

# ORMOND BEACH SPECIFIC PLAN FINAL EIR Volume II



Submitted to:  
City of Oxnard Development Services



Submitted by:  
URS Corporation

November 2009





## **SECTION 1.0: RESPONSES TO COMMENTS**

In accordance with Chapter 15088 of the California Environmental Quality Act (CEQA) Guidelines, the City of Oxnard, as the Lead Agency, has reviewed the comments received on the Recirculated Draft Environmental Impact Report (RDEIR) for the Ormond Beach Specific Plan Project and has prepared written responses to the written comments received. The RDEIR was initially circulated for a 45-day public review period that began on July 24, 2008. In response to requests from several stakeholders, the City agreed to extend the review period by an additional 15 days through September 22, 2008, to allow for all interested parties to provide written comments. The comment letters included herein were submitted by public agencies, private organizations, and private citizens.

Each comment that the City received is included in this section. Responses to these comments have been prepared to address the substantive environmental concerns raised by the commentors and to indicate where and how the FEIR addresses pertinent environmental issues. While most of the responses to specific comments are included along with the individual comment letters, there were three recurring themes among the comments that warranted the preparation of “master” responses. Recurring comments pertaining to sea-level rise; indirect impacts to sensitive offsite habitat and sensitive species; and climate change have been addressed in the master responses as noted below. The master responses are presented before the individual comments and responses for readability and reference as many comments and responses are addressed by the master responses.

Pursuant to Section 21092.1 of the Public Resources Code, and Section 15088.5(f)(1) of the CEQA Guidelines, since the DEIR was revised and recirculated, responses in this section address only the comments on the RDEIR, and do not respond to those comments received during the earlier circulation period. The RDEIR and the Comments and Responses included herein collectively constitute the Final EIR (FEIR) for the Ormond Beach Specific Plan Projects. Any changes made to the text of the RDEIR correcting information, data or intent, other than minor typographical corrections or minor working changes, are noted in the FEIR as changes from the RDEIR.

The comment letters have been numbered sequentially within the following groups:

<b>Comment Letter Group</b>	<b>Group Code</b>
Federal Agencies	F
State Agencies	S
County Agencies	C
Utility/Service Providers	U
Organizations	O
Project Applicants	A
Individuals	I

**RESPONSES TO COMMENTS**  
**FEIR: ORMOND BEACH SPECIFIC PLANS**

Each comment letter has been assigned a discrete label according to its group, with the label consisting of the group code as listed above and a numeric digit corresponding with the alphabetical sort sequence of the letter. For instance, the first federal agency letter is F.1 and the third organization letter is O.3. Within each letter, discrete comments were assigned numeric digits. Thus, each comment has a unique label (e.g., F.1-2 for the second comment in the first federal agency letter). Each comment letter is reproduced in its entirety with the comment number shown in the right margin. References to the responses to comments identify first the alphanumeric letter identifier, and second, the numbered comment.

When a response to a public comment results in a revision to the text of the RDEIR, the response identifies the section of the RDEIR that has been revised. The revisions to the RDEIR text are also presented in FEIR Volume II, Section 2, Corrections and Changes. This section also includes revisions to the DEIR text resulting from City of Oxnard staff input.

The focus of the responses to comments on the RDEIR is to address environmental issues that are raised in the comments, as specified by Chapter 15088 (b) of the State CEQA Guidelines. When a comment does not pertain to an environmental issue, the response indicates that the comment has been forwarded to the appropriate decision-makers for review and consideration.

**List of Commentors**

<b>Federal Agencies</b>		
Letter F.1	United States Department of the Interior, Fish and Wildlife Service, Roger Root	09-18-08
Letter F.2	United States Department of the Navy, Naval Base Ventura County, C.B. Conners	09-22-08
<b>State Agencies</b>		
Letter S.1	California Coastal Conservancy, Peter Brand	09-22-08
Letter S.2	California Dept of Fish & Game South Coast Region, Edmund J. Pert	09-22-08
Letter S.3	Native American Heritage Commission, Katy Sanchez	07-21-08
Letter S.4	California Public Utilities Commission, Rosa Munoz	08-27-08
Letter S.5	California Department of Transportation (Caltrans) District 7, Elmer Alvarez	08-07-08
<b>County Agencies</b>		
Letter C.1	County of Ventura Planning, Kari Finley	09-19-08
Letter C.2	County of Ventura Planning, Bruce Smith	10-01-08
Letter C.3	County of Ventura Transportation Dept., Nazir Lalani	09-05-08
Letter C.4	County of Ventura Watershed Protection District, Sergio Vargas	09-26-08
Letter C.5	County of Ventura Watershed Protection District, Rick Viergutz	09-29-08
Letter C.6	Ventura LAFCO, Kai Luoma	09-09-08
Letter C.7	Ventura LAFCO, Kai Luoma	10-08-08
<b>Utility/Service Providers</b>		
Letter U.1	Gold Coast Transit, Helene Buchman	08-20-08
Letter U.2	Metropolitan Water District of Southern California, Delaine W. Shane	09-17-08
Letter U.3	Ocean View School District, Nancy Carroll	08-21-08
Letter U.4	Ocean View School District, Janet Mueller, Miller Brown Dannis,	09-18-08
Letter U.5	Southern California Edison, Rudolph Gonzales	09-08-08
Letter U.6	Southern California Edison, Rudolph Gonzales	09-19-08

**RESPONSES TO COMMENTS**  
**FEIR: ORMOND BEACH SPECIFIC PLANS**

<b>Organizations</b>		
Letter O.1	Beacon Foundation, Lee Quaintance	09-22-08
Letter O.2	California Native Plant Society, Richard Burgess	09-22-08
Letter O.3	Earth Alert, Janet Bridgers	09-22-08
Letter O.4	Environmental Defense Center, Karen Kraus	09-22-08
Letter O.5	Friends of the Santa Clara River, Ron Bottorff	08-07-08
Letter O.6	Sierra Club, Alan Sanders	09-21-08 09-22-08
Letter O.7	Ventura Audubon Society, Inc., Reed Smith	08-24-08
<b>Project Applicants</b>		
Letter A.1	Brown Winfield Canzoneri Abram Inc., Mark Steres (South Ormond)	09-22-08
Letter A.2	Manatt Phelps Phillips, Susan Hori (SouthShore)	09-21-08
<b>Individuals</b>		
Letter I.1	Karine Adalian	09-18-08
Letter I.2	Jean Anker	09-19-08
Letter I.3	Lorie Baker and Casey Burns, et al.	09-22-08
Letter I.4	Archie Bard	08-07-08
Letter I.5	Barbara Berns	08-07-08
Letter I.6	Mr. and Mrs. Braden, et al.	08-23-08
Letter I.7	Richard Burgess	09-01-08
Letter I.8	Edward M. Castillo, et al.	09-15-08
Letter I.9	Diane Delaney	08-09-08
Letter I.10	Patricia Einstein	09-13-08
Letter I.11	Harold Epstein	08-04-08
Letter I.12	Brian Foster (Avian Research Associates)	09-22-08
Letter I.13	Larry Godwin	08-27, 28, 29, 30, and 31-08; 09-01, 02, 03- 08
Letter I.14	Shirley Godwin	09-03, 05, 06- 08
Letter I.15	Kendra Gonzales	08-07-08
Letter I.16	Jean Harris	08-22-08
Letter I.17	Cynthia Hartley	09-16-08
Letter I.18	David Magney	09-22-08
Letter I.19	Bill Miley	09-19-08
Letter I.20	Patricia Munro	09-22-08
Letter I.21	Roger Pariseau	09-22-08
Letter I.22	Nancy Pedersen	09-22-08
Letter I.23	Julie Pena	09-16-08
Letter I.24	Rebecca Ralph	09-29-08
Letter I.25	E. Gloria Roman	09-22-08
Letter I.26	Jack Schienbein	08-09-08
Letter I.27	Christine Simmons	09-16-08
Letter I.28	William L. Terry	09-22-08
Letter I.29	Sallie Williams & Robert Neubauer	09-22-08
Letter I.30	Jim Yarbrough	09-08-08
Letter I.31	Joy Zedler, University of Wisconsin-Madison, Department of Botany	09-16-08

## **MASTER RESPONSES**

This section contains “master” responses to comments that were raised frequently by several commentors. The master responses provide responses to the recurring comments in a comprehensive, easily-located discussion that clarifies and elaborates upon the analyses contained within the RDEIR. The master responses presented below address comments related to sea-level rise, indirect impacts to sensitive offsite habitat and sensitive species, and global climate change.

### **Master Response 1: Sea Level Rise**

Several commentors expressed concern that the RDEIR did not sufficiently address the potential consequences of sea level rise on the Project. Section 3.2.1.3.10 of the RDEIR (Other Geologic Hazards) includes the following description of the issue and establishes the setting for discussion of geologic and other potential hazards:

Sea level is currently on the rise. Contributing factors for sea level rise include the melting of glacial ice, glacial isostatic adjustment, and decrease in water density, all of which are attributed to a global increase in atmospheric temperatures. Sea levels have risen approximately 6 inches in the last 100 years (Peltier and Tushingham, 1989), and continue to rise at a rate of about 1.8 mm/year (Douglas, 1997). Assuming acceleration of global warming and associated rise in sea level, estimates of the total increase in sea level over the next century vary from 1.6 feet to 6.6 feet. This predicted rise in sea level has long-term implications for the Study Area because the rise in sea level could result in increased coastal erosion and loss of beaches and an increased flood hazard potential in the low-lying Oxnard Coastal Plain.

While the RDEIR presented this description in conjunction with the discussion of the potential for coastal flooding resulting from tsunami, it did not refer to sea level rise in its analysis of tsunami hazard (Impact GEO-6 in Section 3.2.3.2.2 of the RDEIR).

In response to the several commentors who expressed concern over the RDEIR’s treatment of the issue, the FEIR includes an expanded analysis of sea level rise as it relates to tsunami hazards, increased potential for flooding of the project area under Impact GEO-6. This analysis includes citation of information published by the California Natural Resources Agency in its *Draft 2009 California Climate Adaptation Strategy* and by the Pacific Institute in *The Impacts of Sea-Level Rise on the California Coast*, which was prepared as part of the California Climate Change Center Report Series with funding from the California Energy Commission, the California Environmental Protection Agency, the Metropolitan Transportation Commission, the California Department of Transportation, and the California Ocean Protection Council. The Climate Adaptation Strategy, published in draft form in August 2009, outlines a set of guiding

principles for addressing climate change in California and then presents a set of strategies for responding to climate change as it might affect several public policy issues. The report “takes into account the long-term, complex, and uncertain nature of climate change and establishes a proactive foundation for an ongoing adaptation process.”

Among the studies cited in the Draft Climate Adaptation Strategy is the Pacific Institute report, *The Impacts of Sea-Level Rise on the California Coast*, which was released in draft form in March 2009. That report suggests that coastal flooding would be exacerbated by a continued increase in sea level and includes conceptual maps depicting a potential 100-year coastal flooding boundary assuming a 1.4-meter (4.6 feet) sea level rise by the year 2100.

While the Pacific Institute’s study is helpful in further articulating the context for discussion of sea level rise and contributes to the emergent body of literature regarding sea level rise predictions, it does not constitute substantial new information that would alter the RDEIR’s conclusions concerning tsunami hazards and coastal flooding (Impact GEO-6), which were determined to be significant but feasibly mitigated to a less-than-significant level (Class II). The additional information and the expanded narrative neither support the identification of a new significant impact nor do they increase the severity of a previously-identified significant impact. This is, in part, due to the status of the research presented by the Pacific Institute, which includes a disclaimer stating that its work “shall not be used to assess actual coastal hazards, insurance requirements or property values, and specifically shall not be used in lieu of Flood Insurance Studies and Flood Insurance Rate Maps issued by the Federal Emergency Management Agency (FEMA).” Thus, while the FEIR’s analysis recognizes the draft Pacific Institute report, its conclusion remains the same as that described in the RDEIR. That is, that the effects of sea level rise on coastal flooding and the associated risk to properties would be addressed through application of City development and building standards concerning the placement and construction of structures in areas prone to flooding, as established by the Federal Emergency Management Agency (FEMA) and the California Office of Emergency Services (OES). Accordingly, the impact is deemed significant but feasibly mitigated (Class II) to a less-than-significant level, with reference to Mitigation Measure GEO-5: Tsunami Emergency Evacuation, which calls for continuing implementation of ongoing commitments to early warning and evacuation under severe coastal flooding events.

In February 2009, the California Emergency Management Agency (formerly the California Office of Emergency Services) published a new Tsunami Inundation Map for Emergency Planning for the Oxnard area. The new map shows that while much of Oxnard’s and Port Hueneme’s coastal area would be subject to inundation, the Ormond Beach Specific Plan Study Area would not be. This finding represents a change from previous maps, which indicated that there was potential for tsunami run-up in the southern part of the Ormond Beach Study Area.

Finally, among the comments related to sea level rise are several that assert that the RDEIR did not account for the potential effects of sea level rise on the California Coastal Conservancy's wetland restoration program. A recurring theme in these comments is that the RDEIR should have evaluated how the Coastal Conservancy's plan might be affected by rising sea level and, specifically, how sea level rise could affect the amount of land required by the Conservancy to implement a wetland restoration project in the Ormond Beach area. There is some indication in the research prepared by the Pacific Institute and others that sea level rise will cause wetlands to migrate upslope into low-lying coastal areas, including those adjacent to Ormond Beach. In the absence of a wetland restoration for the Ormond Beach area, it is not possible to determine what the effects of the Ormond Beach projects on such a plan might be. The City assumes that, in conjunction with the development of its wetland restoration plans for the Ormond Beach area, the Coastal Conservancy will consider sea level rise as part its environmental review process. In the meantime, per longstanding discussions with the Coastal Conservancy, the project applicants for the South Ormond Beach Specific Plan have designated the southernmost 220 acres of their project area for agricultural uses, which leaves open the opportunity for the Coastal Conservancy or others to acquire and use that land to advance wetland restoration efforts.

**Master Response 2: Indirect Impacts to Sensitive Offsite Habitat and Sensitive Species/  
Ormond Beach Natural Resource Management Program**

Several commentors expressed concern for the manner in which the RDEIR addressed potential impacts on offsite natural habitat as well as the species that rely on such habitat, particularly the western snowy plover and the California least tern. Commentors questioned whether the Ormond Beach Natural Resource Management Program (NRMP) described in the RDEIR would provide sufficient protection to ensure avoidance of potential adverse impacts to sensitive species and their habitats. As outlined in Section 3.6.3.3 of the RDEIR, the Ormond Beach NRMP includes the following key elements:

- **Fencing:** Construction and maintenance of seasonal and/or permanent fencing adequate to delineate and protect snowy plover and least tern nesting areas and sensitive dune areas on Ormond Beach. Fencing is typically installed in March and removed in September based on nesting activity observations.
- **Signage:** Installation and maintenance of informational and directional signage at 100-foot intervals along the beach and perimeter of the property to direct and inform people of the sensitive resources on Ormond Beach. The signage shall emphasize regulations pertaining to dogs on Ormond Beach and shall cite local ordinances and state and federal laws as applicable (e.g., "leash laws").

- **Predator Management:** Implementation of a predator management plan that would discourage potential predators and, if necessary, remove known predators from the area. The primary means of discouraging predators (e.g., gulls, crows, ravens, skunks, raccoons, and cats) would be to control trash and litter on the beach and in the immediate area. Trash cans with animal proof lids would be installed and maintained year-round. Specific targeted measures would be employed if snowy plover and/or least tern nest predation increases significantly to a point of resulting in take as defined by the Endangered Species Act. The individual predator(s) would be targeted and removed by animal control under the direction of the docent coordinator, in consultation with appropriate agencies such as the California Department of Fish and Game (CDFG).
- **Invasive Plant Control:** To ensure that sensitive habitats on Ormond Beach are not degraded by non-native invasive plants, an invasive plant control program would be developed and implemented. The plan would require the control and/or removal of invasive exotic plants found in the Ormond Beach dunes. Hand removal would be preferred, but some species may require herbicide application for effective removal or control.
- **Public Information:** A program would be implemented that would inform the public about the unique and sensitive resources of the Ormond Beach area. Signs and pamphlets would be utilized to educate visitors on how to minimize human-caused impacts such as harassment of wildlife by dogs and cats, off-road vehicle (ORV) impacts, kites, beach grooming, trash, and water pollution. A component of the education program would be the identification of the location of nearby “dog friendly” beaches.
- **Enforcement:** The City of Oxnard or their designee would enforce the provisions of the Ormond Beach NRMP. Active enforcement would be emphasized from March through September when sensitive species nesting activity occurs, but enforcement activities will occur year-round. Law enforcement would work in coordination with the docent coordinator and docent volunteers to ensure effective implementation of the program and to provide a safe environment for the coordinator, volunteers, and other visitors.

For indirect impacts to sensitive habitats and species, the RDEIR cites the mitigating effects of the Ormond Beach NRMP, which—through their Development Agreement(s) and Specific Plan(s)—the project applicants have committed to contribute funding. Several commentors had requested that funding for implementation of the NRMP be included as a mitigation measure for the project. However, the commitment to fund the NRMP is an essential element of the project, and thus, under CEQA, is not a mitigation measure. It will be enforced through compliance with the Development Agreement(s) and implementation of the Specific Plan(s).

The United States Fish and Wildlife Service (USFWS) and the California Department of Fish and Game (CDFG) commented on the RDEIR's treatment of potential indirect impacts to sensitive habitat and species (Letters F.1 and S.2). The USFWS specifically expressed concern that the proposed projects could have a substantial adverse effect on two federally protected species: the California least tern and the western snowy plover, both of which nest on Ormond Beach outside of the Study Area. The USFWS also expressed concern that such effects could constitute a "take" as that term is defined under the Federal Endangered Species Act (ESA), which would trigger a formal Section 7 consultation process to obtain "take" authorization from the USFWS pursuant to the ESA and project review under the National Environmental Policy Act (NEPA). CDFG concurred with the USFWS' comments concerning the potential for impacts on protected species.

The RDEIR concluded that, based on CEQA standards and the stated significance thresholds, impacts to the two protected species could be avoided or mitigated to a less-than-significant level through implementation of the Ormond Beach NRMP and application of mitigation measures BIO-2, BIO-3 and BIO-5 in Section 3.6.3.5 of the DEIR. The City acknowledges that USFWS and CDFG exercise independent jurisdiction to protect federal and state listed species under the ESA and the California Endangered Species Act (CESA), respectively, and encourages the project proponents to discuss with the resource agencies application of the ESA and CESA to these projects. However, for the purposes of CEQA, the City has determined that with respect to sensitive offsite habitat and the species they support, all potential direct impacts from the projects have been avoided and any potential indirect impacts have been mitigated to less-than-significant levels.

### **Master Response 3: Global Climate Change**

Several commentors expressed concern that the RDEIR's analysis of potential project impacts related to global climate change (Section 3.4.3.6 of the RDEIR) was insufficient. In particular, the commentors' took issue with the RDEIR's conclusion that a determination of impact would be speculative based on the absence of City-established thresholds and an agreed-upon methodology to adequately identify, under CEQA, when project-level greenhouse gas (GHG) emissions contribute considerably to this cumulative impact. Many of those commenting on this subject also stated that the RDEIR failed to consider information that had been published on the matter, including guidance developed by the Governor's Office of Planning and Research (OPR) and California Air Pollution Control Officers Association (CAPCOA). The City has reviewed this and other information, including the principles and strategies presented in the California Natural Resources Agency's *Draft 2009 California Climate Adaptation Strategy* and opinions provided by the California Attorney General, in light of the proposed Ormond Beach projects and other projects under consideration within Oxnard. While much of the suggested guidance helps frame the issue of climate change as it relates to CEQA, it does not provide new

information that would provide the basis for development of new City thresholds concerning project-level climate change impacts. Neither would it change the City's conclusions concerning project-level contributions to climate change, which were that no significant impacts have been identified due to the currently speculative nature of GHG impact assessment.

As stated in the RDEIR, no quantitative significance thresholds for GHG impact assessment have been adopted by the State of California Air Resources Board (CARB), the Ventura County Air Pollution Control District (APCD), or the City of Oxnard. Additionally, the regional targets that will help set the stage for such thresholds have not yet been developed, although they are scheduled to be adopted by the CARB Regional Targets Advisory Committee (RTAC) in late 2010. Nonetheless, the RDEIR quantifies the potential estimated operational GHG emissions associated with the project and evaluates project consistency with the 2006 Climate Action Team (CAT) Report greenhouse gas emission reduction strategies. Furthermore, the RDEIR includes several mitigation measures (AQ-2, AQ-4, and AQ-5a through -5c) that would have beneficial effects on air quality, including reduction in the components of GHG (CO<sub>2</sub>, NO<sub>x</sub>, CH<sub>4</sub>). Thus, the RDEIR's analysis does not minimize or discount scientific research concerning climate change and does not avoid addressing the issue. The RDEIR includes an accurate representation of findings concerning climate change, including the fact that there are scientific uncertainties with respect to many aspects of climate change, particularly as it relates to isolating project-related impacts.

In light of the fact that there is no substantial new evidence that would affect the RDEIR's findings and no thresholds have been established locally, regionally, or statewide that would affect the RDEIR's analysis, no change or alteration to the RDEIR is warranted.



**LETTER F.1      UNITED STATES FISH AND WILDLIFE SERVICE**

**Commentor:** United States Department of the Interior, Fish and Wildlife Service (USFWS), Roger Root (09-18-08)

**Responses**

1. **Incidental Take Permit/HCP:** The USFWS recommends that the project applicants pursue an incidental take permit through the USFWS, and has provided instruction on the permitting process. These recommendations have been forwarded to the project applicants.

Please also refer to Master Response 2 above for response to comments regarding impacts to sensitive offsite habitat and sensitive species, including the two federally protected species: the California least tern and the western snowy plover.

2. **July 2007 Comments on May 2007 DEIR:** The City appreciates the comments that the USFWS submitted on the May 2007 DEIR. These comments, in part, served as the basis for development of the NRMP cited in the RDEIR that is now an element of the proposed projects. The City will continue to work collaboratively with the USFWS and the applicant concerning the proposed projects and compliance with regulatory requirements.. Pursuant to Section 21092.1 of the California Public Resources Code, and Section 15088.5(f)(1) of the CEQA Guidelines, since the DEIR was revised and recirculated, comments on the May 2007 DEIR do not require written response within the FEIR.



United States Department of the Interior

FISH AND WILDLIFE SERVICE  
Ventura Fish and Wildlife Office  
2493 Portola Road, Suite B  
Ventura, California 93003



IN REPLY REFER TO:  
2008-FA-0098

September 16, 2008

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SEP 18 2008

PLANNING DIVISION  
CITY OF OXNARD

Kathleen Mallory, Project Planner  
Planning Division  
City of Oxnard  
214 South C Street  
Oxnard, California 93030

Subject: Recirculated Draft Environmental Impact Report No. 05-03: North Ormond Beach and South Ormond Beach Projects, City of Oxnard, Ventura County, California

Dear Ms. Mallory:

We are responding to your notice, dated August 27, 2008, and received in our office on August 29, 2008, informing us that the City of Oxnard (City) accepted approximately 65 written and/or oral communications with comments during the initial public comment period for the proposed North and South Ormond Beach projects and the associated draft Environmental Impact Report (DEIR). In response to the comments, the City and project applicants have reconsidered the overall approach to managing activities that will affect offsite sensitive biological resources.

On July 20, 2007, we sent you a comment letter stating our concerns regarding the proposed projects. A copy of that letter is enclosed as our submission for the revised project as we believe our original comments and concerns remain relevant and applicable. We still contend that the proposed projects could have significant effects on the breeding success of the federally endangered California least tern (*Sterna antillarum browni*) and threatened western snowy plover (*Charadrius alexandrinus nivosus*) that nest on Ormond Beach, and that these effects may constitute "take" as defined in Section 3(18) of the Endangered Species Act of 1973, as amended (Act). Based on the recirculated DEIR, it appears that there will not be any Federal involvement that would trigger consultation pursuant to section 7 of the Act, which could result in an exemption from the take prohibitions of section 9. Therefore, we recommend that you seek an incidental take permit through the habitat conservation planning process, pursuant to section 10(a)(1)(B) of the Act. To qualify for the permit, the project proponent would need to submit an application to the U.S. Fish and Wildlife Service together with a habitat conservation plan (HCP) that describes, among other things, how the impacts of the proposed taking of federally listed species would be minimized and mitigated and how the plan would be funded. A complete description of the requirements for a HCP can be found at 50 CFR 17.32 or our website (<http://www.fws.gov/ventura>). Furthermore, due to the complexity of the proposed projects and the listed species involved, we emphasize that the process of developing a HCP and application

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F. 1

Kathleen Mallory

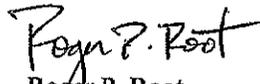
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for an incidental take permit will take time; therefore, the project proponent should begin this process as soon as possible.

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We appreciate the opportunity to provide comments on the proposed projects and look forward to working with the City and project applicants to ensure compliance with the Act. If you have any questions regarding this matter, please contact Chris Dellith of my staff at (805) 644-1766, extension 227.

Sincerely,



Roger P. Root  
Assistant Field Supervisor

Enclosure



F 1

## United States Department of the Interior

FISH AND WILDLIFE SERVICE  
Ventura Fish and Wildlife Office  
2493 Portola Road, Suite B  
Ventura, California 93003



IN REPLY REFER TO:  
PAS 3389.5156.7362

July 20, 2007

Kathleen Mallory, Project Planner  
Planning Division  
City of Oxnard  
305 W. Third Street  
Oxnard, California 93030

Subject: Draft Environmental Impact Report No. 05-03: North Ormond Beach and South Ormond Beach Projects, City of Oxnard, County of Ventura, California

Dear Ms. Mallory:

This letter responds to your request for comments on the draft Environmental Impact Report (DEIR) for the subject projects proposed by Hearthside Homes and Marathon *et al.* located north and south of Hueneme Road and east of Edison Drive in the City of Oxnard (City). The proposed North Ormond Beach project proposes the development of 1,283 residential dwelling units of varying types and densities; an elementary school; a high school; a community park; neighborhood parks; an 18-acre lake; a mixed use commercial market place; light industrial uses; and open spaces and trails. The proposed South Ormond Beach project proposed the development of a 375-acre business park (to include a business/research campus), light industrial facilities, and harbor-related uses. The U.S. Fish and Wildlife Service (Service) has concerns regarding the effects that these projects could have on the federally endangered California least tern (*Sterna antillarum brownii*) and federally threatened western snowy plover (*Charadrius alexandrinus nivosus*) that breed at Ormond Beach. The likely effects of the proposed project include direct mortality to both the California least tern and western snowy plover and, potentially, a dramatic decrease in breeding success at this important site for these species.

The Service's responsibilities include administering the Endangered Species Act of 1973, as amended (Act), including sections 7, 9, and 10. Section 9 of the Act prohibits the taking of any federally listed endangered or threatened species. Section 3(18) of the Act defines "take" to mean "to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct." Service regulations (50 CFR 17.3) define "harm" to include significant habitat modification or degradation which actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding or sheltering. Harassment is defined by the Service as an intentional or negligent action that creates the likelihood of injury to wildlife by annoying it to such an extent as to significantly disrupt normal behavioral patterns which include, but are not limited to, breeding, feeding, or sheltering. The Act provides for civil and criminal penalties for the unlawful taking of listed species.

(2)

Exemptions to the prohibitions against take may be obtained through the Service in two ways: through interagency consultation for projects with Federal involvement pursuant to section 7, or through the issuance of an incidental take permit under section 10(a)(1)(B) of the Act.

The City has determined that indirect impacts to the western snowy plover and California least tern, including an increase the presence of humans and domestic animals, would be reduced by the open space/greenbelt buffer proposed as part of the project. Furthermore, the DEIR states that impacts to these species would be less than significant because the applicants propose to: 1) strategically place interpretive signs at all entrances to pathways leading from the proposed developments to Ormond Beach to explain the sensitivity of natural habitats and the need to minimize impacts on these habitats; 2) install cat-proof fencing between the development and the natural area open space; 3) install ultrasonic devices to discourage cats from entering sensitive areas; 4) strategically place or use water bodies between the proposed development and open space/natural areas as barriers to cats; and 5) distribute educational pamphlets prepared by the City of Oxnard, in coordination with a qualified biologist, to home and business owners in the proposed project area every year prior to the commencement of the breeding season for these species (March to September).

While these measures may reduce impacts to western snowy plovers and California least terns, it is our opinion that that increased disturbance resulting from construction and occupancy of the proposed projects will likely result in take of these species. Even with the presence of numerous interpretive signs in-place at all entrances to pathways leading to Ormond Beach and educational pamphlets distributed by volunteers at Ormond Beach, take of the western snowy plover and California least tern at Ormond Beach has occurred every breeding season since the species were listed. Developments of the size and magnitude as those proposed would undoubtedly result in more disturbance to these species during the breeding season as a result of increased human activity at Ormond Beach. (2)

Installation of cat-proof fencing and barriers may slow cats from entering sensitive areas; however, as long as there is access for humans, there will also be access for cats. Considering the high level of cat ownership in the United States, the ability of cats to survive as feral animals, and their innate hunting abilities, the addition of 1,283 residential units is very likely to result in additional take of western snowy plover and California least tern despite even diligent efforts to limit cat access to Ormond Beach.

The DEIR states that 220 acres, located at the southernmost area of the South Ormond Beach project area adjacent to sensitive wetland area and dune habitat at Ormond Beach, may be sold to the California Coastal Conservancy or partner organization as part of the larger 750-acre Ormond Beach wetland restoration project. It further states that these 220 acres are currently in agricultural production and will continue to be so until a purchase agreement or other arrangement is reached and a restoration process begins. The DEIR proposes that if this area is restored and preserved, it will serve as a buffer to the proposed developments. This may be true to a limited extent; however, the significance of that open space as mitigation for sensitive receptors impacted by the development is unknown.

F. /  
Kathleen Mallory

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Western snowy plovers have abandoned many historic breeding sites, presumably due to disturbance or habitat destruction (Lafferty 2000). The proposed activity would result in a significant increase in human recreational activities at Ormond Beach that would lead to both disturbance and habitat destruction. Typical human activities that occur within California least tern and western snowy plover nesting habitat include: sitting; sunbathing; dragging driftwood; digging; storing personal belongings; walking; children playing; walking dogs on and off leash; littering; and building driftwood structures. Direct impacts from these activities can result in the crushing or burying of nests, eggs, or chicks.

Western snowy plovers have been found to be disturbed more than twice as often by human activities than by all other natural causes combined (Page *et al.* 1977). A common response of western snowy plover chicks to threat or disturbance is to stand or lie motionless on the sand. This behavior, combined with the cryptic coloration of western snowy plover chicks, can render avoidance difficult. Individuals untrained and unpracticed in detecting the chicks of this species, are unlikely to see and avoid stepping on western snowy plover chicks. As a result, western snowy plover chicks within areas open to recreational use could be crushed.

Recreational use of beaches draws predators to the beach, where they search for food or waste left behind by people. A high correlation exists between human use of nesting habitat and predation on western snowy plovers and California least terns. Walking, jogging, and other recreational activities within nesting habitat destroy cover and shelter sites through trampling. Additionally, normal behavior associated with feeding and breeding can be repeatedly disrupted by humans recreating in nesting habitat of the western snowy plover. Excessive disturbance can lead to injury and mortality.

Dogs, on and off leashes, cause breeding western snowy plovers to flush off their nests when approached. Dogs off leash will often chase shorebirds, including western snowy plovers and California least terns. This can flush birds off nests, separate adults and broods, crush eggs and chicks, kill individual birds, preclude foraging activities, and result in increased energy expenditure by these birds.

Seemingly benign activities like dragging driftwood around the beach and build structures from this material can result in take of western snowy plovers. Driftwood provides cover for chicks and the invertebrate prey of the western snowy plover often concentrates around it. Driftwood in the vicinity of the wrack line probably is more attractive to invertebrates because of the moisture associated with the more mesic sand. Dragging driftwood from the wrack line is likely to reduce the concentration of invertebrates and cause western snowy plovers to spend more time and energy foraging. Increased energy expenditure of stressed birds can lead to death. Additionally, the structures often built out of driftwood can serve as hunting perches for avian predators of western snowy plovers.

This letter does not reflect a comprehensive project review on our part; however, it is our opinion that the North and South Ormond Beach projects, as proposed, would, in our opinion, result in take of California least tern and western snowy plover and have potentially very significant

2

F.1

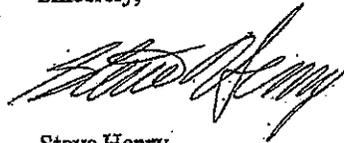
Kathleen Mallory

4

effects on breeding success at this important breeding site. Therefore, we recommend you address these significant effects of the proposed project in your final EIR. We also encourage the City and applicants to work with us to ensure compliance with the Act either through consultation or preparation of a habitat conservation plan and issuance of an incidental take permit. It should be noted that even with the incorporation of mitigation measures pursuant to the California Environmental Quality Act, any take of these species would require exemption pursuant to section 7 or authorization pursuant to section 10 of the Act.

We appreciate the opportunity to provide comments on the proposed projects and look forward to working with the City in the future. If you have any questions regarding the contents of this letter, please contact Chris Dellith of my staff at (805) 644-1766, extension 227.

Sincerely,



Steve Henry  
Assistant Field Supervisor

cc: Betty Courtney, California Department of Fish and Game

2

F.1

REFERENCES CITED

Lafferty, K.D. 2000. Status of the snowy plover at Coal Oil Point, Santa Barbara, California. Museum of Systematics and Ecology Publication No. 8a, University of California, Santa Barbara. Santa Barbara, California.

Page, G.W., J.S. Warriner, J.C. Warriner, and R.M. Halberson. 1977. Reproductive timing and success. *In*: Status of the snowy plover on the northern California Coast. Nongame Wildl. Invest. Rep., California Department of Fish and Game, Sacramento, California.

**LETTER F.2     UNITED STATES DEPARTMENT OF THE NAVY**

**Commentor:** United States Department of the Navy, Naval Base Ventura County, C.B. Conners (09-22-08)

**Responses**

1. **Coordination:** The City intends to continue to coordinate with the Navy concerning land use and development that might affect or be affected by operations at Naval Base Ventura County, Point Mugu (NBVC).
2. **Acknowledgement of Changes to DEIR:** Comments noted. The City appreciates the Navy's acknowledgement of the modifications reflected in the RDEIR that respond to the Navy's comments on the May 2007 DEIR.
3. **Alternatives and Potential for Growth Inducement:** The City understands that, based on the RDEIR's analysis, the Navy prefers Alternative 5 over the proposed project, and prefers the proposed project over Alternative 1, and considers Alternative 2 the least desirable. These preferences will be conveyed to the Planning Commission and City Council to help inform their deliberations. Growth inducing effects of the proposed project are described in detail in Section 5.5 of the RDEIR.
4. **Correction:** The location of the Study Area relative to the NBVC has been corrected to read as follows: "The southeastern corner of the Study Area is adjacent to the perimeter of NBVC Point Mugu."
5. **Corrections:** References to "Naval Air Station Point Mugu" and "Naval Air Weapons Station" have been corrected to read "Naval Base Ventura County Point Mugu."
6. **Copies of July 2007, November 2005, and May 1996 correspondence:** Comments noted. Copies of prior comment letters have been attached for reference. They do not constitute comments on the RDEIR, so no further response is needed to these comments.

F. 2



DEPARTMENT OF THE NAVY  
NAVAL BASE VENTURA COUNTY  
311 MAIN ROAD, SUITE 1  
POINT MUGU, CA 93042-5033

IN REPLY REFER TO:  
5090  
Ser N46VS/0300

RECEIVED

SEP 22 2008

SEP 22 2008

PLANNING DIVISION  
CITY OF OXNARD

Ms. Kathleen Mallory  
Project Planner  
City of Oxnard  
214 South C Street  
Oxnard, CA 93030

Dear Ms. Mallory:

Thank you for the opportunity to review the Draft Environmental Impact Report (DEIR) for the North Ormond Beach and the South Ormond Beach projects. Although we continue to have concerns regarding housing in the vicinity of the Naval Base Ventura County (NBVC) Point Mugu airfield, we are encouraged that additional housing is not proposed south of Hueneme Road.

The City of Oxnard 2020 General Plan states that new development in the Ormond Beach area "shall be sited and designed in a manner that will mitigate potential use conflicts and protect the ongoing operations of the Navy's Point Mugu facilities" (page V-43). Optimal land uses to ensure compatibility with the Navy's air operations at NBVC Point Mugu, are agricultural and other natural resource land uses. Given that the proposed plans include residential, commercial and light industrial, we would like to continue coordination with all parties to optimize future development.

We support the changes made in the DEIR based on our previously submitted comments. Specifically:

a. Page ES-36, 3.11 Noise. The proposed mitigation measures will help reduce possible noise related issues into the future.

b. Page ES-58-ES-60, 3.3 Water Resources. The addition of mitigation measures for construction-related and post-construction surface water quality is important for the protection of the Mugu Lagoon wetlands.

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Ser N46VS/ 0300  
SEP 22 2008

Overall, the new alternative, number five, would reduce density and is preferred over alternative one. As a modification to this alternative, we would prefer to have open space on the southeast areas of the South Shore Plan as they are closest to the Navy's airfield. In addition, we support the proposed 220 acres that will remain County territory for natural resource protection.

Our previous comments of July 19, 2007 on the remaining alternatives still stand and are endorsed and incorporated. A copy of our letter with these comments is enclosed. These are listed below:

a. Alternative 1, "Proposed Project with High School located East of Olds Road, instead of within Northern Subarea", is of concern to the Navy. Although no school or residential is preferred by the Navy in the vicinity, we believe that the school should remain within the South Shore project area. The Navy is concerned with growth inducement for any proposal that would identify school sites outside the current sphere of influence. If proposed, we would recommend that the EIR address the potential for growth inducement. Specifically, there are a series of potential impacts that the school could create if built outside of the SOI Line, as follows:

(1) Potential expansion of development further east. The location of a high school east of the SOI Line, would further signal a continued drive of development toward NBVC Point Mugu.

(2) Issues extend beyond the school presence as further annexations to the east would be needed to allow extension of utility service, flood protection, and transportation. These improvements typically lead to the allowance of future development. These additional services and development outside the SOI creates impacts beyond what is discussed in the EIR.

b. Alternative 2, "No Project/Existing Plan (City of Oxnard 2020 General Plan)", is also not preferred by the Navy as it includes residential in the southern subarea. This could affect the sustainability of our aviation missions.

