- iii. Use of non-toxic, biodegradable, alternative pest control products.
- iv. The applicant or responsible party shall be responsible for educating all landscapers or gardeners on the project site about the IPM program and other BMPs applicable to water quality management of landscaping and gardens. Education shall include written and verbal materials.

f. Trash and recycling containers and storage areas:

The applicant shall use trash and recycling containers and storage areas that, if they are to be located outside or apart from the principal commercial structures, are fully enclosed and water-tight in order to prevent stormwater contact with waste matter which can be a potential source of bacteria, grease, and particulates and suspended solids in runoff, and in order to prevent dispersal by wind and water. Trash container areas must have drainage from adjoining roofs and pavement diverted around the area(s), and must be screened or walled to prevent off-site transport of trash.

g. Structures, Hardscape, and Roads:

Runoff from all new and redeveloped surfaces on the site shall be collected and directed through a system of media filter devices and bioswales. The filter elements shall be designed to treat, filter, or infiltrate runoff and a) trap sediment, particulates and other solids and b) remove or mitigate contaminants through filtration and biological uptake. The drainage system shall also be designed to convey and discharge runoff in a non-erosive manner.

h. Education and Training:

- i. Annual verbal and written training of employees, tenants, landscapers, and property managers and other parties responsible for proper functioning of BMPs in commercial development shall be required.
- ii. Outdoor drains in the commercial site shall be labeled/stenciled to indicate whether they flow to an on-site treatment device, a storm drain, or the sanitary sewer as appropriate.
- iii. Storm drain stenciling (“No Dumping, Drains to Ocean” or equivalent phrase) shall occur at all storm drain inlets in the development.
- iv. Informational signs around the commercial establishments for customers and employees/tenants about water quality and the BMPs used on-site shall be provided.
- v. Informational signs around the residential development for homeowners and the public about urban runoff and the pollution

prevention BMPs used on-site shall be provided near the detention ponds, at trail heads, and at centralized locations near storm drain inlets.

- vi. Informational signs around the residential developments (for homeowners) and the community spaces (for the public) shall be provided to highlight the capture, retention and reuse of water at the residential level (i.e., residential unit rain barrels) and the community scale (i.e., cisterns and landscaping reuse) shall be provided near the detention ponds, at trail heads, and at centralized locations near storm drain inlets.

3. Runoff Control Plan:

A qualified licensed professional shall certify in writing that the final Runoff Control Plan in substantial conformance with the following minimum requirements:

- a. Runoff Controls. At a minimum the project shall include the following water quality protection approaches and runoff controls throughout the development of the site, in the following order of priority:
 - i. Site Design BMPs – Project design features that reduce the creation or severity of potential pollutant sources, or reduce the alteration of the project site’s natural stormwater flow regime. Examples are minimizing impervious surfaces, preserving native vegetation, and minimizing grading.
 - ii. Source Control BMPs – Methods that reduce potential pollutants at their sources and/or avoid entrainment of pollutants in runoff, including schedules of activities, prohibitions of practices, maintenance procedures, managerial practices, or operational practices. Examples are covering outdoor storage areas, use of efficient irrigation, and minimizing the use of landscaping chemicals.
 - iii. Treatment Control BMPs – Systems designed to remove pollutants from stormwater by gravity settling of particulate pollutants, filtration, biological uptake, media adsorption, or any other physical, biological, or chemical process. Examples are vegetated swales, detention basins, and storm drain inlet filters. Where post-construction treatment of stormwater runoff is required, treatment control BMPs (or suites of BMPs) shall, at a minimum, be sized and designed to treat, infiltrate, or filter stormwater runoff from each storm event, up to and including the 85th percentile, 24-hour storm event for volume-based BMPs, or the 85th percentile, 1-hour storm event (with an appropriate safety factor of 2 or greater) for flow-based BMPs.
- b. Low Impact Development (LID). Projects shall incorporate techniques to minimize stormwater quality and quantity impacts from development, unless a credible and compelling explanation is provided as to why such features are not feasible and/or appropriate. LID strategies use small-scale integrated and distributed management practices, including minimizing impervious

surfaces, infiltrating stormwater close to its source, and preservation of permeable soils and native vegetation.

- c. Post-development runoff rates from the site shall be maintained at levels similar to pre-development conditions.
- d. Selected BMPs shall consist, or primarily consist of, site design elements and/or landscape based systems or features that serve to maintain site permeability, avoid directly connected impervious areas and/or retain, infiltrate, or filter runoff from rooftops, driveways and other hardscape areas, where feasible. Examples of such features include but are not limited to porous pavement, pavers, rain gardens, vegetated swales, infiltration trenches and cisterns.
- e. Landscape plants shall have low water and chemical treatment demands and be consistent with Special Condition 4 and 6, Landscaping and Fuel Modification Plan.
- f. All slopes shall be stabilized in accordance with provisions contained in the Landscaping (Special Condition 4) and Habitat Management Plan (Special Condition 14) for this Coastal Development Permit, and, if applicable, in accordance with engineered plans prepared by a qualified licensed professional.
- g. Runoff shall be discharged from the developed site in a non-erosive manner. Energy dissipating measures shall be installed to prevent erosion. Plan details and cross sections for any rock rip-rap and/or other energy dissipating devices or structures associated with the drainage system shall be prepared by a qualified licensed professional. The drainage plans shall specify the location, dimensions, cubic yards of rock, etc. for any velocity reducing structure with the supporting calculations showing the sizing requirements and how the device meets those sizing requirements. The qualified, licensed professional shall ensure that all energy dissipaters use the minimum amount of rock and/or other hardscape necessary to protect the site from erosion.
- h. All BMPs shall be operated, monitored, and maintained in accordance with manufacturer's specifications where applicable, or in accordance with well recognized technical specifications appropriate to the BMP for the life of the project and at a minimum, all structural BMPs shall be inspected, cleaned-out, and where necessary, repaired, prior to the onset of the storm season (October 15th each year) and at regular intervals as necessary between October 15th and April 15th of each year. Debris and other water pollutants removed from structural BMP(s) during clean-out shall be contained and disposed of in a proper manner.
- i. Site drainage and BMP selection shall be developed concurrent with the preliminary development design and grading plan, and final drainage plans shall be approved by a licensed geotechnical engineer or engineering geologist.

- b. The Water Quality Monitoring Plan shall include a map of the proposed sampling locations. The program must incorporate water quality monitoring at strategic locations to successfully characterize impacts at a sufficient number of sites to be statistically significant, in associated drainages and receiving waters, as well as project storm drains and the 'run-on' locations, to indicate water quality conditions in the coastal waters including but not limited to Semeniuk Slough, the Santa Ana River, and the Pacific Ocean.
- c. Baseline water quality data of pre-development conditions shall be collected prior to commencement of construction. The baseline water quality studies shall be sufficient to document background (pre-development) levels of the contaminants that will be analyzed in the ongoing water quality monitoring program.
- d. Dry weather sampling shall be conducted annually at the onset of soil clean-up prior to the commencement of construction through the time in which the water quality structures and BMPs required by the final Water Quality Management Plan approved by the Executive Director are constructed and fully operational. Dry weather sampling, and winter monitoring, shall occur at a minimum on a monthly basis, and "First Flush" monitoring shall occur at all urban/developed area discharges flowing to Semeniuk Slough at the Santa Ana River during the first storm of the 'rainy season' at least once annually.
- e. Annual reports and semiannual updates containing data and analytical assessment of data in comparison to any applicable water quality objectives, and other criterion specified herein, shall be submitted to the Executive Director of the Commission and to the Regional Water Quality Control Board for duration of the monitoring program.

If monitoring results indicate that incidents are occurring in which applicable water quality standards including, but not limited to, any applicable standards in the Santa Ana Regional Basin Plan for the associated receiving waters, the California Toxics Rule, and the California Ocean Plan, are not being met as a result of this project, and/or that recurring incidents are occurring as a result of this project, the applicant shall investigate the cause or source of the incidents and/or condition and provide information to the Executive Director demonstrating what was done to reverse the condition, or how any incidents and/or resulting condition in which applicable water quality standards were not met is not the result of the applicant's failure to comply with the terms and conditions of this Permit.

If the Executive Director determines otherwise, based on the information generated from the applicant's investigation and all other information available to the Executive Director, corrective actions or remedies shall be required. If remedies or corrective actions constitute development under Section 30106 of the Coastal Act, an amendment to this Permit shall be required, unless the Executive Director determines no such amendment is legally required.

The applicant shall clarify parameters that will “trigger” a reevaluation of trash and debris BMPs in the Water Quality Monitoring Plan.

In addition to construction phase monitoring, post-development monitoring shall be conducted for a minimum period of ten (10) years, following completion of development approved by this permit, or beyond ten years for as long as necessary to demonstrate to the Executive Director that the water quality management system meets or exceeds the level of treatment required by the water quality management plan.

C. The final Water Quality Management Plan (WQMP), including post-construction Drainage Plan, Water Quality and Hydrology Plan, Runoff Control Plan, Operations and Maintenance Plan, and Water Quality Monitoring Plan, shall be in conformance with the site/development plans approved by the Coastal Commission. Any necessary changes to the Coastal Commission approved site/development plans required by a qualified, licensed professional shall be reported to the Executive Director. No changes to the Coastal Commission approved site/development plans shall occur without an amendment to the coastal development permit, unless the Executive Director determines that no amendment is required.

25. Future Development

B. (1) No development, as defined in Section 30106 of the Coastal Act, including but not limited to, alteration of landforms, removal of native vegetation or the erection of structures of any type, shall occur unless **authorized by this permit or** approved by this Commission as an amendment to this permit.

B. CORRESPONDENCE RECEIVED

Commission staff received additional letters of support, opposition, concern, and an email to Commissioners with attachments from the applicant. The materials received as of Friday 9/2/2016 are attached to this addendum.

Many letters of opposition are opposed to Bluff Road and any additional stop lights, intersections, or traffic on PCH and the surrounding streets. These letters are also opposed to the traffic that would increase as a result of the project, and includes a petition signed by residents of Costa Mesa, inland of the project site. These letters also note resident’s concerns with already impacted signal in the area of the proposed development. Other letters of opposition are concerned with the air quality during soil clean-up and the violations that have previously occurred onsite and their impacts on the “base-line” conditions of the site and the Commission’s assessment of the habitat to date.

A letter from OLEN Properties dated 9/1/16 indicates that a portion of NBR is owned by others, is subject to formal agreements, and has multiple controlling entities. Staff was unaware of this throughout the application process. The concern is that the portion of NBR subject to agreements, also known as the small arroyo, allows for on-site drainage and the project does not address the drainage in this location in the proposed water quality improvement. Neither the project nor the conditions address the Open Space Conservation Easement areas that may be

affected by third-party controls/ownership. It is clear that these issues will need to be addressed by the applicant prior to recordation of the deed restriction, dedication of the open space, and prior to permit issuance.

A letter from San Diego Zoo Global dated 7/7/16, as a partner of US Fish and Wildlife in efforts to recover burrowing owl populations, suggests development is ill-advised where it would write-off burrowing owls and that disturbing the owl habitat would lead to extirpation of the owl.

The letter submitted 9/1/16 on behalf of the Bolsa Chica Land Trust advocates for denial of the project and requests total preservation of the site in order to protect the site as a traditional cultural landscape. The letter asserts that the massive grading of the site constitutes Landform Alteration, which is inconsistent with the Coastal Act and that the grading would cause contaminated fugitive dust that is harmful to human health. The letter also states that the 2 separate permits for Commission consideration (this permit application, and the one by Horizontal Development) is piecemealing.

Comments from several Native American individuals indicated that the letters from 5-16-0649 (Newport Banning Ranch LLC, administrative permit) are also relevant for this file 5-15-2097 and requested that those letters be included in both staff reports. Much of the content of those letters is relevant to the development proposal.

A letter of support for the project was provided by the Kizh nation, with a letter discussing the biological and cultural value of the site. The letter states that the applicant has committed to the recommendation of traditional land management with the proposed restoration plans. The site is described as a struggling, yet surviving mosaic of coastal habitats with unique plants and animals that was a ceremonial site that provided a foundation to their ancestors and was used for food, tools, medicine, housing, etc. The letter explains that all water sources are sacred and that the nation has a understanding that the resources support both the wildlife and humans. The letter advocates for a land management approach that is actively managed by indigenous people, rather than being fenced off for complete preservation. The letter also explains that the Owls on the site are an important figure for their culture and they would like to see the Owls persist on the site.

The letter provided by the Gabrieleno Tongva San Gabriel Band of Mission Indians strongly opposes the project and requests denial based on the site's significant cultural resources that cannot be avoided by any development, nor can any impacts be realistically mitigated. The letter attaches the designation documentation of the NBR site as a Sacred Land in the Native American Heritage Commission's inventory. The letter indicates that all archeological sites are connected and represent a village site that contains many areas not yet excavated and many burials. The letter states that the NBR site is an extension of the pre-historic village of Genga and regardless of the conditions of the archeological deposits, the entire site remains a sacred place.

These statements are echoed by a letter from the California Cultural Resource Preservation Alliance that states that the conditions of the staff report do not address the cultural values of the site and the staff recommendation will not protect the Traditional Cultural Landscape. The letter also asserts that all archeological and cultural resources will be directly and indirectly impacted by the soil clean-up, the trail construction, the utility construction, the water quality basins, the foot traffic, and potential vandalism. The letter suggests the only way to prevent these impacts is the preserve the site as open space.

A final letter is attached from the Kizh nation also explains that public comments made at the last hearing were inappropriate and offensive to the monitors of the archeological testing done on the NBR site in August 2016.

PLEASE NOTE: The summary above and staff's responses in the form of changes to the staff report, conditions and exhibits, do not address comments submitted after close of business on Friday 9/2/2016 due to production and time constraints related to the Labor Day holiday and timing of the hearing.

C. EXHIBITS and ADDITIONS

See the attached REVISED exhibits:

Exhibits 3b, 5a, b, c, 6a, b – revised to properly depict buffers in the lowlands
Exhibit 22- Open Space Conservation Area and Future Development Deed Restriction – replacement for prior 'placeholder'

See the attached NEW exhibits and on page 9, revise the Table of Contents to add the following:

Exhibit 23- Habitable and Non-Habitable development areas

Exhibit 24- Tsunami Inundation zone

See the attached letters:

August 19, 2016 Letter by Mohler to Pert with attachments

September 1, 2016 Email from Mohler to Commissioners with link to attachments

Additional citations for the Substantive File List, Appendix A:

Romero-Zerón L. 2012. Introduction to Enhanced Oil Recovery (EOR) Processes and Bioremediation of Oil-Contaminated Sites. 330 pages, InTech.

Abha S. and Singh C.S. 2012. Hydrocarbon Pollution: Effects on Living Organisms, Remediation of Contaminated Environments, and Effects of Heavy Metals Co-Contamination on Bioremediation. In: Introduction to Enhanced Oil Recovery (EOR) Processes and Bioremediation of Oil-Contaminated Sites, Dr. Laura Romero-Zerón (Ed.), InTech, 2012.

Costello J. 1979. Morbidity and Mortality Study of Shale Oil Workers in the United States. Environmental Health Perspectives, Vol. 30, pp. 205-208.

Longcore T. 2003. Terrestrial arthropods as indicators of ecological restoration success in coastal sage scrub (California, USA). Restoration Ecology 11: 397-409.

Maron M, RJ Hobbs, A Moilanen, JW Matthews, K Christie, TA Gardner, DA Keith, DB Lindenmayer, CA McAlpine. 2012. Faustian bargains? Restoration realities in the context of biodiversity offset policies. Biological Conservation 155: 141-148.

Moreno-Mateos D, ME Power, FA Comi'n, R Yockteng. 2012. Structural and functional loss in restored wetland ecosystems. PLoS Biology 10: e1001247

Riordan EC, PW Rundel. 2009. Modelling the distribution of a threatened habitat: the California sage scrub. *Journal of Biogeography* 36: 2176-2188.

Suding KN. 2011. Toward an era of restoration in ecology: successes, failures and opportunities ahead. *Annual Review of Ecology, Evolution and Systematics* 42: 465–487.

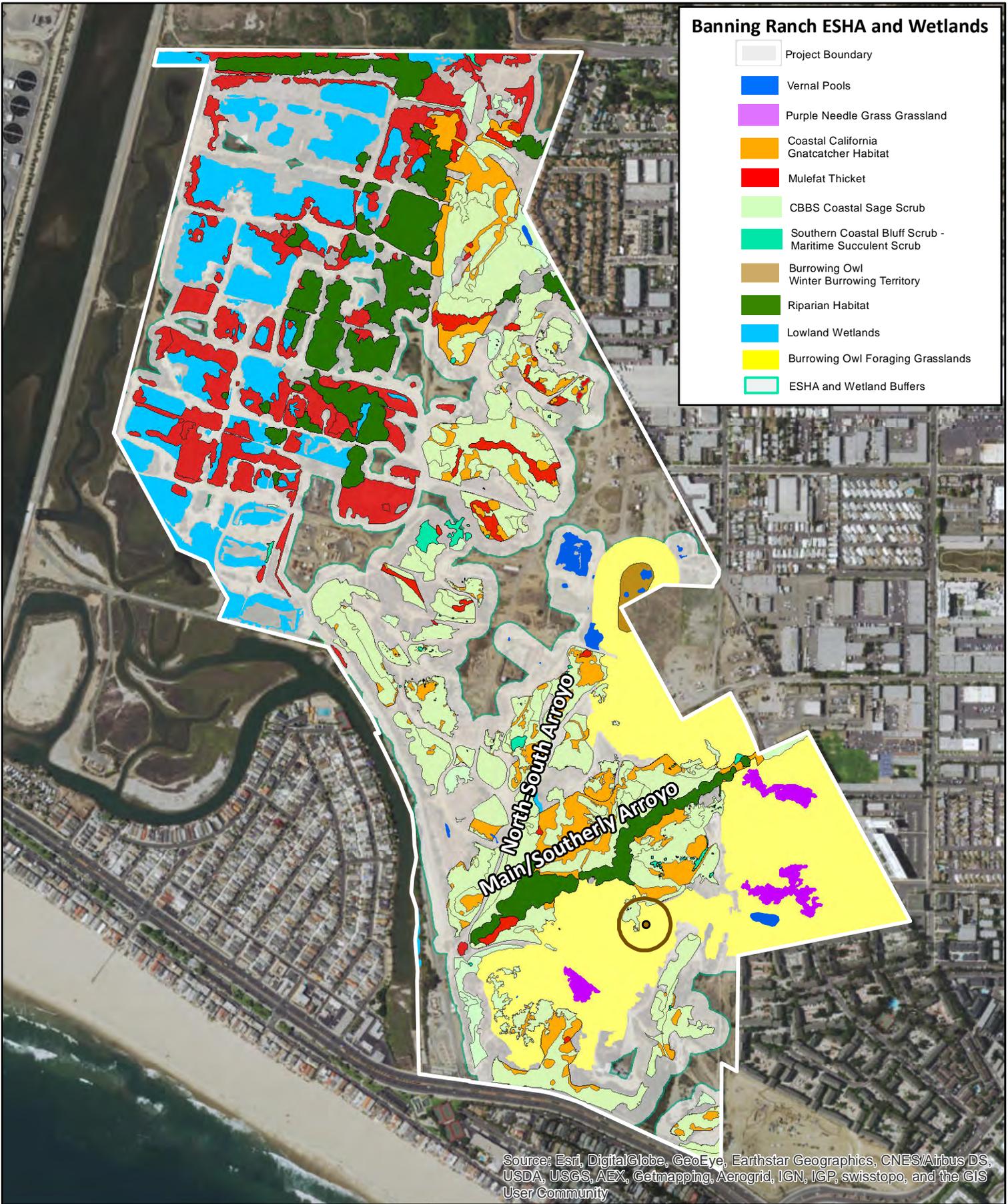
USACE (US Army Corps of Engineers), EPA (US Environmental Protection Agency), 2008. Compensatory mitigation for losses of aquatic resources. *Federal Register*, pp. 19594–19705.

Additional citations for the ESHA Memorandum, Exhibit 13a:

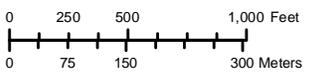
Bomkamp, Tony and Ortega, Brock with GLENN LUKOS ASSOCIATES and DUDEK, respectively. July 2016. *Evaluation of Buffers for Coastal California Gnatcatcher and Coastal Sage Scrub ESHA*.

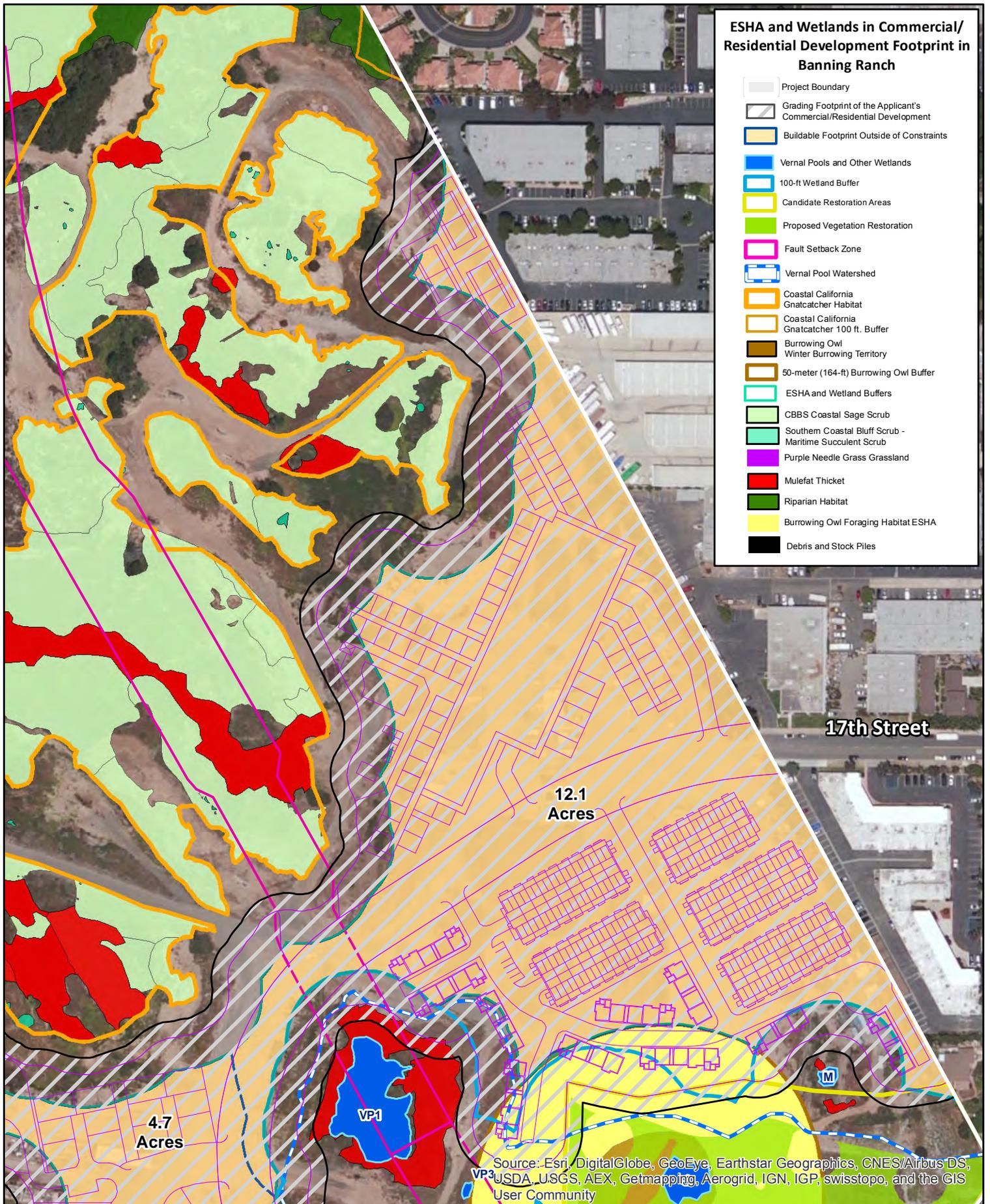
Banning Ranch ESHA and Wetlands

-  Project Boundary
-  Vernal Pools
-  Purple Needle Grass Grassland
-  Coastal California Gnatcatcher Habitat
-  Mulefat Thicket
-  CBBS Coastal Sage Scrub
-  Southern Coastal Bluff Scrub - Maritime Succulent Scrub
-  Burrowing Owl Winter Burrowing Territory
-  Riparian Habitat
-  Lowland Wetlands
-  Burrowing Owl Foraging Grasslands
-  ESHA and Wetland Buffers



Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AEX, Getmapping, Aerogrid, IGN, IGP, swisstopo, and the GIS User Community





ESHA and Wetlands in Commercial/Residential Development Footprint in Banning Ranch

- Project Boundary
- Grading Footprint of the Applicant's Commercial/Residential Development
- Buildable Footprint Outside of Constraints
- Vernal Pools and Other Wetlands
- 100-ft Wetland Buffer
- Candidate Restoration Areas
- Proposed Vegetation Restoration
- Fault Setback Zone
- Vernal Pool Watershed
- Coastal California Gnatcatcher Habitat
- Coastal California Gnatcatcher 100 ft. Buffer
- Burrowing Owl Winter Burrowing Territory
- 50-meter (164-ft) Burrowing Owl Buffer
- ESHA and Wetland Buffers
- CBBS Coastal Sage Scrub
- Southern Coastal Bluff Scrub - Maritime Succulent Scrub
- Purple Needle Grass Grassland
- Mulefat Thicket
- Riparian Habitat
- Burrowing Owl Foraging Habitat ESHA
- Debris and Stock Piles

17th Street

12.1 Acres

4.7 Acres

VP1

Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AEX, Getmapping, Aerogrid, IGN, IGP, swisstopo, and the GIS User Community

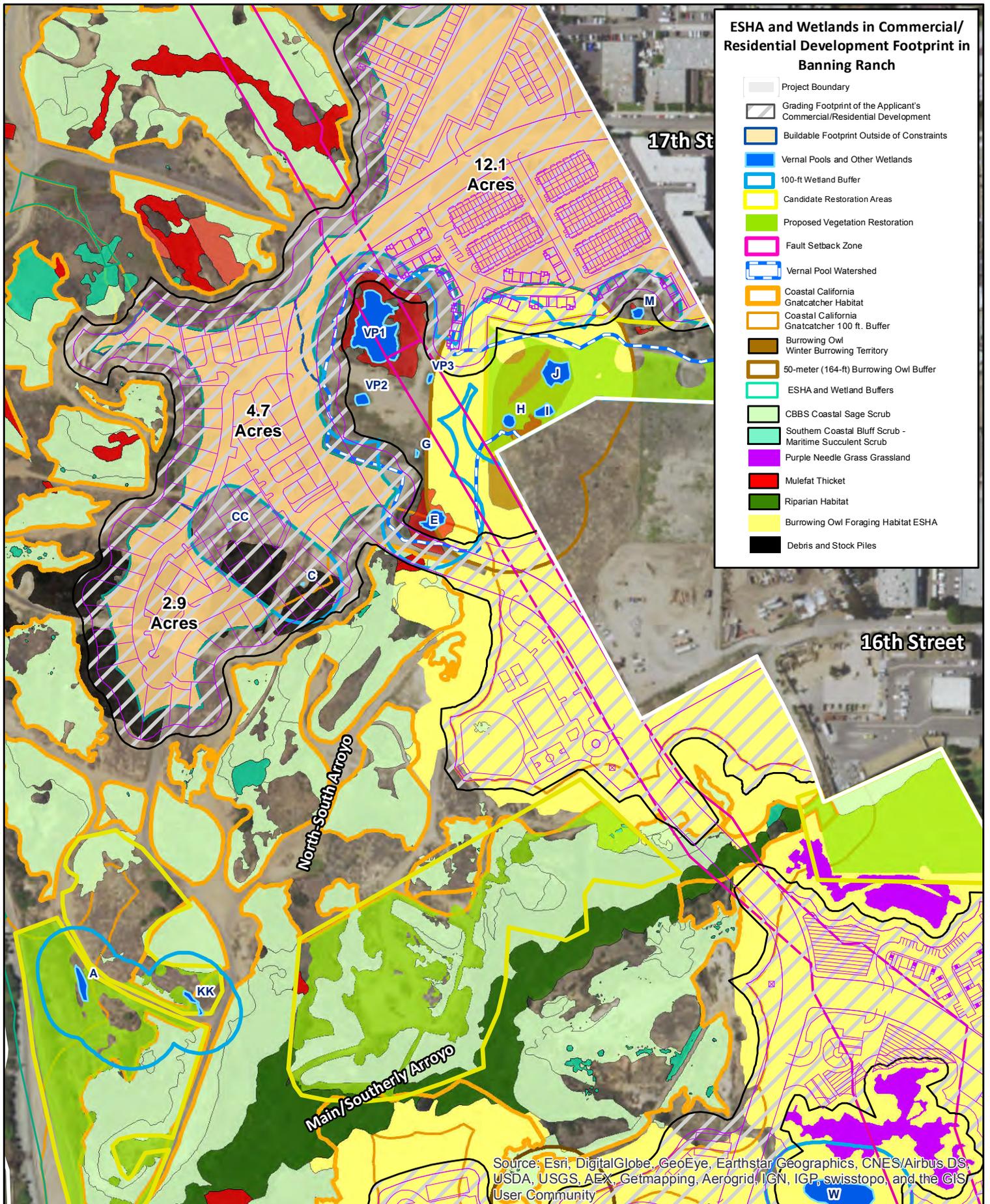
ESHA and Wetlands in Commercial/Residential Development Footprint in the Northern Area of Banning Ranch

5-15-2097, Exhibit 5
(REVISED 9/2/16)



For Illustrative Purposes Only.
Source: Fuscoe, Brooks-Street, Dudek, USACE, CDFW, ESRI, CCC.





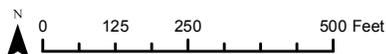
ESHA and Wetlands in Commercial/Residential Development Footprint in Banning Ranch

- Project Boundary
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- Buildable Footprint Outside of Constraints
- Vernal Pools and Other Wetlands
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- Coastal California Gnatcatcher 100 ft. Buffer
- Burrowing Owl Winter Burrowing Territory
- 50-meter (164-ft) Burrowing Owl Buffer
- ESHA and Wetland Buffers
- CBBS Coastal Sage Scrub
- Southern Coastal Bluff Scrub - Maritime Succulent Scrub
- Purple Needle Grass Grassland
- Mulefat Thicket
- Riparian Habitat
- Burrowing Owl Foraging Habitat ESHA
- Debris and Stock Piles

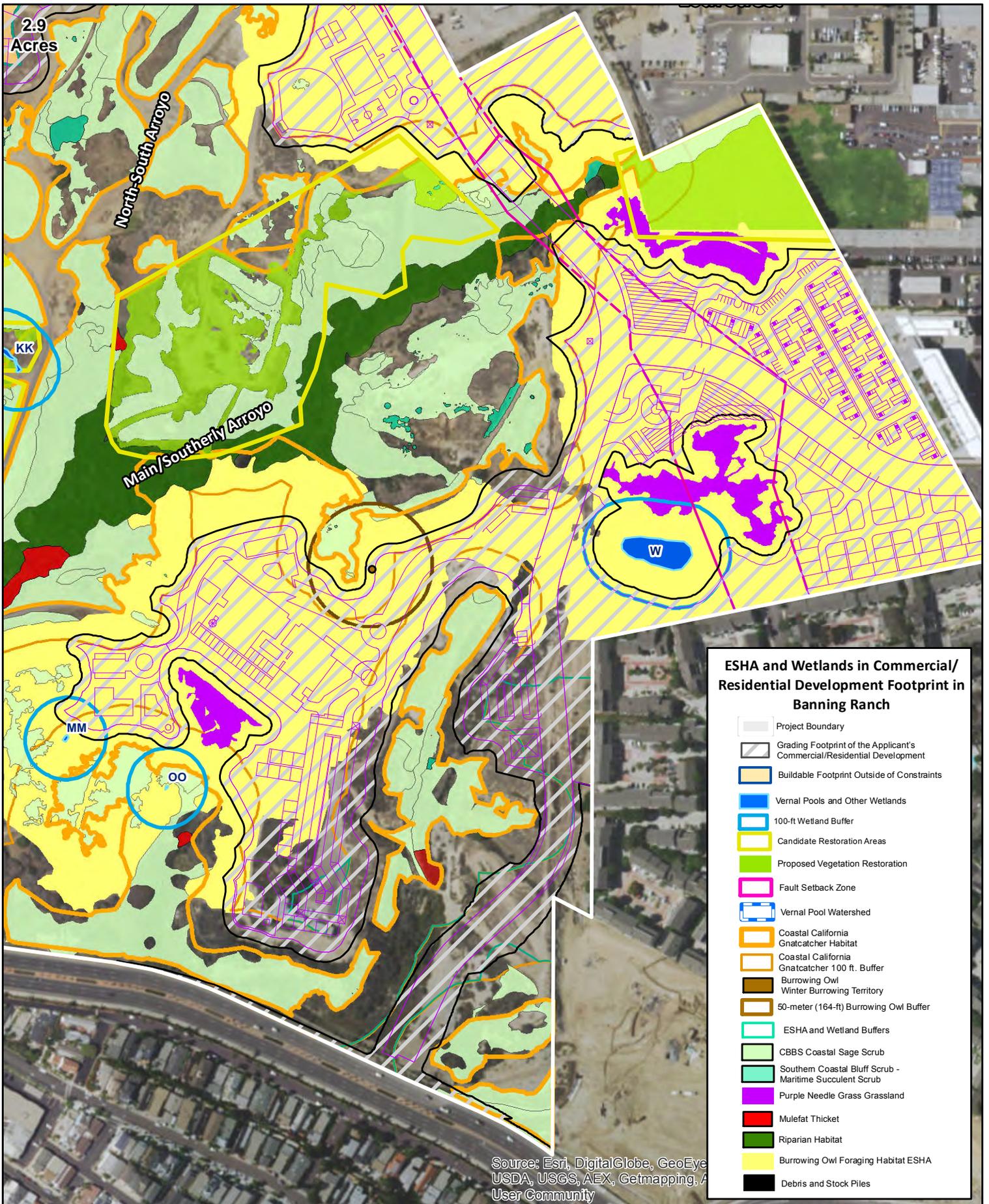
Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AEX, Getmapping, Aerogrid, IGN, IGP, swisstopo, and the GIS User Community

ESHA and Wetlands in Commercial/Residential Development Footprint in the Central Area of Banning Ranch

5-15-2007, Exhibit 5
(REVISED 9/2/16)



For Illustrative Purposes Only.
Source: Fuscoe, Brooks-Street, Dudek, USACE, CDFW, ESRI, CCC.

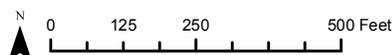


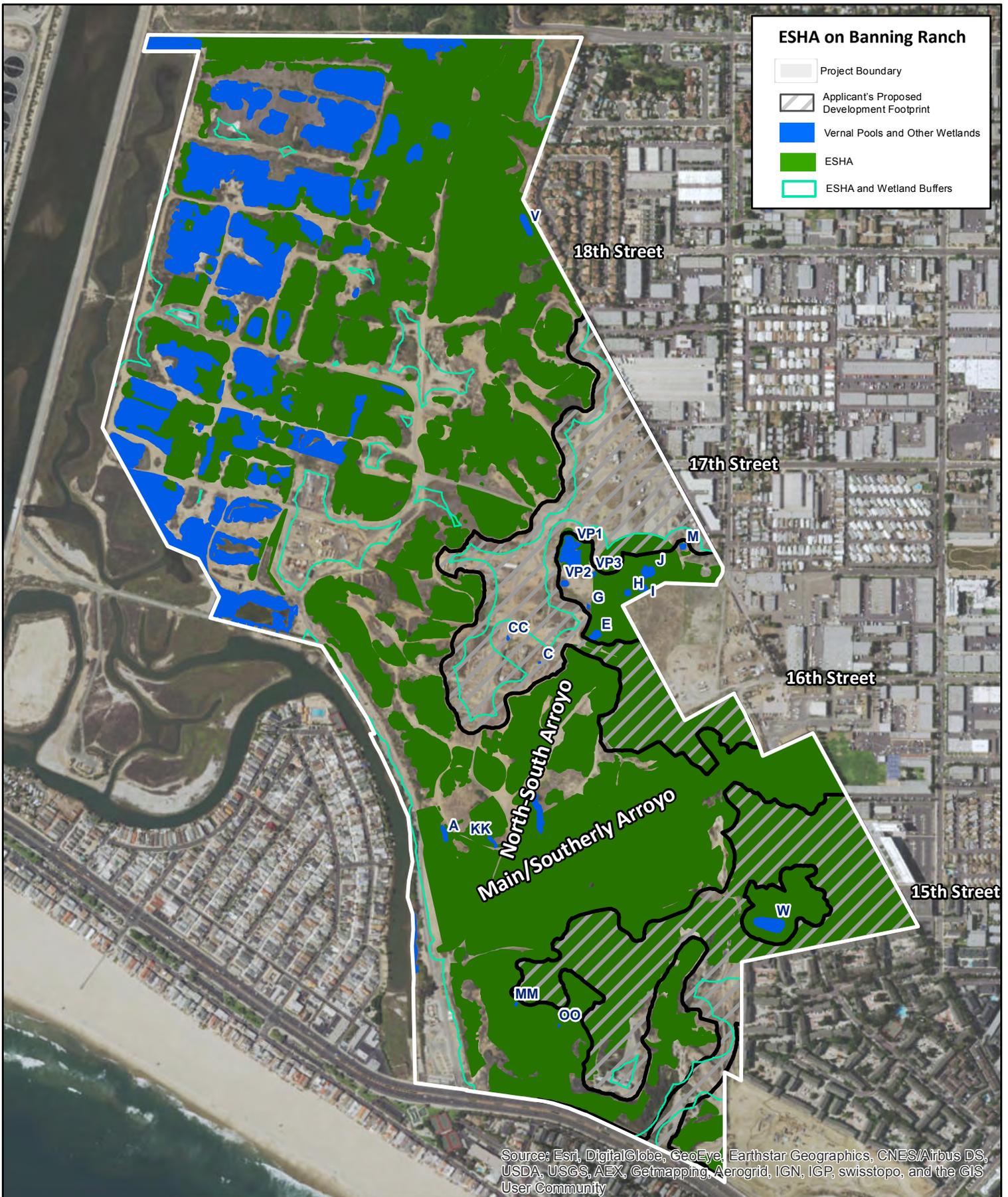
ESHA and Wetlands in Commercial/ Residential Development Footprint in Banning Ranch

- Project Boundary
- Grading Footprint of the Applicant's Commercial/Residential Development
- Buildable Footprint Outside of Constraints
- Vernal Pools and Other Wetlands
- 100-ft Wetland Buffer
- Candidate Restoration Areas
- Proposed Vegetation Restoration
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- Vernal Pool Watershed
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- Coastal California Gnatcatcher 100 ft. Buffer
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- Mulefat Thicket
- Riparian Habitat
- Burrowing Owl Foraging Habitat ESHA
- Debris and Stock Piles

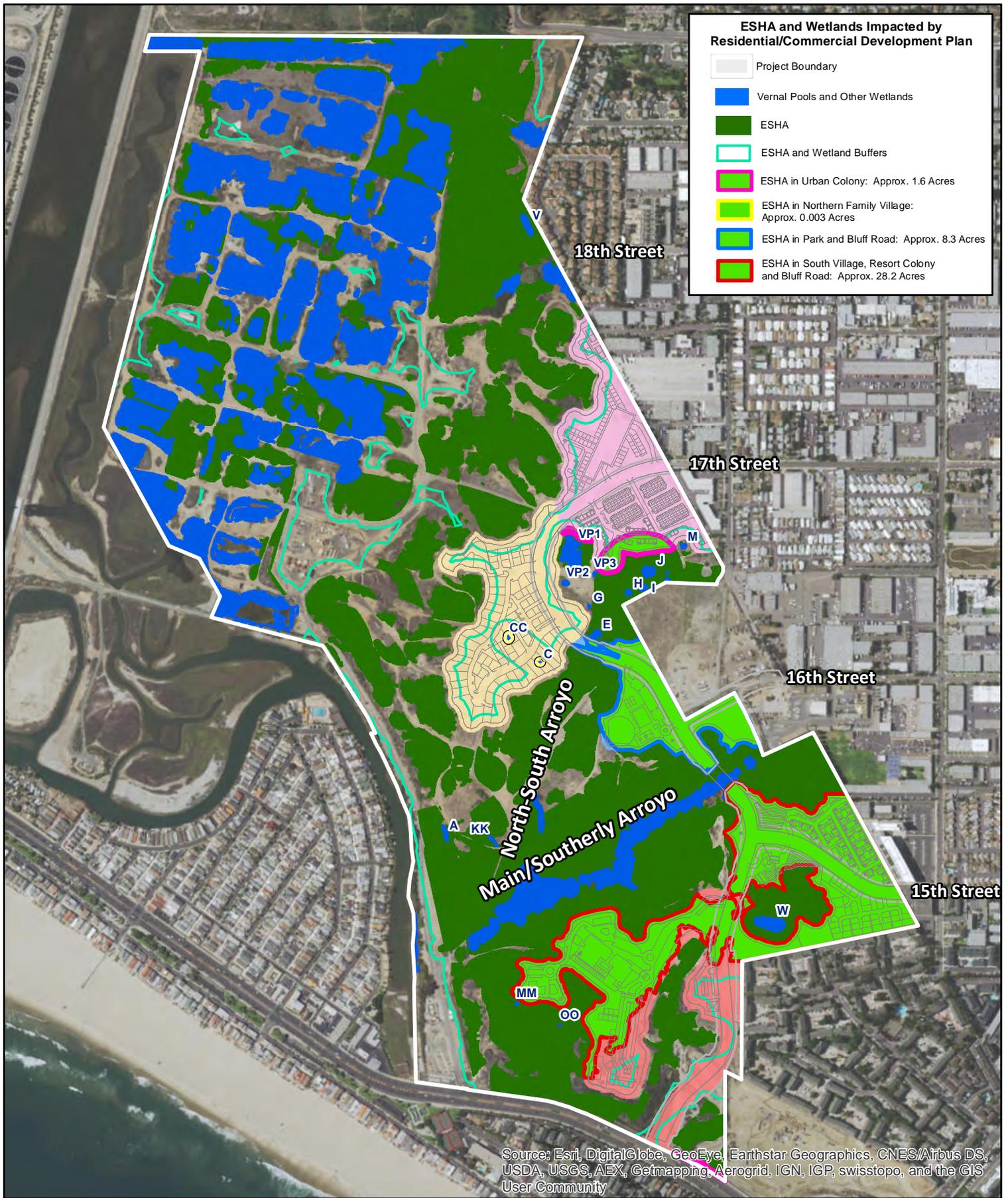
ESHA and Wetlands in Commercial/Residential Development Footprint in the Southern Area of Banning Ranch

5-15-2097, Exhibit 5
(REVISED 9/2/16)





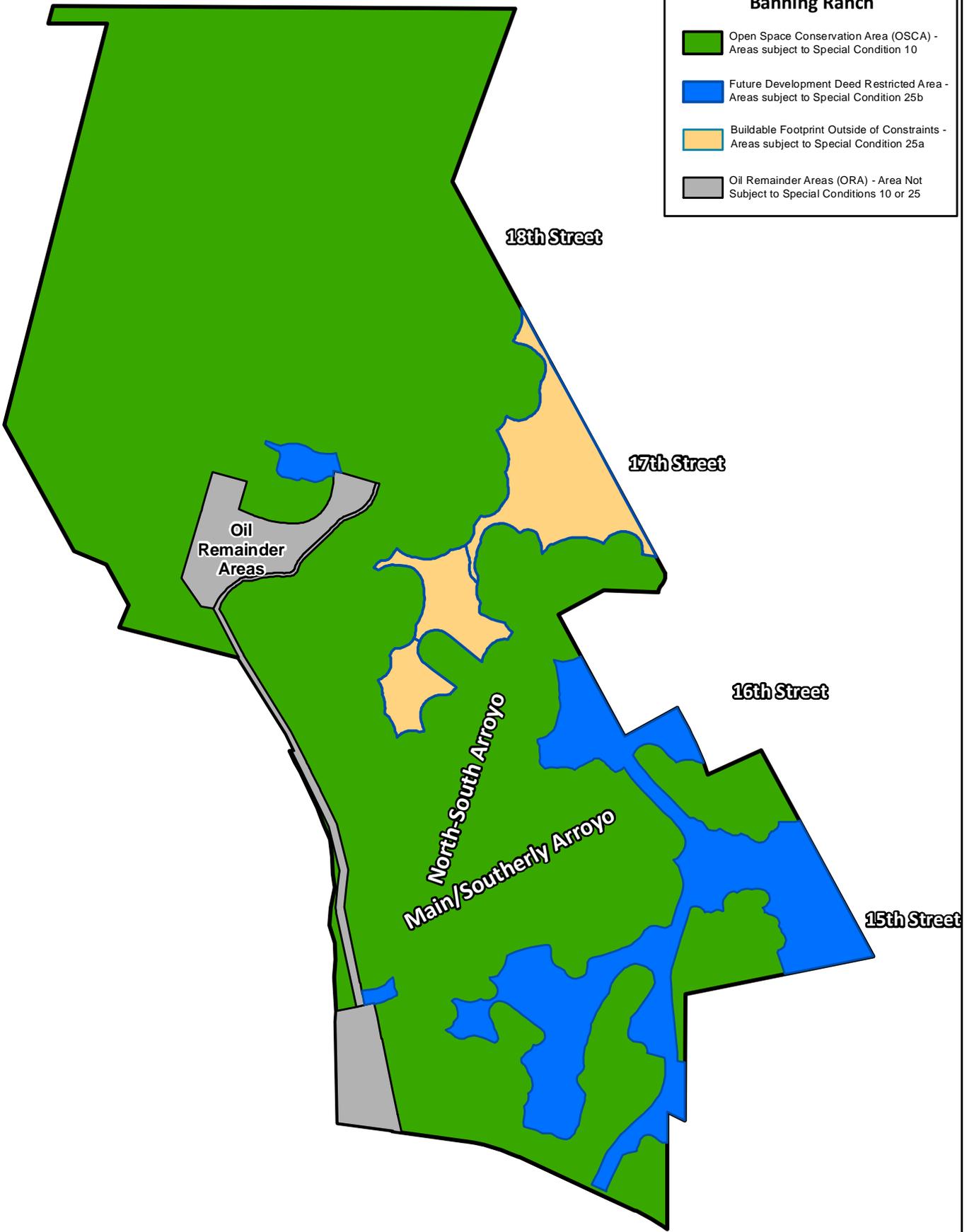
Development Plan Impacts Upon ESHA and Wetlands - Site Plan Detail NOT Shown



Development Plan Impacts Upon ESHA and Wetlands By Plan Area - Site Plan Detail Shown

Banning Ranch

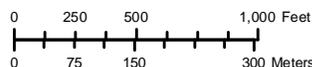
- Open Space Conservation Area (OSCA) - Areas subject to Special Condition 10
- Future Development Deed Restricted Area - Areas subject to Special Condition 25b
- Buildable Footprint Outside of Constraints - Areas subject to Special Condition 25a
- Oil Remainder Areas (ORA) - Area Not Subject to Special Conditions 10 or 25

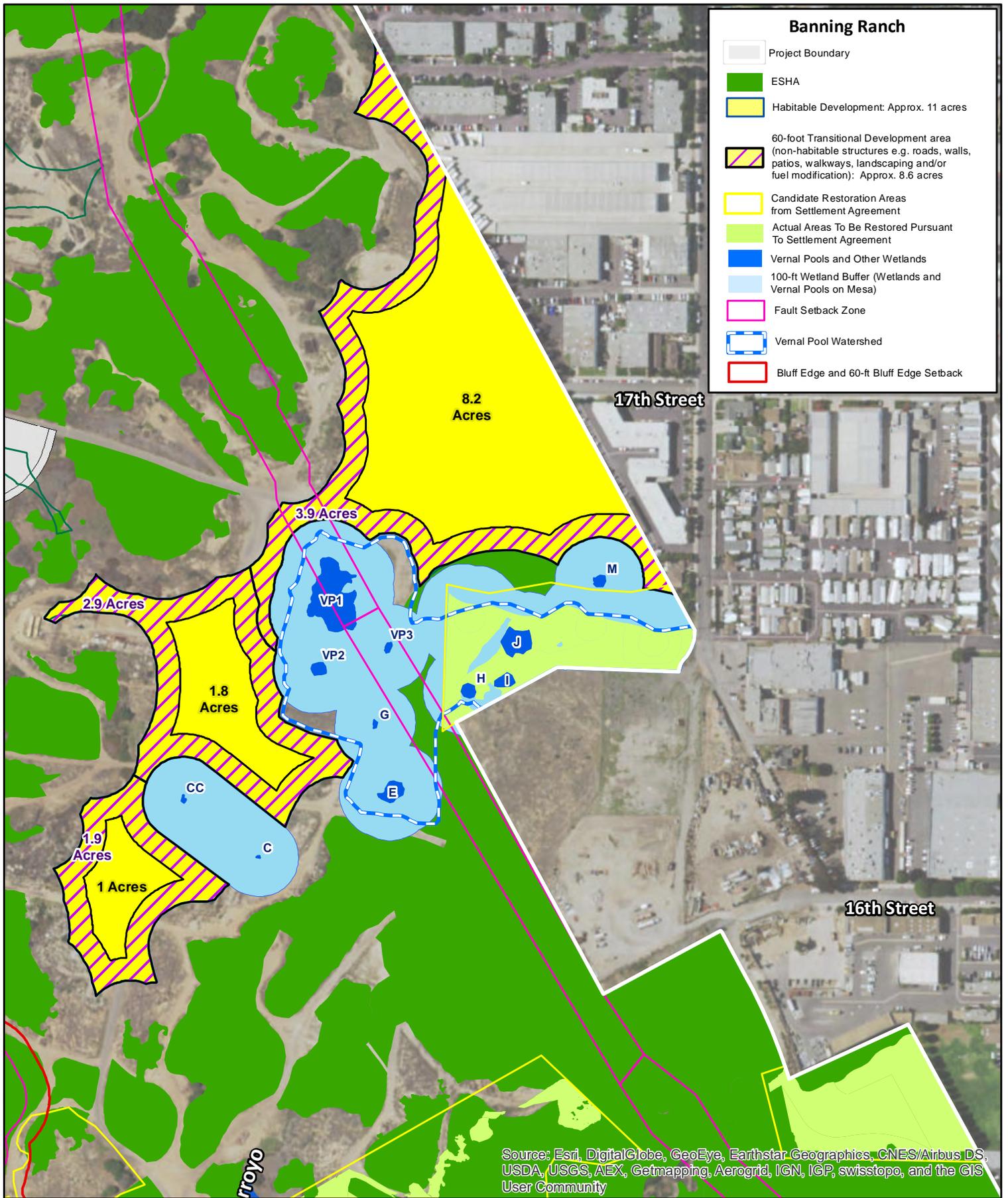


Open Space Conservation Area & Future Development Deed Restriction

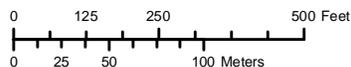


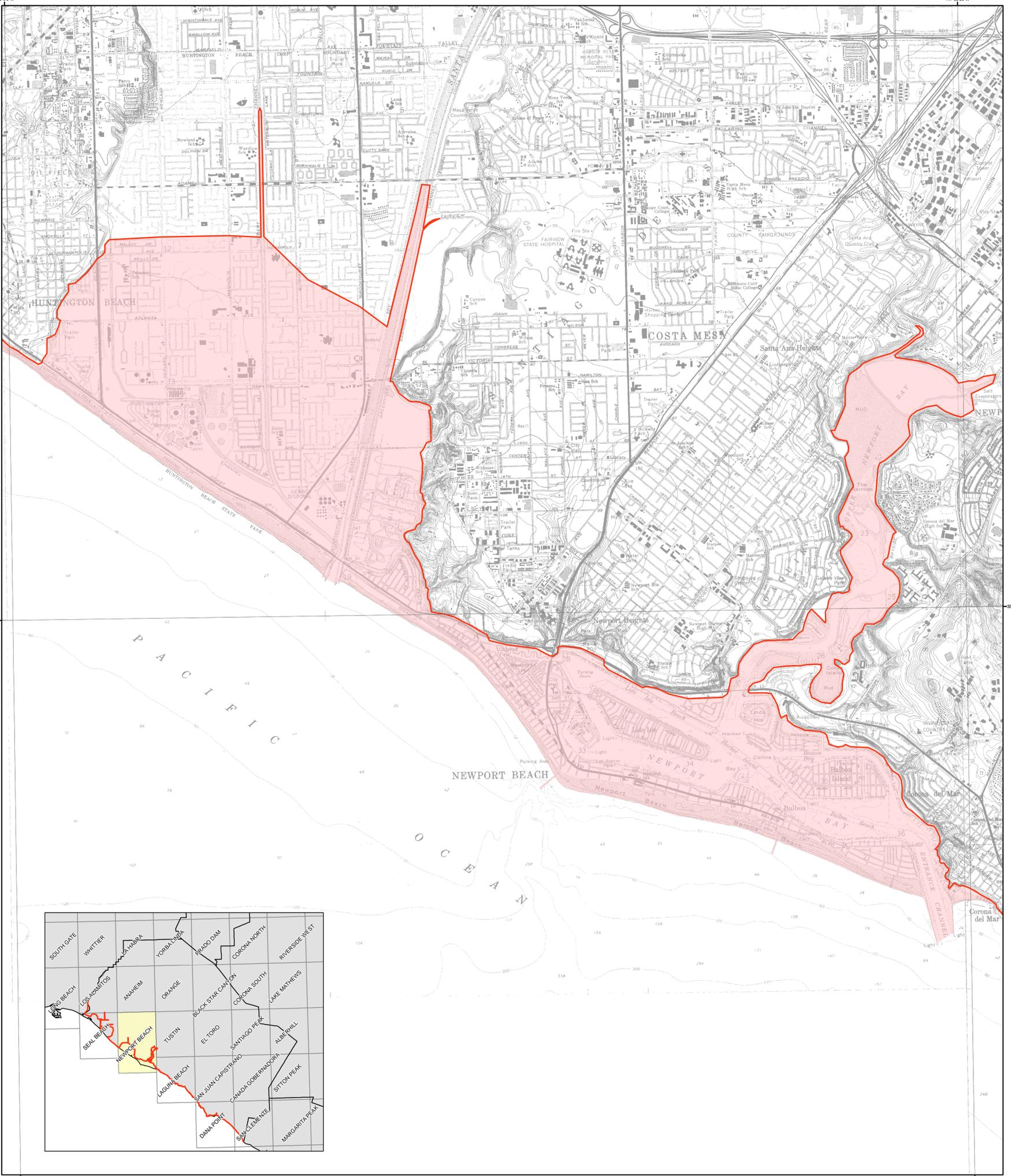
For Illustrative Purposes Only.
 Source: Brooks-Street, Dudek, USACE,
 CDFW, ESRI, CCC.





Habitable and Non-Habitable Areas Within Staff Recommended Development Areas





METHOD OF PREPARATION

Initial tsunami modeling was performed by the University of Southern California (USC) Tsunami Research Center funded through the California Emergency Management Agency (CalEMA) by the National Tsunami Hazard Mitigation Program. The tsunami modeling process utilized the MOST (Method of Splitting Tsunamis) computational program (Version 0), which allows for wave evolution over a variable bathymetry and topography used for the inundation mapping (Titov and Gonzalez, 1997; Titov and Synolakis, 1998).

The bathymetric/topographic data that were used in the tsunami models consist of a series of nested grids. Near-shore grids with a 3 arc-second (75- to 90-meters) resolution or higher, were adjusted to "Mean High Water" sea-level conditions, representing a conservative sea level for the intended use of the tsunami modeling and mapping.

A suite of tsunami source events was selected for modeling, representing realistic local and distant earthquakes and hypothetical extreme undersea, near-shore landslides (Table 1). Local tsunami sources that were considered include offshore reverse-thrust faults, restraining bends on strike-slip fault zones and large submarine landslides capable of significant seafloor displacement and tsunami generation. Distant tsunami sources that were considered include great subduction zone events that are known to have occurred historically (1960 Chile and 1964 Alaska earthquakes) and others which can occur around the Pacific Ocean "Ring of Fire."

In order to enhance the result from the 75- to 90-meter inundation grid data, a method was developed utilizing higher-resolution digital topographic data (3- to 10-meters resolution) that better defines the location of the maximum inundation line (U.S. Geological Survey, 1993; Intermap, 2003; NOAA, 2004). The location of the enhanced inundation line was determined by using digital imagery and terrain data on a GIS platform with consideration given to historic inundation information (Lander, et al., 1993). This information was verified, where possible, by field work coordinated with local county personnel.

The accuracy of the inundation line shown on these maps is subject to limitations in the accuracy and completeness of available terrain and tsunami source information, and the current understanding of tsunami generation and propagation phenomena as expressed in the models. Thus, although an attempt has been made to identify a credible upper bound to inundation at any location along the coastline, it remains possible that actual inundation could be greater in a major tsunami event.

This map does not represent inundation from a single scenario event. It was created by combining inundation results for an ensemble of source events affecting a given region (Table 1). For this reason, all of the inundation region in a particular area will not likely be inundated during a single tsunami event.

References:

- Intermap Technologies, Inc., 2003, Intermap product handbook and quick start guide: Intermap NEXTmap document on 5-meter resolution data, 112 p.
- Lander, J.F., Lockridge, P.A., and Kozuch, M.J., 1993, Tsunamis Affecting the West Coast of the United States 1806-1992: National Geophysical Data Center Key to Geophysical Record Documentation No. 29, NOAA, NESDIS, NGDC, 242 p.
- National Atmospheric and Oceanic Administration (NOAA), 2004, Interferometric Synthetic Aperture Radar (ISAR) Digital Elevation Models from GeoSAR platform (EarthData): 3-meter resolution data.
- Titov, V.V., and Gonzalez, F.I., 1997, Implementation and Testing of the Method of Tsunami Splitting (MOST): NOAA Technical Memorandum ERL PMEL - 112, 11 p.
- Titov, V.V., and Synolakis, C.E., 1998, Numerical modeling of tidal wave runup: Journal of Waterways, Port, Coastal and Ocean Engineering, ASCE, 124 (4), pp 157-171.
- U.S. Geological Survey, 1993, Digital Elevation Models: National Mapping Program, Technical Instructions, Data Users Guide 5, 48 p.

