



**UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration**

NATIONAL MARINE FISHERIES SERVICE
Southwest Region
501 West Ocean Boulevard, Suite 4200
Long Beach, California 90802-4213

NOV 8 2011

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

Dear Mr. Alford:

NOAA's National Marine Fisheries Service (NMFS) has reviewed the City of Newport Beach's (City) Draft Environmental Impact Report (DEIR) for the Newport Banning Ranch Project (Project) to develop an approximately 401 acre site in and around the City of Newport Beach in Orange County, California. NMFS offers the following comments pursuant to the essential fish habitat (EFH) provisions of the Magnuson-Stevens Fishery Conservation and Management Act and the Fish and Wildlife Coordination Act (FWCA).

Given that the proposed activity will likely require a federal permit from the U.S. Army Corps of Engineers (Corps) pursuant to Section 10 of the Rivers and Harbors Act and Section 404 of the Clean Water Act, NMFS is providing comments on the DEIR in anticipation of the EFH consultation process this permit would require. NMFS also intends to submit comments to the Corps pursuant to our responsibilities under the FWCA. We believe that coordination between NMFS and the City of Newport Beach at this stage of project planning would facilitate a more effective and streamlined EFH and FWCA consultation process between the Corps and NMFS.

The DEIR indicates that the Master Development Plan designates a minimum of 220 gross acres of the Project site as wetland restoration/water quality areas, habitat conservation, and restoration mitigation areas. The Master Development Plan includes a Habitat Restoration Plan for the habitat areas, containing provisions for the preservation and long-term maintenance of existing sensitive habitat and habitat created and restored by the Project. In addition, the DEIR acknowledges the potential need to mitigate for impacts to jurisdictional areas of resource agencies, including wetlands. However, the DEIR lacks specifics as to how the habitat restoration or conservation would be implemented.

NMFS is particularly interested in habitat restoration or enhancement that would occur in the area identified as lowland open space, comprising approximately 147 acres of the project site. We believe that restoring wetlands to a portion of this lowland area would provide high quality habitat for native fish, birds and other wildlife. Moreover, establishing a mitigation bank and/or



in lieu fee program at this site to compensate for impacts caused by this project and/or other projects in the vicinity could be an effective use of this lowland area and should be evaluated. Therefore, NMFS encourages the City to develop a detailed restoration plan for the lowland open space area that includes a wetland component to facilitate the review of the proposed project by NMFS and other resource agencies. In addition, NMFS requests that we be invited to participate in any future lowland restoration planning efforts. Lastly, we encourage the City to incorporate an analysis of potential climate change impacts to the project area and the potential risk of increasing the vulnerability of the proposed development areas to climate change impacts.

Thank you for considering our comments. If you have any questions, please contact Eric Chavez at (562) 980-4064 or Eric.Chavez@noaa.gov.

Sincerely,



for Robert S. Hoffman
Assistant Regional Administrator
for Habitat Conservation Division