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Ser N46VS/0300

SEP 22 2008

Two other items noted in our previous comments in our letter of 2 November 2005 have not been fully addressed. These are:

a. Page ES-4, paragraph 2, states that "Naval Air Station Point Mugu is located less than a mile southeast of the Study Area". This should be corrected to state that the southeast corner of the Study Area, as shown in Figure ES-1, is adjacent to the NBVC perimeter. (4)

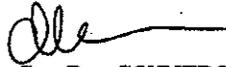
b. The name Naval Air Station Point Mugu as used on page ES-4 and the name Naval Air Weapons Station as used in Figure ES-2 are incorrect. The installation's correct name is Naval Base Ventura County, Point Mugu. (5)

c. A copy of our comments in May 1996 is also included. (6)

We look forward to working with you and Hearthside Homes to minimize environmental impacts and encroachment concerns that each of us may have. Our goal is not only to ensure the long-term sustainability of NBVC, but to ensure that Hearthside Homes optimizes their proposal considering the given environment.

If you have any questions or would like additional information, our point of contact is Ms. Michaela Brown, NBVC Community Planner. She can be reached at 805-989-9752.

Sincerely,



C. B. CONNERS  
Captain, U.S. Navy  
Commanding Officer

Enclosures: 1. NBVC letter 5090 Ser AREMVP/0250 of July 19, 2007  
2. NBVC letter 5090 Ser N46VPW/0740 of November 2, 2005  
3. NAWS letter 11010 Ser 833B00E/A-211 of May 7, 1996

F. 2



DEPARTMENT OF THE NAVY  
NAVAL BASE VENTURA COUNTY  
311 MAIN ROAD, SUITE 1  
POINT MUGU, CA 93042-5033

IN REPLY REFER TO:

5090  
Ser AREMVP/0250  
July 19, 2007

RECEIVED

JUL 20 2007

PLANNING DIVISION  
CITY OF OXNARD

Ms. Kathleen Mallory  
City of Oxnard  
305 West Third Street  
Oxnard, CA 93030

Dear Ms. Mallory:

Thank you for the opportunity to review the Draft Ormond Beach Specific Plan Environmental Impact Report (EIR). The Navy is very interested and concerned with some of the proposed land use alternatives due to the location of the Specific Plan area adjacent to Naval Base Ventura County (NBVC) Point Mugu and our mission. We would like to work with you to ensure the long-term sustainability of NBVC at the same time supporting compatible development in the proximity of NBVC. Provided below are specific comments on the proposed alternatives that we believe are critical to maintaining compatibility:

The Navy's recommendation is to have agriculture remain in the vicinity of the Ormond Beach Specific Plan Area and to discourage residential development. Therefore, Alternatives 3 and 4 are the most compatible with NBVC Point Mugu as is the proposed non-residential development.

Specific Comments:

1. The proposed project for the Northern Subarea, South Shore Project residential and schools development, would introduce a significant number of residents in closer proximity to our airfield operating area. This would add additional encroachment pressure on our mission. Specifically, military missions are often affected by increased restrictions on training flights, flight patterns, and future mission changes.

2. Agricultural uses are also preferred in the Southern Subarea south of Hueneme Road, however, the proposed light industrial/commercial development would also be compatible with the Navy mission. We are encouraged by this proposed land use shift away from the residential use that was proposed in the City of Oxnard 2020 General Plan.

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Ser AREMVP/0250.  
July 19, 2007

3. Alternative 1, "Proposed Project with High School located East of Olds Road, instead of within Northern Subarea", is of concern to the Navy. Although no school or residential is preferred by the Navy in the vicinity, we believe that the school should remain within the South Shore project area. The Navy is concerned with growth inducement for any proposal that would identify school sites outside the current sphere of influence. If proposed, we would recommend that the EIR address the potential for growth inducement. Specifically, there are a series of potential impacts that the school could create if built outside of the SOI Line, as follows:

Potential expansion of development further east. The location of a high school east of the SOI Line, would further signal a continued drive of development toward NBVC Point Mugu.

Issues extend beyond the school presence as further annexations to the east would be needed to allow extension of utility service, flood protection, and transportation. These improvements typically lead to the allowance of future development. These additional services and development outside the SOI creates impacts beyond what is discussed in the EIR.

4. Alternative 2, "No Project/Existing Plan (City of Oxnard 2020 General Plan)", is also not preferred by the Navy as it includes residential in the Southern Subarea. This could affect the sustainability of our mission as explained above.

5. Page ES-1, paragraphs 2 and 3, states that Naval Air Station Point Mugu (now called Naval Base Ventura County (NBVC) Point Mugu) is located within 1 mile. This should be corrected to state that the Study Area is directly adjacent to the to Naval Base Ventura County perimeter, as shown in Figure ES-1.

Page ES-10 and ES-79, under Noise, does not address potential noise sources from NBVC Point Mugu. Although these areas are below health and safety thresholds for Day-Night Noise Levels (DNL), aircraft do fly overhead with high peak noise levels. We recommend that incompatible land uses be placed away from the NBVC within the South Shore parcel. Additionally, we

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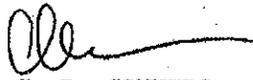
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Ser AREMVP/0250  
July 19, 2007

recommend that the project incorporate noise attenuation and appropriate disclosures at the point of sale and in the property recordation.

Page ES-70, 3.3 Water Resources (Post Construction). The EIR states more analysis is necessary for capacity of new drainage and detention facilities. If the flood drainage system drains toward Mugu Lagoon, this may have a direct impact at NBVC Point Mugu. We routinely experience high water at several locations on Base. The current drainage pattern cannot accept the additional flows. We agree with all measures that seek to protect the wetlands of Mugu Lagoon.

We look forward to working with you. If you have any questions or would like additional information, our point of contact is Mr. James M. Danza, Facilities Planning Branch Head. He can be reached at 805-989-9747.

Sincerely,

  
C. B. CONNERS

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Vickie Finar

805-985-3304

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DEPARTMENT OF THE NAVY  
NAVAL BASE VENTURA COUNTY  
311 MAIN ROAD, SUITE 1  
POINT MUGU, CA 93943-5033

UNREPLYABLE TO:

5090

Sex N46VPW/0740

2 Nov 05

Ms. Kathleen Malloy, AICP, Project Planner  
City of Oxnard  
305 West Third Street  
Oxnard, CA 93030

Dear Ms. Malloy:

Thank you for the opportunity to respond to the Notice of preparation of the Draft Environmental Impact Report (DEIR) for the Ormond Beach Specific Plan. I would like to also thank the City of Oxnard for their consideration of our past comments regarding residential land use close to Naval Base Ventura County (NBVC), Naval Air Station (NAS), Point Mugu. We would request, however, that due to the importance and size of this project and it's proximity to NBVC, that the EIR fully evaluate all potential impacts to and from NBVC. It is imperative that a project of this size and scale be compatible with our national defense mission.

As you know, NBVC has many diverse missions with over 100 tenant commands and 17,000 personnel, creating the largest employer in Ventura County with \$1.7 billion in salaries to the local economy. NAS Point Mugu supports fleet aircraft; Naval Air Systems Command Weapons Division research, development, testing, and evaluation of weapons systems; several reserve squadrons; and many other tenant missions. Facilities include the airfield, industrial complexes, laboratories, range instrumentation and weapons storage. All of these missions need to be taken into consideration to ensure continued compatibility.

We look forward to working with you. We would like to meet with you to discuss several areas of interest and provide information important to your analysis. Areas of interest include but are not limited to, land use compatibility, our operations and training missions, and the local environment. Additionally, several of our publications will assist your information gathering, including: our Air Installation Compatibility Use Zone Study, Point Mugu Sea Range Environmental

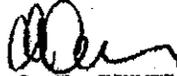
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Ser N46VPW/ 0740  
2 Nov 05

Impact Statement, and our Integrated Natural Resource Management Plan. Our point of contact, Mr. James N. Danza, Space Resource Manager, will ensure you have access to these documents and will call to schedule a meeting time. Mr. Danza can be reached at 805-999-9747.

Sincerely,



C. B. CONNERS  
Captain, U.S. Navy  
Commanding Officer

(1)

F.2



DEPARTMENT OF THE NAVY  
NAVAL AIR WEAPONS STATION  
481 8TH STREET  
PCHMT MUGU, CA 93349-5001

IN REPLY REFER TO:

11010  
Ser 833B00E/A. 211 RECEIVED  
7 May 96

MAY 9 - 1996  
CITY OF OXNARD  
REDEVELOPMENT A/C

Ms. Deana Walsh  
City of Oxnard  
300 West Third Street  
Oxnard, CA 93030

Dear Ms. Walsh:

We have reviewed the Ormond Beach Task Force recommendation for the potential use of the Ormond Beach area. Our main concern is the potential housing development recommended for areas three and four.

For the last 50 years, Navy aircraft have flown over these existing agricultural areas and as low as 500 feet above ground level. These normal flight pattern operations raise the ambient noise level to as high as 90 decibels. This noise level is equivalent to trucks traveling 15 feet away. Presently, the agricultural use of land in areas three and four is compatible with this higher decibel rating, however, housing would not be compatible unless the homes are properly designed for noise attenuation.

The Navy wants to ensure that any zoning restrictions, housing construction and future home owners take these operations into serious consideration. Our Air Installation Compatible Use Zone (AICUZ), of September 1992, contains additional information.

Also other potential concerns on the effect of Navy operations on this development are being further studied by my staff and will be fully evaluated by the end of May 1996.

My point of contact concerning this is Vivian Goo, Code 833B00E, (805) 989-8575.

Sincerely,  
  
STEPHEN D. BEAL  
Captain, U.S. Navy  
Commanding Officer

Postnet® Fax Note	7871	DATE	5-11-96	10810
To	City of Oxnard	From	Naval Air Weapons Station	
Co/Dept.		Co.		
Phone #		Phone #	(805) 989-2887	
Fax #	(805) 989-2210	Fax #		

**LETTER S.1 CALIFORNIA STATE COASTAL CONSERVANCY**

**Commentor:** California State Coastal Conservancy, Peter Brand (09-22-08)

**Responses**

1. **Sea Level Rise:** The commentor expressed concern that the RDEIR did not sufficiently address the potential consequences of sea level rise relative to the proposed project. Please refer to Master Response 1 above for response to comments regarding sea level rise. The commentor also expressed concern that due to sea level rise, the proposed development south of McWane Boulevard would have an indirect impact of limiting the potential area that future restored wetland and habitat could transition inland as sea level rises. The City will coordinate with the California State Coastal Conservancy (SCC) to address potential effects of global climate change on its evolving wetland restoration plans, including review of the SCC's environmental analysis of its wetland restoration plans. The size of the wetland and habitat restoration area in relation to sea level rise is also addressed below under response to Comment F.2.
2. **Wetland Restoration Project Description & Minimum Project Size:** The acreage references in the RDEIR is based on information published in 2003 by the SCC concerning Ormond Beach acquisitions (as follows):

*“The reservation of funds is also proposed for the acquisition of the adjoining 220 acres of former wetlands that are currently owned and farmed by Southland Sod.*

*A critical mass of 750 acres of restored wetlands and associated habitat at Ormond Beach is expected to create a self-sustaining biological system and enough tidal prism and flushing action to maintain health and hydrologic function”.*

The commentor indicated that the restoration project area should be larger than prior projections to allow for the gradual inland shift and migration of the wetland area due to sea level rise. As requested by the commentor, this reference has been updated in Section 3.6, Biological Resources, of the FEIR to delete references to specific acreage needs. The comment provided does not provide any new information that would create any additional environmental impact. It was not the purpose of the RDEIR to evaluate impact on SCC wetland restoration project.

3. **Conservation Plan for the Lower Santa Clara River Watershed and Surrounding Areas:** Comment noted. The commentor does not raise any comments on the RDEIR. The

City appreciates the Nature Conservancy's interest in the Study Area and looks forward to continuing collaboration with the SCC in advancing wetland restoration in the Ormond Beach area..

4. **Natural Resource Management Program:** Please refer to Master Response 2 above for response to comments regarding the NRMP and the potential for indirect impacts to sensitive offsite habitat and sensitive species. As discussed above under response to letter F.1, the applicants will also, be required to address federal and state procedural requirements related to project approval, including habitat conservation planning if deemed appropriate given the relationship between the proposed development projects and the sensitive coastal resources in question.

The commentor expressed concern that the fiscal amounts identified within the Development Agreements for funding the NMRP may not be sufficient. This concern will be forwarded to the appropriate decision-makers for review and consideration.

5. **Fill Material for Southern Subarea:** The South Ormond Beach Specific Plan has been updated to provide additional clarification concerning the source of fill material required for its proposed development. Section 3.2 (Geology and Geologic Hazards) of the FEIR has been updated accordingly, with a description of the steps necessary to ensure suitable mitigation to address the potential impacts associated with obtaining and transporting fill material. The EIR has also been updated to include clarification that the applicant does not intend to utilize fill material from the 220 acres that will remain in the unincorporated county. Note also that the proposed projects for the Northern and Southern Subareas, respectively, are independent of one another and that the City is aware that the differing levels of specificity of their plans may require different approaches to ongoing project review. This includes appropriate scrutiny of the site preparation process as the projects progress through the permitting process.
6. **Project Objectives:** 2009 State CEQA Guidelines §15126.6 states "...An EIR shall describe a range of reasonable alternatives to the project, or to the location of the project, that would feasibility attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project and evaluate the comparative merits of the project. Therefore, an alternatives analysis can include alternatives that attain most but not all of the objectives of a project. The Commentor cites language from the City's existing 2020 General Plan that pertains to the "Ormond Beach Major Study Area," which is a 2,789-acre area that encompasses the Study Area for the Ormond Beach Specific Plans along with other adjacent areas. These other areas include those which the SCC has already acquired or expects to acquire and approximately 1,500 acres that were added to SOAR following adoption of the 2020 General Plan in 1990 (see FEIR Figure 2-2). The Commentor correctly

notes that the 2020 General Plan includes an objective concerning buffering within the Ormond Beach Major Study Area. A variety of activities that have occurred since 1990, particularly SOAR, have contributed to addressing this objective. In addition, other ongoing and proposed projects will also contribute to establishing buffers between developed areas and sensitive natural resources, including the SCC's plans to acquire and restore wetlands. Both projects under consideration also integrate buffering features that will contribute to addressing the General Plan policy noted by the commentor.

7. **Project Alternatives Analysis:** With the exception of Alternative 5, which was added to the RDEIR in response to comments on the DEIR, all of the alternatives analyzed have been under consideration and part of the public discussion since the initiation of the environmental review process in 2004. With the addition of Alternative 5, the RDEIR describes a range of reasonable alternatives (2009 State CEQA Guidelines §15126.6). The sixth alternative proposed by the SCC is a variation on the project and is sufficiently captured within the range of alternatives evaluated in the RDEIR.
8. **Existing Uses and Hydrology:** The citation concerning the tile drains is from the South Ormond Beach Specific Plan. It is based on the observations of the current agricultural operators in the area.
9. **References Cited in the RDEIR:** The FEIR includes corrections to the citations to which the commentor refers, as well as other clarifications.
10. **Ormond Beach SCC Technical and Planning Reports:** The reports to which the commentor refers do not appear to have been posted on SCC's website.

S. /



Rec.  
9-30-08

September 22, 2008

City of Oxnard, Planning Division  
305 West Third Street, Oxnard, CA 93030

Attention: Kathleen Mallory, Project Planner [kathleen.mallory@ci.oxnard.ca.us](mailto:kathleen.mallory@ci.oxnard.ca.us)  
fax 805-385-7417

Subject: **Ormond Beach Specific Plan, Recirculated Draft EIR** (no. 05-03)  
State Clearinghouse (SCH) no. 2005091094

Dear Ms. Mallory:

California State Coastal Conservancy (SCC), a State agency, is providing these comments on the subject recirculated draft Environmental Impact Report (rdEIR). We are focusing our comments on the South Ormond Beach Specific Plan, otherwise called the Southern Subarea of the Specific Plan project. Comments about the effect of the many new residents on the beach and coastal habitat also apply to the Southshore Specific Plan, the Northern Subarea.

As is widely known, during the past seven years, SCC and The Nature Conservancy have been acquiring coastal properties in the Ormond Beach area of south Oxnard, with the intent of assembling a sufficiently large land area that will enable a self-sustaining wetland restoration project to be planned and implemented. Approximately 540 acres of conservation lands have been acquired thus far. This effort has built upon 25 years of public planning and coordination through Ormond Beach Task Force, a multi-interest group of stakeholders.

Our specific comments on the rd EIR are as follows, focusing on issues that are most relevant to the long-term success of the Ormond Beach wetland restoration project and its integrated habitat enhancements. These comments largely are detailed expansions of our comments on the first draft EIR in July 2007.

**Sea Level Rise & Minimum Wetland Project Area.**

The Ormond Beach Wetlands Restoration Project is considered by many biologists and other scientists the most significant wetland restoration opportunity in southern California. Ormond Beach is unique in southern California for three reasons. First, we have the opportunity to restore close to the historic extent of wetland. Second, there is room to include the upland and related habitats that support wetland habitat. Third, there is room for sea level rise so that the restored wetlands and habitat can transition inland instead of shrinking.

①

1330 Broadway, 13th Floor  
Oakland, California 94612-2530  
510-286-1015 Fax: 510-286-0470



5.1

Because of its overall flat and low elevation and historic extent of coastal wetlands there, the Southern Subarea is the best opportunity in the Ormond Beach area to restore the largest extent of tidal wetlands. It is also the area most threatened by sea level rise on the Ventura coast. Especially in this area because of its topography and elevation, wetlands need to be able to transition inland as sea level rise advances. If development in the southern area prevents that migration as the shoreline retreats, sea level rise will result in shrinking lagoons and seasonal ponds and the elimination of upland habitats needed to sustain the ecosystem.

The proposed development south of McWane Boulevard limits wetlands in that area to 220 acres and eliminates the room needed for sea level rise. Such development would also have to be raised up out of the floodplain and protected with defensive barriers which would create a sea wall effect, eroding the wetlands and other habitat. This development as it juts southward beyond the existing line of development at McWane also would expose the restoration project to development impacts on two sides rather than one.

Encroachment of development into the restoration area increases the risk of failure and the cost of management as well. Without room to retreat and transition, the threat exists that otherwise unnecessary public expenditures will be required to continually alter a system that cannot adapt and reach equilibrium on its own.

With a restoration area of sufficiently large size, however, the wetlands still could migrate inland and also allow an adequate upland-grassland buffer to persist around the periphery of the wetland restoration area. Upland buffers are critical so that sensitive animals can move up and down the elevational gradient as the tide rises and falls. Such a buffer area also protects from disturbances and hazards impinging on the wetlands, such as predatory animals (e.g., domestic cats from nearby residential development, crows, coyotes, etc.) that could be satisfied with the food resources in the upland-grassland area rather than preying upon the endangered birds and other sensitive species in the wetlands. An adequate upland buffer also allows more options and capability for more effective urban stormwater runoff treatment before entering the wetlands downslope in the restoration area.

To illustrate the effects of sea level rise on the wetland restoration planning, we are attaching two exhibits that show the current ground elevation in the Ormond Beach area and how a rise in sea level would influence the inland shift or migration of tidal wetlands. These analyses were conducted by the SCC hydrology consultant, Phillip Williams & Associates (PWA), widely considered the best firm in California for wetland hydrology studies and sea level analysis.

The attached *Site Hypsometry by Parcel* exhibit shows that the Southern Subarea (identified as Southland Sod property) has the greatest potential for inundation when the current high tide elevation (modeled as +5.23 feet MHHW) gets even higher as a result of sea level rise. Using the elevational curve function in the exhibit, only a 2 foot increase in sea level rise and high tide elevation would inundate an additional 145 acres of this property, while a 4 foot increase in high tide elevation would inundate approximately 260 acres.

The attached *Existing Ground Surface* exhibit shows from above (plan view) how a mere, conservatively estimated, 3.0 foot rise in sea level would shift inland the extent of the high tide

①

(MHHW, the blue area on the exhibit). This ground surface analysis includes the area south of McWane Boulevard, shown as the horizontal black line at the southern edge of the existing industrial area in the middle of the exhibit. In this analysis, with sea level rise of only 3 feet, the southern boundary of the proposed Southern Subarea site (extending south of McWane Bl.) would be at or near, if not abut, the high tide elevation. Heightened storm surge and more extreme events associated with global warming would extend even further inland.

Although sea level rise is noted at several scattered places in the rdEIR, the discussion is inconsistent, sometimes contradictory, and should be revised in the next EIR. Section 3.2.1.3.10 in the rdEIR (*Other Geologic Hazards*, page 3.2-16) generically notes: "Sea level rise is another long-term hazard that should be considered when making management decisions." Later in that section on page 3.2-18, sea level rise again is mentioned: "Assuming acceleration of global warming and associated rise in sea level, estimates of the total increase in sea level over the next century vary from 1.6 feet to 6.6 feet. This predicted rise in sea level has long-term implications for the Study Area because it would likely result in increased rates of loss of beaches and a higher flood hazard in the low-lying Oxnard Coastal Plain." Figure 3.2-7 in the rdEIR (*Flooding and Tsunami / Seiche Potential*) supports that issue with sea level rise by a showing flooding-tsunami-seiche zone extending inland deep into the Southern Subarea.

In section 3.4.3.6.2 (*Ecosystems and Wildlife*, page 3.4-34), the rdEIR notes: "Sea level could rise as much as two feet along most of the U.S. coast." Later, in Section 3.4.3.6.4 (*Operational Impacts*, page 3.4-41, third paragraph), the rdEIR states: "...rise in sea level in the next century has long-term implications for the greater Ventura County region because it likely would result in increased rates of sea cliff erosion and retreat, loss of beaches, and a higher flood hazards in low-lying portions of the community." That paragraph then dismissively concludes, with no reference cited nor reason given, that: "These local consequences of climate change would not affect the proposed project sites." ①

Even with these references to sea level rise scattered throughout the rdEIR as outlined above, the conclusions or implications in the rdEIR appear to be incomplete if not contradictory about how sea level rise could affect the Specific Plan project area. The new *CEQA and Climate Change* section of the rdEIR (Section 3.4.3.6.3, page 3.4-40, end of third paragraph) forcibly concludes: "Therefore, further analysis and application of current emissions scenarios, climate models, and climate change projections to the proposed project is also speculative."

While predictions of Greenhouse Gas Emissions indeed may be speculative about net change in automotive traffic patterns and other site-specific variables of the proposed Specific Plan project, "climate change projections" as related to sea level rise are not too speculative to apply to this project and should be analyzed in the revised rdEIR.

The City of Oxnard even has a General Plan policy that should be incorporated into the revised EIR. City Development Policy C.12 states: "In view of the potential rise in the sea level, the City should confer with appropriate state and federal agencies and seek information and advice concerning the probability, impacts, and mitigation measures to minimize beach erosion and inundation of coastal development and shall evaluate specific mitigation measures in EIRs for new development in coastal areas."

5.1

Instead of this dismissive approach in the rdEIR, as quoted above (rdEIR Section 3.4.3.6.3, page 3.4-40), the revised EIR should include a definitive, single section about sea level rise and address the latest and conclusive scientific research on this issue and how the proposed Specific Plan project would be affected. The revised EIR discussion again may conclude that effects *of* the project on climate change still are too speculative, but the EIR discussion should not automatically conclude that the effects of climate change *on* the project also are too speculative.

To be analyzed in the revised EIR, scientific research now considered the standard, most conservative reference on sea level rise should include work of the Intergovernmental Panel on Climate Change (IPCC), through the most recent IPCC Assessment Reports. The last such report is dated November 2007 through the IPCC 2007 *Summary for Policymakers* synthesis report ([www.ipcc.ch/pdf/assessment-report/ar4/syr/ar4\\_syr\\_spm.pdf](http://www.ipcc.ch/pdf/assessment-report/ar4/syr/ar4_syr_spm.pdf)). That report is readily found through a website search. Other more emerging research that predicts a much higher and faster rate of sea level rise also should be addressed in the revised EIR, and can include various publications by David Lea of UCSB and David Hansen of NASA. For these, see a news article at *Santa Barbara Independent* website ([www.independent.com/news/2007/jul/05/new-study-predicts-greater-sea-level-rise/](http://www.independent.com/news/2007/jul/05/new-study-predicts-greater-sea-level-rise/)) and other sources. Many other objective, credible scientific references are available and are highly suited to guide a revised EIR so sea level rise is not dismissed as too speculative.

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The effects of sea level rise in California has been well reported and also should be cited in the revised EIR. A simple example is the 2001 report by California Coastal Commission staff, *Overview of Sea Level Rise and Some Implications for Coastal California*.

In summation, sea level rise is not too speculative to be incorporated and analyzed comprehensively in the revised EIR. This especially is justified and appropriate in consideration of how the SCC wetland restoration project, which will be highly affected by sea level rise, also is identified as a Project Objective in the rdEIR (see discussion below about Project Objectives).

**Wetland Restoration Project Description & Minimum Project Size**

In the Specific Plan site description (rdEIR Section 3.6.1.2, page 3.6-3, second paragraph), the SCC Ormond Beach wetland restoration project should not be described as 750 acres in size. That figure always has been a minimum size and we have not been using that acreage amount for nearly two years in recognition that a sufficiently large wetland restoration area is necessary to accommodate sea level rise and to support an adequate tidal prism (volume of ocean water ebb and flow) for functioning wetland hydrology.

②

City planning staff, City EIR consultants, and the Specific Plan project developers and property owners have attended most of the bimonthly meetings of Ormond Beach Task Force for the past four or more years. During those meetings, they all have seen many presentations by SCC and our consulting team on the wetland restoration planning status and how the wetland project needs to be at least 900 acres in size to include the area on the east side of Edison Drive and south of McWane Boulevard. In our comments on the first dEIR last year, we also noted that the original 750-acre

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figure was misleading and obsolete now that more conclusive reports on sea level rise are available that represent scientific consensus on the issue and the future reality of the Ormond Beach area.

Attached are exhibits that show some of the wetland restoration plan alternatives that we have presented to the public during meetings of Ormond Beach Task Force and in other venues. These plans and their earlier drafts during the past two years demonstrate that the Ormond Beach wetland project is an ongoing conservation planning effort within and adjacent to the Specific Plan project area.

(2)

Given sea level rise, a restoration project area needs to be larger than past projections to allow the gradual inland shift and migration of the wetland complex to accommodate sea level rise. A total restoration area of this size still will allow a gradation of wetland diversity to extend between the upland-grassland buffer at the upper end of the elevational gradient and the permanent open-water estuary at the lower end. The revised EIR should be corrected to note that the SCC wetland project need is at least 900 acres in size and not an absolute 750 acres in size.

The Nature Conservancy recently completed a conservation plan that covers Ormond Beach, including the area addressed in the DEIR (Lacher and Corey 2008). This plan assesses the viability of the coastal habitats at Ormond Beach and threats to that viability. The plan concludes that the existing viability of the coastal habitat and the native plants and animals that occur there has been reduced such that human intervention is needed to avoid further declines. The causes of the reduced viability include habitat loss and degradation from agriculture and urban development. The plan also identifies climate change (habitat loss and alteration through sea level rise), incompatible urban development (habitat loss and degradation), and incompatible recreational use (habitat degradation) as three primary threats to the viability of the coastal habitat. The plan identifies the land that needs to be permanently protected and restored in order to increase the viability of the coastal habitats at Ormond and to reduce the threats. This land includes all of the 595 acres south of McWane Boulevard that are addressed in the DEIR. The plan concludes that the protection and restoration of these lands will allow for sufficient area for habitats and the plants and animals they contain to adjust to sea level rise and will compensate for the habitat that will be lost or altered due to sea level rise. It also will provide a large enough area to allow for viable populations of many rare species, including numerous species that are federally or state protected, contributing to their recovery. Reference: Lacher, I. and D. Corey. 2008. Conservation Plan for the Lower Santa Clara River Watershed and Surrounding Areas. The Nature Conservancy, California.

(3)

#### **Natural Resource Management Program**

Several Federally-listed threatened and endangered bird species thrive locally on the beach and dune habitats at Ormond Beach. The proposed residential development in the Northern Subarea and the industrial development in the Southern Subarea definitely will increase the human visitation to the nearest public-access beach at the terminus of Arnold Road. Even if the Southern Subarea project were not to exist, the Northern Subarea residential project would be the nearby beach of choice for human and canine recreation and associated disturbances to biological resources there.

(4)

The rdEIR specifies in several places that a *Natural Resource Management Program* (NRMP) would be developed in the future and would embody various mitigation measures for adverse impacts (impacts BIO- 10, 11, 12, 22, 23, 26, 27, 28) to endangered birds and other sensitive plants and animals prevalent along the beach, dunes, and existing wetlands of the Ormond Beach area. In the discussion (Section 3.6.3.4) of these adverse impacts, the rdEIR concludes that "indirect impacts to sensitive habitats are indirect but feasibly mitigated (Class II)" if the NRMP and mitigation measures BIO-1 (landscaping with native plants) and BIO-5 (installation of a stormwater-treatment bioswales) are conducted as part of the proposed Specific Plan project.

Considering that mitigation measures BIO-1 and BIO-5 really are minor design features of the project, this essentially means that these significant, un-mitigatable adverse impacts (Class I) only would become Class II impacts but for the existence and successful execution of the NRMP. Conversely, without the successful completion, funding stream, and perpetual implementation of the NRMP, those Class I impacts to endangered birds and other sensitive resources (impacts BIO-10, 11, 12, 22, 23, 26, 27, 28) would remain as part of the proposed Specific Plan project. Therefore, under CEQA, approval of the proposed Specific Plan project, without first a fully completed and funded NRMP, would require a *Statement of Overriding Considerations* by City of Oxnard as the lead agency. The revised EIR should reflect that situation.

The successful, and future, completion, funding, and perpetual implementation of the Natural Resource Management Program, which does not yet exist, appears to be the only way that the proposed Specific Plan project can mitigate for these Class I impacts. Accordingly, until the NRMP is fully completed and approved with permanent funding secured, these BIO impacts listed above should be found to be Class I impacts in the revised EIR. (A)

Reliance on the NRMP as a future mitigation action appears to violate the CEQA requirements under Section 15126.4(a)(1)(B) of the CEQA guidelines. That Section of the law includes this requirement: "Formulation of mitigation measures should not be deferred until some future time. However, measures may specify performance standards which would mitigate the significant effects of the project and which may be accomplished in more than one specified way."

Moreover, while rdEIR Section 3.6.3.3 (page 3.6-41) briefly outlines NRMP components that already are known to be good ideas to implement --including the basic elements of fencing, signage, predator management, invasive plant control, public information, and enforcement-- that two-page description falls far short of being a true management program and features no actual performance standards consistent with the CEQA standard cited above. As the NRMP would be substantially implemented on the existing SCC coastal property at Ormond Beach and require our extensive participation, we are concerned that we have not been consulted about the NRMP and neither have other wildlife management agencies (e.g., CDFG, USFWS) as far as we know.

As the second paragraph of the NRMP description (rdEIR page 3.6-41) acknowledges, the NRMP "shall be approved by USFWS" (U.S. Fish and Wildlife Service). Accordingly, the EIR should specify that the NRMP will be prepared simultaneously and integrated with the Habitat Conservation Plan (HCP) that USFWS contends (by comment letter dated September 16, 2008) would be necessary. USFWS further indicates that the HCP needs to include measures for avoiding impacts to endangered bird species and assuring how the plan would be funded. The NRMP and

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HCP really cannot be separate planning procedures, especially as the same agencies participate in their planning and implementation. In effect, the NRMP and HCP really are the same regulatory document and should be administered and consolidated as such in the revised EIR.

Descriptions about the NRMP elsewhere in the rdEIR and associated Development Agreements also raise questions that should be addressed in a revised EIR.

In the Marathon Land (Southern Subarea) Development Agreement (page 14, Section 6m), a "Park Ranger" is identified for funding in addition to "adequate funding" noted for resource protection during the 7-month snowy plover nesting season. Section 6m also identifies an "Operating Plan and Budget" that presumably is part of a future NRMP yet to be prepared. Section 6m of the Development Agreement further notes: "...the funding obligation shall not exceed the cost of a half-time ranger for this period of time." After verification of payment, funding may be assigned to a Community Facilities District, which also could manage funding for a Fire Station. The revised EIR and associated NRMP-HCP should describe in detail this Park Ranger position, its full funding amount and revenue process, and the organization or agency in charge, among other specifics.

In the Hearthside Homes (Northern Subarea) Development Agreement, similar questions are raised that should be resolved in a revised EIR, especially about adequate and perpetual funding for a NRMP-HCP. In particular, Development Agreement Section 6.5(f) (entitled Ormond Beach Wetlands) refers to "project conditions of approval imposing resource protection measures to mitigate potential environmental impacts" and specifies that "each of the Owners shall contribute toward the payment of ongoing maintenance costs for the Ormond Beach wetlands" and that "the maximum annual combined contribution of the Projects shall be \$25,000." Further, this section of the Development Agreement notes that "this obligation shall be contingent upon the formation of a Financing District by the City, if requested by Hearthside, to fully finance such maintenance costs and the costs of the resource mitigation measures imposed as conditions of approval."

A financing district or a community facilities district or some other joint powers authority may be a good mechanism to assure a revenue stream, and the revised EIR needs to analyze these procedures in detail. However, the fiscal amounts in these Development agreements for a half-time "park ranger" and \$25,000 per year would be woefully inadequate to support an adequate NRMP-HCP.

In summation, the revised EIR should include a completed *Natural Resource Management Program* and integrated *Habitat Conservation Plan* that first are fully coordinated and agreed to by all involved parties, including SCC and several State and Federal agencies and other conservation stakeholders. The funding amounts and payment process also needs to be secured, especially considering that an adequate resource management program likely would cost several hundred thousand dollars per year for it to fulfill mitigation purpose stated in the rdEIR. Until the NRMP-HCP is fully completed and adequately funded, the various adverse biological impacts to endangered birds and sensitive species near the beach also should be listed in the revised or final EIR as Class I impacts.

**Fill Material for Southern Subarea**

As is widely known, the drainage ditches in the Southern Subarea readily overtop with flow following heavy rainfall. Ground at natural grade in the approximate southern half of this area can be under water during and following heavy rainfall, such as happened recently in 1995, 1998, and 2005. We have photos of Arnold Road flooded during 1998, and will post them and the accompanying report by Archie Bard at the Ormond Beach wetland project website (see website reference below).

Much of the Southern Subarea obviously is low, virtually flat ground and the proposed project development area lies at the edge of the historic (19<sup>th</sup> Century) extent of coastal wetlands. To raise the Southern Subarea development area above the flood-prone elevation, the rdEIR (page 3.2-25, GEO-1 Impacts) and the Specific Plan (page 56, both 2007 and 2008 versions) all identify a need for 800 thousand to 1.1 million cubic yards of "raw fill material" to be imported into this Southern project area to elevate the building area. In comparison, the estimated volume of the Halaco slag pile is 700 thousand cubic yards.

No source of this raw fill material for the Southern area is identified anywhere in the rdEIR or Southern Subarea Specific Plan. In contrast, for the Northern Subarea, the source, purpose, volume, transportation impacts (traffic and air quality), and on-site soil blending are described and analyzed extensively throughout the rdEIR. This analytical disparity between the north and south development areas implies that the source of the fill material (soil importation) is not known for the South Subarea. The missing analysis of environmental impacts for the source and transport of a million cubic yards of soil importation should be included in the revised EIR, as truck hauling of that much fill material easily could be a Class 1 impact. (S)

Despite this lack of source identification and impact analysis in the rdEIR and South Subarea Specific Plan, the Marathon Land (Southern Subarea) Development Agreement (a separate document available in the rdEIR package) does hint at a source for so much imported fill material into that area. Section 6(e) of this Development Agreement (page 8) indicates: "City agrees that grading and soil removal may occur from the Open Space Property and be transported, relocated, and stockpiled, if necessary, on the Project site subject to Grading Permit and/or Stockpile Permit which shall be ministerially processed and approved." The Open Space Property in this document refers to the southernmost 220-acre portion of the site.

The revised EIR should identify where the "raw fill material" for the Southern Subarea development would originate and assess the environmental impacts accordingly. To leave that analysis out of the revised EIR would be a glaring inconsistency when compared with the detailed impact assessment for soil importation into the Northern Subarea.

### Project Objectives

Under CEQA Guidelines Section 15126.6(a), the EIR Project Alternatives must be evaluated for how they fulfill the Project Objectives. For the existing City General Plan, the Project Objectives (rdEIR Section 2.2, page 2-6, mid-page bullet point) specify for the Ormond Beach area: "New development shall minimize adverse impacts on sensitive coastal resources, and protect significant coastal resources within the study area by... restoration and enhancement of wetlands and other sensitive habitats." For the South Subarea, specific Project Objectives (Table 2-4, page 2-9) include (O)

this objective: "Provide a significant buffer area between the developed areas of the subarea and the potential wetland restoration area."

For the reasons explained above about the space needed for full hydrologic and ecologic function to be attained for the wetland restoration area in consideration of sea level rise, the proposed Southern Subarea project seems to be violating its own Project Objectives stated in the rdEIR. The revised EIR should address how the proposed southern edge of the development area may comply with these Project Objectives, especially for minimizing adverse impacts and providing a sufficiently significant buffer area. (P)

### Project Alternatives Analysis

The limit to four original project alternatives and a new Alternative 5 ("Less Intensive Development") in the rdEIR still does not allow room for adaptation or flexibility to avoid and minimize adverse environmental impacts. The revised EIR should include a range of sub-alternatives that allow different combinations of development and conservation areas to be designated within the whole Specific Plan project area.

For new Alternative 5 ("Less Intensive Development"), how this proposal is "less intensive" for the Southern Subarea needs to be explained and justified in the revised EIR in far more detail except by stating that the number of employees would be fewer than for Alternative 1. The environmental impacts of any of the Specific Plan project Alternatives really seem to be based more on the extent and configuration of the development areas and the activities within that development, not just on the number of workers present or new residents in the Northern Subarea. The comments by Ventura LAFCO (dated September 9, 2008) explain well the uncertainties of this new Alternative 5.

Alternative 5 for the Southern Subarea (rdEIR Section 4.5.6, page 4-14, or page ES-16) also would be new zoning as *Harbor Industrial* with the same "permitted floor-area ratio" as Alternative 1 and "would be the type of port-related industrial that currently occurs to the west of the study area." A project description like that actually should be analyzed appropriately in a revised EIR, especially as Alternative 5 now seems to be the Preferred Project Alternative under CEQA without the rdEIR declaring it as such. For instance, if this "type of port-related industrial" really means large car parking lots like the ones that exist west of Edison Drive (for imported vehicles fresh off the ships), then that type of project should be analyzed specifically in the revised EIR. Such an analysis in a revised EIR also should consider the actual market demand for port-dependent land uses, with an alternatives analysis that includes a review of the availability of other sites closer to and within Port of Hueneme. The definition and any limitations of *Harbor Industrial* zoning also needs to be explained in a revised EIR, as this seems to be a zoning option new to this proposed project and never before designated by the City. (7)

Alternative 4 (Conservation) should be described the same way in both the Executive Summary (page ES-15) and under Section 4.6.4 (rdEIR page 4-32), as each section is confusing and may imply different conclusions about the same Alternative 4. In the latter rdEIR section (page 4-32), the rdEIR declares that the economic feasibility of Alternative 4 (Conservation) is "questionable" and implementation of this alternative would be "speculative" for funding sources. However, "speculative" for how much of the project area and where is not clear. The Executive Summary

(page ES-15) description does not address anything "speculative" but does note correctly that both SCC and The Nature Conservancy are considering land acquisition for the entire 350-acre area south of McWane Boulevard latitude, west of Arnold Road.

