



Via Email Transmission to palford@newportbeachca.gov

November 8, 2011

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In Memoriam

Patrick J. Alford, Planning Manager
City of Newport Beach, Community Development Department
3300 Newport Boulevard
P.O. Box 1768
Newport Beach, CA 92658-8915

Re: Newport Banning Ranch Project
Draft Environmental Impact Report
State Clearinghouse No. 2009031061

Dear Mr. Alford,

"The comments below and all references contained therein are hereby incorporated into the official record of proceedings of this project and its successors."

On behalf of the Banning Ranch Conservancy, thank you for the opportunity to comment on the above referenced Draft Environmental Impact Report (DEIR) for the proposed Newport Banning Ranch development project (NBR) that was prepared and circulated by the City of Newport Beach (City).

Pursuant to Section 15088.5 (a)(4) of the California Environmental Quality Act (CEQA) Guidelines, we herewith strongly request that the DEIR be immediately withdrawn, be revised to comply with CEQA and be recirculated when it is in compliance with CEQA statutes and guidelines and applicable case law. The currently released DEIR is so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment are precluded. (see Mountain Lion Coalition v. Fish and Game Com. (1989) 214 Cal.App.3d 1043).

Examples of the inadequate and flawed execution of the DEIR include:

- exclusion of meaningful information from known sources and other public agencies and comments, actions and/or decisions of other public agencies,
- omission of pertinent and available data on known and potential impacts,
- failure to identify significant environmental impacts,
- inadequate analysis of mitigation proposals and impacts,
- failure to perform studies of known and existing conditions and potential impacts,
- a poorly organized document making search and review very difficult,

- conclusions unsupported by facts in evidence nor reflective of facts omitted or excluded, and
- a public review process that was inadequate, lacked sufficient access to complete DEIR documentation and was contrary to the Notice of Availability and other documents and statements issued by the City regarding the guidelines and timeframes for review of the DEIR.

The flaws of the DEIR are so numerous as to preclude the entirety of them in this letter. However, many of them are addressed in letters/emails submitted by others. By reference, I herewith incorporate the comments of Sandra Genis, Robert Hamilton, Bruce Bartram, Terry Welsh, Jim Mansfield, Jim Mosher, Toni M. Callaway, Matt Hagemann, Penny Elia, Vicki Hernandez, Dennis McHale, Patricia Barnes, Dorothy Kraus, Cindy Black, Scott Thomas, Patricia Martz, Kevin Nelson, Barry Nerhus, Margaret Royall, Suzanne Forster, Jennifer Frutig, Ginny Lombardi, Ed Guilmette, Paul & Cathy Malkemus, City of Costa Mesa, and the Shunda family (Julia, George and Sebastian).

Examples of issues raised by some of the above include, but are certainly not limited to:

- Extensive vernal pool data not included. -- Terry Welsh
- For the record, all mitigation sites identified in the DEIR must be specified. If habitat restoration is undertaken, this will entail changes to the existing environment, impacting some species even if others are possibly benefitted. CEQA requires that the project site be clearly defined, and the DEIR fails to meet this standard.
Authorizing a massive development project on Newport Banning Ranch, on the scale proposed in the DEIR, will have potentially significant cumulative and growth-inducing effects resulting from the likely revival of long-shelved plans for a 19th Street bridge across the Santa Ana River. A bridge at that location would have impacts on numerous biologically sensitive species found in that area, and would represent a major intrusion of noise into the Orange Coast River Park. -- Robert Hamilton
- The DEIR is thus somewhat of a hybrid between a project specific EIR addressing a tract map which includes establishment of individual residential lots in some areas and a Master EIR addressing a general plan or master plan, with additional environmental documents potentially prepared for specific development in the future. -- Sandra Genis
- Notice of Availability of DEIR failed to list significant environmental effects anticipated as a result of the project as required by CEQA Guideline 15087(c)(4).

