

## Alford, Patrick

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**From:** Jim Mosher [jimmosher@yahoo.com]  
**Sent:** Tuesday, November 08, 2011 4:32 PM  
**To:** Alford, Patrick  
**Subject:** Additional Comments on Newport Banning Ranch Draft Environmental Impact Report

Dear Mr. Alford,

I am submitting these comments as part of the public review of the Newport Banning Ranch (NBR) Draft Environmental Impact Report (DEIR), State Clearinghouse No. 2009031061, and ask that they be included in the record of this and all subsequent proceedings regarding that project.

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Observation: At its November 2, 2011 hearing (Agenda Item 16a), the California Coastal Commission found major environmental problems with even a modest two-lane, low-traffic road following the alignment of the proposed "Bluff Road" near its connection with West Coast Highway.

Question: To what extent were less impactful routes explored for the present project and what were the conclusions?

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Observation: Also at its November 2, 2011 hearing (Agenda Item 16a), the California Coastal Commission found major environmental problems with what it believed to be unpermitted mowing of what, in the absence of the mowing, would have been Environmentally Sensitive Habitat Area protected by the Coastal Act.

Questions:

1. Has unpermitted mowing occurred on the Newport Banning Ranch property?
2. Can development be allowed on areas which, in the absence of mowing or other human intervention, would be ESHA?

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Observation: NBR DEIR page 4.2-9 says "The City of Newport Beach General Plan does not identify any scenic vistas or view points on the Project site."

Questions:

1. Isn't this largely because the project site is outside the City's current jurisdiction?
2. Might not new scenic vistas or view points be identified if the site is cleaned up and annexed, and how would this affect evaluation of the impacts of the proposed development?

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Observation: NBR DEIR page 4.2-9 also says "Additionally, West Coast Highway is not a State- or locally-designated scenic highway."

Question: Again, might this not change if the area were cleaned up?

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Observations:

1. The stability of the bluffs, their historic rate of recession, and the extent to which their stability has been (and may be) affected by human activity all seem important considerations in deciding if the area is suitable for housing.
2. According to DEIR page 4.3-5, the historic rate of bluff retreat was determined by examining a sequence of aerial photos and topographic maps.
3. The conclusion is apparently that the retreat rate has been between 0.6 and 4.2 feet per year (page 4.3-11).
4. Conclusions regarding the significance of this would presumably be found in the answer to Threshold Criterion 4.3-6: "Would the project 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?" (pages 4.3-17 to 4.3-20).
5. As most of the DEIR the conclusions discussed on pages 4.3-17 to 4.3-20 are not understandable to the non-specialist, and do not use the term "bluff retreat," which does not reappear until further down page 4.3-20 where it used in connection with the discussion of "Threshold 4.3-5 Would the project result in substantial soil erosion or the loss of topsoil?"

Question:

1. How can the public assess the accuracy of the bluff retreat conclusions without seeing the historic aerial photos (which are reproduced in neither the main text nor the technical appendices)?
2. What term in the discussion about the stability of the area on page pages 4.3-17 to 4.3-20 is equivalent to the term "bluff retreat" used in the earlier discussion?
3. If a term not exactly equivalent is used, how are they related?
4. Is the range of historic retreat rates cited the range observed in different years? Or at different locations in the project area?
4. Even if the project doesn't result in a substantial increase in soil erosion, isn't the historic rate of 0.6 and 4.2 feet per year a problem for maintaining the setbacks described elsewhere in the DEIR?

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Observation: The Community Park described on page 4.8-10 appears to duplicate facilities planned by the City of Newport Beach at nearby Sunset Ridge Park.

Question: How can the two projects (Newport Banning Ranch and Sunset Ridge Park) be considered in isolation, rather than together, including, but not limited to, consideration of the possibility that taken together they represent an excessive conversion of coastal habit to active sports uses?

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Observation: Page 4.13-7 says "The purpose of the Newport Banning Ranch test investigations is to determine whether any of the 11 archaeological sites present on the property are eligible for listing in the CRHR or the NRHP, and if they would thus warrant further consideration in the planning process."

Question: Why are impacts to archaeological sites important only they are eligible for listing in the CRHR or the NRHP (cf. CEQA Guideline 15064.5(a)(4))?

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Observation:

1. Page 4.13-25 says "Three archaeological sites (CA-ORA-839, CA-ORA-844B, and CA-ORA-906) are deemed eligible for listing on CRHR and NRHP. Disturbance activities could also impact unknown resources. This impact would be mitigated to a level considered less than significant with implementation of MMs 4.13-1 and 4.13-2."

2. Page 4.13-31 says of CA-ORA-906 that "Mitigation shall be in the form of data recovery excavation to collect the scientifically consequential data that the site retains prior to its destruction by Project grading."

Question: How can destruction of a site be regarded as a less than significant impact?

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Observations:

1. Section 4.14.3 of the DEIR seems to conclude that no new schools will be needed to accommodate children living at the project site.

2. Table 4.14-4 suggests that most of the nearby elementary schools are already beyond their capacity, sometimes substantially.

Questions:

1. What evidence supported the conclusion that there was room to add more classrooms to the already overcrowded schools, without any need to build new schools?

2. Why is no property on the project site being dedicated for school purposes to relieve the overcrowding, including overcrowding which might result from expected population growth in surrounding areas?

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Observation: Section 6 of the DEIR lists many significant environmental impacts of the project that it is claimed cannot be mitigated, including, among other things, many significant irreversible environmental changes listed in Section 6.2.

Question: Why were these anticipated adverse impacts not brought out more clearly in the summary and in the Notice of Availability of the DEIR?

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Observation: Page 6-7 says: "Bluff Road and North Bluff Road ... would not provide a roadway connection where roadways do not currently exist. The Project would not induce growth through the provision of infrastructure."

Question: Would not Bluff Road/North Bluff Road provide a shorter route between points and hence provide an infrastructure conducive to growth?

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Observation: In the discussion on DEIR page 7-64 dismissing the economic feasibility of acquiring Banning Ranch for open space with Renewed Measure M funds, the DEIR appears to rely exclusively on statements made by the applicant and a City-hired consultant.

Question: Shouldn't the EIR consider input from outside entities with a more regional perspective who might be working acquiring Banning Ranch with Measure M funds (such as the Banning Ranch Conservancy, or OCTA itself)?

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Question: Since the DEIR considers the economic feasibility of realizing the open space acquisition option, should the DEIR disclose the economic incentives City officials might see in approving the development option as proposed (developer fees, transient occupancy taxes and others) and which might make it difficult for them to make an unbiased assessment of the environmental impacts of that option?

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Question: How much effort was made to anticipate environmental impacts other than those appearing in the standard checklist?

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Question: Should the lead agency have provided better guidance to the public on the kind of comments that would be most useful for improving the EIR and the format that would be most efficient for incorporating them?

Yours sincerely,

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