

November 8, 2011

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

Subject: Comments on Newport Banning Ranch DEIR

Dear Mr. Alford,

As a long-standing member of the Sierra Club I provide these comments on the Draft EIR for the proposed Newport Banning Ranch Project (State Clearinghouse No. 2009031061) to the City of Newport Beach (City). I hereby object to approval of the project in its present form. The comments below and all references contained therein are hereby incorporated into the official record of proceedings of this project and its successors.

My comments focus on the ongoing, unpermitted mowing that occurs not only on the Newport Banning Ranch property, but also on the adjacent proposed Sunset Ridge Park area. As a point of reference for my comments I direct your attention to the recent Coastal Commission hearing for the proposed Sunset Ridge Park project that was held last week on November 2, 2011, item W16a. If you did not attend the hearing I would highly recommend viewing the archival webcast so that you can fully appreciate the Commission's comments related to the mowing at Sunset Ridge, specifically the comments of Commissioner Steve Blank.

<http://www.cal-span.org/cgi-bin/archive.php?owner=CCC&date=2011-11-02>

16a. **Application No. 5-10-168 (City of Newport Beach Sunset Ridge)** Application of City of Newport Beach to construct, on vacant land, active recreational park (Sunset Ridge Park) of approximately 18 acres at northwest corner of intersection of West Coast Highway and Superior Ave, including access road, parking lot, public restroom, playground, sports fields, paths, viewpoint, retaining wall, landscaping, and coastal sage scrub habitat enhancement. Grading consists of approximately 110,000 cu.yds. of cut, and 102,000 cu.yds. of fill, at 4850 West Coast Highway and on portion of Banning Ranch, Newport Beach, Orange County. (JDA-LB)

Public Comment on Item

Return to Staff

Return to Commission

Motion and Vote

Amending Motion and Vote

Motion and Vote

Withdrawal of Application

Based upon the City's current fire regulations, it would appear as though the applicant, the City of Newport Beach and its Fire Department have implemented a vigorous and methodical campaign to destroy, via unpermitted mowing, all of the Encelia on site (Encelia is known to be a precursor to ESHA and does not require fuel modification). Not only has this mowing been done without a permit (Coastal Development Permit), it appears to have been accomplished through a thorough and ongoing abuse of police power. In fact, the City went as far as to hire Steven Kaufmann to substantiate their unpermitted mowing at Sunset Ridge, but to date, has not hired him to do the same for the unpermitted mowing at the Banning Ranch property. Mr. Kaufmann, a shareholder at Richards, Watson & Gershon is Chair of the firm's Coastal Law Department and was employed by the California Attorney General's Office, and represented the Coastal Commission as his primary client from 1977 to 1991.

Mr. Kaufmann was retained by the City of Laguna Beach several years ago to assist with reinstating fuel modification on property that had been abandoned in 1994 in preparation for an upcoming EIR for a large project being proposed by The Athens Group. It would appear as though this strategy is being embraced by Newport Banning Ranch and the City of Newport Beach as well, knowing that ongoing fragmentation of valuable habitat will facilitate a multi-million dollar project which would be lucrative for both the landowner and the city.

I strongly object to these tactics and find it unacceptable that the city continues to attempt to veil this blatant destruction of valuable habitat as fuel mod. Numerous photos of this unpermitted mowing have been submitted by Kevin Nelson. I am attaching his submittal as photo evidence and back up to my comments.

As stated earlier, I object to approval of the project in its present form and am appalled at the ongoing attempts by the landowner and the City of Newport Beach to degrade, fragment and destroy important and valuable habitat in this area only to facilitate development.

Thank you for the opportunity to submit these comments.

Penny Elia
30632 Marilyn Drive
Laguna Beach, CA 92651
949-499-4499

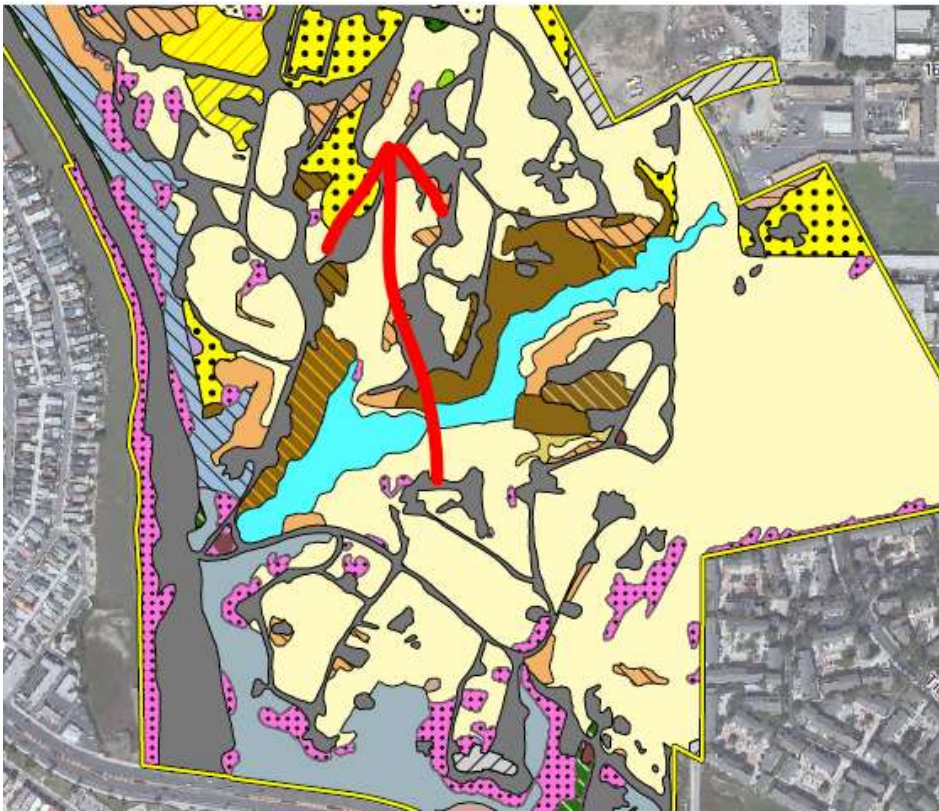
Attachment: Photo documentation by Kevin Nelson

Response to Biological Resources Section of Banning Ranch DEIR

Compiled from multiple sources by
Kevin Nelson

Vegetation Mapping Error 1

Applicant maps show grasslands with small native plant patches along east and west sides. Images show what is actually an arroyo with wetland indicators and encelia along most or all of western edge.



Error 1 – image 1a



Error 1 – image 1b



Error 1 – image 1c



Error 1 – image 1d



Error 1 – image 1e



Error 1 – image 1f



Error 1 – image 1g

Northwest region of area showing encelia .



