

# Memorandum

**To:** Patrick J. Alford, Planning Manager  
**From:** Debra Stevens, EQAC Chair  
**Date:** October 17, 2011  
**Re:** Comments on the Newport Banning Ranch Draft EIR

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The Environmental Quality Citizens Advisory Committee (EQAC) is pleased to have this opportunity to comment on the draft Environmental Impact Report for the proposed Newport Banning Ranch project. It is our hope that these comments will lead to the best possible project for the City of Newport Beach, the neighbors and the applicant. Our comments are summarized below and follow in the order of appearance in the DEIR as far as possible.

## **SECTION 1.0: EXECUTIVE SUMMARY**

The comments provided in the following sections also apply to the Executive Summary and any changes in the document should be reflected in the Executive Summary.

## **SECTION 3.0: PROJECT DESCRIPTION**

1. Page 3-8, Project Objectives. The project objectives have been narrowly defined. This may make it more difficult to find alternatives that meet the project objectives. For example, Objective 3 suggests that up to 1,375 residential units would be constructed. A specific number is not as appropriate as a range or general acknowledgement of appropriate land uses.
2. Page 3-10, Section 3.6.1 Oilfield Abandonment. There is no good discussion of the baseline activities associated with the oil production facilities on Banning Ranch. Such information should include the existing equipment, amount of oil removed on a daily, monthly or annual basis, how the material is transported, etc.
3. Page 3-11, 1<sup>st</sup> full paragraph. The EIR states that third party consultants would monitor the removal of all pipelines, facilities, etc. While a consultant may perform the physical work, a regulatory agency should monitor, oversee and have compliance authority over the remediation

- activities. Please describe the regulatory oversight and procedures for site remediation.
4. Page 3-11, Section 3.6.2. General comment. The EIR does a poor job at identifying the locations of the types of land uses discussed. Page 3-12, Table 3-1. The table should reference the appropriate Exhibit that shows the different land uses.
  5. Page 3-42, PDF 4.6-4. A “dark sky” lighting concept will be implemented. The “dark sky” concept must be defined as it is not a common term. What types of lighting design requirements would be included in a “dark sky” concept and how would they reduce light and glare impacts?
  6. Page 3-43, PDF 4.11-1. This Project Design Feature indicates that the project will be consistent with a green building program that exists at the time, but does not provide any requirement for how energy efficient the building should be constructed. Describe the programs that will be implemented beyond the California Green Building Code. Requirements for some level of energy efficiency should be imposed.
  7. Exhibit 3-16 depicts a soil disturbance map for the project. What are the estimated hazards produced by excavating existing oil pipeline and other related materials to the local environment both (a) short-term (i.e., through release of airborne contaminants through excavation), and (b) long-term (i.e., through exposure and seepage from topsoil in residential gardening and recreation activities on the excavated ground that long-term residents would have contact with and long-term exposure to)?
  8. Over 16 pages of the project description is spent on the details of road design, but a disproportionately small portion of Section 3 addresses potential hazards presented by the unearthing of oil field operations materials and building residential/commercial properties on top of the land. Aside from the preliminary documents provided in Appendix D, Section 3 should have given more discussion of the known hazards associated with the decommissioning and building on the oil production facility and while also continuing production for another 30-40 years, to rule out potential risks to public health associated with the large scale excavation and grading planned for the development portions of this project. If this information is located in another portion of the DEIR please provide a reference to the section.
  9. Page 3-36, Section 3.6 - C. Remediated Soil Disposition. In summarizing the use of excavated hydrocarbon-laden soils the Project Description states: “The primary location for placement of the treated soil would be in the deeper over-excavation portions of the North Family Village.” (p. 3-36). More justification is needed in the EIR for using treated soils as the basis

for planned residential areas. In particular, additional information is required on the existence of petroleum based contaminants and the potential presence of TENR-contaminated materials in remediated soil.<sup>1</sup> TENR-contamination in varying degrees of severity may exist at every oil and gas production site and pipe handling facility, including those associated at Banning Ranch. Throughout the present EIR document questions and concerns that are typically raised in relation to TENR-contamination in the oil and gas industry should be adequately addressed. This is especially needed since soil in contact with operating oil hardware (i.e., pipes, fittings, etc) that is relocated from elsewhere in the site may contain hazards such as Radium-226, which has a half-life of 1620 years. The contents of these contaminated sites may be of concern for centuries. As is the case in general with all areas where oil drilling activities occur, a radiation area survey should be performed (if not already completed) before any development of the land for residential and commercial use is initiated, and should proceed only when the area can be deemed acceptable for residential land uses in accordance with local and federal guidelines.

Exhibits 3-1 and 3-4 show that residential units are planned where oil extraction activities have occurred. The utmost care must be given to avoid buildings constructed over any radioactive materials or petroleum contaminated soil, since, in the case of radium, contamination the resulting radon concentrations could pose serious a health threat.

The last paragraph of this section estimates that 25,000 cubic yards may prove too contaminated to use and may need to be removed from site. What course of action is planned if all 246,000 cubic yards of remediated material is unusable? By what means will it be relocated and where and when will the replacement fill and grading material be obtained? Discussion of the impacts of this possible scenario is needed in the EIR.