With regard to the statement that acquisition of this area by SCC would be "speculative", we point out that on February 24, 2000, the Coastal Conservancy approved acquisition of all 610 acres of the Edison ownership at Ormond Beach (except for the transmission lines), from the beach to McWane Boulevard. Since then SCC has acquired 540 acres at Ormond Beach for a total cost of \$23 million. The funding "speculation" noted in some rdEIR descriptions for Alternative 4 needs to be clarified in detail or removed entirely from the revised EIR. ①

In consideration of the risks to the SCC wetland restoration effort with sea level rise affecting a wetland project limited to the southernmost 220-acre area, the revised EIR should include a new "Alternative 6" that places the southern boundary of urban development at the latitude of an eastward extension of McWane Boulevard. This new project Alternative would allow an adequate upland-grassland buffer to accommodate the inland extent of tidal wetlands that could be restored or inevitably would establish by inland migration as sea level rises.

This land use configuration in an Alternative 6 also would yield a more evenly consolidated block of open space area to be conserved all south of McWane Boulevard. The wetland restoration project, therefore, could be carried out with a much higher assurance of ecologic and hydrologic success, and less risk of full and prolonged inundation, considering sea level rise and the need for an adequate upper-gradient wetland and upland-grassland buffer around the tidal wetlands.

#### Other Issues

**Existing Uses and Hydrology.** Section 2.3.2.2 of the rdEIR notes the existence of several "below-grade tile drains" but has no citation for the conclusion on why they "convey minimal amounts of water" based only upon their age of 70+ years. Those tiles could be moderately functional and their removal or plugging could contribute substantially to restoring the wetlands of this area. If a hydrologic budget is known for the Southern Subarea, that should be included in the revised EIR. ②

**References Cited in rdEIR.** Section 7.0 includes some references that are not cited in the body of the rdEIR, such as personal communications listed by our project associates Phillip Williams and Associates, David Pritchett, and Wayne Ferren. Others references are cited inconsistently, such as Bren School 2001 in the rdEIR body that really is the citation Gay et al. 2001. A citation of USEPA 2000 on page 3.4-34 is not listed in the References Section, nor are the citations of CARB 2006a and CARB 2007c. Many other incorrect citations and nonexistent references likely exist and the revised EIR should correct these. ③

**Ormond Beach SCC Technical and Planning Reports.** We soon will be publishing several site-specific studies for our Ormond Beach wetlands restoration project, all of which should be useful in any revised EIR for the Specific Plan project. These reports on existing biological and physical conditions, site hydrology, and conceptual alternative wetland restoration designs are expected to be posted at a new SCC project website by the end of November 2008 (website link via Projects at [www.scc.ca.gov](http://www.scc.ca.gov)). ④

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State Coastal Conservancy comments on Ormond Beach Specific Plan, *Recirculated Draft EIR* Sept. 22, 2008

Thank you for the opportunity to comment on this recirculated draft EIR and to provide substantive testimony during public hearing and City Planning Commission meeting held July 19, 2007. Through our bimonthly meetings of Ormond Beach Task Force, we are ready and able to serve as a venue for further coordination among all stakeholders for the Ormond Beach area. Feel free to contact me at email [brand@scc.ca.gov](mailto:brand@scc.ca.gov) or at telephone 510-286-4162.

Respectfully yours,



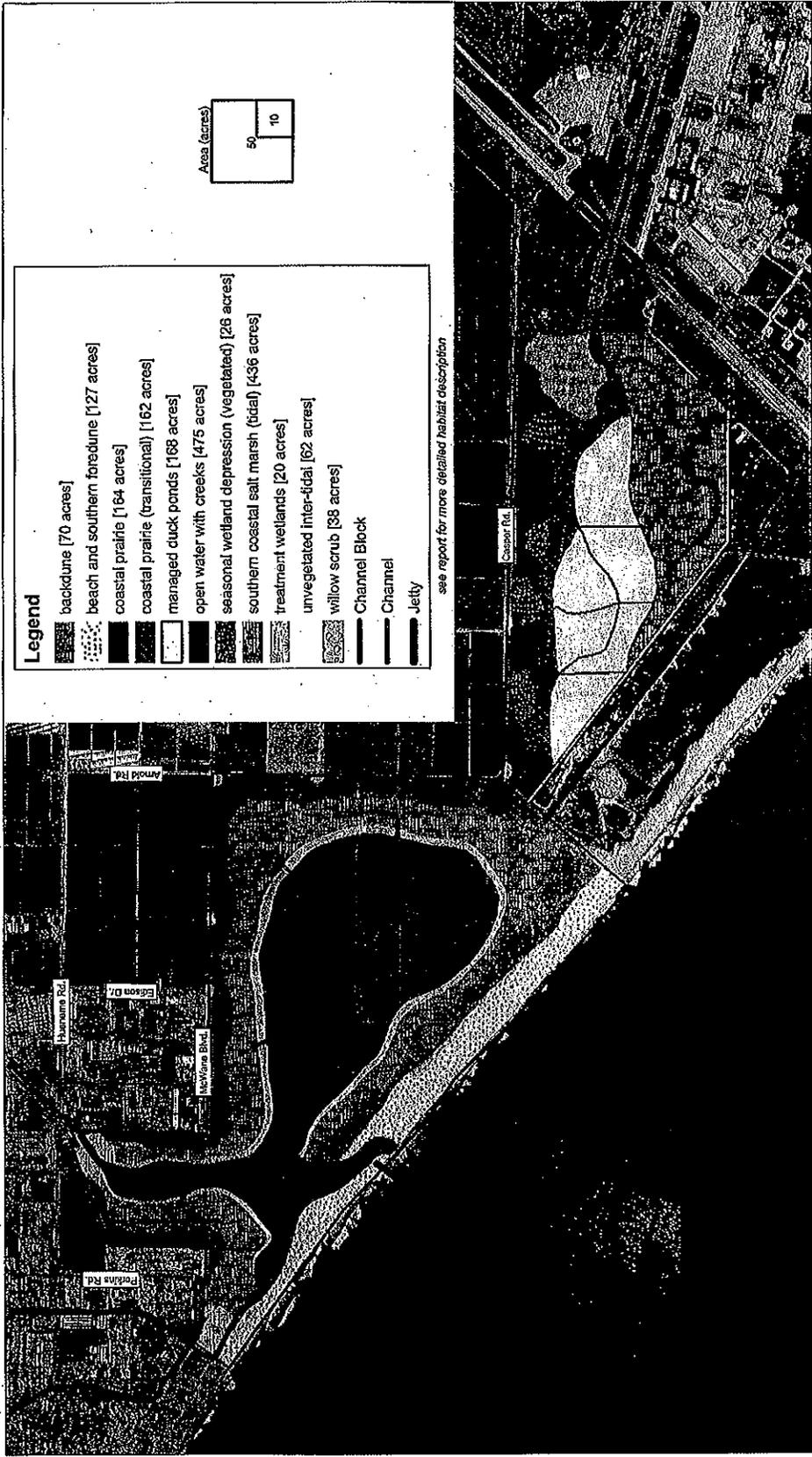
Peter S. Brand  
Project Manager

California State Coastal Conservancy  
1330 Broadway Bl., Suite 1300, Oakland CA 94612-2530

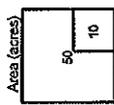
Exhibits Attached

CC: The Nature Conservancy  
U.S. Fish and Wildlife Service  
Ventura Local Agency Formation Commission  
County Supervisor Kathy Long  
Ormond Beach Task Force members and interested parties

W.I.



- Legend**
- backdune [70 acres]
  - beach and southern foredune [127 acres]
  - coastal prairie [164 acres]
  - coastal prairie (transitional) [162 acres]
  - managed duck ponds [188 acres]
  - open water with creeks [475 acres]
  - seasonal wetland depression (vegetated) [26 acres]
  - southern coastal salt marsh (tidal) [436 acres]
  - treatment wetlands [20 acres]
  - unvegetated inter-tidal [62 acres]
  - willow scrub [38 acres]
  - Channel Block
  - Channel
  - Jetty



see report for more detailed habitat description

Figure X  
Ormond Beach Wetland Restoration

Alternative 1 - Create lagoon, unconstrained

PWA Ref # - 1738  
Alt 1 - Create Lagoon Unconstrained Final

PWA

Draft

0 1,000 2,000 4,000 Feet

+ |

Note: The property boundaries depicted in this figure are for general planning purposes only. They have not been surveyed and may not coincide exactly with parcel-specific legal boundaries.

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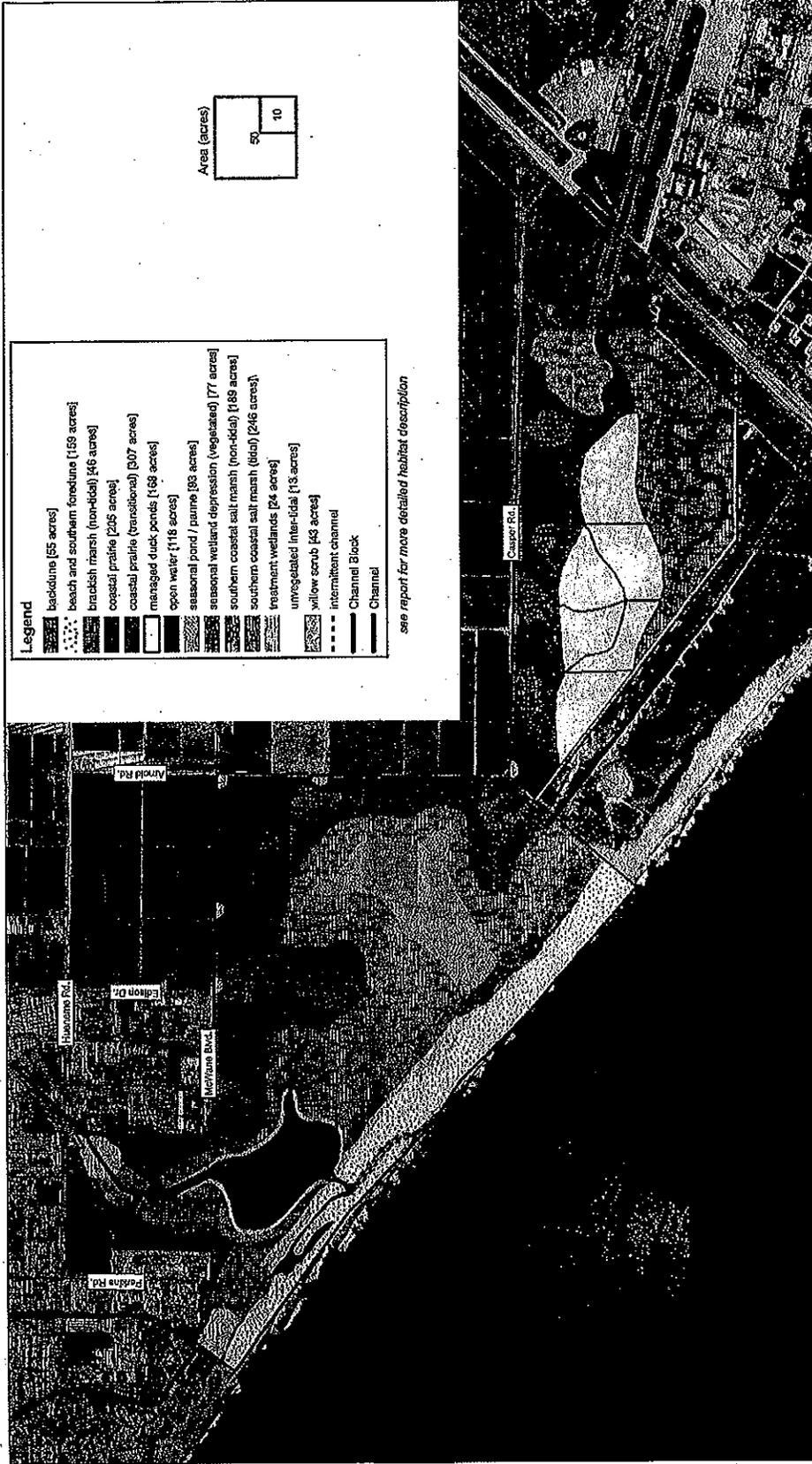


Figure X  
Ormond Beach Wetland Restoration

Alternative 2 - Restore seasonal ponds, unconstrained

PWA Proj # - 1738  
Alt 2 - Restore ponds unconstrained A.mxd

Draft

0 1,000 2,000 4,000 Feet

PWA

Notes: The property boundaries depicted in this figure are for general planning purposes only. They have not been surveyed and may not coincide exactly with parcel-specific legal boundaries.

5

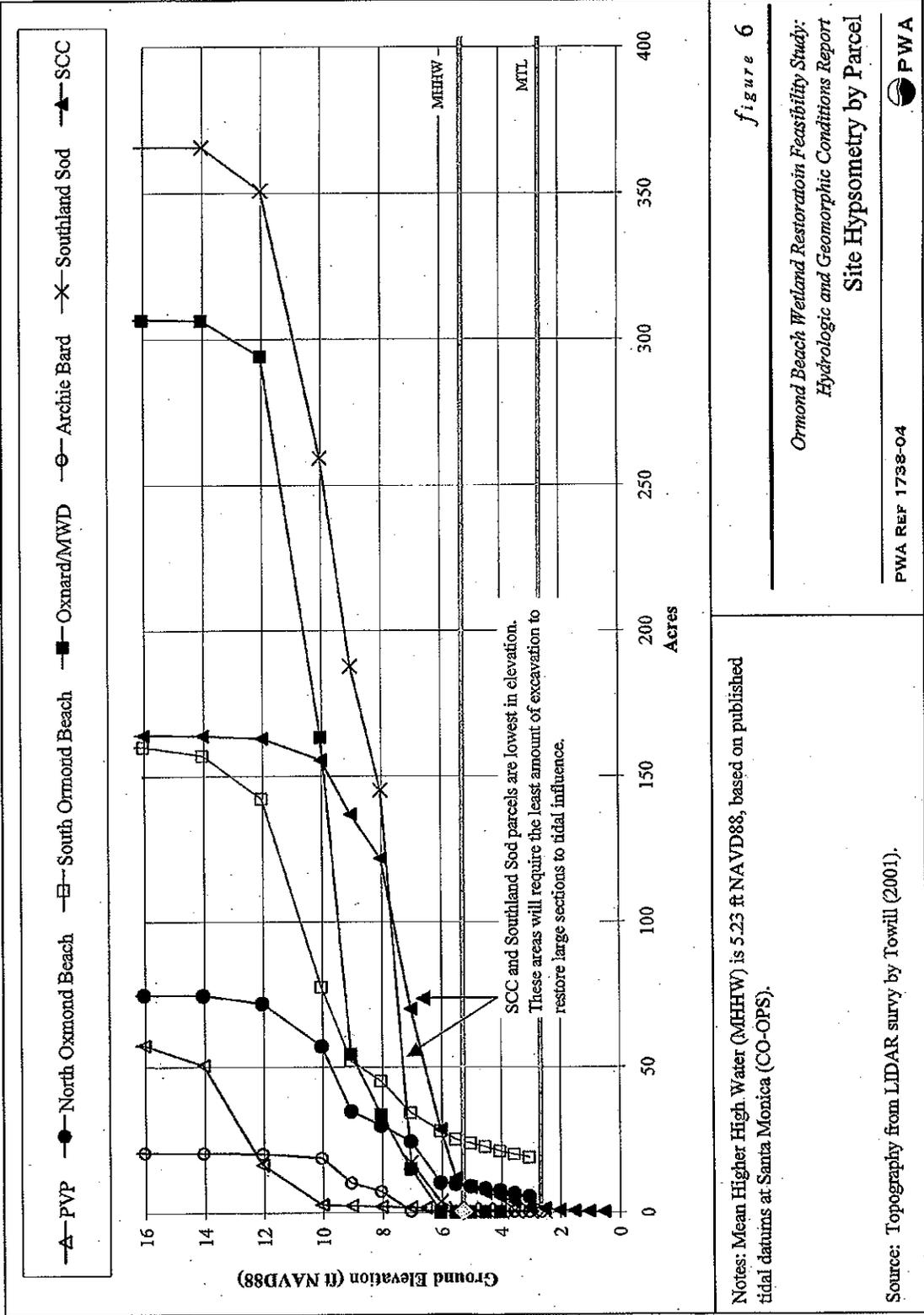


figure 6

Ormond Beach Wetland Restoration Feasibility Study:  
 Hydrologic and Geomorphic Conditions Report  
 Site Hypsometry by Parcel



PWA REF 1738-04

Notes: Topography from LIDAR survey by Towill (2001).  
 Mean Higher High Water (MHHW) is 5.23 ft NAVD88, based on published tidal datums at Santa Monica (CO-OPS).

Source: Topography from LIDAR survey by Towill (2001).

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**Ground Elevation (ft NAVD88)**

- >13'
- 12' to 13'
- 11' to 12'
- 10' to 11'
- 9' to 10'
- 8' to 9'
- 7' to 8'
- 6' to 7'
- 5' to 6'
- <5'
- Proposed restoration area (unconstrained)
- Below Mean Higher High Water (MHHW)+3'

Source: Topograph from LIDAR survey by Towill (2001)

Note: The property boundaries depicted in this figure are for general planning purposes only.



G:\1738\OrmondBeach\Ormond\_existing\_SLR\_plus\_3\_v1.mxd

figure X

**Ormond Beach Restoration Feasibility**

Existing Ground Surface Below MHHW + 3'

PWA Ref# - 1738

**PWA**

**LETTER S.2 CALIFORNIA DEPARTMENT OF FISH & GAME**

**Commentor:** California Department of Fish & Game, South Coast Region, Edmund J. Pert (09-22-08)

**Responses**

1. **California Wildlife Action Plan Stressors:** This document was reviewed, relevant material cited in the RDEIR and has been added to the list of References.
2. **Restoration of Southern 220 acres of Southern Subarea as Condition of Approval:** The City appreciates the Department of Fish and Game's (CDFG) interest in restoration of historical wetlands in the Study Area, but does not believe that there is a legal nexus between the proposed development and the suggested condition of approval (i.e., restoration of the southernmost 220 acres and fee title transfer of the adjacent 200 acres). Further, the designation of the southernmost 220 acres for agricultural uses, which is consistent with the existing use, does not preclude SCC's opportunity to purchase any land for wetland restoration in the future.
3. **Least Tern and Snowy Plover Habitat:** These comments are consistent with the RDEIR's descriptions of offsite sensitive habitat. Please refer to Master Response 2 above for response to comments regarding impacts to sensitive offsite habitat and sensitive species, including the two protected species: the California least tern and the western snowy plover.
4. **Recommended Measures to Reduce Impacts to Birds:** The proposed Ormond Beach NRMP includes similarly worded measures as suggested in the comment letter. Therefore, sufficient protection for the offsite habitat has been imposed.
5. **Recommended Assessments of Species:** The DFG recommended that a complete, recent assessment of flora and fauna within and adjacent to the project area should be conducted within one year of project implementation. The City appreciates CDFG's recommendation and will take it under advisement. Sections 3.6.1.5 and 3.6.1.6 of the RDEIR discuss the findings of the reconnaissance field surveys conducted in 2004 in the Northern Subarea and Southern Subarea of the project site.
6. **Project Development/Breeding Season:** The RDEIR includes mitigation measures BIO-3 and BIO-4 calling for site preparation to occur during non-breeding season, and preconstruction surveys for nesting birds and burrowing owls for project activities that cannot avoid the breeding bird season. Therefore, sufficient mitigation has been imposed.

7. **Opposition to Relocation, Salvage, Transplantation of Rare, Threatened or Endangered Species:** In keeping with CDFG’s direction, the RDEIR does not recommend relocation, salvage, or transplantation of rare, threatened or endangered species.
8. **California Environmental Species Act (CESA) Permit:** The EIR addresses CEQA’s requirements for assessing project-related impacts. The project applicants will coordinate with DFG during the permitting process to determine if there might be a take species listed under CESA. Please refer to Master Response 2 above for response to comments regarding indirect impacts to sensitive offsite habitat and sensitive species, including species listed under CESA.
9. **California least terns:** Comment noted. The EIR addresses CEQA’s requirements for assessing project-related impacts. The City and the project applicants will coordinate with DFG during the permitting process to determine if there might be a take of California least terns. The appropriate time to make such a determination would be when a permit is about to be issued. Please refer to Master Response 2 above for response to comments regarding indirect impacts to sensitive offsite habitat and sensitive species, including the California least tern.
10. **Wetlands and Watercourses:** The Study Area does not include any wetlands or watercourses that support significant fish and wildlife resources and the projects under consideration do not propose to alter any river, stream, or lake. Note that the RDEIR inadvertently listed a CDFG Streambed Alteration Agreement under “Required Approvals” in the Executive Summary (Section ES.3) and the Introduction (Section 1.3). The FEIR has been corrected to remove these references.



## DEPARTMENT OF FISH AND GAME

<http://www.dfg.ca.gov>  
 South Coast Region  
 4949 Viewridge Avenue  
 San Diego, CA 92123  
 (858) 467-4201



RECEIVED  
 SEP 25 2008

PLANNING DIVISION  
 CITY OF OXNARD

September 22, 2008

Ms. Kathleen Mallory  
 Planning Division  
 City of Oxnard  
 305 W. Third Street  
 Oxnard, California 93030  
 Fax: (805) 385-7417

**Subject: Recirculated Draft Environmental Impact Report for North and South Ormond Beach Projects SCH # 2005091094, Ventura County**

Dear Ms. Mallory:

The Department of Fish and Game (Department) has reviewed the Recirculated Draft Environmental Impact Report for the North and South Ormond Beach Projects (RDEIR). The Northern Sub-area consists of approximately 322 acres of the Study Area lying north of Hueneme Road that is currently used for agriculture. The South Shore Specific Plan proposes to provide a mix of uses including up to 1,283 residential dwelling units of varying types and densities; an elementary school; a high school; a community park; neighborhood parks; an 18-acre lake; a mixed-use commercial marketplace; light industrial uses; and open spaces and trails. The South Shore Specific Plan also proposes a system of public facilities and service infrastructure to support the proposed development. Development of the Northern Sub-area will require approximately 450,000 cubic yards of fill material. The fill would consist of sub-soil to be obtained from dredging material supplied by Ventura County. Soil transfer is projected to occur over an 11 to 12 week period.

The Southern Sub-area consists of the proposed South Ormond Beach Specific Plan, comprising approximately 595 acres south of Hueneme Road. Development in the northern portion of the Southern Sub-area would consist of a 375-acre business park including a business/research campus, light industrial facilities and harbor-related uses. The business park would be zoned as a Business Research Park (BRP) and would be located within a 62 acre area adjacent to Hueneme Road. The remaining 313 acres would be zoned as Light Industrial Planned Development (M-I-PD). Within this zoning area, approximately 57 acres is being proposed for designation under a new Harbor Overlay zone (M-I-HR) to serve port related needs of the Port of Hueneme.

The southern 220 acres of the Southern Sub-area would continue in agricultural use and would not be annexed to the City as part of this project. This property may be sold to the California Coastal Conservancy or partner organization for use as part of the larger Ormond Beach wetland restoration project. The California Coastal Conservancy is coordinating the restoration and maintenance planning of this area. All existing agricultural uses will continue in this area until the restoration process begins.

The following statements and comments have been prepared pursuant to the Department's authority as Trustee Agency with jurisdiction over natural resources affected by the project (CEQA Section 15386) and pursuant to our authority as a Responsible Agency under the

*Conserving California's Wildlife Since 1870*

Kathleen Mallory  
September 22, 2008  
Page 2 of 5

California Environmental Quality Act (CEQA), Section 15381 over those aspects of the proposed project that come under the purview of Fish and Game Code Section 1600 et seq. regarding impacts to streams and lakes.

The California Wildlife Action Plan, a recent Department guidance document, identified the following stressors affecting wildlife and habitats within the project area: 1) growth and development; 2) water management conflicts and degradation of aquatic ecosystems; 3) invasive species; 4) altered fire regimes; and 5) recreational pressures. The Department looks forward to working with the City of Oxnard to minimize impacts to fish and wildlife resources with a focus on these stressors. ①

The Department recommends that the restoration of the southern 220 acres of the Southern Sub-area, which is currently being evaluated by the California Coastal Conservancy and partner organization for use as part of the larger Ormond Beach wetland restoration project, be made a condition of approval for the proposed development project. In addition, the Department recommends that transfer of fee title and the restoration of the adjacent 200 acres be made a condition of approval for the project to help offset potential impacts to biological resources in the area. ②

The Department concurs with the U.S. Fish and Wildlife Service's July 20, 2007 letter regarding the potential impacts the proposed project may have on the state and federally endangered and state fully protected California least tern (*Sterna antillarum brownii*) and state species of special concern and federally threatened western snowy plover (*Charadrius alexandrinus nivosus*) that breed at Ormond Beach. The likely effects of the proposed projects include direct and indirect mortality to both the California least tern and western snowy plover and, potentially, a dramatic decrease in breeding success at this important site for these species.

As stated in the U.S. Fish and Wildlife Service letter dated July 20, 2007, western snowy plovers have abandoned many historic breeding sites, presumably due to disturbance or habitat destruction. The proposed activity would result in a significant increase in human recreational activities at Ormond Beach that would lead to both disturbance and habitat destruction. Typical human activities that occur within California least tern and western snowy plover nesting habitat include: sitting; sunbathing; dragging driftwood; digging; storing personal belongings; walking; children playing; walking dogs on and off leash; littering; and building driftwood structures. Direct impacts from these activities can result in the crushing or burying of nests, eggs, or chicks. Western snowy plovers have been found to be disturbed more than twice as often by human activities than by all other natural causes combined. A common response of western snowy plover chicks to threat or disturbance is to stand or lie motionless on the sand. This behavior, combined with the cryptic coloration of western snowy plover chicks, can render avoidance difficult. Individuals untrained and unpracticed in detecting the chicks of this species are unlikely to see and avoid stepping on western snowy plover chicks. As a result, western snowy plover chicks within areas open to recreational use could be crushed. In addition, predators are drawn to beaches where recreational users have left behind food or waste. ③

A high correlation exists between human use of nesting habitat and predation on western snowy plovers and California least terns. Walking, jogging, and other recreational activities within nesting habitat destroy cover and shelter sites through trampling. Additionally, normal behavior associated with feeding and breeding can be repeatedly disrupted by humans recreating in nesting habitat of the western snowy plover. Excessive disturbance can lead to injury and mortality. Dogs, on and off leashes, can cause breeding western snowy plovers to flush off their nests when approached. Dogs off leash will often chase shorebirds, including western snowy plovers and California least terns. This can flush birds off nests, separate adults and broods,

5.2

Kathleen Mallory  
September 22, 2008  
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crush eggs and chicks, kill individual birds, preclude foraging activities, and result in increased energy expenditure by these birds.

Seemingly benign activities like dragging driftwood around the beach and building structures from this material can result in take of western snowy plover. Driftwood provides cover for chicks and the invertebrate prey of the western snowy plover often concentrates around it. Driftwood in the vicinity of the wrack line probably is more attractive to invertebrates because of the moisture associated with the more mesic sand. Dragging driftwood from the wrack line is likely to reduce the concentration of invertebrates and cause western snowy plovers to spend more time and energy foraging. Increased energy expenditure of stressed birds can lead to death. Additionally, the structures often built out of driftwood can serve as hunting perches for avian predators of western snowy plovers.

Therefore, the Department believes the proposed project may result in take of fully a protected species. The Fish and Game Code §3511 does not provide for take incidental to otherwise lawful activity, therefore the Department opposes the approval of the proposed project without additional avoidance, minimization, and mitigation measures to avoid take of fully protected species.

3511. (a) (1) Except as provided in Section 2081.7, fully protected birds or parts thereof may not be taken or possessed at any time. No provision of this code or any other law shall be construed to authorize the issuance of permits or licenses to take any fully protected bird, and no permits or licenses heretofore issued shall have any force or effect for that purpose.

The Department strongly recommends the applicant include the following measures to reduce impacts to bird species at risk. Monitoring of the mitigation measures effectiveness should be conducted and reported to the technical advisory committee, as well as the Department. If mitigation measures are determined to be ineffective, the Department in conjunction with the technical advisory committee should jointly develop appropriate meaningful mitigation measures to minimize mortality.

- o A Workers Education and Awareness Program
- o Pre-construction surveys and avoidance measures for special status species and ground-nesting birds
- o Small mammal monitoring and abatement program, methods of abatement need to be approved by the Department
- o Crow and Raven monitoring plan. Conduct baseline surveys for crow and ravens, if the population increases by 10% at any time during construction activities, an abatement program should be developed and implemented
- o An endowment account or an assessment within the Home Owners Association should be established to fund long-term monitoring and abatement programs to minimize impacts for the life of the project
- o Establishment of a Technical Advisory Committee for the long-term monitoring of the California least tern and snowy plover

Based on the biological resources background data in Appendix A, a significant number of bird, mammal, and invertebrate species occur or have the potential to occur within the proposed project area. The Department is also aware of several special status plant species that occur or have the potential to occur in the proposed project area. The Department recommends that a complete, recent assessment of flora and fauna within and adjacent to the project area, with particular emphasis upon identifying endangered, threatened, and locally unique species should be conducted within one year of project implementation.

5.2

Kathleen Mallory  
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Page 4 of 5

- A complete, recent assessment of sensitive fish, wildlife, reptile, amphibian, and plant species. Seasonal variations in use of the project area should also be addressed. Recent, focused, species-specific surveys, conducted at the appropriate time of year and time of day when the sensitive species are active or otherwise identifiable, are required. Acceptable species-specific survey procedures should be developed in consultation with the Department and U.S. Fish and Wildlife Service. (5)
- Rare, threatened, and endangered species to be addressed should include all those which meet the California Environmental Quality Act (CEQA) definition (see CEQA Guidelines, § 15380).
- Proposed project activities (including disturbances to vegetation) should take place outside of the breeding bird season (February 1- August 15) to avoid take (including disturbances which would cause abandonment of active nests containing eggs and/or young). If project activities cannot avoid the breeding bird season, nest surveys should be conducted and active nests should be avoided and provided with a minimum buffer of 300 foot buffer (the Department recommends a minimum 500 foot buffer for all active raptor nests). (10)
- The Department generally does not support the use of relocation, salvage, and/or translocation as mitigation for impacts to rare, threatened, or endangered species. Department studies have shown that these efforts are experimental in nature and largely unsuccessful. (7)

A California Endangered Species Act (CESA) Permit must be obtained, if the project has the potential to result in "take" of species of plants or animals listed under CESA, either during construction or over the life of the project. CESA Permits are issued to conserve, protect, enhance, and restore State-listed threatened or endangered species and their habitats. Early consultation is encouraged, as significant modification to the proposed project and mitigation measures may be required in order to obtain a CESA Permit. Revisions to the Fish and Game Code, effective January 1998, require that the Department issue a separate CEQA document for the issuance of a CESA permit unless the project CEQA document addresses all project impacts to listed species and specifies a mitigation monitoring and reporting program that will meet the requirements of a CESA permit. For these reasons, the following information is requested: (8)

- Biological mitigation monitoring and reporting proposals should be of sufficient detail and resolution to satisfy the requirements for a CESA Permit.
- A Department-approved Mitigation Agreement and Mitigation Plan are required for plants listed as rare under the Native Plant Protection Act.

In regards to the California least terns, the Fish and Game Code §3511 does not provide for take incidental to otherwise lawful activity, therefore the Department opposes the approval of the proposed project without additional avoidance, minimization, and mitigation measures to avoid take of fully protected species. (9)

The Department opposes the elimination of watercourses and/or their channelization or conversion to subsurface drains. All wetlands and watercourses, whether intermittent, ephemeral, or perennial, must be retained and provided with substantial setbacks which preserve the riparian and aquatic habitat values and maintain their value to on-site and off-site wildlife populations. (10)

S. 2

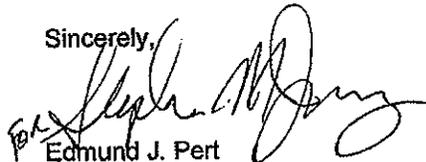
Kathleen Mallory  
September 22, 2008  
Page 5 of 5

- The Department requires a streambed alteration agreement, pursuant to Section 1600 et seq. of the Fish and Game Code, with the applicant prior to any direct or indirect impact to a lake or stream bed, bank or channel or associated riparian resources. The Department's issuance of a stream bed alteration agreement may be a project that is subject to CEQA. To facilitate our issuance of the agreement when CEQA applies, the Department as a responsible agency under CEQA may consider the local jurisdiction's (lead agency) document for the project. To minimize additional requirements by the Department under CEQA the document should fully identify the potential impacts to the lake, stream or riparian resources and provide adequate avoidance, mitigation, monitoring and reporting commitments for issuance of the agreement. Early consultation is recommended, since modification of the proposed project may be required to avoid or reduce impacts to fish and wildlife resources.

10

Thank you for this opportunity to provide comments. Questions regarding this letter should be directed to Mr. Dan Blankenship, Staff Environmental Scientist, at (661) 259-3750.

Sincerely,



Edmund J. Pert  
Regional Manager  
South Coast Region

cc: Ms. Helen Birss, San Diego  
Betty Courtney, Newhall  
Dan Blankenship, Newhall  
HCP-Chron Department of Fish and Game  
State Clearinghouse, Sacramento

**LETTER S.3     NATIVE AMERICAN HERITAGE COMMISSION**

**Commentor:** Native American Heritage Commission, Katy Sanchez (07-21-08)

**Responses**

1. **Assessment of Historical Resources:** In keeping with the recommendation of the NAHC, 3.12 of the RDEIR assesses the potential for impacts on cultural and/or historical resources in the Study Area and includes a mitigation measure (CULTURAL-1) that addresses the requirements of CEQA Section 15064.5, which establishes rules for the analysis of historical resources, including archaeological resources, in order to determine whether a project may have a substantial adverse effect on the significance of the resource. According to the mitigation measure, if the site specific evaluation determines that resources found at the site are either unique or significant archaeological or historical resources and that the project would result in significant effects on those resources, then further mitigation would be required. In cases where the resources are unique, then avoidance, capping, or other measures, including data recovery, would be an appropriate mitigation. If the resources are not unique, then recovery without further mitigation would be appropriate.

5.3

STATE OF CALIFORNIA

Arnold Schwarzenegger, Governor

NATIVE AMERICAN HERITAGE COMMISSION

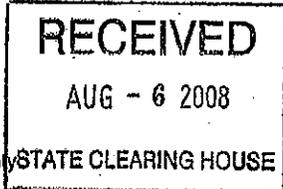
915 CAPITOL MALL, ROOM 364  
SACRAMENTO, CA 95814  
(916) 653-4082  
(916) 657-5390 - Fax



July 31, 2008

Kathleen Mallory  
City of Oxnard  
305 West Third Street  
Oxnard, CA 93030

CLEAR  
9.22.08  
e



RE: SCH#2005091094 Ormond Beach Specific Plans; Ventura County STATE CLEARING HOUSE

Dear Ms. Mallory:

The Native American Heritage Commission (NAHC) has reviewed the Notice of Completion (NOC) referenced above. The California Environmental Quality Act (CEQA) states that any project that causes a substantial adverse change in the significance of an historical resource, which includes archeological resources, is a significant effect requiring the preparation of an EIR (CEQA Guidelines 15064(b)). To comply with this provision the lead agency is required to assess whether the project will have an adverse impact on historical resources within the area of project effect (APE), and if so to mitigate that effect. To adequately assess and mitigate project-related impacts to archaeological resources, the NAHC recommends the following actions:

- ✓ Contact the appropriate regional archaeological information center for a record search. The record search will determine:
  - If a part or all of the area of project effect (APE) has been previously surveyed for cultural resources.
  - If any known cultural resources have already been recorded on or adjacent to the APE.
  - If the probability is low, moderate, or high that cultural resources are located in the APE.
  - If a survey is required to determine whether previously unrecorded cultural resources are present.
- ✓ If an archaeological inventory survey is required, the final stage is the preparation of a professional report detailing the findings and recommendations of the records search and field survey.
  - The final report containing site forms, site significance, and mitigation measures should be submitted immediately to the planning department. All information regarding site locations, Native American human remains, and associated funerary objects should be in a separate confidential addendum, and not be made available for public disclosure.
  - The final written report should be submitted within 3 months after work has been completed to the appropriate regional archaeological information center.
- ✓ Contact the Native American Heritage Commission for:
  - A Sacred Lands File Check. USGS 7.5 minute quadrangle name, township, range and section required.
  - A list of appropriate Native American contacts for consultation concerning the project site and to assist in the mitigation measures. Native American Contacts List attached.
- ✓ Lack of surface evidence of archeological resources does not preclude their subsurface existence.
  - Lead agencies should include in their mitigation plan provisions for the identification and evaluation of accidentally discovered archeological resources, per California Environmental Quality Act (CEQA) §15064.5(f). In areas of identified archeological sensitivity, a certified archaeologist and a culturally affiliated Native American, with knowledge in cultural resources, should monitor all ground-disturbing activities.
  - Lead agencies should include in their mitigation plan provisions for the disposition of recovered artifacts, in consultation with culturally affiliated Native Americans.
  - Lead agencies should include provisions for discovery of Native American human remains in their mitigation plan. Health and Safety Code §7050.5, CEQA §15064.5(e), and Public Resources Code §5097.98 mandates the process to be followed in the event of an accidental discovery of any human remains in a location other than a dedicated cemetery.

①

Sincerely,  
*Katy Sanchez*  
Katy Sanchez  
Program Analyst

CC: State Clearinghouse

5.3

**Native American Contacts**  
Ventura County  
July 31, 2008

Charles Cooke 32835 Santiago Road Acton , CA 93510  (661) 733-1812 - cell suscol@intox.net	Chumash Fernandeno Tataviam Kitanemuk	Owl Clan Qun-tan Shup 48825 Sapaque Road Bradley , CA 93426 (805) 472-9536 (805) 835-2382 - CELL	Chumash
Beverly Salazar Folkes 1931 Shadybrook Drive Thousand Oaks , CA 91362 805 492-7255 (805) 558-1154 - cell	Chumash Tataviam Fernandeno	Stephen William Miller 189 Cartagena Camarillo , CA 93010 (805) 484-2439	Chumash
Julie Lynn Tumamait 365 North Poli Ave Ojai , CA 93023 jtumamait@sbcglobal.net (805) 646-6214	Chumash	Randy Guzman - Folkes 1931 Shadybrook Drive Thousand Oaks , CA 91362 ndnrandy@hotmail.com (805) 905-1675 - cell	Chumash Fernandeno Tataviam Shoshone Paiute Yaqui
Patrick Tumamait 992 El Camino Corto Ojai , CA 93023 (805) 640-0481 (805) 216-1253 Cell	Chumash	Coastal Band of the Chumash Nation Janet Garcia, Chairperson P.O. Box 4464 Santa Barbara , CA 93140 805-964-3447	Chumash

This list is current only as of the date of this document.