Error 1 – image 1h

Northern section of arroyo



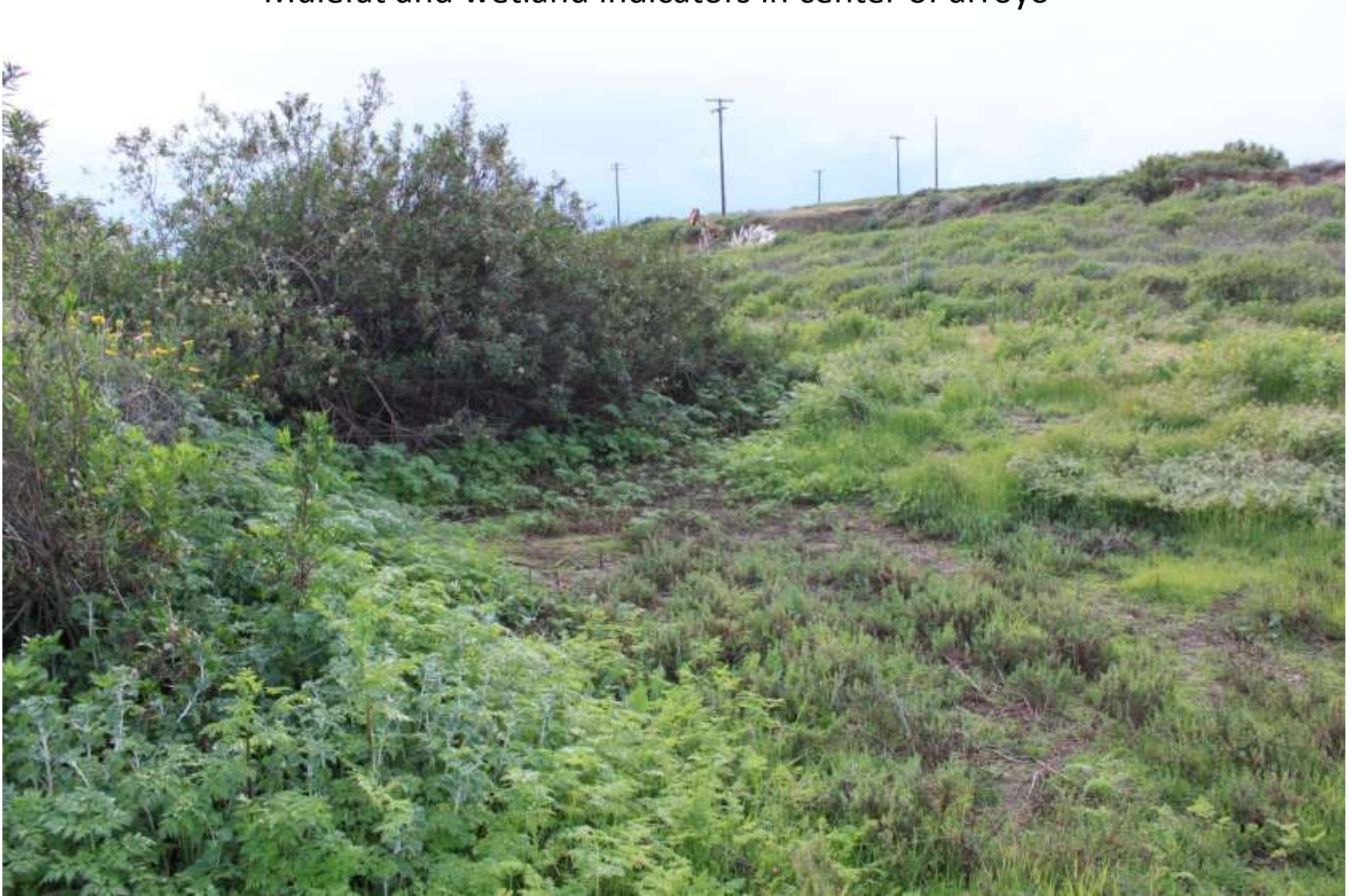
Error 1 – image 1i

Image from 1994 shows arroyo feature, as do images from other years.



Error 1 – image 1j

Mulefat and wetland indicators in center of arroyo



Error 1 – image 1k

More wetland indicators in center section



Error 1 – image 1l



Error 1 – image 1m



Error 1 – image 1n



Error 1 – image 1o

South section of arroyo, encelia spilling over, filled in vernal pool in distance.

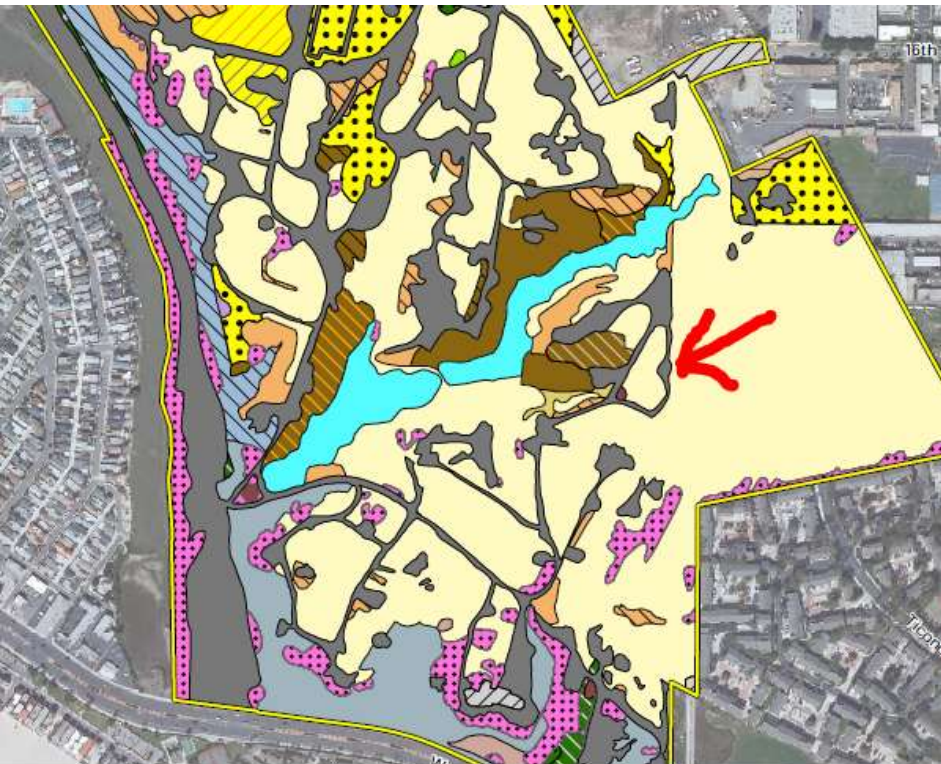


Error 1 – image 1p



Vegetation Mapping Error 2

Area near and along fence is marked as having little native vegetation. Images show significant encelia, deerweed and cactus areas.



