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From: Cindy Black

I hereby object to approval of the project in its present form. The comments below and all references contained therein are hereby incorporated into the official record of proceedings of this project and its successors.

On 6 November 2006, the City of Newport Beach adopted its updated General Plan and listed two designations for the Banning Ranch Site:

Priority Alternative – Site to be made available for purchase as open space.

Second Alternative – Site to have at least 50% preserved as open space, limited development to be permitted on the upper portion of the Site (residential, resort, commercial, and community parks).

A considerable effort had been made on behalf of the City of Newport Beach to accomplish the second alternative for the Site.

What efforts have been made to accomplish the **Priority** Alternative?

The lead agency for the Banning Ranch Project is the City of Newport Beach. Being such it is the determination of the City whether to approve or deny the Project.

The City of Newport Beach operates 16 of the 90 operating oil well sites in the Project area and therefore is responsible for clean up of its abandoned well sites.

It appears the City of Newport Beach is shifting its responsibility, and incurred costs of abandonment/remediation, to the developer in exchange for approval of the Banning Ranch Project. The City will save great expense at handing over this burden of clean up and remediation to the developer. The City also looks to profit from the additional tax revenues produced by homeowners of the Project, as well as Hotel and tourist revenues.

This creates a conflict of interest in respect to any unbiased decision-making regarding the Project.

The City of Newport Beach as lead agency for this Project is not in the Public's best interest because it has much to gain in approval of the Banning Ranch Project.

Government was designed to be fair and impartial. Whatever the City of Newport Beach's motives, being the lead agency is neither fair nor impartial government.

The City of Newport Beach is the regulating agency for the Project. But, who is regulating the City of Newport Beach? Please explain how the City can make unbiased decisions when it has so much more to gain financially by approving the Banning Ranch Project.

Section 4.3 GEOLOGY AND SOILS

Threshold 4.3-1 is a significant impact. The City of Newport Beach will:

“Expose people or structures to potential substantial adverse effects including the risk of loss, injury or death from rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault.”

The Project sits atop a major fault-The Newport Inglewood Fault. Mitigation measures do NOT eliminate this exposure.

Threshold 4.3-2 would result in significant impact if it would:

“Expose people or structures to potential substantial adverse effects including the risk of loss, injury, or death involving strong seismic-related shaking.

The Project sits atop a major fault-The Newport Inglewood Fault. There is a fault there aptly named the ‘Banning Fault’.

Threshold 4.3-5 **It is considered a significant impact if the project “would result in substantial soil erosion or the loss of topsoil.”**

Removal of between 1 to 10 feet of topsoil would result in significant impact related to geology and soils. The proposed grading is of significant impact to the whole environment of the Banning Ranch area.

Removing the soil from the Bluff tops and placing soil in the arroyos is cause of great destruction, and significant impact, to both vitally important habitats.

The proposed **‘Permanent Impact’ grading** would result in approximately 213 acres of destroyed habitat. Refer to Exhibit 4.6-4 Project Impacts.

Additionally *“the incorporation of drainage elements to prevent ponding adjacent to, and runoff onto, any graded or natural slopes”* will cause the destruction of existing vernal pools in those areas.

Refer to Order No. R8-2009-0030 (NPDES No. CAS 618030)

“This order requires the project proponents to first consider preventative and conservation techniques (e.g., preserve and protect natural features to the maximum extent practicable) prior to considering mitigative techniques (structural treatment, such as infiltration systems).”

The two major arroyo’s described as having incised into the bluff as a result of surface flows and storm drainage over the bluff edge are the responsibility of the City of Newport Beach who is to ensure an adequate Drainage Area Management Plan, by order of both State and Federal Code Regulations Order No. R8-2009-0030.

In response to the City of Newport Beach’s ‘creation’ of unwarranted mitigation to reduce any possible impact subject to Threshold 4.3-6

Threshold 4.3-6 The project would result in significant impact if it would: *“Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse.”*

4.3-9 Liquefaction and Lateral Spreading

What is the reasoning for the removal of colluvium and artificial fill on bluff top?

