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December 20, 2001

VIA FACSIMILE TRANSMISSION AND FIRST-CLASS U.S. MAIL

Hon. Members of the Planning Commission
c/o Planning & Environmental Services Division
305 West Third Street
Oxnard, CA 93030

Re: *Draft Environmental Impact Report No. 00-3 for the proposed RiverPark Project Specific Plan*

Honorable Members of the Planning Commission:

As you probably know, Best Best & Krieger LLP represents Newport Boats. Newport Boats is very concerned about the potential environmental impacts of the City's proposed RiverPark Project Specific Plan. On behalf of Newport Boats, we are writing to submit these preliminary comments on the draft Environmental Impact Report ("Draft EIR") for the RiverPark Project.

Newport Boats is concerned that the Draft EIR does not adequately analyze the project's potential environmental impacts and, instead, improperly defers both analysis and mitigation measures. Specifically, Newport Boats notes the following deficiencies in the Draft EIR:

- The Draft EIR's finding that the Project will not have any significant impacts on aesthetics is unsupported. The Draft EIR indicates that the City designates roadways that provide views of agricultural lands within and around the City as "image corridors." The area proposed for inclusion in the RiverPark Specific Plan includes 155 acres that are currently in agricultural production and which are visible from the Ventura freeway. Consequently,

BBK-1

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- these lands constitute an "image corridor." However, all of these lands will be developed under the proposed Specific Plan. The conversion of these strawberry fields to commercial and other development will irretrievably destroy this image corridor, thereby substantially degrading the existing visual character or quality of the Project site and its surroundings. BBK-1
- The Draft EIR's conclusion that the Project will not result in any significant unavoidable geotechnical or geologic hazard impacts cannot be sustained. The Project proposes construction of buildings on soil that is known to be unstable. Specifically, the groundwater table underlying the site is very shallow, resulting in greatly increased risks of landslide, subsidence, liquefaction or collapse, especially when a seismic event is coupled with a wet year that elevates the groundwater table. The mitigation measures proposed in the Draft EIR defer the analysis and mitigation of this potential impact and do not adequately mitigate the impact below a level of significance. BBK-2
 - The Draft EIR's conclusions about the Project's potential impacts on mineral resources appear to be inconsistent. On the one hand, the Draft EIR concludes that the Project will have a significant direct impact on mineral resources, due to the permanent loss of access to approximately 2.2 tons of mineral resources in an area that has been designated by the State Mining and Geology Board as containing sand and gravel resources of regional significance. Yet, applying the same significance criteria, the Draft EIR concludes that the Project's cumulative impacts on mineral resources will not be significant. BBK-3
 - Although the Project proposes dewatering the stockpile area on the existing mine site, the Draft EIR fails to adequately analyze how this action will impact wildlife such as migratory waterfowl, which are known to use the mine pits' exposed groundwater for resting and limited foraging. BBK-4
 - While the Draft EIR acknowledges that the Project site has a moderate potential for supporting white-tailed kites, Northern harriers, and Cooper's hawks, the Draft EIR utterly fails to analyze whether the development of the Project will have impacts on these species, all of which are designated as Species of Special Concern by the California Department of Fish & Game. In fact, the Draft EIR appears to mischaracterize these raptors as "common wildlife resources," ignoring their special status. The Draft EIR also incorrectly concludes that "no loss of special-status species habitat will occur." BBK-5
 - The Draft EIR also fails to adequately analyze the Project's impacts on wildlife movement. The Santa Clara River, which adjoins the Project site, is known BBK-6

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to serve as an important regional wildlife corridor. By eliminating the open space around the River which now serves as a buffer, and replacing this with developed areas from which wildlife shy away, the Project will substantially interfere with wildlife movement through the Project area.

BBK-6

- The Draft EIR fails to adopt all feasible measures for mitigating the Project's significant impacts on groundwater quality. The mitigation measure that the Draft EIR does adopt, 4.5-1, is too indefinite and uncertain to be enforceable.

BBK-7

- The Draft EIR's analysis of cumulative impacts to water resources appears to improperly limit the other projects considered to be contributing cumulative impacts. The Draft EIR indicates that it will rely on the "list" method of analyzing cumulative impacts and lists numerous other related projects. (State CEQA Guidelines, § 15130, subd. (b)(1)(A).) However, in this and many other sections of its analysis, the Draft EIR then appears to limit its cumulative impacts analysis to selected projects.