Error 2 - image 2a



Error 2 - image 2b



Error 2 - image 2c



Error 2 - image 2d



Error 2 – images 2e



Error 2 – image 2d



Error 2 – image 2e



Error 2 – image 2f



Error 2 – image 2g



Error 2 – image 2h



Error 2 – image 2i



Error 2 – image 2j

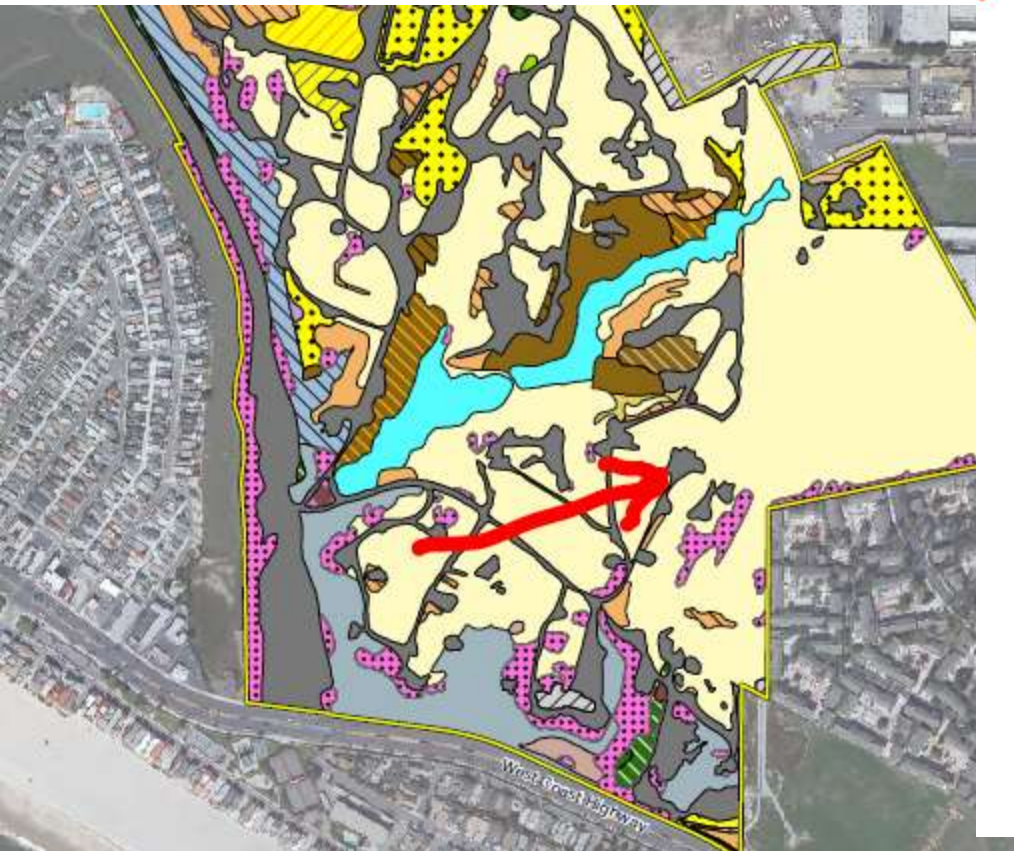


Error 2 – image 2k



Vegetation Mapping Error 3

Area is marked as grasslands. Even after mowing the images show native encelia and deerweed.



Error 3 – image 3a



Error 3 – image 3b



Error 3 – image 3c



Error 3 – image 3d

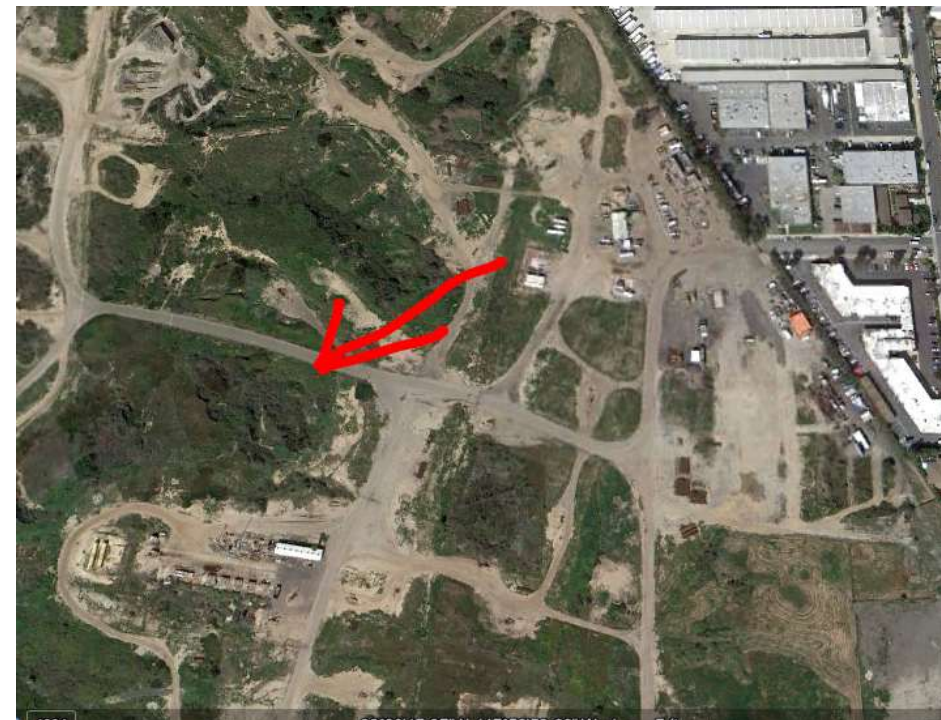
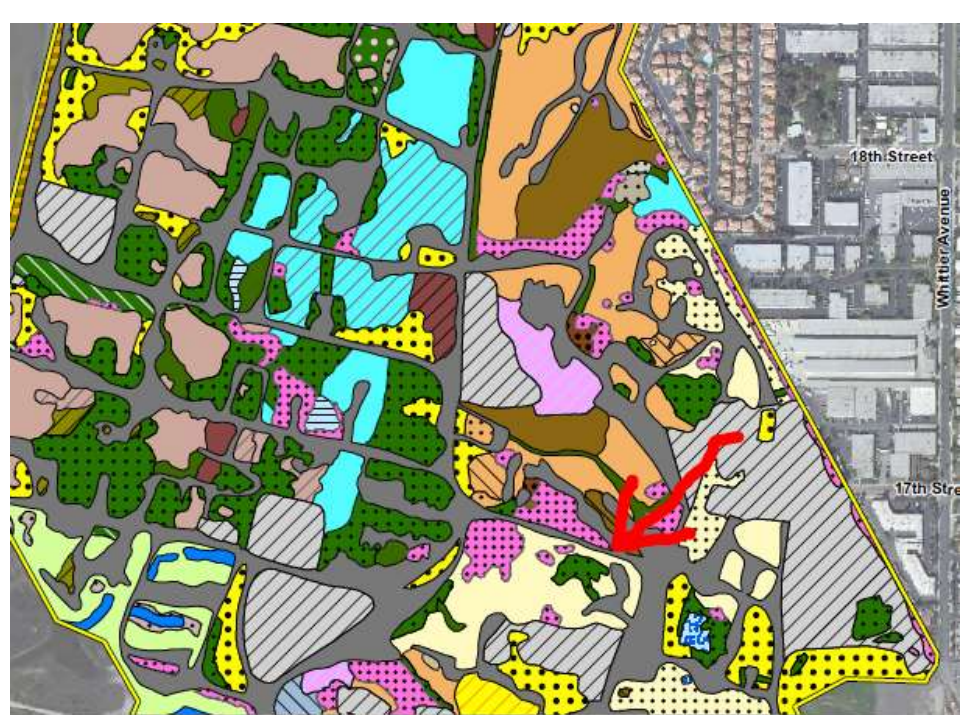


Error 3 – image 3e



Vegetation Mapping Error 4

Area is marked as grassland next to road. Images show encelia as dominant plant.



