



California Cultural Resource Preservation Alliance, Inc.

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**An alliance of American Indian and scientific communities working for
the preservation of archaeological sites and other cultural resources.**

November 3, 2011

Patrick J. Alford, Planning Manager
City of Newport Beach, Community Development Department
3300 Newport Boulevard
P.O. Box 1768
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Dear Mr. Alford:

We are writing to express our opposition to the proposed Newport Banning Ranch Project development not only because it will impact significant archaeological sites, but also because of the impacts to endangered species and habitat. Given the loss of so many significant archaeological sites in Orange County due to development, it is tragic that only three out of 11 archaeological sites in the Newport Banning Ranch Project area have escaped total destruction. All three sites have been determined eligible for listing on the National Register of Historic Places (NRHP) and the California Register of Historical Resources (CRHR). This makes it all the more important that the three archaeological sites CA-ORA-839, CA-ORA-844B, and CA-ORA-906 be protected and preserved and not “mitigated”.

Having registered our opposition to the proposed project, the remainder of this letter will address the specifics of the proposed mitigation plans. While BonTerra Consulting is to be commended for recommending preservation of portions of two of the sites through site capping and the City is to be commended for incorporating the recommendations into their mitigation plan, we question why all of the remaining portions of the NRHP and CRHR eligible sites cannot be preserved.

According to MM 4.13.2, an unknown portion of CA-ORA-839 will be impacted by planned removal of oilfield-related infrastructure prior to grading. It is not clear why, if the road will not impact the site, “planned removal of oilfield infrastructure that may impact portions of the site.” is necessary. What is the justification for the removal? Leaving it in place is not only cost effective, as removal of the oilfield infrastructure and archaeological data recovery are time consuming and expensive; but given the magnitude of losses to the prehistoric site inventory on the property, the significance of the site, and the inadequacy of data recovery excavations as mitigation for destruction, preservation should be mandatory. It is also troubling that the areal extent of the impacts is not identified and therefore, the portion of the site to be capped could be very minimal.

The MM 4.13-2 should describe the areal extent of the portion of the site described as “the vast majority of the site” and the areal extent that would be impacted by the planned removal of the oilfield infrastructure. Saying that “It should be possible to preserve the vast majority of the site in place in perpetuity to avoid further disturbance to it .” is not sufficient. The MM 4.12.2 should identify the extent of the area to be preserved and state that the site will be capped following guidance provided by the

National Park Service's brief #5 Intentional Site Burial: A Technique to Protect Against Natural or Mechanical Loss (NPS 1989, revised 1991).

CA-ORA-844B would not be directly impacted by the proposed development. The proposed road would be 400 feet east of the archaeological site. It will be impacted by oil infrastructure removal activities prior to grading. Again why does the oil infrastructure have to be removed? What is the grading for if the road would be approx 400 ft east of the site? Also indirect impacts from additional erosion of the unstable surface and the increased population on the site as a result of the future development could cause further damage over time. Mitigation of the Project's adverse effects is required. What mitigation? Data recovery? Why not preservation through site stabilization and capping?

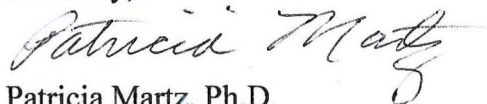
CA-ORA-906 will be directly impacted as a result of road construction and oilfield infrastructure removal.

Bottom line: Out of 11 archaeological sites, only 3 have not been destroyed to the extent that they retain the potential to provide information important in prehistory and therefore are eligible. But due to the proposed development, all three will be impacted. "The impact would be mitigated to a level considered less than significant with implementation of MMs 4.13-1 and 4.13-2." This statement reflects the outdated thinking that the only value of an archaeological site is scientific information. If you recover the information through data recovery excavations, you are good to go. This does not take into consideration cultural, heritage, and religious values. It also does not recognize the fact that the time and monetary constraints of archaeological excavation, and the current science of archaeology, are not capable of recovering sufficient information before the site is destroyed.

In recognition of this, federal historic preservation laws no longer allow a "no adverse effect determination" or in CEQA parlance "reduction of potential impacts to a level considered less than significant" through data recovery mitigation. Archaeological sites are fragile and non-renewable. Archaeology as it is practiced today is a destructive process. It is essential that the remaining areas of these highly significant archaeological sites be preserved for future generations with advanced archaeological techniques that are non-destructive and that can provide answers to questions that we can't answer with today's technology.

In summary, the 3 remaining archaeological sites should be avoided, capped, and preserved. If you have any questions, please contact me at (949) 559-6490.

Sincerely,



Patricia Martz, Ph.D.
President