10. Page 3-36, Section 3-6: "D. Open Space Grading." For all small and large scale grading and resurfacing tasks, to maintain habitat and water basin quality it makes sense to avoid use of reclaimed treated contaminated soil in all cases. This is not mentioned here in Section 3-6 D, although it may be described elsewhere in the EIR. Please note where appropriate the rationale for or against such a safe guard.
11. Page 3-37, Section 3.7 "PROPOSED IMPLEMENTATION PLAN." The proposed timing of the implementation of the project is described as

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<sup>1</sup> TENR (or also TENORM) is Technologically Enhanced Natural Radiation from, e.g., pipe scale and equipment. Because the extraction process concentrates the naturally occurring radionuclides and exposes them to the surface environment and human contact, these wastes are classified as TENORM. Environmental Protection Agency document "Oil and Gas Production Waste." Retrieved 10/10/11 from <http://www.epa.gov/rpdweb00/tenorm/oilandgas.html>.

flexible, taking place over an estimated period of 9 years. One concern that arises from the discussion of Stage 1, also shown on Exhibit 3-18, is that residential occupancy may occur in Stage 1 in the South Family Village before soil remediation and grading are fully complete in the areas depicted as Stage 2 and 3 in Exhibit 3-18.

This is cause for concern simply due to the unique precautions that are demanded by the decommissioned oil operations on this site. Utmost care is needed to protect individuals and families that reside or work in the Stage 1 portion of the project from fugitive dust and airborne hazards that may be created by construction activities associated with Stages 2 and 3 of the project. Toxic aspects of decommissioning activities of this sort include toxic air contaminants that when inhaled can produce significant short- and/or long-term health problems. Because this property is a contaminated site, a more comprehensive and conservative justification is needed regarding the timing of project implementation and the safeguards that will be implemented during project implementation to ensure the public health. This is needed for both the local short-term surrounding communities and the longer-term residential occupants for which this development is planned.

12. Page 3-41: Project Design Features (PDFs). **Hazards and Hazardous Materials PDF 4.5-1** should additionally include a PDF specifically addressing the hazards unique to the site, how they factor into the project implementation, how they will be mitigated, and what aspects of the site's risks specifically cannot be mitigated.
13. Page 3-44-5, **Hazards and Hazardous Materials PDF 4.5-1**. The following is stated:

*“The Newport Banning Ranch Planned Community Development Plan and the Master Development Plan require that the following measures be implemented during initial project grading activities and will be incorporated into all grading permit applications submitted to the City:*

- a. Construction waste diversion will be increased by 50 percent from 2010 requirements.*
- b. To the extent practical, during the oilfield clean-up and remediation process, the Landowner/Master Developer will be required to recycle and reuse materials on site to minimize off-site hauling and disposal of materials and associated off-site traffic.”*

Question 1: What oversight will be used to assure that (a) construction waste that needs to be diverted (i.e., contaminated soil at unacceptable

levels) is not reintroduced back into the project in an effort to keep waste diversion within the constraint implied by (a.)?

Question 2: What oversight will be used to assure the “practicality” mentioned in (b.) in the event that none of the excavated materials can be reused due to their toxicity? Why is the decision to reuse the materials left to the Landowner/Master Developer, which could present a conflict? Please clarify how these issues will be decided and what oversight will be in place to meet the tandem goals of optimizing recycling, while minimizing reuse of contaminated materials.

#### **SECTION 4.1: LAND USE AND RELATED PLANNING PROGRAMS**

1. Impact of light illumination from the Community Park on the Newport Crest neighborhood: Have design alternatives been considered to reduce / mitigate this significant impact? The location of the playing fields and the lights thereon, including the way the lights “face” and the hours which the lights will remain on, should be considered.
2. The proposed building heights seem excessive. Doesn't the City have a maximum residential building height of 30 feet? Here, the Family Villages calls for 45 feet height; the Resort Colony calls for 50 feet height; and the Urban Colony calls for 60 feet height. Even the low density, single family housing calls for 36 feet height, while the low-to-medium density single family housing calls for 45 feet height. Why are such tall buildings being considered? Are these heights necessary? Are these proposed heights compliant with City codes / ordinances?
3. The scope of the proposed safety lighting in the two Oil Consolidation sites is not addressed. What are the specifics in this regard? Will there be an increase in light over the existing conditions? How many lights? How bright? For what hours will the lights be on?
4. The North Family Village Coastal Homes are to be constructed on “zero lot lines.” Why is there no set back requirement? Is this proposed “zero lot line” compliant with City codes / ordinances? Is this compatible with the City's standards?
5. More information is needed regarding the specifics of “restoration and remediation” of the 252 acres that are to remain as open space. What needs to be done? What is the plan? Where are the areas on-site for remediation and restoration? If there will be off-site mitigation areas, identify these. What agencies need to be part of this process? What is the current state of the land as far as the degree and scope of

contamination? Are there any long-term risks arising from the current state of contamination?