Error 4 – image 4a



Error 4 – image 4b

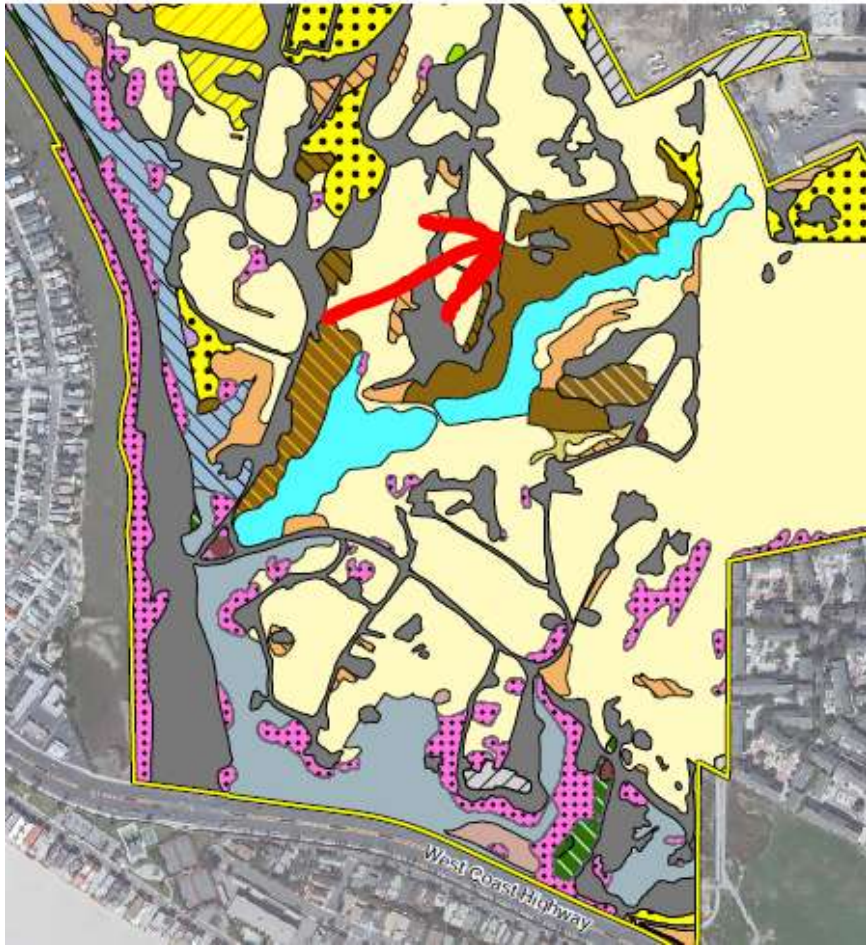


Error 4 – image 4c



Vegetation Error 5

On maps, the vegetation type is listed as cactus scrub with adjacent grasslands. The images show encelia where grasslands should be.



Error 5 – image 5a



Error 5 – image 5b



Error 5 – image 5c



Error 5 – image 5d



Error 5 – image 5e

Right side listed as “disturbed”. Disturbed by applicant with encelia growing back.



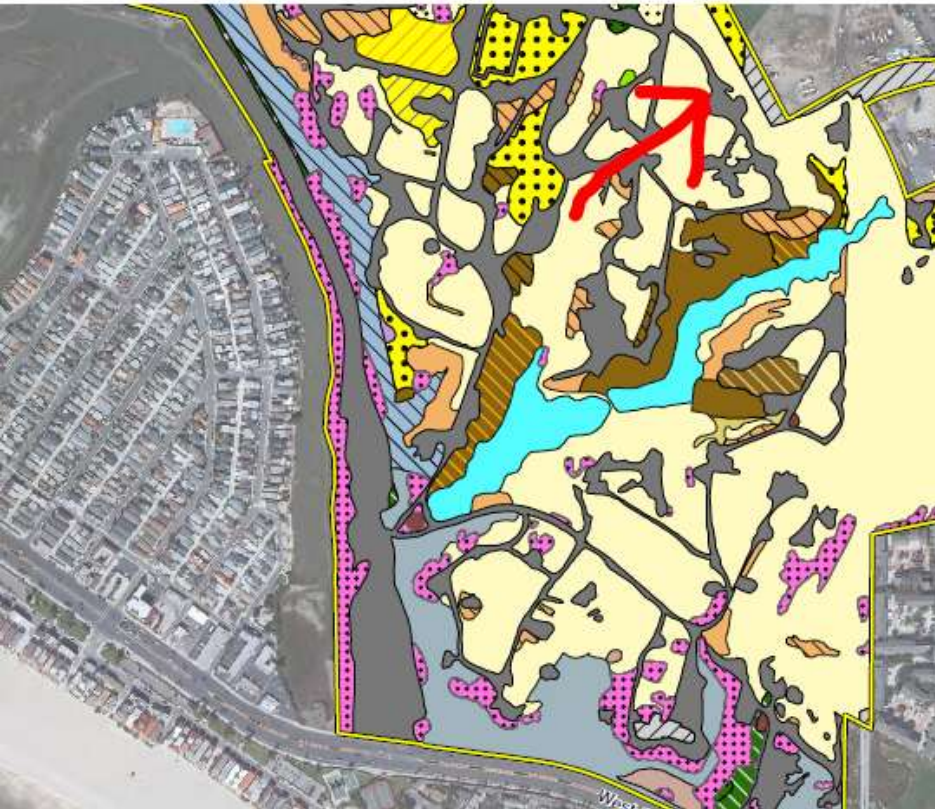
Error 5 – image 5f

East end of area in image 5d, looking north



Vegetation Error 6

This heavily mowed area is mapped as grasslands, yet native coyote bush is sprouting across the entire area.



Error 6 – image 6a



Error 6 – image 6b



Error 6 – image 6c



Error 6 – image 6d



Error 7 – New Burrowing Owl Location Missing from DEIR

DEIR makes no mention of this previously reported Burrowing Owl location near upper end of arroyo.



Error 7 – image 7a



Error 7 – Image 7b

A Burrowing Owl in flight indicates the important role the grasslands play within the ecosystem . The DEIR must address how development of this habitat will affect all species on Banning Ranch.