BBK-8

- The Draft EIR's conclusion that the Project will not result in significant traffic impacts is unsupported. The Ventura Freeway south of Central Avenue already operates at Level of Significance F in the northbound direction during the peak hour and in the southbound direction during the peak hour. Development of the Project will create additional traffic and further exacerbate the existing problem. Finding that the problem "will be identified and addressed through the Ventura County CMP program" amounts to improper deferred mitigation.

BBK-9

- The Draft EIR improperly defers analysis of the air quality impacts based on the standards adopted by the local Air Pollution Control District. In *Communities for a Better Environment, et al. v. California Resources Agency*, Sacramento County Superior Court Case No. 00CS00300, Judge Ronald L. Robie specifically determined that State CEQA Guidelines section 15064, subdivision (h) was invalid because it allowed local agencies to determine that impacts that meet existing environmental standards are insignificant by definition. Agencies are not permitted to defer their responsibilities under CEQA in this manner. Rather, agencies must make their own evaluation of whether the particular impact identified is significant or not. The City has failed to do this with regard to "normal construction-related air quality impacts."

BBK-10

- The Draft EIR is inconsistent in that it concludes that significant air emissions will remain even after all feasible mitigation measures are applied to the Project, but simultaneously finds that the Project will not have any unavoidable significant air quality impacts.

BBK-11

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- Likewise, the Draft EIR inconsistently concludes that the Project will exceed the thresholds of significance for both on and off-site construction noise, but also finds that the Project will not have unavoidable significant noise impacts. | BBK-12
- The Draft EIR fails to impose all feasible mitigation measures to mitigate the potentially significant impacts to fire protection services. While the Draft EIR notes that the development of the Project will require the construction of a new fire station, and that this development "would need to occur early in the development of the Specific Plan Area to ensure adequate response times can be maintained as development occurs," the Draft EIR fails to impose any conditions on the construction of the fire station and inexplicably concludes that the Project will not result in any significant impact to fire service response times. | BBK-13
- The thresholds of significance adopted for the Draft EIR's analysis of the Project's impacts to police services are so vague that the analysis of this category of potential impacts is deficient. | BBK-14
- The Draft EIR utterly fails to consider whether existing or planned landfills have the capacity to serve the proposed Project. In fact, the Draft EIR indicates that they do not have the capacity to serve this additional demand. The Bailard landfill has already been closed, and the Simi Valley landfill will be filled to capacity within approximately 12 years at the existing rate of disposal. At full build-out, the Project will generate about 15,132 tons of solid waste per year, and it is utterly unrealistic to conclude that the Project will not have significant impacts on solid waste management when the only means of handling waste identified in the Draft EIR is source reduction and recycling. There is no explanation for why the City has chosen to ignore this critical analysis. At the very least, the additional refuse generated by the Project will have significant cumulative impacts on solid waste management. | BBK-15
- The Draft EIR's analysis of the cumulative impacts of storm water drainage again appears to fail to analyze all the projects the Draft EIR lists as affecting the cumulative impacts. Moreover, this analysis incorrectly concludes that the Project will not have significant cumulative drainage impacts. The Draft EIR concedes that the development of the Project and other projects will sometimes overwhelm the drainage system designed for the Ventura County Juvenile Justice Center site and cause overflow into the Large Woolsey Basin, thereby resulting in the creation or contribution of runoff water that would exceed the capacity to an existing storm water system. | BBK-16
- The Draft EIR severely understates the Project's impacts on the local water supply shortage. To support its conclusion that the Project will not have | BBK-17

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significant water supply impacts, the Draft EIR indicates that the water rights for five wells will be transferred to the water service provider on the development of this Project. However, by relying on pumping data from 1985-1989, the Draft EIR improperly inflates the amount of water that can be reasonably anticipated to be extracted from these wells. In this case, the proper environmental baseline, i.e., the amount of water supply that can be anticipated from these wells, is the amount of water that was being pumped at the time the Notice of Preparation for this Project was published. (State CEQA Guidelines, § 15125, subd. (a) ["the physical environmental conditions in the vicinity of the project, as they exist at the time the notice of preparation is published . . . will normally constitute the baseline physical conditions by which a lead agency determines whether an impact is significant."]; see, also, State CEQA Guidelines, § 15126.2, subd. (a); compare, *Save Our Peninsula Committee v. Monterey County Bd. of Supervisors* (2001) 87 Cal.App.4th 99, 126 [where project proponent greatly increased water pumping in years immediately prior to application for subdivision of land, agency abused discretion by relying on recent pumping figures as estimate of water supply available to project].) Here, there is no data about how much water was pumped out of any of these five wells in the last decade. Because there is no information about current water supplies, it is utterly unreasonable for the City to assume that the Project will be able to contribute 1,580 acre-feet of water rights to support its development. This conclusion is particularly absurd given the severe overdraft conditions in the Oxnard Plain Basin and the forced reductions in pumping that are being imposed to cure this problem.