TSUNAMI INUNDATION MAP FOR EMERGENCY PLANNING

State of California ~ County of Orange
NEWPORT BEACH QUADRANGLE

March 15, 2009

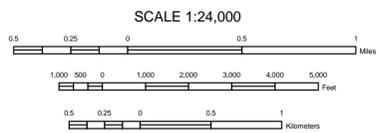


Table 1: Tsunami sources modeled for the Orange County coastline.

Sources (M = moment magnitude used in modeled event)	Areas of Inundation Map Coverage and Sources Used		
	Long Beach Harbor	Newport Harbor	Dana Point
Local Sources			
Catalina Fault	X	X	X
Channel Island Thrust Fault			X
Newport-Inglewood Fault	X	X	X
San Mateo Thrust Fault			X
Palos Verdes Submarine Landslide #1	X	X	
Palos Verdes Submarine Landslide #2	X	X	
Cascadia Subduction Zone #3 (M9.2)	X		X
Central Aleutians Subduction Zone#1 (M8.9)	X		X
Central Aleutians Subduction Zone#2 (M8.9)	X	X	X
Central Aleutians Subduction Zone#3 (M9.2)	X	X	X
Chile North Subduction Zone (M9.4)	X	X	X
1960 Chile Earthquake (M9.3)	X	X	X
1952 Kamchatka Earthquake (M9.0)	X	X	X
1964 Alaska Earthquake (M9.2)	X	X	X
Japan Subduction Zone #2 (M8.8)	X		X
Kuril Islands Subduction Zone #2 (M8.8)	X		X
Kuril Islands Subduction Zone #3 (M8.8)	X		X
Kuril Islands Subduction Zone #4 (M8.8)	X		X

MAP EXPLANATION

- Tsunami Inundation Line
- Tsunami Inundation Area

PURPOSE OF THIS MAP

This tsunami inundation map was prepared to assist cities and counties in identifying their tsunami hazard. It is intended for local jurisdictional, coastal evacuation planning uses only. This map, and the information presented herein, is not a legal document and does not meet disclosure requirements for real estate transactions nor for any other regulatory purpose.

The inundation map has been compiled with best currently available scientific information. The inundation line represents the maximum considered tsunami runup from a number of extreme, yet realistic, tsunami sources. Tsunamis are rare events; due to a lack of known occurrences in the historical record, this map includes no information about the probability of any tsunami affecting any area within a specific period of time.

Please refer to the following websites for additional information on the construction and/or intended use of the tsunami inundation map:

State of California Emergency Management Agency, Earthquake and Tsunami Program: <http://www.oes.ca.gov/WebPage/oeswebsite.nsf/Content/B1EC51BA215931768825741F005E8D80?OpenDocument>

University of Southern California - Tsunami Research Center: <http://www.usc.edu/dept/tsunamis/2005/index.php>

State of California Geological Survey Tsunami Information: http://www.conservation.ca.gov/cgs/geologic_hazards/Tsunami/index.htm

National Oceanic and Atmospheric Agency Center for Tsunami Research (MOST model): <http://nctr.pmel.noaa.gov/time/background/models.html>

MAP BASE

Topographic base maps prepared by U.S. Geological Survey as part of the 7.5-minute Quadrangle Map Series (originally 1:24,000 scale). Tsunami inundation line boundaries may reflect updated digital orthophotographic and topographic data that can differ significantly from contours shown on the base map.

DISCLAIMER

The California Emergency Management Agency (CalEMA), the University of Southern California (USC), and the California Geological Survey (CGS) make no representation or warranties regarding the accuracy of this inundation map nor the data from which the map was derived. Neither the State of California nor USC shall be liable under any circumstances for any direct, indirect, special, incidental or consequential damages with respect to any claim by any user or any third party on account of or arising from the use of this map.



From: [Michael Mohler](#)
To: [Ainsworth, John@Coastal](#); [Sarb, Sherilyn@Coastal](#); [Schwing, Karl@Coastal](#); [Dobson, Amber@Coastal](#)
Cc: [phillip@bochcomedia.com](#); [Cox, Greg@Coastal Commission](#); [Groom, Carole@Coastal Commission](#); [erik@erikhowell.com](#); [skwestmarin@yahoo.com](#); [mmcclure@co.del-norte.ca.us](#); [wendy@katzmitchell.com](#); [Shallenberger, Mary@Coastal Commission](#); [Effie.turnbull@lausd.net](#); [mark@mark-vargas.com](#); [Kram@contentllc.com](#); [District7@longbeach.gov](#); [Celina.luna@longbeach.gov](#); [mluevanocoastal@gmail.com](#)
Subject: NBR Email to Staff and Commissioners
Date: Thursday, September 01, 2016 1:46:29 PM

Dear Commissioners,

As of two weeks ago, NBR believed that a workable framework had been developed with Staff from which the Commission could consider a revised Project that has been substantially reduced in scope and scale to ensure avoidance of all impacts to Staff's recommend ESHA as presented in the May 2016 Staff Report, while retaining the substantial coastal resource and public benefits embedded in the NBR Project, including the timing and financial catalyst to abandon, remediate and restore more than 324 acres (out of 386 acre CDP area) of open space, and to open and improve the site for high-priority public access and recreational uses, low-cost visitor-serving accommodations, and substantial water quality improvements.

We were further encouraged by the additional analyses prepared by our various technical experts and submitted to Staff to further address their concerns related to potential impacts to seasonal features and ESHA buffers following the October 2015 hearing. NBR is disappointed, to say the least, that these technical analyses have been omitted from the current Staff Report, while opinions of other experts opposed to the project have been included.

NBR is in the process of preparing a full response to the Staff Report prepared for the September 7, 2016 meeting. This interim communication is to raise your awareness to a critical matter – not evidenced in the Staff Report, and to provide the Commission with an opportunity to review the expert analyses prepared by NBR prior to release of the current Staff Report.

The following link address the items listed below:

https://www.dropbox.com/sh/2rcohof2zut0gsf/AAAQWm2ASohmiq9eSt-_bmCGa?dl=0

- August 19, 2016 Letter to CDFW in response to August 15, 2016 Coastal Commission Staff Letter Inquiry Letter Regarding: Protection and Conservation of the Burrowing Owl at Newport Banning Ranch
- July 2016 Evaluation of Buffers for Coastal California Gnatcatcher and Coastal Sage

Scrub

- April 12, 2016 Spring 2016 Purple Needle Grassland Assessment for Newport Banning Ranch,
- March 22, 2016 Feature C and Immediately Surrounding Areas and Feature CC at Newport Banning Ranch
- March 10, 2016 Wetland Status for Mulefat Scrub beyond the Limits of Vernal Pool 1, Feature E and Feature M at Newport Banning Ranch, Orange County California
- December 1, 2015 Newport Banning Ranch Coastal Development Permit Application 5-13-032, Focused Issue Area Technical Memos:
 - a. NBR Response to Commission Staff Recommendation Regarding Abandonment and Remediation
 - b. NBR Response to Commission Staff Vernal Pool ESHA Recommendation
 - c. NBR Response to Commission Staff Gnatcatcher/Scrub Pool ESHA Recommendation
 - d. NBR Response to Commission Staff Burrowing Owl ESHA Recommendation
 - e. NBR Response to Commission Staff Purple Needle Grass Grassland ESHA Recommendation

Michael A. Mohler
Brooks Street
Newport Banning Ranch LLC
1300 Quail Street, Suite 100
Newport Beach, CA 92660
O – 949.833.0222
mohler@brooks-street.com



August 19, 2016

VIA Email and US Mail

Edmund Pert
Regional Manager
South Coast Region
California Department of Fish and Wildlife

Regarding: Protection and Conservation of the Burrowing Owl at Newport Banning Ranch

Dear Mr. Pert:

Newport Banning Ranch LLC (NBR) is in receipt of the August 15, 2016 letter sent to you by Coastal Commission (CCC) Staff seeking your input on matters relating to protection and conservation of wintering burrowing owl habitat on the Newport Banning Ranch property, specifically as it relates to the extent and location of foraging habitat necessary to support one or more burrowing owls on the NBR property. Attached to the CCC letter is a vegetation map, which is represented as depicting grassland habitats onsite based on 2013 and 2015 vegetation mapping efforts.

NBR appreciates our prior coordination efforts with the Department on the previously completed Section 1602 Agreement, and further appreciates the opportunity to also weigh-in on this important matter. NBR has dedicated significant time and resources in response to prior CCC Staff inquiries relative to fully studying, documenting and identifying burrowing owl use of the site, along with identifying appropriate project design elements and mitigation measures, including substantial habitat conservation and restoration, to avoid potentially significant impacts to the species. Throughout the CCC review process, our biological team has reviewed and considered the direction contained in the CDFW 2008 Guidance for Burrowing Owl Conservation and the 2012 Staff Report on Burrowing Owl Mitigation as these guidelines may apply to wintering burrowing owl. For your benefit, attached to this letter is a compilation of correspondence (letters and technical memos) provided to CCC Staff in support of the project's pending coastal development permit review process.

Please note however, that the project has been substantially reduced in both size and scale since the attached correspondence and supporting technical studies were completed. As currently proposed, the NBR project includes comprehensive oil field abandonment and clean-up of 386 acres, 64 acres of mixed-use development, and preservation/restoration of more than 320 acres of native habitat areas in perpetuity. In order to avoid direct impacts and provide buffer for CCC-identified ESHA, including ESHA designated for the coastal California gnatcatcher, San Diego fairy shrimp and the burrowing owl, the development as now proposed is limited to 16% of the 400-acre property, or a reduction of 87 acres of development, an additional 21% reduction from the CEQA analyzed and approved project.

Current Site Conditions and Observed Habitat Trends

From the outset, we want to respectfully clarify that vegetation mapping information depicted on the vegetation map provided by CCC Staff in their August 15, 2016 letter does represent current site conditions, particularly for native purple needlegrass (PNGG). As part of the pending application review process, NBR was asked by the CCC to conduct updated vegetation mapping in 2015 and 2016 to ensure

the CCC's review was based on the most current site conditions. NBR completed the mapping efforts and documented a marked decline in PNGG on the site such that much of the PNGG initially mapped in 2012 and 2013 no longer met the CCC's minimum 10% cover threshold for mapping PNGG as a vegetation community. It is our understanding that CCC Staff concurs with the mapping methods and results of these additional studies. Attached is a mark-up of the vegetation map provided by CCC Staff in their August 15, 2016 letter with areas of remaining PNGG circled in red. Our biological team has advised that the most likely contributing factors to the decline in native PNGG are current drought conditions, increased herbivory by rabbits, an increase in Russian thistle (*Salsola* sp.; tumbleweed) and cessation of annual vegetation mowing conducted by the oil field operator, which likely controlled invasive plant species (e.g., Russian thistle) from spreading and affecting the health and composition of PNGG.

We believe that accurately depicting current site conditions, along with observed trends in vegetation community changes that have been documented onsite since 2012, provides important context for assessing potential project impacts and benefits to burrowing owls, given that long-term protection and maintenance of open grassland areas is fundamental to sustaining annual burrowing owl use of the site. In the case of NBR, with the observed decline in native PNGG onsite, spread of invasive plant species (most notably Russian thistle), and transition of previously open grassland habitat to scrub vegetation (a monoculture of *Encelia*) since 2012, it is possible that much of the existing burrowing owl habitat onsite is currently transitioning to less suitable or unsuitable habitat types, irrespective of whether or not the proposed project moves forward.

Currently, the NBR property contains approximately 52 acres of native and non-native grasslands and 47 acres of disturbed/ruderal areas, most of which (but not all) is located on the mesa where wintering burrowing owls have been observed. As illustrated on the vegetation map, much of the grasslands and ruderal areas are isolated and interspersed among active oil field facilities including roads, oil well pads, structures, parking, staging and stockpile areas. Despite the presence of suitable habitat, there have been a number of years since 2001 where burrowing owls have not been observed onsite.

When owls have been observed, NBR has consistently had only one owl onsite during the wintering season, 2008 being the exception when three owls were observed onsite but one left after only a couple of weeks. Burrowing owls have never been observed during breeding season, including the various breeding season surveys conducted in 2008, 2009, 2010, 2012 and 2015. When present during the winter season, it is expected that owls use suitable habitat on and offsite to forage, including the large, preserved open space areas located just north of the site in Fairview Park, where they have been documented.

Proposed Newport Banning Ranch Project

Project Impacts

As noted, the NBR project includes comprehensive oil field abandonment and clean-up of 385 acres, 62 acres of mixed-use development, and preservation/restoration of more than 320 acres of native habitat areas in perpetuity. The project would result in permanent impacts to approximately 37 acres of grassland and ruderal areas located within both the lowland and uplands (mesa) of the site. In addition, 24 acres would be impacted as a result of the required oil field abandonment and clean-up and, therefore, would consist of temporary impacts only, and 11 acres would be impacted as result of grading around the perimeter of development footprint to install a pedestrian trail and would therefore also consist primarily of temporary impacts.

Habitat Restoration and Conservation

26 acres of grassland and ruderal areas would not be impacted by the project, of which approximately 7 acres of native and non-native grasslands would be protected in-situ. Approximately 24 acres of PNGG and transitional native grassland habitat would be restored on the property within vernal pool preserves and other open grassland areas. It should be noted that the anticipated grassland restoration acreage cited here is based on a larger May 2016 development plan. NBR is currently studying the additional habitat creation and enhancement opportunities made available by the current proposed, reduced project footprint and expanded open space; therefore, it is likely that the final grassland restoration project elements will be more robust than that cited here. It is also worth noting that NBR has committed to creating an additional 3.5 acres of grassland habitat on site as part of NBR and the Commission's Settlement Restoration and Mitigation Plan CCC-15-CD-RO-01), which will further contribute suitable habitat for burrowing owls. Most importantly, NBR is proposing to create funding to conserve all protected and restored habitat areas within the more than 320-acre natural open space preserve in perpetuity, which, as opposed to current and foreseeable site conditions, would ensure long-term maintenance of suitable burrowing owl habitat onsite.

The preserved and enhanced burrowing owl habitat onsite, combined with suitable habitat on other preserved open space areas immediately adjacent to the site, are expected to provide adequate foraging habitat to support continued use of the site by the species.

The appended correspondence (Appendix A below) with CCC between May 17, 2013 and December 1, 2015 includes excerpts from letters and technical memos specific to burrowing owl and demonstrates NBR's efforts to work with CCC Staff to ensure that appropriate avoidance of wintering burrowing owl has been incorporated into the project planning, mitigation measures and habitat restoration, and should be considered in the context of the substantial avoidance and future site conditions proposed by NBR.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Mike Mohler". The signature is fluid and cursive, with a large initial "M" and "H".

Michael A. Mohler
Newport Banning Ranch LLC

APPENDIX A: CORRESPONDENCE WITH CCC SPECIFIC TO BURROWING OWL

May 17, 2013 Response to Notice of Incomplete Application

Staff Comment:

10. Burrowing owl surveys (C. Biological Resources, Page 6)

4. Burrowing Owl Surveys. The submitted burrowing owl surveys and reports state that the burrowing owl has been found repeatedly on the site since 2008. However, the survey concludes that, although the owls are there in late January each year, they are not there during mid-February to mid-April. Where is the likely location that they occupy during the breeding season? (Pg. 6, ¶15)

Response:

Although some burrowing owls are year-round residents in California, others are migratory. In parts of coastal southern California, such as in coastal Santa Barbara and Los Angeles counties, burrowing owls are known to winter but are no longer known to breed.^{1,2} In Orange County, the CNDDDB includes recent nesting records for the Seal Beach Naval Air Station and vicinity and the University of California, Irvine, area. Additional records from other locations, such as the El Toro Marine Corps Air Station, have involved only wintering owls.³ The seasonality of burrowing owl records in such places is a result of the migratory nature of some owls. Burrowing owl populations of lowland areas of the state are likely augmented by migrants from elsewhere during the winter.⁴

Although the origin of burrowing owls wintering in California is unknown, western burrowing owls have been documented traveling as far as 2450 kilometers (more than 1500 miles) to their wintering grounds.⁵ Data on burrowing owls captured and banded by researchers provide some insight on where owls wintering in California may come from. Of 90 banded owls encountered prior to 2001, including those encountered in California and those banded in California and encountered elsewhere, 62% were encountered near where the owls were originally banded. Four owls were banded elsewhere (two in Boise, Idaho, and one each in Washington State and British Columbia), and two owls were banded in California and encountered elsewhere (one banded in Orange County and found dead in Mexico and one banded in the Los Angeles Basin and later encountered in Nevada) (Harman and Barclay 2003 cited in LSA Associates 2009)⁶. The remaining owls were those banded in California and later encountered elsewhere in the state. However, some of these may

¹ CDFG (California Department of Fish and Game). 2003. Evaluation of Petition: Request of the Center for Biological Diversity et al. to list the Western Burrowing Owl (*Athene cunicularia hypugaea*) as a Threatened or Endangered Species. October 2003.

² Gervais, J. A., D. K. Rosenberg, and L. A. Comrack. 2008. Burrowing Owl (*Athene cunicularia*). Pp. 218-226 in *California Bird Species of Special Concern: A Ranked Assessment of Species, Subspecies, and Distinct Populations of Birds of Immediate Conservation Concern in California*, W. D. Shuford and T. Gardali, eds. Studies in Western Birds, No. 1. Camarillo, Calif.: Western Field Ornithologists; Sacramento: California Department of Fish and Game.

³ CDFW (California Department of Fish and Wildlife). California Natural Diversity Data Base. 2013. Rarefind Version 43.0.2. On-line database.

⁴ Gervais, J. A., D. K. Rosenberg, and L. A. Comrack. 2008. Burrowing Owl (*Athene cunicularia*).

⁵ Haug, E. A., B. A. Millsap, M. S. Martell. 2011. Burrowing Owl (*Athene cunicularia*). In *Birds of North America Online*, ed. A. E. Poole. Ithaca, N.Y.: Cornell Lab of Ornithology. Access March 2013 at <http://bna.birds.cornell.edu.bnaproxy.birds.cornell.edu/bna/species/061>.

⁶ GLA (Glenn Lukos Associates). 2013. Results of 2012 Focused Breeding Season Burrowing Owl Surveys Conducted for the Newport Banning Ranch Project, Located in Unincorporated Orange County and Newport Beach, Orange County, California. Letter to Newport Banning Ranch, LLC.

have been encountered in migration rather at breeding sites. Therefore, not only is it not possible to determine based on the available data where owls wintering in coastal Orange County might breed, but it is unclear how likely they are to breed elsewhere in California versus somewhere out of state.

Staff Comment:

Given that the owl seems to repeatedly utilize the area, why should or should not the area be considered as habitat that is necessary for the survival of the owls on the site. (Pg. 6, ¶5)

Response:

In general, wintering habitat is necessary for the survival of migratory bird species. Given the variable migratory behavior of burrowing owls, in which some individuals migrate away from their breeding habitat in winter while others remain in the same area year-round, distinct wintering habitat may be less important for the species than for species that are strictly migratory. In addition, individuals of this species have demonstrated behavioral plasticity in their migratory patterns, in which they choose to migrate some years but not others.⁷

The EIR noted that suitable burrowing foraging habitat was present in non-native grasslands and ruderal areas on the site, noting the project would have permanent impacts to 97.26 acres of foraging habitat and temporary impacts to 2.87 acres.⁸ The EIR further noted the project includes approximately 20.27 acres of grassland areas and opportunities for restoration of 50.07 acres of grassland.

November 8, 2013 Response to Notice of Incomplete Application

Staff Comment:

5. *Burrowing Owls. Thank you for the additional information regarding the burrowing owl. Your response clearly states that wintering habitat is very important to the survivability of migratory bird species. Though burrowing owls, in general, exhibit variable migratory behavior, the submitted burrowing owl surveys and reports conclude that this species uses this site only as wintering habitat. None of the breeding season surveys (March/April 2008, May 2009, March 2010, and 2012) have ever detected any signs of burrowing owls, while all wintering season surveys (January 2008, January 2009, and January 2010) have found birds on site. Although there has not been burrowing owls identified during the breeding season, the submitted information indicates that the burrowing owl habitat within this site is important and necessary for the migratory patterns of the burrowing owl. Therefore, please submit a new current protocol wintering season survey to aid in the understanding of the site's current use by the burrowing owl. (P. 8)*

Response:

Comment noted. While our prior response does clearly indicate that wintering habitat is necessary for the survival of migratory bird species, please note that we draw a distinction in that response with wintering habitat for burrowing owl given: 1) the variable migratory behavior of the species, in which some individuals

⁷ Haug, E. A., B. A. Millsap, M. S. Martell. 2011. Burrowing Owl (*Athene cunicularia*). In *Birds of North America Online*, ed. A. E. Poole. Ithaca, N.Y.: Cornell Lab of Ornithology. Access March 2013 at <http://bna.birds.cornell.edu.bnaproxy.birds.cornell.edu/bna/species/061>.

⁸ City (City of Newport Beach). 2011. Draft Environmental Impact Report. Newport Banning Ranch Project, City of Newport Beach. State Clearinghouse 2009031061. Prepared for the City of Newport Beach by BonTerra Consulting. September 9, 2011.

migrate away from their breeding habitat in winter while others remain in the same area year-round, 2) there have been a number of years since 2001 where burrowing owls were not present onsite, and 2) burrowing owls have demonstrated behavioral plasticity in their migratory patterns, in which they choose to migrate some years but not others. Birds have not been observed during the various breeding season surveys conducted in 2008, 2009, 2010 and 2012. In addition, there is no evidence that burrowing owl occur year-round on site as a significant number of other surveys have been conducted during the breeding season and burrowing owl has never been observed anecdotally during the surveys. Further, all burrowing owls, from the Mississippi River to Pacific Ocean, from Canada to Mexico are considered to be part of the same population – migrating not only between seasons and years, but even within the same season. For these reasons, our response indicates that distinct wintering habitat may be less important for the burrowing owl than for species that are strictly migratory. CCC Alternative Project #2 is included in this submittal which expands the proposed Open Space Preserve in upland areas of the site which have the highest documented use for burrowing owl wintering habitat, thereby providing additional wintering habitat on the site. In addition, focused pre-construction surveys in accordance with the 2012 CDFG Staff Guidelines would be required as part of the project, with buffering and relocation requirements implemented during construction for any positive findings.

October 30, 2014 Response to Notice of Incomplete Application

Staff Comment:

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

Response:

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

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

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

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

In addition, NBR will agree to conduct focused pre-construction surveys in the development area in accordance with permit conditions and follow CDFW guidelines, including following strict protocols if surveys identify burrowing owl nests, such as implementing construction buffers and noise reduction measures, construction timing, avoidance of the nest site(s) until the nest is abandoned, and/or relocation, in consultation with CDFW. Lastly, the proposed HCCMP adequately provides habitat for the occasional wintering burrowing owl.

March 5, 2015 Response to Notice of Incomplete Application

Burrowing Owl, Raptors

Grassland and scrub area establishment and restoration efforts aim to increase biological productivity within the Natural Open Space Preserve, and provide enhanced wildlife habitat in areas on site that are currently ruderal, developed, historically maintained, or disturbed habitats. Areas supporting special-status plant species were not considered suitable for grassland or scrub mitigation in order to avoid direct and indirect impacts to these resources.

Impacts to purple needlegrass vegetation will be mitigated through the establishment of purple needlegrass grassland (PNGG) in the eastern vernal pool complex area, acting as a buffer to the established, enhanced, restored, and existing Pools, and intermixed throughout existing and establishment/enhancement scrub areas on the mesa. To mitigate for impacts to non-native and annual grassland impacts on site, restoration in ruderal, disturbed or developed habitats (some of which occur in areas that will be temporarily impacted through oil remediation activities) will occur. Two types of restoration are proposed: salt-tolerant transitional grassland establishment in the lowlands, and annual grassland buffer establishment around existing and established vernal pools and water quality basins in the mesa area.

The improved mesa grassland habitat will provide wildlife habitat for a variety of small mammal species that will in turn provide forage for a variety of potential raptors, such as white-tailed kite (*Elanus leucurus*), Cooper's hawk, red-tailed hawk (*Buteo jamaicensis*), northern harrier (*Circus cyaneus*), Loggerhead shrike (*Lanius ludovicianus*), long-eared owl (*Asio otus*), American kestrel (*Falco sparverius*), ferruginous hawk (*Buteo regalis*), American peregrine falcon (*Falco peregrinus anatum*), and merlin (*Falco columbarius*). In

In addition, portions of the upland grassland will provide wintering habitat for burrowing owl (*Athene cunicularia*). The lowland areas were chosen for grassland mitigation to broaden the foraging habitat for raptors and avian species with the intent of creating a comprehensive restored watershed area. In addition, the lowland salt tolerant grasslands will provide nesting and foraging habitat for short-eared owl (*Asio flammeus*). Suitable habitat for short-eared owl has become rare in Orange County, therefore, the proposed grassland establishment in the lowlands represents a significantly important mitigation measure.

MM 4.6-12 Burrowing Owl. Impacts on known burrowing owl burrows and surrounding non-native grasslands shall be avoided to the maximum extent practicable, as determined by a qualified Biologist in coordination with the City of Newport Beach (City). If impacts on grassland habitat occupied by burrowing owl cannot be avoided, mitigation for impacts on the burrowing owl shall include restoration of native grassland habitat, as described in MM 4.6-2.

Within 30 days prior to any ground-disturbing activity to suitable burrowing owl habitat, a focused pre-construction survey shall be conducted to determine the presence or absence of the burrowing owl on the Project site. If the species is not observed, no further mitigation shall be necessary. Results of the survey shall be provided to the California Department of Fish and Game (CDFG).

If an active burrow is observed during the non-nesting season, a qualified Biologist shall monitor the nest site; when the owl is away from the nest, the Biologist shall exclude the owl from the burrow and then remove the burrow so the owl cannot return.

If an active burrowing owl burrow is observed during the nesting season, the active site shall be protected until nesting activity has ended to ensure compliance with Section 3503.5 of the California Fish and Game Code. Peak nesting activity for burrowing owl normally occurs from April to July. To protect the active burrow, the following restrictions to construction activities shall be required until the burrow is no longer active (as determined by a qualified Biologist): (1) clearing limits shall be established within a 300-foot buffer around any active burrow, unless otherwise determined by a qualified Biologist and (2) access and surveying shall be prohibited within 200 feet of any active burrow, unless otherwise determined by a qualified Biologist. Any encroachment into the buffer area around the active burrow shall only be allowed if the Biologist determines that the proposed activity shall not disturb the nest occupants. Construction can proceed when the qualified Biologist has determined that fledglings have left the nest burrow.

December 1, 2015 Memo - Response to Commission Staff Burrowing Owl ESHA Recommendation

Staff Position: Staff states that, based on the consistency of wintering burrowing owls near vernal pools H, I, J, & K, the area rises to the level of ESHA because the area supports wintering burrowing owls, a rare species, and because the area is easily disturbed and degraded by human activities and development.

Staff further states that, in order to avoid disturbance to burrowing owls, the California Burrowing Owl Consortium and the California Department of Fish and Wildlife recommend 50-m buffers during the non-breeding season, and therefore Staff recommends that a 50-m (164-ft) buffer be established around the defined burrowing owl ESHA area, in accord with previous Commission action.

NBR Response: As illustrated on Exhibit 1, the proposed project avoids all impacts to Staff's recommended burrowing owl ESHA area. While NBR has proposed revisions to the development plan to ensure avoidance of impacts to Staff's recommended burrowing owl ESHA, it should be noted that the recommended ESHA

area is located immediately adjacent to one of the most intensely used portions of the oil field, and therefore consists almost entirely of areas mapped as disturbed and developed. As such, while the recommended ESHA area has been documented to periodically support wintering burrowing owl, the area is already developed and significantly disturbed to an extent that human activities and development have little bearing on the habitat value for burrowing owl, and the current extent of disturbance and degradation of the area is expected to persist with ongoing oil field operations absent the proposed project.

With respect to recommended buffers, the CDFG (2012⁹) staff report provides the most recent recommendations with regard to burrowing owl mitigation and is stated as the replacement for previous documents and guidance. CDFG 2012 states, "Burrowing owls detected during non-breeding season surveys may be year-round residents, young from the previous breeding season, pre-breeding territorial adults, winter residents, dispersing juveniles, migrants, transients or new colonizers. In addition, the numbers of owls and their pattern of distribution may differ during winter and breeding seasons." This indicates that site fidelity and patterns of use are highly variable during the non-breeding season and detections made during that time warrant cautious interpretation. In the case of NBR, detections have only been made during the winter period – and for varying periods of time – indicating ephemeral and migratory use only. Mitigation measures that are recommended in the guidance include, in part:

- Avoid disturbing occupied burrows during the nesting period, from 1 February through 31 August.
- Avoid impacting burrows occupied during the non-breeding season by migratory or non-migratory resident burrowing owls.
- Avoid direct destruction of burrows through chaining (dragging a heavy chain over an area to remove shrubs), disking, cultivation, and urban, industrial, or agricultural development.
- Develop and implement a worker awareness program to increase the on-site worker's recognition of and commitment to burrowing owl protection.
- Place visible markers near burrows to ensure that farm equipment and other machinery does not collapse burrows.

It is important to note that buffer recommendations apply to occupied burrows and typically relate to construction activities and not permanent impacts once applied. Since these migratory owls use different burrows from year to year and those resources are ever-changing and ephemeral (e.g., one burrow complex that was used in 2014 collapsed due to rain and the owl abandoned the area), Staff's recommended buffers should apply to extant burrows that are in current use by owls and should apply to the construction period only. It should also be noted that CDFG 2012 allows for passive relocation of burrowing owls during the non-breeding season.

Proposed NBR Project

As opposed to current conditions described above, the proposed revised project provides for an expanded Open Space Preserve in upland areas, including those areas surrounding the recommended burrowing owl ESHA, and would implement, for the first time, restored buffer areas to separate development from the recommended burrowing owl ESHA area. As shown on Exhibit 1, the entire western extent of the recommended ESHA area is coincident with an actively used oil facility road, and the northern extent of the

⁹ CDFG. 2012. Staff report on burrowing owl mitigation, prepared by State of California Natural Resources Agency Department of Fish and Game. March 7, 2012.

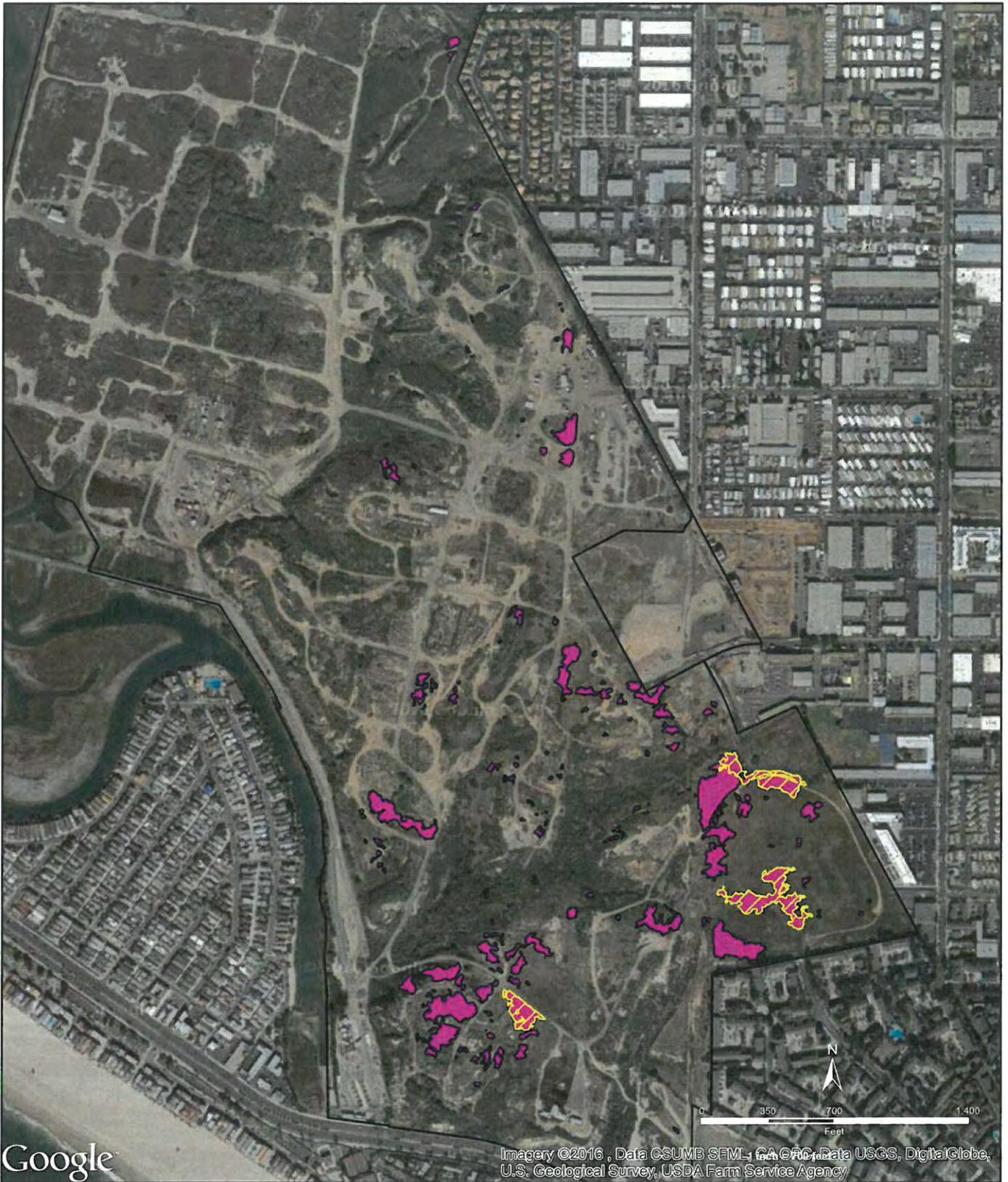
recommended ESHA area is coincident with an actively used oil facility road and the primary oil field access point and staging area.

The propose project would substantially expand buffers to the west of the recommended ESHA area, which would be included in the proposed open space preserve and consist of abandonment and restoration of a number of existing roads and staging areas, as well as areas mapped as heavily disturbed. New buffers would be established approximately 50 feet from the proposed project access road to the south, and a restored buffer area, coupled with planted fuel modification areas for the Urban Village, would establish an approximate 120-150' buffer from structures in the north.

Given the intermittent use of the site for wintering burrowing owls and the extent of exiting degraded site conditions, the proposed development plan with newly established buffers from Staff's recommended burrowing owl ESHA are appropriate and will ensure that the area will be improved to sustain use of the site for wintering burrowing owl into the future.

Restoration

The proposed development plan will restore and protect, in perpetuity, all areas of the site that Staff suggests qualify as burrowing owl ESHA as well as new buffer areas where none currently exist. The proposed HCCMP provides for restoration that addresses potential impacts to burrowing owl wintering habitat through the establishment of purple needle grass and native annual grasslands, as well as native grassland restoration in temporary impact area locations. Specifically, grassland establishment within the vernal pool complexes will enhance wintering habitat for burrowing owl that has periodically been observed on site, including the entirety of Staff's recommended burrowing owl ESHA area.



-  Project Boundary
-  Proposed Purple Needlegrass Grassland ESHA 2012/2013
-  Proposed Purple Needlegrass Grassland ESHA Grassland ESHA May 2016

NEWPORT BANNING RANCH
Proposed Purple Needlegrass Grassland ESHA

GLENN LUKOS ASSOCIATES



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STATE OF CALIFORNIA - NATURAL RESOURCES AGENCY

EDMUND G. BROWN, JR., Governor

CALIFORNIA COASTAL COMMISSION ACCOUNTS PAYABLE

South Coast Area Office
200 Oceangate, Suite 1000
Long Beach, CA 90802-4302
(562) 590-5071



August 15, 2016

Edmund Pert
Regional Manager
South Coast Region
California Department of Fish and Wildlife

Re: Protection and Conservation of the Burrowing Owl (*Athene cunicularia*) on Newport Banning Ranch

Dear Mr. Pert,

The Commission is scheduled to consider the pending application for a permit for the development project known as Newport Banning Ranch (NBR), located near the 1500 Block of Pacific Coast Highway, partially in Newport Beach and partially within unincorporated Orange County, at its meeting next month in Newport Beach.

According to Section 30006.5 of the California Coastal Act, as quoted below, the Commission should interact with the scientific community when engaging in development decisions:

The Legislature further finds and declares that sound and timely scientific recommendations are necessary for many coastal planning, conservation, and development decisions and that the commission should, in addition to developing its own expertise in significant applicable fields of science, interact with members of the scientific and academic communities in the social, physical, and natural sciences so that the commission may receive technical advice and recommendations with regard to decision making ...

In addition, Coastal Act Section 30336 states that;

The commission ... shall cooperate with and assist other public agencies in carrying out this division. Similarly, every public agency, including regional and state agencies and local governments, shall cooperate with the commission and shall, to the extent their resources permit, provide any advice, assistance, or information the commission may require to perform its duties and to more effectively exercise its authority.

Pursuant to these Coastal Act guidelines, we are reaching out to the California Department of Fish and Wildlife (CDFW) for input, based on your biological expertise, on protection and conservation of over-wintering burrowing owls (*Athene cunicularia*) known to occur at the NBR

site. As you are aware, burrowing owls are identified as an S3 rare species¹ and a California Species of Special Concern by your agency, a bird of conservation concern by the US Fish and Wildlife Service, and as a sensitive species by the Bureau of Land Management. Protocol level winter burrowing owl surveys have identified burrowing owls associated with ground squirrel burrows on the NBR site near a vernal pool complex in 2009, 2010, and 2015, in the center of the southern mesa in 2008 and 2014, and on the mesa in the southeast corner of the property in 2008 (see attached exhibit). Based on the consistency of wintering burrowing owl use, Commission ecologists found the area near the vernal pool complex to rise to the level of environmentally sensitive habitat or ESHA and recommended a 50 m (164 foot)² protective buffer (see attached exhibit), however this determination did not address foraging habitat for the one to three burrowing owls overwintering on the site³.

On June 24, 2016, the Commission received a letter from Dr. Peter H. Bloom, ornithologist and burrowing owl expert, in which he concludes that the project, if approved by the Commission pursuant to the staff recommendation, will result in the extirpation of over-wintering burrowing owls from the site. He states:

Importantly, no surveys have attempted to determine specific foraging areas used by wintering owls on Banning Ranch. The published literature and my own observations lead me to conclude that Burrowing Owls can be expected to utilize all of the available grassland/vernal pool and open grass/scrub habitats within the uplands of Banning Ranch. Any significant reduction, fragmentation, or degradation of potentially suitable Burrowing Owl foraging habitat would threaten the long term survival and existence of these individuals, as well as an unknown number of Burrowing Owls that can be expected to occur there during migration (migrants are seldom detected during the kinds of surveys that have been conducted at Banning Ranch).

He goes on to say:

What is important for the persistence of Burrowing Owls is that the set-aside for owl foraging include, to the maximum extent possible, large and contiguous areas of vernal pools, native or non-native grasslands, and other open, sparsely vegetated habitats. Project planning to date falls far short of this standard.

In response to Dr. Bloom's letter, Commission ecologists are considering the need to designate additional acreage for protection as burrowing owl foraging habitat. Such habitat could consist of native purple needlegrass grassland (PNGG), non-native grassland, and ruderal habitat. The attached exhibit depicts the purple needlegrass grassland on site based on the 2013 and 2015

¹ S3: Vulnerable, at moderate risk of extinction due to a restricted range, relatively few populations (often 80 or fewer), recent and widespread declines, or other factors.

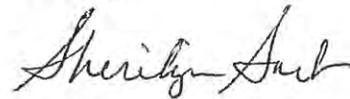
² California Department of Fish and Game. April 14, 2008. Guidance for Burrowing Owl Conservation. Habitat, Conservation, and Wildlife Branch, Bay Delta Region. Sacramento, CA.

³ Engel, J. Sept. 25, 2015. ESHA and Wetland Determination for Banning Ranch, Orange County, California (CDP 5-13-032). Memorandum to Amber Dobson, Coastal Program Analyst. AND Dixon, J. and J. Engel. April 29, 2016. Site-specific analysis of wetlands and ESHA on Banning Ranch. Memorandum to Amber Dobson, Coastal Program Analyst.

Dudek vegetation maps and an analysis by the Commission ecologists that removed small fragmented patches of PNGG. The other grassland category includes annual European grassland, salt grass flats, and ruderal or disturbed areas.

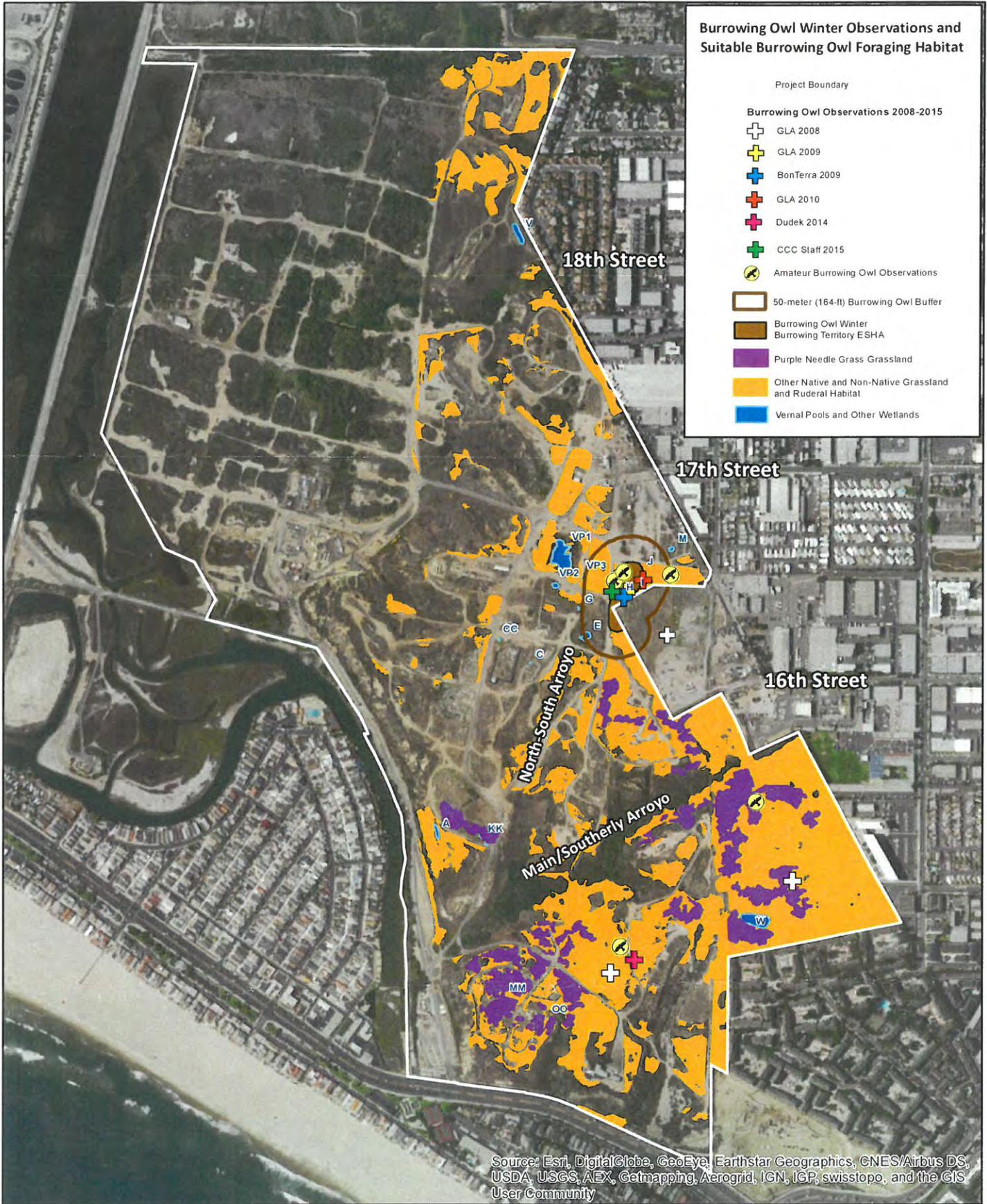
Given the CDFW 2008 *Guidance for Burrowing Owl Conservation* and 2012 *Staff Report on Burrowing Owl Mitigation* guidelines for protecting and conserving burrowing owls, we are seeking your opinion on the appropriate extent and location of foraging area necessary to support one or more over-wintering burrowing owls on the NBR site. To the extent possible, your response by August 25, 2016, to be available for the Commission hearing as early as September 7, 2016 will be greatly appreciated. Thank you for taking the time.

Sincerely,



Sherilyn Sarb
Deputy Director

cc: Jack Ainsworth, CCC
Karl Schwing, CCC
Alex Helperin, CCC
Jonna Engel, CCC
Amber Dobson CCC
Chris Yelich Brooks Street
Michael Mohler Brooks Street



August 1, 2016

Honorable Coastal Commissioners and Staff
200 Oceangate, 10th Floor
Long Beach, CA 90802

Subject: Newport Banning Ranch Development– SUPPORT

Dear Honorable Coastal Commissioners and Staff,

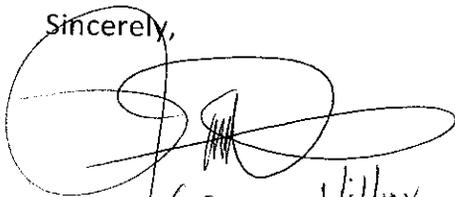
This letter indicates my support of Newport Banning Ranch, located on the coastal bluffs in the vicinity of West Newport Beach, close to where the Santa Ana River enters the Pacific Ocean. I request that the Coastal Commission approve the project when it comes before you in September.

As a resident of Orange County, I am aware of the prospective plan for Newport Banning Ranch. This project will be good for the environment with the cleanup of the oil field, restoration of the land, removal of the fence, and provide housing a hostel, and hotel. It will also benefit the region with an abundance of open space, parks, trails and connections to recreational areas along the Santa Ana River Corridor. The project is good for the coast by creating access that will otherwise not exist.

Without project approval, the land will remain an unsightly oil field with no public access for many years to come. I believe the current plan represents the best use for wildlife and local residents. We as a community have an opportunity to support the Newport Banning Ranch. This proposal that brings down the fences around a decades' old-oil-field, provides for the cleaning up of the oil field, creation of open spaces and trails, and importantly creates access that without this proposal has no real opportunity of coming to fruition.

As a local resident, I urge you to support the Newport Banning Ranch development.

Sincerely,



Name:

Conna Villar

Address:

1001 W Stevens Ave. Unit 203

City, Zip:

Santa Ana Ca 92707

STEPHENS MIDDLE SCHOOL

1830 West Columbia Street

Long Beach, CA, 90810

(562) 595-0841

FAX (562) 426-5631

8/21/2016

Dear Coastal Commission,

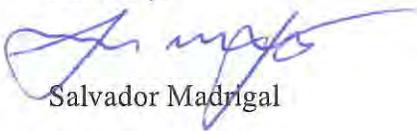
I am writing you in support of the Banning Ranch Project. I am the principal of Stephens Middle School in Long Beach and we were fortunate enough to have one of our student groups visit Banning Ranch. Our students were able to hike around the property and learn about the environment, like the differences between native and invasive plants and water conservation. I saw first-hand the excitement they had when visiting the property and the knowledge and appreciation they gained for the environment.

The Newport Banning Land Trust and the programs it offers would be of great benefit to the schools in the region, other youth groups, and the community overall. These kinds of programs are essential for the education of our children and without this project's approval I fear that we will lose an important educational ally in the Land Trust.

In addition, the open recreational spaces and hiking/biking trails will also be beneficial to the youth in the area. Areas that allow for family gatherings and safe biking/hiking trails are rare. Children need more places like these where they can learn to love the environment and everything it has to offer.

I urge you to support the project in September.

Sincerely,



Salvador Madrigal

Principal

Stephens Middle School

From: [Jill Dufour Kanzler](#)
To: BanningRanchComments@Coastal
Subject: Approve Banning Ranch, please.
Date: Tuesday, August 30, 2016 3:39:38 PM

Dear California Coastal Commission:

As a lifelong Newport Beach resident, I love this community and I want to see it cleaned up and preserved for all of us to enjoy. I would like to see Banning Ranch approved, environmentally restored, parks and trails opened, new neighborhoods emerging and a new hotel. This will be a benefit to the entire community. The majority of this town and our own City Council approved this project. Please do not hold this up any longer. Please approve Banning Ranch for all of us!--Jill Dufour Kanzler

Jill Dufour Kanzler
Kanzler Public Affairs
949-632-1535
www.kanzlerpublicaffairs.com

From: [Christine Hayes](#)
To: BanningRanchComments@Coastal
Cc: mike@newportbanningranch.com
Subject: Newport Banning Ranch
Date: Tuesday, August 30, 2016 12:38:33 PM

I am so excited to hear news that people are taking steps to improve and protect a valuable California resource. In too many cases, people are the cause of destruction to our earth's wonderful resources. The inclusion of two Native American tribes in this important project is especially gratifying to me, as I believe Native American people have been treated poorly since the white man landed on this continent.

To have representatives of the Gabrieleño Band of Mission Indians (Kizh and Tongva Tribes) support and endorse Newport Banning Ranch's plans to clean, restore and open the industrial brownfield site is icing on the cake. The collaboration on this project shows what can be accomplished when people work together to become stewards of this great land.

Thanks to all involved for striving to turn Newport Banning Ranch into 80 percent natural open space with biking, hiking, educational programming along with limited housing and commercial development. Please be sure to keep the housing and development to a bare minimum (I would prefer it be left out entirely, but will compromise if necessary), as there is certainly enough development in California and along our coasts already!

Christine B. Hayes
154 Fairwood Way
Upland, CA 91786-2161
909-985-7807





GABRIELENO BAND OF MISSION INDIANS – KIZH NATION

Historically known as The San Gabriel Band of Mission Indians

Recognized by the State of California as the aboriginal tribe of the Los Angeles basin

September 1, 2016

Dear Amber Dobson:

At your request, we are providing you with a brief analysis of the biological resources that are present within the Newport Banning Ranch (NBR) development site. This letter is intended to provide you with a better understanding of why the biological resources have always held such a high value to our Tribe. For your knowledge, we have undergone consultation with NBR staff informing them about their natural resources and expressing our biological concerns for their development. NBR has committed to comply with our recommendations and to include our traditional land management knowledge into their restoration and enhancement plan for the land. Our analysis of the biological data describes to us a struggling yet surviving mosaic of coastal habitats that once provided the foundation of life for our grandfathers. From the purple needlegrass grassland, to the maritime succulent scrub, to the Santa Ana river mouth and wetlands, the NBR location provided a plethora of unique plants and animals that would only be found here within the whole earth. Every single plant that grew on NBR land provided for food, household items, structures, and medicine. Every single animal provided for food, tools, clothing, medicine, and most importantly, wisdom and life lessons. This location shared the land's bounty with the ocean's bounty, and the land's fresh water with the ocean's salt water, creating a unique biological terroir and gathering spot for our families for thousands of generations. Our Tribe considers all water sacred because it heals, cleans, quenches, and is necessary for the existence of life. NBR once contained abundant amounts of water from different sources (e.g. river/creeks, natural springs, hot springs, freshwater and saltwater marsh, and vernal pools). These water locations are sacred to us because they always contain a suite of endemic plants and animals that can't be found anywhere else in the world and will provide the human body with unique curing gifts that heal and nurture the mind, body and soul. Today, science gives these special elements complicated and long names such as phenolics, polyphenols, monoterpenoids, flavones, flavonoids, sesquiterpenes and terpenoids to name a few. I urge you to Google any of these terms to learn more about the pharmacological value these compounds can have for the human body. The native plants existing on NBR land have abundant amounts of these compounds with varying concentrations in their leaves, stems, and roots. Many of our Tribe's most powerful medicines came from locations with sacred natural springs and vernal pools like the area of Banning Ranch. For example, *Pluchea odorata* (common name: sweetscent or marsh fleabane), a plant that is found along our coast and only in wetlands. Our grandfathers commonly used this plant for a lot of their inflammatory ailments and even called it "cura para todo" or the cure-for-all plant. Well, now it is being "discovered" by science as a medicine for cancer (Gridling et al., 2009; found online at <http://www.ncbi.nlm.nih.gov/pubmed/19287970>). This article reports that this plant contains cytotoxic compounds that will not only stop cancer cells from replicating but will also program the cancer cells to initiate the portion of the cell cycle known as apoptosis or cellular death. Thus, this plant contains compounds that can stop cancer from spreading and then can program the cancer to die. This mechanism for "immobilizing" cancer is already being used today in the cancer drug Taxol, which is a chemotherapy drug. This drug was derived as a byproduct of a symbiotic relationship between a fungus and the bark of *Taxus brevifolia* (common name: Pacific yew) and is harvested to make the cancer drug Taxol (Generic name: Paclitaxel). This drug uses the same mechanism of immobilizing the cancer as *Pluchea odorata*, but the chemotherapy drug taxol stops there, whereas *Pluchea odorata* has been shown to continue further and will program the cancer cells into apoptosis or cell death. Unfortunately, science is at the preliminary stages and funding has not been proportioned for researching anti-cancer drugs using *Pluchea odorata*, however, the preservation of its habitat and surrounding environment is critical to having this plant, along with many others, available for when "funding" is available to pursue these sources of new pharmaceuticals. This unique biological environment that surrounds vernal pools has helped to support the health and spirit of thousands of generations of our ancient families living on this land, but now, in just a couple of generations, we have lost the majority of our sacred waters in Southern California and our Tribe is continually struggling to preserve any remnant waters that still remain. To compound the matter, this current generation continues to follow in their grandfather's destructive footsteps within our natural landscapes but now documents the loss of these

Andrew Salas, Chairman
Albert Perez, treasurer I

Nadine Salas, Vice-Chairman
Martha Gonzalez Lemos, treasurer II

Christina Swindall Martinez, secretary
Richard Gradias, Chairman of the council of Elders

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irreplaceable environments in very expensive CEQA and Mitigated Negative Declaration documents. All the while, this generation continues to deprive themselves of the multitude of botanical gifts that can be found within our native plants and the abundance of gifts and life's wisdom that can be learned from our native animals. The unfortunate result is an enduring misunderstanding and unjustified disregard for the land's native biological resources and the available abundant gifts it provides human inhabitants each year.

Some further examples of the phytochemicals currently available on the NBR site include, but are not limited to, sesquiterpenes, terpenoids, monoterpenoids, and saponins. *Encelia californica*, a dominant scrub bush on site contains a high concentration of sesquiterpenes and terpenoids. The sesquiterpenes provide for wound healing and help with inflammatory diseases (found online@<https://www.google.com/patents/US5905089>), while the terpenoids provide for insecticide properties (Isman et al., 1990; found online@ http://link.springer.com/chapter/10.1007%2F978-1-4684-8789-3_7). From this plant our Tribe currently creates a "neospurin-like" medicinal salve using the resin of the plant. The resin of the *Encelia* plant contains very similar healing properties to Myrrh which is an aromatic resin of the genus *Commiphora*, a natural gum that was used throughout history as a perfume, incense and medicine and was so prized in antiquity that it was even given by the Magi to the baby Jesus. *Encelia* contains anti-bacterial, anti-fungal, anti-viral properties within its leaves, stems, and roots and can even be used to make a brilliant yellow dye from the pigments of the flowers. The monoterpenoids onsite can be found in differing quantities within many species of coastal sage scrub (e.g. *Isocoma*, *Salvia*, *Artemisia*, *Baccharis*) and is a powerful constituent in the relief of chronic pain (Adams, J., 2012; found online @ <http://www.ncbi.nlm.nih.gov/pmc/articles/PMC3816656/>) and inflammation. Our Tribe makes a pain oil from the sagebrush that is used for arthritic and chronic pain areas and is also a powerful mosquito repellent. As well, the purple needlegrass grassland ecosystem is a system that was abundant with annual plants that provided roots and tubers and underground vegetables such as onions (*Allium* sp.), soap plant (*Chlorogalum* sp.), and corms (*Calochortus* sp.). These species were heavily used as aromatics and flavorings for food dishes and provided specific nutrients and minerals not found in aerial food plants and created a more robust and balanced diet. One of the compounds found heavily in *Chlorogalum* (i.e. saponins), is a compound that Science is now touting will help locate and battle cancer (Saponins as cytotoxic agents: a review; found online@<http://www.ncbi.nlm.nih.gov/pmc/articles/PMC2928447/#!po=0.204918>). Saponin compounds can be found within most of the grassland species of plants that historically grew on NBR land but have since been extirpated. However, with our Tribe's help these important annual grassland species could be revegetated and propagated within the future grasslands on NBR.

Our Tribe understands that the biological resources on this land are not just there for the wildlife but are also there to support the human community as well. We recognize that by using our traditional knowledge and techniques in the revitalization and revegetation of the land, we can cause a cascade of positive effects upon the struggling habitats and their wildlife species that they support. Our management practices treat the land like a garden and will in turn benefit everything else downstream from the insects, to the birds, to the animals. But why does it stop there? The information presented above shows that the plants can be utilized for "natural" healing of the community as well. The local Universities can utilize the plants growing on NBR land to discover new mechanisms for drugs that can target and destroy today's diseases. Since our native plants already contain defensive mechanisms, science only needs to observe and then create "designer" medications from these instruction manuals for these ailments (Bhanot, et al., 2011; found online@ <https://www.researchgate.net/file.PostFileLoader.html?id=54f18611d2fd644c098b4635&assetKey=AS%3A273717865713664%401442270832101>). All of this is possible with today's technology, but will not be possible if these storehouses of medical information (i.e. plants and animals) are put behind a fence and told it's just habitat for birds and animals. With our help, the NBR conservation lands can return to be managed by the indigenous people with traditional ways where the preserved land is used for its bounty to support the community at large rather than just placed behind a fence with some trails throughout. Our concept of land management, we feel, will bring forth a better public appreciation of the land coupled with a more balanced understanding of the purpose for this land. Our goal is to help return this land back to its previous grandeur so that it's plentiful bounty can be appreciated and benefited by all, not just a few.

