

Mr. Patrick Alford, Planning Manager  
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NOTE: We object to approval of the Banning Ranch DEIR 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.

Dear Mr. Alford:

My husband and I have been residents of Newport Beach for over 30 years and we have concerns about air pollution issues with regard to the development proposed for Banning Ranch. On pages 3 and 4 of the Air Quality section of the Banning Ranch DEIR under "Regulatory Setting," it states that California standards for O3, CO, NO2, PM10, PM2.5 and visibility reducing particles are not to be exceeded. Here is the exact wording:

*"In the Banning Ranch Draft Environment Impact Report (DEIR) in the footnotes of "TABLE 4.10-1 California and National Ambient Air Quality Standard", it states that "California standards for O3, CO, NO2, PM10, PM2.5 and visibility reducing particles are values that are not to be exceeded."*

If these values are not to be exceeded, how is it acceptable that the Project Applicant will likely exceed them, based on numerous findings of "significant and unavoidable impacts" in this DEIR?

For example, on 4.10-28 and 29, the following is stated:

*"Impact Summary: Significant and Unavoidable. Without mitigation, regional (mass) emissions of NOx are forecasted to exceed applicable thresholds in some construction years. MM 4.10-1 would reduce the emissions to less than significant. However, the availability of sufficient Tier 4 diesel engine construction equipment cannot be assured; thus the impact is potentially significant and unavoidable. [...] However, as Project development continues beyond 2020, emissions of VOC and CO would exceed the significance thresholds, principally due to vehicle operations. The impacts would be significant and unavoidable even with implementation of the PDFs, compliance with Standard Conditions, and implementation of identified mitigation measures."*

NOx is a dangerous pollutant and its adverse environmental and human health effects are well-documented:

**What Environmental Problems form from Nitrogen Oxide Pollution?**

- Helps form acid rain
- Contributes to global warming
- It hampers the growth of plants
- NOx can form with other pollutants to form toxic chemicals

#### **How Can Humans be Affected by Nitrogen Oxide?**

- Small levels of NOx can cause nausea, irritated eyes and/or nose, fluid forming in lungs and shortness of breath
- Breathing in high levels of NOx can lead to: rapid, burning spasms; swelling of throat; reduced oxygen intake; a larger buildup of fluids in lungs and/or death
- NOx, plus other ground-level ozone, can cause other major respiratory problems in high levels
- Can react with aerosols from aerosols cans and also cause respiratory problems
- NOx can cause visual impairment in the area affected by NOx

#### **What Steps Have Been Taken To Reduce The Level of Nitrogen Oxide Pollution?**

- The EPA has set standards for NOx pollution on every type of motor vehicle
- For plants, the EPA has set limits on how much coal can be burned (reduces acid rain)
- The EPA has set special rules for upwind states (since NOx pollution can travel by wind, the states that "push" the pollution have special rules/laws that they have to abide by)
- **Yet, this pollution has still grown (by 10%) since attempts have been made to reduce it**

School District of Belleville, WI Oct. 2011

[http://www.belleville.k12.wi.us/bhs/health/environment/nitrogen\\_oxide.htm](http://www.belleville.k12.wi.us/bhs/health/environment/nitrogen_oxide.htm)

The DEIR states that these impacts are significant and unavoidable. The significance is apparent, but why are they unavoidable? Our research shows that Tier 4 equipment can reduce construction pollutants by 50-96%(\*) and although the Project Applicants state a concern with the availability of Tier 4 equipment by the year 2014, it is in fact available now from manufacturers like John Deere, Volvo and others.

Banning Ranch is a nearly 70-year old oil field and its remediation, concurrent with grading and construction, will subject all those who are in close proximity to the Project, including grade school children, to high levels of construction pollutants because of the heavy equipment required to do both grading and remediation concurrently. The Project Applicants could avoid exposing hundreds, perhaps even thousands, of Newport Beach residents and visitors, including children and vulnerable adults, to these health risks if Tier 4 equipment was used and if the grading and remediation were done separately.

Why aren't these offered as mitigations in the DEIR, given that they would considerably reduce risks to the vulnerable? Otherwise, all nearest receptors, including the Newport Crest condominium complex with 460 units and Carden Hall, a grade school and the community college, now under construction, will be exposed to NOx above threshold for at least 5 of the 10 years of proposed construction, along with other potentially dangerous toxic air contaminants.

(\*) Tier-4 refers to a generation of federal air emissions standards established by the U.S. Environmental Protection Agency (EPA) that apply to new diesel engines used in off-road equipment. Essentially it requires manufacturers to reduce the levels of particulate matter and oxides of nitrogen (NOx) to a level that is 50-96 percent lower than existing generation of diesel engines.

<http://www.cedmag.com/article-detail.cfm?id=10926717>.



On page 4.10-26 of the DEIR, Table 4.10-15 shows that VOC & CO emissions will exceed SCAQMD CEQA significance thresholds in 2023. It refers to the continuing growth as the reason. Shouldn't that signal that the Project is too ambitious at 1375 homes, a boutique hotel, commercial space, a North and South Family Colony, an Urban Colony and a Resort Colony? Were seasonal traffic and tourist issues taken into consideration in the development of this project, given the heavy beach congestion that already exists? Was the traffic burden of the new community college taken into consideration? Or the impact on the 55 freeway, both north and southbound?

“As shown in Table 4.10-15, forecasted Project buildout emissions of VOCs and CO in 2023 would exceed the SCAQMD CEQA significance thresholds. [...] As Project development continues beyond 2020, the continuing growth would result in emissions of VOCs and CO that would exceed the significance thresholds and the impact would be significant.”