Distribution of this list does not relieve any person of statutory responsibility as defined in Section 7050.5 of the Health and Safety Code, Section 5097.94 of the Public Resources Code and Section 5097.98 of the Public Resources Code.

This list is only applicable for contacting local Native Americans with regard to cultural resources for the proposed SCH# 2005091094 Ormond Beach Specific plans; Ventura County.

5.3

**Native American Contacts**  
Ventura County  
July 31, 2008

Charles S. Parra  
P.O. Box 6612  
Oxnard , CA 93031  
(805) 340-3134 (Cell)  
(805) 488-0481 (Home)

Chumash

Carol A. Pulido  
165 Mountainview Street  
Oak View , CA 93022  
805-649-2743 (Home)

Chumash

Melissa M. Para-Hernandez  
119 North Balsam Street  
Oxnard , CA 93030  
805-988-9171

Chumash

**This list is current only as of the date of this document.**

**Distribution of this list does not relieve any person of statutory responsibility as defined in Section 7050.5 of the Health and Safety Code, Section 5097.94 of the Public Resources Code and Section 5097.98 of the Public Resources Code.**

**This list is only applicable for contacting local Native Americans with regard to cultural resources for the proposed SCH# 2005091094 Ormond Beach Specific plans; Ventura County.**

**LETTER S.4 CALIFORNIA PUBLIC UTILITIES COMMISSION**

**Commentor:** California Public Utilities Commission (CPUC), Rosa Munoz (08-27-08)

**Response**

1. **Rail Crossing Safety:** As the RDEIR states, there are no rail crossings within the Study Area. Therefore, there will be no significant effects on safety associated with rail crossings.

S.A.

PUBLIC UTILITIES COMMISSION

320 WEST 4<sup>TH</sup> STREET, SUITE 500  
LOS ANGELES, CA 90013



August 27, 2008

Kathleen Mallory  
City of Oxnard  
305 West Third Street  
Oxnard, CA 93030

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SEP 2, 2008

PLANNING DIVISION  
CITY OF OXNARD

Dear Ms. Mallory:

Re: SCH# 2005091094; Ormond Beach Specific Plans

The California Public Utilities Commission (Commission) has jurisdiction over the safety of highway-rail crossings (crossings) in California. The California Public Utilities Code requires Commission approval for the construction or alteration of crossings and grants the Commission exclusive power on the design, alteration, and closure of crossings.

The Commission's Rail Crossings Engineering Section (RCES) is in receipt of the *Notice of Completion & Environmental Document Transmittal-DEIR* from the State Clearinghouse. The proposed projects at Hueneme Road between Edison Drive and Oaks Road (lat= 34.147370, long= -119.166660) may increase traffic volumes not only on streets and at intersections, but also the Hueneme Road (DOT# 869037T), Pleasant Valley (DOT# 853882B), and Cypress Road (DOT# 869040B) crossings. This includes considering pedestrian circulation patterns/destinations with respect to the Ventura County Railway Company (VCRR) right-of-way.

Mitigation measures to consider include, but are not limited to, the planning for grade separations for major thoroughfares, improvements to existing at-grade highway-rail crossings due to increase in traffic volumes and continuous vandal resistant fencing or other appropriate barriers to limit the access of trespassers onto the VCRR right-of-way.

The City should schedule a meeting with RCES and VCRR should to discuss relevant safety issues and requirements of a GO88-B request for authority to modify a crossing.

If you have any questions, please contact Laurence Michael, Utilities Engineer at 213-576-7076, ldi@cpuc.ca.gov, or me at rxm@cpuc.ca.gov, 213-576-7078.

Sincerely,

Rosa Muñoz, PE  
Utilities Engineer  
Rail Crossings Engineering Section  
Consumer Protection & Safety Division

C: Burt Lyndell, Ventura County Railway Company

①

**LETTER S.5 CALIFORNIA DEPARTMENT OF TRANSPORTATION**

**Commentor:** California Department of Transportation (Caltrans) District 7, Elmer Alvarez (08-07-08)

**Response**

1. **US-101 Traffic Impacts:** The commenter has recommended that traffic mitigation should be proposed to mitigate project related impacts to US-101. Through the ongoing General Plan Update, the City has committed to future circulation improvements that will channel local traffic from State highways to alternate routes within the city. The City's traffic impact fee is structured to cover the cost of interchange improvements and some auxiliary capacity on State highways. Applicants are required to pay the City's traffic impact fee, thereby providing a fair share contribution towards the funding of these improvements. Together, the City's commitments to circulation improvements and the associated funding from traffic fees address the impacts of the project on US-101, and preclude the need to identify project-specific mitigation improvements to US-101.
2. **Invitation to Meet with Caltrans Staff:** The invitation to discuss possible transportation solutions for future projects has been forwarded to the appropriate City personnel.
- 3.

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**DEPARTMENT OF TRANSPORTATION**  
DISTRICT 7, REGIONAL PLANNING  
IGR/CEQA BRANCH  
100 MAIN STREET, MS # 16  
LOS ANGELES, CA 90012-3606  
PHONE: (213) 897-3747  
FAX: (213) 897-1337



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AUG 11 2008

PLANNING DIVISION  
CITY OF OXNARD

IGR/CEQA No. 080734AL, REIR  
Ref. to IGR/CEQA No. 050926AL, NOP,  
IGR/CEQA No. 070550AL, EIR  
Ormond Beach Specific Plan  
Vic. VEN-101 and VEN-01  
SCH #: 2005091094

August 7, 2008

Ms. Kathleen Mallory, AICP  
Development Services  
City of Oxnard  
305 West Third St.  
Oxnard, CA 93030

Dear Ms. Mallory:

This correspondence follows our letter dated July 16, 2007 on the Draft Environmental Impact Report (EIR). We have the following comment after receiving Ormond Beach Specific Plan Recirculated DEIR.

We would like to remind you that the proposed project at buildout (Phase 1 and Phase 2) is forecast to generate approximately 57,134 daily trips, which includes approximately 4,309 AM peak hour trips and approximately 5,067 PM peak hour trips. From our experience, it is conservatively to assume that approximately 25% of PM peak hour trips may be assigned to the US-101. As a result, there may be approximately 1,250 trips assigned to the freeway which is currently operating beyond capacity, LOS F, with the Average Daily Traffic volume of 84,500 in this vicinity. A traffic mitigation should be proposed to mitigate this significant impact. The mitigation could include the auxiliary lanes on northbound and southbound of US-101 between Rose Avenue and Rice Avenue. Caltrans may also accept fair share funding contribution towards pre-established or future improvement on regional transportation network.

In the spirit of mutual cooperation, we would like to invite the lead agency and the traffic consultant to the Caltrans office to discuss project generated traffic impacts on State facilities and mitigation measures. We would also like to discuss possible transportation solutions for future projects involving alternate modes of transportation. Please contact this office at your earliest convenience to schedule a meeting within the next few weeks.

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②

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If you have any questions, please feel free to contact me at (213) 897-6696 or Alan Lin the project coordinator at (213) 897-8391 and refer to IGR/CEQA No. 080734AL.

Sincerely,



ELMER ALVAREZ  
IGR/CEQA Branch Chief

cc: Scott Morgan, State Clearinghouse

**LETTER C.1 COUNTY OF VENTURA PLANNING DIVISION**

**Commentor:** County of Ventura Planning Division, Kari Finley (09-19-08)

**Response**

1. **Impact Land-1 (Consistency with General Plan Land Use Policy):** The RDEIR inadvertently converted alphabetic references in the list contained in the Impact Land-1 discussion to bullets, while the narrative continued to refer to alphabetic items. This referencing problem has been corrected in the FEIR.
2. **Impact Land-3 (Consistency with Zoning Ordinance and Map):** The commentor asserts that the discussion is incomplete “because it does not compare it (zoning) with the City’s General Plan thereby making it consistent.” As explained in the RDEIR’s analysis, the City has not yet zoned or prezoned the Study Area according to its zoning ordinance, and the applications which are the subject of this RDEIR would trigger the zoning designations..
3. **Impact Land-4 (Land Use Compatibility):** The commentor states that there is “no analysis of thresholds.” As explained in the RDEIR, the thresholds outlined in the impact analysis are derived from the City’s Threshold Guidelines (February 1995), which provides further articulation of the CEQA Guidelines Appendix G thresholds for land use.
4. **Impacts Land-5 and -6 (Concurrence with LAFCO Comments of 09-09-08):** Comment noted. Responses to LAFCO’s comments are provided under Letter C.6.

C.1.



**COUNTY OF VENTURA  
RESOURCE MANAGEMENT AGENCY  
PLANNING DIVISION**

**M E M O R A N D U M**

**DATE:** September 19, 2008  
**TO:** Kim Rodriguez, Planning Director  
Bruce Smith, Manager General Plan Section  
**FROM:** Kari Finley, Senior Planner  
**SUBJECT:** RMA 08-033 – Ormond Beach Specific Plan Projects DEIR (re-circulated)

I have reviewed the subject document and have the following comments.

1. Regarding section 3.7 Land Use and Planning of the DEIR, there are several impact statements in the analysis that are either unclear and/or not very well substantiated. Namely, Impacts Land-1, -3, -4, -5, and -6. Impact Land-1 talks about items E, F, G and I that appear to have been previous references that were not deleted making it difficult to tell what the author is evaluating. Impact Land -3 makes statements such that "...none of these zones (proposed) ...would be consistent with the County's current zoning for the area." And goes on to say that the annexation and re-zoning makes it consistent and therefore the impact is less than significant. The discussion is not complete as it does not compare it with the City's General Plan thereby making it consistent. Land Impact-4 states that "...compatibility of land uses can be very subjective." The analysis for each subarea states that "Based on the CEQA and The City thresholds for assessment of Land Use Planning impacts, the ...impacts are considered less than significant. However, there is no analysis of thresholds. Finally regarding Impacts Land 5 and 6, the Planning Division concurs with the comments submitted by LAFCO dated September 9, 2008.
2. Comments on other technical issues are reserved to the appropriate reviewing agencies.

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②  
③  
④

**LETTER C.2 COUNTY OF VENTURA PLANNING DIVISION**

**Commentor:** County of Ventura Planning Division, Bruce Smith (10-01-08)

**Response**

1. **Analysis of Fill Material for Southern Subarea:** The FEIR and the specific plan for the Southern Subarea (South Ormond Beach Specific Plan) have been updated to clarify the applicant's intent with respect to fill material required for project construction. Specifically, the applicant does not intend to borrow soil from the 220 acres that will remain under the County jurisdiction. Rather than assuming that such material will originate from within the Study Area, the applicants will identify a source of material prior to submittal of development permit applications. Due to the unknown timing for project construction and the changing economic environment, many sources of fill material may or may not be available at the time of construction. Therefore, evaluation of a specific off-site source of material at this time would be preliminary and speculative. Accordingly, at the time of development, the City will require a separate analysis to determine the potential environmental consequences of the identified source, including transport and any stockpiling required for project construction. Standard conditions will be placed on the permit to minimize impacts associated with acquisition and transport of off-site soil. The FEIR has been updated to reflect the clarification that the South Ormond Beach Specific Plan applicant does not intend to borrow soil from the 220 acres that will remain within County jurisdiction and will not be annexed into the City of Oxnard. Thus, none of the actions to which the commentor refers will be required.
2. **Coastal Zone and Coastal Commission Approval:** No part of the proposed development would be located within the Coastal Zone. Thus, no coastal permit will be needed.
3. **Ventura County as Responsible Agency:** The commentor expressed concern that the County of Ventura has not been identified as a responsible agency under CEQA. As noted above under the response to Comment #C.2-1, the specific plan and EIR have been updated to clarify that fill material will not be obtained from the southernmost 220 acres of the Study Area. Therefore, the City does not anticipate County involvement in the permitting process. Thus, the County would not be a responsible agency.

C.2

RESOURCE MANAGEMENT AGENCY  
**county of ventura**

Planning Division

Kimberly L. Rodriguez  
Director

October 1, 2008

RECEIVED

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PLANNING DIVISION  
CITY OF OXNARD

City of Oxnard  
Planning Division  
214 South C Street  
Oxnard, CA 93030  
Attn: Kathleen Mallory, Project Planner

Subject: Additional Comments on DEIR – North and South Ormond Beach Specific Plans

Dear Ms Mallory:

The City of Oxnard recently re-circulated a draft EIR (DEIR) for the South Ormond Beach Specific Plan. The review period ended on September 22, 2008. Ventura County Planning Division forwarded comments to you from several County Agencies at that time. Since then, it has been brought to our attention that the County may, in fact, be a Responsible Agency under CEQA due to project details that were not made clear or evaluated in the DEIR. The following outlines our findings:

- The DEIR states that the South Ormond Beach Specific Plan will require up to 1.1 million cubic yards of fill material (page 3.2-25), yet the DEIR does not identify the origin of this fill material and does not evaluate the impacts related to its excavation and/or transport. The EIR should have at minimum evaluated possible fill material locations and haul routes.
- We have been informed that page 8 of the Development Agreement that is currently proposed as part of the Specific Plan states that the "City agrees that grading and soil removal may occur from the Open Space Property and be transported, relocated, and stockpiled, if necessary, on the Project site subject to Grading Permit and/or Stockpile Permit which shall be ministerially processed and approved." The Open Space Property referred to is the southern 220 acres which are not part of the proposed Specific Plan and not proposed to be annexed to the City.
- The intent of the developer to use these 220 acres as a borrow site is not mentioned or evaluated in the EIR. Pursuant to CEQA, our review of the DEIR was limited to the information in the DEIR, not information contained in the Development Agreement. Any information about the project description that is contained in the Development Agreement and which has a potential to impact the environment is required to be included and evaluated in the DEIR.

C. 2

October 1, 2008

City of Oxnard  
Ormond Beach Specific Plan DEIR

- Due to the fact that the 220 acres are not proposed to be annexed, they will remain in Ventura County's jurisdiction. Thus, any agreements between the City and the developer relative to permits on this property would be invalid. Any grading on the 220 acres would be subject to County Ordinances and a grading permit is likely required. If more than 1,000 cubic yards of earth are proposed to be excavated and removed to another site, a mining permit (Conditional Use Permit) is required in the AE zone in accordance with the Ventura County Non-Coastal Zoning Ordinance. ①
- As such, the County of Ventura appears to be at the very least a responsible agency under CEQA. The DEIR must identify the County as an agency whose approval is required and list the entitlements and/or permits that are needed from the County. In addition, the DEIR must identify the site as a borrow site, identify the extent and depth of the grading, and evaluate all of the impacts associated with the removal of earth from the site. ③
- It appears that a portion of the project area also lies within the Ventura County Coastal Zone Boundary. Approvals that are required for Ventura County agencies may also require approval from the California Coastal Commission this possibility also needs to be disclosed in the DEIR. ②

Because the County's role was not identified, the necessary entitlements not identified and the impacts of the project not properly explained or evaluated, the DEIR must be revised and re-circulated so as to give the County the opportunity to review it as a responsible agency or an agency whose approval is required in order for the project to proceed. If the project intends to use the 220 acres as a borrow site, as appears to be the case, presumably the project cannot be approved until the proper permits from appropriate county agency(ies) be obtained.

If you have any questions regarding this letter, you may contact me at 805/654-2497 or Kari Finley at 805/654-3327.

Sincerely,



Bruce Smith  
Manager, General Plan Section

Ref: RMA 08-033

**LETTER C.3 COUNTY OF VENTURA TRANSPORTATION DEPARTMENT**

**Commentor:** County of Ventura Transportation Dept., Nazir Lalani (09-05-08)

**Response**

1. **County Regional Roadway Network:** The commentor suggests that the RDEIR should evaluate and provide mitigation measures for potential impacts on the County's Regional Road Network. The traffic analysis in Section 3.10 and the Technical Report contained in Appendix B of the RDEIR cover 40 intersections in both incorporated and unincorporated areas of Ventura County, some of which are over five miles from the project area, including most of the roadways mentioned by the commentor. Figure 3.10-1 in the RDEIR illustrates the intersections that were determined to be affected by development in the Study Area. On the roadways listed by the commentor, eight of intersections studied were located on East Hueneme Road; four intersections were on Pleasant Valley Road; and ten were on Rice Avenue. The intersection at Arnold Road and East Hueneme Road is scheduled for study after that intersection has been developed. The roadways listed by the commentor that were not included in the traffic analysis were Nauman Road (located east of the intersection of Rice Avenue and Hueneme Road), Wood Road (located east of the intersection of Pacific Coast Highway and Hueneme Road), and Casper Road (located east of Olds Road). These roadways were not considered major conduits to US 101 or the Pacific Coast Highway from the Study Area, and therefore were not included in the traffic study; however, these roadways will still benefit from roadway improvements and mitigation measures required to be implemented by the projects. The traffic analysis in the RDEIR recommends Mitigation Measures Trans-1 and Trans-2 for specific roadway improvement at 17 intersections that will affect several locations within unincorporated Ventura County. Mitigation Measures Trans-5 and Trans-6 will accommodate non-vehicular forms of transportation, which will lessen impacts on area roadways and intersections. The proposed projects will also be subject to traffic impact fees, which provide further funding to improve roadways. The RDEIR's analysis and mitigation measures sufficiently address the potential traffic impacts associated with the projects.
2. **Roadway Annexation:** As part of the annexation application process, the roadways that are subject to annexation will be specified in accordance with LAFCO requirements.
3. **Construction-Related Roadway Damage:** As a condition of approval, the applicants will be required to assess, prior to construction, and repair any damage to existing roadways and driveways caused by construction activities associated with the proposed project. The language provided by the County Transportation Department in the comment letter regarding videotaping of existing roadway prior to commencement of construction will be included

within a City-imposed condition of approval. Further, bonding will be required to ensure roadway improvement and maintenance.

4. **Fill Material Transport:** As the commentor notes, the RDEIR evaluated the traffic associated with transport of fill material for construction in the Northern Subarea (SouthShore) and identified means to mitigate the effects of increased traffic during the 11-week soil transport period. Calculated County fees will be included as conditions of approval for each project. Recalculation of this fee will be required prior to issuance of the first grading permit.
  
5. **County Transportation Impact Fee:** As a standard condition of project approval, the City of Oxnard will work with the Ventura County Public Works Agency, Transportation Department, to ensure that the applicant for each project pays applicable County of Ventura traffic impact fees based on the average daily trip (ADT) calculation for each project.

C.3



**PUBLIC WORKS AGENCY  
TRANSPORTATION DEPARTMENT  
Traffic, Advance Planning & Permits Division  
MEMORANDUM**

**DATE:** September 5, 2008

**TO:** Resource Management Agency, Planning Division  
Attention: Kari Finley

**FROM:** Nazir Lalani, Deputy Director

**SUBJECT: REVIEW OF DOCUMENT 08-033, NORTH AND SOUTH ORMOND BEACH SPECIFIC PLANS**  
Notice of Availability/Notice of Completion and Recirculated Draft Environmental Impact Report (RDEIR).  
North project: Southshore, Hearthsides Home is located on the north side of Hueneme Road, east of Edison Drive, west of Olds Road, and south of Tierra Vista and Villa Capri neighborhoods. South project: Marathon Land et al, is located south side of Hueneme Road, east of Edison Drive, west of Arnold Road, and north of coastal dunes and beach area. The sites are located in the within the sphere of influence of the City of Oxnard.  
Project Applicants: North Ormond Beach project: Southshore, Hearthsides Home  
South Ormond Beach project: Marathon Land, et al  
Lead Agency: **City of Oxnard**

Pursuant to your request, the Public Works Agency -- Transportation Department has reviewed the Notice of Preparation of a DEIR for the Ormond Beach Specific Plan. The project consists of two sub-areas -- the northern sub-area proposes to accommodate a mix of uses including up to 1283 residential dwelling units of various types and densities, an elementary school, a high school, a community park, an 18-acre lake, a mixed-use commercial market place, light industrial uses, and open spaces and trails. Development of the northern sub-area will require approximately 450,000 cubic yards of fill materials. The fill material would consist of sub-soil to be obtained from dredging material supplied by Ventura County. Soil transfer is projected to occur over an 11- to 12-week period. This is located on the north side of Hueneme Road, east of Edison Drive, west of Olds Road, and south of Tierra Vista and Villa Capri neighborhoods. The southern sub-area consists of the proposed South Ormond Beach Specific Plan comprising approximately 595 acres. Development in the northern portion would consist of a 375-acre business park including a business/research campus, light industrial facilities and harbor-related uses. The business park would be located within a 62-acre area adjacent to Hueneme Road. The remaining 313 acres would be zoned as Light Industrial Planned Development. Approximately 57 acres is being proposed for designation under a new Harbor Overlay zone. The southern 220 acres would continue in agricultural use and would not be annexed to the City as part of this project. This is located on the south side of Hueneme Road, east of Edison Drive, west of Arnold Road, and north of coastal dunes and beach area. The sites are located within the sphere of influence of the City of Oxnard.

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The comments made in the Public Works Agency – Transportation Department memo dated June 29, 2007, are still pertinent to the RDEIR, and should be included/addressed in the Final EIR. These comments are as follows:

1. The RDEIR should evaluate and provide mitigation measures for the site-specific impacts this project may have on the County's Regional Road Network. Of particular interest to the County are the potential traffic impacts on East Hueneme Road, Arnold Road, Nauman Road, Wood Road, Pleasant Valley Road, S. Rice Avenue, Casper Road, and the intersections on these roads. A review of the RDEIR and the Executive Summary (ES) found no discussions relative to the some of the identified roads sections and/or intersections. ①
2. Additionally, in accordance with the Ventura LAFCO Commissioner's Handbook, section 3.2.1, cities shall annex entire roadway sections adjacent to territory proposed to be annexed and shall include complete intersections. The RDEIR should require conditions for annexing county roadways adjacent to this project, namely Arnold Road, Hueneme Road, and the entire segment of Olds Road. No comments were made in the RDEIR or ES of such proposed annexations. ②
3. The applicant shall reconstruct any damaged or defaced asphalt concrete paving and/or driveway that is damaged from traffic generated by this project per County Standards. Prior to commencing construction, the applicant will be required to videotape the existing roadway impacted by these projects. The videotape prepared and submitted by the applicant shall be used in conjunction with complete inspection after construction to determine if any of the existing surface improvements were damaged by construction trips. ③
4. Also, the RDEIR had no discussion of the 450,000 CY of fill materials being hauled from a County of Ventura soil borrow site. As discussed in our memo of June 29, 2007, The Public Works Agency – Transportation Department wants to make sure that the RDEIR and applicant need to address our concerns on County roads. ④

The location site for the 450,000 CY of fill materials is from a County of Ventura soil borrow site near Laguna Road and Calleguas Creek. The applicant proposes to truck the imported soil to the project site via Hueneme Road and Laguna Road. As provided in the Draft EIR, the adjusted daily vehicle trips would be 3,840, for an 11-week soil import duration.

These construction trips related to import material could have an adverse impact on the level of service and safety of Hueneme Road. The amount of truck trips generated by this project will reduce the life expectancy of the AC pavements on Hueneme Road and Laguna Road. This will make the need for pavement resurfacing and rehabilitation improvement occur much sooner than normally scheduled.

The Transportation Department will require the applicant to contribute a pro rata share of 5.9 percent towards the cost of the pavement resurfacing and rehabilitation of Hueneme Road, from Oxnard city limits to Laguna Road in addition to the mitigation measures identified. The estimated cost of rehabilitation is \$187,039 per year (for a 15-year maintenance cycle). Therefore, the applicant's share will be \$11,090.

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5. The cumulative impacts of the development of these projects, when considered with the cumulative impact of all other approved (or anticipated) development projects in the County, will be potentially significant. To address the cumulative adverse impacts of traffic on the County Regional Road Network, the appropriate Traffic Impact Mitigation Fees (TIMF) should be paid to the County when development occurs. Based on the information provided in the Initial Study and the reciprocal agreement between the City of Oxnard and the County of Ventura, the fee due to the County is:

$$*57,134 \text{ ADT} \times \$30.58/\text{ADT} = \$1,747,157.72$$

\*Proposed project at buildout (Phase 1 and Phase2) is forecast to generate approximately 57,134 daily trips, page 1 Executive Summary

The above estimated fee may be subject to adjustment at the time of deposit, due to provisions in the TIMF Ordinance allowing the fee to be adjusted for inflation based on the Engineering News Record Construction Cost Index. The above is an estimate only based on information provided in the Draft EIR.

Our review is limited to the impacts this project may have on the County's Regional Road Network.

Please call me at 654-2080 if you have questions.

Attachment

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**LETTER C.4 COUNTY OF VENTURA WATERSHED PROTECTION DISTRICT**

**Commentor:** County of Ventura Watershed Protection District, Sergio Vargas (09-26-08)

**Response**

1. **Lake Discharge:** The commentor inquires as to whether the lake discharge estimates cited in Section 3.3.3.1.1 of the RDEIR are for pre-project or post-project conditions. The estimates are for post-project conditions. As required by the County, the volume of discharge from the development to the storm drain outlet shall be limited to that produced under existing conditions.
  
2. **Mitigation for Increased Impervious Area:** The SouthShore Specific Plan includes a drainage plan that accounts for increases in impervious surfaces. As discussed under Impact BIO-2 in the RDEIR, the project has been designed so that most stormwater runoff will be filtered and captured in bioswales and the manmade lake proposed in the Southern Subarea. These design features will minimize impacts of impervious surfaces as they relate to increased runoff into wetlands. In addition to the project design, Mitigation Measure Water-8 requires construction site planning to implement best management practice (BMB), including the requirement that impervious surface areas shall be minimized and permeable paving materials shall be used whenever possible. Mitigation Measure Water-10 also requires that site planning measures minimize direct-connect impervious surfaces and maximize infiltration through use of permeable paving materials, minimizing sidewalk and roadway widths, and directing runoff from roofs and driveways into french drains and landscaping, or into the site's irrigation system. Mitigation Water-10 also recommends cluster development to maximize natural drainage area. Additionally, City review and approval of improvement plans and hydrology studies will be required for any drainage discharge.

C.4



**VENTURA COUNTY**  
**WATERSHED PROTECTION DISTRICT**  
**PLANNING AND REGULATORY DIVISION**  
800 South Victoria Avenue, Ventura, California 93009  
Sergio Vargas, Deputy Director - 805 650-4077

**DATE:** September 26, 2008

**TO:** Kari Finley, RMA and  
Kathleen Mallory, city of Oxnard

**FROM:** Sergio Vargas – Deputy Director  
Planning and Regulatory

**SUBJECT:** RMA 08-033 – North and South Ormond Beach  
Specific Plan

The Planning and Regulatory Division has reviewed the above project and our comments are as follows:

Following are comments that were made after reviewing the Ormond Beach Specific Plan and submitted June 29, 2007.

1. At the bottom of p 3.3-44, it is stated that "Discharge from the lake will be ...at a maximum of 49 cfs which is equal to the 10-year 24-hour storm event." Please clarify whether this event volume is based on pre-project (i.e., pervious land) or post-project (i.e., impervious land) conditions. The discharge volume shall be limited to that produced under existing conditions. ①
2. The Planning and Regulatory Division of the Watershed Protection District wants this development to incorporate mitigation for the effects of increased impervious area, which is an increase in runoff volume and peak flow. In the items submitted there are contradictory statements on this issue. ②

The Water and Environmental Resource Divisions will send separate comments to be included with the Watershed Protection District comments.

**End of Text**

**LETTER C.5 COUNTY OF VENTURA WATERSHED PROTECTION DISTRICT**

**Commentor:** County of Ventura Watershed Protection District, Rick Viergutz (09-29-08)

Note: This comment letter refers to the July 2008 Water Supply Assessment and Verification prepared by Kennedy/Jenks Consultants on behalf of the City, not to the RDEIR.

**Response**

1. **Section 1.2 (Requirements of WC – SB 610 and SB 221):** The Fox Canyon Groundwater Management Agency (FCGMA) has statutory jurisdiction over groundwater use derived from lands overlying the Fox Canyon aquifer system. Section 3.3.1.1.3 of the RDEIR, the 2008 Project Water Supply Assessment, and the City’s 2005 Urban Water Management Plan each discuss the groundwater basins, aquifer systems and the jurisdiction of the FCGMA in some detail. The commentor’s reference to the use of the “Fox Canyon Groundwater Basin” cannot be located within any relevant project-related document. No corrections to terminology in the RDEIR are necessary.

The commentor requests further explanation regarding water supplies which are to be derived from projects which have yet to be completed. In particular, the commentor requests information regarding the status of the City’s Groundwater Recovery Treatment and Enhancement Program (“GREAT Program”) and sufficiency of imported water supplies obtained from Calleguas Municipal Water District (“CMWD”) and Metropolitan Water District of Southern California (“MWD”). The extent to which the City relies on these sources is examined in significant detail in: a) the 2008 Project Water Supply Assessment, b) the 2005 Oxnard Urban Water Management Plan, and c) the 2009 Addendum to the Project Water Supply Assessments.

The detailed discussion of the GREAT Program includes those aspects of the Program which are fully approved, funded and constructed, as well as those portions of the GREAT Program for which environmental review is completed and certified, and partially funded, but not yet under construction. For those later aspects of the Program, a timeline for completion of construction is presented, and the anticipated water supplies to be derived from the GREAT Program are placed within the timeline consistent with anticipated construction. See, for example, Tables 5.1 of the Water Supply Assessment and its Addendum.

Similarly, the quantification of anticipated imported water supplies is also presented in Table 5.1. The 2008 Water Supply Assessments discussed in significant detail the potential constraints on these imported supplies and the measures being taken by both CMWD and MWD to develop additional supplies to offset the existing regulatory, legal and environmental constraints. In fact, the 2009 Addendums to the Project Water Supply

Assessment updates (reduces) the anticipated reliable supplies expected from CMWD / MWD, in compliance with Water Code section 10912(h).

The extensive discussion of the status of the GREAT Program—the fact the GREAT Program Phase 1 is fully funded, approved, and under construction, as well as the in-depth discussion of the various considerations impacting the reliability of the CMWD/MWD imported supplies, complies with the legal requirements established by the California Supreme Court in *Vineyard Area Citizens for Responsible Growth v. City of Rancho Cordova* (2007) 40 Cal.4<sup>th</sup> 412.

3. **Table 2-1 (City Sources to 2030):** The commentor requests identification of the proposed use of local groundwater given potential constraints on the availability of imported supplies obtained from CMWD / MWD. As noted in response to comment #1 above, the 2008 Project Water Supply Assessments, the 2009 Addenda to the Water Supply Assessments, as well as the Project RDEIR, describe in detail, both quantitatively and qualitatively, the anticipated reliable supplies available to the City. Table 5.1 provides a detailed quantification of the expected supplies available, along with the explanation of assumptions and considerations associated with each of the City’s water supply sources.
4. **Section 2.4.2 (GMA Ordinances):** The commentor notes that a potential source of supply previously included in the within the anticipated portfolio of supplies available to the City included the expectation that the City may avoid a 5% cutback on the City’s GMA groundwater allocation. This assumption has been eliminated in the 2009 Addenda to the Water Supply Assessments. Rather, the 2009 Addenda assume the full implementation of the GMA’s 25% groundwater cutbacks on historical extraction allocations as provided in GMA Ordinance 8.1. The quantification of this revised assumption is presented in Table 5.1 of the 2009 Addenda to the Water Supply Assessments.
5. **Section 2.4.4 (GMA New Policies):** As described in response to comment #3, the commentor again notes that the GMA has approved a policy which may allow the City to avoid imposition of cutbacks on GMA pumping allocation. However, as noted in response to comment #3, the 2009 Addendums to the Water Supply Assessments assume the GMA imposes the full 25% cutbacks on the City’s GMA allocation.
6. **Section 2.4.6 (GMA Management Plan):** The commentor requests a more extensive explanation of the “M&I Supplemental Water Supply Program Augmentation” referenced in Section 2.4.6 of the WSA. A detailed discussion of this program is presented in Section 3.3.1.2.3 of the RDEIR and the 2008 Water Supply Assessments. However, the 2009 Addenda to the Water Supply Assessments deletes this supply as a potentially reliable source for the City. While the M&I Supplemental Water Supply Program Augmentation,” also

referred to as the “Water TAP” Program continues to be a potential additional supply source, it is no longer included as a reliable supply within the City’s water supply portfolio. Thus, this program has been deleted from the City’s overall anticipated supplies as presented in Table 5.1 of the 2009 Addendums to the Water Supply Assessments.

7. **Section 2.6 (Groundwater – City Wells):** The commentor notes that imposition of planned GMA cutbacks will result in a total 25% reduction of groundwater allocation available to the City. As noted above, the 2009 Addendums to the Water Supply Assessments and the revised Table 5.1 adopt this approach in evaluating the availability of local groundwater supplies to the City. Similarly, the commentor notes that with a reduced GMA pumping allocation, the City may not accrue GMA pumping credits at the pace which would occur absent the imposition of the 25% cutback in GMA allocation. These considerations have been taken into account in the 2009 Addendums to the Water Supply Assessments. Consistent with the commentor’s point, the 2009 Addenda to the Water Supply Assessments assume the City has available only its current GMA credit balance and does not assume the City will accrue additional GMA credits until the GREAT Program Phase 1 is complete.
8. **Section 3.9 (Lake Water and Evaporation):** The commentor expresses a concern that the small lake associated with the project may not be a prudent use of water and requests quantification of the evaporation losses anticipated from the lake.

The commentor’s qualitative judgment regarding appropriate uses of water is noted. The lake is considered an important aesthetic feature of the proposed project. The lake has not been designed to provide a water source. Instead, the lake has been designed for detention and for aesthetic purposes. Given the intended use of the lake, an analysis of the evaporation loss associated with the detention and aesthetic nature of the lake is not warranted.

9. **Section 5.3 (FCGMA Credits):** The commentor contends that reliance on GMA credits for “guaranteeing water is contrary to Section 5.7.1” of the FCGMA Ordinance 8.1. This characterization of GMA policy is not correct. GMA credits are expressly intended as one method of allowing groundwater users to reduce pumping in one year, without losing the right to pump that volume of “conserved” water in a subsequent year. Section 5.7.2.1.1 of GMA Ordinance 8.1 simply states that an “operator can obtain conservation credits by extracting less groundwater than the historical extraction allocation.” Section 5.7.1 states that credits “are not subject to any reductions as set forth in Section 5.4.1 [planned cutbacks on historical allocation]. Credits, if available, shall be used to avoid paying extraction surcharges. Credits shall be accounted for through the normal reporting and accounting procedures and are carried forward from year to year.” As noted in the 2008 Water Supply Assessments and their addenda, the City considers its current supply of GMA credits as one of several of its available, quantifiable and reliable water sources.



Ventura County  
**Watershed Protection District**  
Groundwater Section

**MEMORANDUM**

**DATE:** September 29, 2008  
**TO:** Kari Finley, RMA - Planning Division  
**FROM:** Rick Viergutz, WPD – Groundwater Section  
**SUBJECT:** RMA 08-033, EIR - North and South Ormond Beach (City of Oxnard)

The Watershed Protection District – Groundwater Section has reviewed the above Environmental Impact Report (EIR) and has provided the following comments:

**Section 1.2 (Requirements of Water Code - SB 610 and SB 221)**

The statement, "The City receives water from the Fox Canyon Groundwater Basin...", appears to use erroneous terminology. The FCGMA frequently refers to the Fox Canyon Aquifer. Please consider using terminology regarding the City extracting groundwater from the Oxnard Plain Pressure Groundwater Basin, or from named aquifers including the Fox Canyon, Oxnard, Mugu, Hueneme, etc.

This section also states: *"Within this report, in the determination of sufficiency for a 20-year period, there are certain programs and capital improvement projects by the public water agencies that have yet to be implemented or constructed. They are, nevertheless, important for a finding of sufficiency. Certain projects, such as the various components of the Groundwater Recovery Enhancement and Treatment (GREAT) Program are discussed and included in examining the projected water supply for the City. Additionally, the findings of sufficiency for imported water from Metropolitan Water District of Southern California (MWDSC)/Calleguas Municipal Water District (CMWD assume certain programs that are yet to be constructed or fully implemented."*

Section 15064(b) of CEQA Guidelines states significant effects must be based to the extent possible on scientific and factual data.

It is clear that the applicant is relying on water supplies from infrastructure that is not yet built. The applicant assumes that the water supply projects will go forward and be reliable; however evidence that the projects will indeed be built is not great.

Therefore the significance analysis may need to be revised. Please describe how the analysis meets with the criteria in Section 15064(b).

**Table 2-1 (City Water Supply Sources to 2030)**

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This table lists groundwater, imported water, and surface stream diverted water as being reliable both now and into the future. The Fox Canyon Groundwater Management Agency is primarily concerned with the project's reliance on groundwater supplies within the Fox Canyon GMA, and how decreases in imported water increase demands on groundwater supplies within the Fox Canyon Groundwater Management Agency.

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Please identify the magnitude of the proposed use of groundwater within the Fox Canyon Groundwater Management Agency in terms of the number of acre feet needed per year, and how this amount changes during reductions in the imported water amount, such as from the Calleguas Municipal Water District, or State Water Project water.

**Section 2.4.2 (GMA Ordinances)**

Second paragraph, last sentence states that: *"The City (as discussed in Section 2.4.4) is currently in the process of obtaining approval for such a project and thus is not subject to this additional 5 percent cutback."*

3

Note that this process is subject to Fox Canyon GMA technical review requirements and approval by its Executive Officer. It is premature to state this is not subject to this additional 5 percent cutback, as the Fox Canyon GMA has not approved this.

**Section 2.4.4 (GMA New Policies)**

This Section states: *"The new policy would allow any pumper to be excused from the next GMA cutbacks if they bring a supplemental water source that offsets the magnitude of the cutbacks. The City's participation in the next increment of the M&I Supplemental Water program qualifies. Thus, the City will be excused from further cutbacks."*

4

Note that this process is subject to Fox Canyon GMA technical review requirements and approval by its Executive Officer. It is premature to state: *"the City will be excused from further cutbacks."* The Fox Canyon GMA has not approved this.

**Section 2.4.6 (GMA Groundwater Management Plan)**

Fourth bullet states: *"The City could accumulate additional groundwater associated with the implementation of the M&I Supplemental Water Supply Program Augmentation, currently expected to be available mid-2008."*

5

Please define the M&I Supplemental Water Supply Program Augmentation.

**Section 2.6 (Groundwater – City Wells)**

The City has available annual FCGMA groundwater allocations of 10,726 AFY. Reported City pumping to the FCGMA was more than 14,000 AF in 2006. The City purchased an additional 4,001 AF from UWCD in 2006. In 2007, 440 AF were pumped from City wells, and 16,632 AF purchased from UWCD. The FCGMA recently adopted a schedule of reductions to Historical groundwater allocations that will take effect on January 1, 2009 and January 1, 2010. On each of these dates, another five (5) percent loss of Historical allocation will take effect. By year 2010 a total of 25 percent reduction of the original Historical groundwater allocation will no longer be

6

available. Reductions in annual allocations also translate into lower reduced credit accumulations.