We urge you to vet the information we have provided. We understand that the information our Tribal families have retained over the thousands of generations living on this land is nothing to today's generation unless backed up by a scientific explanation. So that is why I present it that way, because there is no reason why this land cannot still provide these gifts to this generation of people living on it. These habitats are not just for the wildlife but are also for our benefit too. The answers to today's and tomorrow's medical questions can be found within the phytochemicals of these plants. Our Tribe has educated the NBR staff to help them realize that the native plants of their land can be invaluable sources of scientific information and study for the relief of common ailments as well as new ailments that are being discovered each day (e.g. Zika virus, West-Nile virus). Our plants are just waiting for science to

Andrew Salas, Chairman
Albert Perez, treasurer I

Nadine Salas, Vice-Chairman
Martha Gonzalez Lemos, treasurer II

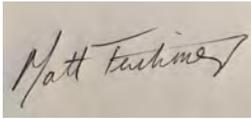
Christina Swindall Martinez, secretary
Richard Gradias, Chairman of the council of Elders

"discover" them for these uses...which is something our Tribe earnestly promotes. If NBR is restored, they will be enhancing and restoring habitats with species that have already been shown by Science to have cytotoxic effects.

In conclusion, I wanted to share one of our traditional oral story's with you because it seems appropriate in this situation. The story is of the burrowing owl (Koo-koó-oo) and grasshopper (Wā-ët'). This story reveals one of the purposes we know for the owls to occur on the sacred grounds of Banning Ranch. The burrowing owl is considered an important friend and messenger to our people. During the new growth of spring, the owl would conduct a most conspicuous dance (walking, hopping and pouncing), which was mimicked in our ceremonial dances because the dance indicated to our people that the seasonal abundance of grasshoppers was here. Grasshoppers were a favored snack for our people because slightly roasted over a fire pit with a sprinkling of salt was tasty, healthy, and a great group party snack. Since the NBR lands were ceremony areas, the land would gather a large amount of people in concert-type crowds. These types of foods were the ideal daily snacks enjoyed during the festivities and the owl was considered the "town crier" telling everyone the grasshoppers are here and ready to gather...thus declaring the preparation time for the ceremonies...which everyone looked forward to each year...so the burrowing owl was a special symbol to our Tribe. This story can be explained biologically as well. Since the owl is an opportunistic feeder it will hunt what is easiest to catch...during the abundant times of grasshoppers, the owls would hunt the most concentrated areas which in turn showed the local people the best place to collect grasshoppers. So the walking and hopping owls (which were actually hunting) symbolized the coming of the grasshoppers and ceremonial dances conducted at Banning Ranch were conducted in their honor. We still honor the burrowing owl today and if the land gets cleaned and restored, our Tribe is resolved to help return the owl and the grasshoppers back to Banning Ranch.

We appreciate your interest and can be available for further discussions at your convenience.

With respect,



Matthew Teutimez,
Tribe Biologist - Gabrieleno Band of Mission Indians - Kizh Nation
cell (714) 872-3474
email Matt.Teutimez@gmail.com

Andrew Salas, Chairman
Albert Perez, treasurer I

Nadine Salas, Vice-Chairman
Martha Gonzalez Lemos, treasurer II

Christina Swindall Martinez, secretary
Richard Gradias, Chairman of the council of Elders

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GABRIELENO BAND OF MISSION INDIANS – KIZH NATION

Historically known as The San Gabriel Band of Mission Indians

Recognized by the State of California as the aboriginal tribe of the Los Angeles basin

September 1, 2016

Dear California Coastal Commission:

The purpose of this letter is to provide the Commissioners and staff with a better understanding of why our Tribe, the native lineal descendants of the Banning Ranch project area, have chosen to work alongside and support the Newport Banning Ranch (NBR) development in coastal Orange County. The Coastal Commission, the general public, and our Tribe all have the same objective for this project site. There is no argument regarding the biological and cultural significance of this site such that all should agree these resources need to be sustained and nurtured. At the same time, all should agree that the current condition and neglect of this project site continues to jeopardize its future health. It has been well documented through the Commission itself and the US. Fish and Wildlife Service that the potential damage from abandoned oil wells to the land, water, wildlife, and air can be devastating for all, let alone expensive. Through extensive consultation with NBR, they have agreed to follow our recommendations for protection of cultural and biological resources. By approving this project, only 20% (roughly 80 acres) would be developed. What is most important to realize is the 20% does not contain known cultural resources, vernal pools or wetlands. While the remaining 80% (roughly 320 acres) would be "nurtured", specifically meaning that NBR has agreed to remove the abandoned oil wells, clean and decontaminate the land, and then work with us to revitalize and reestablish it for the plants and wildlife. Thus, you as a Commission have the power to be nurturing this significant land for the future use not only by wildlife but by the local community as well. By cleaning and improving the habitat, sensitive species such as California gnatcatcher, coastal cactus wren, and burrowing owl will have an increased abundance and diversity of natural resources available for their daily life activities.

Opponents to the development argue that the land should be conserved and left as is. However, they are not accounting for the future of this land as it would be left as an oil field and remain closed to the public. The land will continue to deteriorate and these special species will suffer the consequences. They are also ignoring the potential for water contamination, green house gas effects, and public safety concerns.

Furthermore, we have agreed to work closely alongside NBR providing monitoring services during all ground disturbance. This will insure that no cultural resources or worst case, human remains, are damaged or inadvertently overlooked. We have discussed at length with them the protocols necessary to protect these resources. These types of protective measures are not usually sanctioned by land developers and our interactions with developers are usually met with arrogance and disrespect. However, in our interactions with the NBR development company, they have shown us different. NBR has taken great care along with an abundance of effort in helping us to preserve and protect our cultural resources on their land, which no other developer has ever done to date.

We would love to have the ability to protect and preserve 100% of the site, but our Tribe does not have the money or resources available to thoroughly clean and restore the land to the level that NBR has agreed. We understand the fact that our historic Tribal lands have attained a worldwide reputation as a location for business and profit and this reputation has led to an attractive market for developers from around the globe. We strongly feel that if NBR is not involved in the development of this land, it is likely that the next developer would not be as considerate or willing to work with us, the native indigenous people of this land.

Respectfully,

Andrew Salas, Chairman

Andrew Salas, Chairman

Albert Perez, treasurer I

Nadine Salas, Vice-Chairman

Martha Gonzalez Lemos, treasurer II

Christina Swindall Martinez, secretary

Richard Gradias, Chairman of the council of Elders

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GABRIELENO BAND OF MISSION INDIANS - KIZH NATION

Historically known as The San Gabriel Band of Mission Indians
recognized by the State of California as the aboriginal tribe of the Los Angeles basin

September 1, 2016

Sherilyn Sarb, Deputy Director
California Coastal Commission
200 Ocean Gate, Suite 1000
Long Beach, CA 90802-4416

Subject: CDP No. 5-16-0649 - STP Permits for Newport Banning Ranch

Dear Honorable Coastal Commission,

The Gabrieleno Band of Mission Indians, Kizh Nation, seeks immediate attention to the recent decisions for the monitoring of the Banning Ranch Project, and the statements that were made at the recent Coastal Commission Hearing in Santa Cruz.

On August 1, 2016 I sent a letter via email to you, Teresa Henry, Amber Dobson and John Ainsworth of the Coastal Commission staff. I do not believe it was included or referenced in the agenda at your recent meeting. I see many letters from other groups were part of your agenda, but ours was neglected. I am unclear as to why it was held back and not addressed at your board meeting. A reason as to why would be appreciated.

On August 11, 2016, the Coastal Commission met to discuss the Banning Ranch Project. During that hearing, speakers presented statements supporting views highlighting personal beliefs and prospected outcomes favoring their methodology - particularly, Steve Ray, Executive Director of Banning Ranch Conservancy. In his public comment statements, Mr. Ray expressed his and Banning Ranch Conservancy's dissatisfaction in the current monitors for the Banning Ranch Project, stating that the monitors chosen are not "proper." Mr. Ray further stated that developers are aware of people in the Native American communities that have served as monitors who are vulnerable to developers - and implied that the Gabrieleno and Juaneno monitors currently onsite may not be doing an effective or honest job.

Mr. Ray has directly questioned the integrity and experience of current monitors (both Gabrieleno and Juaneno) on the project including our tribe, the Gabrieleno Band of Mission Indians, Kizh Nation, and has called into question our character and credibility. Such negative, racial intoned statements that detrimentally impact the future involvement of our tribe in monitoring projects should not be permissible and upheld. This type of public comment has an adverse impact to our tribe and the preservation of our culture.

Another important point is that I do not know Mr. Ray personally in any way. Neither myself, my father our Chief, nor the Tribe has worked in any way alongside Mr. Ray on any project. Thus, for him to imply as to our integrity and credibility is unbelievable and frankly slanderous. This information is likely being fed to him from one of the other groups involved for the sole purpose of tarnishing our reputation. The reasons for this are unclear although implied.

Andrew Salas, Chairman

Nadine Salas, Vice-Chairman

Dr. Christina Swindall Martinez, secretary

Albert Perez, treasurer I

Martha Gonzalez Lemos, treasurer II

Richard Gradias, Chairman of the council of Elders

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It is at this time that we believe it is of the utmost importance that our tribe's position be reflected and given weight to the determination regarding the future monitoring of the Banning Ranch Project. We wish to have Mr. Steve Ray's statements regarding the monitors for the Banning Ranch Project redacted and no longer available for view or consideration regarding the monitors for the Banning Ranch Project.

We petition that the Coastal Commission Committee acknowledge and respond to our request, and submit documentation reflecting the notations proscribed supra.

For your consideration, we have attached a few letters of support from Dr. Gary Smuts, Retired Superintendent of the ABC Unified School District (who worked with our tribe in the reburial of a Gabrieleno/Kizh cemetery at one of his middle schools), Dr. Gerald Croissant, President of the San Gabriel Mountains Regional Conservancy and Archaeologist Dr. Gary Stickel. These letters continue to come to our attention as word has gotten out about Mr. Ray's statements. Additional references can be easily provided upon request.

Respectfully,



Andy Salas, Chairman
Gabrieleno Band of Mission Indians - Kizh Nation

cc:

Michael Mohler, Newport Banning Ranch
Teresa Henry, District Manager
Amber Dobson, Coastal Program Analyst
John Ainsworth, Acting Executive Director
Robert Uranga, councilmember

Andrew Salas, Chairman

Albert Perez, treasurer I

Nadine Salas, Vice-Chairman

Martha Gonzalez Lemos, treasurer II

Dr. Christina Swindall Martinez, secretary

Richard Gradias, Chairman of the council of Elders

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WHY THE ORIGINAL INDIAN TRIBE OF THE GREATER LOS ANGELES AREA IS CALLED KIZH NOT TONGVA

by
E. Gary Stickel, Ph.D (UCLA)
Tribal Archaeologist
Gabrieleno Band of Mission Indians/ Kizh Nation

The original Indian Tribe of the greater Los Angeles and Orange County areas, has been referred to variously which has lead to much confusion. This article is intended to clarify what they were called, what they want to be called today (Kizh), and what they do not want to be called (i.e. "tongva"). Prior to the invasion of foreign nations into California (the Spanish Empire and the Russian Empire) in the 1700s, California Indian Tribes did not have pan-tribal names for themselves such as Americans are used to (for example, the "Cherokee" or "Navajo" [Dine]). The local Kizh Indian People identified themselves with their associated resident village (such as Topanga, Cahuenga, Tujunga, Cucamonga, etc.). This concept can be understood if one considers ancient Greece where, before the time of Alexander the Great, the people there did not consider themselves "Greeks" but identified with their city states. So one was an Athenian from Athens or a Spartan from Sparta. Similarly the Kizh identified with their associated villages. Anthropologists, such as renowned A.L. Kroeber, a professor at the University of California at Berkeley, who wrote the first "bible" of California Indians (1925), inappropriately referred to the subject tribe as the "Gabrielinos" (Kroeber 1925). The origin of the preferred ethnic name is as follows. When the Spanish invaded the local Indian territory in 1771, they set up their headquarters for occupation at a place now called Whittier Narrows located 15 miles east of downtown Los Angeles. The Spanish built their first mission facility there because it was well-watered by the San Gabriel River and especially because it also had a good number of prominent populous villages (e.g. Shevaanga [Sibangna or Siba], Isantcangna, Houtngna, Ouitchingna, etc.). The Spanish used the people from those villages as slave labor to build the first San Gabriel Mission there at Whittier Narrows. Because the Indian people of the Whittier Narrows area there collectively called themselves "Kizh" (McCawley 1996, 43), the Spanish referred to them as "Kicherenos" – thereby hispanisizing the term with their suffix. The recent-most overview book on the tribe expressed it this way:

“. . . Kizh for the Indians living near San Gabriel (i.e. Whittier Narrows area). . . According to Harrington's (ethnographer J.P. Harrington) consultant Raimundo Yorba, the Gabrielino in the Whittier Narrows area referred to themselves as Kichireno, one of a bunch of people that lived at that place of San Gabriel which is known as Mision Vieja. Kichereno is not a place name, but a tribe name, the name of a kind of people" (Harrington 1986: R129 F345; cited in McCawley 1996, 43).

The word "kizh" itself meant the houses they lived in, most of which were dome-shaped and made with a framework of willow branches and roofed over with thatching (Johnston 1962; McCawley 1996). After just a few years, the first mission compound was washed away by probably El Nino flood conditions. The Spanish then decided to move their outpost five miles north and build a new San Gabriel Mission there in 1774. Once the mission was relocated, the Spanish eventually dropped the use of the term "Kichereno" and replaced it with "Gabrieleno" when referring to the Indians of the area.

Following that origin, the Tribal name of Kizh began with scholars interested in recording the Tribe's language in the form of vocabulary lists. The first such vocabulary was published by John Scouler in his report "N.W. American Tribes" (Scouler 1841, 229, 247-251). However, Scouler referred to the language with the name "San Gabriel" only. The first scholar to publish the Tribal name of "Kizh" was Horatio Hale in 1846 in a United States government report on "Ethnography and Philology." Hale spelled the word as both "Kizh" (p. 143) and as "Kij" (pp. 222, 566) and he also provided a vocabulary list of words in his publication. As was the practice at the time, he meant the word "Kizh" to refer to both the tribe and to its language (as we say today that people speak English in England and German in Germany; Hale 1846, see Attachment A-1). The next scholar to recognize the Tribe's name of "Kizh" was Lieutenant A.W. Whipple (Whipple 1855) who contributed a presentation on a Kizh vocabulary list which was published within a "Report upon the Indian Tribes," in 1855 for the U.S. War Department (Whipple 1855). In it, he acknowledged the earlier work of Hale (1844) and provided his own Kizh vocabulary list (see Attachment A-2). The next year, a German scholar with the name Johann Buschmann published his study of the tribe's language in 1856. He published it in the German "Royal Academy of Science" in Berlin. In concert with Hale (1846) and Whipple (1855), he referred to the Tribe and their language as "Kizh" and used that term for the title of his publication (Buschmann 1856; Attachment A-3). Given that he published his study in the prestigious German Royal Academy of Science, it was a *de facto*

recognition by another nation of the Tribe's name of Kizh. In the same year, Robert Gordon Latham published the name of the Tribe and its language as "Kij" (Latham 1856, 85; Attachment A-4). Four years later, Latham published his "Opuscula, Essays Chiefly Philological and Ethnographical" in which he acknowledged Dr. Coulter's work at San Gabriel. Latham later again referred to the Tribe and its language as "Kij" (Latham 1860, 304, 305). Since Dr. Latham's work was published in both England and in Scotland (London and Edinburgh respectively; Attachment A-6), his work was another *de facto* recognition by both England and Scotland of the name of Kizh or Kij as the Tribe's name. In 1858, Hermann E. Ludewig also published in London a book entitled American Aboriginal Languages (Ludewig 1858). He mentioned Kizh throughout his book (Ludewig 1858, 26, 62, 63, 220, 237 and 250). In it, he acknowledged the previous works on the Kizh language by Hale (1846), Turner (1855), a paper read by Buschmann in 1855 (published by Buschmann 1856), and Scouler's work published in Whipple (1855; see Attachment A-5). Fifteen years later, the noted scholar Lewis H. Morgan published his "System of Consanguinity and Affinity of the Human Family." It was published in our national museum, The Smithsonian Institution's "Contributions to Knowledge." In it, he mentions various tribes including "...The Mission Indians, namely, the Kizhes of San Gabriel..." (Morgan 1871, 252; Attachment A-7). Six years later, Albert Gatschet, in his "Indian Languages of the Pacific States and Territories," mentions the "Kizh" (Gatschet 1877, 152, 171; Attachment A-8). The renowned historian Hubert Howe Bancroft (for whom the library at U.C. Berkeley is named) mentioned that one of the native languages of "...southern California...(was the) Kizh..." (Bancroft 1883, 674). Bancroft also mentioned "The Kizh appears to have been spoken, in a slightly divergent dialect, at the Mission of San Fernando..." and provided two versions of the Lord's Prayer in the two main Kizh dialects (Bancroft 1883, 675-676; Attachment A-9). Next, another scholar named Daniel G. Brinton published "A Linguistic Classification and Ethnographic Description of the Native Tribes of North and South America" in 1891. He also referred to the same tribe as "Kizh" (Brinton 1891, 133; Attachment A-10). Nine years later, David Prescott Barrows published his landmark study "The Ethno-Botany of the Coahuilla Indians of Southern California" (Barrows 1900). In that study he too refers to the Tribe as the "Kizh" (Barrows 1900, 12, 15, 17, 18, 20, 21). Barrows also opined "Mr. Gatschet is in error when he speaks of the Serrano and San Gabriel Indians calling themselves Takhtam and Tobikhar, respectively. The words are unknown as tribal designations among these Indians themselves, and precisely this point constitutes the objections to them" (Barrows 1900, 20; Attachment A-11). Finally, and prior to publishing his landmark 1925 book on the California Indians, A.L. Kroeber published his study of the "Shoshonean Dialects of California" at U.C. Berkeley in 1907. In it he acknowledged the tribal term of "Kizh, also written Kij," but then used the term "Gabrielino" to refer to the tribe in both that publication and later in his 1925 book (Kroeber 1907, 141; Attachment A-12).

A priest of San Gabriel Mission, Fr. Eugene Sugranes, published a book entitled, "The Old San Gabriel Mission" in 1909. In it he stated, "The language spoken by the San Gabriel Mission Indians was the Kizh. The Lord's Prayer in the Kizh dialect is as follows..." (Sugranes 1909, 29). Fr. Sugranes verifies that Kizh initially was recognized by the Catholic clergy at San Gabriel Mission, even though they went on to rename them "Gabrielenos", thereby further degrading the culture of the Kizh (Attachment A-13).

As the above references attest, the scholars of the international academic community recognized the name of "Kizh" as both the name of the Tribe and its language. Also, as noted above, given the presence of the term "Kizh" in four nations' publications (i.e. in the United States, England, Scotland and Germany), the term was widely recognized and respected in both the 19th and early 20th centuries. Apparently, when the renowned and highly respected A.L. Kroeber published his major work on California Indian tribes, in which he dropped the use of Kizh and replaced it with Gabrielino, he influenced later scholars, who also disregarded the original term of Kizh. That appellation of "Gabrielino" unfortunately became a standard term for the Tribe with both academics and laymen alike (e.g. Johnston 1962, Bean and Smith 1978 and McCawley 1996).

The tribe today, also known as "The Gabrieleno Band of Mission Indians," refers to themselves with a name which originated with their own language and which is the closest thing to a pan-tribal name that was used by their ancestors historically (at Whittier Narrows). They want the term Kizh rather than the Spanish derived name of "Gabrielenos" (sic "Gabrielinos") as that was the name given to them by their conquerors and it is not appropriate today whereas "Kizh" is. The Tribe has published their name in a landmark book about their 18th century hero Toypurina who led a 1785 revolt against the Spanish Empire's brutal conquest of their territory. That publication is the Tribe's first book published with its own press: the Kizh Tribal Press (Teutimes, Salas, Martinez and Stickel 2013).

But if Kizh is the preferred tribal name why has the name of "tongva" been used. I shall address that next. Over one hundred years after the tribal name of Kizh was published by Hale (1846), an ethnographer by the name of C. Hart Merriam was studying the tribe's culture. He interviewed one of the tribe's female members by the name of

Rosemyre at Fort Tejon located today at the beginning of the "Grape Vine" part of the pass through the San Gabriel Mountains north of the tribe's territory and north of present-day Los Angeles. Merriam asked her what the name of her tribe was. He did not understand that she could not accurately answer his question as her people did not have such a concept. The current Chairman of the tribe, Andrew Salas, has opined a scenario of how she responded and how Merriam misunderstood her. Mr. Salas thinks Rosemyre responded not with a tribal name *per se* but with her village name—in the manner in which she and her people were accustomed. She responded with the word "Toviscangna"-- which was the name of her home village that was located at Mission San Gabriel (Serra 1778). It is believed that Merriam glitched her response into "Tongva" and wrongfully attributed it as the name of the tribe. Merriam later published his misinterpretation in a paper that he subtitled "A Mortuary Ceremony of the Tong-va of Tejon" (Merriam 1955). Not only did Merriam misinterpret the name for the tribe but he thought the tribe's territory was at "Tejon" when that area was of the Tataviam Tribe (cf. Heizer 1978, ix; Bean and Smith 1978, 538). Unfortunately, the term of "tongva" was promoted by persons claiming to be Gabrieleno Indians. They were so effective at promoting this false concept in the 1980s and 1990s that they not only got the general public to believe it (the term does sound "Indian" as did Tonto of the Lone Ranger fame) but they even got some genuine tribal members to believe it as well (e.g. Rocha and Cook 1982). The perpetrators have also gotten various cities in the greater Los Angeles area to believe the farce of "tongva" to the point where they have named monuments and a park with the false name. The name of Tongva was prominently promoted by one Cindi Alvitre, who has been on the teaching staff of California State University at Long Beach. In an interview with her by the staff of DIG "CSULB's Monthly Student Magazine" posted on the internet on April 9, 2011, Ms. Alvitre stated "The name given to the collective group of Tribes that inhabited what is know CSULB was 'Gabrielino,' given to the group by Spanish settlers. . ." and she went on to state: "The name Tongva is what we've chosen to use in the present which means 'people of the earth'... There was no one tribe called 'Tongva' " (Alvitre 2011; Attachment A-14). As to the probable true meaning of the word, the renowned early ethnographer J.P. Harrington recorded an ethnographic Gabrieleno note in which he stated "...Tongva means where the people used to grind their seeds on the rocks" (Harrington, Microfilm Reel 5, p. 426; see Attachment A-14). Therefore, the term "tongva" was mistakenly attributed as a word meaning "the tribe" when, according to Harrington, the word does not mean tribe but what archaeologists call a "bedrock mortar" or a rock outcrop with holes in it created by Indians pounding pestles into them to process acorns and other plant products.

The above discussion has hopefully shown that the term "Kizh" is the appropriate name for the original tribe that inhabited the greater Los Angeles area whereas "tongva" is an illegitimate word for the tribe. Because the perpetrators have been so successful in promoting the false concept, it will take a great deal of "damage control" to correct all the mistaken usages of the false word and replace it with the most legitimate one of "Kizh."

Acknowledgments

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Attachment A-1

UNITED STATES EXPLORING EXPEDITION.

DURING THE YEARS

1838, 1839, 1840, 1841, 1842.

UNDER THE COMMAND OF

CHARLES WILKES, U. S. N.

VOL. VI.

ETHNOGRAPHY AND PHILOLOGY.

BY

HORATIO HALE,

PHILOLOGIST OF THE EXPEDITION.

PHILADELPHIA:

PRINTED BY C. SHERMAN.

1846.

lumbia to San Francisco. This was about sixty miles south of the Shasty country. Mr. Dana, to whom I owe the vocabulary which is given of this language, observes, in his note to me: "The natives seen on reaching the Sacramento plains, resemble the Shasty Indians in their regular features. They have thick black hair descending low on the forehead, and hanging down to the shoulders. The faces of the men were colored with black and red paint, fancifully laid on in triangles and zigzag lines. The women were tattooed below the mouth. They were a mirthful race, always disposed to jest and laugh. They appeared to have had but little intercourse with foreigners. Their only arms were bows and arrows,—and in trading they preferred mere trinkets, such as beads and buttons, to the blankets, knives, and similar articles which were in request among the northern Indians."

Still farther south, about one hundred miles above the mouth of the Sacramento, Mr. Dana obtained vocabularies of the dialects of four tribes,—the *Puzhune*, *Sekamne*, *Tsamak*, and *Talalui*. He says of them:—"These Indians have the usual broad face and flattened nose of the coast tribes. The mouth is very large, and the nose broad and depressed. They are filthy in their habits and stupid in look, like the Chinooks. Throughout the Sacramento plains the Indians live mostly on a kind of bread or cake made of acorns. The acorns, after the shell is removed, are spread out and dried in the sun, then pounded with a stone pestle to a fine powder, and afterwards kneaded into a loaf about two inches thick, and baked. It has a black color, and a consistency like that of cheese, but a little softer; the taste, though not very pleasing, is not positively disagreeable."

Five vocabularies are given of idioms spoken by the natives of California, who were formerly under the control of the Spanish missions. The first of these was taken at San Rafael, on the north side of the bay of San Francisco, in about latitude 38° 10'. The second is of La Soledad, near the coast, in latitude 36°. The third of San Miguel, about fifty miles to the southeast of the last-mentioned. The fourth of San Gabriel (the *Kij*), in latitude 34°; and the fifth of San Juan Capestrano, (the *Netēla*,) twenty miles further down the coast. The "missions" are large square enclosures, surrounded by high walls of *adobes* or unburnt bricks. Around the inside are cells, which served as dormitories to the natives. The latter were collected at first, partly by persuasion and partly by force, into these missions, and employed there in agriculture and various simple arts, in which

The following examples will give some idea of the system of transitions in this language, and of the extraordinary changes which the words undergo. It certainly would not be supposed, without such evidence, that *himkuniti* and *tatétat* were merely inflections of the same verb.

tçitāpatçitūp maha, I love thee
tçitapintçuō kōk, I love him
himtāpintçiwāta tçii kak, he loves me
hintçitapintçiwata tçii, dost thou love me?

tçihōtatçop tçii, I see thee
chōton tçii, I see him
himkuhōton kōk, dost thou see him?
himkuhutotçōfon tçii, dost thou see me?
himkuhōton kinuk, dost thou see them?
kinuk himkunhōton, do they see thee?

sit kōk, give him
çiteto soto, give us
çinēti kinuk, give them
ēia putētip maha kuska kēutan? who gave thee that horse?
çimma wala kotétat tçii, my father gave it to me
medji tikūmti, to-morrow I will give it to him
 “ *takūmti çimma*, thou wilt give it to my father
kitétat he will give it to me
tatétat thou wilt give it to me
titētip I will give thee
kitētiūp he will give thee
ēia himkuniti, to whom didst thou give it?
himti çimma, I gave it to my father
waxpk tçii keek timyēti, I do not wish to give it to thee?

Of the remaining vocabularies little can be said beyond what may be gathered from the vocabularies. In the languages of Kij and Netēla a few examples of plural and pronominal forms were obtained, which may be worth preserving.

K I J.

<i>worōit</i> , man	pl. <i>wororōt</i>	<i>tokōr</i> , woman	pl. <i>totōkor</i>
<i>kītç</i> , house	pl. <i>kikitç</i>	<i>paitçuar</i> , bow	pl. <i>papaitçuar</i>
<i>haiç</i> , mountain	pl. <i>hahaiç</i>	<i>wasi</i> , dog	pl. <i>wausi</i> (qu. <i>wāwasi</i> ?)
<i>içot</i> , wolf	pl. <i>içitot</i>		
<i>tihōrwait</i> , good	pl. <i>tiriwait</i>	<i>mohai</i> , bad	pl. <i>momohai</i>
<i>tçinui</i> , small	pl. <i>tçitçinui</i>	<i>arawātai</i> , white	pl. <i>rawānvt</i>
<i>yupixa</i> , black	pl. <i>yupinvt</i>	<i>kwauōxa</i> , red	pl. <i>kwauōnvt</i>

ninak, my father

ayōinak, our father

SYNOPSIS.

FAMILIES.	LANGUAGES.	DIALECTS.	
1. Tahkali-Umkwa	A. Tahkali (Carriers) B. Tlatskanai	{ a. Tlatskanai b. Kwalbioqua	
			2. Kitunaha
3. Tsihaili-Selish {	Northern Branch {	E. Shushwapumsh (Shushwaps, Atnahs) F. Selish (Flatheads)	
			Middle Branch .
	Western Branch {	J. Tsihailish (Chickailis, Chilts)	
			Southern Branch {
	4. Sahaptin	N. Walawala (Wallawallas)	
			5. Waiilatpu
	6. Tshinuk	Q. Watlala (Upper Chinooks)	
			R. Tshinuk (Chinooks)
		7. Kalapuya	
	8. Iakon	T. Iakon (Lower Killamuks)	
9. Lutuami	U. Lutuami (Tlamatl, Clamets)		
10. Saste	V. Saste (Shasties)		
11. Palaihnih	W. Palaihnih (Palaiks)		
12. Shoshoni	X. Shoshoni (Shoshonees, Snakes) Y. Wihinash (Western Shoshonees)		
		Z. Satsikaa (Blackfeet)	
13. Satsikaa			
14. Nootka	Kwoneatshatka (Newittee)		
15. ?	San Raphael		
16. Kizh	San Gabriel		
17. Netela	San Juan Capestrano		

EXPLORATIONS AND SURVEYS FOR A RAILROAD ROUTE FROM THE MISSISSIPPI RIVER TO THE PACIFIC OCEAN.
WAR DEPARTMENT.

ROUTE NEAR THE THIRTY-FIFTH PARALLEL, UNDER THE COMMAND OF LIEUT. A. W. WHIPPLE,
TOPOGRAPHICAL ENGINEER, IN 1853 AND 1854.

REPORT

UPON

THE INDIAN TRIBES,

BY

LIEUT. A. W. WHIPPLE, THOMAS EWBANK, ESQ., AND PROF. WM. W. TURNER.

WASHINGTON, D. C.,
1855.

words are from a manuscript vocabulary taken by the Hon. John R. Bartlett, while engaged on the Mexican Boundary Survey; the Netela and Kizh are from Hale's Philology of the Exploring Expedition.

	CAHUILLO.	KECHI. (San Luis Rey.)	NETELA. (San Juan Capistrano.)	KIZH. (San Gabriel.)
Father.....	ne'-na (my).....	peh-nah' (his).....	nanā	anāk
Mother	ne'-yīh	peh-yo'	noyō.....	āōk
Head.....	ni-yul'-uka	po-ya'	nuyū	apoān
Ear.....	na-nock'-a.....	no-nak'	nanakūm.....	anāna, nājas
Eye.....	na'-push.....	pu-sun'-o-push....	nopūlum	atshotshon
Nose	ne'-mu	ne-ma'-bi.....	nomūūum.....	comēpin, mūpin
Arm.....	ne-mōk	no-ma'	namā.....	amān, mān
Heart	ne'-sun.....	no-shōn.....	nosūn	ahūng, sūn
Blood	ne'-o.....	no-ōh	noō'.....	akhain
Chief.....	net'-i	nōt.....	nōt.....	tomēr
House	kish	ki'-cha	nikī.....	kītsh, kīn
Arrow	hul	no-hu'.....	hul	tshūar, nihūn
Bow	chu-quil'-no-pish	kō-to-pis.....	kūtupsh	páitkhūar, páitōkh
Sun.....	ta'-mit	te-met'	temét.....	tāmet
Moon.....	men'-yil	moi-la.....	mo-īl	mō-ār
Fire	cūt.....	kūt	mughāt.....	tshāwot, tōina
Water.....	pal.....	pa-la	pāl.....	bar
Bear.....	hu'-nu-it	hu'-nu-it	hūnot	hūnar
Deer.....	su'-quut	su-kūt.....	sukot.....	shukāt
Wolf.....	is-o-wit.....	i-sunt	īsot	īshot, Isot
Dog	a'-wūl.....	a-wal'	aghwāl	wausī, wasi
I	neh	no	no.....	noma
Thou.....	eh.....	om	om	oma
He.....	peh	w'nal	wanál	ahē, pa-e
One.....	su'-pli.....	su-pul.....	pukū	pukū
Two.....	me-wī'	weh	wehē	wehē
Three	me-pa'.....	pai.....	pāhe.....	pāhe
Four.....	me-wī'-chu.....	wah-sah'	watsā	watsā

It will be observed that, in those languages of the Shoshonee family which we have been considering, the place of the accent is reckoned, not from the end, as in the classical tongues, but from the *beginning* of the word. In Comanche the accent is on the first syllable, with but few exceptions, as when a possessive pronoun is prefixed. Sometimes there is a secondary accent; this appears, for the most part, when the word contains more than four syllables, and is generally placed on the fifth from the beginning, as *te'-ith-tis-chi-ho'-no*, valley. In Chemehuevi and Cahuillo the accent is less regular: but in the former it is usually on the second syllable; and in the latter, on the first.

A-3

KIZH UND NETELA

VON

NEU - CALIFORNIEN

DARGESTELLT

VON

JOH. CARL ED. BUSCHMANN.

AUS DEN ABHANDLUNGEN DER KÖNIGL. AKADEMIE DER WISSENSCHAFTEN
ZU BERLIN 1855.



BERLIN

GEDRUCKT IN DER DRUCKEREI DER KÖNIGL. AKADEMIE
DER WISSENSCHAFTEN

1856.

IN COMMISSION BEI F. DÜMLER'S VERLAGS-BUCHHANDLUNG.

den SCHOSCHONEN (p. 219^a), bemerkt: „man wird auch sehn, dafs das Wortverzeichnis des von den *Netela*-Indianern an der Küste von Californien, unter dem 34ten Breitegrade, gesprochenen Idioms *shows evident traces of connexion with the Shoshóni*;" und an einer späteren Stelle, bei den zwei californischen Sprachen selbst (567^{mm}), heifst es: „Die Ähnlichkeit zwischen vielen Wörtern in diesen 2 Sprachen (*Kij* und *Netela*) und im Shoshoni geht deutlich genug aus einer Vergleichung der Wortverzeichnisse hervor. Die Ähnlichkeit ist zu groß, als dafs man sie einem bloßen zufälligen Verkehr zuschreiben könnte; aber es ist zweifelhaft, ob die Erscheinung uns berechtigt sie als Zweige derselben Familie hinzustellen.“

§. 466.

WORTVERZEICHNISS

der KIZH- und NETELA-Sprache

A. Substantiva, Adjectiva und Verba

	<u>KIZH</u> (San Gabriel)	NETELA (San Juan Capistrano)
alive	<i>yait</i>	
arm	<i>a-mūn, mūn</i>	<i>na-mū</i>
arrow	<i>tschūar, ni-hūn, G toūarr</i>	<i>hul, G ūl</i>
bad	<i>mohörūi, mōhai, G chaïtë</i>	<i>hūtoigötö</i>
bear	<i>hūnar</i>	<i>hūnot</i>
beard	<i>aōng, pehen</i>	<i>nu-mūs</i>
bird	<i>amūscharot</i>	<i>chēymat</i>
black	<i>yupīχα, yomāχpe, G yupixa</i>	<i>yaōátχnot, G yūbūtexanut</i>
blood	<i>axain</i>	<i>no-ó (no-ó)</i>
blue	<i>saschūsscha</i>	
boat f. canoe		
body	<i>G a-tatax</i>	<i>G pë-tūxo</i>
bone	<i>a-ént, ēan</i>	<i>no-hūksēn</i>

whether the evidence which it affords will justify us in classing them together as branches of the same family. Diese ganze Stelle ist, bis auf ein paar Buchstaben, vom ersten Worte bis zum letzten, aus Vol. VI. der *expl. exp.* (p. 567^{mm-mf}) wiederholt. Von einem Urtheile Gallatin's über die *Kij*- und *Netela*-Sprache kann also nicht die Rede seyn.

A-4

TRANSACTIONS
OF THE
PHILOLOGICAL SOCIETY
1856.

1856

PUBLISHED FOR THE SOCIETY
BY GEORGE BELL, 186, FLEET STREET,
London.

W64/63/23

ENGLISH.	COCONOONS.	TULARE.
<i>day</i>	hial	tahoh*.
<i>fire</i>	sottol	ossel.
<i>water</i>	illeck	illick.

XI. THE SALINAS GROUP.—This is a name which I propose for a group of considerable compass, and one which contains more than one mutually unintelligible form of speech. It is taken from the river Salinas, the drainage of which lies in the counties of Monterey and San Luis Obispo. The southern boundary of Santa Cruz lies but a little to the north of its mouth.

The Gioloco may possibly belong to this group, notwithstanding its reference to the Mission of San Francisco. The *alla*, and *mut-* (in *mut-ryocusé*), may = the *ahay* and *i-mit-a* (*sky*) of the Eslen.

The Ruslen has already been mentioned, and that in respect to its relations to the Costano. It belongs to this group.

So does the Soledad of *Mofras*; which, though it differs from that of Hale in the last half of the numerals, seems to represent the same language.

So do the Eslen and Carmel forms of speech; allied to one another somewhat more closely than to the Ruslen and Soledad.

So do the San Antonio and San Miguel forms of speech.

The Ruslen, Eslen, San Antonio, and San Miguel are, probably, four mutually unintelligible languages.

The Salinas languages are succeeded to the south by the forms of speech of—

XII. THE SANTA BARBARA GROUP—containing the Santa Barbara, Santa Inez, and San Luis *Obispo* languages.

XIII. THE CAPISTRANO GROUP.—Capistrano is a name suggested by that of the Mission of San Juan Capistrano. The group, I think, falls into two divisions:—

1. *The Proper Capistrano, or Netela*, of San Luis *Rey* and San Juan Capistrano.

2. *The San Gabriel, or Kij*, of San Gabriel and San Fernando.

* Same word as *taech* = *light* in Coconoons; in Pima *tai*.

A-5

AMERICAN ABORIGINAL LANGUAGES.

BY

HERMANN E. LUDEWIG.

WITH ADDITIONS AND CORRECTIONS

BY PROFESSOR WM. W. TURNER.

EDITED BY NICOLAS TRÜBNER.

LONDON:
TRÜBNER AND CO., 60, PATERNOSTER ROW.

MDCCCLVIII.

QUICHUA.

Barcia-Pinelo mentions "JUAN DE VEGA, Arte e Rudimentos de Gramatica Quichua. Impreso en Lima;" and states that "FR. MARTIN DE VICTORIA, del Orden de la Merced, fue el primero que redujo à arte la lengua del Inca."

RICCAREES.

Riccree Vocabulary, pp. 348—352 of: Die Indianer Nord Amerika's und die während eines achtjährigen Aufenthalts unter den wildesten ihrer Stämme erlebten Abenteuer und Schicksale, von G. Catlin. Nach der fünften englischen Ausgabe deutsch herausgegeben von Dr. Heinrich Berghaus. Mit 24 vom Verfasser nach der Natur entworfenen Gemälden. Zweite Ausgabe. *Brüssel*, Muquardt, 1851, 8vo, pp. 382.

RUMSEN.

[A. F. POTT, Die quinare und vigesimale Zählmethode. On the numerals, p. 63.—W. W. T.]

SAHAPTIN.

[Dr. SCOULER's Vocabularies are printed also in the *Edinburgh New Philosophical Journal*, Vol. XLI, pp. 190—192.

J. HOWSE, Vocabularies of certain North American Languages, in: *Proceedings of the Philological Society of London*, Vol. IV. Okanagan Vocabulary, pp. 199—204.—W. W. T.]

SAN GABRIEL, KIZH.

Californian Indians, mentioned already under "Diegeños," pp. 62, 63, to which add—

JOH. CARL ED. BUSCHMANN, Die Sprachen Kizh und Netela von Neu Californien. Abhandlung gelesen in der Berliner Akademie der Wissenschaften, October 25, 1855, pp. 501—531 of the "Abhandlungen der Philosophisch-historischen Klasse" of said Academy for 1855, and with separate title. *Berlin*, Dümmler, 1856, 4to.

SAN JUAN CAPISTRANO, ACAGCHEMEM,
NETELA.

Californian Indians, for which see the article "Diegeños," pp. 62, 63, adding—

JOH. CARL ED. BUSCHMANN, Die Sprachen Kizh und Netela von Neu Californien. Abhandlung gelesen in der Berliner Akademie der Wissenschaften, October 25, 1855, pp. 501—531 of the "Abhandlungen der Philosophisch-historischen Klasse" of said Academy, 1855, and with separate title. *Berlin*, Dümmler, 1856, 4to.

—629, in: HOR. HALE, *Ethnography and Philology of the United States Exploring Expedition. Philadelphia, Lea and Blanchard, 1846, folio. Ibid., pp. 533, 634: Vocabulary of Languages spoken at the Missions, "La Soledad and San Miguel."*

Nos. 15, 16, 17, reprinted under U, p. 128, of the Vocabularies in Vol. II of: *Transactions of the American Ethnological Society. The words of the Missions: La Soledad and San Miguel, ibid., p. 126.*

Twenty-eight Words of Netela and Kizh compared with Cahuillo and Kechi, by PROFESSOR W. W. TURNER, p. 77 of: *Report upon the Indian Tribes, added to Lieutenant A. W. Whipple's Report (in Vol. II of the Pacific Railroad Reports. Washington, 1855, 4to).*

Des Langues *Kizh et Netela* de la Nouvelle-Californie, by DR. BUSCHMANN, in: *Monthly Report of the Royal Academy of Sciences of Berlin, for September and October, 1855.*

Diegeño and English Vocabulary, taken by LIEUTENANT A. W. WHIPPLE from Tomaso, the chief the Tribe, pp. 5, 6, of Lieutenant A. W. Whipple's Extract from a Journal of an Expedition from San Diego, California, to the Rio Colorado, from September 11 to December 11, 1849. (Congress Documents, 31 Congress, Second Session, Senate Executive Documents, No. 19). Reprinted, pp. 95 to 101, and Diegeño numerals, by Lieutenant W. A. Whipple, compared with those given by Dr. Scouler, pp. 103 of: *Lieutenant A. W. Whipple's Report upon the Indian Tribes, etc. (Vol. II of Pacific Railroad Reports. Washington, 1855, 4to).* Also reprinted on pp. 103, 104 of: *Schoolcraft's Indian Tribes of the United States, Vol. II.*

Twenty-eight Kechi Words (from BARTLETT) compared with Cahuillo, Netela, and Kizh, p. 77 of: *Report upon the the Indian Tribes, added to Lieutenant A. W. Whipple's Report (Vol. II of Pacific Railroad Reports. Washington, 1855, 4to).*

Vocabularies of the Deguino or Comeya, at San Diego; Kechi, at San Luis Rey and San Luis Obispo, have been taken by JOHN R. BARTLETT, the United States Boundary Commissioner.

See also under *Californians* and *Cahuillos*.

DELAWARE, LENAPE, LENNO-LENAPE.

Belonging to the Algonquin stock. The following are mentioned as the three original tribes:—1. The *Unami*, or *Wanami* (Turtle tribe) 2. The *Unalachtgo* (Turkey tribe). 3. *Minsi*, *Ministi*, or *Munseyi* (Wolf tribe).

WORDS AND VOCABULARIES.

HERVAS, *Vocabolario Poliglotta*, p. 240 (numerals, etc.)

SMITH BARTON, *New Views, etc.—Comparative Vocabularies, and "Specimen of a Comparison of the Languages of the Delaware Stock and those of the Six Nations."* *Ibid.*, Appendix, p. 20.

In the vocabularies he gives also *Canestoga* (or *Susquehannocs*) words.

A-6

OPUSCULA.

ESSAYS

CHIEFLY

PHILOLOGICAL AND ETHNOGRAPHICAL

BY

ROBERT GORDON LATHAM,

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IN UNIVERSITY COLLEGE, LONDON, LATE ASSISTANT PHYSICIAN
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WILLIAMS & NORGATE,

14 HENRIETTA STREET, COVENT GARDEN, LONDON

AND

20 SOUTH FREDERICK STREET, EDINBURGH.

LEIPZIG, R. HARTMANN.

1860.

LETTERS IN SUPPORT

MISCELLANEOUS AFFINITIES.

<i>English</i>	man.	Watlala	<i>tklaleq.</i>
Jakon	<i>kalt.</i>	Chinook	<i>waleq.</i>
Selish	<i>skalt-amekho.</i>	Chickaili	<i>khaaq.</i>
Skitsuish	<i>skaitl-emukh.</i>	Skwale	<i>stklatkl-adai.</i>
Piscous	<i>skaltamikho.</i>	Muskoghe	<i>okulosoha.</i>
<i>English</i>	woman.	<i>English</i>	child.
Jakon	<i>tklaks.</i>	Jakon	<i>mohaite.</i>
Wallawalla	<i>tilaki.</i>	Shahaptin	<i>miaots.</i>
Watlala	<i>tklkakilak.</i>	<i>English</i>	mother.
Chinook	<i>tklakel.</i>	Jakon	<i>tkhla.</i>
Cayoose	<i>pin-tkhlaui.</i>	Chinook	<i>tkhlianaa.</i>
Molele	<i>longi-tklai.</i>	<i>English</i>	husband.
Killamuk	<i>sui-tklats.</i>	Jakon	<i>sonsit.</i>
Shushwap	<i>somo-tklitck.</i>	Chikaili	<i>cineis.</i>
Cootanie	<i>pe-tklki.</i>	Cowelitz	<i>skhon.</i>
<i>English</i>	boy.	Killamuck	<i>ntsuon.</i>
Jakon	<i>tklom-kato.</i>	Umpqua	<i>skhon.</i>
Kizh	<i>kwiti.</i>	— do.	<i>changa.</i>
Cowelitz	<i>kwaitkl.</i>	<i>English</i>	wife.
<i>English</i>	girl.	Jakon	<i>sintkhaks.</i>
Jakon	<i>tklaaksawa.</i>	Cayuse	<i>intkhtkaio.</i>
Kizh	<i>takhai.</i>	Molele	<i>longitkhilai.</i>
Satsikaa	<i>kokwa.</i>		

The Sahaptin. — The Sahaptin, Shoshoni and Lutuami groups are more closely connected than the text makes them.

The Shoshoni (Paduca) group. — The best general name for this class is, in the mind of the present writer, Paduca; a name which was proposed by him soon after his notification of the affinity between the Shoshoni and the Comanch, in A. D. 1845. Until then, the two languages stood alone; *i. e.* there was no class at all. The Wihinast was shewn to be akin to the Shoshoni by Mr. Hale; the Wihinast vocabulary having been collected by that indefatigable philologue during the United States Exploring Expedition. In Gallatin's Report this affinity is put forward with due prominence; the Wihinast being spoken of as the Western Shoshoni.

In '50 the Report of the Secretary at War on the route from San Antonio to El Paso supplied an Utah vocabulary; which the paper of May '53 shews to be Paduca.

In the Report upon the Indian Tribes &c. of '55, we find the Chemehuevi, or the language of one of the *Pah-utah* bands "for the first time made public. It agrees" (writes Professor Turner) "with Simpson's Utah and Hale's East Shoshoni."

Carvalho (I quote from Buschmann) gives the numerals of the Piede (Pa-uta) of the Muddy River. They are nearly those of the Chemehuevi.

ENGLISH.	PIEDE.
<i>one</i>	soos.
<i>two</i>	wëioone.
<i>three</i>	pioone.
<i>four</i>	wolsooing.
<i>five</i>	shoomin.
<i>six</i>	navi.
<i>seven</i>	navikavah.
<i>eight</i>	nanneëtsooïn.
<i>nine</i>	shookootspenkermi.
<i>ten</i>	tomshooïn.

For the Cahuillo see below.

Is the Kioway Paduca? The only known Kioway vocabulary is one published by Professor Turner in the Report just alluded to. It is followed by the remark that "a comparison of this vocabulary with those of the Shoshoni stock does, it is true, show a greater degree of resemblance than is to be found in any other direction. *The resemblance, however, is not sufficient to establish a radical affinity, but rather appears to be the consequence of long intercommunication.*"

For my own part I look upon the Kioway as Paduca — *the value of the class being raised.*

ENGLISH.	KIOWAY.	ENGLISH.	KIOWAY.
<i>man</i>	kiani.	<i>star</i>	tah.
<i>woman</i>	mayi.	<i>fire</i>	pia.
<i>head</i>	kiaku.	<i>water</i>	tu.
<i>hair</i>	ooto.	<i>I</i>	no.
<i>face</i>	caupa.	<i>thou</i>	am.
<i>forehead</i>	taupa.	<i>he</i>	kin.
<i>ear</i>	taati.	<i>we</i>	kime.
<i>eye</i>	taati.	<i>ye</i>	tusa.
<i>nose</i>	maucon.	<i>they</i>	cuta.
<i>mouth</i>	surol.	<i>one</i>	pahco.
<i>tongue</i>	den.	<i>two</i>	gia.
<i>tooth</i>	zun.	<i>three</i>	pao.
<i>hand</i>	mortay.	<i>four</i>	iaki.
<i>foot</i>	onsut.	<i>five</i>	onto.
<i>blood</i>	um.	<i>six</i>	mosso.
<i>bone</i>	tonsip.	<i>seven</i>	pantsa.
<i>sky</i>	kiacoh.	<i>eight</i>	iatsa.
<i>sun</i>	pai.	<i>nine</i>	cohtsu.
<i>moon</i>	pa.	<i>ten</i>	cokhi.

XIII. *The Capistrano group.* — Buschmann in his paper on the Netela and Kizh states, after Mofras, that the Juyubit, the Caguilla, and the Sibapot tribes belong to the Mission of St. Gabriel. Turner gives a Cahuillo, or Cawio, vocabulary. The district from which it was taken belonged to the St. Gabriel district. The Indian, however, who supplied it had lived with the priests of San Luis Rey, until the break-up of the Mission.

Meanwhile, the San Fernando approaches the San Gabriel, *i. e.* the Kizh.

See also Turner, *p. 77* — where the name *Kechi* seems, word for word, to be Kizh. The Kizh, however is a *San Gabriel* form of speech.

XIV. *The Yuma group.* — Turner gives a Mojave, or Mohavi vocabulary; the first ever published. It is stated and shewn to be Yuma. The Yabipai, in the same paper, is inferred to be Yuma; containing, as it does, the word

hanna = good = *hanna*, *Dieguno*.
n'yatz = I = *nyat*, *do*.
pook = beads = *pook*, *Cuchan*.

The Mohave vocabulary gives the following extracts.

ENGLISH.	MOHAVE.	CUCHAN.	DIEGUNO.	COCOMANCOFA.
<i>man</i>	ipah	ipatsh	aykutshet ...	ipatshe.
<i>woman</i> ...	sinyax ...	sinyak	sin	sinchayaixhutsh.
<i>head</i>	cawawa...	umwhelthe.....	estar .....	.....
<i>hair</i>	imi	ocono .....	.....	.....
<i>face</i>	ihalimi ...	edotshe	wa .....	.....
<i>forehead</i> ..	yamapul .	iyucoloque.....	.....	.....
<i>ear</i>	esmailk ...	smythl.....	hamatl .....	.....
<i>eye</i>	idotz	edotshii	awuc	ayedotsh.
<i>nose</i>	ihu	ehotshi	hu	yayyayooche.
<i>mouth</i>	ia	iyuquaofe	ah	izatsh.
<i>tongue</i>	ipailya ...	epulche .....	.....	.....
<i>tooth</i>	ido	aredoche.....	.....	.....
<i>hand</i> .....	.....	isalche	sithl .....	.....
<i>arm</i>	isail.....	.....	.....	.....
<i>foot</i>	imilapilap	imetshshpaslapyah	hamilyah ...	.....
<i>blood</i>	niawhut...	awhut .....	.....	.....
<i>sky</i>	amaiiga...	ammai .....	.....	.....
<i>sun</i>	nyatz	nyatsh	nyatz .....	.....
<i>moon</i>	hullya.....	huthlya	hullash .....	.....
<i>star</i>	hamuse ...	klupwataie	hummashish	.....
.....	.....	hutshar .....	.....	.....
<i>fire</i>	awa.....	aawo .....	.....	ahúch.
<i>water</i>	aha	aha	aha .....	.....
<i>I</i>	nyatz	nyat	nyat.....	inyatz.
<i>thou</i>	mantz... ..	mantz ... ..	.....	mantz.
<i>he</i>	pepa	habuisk	pu.....	.....
<i>one</i>	setto	sin	hini .....	.....
<i>two</i>	havika....	havik	hawuk .....	.....
<i>three</i>	hamoko ...	hamok	hamuk .....	.....
<i>four</i>	pinepapa .	chapop	chapop .....	.....
<i>five</i>	serapa ...	serap	serap .....	.....
<i>six</i>	sinta	humhúk .....	.....	.....
<i>seven</i>	vika	pathkaie.....	.....	.....
<i>eight</i>	muka	chiphuk .....	.....	.....
<i>nine</i>	pai	hummamuk .....	.....	.....
<i>ten</i>	arapa	sahbuk .....	.....	.....

A-7

SMITHSONIAN

CONTRIBUTIONS TO KNOWLEDGE.

—
VOL. XVII.
—



EVERY MAN IS A VALUABLE MEMBER OF SOCIETY, WHO, BY HIS OBSERVATIONS, RESEARCHES, AND EXPERIMENTS, PROCURES
KNOWLEDGE FOR MEN.—SMITHSON.

CITY OF WASHINGTON:
PUBLISHED BY THE SMITHSONIAN INSTITUTION.

MDCCCLXXI.

23
LETTERS IN SUPPORT

S Y S T E M S

OF

CONSANGUINITY AND AFFINITY

OF THE

H U M A N F A M I L Y .

BY

LEWIS H. MORGAN.

[ACCEPTED FOR PUBLICATION, JANUARY, 1868.]

the Table, and the same is equally true of the Spokane, these are sufficient grounds for the admission of the Salish and Sahaptin nations into the Ganowánian family.

One other stock language belonging to the valley of the Columbia, namely, the Kootenay, is represented in the Table. The Flatbows speak a dialect of the same language, and the two together are its only ascertained representatives. Their range is along the western slopes of the Rocky Mountains immediately north of the Flathead area. Although incompletely shown, the Kootenay system of relationship is interesting as a further glimpse at the stupendous scheme of consanguinity which prevails amongst the aboriginal inhabitants of this area. Upon independent grounds a more complex system might be expected to exist in the valley of the Columbia than upon the St. Lawrence or the Mississippi. With so many nations crowded together, but held asunder by dialects and mutually unintelligible stock languages, and yet intermingling by marriage, the constant tendency would be to increase and intensify the special discriminations developed from the system, by the gradual introduction of the special features of each into all the others. These new features do not necessarily disturb the essential framework of the system, although they may greatly increase its complexity, and render it more difficult of ascertainment. Beside this a plan of consanguinity so elaborate as that of the Ganowánian family, could not be maintained pure and simple in its minute details, amongst so many nations, and over such immense areas. Additions and modifications are immaterial so long as they leave undisturbed the fundamental conceptions on which the original system rests.

V. Shoshonee Nations.

1. Shoshonees or Snake Indians. 2. Bonnacks. 3. Utahs of the Colorado (1. Tabegwaches. 2. Wemenuches. 3. Yampahs or Utahs of Grand River. 4. Unitahs. 5. Chemehuevis. 6. Capotes. 7. Mohuaches. 8. Pah-Utes). 4. Utahs of Lower California (1. Cahuillos. 2. Kechis. 3. Netelas. 4. Kizhes). 5. Comanches.

There are reasons for believing that the Shoshonee migration was the last of the series, in the order of time, which left the valley of the Columbia, and spread into other parts of the continent. It was a pending migration at the epoch of European colonization. It furnishes an apt illustration of the manner in which Indian migrations are prosecuted under the control of physical causes. They were gradual movements, extended through long periods of time, involving the forcible displacement of other migrants that had preceded them; and therefore, are without any definite direction, except such as was dictated by the exigencies of passing events. The initial point of this migration, as well as its entire course, stands fully revealed. Almost the entire area overspread, showing the general outline of a head, trunk and two legs, is still held by some one of the branches of this great stem. Upon the south branch of the Columbia River the Shoshonees still reside; south of them along the mountain wastes of the interior are the Bonnacks, a closely affiliated people, who occupy quite near to the head-waters of the Colorado. The mountains and the rugged regions drained by the Upper Colorado and its tributaries are held by the Utahs in several independent bands or embryo nations, who are spread over an area of considerable extent. Here the original stream of this migration divided

into two branches ; one of them, the Comanche, turned to the southeast, and occupied the western parts of the present State of Texas ; whilst the other keeping the west side of the Colorado, descended towards the Gulf of California, and appropriated the regions near the Village Indians of the Lower Colorado. These are the Pah-Utes. Still other bands moved westward and southward and occupied Lower California. These are the Cahiullos, between the San Gabriel and Sante Anna Rivers ; and the Mission Indians, namely, the Kizhes of San Gabriel, the Netelas of San Juan Capistrano, and the Kechis of San Louis Rey. Upon the basis of linguistic affinities the conclusion is inevitable that both the Comanches and Netelas are the descendants of original migrants from the valley of the Columbia.¹

The Shoshonee nations are among the wildest of the American aborigines. With the exception of the Comanches, and a portion of the Shoshonees proper, they hold the poorest sections of the United States, their manners partaking of the roughness of the country they inhabit. Until quite recently they have been inaccessible to government influence. It is still nominal and precarious. The Comanches, who occupy the southern skirt of the great buffalo ranges, and are spread from the Canadian River, a branch of the Arkansas, to the Rio Grande, have become a populous Indian nation within the last century and a half. They are expert horsemen. Next to them are the Shoshonees.

It was found impossible, after repeated efforts, to procure the system of relationship of the Shoshonees or the Comanches, although much more accessible than the other nations. The time is not far distant when all the dialects on the Pacific side, as well as in the interior of the continent, will become as fully opened to us as those upon the eastern side ; and when information now so difficult of attainment can be gained with ease and certainty.

An incomplete schedule of the system of the Tabegwaches, one of the Utah nations of the Colorado, was obtained unexpectedly, through my friend the late Robert Kennicott, from a delegation who visited the seat of government in 1863. It will be found in the Table. He was unable to fill out the schedule, except in its most simple parts, from the difficulty of working through interpreters imperfectly skilled in the Utah language ; and, therefore, it cannot be taken as indicating to any considerable extent, the contents of the system. From the fact that a portion of the terms of relationship were not obtained, those which are, except the primary, cannot be interpreted. It is valuable as a specimen of the language ; and more especially because it indicates the possession of a full nomenclature, and the presence of the minute discriminations which are characteristic of the common system. There are two special features revealed which should be noticed. First the relationship between aunt and nephew is reciprocal and expressed by a single term. The same use of reciprocal terms has been seen to exist both among the Salish and Sahaptin nations, with the language of the former, of which the Tabeg-

¹ In 1847 the Shoshonees and Bonnacks were estimated together at 4000. Schoolcraft's *Hist. Cond. and Pros.* VI. 697 ; and the Utahs in part, at 3600. *Ib.* In 1855 the Comanches were estimated at 15,000. *Ib.* VI. 705. The numbers of the remaining Shoshonee nations on the Pacific are not known. They are not numerous.