BBK-17

- Oddly, the Draft EIR finds that "major portions of the Central Trunk Sewer have insufficient capacity to convey the projected flows" resulting (in part) from development of the Project, but the Draft EIR also concludes that the Project will not have significant impacts on wastewater service. This conclusion is unfounded, given the Draft EIR's finding that the existing wastewater collection and conveyance lines do not have sufficient capacity to accommodate wastewater from the Project. Feasible mitigation measures must be adopted to address this potentially significant impact.
- The Draft EIR improperly concludes that the significant historic impacts resulting from the permanent destruction of a recognized historic site, the El Rio Rock Company, will be mitigated below a level of significance by merely documenting the site through photos. There is no evidence to support this finding.
- The mitigation measures adopted for mitigating the Project's potentially significant impacts to hazards do not adequately guarantee that these impacts will be reduced to a level of less than significance.

BBK-18

BBK-19

BBK-20

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Because the Draft EIR fails to adequately analyze the Project's potential environmental impacts, it has improperly minimized the extent of the environmental harm that will result from the Project. Moreover, the Draft EIR has improperly rejected feasible project alternatives that would reduce the Project's significant environmental impacts. | BBK-21
| BBK-22

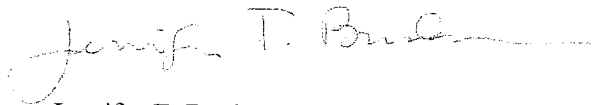
Correcting the deficiencies identified above will require that significant new information be added to the Draft EIR. Consequently, the document will need to be recirculated once this new information is added. (Pub. Res. Code § 21092.1; State CEQA Guidelines, § 15088.5.) | BBK-23

Once the Draft EIR is revised to reflect all of the Project's significant environmental impacts, the record will not contain substantial evidence to support the conclusion that the project's benefits outweigh its environmental impacts. Thus, Newport Boats does not believe that the facts now known to us are sufficient to justify adoption of a Statement of Overriding Considerations. (See, Pub. Res. Code, § 21081, subd. (b); State CEQA Guidelines, § 15093, subd. (a).) | BBK-24

Thank you for the opportunity to submit these initial comments on the RiverPark Project Draft EIR. Due to time constraints, we were not able to analyze the Draft EIR and the analyses on which it relies in greater detail. Once we have had an opportunity to do so, we may submit additional comments on the adequacy of this environmental document.

If you have any questions about any of the items discussed in this letter, please feel free to contact me at (909) 686-1450.

Sincerely,



Jennifer T. Buckman
for BEST BEST & KRIEGER LLP

cc: Sid Parstow

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Best Best & Krieger (BBK)**BBK-1**

This comment does not reflect all the information presented in Section 4.2 Aesthetics of the Draft EIR. Figure 4.2-7 presents the 2020 Community Design exhibit contained in the Community Design Element of the Oxnard 2020 *General Plan*. As shown, this exhibit does not identify the agricultural land in RiverPark Area 'A' as a scenic resource. This is because this portion of the site is already planned for development under the existing Oxnard Town Specific Area. This Specific Plan, adopted in 1986, allows the development of this area with commercial uses. Please note the following text on page 4.2-12 of the Draft EIR:

The RiverPark 'A' Area, most of which is located in the Oxnard Town Center Specific Plan Area, is identified as an area of visual significance. The Oxnard 2020 *General Plan* assumes the retail, visitor-serving, and office commercial uses allowed by the Oxnard Town Center Specific Plan would be built. The Oxnard Town Center Specific Plan allows the development of 18 to 24-story high-rise buildings. These uses would have created a visually significant activity node for the City. However, since adoption of this Specific Plan in 1986, only the two mid-rise office buildings in the southwest corner of the Specific Plan Area have been developed.

BBK-2

Section 4.3, Earth Resources, of the Draft EIR includes extensive analysis of existing soils and geologic conditions, identifies potentially significant impacts and includes a detailed program of 44 specific measures to mitigate the potential impacts identified.