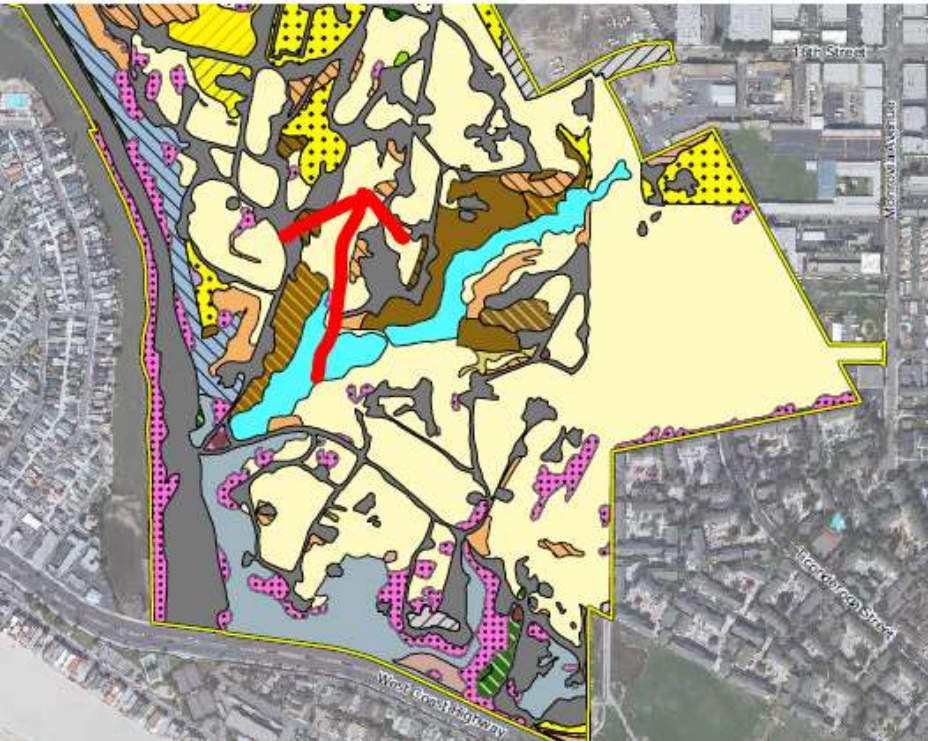
Error 7 – image 7c

Burrows in vicinity of Owl burrow, now mowed flat and driven over daily by trucks.



Vegetation Map Error 8

Maps show grasslands where significant areas of encelia exist. Area is mowed heavily for no apparent reason.



Error 7 – image 8a



Error 7 – image 8b



Error 7 – image 8c



Error 7 – image 8d



Error 7 – image 8e



Error 7 – image 8f

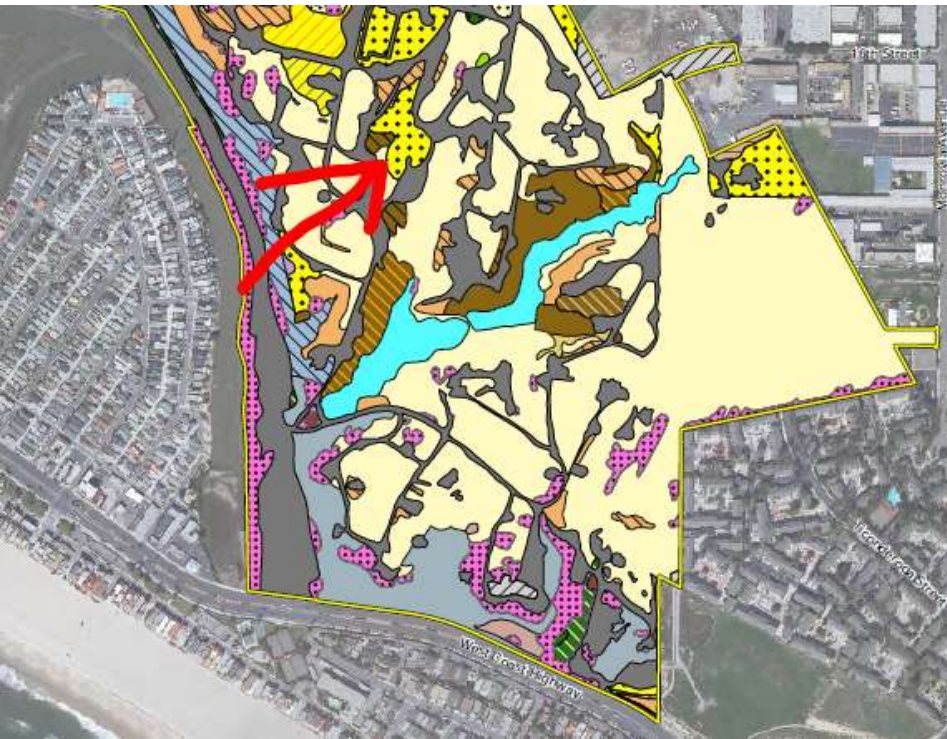


Error 7 – image 8g



Vegetation Mapping Error 9

This error in mapping is an example of intentional alteration by the land owner, after which the habitat is listed “disturbed” and “ruderal”. The satellite image shows mid-winter mowing on an isolated patch with NO facilities located within the habitat.



Error 9 – image 9a

This image shows close mowing of the area called “ruderal” . On the near side of the cactus is the scraping, while the far side suggests that encelia had been destroyed earlier. The area on either side of this cactus has no facilities, as confirmed in satellite photos.