Please describe how this factor is taken into account, such as when discussing water supply reliability. Table 5-1 on page 55 [PLANNED WATER SUPPLIES (AFY)] that lists Historical allocations and transferred or earned allocations and credits may need to be revised as allocations are reduced and accumulation of credits are reduced.

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**Section 2.9 GREAT Program**

Additional water supply possibilities are discussed in sections starting on page 20, such as the City's GREAT Program, Transfers and Exchanges, Supplemental Water, etc., however many of these programs have not been finished and some have not even begun. Interpretation of State legislation dictating water reliability assurance (SB 610 and SB 221 specifically), or water management references (AB-2995 & the FCGMA Groundwater Management Plan), include measures to eliminate overdraft conditions. It should be pointed out that the FCGMA Groundwater Management Plan and oversight authority is not a sufficiently reliable mitigation since many strategies within that Plan have not yet been accomplished.

⑪

Section 15064(b) of CEQA Guidelines states significant effects must be based to the extent possible on scientific and factual data.

It is clear that the applicant is relying on water supplies from infrastructure that is not yet built. The applicant assumes that the water supply projects will go forward and be reliable; however evidence that the projects will indeed be built is not great.

Therefore the significance analysis may need to be revised. Please describe how the analysis meets with the criteria in Section 15064(b).

**Table 3-9**

With current water demand within the City at approximately 28,490 AFY Oxnard is the largest single user of water in the County. Adding further demands such as 40 AFY lake that increases evaporation losses, does not seem to be a prudent use of limited water resources.

⑫

Please quantify the evaporation losses from the lake.

**Section 5.3**

Use of FCGMA credits may prevent the City from incurring FCGMA surcharge penalties; however credits do not guarantee the groundwater resource will actually be present, such as during droughts. Reliance on credits for guaranteeing water is contrary to Section 5.7.1 of the Fox Canyon Groundwater Management Agency Ordinance 8.1.

⑬

Please describe if the applicant is relying on credits as an extraction allocation.

RV:dp

**LETTER C.6 VENTURA LAFCO**

**Commentor:** Ventura LAFCO, Kai Luoma (09-09-08)

**Response**

1. **LAFCO Involvement:** Sections ES.3, 1.3 and 2.4.1 of the FEIR have been revised to reflect the specific reorganization actions that will have to be approved by LAFCO (i.e., annexation of the project area, the simultaneous detachment of the same area from the Ventura County Resource Conservation District and the Ventura County Fire Protection District, and annexation to the Calleguas Municipal Water District).
2. **General Plan Consistency:** The RDEIR analysis of general plan consistency includes sufficient information concerning the relationship between the proposed specific plans and the City's 2020 General Plan.. The specific general plan amendment(s) would be based on the project description and zoning designations (and Specific Plan overlays) proposed by the Project to ensure consistency.
3. **Tsunami Hazard:** The RDEIR includes an analysis of potential tsunami impacts and, as noted by the commentor, a mitigation measure that would reduce the level of risk to the occupants of the area's commercial, office, and industrial development. The potential for coastal flooding and the associated risk to properties would be addressed through application of City development standards concerning the placement of structures in areas prone to flooding resulting from tsunamis. The FEIR has added a comment concerning the mitigating effect of these standards. Please refer to Master Response 1 above for additional discussion regarding tsunami hazard and sea level rise.
4. **Sea Level Rise:** Please refer to Master Response 1 above for response to comments regarding sea level rise.
5. **Housing Element Consistency:** Consistency with the Housing Element is discussed under Land Impact 5 of the RDEIR in Section 3.7.3.2. At the time the RDEIR was prepared, the City's Housing Element was in compliance with State requirements. In conjunction with its General Plan Update, the City is preparing and will submit an updated Housing Element to address the current planning period and addresses the City's responsibility to meet its fair share of regional housing needs. Note also that the SouthShore Specific Plan includes an Affordable Housing Program that is fully consistent with the City of Oxnard's Affordable Housing Ordinance and described in Section 6.2.8 of the Specific Plan, Affordable Housing Program. This program is planned to provide 155 rental units within Attached Residential Planning Area AR-1, or on an alternative site subject to the approval of the City's Development Services Director. This Specific Plan also includes density bonus provisions as

an incentive to provide market rate and/or affordable Senior Housing within the Specific Plan Area as described in Section 6.2.8 of the Specific Plan, Senior Housing Program.

6. **Consistency with LAFCO Policy:** Comment noted. Consistency with LAFCO Policy is discussed under Impact Land 6 of the RDEIR in Section 3.7.3.2, and the relation to Ventura LAFCO is further discussed in RDEIR Sections 3.7.2.3.3. The RDEIR's evaluation of consistency with LAFCO policy is sufficient for CEQA purposes.
7. **Conflict with Coastal Conservancy Plans:** The applicants for development of the Southern Subarea are no longer proposing to obtain soil from the southernmost 220 acres of the Study Area. Therefore, the option will remain for SCC to acquire this area for inclusion within the proposed wetlands restoration area. The land will remain in the County and continue to be zoned and utilized for agricultural purposes. [revise to clarify that there is no plan that suggests that the wetland restoration will extend to McWane.]
8. **Agricultural Land Impacts:** The RDEIR's evaluation of consistency with LAFCO policy is sufficient for CEQA purposes. The City understands that, as part of the annexation process, the applicants will need to provide additional information to address the LAFCO application for reorganization information requirements. The City further notes that LAFCO approved inclusion of the Study Area in the City's sphere of influence in 1981 which establishes the City's ultimate City limits. [Steres: ag land is outside SOAR]

The commenter noted that the RDEIR did not include an evaluation to determine if sufficient vacant lands or land that can be redeveloped currently exists within the City's jurisdiction, in keeping with LAFCO Policies 3.1.5.1.iii and 3.1.5.2. Copies of these policies are provided in Section 3.8.3.1.6 of the RDEIR. This information will be provided by the applicant with the LAFCO application for reorganization.

9. **Schools:** The RDEIR evaluates the project as proposed, including the proposed 48.5 acre (net) high school site and a 10-acre (net) elementary school site. Section 3.6.3.2 of the DEIR provides an analysis of potential school impacts. The high school site was identified and designated for use by Oxnard High School due to its proximity to the Ormond Beach Study Area. In the event that a new high school is not constructed on the site, payment of the state-mandated new development fees pursuant to Government Code Section 65995 would reduce impacts to a level considered less than significant (Class III). Potential project impacts to school services would be less than significant through implementation of existing plans, programs and policies. Therefore, project impacts to schools have been sufficiently addressed under CEQA.
10. **Alternatives Analysis:** The commenter asserts that two independent sets of project alternative are required for each of the subareas. CEQA does not include language requiring

multiple sets of alternatives for portions of a study area. The RDEIR's analysis of alternatives addresses the requirements of CEQA, including those related to analysis of a range of reasonable alternatives to the project. 2009 State CEQA Guidelines §15126.6 states "...An EIR shall describe a range of reasonable alternatives to the project, or to the location of the project, that would feasibility attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project and evaluate the comparative merits of the project. Therefore, an alternatives analysis can include alternatives that attain most but not all of the objectives of a project." The City disagrees with the commentor's assertions that the alternatives analysis "severely limits the discretion of decision makers" and that the RDEIR "limits the ability of decision makers and responsible agencies to address significant environmental impacts and it undermines the provisions of CEQA." The Planning Commission and City Council retain complete discretion to recommend and adopt plans as they see fit. At the point that recommendations or decisions are made, it will be incumbent on the City staff and decision-makers to determine if those recommendations and/or decisions are adequately covered by the RDEIR's analysis of the currently proposed projects.

C. G.



September 9, 2008

Kathleen Mallory  
Project Planner  
City of Oxnard, Planning Division  
214 S. C Street  
Oxnard, CA 93030

Subject: Ormond Beach Specific Plan Recirculated Draft Environmental Impact Report (DEIR)

Thank you for providing the Ventura Local Agency Formation Commission (LAFCO) with the opportunity to comment on the subject DEIR. As a CEQA responsible agency, we are charged with ensuring that environmental documents prepared by lead agencies address the issues that relate to our scope of authority. Please note that these comments are solely those of the LAFCO staff; the DEIR has not been reviewed by the Commission.

The DEIR lists LAFCO as a public agency whose approval is required in conjunction with the development of the proposed project. Indeed, to annex the unincorporated portions of the proposed specific plan areas to the City, LAFCO must first take action to approve an application for several changes of organization, collectively referred to as a reorganization. More specifically, the necessary reorganization action would need to include annexation of the project area, the simultaneous detachment of the same area from the Ventura County Resource Conservation District and the Ventura County Fire Protection District, and annexation to the Calleguas Municipal Water District. As such, the DEIR project description should include specific reference to the approval of the above described reorganization action by LAFCO.

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The Ventura LAFCO offers the following comments:

Project Description

Specific plans are required to be consistent with general plans. In order for the proposed specific plans to be consistent with the City's General Plan, maps and text in the General Plan must be amended. However, the DEIR does not adequately explain the extent of these revisions, which is necessary in order for the specific plans to be evaluated for consistency. A clear understanding of these proposed revisions is necessary, as several policies in the LAFCO Commissioner's Handbook (which can be found at [www.ventura.lafco.ca.us](http://www.ventura.lafco.ca.us)), as well as state law, require

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LAFCO to consider consistency with the General Plan when making a determination (Commissioner's Handbook Policies 1.4.3(e), 2.5.1.1, and Gov. Code 56668(g)). Without this information and ability to evaluate it, LAFCO may be unable to make a determination. The project description should contain exhibits of all maps in their current and proposed revised form. It should also specify what specific portions of the General Plan are proposed to be amended.

(2)

#### Geology and Soils

*Impact GEO 6 and Mitigation GEO 5* - The majority of the southern subarea is located in a tsunami hazard zone. The DEIR concludes that the potential safety and property impacts associated with this hazard can be mitigated through awareness of existing evacuation plans. However, it is unclear how property damage to buildings, roads, and infrastructure can be avoided/mitigated with an evacuation plan. It appears that public and private property damage from a tsunami is an unavoidable and potentially significant impact.

(3)

The DEIR should discuss the potential damage and impacts to buildings and structures, as well as to roads and other infrastructure. In addition, the potential need for additional emergency response services, including fire, police/sheriff, and medical should be evaluated.

Though the DEIR discusses the rise of sea level resulting from global warming and acknowledges that such a rise would have implications on the study area regarding tsunamis (pages 3.2-16 and 17), no analysis of these implications is provided. A rise in sea level resulting from global warming would likely exacerbate the tsunami hazard, potentially extending the risk into the residential development in the northern subarea. These potential impacts should be identified and evaluated. In fact, Development Policy C.12. in the City's General Plan Safety Element states:

(4)

In view of the potential rise in the sea level, the City should confer with appropriate state and federal agencies and seek information and advice concerning the probability, impacts, and mitigation measures to minimize beach erosion and inundation of coastal development and shall evaluate specific mitigation measures in EIRs for new development in coastal areas.

#### Land Use

- *Impact Land 5 – Consistency with Housing Element* – When acting on a proposal for a change of organization, LAFCO considers its effect on affordable housing and regional housing needs (LAFCO Commissioner's Handbook Policy 1.4.3.1(f) and Government Code Section 56668(l)). The City has not prepared an updated Housing Element and is currently not in compliance with state Housing Element law. Until the Housing Element is updated and certified by the State Department of Housing and Community Development, it appears premature to state that the project is compliant with the Housing Element and with the City's RHNA obligations.

(5)

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Because the City has not updated its Housing Element, it has not identified how it intends to accommodate its RHNA obligations for the current planning period. This site is already within the City's sphere of influence and the General Plan currently designates the site for residential development. It appears to meet the criteria to be included as an adequate site to help meet the RHNA obligation. Before a project is approved, the City may wish to consider this site as one to help the City achieve its current regional housing needs.

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It should be noted that Section C.4.o. of the Land Use Element states of the Ormond Beach planning area that 20% of the units "shall be either low or low moderate income dwellings." This requirement appears not to be discussed in the DEIR (perhaps the removal of this requirement is part of the general plan text amendment, however, without a more thorough description of the proposed amendments, it is unknown to the reader).

- *Impact Land 6 – Consistency with LAFCO Policy* – The project identifies various LAFCO policies and concludes that the project is generally consistent with those policies. However, this conclusion appears to be unsubstantiated. For instance, though the DEIR cites Policy 3.1.6, which states that LAFCO will not favor a reorganization if a local school district certifies that it does not have the capacity to accommodate the project, no evaluation of consistency with it is provided, only a reference to Section 3.9. However, Section 3.9 states that the local districts do not have capacity. As a result, the project appears to be inconsistent with this policy. Similarly, the DEIR references a number of policies relevant to the conversion of agriculture land in Section 3.8, but provides little or no evaluation to determine consistency (see discussion in the following section). If LAFCO's policies are to be evaluated, all applicable policies should be included and evaluated before consistency with them can be determined.

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- According to the DEIR, the project may have a significant impact if it conflicts with a habitat or natural community conservation plan (page 3.7-20) (a similar threshold of significance is listed in the Biological section). The area located south of an easterly extension of McWane Boulevard has been identified by the California Coastal Conservancy's Southern California Wetlands Recovery Project as land which is to be acquired in order to fulfill the Project's Ormond Beach Wetlands Restoration Plan. The southern specific plan proposes to develop about 120 acres of these lands and, therefore, conflicts with this plan. The DEIR should discuss the impacts that the development will have on the ability to fulfill this restoration plan and the potential consequences of its going unfulfilled. The analysis should include potential increases in the value of this property if the specific plan is approved, as this has a direct bearing on the feasibility of acquiring the land.

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Agricultural Resources

Though the DEIR iterates various LAFCO policies regarding agricultural resources, it omits other relevant policies, such as those contained in Commissioner's Handbook

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Section 2.1.2.1. In addition, little or no analysis of the project's consistency with these policies is provided. It should be noted that if the CEQA document does not address LAFCO's policies, LAFCO will require this information from the City before any application for reorganization can be accepted as complete for filing purposes. For instance,

- Policies 2.1.2.1.i. and iv. require that the effects of the proposal on the economic integrity of the agricultural industry in the County be evaluated. No such analysis is provided.
- The LAFCO policies cited in the DEIR include Policies 3.1.5.1.iii., and 3.1.5.2 which requires an evaluation to determine if sufficient vacant lands or land that can be redeveloped currently exist within the City's jurisdiction that are planned or developable with a similar general type of use. No such evaluation is provided. Due to the fact that the proposal includes amending the general plan in order to accommodate the project, the evaluation of vacant or redevelopment lands should include lands for which the general plan can also be amended to accommodate the project.

#### Public Facilities and Services

Staff from the Oxnard Union High School District recently reaffirmed that the District has no plans and that there is no demand for a high school in or near the project site. It is unclear why the project continues to include a high school site, which would be expected to remain vacant indefinitely. LAFCO Policy 3.1.5 provides for approval of a reorganization which is likely to result in the conversion of prime agricultural land to other uses only if the Commission finds that the proposal will lead to planned, orderly and efficient development (emphasis added). Alternatively, the project should be described and evaluated with the number of units that would occur without the high school, approximately 1,545.

The DEIR acknowledges that the local school districts do not have the capacity to accommodate the number of students expected as a result of the project and that the payment of developer fees mitigates this impact. It is important to note that though the payment of developer fees may be considered to be mitigation for school impacts under CEQA, Commissioners Handbook Policy 3.1.6 states that LAFCO will not favor any change of organization or reorganization proposal where any affected school district certifies that there is not sufficient existing school capacity, or will not be sufficient school capacity at the time of development, to serve the territory involved. This policy applies regardless of whether mitigation fees have been paid.

#### Alternatives

This section of the DEIR is largely inconsistent with the provisions of CEQA and thus, deprives responsible agencies and the public of meaningful review and comment. New alternatives should be developed and evaluated consistent with the

provisions of CEQA. Such revisions are likely to necessitate the recirculation of the document.

*Two independent sets of project alternatives are required*

The DEIR evaluates two separate and distinct projects: the South Shore Specific Plan located in the northern subarea and the South Ormond Beach Specific Plan located in the southern subarea. Throughout the DEIR, each plan is considered to be, and evaluated as, an independent and separate project. However, the independence of each project is not reflected in the Alternatives, where each alternative applies to both specific plans as if they are a single project. As a result, the alternatives do not necessarily address the impacts of each specific plan. For instance, Alternative 1 applies to both plans but affects only the northern plan and has no impact on the southern subarea. This alternative should not apply to the southern specific plan. Because each project is an individual project that will be acted upon independently, and each will result in impacts that are independent of the other, a range of alternatives that are specific to *each individual project* must be provided.

The lack of independent alternatives severely limits the discretion of decision makers. Their choices are unnecessarily limited to only those combinations identified in each alternative. It precludes the decision makers from considering and adopting different combinations of alternatives that would lessen impacts of each specific plan.

*Alternatives do not comply with CEQA*

CEQA requires that a range of feasible alternatives be identified which attain most of the basic objectives of the project, but would avoid or substantially lessen any of the significant effects of the project (CEQA Guidelines 15126.6(a), (b), and (c)). None of the alternatives do so. Only Alternative 3, the "no project" alternative, comes close to compliance with CEQA.

- Alternative 1 – This alternative would locate a high school site east of Olds Road, effectively increasing the size of the northern Specific Plan by about 60 acres. The title of this alternative (Property Owners' Request with High School East of Olds Road) suggests that it was included not to address potentially significant impacts as required by CEQA, but at the request of the property owner. This alternative does nothing to minimize or eliminate significant impacts. In fact, it exacerbates significant impacts. In addition, the Oxnard High School District has indicated that it has no plans to develop a high school at this site. Furthermore, the high school is located outside of the City's sphere of influence. In order for the high school to receive public services from the City, the City's sphere of influence would have to be amended and the site annexed to the City. The DEIR does not adequately evaluate the impacts of such actions.

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This alternative exacerbates potentially significant impacts rather than reducing or eliminating them, and is likely infeasible since the District has no plans to build a high school. In addition, LAFCO policies (Section 4.1.4) discourage sphere of influence amendments to accommodate schools without extensive planning and analysis. This alternative is thus inconsistent with CEQA and should be removed from consideration.

- Alternative 2 – Pursuant to CEQA, alternatives are supposed to be identified that “avoid or substantially lessen” significant impacts. This alternative does nothing to reduce or avoid impacts. The DEIR even states, “Thus, Alternative 2 would worsen all of the significant impacts of the project.” This alternative is clearly inconsistent with CEQA.

In addition, the City’s General Plan requires that this area be developed with a Specific Plan that meets all of the policies and goals identified in the General Plan. It is unreasonable and speculative to conclude that a different specific plan would not provide assurances of open space and “pedestrian-oriented design, energy-efficient development, and City gateway entrance landscaping and signage”, as is claimed in the DEIR.

- Alternative 3 – Under this no project alternative, the site would remain as is. The statement that this alternative may lead to growth pressures outside the CURB which might result in adverse effects elsewhere is speculative. It is also speculative to state that impacts associated with the continued agricultural operations may increase as compared to the baseline. The application of fertilizers and related activities are part of the lawful agricultural operations, and therefore, are part of the baseline, not activities that exceed it. The baseline is used to determine impacts of the proposed project, not those of the lawfully existing agricultural operations for which no entitlements have been proposed. Should additional changes to these agricultural operations one day be pursued, those changes will be subject to environmental review. Speculation about them does not appear to be relevant in the analysis of the proposed specific plans.
- Alternative 4 – This alternative is essentially the same as Alternative 3. The only difference is that Alternative 4 designates the southern subarea as Resource Protection, whereas Alternative 3 keeps it agriculture. Both are identical in addressing potential impacts from the proposed project by precluding urban development. In addition, the Resource Protection designation would not preclude the existing agricultural operations. Therefore, Alternative 4 is effectively identical to Alternative 3.

Also, the sale of land within the southern subarea to the Coastal Conservancy or Nature Conservancy can occur at any time regardless of whether it is annexed or not.

- Alternative 5 – There are several unsubstantiated assumptions with this alternative which call into question whether it is truly an environmentally superior

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alternative. For instance, this alternative claims to preserve about 60 acres of farmland, however, successful farming operations may be unlikely on a narrow section of agricultural land bounded on three sides by residential development. In addition, no reduction in the approximately 4.5 million square feet of industrial development in the southern subarea is proposed. Instead, this alternative would limit the uses within the subarea to "harbor industrial", presumably to serve the Port of Hueneme. It is not clear how such a restriction can be enforced or what constitutes a "harbor industrial" use (the City has no such General Plan designation or zoning). How can it be guaranteed that only "harbor industrial" uses will occur? What is the basis for the statement that that such uses are less intense, i.e. employ fewer people, have fewer customers, and make/receive fewer deliveries than uses that would be allowed in other industrial developments? Is there a demand for nearly 4.5 million square feet of harbor industrial uses, especially given that the closest port is located 2 miles away and has limited, if any, opportunity to expand? If there is insufficient demand for harbor industrial uses, what other uses would be allowed? What are the potential impacts to the City of Port Hueneme in terms of traffic, services, and infrastructure should nearly 4.5 million square feet of harbor industrial development occur? It is not clear how, or even if, this alternative reduces or eliminates significant impacts. It may, in fact, create additional significant impacts.

The alternatives that are presented seem to have been chosen and evaluated to persuade the reader to conclude that the project, or one very similar (Alternative 5), is the environmentally superior project. Alternatives must be identified that alleviate or eliminate potentially significant impacts while obtaining most of the general objectives of the project. None of these alternatives does so. By including alternatives that are either infeasible and/or will do nothing to decrease significant impacts, the DEIR limits the ability of decision makers and responsible agencies to address significant environmental impacts and it undermines the provisions of CEQA.

A range of alternatives must be considered that are specific to each independent specific plan. These alternatives must be feasible and shown to reduce or eliminate significant impacts. Without such alternatives, the DEIR is fundamentally deficient.

LAFCO staff suggests that the following alternatives be included:

Northern Subarea

- Alternative 1: No project – remains as agriculture, no annexation
- Alternative 2: Modified project – project modified to include higher densities and mixed uses. Development concentrated to the western side of the project area to preserve agriculture to the east. The remaining agriculture area should be configured so it is not "sandwiched" by urban development and can be used for viable agricultural activities.

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- Alternative 3: Reduced project – similar to current alternative 5, the number of units would be reduced, however, development would be concentrated to the west and/or north so it abuts existing urban development. The remaining agriculture area should be configured so it is not "sandwiched" by urban development and can be used for viable agricultural activities.
- Alternative 4: Increased density/mixed use and reduction in the scope of project.
- Alternative 5: Combination with Alternative 3 below.

Southern Subarea

- Alternative 1: No project – remains as agriculture, no annexation
- Alternative 2: Reduced project – Area south of McWane Boulevard remains undeveloped in consideration of wetlands restoration plan.
- Alternative 3: Both specific plans are modified. Area south of McWane remains undeveloped. The easterly extension of McWane is eliminated. The lake in the north specific plan is relocated to the area immediately north of the eliminated McWane to buffer development from undeveloped area to the south of McWane and provides drainage retention/treatment for both specific plans. Some light industrial uses incorporated into northern specific plan area to replace lake. High school removed to allow for additional industrial development and/or park space / agricultural buffer in north specific plan.

This alternative (as well as other combinations) would accommodate residential development and allow for a substantial amount of industrial development. In addition, it would preserve a considerable amount of agricultural land and accommodate the future restoration of the Ormond Beach wetlands.

Thank you for the opportunity to review the DEIR. Please feel free to contact me should you have any questions.

Sincerely,



Kai Luoma, AICP  
Senior Analyst

Cc: Supervisor Kathy Long, District 3  
Supervisor Linda Parks, District 2  
Chris Stephens, County of Ventura Resource Management Agency  
Kari Finley, County of Ventura Resource Management Agency  
Cy Johnson, Calleguas Municipal Water District  
Judy Cofer, Oxnard Harbor District  
Peter Brand, California Coastal Conservancy

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**LETTER C.7 VENTURA LAFCO**

**Commentor:** Ventura LAFCO, Kai Luoma (10-08-08)

**Response**

1. **Subdivision of Parcels in Southern Subarea:** The South Ormond Beach Specific Plan applicant has initiated a ministerial lot line adjustment with the County of Ventura that will result in a lot configuration that follows the proposed annexation boundaries. The County defines a ministerial lot line adjustment as “a boundary line adjustment between two or more adjacent legal lots under the same or different ownership, wherein land taken from one lot is added to an adjacent lot, and neither a greater nor lesser number of lots than originally existed is created, not to exceed 4 lots, where all resulting lots meet the minimum zoning size for the zone.” The proposed lot line adjustment would result in three lots, all of which would exceed the County’s minimum lot size requirements. The lot line adjustment will result in a lot configuration where no portion of the proposed development would be located within the Coastal Zone. Thus, the Coastal Act will not be the standard of review for the project, and no Coastal Commission Coastal Development Permit will be necessary for project implementation.

C.7



October 8, 2008

Kathleen Mallory  
Project Planner  
City of Oxnard, Planning Division  
214 S. C Street  
Oxnard, CA 93030

Subject: Additional Comments on the Ormond Beach Specific Plan Recirculated  
Draft Environmental Impact Report (DEIR)

Dear Ms. Mallory:

LAFCO staff has become aware of additional information that may affect LAFCO's ability to review and act on the above-referenced project.

- The southern subarea contains four parcels that are bisected by the southern boundary of the proposed specific plan. The northern approximately half of these parcels (APNs 231-0-040-050, -095, -195, and -205) are proposed to be annexed as part of the specific plan (see attached map). The southern half of these parcels are not part of the specific plan and are proposed to remain unincorporated.

LAFCO Commissioner's Handbook Policy 3.1.3.2 states:

LAFCO shall modify, condition, or deny proposals creating boundaries that are not definite and certain or do not conform to lines of assessment or ownership.

In order for the proposed annexation to comply with this policy, all four of these parcels must be subdivided such that the parcel lines align with the boundaries of the area to be annexed. According to the project description of the DEIR, both of the specific plans will require the approval of tentative tract maps (page 2-7). However, section 3.7.2.2.2 on page 3.7-10 appears to contradict the project description. In the discussion regarding whether the project is subject to the California Coastal Act, it states that no coastal development permits are necessary because "...the applicants are not seeking to subdivide the parcels [231-0-040-195 and 205] as part of their current application".

For the project to be annexed, these four parcels, including the two which extend into the Coastal Zone, must be subdivided. The DEIR must be revised accordingly.

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Should this revision lead to different conclusions regarding potential impacts, such as the project's subjectivity to coastal development permits, those impacts must be evaluated.

- As proposed, the southern portions of the four parcels mentioned above are to remain under County jurisdiction. Figure 2-4 (which incorrectly identifies existing city boundaries – see attached map for correct boundaries) seems to indicate that over half of each parcel is to be annexed. Pursuant to the State Subdivision Map Act Section 66457(b), in a situation where a subdivision lies partially within the territory of two or more jurisdictions, the map shall be filed with each jurisdiction. Therefore, it appears that the County is a responsible agency for this project. As such, the County must be given the opportunity to review the DEIR from the standpoint of a responsible agency.

It should be noted that County zoning for the area is Agriculture Exclusive with a 40-acre minimum lot size (AE-40). It appears that should these parcels be subdivided along the specific plan boundaries (see Figure 2-4), the parcels remaining in the County's jurisdiction may be below the 40-acre minimum lot size. This has been a concern of the County in the past. We encourage you to consult with the County regarding this matter.

Please do not hesitate to contact me should you have any questions.

Sincerely,



Kai Luoma, AICP  
Senior Analyst

Cc: Supervisor Kathy Long, District 3  
Supervisor Linda Parks, District 2  
Kim Rodriguez, County of Ventura Resource Management Agency

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**LETTER U.1    GOLD COAST TRANSIT**

**Commentor:** Gold Coast Transit, Helene Buchman (08-20-08)

**Responses**

Note that these comments focus principally on design features of the two specific plans, rather than the EIR analysis. Nonetheless, the City offers the following responses.

1. **Transit Service to the Study Area:** The City of Oxnard encourages and supports expanded Gold Coast Transit service within and adjacent to the Study Area. Providing the residents of the proposed projects access to bus transit is considered a high priority of the City.
  
2. **SouthShore Layout:** Note that these comments focus on the project layout, and not specifically the EIR analysis. The proposed lake is intended, in part, to buffer the residential areas of the project from roadway traffic noise and potential safety hazards along Hueneme Road. Furthermore, Hueneme Road is a designated scenic corridor, so the landscape treatment described in the specific plan is intended to provide aesthetic and open space benefits consistent with that designation. The proposed community park is bounded on the north by a transmission corridor, not a roadway, so it would not inhibit pedestrian access to potential transit services. Also, the proposed SouthShore project provides internal connected pathways and streets, multiple internal access points through its grid-based street pattern, and sidewalks that would promote future alternative transportation modes. Finally, the traffic calming features of the SouthShore plan, including the roundabout, are intended to enhance community safety. Consistent with the discussion under Impact Trans-5 in the RDEIR, the project developers will work with Gold Coast Transit throughout the engineering and buildout of the specific plan, and the specific design of the public transportation system will be determined based on the service providers' routes and technical requirements. The City and the project applicants are willing to discuss the details of these design features with Gold Coast Transit as the project progresses.
  
3. **South Ormond Beach Layout:** The City appreciates Gold Coast Transit's recommendations concerning pedestrian access across the Hueneme Road greenbelt and looks forward to discussing the details of such design features as the project progresses.
  
4. **Transit Service to the Study Area/Wayfinding Signage:** The City of Oxnard encourages and supports expanded Gold Coast Transit service within and adjacent to the Study Area. The proposed Projects would be required to comply with the City Code and public safety provisions relative to internal and external signage location and design. These existing regulations would ensure that internal sign configurations would provide adequate direction for residents and guests.

5. **Circulator System:** The City and applicants are open to adaptation of project layout to accommodate circulator system and look forward to further discussion of such details with Gold Coast Transit.
6. **Street Layout:** The traffic calming features of the SouthShore plan, including the roundabout, are intended to enhance community safety. The City and the project applicants are willing to discuss the details of these design features with Gold Coast Transit as the project progresses.
7. **Non-Vehicular Mobility:** Both projects call for internal pathway systems that will enhance pedestrian and bicycle mobility. City standards call for the landscaping design along road corridors, which includes bus stop locations, to provide safe visibility for vehicles.
8. **Transportation Demand Management (TDM) Program:** The community facilities district that will be established per the Development Agreements for the projects will support the development and implementation of a TDM program.

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August 20, 2008

Kathleen Mallory, Project Planner  
 City of Oxnard Planning Division  
 214 S. C Street  
 Oxnard, CA 93030

RE: Recirculated DEIR for North and South Ormond Beach No. 05-03

Dear Kathleen:

Thank you for the opportunity to comment on the recirculated DEIR for the North (South Shore) and South Ormond Beach Specific Plans. It is recognized that the area covered by both of these proposed specific plans is currently outside of the City of Oxnard, although within the City's sphere of influence. It is further recognized that the proposed developments will be incorporated into the City of Oxnard.

**Comments RE: Specific Plans and Public Transit**

GCT Route 7 currently serves the northern perimeter of the South Shore Specific Plan area, with roughly 40-minute headways providing links to other routes within the GCT service area. At the current time, there is no Gold Coast Transit route along Hueneme Road east of Perkins Road in the vicinity of the proposed developments. While there is no route proposed for the near-term future, if sufficient demand developed in the area, we would consider addressing this demand within the budget for all potential new or expanded transit services.

**South Shore** – We applaud the attention to making the various land uses within the project as pedestrian-friendly and attractive to bicycle riders as possible, and we support all efforts to promote shared rides and non-vehicular mobility. However, the layout of the proposed South Shore project is not conducive to providing scheduled fixed route transit near, into or through the site. The project itself is separated from Hueneme Road by the water feature and from the neighborhoods to the north by a proposed large landscaped community park. While there will be entryways into the site from the north at an extended Rose Avenue and from the south at South Shore Boulevard and Arnold Road, the distance potential bus riders would have to walk to access any developed portions of the site would be a deterrent to using transit along Hueneme Road.

In commercial and retail areas, arcades, front-facing storefronts and short setbacks provide inviting environments for pedestrians, as do well-tended landscapes and streetscapes. We support the maximization of greenscape and the presence of pleasant walk links on local streets.

As the human scale of the built environment is made a priority, there are many ways to de-emphasize vehicular mobility. For transit to be practical in a primarily residential/mixed use setting, streets should be in a grid, with neighborhood blocks

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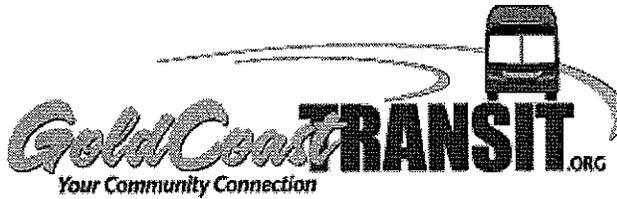
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intersecting through streets, making walk distances as short as possible. Where this is not possible, short pedestrian paths between sites can break up an otherwise perceptibly long block.

In addition, the walk links from major roads such as Hueneme Road need to be perceived as short and convenient. Given the water and landscape features along the north and south perimeters of this development, this would not apply. As a result, it is highly doubtful significant numbers of residents, employees or students will use a bus along Hueneme Road. The existence of a well-planned, safe and landscaped bicycle system may provide some advantages.

While various traffic calming strategies can effectively slow traffic, there are negative impacts on larger vehicles such as transit buses. On-street parking on collector and local streets serves to narrow the perceived driving lane, but it also slows buses and vans. Moreover, in local residential areas, the predominance of driveways may yield more potential hazards as cars back out and children dart out into the street.

Roundabouts are not easily negotiated by larger vehicles such as buses and vans. While the intention is to slow traffic in residential and local commercial areas, roundabouts may not be appropriate for those streets on which transit vehicles might operate. If carefully designed, chokers at intersections can provide safe areas where buses can dwell while boarding and deboarding passengers and then move back into traffic lanes. For internal streets, we believe that narrower grids with parking on both sides may be more conducive to a variety of vehicular types, while at the same time minimizing speeds.

**South Ormond Beach** – As with the South Shore Specific Plan, we heartily support the emphasis given to pedestrian and bicycle links. This predominantly industrial/business park site has linear blocks, with sidewalks and bicycle facilities. Additionally, there are shared bike/pedestrian trails and walkways that bifurcate the blocks.

The business park uses and those that tend to have more employees, are oriented to Hueneme Road. Ideally, the buildings should open onto the street and be accessible on foot and bicycle. If the buildings are not facing the street, there should be a clearly signed and visible path to the front door.

There is a greenbelt area shown along Hueneme Road that appears to buffer the buildings from the street. Exhibit 4.11 of the 2<sup>nd</sup> Draft DEIR shows the locations of a joint linear pedestrian and bicycle trail on Hueneme Road. It is highly recommended that the landscaping buffer allow for pedestrian mobility between the street and each site, and that wayfinding and signage be made a priority. Visibility to and from the street through landscaping is also important, as it enhances the perception of "eyes-on" passive security. Loading areas off of the street should be separated from pedestrian and bicycle movements.

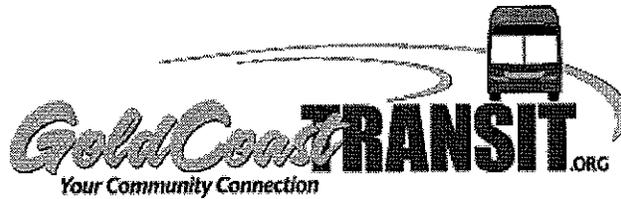
**Both Specific Plan Areas** - There is no Gold Coast Transit route along Hueneme Road east of Perkins Road in the vicinity of the proposed developments, nor is there any route proposed for the near-term future as there are no defined land uses to support bus

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service. However, if demand for transit developed in the area, we would consider addressing it within the budget for all potential new or expanded transit services.

Developers can play a vital role in creating this demand by making it safe, secure and comfortable to navigate around and between buildings. Additionally, by including on-site and convenient locally-serving retail, restaurant and commercial uses, potential transit riders will be less likely to need a personal vehicle at their disposal.

Local circulators that navigate through narrower streets and can make flexible turns will be more acceptable to those who live in the development. Moreover, such localized options can be quickly modified to meet changing demand as new neighborhoods and land uses are occupied. Final plans for these areas should include a commitment to design localized transit into the sites and to work with Gold Coast Transit to connect with existing and future bus routes.

It is important to note, however, that roundabouts are not easily negotiated by larger vehicles such as buses and vans. While the intention is to slow traffic in residential and local commercial areas, roundabouts may not be appropriate for those streets on which transit vehicles might operate. We believe that narrower grid streets with parking on both sides may be more conducive to a variety of vehicular types, while at the same time minimizing speeds.

Pedestrian mobility is important to using public transit, and the walk link should be as comfortable and safe as possible. We would suggest that all landscaping around bus stops be open and allow for a clear view for people approaching the stop as well as the line of vision of the bus operator. There should be a clear path directly to all bus stops so that pedestrians do not have to walk far to access them. Wayfinding and signage should tie into the overall identity of the development, with thematic elements designed into bus stop signage and amenities.

Bicycle facilities should connect bus stops and transfer sites in order to facilitate bicycle-to-bus interface. Bicycle parking and storage should be prevalent and visible, and such sites should be open to insure "eyes-on" security.

A well-defined TDM program should be in place prior to the first occupancy in both Specific Plans. A transportation management association (TMA) should be inclusive of all developments on site, and it should have a defined location with hours convenient to residents as well as visitors. TMA members would assist in developing shuttle/circulator routes, marketing transportation programs, selling or distributing fares, providing information and maintaining links to local and regional transit and ridesharing programs. The TMA's overall mission and operation should be articulated in the Specific Plan.

Benchmarks and milestones should be established for the transit and TDM programs so that it can be easily monitored and evaluated by participants, the City of Oxnard, and included transit service providers.

We will gladly answer questions or provide additional information regarding Coast Transit service or these suggestions. Please don't hesitate to contact me at 483-3959 ext. 138.

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Thank you very much for soliciting our input.

Helene Buchman  
Planner

cc: Steve Brown, Director of Planning and Marketing  
Chuck McQuary, Transit Planner

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**LETTER U.2 METROPOLITAN WATER DISTRICT**

**Commentor:** Metropolitan Water District of Southern California (MWD), Delaine W. Shane (09-17-08)

**Response**

1. **Annexation to MWD:** As the commentor notes, the project will include annexation to Metropolitan Water District of Southern California and the Calleguas Municipal Water District an MWD member agency.
2. **MWD Property/Desalination Facility:** The desalination plant is proposed to be developed on 20 acres to the west of the 220 acres of the Southern Subarea that will remain in agricultural use. The City anticipates working closely with MWD as it develops its plan for this long-term water supply project.