The potential for impacts from liquefaction and seismically induced settlement is discussed on pages 4.3-27 and 4.3-28 of the Draft EIR. The native soils onsite are dense to very dense in character and are not highly susceptible to liquefaction for this reason, regardless of the depth to groundwater. Native soils are located throughout RiverPark Area 'A'. The potential for liquefaction is identified in the granular submerged fill materials located in RiverPark Area 'B'. The same conclusions were reached for subsidence, or settlement. There is a potential for seismically induced settlement of the loose to medium dense artificial fill materials in RiverPark Area 'B' and minor potential for settlement in the native soils. The potential impact for liquefaction and settlement of the artificial fills present in RiverPark Area 'B' is identified as significant.

The potential for liquefaction and settlement of the soils in artificial fills on the site will be primarily mitigated by measures 4.3-3 to 4.3-9 which specify the standards for remedial grading of these fill areas. These detailed measures, for example, require the removal of fill materials until competent native materials are reached. Once native materials are reached, the exposed surface must be scarified to a depth of eight inches and recompact to 93 relative compaction. All organic material must be removed and all backfills must be replaced in layers that do not exceed eight inches in depth and compacted to a minimum density of 93 percent. These specific measures will mitigate the identified potential for liquefaction and settlement of the existing artificial fill materials within the sand and gravel mine site in RiverPark Area 'B' to a level that is less than significant.

While no significant impacts related to liquefaction on the existing native soils onsite have been identified, Mitigation Measure 4.3-14 requires that site specific geotechnical studies be completed for individual buildings as they are designed to determine if any potential exists for liquefaction induced settlement of any of the submerged native earth materials. While the potential for this impact is ensure that no impacts will occur, building specific studies cannot be completed at this time, as individual buildings have not been designed. Completion of these studies at a later date is not deferral of analysis needed at this time as no significant impact for liquefaction of native soils on the site has been identified and such studies cannot be completed until buildings are designed.

Complete analysis of the stability of the existing slopes of the mine pits was completed. Significant slope stability impacts were also identified. Mitigation measures 4.3-25 through 4.3-44 require specific removal and reconstruction of portions of the existing slopes to mitigate impacts to a less than significant level.

BBK-3

The information on cumulative impacts on mineral resources presented on pages 4.3-37 and 4.3-38 of the Draft EIR supports the conclusion reached that the project will not contribute to a significant cumulative impact to mineral resources. This is based on the fact that the State Department of Conservation has projected a need for 310 million tons of construction aggregate by 2030 and identified available resources in amounts greater than this within Ventura County.

BBK-4

The proposed dewatering will be very localized in nature, occur within a limited time frame and will not result in a drop in water level in the existing mine pit.

BBK-5

The bird species referenced in this comment are recognized as special status species in Section 4.4, Biological Resources, in the Draft EIR. Table 4.4-1, Special Status Wildlife Species Potentially Occurring in the RiverPark Specific Plan Vicinity lists these bird species. Also noted in Table 4.4-1 is the occurrence potential for each species. There is a moderate potential for transient foraging on site for these three bird species. Marginal nesting habitat for the white-tailed kite is present on site. Mitigation Measure 4.4-1 on page 4.4-29 of the Draft EIR addresses the disturbance of active Special-Status bird nests.

BBK-6

The value of the Santa Clara River as a wildlife migration corridor and the potential for impacts from the proposed RiverPark Project is discussed on pages 4.4-18 and 4.4-19 of the Draft EIR. No significant impact on the Santa Clara River is identified given the low quality of the habitat existing on the site for wildlife, the buffer provided by the existing levee separating the river from the project site, and the native revegetation planned along the western edge of RiverPark Area 'B'.

BBK-7

Mitigation measure 4.5-1 will be enforced through the approval process for the permit which must be approved by the Los Angeles Regional Water Quality Control Board for the proposed dewatering. All potential mitigation measures for the identified impacts are described and analyzed on pages 4.4-99 through 4.9-104 of the Draft EIR. As discussed on these pages, none of the potential measures identified are feasible. This comment does not identify any other potential feasible measures.

BBK-8

The cumulative analysis in the Draft EIR meets the requirements of Section 15130 of the CEQA *Guidelines*. For each topic, cumulative analysis is based on either the extensive list of related projects provided in Appendix 4.0 or a summary of projections contained in an adopted general plan or related planning document. For each topic, projects off the related project list are considered, as they are appropriate based on location. The cumulative impact analysis for water resources considers those projects located with the same drainage area that could also effect the quality of the exposed groundwater in the existing mine pits within the Specific Plan Area or would drain to the Santa Clara River through the same outlets to the river. This approach is appropriate and consistent with the requirements of the CEQA *Guidelines*.