Error 9 – image 9b

Area above cactus in recovery from mowing



Error 9 – image 9c



Error 9 – image 9d



Error 9 – image 9e



Error 9 – image 9f



Error 9 – image 9g



Error 9 – image 9h

Area above cactus marked as disturbed



Error 9 – image 9i

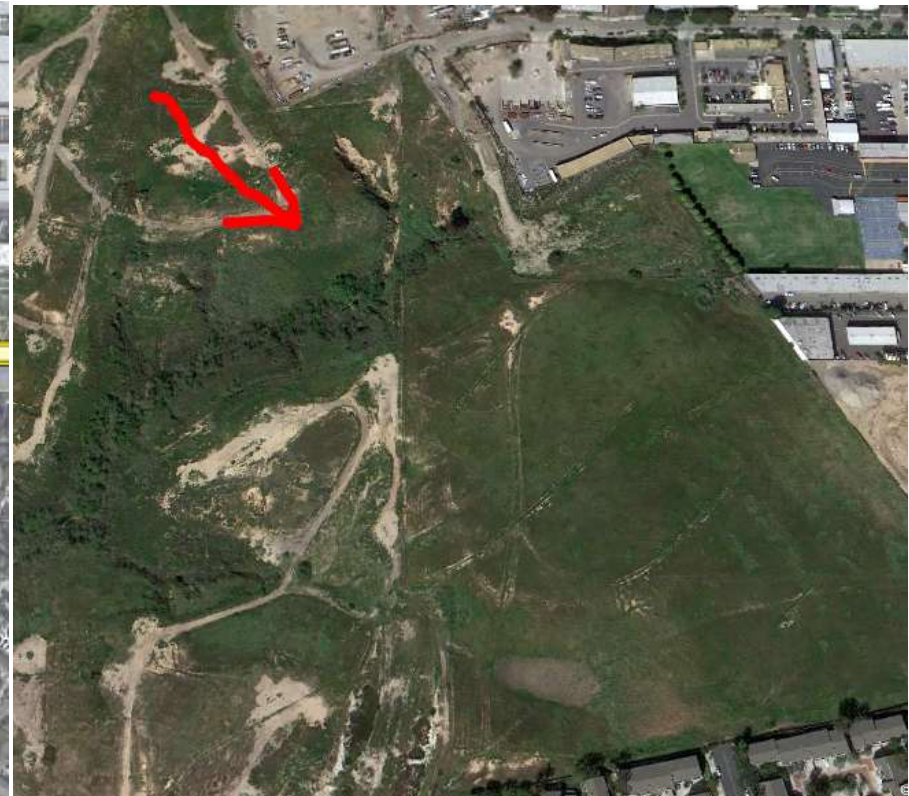
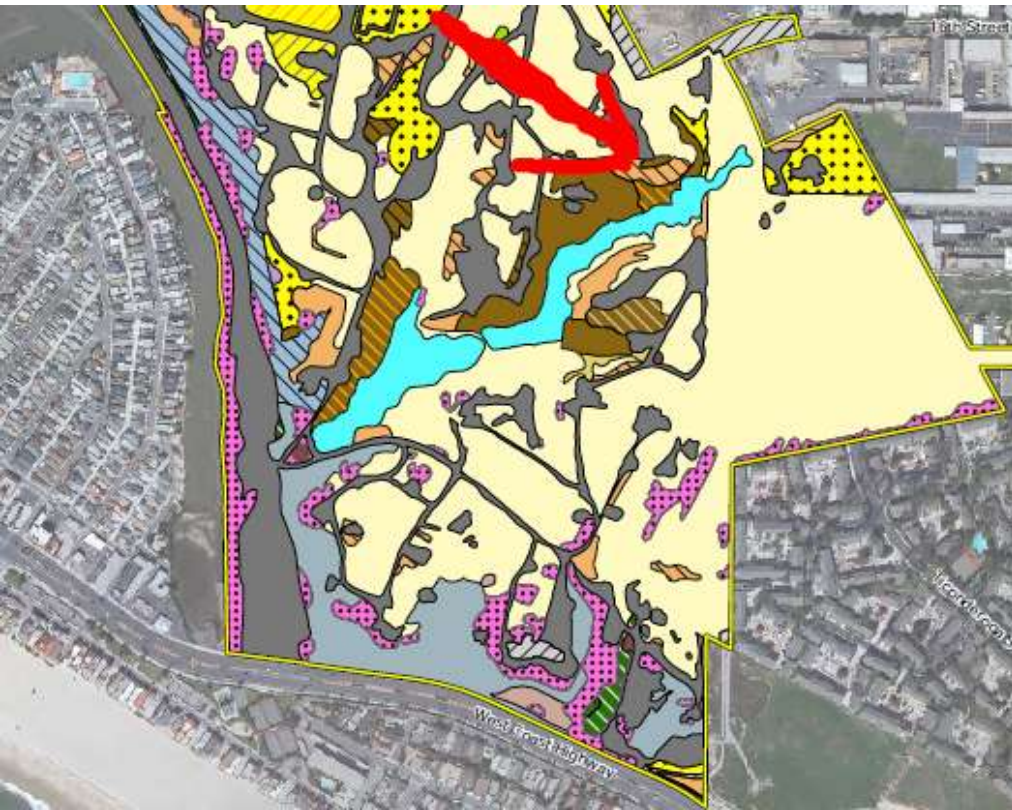


Error 9 – image 9j



Vegetation Mapping Error 10

Area shown is mapped as “disturbed encelia scrub”. However, the next image shows that it was mowed by the applicant, close to the cactus, and has no facilities or roads located within the habitat.



Error 10 – image 10a

The applicant needs to explain why this mowing occurred within an arroyo.



Error 10 – image 10b

This image shows the same area after recovery from unwarranted mowing.



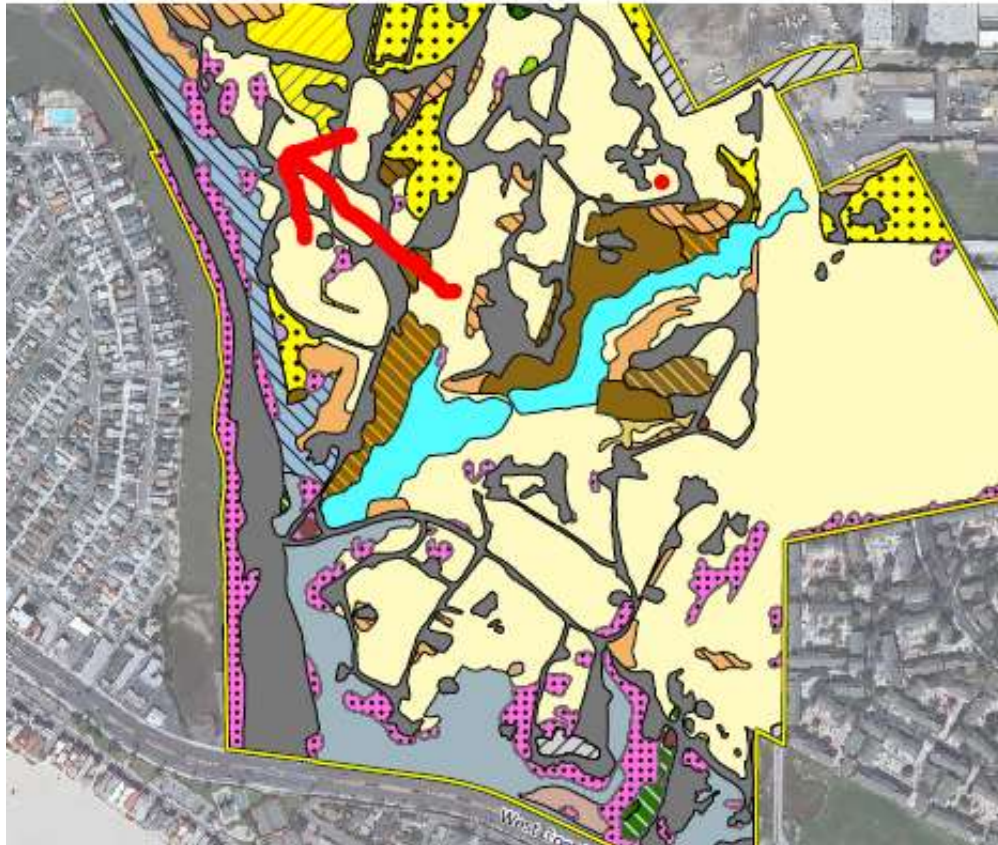
Error 10 – image 10c

Area from different angle, dense encelia in recovery after mowing.



Vegetation Error 11

In yet another example of habitat destruction by the applicant, this area is marked as “disturbed”. The markers were established years ago, so why was this clearing necessary?