A-8

INDIAN LANGUAGES
OF THE
PACIFIC STATES AND TERRITORIES
BY
ALBERT S GATSCHEP

Reprinted from March Number of The Magazine of American History



syllable, though only in a restricted number of words, and that instead of the accent length and brevity of the syllables receive closer attention. Such idioms we may call quantitating languages, for their system of prosody does not seem to differ much from those of the classical languages.

No plausible cause can as yet be assigned for the frequent, perhaps universal, interchangeability of *b* with *p*, *d* with *t* and *n*, *g* with *k*, *χ*, and the lingual *k*, *m* with *b* and *v* (*w*), *lh* with *k*, *χ*; but as there is nothing fortuitous in nature or in language, a latent cause *must* exist for this peculiarity. No preceding or following sound seems to have any influence on this alternating process, and the vowels alternate in a quite similar manner.

From these general characteristics, to which many others could be added, we pass over to those peculiarities which are more or less specific to the languages of the Pacific Slope. It is not possible to state any absolute, but only some relative and gradual differences between these Western tongues and those of the East, of which we give the following:

The generic difference of animate, inanimate, and neuter nouns, is of little influence on the grammatical forms of the Pacific languages. A so-called *plural* form of the transitive and intransitive verb exists in Selish dialects, in Klamath, Mutsun, San Antonio (probably also in Santa Barbara), and in the Shóshoni dialects of Kouvuya and Gaitchin. Duplication of the entire root, or of a portion of it, is extensively observed in the formation of frequentative and other derivative verbs, of augmentative and diminutive nouns, of adjectives (especially when designating colors), etc., in the Selish and Sahaptin dialects, in Cayuse, Yakon, Klamath, Pit River, Chokoyem, Cop-éh, Cushna, Santa Barbara, Pima, and is very frequent in the native idioms of the Mexican States. The root or, in its stead, the initial syllable, is redoubled regularly, or frequently, for the purpose of forming a (distributive) plural of nouns and verbs in Selish dialects, in Klamath, **Kizh**, Santa Barbara, and in the Mexican languages of the Pimas, Opatas (including Heve), Tarahumaras, Tepeguanas, and Aztecs.

A definite article "*the*," or a particle corresponding to it in many respects, is appended to the noun, and imparts the idea of actuality to the verb in Sahaptin, Klamath, **Kizh**, Gaitchin, Kouvuya, Mohave. In San Antonio this article is placed *before* the noun. The practice of appending various "classifiers" or determinatives to the cardinal numerals, to point out the different qualities of the objects counted, seems to be general in the Pacific tongues, for it can be traced in the Selish proper,

it is done in zoology and botany with the genera and species. In the same manner as the Mescaleros and Lipans are called Mescalero-Apaches and Lipan-Apaches, we can form compound names, as:—Warm-Spring Sahaptin Fiskwaus Selish, Watxlála Chinook, Kwalhioqua Tinné, Hoo-pa Tinné, Dowpum Winton, Gallinomero Pomo, Coconoon Yocut, Kizh Shoshoni (or Kizh Kauhuya), Comoyei Yuma, Ottare Cherokee, Seneca Iroquois, Abnaki Algonkin, Delaware Algonkin, and so forth. The help afforded to linguistic topography by this method would be as important as the introduction of Linnean terminology was to descriptive natural science, for genera and species exist in human speech as well as among animals and plants.

The *thorough* study of *one* Indian tongue is the most powerful incentive to instructed and capable travelers for collecting as much linguistic material as possible, and as accurately as possible, chiefly in the shape of texts and their translations. It is better to collect little information accurately, than much information of an unreliable nature. The signs used for emphasizing syllables, for nasal and softened vowels, for explosive, lingual, croaking, and other consonantic sounds must be noted and explained carefully; and the whole has to be committed to such publishers or scientific societies as are *not in the habit* of procrastinating publications. Stocks and dialects become rapidly extinct in the West, or get hopelessly mixed, through increased inter-tribal commerce, so that the original shape, pronunciation and inflection can no longer be recognized with certainty. The work must be undertaken in no distant time by zealous men, for after "the last of the Mohicans" will have departed this life, there will be no means left for us to study the most important feature of a tribe—its language—if it has not been secured in time by alphabetical notation.

ALBERT S. GATSCHET.

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THE WORKS

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HUBERT HOWE BANCROFT.

VOLUME III.

THE NATIVE RACES.

VOL. III. MYTHS AND LANGUAGES.

SAN FRANCISCO :
A. L. BANCROFT & COMPANY, PUBLISHERS.
1883.

other connecting links he particularly mentions the substantive endings *pe*, *be*, and others, by means of which, he says, the Moqui attaches itself to the Shoshone-Comanche branch of the Sonora idioms. The comparative vocabulary before given will further illustrate their affiliation.¹²

Returning to southern California, let us examine the three languages, Kizh, Netela, and Kechi, spoken near the missions of San Gabriel, San Juan Capistrano, and San Luis Rey, respectively, which are not only distantly related to each other, but show traces of the Sonora-Aztec idioms. Father Boscana, who has left us an accurate description of the natives at San Juan Capistrano, unfortunately devoted little attention to their language, and only gives us a few scattered words and stanzas. One of the latter reads as follows:

Quic noit nolvam
 Quic secat peleblich
 Ybiennum majaar vesagnee
 Ibi panal, ibi urnsar,
 ibi cebal, ibi seja, ibi calcel.

Which may be rendered thus:

I go to my home
 That is shaded with willows.
 These five they have placed,
 This agave, this stone pot,
 This sand, this honey, etc.¹³

But very little is known of the grammatical structure of these languages. In the Kizh, the plural is formed in various ways, as may be seen in the following examples:

	SINGULAR.	PLURAL.
Man	woroit	wororoit
House	kitsh	kikitsh
Mountain	luikh	hahaikh

Sprache für ein Glied meines Sonorischen Sprachstammes. Schon die auffallend vielen, manchmal in vorzüglich reiner Form erscheinenden, aztekischen Wörter bezeichnen die Sprache als eine sonorische; es kommt das zweite Kennzeichen hinzu: der Besitz gewisser ächt sonorischer Wörter. In einem grossen Theile erscheint die Sprache aber überaus fremdartig; mit so mehr als sie auch von den 5 Pueblo-Sprachen, wie schon Simpson bemerkt hat, gänzlich verschieden ist. . . . Die Spuren der Subst. Endung *pe*, *be* u.ä. weisen der Moqui-Sprache ihren Platz unter der comanche-shoshonischen Familie des Sonora Idioms an. Dieses allgemeine Urtheil über die Sprache ist sicher.' Buschmann, *Spuren der Aztek. Spr.*, pp. 289-90.

¹² Simpson's *Jour. Mil. Recon.*, pp. 129-30; Davis' *El Gringo*, pp. 157-9.

¹³ Boscana, in *Robinson's Life in Cal.*, p. 282.

	SINGULAR.	PLURAL.
Wolf	ishot	ishishot
Good	tihorwait	tiriwait
Small	tshinui	tshitshtnui
Black	yupikha	yupinot
Woman	tekor	totokor
Bow	paítkhvar	papaítkhvar
Bad	mohai	momohai
White	arawatal	rawanot
Red	kwauokha	kwaukhonot

DECLENSION WITH PRONOUN.

My father	ninak	Our father	ayoinak
Thy father	monak	Your father	asoinak
His father	anak		
My house	nikin	Our house	eyoknga
Thy house	mukin	Your house	asoknga
His house	akinga	Their house	pomoknga

Of the Netela there are also the following few specimens of plural formation and pronouns;—*suol*, star; *suolun*, stars; *nopulum*, my eyes; *nuakom*, my ears; *nikiwalom*, my cheeks; *natakalom*, my hand; *netémelum*, my knees.

DECLENSION WITH PRONOUN.

My house	niki	Our house	tshomki
Thy house	om aki	Your house	omomomki
His house	poki	Their house	omp omki
My boat	nokh	Our boat	tshomikh
Thy boat	om omikh	Your boat	omom omikh
His boat	ompomikh	Their boat	ompomikh ¹¹

The Kizh appears also to have been spoken, in a slightly divergent dialect, at the Mission of San Fernando, as may be easily seen by comparing the following two versions of the Lord's Prayer; the first in the language of San Fernando, and the latter in that spoken at San Gabriel.

Y yorac yona taray tucúpuma sagoncó motoanian majarmi moín main monó muísmi miojor yiaetucupar. Pan yyogin gimiamerin majarmi mifema coyó ogorná yio mamainay mii, yiarmá ogonug y yoná. y yo ocaynen coijarmeá main ytomo mojay coiyamá huermí. Paríma.

Yyonac y yogin tucupugnaisá sujucoy motuanían masarmi magin tucupra maimanó muísme milléosar y

¹¹ *Hale's Ethnol.*, in *U. S. Ex. Ex.*, vol. vi., pp. 566-7; *Buschmann*, Kizh and Netela, pp. 512-13.

THE AMERICAN RACE:

A LINGUISTIC CLASSIFICATION AND ETHNOGRAPHIC
DESCRIPTION OF THE NATIVE TRIBES OF
NORTH AND SOUTH AMERICA.

BY

DANIEL G. BRINTON, A. M., M. D.,

Professor of American Archæology and Linguistics in the University of Pennsylvania, and of General Ethnology at the Academy of Natural Sciences, Philadelphia; Vice-President of the Congrès International des Américanistes; Medallist of the Société Américaine de France; President of the Numismatic and Antiquarian Society of Philadelphia, and of the University Archæological Association of the University of Pennsylvania; Member of the Anthropological Societies of Berlin and Vienna, and of the Ethnographical Societies of Paris and Florence; of the Royal Society of Antiquaries, Copenhagen, and of the Royal Society of History, Madrid; of the American Philosophical Society, the American Antiquarian Society, etc.

NEW YORK:
N. D. C. HODGES, PUBLISHER,
47 LAFAYETTE PLACE.
1891.

ernment annually as tribute. A book consisted of a strip of paper perhaps twenty feet long, folded like a screen into pages about six inches wide, on both sides of which were painted the hieroglyphic characters. These were partly ideographic, partly phonetic; the latter were upon the principle of the rebus, conveying the name or word by the representation of some object, the word for which had a similar sound. I have called this the *ikonomatic* method of writing, and have explained it in detail in several essays on the subject.*

Their calendar recognized the length of the year as 365 days. The mathematical difficulties in the way of a complete understanding of it have not yet been worked out, and it may have differed in the various tribes. Its elements were a common property of all the Nahuatl peoples, as well as many of their neighbors; which of them first devised it has not been ascertained.

UTO-AZTECAN LINGUISTIC STOCK.

a. *Shoshonian Branch.*

Bannacks, in Montana and southern Idaho.

Cahuillos, in southern California.

Chemehuevis, branch of Pi-utes, on Cottonwood Island.

Comanches, in northern Texas, on both banks of Rio Grande.

Kauvuyas, southern California, near the Pacific.

Kechis, in southern California, branch of Kauvuyas.

* *Kizh*, in southern California, branch of Kauvuyas.

Moquis, in Moqui Pueblo, Arizona.

Netelas, in southern California.

Pa-Vants, south of Great Salt Lake.

* See "The Ikonomatic Method of Phonetic Writing" in my *Essays of an Americanist*, p. 213. (Philadelphia, 1890.)

A-11

The University of Chicago
FOUNDED BY JOHN D. ROCKEFELLER

**THE ETHNO-BOTANY OF THE COAHUILLA
INDIANS OF SOUTHERN CALIFORNIA**

**A DISSERTATION SUBMITTED TO THE FACULTIES OF THE GRADUATE SCHOOLS
OF ARTS, LITERATURE, AND SCIENCE, IN CANDIDACY FOR
THE DEGREE OF DOCTOR OF PHILOSOPHY**

(DEPARTMENT OF ANTHROPOLOGY)

BY
DAVID PRESCOTT BARROWS

CHICAGO
The University of Chicago Press
1900

these words from an Indian, but this error is easily rectified. Mr. Whipple's linguistic material collected on this expedition was analyzed by Professor William W. Turner and printed in the Expedition's report upon the Indian tribes.¹ In this report the Comanche, Chemehuevi, and "Cahuillo" vocabularies are printed in comparative columns under the title "Shoshonee." A comparative vocabulary was also published, embracing twenty-eight "Cahuillo" words, together with an equal number from Mr. Hale's "Kizh" and "Netela," and from a manuscript vocabulary of the Indians at San Luis Rey mission, procured by Hon. John R. Bartlett, while engaged upon the Mexican Boundary Survey, and called by him the "Kechi."² Professor Turner's conclusion in regard to the Comanche, Chemehuevi, and Cahuillo, was that

the natives who speak these languages belong to the great Shoshone or Snake family: which comprehends the Shoshones proper of southern Oregon, the Utahs in the region around the Great Salt Lake and then extending south and west the Pah-Utahs, west of the Colorado and the Indians of the missions of southern California, the Kizh (of San Gabriel), the Netela (of San Juan Capistrano), and the Kechi (of San Luis Rey), and on the south and east the Comanches of the prairies.³

To these collections of Lieutenant Whipple and the analysis of Professor Turner is due also the establishment of the Yuma linguistic family, including the Mojaves, Cuchans, Maricopas, and Diegeño Indians, and the connection of the Diegeño Indians therewith.⁴ A vocabulary of the Diegeños, furnished by Dr. Coulter, had already been, as we have seen,⁵ published in the eleventh volume of the Royal Geographical Society's *Journal*, and the paper of Mr. Latham "On the Languages of New California"⁶ attempted to classify the Indians of southern California on the basis of De Mofras' Paternosters; but that the Diegeños were close kin to the tribes of the Gila and Colorado rivers seems not to have been suspected previous to Mr. Turner's discovery of the relation.

From 1853 to 1859 the linguistic connections of these Indians excited the interest of Dr. Johann Buschmann. This learned philologist, searching for traces of Aztec speech among the Indian languages of

¹ *Ibid.*, chap. 5, "Vocabularies of North American Language," pp. 71-77.

² In his *Personal Narrative*, Vol. II, p. 92, MR. BARTLETT speaks of his visit to the San Luis Rey mission and of "an old chief" who was quite communicative of information and furnished a "vocabulary. . . . He called his tribe the Kechi." This vocabulary contains twenty-eight words.

³ *Ibid.*, p. 76.

⁴ The vocabularies for this analysis were collected by Lieutenant Emory in 1854, while engaged on the Mexican Boundary Survey, and are printed in the reports of that expedition.

⁵ *Supra*, p. 11.

⁶ *Supra*, p. 12.

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**UNIVERSITY OF CALIFORNIA PUBLICATIONS
AMERICAN ARCHAEOLOGY AND ETHNOLOGY**

Vol. 4

No. 3

SHOSHONEAN DIALECTS OF CALIFORNIA

BY

A. L. KROEBER

**BERKELEY
THE UNIVERSITY PRESS
FEBRUARY, 1907**

LETTERS IN SUPPORT

a surmise¹. There is no evidence except Loew's that the word was used by any Indians as a tribal name; nor has it been used even in books except on the authority of Loew². Its application to all the Shoshoneans of Southern California is certainly without warrant. Buschmann, following Hale, has called the Gabrielino language Kizh, also written Kij. This term is evidently related to the Gabrielino word for house, *kikh* or *kigh*, also given as *kich*. The Luiseño call the Gabrielino *Tumangamal-um*, northerners, and their language *tumangangakh*.

The territory of the Gabrielino group comprised all the present Los Angeles county south of the San Bernardino mountains, except probably the narrow coast strip west of Santa Monica. It covered also the greater part of what is now Orange county, extending as far as Alisos creek, north of San Juan Capistrano. To the east it reached a short distance beyond the limits of Los Angeles county, but without including San Bernardino or Riverside. Informants at Tejon place Shoshoneans speaking a dialect related to that of San Fernando at Camulos and Piru, *i.e.*, the mouth of Piru creek in Santa Clara river, in eastern Ventura county; but confirmation is required. Practically nothing is known as to the distribution of Indians in this interior region.

Besides San Gabriel, Mission San Fernando was in Gabrielino territory. The Spaniards, following their custom, speak of the Indians attached to this mission as *Fernandeños* or *Fernandinos*. The vocabularies that have been given show that there was no dialectic difference of consequence. So the Indians also state; Taylor³ and Gatschet⁴ say and Reid⁵ implies the same thing; and

¹ From *toba*, *sit*. Cf., however, Hale, *Tr. Am. Ethn. Soc.*, II, 128, Gabrielino: *earth*, *tuanga* (= *towa-nga*); and Reid, in Hoffman, *Bull. Essex Instit.*, XVII, 6, 1885; *tobagnar*, the whole earth, *lahur*, a portion of it, a piece of land. Other vocabularies give for earth: *ōxar*, or *olkhor*. Barrows, *op. cit.*, 19, recalls that Reid, in Taylor, *Cal. Farmer*, XIV, 146, Jan. 11, 1861, gives the name of the mythological "first man" as *Tobohar*. Taylor, on his own authority, *Cal. Farmer*, XIII, 90, May 11, 1860, gives *Toviscanga* as the name of the site of San Gabriel. Cf. *Tuvasak* below.

² Reid, in Taylor, *Cal. Farmer*, XIV, 146, Jan. 11, 1861; "It probably may not be out of place here to remark, that this tribe" (the 'Indians of Los Angeles county' or Gabrielino) "had no distinguishing appellation."

³ *Cal. Farmer*, XIII, 90, May 11, 1860.

⁴ *Wheeler Survey*, VII, 413.

⁵ Quoted by A. Taylor, *Cal. Farmer*, XIV, 146, Jan. 11, 1861; also reprinted from Reid's manuscripts by W. J. Hoffman, *Bull. Essex Instit.*, XVII, 2, 1885. Reid's material was originally printed in the *Los Angeles Star*.

The **OLD**
SAN GABRIEL MISSION

**HISTORICAL NOTES TAKEN FROM OLD
MANUSCRIPTS AND RECORDS ACCU-
RATELY COMPILED AFTER DILIGENT
RESEARCH BY**

REV. EUGENE SUGRANES, C. M. F.



SAN GABRIEL, CALIFORNIA

FEBRUARY SECOND

1909

CHAPTER VI

Why Growth was Slow in the Early Period of the Existence of the San Gabriel Mission, 1771-1778

Perhaps it will seem strange, especially to the casual observer, that the progress of the San Gabriel Mission during the critical period of its infancy was comparatively slow. Yet we should not lose sight of the fact that into all the undertakings for the honor and glory of God, the human element must needs enter. In this is especially manifested the wisdom and providence of God. God works His wonders through natural agencies; even our salvation, the most wonderful of His providences, was wrought through human instrumentality. Likewise he employs our failures for his successes and even our sins oftentimes become the occasion for His more glorious manifestation.

Turning our attention to the various causes for the lack of rapid growth of this early mission, the first and perhaps the most lamentable was the reprehensible conduct of the soldier related above. This at once created a strong animosity in the hearts of the savages towards the missionaries. The Indians conceived the idea that rapine was the primary purpose of the mission's existence, rather than a kindly helpfulness to a better life. Sad indeed is it to know that not only upon this one occasion did the soldiers behave themselves unseemly, but in spite of the earnest admonitions of the Fathers to the contrary, they repeatedly brought shame upon the holy enterprise.

Another cause was the great difficulty experienced in learning the language and special dialect of the Indians. It is not rare to hear the missionaries complain of this hindrance. Each tribe spoke a different dialect and though a missionary might master one, yet in the immediate neighborhood another would be found quite different. The letters of the first missionaries to California tell of the laborious and tedious way in which they had to learn the different languages from the Indians and it is not a pleasant task for a missionary to express in writing the strange sounds he hears.

The language spoken by the San Gabriel Mission Indians was the Kizh. The Lord's Prayer in the Kizh dialect is as follows: Yyonak y yogin tuecupugnaisa sujueoy motuanian masarmi magin tucupra maimano muisme milleosar y ya tueutar jiman bxi y yoni masaxmi mitema coy aboxmi y yo mmamainatar moojaich milli y yaqma abonae y yo no y yo ocaihue coy jaxmea main itan monosaich coy jama juexme huememesaich.--Baneroft Hist. Native Races 111,675.

DIG

CSULB's Monthly Student Magazine

DIG investigates the background of the 22-acre lot that was inhabited by American Indians

Is CSULB really on an Indian burial ground?

by Lauren Williams

published: Monday, March 3, 2008

updated: Saturday, April 9, 2011: 18:04

...

According to Cindi Alvitre, a professor in American Indian studies and anthropology,

The name given to the collective group of tribes that inhabited what is now CSULB was "Gabrielino," given to the group by Spanish settlers, according to Alvitre, who arrived in the area in the late 1700s and later relocated the indigenous community to missions around Southern California.

"The name Tongva is what we've chosen to use in the present," which means "people of the Earth," Alvitre said in her office one day, early last fall semester. "There was no one tribe called 'Tongva.'"

August 14, 2016

To Whom It May Concern:

Please accept this letter of strong support for Andy Salas, Tribal Chair of the Gabrieleno Band of Mission Indians. I've had the good fortune to work directly with Mr. Salas in my capacity as Superintendent of the ABC Unified School District in Cerritos, California. After Native American ancestral remains and artifacts were uncovered at a construction site at one of our middle schools in 2011, both Mr. Salas and the Gabrieleno Band of Mission Indians played a crucial role when my school district worked with a variety of governmental agencies to examine, preserve, and honor our discovery.

Due to the sensitive nature and importance of the recovery of Gabrieleno ancestral remains, I personally supervised the coordination of agencies and activities associated with their recovery, disposition, and transmission. During the course of this process, my school district worked with the City of Hawaiian Gardens, the Los Angeles Coroner, the L.A. County Board of Supervisors, and the state of California. In addition, I coordinated the activities of the construction project contractor, the assigned consulting archaeologist, and the Gabrieleno Band of Mission Indians. This was a sensitive project and minor conflicts and competing interests sometimes arose. However, at all times Mr. Salas provided valuable advice and support in his capacity as representative of the Gabrieleno Band of Mission Indians. We developed a productive, reliable, and professional relationship that astutely balanced cultural preservation and community interests.

The ABC Unified School District Board of Education and the City Council of Hawaiian Gardens agreed to sponsor the Gabrieleno Indian Education Trail at the Fedde Middle School Sports Complex after the original construction project was completed in 2012. I worked with WLC Architects, Inc. to create, design, and build this wonderful teaching opportunity. The Gabrieleno Indian Education Trail includes the history and culture of the ancient people who inhabited Southern California. In addition, the Gabrieleno Trail is the site of the reburial of Gabrieleno ancestor remains. At every step of the Gabrieleno Indian Education Trail project, I worked directly with Mr. Salas and the Gabrieleno Band of Mission Indians. This significant educational and cultural project would not exist if it wasn't for the input and support of Andy Salas and the Gabrieleno Band of Mission Indians.

Let me conclude by confirming my strong recommendation for Andy Salas. I found him to be a sensitive, informed, reliable, and professional representative of the Gabrieleno Band of Mission Indians. Please contact me if you desire further information.

Sincerely,

Gary Smuts

Gary Smuts, Ed.D.
Superintendent of the ABC Unified School District (retired)
Instructor, LaFetra College of Education
University of La Verne

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TO: CALIFORNIA COASTAL COMMISSION
MEMBERS OF THE BOARD

August 15, 2016

**RE: LETTER OF SUPPORT & REFERENCE
for the GABRIELENO BAND of MISSION INDIANS, KIZH NATION**

This letter is to provide reference of the authenticity and exemplary character of the Gabrieleno Band of Mission Indians, Kizh Nation, with website and headquarters of operation located in Covina, California.

Kizh Lands & Culture.

It should be pointed out that the sphere of land, heritage, culture and influence of the Kizh Nation extends throughout Los Angeles County and beyond: including coastal and interior mountains plus coastal islands. The reaches, evidences, and history of their nation has been verified in numerous historical documents, pictographs, villages, and sacred sites by comparative archeologies, oral histories, certified genealogies, and DNA studies.

State and Federal Applications/ Publications.

SGMRC has been closely associated with Kizh Tribal Council Members as they have carefully, step by step authenticated their history for State and National Recognition through applications, studies and verification of the authenticity of the Kizh Nation. Some of these steps SGMRC helped to facilitate through encouragement of months of data and studies collecting, followed by roundtable scholarly discussions and finalizations of documentation by the Tribal Council Representatives for the Bureau of Indian Affairs (BIA) Federal Application for Tribal Recognition. The astounding compilation of history and scholarship result was hand-carried and presented to the Secretary of the BIA in Washington, D.C., by the team of Tribal Representatives, Archeological Researchers, and Elected Government Representatives. The Federal Application is an outstanding and scholarly example of tribal story, evidences, documentation, and history of the Kizh Nation. The Federal Application is available for review and is one of a number of documents which Kizh Scholars and Tribal Archeologists are in process of copyrighting for further preservation and permanent availability should any questions of credibility or authenticity of the Kizh Nation or its Tribal Representatives. Cultural Resources of the Kizh Nation continue to grow in number and authenticity as the Kizh take their rightful and demonstrated place in the history of Los Angeles County and beyond. Along with the BIA, personnel from the Smithsonian were consulted with for preserving historic evidences of the Kizh.

Development Pressures and Kizh Research/Scholarship.

In addition, other scholarly documents have been generated and will be included in the copyrighted package, as encouraged by SGMRC, of evidences of the Kizh Nation and its Tribal Representatives in Los Angeles County and region. Most recently, the Kizh Nation Tribal Archeologist critiqued a consulting group's Cultural Resources Section of a DEIR for a "proposed" Foothills Development, which severely lacked authenticity and scholarship due to the participation by a fictitious tribal group. The fictitious group had no history, nor knowledge of the village location, sacred sites, nor interpretation of cultural relics found on-site and nearby.

Qualified and Experienced Monitors.

When we read in the newspapers all too commonly the loss of vital history and cultures of indigenous people by careless or for-profit motives and/or irresponsible overseers or monitors of historic sites, let it be said as demonstrated to SGMRC, there is no greater sensitivity and respect for history than that shown by the Kizh Representatives, including members of the Tribal Council, starting with Chief Ernie Salas and his Son Andrew Salas, Council Chairman.

Kizh Leadership for the New San Gabriel Mountains National Monument.

It should also be known that of all indigenous peoples, tribal groups, and representatives surveyed for the **Native American Tribes Chair** to be seated on the **Collaborative of the San Gabriel Mountains for the San Gabriel Mountains National Monument**, it was Andrew Salas, Council Chair of the Gabrieleno Band of Mission Indians/ Kizh Nation who was selected unanimously. One of the first of the priority projects mentioned for implementation in this newest national monument was the safeguarding and mapping of the Gabrieleno Trail in the National Forest and National Monument, as further documented by evidences of artifacts and maps validated by nationally known archeologists associated with the Kizh Nation.

Come and See for Yourself.

Should you be interested in further verification of the vital leadership and contributions of Andrew Salas, and other Members of the Tribal Council of the Kizh Nation, let us know. We can take you there to see for yourself what can be lost forever through eyes of ignorance. The Kizh even now are making important contributions to the Cultural Resources of the Indians of the State of California and to the Nation. Please feel free to contact us to take you to sites that exist and that we are associated with which may be lost forever without Andrew and the Tribal Council to step into the gap of need for protecting a history that still lives.

Members of the Tribal Council have teamed with our long-time environmental conservation and education programs by providing heritage and cultural programs through public outreach and education programs. Included have been heritage, ethnobotany, plus newer native harvest/health workshops, including university level presentations and training. You are invited to come and see for yourself the continuing high regard that myself and my husband, professors emeriti, and the college and university programs and partnerships hold for these remarkable and authentic representatives of the first peoples of Los Angeles County.

Thank you for this opportunity to share from our firsthand experience and observation our value and support of Andrew Salas, the Tribal Council, and the Kizh Nation. Feel free to contact me for any clarifications needed.

Sincerely,

Ann Croissant, Ph.D.
President/ Board of Directors

Conservancy Mission: To promote the preservation of land and/or buildings for historical, educational, ecological, recreational, scenic, or open space opportunities .

SGMRC is a nonprofit, tax deductible organization, focused on projects, education, and wellness which sustain, conserve, steward, and connect with community in “preserving what’s best” and “restoring what’s possible” for human well-being, natural resources, economic value, environmental health, and watershed benefits. More than 18 years in contributing to quality of life, economy, research, publications, restoration, and watershed.

P.O. Box 963, Glendora, CA 91740 www.sgmrc.org ph/fax 626-335-1771

From: [Mark Sheldon](#)
To: BanningRanchComments@Coastal
Subject: Comment on CCC Staff Report th11c-5-2016, Newport Banning Ranch, for May 12, 2016 Hearing
Date: Friday, May 06, 2016 2:24:43 PM

via email To: BanningRanchComments@coastal.ca.gov

Coastal Commission and Staff:

I am a resident of Huntington Beach. I am following the proposed Newport Banning Ranch development with concern for preservation of ESHA on this property, which is an important element in the remaining wildlife habitats in coastal Orange County. I am also concerned about the human impacts of additional development and associated traffic and roadway development in this region, adding to the already heavily stressed suburban environment.

In reviewing the subject Staff report I am particularly concerned to note (from the Summary) "staff made significant modifications to its previous assessment of site constraints and was able to identify for the applicant approximately 55 acres of semi-contiguous developable area." This implies a considerable increase since the October 2015 report, made possible by removing the ESHA classification from a significant acreage including several vernal pools.

The Commission and its staff are urged to maintain consistency with established standards for classifying ESHA. Absent a rigorous justification indicating precisely why all previous classifications of the affected areas as ESHA should be changed, this reclassification cannot be justified under the Coastal Act. ESHA has a specific meaning and is not subject to reclassification for the convenience of the applicant.

I am further concerned by the ultimate recommendation that begins: "Staff recommends APPROVAL with conditions that will result in a revised plan..." Under any circumstances, and even more so given the history of applicant responses which fail to meet Coastal Act requirements, approval should only be granted once a fully satisfactory plan has been submitted. Any consideration that an expedited approval might reduce Coastal Commission workload is unjustified given the responsibility of the Commission to see that the Coastal Act is rigorously enforced.

s/ Mark Sheldon
Huntington Beach, California
714-865-5799 mobile

From: [Chris OConnell](#)
To: BanningRanchComments@Coastal
Subject: Banning Ranch
Date: Saturday, July 30, 2016 12:57:24 PM

Hi There,

I am a local resident of Costa Mesa, very near to Banning Ranch.

I support the cleanup of Banning Ranch and the development of it, but I don't support apartments going in nor traffic corridors on 15, 16th and 17th streets and definitely not 19th st.

They also should share plans of how they are going to turn the disgusting wasteland into trail system that we can all use, they haven't really spoken much about the plans and I know they have them. We would like to see exact plans and that they will contribute to the cleanup of Talbert park and lake victoria refresh.

thanks,

chris

From: robert.orbe
To: BanningRanchComments@Coastal
Cc: ddixon@newportbeachca.gov; tpetros@newportbeachca.gov; dduffield@newportbeachca.gov; kmuldoon@newportbeachca.gov; edselich@roadrunner.com; speotter@newportbeachca.gov; keithcurry1@yahoo.com; dkiff@newportbeachca.gov; dkiff@newportbeachca.gov; Dobson.Amber@Coastal
Subject: Banning Ranch Notification from impacted residents
Date: Friday, August 26, 2016 11:40:34 AM
Attachments: [Banning Ranch CCC letter email version.docx](#)

Dear California Coastal Commission,

Please be advised that for those of us who live on the front line of Banning Ranch and who will be directly impacted by any construction and development on Banning Ranch will hold the California Coastal Commission directly accountable from any approvals that result in any loss of property values and ongoing ill effects to our homes.

The City of Newport Beach will share in these burdens.

Expanded letter attached that has been circulated and signed by dozens of front line Newport Crest residents. Signed hard copy submitted to the CCC on August 22nd.

Robert Orbe
14 Goodwill Ct.
Newport Beach CA



FROM: Front Line to Open Space Residents of Newport Crest

RE: Proposed Banning Ranch Development

Dear California Coastal Commissioners,

August 16, 2016

Upon review of the California Coastal Commission staff's recommendation report for the potential rezoning of Banning Ranch from agricultural/mineral to residential/commercial and its subsequent future development, the Newport Crest homeowners who directly connect to Banning Ranch, regard these recommendations as ill-advised. The recommendation does not appear to deliver in the spirit of the California Coastal Act and furthermore lacks any modern community lifestyle planning. As a result, the proposed design concept maximizes the negative financial impact to the existing property owners. In this capacity, the staff is exposing the California Coastal Commission to future liabilities estimated in the millions of dollars and potentially into the tens of millions of dollars, depending on the final development design.

The California State Constitution clearly cites that property owners are financially protected in these circumstances. I'd like to note that the California Coastal Commission staff's recommendation report references these protections when they wrote that their reduction in development size to NBR "did not constitute a "taking," however, they neglected to recognize the "taking" from the existing properties that have been a cornerstone to this community for more than 4 decades.

Please be advised that final approval of development for Banning Ranch by the California Coastal Commission will trigger the filing of claims with the City of Newport Beach from the estimated 47 Newport Crest homeowners who will be directly impacted. Depending upon the outcome of these claims, the California Coastal Commission could find itself party to future litigation.

Signed by Newport Crest Front Line Residents,

Robert Orbe, 14 Goodwill Ct and dozens of others on the Front Line.

CC: Newport Beach City Council, NB City Manager, NB City Planning

From: [KnowWho_Services](#)
To: BanningRanchComments@Coastal
Subject: Reject Application 5-15-2097 to Develop Banning Ranch
Date: Monday, August 29, 2016 1:49:38 PM

Dear CA Coastal Commission,

Dear Commissioners:

I write to urge you to reject Application 5-15-2097 to develop Banning Ranch.

That land currently provides habitat to endangered and threatened animals and plant species, and contains many environmentally sensitive habitat areas (ESHA).

The California Coastal Act rightfully requires that ESHAs be protected.

I urge you to follow the letter and spirit of the California Coastal Act and reject the proposal to develop Banning Ranch.

The areas of Newport Beach and Huntington Beach near Banning Ranch already have enough traffic. The area is populated enough. It currently takes 45 minutes to go from Superior to Brookhurst on PCH at 4PM on a Tuesday afternoon. The traffic on PCH will not be eased by the addition of Bluff Road. It will increase traffic in an already congested area. Additionally, there is not enough parking at the beach now, so access to the beach is limited when the parking is full anyway.

As I local HB resident, I strongly urge the coastal commission to reject any plan for development at Banning Ranch or any of the surrounding coastal areas.

Sincerely,

Julie Andrews
9442 Waterfront Dr
Huntington Beach, CA 92646
appraiserjulie@earthlink.net
7147099102

From: [Brian Benoit](#)
To: [BanningRanchComments@Coastal](#)
Cc: [Turnbull-Sanders, Effie@Coastal](#); [Vargas, Mark@Coastal](#); [McClure, Martha@Coastal](#); [Kinsey, Steve@Coastal](#); [Uranga, Roberto@Coastal](#); [Cox, Greg@Coastal](#)
Subject: Please say NO to Banning Ranch development
Date: Wednesday, August 24, 2016 3:07:13 PM

Dear Commissioners and Staffmembers,

I am a resident of Newport Beach and write to voice my strong opposition to the Banning Ranch Development Project.

As you are well aware, the mission statement of the Commission is "to protect and enhance California's coast and ocean for present and future generations."

With that in mind, I find it very hard to see how the construction of nearly 1,000 new homes, 100 hotel/hostel rooms and 75,000 square feet of retail space in the middle of a sensitive coastal wetland aligns with your mission.

Banning Ranch is the largest undeveloped parcel remaining in coastal Southern California. It is a jewel, a resource that must be protected. It is home to endangered species and vernal pool habitats. We know very little about what is there since the property it is privately owned and operated by an oil company. Who knows what the true potential of this site could be with the proper stewardship and vision?

The development would mean years of pollution from heavy construction and earth moving. There would be tens of thousands of extra cars on the road each day, further taxing an already fragile infrastructure. And where would the water come from? To approve such a large development during the historic drought we are in the middle of would be egregious. We are supposed to be protecting our water resources, not contributing to their further depletion.

If you visit our town, you will be hard pressed to overhear our residents yearning for a new retail space to shop at or a luxury home to buy. There are currently 988 homes and condos for sale in Newport Beach / Costa Mesa. There is no shortage of hotel rooms and retail opportunities. Developing Banning Ranch attempts to address a problem that isn't broken. We simply don't need it.

I hope that you will help the residents protect this precious resource, now and for the future.

Respectfully,

Brian Benoit
Newport Beach

From: [Susan Allen](#)
To: BanningRanchComments@Coastal
Subject: New BRC Letter Campaign Submission
Date: Thursday, August 25, 2016 8:47:08 AM

Letter Body

Dear Honorable Chair Kinsey, Commissioners and Staff,

WE ARE LOSING EVERY LAST PIECE OF WILD LANDS IN ORANGE COUNTY TO BIG OIL AND DEVELOPMENT. WE NEED TO SAVE THIS PRECIOUS LAST BIT OF WILDLANDS WE HAVE LEFT!!! ENOUGH IS ENOUGH, WHEN DOES BIG OIL HAVE ENOUGH PROFITS?? WHEN ARE WE GOING TO DO THE HONORABLE AND JUST THING AND STOP THIS HANDOUT OF OUR PRECIOUS LANDS? STAND UP FOR THE PLANET, THE WILDLIFE, THE PEOPLE IN ORANGE COUNTY WHO ARE SICK AND TIRED OF BIG CORPORATE INTERESTS TEARING IT UP SO THEY CAN LINE THEIR POCKETS! PLEASE!

The Banning Ranch Conservancy, its volunteers and supporters, and thousands of residents of the densely packed communities surrounding Banning Ranch, share grave concerns about the impacts of the proposed development of the Banning Ranch site. Far too many of these impacts exceed regulatory standards and are designated "significant and unavoidable" in the Newport Banning Ranch Environmental Impact Report. (<http://www.newportbeachca.gov/index.aspx?page=2096>).

The Conservancy joins the larger community of volunteers, supporters and residents in requesting your attention to the following concerns (partial list):

+ Banning Ranch is the last large unprotected coastal open space in Orange County.

When it's gone, it's gone forever.

+ 2.8 million cubic yards of soil will be moved and much of it stockpiled on site to prepare the land for development, destroying the environment and exposing the public to unknown levels of contaminants.

+ The destruction of environmentally sensitive habitat areas, threatened wildlife species, coastal wetlands and vernal pools—none of which is allowed by the Coastal Act.

+ The Project's water demands will place a significant burden on our scarce water supply, increasing water shortages.

+ Where's the water coming from? The Project's Water Supply Assessment Report is flawed and outdated by its own admission.

+ TRAFFIC: 15,000 more car trips on our roads, daily! Expect longer commutes, gridlocked intersections.

+ POLLUTION: Air pollution from construction and traffic will exceed state standards.

+ POLLUTION: Noise from traffic and other sources will double allowable noise thresholds.

+ POLLUTION: Greenhouse gas emissions will contribute considerably to the Greenhouse Gas Inventory, accelerating global climate change and rising sea levels.

Despite the severity of these impacts, the Newport Beach City Council approved the Project in July of 2012, resorting to a "Statement of Overriding Considerations" to rationalize away the "significant and unavoidable" impacts cited throughout the EIR. These impacts will put the health and safety of the public at great risk—and will result in the destruction of the Ranch's rare and finite natural resources.

The public and the environment should not be treated as collateral damage to the proposed development. Please hear our concerns and please preserve our precious California coastline. We're counting on you!

Sincerely,

Additional references:

City of Newport Beach EIR, Section 4.6.7, Biological Resources, Environmental Impacts

City of Newport Beach EIR, Section 4.9, Transportation and Circulation

City of Newport Beach EIR, Section 4.10, Air Quality (Table 4.10-7 Estimated Maximum Daily

Construction Emissions: Unmitigated)

City of Newport Beach EIR, Section 6.0, Long Term Implications of the Proposed Project

Name

Susan Allen

Email

sallen@autoeveramerica.com

Phone

(949) 939-1920

Address

25761 Le Parc 94
Lake Forest, California 92630
United States
[Map It](#)

From: [Joanne Rohan](#)
To: BanningRanchComments@Coastal
Subject: 5-15-2097
Date: Friday, August 26, 2016 2:09:59 PM

We absolutely support the Banning Ranch Conservancy's efforts to completely preserve the entire Banning Ranch open space site. My husband and I are long time residents of Huntington Beach. With development we have lost so much open space along our beautiful coastline. Developing this area will destroy habitats for many endangered plant and animal species that are native residents of this area. We have always understood the importance of protecting our environment. Preserving our wetlands for future generations of Californians is especially important to us now as new grandparents. We want a future for our granddaughter that demonstrates to her that we as a community cared more for preserving the environment for future generations than we cared about development and making money for a wealthy few.

Please vote to preserve Banning Ranch for the native species inhabiting this area and for the future generations of all citizens of California.

Thank you,
Joanne and Robert Rohn

Sent from my iPad

From: [Keith Belew](#)
To: BanningRanchComments@Coastal
Subject: "Agenda Item 5-15-2097" - Save Banning Ranch
Date: Friday, August 26, 2016 6:47:18 PM

Dear Coastal Commission,

I am a long time Huntington Beach resident and homeowner. I would hate to see the Banning Ranch area developed for residential, resort, or commercial use. We are running out of open space and we have had numerous major, high-density housing and resort developments in the area over the last few years. What we haven't seen is more public parks and restoration of natural areas for public enjoyment. Please do not let this happen to one of the last wide open areas we have left.

Sincerely,

Keith Belew

2101 Antigua Lane

Huntington Beach, CA 92646

From: [Michael Henderson](#)
To: BanningRanchComments@Coastal
Subject: Agenda Item 5-15-2097
Date: Friday, August 26, 2016 1:46:46 PM

CA Coastal Commission,

Banning Ranch is a vital coastal open space habitat area, is home to endangered species, threatened plant communities, wetlands, vernal pools, grasslands, as well as a significant archaeological site. It is critical to wildlife and to California's native history that this land remain as undeveloped open space. Development would not only take away the home of wildlife and destroy the land's native archaeology, but would also greatly increase the already congested traffic situation that existing residents already struggle with. Developing Banning Ranch is a very bad idea. Please keep developers out of Banning Ranch.
Thank you,

Michael Henderson
Huntington Beach, CA

From: [Dylan Flather](#)
To: BanningRanchComments@Coastal
Subject: Agenda Item 5-15-2097
Date: Friday, August 26, 2016 1:38:25 PM

Please support saving a precious piece of open space - **Banning Ranch**. Banning Ranch is one of the last remaining coastal open space habitat areas, home to endangered species, threatened plant communities, wetlands, vernal pools, grasslands, and significant archaeology.

We have lost far too much of our open space and wildlife habitat. Banning Ranch needs to be saved, not compromised.

Thank you,

Dylan Flather

From: [Sharon Schacht](#)
To: BanningRanchComments@Coastal
Subject: Agenda Item 5-15-2097
Date: Friday, August 26, 2016 1:48:46 PM

Dear Honorable Chair Kinsey, Commissioners and Staff,

I wish to state my opposition to development at Banning Ranch.

Please make Banning Ranch a protected area for future generations. Once this land is given up to development, it will never return as an area for enjoyment of nature.

Is all development "progress"?? Of course not.

Please consider the results of high density in this area and how it will affect humans and wildlife. We can't afford to pave over the remaining open land along our coastline.

Please listen to the wishes of the people affected by this development as you consider this unwanted future development.

Sincerely,
Sharon Schacht

From: [MJ Baretich](#)
To: BanningRanchComments@Coastal
Subject: Agenda Item 5-15-2097
Date: Friday, August 26, 2016 6:30:11 PM

Dear Honorable Chair Kinsey, Commissioners and Staff,

I am opposed to development at Banning Ranch. Several species of endangered and threatened birds are residents of Banning Ranch and need our protection. Due to the overdevelopment which has stripped the Southern California coastline of much of its natural resources, Banning Ranch is now one of our last unprotected open spaces which contains vital diverse native wildlife habitat and is one of the few remaining pieces of the cultural landscape for the local Native Americans of this area.

I urge you to uphold the Coastal Act and its protections for these natural and cultural resources at Banning Ranch and DENY the development proposal before you in its entirety.

The compromise produced by the landowners will still result in the destruction of environmentally sensitive habitat areas both directly and indirectly. This is a violation of the Coastal Act. The proposed restoration by developer led groups will not mitigate for the loss of intact and functioning habitat and open space.

At Bolsa Chica a similar compromise led to the desecration of a Native American cemetery and significant destruction within one of North America's most important archaeological sites, after the developer gave assurances to the Commission that this would not happen. Please do not make these same mistakes at Banning Ranch. Our last open spaces, our sensitive environment cannot withstand more loss due to compromise for development.

I urge you to uphold the Coastal Act and deny the proposal for development at Banning Ranch.

Sincerely,

Mary Jo Baretich
21752 Pacific Coast Hwy #23A
Huntington Beach, CA 92646

From: [Susan Davis](#)
To: BanningRanchComments@Coastal
Subject: Agenda item 5-15-2097
Date: Friday, August 26, 2016 2:42:39 PM

I support the [Banning Ranch Conservancy](#)'s efforts for the complete preservation of the entire site. We have lost far too much of our open space and wildlife habitat. Banning Ranch needs to be saved, not compromised.

From: robert.orbe
To: BanningRanchComments@Coastal
Cc: ddixon@newportbeachca.gov; lpstros@newportbeachca.gov; dduffield@newportbeachca.gov; kmuldoon@newportbeachca.gov; edselich@roadrunner.com; spsotter@newportbeachca.gov; keithourry1@yahoo.com; dkiff@newportbeachca.gov; Dobson_Amber@Coastal; jwhynot@scagmd.gov
Subject: Air Quality Health Risks from Banning Ranch development
Date: Friday, August 26, 2016 12:10:39 PM
Attachments: [Banning Ranch air quality health risk.docx](#)
[VF_Capri MHSA_Report.pdf](#)

Dear California Coastal Commission,

Please be advised that for those of us who live within breathing distance of Banning Ranch and who will be directly impacted by any construction on Banning Ranch will hold the California Coastal Commission directly accountable from any approvals that result in any harmful effects caused by the release of toxic airborne particles.

The City of Newport Beach will share in these burdens.

Attached: Expanded letter with hard copy submitted to the CCC on August 22nd. and a fact sheet on Valley Fever from the State of California Department of Health and Human Services Agency.

CC: SCAQWD

Robert Orbe
14 Goodwill Ct.
Newport Beach CA

FROM: The Community within Breathing Distance of Banning Ranch

RE: Proposed Banning Ranch Development

Dear California Coastal Commissioners,

August 18, 2016

With all the euphoria over the windfall of profits, building fees and property taxes from the development of Banning Ranch, the serious health risks of disturbing that soil are being overlooked. These airborne particles in themselves are a serious contributor to Chronic Lower Respiratory Disease which is a leading cause of death in the United States. In some rankings as high as number 4 and in Orange County alone, an estimate 3,000 people per year die due to illnesses related airborne particles.

Remember what happened to so many unfortunate victims of 9/11. One day of heavy airborne particles left many sick within 5 years and dead within 10 years.

These alarming statistics do not include the added health risk from a California dirt fungus that once inhaled causes extended flu like symptoms and in some cases even death from a disease called coccidioidomycosis, also known as "cocci" or "Valley Fever." I've attached a fact sheet on Valley Fever from the State of California Department of Health and Human Services Agency.

As if this weren't enough, as clearly warned in California State Prop 65, this soil is also carcinogenic. After decades of oil drilling and that will continue for decades to come, this soil is imbedded with petroleum deposits.

In summary, the plume of dirt released from excavating Banning Ranch coupled with our perfect on shore breeze, will expose thousands of unsuspecting men, women and children to serious health risks and even an epidemic. Please be advised that final approval of development for Banning Ranch by the California Coastal Commission could trigger health claims wiping out any financial or perceived benefits of this new development and depending upon the outcome of any future health claims, the California Coastal Commission could find itself party to litigation.

Signed,

Robert Orbe

14 Goodwill Ct. Newport Beach, CA

CC: Newport Beach City Council, NB City Manager, NB City Planning

Valley Fever Fact Sheet

What is Valley Fever?

Valley Fever (coccidioidomycosis or “cocci”) is an infectious disease caused by a fungus called *Coccidioides* which lives in the soil and dirt in certain areas. The fungus usually infects the lungs causing flu-like symptoms. Most of the time symptoms get better on their own.

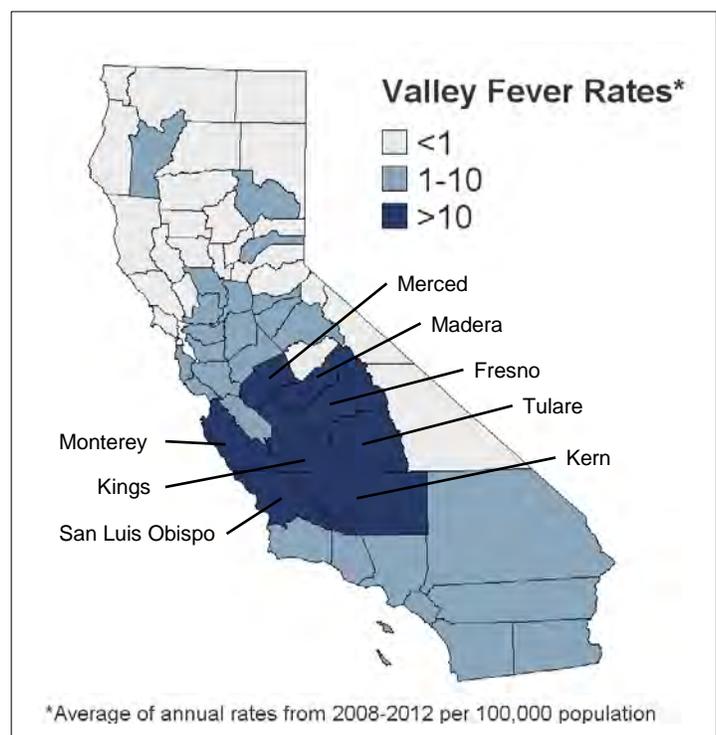
Some people with Valley Fever may develop severe disease. When Valley Fever is severe, patients may need to be hospitalized and in rare cases, the infection can spread beyond the lungs to other organs (this is called disseminated Valley Fever).

When and where do people get Valley Fever?

Valley Fever infection can occur year-round and tends to occur in areas with dry dirt and desert-like weather conditions that allow the fungus to grow.

Cases of Valley Fever have been reported from most counties in California. Over 75% of cases have been in people who live in the San Joaquin (Central) Valley. In California, the number of reported Valley Fever cases has increased greatly since 2000, with more than 4,000 cases reported in 2012.

Outside of California, Valley Fever is found in some areas of Arizona, Nevada, New Mexico, Utah, and Texas, and parts of Mexico and Central and South America.



How do people get Valley Fever?

People can get Valley Fever by breathing in dust containing a form of the *Coccidioides* fungus called spores which are too small to be seen. Anyone who lives, works, or visits in an area with Valley Fever can be infected. Animals, including pets, can also be infected. Valley Fever is not contagious and cannot be spread from one person or animal to another.

Rates of reported Valley Fever cases in California counties from 2008–2012. Darkest colored counties had the highest rates of Valley Fever.

What are the signs and symptoms of Valley Fever?

About 60% of people infected with Valley Fever have no symptoms and will fight off the infection naturally. The people who get sick usually develop a flu-like illness 1–3 weeks after exposure to the fungus.

Those who get sick can experience some of the following symptoms:

- Fever
- Tiredness
- Unexplained weight loss
- Muscle or joint aches
- Cough
- Chest pain
- Headaches
- Night sweats
- Rash

These symptoms can last a month or more but most people recover fully. Most people who have been infected become immune and will not get the infection again.

Valley Fever usually infects the lungs but it can spread outside of the lungs and infect the brain, joints, bone, skin, or other organs. This is called disseminated disease. This form of the disease is rare but can be very serious and could be fatal.

How is Valley Fever diagnosed and treated?

If you think you might have Valley Fever, visit your healthcare provider. Since Valley Fever symptoms are similar to those of other illnesses, your provider may order a blood test or other tests, such as a chest x-ray, to help diagnose Valley Fever.

Treatment is usually not necessary for mild infections, which often get better on their own. All persons with symptoms, however, should see a healthcare provider who can determine if treatment is needed.

If you are diagnosed with Valley Fever it is very important to follow instructions given by your healthcare provider about treatment, follow-up appointments, and testing.

Are certain people at greater risk for Valley Fever?

Anyone can get Valley Fever, even young and healthy people. People who live, work, or travel in areas with high rates of Valley Fever may be a higher risk of getting infected than others, especially if they:

- Participate in recreational activities where dirt and soil are disturbed
- Work in jobs where dirt and soil are disturbed, including construction, farming, military work, and archaeology.
 - If you work in a job where dirt or soil is disturbed in a place where Valley Fever is common, you and your employer may want to review the CDPH website for preventing work-related Valley Fever: <http://www.cdph.ca.gov/programs/ohb/pages/cocci.aspx>

Some groups are at greater risk for severe Valley Fever. These include:

- Older adults (≥60 years old)
- African Americans, Filipinos, and Hispanics
- Pregnant women especially in the later stages of pregnancy
- Persons with diabetes
- Persons with conditions that weaken their immune system such as:
 - Cancer
 - Human immunodeficiency virus (HIV) infection
 - Treatment with chemotherapy or steroids
 - Organ transplant

How can I reduce my risk of getting Valley Fever?

The best way to reduce your risk of getting Valley Fever is to avoid breathing in dirt or dust in areas where Valley Fever is common. Valley Fever can be difficult to prevent but some common sense recommendations that may help are below:

When it is windy outside and the air is dusty, especially during dust storms:

- Stay inside and keep windows and doors closed.
- While driving, keep car windows shut and use “recirculating” air conditioning if available.
- If you must be outdoors in dusty air, consider wearing an N95 mask or respirator.
 - N95 masks are available at drug and hardware stores
 - To be effective, N95 masks must be fitted properly. Instructions can be found at several online sites, including:
http://www.youtube.com/watch?v=0d_RaKdqeck&feature=player_embedded

When working or playing in areas with open dirt:

- Wet down soil before disturbing it to reduce dust.
- Consider wearing an N95 mask or respirator.

Other things you can do:

- Cover open dirt areas around your home with grass, plants, or other ground cover.
- After work or play, change out of clothes if covered with dirt.
 - Take care not to shake out clothing and breathe in the dust before washing. Warn the person washing these clothes if you are not washing them yourself.
- Carry a couple of N95 masks or respirators in the car in case they are needed.

What is being done about Valley Fever in California?

State and local health departments:

- Monitor the numbers of people who get Valley Fever in California
- Raise awareness of Valley Fever among healthcare providers and the public

Where can I get more information about Valley Fever?

Contact your local health department or visit the CDPH and the US Centers for Disease Control and Prevention websites for more information:

<http://www.cdph.ca.gov/HealthInfo/discond/Pages/Coccidioidomycosis.aspx>

<http://www.cdc.gov/fungal/diseases/coccidioidomycosis/index.html>

From: ldcouey@reagan.com
To: BanningRanchComments@Coastal
Subject: Banning Ranch
Date: Friday, August 26, 2016 2:58:32 PM

Dear Honorable Chair Kinsey, Commissioners and staff,
I am writing you to state my opposition to development at Banning Ranch. Due to the over-development which has stripped the Southern California coastline of much of its natural resources, Banning Ranch is now one of our last unprotected open spaces which contains vital diverse native wildlife habitat and is one of the few remaining pieces of the cultural landscape for the local Native Americans of this area. I urge you to uphold the Coastal Act and its protections for these natural and cultural resources at Banning Ranch and DENY the development proposal before you in its entirety.

The compromise produced by the landowners will still result in the destruction of environmentally sensitive habitat areas both directly and indirectly. This is a violation of the Coastal Act. The proposed restoration by developer led groups will not mitigate for the loss of intact and functioning habitat and open space.

At Bolsa Chica a similar compromise led to the desecration of a Native American cemetery and significant destruction within one of North America's most important archaeological sites, after the developer gave assurances to the Commission that this would not happen. Please do not make these same mistakes at Banning Ranch. Our last open spaces, our sensitive environment cannot withstand more loss due to compromise for development.

I urge you to uphold the Coastal Act and deny the proposal for development at Banning Ranch.

Sincerely,

Linda D and Michael L Couey
5191 Sparrow Dr
Huntington Beach 92649

In God We Trust
God Bless America

From: [Holly Cone](#)
To: [BanningRanchComments@Coastal](#)
Subject: Concerning Agenda Item 5-15-2097
Date: Friday, August 26, 2016 3:21:07 PM

Dear Honorable Chair Kinsey, Commissioners and Staff,

The California coastline has experienced enough destruction - we do not need this devastating trend to continue with the development at Banning Ranch. Banning Ranch is a valuable resource as both a habitat for native wildlife as well as a place of cultural significance to local Native Americans. It is imperative that the Coastal Act be upheld and that the proposal for the development of Banning Ranch is denied.

A similar compromise at Bolsa Chica resulted in the destruction of a Native American cemetery - an important archaeological site as well as a place of invaluable cultural significance. Please do not let a tragedy of the same magnitude occur at Banning Ranch. The compromise produced by the landowners will not serve as adequate protection of Banning Ranch. The decimation of essential habitat areas is certain to ensue if the proposal to develop Banning Ranch is not denied.

I trust that you will make the responsible choice to uphold the Coastal Act and preserve Banning Ranch for generations of humans and wildlife to come.

Sincerely,

The Cone Family
(Katrina, Michelle, Holly, & Robert)

Sent from my iPhone

From: [Lisa Selbe](#)
Subject: Please Attend Coastal Commission Hearing On Banning Ranch Conservancy on 9/7
Date: Friday, August 26, 2016 1:10:42 PM

Tony, I love seeing your smiling face (Mr City Councilman) on the wall behind the desk at Mariners Library each time I'm there. Perhaps, I'll see you and your fellow councilmen at the hearing. Be well. Peace, Lisa

Coastal Commission Hearing on Banning Ranch Conservancy is Wednesday, Sept. 7th at 9am.