6. The proposed walking bridge over PCH is hardly discussed at all. Why is this bridge needed? How was its proposed size and location determined? Have the bridge's effects on the aesthetics and historical nature and environment of PCH been evaluated? Have the bridge's effects on traffic, businesses and homes been evaluated?

## **SECTION 4.2: AESTHETICS AND VISUAL RESOURCES**

1. Page 4.8-9. Visual Effects -The number of residential dwellings planned for this area, 1375 homes on 149 acres, will create a community of 3,012 (p 4.8-9) people living in a relatively small area. Of the 401 acres encompassing the project, approximately 252 acres do not support building of residences. Some of the planned residences will be 4 to 5 stories or 45 to 60 feet high. Where visible, this concentration of homes will have a negative visual impact on surrounding communities. Will the ocean views from Newport Crest condominiums be obscured by the Resort Colony? The Resort Flats, at 50 feet high, could be obtrusive. The impact of the Resort Colony could negatively alter views from the condominiums. Provide a sight line view exhibit.

The Urban City will include 730 units at a height of 60 feet, which is taller than most residential structures in the City of Newport Beach. The EIR justifies this by stating that this section of the project is located in Costa Mesa, which has a higher maximum height level. As it is assumed that the whole development will be incorporated into the City of Newport Beach, this reasoning seems flawed. Visually, the impact of this 60 foot building will be negative. The impacts of this development on the surrounding community must be adequately addressed in the EIR.

2. Bluff Road - Why does Bluff Road need to be 4 lanes wide? Traffic on this road will be fast, generate noise impacts, and create visual impacts. Bluff Road will be as wide as Superior Avenue. Bluff Road can be used as a "short cut" by drivers from 15<sup>th</sup> or 17<sup>th</sup> Street to PCH. With three other entrances into this project and a planned commercial resort area of only 75 units, this seems like an overly ambitious and unnecessarily wide entrance.
3. Excavation on the project site will involve moving 2,600,000 cubic yards of soil. Cuts will be as deep as 25 feet. Canyons and ridges will be either changed or eliminated. Much of the topography in the area of the project will have permanent soil disturbance. The visual character of the

topography within the Project site will be changed and the related aesthetic impacts must be addressed in the EIR.

4. Page 4.2-41. Utilities\_- Putting utilities underground within the Lowland Open Space seems a hard goal to achieve. Beneath this area is a collection of pipes, drains and other impediments left over from earlier uses of this area. All utilities should be placed underground. Is the undergrounding of utilities in the Lowland Open Space feasible?
5. Mentioned are non-habitable structures. What do they look like? Will they be visible from outside the project? What will the accessory structures be used for?
6. For both aesthetic and safety reasons, it is recommended that the minimal bluff setback for residences be increased from 60 to 100 feet. Are the proposed bluff setbacks adequate?

#### **SECTION 4.3: GEOLOGY AND SOILS**

1. The baseline discussion of geology and soils should contain a description of the known existing soil contamination areas. For areas of suspected contamination, there should be a discussion of the specific steps that will be used to determine the actual presence or absence and the levels of contamination present for specific compounds. Also, a discussion of the specific actions that will be taken to remediate the site should be provided in the EIR.
2. Although Appendix B covers many aspects of geology and soil, additional information should be provided regarding the use of reclaimed/treated soil in the project. Please provide in Section 4.3 of the EIR an adequate disclosure of existing soil contamination, and a full description of the risks associated with using the site's treated soil as backfill in the grading and fill operations of the project.

#### **SECTION 4.4: HYDROLOGY AND WATER QUALITY (PER CBWQ)**

1. Please consider revising the criteria of the south end retention system to handle a 200-year flood.
2. Smart controllers should be mandatory for all irrigation systems, public and private.
3. Please explain the retention basin maintenance program and the funding source of that program.

4. Please consider programs that will improve the quality of water discharged into the slough and lowlands.
5. Please ascertain that no untreated runoff from the project reaches the bay.
6. If work is done around the network of pipes at the southwest part of the property, consider improvements to that system.

#### **SECTION 4.5: HAZARDS AND HAZARDOUS WASTES**

1. General Comment. The City of Newport Beach as the lead agency carries primary responsibility for approving a project. Many practical features make this project very appealing to the City (e.g., addition of needed low-income housing for the City, needed increases in the parkland/open space requirements on the City, additional revenue from the Inn planned, and so on.). What is the City's long-term liability if the proposed project does not adequately safeguard against the oilfield related hazards.
2. Exhibit 3-2 and 3-4 suggest that residential units will coincide with oil use and pipe line areas. According to EPA and NRDC documents found online, people who live near oil and gas operations report serious health problems. Such people experience symptoms resembling those that may be caused by the toxic substances found in oil and gas. The negative health effects associated with these substances range from eye and skin irritation to respiratory illness such as emphysema, thyroid disorders, tumors, and birth defects. As described in the cited documents, a recent study reported a higher prevalence of rheumatic diseases, lupus, neurological symptoms, respiratory symptoms and cardiovascular problems in a New Mexico community built on top of a former oilfield with some nearby active wells when compared to a community with no known similar exposures. Other studies have found increased cancer risks associated with living near oil or gas fields.<sup>2</sup> The potential health effects of developing residential areas over contaminated soils must be adequately addressed in the EIR. Please clarify if exposure to contaminated soils and the related health impacts have been included in the health risk assessment discussed in Section 4.10 – Air Quality.
3. The Draft EIR proposes to (1) build residences and commercial property