BBK-9

The CMP is a standing program mandated by State statute, to address impacts on the regional roadway network. The freeway impact cited in this comment was identified in the Draft EIR. It is reasonable for the City to rely upon an established program outside of its control to accomplish the programs mandated requirement and address cumulative traffic impacts on the regional highway network.

BBK-10

Air emissions associated with construction are discussed on pages 4.8-10 and 4.8-11 of the Draft EIR. Types and amounts of air emissions associated with construction of the project are described. All feasible measures to mitigate these impacts are also included. Analysis and identification of mitigation measures is not deferred, as indicated in this comment.

BBK-11

The analysis of the effectiveness of air quality mitigation measures follows the format defined in the Ventura County Air Quality Air Quality Assessment Impacts. As discussed on page 4.8-23, contribution to an off-site Transportation Demand Management (TDM) Fund is recommended by the APCD only after all feasible recommended measures have been applied to a project and significant emissions remain. Accordingly, a calculation of the effectiveness of the "project" mitigation measures is provided. This analysis shows that significant emissions will remain even after all feasible mitigation measures are applied to the project. Then, the mitigation analysis identifies the contribution to an off-site TDM fund as a mitigation measure. This contribution mitigates all remaining impacts.

BBK-12

The conclusions referenced are not inconsistent. The analysis determined that construction impacts would be significant prior to mitigation. With application of the recommended mitigation measures, construction noise impacts can be mitigated to a level that is less than significant.

BBK-13

The timing of the new fire station is addressed in the Development Agreement proposed as part of the project to the satisfaction of the City of Oxnard. The new fire station will be provided in a timely manner to avoid any significant impact on fire protection services.

BBK-14

The criteria used to determine a significant impact was selected by the Oxnard Police Department. This criteria is not vague and addresses a variety of factors associated with calls for police protection services including the number of calls for service, adequacy of police staffing, response times and potential for interference with an evacuation plan. Based on the threshold, it was determined that the addition of the RiverPark Specific Plan Area to the existing police response beat for the northern portion of the City would result in a substantial decline in response times and, therefore, a significant impact. This impact will be mitigated by the establishment of a new storefront police station within the commercial portion of the Specific Plan Area. As this summary demonstrates, the significance threshold used, which were based on the operational characteristics of the Oxnard Police Department, are definitive, as evidenced by the fact that a significant impact was identified.

BBK-15

As described on pages 4.10.5-2 and 3 of the Draft EIR, solid waste disposal in Ventura County is a competitive and dynamic system and, theoretically, waste can be disposed at any landfill in the region depending upon the preference of individual solid waste haulers and other factors, such as proximity to the collection area, tipping fees, and daily capacities at the landfill sites. Currently, most solid waste collected within Ventura County by public and private haulers is disposed of in the County. However, this does not guarantee that solid waste haulers do not or would not take solid wastes outside the County. Solid waste management in Ventura County no longer focuses on "waste sheds," or fixed areas that dispose of their wastes at a particular landfill. For this same reasons, solid waste disposal planning is also no longer done on the basis of population forecasts. The Draft EIR discusses the current projected lifespan of the Toland Road and Simi Valley Landfills. The Toland Road landfill is projected to have a lifespan of 31 years, with closure projected to occur in the year 2027. The County of Ventura Conditional Use Permit (CUP) for the Toland Road Landfill requires that the operator only accept waste generated within the County, with the minor exception of a small amount of waste generated in Carpinteria. The Simi Valley Landfill has a projected 12-year lifespan at this point under the current CUP for this facility. Solid waste from Oxnard may also be disposed of at alternative landfill sites located in Los Angeles County or other counties, including the Chiquita Canyon Landfill near Santa Clarita. It should be noted that the amount of solid waste generated for disposal in landfills will not be 15,132 tons per year as referenced in this comment, but rather 5,145 tons per year after diversion at the City's current rate is taken into account (Table 4.10.5-1 in the Draft EIR). Given the dynamic nature of the solid waste disposal market, it would be speculative to assume that a significant impact related to solid waste disposal will result from the project due to the fact that existing landfills in Ventura County have a limited capacity.

Over the next 25 years, new landfills will need to be permitted within Ventura County or surrounding counties to accept current streams of solid waste. In accordance with Section 15145 of the CEQA *Guidelines*, the City of Oxnard has determined that it would be speculative at this point in time to evaluate where solid waste will be disposed of on a long-term basis after the Toland Road Landfill closes in 2027.

