



California Regional Water Quality Control Board Santa Ana Region



Matthew Rodriguez
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Edmund G. Brown Jr.
Governor

November 8, 2011

Patrick Alford
City of Newport Beach Planning Department
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DRAFT ENVIRONMENTAL IMPACT REPORT, NEWPORT BANNING RANCH, CITY OF NEWPORT BEACH, SCH# 2009031061

Dear Mr. Alford:

Staff of the Regional Water Quality Control Board, Santa Ana Region (Regional Board) have reviewed the Draft Environmental Impact Report (DEIR) for the proposed Newport Banning Ranch residential and open space project (Project). The site is located mostly on unincorporated Orange County area between West Coast Highway (southwestern City of Newport Beach; "City") and 19th Street (Costa Mesa), and it would be annexed to the City.

The Newport Banning Ranch oilfield encompasses approximately 401 acres of bluff and lowland topography (former marine embayment) east of Semeniuk Slough and associated marine wetlands. The site is dissected by two generally east-west parallel drainages (North and South Arroyos) that are tributary to Semeniuk Slough. The Project would abandon the oilfield's wells and remediate portions of it where necessary, reducing the oilfield size to 16.5 active acres until this too is eventually abandoned, remediated, and restored as open space.

To access the site, the Project will amend earlier highway plans to construct South Bluff Road and North Bluff Road as original 4-lane and 2-lane parkways through open space between West Coast Highway and 19th Street. The existing termini of 15th, 16th, and 17th Streets will be extended westward into the property.

We believe that the final EIR should incorporate the following comments in order for the Project to best protect water quality standards (water quality objectives and beneficial uses) contained in the Water Quality Control Plan for the Santa Ana River Basin, 1995, as amended (Basin Plan):

1. The Project will construct mixed use and 1,375 residential units on 86.1 acres, a resort inn on 11.3 acres, and a public park on 26.8 of 51.4 acres that are designated for recreation (Executive Summary Table 1-1, p.1-2). Depending on a timeframe for acquisition of open space between the property owner and the City, 252.3 acres of open space would be preserved largely as natural habitat (ES pg.1-2, 1-3). If an acquisition agreement is not met and additional construction is proposed within that 252.3 acres, will another DEIR be recirculated?

Mr. Patrick Alford

- 2 -

November 8, 2011

2. The Watershed Assessment Report (Appendix C), among the hydrology studies, states that the site's Northern Arroyo is a stable natural channel not expected to erode. The Southern Arroyo and tributaries, however, will receive stabilization measures to reduce hydromodification and sediment transport into Semeniuk Slough, including a diffuser basin at the downstream end of the Southern Arroyo. Given that Executive Summary p.1-7 refers to improving "existing arroyo drainage courses," does that specifically pertain to work in the Northern Arroyo as well as in the Southern? Will there be any reconfiguration of these channels or will re-vegetation alone constitute "fill to waters of the U.S. and state," so that an appropriate listing of impacts may be made in the application for a Clean Water Act Section 401 Water Quality Standards Certification (Certification; ES p.1-5)?

Further, if natural treatment systems are to detain and clarify runoff from onsite/offsite sources, prior to discharge into Semeniuk Slough, will all of these natural treatment systems therefore discharge into the Northern and Southern Arroyos?

3. Executive Summary p.1-35, Table 1-2, Summary of Significant Impacts and Mitigation Program, states that the Project will disturb (or eliminate?) 2.45 acres of marsh, 12.93 acres of riparian and disturbed riparian area, and 0.14 acre of "grassland depression features." The latter should be clarified as being seasonal ponds or biologically structured vernal pools, as we surmise from the mitigation discussion, and the referenced fairy shrimp should be speciated and discussed as being under federal or state protection. Regional Board staff request that any vernal pool be avoided by the Project to the greatest extent possible.

As mitigation, Project Design Features 4.6-1 and -2 (pg. 1-35,-36) will designate a minimum of 220 gross acres as wetland restoration/water quality areas, habitat conservation (coastal sage scrub and grasslands), and restoration mitigation areas, with a Habitat Restoration Plan, endowed management, and conservation easements /deed restrictions. Would such designation conflict with the uncertainty regarding the acquisition agreement, mentioned in paragraph 1. above?

We understand that of the referenced 220 acres, 12.25 acres will be mitigated onsite for the disturbed marshland and will include a "marsh meadow," while riparian area will likely be mitigated as discussed under "jurisdictional areas (p.1-36-38)." We understand there are expected to be 0.32 acre of permanent and 3.93 acres of temporary impacts to waters of the U.S., jurisdictional to the U.S. Army Corps of Engineers (requiring a Certification). As mitigation, the Project would restore 15.77 acres related to water bodies. The final EIR should clarify whether this 15.77 acres (part of Mitigation Measure MM 4.6-5) is:

- 1) included within the 220 gross acres proposed above, and
- 2) includes the replacement of riparian forest for Least Bell's vireo habitat noted in Mitigation Measure MM 4.6-11.

The "grassland depression features" would be mitigated by 3.58 acres of vernal pool; please clarify whether the intention is to replace an excavated vernal pool with reconstructed vernal pools elsewhere on the property; they are usually problematic to reproduce with the same biological integrity as the original pools.

Mr. Patrick Alford

- 3 -

November 8, 2011

If you have any questions, please contact me at (951) 782-3259, or grobertson@waterboards.ca.gov, or Mark Adelson, Chief of our Regional Planning Programs Section, at (951) 782-3234, or madelson@waterboards.ca.gov.

Sincerely,



Glenn Robertson
Engineering Geologist
Regional Planning Programs Section

cc: State Clearinghouse
U.S. Army Corps of Engineers, Los Angeles - Stephanie Hall
U.S. Fish and Wildlife Service, Carlsbad - Jonathan Snyder
California Department of Fish and Game, Los Alamitos - Mary Larson
California Coastal Commission, San Francisco - Jack Gregg

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