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<sup>2</sup> Retrieved: 10/10/11; Environmental Protection Agency: <http://www.epa.gov/rpdweb00/tenorm/oilandgas.html> Natural Resources Defense Council: <http://www.nrdc.org/land/use/down/fdown.pdf> Occupational Safety and Health Administration: [http://www.osha.gov/dts/hib/hib\\_data/hib19890126.html](http://www.osha.gov/dts/hib/hib_data/hib19890126.html)

on top of a former oilfield, and (2) continue some oilfield operations on the site while residential/commercial properties are occupied. For these reasons, unlike most project EIR documents, this project EIR faces the dual challenges of both making a good faith effort at full disclosure on the clean up portion of the site, as well as providing adequate justification of the development portion of the site. This EIR seems to make a good effort at describing the impacts of the development portion of the project (item 1 above), but needs to provide a more thorough examination of the corollary impacts that are presented for the development by the fact that the site is a former oilfield (item 2 above).

4. Please provide an adequate summary of the procedures and safeguards that will be followed in the closure of the oil fields and reuse of the site as required by the “*current requirements of DOGGR (State of California Department of Conservation, Department of Oil, Gas and Geothermal Resources)*.” Specifically, disclose the criteria that are applied in all aspects of the reuse of the site that justify the property for residential and commercial use. Describe how such criteria minimize the risk of health related hazards to occupants of the property from both a short- and long-term perspective.
5. Explain why radiation area surveys are not planned in all areas containing oil pipelines, and operating and formerly operating wells. Alternatively, if such surveys are planned or have been completed, present a discussion of the results, the acceptable thresholds for treated soils, etc. Plans for conducting this survey as well as surveys of soil contamination (from all known contaminants) correlated with oil field operations, treatment and removal should be described in detail, including a review of the science on health risks associated with exposure to contaminants likely to be on site, and an explanation of aspects that are mitigated and unmitigated.
6. Exhibit 4.5-1, the Potential Environmental Concern Location Map, does not depict the presumably thousands of feet of contaminated pipeline, wells and oil sumps shown earlier in Exhibit 3-4 Oil Operations. Provide an explanation why the far smaller region depicted on Exhibit 4.5-1 is depicted as the area of concern rather than the larger area shown in Exhibit 3-4.
7. Page 4.5-3, General Plan Safety Element. Special attention is needed here since the typically existing exposure hazards detailed in the General Plan Safety Element (which include coastal hazards, geologic hazards, seismic hazards, flood hazards, wild land and urban fire hazards, hazardous materials, aviation hazards, and disaster planning) do not foresee the complications created by the present scenario of building on a former oilfield site, adjacent to continuing oilfield operations.

## SECTION 4.6: BIOLOGICAL RESOURCES

1. Page 4.2-22, second paragraph indicates that the eroded bluff would be restored and grading would be required on currently impacted bluffs to restore and re-vegetate the bluff/slope edge. There does not appear to be a complete description of the bluff's current state, i.e. what plant communities are present? What is the extent of the bluff degradation? How did it result? What percent of the bluff would need to be restored? Exhibits 4.2-3b (Resort Colony) and 4.2.5 (Resort Flats) show restored bluff simulation. Exhibit 4.2.-3b includes palm trees which would not be consistent with the use of native plants for restoration. Also, is the extensive use of trees, as shown in Exhibit 4.2-5a (3) consistent with plant species normally found at the bluff's edge?
2. Pages 4.4-41 through 4.4-44 (Table 4.4-13), **Source Control Non-Structural BMPs**. Page 4.4-43, S4: Use Efficient Irrigation and Landscape Design: What BMP is proposed for plant selection in residential landscaping? For residents with landscaping areas, what recommendations and HOA guidelines will be provided for plant selection? Will use of native plants be promoted? The use of efficient irrigation and landscape design is being promoted 'to minimize the runoff of excess irrigation water into the municipal storm drain system'. Why would 'detached residential homes' have a limited exclusion to this BMP?
3. Page 4.4-44, S4. 7: In what cases would native species which are drought tolerant not be possible or feasible?
4. Page 4.4-44, S5 Protect Slopes and Channels #5: Indicates that the project will "Vegetate slopes with native or drought tolerant vegetation." S5 should require native vegetation consistent with bluff slope habitat.
5. Page 4.6-13-14, **Non-Native Grassland/ Non-Native Grassland/Ruderal**: "Non-Native Grassland occurs throughout the mesa on the Project site. ...Within these Non-Native Grasslands, there are pockets of native species **that were not mapped** because they were mowed to a height of less than six inches and could not be delineated. What is the area of these unmapped sections? Should these species be resurveyed when they have reached a height of 6 inches? If they are not resurveyed, how will these grasslands be accounted for in the amount of grassland which must be restored or mitigated for, discussed in 4.6-53, in terms of: (a) acreage; and (b) requirements for mitigation as coastal sage scrub (CSS) (3:1 ratio) or disturbed CSS (1:1 ratio) or grasslands (0.5:1 ratio) (see paragraph 2, grassland and ruderal) (4.6-53). Where is the table of required mitigation ratios for plants included?