Liquefaction does not apply to pockets of colluvium and artificial fill on bluff top.

“The liquefaction hazard Zone of Required Investigation boundaries are based on the presence of shallow (< 40 feet depth) historic groundwater in uncompacted sands and silts deposited during the last 15,000 years and sufficiently strong levels of earthquake shaking expected during the next 50 years.”

The Project site of approximately 254 acres is located atop the Newport Mesa, also referred to as the “Upland”.

4.3-6 *“The Upland is approximately 50-90 feet above the adjacent Santa Ana River floodplain.”*

This is well above soils predisposed to potential liquefaction hazard.

4.3-10 *“These areas are so far above the groundwater table they are not anticipated to reach saturation.”*

Additionally the soil composition of the Upland area consists of bedrock of the San Pedro Formation overlain by 40 to 50 feet of marine terrace deposits 4.3-18 *“Soils in the Upland, except for existing colluvial deposits when subjected to saturated conditions, are too dense or too far above the water table for liquefaction and lateral spreading to occur”.*

4.3-9 *“lateral spreading requires the existence of a continuous and laterally unconstrained liquefiable zone.”*

“Pockets” of colluvium and artificial fill do not qualify as “a continuous and laterally unconstrained liquefiable zone.”

The justification that has been given for removal of colluvial soil at the base of the Upland slopes is to provide a more compressible soil for the development.

4.3-10 *Colluvial soils present at the base of the Upland slopes, in ravines and in arroyos are a combination of slope wash and talus deposits, generally identified as soft and porous when encountered during field trenching. These colluvial soils are considered moderately to highly compressible and would be removed and recompacted underneath development areas during grading.*

Removing colluvial soil in order to provide a compressible pad for the development does not justify destroying vital environmentally sensitive habitat.

4.3-19 Collapsible/Compressible Soils

Appendix B Part 1 Corrective Grading (d) *Terrace Deposits: The upper 3 to 5 feet of the soil horizon along with any locally compressible and/or porous zones within the terrace deposits should be removed and recompacted to provide uniform bearing conditions for proposed structures. Locally deeper removal zones may be extend to depths of 5 to 10 feet.*

Please refer to **California Code Section 30107.5 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."**

Section 4.5 HAZARDS AND HAZARDOUS MATERIALS

Threshold 4.5-3 *Would the project emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?*

Yes, there is potential that the Project could release toxic chemicals into the environment. There are two schools located within approximately ¼ mile of the Project site: Whittier Elementary School and Carden Hall.

4.5-18 Why has no *"comprehensive final Remedial Action Plan for oilfield abandonment, clean-up, remediation, and consolidation"* been presented? This should be addressed prior to approval of the Project.

The Thresholds 4.5-1 thru 4.5-5 cannot be adequately addressed without a final Remediation Action Plan.

The City has failed to follow its own Land Use Plan:

LU Policy 3.7: Natural Resource or Hazardous Areas

"Require that new development is located and designed to protect areas with high natural resource value and protect residents and visitors from threats to life or property."

Section 30001 Legislative findings and declarations; ecological balance

The Legislature hereby finds and declares:

- (a) That the California coastal zone is a distinct and valuable natural resource of vital and enduring interest to all the people and exists as a delicately balanced ecosystem.
 - (b) That the permanent protection of the state's natural and scenic resources is a paramount concern to present and future residents of the state and nation.
 - (c) That to promote the public safety, health, and welfare, and to protect public and private property, wildlife, marine fisheries, and other ocean resources, and the natural environment, it is necessary to protect the ecological balance of the coastal zone and prevent its deterioration and destruction.
 - (d) That existing developed uses, and future developments that are carefully planned and developed consistent with the policies of this division, are essential to the economic and social well-being of the people of this state and especially to working persons employed within the coastal zone.
- (Amended by Ch. 1090, Stats. 1979.)