BBK-16

The cumulative analysis in the Draft EIR meets the requirements of Section 15130 of the CEQA *Guidelines*. For each topic, cumulative analysis is based on either the extensive list of related projects provided in Appendix 4.0 or a summary of projections contained in an adopted general plan or related planning document. The cumulative drainage analysis is based on the City of Oxnard Drainage Master Plan, which accounts for drainage from all existing areas as well as additional uses allowed by the City's *2020 General Plan*, and the list of related projects in Appendix 4.1. The cumulative storm drain analysis considers all related projects that will contribute runoff to the same drainage facilities as the project. In addition, the analysis considers areas planned to drain to the same facilities. This is appropriate and properly accounts for cumulative impacts to drainage facilities.

This comment is not correct in concluding that the proposed project and other projects will sometimes overwhelm the drainage system planned for the Ventura County Juvenile Justice Center (JJC) project. As described on page 4.11.1-15 of the Draft EIR, the JJC is being designed with a stand-alone drainage system including a drainage basin with a capacity for over a 100-year storm. No other projects of areas will drain to the JJC drainage system, including this basin.

BBK-17

The water supply analysis properly accounts for the amount of groundwater extraction allocations that will be transferred to the City. This amount is based on Fox Canyon Groundwater Management Agency (FCGMA) 5.9, as discussed on pages 4.11.2-5 and 6 of the Draft EIR. This ordinance constitutes the existing regulatory baseline for groundwater extraction and use in the Oxnard Plain. The use of 1985 – 1989 pumping data to determine groundwater extraction allocations is defined in FCGMA Ordinance 5.9. Pumping data from this period establishes a historical baseline that is applied to all pumpers on the Oxnard Plain. This established system of groundwater extraction allocations was established by the FCGMA to ensure a safe yield of groundwater by the year 2010 and eliminate any overdraft condition.

BBK-18

As discussed in Section 4.11.3, Wastewater Service, adequate sewer facilities to serve the project will be provided for through the implementation of the City of Oxnard's Wastewater Collection System Master Plan. This citywide master plan identifies the improvements needed to the Central Trunk System to provide adequate capacity for the RiverPark Project, existing uses and all other additional uses allowed by the Oxnard 2020 General Plan that will be served by this same trunk sewer. The City will construct the master plan improvements as required with sewer connection fees. This existing fee program will mitigate impacts to the City's wastewater collection system.

BBK-19

This comment does not correctly state the conclusion of the analysis of impacts to historical resources in the Draft EIR. The Draft EIR does not conclude the significant impact to historical resources will be mitigated to below a level of significance. The conclusion on page 4.12-16 of the Draft EIR is that the impact of the project on the historical resources identified on the site will be an unavoidable significant impact.

BBK-20

The four mitigation measures on page 4.13-18 of the Draft EIR reflect current applicable regulations for any existing abandoned oil wells on the site and for the removal of asbestos containing building materials and lead-based paint in any of the existing structures on the site that will be demolished. Conformance with these existing regulations adopted by the State Department of Conservation Oil and Gas Division and the Ventura County Air Pollution Control District will effectively and feasibly mitigate the identified impacts to a level that is less than significant.

BBK-21

Please see the responses to Comments BBK-1 through BBK-20 above. These responses demonstrate that the Draft EIR provides adequate analysis of the potential impacts of the project.

BBK-22

Section 5.0, Alternatives of the Draft EIR provides sufficient information to support the conclusions reached on the feasibility of the alternatives examined.

BBK-23

Please see the responses to Comments BBK-1 through 22 above. Responses have been provided to all comments and none of these responses include the identification of “significant new information” as defined Section 15088.5 of the CEQA *Guidelines*, that would require recirculation of the EIR. All of the conclusions in the EIR are supported by the information in the EIR as reflected in the responses to Comments BBK-1 through 22. Section 15088.5 of the CEQA *Guidelines* requires recirculation of an EIR when significant new information results in any of the following: (1) Identification of new significant impact that would result from the project or a mitigation measure; (2) Identification of a substantial increase in the severity of an impact that cannot be mitigated; or (3) Identification of a feasible alternative or mitigation measure considerably different from those previously analyzed that the project proponents decline to adopt. None of these circumstances have occurred as a result of the information included in the responses to BBK-1 through 22 above. Recirculation of the EIR is, therefore, not required.

BBK-24

Please see the response to Comment BBK-23 above. The Draft EIR contains substantial evidence as defined in Section 15384 of the CEQA *Guidelines* to support all of the conclusions in the Draft EIR.