6. Page 4.6-55-56, **Wildlife Impacts**. How will the restoration and mitigation measures discussed in the section address wildlife corridors? Will corridors/contiguous areas for wildlife movement be improved through the project?
7. **Page 4.6-69: Vernal Pools**. Which Agency/protocol was used to complete the vernal pool survey? What are the requirements for survey time period, length, season, i.e. wet season, dry season surveys? How many surveys were conducted? Were both dry and wet season surveys conducted? Are the survey documents available? Note: The survey protocol located, "Interim Survey Guidelines to Permittees for Recovery Permits under Section 10(a)(1)(A) of the Endangered Species Act for the Listed Vernal Pool Branchiopods," calls for:
  - Two full wet season surveys done within a 5-year period; or
  - Two consecutive seasons of one full wet season survey and one dry season survey (or one dry season survey and one full wet season survey).<sup>3</sup>
  - Does this standard apply, or was another used? How were the mitigation values for habitat replacement arrived at? How do they compare to those used in similar projects? Do EPA/USFW/other agencies provide a range of guidelines?
8. Please clarify if the developer intends to sell mitigation credits and if so please identify the potential sites for this program.

#### **SECTION 4.7: POPULATION, HOUSING AND EMPLOYMENT**

1. How are the following defined?
  - Very low income (69 units, or 5%)
  - Low income (138 units, or 10%)
  - Moderate income (206 units, or 15%)
2. What is the basis / formula for the City's projected population being 96,892 by 2030 and 97,776 by 2035?
3. Affordable Housing - more specifics need to be provided regarding payment of in-lieu fees and construction of off-site affordable housing.
  - What are the in-lieu fees? How are they calculated?
  - Where and what off-site affordable housing can be constructed?

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<sup>3</sup><http://www.slocounty.ca.gov/Assets/PL/environmental/Fairy+Shrimp+Survey+Guidelines.pdf>

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- What are the criteria for “affordability” of the units for those employed within the City?
- What is the projected sale pricing for the Affordable Housing units?
- For the 50% of Affordable Housing that is to be constructed on site, where will these units be located? What is the projected pricing range?

#### **SECTION 4.8: RECREATION AND TRAILS**

1. The addition of a pedestrian and bicycle bridge crossing Pacific Coast Highway would encourage walking/biking to the beach. This proposal would need to be approved with Cal Trans and the Coastal Commission. The 50 foot landings supporting each end of the bridge could impact the views of residents of Lido Sands. Safety lighting on the bridge would also be visible in Lido Sands. The aesthetics and light and glare impacts on these communities should be evaluated in the EIR.
2. Bluff Toe Trail is too close to Newport Shores. Why is it 10 feet wide? Is it necessary?
3. The parks proposed for this project are easily accessible and preserve significant views. As Service Area #1 has a 53 acre park deficiency, parks, especially sport parks, are desirable. However, the location of the Community Park so close to Newport Crest, will negatively impact those living in the condominiums. The impacts if these parks on adjacent communities should be evaluated.

#### **SECTION 4.9: TRANSPORTATION AND CIRCULATION**

1. Check Exhibit 4.9.2 for accuracy, (16<sup>th</sup> Street is not a 4 lane undivided roadway).
2. SC 4.9-3 indicates that the Haul operation will be monitored by the City of Newport Beach “public works department.” How will be the haul vehicles be identified to the public works department? Do they have special marking so that they can be counted and verified? How will this measure be implemented? The enforcement of this standard condition needs to be addressed in the EIR and included in a Mitigation Monitoring Program.
3. Trip Distribution and Assignment - 16<sup>th</sup> street – what happens if the NMUSD does not give permission and right of way to do improvements? What is the alternate plan for site access?

4. The EIR does not discuss the improvements proposed on the north side of West Coast Highway approximate 100 feet of intersection with Superior Ave. to approximately 700 feet of the Centerline of Bluff road. Is this part of the Banning Ranch property?
5. The EIR indicates that Resort Colony Road is a single road – Resorts generally have service roads or back of house roads for service that is different than the primary road to the resort. Is this also proposed for the resort?