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**MWD**  
METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA

Executive Office

September 17, 2008

Via E-mail and Regular Mail

Ms. Kathleen Mallory  
City of Oxnard  
Planning Division  
214 South C Street  
Oxnard, California 93030

Dear Ms. Mallory:

Recirculated Draft Environmental Impact Report for the North and South Ormond Beach

The Metropolitan Water District of Southern California (Metropolitan) received a copy of the Recirculated Draft Environmental Impact Report (Draft EIR) for the North and South Ormond Beach (Project). The city of Oxnard is acting as the Lead Agency under the California Environmental Quality Act (CEQA) for this project. The Project consists of adopting and amending the city's Specific Plan, General Plan, and Zoning and Development Agreements to construct residential dwelling units, schools, community parks and lake with trails, mixed-use commercial marketplace, a business park, and light industrial facilities. The proposed project would be located in the city of Oxnard, within Los Angeles County. This letter contains Metropolitan's response to the Draft EIR as a potentially affected public agency.

Metropolitan previously provided comments for the Notice of Preparation for the Draft EIR. We reviewed the environmental document and acknowledgement to our comment letter dated October 12, 2005, in this Recirculated Draft EIR. Our letter identified that a portion of the proposed Project area would require annexation and water standby charges prior to establishing water service. We encourage the city to work with Metropolitan and Calleguas Municipal Water District, which is a Metropolitan member agency, on annexation procedures by contacting Ethel Young at (213) 217-7677.

In addition, Metropolitan has fee-owned property adjacent to the proposed Project site. Metropolitan has plans to construct the Ormond Beach Desalination Facility located at Edison Road and McWane Boulevard, in the near future. The city should consider Metropolitan's desalination facility and daily operations and maintenance activities relative to the proposed Project in the Final EIR.

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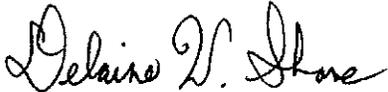
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Ms. Kathleen Mallory  
Page 2  
September 17, 2008

We appreciate the opportunity to provide input to your planning process and we look forward to receiving future environmental documentation and the Final EIR on this Project. If we can be of further assistance, please contact Ms. Brenda S. Marines at (213) 217-7902.

Very truly yours,



Delaine W. Shane  
Manager, Environmental Planning Team

BSM/bsm  
(Public Folders/EPU/Letters/15-AUG-08A.doc- Kathleen Mallory, Ormond Beach Project)

Enclosures: Comment Letter dated October 12, 2005  
Map

**LETTER U.3 OCEAN VIEW SCHOOL DISTRICT**

**Commentor:** Ocean View School District (OVSD), Nancy Carroll (08-21-08)

**Response**

1. **School Mitigation:** As the RDEIR states, for the purposes of the CEQA analysis, payment of required new development fees pursuant to Government Code Section 65995 would reduce potential school impacts to a level considered less than significant. The data used in the RDEIR, as provided by OVSD, was current as of the date the analysis was drafted. Those numbers have been updated in the FEIR to reflect the latest enrollment and student generation rates provided by OVSD.
2. **High Pressure Gas Line:** The proposal to develop the liquefied natural gas (LNG) line to which the commentor refers was withdrawn in early 2007.

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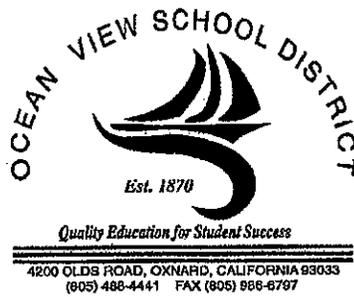
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Superintendent

CRAIG W. HELMSTEDTER, Ed.D.  
Associate Superintendent

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Assistant Superintendent – Business  
Services

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Assistant Superintendent-Curriculum,  
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August 21, 2008

"The Ocean View School District takes this opportunity to reiterate its objections to the EIR prepared on behalf of the City. In July 2007, the District provided comments to the draft EIR and again we provide comments to the recirculated EIR. Once again, the City has failed to comply with the legal requirements of CEQA. We believe that the recirculated EIR contains a number of the same inaccuracies as did the 2007 EIR. Specifically, the recirculated EIR continues to use data as to the District's student generation rates that is outdated and has been superseded. The current data is provided to the City so there is no excuse for this oversight. The recirculated EIR does not address the impacts of the various alternatives on the District nor does it analyze the impact of the proposed commercial/industrial development on the District. Finally, the recirculated EIR does not address the impact of the high pressure gas transmission line that runs along the westerly edge of the project area and the impact that may have on the proposed siting of the elementary school."

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Respectfully submitted by,

*Nancy J. Carroll*  
Nancy J. Carroll, Ph.D.  
Superintendent

Ocean View School District

**LETTER U.4 OCEAN VIEW SCHOOL DISTRICT**

**Commentor:** Ocean View School District (OVSD), Janet Mueller, Miller Brown Dannis, (09-18-08)

**Response**

1. **Inaccurate Facts:** The City disagrees with the commentor's assertion that the RDEIR's analysis is factually inaccurate and no specific inaccuracies are cited by the commentor. The RDEIR's evaluation of school impacts is consistent with both the CEQA statutes and guidelines and case law concerning the analysis of the environmental impacts as they relate to schools. As a condition of development, each project would be required to pay the applicable required State-mandated school impact fees under the provisions of SB 50. Pursuant to Section 65995 (3) (h), of the California Government Code, the payment of statutory fees "... is deemed to be full and complete mitigation of the impacts of any legislative or adjudicative act, or both, involving, but not limited to, the planning, use, or development of real property, or any change in governmental organization or reorganization." Therefore, with payment of school impact fees, potential impacts to schools resulting from the proposed projects would be less than significant.
2. **Student Generation Rates/Construction Costs:** The FEIR includes recalculated generation rates and enrollment and capacity information reflecting information on OVSD's February 2009 School Facilities Needs Analysis. This updated information does not, however, affect the overall analysis or the conclusion of the RDEIR.
3. **Impacts of Commercial/Industrial Development:** The commentor suggests that the RDEIR include estimates of enrollment increases that could result from the non-residential development in the Study Area. There is no commonly accepted methodology for preparing such estimates, the commentor does not provide one, and it is common practice to base enrollment projections on housing numbers since employees travel to work and may live outside of the OVSD service boundary. OVSD's own facility analysis and needs assessment projections is based upon residential dwelling units and does not utilize commercial and industrial development projections for school pupil generation. The RDEIR nonetheless acknowledges the responsibility of the project applicants to pay statutory development fees that will provide mitigation for the potential impacts of their projects, for both residential and commercial/industrial development.
4. **Impacts of Project Alternative 1:** The commentor asserts that there is a high likelihood that Alternative 1 will be implemented and that the RDEIR should, thus, include a more extensive analysis of that alternative. Section 15126.6 of the CEQA Guidelines provides the following guidance on the evaluation of alternatives:

(d) Evaluation of alternatives. The EIR shall include sufficient information about each alternative to allow meaningful evaluation, analysis, and comparison with the proposed project. A matrix displaying the major characteristics and significant environmental effects of each alternative may be used to summarize the comparison. If an alternative would cause one or more significant effects in addition to those that would be caused by the project as proposed, the significant effects of the alternative shall be discussed, but in less detail than the significant effects of the project as proposed.

The RDEIR complies with this requirement by focusing primarily on the impacts of the project, which includes the high school site, and not on Alternative 1, which does not provide for a high school. The level of analysis contained in the FEIR is suitable to address the requirements of CEQA. Since state law allows for the payment of school impact fees to constitute full mitigation, the mitigation measures would be the same if Alternative 1 was selected as the preferred project.

5. **Mitigation Agreement:** The commentor notes that negotiations between OVSD and the developer had been halted and that the RDEIR should not assume that such negotiations will result in a manner that will mitigate the impacts of the project. The RDEIR's conclusions are not based on the outcomes of OVSD's negotiations with the development; they are based on the payment of required new development fees pursuant to Government Code Section 65995 and an analysis of student generation, given project construction phasing and the development of school facilities through the utilization of the impact fees. The payment of such fees would ensure that adequate facilities and related services are provided for the students potentially generated by the project which would reduce potential school impacts to a less than significant level.
6. **School Site/Location:** As the SouthShore Specific Plan notes, "The precise size and boundaries of the SouthShore Elementary School may vary depending upon the Ocean View School District's facilities and financing program." Thus, the final amount of land will be determined through OVSD's negotiations with the applicant.
7. **Siting of School in Northern Subarea:** The RDEIR addresses the potential environmental effects of development pursuant to the SouthShore Specific Plan, including the two schools that are reflected in the Plan. The analysis is based on reasonable assumptions concerning the location and size of the schools. As the commentor notes, the Specific Plan accounts for the possibility that the site may need to be modified in response to the OVSD's programming needs. In preparing the SouthShore Specific Plan, the applicants considered restrictions associated with existing overhead electrical transmission corridors and below ground gas pipelines. The RDEIR's conclusions recognize that Plan's siting of schools is in compliance

with State requirements concerning appropriate setbacks and the proximity of school facilities to electrical transmission lines and assumes that the proposed project will need to comply with any restrictions or requirements established by State Law.

8. **High Voltage Transmission Lines:** The code citation provided by the commentor refers to the following provision:

*c. The property line of the site even if it is a joint use agreement as described in subsection (o) of this section shall be at least the following distance from the edge of respective power line easements:*

1. *100 feet for 50-133 kV line.*
2. *150 feet for 220-230 kV line.*
3. *350 feet for 500-550 kV line.*

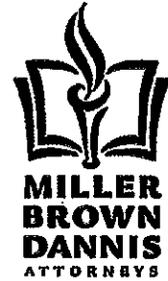
The transmission line that runs along the west side of the site is 220kV (kilovolt) overhead transmission line that is located approximately 250 feet from the edge of the proposed high school site and approximately 600 feet from the edge of the proposed elementary school site. Therefore, both of these setbacks exceed those required by the California Department of Education. Note also that Section 3.5 of the EIR (Hazards and Hazardous Materials) includes a discussion of potential impacts associated with electrical transmission line-related electromagnetic fields. That analysis concludes that the impacts are less than significant due to the planned large setbacks of the schools away from electrical transmission lines.

9. **High Pressure Gas Line:** As the commentor notes, State law provides that school sites “shall not be located ... within 1500 feet of the easement of an above ground or underground pipeline that can pose a safety hazard.” As the SouthShore Specific Plan specifies, the gas line to which the commentor refers is more than 1,500 feet from the proposed school sites.
10. **Roundabout/School Bus:** The commentor’s comment that a school bus would be unable to negotiate the roundabout is inaccurate. The dimensions of the roundabout as proposed would accommodate the turning needs of a standard school bus and would be conditioned to meet the dimensions required by the school district.
11. **Impact Conclusion:** The commentor states that the impact analysis conclusions are not supported by the facts or the law. The City disagrees. The commentor further states that “the District does not dispute that SB 50’s school impact constitute full and complete mitigation of impacts.” The City appreciates this acknowledgment and looks forward to facilitating a positive discussion between OVSD and the project applicants to ensure that school facility and services needs are fully addressed. (Also, see response to comment number 1, above.)

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JANET L. MUELLER  
ATTORNEY AT LAW  
jmueller@mbdlaw.com

SAN DIEGO



September 18, 2008

**VIA OVERNIGHT DELIVERY**

Kathleen Mallory  
Project Planner, Planning Division  
City of Oxnard  
214 South C Street  
Oxnard, CA 93030

Re: Recirculated Draft Environmental Impact Report –  
North and South Ormond Beach  
(State Clearinghouse Number 2005091094);  
Our file 5405.10105

Dear Ms. Mallory:

Our firm represents the Ocean View School District (“District”) with regard to its review and assessment of the City of Oxnard’s (“City”) Recirculated Draft Environmental Impact Report (“DEIR”) for the proposed adoption of the SouthShore Specific Plan and the South Ormond Beach Specific Plan (“Project”). The DEIR is comprised of the two proposed Specific Plans cited above. References within the DEIR, and therefore in this letter, are to Northern Subarea, which is SouthShore Specific Plan and to the Southern Subarea, which is the South Ormond Beach Specific Plan. The DEIR also refers to both Subareas as the “Study Area.”

In July, 2007, we provided written comments to the City with respect to the original EIR for this Project. At the time, we raised significant and serious legal issues regarding the Project’s impact on the District’s facilities and its deficiencies as an informational document to the public, in accordance with the California Environmental Quality Act (Pub. Resources Code, § 21000 *et seq.*, hereinafter “CEQA”) and its interpreting regulations (Cal.Code Regs., tit. 14, § 15000, hereinafter “Guidelines.”). Yet upon review of the new DEIR, it is clear that the City has not taken appropriate action to address these serious problems. The impact of the Project has grown only more severe with the passage of time. While we have enclosed our prior communications with the City on this subject (See Letter from Ocean View School District dated October 4, 2005 and Letter from Miller Brown & Dannis dated July 19, 2007 (enclosures not attached)), we have little choice but to reiterate the vast majority of the comments in connection with the Recirculated DEIR.

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Kathleen Mallory  
City of Oxnard  
September 18, 2008  
Page 2

The District has previously communicated to the City that it believes that the SouthShore Specific Plan does not provide adequate disclosure of its impacts on the District's facilities and that the proposed mitigation measures do not support a conclusion that project impacts are reduced to an insignificant or less than significant level.

The District contends that the DEIR is legally insufficient for the following reasons:

1. The DEIR fails to accurately disclose, analyze or consider the true impacts of the Project on the District's facilities. Therefore, the environmental analysis is legally inadequate and insufficient as an informative document to the public.
2. Based on erroneous facts and an inaccurate understanding of applicable legal requirements, the City has concluded that the payment of the statutory development fees or execution of a mitigation agreement between the District and one of the Project applicants will reduce the impacts to a "less than significant" level. The conclusion is unsupported by evidence included in the DEIR.

**LEGAL ANALYSIS**

The California Supreme Court has held that CEQA "is to be interpreted . . . to afford the fullest possible protection to the environment" and in numerous cases, the California courts have stated that informed decision making and public participation are fundamental purposes of CEQA. (*Friends of Mammoth v. Board of Supervisors* (1972) 8 Cal.3d 247, 259; *Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553, 564.) The City's treatment of Project impacts on school facilities is at odds with the basic purposes of CEQA and fails to disclose key information to the public about the true impacts of the Project.

A. The DEIR Fails to Accurately Disclose, Analyze or Consider the Impacts of the Project on District Facilities.

I. The DEIR Incorporates Inaccurate Facts Which Must be Corrected.

The DEIR concludes without analysis that the proposed payment of statutory development fees and/or the execution of a mitigation agreement with a Project applicant will reduce the Project's impacts on District facilities to "less than significant." However, the facts as stated are inaccurate and do not support this conclusion.

(a) Student Generation Rates/Construction Costs.

The DEIR utilizes outdated information for both its calculation of student generation rates as well as existing capacity, relying on a 2006-07 School Facility Needs Analysis for its calculation of student generation rates and relying on 2005-2006 information from CDE with regard to school capacity. Taken in combination, the impact of the Project is significantly understated and thus inaccurate. The accurate data for student

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Kathleen Mallory  
City of Oxnard  
September 18, 2008  
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generation rates and construction costs are all contained in the District's 2008 School Facilities Needs Analysis ("2008 SFNA"), adopted in March 2008 and made available to the City in February 2008. Another copy of the District's 2008 SFNA is enclosed for the City's reference.

Based on the data contained in the 2008 SFNA, Grade K-6 student generation from the Project will be 507 students, and Grade 7-8 student generation will be 310 students, for a total anticipated student generation of 817 students, compared to the City's estimate of 569 students. The DEIR further claims that the District has existing capacity to house 332 students. The data on which the capacity figures are based is now three (3) years old. The 2008 SFNA verifies that school capacity is currently 284 students, a difference of 48 students. This difference represents two (2) classrooms for an elementary school. All told, based on current data, the District estimates that 533 unhoused students will be generated by the Project.

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In addition, there is no consideration or incorporation of construction cost data in the DEIR; thus there is no analytical link between the number of potentially unhoused students, the cost to house such students, and the sufficiency of the funds available to meet those construction costs. Thus, the analysis is incomplete and inadequate and completely fails to make clear that the statutory fees to be paid will comprise only a small portion of that needed to mitigate the true impact of the development.

(b) Impacts of Commercial/Industrial Development.

In the discussion of the Southern Subarea, the DEIR fails to account for the possibility of student enrollment due to parental employment in the nearly 4,400,000 square feet of commercial/industrial development. The DEIR also fails to analyze the impact of approximately 42 acres of commercial/industrial development within the Northern Subarea.

The DEIR makes the conclusory statement:

"The developer of the Southern Subarea component will also be required to pay the statutory developer fees for commercial/ industrial development. Payment of the developer fees will reduce the impact of the Southern Subarea on school facilities to less than significant." (DEIR at p. 3.9-22 – 3.9-23.)

(3)

This statement fails to take into account the data presented in the District's 2008 Commercial/Industrial Development School Fee ("Fee Justification Study"), which indicates that about 1/2% (approximately 29 students) of current student enrollment is a result of parental employment within the District. The DEIR fails to discuss the potential for enrollment increases due to the construction of 4,400,000 square feet of commercial/industrial projects. Updated data must be included for an accurate characterization of the impacts of the Project.

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Kathleen Mallory  
City of Oxnard  
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Page 4

2. The DEIR Fails to Consider the Impacts of Project Alternative No. 1 on District Facilities.

The DEIR also fails to analyze the potential impact on District facilities due to the additional housing contained in Alternative 1 (No high school constructed within Northern Subarea). The SouthShore Specific Plan proposes a high school campus of approximately 56 acres to be constructed. If the high school is not built, construction of 262 additional single family and multi family dwelling units is proposed. **There is no evaluation or analysis of the impact of the additional dwelling units on the District's facilities.** This alone increases the District's potential enrollment by an additional 120 students (for a total Project impact of 937 students), based on the District's 2008 student generation rates.<sup>1</sup> The likelihood of Alternative No. 1 occurring is significant, given the position of the Oxnard Union High School District as described in its letter dated September 19, 2005 and that the project applicant has now requested this as an alternative (see Section 4.5.2 Alternative 1 in which Property Owner requests that the high school be located east of Olds Road).

(4)

3. The DEIR References a Mitigation Agreement between the District and a Project Applicant that is incomplete and will not, even if executed, mitigate project impacts to a less than significant level.

The DEIR at 3.9-22 states that the District and the applicant for the Northern Subarea are working cooperatively on a mitigation agreement to facilitate land acquisition, site improvements and construction of a new school. Discussions between the District and the applicant have halted for over 18 months. There are significant impediments to reaching agreement at this time, and the DEIR should not assume that mitigation agreement negotiations will be concluded, or will be concluded in a manner that will mitigate the actual impact of the Project to a less than significant level. Ongoing concerns about the proposal for the siting of a new elementary school include the following:

(5)

- a. School Site/ Location. The SouthShore Specific Plan indicates that the Project applicant plans for an 9.6 gross acre elementary school site (8.1 net acres) (see Specific Plan page 2-10.) Allowance of anything less than 10 net acres will result in a school campus that is an inadequate size. There would be insufficient play area for the students, and the District would be less able to accommodate future growth with a campus of such a limited size. Further, due to the errors in the calculation of projected enrollment, the proposed site of net 8.1 acres will likely be inadequate almost immediately. In addition, although the District is willing to discuss a proposed joint use with the City, there are a number of planning, development, and usage issues unresolved. To date, there

(6)

<sup>1</sup> The student generation rates (SGR) in the 2008 SFNA are broken into three (3) dwelling unit types: single family detached, single family attached, and multifamily attached. Using the SGR for single family detached and multifamily attached, the impact of Alternative 1 is an increase in 937 students. Further analysis is required in the DEIR to determine whether the multifamily units proposed may be single family attached units and thus subject to a different SGR.

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has been no discussion between the District and the City as to the proposed joint use park.

b. Siting of School in Northern Subarea: The DEIR fails to analyze the impact on the District of the proposed placement of the school site within the Northern Subarea. The Specific Plan indicates that the proposed school site may be modified or amended due to a potential change in the size of the building needed. The limitations upon the placement of a school building are significant. The State of California places numerous restrictions and requirements for the location of a school campus. (Educ. Code section 17210 *et seq.*; Cal. Code Regs., tit. 5, § 14010 *et seq.*) Here there has been a failure to identify any of the restrictions upon the location of the proposed school site. Should any one of the numerous factors prove to be insurmountable the District will face growing enrollment with inadequate facilities. Some of the factors that impact the siting of a school building within the Project and that merit discussion are the location of the overhead power lines and the location of existing gas pipelines.

c. Other Unaddressed Factors. The DEIR, in Section 3.9.1.7.1 ("Electrical Service") notes that Southern California Edison power lines run along its transmission corridor, but there is no discussion or evaluation as to the impact of this on the siting of an elementary school. (See page 3.9-14.) CDE has established the limits for locating any part of a school site property line near the edge of easements for high-voltage power transmission lines. (Cal. Code Regs., tit. 5, §14010(c).)

The DEIR also identifies high pressure gas transmission lines that run along the westerly side of the Study Area. (See Section 3.9.1.7.2, page 3.9-14.) There is no evaluation or analysis of the impact of this line on the proposed elementary school location, and its exact proximity to the proposed school site is unknown. Regulations require that the placement of a school building exceed 1,500 feet from a high pressure gas transmission line. (Cal. Code Regs., tit. 5, §14010(h).) Further study of this issue will be critical in order to determine whether an elementary school site may be built at the identified location.

Furthermore, there is no evidence that street design plans will incorporate standards necessary to accommodate school bus access to a future campus. School buses are not able to safely negotiate "roundabout" traffic control mechanisms.

B. City's Conclusion that the Impacts of the Project on District Facilities Are Less than Significant is Not Supported by the Facts or the Law.

The DEIR references Senate Bill 50 ("SB 50") to support its conclusion that the payment of statutory developer fees or execution of a mitigation agreement will render

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Kathleen Mallory  
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the impacts of the Project "less than significant." This is an inaccurate application of the law to the Project and thus the DEIR's conclusion is completely without a legal or factual basis.

SB 50 was enacted in 1998 to provide for a new state school facilities funding program and to create a scheme for school districts to charge in excess of statutory school impact fees when a school district can demonstrate that it meets the prerequisites for doing so. The trade-off for the new "Level 2/Level 3" fee scheme was (a) a legislative declaration that school impact fees were deemed to be complete mitigation of the impact of development for purposes of CEQA; and (b) the imposition of a prohibition on public agencies from requiring the payment of other exactions on developers as a condition of project approval.

Government Code section 65995(h) provides as follows:

The payment or satisfaction of a fee, charge, or other requirement levied or imposed pursuant to Section 17620 of the Education Code in the amount specified in Section 65995 and, if applicable, any amounts specified in Section 65995.5 or 65995.7 are hereby deemed to be full and complete mitigation of the impacts of any legislative or adjudicative act, or both, involving, but not limited to, the planning, use, or development of real property, or any change in governmental organization or reorganization as defined in Section 56021 or 56073, on the provision of adequate school facilities. (Gov. Code, § 65995(h).)

Under Government Code section 65997, the exclusive methods for mitigating the environmental impacts of projects on school districts are set forth, and the statute prohibits public agencies from conditioning project approvals on payment of mitigation in excess of school impact fees.

It is true that the Legislature, in enacting the components of SB 50, has concluded that the payment of school impact fees is deemed full and complete mitigation of environmental impacts of development projects. **However, this does not mean that under CEQA those impacts are, or become, less than significant as a result, as the City's DEIR concludes.** In fact, developer fees are rarely sufficient to offset the cost of housing new students generated from residential development, even where "Level 2" fees are imposed under Government Code section 65995.5. The District pointed out in its October 2005 letter that it was able to impose developer fees of \$ 3.33 per square foot, but that its cost per square foot was determined to be \$8.08. The District's 2008 SFNA updates that information and indicates that the District is able to charge \$3.14 per square foot of residential construction but the cost impact per residential square foot is now \$11.88. Clearly, the payment of statutory fees does not even come close to offsetting or even significantly reducing the impact of the development.

Furthermore, although SB 50 provides a scheme under which school districts may collect up to one-half of the funds needed to construct and modernize school facilities to

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Kathleen Mallory  
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keep pace with development, the continued effectiveness of SB 50 is tied to the successful and continued passage of California state school facility bond measures (Gov. Code, § 65997.) SB 50 also contemplates the possibility that state bond funds will be exhausted at some point, and it allows school districts to increase the amount of fees collected to meet 100% of the need (also known as "Level 3 Fees"). The DEIR contemplates neither of these eventualities. As evidenced by the discrepancy indicated above, even if the District were able to impose the higher fees, *i.e.* roughly double the Level 2 fees, it is still woefully inadequate as a mitigation measure for construction of the new facilities that the District would require as a result of the Project.

(11)

As discussed in the October 4, 2005 letter, the District does not dispute that SB 50's school impact fees constitute full and complete mitigation of impacts. As a result, the City may not deny project approval due to inadequate school facilities; however, the City as the lead agency may not forego an accurate disclosure of school impacts or an accurate characterization of those impacts even where additional mitigation measures are not legally required.

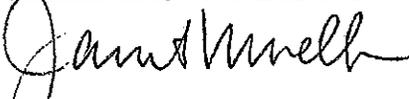
**SUMMARY**

The District believes that this DEIR has incorporated outdated and incorrect information in its consideration of the impact of the Project on school facilities, and has failed to substantiate its conclusion that the impact of the Project on school facilities is less than significant if developer fees are paid or a mitigation agreement is entered. The impact of the Project is severe and creates serious unmitigated impacts on the District, even with the payment of developer fees and the potential mitigation agreement. Without substantial revision, it is our position that the City may not certify the final EIR.

If you have any questions, please do not hesitate to contact me.

Very truly yours,

MILLER BROWN & DANNIS



Janet L. Mueller

JLM:jk  
Enclosures

Ocean View School District October 4, 2005 letter  
Janet L. Mueller, Miller Brown & Dannis July 19, 2007 letter  
School Facilities Needs Analysis dated February 2008  
Fee Justification Study dated February 2008

cc: Nancy Carroll, Ocean View School District (w/out enclosures)

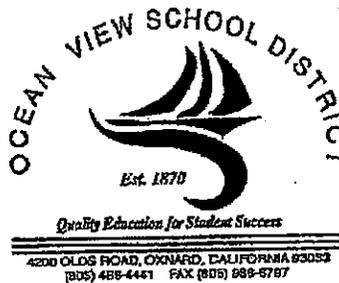
ADMINISTRATION

NANCY J. CARROLL, Ph.D.  
Superintendent

CRAIG W. HELMSTEDTER, Ed.D.  
Associate Superintendent

CYNTHIA HANSEN  
Director of Fiscal Services

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**RECEIVED**

OCT 10 2005

PLANNING DIVISION  
CITY OF OXNARD

October 4, 2005

Ms. Kathleen Mallory, AICP  
Project Planner  
City of Oxnard  
305 West Third Street  
Oxnard, CA, 93030

**Regarding: Response to Notice of Preparation of Environmental Impact Report**

Dear Ms. Mallory:

The Ocean View Union School District ("District") has received and reviewed the Notice of Preparation ("NOP") of an Environmental Impact Report ("EIR") from the City of Oxnard ("City") for the proposed Ormond Beach Specific Plan ("Plan"). This Plan would allow for the construction of up to 1,283 residential units (the "Project").

Unless properly addressed, the Project will have an adverse impact on the ability of the District to house students, and could produce significant negative impacts to the District and the City. While the most recent School Facilities Needs Analysis ("SFNA") adopted by the District in April 2005 shows the District has 169 excess seats, these are not sufficient to house students to be generated by the Project, as well as other residential developments planned in the area of the City served by the District. By continuing to place additional students on existing campuses, there would be increased noise, traffic, and pollution due to an increased number of students who are transported to school.

Further, the existing infrastructure of the current school sites of the District is insufficient to allow for further expansions. Without an additional school site, the District would not be able to provide housing for the students to be generated from the Project. It is, therefore, to the mutual benefit of the District and the City to work in a collaborative effort to ensure the provision of adequate school facilities necessary to meet the increases in student enrollment associated with the Plan.

To that end, the District has been meeting with the developer of the Project over the last several months to discuss potential means of mitigating impacts to be caused by the Project.

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During those discussions, the District and Developer have discussed the possibility of locating an elementary school site within the Project. The site identified by the developer is in the center of the Project, but may not be suitable due to its proximity to the proposed high-pressure liquefied natural gas pipeline. The District would request that the development agreement between the City and Developer make mandatory the provision of a school site in or near the Project that meets the applicable requirements of the California Department of Education, the Department of Toxic Substance Control, and the City in the event the proposed school site is not approvable by one or multiple departments/agencies having jurisdiction over such items.

Another element included in the SFNA is a calculation of student generation rates ("SGRs") for all land use types for the District. Because the NOP does not break down the projected number of units by unit type, for purposes of estimating the maximum impact of the Project, the District has utilized the SGRs of only single family detached units to estimate potential student enrollment. Based on that calculation, the District estimates the Project could potentially generate a total of 629 students in grades Kindergarten through 8. Table 1 shows the calculation of the estimated number of students in elementary school (grades kindergarten through 5) and junior high school (grades 6 through 8).

**TABLE 1**

**STUDENTS GENERATED BY THE PLAN**

School Grades	Projected Units	Student Generation Rates	Total Students Generated
Grades K-5	1,283	0.3340	429
Grades 6-8	1,283	0.1560	200

As you know, Senate Bill ("SB") 50 reformed the way school districts collect mitigation payments from developers. Under SB 50, school districts cannot use the California Environmental Quality Act ("CEQA") process to block the approval of new development by citing an unmitigated financial impact on school facilities. Instead, school districts are given the ability, if they meet certain requirements, to collect alternative school fees ("Alternative Fees").

While the Alternative Fees are above what a school district can collect in statutory school fees, the Alternative Fees are well below the actual amount needed to mitigate the impact residential development has on school facilities. The District currently levies Alternative Fees in the amount of \$3.33 per square foot. However, in the SFNA, DTA calculated the actual cost impact of a new residential unit on the District to be \$8.08 per square foot. Without additional funding from the Developer of the Project, the District would not be able to construct additional school facilities to provide housing to serve students to be generated from the Project.

Accordingly, the District has been meeting with the developer of the Project over the last several months to see if an arrangement may be reached to more fully mitigate the impacts of the Plan on the District.

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Such meetings are meant to ensure that the high quality of education provided by the District will remain intact and that the District may continue to provide the programs that the community has come to expect.

The District appreciates the assistance of the City with our efforts to provide adequate school facilities for all students within the area of the City served by the District. Should you have any questions regarding this process or about the findings of the District, please do not hesitate to contact me.

Sincerely,



Dr. Nancy Carroll  
Superintendent



U.4  
JANET L. MUELLER  
ATTORNEY AT LAW  
jmueller@mbdlaw.com

SAN DIEGO

July 19, 2007

**VIA E-MAIL & OVERNIGHT DELIVERY**

Kathleen Mallory, Project Planner  
Planning Division  
City of Oxnard  
305 W. Third Street  
Oxnard, CA 93030

Re: Draft Environmental Impact Report - North and South Ormond Beach  
(State Clearinghouse Number 2005091094)  
Our file 5405.1.0105

Dear Ms. Mallory:

Our firm represents the Ocean View School District ("District") with regard to its review and assessment of the City of Oxnard's ("City") Draft Environmental Impact Report ("DEIR") for the proposed adoption of the SouthShore Specific Plan and the South Ormond Beach Specific Plan ("Project"). The DEIR is comprised of the two proposed Specific Plans cited above. References within the DEIR, and therefore in this letter, are to Northern Subarea, which is SouthShore Specific Plan and to the Southern Subarea, which is the South Ormond Beach Specific Plan. The DEIR also refers to both Subareas as the "Study Area."

We provide these comments to the City on behalf of the District, which contends that the City has failed to comply with the legal requirements of the California Environmental Quality Act (Pub. Resources Code, § 21000 *et seq.*, hereinafter "CEQA") and its interpreting regulations (Cal. Code Regs., tit. 14, § 15000, hereinafter "Guidelines.") The District has previously communicated to the City that it believes that the SouthShore Specific Plan does not provide adequate disclosure of its impacts on the District's facilities and that the proposed mitigation measures do not support a conclusion that project impacts are reduced to an insignificant or less than significant level. Attached is a copy of the District's October 4, 2005 correspondence expressing concern regarding the Project's impact on the District's facilities. The District's letter is included in Appendix G, pages 12-14. We reiterate these objections.

**SAN FRANCISCO**

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750 B Street  
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Planning Division  
City of Oxnard  
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In addition, the District contends that the DEIR is legally insufficient for the following reasons:

1. The DEIR fails to accurately disclose, analyze or consider the true impacts of the Project on the District's facilities. Therefore, the environmental analysis is legally inadequate and insufficient as an informative document to the public.
2. Based on erroneous facts and an inaccurate understanding of applicable legal requirements, the City has concluded that the payment of the statutory development fees or execution of a mitigation agreement between the District and one of the Project applicants will reduce the impacts to a "less than significant" level. The conclusion is unsupported by evidence included in the DEIR.

#### LEGAL ANALYSIS

The California Supreme Court has held that CEQA "is to be interpreted . . . to afford the fullest possible protection to the environment" and in numerous cases, the California courts have stated that informed decision making and public participation are fundamental purposes of CEQA. (*Friends of Mammoth v. Board of Supervisors* (1972) 8 Cal.3d 247, 259; *Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553, 564.) The City's treatment of Project impacts on school facilities is at odds with the basic purposes of CEQA and fails to disclose key information to the public about the true impacts of the Project.

A. The DEIR Fails to Accurately Disclose, Analyze or Consider the Impacts of the Project on District Facilities.

1. The DEIR Incorporates Inaccurate Facts Which Must be Corrected.

The DEIR concludes without analysis that the proposed payment of statutory development fees and/or the execution of a mitigation agreement with a Project applicant will reduce the Project's impacts on District facilities to less than significant. However, the facts as stated are inaccurate and do not support this conclusion.

(a) Student Generation Rates/Construction Costs.

The DEIR utilizes information from CDE that claims to show that the District has existing capacity for 332 students. Accurate data is contained in the District's 2007 School Facilities Needs Analysis ("2007 SFNA") which calculates the capacity at 287 students, a difference of 45 students. This represents two (2) classrooms for an elementary school. The DEIR also uses the incorrect student generation rate from the

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2007 SFNA, which compounds the error above by understating the projected number of students that could be generated by the Project. Together, the potential enrollment increase is 74 students, which is an error in excess of 10% of student enrollment for an elementary school.

In addition, there is no consideration or incorporation of construction cost data in the DEIR; thus there is no analytical link between the number of potentially unhoused students, the cost to house such students, and the sufficiency of the funds available to meet those construction costs.

(b) Impacts of Commercial/Industrial Development.

In the discussion of the Southern Subarea, the DEIR fails to account for the possibility of student enrollment due to parental employment in the nearly 5,500,000 square feet of commercial/industrial development. The DEIR also fails to analyze the impact of approximately 42 acres of commercial/industrial development within the Northern Subarea.

The DEIR states:

“...because the Southern Subarea consists exclusively of commercial/industrial development, it is not projected to generate any new students. Payment of the developer fees will reduce the impact of the Southern Subarea on school facilities to less than significant.” (DEIR at p. 3.9-22.)

This statement fails to take into account the data presented in the District's 2006 Fee Justification Study, which indicated that about 1% (approximately 25 students) of current student enrollment is a result of parental employment within the District. The DEIR fails to discuss the potential for enrollment increases due to the construction of 5,500,000 square feet of commercial/industrial projects. Attached for the City's reference is a copy of the District's 2006 Fee Justification Study and the 2007 SFNA. This data must be included for an accurate characterization of the impacts of the Project.

2. The DEIR Fails to Consider the Impacts of Project Alternative No. 1 on District Facilities.

The DEIR also fails to analyze the potential impact on District facilities due to the additional housing contained in Alternative 1 (No high school within Northern Subarea). The SouthShore Specific Plan proposes a high school campus of approximately 50 acres to be constructed. If the high school is not built, construction of 262 additional single family and multi family dwelling units is proposed to take place. There is no evaluation or analysis of the impact of the additional dwelling units on the District's facilities. This alone increases the District's potential enrollment by 122 students, based on the District's 2007 student generation rates. The likelihood of

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Alternative No. 1 occurring is significant, given the position of the Oxnard Union High School District as described in its letter dated September 19, 2005. In combination with the errors described above, the DEIR fails to consider, disclose or analyze the impacts of nearly 200 additional students on the District's facilities.<sup>1</sup>

3. The DEIR References a Mitigation Agreement between the District and a Project Applicant that is incomplete and will not, even if executed, mitigate project impacts to a less than significant level.

The DEIR at various places references the fact that the District and the applicant for the Northern Subarea are working cooperatively on a mitigation agreement to facilitate land acquisition, site improvements and construction of a new school. It should be noted that although some progress has been made in this area within the past several years, there are significant impediments to reaching agreement at this time, and the DEIR should not assume that mitigation agreement negotiations will be concluded, or will be concluded in a manner that will mitigate the actual impact of the Project to a less than significant level. Ongoing concerns about the proposal for the siting of a new elementary school include the following:

- a. School Site/ Location. The SouthShore Specific Plan indicates that the Project applicant plans for an 11.8 gross acre elementary school site (10 net acres) (see Specific Plan page 2-10.) However, page 3-3 of the Specific Plan states that the net acreage may be less than 10 acres due to placement of park adjacent to the proposed school site. Allowance of anything less than 10 net acres will result in a school campus that is an inadequate size. There would be insufficient play area for the students, and the District would be less able to accommodate future growth with a campus of such a limited size. Further, due to the errors in the calculation of projected enrollment, the proposed site of net 10 acres will likely be inadequate almost immediately. In addition, although the District is willing to discuss a proposed joint use with the City, there are a number of planning, development, and usage issues unresolved. To date, there has been no discussion between the District and the City as to the proposed joint use park.
- b. Siting of School in Northern Subarea: The DEIR fails to analyze the impact on the District of the proposed placement of the school site within the Northern Subarea. The Specific Plan indicates that the proposed school site may be modified or amended due to a potential change in the size of the building needed. The limitations upon the placement of a

<sup>1</sup> In the letter referenced at Appendix G, the High School District states: "The high school site favored by developers on the eastern boundary of the northern subarea is unsuitable because of its close proximity to high voltage power lines and a proposed 36-inch high-pressure natural gas pipeline. The site is also unacceptable because it is smaller than the 55 acres needed for a comprehensive high school." (Appendix G, pages 6-7.)