Just in case you are not already aware, this hearing may decide the fate of the Banning Ranch Conservancy which is a 400 acre parcel of coastal bluffs and adjacent wetlands located in the vicinity of West Newport Beach close to where the Santa Ana River enters the Pacific Ocean at PCH. This land is adjacent to Sunset Ridge Park, the Army Corps Wetlands and the Talbert Nature Preserve. The North border of the planned development meets Fairview Park at Victoria Street and would include 1,375 homes, a resort hotel, 75,000 sq ft of commercial space, a four lane road from 15th street to PCH plus arterial highways, a sports park and two parking lots of over 125 parking spaces.

Part of Banning Ranch is still an active oil field. The land originally became a nature conservancy as part of a negotiation between the oil companies and the three bordering cities (Costa Mesa, Huntington Beach & Newport Beach). It was agreed that to continue syphoning oil from this coastal land that the nature must be preserved and thus the conservancy was born. As time has progressed the land has become more valuable and with the advent of slant drilling which would allow the land to be developed AND allow drilling to continue, plans to overrule the conservancy preserving the natural landscape have been set in motion. The oil interests want to continue to get their oil and get money from developing the land. They have repeatedly brought their development plans to the ballot for all the three cities and it they have always been voted down. The Coastal Commission has agreed to consider a development plan with a smaller footprint. This is also in opposition to the preservation aspect of the conservancy.

If you want our opinion to be heard on this matter you can do the following:
[Attend the CA Coastal Commission hearing in Newport Beach on September 7th. \(see info below\)](#)

[eMail the CA Coastal Commission: BanningRanchComments@coastal.ca.gov](mailto:BanningRanchComments@coastal.ca.gov)

[eMail/Call your City Councilmen.](#)

[eMail/Call your favorite local newspaper editor.](#)

Also, sign-up to be kept informed via

eMail: <https://www.surveymonkey.com/r/PDV3HMX>

Lisa Selbe ;-)
c 949.300.4447

For information about the Helping Hand:

<http://www.thehelpinghandworldwide.org/>

<http://www.banningranchconservancy.org/developmentsiteplan.html>

Banning Ranch Conservancy

www.banningranchconservancy.org

If you are an individual or an organization and wish to receive updates and information from the Banning Ranch Conservancy, please join our mailing list today!



From: Banning Ranch Conservancy <info=banningranchconservancy.org@mail132.suw16.rsgsv.net>
on behalf of Banning Ranch Conservancy <info@banningranchconservancy.org>

Sent: Tuesday, August 23, 2016 8:15 PM

To: Lisa

Subject: Hearing is September 7/Meeting this Wednesday

The Coastal Commission hearing for the proposed Banning Ranch development is **September 7, 9:00 am** at the Newport Beach Civic Center, 100 Civic Center Dr. NB, CA 92660 (this is above the central library). Please mark your calendar and plan to show up. So much depends on a large turnout of the public!

[View this email in your browser](#)



9/7/16 Mark the date!

The Coastal Commissioners will be greatly influence by the extent of the public turnout at the hearing for the proposed Banning Ranch development. You don't want to miss this hearing. The fate of Banning Ranch depends on it!

We expect the Coastal Commission staff report to be available by the end of

this week and we will forward it to you all.

Meanwhile, plan to be there at the Civic Center on Wednesday, September 7. Schedule to take the day off work.

If you care to (not required) let us know you can attend by going to the following link. This is an opportunity to let us know if you need a ride (or can give a ride to others). <https://www.surveymonkey.com/r/PDV3HMX>

Banning Ranch Conservancy board meeting and organizational meeting this Wednesday, 8/24 6:30 - 9:00 p.m. at the Mesa Verde United Methodist Church.

We need to organize to make sure every man, woman and child in the local area knows about, and can attend, the September 7 hearing. If you want to help, this is your chance to make a difference. Everyone is welcome!

PLEASE KEEP OUR EFFORT ALIVE. DONATE TODAY.

We need a DENIAL of the current development proposal at the September hearing in Newport Beach. This will require extensive research and powerful presentations by the best experts. And a huge public turnout!

Can you help? Any amount is appreciated. Your donation is tax deductible.

Because of you, Banning is still open space! Let's keep it that way!

Terry Welsh
President, Banning Ranch Conservancy

P.S. Please come to our board meeting this Wednesday, August 24, 6:30 - 9:00 pm at the United Methodist Church in Costa Mesa. 1701 Baker St. There are lots of opportunities for new volunteers. Come and get involved!

[Mesa Verde United Methodist Church, 1701 West Baker, Costa Mesa, 92626](#)

The church is located on the SW corner of Baker and Mesa Verde Drive, across from the Mesa Verde Library. There is plenty of parking on the South side, entered off of either Baker or Mesa Verde. Look for the Save Banning Ranch sign!



DONATE TO HELP SAVE BANNING RANCH

EMAIL US TO GET INVOLVED!

 [Forward to a Friend](#)



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The Banning Ranch Conservancy uses this mailing list to provide information about Banning Ranch and gather support for the Save Banning Ranch campaign.

Our mailing address is:

Banning Ranch Conservancy
P.O. Box 15333
Newport Beach, CA 92659-5333

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From: [Patty Gallivan](#)
To: BanningRanchComments@Coastal
Subject: Save Banning Ranch
Date: Friday, August 26, 2016 9:46:43 PM

I have been here since 1945 and watched beautiful places bulldozed, covered by sea walls , until not much is left. This generation dose not even know what they have missed. Save what's left!
Patty Gallivan
Sent from my iPhone

From: [Betty Thompson](#)
To: BanningRanchComments@Coastal
Subject: Agenda Item 5 - 15 - 2097
Date: Saturday, August 27, 2016 8:02:13 PM

I urge you to work for preservation of the entire Banning Ranch property. We have lost too much coastal land in the past and we truly need to save coastal land for our population in the years ahead.

I beg you to do what is right for our children and generations to come. New development is NOT the answer. Please be good stewards with our lovely coast here in CA.

From: [Ken Klein - XPS](#)
To: BanningRanchComments@Coastal
Subject: Agenda Item 5-15-2097
Date: Saturday, August 27, 2016 9:05:17 AM

We join the BCLT in supporting the Banning Ranch Conservancy's efforts for the complete preservation of the entire site. We have lost far too much of our open space and wildlife habitat. Banning Ranch needs to be saved, not compromised. Sincerely,

Ken & Susan Klein

Huntington Beach

From: [Phyllis](#)
To: BanningRanchComments@Coastal
Subject: Banning Ranch
Date: Saturday, August 27, 2016 11:05:18 AM

Coastal Commissioners,

Please vote to save the area of Banning Ranch without development. The area is too important for wild life and for the enjoyment of the public.

Phyllis Maywhort
Box 198
16851 Bay View Drive
Sunset Beach, CA 90742
(562) 243-0787

From: [Pearl Holmes](#)
To: BanningRanchComments@Coastal
Subject: BanningRanchComments@coastal.ca.gov
Date: Saturday, August 27, 2016 9:12:40 AM

Honorable Chair Kinsey, Commissioners and Staff:

I am writing to state my opposition to the development at Banning Ranch.

Banning is the one of the last open spaces left in this area for Native American Habitat.

I do not approve of Developers putting ANY houses on the area. They will only dilute the value of the land for nature.

The developers have all the money and do whatever they choos. Pease do not let this land get into their hands.

Not even a little bit!!!

Please uphold the Coastal Act and deny proposal at Banning Ranch.

Sincerely,

From: [Mary Cesario](#)
To: BanningRanchComments@Coastal
Subject: Deny the proposal for the development at Banning Ranch
Date: Saturday, August 27, 2016 8:29:18 PM

To Whom it may concern, I am writing you to state my opposition to development at the Banning Ranch. I urge you to uphold the Coastal Act and its protections and deny the proposal for development at Banning Ranch. Thank you for your attention to this important matter. Sincerely, Mary Cesario

From: [Gary Dutra](#)
To: BanningRanchComments@Coastal
Subject: Preserve the Banning Ranch area
Date: Saturday, August 27, 2016 10:18:05 AM

It is important to preserve the Banning Ranch land area for all of the inhabitants of Southern California--the birds, the four legged animals, and the human beings.

The Banning Ranch area is one of the last remaining coastal open spaces here. The habitat areas there for endangered species, threatened plants, wetlands, vernal pools, grasslands, and significant archaeology can never be replaced if it is destroyed and developed.

This area needs to be saved for now and for the future.

Sincerely,
The Dutra Family
Huntington Beach CA

From: [KnowWho_Services](#)
To: BanningRanchComments@Coastal
Subject: Reject Application 5-15-2097 to Develop Banning Ranch
Date: Saturday, August 27, 2016 7:56:17 AM

Dear CA Coastal Commission,

Dear Commissioners:

I grew up in this area and strongly oppose this development of Banning Ranch. I urge you to reject Application 5-15-2097 to develop Banning Ranch.

That land currently provides habitat to endangered and threatened animals and plant species, and contains many environmentally sensitive habitat areas (ESHA). The California Coastal Act rightfully requires that ESHAs be protected.

I urge you to follow the letter and spirit of the California Coastal Act and reject the proposal to develop Banning Ranch.

Sincerely,

Martin Walker
1820 Portola road
Woodside, CA 94062
nanzo@me.com
6508514058

From: [Hope Johnson](#)
To: BanningRanchComments@Coastal
Subject: Preserve Banning Ranch
Date: Sunday, August 28, 2016 8:31:35 PM

Dear Coastal Commission,

Please preserve Banning Ranch as an open space for Southern California. As development in Southern California continues to increase, open spaces for its citizens shrink. One of the historic reasons that people have flocked to California is because it offers a unique quality of life that allows not only economic opportunity but the opportunity to be in awe of the surrounding natural environment - an opportunity for all citizens.

Quality of life is a significant concern as modern pressures increase our stresses. Having more opportunities to decompress by enjoying a walk, bike ride, run, or just taking in the peace of nature and the cool ocean breeze while sitting quietly will remind us why we live in this amazing state with an amazing coast. It's why the California coast is not the New Jersey Coast. It is fortunate that Banning Ranch has been used as an oil field and escaped development pressures up to this point. But now, its value is not in what can be built on it to make it blend in with other development along the coast, but in the fact that it has not been built upon and now presents itself as an opportunity for openness and something wonderful to be enjoyed by future generations.

Please keep California special and preserve the remaining open spaces in this dense metropolis of coastal Southern California.

Many kind regards,
Hope Johnson
Costa Mesa, CA

From: [Cindy Hardin](#)
To: BanningRanchComments@Coastal
Subject: Agenda Item 5-15-2097
Date: Monday, August 29, 2016 9:58:03 AM

Dear Commission Chair Kinsey, Commissioners and Staff,

I am writing in opposition to any development of the Banning Ranch parcel. The proposed plan to build almost 900 homes and a luxury hotel on one of our last large intact wetland ecosystems should be denied in its entirety. Similar developments all up and down our coast have destroyed 90% of wetland habitat in our state. Denial of this project provides the opportunity to preserve this rare ecosystem for the benefit of people and animals.

The more than 400 acres at this site includes coastal bluff, meadow, riparian and saltmarsh habitat. As you and your staff are well aware, a coastal wetland system requires all of these features to be truly high functioning. Found within this habitat are several local species that are endangered or of special concern. In addition, coastal wetlands provide crucial stopping points that are used for rest and re-fueling by the hundreds of species of birds that follow the Pacific Flyway during their semi-annual long distance journeys.

A high functioning wetland system captures and cleans urban run-off and sequesters carbon, a vital ecosystem service that will become even more important as our coastal populations continue to increase.

It is not the responsibility of the Coastal Commission to ensure that a developer profits from whatever property they may own. From my understanding, it *is* the duty of the commission to preserve and enhance coastal habitat and public access to the precious lands of our beautiful state. Preservation of the *entire* parcel is an opportunity for the Commission and the state to provide habitat for animals and preserve a precious memento of the wetlands that were once abundant in California. It can be used as a teaching tool for future generations of Californians, and send the message that the mission of the Coastal Commission is to work for *all* the residents of our state, and not just the well-funded few.

As a long-time educator at the Ballona Wetlands, I am keenly aware of the unique beauty of wetlands. The school children and adults that visit Ballona are always amazed and delighted by the vibrancy and diversity of life when they visit, and gain a better understanding of nature and its beauty through their time spent there. If development at Banning Ranch is prohibited, a legacy will be left by the Coastal Commission that says habitat is to be valued, to the benefit of both animals and people. Please do not squander the chance to provide this legacy.

Thank you,

Cindy Hardin

From: [Joyce Shuford](#)
To: BanningRanchComments@Coastal
Subject: Agenda item 5-15-2097
Date: Monday, August 29, 2016 2:52:17 PM

Dear Honorable Chair Kinsey, Commissioners and Staff,

There is so much potential at the Banning Ranch site in Newport Beach for the wild spaces and natural surroundings that this crowded and over populated coastal area needs. There are millions of humans who call out for space and refreshment of nature. It is a shame to think the Banning Ranch property would be closed off for just a few. Any development there is too much development. The only humane options is to save the environment for all of us. Please allow the true intent of the Coastal Act to be realized in this crowded, overpopulated and popular city.

Banning Ranch is now one of our last unprotected open spaces which contains vital diverse native wildlife habitat and is one of the few remaining pieces of the cultural landscape for the local Native Americans of this area. I urge you to uphold the Coastal Act and its protections for these natural and cultural resources at Banning Ranch and DENY the development proposal before you in its entirety.

I urge you to uphold the Coastal Act and deny the proposal for development at Banning Ranch.

Very truly yours,

Joyce Shuford and
Richard Shuford

From: [Carol Ann Galasso](#)
To: BanningRanchComments@Coastal
Subject: Banning Ranch
Date: Tuesday, August 30, 2016 3:42:10 PM

I am a 30+ year resident of Huntington Beach and live in a 70+ year old home and I am against developing Banning Ranch. We need our open spaces. We don't need every piece of ground, every speck of earth to look like Redondo or Manhattan Beach, built to the hilt! Save our open spaces, what is left of them. Thank you

Carol Galasso
512 Hartford Ave.
Huntington Beach, CA 92648

From: [Julie Fisher](#)
To: BanningRanchComments@Coastal
Subject: California Coastal Commission: Attn: Amber Dobson: Comments: Newport Banning Ranch
Date: Tuesday, August 30, 2016 11:59:14 AM

To the California Coastal Commission.

RE: Newport Banning Ranch Proposal. (Vote to keep the Entire area a Nature Preserve!)
Say NO to any Development

I am 57 years old and grew up in Southern California. As a child growing up in the early 1960's, I saw mostly open spaces throughout Southern California, but the impacts of human activity were everywhere. However, the remnants of some native habitats were still around, but, as the decades passed, I witnessed those last large open spaces and native habitats and wild species disappear before my eyes as massive development and human over-population buried the state in people, concrete, asphalt, commercial development, and houses.

My mother had 5 children, 3 too many. My family's large size was typical of WWII parents, and it is the reason why the U.S. and California lost most of its beautiful, natural areas, and it's why thousands of species have either gone extinct or are on the verge of extinction. By age 7, I realized that there were too many humans, and it was destroying nature all around me. So, I vowed to never add to the human over-population problem. I opted to NOT have children at all.

But other people have continued to contribute higher than replacement population by having more than 2 children, so the world, and the Best of Old California's natural areas have died under the sea of expanding humanity.

What nature that is remaining NOW in California must be fiercely guarded and protected against any further intrusions by humans. These last vestiges of nature are the only remaining wild heritage libraries; they are priceless genetic preserves of wild nature, of wild species, and we have NO time to pretend that we can develop on these areas. We can NOT develop them at all. We MUST PRESERVE them and try to figure out how to expand WILD NATURE PRESERVES and to bring nature back to California! Nature can recover, but we MUST give her space to do it, without human intrusions that cause damage.

Our job, as citizens, is to recognize that we, our human species, and the current capitalistic and highly consumer oriented culture that dominates the world, has ripped the soul out of nature and out of people. We have treated nature like an old used purse; abused and thrown it out as waste or killed it without a thought.

Nature is on a thin life support now, so do not pull the plug on her. Help nature to recover by setting the Newport Banning Site as a permanent nature preserve with limited human usage that will educate the public but NOT harm nature's recovery there. Southern California has almost NO remaining open spaces, especially along the coast. We must save whatever remains and nurse it back to health.

Saving Nature by Developing it? Mitigation works? These are lies.

Each and every development project over the past many decades has led with the promise that "more open space will be preserved IF we just allow a little more development". And, like a million pac mans steadily chomping up the open spaces, California now has lost nearly all its natural open lands and wetlands, and what remains is heavily impacted by human usage, including agriculture, grazing, timber, and even recreational visits to open spaces. The only places that wild ecosystems exist are mostly on steep hillsides, but nearly all the lowlands, wetlands, rivers, meadows, coastal ecosystems, etc. are gone or damaged.

The Newport Banning site is a rare gem; it has strong evidence of nature returning, and we, as a state, should marvel at the recovery, and we should PROHIBIT ANY intrusion into this rare site that is still undeveloped.

There is NO way that development will help the ecology of this site. The number of homes and trails planned with clearly bring excessive numbers of people into this area. While it is good to provide some limited trails within nature parks, adding homes and other development within this area will bring constant human traffic into the wild areas. Kids and residents will come to feel that it is their own backyard, to be used and played in as if it were their own. Nature will suffer for that.

It kills me to see the Coastal Commission even entertaining more development. How much raping of California do you want? Most of the state's natural areas, particularly in Southern California are gone, or are isolated habitats. Can't you see what humans have done? The old world attitudes of stripping resources has turned the New World into a disaster zone, with most wild species on the verge of extinction, and yet, we hear again that more development will save the open spaces, and that has been proven over and over again to be a HUGE LIE!

Mitigation is a false promise.

For decades, I've seen EIRs recommend mitigation that typically is assigned to steep hillsides that would never have been developed anyway, so, it's a ruse, a slight of hand that fools people into thinking that mitigation works, and it almost never does. I've seen coastal mitigation areas in many areas, and they all look fake, with far fewer species now than 50 years ago when I was a child.

EIRs, as they have been used, are huge novels chronically what we have destroyed, a little bit at a time, until its all gone.

It's time to call bullshit on the EIR process, mitigation alternatives, and all the other lies that clearly have failed in saving nature.

The earth's wild genetic diversity is being murdered in a worldwide ecosystem genocide caused by short sighted people, short sighted leaders, and by grotesque human OVER-population. By 2020, world population will be 8 Billion and rising to 11 Billion by end of century. California is expected to balloon from 39 million (2016) to 49 million (2050), an increase of 25%. We are too over-populated now! California was OVER-populated in 1960 when the population was just 15 million!

People have selfishly chosen for 2,000 years to have far too many children, and it's time to challenge the belief that

people should have the right to reproduce as much as they want. It is time to set limits on family size, to mandate a maximum of 2 children per couple (1 child to replace 1 adult). Over-population has taken away the rights of people to enjoy nature, to learn from nature, for the right of nature to exist, and over-population has led to massive changes in food and water supplies that are frightening.

When I was a child, and even as a young adult, I could buy fresh, wild caught King salmon, and it was cheap and plentiful. Abalone was a regular menu item. Now, abalone is illegal to catch, and nearly all fish are highly limited, very expensive, and most are farm raised. All that is due to OVER-population. My rights were stolen by those who wanted to have excessive numbers of children. I now have to travel hundreds of miles through thick traffic to get to any quality natural areas, And NO one can ever pay any amount of mitigation to bring back wild species that have gone extinct!

Over-population has ballooned the practice of factory farming, so animals are legally tortured from birth to death as farmers attempt to meet the food needs of breeding hordes of humans. Massive mono-cropping has turned entire regions of the country into agricultural deserts that support only 1 type of crop. These are horrible and abusive methods of raising food, and it's killing nature; it is torturing animals, it is ripping nature out of most areas, and it is unhealthy for us; it is unethical and immoral!

We, as the modern humans have lost our souls, our connection and love of nature. There are too many people. So, for anyone who is speaking today to support full protection of the Newport Banning Site as a Nature Preserve, I am with you.

But also take a good, hard look in the mirror and ask yourself if you and your family are partly to blame of human over-population. Because I know many environmentalist who are good people who want to help nature, but they had 3 or more children. Thus, they fail to see that it is they who are driving developers to want to develop the last open spaces (because human population continues to grow)

Do NOT fully blame the developers. They are only responding to our societal choices to allow the continued growth of human population. Start talking to friends and family members and churches about Over-population and how we can ethically and fairly start setting guidelines and incentives so that people will choose to have only 1 or, at most, 2 children per couple. That is the only way that nature can recover. If you and the rest of our society (and the world) fail to understand this clear fact, then you are fooling yourselves. Nature will be completely wiped out if we keep allowing population growth to continue. We must reverse the trend and set a goal for reducing population as quickly as we can.

Julie Fisher
760-214-1109

JisFishing4U@yahoo.com

From: [virginia.audette](#)
To: BanningRanchComments@Coastal
Subject: No On Banning Ranch
Date: Tuesday, August 30, 2016 7:45:18 PM

To Coastal Commission members:

I urge you to not approve Banning Ranch. We have too much traffic along Pacific Coast Highway already. Adding 900 homes plus the retail is going to result in gridlock on a street that only has two lanes each way. In addition, this will create a hazard for the many bicyclists in this area. Please do not turn our community into another Venice.

Sincerely,

Virginia Audette

From: ohski@juno.com
To: BanningRanchComments@Coastal
Cc: ohski@juno.com
Subject: Save Banning Ranch
Date: Tuesday, August 30, 2016 8:34:55 AM

Dear Honorable Chair Kinsey, Commissioners and Staff,

I am writing to say do NOT allow Any development of Banning Ranch. As a resident for over 40 years in this wonderful coastal area I feel that is more important now than ever to we all must do what we must to preserve all of the open spaces near the coast. Once developed they are gone forever.

Due to the overdevelopment which has stripped the Southern California coastline of much of its natural resources, Banning Ranch is now one of our last unprotected open spaces which contains vital diverse native wildlife habitat and is one of the few remaining pieces of the cultural landscape for the local Native Americans of this area. I urge you to uphold the Coastal Act and its protections for these natural and cultural resources at Banning Ranch and DENY the development proposal before you in its entirety.

The compromise produced by the landowners will still result in the destruction of environmentally sensitive habitat areas both directly and indirectly. This is a violation of the Coastal Act. The proposed restoration by developer led groups will not mitigate for the loss of intact and functioning habitat and open space.

At Bolsa Chica a similar compromise led to the desecration of a Native American cemetery and significant destruction within one of North America's most important archaeological sites, after the developer gave assurances to the Commission that this would not happen. Please do not make these same mistakes at Banning Ranch. Our last open spaces, our sensitive environment cannot withstand more loss due to compromise for development.

I urge you to uphold the Coastal Act and deny the proposal for development at Banning Ranch. Thank you for your time.

Sincerely, Robert Bogosian



Banning Ranch Park & Preserve Task Force

August 31, 2016
California Coastal Commission
45 Fremont Street
San Francisco, CA 94105-2219
BanningRanchComments@coastal.ca.gov

RE: Newport Banning Ranch, Application No. 5-15-2097, Opposition to Applicant's Submission and Support for many Staff Proposed Modifications and Positions

Dear Commissioners,

Since 1892, the Sierra Club has fought tirelessly to preserve open spaces and open them for the enjoyment of the public. Our 140,000 members believe that exposing families to the wonders of nature not only improves the quality of life for those families but it also gives those families opportunity to understand the value of protecting those same open spaces.

Our local chapter covers Los Angeles and Orange Counties and was founded in 1911, the first local chapter of the Sierra Club. Today, we help nearly 40,000 residents of Los Angeles County and Orange County to Explore and Enjoy the outdoors and when needed help them protect it.

Our Task Force, the Banning Ranch Park and Preserve Task Force, ("Sierra Club") is part of the Angeles Chapter of the Sierra Club and was founded to facilitate the acquisition and preservation of all of Banning Ranch as open space for the public to enjoy. Our mission is as relevant at this hearing as it was when we formed this task force in 1999.

Thank you for the opportunity to provide these comments to the California Coastal Commission ("Commission") in response to the Newport Banning Ranch's ("Developer") Revised Newport Banning Ranch Development ("Project") and the August 25th Coastal Commission Staff Report ("Staff").

POSITION: Staff is correct in that the Coastal Development Permit is the wrong process for this Project. The Developer should have first coordinated with a Lead Agency and created a Local Coastal Plan. The application as submitted is so far from the Coastal Act that creating an LCP after the fact, if approved as presented, would make an LCP impossible. Thus, approval of the application as submitted would violate Coastal Act Section 30604.

The LCP or Land Use Plan would identify ESHA and other restrictions based on the Coastal Act on Land Use first, then a proposed project would be able to incorporate the restrictions. The Developer wants to ignore the Coastal Act restrictions by using a Coastal Development Permit then creating an LCP. This precedent should not be allowed. Please ask the Developer to follow the process intended by the Coastal Act. The Commission can use this opportunity to give an improved clear delineation of when a CDP should be used and when the LCP must come first. The LCP is the first process for a project that has complicated ESHA designations, subdivisions, infrastructure and future annexation planned.

Evidence that this Project as proposed should be denied and the LCP process should be used.

- 1) The gaps as outlined by Staff between the Coastal Act and the Project as proposed by the Developer
- 2) The Developer has been making a series of Land Use commitments to the public that would normally be reviewed by the public in the LCP process, open to debate and then become binding in the Certified Implementation Plan. See Exhibit 1 for just one sample related to beach parking and free shuttle. Land Use claims like these are designed to build public support and are popular, but unless part of a Certified LCP, the public risks not getting what it is promised. The Developer can simply blame the Commission for not approving the Project as submitted. How many businesses can sustain beach parking in a commercial/retail parking area and a free shuttle?
- 3) There are two CDP's for Banning Ranch before the Commission at the same time, but on separate tracks. It is an oversimplification to say that CDP 5-15-2097 is related to surface rights and that CDP No 9-15-1649 is related to the mineral rights. There are many Banning Ranch Land Use issues that involve site issues like traffic,

air quality and other items covered in the LCP. For example, without having the LCP certified first, the public is being denied important land use discussions, such as should the North ORA oil operations described in CDP No 9-15-1649 be served by the existing road between 17th Street and North ORA or served by a new route along Semenuik Slough.

Section 30604(a) States: (a) Prior to certification of the Local Coastal Program, a coastal development permit shall be issued if the issuing agency, or the commission on appeal, finds that the proposed development is in conformity with the provisions of Chapter 3 (commencing with Section 30200) of this division and that the permitted development will not prejudice the ability of the local government to prepare a Local Coastal Program that is in conformity with the provisions of Chapter 3 (commencing with Section 30200). A denial of a Coastal Development Permit on grounds it would prejudice the ability of the local government to prepare a Local Coastal Program that is in conformity with the provisions of Chapter 3 (commencing with Section 30200) shall be accompanied by a specific finding which sets forth the basis for such conclusion.

POSITION: The Commission and Staff do not have the ability to change Coastal Act Section 30107.5 – either with a new “degraded” ESHA designation or creating new parameters for wetlands designations. The Coastal Act does not provide for negotiation of ESHA designations.

Coastal Act section 30107.5 defines environmentally sensitive area:

“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.

The Sierra Club position is that the CDP is the wrong venue to negotiate the definition of ESHA. This is the role of the legislature. The Developer offered in July 2016 to “no longer contest Staff’s ESHA determination” if the Developer’s conditions were met. This attempt to negotiate ESHA is inappropriate. ESHA is determined through science and biology. ESHA cannot be “reinterpreted” because it is inconvenient for an applicant which seemed to be the case in the May 2016 Staff Report which allowed for more buildable area than the October 2015 based on a reinterpretation of ESHA.

The definition in 30107.5 clearly states “easily disturbed or degraded”, so it should be no surprised that some of the ESHA on Banning Ranch is degraded. The whole idea of the Coastal Act is to allow degraded areas to recover.

Even if degraded, Banning Ranch still supports an extensive network of ecological habitats over a 401 acre area, as described by The City of Newport Beach’s General Plan Land Use Element:

Although the Banning Ranch site contains an assemblage of diverse habitats that have been historically disturbed, when this area is considered with the contiguous Semeniuk Slough and restored wetlands, it provides wildlife with a significantly large, diverse area for foraging, shelter, and movement. Biological studies performed for Banning Ranch indicate that, while disturbance associated with oil activities diminishes the quality of existing habitat to some extent, overall, the area should be regarded as relatively high-quality wildlife habitat due to its size, habitat diversity, and continuity with the adjacent Semeniuk Slough and federally-restored wetlands

Under the Coastal Act, if an ESHA is identified, it cannot be relocated, and must instead be avoided, unless the proposed development is “a use dependent on the resource.” This fundamental requirement of the Act was confirmed in *Bolsa Chica Land Trust v. Superior Court* (1999), 71 Cal.App.4th, 493, 507, wherein the Court found:

Importantly, while the obvious goal of section 30240 is to protect habitat values, the express terms of the statute do not provide that protection by treating those values as intangibles which can be moved from place to place to suit the needs of development. Rather, the terms of the statute protect habitat values by placing strict limits on the uses which may occur in an ESHA....

Degraded or not degraded, the designated areas outlined by Staff cannot be based on redefining the meaning of ESHA. In *Kirkorowicz v. California Coastal Com.*, 83 Cal.App4th 980, 994 (2000) the court noted that “*in determining whether a wetland is protected under the Coastal Act ... the quality of the wetland is essentially legally irrelevant.*”

POSITION: *Landscaped California Native Plants are not ESHA and ESHA cannot serve as a buffer area. The Fire Modification Boundaries cannot include ESHA as they would be subject to clearing by the Fire Department. See our 8/1/16 letter on the subject. (Exhibit 2)*

POSITION: *The Developer’s Project as proposed needs to be denied as it does not allow for adequate Buffers, violating Coastal Act Sections 30231 and 30233. We support the Staff position to provide adequate ESHA protection. Staff recognized a 100 foot buffer for Vernal Pools, wetlands and gnatcatcher habitat, a minimum 50 foot buffer for all sensitive vegetation, and a 164 foot buffer for burrowing owl wintering habitat.*

Staff wrote as follows: *Section 30233 requires feasible mitigation measures to minimize adverse environmental effects to wetlands. In this case, the recommended 100 foot buffer around wetland would minimize adverse environmental effects.*

POSITION: *The Developer’s Project as proposed needs to be denied as it requires filling and grading of wetlands and ESHA that is not consistent with*

Section 30233.

We agree with the Staff position, which states: *Although not all wetlands are within the project footprint, all wetlands, including those in the lowlands, need to be protected under the Coastal Act section 30233. The development plan does not meet the list of limited approvable projects for fill of wetlands, nor is it the least environmentally damaging alternative, nor does the project include adequate mitigation for the impacts. The development plan, as proposed, is inconsistent with Coastal Act section 30233.*

POSITION: *The Project as proposed by the Developer is not consistent with Section 30253 and thus it should be denied*

Section 30253 of the Coastal Act states, in relevant part:

New development shall do all of the following:

- (a) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.*
- (b) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs...*

We agree with Staff that the grading plans as proposed by the Developer are not consistent with Section 30253 and there is inadequate protection of Arroyos and ESHA. Staff offered a 15 foot setback, the Sierra Club's position is that a setback of 60 feet from the Arroyos edges would be more consistent with the Coastal Act as a 60 foot setback is required for the Coastal Bluffs. See Coastal Act Section 30106.

We disagree with the Staff that Flooding is not a consideration as the current road between 17th Street and the North ORA would be the only emergency access to North ORA during a flooding event in the Santa Ana River floodplain. The Developer has not supported how a flood event would be treated in their Project as proposed.

POSITION: *The Project, as proposed by the Developer has impacts on public view that cannot be mitigated, and it does not make changes sufficient to reduce these impacts. This application should be denied.*

The Coastal Act section 30251 states: *"The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited & designed to protect views to and along the ocean and scenic coastal areas"*

The method of clean-up is designed to impact the views in ways inconsistent with the Coastal Act and this increased grading and land form alteration is inconsistent with section 30251.

Not only are views being impacted from Newport Crest and surrounding neighborhoods, they are also impacting the views from Newport Shores and all travelers along PCH, as the Project calls for residential development that destroys ESHA on the mesa adjacent to the coastal bluffs between the arroyos and wetlands.

POSITION: *The connections of proposed subdivisions in the Project as proposed by the Developer, commonly called Bluff Rd is not consistent with the Coastal Act as it impacts ESHA, causes grading of protected Arroyos and impacts local quality of life. The Project as proposed with Bluff Rd or any connection between Coast Hwy and/or 15th Street and/or 16th Street and/or 17th Street*

POSITION: *Using non-native invasive species eradication as a reason to destroy ESHA is not consistent with the Coastal Act. The Project as proposed by the Developer should be denied as it does not adequately protect ESHA during eradication of invasive species.*

The project is inconsistent with Section 30240. The use of a non-native invasive species threat by the applicant is simply a strategy to circumvent the Coastal Act. Like everywhere else in California, non-native vegetation has been invading Banning Ranch for decades, if not centuries. There is no evidence that non-native vegetation is an urgent threat to the wildlife of Banning Ranch. Rather, it is the unpermitted vegetation clearance that occurred for many years that is the much greater threat to the wildlife. Indeed, the return of native California brittlebush scrub in areas where the mowing has ceased suggests that Banning Ranch is “self-restoring.” The application does not keep to the clear priorities of Coastal Act Section 30240.

POSITION: *Using Clean Up alone as a reason to destroy ESHA is also not consistent with the Coastal Act. The Project as proposed by the Developer should be denied as it does not adequately protect ESHA during Abandonment and Clean Up from Oil Operations.*

Gravel roads and abandoned pipes can be left in place if their removal would cause more destruction. Transporting concrete and asphalt off site for use in other construction projects would avoid the digging of large destructive onsite disposal areas known as “Borrow Placement Areas.” The Soil Remediation Planning Areas (the areas planned for Bio Remediation, Borrow Placement, Clean Soil Flip, Staging/Stockpiling Area, Concrete Processing, etc...) can be reduced in acreage and located to avoid ESHA and buffers.

The applicant is using abandonment and remediation as a cover to grade, dig and destroy more ESHA than allowed under the Coastal Act.

The Developer's use of oil and gas operations or use of oil and gas operation clean up as an excuse to grade ESHA is not allowed under the Coastal Act.

POSITION: *The Project as proposed by the Applicant calls for the destruction of Vernal Pools that predates any oil operation. It should be denied.*

The US Fish and Wildlife Service (USFWS) recognizes the vernal pool complex at Banning Ranch as one of only two remaining on the Orange County coast (the other being the complex at near-by Fairview Park) and the only vernal pool complex in Orange County containing critical habitat for the endangered San Diego Fairy Shrimp. Historic aerial photos show vernal pools and mima mounds that predated the oil operation. Although nearly all the vernal pools on Banning Ranch show varying degrees of disturbance from the oil operation, the vernal pool complex at Banning Ranch, contrary to what the applicant claims, is not the product of the oil operation. The applicant has refused to take some of the precautions to protect these protected areas and goes so far as to deny their existence in some locations.

The applicant also ignores the need for a larger area of open space around the vernal pool to allow for sufficient hydrology to sustain the vernal pools. These pools are a network and are not islands of vernal pools. There is also insufficient protection to prevent contamination or destruction of the vernal pools through changes in hydrology being proposed in the grading process and residential and commercial construction and the property maintenance after construction.

These Vernal Pools must be protected better than the current Project allows for.

POSITION: *Phytoremediation meets many of the Coastal Act requirements for least impact, but it is not given enough consideration in the Project as proposed by the Developer*

Banning Ranch is an oil field operated in an open space. It has been fenced off with minimum human interaction to support oil operations for decades and in just this time the open space has evolved into a 401-acre private wildlife preserve. California native plants are breaking down the petrochemicals naturally and cleanup is occurring naturally. By applying a little more science, plants can be selected to accelerate what is happening naturally.

The 401-acre wildlife preserve should not be destroyed for development, and

“clean up” should not be used as an excuse for its destruction. The CCC should support phytoremediation and deny the applicants request to use other more destructive clean up methods.

POSITION: *The Project as proposed by the Developer should address all of the cultural concerns. Although some progress has been made, the Developer needs to work with all parties. This has not yet happened and the Project as proposed by the Developer should be denied until all of those concerns are met.*

Banning Ranch is a site of prehistorical Native American cultural interest. Descendants of the original inhabitants of this area want Banning Ranch saved as a sacred place. The Native American Heritage Commission contacted the City of Newport Beach as early as 2011 expressing their concerns. This application does not go far enough in meeting the intentions of current laws in place for the protection and preservation of Native American cultural resources.

POSITION: *Acquisition and Preservation is the best Land Use that meets the requirements of the Coastal Act.*

The Sierra Club is in a position to work with other NGOs to coordinate the acquisition of Banning Ranch. The Coastal Act approval process is only the first step in defining buildable areas and in determining a fair value. It is of no surprised that the Developer has not made an offer to sell based on the Coastal Zone value, because the Coastal Zone value has not yet been determined – although the Staff Reports of October 2015 and September 2016 will contribute greatly to the negotiations. As with anything real estate in the Coastal Zone, the Land Use must be first established by a certified LCP, then negotiations occur on the value of the land uses available.

SUMMARY

In summary, the Project is still a long way from complying with the provisions of the Coastal Act and still requires significant revisions to comply. The Developer has also ignored the Coastal Act process in hopes of economic benefit by convincing the commissioners to directly approve a non-conforming project and using a political process to influence staff recommendations. As such both the Coastal Development Permit No 5-152097 at the May Hearing and CDP No 9-15-1649 before the Energy Department should be denied and the process to develop a Certified LCP for Banning Ranch should start.

Submitted by the Sierra Club Banning Ranch Park and Preserve Task Force,
Sierra Club Angeles Chapter

3435 Wilshire Blvd., Los Angeles, CA 90010

http://angeles.sierraclub.org/banning_ranch

<https://www.facebook.com/SaveBanningRanch/>

**NBR - A Plan to Open the Land to the Public
Visitor Serving Retail & Overnight Accommodations an Important
Component**



Dear Neighbors & Friends:

A number of you have asked for more information relating to the 70 acres of development. Can you describe the commercial and visitor-serving components? The plan does so much more than open the site and provide access - keep reading to find out the exciting things in store. The visitor-serving facilities include a 75-room hotel, a 20-bed hostel, specialty commercial, and public park sites...

Open to the public - what you'll see is exciting...

Offering visitor serving retail spaces - some 29,000 square-feet - and overnight accommodations with a 75 room coastal inn and 20-bed hostel - there will be something for everyone at Newport Banning Ranch. The retail will be designed in a way to offer goods and services to the community and visiting public - these will include shops to rent bikes and beach gear; a place to pick-up sandwiches and picnic supplies; maybe even a spot to pick-up that perfect beach dress or aloha shirt. And if you want to stay for a while, book a room at the inn or bunks at the hostel for your entire family. While there enjoy the bluff-top pool or a sunset from the outdoor spaces while enjoying your favorite beverage.

Getting to the beach just got easy...

And in addition to the amenities onsite we cannot forget our best asset - the nearby beach. It's about to get a lot easier to get there. If our project gets approved you'll be able to park your car and hop on the free shuttle. We will have

a shuttle that safely gets folk down the beach and back - so you can stop worrying about jockeying for parking and just enjoy the ride.

Help us make all of this a reality and support the Newport Banning Ranch plan - see below for details on how.

Next week we will focus on an important collaboration with the site's ancestors.

Show your support for the Banning Ranch plan: email the Coastal Commission at BanningRanchComments@coastal.ca.gov with a cc: to mike@newportbanningranch.com. Keep checking our website for updates - www.NewportBanningRanch.com , follow us on Facebook <https://www.facebook.com/NewportBanningRanch> and Twitter (@NWPBanningRanch).

Sign the Newport Banning Land Trust petition <https://www.change.org/p/california-coastal-commission-clean-restore-and-preserve-newport-banning-ranch>.

Regards,

Michael A. Mohler
Senior Project Manager

1300 Quail St., Suite 100, Newport Beach, CA 92660

EXHIBIT 2. Sierra Club Letter Dated August 1, 2016 page 1 of 3



Angeles Chapter
3435 Wilshire Blvd. #660
Los Angeles, CA 90010-1904
(213) 387-4287
angeles.sierraclub.org

August 1, 2016

**Application No. 5-15-2097 (Newport Banning Ranch, LLC, Newport Beach) –
OPPOSITION**

To the California Coastal Commission (CCC):

Founded by legendary conservationist John Muir in 1892, the Sierra Club is now the nation's largest and most influential grassroots environmental organization -- with more than two million members and supporters.

The Sierra Club Banning Ranch Park and Preserve Task Force was founded in 1999 as part of the Angeles Chapter of the Sierra Club, with the mission of preserving the entire Banning Ranch as open space.

This letter concerns the applicant's proposal to conduct fuel modification activities in Environmentally Sensitive Habitat Area (ESHA) buffers.

The Sierra Club opposes this, as ESHA buffers are meant to provide a natural buffer around ESHA. Section 30240(b) of the Coastal Act states:

(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.

The letter submitted to the Commission by biologist Robert Hamilton reviewed some of the ecological and practical conflicts between fuel modification zones and ESHA buffers. For example, the provision of irrigation will create conditions ideal for the invasive Argentine ant and for other exotic pest species; and repeated clearing of brush to maintain fire-safe spacing will encourage invasion of the cleared areas by exotic grasses and weeds that will spread into adjacent areas. The reality is that, once fuel modification zones are identified, the Fire Department requires those zones to be maintained in whatever condition *they* consider necessary to maintain public safety. Years from now, the critically important ecological considerations that seem to be at the forefront at this moment – when the applicant is attempting to convince the Commission to change its policy – almost certainly will have been forgotten. *At best*, they will

EXHIBIT 2. Sierra Club Letter Dated August 1, 2016 page 2 of 3

have been relegated to a secondary concern, far behind the mandate to protect public safety in an area the Newport Beach Fire Department ranks as having the highest risk for fire danger.

It is largely for these reasons that the Coastal Commission has generally interpreted Section 30240(b) of the Coastal Act as requiring fuel modification activities to be placed outside the ESHA buffer. For example, the City of Malibu Local Coastal Plan (LCP) Land Use Plan, adopted by the CCC on September 13, 2002 states, on page 41:

The LUP policies establish the protection of areas adjacent to ESHA and adjacent to parklands through the provision of buffers. Natural vegetation buffer areas must be provided around ESHA or parkland that are of sufficient size to prevent impacts that would significantly degrade these areas. Development, including fuel modification, shall not be permitted within required buffer areas.

Consider, as well, the Santa Monica Mountains LCP, certified by the CCC in October 2014. On page 23, fuel modification is allowed in a 100' "Quiet Zone" which is located outside the 100' H1 (similar to ESHA) habitat buffer:

"New non-resource-dependent development shall also provide an additional 100-foot "Quiet Zone" from H1 habitat where feasible (measured from the outer edge of the 100-foot H1 habitat buffer required above). New development is not permitted in the H1 habitat Quiet Zone except resource-dependent uses, non-irrigated fuel modification required by the Fire Department for lawfully-established structure."

Throughout the State of California, exceptions to the rule are rare and limited in extent. See, for example, Page 13 of April 2005 CCC staff report for the Brightwater/Bolsa Chica project:

With regards to the currently proposed Brightwater project, it is the opinion of the Commission's staff ecologist that limited fuel modification within a limited portion of the ESHA buffer, if it were first widened to be sufficiently protective, could be allowed consistent with Section 30240 of the Coastal Act. If the Eucalyptus ESHA buffer is widened to 328 feet (100 meters) the applicant's proposed restricted plant palette and permanent irrigation could be allowed only within the first 50 feet nearest the proposed residential lots. This area is called Zone B Ecotone Management area on the applicant's "Conceptual Plan Plant Palette for Open Space and ESHA Buffer" (Exhibit 4). Temporary (3-5 years), above ground irrigation could be allowed throughout the buffer for plant establishment. Mowing could also be allowed within the buffer in the 50 feet nearest the residential lots. The 50 foot wide area south of Zone B may also be mowed, if necessary but the plant palette would need to be unrestricted and must contain species appropriate to a native California grassland community in coastal Southern California. No other fuel modification practices would be allowed within the ESHA buffer.

Thus, at Brightwater, a limited amount of fuel modification was permitted within the ESHA buffer, but only after the width of that buffer had been expanded to 328 feet. The request by NBR at Banning Ranch, to permit broad overlap between ESHA buffers and fuel modification zones throughout the development area, would set a completely different precedent.

In the case of Banning Ranch, the CCC has made it crystal clear from its initial communication with the City of Newport Beach that fuel modification was to be conducted in the development footprint, and not in the ESHA buffer. In a 2009 letter from the CCC, commenting on the Notice

EXHIBIT 2. Sierra Club Letter Dated August 1, 2016 page 3 of 3

of Preparation for the expected Environmental Impact Report (EIR) for the proposed Banning Ranch development project, the position of the CCC was clearly stated:

Fuel modification requirements to address fire hazard should be set back (outside of buffers) so that the buffer areas serve their intended function of protecting ESHA from the disruption of habitat values.

The position that fuel modification should occur in the development footprint, and not in the ESHA buffer, was restated several times in the May 2016 staff report, both in the biology memos and the conditions of approval. Specifically, Condition 7.A.1 states:

No fuel management zones shall take place within areas identified as ESHA, Wetlands, or buffers.

Conclusion: The Sierra Club strongly urges the CCC to deny the applicant's request to conduct fuel modification within ESHA buffers. The applicant has been made aware that fuel modification must be placed entirely within the development footprint from the very beginning. The Banning Ranch ecosystem supports numerous listed or otherwise highly sensitive wildlife species. Allowing fuel modification to broadly overlap with ESHA buffers would not only compromise the ecological integrity and viability of the various forms of ESHA identified at Banning Ranch, but it would also set a very bad precedent applicable to numerous other projects up and down the coast of California.

Sincerely,



George Watland
Sr. Chapter Director
Sierra Club Angeles Chapter



LEAGUE OF WOMEN VOTERS OF ORANGE COAST

Aliso Viejo Costa Mesa Dana Point Huntington Beach Irvine Laguna Beach Laguna Hills Laguna Niguel Laguna Woods Lake Forest Mission Viejo Newport Beach Rancho Santa Margarita San Clemente San Juan Capistrano Seal Beach

California Coastal Commission
Long Beach, CA 90802-4302

August 29, 2016

Agenda Item: 14d , September 7, 2016

Oppose: Application No.: 5-15-2097, Newport Banning Ranch LLC

Dear Commissioners:

The League of Women Voters of Orange Coast **opposes** Banning Ranch Development plan dated April 12, 2016 based on its noncompliance with the Coastal Act:

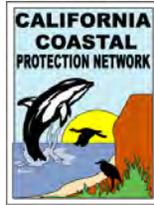
1. The established policies for California's Coastal Zone protecting coastal resources have not been met with regard to environmentally sensitive habitat areas (ESHAs), wetlands, landform alteration, rare ecosystems, endangered species, sensitive biological resources, archaeological resources and bluff and canyon edges.
For example, the current proposal:
 - Proposes development on ESHAs, wetlands, and endangered species' habitat and foraging areas;
 - Includes a bluff road that destroys the continuity of critical habitat areas;
 - Alters coastal landforms, destroying the integrity of arroyos and bluffs;
 - Compromises coastal resources with grading and construction; and
 - Unnecessarily Impacts Native American cultural resource sites
2. Portions of the proposed habitable development area do not conform to the required setbacks from fault zones and bluff edges.
3. Lower cost housing requirements have not been adequately met or safeguarded.
4. The availability and provision of adequate water services has not been established.
5. There is no certified Local Coastal Program (LCP) for this area and approval of this development proposal could compromise the future development of a certifiable LCP for the area due to inconsistencies of this proposal with the resource protection policies of the Coastal Act
6. The project has not received the required permits and approvals from the California Department of Fish and Wildlife, Regional Water Quality Control Board, US Army Corps of Engineers, or US Fish and Wildlife Service
7. The proposed project is not the least environmentally damaging feasible alternative.
8. The development proposal does not protect the overall quality of the environment or preserve ecological integrity.

Thank you for your consideration of our concerns about this project as proposed.

Sincerely,

Diane Nied, President

cc: Governor Jerry Brown, Los Angeles Times, Daily Pilot



Via Electronic and U.S Mail

August 31, 2016

California Coastal Commission
45 Fremont Street
San Francisco, CA 94105-2219

BanningRanchComments@coastal.ca.gov

RE: Newport Banning Ranch, Application No. 5-15-2097, Opposition to Applicant's Proposed Treatment of "ESHA" and Improper Use of the Balancing Provisions

Dear Commissioners,

The Natural Resources Defense Council, California Coastal Protection Network, Endangered Habitats League, Environmental Center of San Diego, Sea and Sage Audubon, Surfrider Foundation and Audubon California appreciate the opportunity to provide these comments in response to Newport Banning Ranch's ("NBR" or "Applicant") Revised Newport Banning Ranch Development proposal ("Development" or "Project"). Our groups have been increasingly concerned regarding the Applicant's repeated mischaracterization of the definition of "Environmentally Sensitive Habitat Areas" ("ESHA") and the scope of protection that ESHA, including appropriate buffers, is afforded under the California Coastal Act.¹ The Coastal Commission Staff ("Staff") have now reviewed their ESHA recommendations for the third time and have included an updated site-specific analysis of wetlands and ESHA on Banning Ranch.² As the most recent Staff Report identifies, Applicant's Revised Project Description features a development footprint that would be inconsistent with Chapter 3 policies of the Coastal Act—the Applicant's proposal would impact roughly 42 acres of ESHA and wetlands, thereby further imperiling the rare, special status, and endangered species found on the project site.³

¹ Pub. Res Code § 30240.

² California Coastal Commission, *Staff Report: Newport Banning Ranch LLC No. 5-15-032*, Exhibit 13a (August 25th, 2016) [*"August 2016 Staff Report"*].

³ *August 2016 Staff Report* at 6.

Our groups urge the Commission to follow the recently updated Staff Report by ensuring that all development avoids ESHA, including appropriate buffers to protect sensitive habitat areas, and that project benefits are not considered as a basis for approval—because balancing is not properly invoked in this situation where there is no conflict between Coastal Act policies, as discussed further below.⁴ We oppose the Applicant’s Revised Development proposal and have focused this comment letter on the treatment of ESHA.

The Coastal Act clearly prioritizes ESHA for protection from development and other negative impacts, and once designated, ESHA cannot be reinterpreted based on degraded site characteristics. In a July 2016 letter, the Applicant offered “to no longer contest Staff’s ESHA determination, if the Commission will approve [their] few remaining requests;” we note, however, that ESHA designations and buffers to protect ESHA are biological determinations based on the best available science. It is not appropriate to modify ESHA determinations based on negotiations over development priorities.

1) All ESHA requires the same standard of protection under the Coastal Act, regardless of the area’s physical condition.

The Applicant has implied that habitat quality determines the standard of protections an ESHA is entitled to under the Coastal Act. This is not accurate and misconstrues the ESHA determination process. In the absence of a certified local coastal program (“LCP”), the Coastal Commission is tasked with determining which properties receive ESHA designation.⁵ The project site was excluded from Newport Beach’s Land Use Plan as a Deferred Certification Area, and neither the City of Newport Beach nor the County of Orange is currently seeking certification of an LCP, or a coastal land use plan (LUP), for the Banning Ranch site. Therefore, the ESHA designation process is left to the Commission, where approval of the coastal development permit must strictly adhere to the policies of the Coastal Act or otherwise would prejudice the ability of the local government to certify their LCP in the future.⁶

a. ESHA Designation

The updated Staff Report identifies over 219 acres as ESHA on the Banning Ranch site, as well as 42 acres of ESHA and wetlands that would be impacted by the development project as proposed.⁷ The statutory definition of ESHA is a straightforward, two-part test that Staff has demonstrated through significant analyses and updated biological information over several years.⁸ ESHA is “any area in which plant or animal life or their habitats are either [1] rare or especially

⁴ *Id.*

⁵ *Douda v. California Coastal Com.*, 159 Cal.App.4th 1181 (2008).

⁶ California Coastal Commission, *Local Coastal Program Update Guide Part I § 4: Environmentally Sensitive Habitat Areas* (2013).

⁷ *August 2016 Staff Report* at 39; 42.

⁸ Pub. Res. Code § 30107.5; *August 2016 Staff Report* at 36-7.

valuable because of their special nature or role in an ecosystem and [2] which could be easily disturbed or degraded by human activities and developments.”⁹

i. Rare or Especially Valuable

The first prong of the ESHA test can be met by showing that the species or habitat at issue is either rare or valuable.¹⁰ Staff provided significant evidence of rare and valuable species and habitat on the project site. For example, Staff cite to a number of “special status plants and wildlife species” including state endangered species like the Belding’s Savannah Sparrow, as well as species endangered under both state and federal law, such as the Least Bell’s Vireo, California Gnatcatcher, Coastal Cactus Wren and the San Diego Fairy Shrimp. The project site is also host to special status species like the White-Tailed Kite and Burrowing Owl, and sensitive species including the Loggerhead Shrike, Yellow Warbler, and Northern Harrier.¹¹ Staff established the unique value of the project site because it contains a variety of habitats serving special-status, threatened, or endangered species. For example, the site contains coastal sage scrub, which serves as habitat for the endangered California Gnatcatcher, and rare vernal pool habitat, which supports the San Diego Fairy Shrimp.¹²

ii. Easily Disturbed or Degraded by Human Activity

The second prong of ESHA can be met with a showing that the area is easily disturbed or degraded by human activity.¹³ The Project site hosts a considerable amount of sensitive habitat, such as: coastal bluff scrub, alkali meadow, southern coastal salt marsh, willow forest, and vernal pools. These types of habitat are particularly sensitive to disturbance because of the species found in such habitats.¹⁴ Sections of the project site have already been disturbed or degraded from previous

⁹Pub. Res. Code § 30107.5; *Bolsa Chica Land Trust v. Superior Court*, 71 Cal.App.4th 493, 507 (1999); *Sierra Club v. California Coastal Com.*, 12 Cal.App.4th 602, 611 (1993).

¹⁰ Staff define “rare” in three ways: 1) absolute rarity, where the species at issue has few remaining individuals; 2) local abundance, but global rarity, such as an endangered species concentrated in a small percentage of its habitat; or 3) locally rare, but globally abundant. Staff determined “especially valuable” based on: 1) whether any present species or habitat has a special nature, or 2) whether any species or habitat that is present has a special role in the ecosystem using examples of habitats that support rare, threatened or endangered species. California courts support this interpretation, typically finding that the first prong of the ESHA test can be established with record evidence of rarity or ecological value. See *Sierra Club v. California Coastal Com.*, 12 Cal.App.4th 602, 612-13 (1993) (holding that pygmy forest in Mendocino County is “rare and valuable” because it is “unique in the world,” found almost exclusively in Mendocino county, and draws a significant amount of scientific and lay interest due to its unique evolutionary history); *Dunn v. County of Santa Barbara*, 135 Cal.App.4th 1281, 1295-96 (2006) (noting that specific wetlands satisfied the “value” prong of ESHA because it supported 22 valuable wetland indicator species, provided connectivity to coastal habitat and an arroyo used as a wildlife corridor). *Local Coastal Program Update Guide Part I § 4: Environmentally Sensitive Habitat Areas* at 5-6.,

¹¹ *August 2016 Staff Report* at 32-3; 39-41.

¹² *Id.* at 32.

¹³ *Local Coastal Program Update Guide Part I § 4: Environmentally Sensitive Habitat Areas* at 6. The sensitivity of the site must be evaluated on a case-by-case basis. See *Sierra Club v. California Coastal Com.*, 12 Cal.App.4th 602, 615(1993)(noting that “abundant expert testimony” referencing extreme reduction in pygmy forest habitat, destruction from residential development, and soil adulteration from development as evidence of degradation by human activity); *Bolsa Chica Land Trust v. Superior Court*, 71 Cal.App.4th 493, 507 (1999)(noting that Commission guidelines generally consider wetlands, estuaries, streams, riparian habitats, and portions of open coastal waters as easily degraded by human activity).

¹⁴ *August 2016 Staff Report* at 32-4.

oil exploration activities and illegal mowing, demonstrating the threat to these sensitive habitat areas. Staff's ESHA recommendations are consistent with the Coastal Act because of the rare and valuable species found on the project site, and because much of this habitat is particularly sensitive to human activity. As such, the extent of ESHA identified in the updated Staff Report is entitled to protection in accordance with the Coastal Act.

b. Degraded ESHA is still ESHA under the Coastal Act

Applicant attempts to distinguish between ESHA and “potential ESHA,” by referencing sections of the ESHA and buffer zone that may be degraded or currently devoid of plant or animal life. However, this distinction was created by the Applicant and is not supported by case law or consistent application of the Coastal Act. Once an area receives ESHA designation, the area “shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.”¹⁵ Development in ESHA adjacent areas must also carefully safeguard ESHA preservation.¹⁶

California courts have clearly rejected the claim that degraded ESHA warrants a lower standard of protection than pristine ESHA. *See Bolsa Chica Land Trust v. Superior Court*, 71 Cal.App.4th 493, 508 (1999) (holding that a deteriorating, non-native eucalyptus grove was entitled to ESHA protection because “ESHA’s, whether they are pristine and growing or fouled and threatened, receive uniform treatment and protection”); *Kirkorowicz v. California Coastal Com.*, 83 Cal.App.4th 980, 994 (2000) (holding that disturbed, degraded, and pristine wetlands were entitled to the same standard of protection); *Dunn v. County of Santa Barbara*, 135 Cal.App.4th 1281, 1295 (2006) (“The Coastal Act ... does not distinguish between wetlands according to their quality”).

i. Sufficient Buffers are Required to Protect ESHA from Degradation

The Applicant also attempts to reduce the Staff recommended ESHA buffer areas to increase the development footprint of the proposed project. The Applicant claims that the buffers for degraded ESHA need not be as rigid because the “highly degraded site areas ... have minimal habitat value.”¹⁷ Again, this distinction is clearly inconsistent with the Coastal Act and with how California courts have consistently treated ESHA. In *Bolsa Chica*, the court explicitly referenced “uniform treatment and protection” for ESHA, regardless of the condition of the property.¹⁸ Similarly, the court in *Kirkorowicz* applied this same logic to protecting wetlands, noting that “in determining whether a wetland is protected under the Coastal Act ... the quality of the wetland is essentially legally irrelevant.”¹⁹

¹⁵ Cal. Pub. Res. Code § 30240; *Bolsa Chica Land Trust v. Superior Court*, 71 Cal.App.4th 493, 506 (1999).