#### **SECTION 4.10: AIR QUALITY**

1. Page 4.10-12, Table 4.10-4. The existing emission sources for criteria pollutants used in the oil field at Banning Ranch should be described in detail. The calculations used to determine the existing oil field emissions in Table 4.10-4 should be provided in the Draft EIR, rather than a reference provided to another document.
2. Page 4.10-14, Table 4.10-5. The existing emission sources for toxic air contaminants (TACs) used in the oil field at Banning Ranch should be described in detail. The calculations used to determine the existing oil field TAC emissions in Table 4.10-5 should be provided in the Draft EIR, rather than a reference provided to another document. A baseline health risk assessment should be performed to demonstrate existing health impacts.
3. Page 4.10-20, 1<sup>st</sup> sentence references the use of URBEMIS. The emission calculations were done using CalEEMod and not URBEMIS.
4. Page 4.10-20, Table 4.10-7. The construction emission calculations should be provided for peak day emissions. Please clarify what would constitute peak day construction emissions, i.e., what phase of construction, types of equipment, emission factors, etc.
5. Page 4.10-23, Operational emissions. The assumptions used in the CalEEMod model should be explained in more detail.
6. Page 4.10-25, Table 4.10-13. The emission sources for criteria pollutants used in the oil field at Banning Ranch should be described in detail. The calculations used to determine the existing oil field emissions in Table 4.10-13 should be provided in the Draft EIR, rather than a reference provided to another document.
7. Page 4.10-16 and Page 4.10-27, CO Hotspots Analysis. The use of the SMAQMD screening methodology in southern California is questionable.

CO modeling at the intersections where LOS E or F are predicted should be modeled and not screened.

8. Page 4.10-27, Ambient Air Quality. An ambient air quality analysis is only provided for CO emissions. An ambient air quality analysis during project operations should be provided for the other criteria air pollutants (e.g., NO<sub>x</sub> and particulate matter).
9. The air quality section does not discuss the health impacts associated with exposure to criteria pollutants. The section concludes that air quality impacts are potentially significant for NO<sub>x</sub>. Therefore, the health impacts associated with exposure to NO<sub>x</sub> would also be significant.
10. Page 4.10-29, Human Health Risk Assessment. The potential health risks associated with TACs are not described in the Draft EIR. The oilfield sources of TAC emissions and the estimated TAC emissions associated with the operation of the proposed project should be provided in the Draft EIR.

#### **SECTION 4.11: GREENHOUSE GASES**

1. Page 4.11-18 states: “...the Project would create a significant cumulative contribution to GHG emissions if it would emit more than 6,000 MTCO<sub>2</sub>e/yr of GHGs.”

In Table 4.11-3, annual estimated GHG emissions values are presumably based on the estimated 25,000 cubic yards of remediated material that is planned for removal from the site (discussed in Section 4.5). Provide a revised upper-bound estimate that reflects the additional GHG emissions that would be incurred if all 246,000 cubic yards of remediated material (discussed in Section 4.5) is unusable and requires removal from site, and replacement by new fill material from off site.

2. **Table 4.11-4: Estimated Greenhouse Gas Emissions From Operations:**

The table’s presentation of “mitigated” GHG emissions states that **the** “mitigated” scenario demonstrates the GHG reductions that occur with Project features that contribute to the reduction of GHG emissions when compared with typical residential and commercial developments.

Another useful comparison would be the presentation of mitigated GHG emissions that occur under alternative project features (Alternatives A and B, Section 7) that resemble the current full open space status quo of the 403 acres, since one original vision of the project was to maintain the

open space qualities that are present in Banning Ranch's current state. Please provide this alternative comparison to complement the typical residential and commercial development comparison already provided.

Furthermore, it seems somewhat misleading to describe the reduction of GHG emissions of the project plan when compared with typical residential and commercial developments, since no such "typical" development plans were included in the envisioned scenarios for use of Banning Ranch.

3. Page 4.11-21: The project would make a cumulatively significant impact on GHG emissions, and exceed the City's threshold. As justification it is stated on Page 4.11-22: "However, as described in the PDFs and demonstrated above, the proposed Project incorporates many characteristics and features that would reduce GHG emissions compared with development of similar land uses in other locations or without commitments to sustainable design." It is unclear if this reference to "similar land uses" here is in reference to the "typical residential and commercial development" mentioned earlier. Please clarify this comparison since comparing the current project plan to a typical residential and commercial development seems inappropriate.
4. Page **4.11-25 Level of Significance after Mitigation**. It is stated: "Despite application of all feasible mitigation, the Project would make a cumulatively considerable contribution to the global GHG inventory and would have a significant and unavoidable GHG emissions impact." Provide brief explanation why such significant and unavoidable impacts would occur.

## **SECTION 4.12: NOISE**

1. Page 4.12-14, 1<sup>st</sup> paragraph. For some very close neighbors of the proposed project (Newport Crest) and a private school (Carden Hall), the noise level will be substantially increased during the construction period and construction noise impacts are considered to be significant and unavoidable and affect a number of the surrounding communities including California Seabreeze, Parkview Circle, Newport Shores, Lido Sands..." as well as several identified mobile home parks in the area. Portions of Newport Crest are as close as 5 feet from the proposed project boundary and Carden Hall is within a few hundred feet.

Mitigation Measure (MM)4.12-3 requires that the residents and schools be notified in order for them "to plan their activities to minimize potential disruptive effects of construction noise". This does not reflect a real solution to mitigating "significant short-term noise impacts" on schools. All

feasible noise mitigation measures must be imposed, which could include doing the construction activities closest to the school during the summer hours or when students would not be present.