Error 11 – image 11a



Error 11 – image 11b



Error 11 – image 11c



Error 11 – image 11d



Error 11 – image 11e



Error 11 – image 11f

The applicant should describe what was done here, since it is clear that the marker itself was untouched.



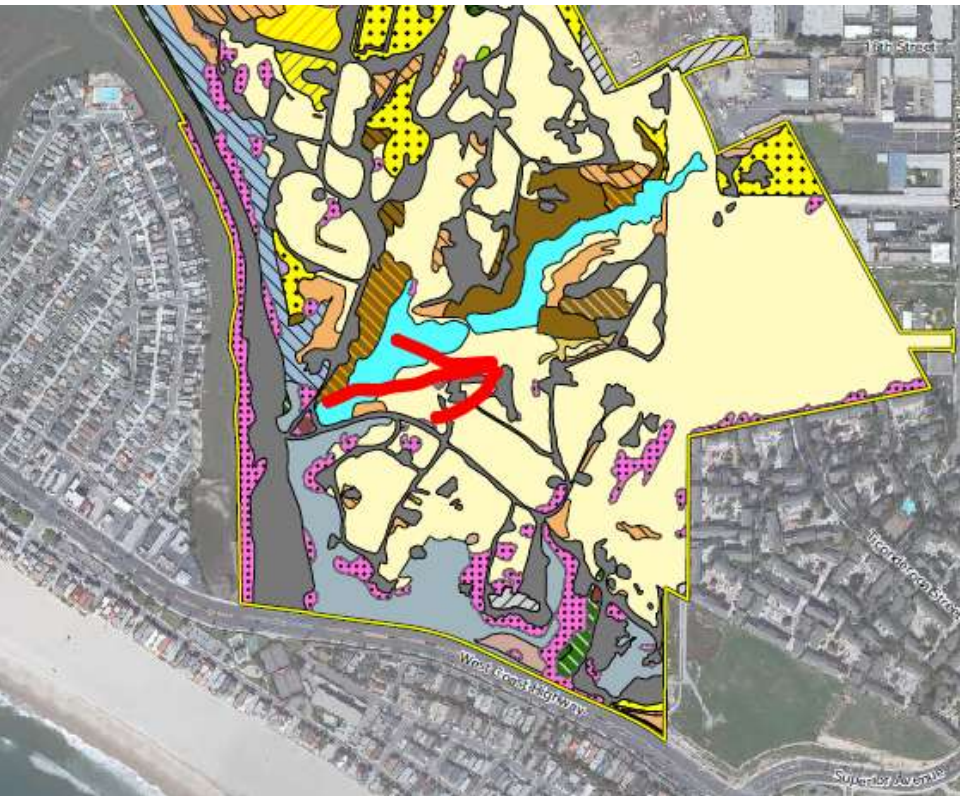
Error 11 – image 11g

This is approximately 50 yards north of clearing, marked as disturbed



Vegetation Mapping Error 12

Area is listed as grasslands, however images show native deerweed appearing.



Error 12 – image 12a



Error 12 –image 12b

Nearby, another unexplained clearing.

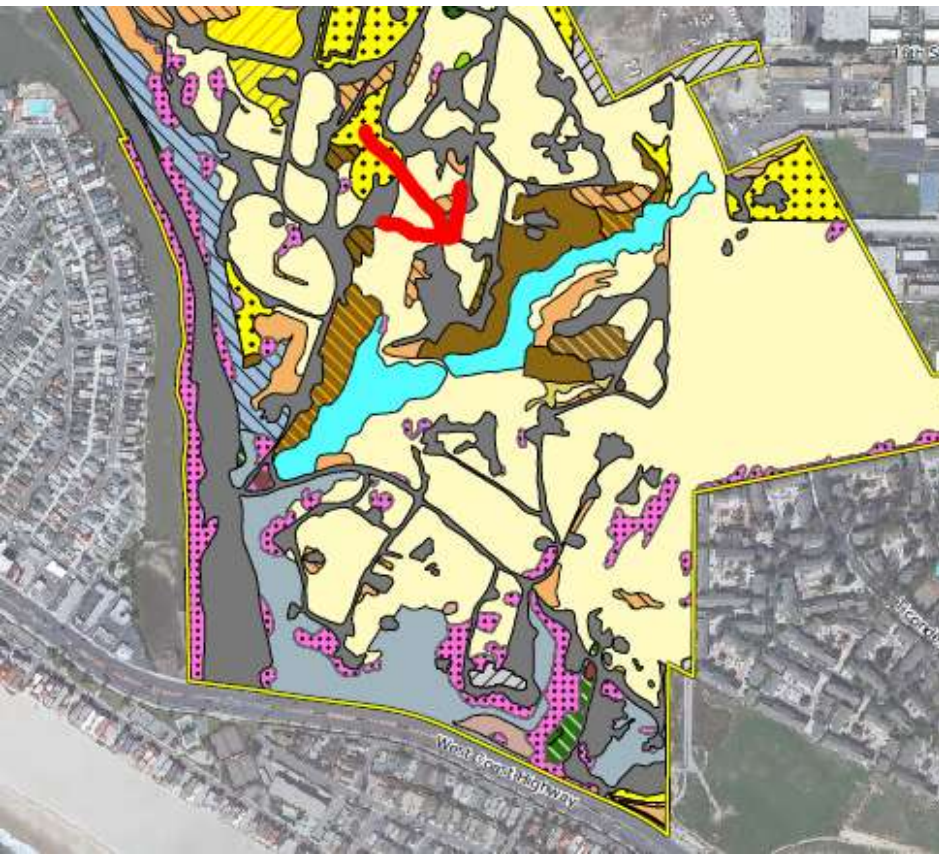


Error 12 – image 12c



Vegetation Mapping Error 13

Area is mapped as grassland, yet significant patches of encelia exist.