¹⁶ *Bolsa Chica* at 508.

¹⁷ Letter from Mike Mohler, Newport Banning Ranch, to Steve Kinsey, Chairman and Dayna Bochco, Vice Chair, California Coastal Commission (July 11, 2016) (summarizing changes to updated NBR Coastal Development Permit Application No. 5-15-2097)(on file with author).

¹⁸ *See Bolsa Chica* at 508.

¹⁹ *Kirkorowicz v. California Coastal Com.*, 83 Cal.App.4th 980, 994 (2000).

As applied to the Newport Banning Ranch Development site, Staff recommended ESHA is therefore entitled to a high standard of protection, including sufficient buffer zones. Staff recognized a minimum 50 foot buffer for all sensitive vegetation, a 100 foot buffer for vernal pools, wetlands and gnatcatcher habitat, and a 164 foot buffer for burrowing owl wintering habitat in order to provide sufficient ESHA protection.²⁰ The Applicant continues to propose severe grading encroachment and fuel modification within the buffer zone and proposes a uniform 50 foot buffer across all ESHA, ignoring previous staff recommendations and the extremely vulnerable nature of certain types of ESHA.²¹ We must underscore the primary purpose of buffer zones to create a barrier between ESHA and development that will “prevent impacts which would significantly degrade those areas and shall be compatible with the continuance of those habitat and recreation areas.”²² We urge the Commission to recognize the importance of buffer zones and to follow Staff’s recommendations for their protection.

2) Use of a Balancing Approach under Section 30007.5 is Inappropriate

In enacting the Coastal Act, the California Legislature anticipated that conflicts may arise in implementing different provisions of the law and therefore provided for a balancing approach to project approval in limited circumstances.²³ In order for the balancing test under Section 30007.5 to apply, project implementation must cause a direct conflict between one or more Coastal Act policies.²⁴ In such cases, conflicts must be resolved “in a manner which on balance is the most protective of significant coastal resources.”²⁵ Here, however, a balancing approach does not apply because as the recent Staff Report identifies, there is no direct conflict between Coastal Act policies.²⁶ The essential nature of the Project is a mixed-use residential development on prime coastal real estate and any benefits considered must be part of the “essential nature” of such a development.

A Section 30007.5 balancing determination simply does not apply in this instance because oil field remediation and clean-up is already required under existing law. Here, the Applicant is proposing to assume the oil operator’s obligation to remediate the project site as part of the

²⁰ *August 2016 Staff Report* at 45-49.

²¹ *August 2016 Staff Report* at 16; 21.

²² Cal. Pub. Res. § 30240(b).

²³ Cal. Pub. Res. Code § 30007.5

²⁴ *Bolsa Chica Land Trust v. Superior Court*, 71 Cal.App.4th 493, 509 (1999) (holding that the balancing provision did not apply because there was no “genuine conflict” between the goals of providing development and protecting ESHA where the development could have been relocated). The Commission has explained this premise before, noting that there is no direct conflict where project benefits are not “inherent in the essential nature of the project.” Otherwise, the balancing provisions of the Coastal Act could be manipulated to “create conflicts” by allowing unrelated incentives to justify otherwise unapprovable projects. Previous Commission decisions illustrate when project benefits are part of the “essential nature” of a project. For example, in the *Tilch* decision, the Commission approved a project to replace a sewage treatment system that was polluting groundwater, even though the project would have required some wetland fill because the nature of the project was to reduce contamination and improve water quality. California Coastal Commission, *Staff Report: Tilch (CDP No. 1-06-033)* 15 (2006).

²⁵ Cal. Pub. Res. Code § 30007.5

²⁶ *August 2016 Staff Report* at 6.

purchase agreement. Should the agreement between the Applicant and the previous site owner fall through, the remediation requirements will still apply to the abandoned oil operations. Furthermore, the grading to clean up the property once oil operations are abandoned is estimated at 271,000 cubic yards of soil remediation “regardless of the future land use of the site.”²⁷ The Project Development proposal will require 2,800,000 million cubic yards of grading.²⁸ This means the net disturbance to the project site and ESHA is significantly increased by bundling the remediation project with the development proposal. If the benefits of site remediation must occur regardless of whether the Project comes to fruition, the benefits are analogous to unrelated incentives the Commission has previously warned against and cannot be considered “inherent to the essential nature of the project.”²⁹

3) Conclusion

We respectfully urge the Commission to reject the Applicant’s Revised Development proposal and to adopt the updated Staff’s recommendation that all ESHA be avoided and afforded a consistent, high standard of protection, regardless of the current condition of the ESHA. We similarly urge the rejection of any type of balancing approach when considering this coastal permit application, as no conflict between provisions of the Coastal Act is present in this case. Such action would be consistent with the spirit and substance of the Coastal Act.

Thank you for your careful consideration of our views. Please do not hesitate to contact us for further information and clarification.

Sincerely,

Katie Umekubo
Staff Attorney
Natural Resources Defense Council

Sara Atsbaha
Legal Fellow
Natural Resources Defense Council

Susan Jordan
Executive Director
California Coastal Protection Network

Dan Silver
Executive Director
Endangered Habitats League

Pam Heatherington
President
ECO-San Diego

Susan Sheakley
Conservation Chair
Sea and Sage Audubon Society

Jennifer Savage
California Policy Manager
Surfrider Foundation

Mike Lynes
Director of Public Policy
Audubon California

²⁷ California Coastal Commission, *Staff Report: Newport Banning Ranch LLC No. 5-15-2097*, 2 (September 25, 2015) [“September 2015 *Staff Report*”].

²⁸ *August 2016 Staff Report* at 16.

²⁹ *Tilch* (CDP No. 1-06-033) 15 (2006).

August 31, 2016

Meg Caldwell, Chairperson
California Coastal Commission
200 Ocean Gate, Suite 1000
Long Beach, CA 90802-4302

Subject: **Application # 5-15-2097; Agenda item, 14d, September 7, 2016 meeting**
Site: Newport Banning Ranch
Newport Beach, CA, Orange County

Dear Chairperson Meg Caldwell:

I respectfully request that you re-consider the impacts of this project and deny development.

I am unable to attend the meeting on September 7 due to my work schedule so request to transfer my speaking time to the Banning Ranch Conservancy members. They are authorized to sign in for me and will be speaking on my behalf.

Thank you for your consideration.

Sylvia Marson
339 Walnut St
Costa Mesa, CA 92627

County of Orange, Costa Mesa, CA Taxpayer
(949) 645-9348 email: sylviamarson@sbcglobal.net

cc: Please accept emails as copies:
BanningRanchComments@coastal.ca.gov
Banning Ranch Conservancy, info@banningranchconservancy.org.

From: msiebertapex@aol.com
To: BanningRanchComments@Coastal
Subject: Fwd: Valley Fever at Banning Ranch
Date: Wednesday, August 31, 2016 2:47:46 PM

Dear Coastal Committee

We are home owners along the fence of Banning Ranch. We are all concerned that digging up the soil could bring out dust carrying Valley Fever. There are 2 schools along the fence of Banning Ranch and they rely and the clean ocean air to stay cool. Please review the out come of heavy dust and diesel fumes. As you know this land has been undeveloped for 30 years and now have alot of wildlife living on Banning Ranch.

Thank you

Michael Siebert

9 Aries Court

Newport Beach 92663

Cell 949 413 6632:

Please read this about Valley Fever.

<http://voiceofoc.org/2012/12/five-ways-to-advance-the-fight-against-valley-fever-epidemic/>

Sent from my Verizon Wireless 4G LTE Droid

From: [Gerard Proccacino](mailto:Gerard.Proccacino)
To: BanningRanchComments@Coastal
Subject: Item No. W 14d
Date: Wednesday, August 31, 2016 2:52:03 PM

8/31/16

Item No. W 14d, Application No. 5-15-2097

OPPOSED

Greetings Commissioners and Staff,

I am completely opposed to this application. I am also very disappointed with my city, Newport Beach, with the County of Orange and the great state of California for not being the driving force to work with its citizens to champion a plan that would provide this developer with fair market compensation to purchase this property and keep it as the God given last open coastal parcel in Orange County. This proposed development is not right. It has been smeared with controversy. The rush to judgment of the EIR by the Newport Beach City Council. The outrageous untimely dismissal of the diligent and respected Commissions Executive Director. The alleged unreported private meetings with the developer buy the Commissions Chairman. The alleged disregard for ESHA issues and legalities, and more.

The Commission and staff were more then generous to grant the applicant a second chance and the applicant snubbed you. They have done very little to reduce the overall negative impact of "Newport Banning Ranch CITY". It is still a CITY. Hotel, Motel, 65' structures, commercial, retail, and maybe a splattering of industrial and manufacturing. This is all topped off with a 12 acre street footprint that will not only feed the CITY but be a thoroughfare for other cities and herds of thousands of vehicles onto PCH adding more gridlock and pollution to West Newport and surrounding areas. This is insane and unacceptable.

I suspect that some development of this property is enviable in the future but this intrusive proposed project is detrimental to the overall health of the land and the wellness of life of the citizens surrounding it.

I have included my other letters of opposition and pray that you will diligently read them. This project is not right.

Please, Please, Please deny this application.

Thank you for your consideration.

Respectfully,
Gerard Proccacino
Newport Beach, CA

From: Gerard Proccacino [Gravytrain1@roadrunner.com]
Sent: Friday, May 06, 2016 1:03 PM
To: 'BanningRanchComments@coastal.ca.gov'
Subject: Application No. 5-15-2097 (Newport Banning Ranch, LLC , Newport Beach)

Application 5-15-2097
OPPOSED

Greetings California Coastal Commission, Commissioners and Staff,
I am a proud 44 year resident home owner of Lido Sands, Newport Beach, Ca. Lido Sands is a cozy mid century community in West Newport Beach that lies along PCH directly in front of the devastatingly intrusive project of Banning Ranch. I want to share my thoughts of why I pray you do not approve the application of the Banning Ranch Development.

I was present at the October 2015 meeting where I commend you folks for being very generous in giving the applicant another chance to present a project that would not only be kinder to the precious 401 acres ESHA but the quality of life for the residents of West Newport Beach. I do not believe the applicant appreciated or respected that second chance.

Staff has stated among numerous other conditional agreements that "Significant changes to the development plan proposed by the applicant in order to achieve consistency with the Coastal Act include elimination of Bluff Road as a through connector from 17th Street to Pacific Coast Highway". Well the applicant showed no respect for that condition in it's recent ,full page, ad in the Daily Pilot newspaper stating, "A downsized road connects West Costa Mesa to the beach". They should have continued and include connects all cities up and beyond West Covina. They are promoting Bluff Rd. as a thoroughfare that will dump thousands of auto, motorcycle, tractor trailer, truck, and bus trips daily. PCH is like a river ready to crest and overflow. It can't take any more. The intrusive intersection at PCH is less then a mere 300 yards from the massive PCH, Superior Ave. intersection and not supported by Cal Trans who frowns on major intersections that close together. No respect for

Staff recommendation. If, God forbid, this road and intersection are built I see no mention of mitigation of the sound, light and air pollution. No mention of heightening the existing sound wall and/or planting sound absorbing foliage. It is often forgotten that Newport Beach residents are fortunate not to need air conditioning, and believe me we pay for that privilege. Many nights we sleep with windows open for fresh air rather than refrigerated air. How destructive to our quality of life with more noise, light and air pollution. Bluff Rd. was denied, by the Commission, to Newport Beach as a road into Sunset Ridge Park. How can it even be considered now? What has Mother Nature changed with the ESHA since then?

At the October meeting Commissioner Bochco stated there are “very, very, very” strict parameters concerning ESHA. Commissioner Shallenberger stated “ESHA is the strongest policy in our act”. Is it or is that what’s changed?

During closing comments in October Chairman Kinsey was “specific” about a target of 90% to be saved of the last, one of a kind, sensitive properties in Ca.. If my math is correct Chairman Kinsey was deliberately specific about only 10% of the property being developed. He referred to Marin county where only 5% of similar properties are allowed development. If I read correctly the applicants latest proposal is a “city” style development of 51.9 acres of which 8.6 acres is a resort, hotel, commercial, retail business district. Let me return to my math again. Of 401 acres 10% development would be 40 acres. The applicant is proposing 51.9 acres, 11.9 over what Chairman Kinsey was specific about. Again no respect for, their second chance, the Commission and Staff. If the business district were denied it would eliminate 8.6 acres and be close to Commissioner Kinsey’s 10% and with no road/ intersection to PCH. In October I called the project “The City of Banning Ranch” with a resident population greater than Bishop not accounting for the thousands of transit visitors daily. It is still a proposed city, just a little smaller.

I am totally disappointed with the City of Newport Beach, the County of Orange and the state of California for not coming together to work diligently with it’s citizens to devise a working plan to purchase the property, at a fair market price, and to restore it to God’s natural beauty as open space.

I strongly oppose this massive project as proposed by the developer. They have shown little concern for the strong suggestions put forth by the Commission and Staff, even given a second chance. They have presented no mitigation to the

citizens of West Newport for the negative impacts on our quality of life. I urge you to please deny this project as proposed. It is too massive. It is more, more, more. Where does this all stop? Every corner and empty parcel in Orange County is being developed with massive residential condos, apartments, commercial, and residential. Where do we put the people? Where do we put the vehicles? You folks have the power to at least slow it down. I read that there are at least 2005 letters of opposition and if I'm understanding correctly an additional 1,926 "form" letters in opposition totaling 3,931 opposing letters with only 242 in support. Please honor the powerful message being sent. Please deny the proposed Newport Banning Ranch project.

Thank you for your consideration.

Respectfully,

Gerard Proccacino

Newport Beach, CA

California Coastal Commission
Long Beach, Ca.

9/27/2015
Agenda 9b
Application 5-13-032
Gerard Proccacino
OPPOSED

Greetings California Coastal Commission, Commissioners and Staff,
I am a proud 43 year resident home owner of Lido Sands, Newport Beach, Ca. Lido Sands is a cozy mid century community in West Newport Beach that lies along PCH directly in front of the devastatingly intrusive project of Banning Ranch. I want to share my thoughts of why I pray you do not approve the application of the Banning Ranch Development directly across from my home.

I want to refer to this intrusive project with it's residential and tens of thousands square feet of hotel and commercial, retail business district, as "The City of Banning Ranch" because this in fact is what is proposed. I went to "[Newport Beach, California - Wikipedia](#)" under paragraph "Demographics" I found, according to 2010 census and most likely greater today, "the average family size was 2.81". This times 1,375 permanent dwellings has the potential of a residential population of 3,864, greater then the city of Bishop, Ca. Then I went to,

http://www.california-demographics.com/cities_by_population, which lists California cities by population, I believe 2010 also, Bishop has 3'841 residents, ranked number 698 in size on a list of 1360. The "City of Banning Ranch" could come in at 696 making it more populated than 664 Ca. cities listed. Add to this that the transit population of the hotel, business district and others using the boulevard artery will add thousands of people day and night. It will be a disaster.

To enter this "city" there is a proposed signaled boulevard intersection, 8 to 15% grade off the bluffs, on to PCH that will dump 15,000 combined cars, trucks, tractor trailers, motorcycles and buses onto PCH. This intersection is only 300 yards from the Superior, PCH massive intersection. Caltrans has shown displeasure with massive intersections this close together on PCH. The Coastal Commission had denied this intersection and road to Newport Beach as an entrance to Sunset Ridge Park. The added air, noise, light and traffic grid lock pollution thrown upon the people in Lido Sands and West Newport Beach will be incomprehensible.

The existing sound wall along PCH, Lido Sands Drive measures 9' on the Lido Sands side and 8', a mere 2' higher than a residential property line wall, on the PCH side. Little known is that PCH is actually about 1 1/2' higher than Lido Sands Drive. Therefore the wall effectiveness is only 8 feet.

Newport Beach is now building the ECHO 56 residential development. It derived its name from surfers naming that section of beach as Echo Beach. Folk lore has it that if you were at that section of the beach you could hear the waves echo off of the bluffs of Banning Ranch. I can hear the waves and traffic that way when I have my bedroom door open. I can also hear conversations of people on PCH, not over the wall but from the bluff echo. The noise and lights from stopping and starting vehicles will be unbearable. There is not much more disturbing than a revving motorcycle at 1:00 am, outside your bedroom window, waiting for a signal to change. PCH is arguably the most motorcycle desirable artery in California. Idling vehicles also produce more stationary air

pollution

I am bringing all this up because I could not find anything in the EIR that addressed mitigation of these issues as previously mentioned. The pollution impacts are intensified with the bluffs resonation / echo. As I recall at the Newport Beach staff meeting a few years back this was considered as one of the “insignificant negative impact details” when approving the then DEIR. What a shame.

A few years ago property owners of West Newport Beach paid approx. \$10,000.00+ each to underground ugly utility poles, overhead transformers and wires. The tax payers of Newport Beach paid for the “traffic calming” along River Ave., less then 300’ from PCH. The proposed “city” will destroy all that with unbearable traffic and ugly, bare steel poles with ugly black light boxes hanging from them. Please, do not allow this to happen.

Newport Beach has long been a sacred calm get away to enjoy its superb amenities. The construction of this “city” will destroy the quality of life of Lido Sands, West Newport, all of Newport Beach and its bordering cities.

Banning Ranch is arguably the last, unmolested, God given, ocean view property in Orange County, maybe all of S. California, certainly Newport Beach.

If developers had a way they would figure out how to build boulevards and buildings on top of the ocean surface, scary.

Now is the chance to say no. No more cars, no more pollution, no more disturbance of nature and her habitants, no more human grid lock, no more destruction of peoples quality of life. You are the people that must say no.

I sincerely ask you to honor the decision of your professional staff and deny the building of this “city”

Thank you so very much for your consideration.

I apologize for the variation of type font and size. I’m a bit

computer challenged when it comes to copy and paste.

Respectfully,

Gerard Proccacino

Newport Beach, Ca



Virus-free. www.avast.com

From: toystock@earthlink.net
To: BanningRanchComments@Coastal
Subject: Re: Agenda Item 5-15-2097 , Banning Ranch
Date: Wednesday, August 31, 2016 5:20:34 PM

Honorable Chair Kinsey, Commissioners and Staff,

I am writing to you to state my opposition to the Banning Ranch development project. Many of the natural resources of southern California's coastline have been lost due to overdevelopment. Banning Ranch now is one of our last unprotected open spaces containing vital diverse native wildlife habitat and is one of the few remaining pieces of the cultural landscape for the local Native Americans of this area. I request that you uphold the Coastal Act and its protections for these natural and cultural resources at Banning Ranch and deny entirely the proposed development plan of the landowners. Even with the changes proposed by the developer there will still be significant destruction of the environmentally sensitive habitat areas both directly and indirectly. I am told that this is a violation of the Coastal Act. The proposed restoration by the developer will be insufficient to offset the loss of the viable habitat and open space.

Columnist Steve Lopez of the LA Times recently did a series in his newspaper on this very issue. His column covered the California coast from the Oregon border to the Mexican border. In his columns he frequently mentioned the natural beauty and wildlife habitat of many areas of our California coastline. But more importantly, he frequently pointed out that California's coastline has already lost far too much of our open space and wildlife habitat. In one article he mentioned driving along our coast for miles yet could see only the backs of homes and other developments. The underlying thrust of his series is that THE CALIFORNIA COAST IS AT RISK. Much has already been lost. Banning Ranch, being one of the last of California's unprotected open spaces, should be saved.

I urge you to uphold the Coastal Act and deny the proposal for development at Banning Ranch so that California can save the few precious coastal open space habitats that remain for our future generations.

Respectfully,

Brian Stock

From: [KnowWho_Services](#)
To: BanningRanchComments@Coastal
Subject: Reject Application 5-15-2097 to Develop Banning Ranch
Date: Wednesday, August 31, 2016 8:52:05 PM

Dear CA Coastal Commission,

Dear Commissioners:

I write to urge you to reject Application 5-15-2097 to develop Banning Ranch.

That land currently provides habitat to endangered and threatened animals and plant species, and contains many environmentally sensitive habitat areas (ESHA).

The California Coastal Act rightfully requires that ESHAs be protected.

I urge you to follow the letter and spirit of the California Coastal Act and reject the proposal to develop Banning Ranch.

Sincerely,

Florence Chan
20041 Osterman Road
Lake Forest, CA 92630
sway5454@hotmail.com
9494912528

From: [geo.roes](#)
To: BanningRanchComments@Coastal
Subject: Agenda item 5-15-2097
Date: Thursday, September 01, 2016 5:05:15 PM

Chair Kinsey and Commissioners:

I am a Huntington Beach homeowner, living 2 blocks north of of Bolsa Chica Preserve. In the 3 years I have lived there, I have come to enjoy and understand the value of that beautiful biosystem.

It has come to my attention that development of a similar piece of land is under consideration, namely the Banning Ranch.

I urge each of you to uphold the Coastal Act, granting continued protection to this ecologically sensitive and precious piece of property. In furtherance of this, please deny all development attempts. Developers chasing dollars have already had their way with much of the environmentally sensitive coastal land(most recently, Brightwater and all the development along the PCH from Huntington Beach to Newport).

With hopes that you each are like-minded,
With regard,
Geo. David Roes

From: [Burntswamp](#)
To: BanningRanchComments@Coastal
Subject: California Coastal Commission Meeting, 09/07/2016, Agenda Item 14(d)
Date: Thursday, September 01, 2016 8:35:40 AM

Dear California Coastal Commissioners:

I am formally contacting you requesting that every Commissioner deny the permit for the Newport Banning Development project at the forthcoming California Coastal Commission meeting commencing on September 7th, 2016. The Project contains numerous flaws, violates Indigenous peoples (Tongva/Gabrielino and Acjachemen/Juaneno) civil rights under certain state and federal statues as well as completely violates Indigenous peoples human rights under the United Nations Declaration on the Rights of Indigenous Peoples, which is supported and endorsed by the California State Legislature.

Thank you for you time and understanding on this critical matter.

Larry Smith (Lumbee Nation)
2187 E21st Street Apt. H
Signal Hill, CA 90755

From: [Jennifer Cameron](#)
To: BanningRanchComments@Coastal
Subject: Ranch from development Item Agenda 5.15.2097
Date: Thursday, September 01, 2016 4:28:34 PM

Coastal commission members,

Your reputation for ignoring staff recommendations on development of coastal properties, as well as improprieties in meetings with major developers have greatly tarnished your reputation. As well, you seem to moving toward weakening protections of our coastal land. The coastal commission has been a staunch advocate in the preservation of our coastal areas and the plant and avian communities they harbor. Do not tilt toward development!!

I urge you to vote against the development of Banning Ranch.

Jennifer Cameron
Long Beach, CA

From: [Vernita Laws](#)
To: BanningRanchComments@Coastal
Subject: Banning Ranch
Date: Friday, September 02, 2016 9:07:20 AM

Dear Coastal Commission:

Please consider our coast , the last large piece of undeveloped land in Southern California. Also take into consideration the wild life that is their home.

We do not want this project that will destroy our coast.

Please vote NO at the September 7th meeting in Newport Beach, CA

Thanks for your consideration.

Long time resident of Huntington Beach.

Vernita S. Laws

From: [Erica](#)
To: BanningRanchComments@Coastal
Subject: I do not support Banning Ranch development
Date: Friday, September 02, 2016 10:02:40 AM

I do not support the commercial development of Banning Ranch that is "opening it up". I support cleaning the area and leaving it pristine and natural so that it may be enjoyed with hikes and trails, not retail and development.

Sent from my iPhone

From: [ECO San Diego](#)
To: BanningRanchComments@Coastal
Subject: Please accept this letter into the record on Banning Ranch
Date: Friday, September 02, 2016 10:43:10 AM
Attachments: [SDZG 2016 letter to FWS re BUOW.pdf](#)

The attached letter reflects how important Burrowing Owl habitat is when considering ESHA for this project. Although the letter sites habitat in San Diego it also reflects how impacts can occur when habitat is disturbed -wherever it may be.

Please pay particular attention to the following paragraph:

"The main subject of the letter to Daniel Ashe is the request for the Service to allow further economic development on the Mesa and to support conservation of burrowing owls off the Mesa as an alternative to conservation on the Mesa. It is our opinion that the population of burrowing owls on the Mesa is vital to the persistence of this species in San Diego County. It is the only remaining breeding population in the County. While some economic development on the Mesa may be warranted, it would be ill-advised to write off this population with the intent of recovering burrowing owls elsewhere in the County."

My point in bringing this letter into the conversation is that even if relocation was an option for Newport Banning Ranch, its feasibility is negligible. Disturbing burrowing owl habitat will likely lead to its extirpation on Banning Ranch.

Pam Heatherington
Environmental Center of San Diego
805-835-1833

July 7, 2016

Dear Colleagues of the U.S. Fish & Wildlife Service, Carlsbad Office:

I am writing this letter on behalf of San Diego Zoo Global (SDZG) to express our concern about a recent letter sent from several members of Congress to Daniel Ashe, Director of the USFWS. This letter may be well-intentioned, but it does not adequately portray the relationship between SDZG and the USFWS. Specifically, it addresses our role in assisting the Service and other local regulatory agents in efforts to recover the burrowing owl populations in San Diego County. It implies that SDZG leads this effort and urges the USFWS to support SDZG in this work. We would like you to know that we do not see ourselves as the leader of this effort, rather we are an important partner. The USFWS has always been supportive of our role in this and other species recovery programs, and is a valued partner that provides guidance and direction.

In addition, we would like to provide our biological opinion regarding burrowing owl recovery needs in San Diego County. Our opinion is based on more than five years of intensive fieldwork conducted in East Otay Mesa ("Mesa") in San Diego County. This work has included population monitoring, habitat restoration, and studies of reproduction and survival. Thus, we believe we have a good understanding of the dynamics and threats facing this population in San Diego County.

The main subject of the letter to Daniel Ashe is the request for the Service to allow further economic development on the Mesa and to support conservation of burrowing owls off the Mesa as an alternative to conservation on the Mesa. It is our opinion that the population of burrowing owls on the Mesa is vital to the persistence of this species in San Diego County. It is the only remaining breeding population in the County. While some economic development on the Mesa may be warranted, it would be ill-advised to write off this population with the intent of recovering burrowing owls elsewhere in the County.

The letter to Daniel Ashe also mentions our proposal to use conservation breeding to assist with burrowing owl recovery. We propose this as one important tool for *expanding* the burrowing owl population to other areas in the County, not as a replacement for conservation of burrowing owls on the Mesa. In fact, we are in dialogue with developers at the Brown Field Airport and may provide assistance in implementing their mitigation plan intended to stabilize the burrowing owl population on the Mesa. We believe impacts to burrowing owls on the Mesa are best mitigated on the Mesa. Our proposal to breed owls does not replace this strategy for the Mesa, but expands it to also recover owl populations elsewhere in the County.

In conclusion, we consider the USFWS our most important and trusted partner and support their mitigation strategy on the Mesa.

Sincerely,



Ronald R. Swaisgood
Brown Chair/Director of Applied Animal Ecology
Institute for Conservation Research
San Diego Zoo Global
15600 San Pasqual Valley Road
Escondido, CA 92027-7000
<http://www.sandiegozoo.org/conservation>

Mr. James Hsu
1053 Regatta Run, Costa Mesa, CA
California Seabreeze Community

Permit Number: 5-15-2097

Item # W 14d

Position: In Opposition

September 1, 2016

California Coastal Commission

South Coast District Office
200 Oceangate, 10th Floor
Long Beach, CA 90802-4416
(562)590-5071; FAX (562) 590-5084

BanningRanchComments@coastal.ca.gov

RE: Permit Number: 5-15-2097, Item # W 14d

Dear South Coast, Coastal Commissioners,

I am a recent resident of California Seabreeze, a SFH community of homes built in 1991 that backs into the northwest corridor of the Banning Ranch location pertaining to this coastal permit application. I am in opposition to the project (5-15-2097) of Newport Banning Ranch to subdivide and develop residential, commercial, and mixed use of the land proposed.

There are nature preserves that include endangered species in which would be harmed and their current natural ecosystem would be disrupted. As a recent resident of the area, the primary reason for me moving to that location, was to be close to nature and the local preserved parks in the immediate area. This is one of the last and few preserve areas we have left in West Costa Mesa, and to be able to come home from a very difficult week to experience the local uninterrupted nature preserve brings the community the well-needed stress relief we all seek in living locally.

Please do not allow further commercialization to touch this very lush and protected nature preserve. The recent development of residential and commercialized property in Orange County lends us with few areas such as these left where multi-communities and neighborhoods from Huntington Beach, Costa Mesa, and Newport Beach residents can share and enjoy the uninterrupted trails that the original property was intended for.

Thank you for your consideration and vote in opposition of this Coastal Permit Application.

Sincerely,

James Hsu,
Resident , West Costa Mesa

SEP 1 2016

CALIFORNIA
COASTAL COMMISSION

CCRPA

California Cultural Resource Preservation Alliance, Inc.

P.O. Box 54132
Irvine, CA 92619-4132

An alliance of American Indian and scientific communities working for
the preservation of archaeological sites and other cultural resources.

August 29, 2016

Honorable Commissioners
California Coastal Commission

Item No. W14d
Application No.: 5-15-2097
Denial of Application

Ms. Teresa Henry, District Manager
California Coastal Commission
200 Oceangate, Suite 1000
Long Beach, CA 90802-4416

Dear Honorable Commissioners:

I am writing to state our opposition to development at Banning Ranch. A boutique hotel in one of the last remaining coastal open spaces containing rare animal and plant species, Traditional Cultural Properties and a Traditional Cultural Landscape? A housing community in an oil field? The Staff have done a great job with the conditions that try to reduce impacts to sensitive and significant natural and cultural resources, but as the old saying goes, "you can't make a silk purse out of a sow's ear" and this is just a bad project. We urge you to uphold the Coastal Act and its protection for these natural and cultural resources and deny the development proposal before you in its entirety.

We appreciate the fact that the staff report recognizes the spiritual and scientific significance of the eight known archaeological sites within the Banning Ranch project area. All eight sites are included within the "Banning Ranch Cultural Properties and Landscape" listed on the Native American Heritage Commission Sacred Lands Inventory. Three of the known archaeological sites are eligible for listing in the National Register of Historic Places.

Under orders from the Commission, staff has proposed a scaled down development that includes conditions that constrain development from portions of environmentally sensitive areas, and the three archaeological sites that are eligible for the National Register of Historic Places because of their archaeological values. However, the conditions do not adequately address Native American values. In spite of the conditions that protect portions of this sacred landscape, the spiritual and cultural values of all eight of the Traditional Cultural Properties and the Traditional Cultural Landscape will be impacted by the proposed development because the construction of a boutique hotel, housing, commercial development and roads will destroy the character of the Traditional Cultural Landscape and five of the Traditional Cultural Properties.

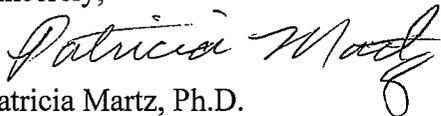
Banning Ranch is the last remaining unprotected open space within the Orange County coast and in spite of oilwell development, it supports a valuable ecosystem. It is this ecosystem that led the Gabrielino and Juaneño/Acjachemen ancestors to settle here, collect the plants and animals, hold ceremonies, and bury

their dead. It is this ecosystem that together with the archaeological sites forms the "Banning Ranch Cultural Properties and Landscape".

The remaining five archaeological sites that are listed on the Native American Heritage Commission Sacred Sites Inventory will be directly impacted by the proposed development and the three National Register eligible sites will be indirectly impacted. The National Register sites will be endangered by foot traffic and vandalism, soil clean up, and mass grading within the Open Space Preserve to establish trail grades, prepare mitigation areas and provide maintenance access and water quality basin creation areas.

Please do not approve the construction of a hotel, roads, housing and commercial development within the last open space of its kind in Orange County. It is estimated that over 90% of coastal archaeological sites in southern California have been destroyed due to development. This represents significant spiritual and cultural losses for Native American descendants. It is time that Native American spiritual and cultural values are given the consideration and respect they deserve. We urge you to uphold the Coastal Act and deny the development of Banning Ranch.

Sincerely,

A handwritten signature in cursive script that reads "Patricia Martz". The signature is written in black ink and is positioned above the typed name.

Patricia Martz, Ph.D.
President



September 1, 2016

California Coastal Commission
45 Fremont Street
Suite 2000
San Francisco, CA 94105-2219
BanningRanchComments@coastal.ca.gov

**Re: Opposition to Newport Banning Ranch Application: Supplemental Comments: W14d
September 7, 2016 Commission Agenda**

Dear Commissioners:

The Center for Biological Diversity (“Center”) provides these comments to address the recently released August 25, 2016 Staff Report and to supplement the comments we submitted on August 23, 2016, regarding Application No. 5-15-2097 (Newport Banning Ranch, LLC, Newport Beach) will be considered by the Coastal Commission on September 7, 2016. The comments submitted by the Center on August 23, 2016 are incorporated herein as though fully set forth. The Center is pleased to see that the revised Staff Report more carefully considers the environmental baseline values of this site and the potential impacts of the proposed project. The recommended reduction in the footprint of the development by staff is a step in the right direction and, if adopted, will substantially lessen the project’s environmental impacts.

However, based on the information in the August 2016 Staff Report and other information in the record, the project with the recommended conditions from staff would still have significant impacts to the environment including but not limited to impacts to protected species and their habitats. Therefore, the Center continues to oppose the development project even if it were scaled back as proposed in the August 2016 Staff Report and urges the Commission should deny the project proposal.

As the Center noted in its earlier comment letter, the project will harm federally endangered species by damaging or destroying California gnatcatcher critical habitat and vernal pool habitat of the San Diego fairy shrimp. The imperiled status of the California gnatcatcher and the importance of conserving habitat in this area was recently reaffirmed by the U.S. Fish & Wildlife Service in its recent status report which found that de-listing is unwarranted. (Endangered and Threatened Wildlife and Plants; 12-Month Finding on a Petition To Delist the Coastal California Gnatcatcher , 81 Fed. Reg. 59952 (August 31, 2016).) (attached).

As the August 2016 Staff Report correctly finds, the vast majority of the site is not appropriate for development and is largely composed of ESHA¹ and other protected areas. ESHA must be protected. (Pub. Res. Code § 30240; *Bolsa Chica Land Trust v. Superior Court* (1999) 71 Cal. App. 4th 493, 507-508.) Therefore, if the Commission chooses to reject the conditions and recommendations made in the August 2016 Staff Report, and instead adopts an earlier version of the project, the Commission would be defying sound coastal development policy and acting contrary the law. Approving development with ESHA is not a discretionary decision afforded to the Commission, but is prohibited by statute. Further, as the Center stressed in our earlier comments, it would be improper for the Commission to rely on unlawful destruction of habitat or failure to restore habitat to ignore ESHA or approve additional acres for development.

The Center agrees with the Staff that the pending oil and gas development plans and required rehabilitation and restoration from prior oil developments, should be considered independently from this proposal. As the Staff noted:

The proposed development plan should be evaluated in its own right, not allowed to serve as a catalyst that results in more extensive clean-up and soil disturbance, under the guise of necessary clean-up, than would otherwise be necessary to remove contaminants and restore the property's habitat value. Moreover, the extent of soil disturbance proposed following oil well abandonment in this proposal exceeds the amount of soil disturbance necessary for actual clean-up of the site for open space, and is proposed in some areas to make way for the residential and commercial development plan.

August 2016 Staff Report at 5. The restoration needed from the prior activities, cannot be used as a loophole to increase development on the site. Banning Ranch is a rare and unique part of the California Coast; it is habitat for threatened and endangered species that needs to be protected not traded away to a developer.

Ultimately, this decision will be considered by many observers to be a test case for whether the Commission will retain its integrity in light of recent controversies. The Center and dozens of other conservation and coastal organization will be attending the September 7, 2016 meeting and we intend to ensure that the Coastal Act and its ESHA protection are not eroded. The Center urges the Commission to reject the proposed development at Banning Ranch as inconsistent with the Coastal Act and other laws.

Sincerely,



Aruna Prabhala
Urban Wildlands Program Director
Center for Biological Diversity
(510) 844-7100 ext. 322
aprabhala@biologicaldiversity.org

¹ Pub. Res. Code § 30107.5; “‘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.”



August 23, 2016

California Coastal Commission
45 Fremont Street
Suite 2000
San Francisco, CA 94105-2219
BanningRanchComments@coastal.ca.gov

Re: Opposition to Newport Banning Ranch Application

Dear Commissioners:

The Center for Biological Diversity (“Center”) provides these comments to express our concerns about the proposed Newport Banning Ranch project, Application No. 5-15-2097 (Newport Banning Ranch, LLC, Newport Beach), which will be considered by the Coastal Commission in September 2016. The proposal from the project applicant that was scheduled for the Commission’s May 2016 hearing would degrade and destroy important coastal habitat and wetlands, including rare coastal scrub. The project will harm federally endangered species by damaging or destroying California gnatcatcher critical habitat and vernal pool habitat of the San Diego fairy shrimp.

As the Center noted in its earlier comment letter, the Commission staff’s prior changes and conditions failed to adequately protect irreplaceable coastal habitat and endangered wildlife. The project applicant’s refusal to accept even those recommendations, ex-parte communications, and continued push for even more intensive development only increases our concerns about this project and the potential precedent it would set. Any relaxation or removal of the mitigation and conditions recommended by Commission staff in May will only exacerbate the significant environmental harm this project will cause.

The Banning Ranch proposal is a massive development project on a large tract of coastal open space in Orange County. This intensive residential, commercial, and resort project is inconsistent with the policies of the Coastal Act and should be denied by the Commission. Therefore, we urge the Commission and its staff to resist pressures to compromise protection of Environmentally Sensitive Habitat Areas (ESHA) and adhere to the biological assessments that formed the basis for the October 2015 and April 2016 staff reports on this project.

Our objections to the project include, but are not limited to: (1) the size and density of this development are incompatible with such an environmentally sensitive coastal property; (2) approval would undermine the Commission’s mandate to protect Environmentally Sensitive Habitat Areas (ESHA); (3) the proposed roads would fragment and impair the habitat values on

site; (4) property owners are required by their current oil field abandonment plans to restore and enhance ESHA on the site rather than further developing the site or using their past degradation of ESHA to try to establish a new biological baseline; and (5) the proposed project may undermine state and federal protections for special status and listed species, designated critical habitat, and rare plant communities.

1. The massive project is incompatible with sound coastal development policy.

The Coastal Commission's mission is to protect and enhance the California coast and ocean, and the Legislature enacted the Coastal Act to "protect the ecological balance of the coastal zone and prevent its deterioration and destruction." (Pub. Res. Code § 30001(c).) The Coastal Act states "the California coastal zone is a distinct and valuable natural resource of vial and enduring interest to all the people." (Pub. Res. Code § 30001(a).) Approval of this project runs afoul of the Coastal Act, its goals and local coastal plan requirements.

The proposal to build 13.4 acres of roads, 895 residential units on 43.4 acres, 45,100 square feet of commercial uses, 3.9 acres of resort, and a 75-room hotel and 20-bed hostel along with ongoing oil operations will destroy and fragment important and increasingly rare habitats in the coastal zone. Rather than achieving a balance, the proposed project would sacrifice ecological values to development.

Approving a new massive development and ongoing oil operations on one of the largest undeveloped pieces of coastal property in Southern California is unsound coastal development policy. As Commission staff pointed out in its April 2016 report and the one it completed in October 2015, most of this 401-acre site is made up of protected wetlands, fault-zones, and Environmental Sensitive Habitat Areas (ESHA), protection of which is a top mandate for the Commission under the Coastal Act.

The staff's revised recommendation in the April 2016 report that 55 acres of land can be developed along with an additional 11 acres for continued oil extraction operations is a significant deviation from and expansion of the 18 acres it identified as non-ESHA land back in October 2015. The October staff report acknowledged the significant harmful impacts of the project on the sensitive habitat:

The proposed project would have significant adverse impacts upon terrestrial and vernal pool ESHA, including impacts to important/rare upland habitats and wildlife species that are an important part of the existing functioning ecosystem that includes both the uplands and lowlands habitat areas.

Staff in April recommended approval of the project if proponents could squeeze it into the new footprint proposed by staff, which would require scaling back of the initial proposal. The decision by project Applicants to withdraw the project from consideration at the May meeting and argue for expanding the developable footprint – made in public statements and in private communications for Commission staff – increase our concerns about this project and its impacts.

The Commission should not and cannot make a finding that the proposed project is consistent with the California Environmental Quality Act (CEQA). The April staff report notes that going beyond the 55 acres it identified would be a violation of state law: "In addition, the Commission

must make findings that the approved project would be consistent with CEQA, specifically including a finding that the project approved is the least environmentally damaging alternative. The proposed project is not the least environmentally damaging alternative.”

While we agree with the staff position that the Commission may not approve a project that allows development within ESHA and wetland areas, first all ESHA must be properly identified. Because the April 2016 staff report did not do this, we continue to have serious concerns about whether the staff recommendations will fully safeguard ESHA and protected species on the property.

For example, the project threatens the coastal California gnatcatcher, which thrives in the coastal scrub on this property. The rare bird is threatened with extinction by the rampant overdevelopment of Southern California, and this project further imperils it and would destroy and adversely modify its critical habitat.

The coastal California gnatcatcher was listed as threatened under the U.S. Endangered Species Act in 1993 and it was given critical habitat protections in 2007, habitat that includes Newport Banning Ranch. The gnatcatcher is a tiny gray songbird considered by biologists to be an indicator species of the overall health of this ecosystem. Currently much of the property is suitable habitat and occupied by the threatened gnatcatcher.

This unique stretch of coast in Orange County is home to the gnatcatcher, fairy shrimp, and other fragile California wildlife. An extensive urban-style development on Banning Ranch would threaten these species, violate the state’s environmental laws and conflicts with Coastal Commission’s core mission, which is to protect our valuable coastal resources and public access.

2. The April 2016 staff recommendations ignored identified ESHA and allowed ESHA to be developed in violation of the Coastal Act, with damaging environmental and legal consequences.

Under the Coastal Act, an “‘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.” (Pub. Res. Code § 30107.5.) It is undisputed that Banning Ranch contains such habitats including designated critical habitat for the California gnatcatcher and San Diego fairy shrimp, wetlands, and increasingly rare coastal sage scrub.

The Coastal Act mandates protections for ESHA.

(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.

(Pub. Res. Code § 30240.) Therefore, whether habitat on the site meets the ESHA criteria is a critical threshold question in determining whether a proposed project would be a permissible use within those areas and the significance of any impacts of a proposed project.

Previously, the Coastal Commission staff found the applicant's identification of ESHA faulty and proceeded with further analysis to identify ESHA on the project site. That resulted in a recommendation in the October 2015 staff report that the project's footprint be reduced to 18 acres to comply with the Coastal Act and avoid ESHA. Reversing that position in its April 2016 report, the revised recommendation relies on the old ESHA study the staff found inadequate and recommended an area more than three times that size for development. The proposed roads staff now endorses will significantly fragment habitat and undermine larger intact ESHA.

There are serious concerns that the approval of Banning Ranch would contravene the law and undermine ESHA provisions. Case law prohibits ESHA from being divided or relocated to satisfy the desires and designs of developers, expressed directly to staff or through members of the Commission. Designation of ESHA and development of such areas are not discretionary decisions afforded to the Commission, but are based on legal standards.

The California Court of Appeals affirmed that ESHA places strict requirements on the Commission in *Bolsa Chica Land Trust v. Superior Court*:

Importantly, while the obvious goal of section 30240 is to protect habitat values, the express terms of the statute do not provide that protection by treating those values as intangibles which can be moved from place to place to suit the needs of development. Rather, the terms of the statute protect habitat values by placing strict limits on the uses which may occur in an ESHA.

...

There is simply no reference in section 30240 which can be interpreted as diminishing the level of protection an ESHA receives based on its viability. Rather, under the statutory scheme, ESHA's, whether they are pristine and growing or fouled and threatened, receive uniform treatment and protection.

(*Bolsa Chica Land Trust v. Superior Court* (1999) 71 Cal. App. 4th 493, 507-508 (citations omitted)). In fact, the Bolsa Chica property, located six miles to the north, had many of the same land features as Banning Ranch. Here, approval of the proposed massive development at Banning Ranch would destroy ESHA and violate the Coastal Act's requirement that ESHA shall not be disrupted.

3. The area slated for the Banning Ranch development was supposed to be rehabilitated and restored from prior oil developments, and it is improper for the Commission to rely on unlawfully degraded conditions to approve more development.

The site of oil operations on Banning Ranch are supposed to be restored. "When the oil production ceases (either through the termination of use of single wells or the entire operation), a variety of regulations come into play mandating that proper oilfield abandonment and infrastructure removal activities be conducted and completed," staff wrote in its October 2015

report, noting Newport Banning Ranch has entered into a contact with those operators to assume legal responsibilities for that cleanup and restoration obligation.

Rehabilitation of the site was already going to be a difficult task given the oil production work that began in the 1940s, peaked in the 1980s at 1.2 million barrels of oil being produced by 300 wells, before steadily declining to a few dozen wells today. Making the task of rehabilitation significantly more difficult is the history of unpermitted development and habitat removal in violation of the Coastal Act and environmental laws on this site. Indeed, between 1992 and 2012, the U.S. Fish and Wildlife Service (USFWS) documented the loss of 7.31 acres of native coastal bluff scrub from Banning Ranch.

The site has been increasingly degraded and not restored as required. Extensive unpermitted mowing, removal of coastal scrub, and clearing patches of coastal prickly-pear, California encelia, and other habitat-supporting vegetation goes back decades. As a result in August 2014, former Coastal Commission Director Charles Lester issued West Newport Oil Company and Newport Banning Ranch LLC an 11-page Notification of Intent to Commence Cease and Desist Order and Restoration Order Proceedings and Notification of Intent to Record a Notice of Violation:

Based upon the information that staff has reviewed to date, it has become abundantly clear to staff that a number of sensitive and native plant communities and wildlife species thrive on the properties. Accordingly, the potential that development activities on the site, particularly unpermitted development activities, could have impacted and could be continuing to impact sensitive habitats and species, including ecologically significant vegetation, became more salient.

The Commission followed up that warning with Consent Cease and Desist and Consent Restoration Orders the following year, although the damage to some important ESHA habitat on the property had already been done.

A developer should not be permitted to rely on past mismanagement of property and habitat destruction to justify further degradation and development later. It is further improper for the Commission to rely on unlawful destruction of habitat or failure to restore habitat to eliminate ESHA or approve additional acres for development. Degraded ESHA is not entitled to less protection than un-degraded ESHA. (*Bolsa Chica Land Trust v. Superior Court* (1999) 71 Cal. App. 4th 493.) The degradation of ESHA on the site cannot be used as an excuse for its development; instead the degraded ESHA must be restored.

4. “Balancing” or application of the “conflict resolution” procedures under Coastal Act Section 3007.5 is inappropriate here

The applicant, and at times Commissioners, have suggested that destruction of ESHA on Banning Ranch can be justified using the “balancing” or “conflict resolution” procedures of the Coastal Act. These procedures have no application here.

Section 30007.5 acknowledges that conflicts could occur between the policies of the Coastal Act and “therefore declares that in carrying out the provisions of this division such conflicts be resolved in a manner that on balance is the most protective of significant coastal resources.” Courts have found this conflict resolution process is only applicable when there is a policy or interest of the Coastal Act which directly conflicts with the application of another policy or interest of the Coastal Act. (*Bolsa Chica Land Trust v. Superior Court* (1999) 71 Cal. App. 4th 493, 508-9.) In subsequent decisions by the Commission, balancing has only been used where the benefits and the impacts are both inherent to the “essential nature” of the project. (CDP No. 1-06-033, Staff Report at p. 15 (2006) (available at <http://documents.coastal.ca.gov/reports/2006/10/F9d-10-2006.pdf>.)

Here, a massive new development bringing 13.4 acres of roads, 895 residential units on 43.4 acres, 45,100 square feet of commercial use, 3.9 acres of resort, and a 75-room hotel and 20-bed hostel cannot be balanced against purported benefits such as oil remediation, public access and restoration of degrading habitat. No provision of the Coastal Act supports or encourages sprawling, destructive development on top of fragile coastal resources. The applicants’ touted “benefits” are minor elements of the project, not the “essential nature” of the project. Most importantly, “balancing” must be resolved in the “most protective of significant coastal resources.” Allowing this project to move forward as currently proposed would undermine the conflict resolution process and the goals of the Coastal Act.

Ultimately, this decision will be considered by many observers to be a test case for whether the Commission will retain its integrity in light of recent controversies. The Center and dozens of other conservation and coastal organization will be watching this decision carefully, and we intend to ensure that the Coastal Act and its ESHA protection are not eroded.

Banning Ranch is a rare and unique part of the California Coast; it is habitat for threatened and endangered species that needs to be protected not traded away to a developer. The Center urges the Commission to reject the proposed development at Banning Ranch, both as proposed by the developer and with the proposed changes suggested by staff in the April 2016 report, as inconsistent with the Coastal Act and other laws. If you have questions about the concerns raised in this letter, please contact me using the information provided below.

Sincerely,



Aruna Prabhala
Urban Wildlands Program Director
Center for Biological Diversity
1212 Broadway, Suite 800
Oakland, CA 94612
(510) 844-7100 ext. 322
aprabhala@biologicaldiversity.org

RE: Item # W14d
Application Number: 5-15-2097
Patrick T. Copps/Robin A. O'Connor
Position: Opposed to Project

September 2, 2016

Comment for California Coastal Commission Hearing Meeting: ITEM NO: W14d

My wife and I are in opposition to the proposed construction of a housing and mixed use development on the 401 acre site located on the Banning Ranch property.

Based on our review of the latest information supplied by the developer and the Environmental Impact Report, there is certain to be severe environmental degradation caused by this proposed project. The destruction of scarce and valuable habitat for endangered species alone is sufficient reason for the Coastal Commission to deny the Permit Application.

There is so little undeveloped coastal land in Orange County that we must consider the access that present and future residents will have to the natural coastal environment now and in the future. Not everyone can own a trophy home at the coast. By not allowing this development to go forward, the Commission can ensure that all OC residents and indeed all Californians can have the opportunity to know and understand our natural environment while maintaining critical habitat for endangered and threatened species.

In addition, please consider the major strain that this project would place on infrastructure and the additional environmental degradation caused by taxing existing resources in the area. The construction of this project would negatively impact scarce water resources as well as seriously impact air quality.

We have an opportunity. Denying the Permit Application would preserve some of the last remaining coastal habitat for indigenous animals and plants in Southern California.

In addition, when the full impact is considered, there is no net benefit from this project for the residents of Orange County, or indeed to the State of California.

We urge you to do the right thing and deny this Permit Application.

Thank You.

Robin A. O'Connor
Patrick T. Copps

1049 Regatta Run
Costa Mesa, CA 92627

Alfred G. Cruz, Jr.
United Coalition to Protect Panhe (UCPP)
2428 E. Altura Ave
Orange, CA 92867

August 5, 2016

Honorable Commissioners
California Coastal Commission

Item No. Th5d
Application No.: 5-16-0649

Denial of Application

Ms. Teresa Henry, District Manager
California Coastal Commission
200 Oceangate, Suite 1000
Long Beach, CA 90802-4416

Dear Honorable Commissioners:

United Coalition to Protect Panhe (UCPP), people of Acjachemen/Juaneno ancestry, primary goal is the protection of this Sacred Site.

Genga, also known as Newport Banning Ranch Project. is a part of our customs/traditions and is a Traditional Cultural Property/Landscape as a whole.

At this point of the project, UCPP advises/recommends applicant to revise their Archaeological Research Plan (ARP) to excavate STPs to a depth of at least 90 cm to ensure that the boundaries are accurately verified/defined.

In order to clearly verify/define site boundaries and help to avoid tragedies like Bolsa Chica, UCPP is concerned that the proposed shovel test pits (STPs) are not deep enough. In accordance with 1936 WPA archaeological field notes, "Daily Notes on Banning Excavation and Osteological Report August 17, 1936 – December 17, 1937 Archaeological Project #4465", pg. 3, a burial was found within the Newport Banning Ranch property at a depth of 3 feet (90 cm).

UCPP advises/recommends that due to the significance of Genga, a monitor from all tribal consulted Juaneno/Gabrieleno tribal governments be notified in advance and permitted on site when any type of test or ground disturbing activity is done in any of the proposed project area. A special condition for this instance should be required.

This would help to minimize monitor shortage by ensuring that a Juaneno/Gabrieleno monitor is on site at all times and ensure a collective comprehensive monitoring record/report which then can be distributed on a timely basis to the different tribal governments.

Additional Recommendations

UCPP advises/recommends that a meeting and site visit with tribal governments, tribal organizations, Native American Land Conservancy, Dr. Middleton, California Coastal Commission Staff, and the property owners be set by applicant and facilitated by Sacred Places Institute.

This initial meeting would allow Native American participation in further protection of our Traditional Cultural Landscape/Property of Genga.

"UN Declaration on the Rights of Indigenous Peoples supported by US government

Article 32

1. Indigenous peoples have the right to determine and develop priorities and strategies for the development or use of their lands or territories and other resources."

This meeting should have an advance notice of a minimal of 2 weeks in order for those who want to attend will be given the opportunity to do so. The establishment of tribal management/co management with a guaranteed endowment would be required.

UCPP is also concerned with Sacred Places Institute attempts at setting up this meeting/site visit and time limits due to upcoming applicant deadline. This is why UCPP advises/recommends that the responsibility be given to the applicant coordinating the set up of said meeting/site visit.

UCPP advises/recommends a comprehensive ethnographic study of all Juaneno/Gabrieleno groups concerning their relation to the village/region of Genga as a Traditional Cultural Property/Landscape to be completed.

Genga has been divided into many archaeological sites, yet its integrity as a whole/complete, Traditional Cultural Property/Landscape cannot be denied.

Respectfully,



Alfred G. Cruz, Jr.

RECEIVED

South Coast Region

OPPOSED TO THIS PROJECT

SEP 1 2016

August 31 , 2016

To: Honorable Commissioners, California Coastal Commission
CALIFORNIA
COASTAL COMMISSION

Re : Item NO : 5-15-2097 Applicant : Banning Ranch, LLC

My Name is Dennis Conway. My wife and I reside at 16 Ima Loa Ct. Newport Beach. I am writing this letter on behalf of a dozen homeowners who reside in Ima Loa Ct. whose properties would overlook a proposed Sunset Ridge Park parking lot. Whose quality of life and property values would be crushed by having an above ground parking lot right off our porches. Most of whom bought their homes before the City conceived the Park. Some who bought long before the City even purchased the park property. The proposed Parking Lot is to be placed on the field shown in Exhibit # 1. These pictures are taken from our porches.

As such, I apologize for going over the 3 page recommended limit.

We oppose the approval of any road up to Banning Ranch Development from PCH, and more specifically any sort of access road for a parking lot for Sunset Ridge Park.

This Parking Lot was proposed in the initial plans for Sunset Ridge Park which were submitted by the City of Newport Beach and rejected by this Commission in 2012.

All interested parties participated in the Public Notice and Comment process. The City with its unlimited resources and experience made its' best case for the parking lot. The centerpiece of their presentation for the parking lot was the safety issue, of park go-ers crossing Superior at PCH .

The City REMOVED The Parking Lot in order to gain passage of its park plan. The only reason the park was approved by this Commission, was BECAUSE the parking lot was removed from the plans. This is the reason the park plans were approved.

The Process was followed. The decision was final. There was no language telling the city to come back in the future, or this is only a partial decision or you don't have to live withThe outcome should be respected.

THIS WAS A CLASSIC BAIT AND SWITCH BY THE CITY

The City gave the outward appearance that they respected the process, and would live with the outcome and the final plan. After all, they expect nothing less from the developers and citizens that come before them and avail themselves of the similar process the City has in place.

We citizens that would be profoundly affected by the parking lot breathed a sigh of relief and went about our lives, secure in the knowledge that that decision was final.

The City made assurances orally and in writing, (See exhibit # 2) that the underutilized parking lot on the east side of Superior would suffice. Furthermore, they made repeated assurances that they would discharge their duty to protect the safety of the park visitors. To protect park go-ers from the very dangers they highlighted in their presentation. Including the logical solution of a bridge across Superior. This was not genuine. This was to secure passage of the park. The City knew that without building a bridge over to the parking, it would not be safe. They made no effort to even make the intersection safer.

Their plan all along was to come back and get the parking lot. They had no intention of abiding by the decision this Commission made in 2012.

They went ahead and built the park, taking no precautions for the safety of park visitors, aside from adding some time to the crosswalk light. The outcry from the Public regarding inconvenience and dangerousness was fully expected. Nothing was done to prevent, nor mitigate it. In fact it was a premeditated exigency created by the City itself, to now justify and strong arm this Commission into giving them their road and parking lot.

UNCLEAN HANDS : The City does not get to benefit from their malfeasance.

The centerpiece of the City's argument for the parking lot was safety . The City's own Attorney, Don Schmitz in his presenting to this very Commission on 11-02- 2012, emphasized the dangerousness of the intersection at Superior and PCH. (Cue up the Hearing video from that date to 5:47 to observe him addressing the danger issue).

He stated that " there were 24 Traffic Collisions at that very intersection in the preceding 24 months," (This is BEFORE the park !). He goes onto make a joke about stepping off the curb and "almost getting hit by a car going 60MPH and almost losing his boots !"

Keep in mind that BEFORE THE PARK, there was almost no foot traffic back and forth across Superior. The installation of the park, increased the foot traffic fifty-fold, if not more.

The City got the park approved, then built it, without making any revisions to address the safety of visitors. This should have been the very first issue they addressed.

The City made a conscious decision to recklessly endanger park visitors, many of them older folks and small children, so they could come back and highlight the danger and citizen complaints to gain passage of a road and parking lot. Meanwhile they blamed this Commission and the BRC for creating the danger. They cannot now say those dangers were unanticipated. Those dangers were the compelling centerpiece of their attempt to get the lot approved in 2012.

This level of scheming and depravity cannot be rewarded.