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Kathleen Mallory, Project Planner  
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school building are significant. The State of California places numerous restrictions and requirements for the location of a school campus. (Educ. Code section 17210 *et seq.*; Cal.Code Regs., tit. 5, § 14010 *et seq.*) Here there has been a failure to identify any of the restrictions upon the location of the proposed school site. Should any one of the numerous factors prove to be insurmountable the District will face growing enrollment with inadequate facilities. Some of the factors that impact the siting of a school building within the Project and that merit discussion are the location of the overhead power lines and the location of existing gas pipelines.

- c. Other Unaddressed Factors. The DEIR, in Section 3.9.1.7.1 (“Electrical Service”) notes that Southern California Edison power lines run along its transmission corridor, but there is no discussion or evaluation as to the impact of this on the siting of an elementary school. (See page 3.9-14.) CDE has established the limits for locating any part of a school site property line near the edge of easements for high-voltage power transmission lines. (Cal. Code Regs., tit. 5, §14010(c).)

The DEIR also identifies high pressure gas transmission lines that run along the westerly side of the Study Area. (See Section 3.9.1.7.2, page 3.9-14.) There is no evaluation or analysis of the impact of this line on the proposed elementary school location. Regulations require that the placement of a school building exceed 1,500 feet from a high pressure gas transmission line. (Cal. Code Regs., tit. 5, §14010(h).)

**B. City’s Conclusion that the Impacts of the Project on District Facilities Are Less than Significant is Not Supported by the Facts or the Law.**

The DEIR references Senate Bill 50 (“SB 50”) to support its conclusion that the payment of statutory developer fees or execution of a mitigation agreement will render the impacts of the Project “less than significant.” This is an inaccurate application of the law to the Project and thus the DEIR’s conclusion is completely without a legal or factual basis.

SB 50 was enacted in 1998 to provide for a new state school facilities funding program and to create a scheme for school districts to charge in excess of statutory school impact fees when a school district can demonstrate that it meets the prerequisites for doing so. The trade-off for the new “Level 2/Level 3” fee scheme was (a) a legislative declaration that school impact fees were deemed to be complete mitigation of the impact of development for purposes of CEQA; and (b) the imposition of a prohibition on public agencies from requiring the payment of other exactions on developers as a condition of project approval.

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Page 6

Government Code section 65995(h) provides as follows:

The payment or satisfaction of a fee, charge, or other requirement levied or imposed pursuant to Section 17620 of the Education Code in the amount specified in Section 65995 and, if applicable, any amounts specified in Section 65995.5 or 65995.7 are hereby deemed to be full and complete mitigation of the impacts of any legislative or adjudicative act, or both, involving, but not limited to, the planning, use, or development of real property, or any change in governmental organization or reorganization as defined in Section 56021 or 56073, on the provision of adequate school facilities. (Gov. Code, § 65995(h).)

Under Government Code section 65997, the exclusive methods for mitigating the environmental impacts of projects on school districts are set forth, and the statute prohibits public agencies from conditioning project approvals on payment of mitigation in excess of school impact fees.

It is true that the Legislature, in enacting the components of SB 50, has concluded that the payment of school impact fees is deemed full and complete mitigation of environmental impacts of development projects. However, this does not mean that under CEQA those impacts are, or become, less than significant as a result, as the City's DEIR concludes. In fact, developer fees are rarely sufficient to offset the cost of housing new students generated from residential development, even where "Level 2" fees are imposed under Government Code section 65995.5. The District pointed out in its October 2005 letter that it was able to impose developer fees of \$ 3.33 per square foot, but that its cost per square foot was determined to be \$8.08. The District's 2007 SFNA dated February 8, 2007 updates that information. Currently, the District is able to charge \$3.04 per square foot of residential construction but the cost impact per residential square foot is \$14.34.

Furthermore, although SB 50 provides a scheme under which school districts may collect up to one-half of the funds needed to construct and modernize school facilities to keep pace with development, the continued effectiveness of SB 50 is tied to the successful and continued passage of California state school facility bond measures (Gov. Code, § 65997.) SB 50 also contemplates the possibility that state bond funds will be exhausted at some point, and it allows school districts to increase the amount of fees collected to meet 100% of the need (also known as "Level 3 Fees"). The DEIR contemplates neither of these eventualities. As evidenced by the discrepancy indicated above, even if the District were able to impose the higher fees, *i.e.* roughly double the Level 2 fees, it is still woefully inadequate as a mitigation measure for construction of the new facilities that the District would require as a result of the Project.

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Kathleen Mallory, Project Planner  
Planning Division  
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As discussed in the October 4, 2005 letter, the District does not dispute that SB 50's school impact fees constitute full and complete mitigation of impacts. As a result, the City may not deny project approval due to inadequate school facilities; however, the City as the lead agency may not forego an accurate disclosure of school impacts or an accurate characterization of those impacts even where additional mitigation measures are not legally required.

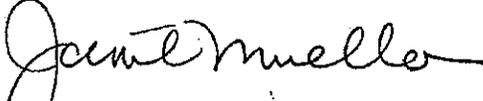
#### SUMMARY

The District believes that this DEIR has incorporated outdated and incorrect information in its consideration of the impact of the Project on school facilities, and has failed to substantiate its conclusion that the impact of the Project on school facilities is less than significant if developer fees are paid or a mitigation agreement is entered. Without substantial revision, it is our position that the City may not certify the final EIR.

If you have any questions, please do not hesitate to contact me.

Very truly yours,

MILLER BROWN & DANNIS



Janet L. Mueller  
JLM:ng

Enclosures (via hard copy only)

Ocean View School District October 4, 2005 letter  
School Facilities Needs Analysis dated February 2007  
Fee Justification Study dated March 2006

cc: Nancy Carroll, Ocean View School District (w/out enclosures)

**LETTER U.5 SOUTHERN CALIFORNIA EDISON**

**Commentor:** Southern California Edison (SCE), Rudolph Gonzales (09-08-08)

**Response**

1. **SCE as Electricity Provider:** The EIR and the applicants' specific plans acknowledge SCE's role in providing electricity to the projects and that the proposed project electrical generation needs are within the planned projected load growth of SCE.. The details of how such service will be extended to the projects will be determined at the design development phases for each project.
2. **SCE Transmission Lines:** The City and the project applicants will work with SCE to ensure that the proposed developments, including required grading and fill activities, do not adversely affect SCE's transmission facilities, rights of way, or easements.
3. **California Public Utilities Commission (CPUC) CEQA Requirements:** The City is aware of the CEQA requirements for new transmission facilities and will continue to work with SCE and the CPUC to coordinate permitting and environmental review of such facilities as required to serve the proposed project.

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SEP-08-2008 MON 04:52 PM

FAX NO. 3026870

P. 01



September 8, 2008

Kathleen Mallory, Project Planner  
City of Oxnard, Planning Division  
214 South C Street  
Oxnard, CA 93030

RE: Notice of Availability of the North and South Ormond Beach Recirculated Draft Environmental Impact Report (DEIR)

Dear Ms. Mallory:

Southern California Edison (SCE) appreciates the opportunity to review and provide comment on the Recirculated DEIR for the North and South Ormond Beach Recirculated DEIR. The project is described in the Recirculated DEIR as a proposal to develop two distinct planning areas, North Ormond Beach and South Ormond Beach. The North Ormond Beach planning area consists of 322 acres and allows for 1,283 dwelling units, a mixed use commercial marketplace, light industrial uses, an elementary and high school, a community park and neighborhood park, an 18-acre lake and open space and trails. The South Ormond Beach Specific Plan area will allow for a 375 acre business park with light industrial facilities, and 313 acres of light industrial use and harbor-related uses. North Ormond Beach is located on the north side of Hueneme Road, east of Edison Drive, west of Olds Road, south of Tierra Vista and Villa Capri neighborhoods, within the City's Southeast Community. South Ormond Beach is on the south side of Hueneme Road, east of Edison Drive, west of Arnold Road, and north of Coastal dunes and beach areas.

SCE's comments regarding the proposed project address electric service provision, potential impacts to existing SCE facilities, and the California Public Utilities Commission (CPUC) process for implementing the requirements of the California Environmental Quality Act (CEQA). Our comments are provided below under the following headings: Electric Service Provision, Impacts to SCE Facilities, and CPUC CEQA Requirements.

Electric Service Provision

SCE is the provider of electricity for this project. This letter is to advise the City of Oxnard and the project developer that the electrical loads of this project have been determined to be within the parameters of the projected load growth which SCE is planning to meet in this area.

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SCE undertakes expansion and/or modification of its electric systems and infrastructure to serve the load growth of existing customers and new projects. Since SCE's electrical system is provided by a network of facilities (SCE's electrical distribution, transmission, and generation systems), SCE appreciates your notifying us of these development plans in order to assist us in determining the future electrical needs of this area.

If the project is within the projected load growth for this area, SCE is basically stating that the total system demand is expected to continue to increase annually; however, excluding any unforeseen problems, SCE's plans for new distribution resources indicate that our ability to serve all customers' loads within this area are in accordance with SCE's Design Standards, rules and tariffs, and will be adequate for the next ten years. SCE completes all work in accordance with the rules and tariffs as authorized by the CPUC and other governing entities. Any cumulative impacts related to electric service would be addressed through this process.

Please note that although SCE is currently capable of serving project loads, the developer will be responsible for the costs of any new distribution and/or line extension work, per SCE's CPUC-approved tariff Rules 15 and/or 16, and of any relocation of facilities required to accommodate the distribution line and/or service extensions required by SCE to serve the project.

It is essential the developer review and/or discuss with SCE what measures can be taken to assure optimal conservation measures within this project's boundaries that will contribute to the overall energy savings goals of SCE and California. As an example, the developer has the opportunity to participate in the "Savings By Design" program, a statewide nonresidential new construction and renovation/remodel energy efficiency program, funded by utilities customers through the Public Purpose Programs surcharge. The Savings By Design program offers design assistance and financial incentives to improve the energy efficiency of a project. Energy efficiency recommendations may improve the energy performance of a project beyond Title 24 (or other baseline) requirements. The program is voluntary, and the developer would be under no obligation to modify their construction design based on resulting recommendations. (Please note that financial incentives are available only if an agreement is completed, eligibility is established by the utility, the project meets program/performance requirements and the energy efficiency strategies are installed and verified). For further information on how to participate in the Savings By Design program, please contact Mark Davis, Technical Specialist, at (626) 633-7166.

Impacts to Existing SCE Facilities

The northern and western boundaries of the North Ormond Beach Specific Plan as well as the western boundary of the South Ormond Beach Specific Plan encompass SCE Fee Owned Property. These areas include rights-of-ways for the Moorpark-Ormond Beach #1, #2, #3, and #4 220kV lines, the Estero-Levy-Ormond Beach-Wastewater-Willamette 66kV line, and Distribution lines.

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The project description includes a proposal for approximately 450,000 cubic yards of fill on the project site. Depending on the location of this fill, this may impact SCE's ability to meet the CPUC General Order (G.O.) 95 clearance requirements for transmission lines. Additionally, there may be a problem with importing foreign soil onto SCE property.

It appears, based on the current project description, the proposed project impacts SCE's exclusive easement(s) which may also affect SCE's transmission facilities, therefore, the impacts will need to be consented to and addressed by SCE prior to finalizing the plan of development. Please forward five (5) sets of plans depicting SCE's facilities and associated easement rights to the following location:

Transmission Project Management  
Southern California Edison Company  
300 North Pepper Avenue, Building "B"  
Rialto, CA 92376

CPUC CEQA Requirements

When development plans result in the need to build new, or relocate existing, SCE electrical facilities that operate at or above 50 kV, the SCE construction may have environmental consequences subject to CEQA provisions, as implemented by the CPUC. If those environmental consequences are identified and addressed by the local agency in the CEQA process for the larger project, SCE may not be required to pursue a later, separate, mandatory CEQA review through the CPUC's General Order 131-D (GO 131-D) process. If the SCE facilities are not adequately addressed in the Draft EIR and the new facilities could result in significant environmental impacts, the required additional CEQA review could delay approval of the SCE power line portion of the project for up to two years or longer.

Once again, SCE appreciates reviewing and responding to the DEIR for this project and hopes these comments will assist you in the preparation of the Final EIR. We request a copy of the certified Final EIR for this project in both CD and hard copy format when it becomes available. If you have any questions regarding this letter, please do not hesitate to contact me at (805) 497-5616.

Sincerely,

*Radolph Gonzales for*

Radolph Gonzales  
Region Manager  
Southern California Edison Company

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**LETTER U.6 SOUTHERN CALIFORNIA EDISON**

**Commentor:** Southern California Edison, Rudolph Gonzales (09-19-08)

**Response**

1. **SCE Property/Mitigation Southern Subarea:** The proposed South Ormond Beach Specific Plan does not contemplate or anticipate using SCE lands for mitigation. The portion of SCE land that had been depicted for continuation as agricultural land (i.e., south of McWane and immediately east of Edison) has been removed from the South Ormond Beach Specific Plan project description.
2. **SCE Property/Mitigation Northern Subarea:** The proposed SouthShore Specific Plan does not contemplate or anticipate using SCE land for mitigation. Please also see the response to comment 1 above.
3. **Continuation of Agricultural Uses:** The portion of SCE land that had been depicted for continuation as agricultural land (i.e., south of McWane and immediately east of Edison) has been removed from the South Ormond Beach Specific Plan project description

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September 19, 2008

Kathleen Mallory, Project Planner  
City of Oxnard, Planning Division  
214 South C Street  
Oxnard, CA 93030

RE: Notice of Availability of the North and South Ormond Beach Recirculated Draft  
Environmental Impact Report (DEIR) - Comment Period Extended to September  
22, 2008

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Dear Ms. Mallory:

Southern California Edison (SCE) has already provided comment on the Recirculated DEIR for this project in a letter dated September 8, 2008, which was submitted to the City of Oxnard prior to the close of the first comment period. With the extension of the comment period to September 22, 2008, SCE would like to submit additional comments on the environmental document. Both letters together constitute SCE's comments on the DEIR for this project.

In regards to the South Ormond Beach Specific Plan area, SCE is the fee owner of land immediately adjacent to and easterly of Edison Way. No portion of this property or any other SCE fee owned property may be used at any time for any type of project mitigation. Any mitigation plan that affects the SCE property and/or facilities must be approved in writing prior to any plan being adopted.

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Also, for the North Ormond Beach Plan Specific Plan area, SCE is the owner of land north of Hueneme Road within the subject area. Any uses of this property whether it be for infrastructure, access or public facilities, must be approved in writing by SCE's Transmission Commercial Management Personnel prior to the commencement of any construction. As stated above, no portion of this property or any other SCE fee owned property may be used at anytime for any type of mitigation.

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In addition, the DEIR states some agricultural uses will remain in use on properties within the specific plan areas. Please note, on SCE properties, agricultural uses may or may not continue.

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If you have any questions regarding these additional comments, please do not hesitate to contact me at (805) 497-5616.

Sincerely,

V. 6

*Rudolph A. Gonzales*

Rudolph Gonzales  
Region Manager  
Southern California Edison Company

**LETTER O.1 BEACON FOUNDATION**

**Commentor:** Beacon Foundation, Lee Quaintance (09-22-08)

**Response**

1. **Previous Comments/Recirculation:** The City and its consultants carefully reviewed and summarized all comments submitted on the May 2007 DEIR. A summary of these comments was posted on the City's website during the 60-day review period for the RDEIR. In preparing the RDEIR, the City's consultants relied on many of the previous comments to guide and inform the updated sections of the RDEIR. Also, the City's decision to request that independent comments be submitted on the RDEIR is consistent with the provisions of Section 21092.1 of the Public Resources Code, as outlined in Section 15088.5(f)(1) of the CEQA Guidelines, which reads as follows:

*When an EIR is substantially revised and the entire document is recirculated, the lead agency may require reviewers to submit new comments and, in such cases, need not respond to those comments received during the earlier circulation period. The lead agency shall advise reviewers, either in the text of the revised EIR or by an attachment to the revised EIR, that although part of the administrative record, the previous comments do not require a written response in the final EIR, and that new comments must be submitted for the revised EIR. The lead agency need only respond to those comments submitted in response to the recirculated revised EIR.*

2. **Southern 220 Acres of Southern Subarea:** The applicants for the Southern Subarea are not requesting annexation of the southernmost 220 acres of their property, so LAFCO's review of the project is not necessary for this area. . As described in the RDEIR and the South Ormond Beach Specific Plan, this area, including the approximately five acres within the coastal zone, is proposed to remain in agricultural use. Thus, the project proposal does not constitute development as defined by the Coastal Act, so no Coastal Development Permit (CDP) is required.
3. **June 21, 2007 Comment Letter:** Comment noted. See response to Comment #O.1.2.
4. **Naval Base Ventura County (NBVC):** The City appreciates and concurs with the commentor's concern for the importance of NBVC to the local economy. The City continues to coordinate with NBVC concerning potential City actions that might affect its operations. This includes responding to the comments of Captain C.B. Connors, Commanding Officer of NBVC, on the RDEIR (submitted 09-22-08). The City's responses to those comments can be found on the response page for Letter F.2 of this document.

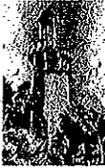
5. **NBVC Noise:** Impact Noise-4 (Point Mugu Naval Air Station Noise) acknowledges the potential noise impacts associated with aircraft overflight in both subareas of the Study Area. Furthermore, in response to comments submitted by NBVC on the May 2007 DEIR, the City added Mitigation Measure Noise-5, which reads as follows:

*The project shall incorporate noise attenuation measures (e.g., double-paned window or higher grade windows, HVAC) and shall disclose to purchasers the potential for peak noise levels that exceed standards.*

This mitigation requirement will help protect the interests of both future residents and NVBC.

6. **Cumulative Noise Impacts:** The RDEIR's noise impact analysis does consider cumulative impacts for each of the sources evaluated. The commentor appears to misinterpret the meaning of the term "cumulative" for CEQA analysis purposes as meaning the same thing as "combined."
7. **NBVC Base Impacts (2005 Navy Letter attached):** This attachment does not pertain to the RDEIR. Note that Captain C.B. Conners, Commanding Officer of NBVC, did submit comments on RDEIR. The City's responses to those comments can be found on the response page for Letter F.2 of this document.

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# The Beacon Foundation

PMB 352  
3844 W Channel Islands Blvd  
Oxnard, CA 93035

September 22, 2008

City of Oxnard  
Planning Division  
305 W. Third Street  
Oxnard, CA 93030

RECEIVED

SEP 22 2008

PLANNING DIVISION  
CITY OF OXNARD

Attention: Kathleen Mallory, Project Planner

**Re: North and South Ormond Beach DEIR – Coastal Act and LAFCO Compliance**

Dear Ms. Mallory:

The Beacon Foundation is a nonprofit environmental organization focused on Coastal Ventura County.

We previously provided the attached comment letter of June 21, 2007. We find no indication that our concerns have been considered. We object to the requirement imposed by the preparer to resubmit comments despite the failure of the Recirculated DEIR to specifically respond to prior submissions or even to acknowledge them. This arbitrary approach unduly burdens the public and deprives the decision maker of knowledge of the comments already received.

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Nonetheless, we are complying with your requirement and hereby incorporate and resubmit the comments stated in our June 21, 2007 letter.

The Recirculated DEIR continues to carve from the project the southern 220 acres part of which is within the coastal zone as defined by the California Coastal Act. The DEIR enumeration (ES-8 & 9) of required approval steps for this project fails to include a Coastal Development Permit. The DEIR enumeration also erroneously provides that the 220 acre exclusion need not be approved by LAFCO even though the exclusion is part of the proposed action considered as a whole.

②

Our June 21, 2007 letter states public policy objections to the proposed 220 acre carve out and details the need for compliance with CEQA review standards, Coastal Act requirements (including a coastal development permit), and LAFCO review and approval.

For The Beacon Foundation

Lee Quintance, Secretary

Cc: Coastal Commission  
LAFCO



# The Beacon Foundation

PMB 352  
3844 W Channel Islands Blvd  
Oxnard, CA 93035

RECEIVED

JUN 22 2007

PLANNING DIVISION  
CITY OF OXNARD

June 21, 2007

Re: Item F3, DEIR Ormond Beach  
Evading the Coastal Commission and LAFCO

Dear Members of the Oxnard Planning Commission:

These comments are on behalf of The Beacon Foundation, a nonprofit environmental organization focused on coastal Ventura County.

As shown in the DEIR (Figure ES-5), 220 acres of the "Southern Subarea" are excluded from the proposed action. The 220 acres are left out of the proposed City limits of Oxnard. This excluded area is the only part of the project area traversed by the Coastal Zone Boundary Line that gives the California Coastal Commission jurisdiction. Apparently the proponent believes this 220 acre carve out removes its whole project from CCC review. The preparer of the DEIR acquiesces in this erroneous view by (ES-9) leaving the CCC off its list of agencies from whom approvals are required. The preparer also acquiesces (ES-8) in considering the excluded portion exempt from LAFCO review.

The DEIR offers no rationale for the 220 acre carve out. It merely states (ES-8):

*"The southern 220 acres of the Southern Subarea would continue in agricultural use and would not be annexed to the City as part of this project. This property may be sold to the California Coastal Conservancy or partner organization for use as part of the larger Ormond Beach restoration and maintenance planning area. All existing agricultural uses will continue in this area until the restoration process begins."*

This expresses a non binding possibility that the 220 acres will become part of the protected wetland and the non binding expectation it will meanwhile continue in agricultural use. This "hope" neither explains or justifies carving this parcel out from the project reviewed in the DEIR. These 220 acres have at all times previously been considered as part of the review area for wetland restoration and any adjacent development. The 220 acres are under the same ownership and currently used in the same way as the 595 acre portion now proposed for industrial development. The areas proposed for industrial development and the excluded area run together with no road or other physical division between them. It makes no logical planning sense to leave the 220 acre portion in limbo. It should be included in the DEIR and, as part of the proposed project, brought into the City limits with City zoning established consistent with inclusion in the protected wetland area.

**It appears to us that the 220 acre carve out is designed to evade Coastal Commission involvement and to restrict LAFCO from review of the project as a whole.**

1. Carving Out the 220 Acres Violates Standards of CEQA Review. It is fundamental, that a project must be presented as a whole and not split so that the decision maker is presented with analyses of only a portion now with the rest to be considered separately.

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2. Carving Out the 220 Acres is itself "Development" Pursuant to the Coastal Act And Is Subject to Coastal Commission Jurisdiction.

Whether or not the 220 acres are recognized (as they should be) as part of the project, the requirement for a coastal development permit is triggered. Division of this 815 acres into two portions results in direct and cumulative impacts of one part upon the other. Effects on the 220 acre portion of the industrial development on the adjacent 595 acres portion will result from the industrial portion's greater density and intensity of use during construction and thereafter and impacts including run off, grading, traffic, and waste disposal.

The Coastal Act (Pub. Res. Code section 30106) defines "development" to include:

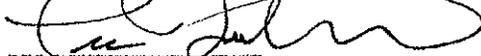
*"... change in the density or intensity of use of land, including, but not limited to, subdivision pursuant to the Subdivision Map Act... and any other division of land, including lot splits...."*

3

The required City process for issuing a coastal development permit must comply with the City's certified Local Coastal Plan (LCP) and issuance is subject to appeal to the Coastal Commission. In keeping with the Oxnard LCP, the permit process requires consideration of adjoining wetland, buffers and environmentally sensitive habitat.

The attempt to evade a coastal development permit review process and to subject less than the total project area to LAFCO review is impermissible. It games legal requirements and runs against good stewardship by the City of Oxnard of vital and irreplaceable coastal resources.

For The Beacon Foundation,



Lee Quaintance  
Secretary

Cc: Coastal Commission  
LAFCO



# The Beacon Foundation

PMB 352  
3844 W Channel Islands Blvd  
Oxnard, CA 93035

September 22, 2008

City of Oxnard  
Planning Division  
305 W. Third Street  
Oxnard, CA 93030

RECEIVED

SEP 22 2008

PLANNING DIVISION  
CITY OF OXNARD

Attention: Kathleen Mallory, Project Manager

**Re: North and South Ormond Beach DEIR – Need to Analyze Navy Impacts**

Dear Ms. Mallory:

The Beacon Foundation is a nonprofit environmental organization focused on Coastal Ventura County.

The Recirculated DEIR dismisses with cursory and inadequate analysis the direct and cumulative impacts of Naval Base Ventura on the proposed action. Despite being asked by the Navy for more than a decade to do so, the City's Recirculated DEIR fails completely to consider the impacts of the project on the Base.

In the present DEIR process the Navy has provided a letter of November 5, 2005 from Captain C.B. Conners that is provided with this letter as Attachment One.

Captain Conners describes the importance and broad scope of vital operations at Naval Base Ventura and asks that "... the EIR fully evaluate all potential impacts to and from NBVC. " He particularly notes that the Navy previously commented to the City regarding residential land use close to the base.

The Navy concern regarding reciprocal impacts of housing proximate to the base was expressed in a Navy letter to the City dated May 7, 1996. A copy is provided here as Attachment Two. In this letter Captain Stephen Beal describes "normal flight pattern operations" in the area as low as 500 feet off the ground that generate noise levels "as high as 90 decibels."

In February of 1998 the Navy provided a demonstration at the project area of noise generated by its normal flight operations. The demonstration was attended by City officials and civic and environmental organizations including The Beacon Foundation. No one who attended could fail to be impressed by the deafening intense noise generated by normal Navy operations. As quoted in a Ventura Star article dated February 3, 1998, a member of the Oxnard Planning Commission in attendance stated:

"I would not want to own residential property here or live anywhere near that. It doesn't seem to me that anyone would want to invest in this kind of real estate with this kind of activity next door."

(4)

With characteristic directness, Captain Beal is quoted in the Star article that the Navy developed the Point Mugu site because of its isolation and:

"The reason the Navy is making this point is because there's going to be a huge conflict if they allow inappropriate development out there."

Putting a fine point on it, Captain Beal is further quoted:

"Vegetables and fruits don't necessarily have phones and don't often complain."

**1. The DEIR provides a curtailed and inadequate consideration of base generated noise.**

The most glaring inadequacy is the consideration only of a CNEL sound matrix. CNEL is a time weighted average noise level over 24 hours. Not just CNEL but also single event noise from aircraft is a necessary consideration given the proximity of the two Base airstrips. We know from common observation that aircraft generated noise can be extremely intense -- as stated in the May 7, 2006 Navy letter it can be as high as 90 decibels in the project area.

We find no disclosure or analysis in the DEIR of what peak single event sound levels might be. The DEIR concludes (ES-36) that any noise impact from base operations will be "less than significant" because:

"The project shall incorporate noise attenuation measures (e.g., double-paned window or higher grade windows, HVAC) and shall disclose to purchasers the potential for peak noise levels that exceed standards."

The conclusion that there is a less than significant noise impact from the base has as its unsupported basis this statement for both the Northern and Southern project Subareas (ES-36, ES-85):

"Although the 65 CNEL noise contour for the installation is outside the Ormond Beach project border, the southeast part of the project is subject to aircraft overflights operating to and from the facility. While the installation's operations do not constitute a significant impact on the project site, any potential noise-sensitive land uses located in the Southern [or Northern] Subarea should be informed that the area is subject to military aircraft overflights."

It is simplistic and inadequate to consider the CNEL at the project site as a fixed constant. CNEL (as well as single event sound) depends on the activities undertaken. For example, if the Navy mission at some times includes night time touch and go operations to train for carrier landings of A-WAC planes this could increase the impact as measured by CNEL which weights nighttime sound more highly than daytime sound. As noted in the Navy letter of November 2, 2005, base operations are not static but dynamic with "... many diverse missions with over 100 tenant commands...."

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The failure to adequately analyze CNEL and the failure to determine the potential single event sound impacts makes it logically impossible to either determine intensity of the impact or the adequacy of mitigations. Even without the needed analysis, it is obvious that the noise attenuation identified in the DEIR for aircraft noise is inadequate. No consideration is given to the fact that aircraft noise is principally generated from above and not laterally. The mitigations in the form of double paned windows may be appropriate for street noise but inadequate for noise from above would require consideration of roof structural and insulation measures -- if it can be mitigated at all

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There is also a failure of the DEIR to consider the aircraft noise impact outdoors where the noise attenuation methods applicable to buildings would not provide mitigation.

**2. The DEIR fails to consider cumulative noise impacts**

The DEIR identifies multiple noise generators in the project area other than Naval Base Ventura. These include road noise, railroad noise, vehicle preparation facility noise and power station noise. All but the road noise impact on new development are deemed less than significant without any mitigation. For new development road noise is finessed as something requiring further study (ES-36). Noise impacts on existing development along Pleasant Valley Road (3.11-24) "... cannot be feasibly mitigated and will remain significant and unavoidable (Class 1)".

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The combined impact, i.e. the cumulative impact, of all of these potential noise generators is not considered as CEQA requires.

**3. The DEIR fails to consider potential Base impacts other than noise.**

As stated in the Navy letter of November 2, 2005, at Naval Base Ventura

"Facilities include the airfield, industrial complexes, laboratories, range instrumentation and weapons storage. All of these missions need to be taken into consideration to ensure continued compatibility."

1

None of the potential impacts other than noise is analyzed in the DEIR.

**CONCLUSION**

The impact of Naval Base Ventura operation on the proposed action is limited in the DEIR to noise impacts and that analysis is constricted and inadequate. There is no consideration of the impacts of the project on the Base. The issue of placing an inconsistent use adjacent to this nationally important Base (and the County's biggest employer) is ignored. The mitigation for noise, the only Base impact discussed in the EIR, is essentially limited to double paned windows. Although not a mitigation (because it in no way affects the noise) the DEIR adds as a "mitigation" that purchasers will be informed that there is an undefined "potential for peak noise that exceeds standards." There is no provision for this laconic message to be part of the deed or to otherwise be passed on in resales.

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The proposed action, without adequate disclosure and analysis, is setting up future conflict between home and business buyers in the project and Navy Base operations. Captain Beal's observation to the Star in its February 3, 1998 article holds true now just as it did then:

"Where the problem comes in with these homes is when people buy the homes. We go from being a good neighbor to being a strain every time an aircraft takes off."

For The Beacon Foundation



Lee Quaintance  
Secretary

Attachments

0.1



DEPARTMENT OF THE NAVY  
NAVAL BASE VENTURA COUNTY  
311 MAIN ROAD, SUITE 1  
POINT MUGU, CA 93942-9033

IN REPLY REFER TO:

5090  
Ser N46VEW/0740  
2 Nov 05

Ms. Kathleen Mallory, AICP, Project Planner  
City of Oxnard  
305 West Third Street  
Oxnard, CA 93030

Dear Ms. Mallory:

Thank you for the opportunity to respond to the Notice of Preparation of the Draft Environmental Impact Report (DEIR) for the Ormond Beach Specific Plan. I would like to also thank the City of Oxnard for their consideration of our past comments regarding residential land use close to Naval Base Ventura County (NBVC), Naval Air Station (NAS), Point Mugu. We would request, however, that due to the importance and size of this project and it's proximity to NBVC, that the EIR fully evaluate all potential impacts to and from NBVC. It is imperative that a project of this size and scale be compatible with our national defense mission.

As you know, NBVC has many diverse missions with over 100 tenant commands and 17,000 personnel, creating the largest employer in Ventura County with \$1.7 billion in salaries to the local economy. NAS Point Mugu supports fleet aircraft; Naval Air Systems Command Weapons Division research, development, testing, and evaluation of weapons systems; several reserve squadrons; and many other tenant missions. Facilities include the airfield, industrial complexes, laboratories, range instrumentation and weapons storage. All of these missions need to be taken into consideration to ensure continued compatibility.

We look forward to working with you. We would like to meet with you to discuss several areas of interest and provide information important to your analysis. Areas of interest include but are not limited to, land use compatibility, our operations and training missions, and the local environment. Additionally, several of our publications will assist your information gathering, including: our Air Installation Compatibility Use Zone Study, Point Mugu Sea Range Environmental

ATTACHMENT #1

5090  
Ser N46VPW/ 0740  
2 Nov 05

Impact Statement, and our Integrated Natural Resource Management Plan. Our point of contact, Mr. James M. Danza, Space Resource Manager, will ensure you have access to these documents and will call to schedule a meeting time. Mr. Danza can be reached at 805-989-9747.

Sincerely,



C. B. CONNORS  
Captain, U.S. Navy  
Commanding Officer

0.1



DEPARTMENT OF THE NAVY  
NAVAL AIR WEAPONS STATION  
821 9TH STREET  
POINT MUGU, CA 93042-5001

IN REPLY REFER TO:

11010  
Ser 833B00E/A- 211 RECEIVED  
7 May 96

MAY 9 - 1996  
CITY OF OXNARD  
REDEVELOPMENT AGENCY

Ms. Deana Walsh  
City of Oxnard  
300 West Third Street  
Oxnard, CA 93030

Dear Ms. Walsh:

We have reviewed the Ormond Beach Task Force recommendation for the potential use of the Ormond Beach area. Our main concern is the potential housing development recommended for areas three and four.

For the last 50 years, Navy aircraft have flown over these existing agricultural areas and as low as 500 feet above ground level. These normal flight pattern operations raise the ambient noise level to as high as 90 decibels. This noise level is equivalent to trucks traveling 15 feet away. Presently, the agricultural use of land in areas three and four is compatible with this higher decibel rating, however, housing would not be compatible unless the homes are properly designed for noise attenuation.

The Navy wants to ensure that any zoning restrictions, housing construction and future home owners take these operations into serious consideration. Our Air Installation Compatible Use Zone (AICUZ), of September 1992, contains additional information.

Also other potential concerns on the effect of Navy operations on this development are being further studied by my staff and will be fully evaluated by the end of May 1996.

My point of contact concerning this is Vivian Goo, Code 833B00E, (805) 989-8575.

Sincerely,

STEPHEN D. BEAL  
Captain, U.S. Navy  
Commanding Officer

Post-it® Fax Note	7671	Date	5-9-96	# of pages	1
To:		From:	STEPHEN D. BEAL		
Co./Dept.		Co.			
Phone #		Phone #	(805) 387-2877		
Fax		Fax #			

ATTACHMENT #2

**LETTER O.2 CALIFORNIA NATIVE PLANT SOCIETY**

**Commentor:** California Native Plant Society, Richard Burgess (09-22-08)

**Response**

1. **Plant Surveys:** The RDEIR relies on a long history of research conducted within the Study Area and adjacent areas, including studies completed by the commentor (see References section in EIR). The field survey conducted by the City's consultants was intended to confirm the extensive body of research and studies upon which the RDEIR's evaluation is based, as cited in the document. It is not represented in the RDEIR as a comprehensive assessment, but rather as a means to validate the accuracy of the baseline information that has been gathered through at least 20 years of independent evaluation. The commentor failed to note Table 3.6-6 within the RDEIR, which list the sensitive plant species with the potential for occurrence in the Study Area and the adjacent areas. As noted in the table, the information is based on a variety of surveys conducted within the past 20 years on the project sites. The information provided in the RDEIR sufficiently establishes the baseline for the impact assessment. Further, mitigation measures are identified to protect these resources as identified in Section 3.6.3.5 of the RDEIR.
  
2. **Locally Rare Plants:** The commentor references a list/publication on the California Native Plant Society's website. The most current version of the referenced publication is the Checklist of Ventura County Rare Plants, December 2008. As noted in the referenced publication, CEQA requires that thresholds of significance for general use in a lead agency's environmental review process "must be adopted by ordinance, resolution, rule, or regulation, and developed through a public review process and be supported by substantial evidence. (CEQA Guidelines §15064.7)." The publication further acknowledges that, for a list of locally rare or sensitive species to function as a set of thresholds of significance, the list should be adopted through a public review process. The City's published thresholds do not recognize the referenced publication.

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# California Native Plant Society

September 22, 2008

Kathleen Mallory, Project Planner  
Planning Division  
City of Oxnard  
305 W. Third Street  
Oxnard, Ca. 93030

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SEP 22 2008

PLANNING DIVISION  
CITY OF OXNARD

RE: Ormond Beach Specific Plan Recirculated DEIR No. 05-03

Dear Ms. Mallory,

As you may be aware the California Native Plant Society (CNPS) is a statewide nonprofit organization dedicated to increasing the understanding and appreciation of California's native plants, and to preserving them in their natural habitats for future generations. As one of the last significant coastal wetlands and the habitat for over 130 vascular plant species, CNPS members are very concerned about the future of this area.

Our comments are specifically focused on Biological Resources, Section 3.6.

Table 3.6-1 lists 9 plant species, most of which are invasive exotics, as occurring in the Northern subarea. A total of 16 plant species were identified in Table 3.6-4 for the Southern Subarea. These plants were noted by the consultant as part of a cursory survey conducted on November 3, 2005. It is quite obvious from the species lists and the time of year in which it was conducted the survey was totally inadequate and did not follow minimum survey guidelines or professional standards for determining baseline conditions. The rationale for why a comprehensive plant survey was not necessary was because the area is highly disturbed and under agricultural production. However, it should be noted that many of the annual species which occur in the Ormond Beach area would not be detectable in November.

The DEIR states that "no special-status plant species were observed during the reconnaissance field survey and none area expected to occur due to lack of suitable habitat". Without an adequate field survey, this comment cannot be substantiated and is entirely speculative. There are many cases (eg. Ventura Marsh milk-vetch) where rare or special status plants have turned up in places where they would never have been expected to occur. Two species which occur nearby and could potentially occur along drainage ditches or access road include the federally listed salt marsh bird's beak and the CNPS listed Coulter's gold-



*Dedicated to the preservation of California native flora*

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fields. Without an adequate baseline survey, we cannot rule out the possibility that these species might occur on site.

We also note that the DEIR did not list any of the locally rare plants with potential to occur onsite. These plants are listed by the California Native Plant Society, Channel Islands Chapter and are available online on the Society's website.

In short, while adequate field surveys might have provided the necessary evidence to support the assertions of URS, the necessary surveys were not conducted. We feel that the DEIR cannot be certified without an adequate field survey of botanical resources that may be impacted.

Thank you for considering our remarks.

Sincerely



Richard A. Burgess  
Rare Plant Chairperson  
Channel Islands Chapter CNPS

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**LETTER O.3 EARTH ALERT**

**Commentor:** Earth Alert, Janet Bridgers (09-22-08)

**Response**

1. **Transcription of Ormond Beach-Winter Wonderland:** The City's consultant viewed the video material submitted with the May 2007 DEIR and the transcription submitted with this comment. While the video and the transcription provide interesting information concerning the history of the Ormond Beach area and the opinions of key stakeholders concerning local natural resources, they do not include any comments on either the DEIR or the RDEIR.
2. **Incorporation by Reference of other Comments:** Comment noted. The City's responses to comments submitted on the RDEIR are included herein.

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**From:** Janet Bridgers <janetmbridgers@yahoo.com>  
**To:** <kathleen.mallory@ci.oxnard.ca.us>  
**Date:** 9/22/2008 11:24:42 AM  
**Subject:** Additional comment on Ormond Beach Specific Plan RDEIR

Ms. Mallory,

I've attached the script for the Ormond Beach documentary (Ormond: Wetland Wonderland), along with a description of footage that accompanies the narration and edited portions of the interview with wetlands biologist Wayne Ferren that have been integrated into the documentary.