2. Page 4.12-22. Longer term, the traffic generated by the proposed project will cause significant traffic noise without mitigation. The use of rubberized asphalt is proposed to mitigate noise impacts. While the mitigating noise on the affected streets with the highest noise impacts (17<sup>th</sup> St. west of Monrovia & 15<sup>th</sup> St. west of Placentia), these 2 streets are still within 3 dBA of the 65 dBA threshold. Enforcement of this mitigation measure is not assured as Newport Beach cannot require the mitigation measure on the City of Costa Mesa. Is there any data, references, or evidence regarding the use of rubberized asphalt that shows what the noise reduction would be should it be installed? Has the installation of the rubberized asphalt been included in the construction noise/air quality analyses? Has this mitigation been used elsewhere, and if so, what was the actual noise reduction achieved?
3. Page 4.12-40 thru 41. The proposed project will result in significant noise impacts to Newport Crest. MM4.12-7 requires the installation of noise insulation upgrades to reduce second floor balcony and interior noise impacts. There is a list of Construction Activities mitigation measures provided (p. 4.12-40-41) which show concern and consideration for the affected neighbors during the construction years. These must be enforced by the City and the contractors. Additionally, the City should carefully monitor the activities during the construction phases to assure the level of public relations with the neighbors is positive, pro-active and consistent. A detailed mitigation monitoring program needs to be developed and implemented.
4. The list of Mitigation Measures (MM) included for the Operational Activities includes details on truck deliveries and loading dock activities (MM 4.12-9, 4.12-43, para # 2). The restriction of such activities should be between the hours of 7:00 AM and 6:00 PM., the same as construction hours. Stipulating that deliveries can happen until 10:00 PM, as stated in this paragraph, will not reduce noise during the evening hours. Truck traffic and loading/unloading activities generate too much noise to be permitted after dark. An additional mitigation measure should require that loading docks be located at least 300 feet away from dwelling units.

#### **SECTION 4.13: CULTURAL AND PALEONTOLOGICAL RESOURCES**

1. Page 4.13-24, Threshold 4.13-2, second paragraph, 5<sup>th</sup> sentence states: *“However the planned removal of the oilfield-related infrastructure prior to grading would adversely impact portions of the site. The extent of impacts*

*is unclear at this time*". Could the impact excavations be more clearly defined prior to the issuing of grading permits? If not, when will the impact of these excavations be defined?

## **SECTION 4.15: UTILITIES**

### **4.15.1 Water Supply**

1. Of the 3 sections in this category, water supply takes up well over ½ (25+ pages of 45), indicating its potential concern in the public's view as well as the complications of multiple suppliers of water and their future supply predictably. A water supply assessment (WSA) was done, as required by SB 610 for a project of more than 500 dwelling units (du). In addition, there are multiple governmental entities involved in water distribution within southern California (pp.4.15-4 through 4.15-12). Their overall conclusion, including the WSA results above noted is that Newport Beach will be able to meet the water demands for the period 2015-2035 "even under the worst drought conditions" (p. 4.15-12, last para.). Implicit in the projections are past records as well as a future reliance on the entire region to be better stewards and conservationists of water.

Recent drought years have caused both the MWD and the City to take actions involving a new water supply plan (eff. 2008). Included is a plan to augment existing groundwater supplies "by producing purified water to recharge the Orange County Groundwater Basin" (p. 4.15-25, last paragraph).

### **4.15.2 Wastewater Facilities**

2. Page 4.15-29, 1<sup>st</sup> paragraph. While there's capacity to handle the incremental wastewater from this proposed development, there is a concern that there may be a necessity for a wastewater lift station for the Banning Ranch wastewater. This may be required if gravity flows are not great enough to be conveyed to the pump station. This structure would be "between 10,000 and 15,000 square feet and would be enclosed within a structure approximately 2,000 sf feet (sic) in size". (p.4.15-29, paragraph #1). It is not clear from the environmental analyses whether the construction of this structure has been included in the evaluation of noise, grading and construction impacts. The construction impacts related to the pump station must be included in the analysis of project impacts.

### **4.15-3 Energy**

3. The installation of electricity lines (Southern California Edison) and natural gas lines (The Gas Company) can result in significant impacts. The

defined Project Design Features and identified mitigation measures must be included in any construction work completed by the applicant or these utility companies. Such measures need to be included in the mitigation monitoring program and enforced to assure they are implemented.

## **5.0 CUMULATIVE IMPACTS**

1. MM 4.2-1. The project calls out the use of the Illuminating Engineering Society of North America 'Dark Sky Standards' as the baseline for night lighting. Dark Sky standards need to be defined. How does this standard compare to other standards for night lighting? Does the Dark Sky standard have a reference number? (Could also be an ASHRAE number?) Does 'Dark Sky' include or refer to a specific level of darkness/light, or to an overall standard set? The project calls for 'lighting to be 'directed and shielded from the Open Space Reserve, including habitat areas. What is the benchmark level of darkness to be targeted for the project, particularly in wildlife areas? Is there a minimal level of darkness to be achieved?