BLAMING THIS COMMISSION AND THE BRC FOR THE DANGER :

Rather than be grateful to the Coastal Commission for the approval to build their Park. Rather treat the process with the respect that the City Officials require from their citizenry. Rather than fulfill their promises and obligations to this Commission and the attending public. The City built the park, created a super dangerous situation, and then blamed this Commission and the BRC when the predictable outrage from the public occurred.

When the Public complained about the dangerousness of crossing Superior at PCH , the City routinely routinely villified and blamed the BRC and this Coastal Commission, (see attachment # 3 where City Council Member Peotter is espousing this narrative to a newspaper reporter). This was a stock response from City Representatives.

We got a similiar response from our City Council member, Tony Petros, AFTER he told us with a story of how he almost got run over at that intersection.

Quoting Peotter from the article : "Newport Beach Citizens shouldn't be surprised that the Coastal Commission ignored Child welfare in favor of anti-property rights, anti-taxpayer, anti-efficiency agenda. But the Old City Council should not have capitulated. Instead they should have prioritized child welfare and pressed for approval of a parking lot with the park. So now the city needs to prioritize child safety and get an adjacent parking lot built as soon as possible "

No mention of the City's responsibility in all this. There were 2 options available to the City. DO NOT build the park if parking and safe passage cannot be provided. Or be grateful for park approval and provide parking and safe passage.

What the City does not get to do, is create this 3rd option for themselves.

- They took the parking lot out of the plans, JUST TO GET APPROVAL.

- To further secure that approval, the City represented that alternative parking would be acceptable, AND more importantly , that they would ensure safe passage for park visitors.

- They took their park approval. They built the park, and not only did they create the super dangerous conditions for park visitors; then nothing to address or mitigate those dangers.

- Then the City used the anticipated public outcry at the danger they created to publically chastise and blame the very Board that approved

the park for them! And now the City is using that outrage to fuel their campaign to get the road and parking lot !

-This is the very same dangerous situation they used to try to get this Commission to approve the parking lot 4 years ago. The dangers they themselves warned everyone about. They failed to take heed of their own warning.

-This is the same dangerous situation they gave assurances to all that they would address, when building the park.

-This is the same dangerous situation, they created, exacerbated, did nothing to prevent, mitigate.

As a resident of Newport it is distressing that the City representatives routinely admit publicly that they have a huge liability issue at this intersection, (that they themselves created), while at the same time trying to lay blame onto the Coastal Commission and the BRC.

To blame the Coastal Commission and BRC, for this dangerous situation they themselves have created, and then to try and pressure this Commission into now giving them their road and parking lot is unconscionable.

- The City crossed their fingers. Had no intention at all of providing safe walking access to the public which a bridge would have provided. It is amazing there has not been a fatality there.

They were counting on this Commission granting the Banning Ranch Developers, some sort of road from PCH, and at the same time giving the city their parking lot.

When the parking lot was excised from the plan, it would not have been unexpected for a private developer to adopt a wait-it-out strategy and strike again after participants in the Notice and Comment process have gone back about their daily occupations. Granted, I am a realist. I know developers will not give up easily. All I can do in that situation is trust that City will discharge its fiduciary obligation as promised and expected.

Yet here, the City themselves acted exactly like that. Trying to job the system, and play the angles, and being less than candid. This is exactly the type of conduct they would not tolerate for a second from someone who attempted to treat their process this way.

They are held to a higher standard, and charged with protecting the public, and here they endangered the public to serve their own agenda.

That intersection is as dangerous as Attorney Schmitz, and Councilmen Petros and Peotter say. But with almost no foot traffic BEFORE the park, the likelihood of a pedestrian getting struck was negligible. Now hundreds of citizens a day are exposed to that danger, at that crossing, ONLY because of the City's calculated recklessness. It is shameful that the City took a chance with citizens lives so they could save a few bucks and bide their time until now, when think they will get what they want.

We respectfully request that this Commission deny the City the parking lot regardless of what happens with the road.

Advise them to go back and do, what they promised they would do four years ago, when they sought approval for the park, and provide safe passage to the park visitors.

A COUPLE ADDITIONAL CONSIDERATIONS

PARKING LOT DOES NOT SOLVE SAFETY ISSUE :

Many of the park visitors will still park in the lot on the east side of Superior. The safety issue still exists. Once again, the City needs to go fulfill its promise and obligation, and build a bridge from the park over Superior to the underutilized beach parking lot.

PARKING LOT ALLEVIATES FIELD :

The beautiful field located where the City proposes the parking lot is a wonderful asset to the community. Not on a sporting field surface. View of the ocean and Catalina Island. Great for families, and small children. People are always laying on blankets, doing yoga, having picnics and chasing toddlers. It is really a special place.

COMPARITIVE COSTS :

In February of this year, when we surprisingly learned the City was going to again try for a parking lot, we asked to meet with City planner Dave Webb. We asked him how come the City didn't build the bridge over Superior, or take other measures to make it safe for park visitors, or consider other options that would mitigate the impact of a parking lot on us. His repeated response was that it was cost, cost cost.

We pointed out that neighboring cities like Huntington Beach, Dana Point, Costa Mesa, Irvine, to name a few have bridges across busy streets to protect its visitors.

My goodness the City of Newport itself has a very underutilized bridge it built across San Miguel as part of its City Hall project that went \$101 Million over budget !?

What cost to the City/Taxpayers when some unfortunate person gets run over at that intersection ?

Finally Mr. Webb gave a heated but candid response. He stated that the City, unlike private citizens the City is not bound by the Coastal Commission plan approval of 2012, and the City had no intention of doing anything other than going back to the Coastal Commission and getting the road and parking lot they had in the original plans, and we would have to live with that.

All they have to do is what they promised to do to gain passage of the park in the first place. Provide for the safety of park visitors and build a bridge over Superior to the Parking lot To grant the City any kind of road/parking lot now is to reward them for having no respect for the process, this board and the safety of the citizens it is obligated to protect and to serve.

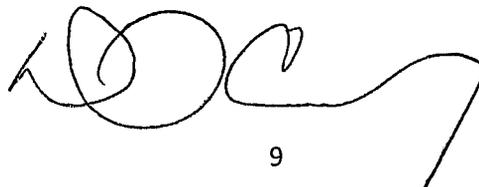
We respectfully request that you deny the road, and parking lot, and remind the City to respect the process, you decision and its citizens, and do what they promised back in 2012, and build a bridge or a feasible alternative.

It would be greatly appreciated, if someone some one from your Commission could come out to Ima Loa Ct. where we live and see from our homes where they propose to place this above-ground parking lot,

Thank You so much for your time and indulgence.

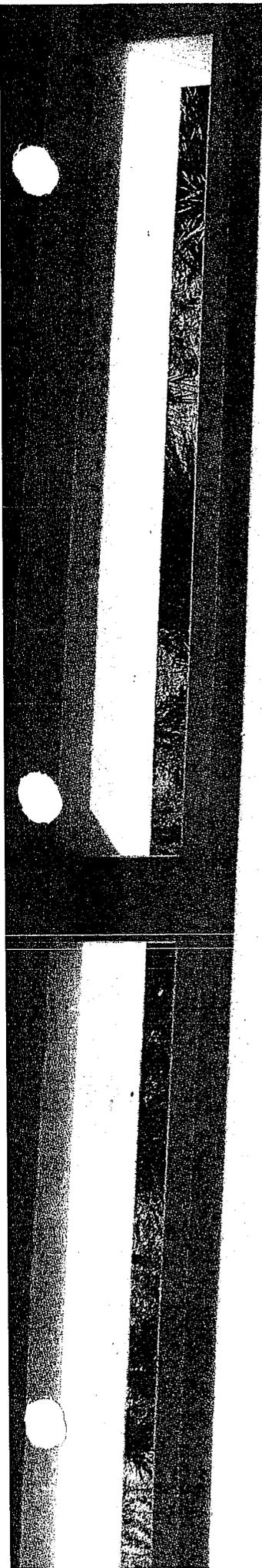
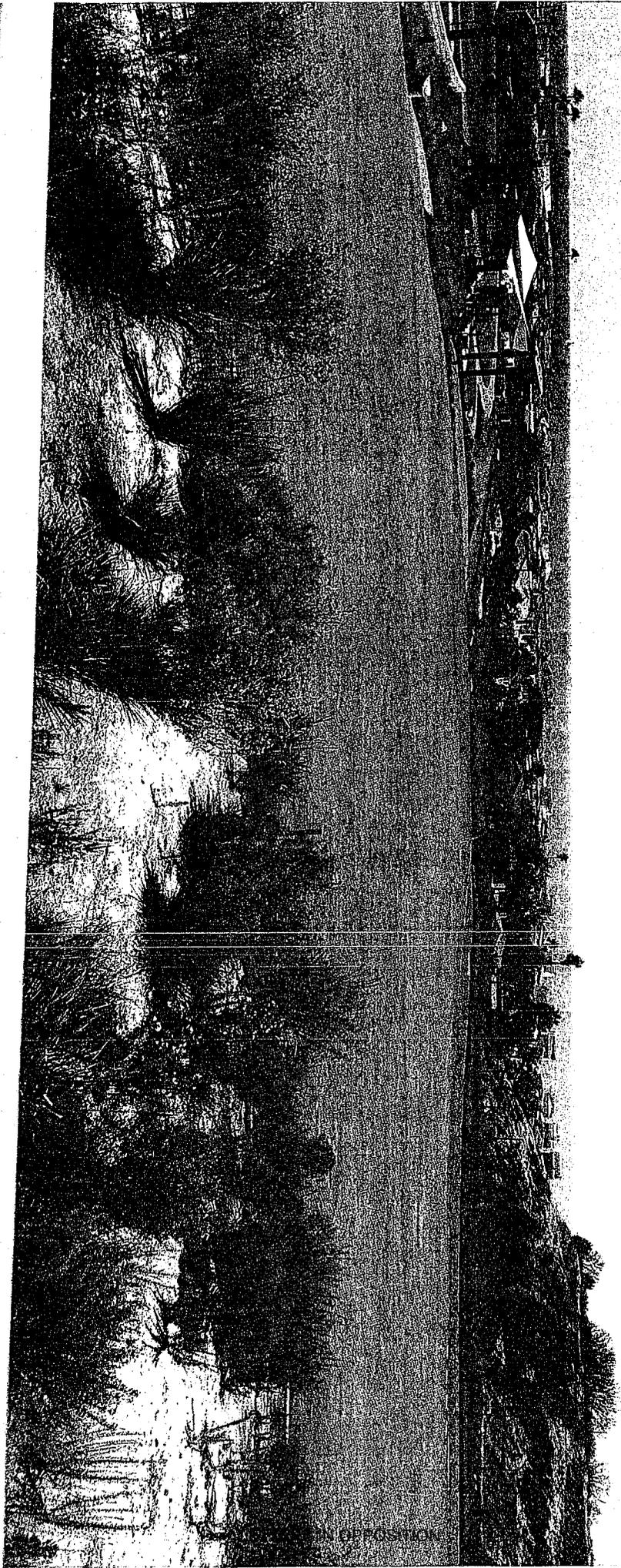
Respectfully ;

Dennis and Stephanie Conway 16 Ima Loa Ct. Newport Beach
949-244-8157

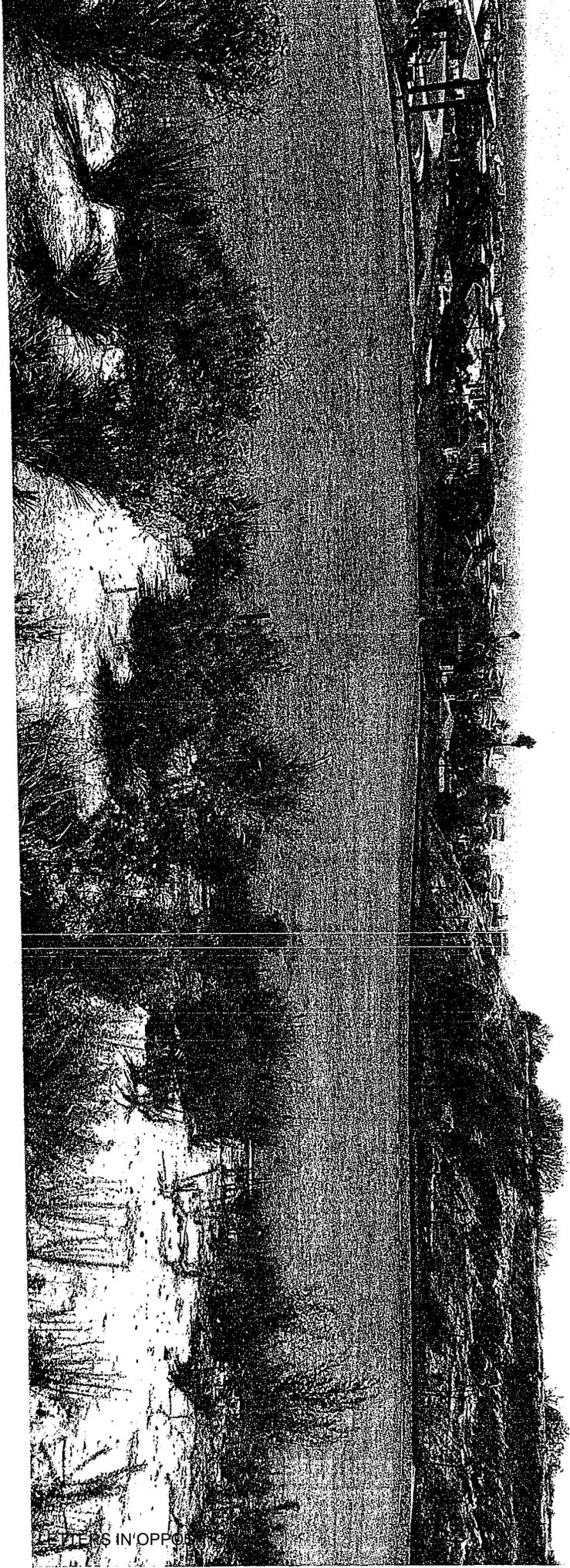
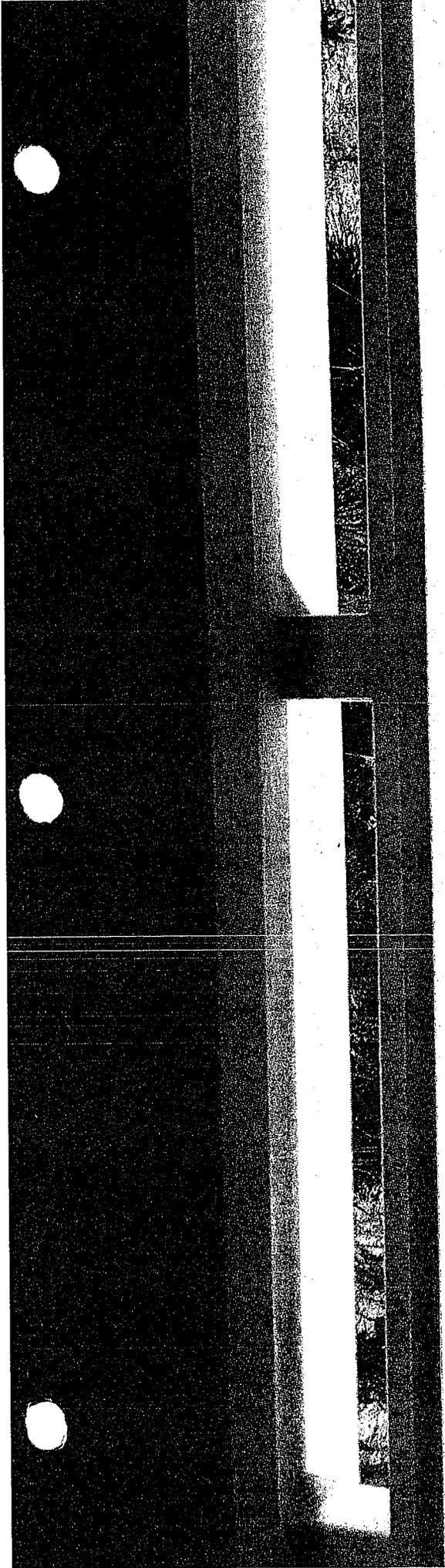


9

From Jo Irma Los Birch



From 20 Finner Lea Ford

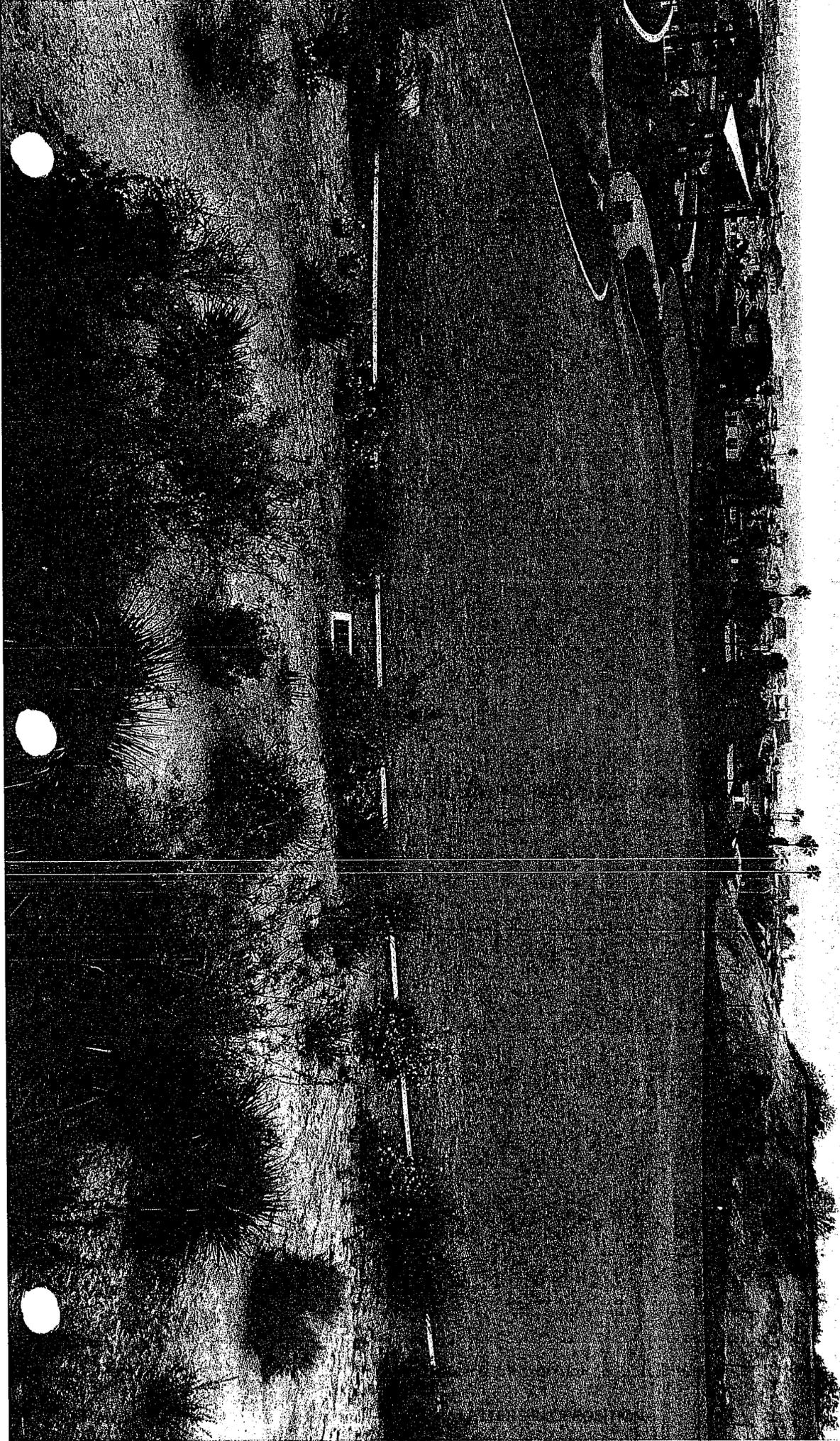


LETTERS IN OPPOS

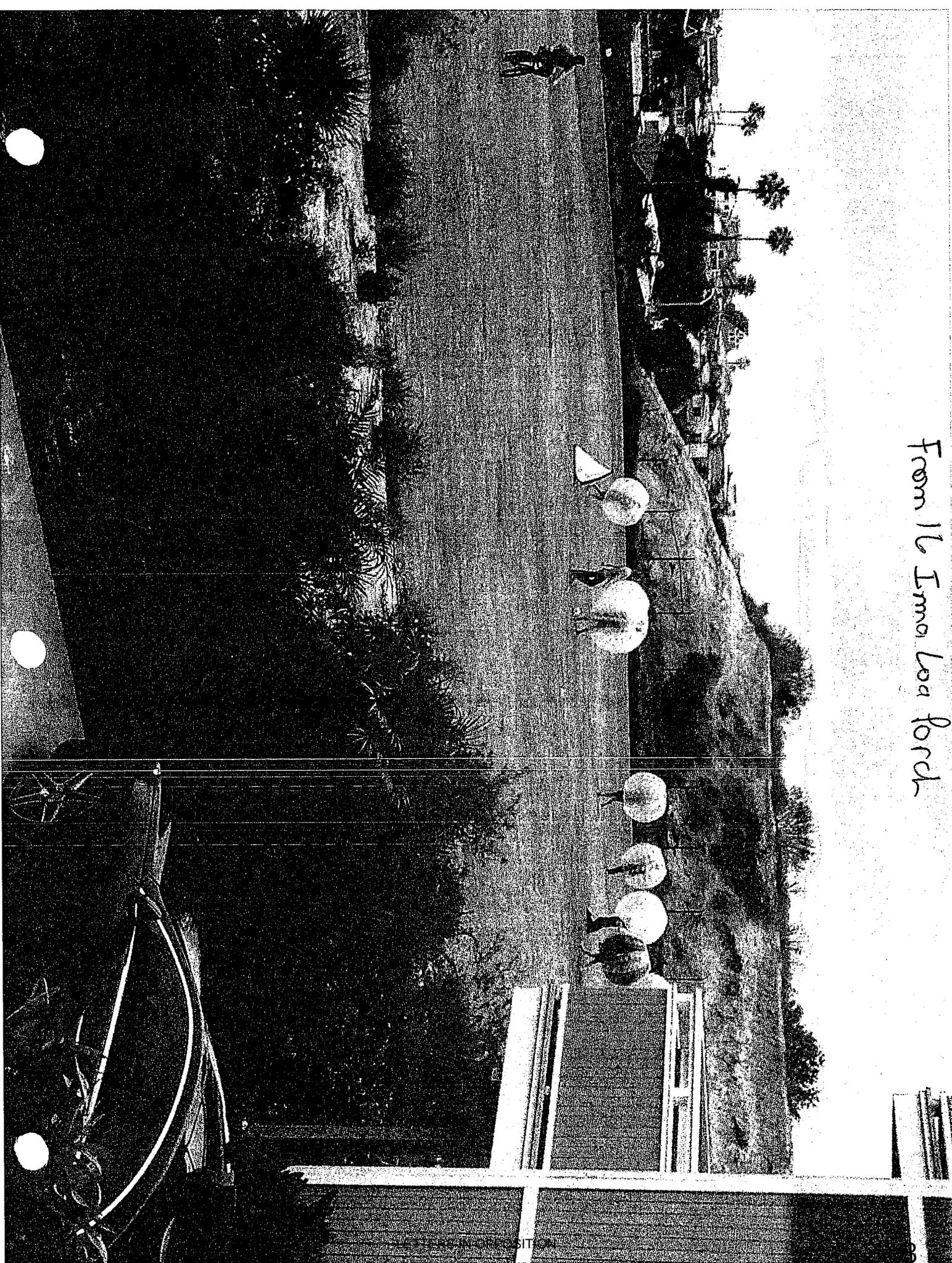
From 18 Ima loa Ford

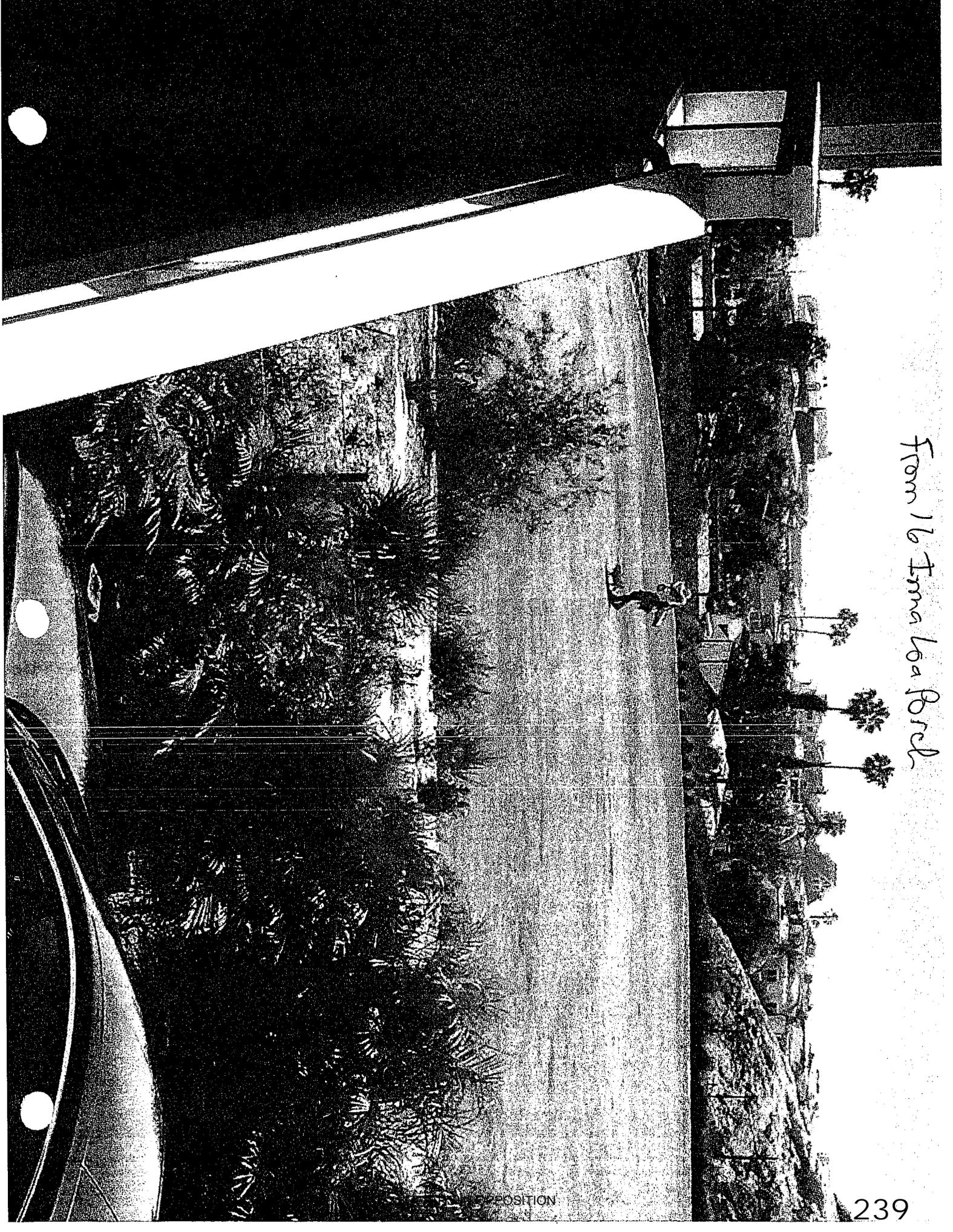


From Irma Lea Porch



From the Immo Log Ford





From 16 Inna Loa Road

POSITION

restrict vehicular access to the site. The access road leads to a gravel turnaround located approximately 120 feet east of the western boundary of the park, and from the turnaround a decomposed granite road leads to the north to access an existing manhole located just to the north of the subject site.

The previous application for an active recreational park at the site, coastal development permit application 5-10-168, included a proposal for a two lane access road sited mostly on the adjacent property owned by Newport Banning Ranch to a proposed parking lot on the Park Site, consistent with the terms of an easement agreement between Newport Banning Ranch and the City. This access road has been eliminated from the revised project proposal. Instead, the City proposes to use the existing 64 space parking lot located on the eastern side of Superior Avenue. The parking lot at Superior Avenue was established by coastal development permit number 5-88-255 and subsequent amendments to mitigate for the loss of street parking resulting from the expansion of Pacific Coast Highway from 4 to 6 lanes. The parking lot is currently used by the public, including use as beach parking to access the beach located approximately 950 feet to the southwest of the lot. The lot is underutilized for the majority of the year, but does receive heavy usage during some holidays and weekends in the peak summer period. The City plans to manage scheduling of games to ensure that adequate parking is provided for games, and to ensure that parking for the proposed active recreational park does not conflict with the parking needs of other uses in the area, such as parking for beach access (Exhibit 22).

The City also proposes to mitigate for impacts to native vegetation on the Park Site through the creation or restoration of 1.5 acres of coastal sage scrub which provides foraging and breeding opportunities for the California gnatcatcher at an off-site mitigation area.

3. History & Current Planning

Caltrans graded the 13.7 acre Park Site heavily at some point prior to the Coastal Act, resulting in significant alterations to the topography of the site. The topography of the Park site historically consisted of a mesa which extended continuously across the site. However, excavation and use of the site as a source of soil for other Caltrans projects has significantly modified the Park Site, resulting in the two artificial terraces present on the east and west portions of the site present today. The majority of the subject site now lies at a lowered elevation of approximately 44 feet, with the remnant portions of the mesa on the north eastern corner of the Park Site and the eastern portion of the Park Site at the historical elevation of 76 feet above sea level.

The Environmental Impact Report (EIR) for the project states that the Park Site has been mowed historically and continues to be mowed frequently and routinely for fuel modification and weed abatement purposes. The clearance of vegetation on the site will be covered below in Section C, Historical and Existing Vegetation Patterns.

The subject site was acquired by Caltrans in the 1960s in anticipation of an expansion of Coast Highway, which did not occur. The City of Newport Beach approved a number of general plan amendments between 1988 and 1994, which would allow a park use, multi-family residential, and single family residential use on the site. In 1998, the City adopted a general plan amendment which designated the Park Site for use as a neighborhood and view park. In 2001, Senate Bill 124 directed

Sunset Ridge: A Park Without Parking

Posted On 03 Apr 2015 By : Kurt English Comments: 2

There is a new park in West Newport Beach: Sunset Ridge Park, on the northwest corner of Superior and PCH, on the opposite corner from the strip center with the Jacki in the Box. There are ocean views from the park that includes fields for youth sports.

You probably assume that the city built the new park for youth sports with an adjacent parking lot. No! They did not build a parking lot with the park.

So where is the parking for visitors to Sunset Ridge Park?

There is a paid city parking lot across Superior with limited spots. The park is at the corner of a very busy intersection. Other corners include a strip mall that tows cars of drivers who park there and leave, and the back wall of a private community.

There is no free street parking anywhere near the park. There is no safe area to stop a car and drop off children and their equipment either.

In the best case scenario, this forces children and their parents to park in a paid city lot across the street, drag their equipment across a busy street with heavy traffic, and climb stairs to get to the fields. The children may not need warm-ups after running that gauntlet.

The more likely scenario is that on a warm day, beachgoers may fill up the paid parking lot and parents bringing children will have to park a country mile away and haul their equipment to the game and back.

chindy.com/sunset-ridge-a-park-without-parking/

8/29/20

What if an emergency vehicle such as a paramedic, ambulance or police car needs to get to the park to handle a problem? Too bad! No parking lot, and a hill to climb from the street below.

In real estate, a poorly designed property that doesn't maximize the efficiency of use is called functionally obsolescent, even if it is not near the end of its useful life. This omission endangers child safety, and is a monument to government inefficiency.

I asked Councilman Peotter, who is an architect and developer in his day job, why the city would build a park for youth sports without adequate parking.

Peotter said that the original design of Sunset Ridge Park called for access off of PCH, and new signal to be installed. This would have allowed cars orderly entrance and exit into the parking lot to be built next to the park.

Peotter said that the Banning Ranch Conservancy opposed the light and the parking lot, with the Coastal Commission. The Conservancy people thought that a parking lot entrance off of PCH would be the first step to building streets into the Banning Ranch area and then developing it. Peotter added that the Coastal Commission Staff didn't want any approval of the parking lot to facilitate approval of a Banning Ranch development.

Newport Beach citizens shouldn't be surprised that the Coastal Commission and Banning Ranch Conservancy ignored child welfare in favor of an anti-property rights, anti-taxpayer, anti-efficiency agenda. But the old city council should not have capitulated. Instead they should have prioritized child welfare and pressed for approval of a parking lot with the park. The Banning Ranch issue is separate.

So now, the city needs to prioritize child safety and get an adjacent parking lot built as soon as possible.

From: [Kath](#)
To: BanningRanchComments@Coastal
Subject: Agenda Item 5-15-2097
Date: Friday, August 26, 2016 1:52:42 PM

Dear Honorable Chair Kinsey, Commissioners and Staff,

I am writing you to state my opposition to development at Banning Ranch. Due to the overdevelopment which has stripped the Southern California coastline of much of its natural resources, Banning Ranch is now one of our last unprotected open spaces which contains vital diverse native wildlife habitat and is one of the few remaining pieces of the cultural landscape for the local Native Americans of this area. I urge you to uphold the Coastal Act and its protections for these natural and cultural resources at Banning Ranch and DENY the development proposal before you in its entirety.

The compromise produced by the landowners will still result in the destruction of environmentally sensitive habitat areas both directly and indirectly. This is a violation of the Coastal Act. The proposed restoration by developer led groups will not mitigate for the loss of intact and functioning habitat and open space.

At Bolsa Chica a similar compromise led to the desecration of a Native American cemetery and significant destruction within one of North America's most important archaeological sites, after the developer gave assurances to the Commission that this would not happen. Please do not make these same mistakes at Banning Ranch. Our last open spaces, our sensitive environment cannot withstand more loss due to compromise for development.

I urge you to uphold the Coastal Act and deny the proposal for development at Banning Ranch.

Sincerely,

Kathleen Davis
Huntington Beach, CA

From: [Ann Harmer](#)
To: BanningRanchComments@Coastal
Subject: New BRC Letter Campaign Submission
Date: Thursday, August 25, 2016 9:05:12 AM

Letter Body

Dear Honorable Chair Kinsey, Commissioners and Staff,

The Banning Ranch Conservancy, its volunteers and supporters, and thousands of residents of the densely packed communities surrounding Banning Ranch, share grave concerns about the impacts of the proposed development of the Banning Ranch site. Far too many of these impacts exceed regulatory standards and are designated "significant and unavoidable" in the Newport Banning Ranch Environmental Impact Report. (<http://www.newportbeachca.gov/index.aspx?page=2096>).

The Conservancy joins the larger community of volunteers, supporters and residents in requesting your attention to the following concerns (partial list):

+ Banning Ranch is the last large unprotected coastal open space in Orange County.

When it's gone, it's gone forever.

+ 2.8 million cubic yards of soil will be moved and much of it stockpiled on site to prepare the land for development, destroying the environment and exposing the public to unknown levels of contaminants.

+ The destruction of environmentally sensitive habitat areas, threatened wildlife species, coastal wetlands and vernal pools—none of which is allowed by the Coastal Act.

+ The Project's water demands will place a significant burden on our scarce water supply, increasing water shortages.

+ Where's the water coming from? The Project's Water Supply Assessment Report is flawed and outdated by its own admission.

+ TRAFFIC: 15,000 more car trips on our roads, daily! Expect longer commutes, gridlocked intersections.

+ POLLUTION: Air pollution from construction and traffic will exceed state standards.

+ POLLUTION: Noise from traffic and other sources will double allowable noise thresholds.

+ POLLUTION: Greenhouse gas emissions will contribute considerably to the Greenhouse Gas Inventory, accelerating global climate change and rising sea levels.

Despite the severity of these impacts, the Newport Beach City Council approved the Project in July of 2012, resorting to a "Statement of Overriding Considerations" to rationalize away the "significant and unavoidable" impacts cited throughout the EIR. These impacts will put the health and safety of the public at great risk—and will result in the destruction of the Ranch's rare and finite natural resources.

The public and the environment should not be treated as collateral damage to the proposed development. Please hear our concerns and please preserve our precious California coastline. We're counting on you!

Sincerely,

Additional references:

City of Newport Beach EIR, Section 4.6.7, Biological Resources, Environmental Impacts

City of Newport Beach EIR, Section 4.9, Transportation and Circulation

City of Newport Beach EIR, Section 4.10, Air Quality (Table 4.10-7 Estimated Maximum Daily

Construction Emissions: Unmitigated)

City of Newport Beach EIR, Section 6.0, Long Term Implications of the Proposed Project

Name

Ann Harmer

Email

harmerann@netscape.net

Phone

(949) 631-3322

Address

601 SAN MICHEL DR S UNIT B
COSTA MESA, California 92627
United States
[Map It](#)

~~RECEIVED
South Coast Region
AUG 29 2016
CALIFORNIA
COASTAL COMMISSION~~

From: Olga Reynolds [<mailto:ozreynolds@sbcglobal.net>]

Sent: Friday, August 12, 2016 5:07 PM

To: effie.turnbull-sanders@coastal.ca.gov; dayna.bochco@coastal.ca.gov; mary.luevano@coastal.ca.gov; wendy.mitchell@coastal.ca.gov; mary.shallenberger@coastal.ca.gov; mark.vargas@coastal.ca.gov; martha.mcclure@coastal.ca.gov; steve.kinsey@coastal.ca.gov; erick.howell@coastal.ca.gov; roberto.uranga@coastal.gov; greg.cox@coastal.ca.gov; carole.groom@goastal.ca.gov

Subject: Fwd: Another Banning Ranch Letter

Esteemed California Coastal Commissioners,

I am forwarding a letter of concern on development of our pristine native, natural, and historic land along the coast in Orange County---Banning Ranch.

Thank you for your time.

Olga Zapata Reynolds

Sent from my iPad

Begin forwarded message:

From: Mathew Forth <mforth@greenpeace.org>

Date: August 5, 2016 at 10:41:10 AM PDT

To: Ozreynolds <ozreynolds@sbcglobal.net>, Bill McCarty <mccarty.video@gmail.com>

Subject: Another Banning Ranch Letter

Reply-To: mforth@greenpeace.org

RECEIVED
South Coast Region

AUG 12 2016

CALIFORNIA
COASTAL COMMISSION

To Whom it May Concern:

Banning Ranch is a very special area and it would negatively effect the community if the Coastal Commission were to allow Shell Oil, Exxon, and other companies to take the land. It is one of the last wild and open spaces left for future generations to enjoy, and is home to many threatened and rare species, such as the burrowing owl. Destroying this bit of nature will ruin the quality of life for the surrounding community in many ways.

First of all, nature is extremely important to humanity. Humans come from nature, and we need places around where we can go to remember and reestablish that connection. Not to mention, it's a great place for kids to go to learn about nature and the rare species living there.

Secondly, big oil does not need to be taking one of the last local coastal areas. They plan on creating 83 new drilling wells. In doing so, they will need to dig up the soil. This will release toxins into our atmosphere. That, combined with the fact that they are drilling, will greatly pollute the surrounding areas. We need to be doing everything we can to stop big oil and keep fossil fuels in the ground. By allowing these companies to drill, not only will it destroy the surrounding community, but it will have detrimental effects on our whole planet. Climate change is no joke, and if humans want to survive on this planet, we must do everything in our power to preserve the beautiful sources where nature has been untouched by humans.

Sincerely,

Samantha Berman

--

Mathew Forth

Orange County Campaign Coordinator

Office : (949) 791-2373

Cell : (714) 697-4453

Greenpeace USA, Washington, D.C.



GABRIELENO TONGVA
SAN GABRIEL BAND OF MISSION INDIANS

August 05, 2016

Teresa Henry
District Manager
South Coast District Office
California Coastal Commission
200 OceanGate, 105th floor
Long Beach, CA 90802

Greetings Ms. Henry,

This letter is in response to the California Coastal Commission's Administrative Permit, Application No. 5-16-0649, Applicant - Newport Banning Ranch, LLC. The Gabrieleno Tongva San Gabriel Band of Mission Indians would like to address concerns regarding the proposed archeological investigations (STP's & Mechanical Test Trenches), including the Ground Penetrating Radar (GPR) occurrence, and the future development of the 401 acre Banning Ranch parcel, considered to be a Traditional Cultural Property listed on the Sacred Lands File.

The proposed STP's would be unnecessary to determine the so called site boundaries, when in fact the site boundaries are already determined. It would be evident that based on each recorded cultural resources and their site location already comprises to establish the site boundaries within the Banning Ranch property. Our Tribal Council, along with prior State Historical Preservation Officer (SHPO) have defined that although various sites have been given discrete identifiers, it's important to remember that they are all part of a larger property. Site numbers are merely recording conveniences and each represents a part of a whole.

Besides, STP's could be inappropriate means to evaluate significant Traditional Cultural Properties, and would be the most minimal method of evaluation lacking accurate results due to the consideration of the parity percentage of impacted cultural land by development vs. the volume of soils being excavated from a STP. Because of existing waterways within the property, I believe this development is compliant to section 106 which addresses adequate levels of testing (36 CFR Part 800.4(b)(1)Level of effort, & (c) Evaluate historic significance). Also guidance from the CA NAHC regarding appropriate dignified and respectful methods of avoidance to evaluate such properties listed on the Sacred Lands File will be useful.

To address Ground Penetrating Radar, our concerns are that GPR would not be considered an appropriate method to rely on to determine the presence or absence of human remains, or for any cultural resources, in my opinion. As you may be aware, GPR analysis detects sub surface anomalies (voids), that I believe can only be detected in larger magnitudes. To be precise, prior

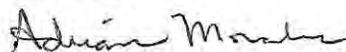
projects that our tribe has been directly involved under MLD status, GPR testing was initiated and failed to identify several intact ancestral remains at both the Hellman Ranch, Landing Hill Project in Seal Beach, and the Bolsa Chica Mesa, Huntington Beach, in which Dr. Wiley / Desetaul, described recently as extensive GPR testing was performed that failed to identify human remains but good enough to detect on a larger scale old World War II bunkers that existed. Therefore Mechanical Test Trenches would not be necessary on the Banning Ranch property. Mechanical Test Trenches will only create irreparable damage to any cultural resources within a Traditional Cultural Property, and would not be considered a dignified & respectful method pursuant to California AB 52 PRC, Section 106, CA NAHC, and most definitely to our Tribal Council.

To date, as a consulting party, our Tribal Council has not engaged in proper consultation with the landowner - Newport Banning Ranch LLC, nor it's representatives. To go on record, our Tribe had no recollection of any planning to initiate GPR on the property recently until after the fact. Also for the record our Tribal Council is self-reliant regarding cultural resource management, and for federal recognition purposes, does not acknowledge any other so called Gabrieleno Tribe or entity. We identify the others as monitoring enterprises just as they verified on July 05, 2016 at the CCC tribal consultation meeting (Rosas & Salas). Therefore please clarify the terminology regarding CCC Special condition 2(d) Archeological Work and Monitoring. The way I interpret, the landowner acknowledges that there is more than one Gabrieleno entity and Juaneno entity that are consulting parties to their project, and each one with their own recommendations and opinions. Our Tribal Council is recommending that our representative be on site during all monitoring conditions and cannot rely on any other group's representation due to lack of expertise.

Because of the Site Evaluation uncertainties, and the lack of proper tribal consultation in part is the landowner's obligation, we ask that the CCC deny any further sub surface evaluations regarding this Administrative Permit, until applicable guidance is provided by all agencies. Our tribal recommendations also include:

- * EIR to address the landowner's revised project design.
- * Landowner to initiate AB 52 CEQA PRC
- * Verification of Section 106 36 CFR Part 800. 4(b)(1) Level of effort, & (c) Evaluate historic significance. To my recollection, this may initiate part 800.8 Coordination with the National Environmental Policy Act (federal agencies early participation and guidance).
- * Guidance from CA NAHC in regards on how to evaluate Traditional Cultural Properties listed on the Sacred Lands File.

Thank you for your immediate resolution to this matter.
Sincerely,



Adrian Morales
Director of Cultural Resource Management Consultation
Gabrieleno Tongva San Gabriel Band of Mission Indians



GABRIELENO/TONGVA
SAN GABRIEL BAND OF MISSION INDIANS

February 24, 2016

Rob Wood
Native American Heritage Commission

Regarding: Sacred Lands Inventory

Dear Rob,

We believe that sites ORA-845, 846, 839 and 906 represent one large and significant village site. The individual site numbers represent artificial separations due to oil field development and the outdated archaeological method of looking at each site independent of each other. A burial was found at ORA-839 during WPA archaeological excavations in the 1930s. The majority of this large village site has not been excavated. Based on our tribal traditions, we believe that many more burials are present. This belief is also supported by the proximity to and similarity with the Bolsa Chica sites where numerous burials were discovered. In addition, the large habitation site and the associated camp and special collection sites are part of a large complex of villages that stretch from the mouth of the Santa Ana River upstream to the Gabrieleno political center and sacred village of Genga.

The Banning Ranch sites represent the activities that the ancestors carried out centuries ago and are named in our oral traditions and songs, including artifacts, plant gathering areas, and natural features of the landscape that have spiritual meaning. As such they hold great significance for Gabrieleno descendants as a sacred power area, a place where they could gather to honor the ancestors and gain spiritual renewal. The fact that many of the sites have been disturbed does not diminish the area's spiritual significance as the place of our ancestors.

Respectfully yours,

Anthony Morales
Tribal Chairman
Gabrieleno Tongva San Gabriel Band of Mission Indians

From: Rob Wood <rw_nahc@pacbell.net>

To: chiefrbwife <chiefrbwife@aol.com>

Cc: Patricia Martz <p.martz@cox.net>

Subject: Re: Sacred Lands Application

Date: Thu, Feb 25, 2016 10:30 am

Chief Anthony Morales,

I looked at the material you sent in support of the "Banning Ranch Cultural Properties and Landscape" Sacred Lands File nomination, based on that information and the information on the nomination form that was previously sent, I will be adding the site to the Native American Heritage Commission Sacred Lands File.

If you have any questions, please let me know.

Rob Wood
Associate Environmental Planner
Native American Heritage Commission

Norman J. Suker, P.E., T.E., FITE
14 Odyssey Court
Newport Beach, CA 92663

August 31, 2016

California Costal Commission
South Coast Area Office
200 Oceangate, Suite 1000
Long Beach, CA 90802-4302

RE; Newport Banning Ranch

Dear Commissioners:

This letter is concerning the latest development proposal by Newport Banning Ranch, LLC that the Commission will consider on your September 7-8, 2016 meeting.

I strongly support your Staff's recommendations.

The latest developer's plan is outrageous with regard to the placement of Bluff Rd within approximately 50 feet of Newport Crest homes and my town home which abuts the Banning Ranch property. The impacts of this proposal will render my home of 30 years unliveable because of the noise, street lighting, pollution and loss of privacy. My home and many others do not have air conditioning and double panned windows because we now enjoy the cool ocean breezes and the quiet. The proposed Bluff Road will mean that we can no longer enjoy these amenities and would have to keep our windows closed from the ocean breezes and then install and run air conditioners at our expense. See attachment Exhibit 5 page 3 of 3 from your staff's report. I have darkened the propose Bluff Road alignment for clarity.

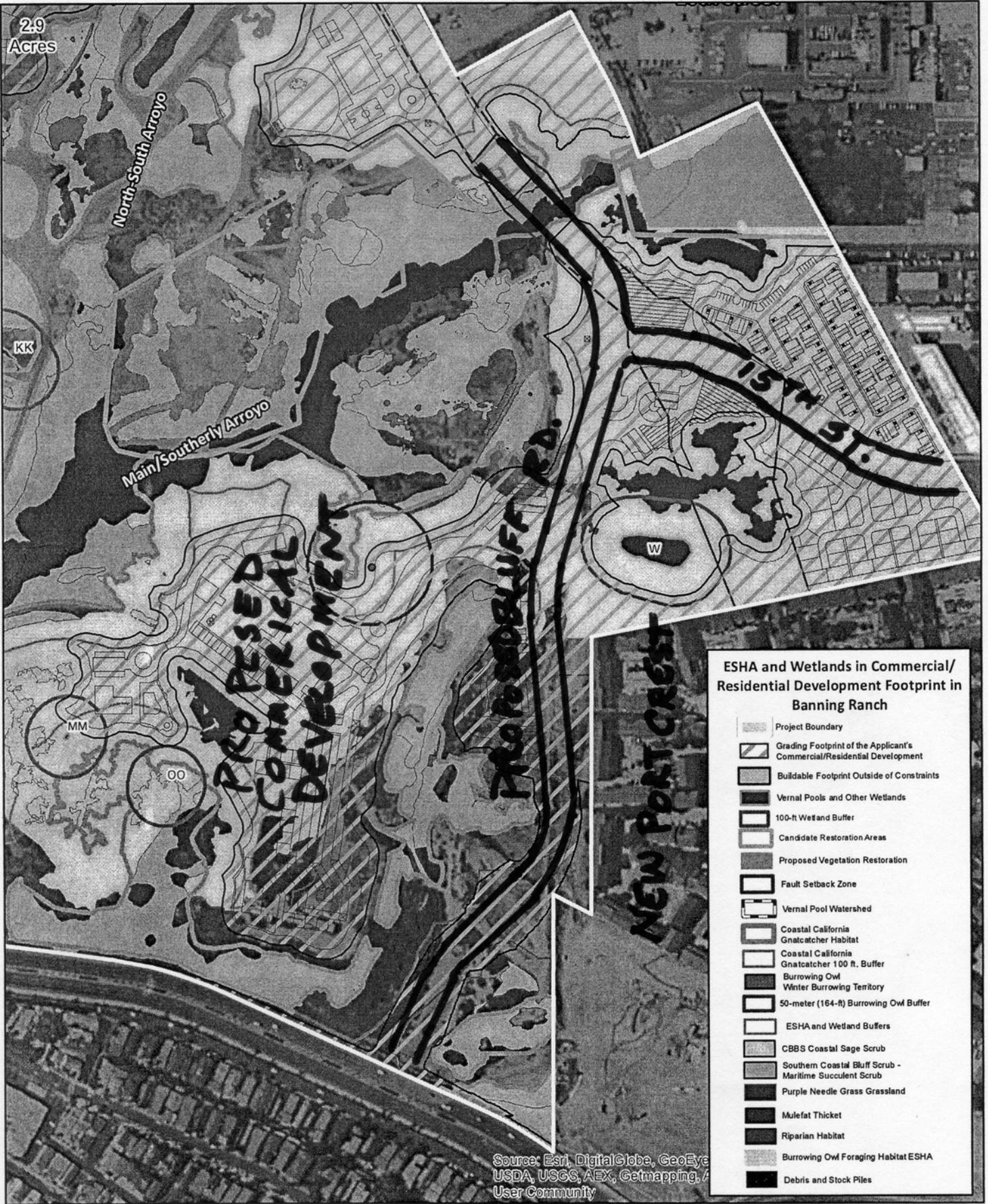
The developer's proposed commercial projects, the hotel and associated building are also outrageous because of the noise, lighting and ocean view obstruction.

To my knowledge, Caltrans has not approved a Bluff Rd./ PCH intersection and traffic signal.

I strongly oppose the Newport Banning Ranch, LLC project.

Sincerely ,


Norman J. Suker



ESHA and Wetlands in Commercial/Residential Development Footprint in the Southern Area of Banning Ranch

5-15-2097, EXHIBIT 5

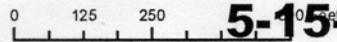
Page 3 of 3

DSM 8/26/16

253



For Illustrative Purposes Only.
Source: Fuscoe, Brooks-Street, Dudek, USACE, CDFW, ESRI, CCC.



DEVELOPER'S LETTERS IN OPPOSITION PROPOSED BLUFF RD

STATE OF CALIFORNIA - BUSINESS, TRANSPORTATION AND HOUSING AGENCY

DEPARTMENT OF TRANSPORTATION

District 12
3337 Michelson Drive, Suite 380
Irvine, CA 92612-8394
Tel: (949) 724-2267
Fax: (949) 724-2592



Flex your power!
Be energy efficient!

Post-It* Fax Note	7571	Date	12-10-09	Page	1
To	Janet Brown	From	D. Davis		
Co./Dept.	PLANNING	Co.	CALTRANS		
Phone #	(9) 644-3236	Phone #	(9) 440-3487		
Fax #	(9) 644-3229	Fax #	(9) 724-2592		

December 9, 2009

Janet Johnson Brown
City of Newport Beach
3300 Newport Blvd.
Newport Beach, CA 92685-8915

File: IGR/CEQA
SCH#: 2009051036
Log #: 2285A
SR-1

Subject: Sunset Ridge Park

Dear Ms. Brown,

Thank you for the opportunity to review and comment on the Draft Environmental Impact Report (DEIR) for the Sunset Ridge Park Project. The project proposes construction of a City park with active and passive recreational uses and an access road to the park through the contiguous private property to the west (Newport Banning Ranch, SCH #2009031061). No nighttime lighting, other than for public safety, is proposed. No nighttime park uses are proposed. The project would include the following uses and facilities: 1 baseball field; 2 soccer fields; playground/picnic area; memorial garden; overlook area with shade structure; pedestrian pathways and bike rack; restroom facilities; up to 119 parking spaces. A signal is proposed on West Coast Highway at the park access road. The City also proposes to widen a portion of the northern side of West Coast Highway from Superior Avenue to a point west of the park access road. The nearest State route to the project site is SR-1.

The California Department of Transportation (Department), District 12 is a responsible agency on this project and has the following comment:

1. Table 1-1, Threshold 4.3-3 in the Level of Significance After Mitigation column should read, "Less than significant impact with mitigation incorporation".
2. The proposed signalized intersection is not recommended based on the MUTCD, chapter 4, which reads, "a traffic control signal should not be installed if it shall seriously disrupt progressive traffic flow".

Please continue to keep us informed of this project and any future developments, which could potentially impact State transportation facilities. If you have any questions or need to contact us, please do not hesitate to call Damon Davis at (949) 440-3487.

Sincerely,

Maryam Molavi

Maryam Molavi, Acting Branch Chief
Local Development/Intergovernmental Review

"Caltrans improves mobility across California"

DEPARTMENT OF TRANSPORTATION

3347 MICHELSON DRIVE, SUITE 100
 IRVINE, CA 92612-8894
 PHONE: (949) 724-2659
 FAX: (949) 724-2623
 TTY: (949) 756-7813



*Flex your power!
 Be energy efficient!*

November 22, 2010

Mr. David Webb
 City of Newport Beach
 3300 Newport Boulevard
 Newport Beach, CA 92663

**RE: Sunset Ridge Park Project – 4850 Pacific Coast Highway, Newport Beach Proposed
 Signalized Intersection and Road Widening**

Dear Mr. Webb:

This is a follow up to our November 10, 2010 meeting regarding the proposed signalized intersection and road widening located approximately 800 feet west of the Superior Avenue and Pacific Coast Highway (SR-1) intersection. Following are the California Department of Transportation's (Department) comments:

1. The Department supports the installation of a traffic signal provided the intersection meets the latest CA MUTCD signal warrant(s) and the following conditions:
 - a. The proposed Banning Ranch Development is constructed or
 - b. The City moves forward with an arterial between SR-1 and 19th Street
2. The proposed signalized intersection is inter-connected with adjacent intersections up and down stream from the project location, with appropriate synchronization with Prospect and Orange Streets to the north, as well as Superior Avenue, Hoag Drive and the SR-55 off ramp to the south.

Until such time when condition 1) is met, access to the proposed Sunset Ridge Park may be provided through a right-in / right-out intersection. No left in or out of the park will be allowed during this period. The proposed road widening connecting a right turn only lane on the northbound SR-1 from Superior Avenue to the proposed intersection will be allowed with the Sunset Ridge Park project. We appreciate the opportunity to review the City's proposed Sunset Ridge Park project plans. For questions, please contact Isaac Alonso Rice at (949) 724-2929.

Sincerely,

JAMES PINHEIRO
 Deputy District Director
 Operations, Maintenance & Permits

- c: Isaac Alonso Rice, P.E., T.E., Chief, Traffic Operations North
 Michael J. Sinacori, P.E., Assistant City Engineer

"Caltrans improves mobility across California"

From: [Bonnie Copeland](#)
To: [Dobson, Amber@Coastal](mailto:Dobson.Amber@Coastal)
Subject: Public Comments: Banning Ranch Application and Hearing
Date: Friday, September 02, 2016 3:39:00 PM

From the Coata Mesa Westside Coalition:

Last night we were told that Robyn Vettrains of the Newport Banning Land Trust met with Wendy Leece, formerly a member of the Costa Mesa City Council, with Whittier School parents, and with residents of the apartments adjacent to Banning Ranch and promised these groups that they and their children would have access to a pool and other amenities on the property if the development is approved.

If this is true, we suspect it is the basis of the developer's recent claim of Westside resident support.

And if it is true, it is not valid. Ms. Leece, the school parents, and the apartment residents do not represent the hundreds of Westsiders who have steadfastly opposed this development and Bluff Road.

In fact, neither the Banning Ranch Land Trust nor the developer has approached the Costa Mesa Westside Coalition, the folk who live on 19th Street, or the owners and residents of Freedom Homes (the heavily affected and primarily owner-occupied neighborhood North of 19th Street) with this OR ANY OTHER offer. Except for ads sent to our mailboxes and dropped at our doorsteps, neither the developer nor the land trust have EVER reached out to us!

The Costa Mesa Westside Coalition and the strong majority of Westside residents remain strongly opposed to both Banning Ranch and Bluff Road. Please deny this application!

Sandie Frankiewicz, Bonnie Copeland, Michelle Simpson for the Costa Mesa Westside Coalition

Sent from Samsung tablet



September 2, 2016

California Coastal Commission
South Coast District Office
c/o Ms. Amber Dobson
Ms. Teresa Henry
200 Oceangate , 10th Floor
Long Beach, CA 90802-4416

Via Email Amber.Dobson@coastal.ca.gov
BanningRanchComments@coastal.ca.gov

RE: Application No. 5-15-2097
Application of Newport Banning Ranch, LLC

Dear Honorable Commissioners:

The Newport Crest Homeowners Associations represents 460 condominium owners. The Newport Crest community is bordered to the west, southwest and eastern perimeters by the Banning Ranch property and its residents would be effected by the construction and operation of any development permitted onsite.