Documents referenced in DEIR not readily available for public review at the sites listed in the notice. -- Jim Mosher

- The ongoing mowing and likely destruction of ESHA has not been addressed. This is an omission and could possibly end up being another violation/California Coastal Commission enforcement issue. -- Penny Elia
- The Air Quality and Hazards and Hazardous Materials sections of the DEIR do not include the impacts of TACs and criteria pollutants on human health. The Banning Ranch oil field has been in operation nearly seven decades, yet no radiation survey is mentioned in the DEIR. -- Suzanne Forster
- Not included is the foreseeable expansion of Ticonderoga into a commuter roadway. -- Julia Shunda
- No research into H₂S gas release based on Cal OSHA reporting and engineered Secondary Oil Recovery operations (H₂S gas is by-product). Not included in DSEIR is historic research on wells abandoned, condition of these wells and location on the Banning Lease. -- Dennis McHale
- Significant omission of ESHA and CSS (gnatcatcher and Cactus Wren habitat) data and information, particularly as referred to in the Coastal Commission Consent Cease and Desist Order CCC-11-RO-02 and the Coastal Commission Consent Restoration Order CCC-11-RO-02 and within the City of Newport Beach's CLUP. -- Patricia Barnes
- The DEIR's omission of the under construction Coastline Community College Newport Beach Learning Center on 15th Street and Monrovia. -- Dorothy Kraus
- The dEIR was made available in 3 different formats:
Paper copies
Multiple CDROM disks
Online available via the Internet

Paper

The paper copies were accessible at very limited, primarily City locations. Access was limited to the facility operating hours and times. The document is 7300+ pages making it extremely difficult for a comprehensive review. There is a table of contents, but no index, making very rudimentary searches very difficult.

CDROM

The files were split into 3 separate disk because the size of the files exceeded the normal CDROM capacity. Disk one contained the main body (Volume 1) of the document, disk 2 the appendixes A-E and disk 3 appendixes F-M. The total of the 3 files sizes is approximately 876 MB. The large file chunks adversely impact computer performance, particular the disk 2 appendix – 660 MB. A high end PC configured with 6MB of RAM and an Intel second generation i7 processor takes approximately 35 seconds to load appendix 2. Less robust computer configurations would take considerable longer to load files this large. The files are in pdf format and have been arranged in Adobe's portfolio format. Searching portfolios can be extremely time consuming. A more even split in file sizes would have been better. The Adobe Acrobat page number does not match that of the actual document, making browsing the portfolio pages very difficult.

Internet

The entire dEIR document is also available on the City of Newport Beach website. The City has done a relatively nice job a splitting the document into manageable chunks. A fast Internet connection (7-10 mbps) downloaded larger chunks in just over 2 minutes. Slower connections would take much longer. The files are in pdf format and use the more "traditional" Adobe format rather than portfolios making searching much easier. Again, the Acrobat page numbers do not match the actual document page numbers. The files on the City website are also displayed alphabetically rather than the order that they appear the actual document. This may confuse some reviewers.

The real problem with the dEIR is the simple fact that it contains over 7300 pages of material. Trying to review this much material in 60 days is an insurmountable task. While there may be some technical, and accessibility issues, does the document meet CEQA guidelines for length and readability? -- Paul & Cathy Malkemus

In summary, and as demonstrated above and in the many comment letters/emails submitted by the individuals listed above and referenced and included herein, the DEIR is woefully inadequate and not sufficient to serve as a valuable or reliable informational document for the public, the decision makers in the City of Newport Beach, other responsible public agencies or the California Coastal Commission (who retains original jurisdiction over this area of deferred certification that is the proposed project area) and as required under CEQA. **The Banning Ranch Conservancy hereby strongly requests that the aforementioned DEIR be withdrawn, revised in compliance with CEQA requirements and recirculated.**

Please contact the undersigned at 310/961-7610 or via email at steve.banningranch@hotmail.com for questions or for further information.

Thank you.

Respectfully submitted,

Steve Ray [s]

Steve Ray
Executive Director
Banning Ranch Conservancy

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