Error 13 – image 13a



Error 13 – image 13b



Error 13 – image 13c

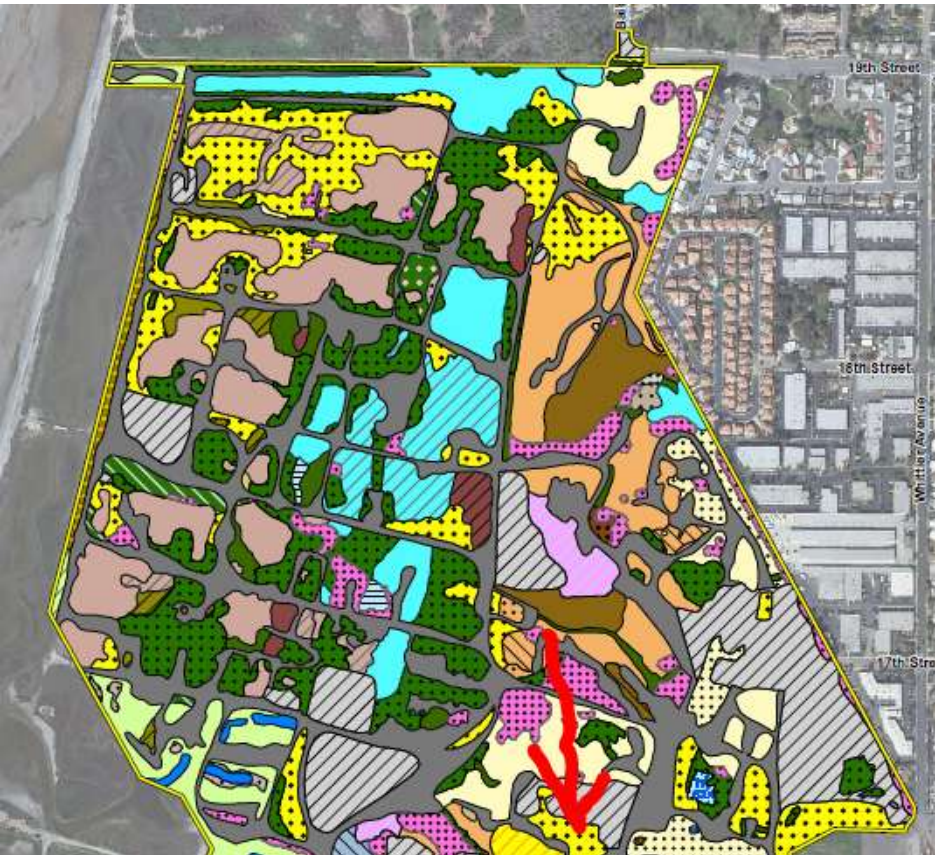


Error 13 – image 13d

Nearby, genuinely disturbed habitat. Also seen in image 14a.



Vegetation Mapping Error 15



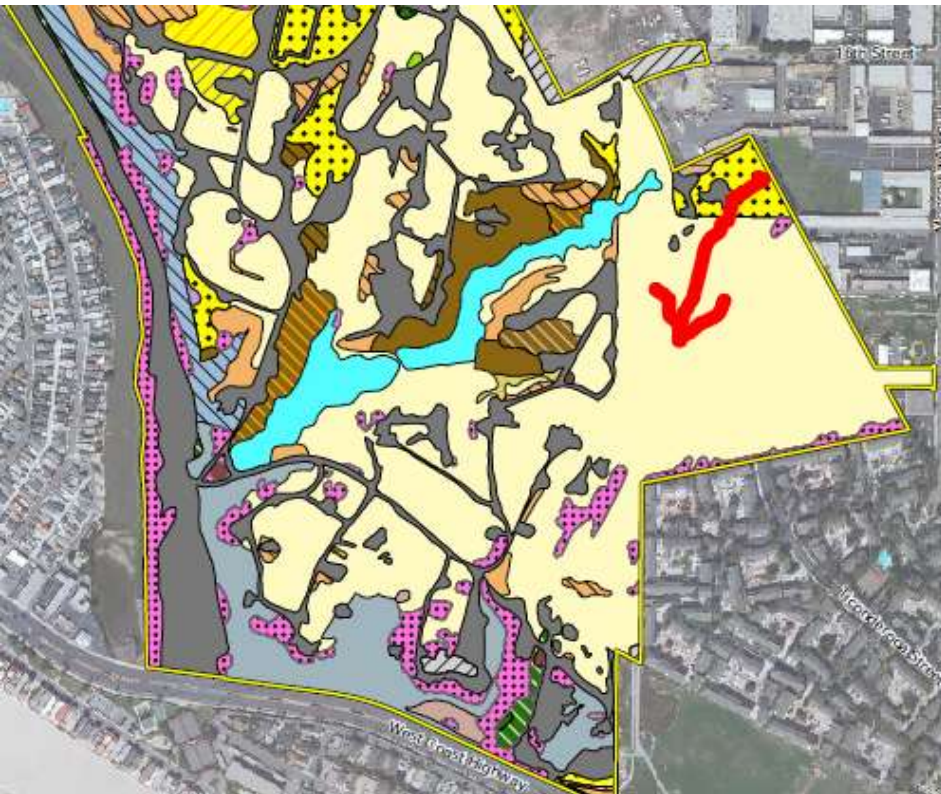
Error 15 – image 15a

Area of dense 3-5 ft tall encelia and mulefat is listed as ruderal on maps.



Vegetation Mapping Error 16

Maps show grasslands, but images shows deerweed colonizing the area in spite of consistent mowing.



Error 16 – image 16a

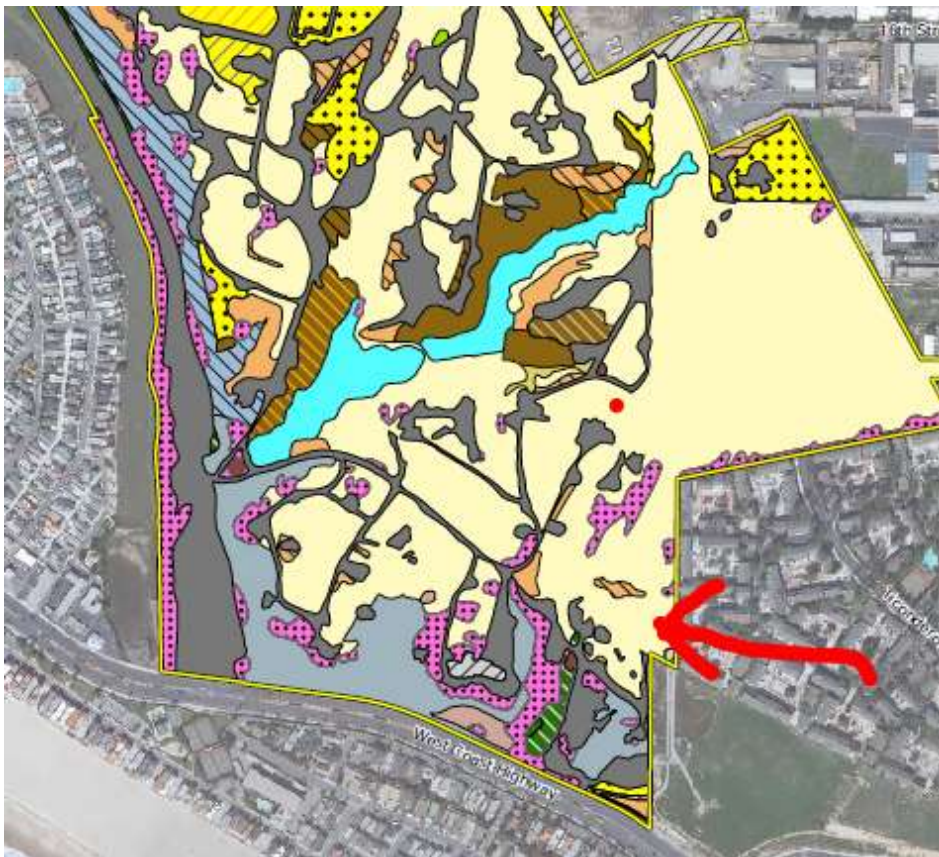


Error 16 – image 16b



Vegetation Mapping Error 17

Maps show grasslands, yet images show native deerweed that has now been mowed.



Error 17 – image 17a