## **6.0 LONG-TERM IMPLICATIONS OF THE PROPOSED PROJECT IMPACTS**

1. The proposed 51.4 acres for active and passive parks, while generous, are insufficient. This amounts to only 12.8% of the entire project. Consideration of an alternative that would require 25 percent or about 100 acres of parks should be made in the EIR. Is the provision of parks and open space consistent with the General Plan and City ordinances?
2. The assertion in the DEIR that the project would not induce growth through the provision of infrastructure is not credible. It seems obvious that the establishment of Bluff Road and North Bluff Road will bring more traffic to the surrounding area and more growth in traffic. The installation of an addition 1,325 residential units will also result in an increase in population growth in the area. This section of the EIR should be revised and a better discussion of growth inducing impacts should be provided.

## **7.0 ALTERNATIVES**

1. Page 7-41, 1<sup>st</sup> complete paragraph. Why is oil exploration expected to expand under the No Project Alternative? It would seem apparent that with crude oil prices at a relatively high level, oil removal activities are progressing at a relatively rapid rate. How much additional oil exploration would be feasible at the site?

2. Page 7-41, Greenhouse Gas Emissions. Calculations should be provided to support the conclusion that the GHG emissions associated with the No Project Alternative would be substantially less than 6,000 metric tons. The previous comment indicates that oil exploration activities would increase under this alternative. Also, please justify the following sentence: "However, it should be noted that the proposed Project would be providing housing in a jobs-rich area, which would help offset an incremental portion of the regional emissions." What defines a "job-rich" area?
3. Page 7-49, 3<sup>rd</sup> paragraph. The EIR indicates: "Under Alternative B, oilfields could be consolidated, potentially resulting in natural vegetation being converted to oil exploration/production." Aren't there current rules and regulations in place that would prevent the existing oil operations from impacting areas with known biological value?
4. Page 7-59, last paragraph. The EIR indicates that, under Alternative B, future noise levels at the California Seabreeze and Parkview Circle residences facing the Project site would increase from 0 to 4 dBA CNEL above existing noise levels, which would be a less than significant. CNEL increases of 3 dBA and greater are generally considered "substantial" and, therefore, significant.
5. Page 7-136, last paragraph. Alternative D would result in a reduction in allowable dwelling units to a maximum of 1,200, as compared to 1,375 for the proposed Project. The EIR indicates that, under Alternative D, there would be a reduction in average daily trips, but an increase of trips in the AM peak hour and a decrease in trips in the PM peak hour. This seems odd. Why would there be an increase in AM peak hour trips when the number of dwelling units has been reduced?
6. Page 7-156, 2<sup>nd</sup> paragraph. Alternative F does not include the pedestrian and bicycle bridge spanning West Coast Highway. Why is the bridge not included in Alternative F? On page 7-172, it is indicated that Alternative F would not provide enhanced public access through the coastal zone and cites the lack of the bridge as one reason. Yet the bridge could be included in Alternative F so that this alternative would achieve all but one of the project objectives.
7. Are there any alternatives either present or additional which can reduce the noise, air emission, and light and glare impacts to Newport Crest from significant and unavoidable to less than significant?

## APPENDIX D. SITE REMEDIATION AND HAZARDOUS MATERIALS

1. Appendix D presents the Draft Remedial Action Plan for the project prepared by Geosyntec in 2009. Page 2 of Appendix D states:

*“A key assumption in all development planning is that any residential construction will be contingent upon the completion of the remediation work and agency closure of each residential planning area.”*

A clarification is needed here: Is this inconsistent with the Implementation Staging 1, 2, & 3 (discussed in Section 3.0 Project Description) which suggests that residential construction will be staggered such that some residential units will be completed and occupied before the completion of remediation work in other stages? Please clarify the wording in Section 3 to address the potentially ambiguous reading of this key assumption.

2. On page 6 it is stated: *“...In the case of the NBR Site where there are no hazardous wastes or levels of contaminants,”*

Please provide a summary of the data in support of the above comment. Provide an explanation of why this particular site differs from other former oilfields with respect to the presence of human health hazards.

3. On page 9 it is stated: “The hydrocarbon impacts observed were generally confined to the upper soil layers (i.e., within approximately 6 feet of the surface).”
  - Provide details concerning the disposition of the 6 feet of surface soil for the project.
    - Will it be treated and reused?
    - If it is reused what are the criteria that will be applied for acceptable/safe use as fill in residential portions of the project?
    - What portions will be removed from site?
  - Provide details on whether the impacts present in the 6 feet of upper soil layers include contaminants from pipeline scale (TENR contaminants).

4. On page 16 of the Phase I ESA Update in (Appendix D, page 91) it is stated: “A limited and preliminary pVIC evaluation was performed for the Site, utilizing only the information readily available in the EDR report, review of Site data and documentation, and results of the Site reconnaissance and interviews. This pVIC evaluation is not intended to meet the substantive requirements of the ASTM Standard E 2600 tiered screening, nor is it intended to identify which pVICs are VICs.”

There was no further elaboration on vapor intrusion assessment in the

main project description. Provide additional/updated information in DEIR Section 4.5 regarding the planned assessment of the existence of vapor intrusion conditions, and the acceptable criterion levels sought for the project.

5. Table 3-3 beginning on page 121 of Appendix D summarizes the Potential Recognized Environmental Conditions of the NBRP. Provide in Section 4.5 of the EIR a list of the items in this table that will be unmitigated, and a justification, during project development.