As stated in the Staff Recommendation, the project would not include development near Fifteenth Street or the inclusion of Bluff Road. However, if the Commission considers changes to the Staff Recommendation that would permit development near the Newport Crest community, the community asks that the Commission consider the community impacts that the project's air pollution, noise, traffic and nighttime lighting would have during the development period as well as during future operations. Newport Banning Ranch, LLC, and Newport Crest Homeowners Association have been engaged in mitigation discussions to minimize the proposed projects adverse impacts on the Newport Crest community; a final agreement has not been reached.

H O M E O W N E R S A S S O C I A T I O N

210 Intrepid Street · Newport Beach, CA 92663 · 949.631.0925 · Fax 949.631.5433

www.newportcrest.org
LETTERS IN OPPOSITION



NEWPORT CREST
NEWPORT BEACH

If the Commission were to approve changes to the Staff Recommendation that would effect Newport Crest, the community would expect an opportunity to further discuss mitigation measures with Newport Banning Ranch, LLC.

With the recent documentation of the Burrowing Owl population on Banning Ranch property bordering the Newport Crest community, development of this area would go against the Staff Recommendation as well as the recommendation and wishes of Newport Crest Homeowners Association. We encourage the Commission to respect this area by not approving construction on this area.

Newport Crest Homeowners Association thanks all of the parties involved in this lengthy process of research, deliberation and negotiation regarding the Newport Banning Ranch development and the potential impacts on the environment and people.

Sincerely,

The Newport Crest Homeowners Association Board of Directors

Mark Gonzalez, President *Mark Gonzalez*
Ginny Lombardi, Vice President *Ginny Lombardi*
Sharon Boles, Secretary *Sharon A. Boles*
Don Bruner, Treasurer *Don Bruner*
June Palomino, Member at Large *June Palomino*

cc: Mr. Mike Mohler, Senior Project Manager
Mohler@brooks-street.com
Newport Banning Ranch, LLC
1300 Quail Street, Ste. 100
Newport Beach, CA 92660

Treatment of Banning Ranch Compared with Ventura Oil Field Owned by Same Company

Sept 1, 2016

Coastal Commission

200 Oceangate, Long Beach CA 90802

Subject: CDP 5-15-2097 – Banning Ranch

Dear staff,

Please accept this report on the handling of habitat on Banning Ranch. NBR consultants have stated that vegetation clearance on Banning Ranch is similar to what is done at other oil fields. The comparison with a Ventura oil field owned by Aera Energy, part of NBR, contradicts that claim.

NBR biology consultant Dudek:

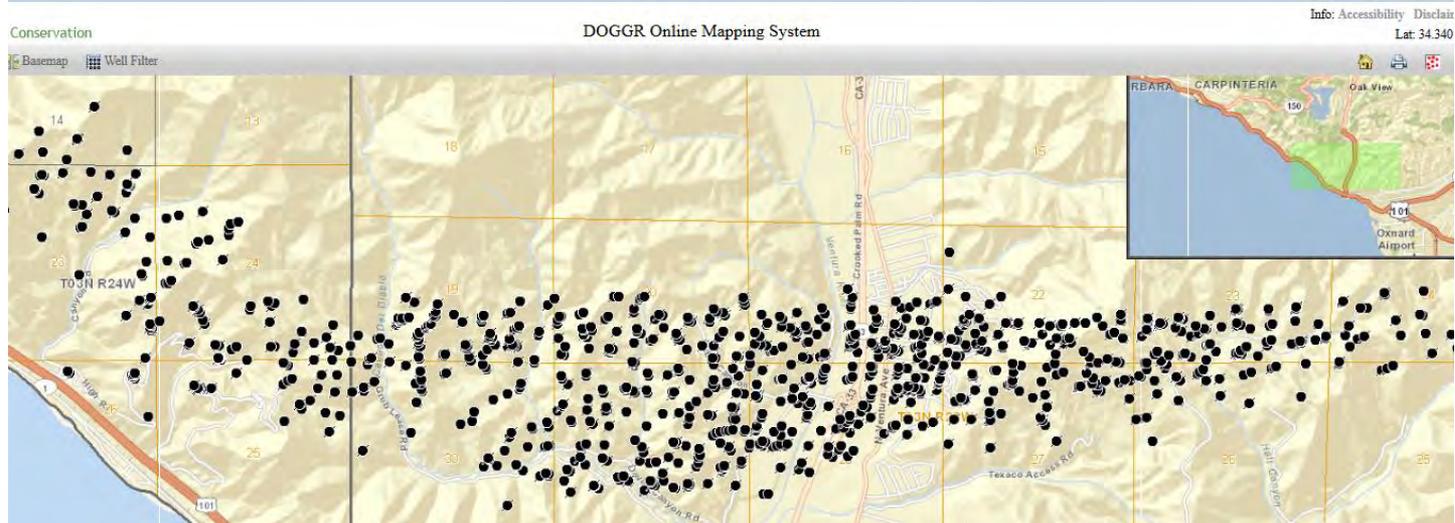
“vegetation maintenance on the Banning Ranch is also consistent with vegetation maintenance practices of similar oil fields located within or proximate to urban areas, as well as oil fields located in less developed locations.”

Native Encelia on Banning Ranch mesa, 2010

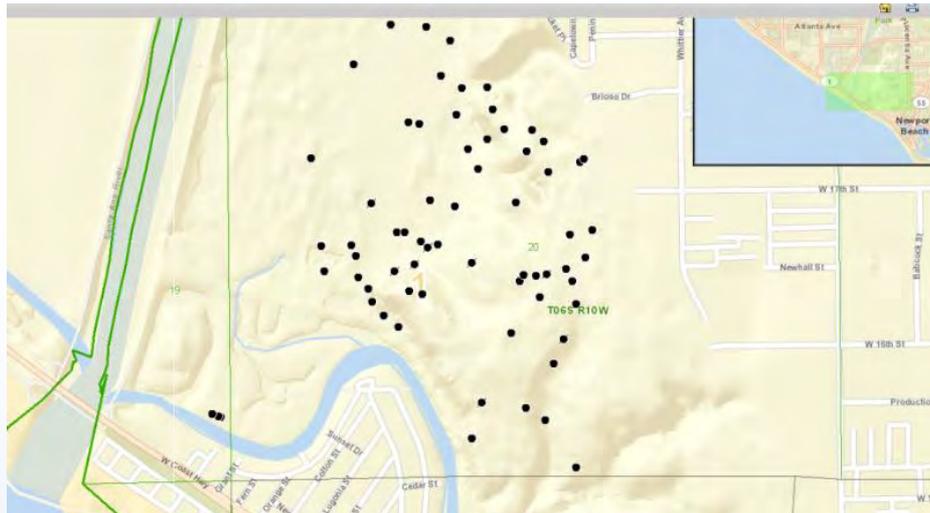


The number and density of wells at Ventura dwarfs that of Banning.

The Ventura oil field is located northwest of the city and has a large number of wells.



The Banning Ranch mesa has few active wells.



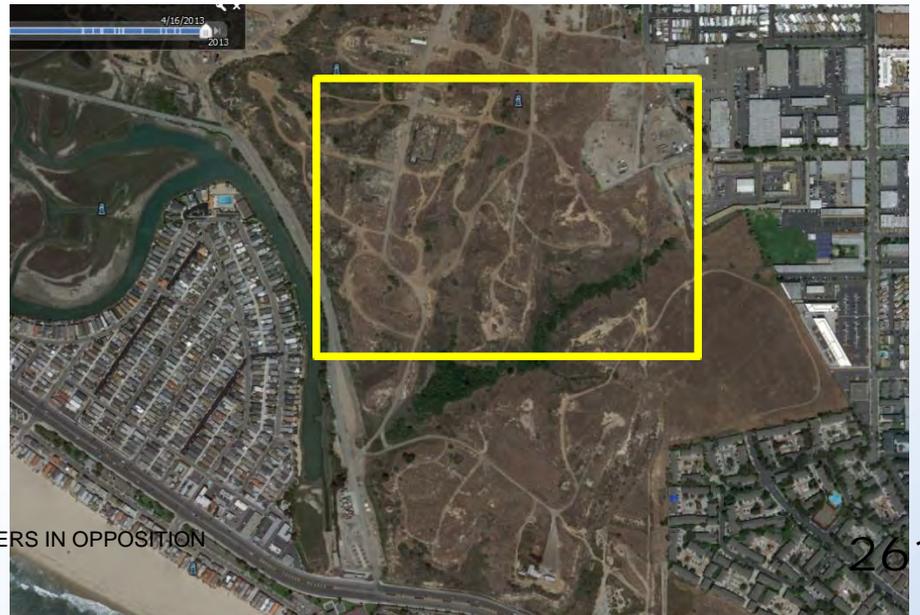
Profiled areas of Banning Ranch and Ventura oil field

Rincon Oil Field north of Ventura

-Native vegetation consists of coastal sage scrub and chaparral.

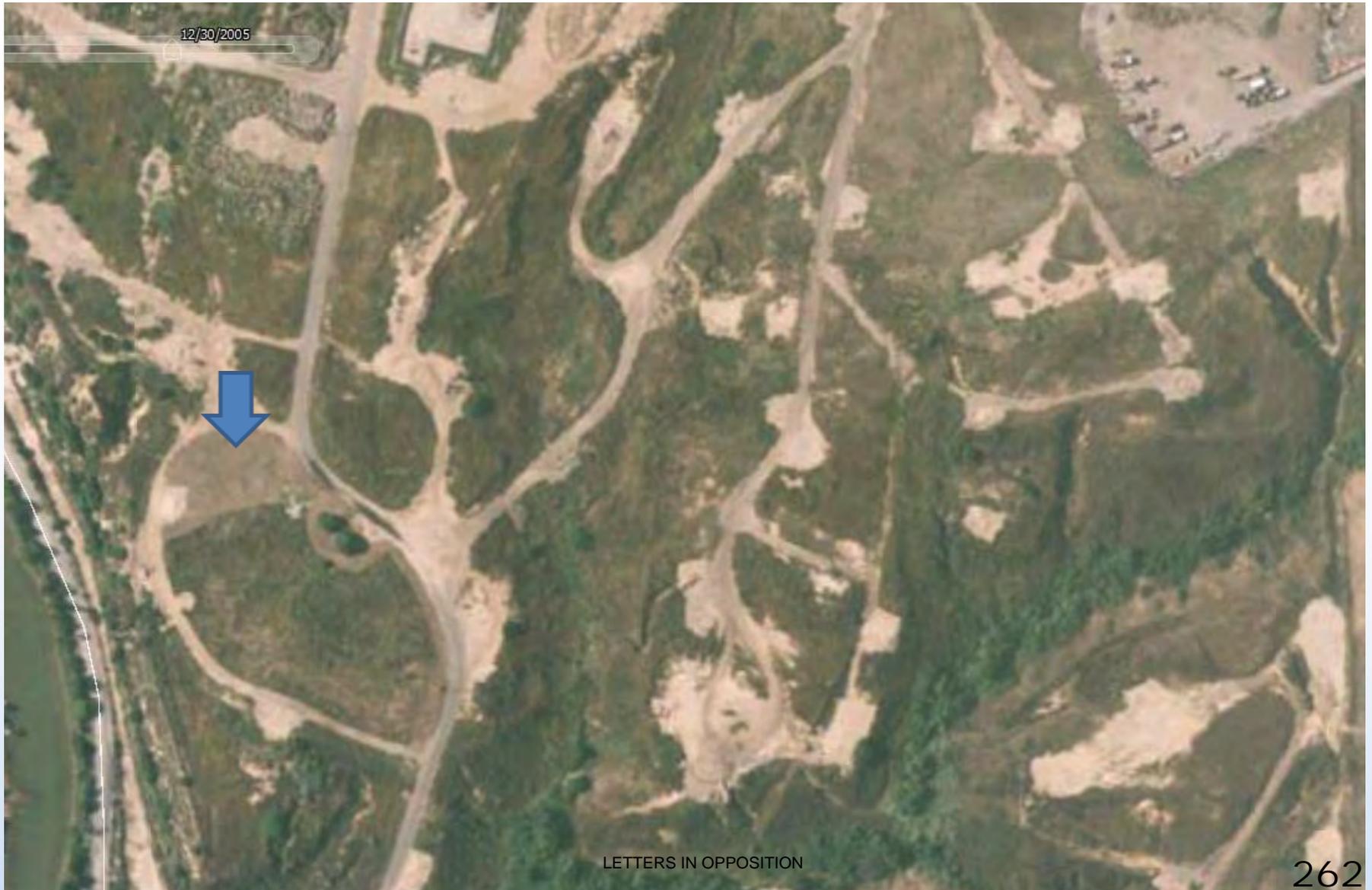


Banning Ranch mesa



Banning Mesa, Dec 2005

Dark areas of texture indicate strong vegetation in 2005 across the mesa.
Blue arrow shows start of mowing, mid winter.



Banning: Oct 2007

After mowing and scraping in 2007 and 2009, few traces of the tough woody native vegetation are left.

Active wells marked in blue.

Biological surveys were conducted at times the site was in this condition.

By 2009, Cactus Wren were determined to be extirpated from the site.



Ventura: Oct 2007

This small segment of the Ventura oil field contains three times the number of active wells as on the entire Banning mesa, yet habitat is largely intact.



Banning: Small area history

Patch of dense trees and brush. Blue arrow shows location of ground shot.

2011: Two scrapes, but otherwise contiguous.



2011: Vegetation intact at center of patch. New scrape.



Mar 2012: Hollowed out with grey glow



Small area history

Area approx 75 yards wide with dense vegetation and no active wells.

Contiguous in 2003 & 2004



2011: Fresh fragmentation at arrows



2011: Rich habitat seen from outer edge of patch.



Small area history

Vernal pool that hosts endangered San Diego Fairy Shrimp.

2010: Significant vegetation.



March 2011: Mowing in process.



2012: Grey glow suggests herbicide.



2013: Same area, largely denuded.



Regularly Maintained Scrapes – Far from operating wells, no apparent function.

Mid section of mesa



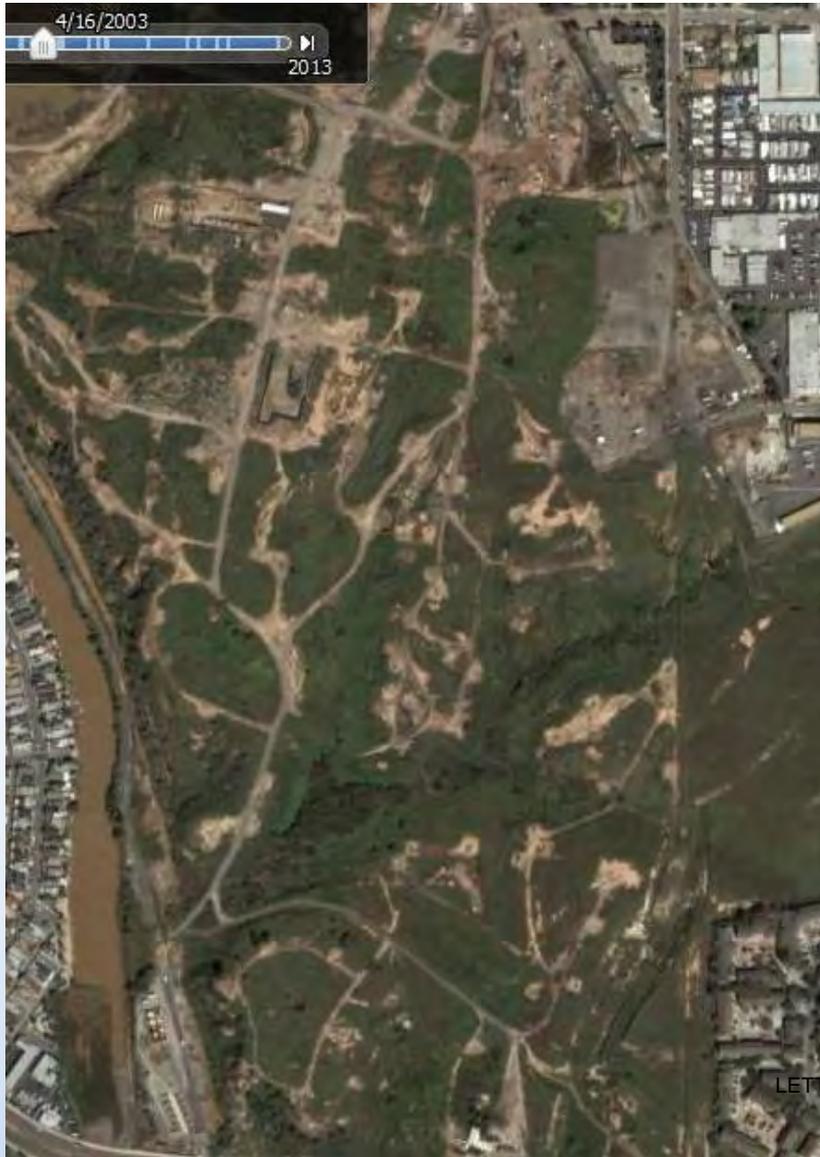
South section of mesa



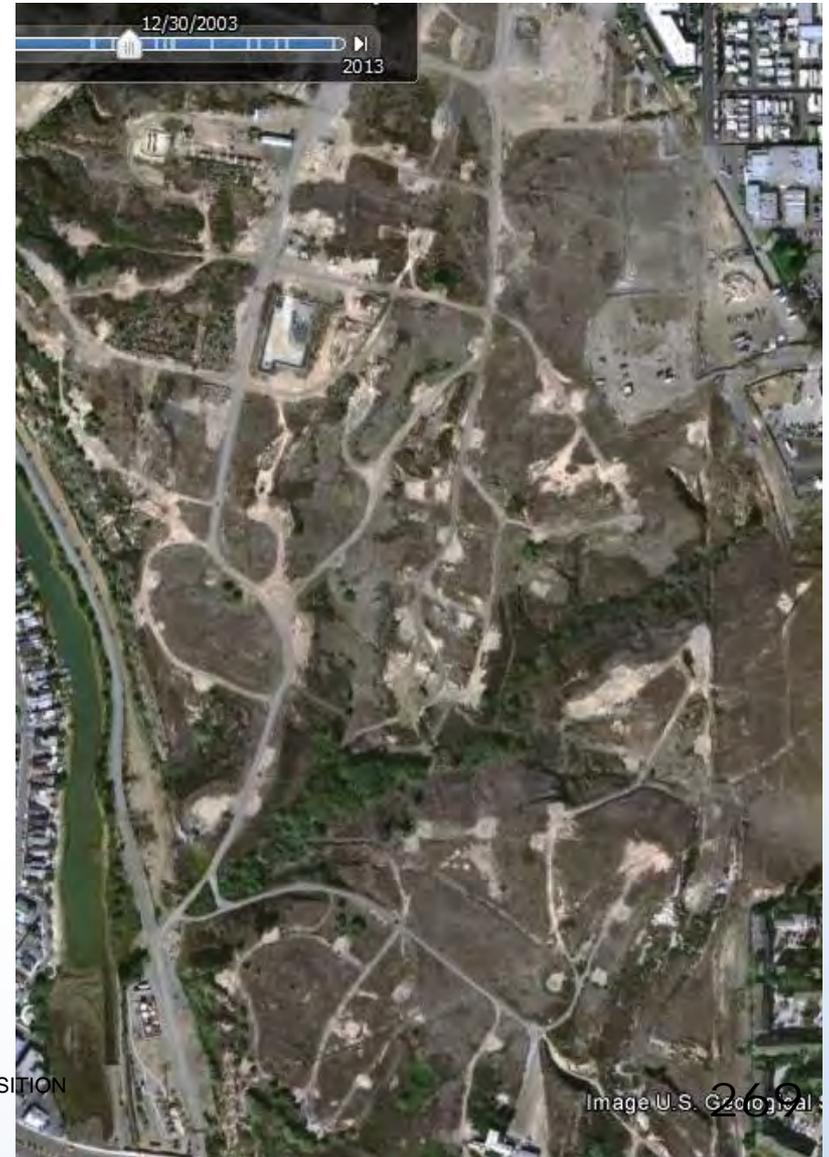
Banning: History

Satellite images show clearly that as habitat grows it is mowed and scraped, as far back as 2003.

Apr 2003: Dense, woody vegetation.



Dec 2003: Heavily mowed and scraped.



Conclusion

The Banning Ranch mesa has been subjected to an ongoing and severe program of vegetation clearing and fragmentation. Other oil fields, even the lowlands of Banning, have not undergone this kind of treatment.

While the vegetation seems able to recover to some extent from the constant abuse, these activities could not have failed to have a detrimental effect on listed species such as the Gnatcatcher population, San Diego Fairy Shrimp population and the Cactus Wren population.

-Kevin Nelson

Nature Commission

949-939-9372

kevin@naturecommission.org



Hermosa Beach Office
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Michelle Black
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Direct Dial:
310-798-2400 Ext. 5

W14d - Requesting Denial

September 1, 2016

Honorable Commissioners
California Coastal Commission
Headquarters Office
45 Fremont Street
Suite 2000
San Francisco, CA 94105-2219

California Coastal Commission
South Coast District Office
c/o Ms. Amber Dobson
Mr. Karl Schwing
200 Oceangate, 10th Floor
Long Beach, CA 90802-4416

Via Email Amber.Dobson@coastal.ca.gov
Karl.Schwing@coastal.ca.gov
BanningRanchComments@coastal.ca.gov

Re: Application No. 5-15-2097
 Application of Newport Banning Ranch, LLC

Dear Honorable Commissioners:

We submit these comments on behalf of the Bolsa Chica Land Trust (BCLT) in support of staff's September 2016 determination that the Banning Ranch development, as proposed by Newport Banning Ranch, LLC (NBR), would violate multiple provisions of the California Coastal Act. California law requires remediation of the oilfield and restoration of habitat acreage, regardless of whether NBR's project is approved. Other components of the project that provide public benefit, such as increased public access to Banning Ranch, could be implemented without the project's mass grading or intense development. Thus, the public benefits offered by the project are illusory and would not offset the project's significant adverse environmental effects. BCLT appreciates the effort that went into the Staff Recommendation and its 55 pages of detailed conditions but cannot support a project that has not yet been designed and publicly vetted.

NBR's project would construct 895 residences, 45,000 square feet of commercial uses, 4 acres of retail, a 75-room hotel, 20-bed hostel, and 6.5 acres of resort uses on roughly 72 acres. An additional 15 acres would be dedicated to remaining oil uses on the property. The project would impose 2.6 million cubic yards of grading and damage or destroy 42 acres of environmentally sensitive habitat areas (ESHA) and wetlands in violation of the California Coastal Act. (September 2016 Staff Report pp. 3, 6, hereafter "Staff Report".)

The Banning Ranch site "consists of 401 acres and is the largest and last remaining privately owned lands of its size along the coast in Southern California." (Staff Report p. 2.) Banning Ranch shares important similarities with Bolsa Chica. Both Banning Ranch and the Bolsa Chica area contain upland and lowland habitats, coastal wetlands, and Coastal Commission-designated environmentally sensitive habitat areas (ESHA) that host rare, threatened, and endangered species. Both are historic centers of Native American activity, with culturally significant archaeological and paleontological artifacts onsite. Due to urban development pressures, like the Bolsa Chica area, the Banning Ranch property is one of the only remaining areas of privately owned open space and habitat remaining on the Orange County coast. Unfortunately, while much of the Bolsa Chica ecosystem has been preserved as the Bolsa Chica Ecological Reserve (and efforts are underway to preserve the remainder), no such permanent protections exist for the Banning Ranch ecosystem. This is important, considering that staff found, "[t]he presence of vernal pools at Banning Ranch adds a layer of diversity not even present at Bolsa Chica." (October 2015 Staff Report on Application No. 5-13-032 ("October 2015 Staff Report") p. 3, herein incorporated by reference.)

BCLT supported Staff's October 2015 recommendation to deny NBR's application 5-13-032 due to its inconsistencies with Coastal Act policies concerning biological resources and the protection of ESHA, potential impacts to archaeological and cultural resources, natural landforms, and the preservation of views. (Pub. Resources Code §§ 30240, 30233, 30231, 30253, 30210, 30251.) NBR's subsequent Project revisions, including its most recent July 10, 2016 revision, do not remove these inconsistencies.

At the October 2015 hearing, the Commission directed Staff to work with the developer to craft a development project acceptable to NBR that would be consistent with the Coastal Act. While Staff has worked diligently to satisfy the Commission's direction, it cannot accomplish the impossible. The September 2016 Staff Recommendation contains 55 pages of special conditions ("staff-recommended alternative") – staff's valiant attempt to shoehorn a commercial and residential development into the 19.7 acres

that can arguably be developed in conformance with the Coastal Act. Staff explains its dilemma in the introduction to the Staff Report:

Given the extent of sensitive habitats and other development constraints on the site, *as well as the large scale of the proposed development and its inconsistency with the Coastal Act*, staff had to develop an extensive and complicated set of recommended conditions to accompany the recommended approval of the project. It has been a significant challenge to develop a set of conditions of approval necessary to bring the proposed project into conformance with the Coastal Act...”

(Staff Report p. 3, emphasis added.) Simply put, the project is too big and the land is too environmentally sensitive to accommodate the project NBR has proposed. BCLT agrees with the Staff Report’s thorough analysis of the project’s inconsistencies with the Coastal Act. The Banning Ranch project must be denied.

Staff has painstakingly crafted 55 special conditions which, when applied to a CDP granted for the Banning Ranch site, may result in a project that complies with the Coastal Act. However, such a project has not yet been designed by the applicant, and approval of such a project at the September 2016 hearing would be premature.

I. Only Preservation of the Property is Consistent with Coastal Act Requirements for Environmentally Sensitive Habitat Areas (ESHA).

Banning Ranch borders sensitive habitat and ecological reserves on both the north and west, and boasts “a remarkable and unique array of sensitive coastal species and habitats, including nesting and foraging habitat for the threatened California Gnatcatcher, a very rare vernal pool watershed that supports the Endangered San Diego fairy shrimp, coastal wetlands, habitat for burrowing owls, and rare purple needlegrass grassland, as well as riparian habitat and coastal marsh lands.” (Staff Report p. 2.) As part of the historic Santa Ana River wetlands complex, the site also hosts part of one of the few remaining wildlife corridors in Southern California used by terrestrial species and birds to travel between the mountains and ocean. (Staff Report p. 32.) Rare plant communities, and state and federally-listed bird species, including the California gnatcatcher, least Bell’s vireo, and coastal cactus wren are found onsite. (Staff Report pp. 33-34.) Burrowing owls have been documented foraging on Banning Ranch’s grasslands, and burrows onsite are used for overwintering. (Staff Report pp. 34, 39.) The site’s vernal pool complexes house federally-listed San Diego fairy shrimp. (Staff Report pp. 33, 39-40.) Notably, the site supports a uniquely rich seed bank. (Staff Report p. 32.) Once development ceases on the site, it is expected that the watershed, animals, and plants native to site will rebound without intervention. (*Ibid.*) The Commission’s ecologists

have identified “a significant amount” of the site as Environmentally Sensitive Habitat Area (ESHA). (Staff Report p. 39.)

Per the Coastal Act, only resource-dependent uses are permitted in ESHAs. (Pub. Resources Code § 30240 (a).) The Coastal Act requires that development adjacent to ESHAs “be sited and designed to prevent impacts which would significantly degrade those areas, and... be compatible with the continuance of those habitat and recreation areas.” (Pub. Resources Code § 30240 (b).) This means that an applicant must avoid developing on an ESHA, as well as siting a project in a manner that indirectly affects ESHA through edge effects, noise, light intrusion, fuel modification for fire reduction purposes, introducing invasive plant or animal species, removing adjacent lands that contribute to the importance of the ESHA (such as raptor foraging grounds), etc.

Although the Project’s footprint has been reduced since the project was heard in October of 2015, the Project’s commercial and residential development would still develop 72 acres of Banning Ranch, with continuing significant and permanent impacts to 42.4 acres of ESHA. The July 2016 project footprint would have impacts to 36 acres of burrowing owl foraging ESHA, alone. (Staff Report p. 50.)

Oilfield abandonment and remediation activities would adversely affect an additional 59 acres of ESHA. (Staff Report p. 59.) Oilfield remediation activities would require extensive grading and excavation to bare earth in areas known to contain sensitive biological resources, including nine acres of sensitive native vegetation. As noted by staff, neither residential, commercial, nor oil remediation activities are considered “resource-dependent” uses of ESHA, and their occurrence within ESHA violates section 30240. Vernal pools would be impacted by remediation and development. (Staff Report pp. 42, 67-69.)

Unfortunately, the Applicant proposes to mitigate impacts to ESHA, as opposed to avoiding all ESHA onsite. This proposal violates California law. California courts have upheld the Coastal Act’s protections for ESHAs. For example, ESHA in the way of a proposed development cannot be moved. It must be preserved instead. In *Bolsa Chica Land Trust v. Superior Court*, the justices held:

[T]he language of section 30240 does not permit a process by which the habitat values of an ESHA can be isolated and then recreated in another location. Rather, a literal reading of the statute protects the area of an ESHA from uses which threaten the habitat values which exist in the ESHA. Importantly, while the obvious goal of section 30240 is to protect habitat values, the express terms of the statute do not provide that protection by treating those values as intangibles which can be moved from place to place to suit the needs of development. Rather, the

terms of the statute protect habitat values by placing strict limits on the uses which may occur in an ESHA and by carefully controlling the manner uses in the area around the ESHA are developed.

(*Bolsa Chica Land Trust v. Superior Court* (1999) 71 Cal.App.4th 493, 507, citations omitted.) Moreover, the deteriorating nature of ESHA cannot be considered with regard to project placement. (*Id.* at 508.) Once ESHA has been determined by the Coastal Commission, it is entitled to the full protections of the Coastal Act. California has lost over 90 percent of its coastal wetlands. Even degraded or drought-affected ESHA must be preserved, especially in locations such as Banning Ranch, where biologists have testified that habitat will recover *without intervention*. The Project cannot be approved until it has been redesigned to *avoid* adverse impacts to ESHA.

Moreover, nothing in the revised submittal indicates that the Applicant has provided the Army Corps of Engineers or the Regional Water Quality Control Board with sufficient information to delineate “waters of the U.S.” as defined in the Clean Water Act. Thus, the U.S. Fish and Wildlife Service has not yet prepared the biological opinion that will identify critical habitat for the San Diego fairy shrimp, and vernal pools and watersheds present on the Banning Ranch property have not yet been delineated. (Staff Report p. 28.) Accordingly, approval of the Project at this time is premature and may result in violations of the Endangered Species Act and Clean Water Act. Additionally, the Commission’s approval of the Project prior to the preparation of this key information would prevent the Commission from exercising its authority to prevent degradation of ESHA that may be determined through these processes, as well as its statutory obligations to protect wetlands and other important habitats.

The July 2016 revised project clearly violates provisions of the Coastal Act designed to protect ESHA, water quality, wetlands, and vernal pools and must be denied.

II. Archaeological and Cultural Resources Are Present Onsite and Require Enforceable Mitigation Conditions.

The Coastal Act provides strong protections for archaeological resources. (Pub. Resources Code § 30244.) Like Bolsa Chica, Banning Ranch “is also known to contain archaeological resources.” (October 2015 Staff Report p. 4.) “Cultural resources have been found on the BR site and many more resources are likely still present, yet to be found.” (Staff Report p. 11.) Eight prehistoric and three historic resources are recorded on the Project site and may be associated with the prehistoric village of Genga. Of the 11 archaeological sites evaluated onsite, three, CA-ORA-839, CA-ORA-844B, and CA-ORA-906, were deemed eligible for listing in the California and National Registers of Historic Places as historical resources. (October 2015 Staff Report p. 60.) The Banning

Ranch site has been recorded with the Native American Heritage Commission (NAHC) as a sacred land, and the NAHC added the “Banning Ranch Cultural Properties and Landscape” to the Sacred Lands Inventory due to its cultural significance. (Staff Report p. 12.) All 401 acres of the site are regarded as a Traditional Cultural Landscape. (Staff Report p. 85.)

The October 2015 staff report noted that the Applicant has attempted to plan around the potential for archaeological resources, but acknowledges the importance of multiple local projects (Brightwater at Bolsa Chica and Hellman Ranch in Seal Beach), where “the location of archeological resources was thought known...only to discover during grading just how highly inaccurate those estimates were.” (October 2015 Staff Report p. 4.) In Bolsa Chica, the applicant and its consultants had determined through extensive preliminary site work that the Project would avoid significant archaeological resources. The subsequent discovery of human remains and other important cultural resources onsite resulted in years of disruption not only to the Project, but to the Native American community while it was determined how to proceed and how to care for the archaeological and paleontological resources unearthed onsite. Similar issues are likely at Banning Ranch, as “the project involves significant grading, there is a high likelihood of discovering additional resources that are currently unknown, especially since the test pits, to date, have been largely outside the proposed development footprint.” (October 2015 Staff Report p. 60.)

The Staff Report notes the important similarities between Banning Ranch and The Ridge property at Bolsa Chica. With regard to the Ridge, the NAHC indicated that areas adjacent to burial sites should be preserved to avoid destruction of cultural resources. State Historic Preservation Officer (SHPO) identified the property as a Traditional Cultural Property and determined that impacts of disturbance at the site of the 2-9,000-year-old village complex site could not be mitigated in a manner consistent with section 30244 of the Coastal Act. Banning Ranch is similar in its association with the prehistoric village of Genga and the rich deposits of cultural resources that have been discovered in adjacent Fairview Park and along the Santa Ana River. (Staff Report p. 92.) Native Americans believe that burials will be found on the site if it is subject to grading and ground disturbance, as ancestors were often buried in coastal locations overlooking water sources. (Staff Report p. 93.) The Staff Report acknowledges that, “the Commission cannot be sure that the development footprint avoids these [cultural and archaeological] resources.” (Staff Report p. 97.) Protection of the property in full is warranted.

BCLT appreciates the staff report’s emphasis on the preference of in-situ preservation of archaeological resources that may be located during Project grading or construction. BCLT agrees with staff that “Complete avoidance of resources during the abandonment and remediation activities is appropriate for the site and could be achieved

through a proposal to cap known resources.” (October 2015 Staff Report p. 60.) The Applicant’s proposal to excavate resources and donate them to the Cooper Center is “not most protective of the cultural resource and is not an appropriate response.” (*Ibid.*) This is especially true with regard to the Applicant’s failure to provide for capping of human burials found during grading. (October 2015 Staff Report p. 60.) In order to avoid the controversy and disruption that occurred with the Brightwater project, the Project conditions must require preservation in-situ and the reconfiguration of the Project to avoid adverse impacts to archaeological resources.

The Brightwater controversy highlighted the importance of having Native American monitors present onsite during any Project grading activities or archaeological investigations. According to the staff report, “Native American tribes note that ancestors were often buried in coastal locations and much evidence exists to support this supposition.” (October 2015 Staff Report p. 59.) BCLT appreciates that the Staff Report acknowledges that the applicant must have monitors on site from all relevant Native American communities, as well as the presence of a paleontologist at all times.

BCLT agrees with staff regarding the need to impose strong and enforceable conditions to protect archaeological resources consistent with Coastal Act section 30244. However, to fully protect this Traditional Cultural Landscape and the archaeological resources present, BCLT urges the Commission to deny the Project.

III. Topography and Air Quality Concerns.

The Coastal Act requires that development shall be sited “to minimize the alteration of natural land forms.” (Pub. Resources Code § 30251.) The Banning Ranch site is unique in that it consists of both an upper mesa and lowland fresh water marsh habitat connected by steep slopes and two major arroyos that cut across the property. (October 2015 Staff Report p. 3.) In order to provide flat building pads for the revised development Project’s 895 residences, commercial, and retail development, the Applicant proposes 2.6 *million* cubic yards of grading. This large amount of grading – and the impact of that grading – cannot be understated. For comparison purposes, remediation of the known soil contamination on the site under the Project discussed at the October 2015 meeting would require the movement of only 270,000-314,000 cubic yards of soil. (Staff Report p. 26.) While 270,000 cubic yards is itself a large amount of soil movement, it pales in comparison to the 2.6 million cubic yards of grading and soil movement proposed. The resulting Banning Ranch site would have vastly different topography than is present now. Although NBR now claims that much of the topography is preserved under the revised plan, this seems impossible if millions of cubic yards of grading will occur. Clearly, the Project would not “minimize the alteration of natural land forms” as required by the Coastal Act.

The revised Project's landform alteration through mass grading would also result in adverse visual impacts to and from the site, in violation of provisions in Coastal Act section 30251, pertaining to visual and scenic qualities. The mass grading and fill of natural drainages violates Coastal Act section 30231 providing for the maintenance of riparian habitats, minimization of the alteration of natural streams and watercourses, and the prevention of sedimentation and runoff that adversely impacts water quality.

In addition to the loss of the site's unique topography, the disturbance of millions of cubic yards of contaminated soils presents substantial air quality concerns for wildlife and for downwind residents. The movement of millions of cubic yards of contaminated dirt around the Project site would lead to contaminated fugitive dust. If this dust settles in uncontaminated portions of the property, the known contamination could spread, with greater impacts to ESHA and wildlife than have been disclosed to the Commission and the City thus far. In a September 4, 2015 letter to the Applicant, which was also submitted to the Commission, the South Coast Air Quality Management District listed a figure of 362,000 cubic yards of soil remediation. This letter expressed grave concerns with the potential health impacts of the proposed soil remediation and disturbance. Thus, the project may violate Coastal Act section 30253, requiring consistency "with requirements imposed by an air pollution control district" to minimize adverse impacts.

Further air quality degradation would be caused by the thousands of diesel truck trips that would be required to move the soil to, from, and around the development site. Microscopic diesel particulate matter contains a host of toxic chemicals that are able to penetrate beyond human lungs and enter the bloodstream. Diesel particulate matter has been linked to a variety of long term and acute cardiopulmonary ailments, including increased risk of heart attack and death. The State of California considers diesel exhaust a toxic air contaminant and a probable human carcinogen. Children and the elderly are especially susceptible to harm caused by diesel exhaust. The impacts of prolonged exposure to diesel exhaust are likely far greater on smaller species, including threatened and endangered species that inhabit Banning Ranch. Thus, the impacts of diesel exhaust on the site's ESHA and sensitive wildlife presents another way in which the proposed Project violates of the Coastal Act.

IV. The Separate Consideration of CDP Application No. 9-15-1649 Constitutes Improper Piecemealing of Environmental Review.

The Staff Report indicates that the project includes the establishment of 15 acres of oil remainder areas, and that "work within which is proposed and currently being reviewed in CDP application NO. 9-15-1649." (Staff Report p. 17.) The Staff Report indicates that these oil remainder areas are part of the project proposed in Application 5-

15-2097. Accordingly, their review and hearing must occur together. CEQA requires environmental review to evaluate the “whole of a project” and not simply its constituent parts when determining whether it will have a significant environmental effect. (CEQA Guidelines § 15003(h).) This is to ensure that, “environmental considerations do not become submerged by chopping a large project into many little ones -- each with a minimal potential impact on the environment -- which cumulatively may have disastrous consequences.” (*Bozung v. Local Agency Formation Commission* (1975) 13 Cal. 3d 263.)

Conclusion

Thank you for your consideration of these comments. BCLT appreciates the technical expertise and careful analysis of the September 2016 Staff Report, including its determination of 219 acres of ESHA and inclusion of ESHA that supports burrowing owl foraging. BCLT also continues to support staff’s October 2015 recommendation and supporting findings for denying Application 5-13-032. As proposed, Application No. 5-15-2097 violates sections 30240, 30233, 30231, 30253, 30210, and 30251 of the Coastal Act, due to its adverse impacts on topography, biological resources including wetlands and vernal pools, and adverse visual impacts through mass grading. Recent updates to the proposal preserving additional acreage do not remedy these inconsistencies with the Coastal Act. The meager benefits promised by the project remain “entwined with substantial impacts to highly sensitive resources and permanent loss of a very rare and valuable ecosystem that cannot be replicated.” (October 2015 Staff Report p. 4.) BCLT reminds the Commission of Applicant’s history of Coastal Act violations and unpermitted development at Banning Ranch. Based on the information before the Commission, only total preservation of the Banning Ranch parcel can satisfy both the ESHA/biological resources and cultural resource protections contained in the Coastal Act.

Sincerely,



Michelle N. Black, on behalf of
Bolsa Chica Land Trust

From: [Gino J. Bruno](#)
To: BanningRanchComments@Coastal
Subject: CCC meeting, September 7th - Banning Ranch proposal
Date: Saturday, August 27, 2016 2:40:57 PM

Commissioners:

Please follow the recommendations of your Staff regarding reducing the area of buildable acres from approximately 55 acres to approximately 20.

The already heavy traffic in that area of the County would be exacerbated if the developers' current proposals are approved.

Thank you.

Gino J. Bruno
Huntington Beach, CA



August 26, 2016

California Coastal Commission
Attention Cassidy Teufel, Coastal Analyst for CDP 9-15-1649
Amber Dobson, Coastal Analyst for CDP 5-15-2097
200 Oceangate, 10th Floor
Long Beach, CA 90802

Re: Coastal Development Permit Number: 9-15-1649
Horizontal Development LLC West Newport East Field, Newport Beach CA 92663

Dear Mr. Cassidy and Ms. Dobson,

The Newport Shores Community Association (NSCA) is comprised of approximately 450 homes in the West Newport Beach area of the City of Newport Beach. Our Association maintains a one-acre clubhouse community area that is for the membership that includes a college size pool, tennis court, basketball court, volleyball court, tot lot and sand beach BBQ area. The NSCA Board of Directors consists of eleven elected members from the community. They are charged with management of the clubhouse facility, common grounds and impacts to the property or community.

The NSCA would like to comment on a specific topic regarding Coastal Development Permit Number: 9-15-1649 (the "Permit"), which may also affect Permit Number: 5-15-2097.

There are two existing routes that are currently used to truck oil from North ORA: 1) a paved road over from North ORA to 17th Street and 2) a network of roads that go from North ORA over the mesa then down to meeting South ORA.

Currently, very few trucks and/or vehicles travel on the gravel road along Semenuik Slough.

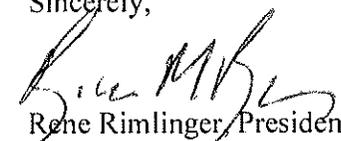
The Permit applicant meet with our community and our community provided feedback on their plan to use the gravel road along Semenuik Slough to the North ORA from West Coast Highway as their only access. The Newport Banning Ranch owners at a previous meeting indicated that the Coastal Commission staff would not support continued access to 17th Street from the North ORA.

Our Community supports the overall consolidation of the oil drilling, however we feel there are issues with the current permit application and would like the following requests to be considered during your review:

- 1) The Commission should allow the continued use of roads, many paved, between 17th Street and North ORA. This would allow for emergency purposes as well as a second route for the operation. It would minimize the traffic along the sensitive bluff and slough areas between the North and South ORAs.
- 2) Applicant shall provide a paved road between the South ORA and North ORA on the Semenuik Slough to minimize dust and noise from the surrounding environment from the West Newport Oil operation. The road plan should address drainage into the slough which is currently uncontrolled.
- 3) The applicant shall also provide a wall or screened fence along the westerly boundary of the property to screen its operations from the adjacent slough. Native landscaping shall be included on the outside of wall to soften the look from home, recreational areas and street ends to the west.
- 4) The applicant shall limit operation traffic to daytime hours, as much as possible.
- 5) The Applicant shall be conditioned to only allow drilling operations during 7:00 a.m. to 9:00 p.m. when its operation can be heard from the surrounding residential community.
- 6) Require the Applicant to commence its drilling operations the furthest from NSCA facility in the North ORA. As the field develops then work their way towards the NSCA facility over time. This would reduce impact to NSCA in the short term and before the field is deemed productive.

Thank you for your consideration in both these CDP applications. Should you have any questions, please do not hesitate to contact me at (714) 342-3289.

Sincerely,


Rene Rimlinger, President
Newport Shores Community Association

Cc: Jay Stair, Horizontal Development LLC
P.O. Box 1547, Newport Beach CA 92659

Steven Rosansky, Director of Government Affairs, Schmitz & Associates
404 Lugonia Street
Newport Beach, CA 92663

From: [Laura & Bob](#)
To: BanningRanchComments@Coastal
Subject: Anticipated meeting - September 2016
Date: Wednesday, August 31, 2016 9:18:58 PM

I appreciate the decorum that the Commission requires. However, last meeting in Newport Beach one member of the Commission got up and came over to talk to the chairman while a speaker was sharing from the floor. In such a case could the clock and speaker be stopped, and everyone be allowed to know what issue is being raised on the platform? Then the speaker on the floor could start again with their allotted time.

Thank you for your consideration.

Laura Smith
21321 Fleet Ln.
Huntington Beach, CA 92646
714-968-3154

In God We Trust



September 1, 2016

Agenda No. W 14d
Application/Permit No. 5-15-2097
Submitted by: Olen Properties Corp.

Via Email: BanningRanchComments@coastal.ca.gov

Coastal Commission Staff
Attn: Amber Dobson, Coastal Program Analyst
CALIFORNIA COASTAL COMMISSION
South Coast District Office
200 OceanGate, 10th Floor
Long Beach, CA 90802-4416

Dear Coastal Commission Staff and all Commissioners:

This letter is written regarding Applicant Newport Banning Ranch, LLC's ("NBR") Application/Permit, referenced above, which is on the Agenda as item no. W 14d of the Coastal Commission's September 7, 2016 Meeting.

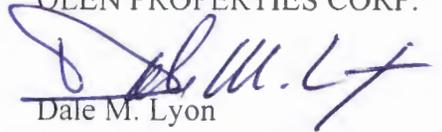
Olen Properties Corp. ("Olen") owns a parcel of real property which was developed as a commercial business park known as Mesa West Business Park ("MWBP"). Olen has an interest in this matter because MWBP neighbors a portion of the NBR Project Location, and as such, Olen would like to bring certain facts to the Coastal Commission's attention for further consideration.

When MWBP was developed, Olen's predecessor in interest entered into a Surface Water Acceptance Agreement with NBR's predecessor in interest. A copy of the Agreement is attached for reference as Exhibit 1. The Agreement allows MWBP's surface water to drain onto NBR's land. The Agreement also required Olen's predecessor to construct a drainage or V-ditch on NBR's land in order to manage the flow of this drainage. Several years later, another neighboring property owner, AA Storage, entered into a similar agreement with NBR, and its surface water also drains into this V-ditch by way of a connecting drainage ditch. Other property owners as well as the City of Costa Mesa also drain surface water here. Olen believes that the V-Ditch appears to be located in sensitive environmental habitat on the NBR land. Further, it should be noted that the V-Ditch is in a damaged condition and needs to be repaired by NBR.

NBR's most recent plans for this Project raise two important issues. First, we want to ensure that the existing drainage agreements, including all neighboring properties and the City's drainage, are maintained and part of the plan. Presently, this is not clear. (Please see copy of Project map attached as Exhibit 2.) The plans do not indicate how the V-ditch or the various neighboring properties' surface water drainage will be impacted if this Project goes forward. (Please see the map of current drainage area indicated as #1 in red, attached as Exhibit 3).

Second, the plan reflects that a "Vernal Pool" will be located on what is now an existing mesa/high ground. (Please see #2 indicated in red on Exhibit 3.) Either the NBR plan misrepresents a "Vernal Pool" in that location, or the addition of one in that location will significantly impact the current V-ditch as well as the current retaining wall for the California Seabreeze Community Association adjacent to this spot. Accordingly, we strongly urge the Coastal Commission to consider these issues and require clarification and assurances from NBR.

Sincerely,
OLEN PROPERTIES CORP.



Dale M. Lyon
Senior Vice President, Construction

Encls.

Exhibit 1

10 401 C
(Corporation)

TI

STATE OF CALIFORNIA
COUNTY OF ORANGE } SS.

On APRIL 10, 1981 before me, the undersigned, a Notary Public in and for said State, personally appeared IGOR M. GLENICOFF known to me to be the N/A President, and N/A known to me to be the 418 Secretary of the corporation that executed the within instrument. Known to me to be the persons who executed the within instrument on behalf of the corporation therein named, and acknowledged to me that such corporation executed the within instrument pursuant to its by-laws or a resolution of its board of directors.

WITNESS my hand and official seal.
Signature Renee Anne Wilson
Renee Anne Wilson
Name (Typed or Printed)



(This area for official notarial seals)

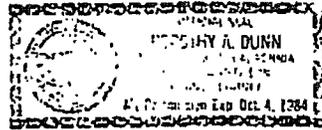
10 401 C
(Corporation)

TI

STATE OF CALIFORNIA
COUNTY OF Orange } SS.

On April 14, 1981 before me, the undersigned, a Notary Public in and for said State, personally appeared W. A. Castle known to me to be the President and III known to me to be the Secretary of the corporation that executed the within instrument. Known to me to be the persons who executed the within instrument on behalf of the corporation therein named, and acknowledged to me that such corporation executed the within instrument pursuant to its by-laws or a resolution of its board of directors.

WITNESS my hand and official seal.
Signature W. A. Castle
W. A. Castle
Name (Typed or Printed)



(This area for official notarial seals)

LEGAL DESCRIPTION - BEECO, LTD. PROPERTY

All that certain land situated in the County of Orange, State of California, being a portion of lots B, C, and D, all in the "Banning Tract" as shown on a map of said tract filed in the case of Hancock Banning and others vs Mary H. Banning for partition, being Case No. 6385 upon the register of actions of the Superior Court of Los Angeles County, California, and a portion of Rancho Santiago de Santa Ana, described in Book 3, Page 387 of Patents, records of Los Angeles County, California, as described in I in Exhibit A to Deed from Hancock Banning, Jr., et al, "Grantors" to Beeco Ltd., a California corporation, "Grantee" dated August 1, 1958 and recorded August 29, 1958 in Book 4400, at page 532 and as recorded October 6, 1958 in Book 4437 at Page 228, all in Official Records of Orange County, California.

EXHIBIT "A"



LEGAL DESCRIPTION - WADCO PROPERTY

All that certain land situated in the State of California, County of Orange, City of Costa Mesa, described as follows:

Parcels 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, and 11 as shown on a map filed in Book 148, Pages 10 and 11 of Parcel Maps, in the Office of the County Recorder of Orange County, California

EXHIBIT "B"

INITIAL
[Handwritten Signature]

EXHIBIT 2



LETTERS OF CONCERN

Parkhill Dr

Center

Spinnaker Run

Nantucket Pl

Peninsula Pl

Capetown Cir

Nantucket Pl

Regatta Run

Peninsula Pl

W 18th St

Ocean Ct

Yacht of Am

Fish

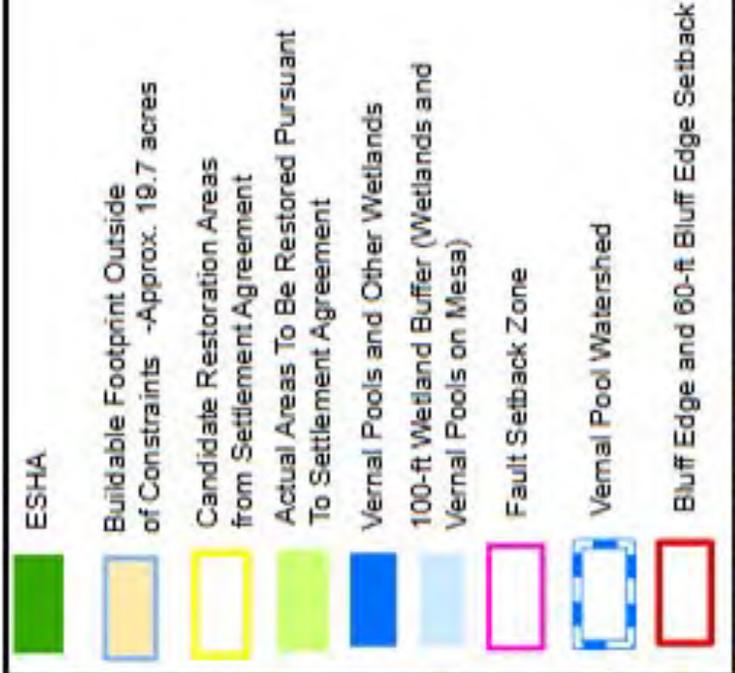
Son De La Salsa SDLS

Lucy L

Right Eyewear

1 Source Productions

EXHIBIT 3



EX PARTE COMMUNICATION DISCLOSURE FORM

RECEIVED

Filed by Commissioner: Greg Cox

AUG 29 2016

CALIFORNIA
COASTAL COMMISSION

- 1) Name or description of project: Newport Banning Ranch
- 2) Date and time of receipt of communication: Thursday, August 25, 2016, 10:30am
- 3) Location of communication: 1600 Pacific Highway, San Diego, CA 92101
- 4) Identity of person(s) initiating communication: David B. Neish
- 5) Identity of person(s) on whose behalf communication was made: Newport Banning Ranch
- 6) Identity of persons(s) receiving communication: Victor Avina
- 7) Identity of all person(s) present during the communication: David B. Neish, David J. Neish, Michael Mohler, Victor Avina

Complete, comprehensive description of communication content (attach complete set of any text or graphic material presented):

On Wednesday, August 25, at approximately 10:30 a.m., my staff member Victor Avina had a meeting with David B. Neish, David J. Neish and Michael Mohler, representatives of the Newport Banning Ranch project. In the approximately one-hour meeting, they discussed the three main points of disagreement between the project proponents and Coast Commission staff: a cul-de-sac design vs the construction of Bluff Road, the extent of a buffer zone surrounding the project and the existence of wetlands in the oil pipeline repair project sites.

The representatives also:

- * gave a recap of the digging test sites and reported that nothing of archaeological significance found after four, 12-hour days of digging.
- * outlined the reduced project footprint.
- * reported the project has received permits from CA Dept. of Fish and Wildlife and the Regional Water Quality Control Board and is currently awaiting permits from the US Fish and Wildlife Service and the US Army Corps of Engineers.
- * reported a \$30-40M total in site remediation costs, if the project is approved.
- * reported that the hostel portion of the project would have rooms available for around \$59 per bed per night.
- * outlined the beach access shuttle route that would be provided in and around the project.
- * described the affordable housing component of the project, to be 5% of total project homes or a minimum of 50 homes. These homes would be priced in the very low category.
- * outlined the seven miles of trails on the proposed project.

In regards to the Banning Ranch Land Trust, the representatives stated that the costs to operate the Trust have been roughly \$75k-90k per year over five years of operation. If the project is approved, the proponents intend to record a mechanism for a property transfer fee on house resales that would go directly to the Trust. Moving forward, they project the Land Trust will need about \$150k-200k/year to operate, which will allow for its continued operation with an executive director on-site and money for trail maintenance.

8/29/16
Date

Greg Cox
Signature of Commissioner

EX PARTE COMMUNICATION DISCLOSURE FORM RECEIVED

Filed by Commissioner: Roberto Uranga

SEP 02 2016

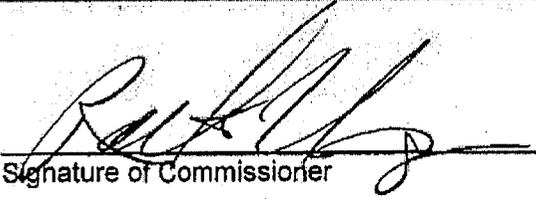
CALIFORNIA
COASTAL COMMISSION

- 1) Name or description of project:
Application No.5-15-2097
- 2) Date and time of receipt of communication: August 29, 2016 at 12:00pm
- 3) Location of communication: Long Beach, CA
(If not in person, include the means of communication, e.g., telephone, e-mail, etc.)
- 4) Identity of person(s) initiating communication:
David Neish
- 5) Identity of person(s) on whose behalf communication was made:
Newport Banning Ranch (applicant)
- 6) Identity of persons(s) receiving communication:
Roberto Uranga
- 7) Identity of all person(s) present during the communication:
Commissioner Uranga, Michael Mohler, David Neish, David Neish, Jr, Stephanie Graves, Celina Luna (Chief of Staff)

Complete, comprehensive description of communication content (attach complete set of any text or graphic material presented):

I received a briefing from the applicants' representatives in which they discussed the site history, project background and current proposal. They also addressed the outreach and changes to the project they had done since the October 2015 hearing, and their ongoing meetings with Coastal Staff. The applicant disagrees with the staff recommendation allowing development in less than 10 acres of the 401 acre property, thus eliminating all proposed visitor serving programs. The applicant proposes 62 acres of development and disagrees with staff's recommendation on the 100 foot setback for ESHA throughout the site. At the time of the briefing, the applicants' representatives stated they were finalizing a briefing booklet for their presentation that would be distributed to staff.

8/29/16
Date


Signature of Commissioner

TIMING FOR FILING OF DISCLOSURE FORM: File this form with the Executive Director within seven (7) days of the ex parte communication, if the communication occurred seven or more days in advance of the Commission hearing on the item that was the subject of the communication. If the communication occurred within seven (7) days of the hearing, provide the information orally on the record of the proceeding and provide the Executive Director with a copy of any written material that was part of the communication. This form may be filed with the Executive Director in addition to the oral disclosure.

RECEIVED

FORM FOR DISCLOSURE OF EX PARTE COMMUNICATIONS AUG 31 2016 CALIFORNIA COASTAL COMMISSION

Name or description of project, LPC, etc.: Newport Banning Ranch

Date and time of receipt of communication: 8/30/16 2:06 pm

Location of communication: Conf Call

Type of communication (letter, facsimile, etc.): Call

Person(s) initiating communication: Danya Bocho

Detailed substantive description of content of communication:

(Attach a copy of the complete text of any written material received.)

I instigated the call to Mr. Neish to see if I had all of NBR's planned response to staff report. He said they were working on one and it would be out by end of week.

8/30/16 Date

D Bocho Signature of Commissioner

If the communication was provided at the same time to staff as it was provided to a Commissioner, the communication is not ex parte and this form does not need to be filled out.

If communication occurred seven or more days in advance of the Commission hearing on the item that was the subject of the communication, complete this form and transmit it to the Executive Director within seven days of the communication. If it is reasonable to believe that the completed form will not arrive by U.S. mail at the Commission's main office prior to the commencement of the meeting, other means of delivery should be used, such as facsimile, overnight mail, or personal delivery by the Commissioner to the Executive Director at the meeting prior to the time that the hearing on the matter commences.

If communication occurred within seven days of the hearing, complete this form, provide the information orally on the record of the proceeding and provide the Executive Director with a copy of any written material that was part of the communication.