On page 4.10-29, the DEIR also acknowledges that “regional pollutant concentration of O3 would be cumulatively considerable and would create a significant and unavoidable impact.

**“Impact Summary: Significant and Unavoidable.** The Project would have a significant cumulative air quality impact because its contribution to regional pollutant concentrations of O3 would be cumulatively considerable.”

The EPA web site has extensive information on the health effects of Ozone:

“Breathing ground-level ozone can result in a number of health effects that are observed in broad segments of the population. Some of these effects include: Induction of respiratory symptoms, decrements in lung function and inflammation. Respiratory symptoms can include: Coughing, throat irritation, pain, burning, or discomfort in the chest when taking a deep breath, chest tightness, wheezing or shortness of breath.

In addition to these effects, evidence from observational studies strongly indicates that higher daily ozone concentrations are associated with increased asthma attacks, increased hospital admissions, increased daily mortality, and other markers of morbidity. The consistency and coherence of the evidence for effects upon asthmatics suggests that ozone can make asthma symptoms worse and can increase sensitivity to asthma triggers.”

<http://www.epa.gov/apti/ozonehealth/population.html>

The South Coast Air Quality Board's web site (\*) lists Ozone as the air pollutant having the most impact on the health of children and adults. It lists asthma as the most important disease with increasing incidence in this country, but says other diseases, such as allergic reactions, bronchitis and respiratory infections are also increasing and that air pollution is a causal factor for these incidences. SCAQB's site points out that children spend more time outside than adults and are often outdoors when pollution is at its highest. Children also exert themselves harder than adults. But the most important difference is that

children are growing and developing and their lungs are growing and developing too.

(\*) [http://www.aqmd.gov/forstudents/health\\_effects\\_on\\_children.html#WhichAir](http://www.aqmd.gov/forstudents/health_effects_on_children.html#WhichAir)

Also, studies published in the *Lancet* (\*) and the *New England Journal of Medicine* (\*\*) have concluded that athletes are more vulnerable to air pollutants because their exposure is greater. The University of Brisbane, Australia, in a 2004 review of pollution studies worldwide, found that during exercise, low concentrations of pollutants caused lung damage similar to that caused by high concentrations for those who weren't exercising. We breathe in thirty times as much air when we're exercising as when we're sitting still. Consider the impact for children on the playground, the baseball diamond or the soccer fields of this proposed development.

(\*) [http://www.thelancet.com/journals/lancet/article/PIIS0140-6736\(02\)07597-9/abstract](http://www.thelancet.com/journals/lancet/article/PIIS0140-6736(02)07597-9/abstract)

(\*\*) <http://www.nejm.org/doi/full/10.1056/NEJMe078139>

If the Projects Applicants and the City are aware of the ozone risks to all nearest receptors, to children in particular and to the public at large, why aren't they listed in this DEIR, given that ozone will be a significant impact of the Project development? Have the Project Applicants and the City exhausted every possible option to reduce the health hazards associated with ozone, given the risks to school children who will be exposed on their own playgrounds, as well as on the soccer and baseball fields that the city has planned for Sunset Ridge Park and the Sports Park planned near 15<sup>th</sup> Street?

Also, if the SCAQMD's thresholds are values are "not to be exceeded," how is it that the Project has exceeded SCAQMD's mass emission thresholds for VOC and NOx, failing to achieve Threshold 4.10-3? Again, this is referred to as a significant and unavoidable impact, but can—and should—be avoided.

***“Threshold 4.10-3: Would the project result in a cumulatively considerable net increase of any criteria pollutant for which the project region is in nonattainment under an applicable NAAQS or CAAQS (including releasing emissions that exceed quantitative thresholds for ozone precursors)?***

The Project region is in nonattainment for O3, NO2, PM10, and PM2.5. As described above, after 2020, implementation of the Project could result in long-term emissions of the O3 precursor VOC and short-term emissions of the O3 precursor NOx, which would exceed the SCAQMD mass emissions thresholds for those pollutants.”

I would like to request that in line with EQAC's comments in their analysis of the Air Quality section of the Banning Ranch DEIR, that the Project be re-envisioned and the DEIR be rewritten with the impacts on Newport Crest and all the nearest sensitive receptors, including Carden Hall, Sunset Ridge Park,

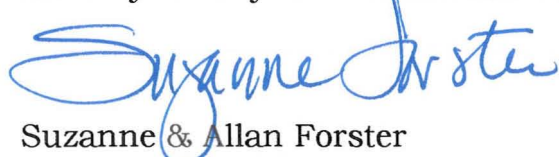


the proposed Sports Park and the adjacent community college currently under construction, be made less than significant.

And last, given that the City Council has voted to certify a "Statement of Overriding Considerations (Section 1-11, Executive Summary, Newport Beach Banning Ranch DEIR) which notes that there are "specific economic, social and other public benefits that outweigh the significant and unavoidable impacts associated with the General Plan Project (Threshold 4.2-3)," I would like some clarification.

Is there any possibility that this Statement could have the effect of diminishing or discounting the essential concerns raised by this DEIR and by EQAC's findings of adverse impacts on the environment and health risks to the nearest receptors and the surrounding community? We respectfully submit that City officials are elected to work with the best interests of their entire constituency in mind, but that cannot mean putting residents of a large segment of the population at risk of health issues or damaging their quality of life and the property values of their homes to create more housing, traffic and congestion in an already densely populated and overcrowded coastal area.

Thank you for your consideration of our concerns and questions.



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