The Project site is an Environmentally sensitive area

Section 30107.5 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 addition of urban environment on the Banning Ranch area will greatly impact the ecological balance of this natural coastal habitat. Pollutants from residential and commercial landscapes will affect water quality. The degradation of the water bodies is likely. The channeling of water proposed on the Project Site will disrupt the natural water percolation through the soil horizon affecting the ecological balance of the area.

Order No. R8-2009-0030 (NPDES No. CAS 618030)

The County of Orange, Orange County Flood Control District, and the Incorporated Cities of Orange County Areawide Urban Storm Water Runoff

"The pollutants from urbanized areas are also a significant threat to environmentally sensitive areas, such as waterbodies designated as supporting a RARE beneficial use (supporting rare, threatened or endangered species), *areas of special biological significance (ASBSs)* and Clean Water Act Section 303(d) listed impaired waterbodies. The State Board is developing Special Protections for Storm Water and Non-point Source Discharges to ASBSs. *Where applicable, the permittees are expected to comply with these Special Protection requirements for the ASBSs.*"

“L. NEW DEVELOPMENT/SIGNIFICANT REDEVELOPMENT – WQMP/LIP/LID

²⁰Low impact development is an approach to land development (or re-development) that works with nature to manage storm water as close to its source as possible by using structural and non-structural best management practices to reduce environmental impacts. “

“... *Urban development increases impervious surfaces and storm water runoff volume and velocity and decreases vegetated, pervious surface areas available for infiltration and evapotranspiration of storm water*”.

3.1 Existing Regulatory Oversight

The actual oil field operations are governed by regulations of the California Department of Conservation, Department of Oil, Gas, and Geothermal Resources (DOGGR). The DOGGR has specific guidelines for the abandonment, or reabandonment if necessary, of oil wells.

Does the DOGGR require removal of pipe(s) on abandoned well sites?

4.1 Phase II Environmental Assessment (EA) [Geosyntec, 2001] with *field sampling conducted between May and August 2001*. This study was a comprehensive field investigation of the impacts from the historic oil operations.

More recently an updated Phase I Environmental Site Assessment (ESA) Report [Geosyntec, 2008] was completed as part of the development proposal studies.

The study might have been comprehensive, but the report isn't. No map was included in the Phase II Environmental Assessment (EA) showing the areas where samples were collected.

Can you provide this information?

It appears that this DEIR is more a compilation of previous analysts' findings than current findings. The last comprehensive EA testing/sampling done at the Project Site was over a decade ago. Much can change in time.

"The EA fieldwork was then completed in phases during 2001 and consisted of collecting and evaluating over 550 samples from 222 test pits/borings, 10 ground water monitoring wells, surface water, and soil gas sampling points [Geosyntec, 2001]."

4.2 Only 7 of the 23 PECs investigated showed any significant hydrocarbon impacts beyond surface areas. During the soil evaluation, soil gas was observed (i.e., bubbling) in a lowland pond near PEC #02 – Main Site Tank Farm. Samples were collected using Tedlar bags. Analytical results indicated elevated methane concentrations (up to 73.2 percent).

Some of the Agency for Toxic Substances and Disease Registry-ATSDR inhalation MRLs are derived in parts per million (ppm) and some in mg/m³. For use in this table all were converted into mg/m³.

MRLs are based on noncancer health effects only and are not based on a consideration of cancer effects. Inhalation MRLs are exposure concentrations expressed in units of parts per million (ppm) for gases and volatiles, or milligrams per cubic meter (mg/m³) for particles. Oral MRLs are expressed as daily human doses in units of milligrams per kilogram per day (mg/kg/day). Radiation MRLs are expressed as external exposures in units of millisieverts.

Twenty-three (23) areas were identified as PECs in the Phase II Environmental Assessment (EA) [Geosyntec, 2001]. Since that time additional RECs have been identified, "a total of 27 on-site RECs, three historical RECs, and four off-site facilities as RECs."

The public's safety is in question, which warrants more current testing and findings.

As is, the Draft Environmental Report for the Banning Ranch Project is inadequate and misleading in regard to the declared significant impacts or lack thereof.

Please consider the value of the land and all of its resources as open space to attract nature enthusiasts worldwide.