Also, as part of our submission, Earth Alert hereby incorporates by reference and adopts as our own all comments (in their entirety) made by the Sierra Club, and all other interested parties for both 2007 draft EIR and the 2008 recirculated draft EIR regarding the Ormond Beach Specific Plan.

Could you please acknowledge receipt of this document? Thank you.

Janet Bridgers  
President/Founder  
Earth Alert Inc.  
P. O. Box 1210  
Pt. Hueneme, CA 93041  
805 487-2999  
info@earthalert.org  
www.earthalert.org

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Visuals	Script for Earth Alert's ORMOND WETLAND WONDERLAND Documentary
<p>Hueneme Road sign, with the cars whizzing by.</p> <p>Montage of video footage &amp; stills showing the range of habitats and several bird species.</p>	<p>BB: Every day, thousands of people drive past the patchwork of industrial, agricultural and port-related commercial parcels on Hueneme Road, the California state road that connects Port Hueneme and Oxnard to California's Highway 1 a few miles north of Mugu Rock. Very few drivers are aware of the rare treasure that exists beyond, at Ormond Beach, just a short distance away.</p> <p>But to those who know, Ormond Beach is one of the most extraordinary places along the entire California coast, a biological wonderland, with a stunning ecosystem that combines ocean, sandy beach, estuary, marsh, dunes and uplands. The two mile stretch of beach and adjacent wetlands that lies between the Pt. Mugu Naval Air Station and the Port Hueneme pier provides habitat to dozens of endangered, threatened or other special status species. As many as 300 bird species have been sighted here. Many of them migrate the Pacific Flyway as they have since the last Ice Age. At Ormond Beach, the birds still find a place where they can live as Nature intended, amidst the landscape of marshes and wind-sculpted dunes that gradually change from year to year.</p> <p>Dan Pearson, a marine mammal rescue expert, remembers how it was when he came to Ormond as a child in the 50s.</p> <p>Dan: [it was like a Walt Disney nature movie]</p> <p>BB: Decades later, after the City of Oxnard's permitting decisions allowed the area to become industrialized, wetlands biologist Wayne Ferren still found the area remarkable, but affected.</p> <p>Wayne: it was fairly early in my study of the west to visit the area and I was impressed with its size. I was impressed with the diversity. And with the impacts that were so obvious there. And yet in spite of the profound effects that were visible, there is a resilience and that I think is the story of Ormond...the fact that Nature finds a way sometimes in spite of all the things that we may do. And so, endangered plants and animals survive and we have an opportunity to enhance this refuge to make it better, and so that was, I think, the first thing that struck my mind, the conflicts between the impacts and the resilience and the fact that there was still so much there.</p> <p>BB. The irony may be that the industrialization isolated the dunes and wetlands of Ormond and allowed</p>
<p>Footage of Dan from Heroes interview, then voice over with footage of least terns at Ormond Beach</p> <p>Footage of the forge, then birds in marsh with forge in bkgnd.</p> <p>Wayne on-camera at first, then footage or stills of him at Ormond.</p>	
<p>Footage of Ormond Beach</p>	

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<p>the area to continue to support the vast array of flora and fauna that used to be found in coastal wetlands from Pt. Conception to the Mexican Border. Most other coastal wetlands have been developed.</p> <p>Wayne: And so we have lost 75 to 99 percent of them and in that loss, those which are left are also left to a few habitats and not always as diverse as what we have at Ormond.</p> <p>BB: Perhaps if the importance of wetlands had been widely known earlier, more wetlands would have been preserved, but the fact is they weren't makes the ones that remain all the more important.</p> <p>Wayne: For humans, it provides both fisheries and recreational opportunities, and certain for the native Americans, cultural benefits for native plants and animals. We have a number of areas in Southern California that have beach closures, from Santa Barbara on south and often this is due to the fact that the wetlands have... that our stormwater simply comes right from the streets, right into the ocean and provides, at least periodic pollution, whereas if we had larger wetlands as we did historically, we might very well have this biofiltration able to culminate more purification for the beaches, so there's all sorts of links and we reach a point where we have beach closures, we have higher pollution issues, we have needs that have to be met in order to survive on the coast.</p> <p>BB: The ecosystem at Ormond has features that the other wetlands don't have.</p> <p>Wayne: The fact that it has low elevation agricultural lands, fairly extensive, around it is unique because most of our wetlands have development right up to the edge and into the remaining small portions of estuaries. (took out part about 1500 acres)</p> <p>It is significant and unique virtually because of that, because most of the wetlands are surrounded by railroads, highways, housing developments, urbanization in general.</p> <p>BB: And yet, as valuable as many acknowledge wetlands to be, the pressure to marginalize their viability by developing ever closer to the edge continues:</p> <p>Wayne: Ormond Beach is more than about the wetlands because another aspect of Ormond is that we have a dune system intact... we have a diversity of habitats that support a diversity of plants and animals. Some of these are mudflat and mudflat communities... plants and animals. We have intertidal salt marsh, brackish water marsh, with bulrushes and cattails, and some fresh water marsh... submerging wetland.</p>	<p>Wayne on Camera</p> <p>Footage of Ormond Beach</p> <p>Video &amp; stills of recreational use and fishing, then</p> <p>Wayne on Camera</p> <p>Beach closure signs</p> <p>Footage of Ormond Beach</p> <p>Footage of Ag Lands</p> <p>Footage of Ballona Wetlands in West L.A.</p> <p>Footage of Ormond Beach dunes, marshes, mudflats etc</p>
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<p>There are some tidal channels. There is a beach lagoon area. In fact that what we see are remnants of this larger estuary that extended all the way and beyond Hueneme Rd. It was a substantial ecosystem and part of the Oxnard Plain with coastal wetlands and so this... we have the beach community, which supports rare globos dune beetles. We have habitats for wildlife ...live along the beach. Like this combination of dune and dune seep, brackish edges, salt marsh, mud flats, palustrian edges, channels...the diversity of the plants and animals we see reflect the fact that there's this complex smaller habitats in the larger ecosystem.</p>	<p>Historic map, then modern map showing Hueneme Rd.</p>
<p>BB: And it is this array of natural features that explains why an astounding number of species can be found here, either as residents or migrating guests. The range of features at Ormond also make it extremely important from a regional perspective.</p>	<p>Footage of Ormond Beach</p>
<p>Wayne: What I think we need to keep in mind that we have to take a regional perspective and where does Ormond fit into the context of other sites such as Ballona wetlands nearby or all the way up to Carpinteria salt marsh in Santa Barbara County, and down to the San Diego group of estuaries. And functions that are especially endemic to that area we're more able to preserve and how we do it regionally (?). And Ormond in that case will play a major role in the regional sustainability and recovery of these areas.</p>	<p>Wayne on camera, then stills of Carpinteria salt marsh, &amp; San Diego estuary</p>
<p>BB: The range of features at Ormond make it extremely important from a regional perspective.</p> <p>Wayne: But Ormond on the other hand has so many significant remaining functions that it may be one of those that can support a broader array than some of the other estuaries which may support one or two well, but not a broad array of them. So scale, size has something to do with Ormond being larger as a remnant, certainly has greater capacity and gives us a chance to think about how we fit those pieces back together.</p>	<p>Footage of Ormond Beach</p> <p>Wayne on Camera</p>
<p>BB: From a worldwide perspective, Southern California's Mediterranean climate presents a fairly rare combination of physical characteristics that fosters a unique set of biological adaptations found only in Southern California marshes.</p>	<p>Still of Santa Barbara</p>
<p>Wayne: Well, these fluctuating zones along the edge of the estuary are found only in Mediterranean climates where we have winter rains...there's enough rain fall that it reduces the salinity. That allows rare annual plants to grow during low salinity. They grow, flower, produce seed and die as summer</p>	<p>Ducks in winter rain Then Salt Marsh Birds Beak and mudflats</p>

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<p>hyper-salinity increases with evaporation and so this special zone along the edge of the estuary is extremely important for supporting these rare plants and animals, and some of the animals as well, but especially the rare annuals that only grow in that environment. And so Ormond Beach has some of them, and another estuaries in the region. Unfortunately, those are often higher and drier and the first place to be filled in and built on for parking lots, airports...airports all over the world are built in coastal marshes often and in estuaries because they're flat large areas that you would need for them and so these rare habitats are often some of the first ones to be filled in.</p>	<p>Footage of LAX</p>
<p>BB: Ormond's range of features is a marvelous demonstration of the fact that many life forms, many species, live on the edge.</p>	<p>Stills of adjoining habitat types</p>
<p>Wayne: You have salt marsh harvest mice, salt marsh shrews that occur in some of these transition zones and for some of the plants and some of the animals that occur down in the salt marsh environments, the fluctuating tides, the high tide-low tide areas in these marshes, find refuges in these higher transition zones during extreme high tides, or during storms, so one of the things that's important about the transition zones including these fluctuating salinity zones is for biodiversity refuges, important areas that it's not just the lower tidal salt marshes that we think of with estuaries, with a combination of regular tidal flushing or irregular flushing, but it's all these peripheral areas that provide the support, the refuges, the areas within ?? that are often lost and so if we have only the lower salt marsh preserved, you've lost most of the biodiversity in the ecosystem without the peripheral areas that are so important.</p>	<p>Stills of salt marsh harvest mice &amp; shrews</p>
<p>BB: Close by, a change in salinity provided by the input of fresh water offers a different environment—the brackish marsh.</p>	<p>Footage of Ormond Beach's brackish marsh</p>
<p>Wayne: We have a lot of fresh water coming in and those brackish marshes occur in a mixing zone where if you have enough fresh water coming into an estuary that's open with tidal salt water coming in, then you have a salinity that is less than sea water regularly enough to support cattails and bulrushes and plants that we think of brackish. What separates an estuary and its wetlands from adjacent areas is often considered to be the salinity of .5 parts per 1000. The background salinity, the landscape, may be less than less than .5 parts per 1000, but any more than .5 is suggesting that it is, in fact, derived from the ocean and therefore salt marsh, or if the salinity is especially 35 parts per 1000 it's ocean. So somewhere between 35 and .5 is brackish. And in many estuaries, you have that mixing of salt water and fresh water, giving that brackish salinity and that supports plants and animals different than perhaps would be in saltwater areas.</p>	<p>Aerial photo with type overlayshowing where fresh water enters, where mixing occurs, where brackish marsh is.</p> <p>Then Wayne on camera talking about salinity</p>

<p>BB: A third environment is the fresh water marsh.</p> <p>Wayne: Here we have very little fresh water coming out many times and so we have a confined area of salt and brackish marsh and then fresh water marshes nearby. Very few examples of tidal fresh water. But those fresh water marshes are important for all the breeding birds and for other functions as well, and in a healthy integrated ecosystem you expect to find a combination of fresh water marshes, riparian forests and scrublands, fresh water seeps and springs, brackish marshes, salt marshes, hypersaline marshes, mud flats and back to Ormond, many of these things still exist in the area. You have our brackish marshes, salt marshes, hypersaline areas, dune and beach areas, so the fact that it has still all of those is very important.</p> <p>BB: And between the marshes and the shore are Ormond's beautiful coastal foredunes, some of the few remaining coastal foredunes in Central and Southern California where beach grooming—a positive in terms of human recreational use of beaches—creates a huge negative for the tiny shorebirds that nest in the rack material and forage for tiny invertebrates in the wet sand.</p> <p>Wayne: This preserved intact section of the coast provides breeding habitat for shore birds such as the Snowy Plovers which is very vulnerable to loss of shoreline, shoreline erosion issues, beach access and recreational issues, vehicles running chicks and eggs and predation by increasing numbers of crows</p> <p>Janet. The Western Snowy Plover is an extremely endangered bird, with only about 1200 birds left along the west coast of California and Mexico. The plovers' breeding habits are different from most birds. As soon as the chicks hatch after ___ days of gestation, the male takes over caring for the chicks and the female leaves to start another nest. The chicks are precocious, meaning that they immediately begin to forage on their own. They are, nonetheless, extremely vulnerable to off-leash dogs, joggers and illegal off-road vehicles that still are occasionally found along the wet sand.</p> <p>Wayne: Well, they can be impacted by big storms, they can wipe out the nesting area. A lot of recreational activities. Beach grooming is enormously effective in eliminating populations of shore birds because highly groomed beaches like some of our urbanized beach areas that are, of course, for recreation, are groomed with tractors eliminating rack and cleaning up on a regular basis. There's no way to support beach nesting birds or birds that even feed in the area because it's the decomposing kelp off the beach that produces the nutrients, which provides the food chain support for the invertebrates in</p>	<p>Footage of ducks in fresh water marsh Wayne on camera.</p> <p>Aerial photo with type overlayshowing where different habitat types at Ormond are.</p> <p>Still of Ormond's dunes.</p> <p>Footage &amp; stills showing threats to Snowy Plovers</p> <p>Footage and stills of Snowy Plovers.</p> <p>Off leash dog footage</p> <p>Big waves, footage &amp; storms. Beach grooming footage.</p>
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<p>Wayne on camera.</p> <p>Coal Oil Pt. still</p>	<p>the sand. And so if you eliminate food source for the invertebrates, you're also eliminating the food source for the birds that eat them. So it's this interesting element of urbanization, recreation, beach grooming, all sorts of impacts, and then shoreline erosion, or the development of our beaches [?] with bulkheads and ultimately sea level rise perhaps with global climate change. There are lots of issues related to survival on the beach and I think certainly our keystone species for this could be thought of as our snowy plovers. We do have success stories, certainly, at places like Coal Oil Pt. Reserve at UC Santa Barbara where beach management has preserved habitat and you have a wonderfully restored population there. Here at Ormond we actually have a persisting population but there are demands and challenges with beach access and competing uses.</p>
<p>Least tern footage &amp; stills</p>	<p>BB: Another very vulnerable species is the California least tern, a migrating species that spends winters in Costa Rica, then returns to Southern California beaches to breed in summer.</p>
<p>Least tern footage &amp; stills</p>	<p>Wayne: Least terns are another one that we can talk about. And they are beach nesting birds and crows are really a certain impact and increasing crow populations also increasing urbanization, the crows can get in and eat the eggs and young and so we have a need to figure out how to control these predators, in addition to recreational issues, other shoreline management issues, so it's very challenging, with many competitive activities for the same space and various places in the world will have seasonally fenced off beaches for having their seasonal activity of breeding so that they can at least breed and then as the chicks mature, they can at least forage and perhaps manage with the other habitats that are there, but the breeding element is very important and very difficult to achieve given the shoreline conditions throughout So. Cal.</p>
<p>Least tern footage &amp; stills</p>	<p>BB: There aren't many beaches where the birds have enough protection to nest in the sand for the days until the eggs hatch. Ormond is one of the few public beaches in Southern and Central California where they find this protection. Another rare bird found at Ormond is the Belding Savannah Sparrow that nests in the pickleweed behind the dunes.</p>
<p>Stills and footage of Beldings</p>	<p>Wayne: They are endemic to the California estuarine province that extends from Santa Barbara down to San Deigo and Baja and they're found only in salt marshes. Now stating that, what I mean, is that they breed, as far as we know, in the tidal pickle weed habitat. Pickleweed is Sarco?? Virginia, the Latin name for this plant that grows in salt water and these little birds nest at some of the higher elements of it, so they're not completely inundated all the time with the salt water. And they hide their nests in some of these higher transitional pickleweed areas. ...They're also preyed on by crows. Another activity...so</p>
<p>Pickleweed footage</p> <p>Stills and footage of Beldings</p>	

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<p>groundnesting birds, beach birds as we talked about, salt marsh birds, have lots of challenges.</p> <p>BB: Coming to Ormond at various times of the year offers opportunities to see other rare species.</p> <p>Wayne: so we have kind of the large capital "E" endangered, state and federal listed, and then we have those which make might endangered or threatened, which perhaps aren't listed, in technical terms, but may be on Native Plant Society or Audubon lists of plants or birds of concern, and so there are many different ranges of threatened and endangered, sometimes it's a political issue of getting something listed or not, so there's actually a larger list of animals of concern than what might be those which are actually listed. But we do have quite a few that either are known to be in the region or might make use of it in the future. Bald eagles, of course, are quite interesting, and are having a recovery successes on some of our coastal islands and one hopes that with restored marshes along the coast, we might see more of these birds that are known to catch fish. What we do have some of our fishing hawks, for example, which are seen here in winter and seasonal use of the estuaries. There's a whole suite of birds that are sometimes federally listed and of greater concern, and have political ramifications and then a whole suite of birds that are of concern, declining in number, of increasing concern as habitats are impacted. Of course, this is all part of the biodiversity issues for a huge diversity of migratory birds, which may not breed here, but nonetheless, the habitats are important for them.</p> <p>It's sadly ironic that just as we begin to have enough land under public ownership and enough public awareness and funding to begin restoring the wetlands, the prospect of massive nearby development again threatens the long term potential of the area to actually serve as habitat.</p> <p>Ormond Beach is still viable as habitat, meaning that it gives wildlife what it needs to forage and reproduce. There is no magic number for minimum acreage required to preserve habitat, just the assurance that every inch that reduces it, every step that increases human and pet traffic reduces its potential to support wildlife and provide the other functions that are critical to humans ability to live on the coast—functions that include flood prevention, biofiltration of storm waters, beach replenishment and nurseries for fish.</p> <p>Ormond Beach may be the only coastal wetland in Southern California with the potential to survive the effects of global warming more than the next 100 years when rising ocean levels will cause all wetlands to migrate further inland. For most, that will mean migrating into parking lots, across roads and railway tracks, into the foundations of buildings that have been built immediately adjacent to their current</p>	<p>Footage of pie-billed grebe at Ormond.</p> <p>Stills of rare birds seen at Ormond.</p> <p>Pending development sign on Hueneme Rd.</p> <p>Footage of Ormond Beach</p> <p>Global warming impact stills.</p>
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<p>perimeters. Property owners will complain. Sea walls will be built. Life on the edge will be lost.</p> <p>So it is up to us, with an ability to foresee these predicaments to find ways to forestall the impacts that we can now predict with a fair degree of certainty.</p> <p>The coast belongs to all of us. And that "us" includes the nonhuman species who depend on coastal wetlands and ungrooved beaches to survive.</p> <p>Wayne: It's actually great to experience a place to go and see these things and understand that we must be optimistic, and the future, I think...restoration and the recovery of endangered species, one must be optimistic and believe we can do this, otherwise, it's the wrong business to be in and I remain an eternal optimist and believe we can do these things, and we can recover and preserve habitat for our endangered species and recover the populations of endangered species.</p> <p>Additional information and credits.</p>	<p>Sea wall stills</p> <p>Footage of Ormond estuary</p> <p>Wayne on camera.</p> <p>Ormond footage.</p>
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**LETTER O.4 ENVIRONMENTAL DEFENSE CENTER**

**Commentor:** Environmental Defense Center, Karen Kraus (09-22-08)

**Response**

1. **Project Description-Insufficient Detail:** The CEQA Guidelines state that the project description “should not supply extensive detail beyond that needed for evaluation and review of the environmental impact.” As the commentor notes partially, the Guidelines further require the inclusion of a “general description of the project's technical, economic, and environmental characteristics.” In light of the full CEQA Guidelines description regarding project descriptions, the general description included in the RDEIR is sufficient. Furthermore, with publication of the RDEIR, the City provided copies of the specific plans and development agreements, which provide extensive details concerning the proposed projects.
2. **Project Description-Improperly Narrow:** The RDEIR’s project description clearly explains both the existing physical setting and the existing policy setting. Also, while the commentor accurately asserts that the General Plan does not require that development occur, it does establish, as a matter of City policy, the expectation that development will occur. Thus, the RDEIR’s assumption that development will occur according to the General Plan is reasonable.
3. **Project Objectives Too Narrow:** The Commentor cites language from the City’s existing 2020 General Plan that pertains to the “Ormond Beach Major Study Area,” which is a 2,789-acre area that encompasses the Study Area for the Ormond Beach Specific Plans along with other adjacent areas. The Study Area for the EIR consists of an approximately 917-acre area within the Major Study Area, as identified in the General Plan. The balance of the Major Study Area includes land that the State Coastal Conservancy (SCC) has already acquired or expects to acquire and approximately 1,500 acres that were added to SOAR following adoption of the 2020 General Plan in 1990 (see RDEIR Figure 2-2). The Commentor asserts that the EIR should cite all applicable principles and objectives. The General Plan objectives for the Ormond Beach Major Study Area are intended to carry out the principles listed for the Major Study Area. Thus, stating both the General Plan’s principles and the objectives would be redundant. Given the designations on the General Plan Land Use Map for the EIR’s Study Area, the project objectives as stated in the RDEIR cover those that are relevant to the project analysis.
4. **Project Objectives Described Inconsistently:** The objectives stated in Section 4.2 (Table 4-1) of the RDEIR are summations of those cited in Section 2.2 and do not vary in their summation. They are consistently described in both sections of the RDEIR..

5. **RDEIR Fails to Identify All Necessary Actions:** The South Ormond Beach Specific Plan does not propose any development within the Coastal Zone. Thus, there is no “project” as defined in the Coastal Act that would invoke Coastal Commission jurisdiction, including a coastal development permit. Note also that the City met with representatives of the Coastal Commission as part of the EIR scoping process and the RDEIR was distributed to the Coastal Commission. The Commission did not raise the concerns expressed by the commentor, either during the scoping process or in response to the RDEIR.
6. **Geology-Cumulative Impacts:** In response to comments submitted, the discussion under Impact GEO-7 in FEIR includes following language to clarify the basis for discussion of cumulative impacts related to geology or geologic hazards:

“The potential cumulative impacts for geology do not generally extend far beyond a project’s boundaries, since geological impacts are confined to discrete spatial locations and do not combine to create an extensive cumulative impact condition”.
7. **Water Supply Assessment and Verification Inadequate:** The City prepared a thorough evaluation of water supply availability, including provisions accounting for the uncertainties associated with future supplies and facility improvements. This evaluation is a suitable basis for the evaluation of project-level water supply impacts.
8. **Climate Change Effects on Water Supplies:** The EIR’s analysis of water supply accounts for fluctuations in supply resulting from all sources, including those that might result from changes in global climate patterns (see RDEIR Section 3.3.1.2.7).
9. **Water Resources Mitigation Measures:** The commentor assumes that activities, including project features or pre-development permitting requirements that serve to avoid or pre-empt potentially adverse impacts, must be cited as “mitigation measures.” While these activities, which are enforceable through City authorities independent of CEQA, have the effect of mitigating environmental consequences that might otherwise occur, they are not, per se, mitigation measures, and are thus not characterized in the RDEIR as such. Therefore, the mitigation measures contained in Section 3.3.3.4.1 are sufficient.
10. **Water Resources-Cumulative Impacts:** As described in the EIR Section 3.3, the water supply analysis is based on a thorough citywide analysis of water supply and demand. The citywide analysis includes a consideration of demand associated with all major projects under review by the City, including both Ormond Beach specific plans.
11. **Flood Control and Stormwater Drainage-Cumulative Impacts:** The RDEIR’s baseline discussion under Section 3.3.1.6 (Stormwater Drainage and Water Quality) and Section

3.3.1.7 (Flooding/Floodplain) and the impact analysis in Section 3.3.3 (Impacts Water-6, -7, -8, -15, and -16) are sufficient to address CEQA requirements for the analysis of cumulative impacts. Also, Section 2.0 of the FEIR (Project Description) includes an explanation of the policies and programs and a list of the development projects that collectively constitute the basis for the cumulative impact discussions throughout the RDEIR.

12. **Wastewater Resources-Cumulative Impacts:** As described in the RDEIR (Impact Water-20), the cumulative analysis relies on the City’s Wastewater Collection System Master Plan includes projections for the full build-out of the City’s 2020 General Plan, which is an acceptable approach as described in the CEQA Guidelines (15130(b)(1)(B)). Also, Section 2.0 of the FEIR (Project Description) includes an explanation of the policies and programs and a list of the development projects that collectively constitute the basis for the cumulative impact discussions throughout the RDEIR.
13. **Air Quality-Cumulative Impacts:** As stated in the EIR Section 3.4, the cumulative analysis relies on the AQMP’s findings for cumulative emissions, which is an acceptable approach as described in the CEQA Guidelines (15130(b)(1)(B)). Also, Section 3.1.2 of the FEIR includes a list of the development projects that collectively constitute the basis for the cumulative impact discussions throughout the EIR.
14. **Climate Change Analysis Methodology for Air Quality:** The RDEIR’s analysis is not intended to “minimize or discount” scientific research concerning climate change, as suggested by the commentor. It includes an accurate representation of findings concerning climate change, including the fact that there are uncertainties with respect to many aspects of the issue. In response to the commentor’s suggestions for citation of updated sources, the FEIR’s discussion includes references to recently published reports from the sources cited in the RDEIR. Also, the References section of the FEIR includes the citations from the narrative of the climate change analysis. See also Master Response 3: Global Climate Change.
15. **Climate Change Effects on Project for Air Quality:** As the commentor notes appropriately, the RDEIR does acknowledge linkages between water supply uncertainty and climate change. For other subjects evaluated in the RDEIR, such linkages would be more difficult to establish, with considerable—and unwarranted—speculation required. See also Master Response 3: Global Climate Change.
16. **Project Impacts on Climate Change/Baseline for Air Quality:** Neither CEQA statutes or the CEQA Guidelines provides jurisdictions with a suggested climate change analysis protocol or methodology. While such guidance may be in the works, it has not yet been published. and therefore it would be speculative to develop arbitrary numbers. In an effort to address this important issue, the City developed a response to this topic which is contained in

the Master Response 3: Global Climate Change at the beginning of this document with supporting analysis and quantification contained in Section 3.4.3.6 of this FEIR.

17. **Greenhouse Gas (GHG) Emission Inventory:** The RDEIR's approach to characterizing GHG emissions sufficiently addresses reasonable legal standards. The narrative that introduces Tables 3.4-14 and 3.4-15 in the RDEIR explains how the URBEMIS 2007 model results are interpreted to derive the results in the tables. Note that the RDEIR mistakenly included the URBEMIS results from the May 2007 DEIR as Appendix C (Air Quality Emissions Calculations). The FEIR includes the URBEMIS 2007 results that were the basis for the RDEIR analysis. Note also that this information was provided to the commentor during the public review period.
18. **GHG Significance Determination:** See Master Response 3: Global Climate Change.
19. **Climate Change Impact Mitigation:** See Master Response 3: Global Climate Change.
20. **Hazards and Hazardous Materials-Cumulative Impacts:** The commentor asserts inaccurately that the RDEIR analysis is "without any information about hazards from other projects, or information about hazards from this project." The RDEIR Section 3.5 includes information concerning both project-related hazards and conditions around the Study Area that could affect the project. Thus, no revisions are warranted.
21. **Identification of Biological Resources:** Section 3.6 and Appendix A to the RDEIR cite the presence and potential presence of a vast array of biological resources both within and near the Study Area. These citations are based on years of research conducted by numerous experts on biology and the Ormond Beach area, as well as limited direct field observation during the preparation of the RDEIR. These sources provide an adequate baseline by which the lead agency can assess the magnitude of project impacts. Also, see Master Response 2: Indirect Impacts Sensitive Offsite Habitat and Sensitive Species.
22. **Climate Change Impacts-Sea Level Rise:** See Master Response 1: Sea Level Rise
23. **Wetland Restoration Plan:** The commentor asserts that the EIR fails to analyze the impacts of the SCC's wetland restoration plan. At the time of publication of the RDEIR, the SCC had not adopted or published a wetlands restoration plan. Thus, the City is not in a position to evaluate the consistency of the proposed specific plan with the SCC's efforts.
24. **Natural Resource Management Program:** See Master Response 2: Indirect Impacts Sensitive Offsite Habitat and Sensitive Species.

25. **Foraging Habitat Mitigation:** The City continues to support the mitigation ratio of 0.1 to 1 recommended in Mitigation Measure BIO-2 of the RDEIR. The calculation of the mitigation contribution associated with the development of the Southern Subarea has, however, been modified. The equation used to determine the contribution no longer credits the applicants for conserving the southernmost 220 acres.
26. **Runoff Mitigation:** The commentor appears to have misread Mitigation Measure BIO-5: Wetland Runoff Control. It does not recommend bioswales. Instead, it proposes measures that would supplement the benefit of the bioswales proposed by the applicant, which is essentially what the commentor is suggesting.
27. **Biological Resources-Cumulative Impacts:** The commentor asserts that the EIR does not consider past, present, and probable future projects in the assessment of impacts to biological resources. As stated under the EIR analysis for Impact Bio-29 Cumulative Impacts, “In the immediate vicinity of the proposed project site, no substantial development projects are proposed that would be included in a cumulative impact analysis.” The absence of such development projects is attributable to the SOAR program, which covers the area immediately to the east of the Study Area. Also, Section 2.0 of the FEIR (Project Description) includes an explanation of the policies and programs and a list of the development projects that collectively constitute the basis for the cumulative impact discussions throughout the RDEIR.
28. **General Plan Consistency:** The commentor accurately cites the CEQA Guidelines requirement that EIRs discuss inconsistencies between a project and applicable plans. CEQA does not require a point-by-point defense of project consistency; rather, it seeks cases where the project clearly conflicts with adopted plans. Per the City’s adopted thresholds, the Land Use and Planning analysis in the RDEIR (Section 3.7) relies heavily on a comparison of the uses proposed in the specific plans with the General Plan land use map, as well as a review of consistency with General Plan land use policies. As that analysis indicates, there are no substantial conflicts or inconsistencies. For the subject matter covered by the Open Space/Conservation Element, the EIR includes discrete impact discussions elsewhere in the document that are keyed to the City’s thresholds. In cases where these thresholds are tied to the General Plan land use map or policy, those discussions cite the appropriate General Plan content (e.g., Visual/Aesthetic Resources analysis relies on policy statements from the Open Space/Conservation Element).
29. **Safety Element Consistency:** See Master Response 1: Sea Level Rise.
30. **Coastal Land Use Plan:** The projects under consideration do not propose development within the Coastal Zone. Thus, they do not invoke SCC jurisdiction or a coastal development

permit. The City notes that City staff conferred with SCC staff early in the environmental scoping process and invited the SCC to comment on both the May 2007 DEIR and the July 2008 RDEIR. Based on the early consultation, SCC staff did not determine that the proposals constituted a project according to the Coastal Act. Also, the SCC submitted no comments on either version of the DEIR.

31. **Land Use Element:** CEQA requires that EIRs discuss inconsistencies between a project and applicable plans. CEQA does not require a point-by-point defense of project consistency. Instead, the intent is to identify cases where the project clearly conflicts with adopted policies. Per the City's adopted CEQA thresholds, the Land Use and Planning analysis in the RDEIR (Section 3.7) provides an analysis of the projects consistency with General Plan land use map, as well as a review of consistency with General Plan land use policies. That analysis concluded that there are no substantial conflicts or inconsistencies. Furthermore, City staff has conferred several times with representatives of Naval Base Ventura County (NBVC) concerning the proposed projects, and NBVC's Commanding Officer submitted comments on both the May 2007 DEIR and the July 2008 RDEIR (see Letter F.2 and the City's response). Note also that, according to NBVC, the proposed Southern Subarea project represents an improvement over the existing General Plan.
32. **Land Use and Planning Cumulative Impacts:** Impact Land-8's description of the cumulative setting is sufficient, particularly in light of analyses concerning LAFCO and SCAG policy consistency, both of which are inherently cumulative in nature, although not defined as such in the EIR. Also, Section 2.0 of the FEIR (Project Description) includes an explanation of the policies and programs and a list of the development projects that collectively constitute the basis for the cumulative impact discussions throughout the EIR.
33. **Agricultural Resources-Loss of Additional Acreage:** The FEIR has been modified to reconcile the inconsistency in the description of the 220 acres. References to the 220 acres now clearly indicate that the applicants propose to maintain the land for agricultural uses.
34. **Feasibility of Ag Mitigation:** The discussion provided as part of Impact AG-7 (Direct Farmland Conversion) in the RDEIR explains the basis for the findings of infeasibility and the City stands by that explanation. As the discussion explains, feasibility is defined as "capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors," per section 21061.1 of the California Public Resources Code. In preparing the RDEIR, the City reviewed a variety of actions that might offset the effects of the loss of productive agricultural land, including requirements for direct preservation of agricultural land elsewhere in the region and/or financial contribution to efforts to acquire conservation easements or deed restrictions on land currently used for production. The City has also considered imposition of other

requirements such as stockpiling of high quality topsoil and offering it as soil amendments for marginally viable agricultural land; converting nearby areas not used for farmland to farmland (e.g., open space or industrial lands); and/or financially contributing to an organization that performs agricultural conservation. Based on its evaluation of these and other potential measures, the City concluded they would not be feasible for the Ormond Beach Specific Plan projects.

35. **Ag Land Values:** The commentor mistakenly compares the RDEIR's citation of costs for land acquisition (\$75,000 to \$100,000 per acre) with those for easement acquisition (\$33,750 to \$65,000 per acre).
36. **Ag Conservation Programs in Ventura County:** Comment noted. The discussion in the EIR is accurate concerning the availability of programs within Ventura County.
37. **Ag Resources Cumulative Impacts:** Section 3.8 of the RDEIR includes extensive citation of the regional and local setting for agricultural resources.
38. **Pub Facilities and Services Cumulative Impacts:** The Existing Conditions and Regulatory Framework discussions in Section 3.9 of the RDEIR establish the cumulative setting for each of the subjects assessed. The subject-by-subject impact discussions then explain the cumulative basis for the impact analyses, which generally relate to the service areas of the service providers (in most cases citywide). Also, Section 2.0 of the FEIR (Project Description) includes an explanation of the policies and programs and a list of the development projects that collectively constitute the basis for the cumulative impact discussions throughout the FEIR.
39. **Transportation Cumulative Impacts:** The traffic analysis presented in the EIR is inherently cumulative in nature. It covers 40 intersections in both incorporated and unincorporated areas, some of which are over five miles from the project area. The City believes that the analysis sufficiently captures the potential cumulative traffic impacts associated with the projects. Also, Section 2.0 of the FEIR (Project Description) includes an explanation of the policies and programs and a list of the development projects that collectively constitute the basis for the cumulative impact discussions throughout the FEIR (or RDEIR).
40. **Noise Cumulative Impacts:** As highlighted in Table 3.11-8 from the RDEIR, evaluates predicted traffic noise levels on 50 roadway segments within and around the Study Area. This evaluation is based on the outputs of the travel demand model used to assess traffic impacts. Thus, it considers the cumulative noise associated with traffic generated by the proposed projects in combination with other projects that the travel demand model considers. The impact analysis also assesses ambient noise impacts associated with sources outside of the Study Area, including NBVC, operations on the Union Pacific Railroad (UPRR) tracks,

the Ormond Beach Generating Station, the SoCal Gas Company Pumping Station, and the Pacific Vehicle Preparation Facility. The assessment of impacts associated with these regional facilities inherently takes into account the cumulative noise setting and the relationship of the projects to that setting. Also, Section 2.0 of the FEIR (Project Description) includes an explanation of the policies and programs and a list of the development projects that collectively constitute the basis for the cumulative impact discussions throughout the FEIR.

41. **Cultural Resources Cumulative Impacts:** Section 3.12.3 of the FEIR includes a discussion of cumulative Cultural Resources impacts under Impact Cultural-3, noting that the project will result in no significant impacts. Also, Section 2.0 of the FEIR (Project Description) includes an explanation of the policies and programs and a list of the development projects that collectively constitute the basis for the cumulative impact discussions throughout the EIR.
42. **Visual and Aesthetic Resources Cumulative Impacts:** Impact AES-12 on page 3.13-22 explains the basis for the RDEIR's assessment of cumulative impacts on visual and aesthetic resources. Section 2.0 of the FEIR (Project Description) includes an explanation of the policies and programs and a list of the development projects that collectively constitute the basis for the cumulative impact discussions throughout the FEIR.
43. **Alternatives Analysis-Project Objectives:** The alternatives analysis refers to the Project Objectives presented in Section 2.2 of the EIR. Table 4-1 (Thematic Project Objectives) distills those objectives, which are derived from the objectives from the City's 2020 General Plan for the Ormond Beach Specific Plan Area, which includes the Specific Plan Study Area.
44. **Alternatives Analysis-Offsite Alternatives:** The EIR's rationale for dismissal of alternative sites for the proposed project is reasonable. Nonetheless, the FEIR's discussion (Section 4.4) elaborates the rationale with specific reference to the standards established in the Goleta Valley case. Also, Alternative 1 does not relocate the high school as part of the project, as the commentor asserts. Rather, it replaces the area occupied by the high school with residential uses. The high school is not part of Alternative 1; the assumption that it will be relocated to the east of the Study Area is stated for analytical purposes.
45. **Alternatives Analysis-Coastal Development/Wetlands:** As explained elsewhere in the responses to Letter O.4, the premise of this comment (that the EIR does not address coastal or wetland impacts) is flawed. Furthermore, the EIR addresses a reasonable range of alternatives, including alternatives with features similar to those suggested by the commentor, to allow for informed consideration of the proposed project.

46. **Alternatives Analysis-Combination of Alternatives:** The alternatives presented in Section 4 of the RDEIR provide sufficient information to support City decisions concerning the proposed projects. There is no need to mix-and-match features of the alternatives, as suggested by the commentor.
47. **Alternatives Analysis-Alternative 1:** CEQA does not require that all alternatives considered as part of the project review reduce impacts compared with the proposed project, as the commentor implies. For instance, Alternative 2 (No Project/Existing City Plan) would result in more development than the project. Thus, the consideration of Alternative 1 is an appropriate part of the overall project review process.
48. **Alternatives Analysis-Alternative 5:** The FEIR includes additional information concerning the difference in intensity associated with Alternative 5. Assuming a typical employment density for light industrial uses (1,000 sf/employee), Alternative 5 would support approximately 1,900 employees. This compares with approximately 4,400 under the proposed project. The greater number of employees under the project would be attributable to a higher percentage of the area being developed for business park uses, which have a higher employment density (350 sf/employee).
49. **Alternatives Analysis-Comparison:** The RDEIR's summary comparison of the implications of the alternatives (Table 4-9) accurately characterizes the relationships among the alternatives with respect to the project objectives.
50. **Alternatives Analysis-Environmentally Superior Alternative:** Section 4.7 of the FEIR has been revised consistent with the commentor's observations.
51. **Growth-Inducing Impacts:** CEQA requires that EIRs discuss the ways in which projects could foster growth in the surrounding environment. As the EIR explains, the area surrounding the Study Area is either developed or set-aside for conservation (through the SCC and SOAR/CURB). Thus, as Section 5.5 of the RDEIR explains, the projects will not induce growth in surrounding areas.
52. **Public Participation-Public Notice:** The City's noticing complied with State law and the City's own procedural requirements. Furthermore, the City extended the public review period from 45 to 60 days to provide additional opportunity for comment.
53. **Public Participation-Availability of Documents:** The City has not been made aware of the difficulties that the reader claims were experienced by "the public," and no other commentors have corroborated such. Irrespective of those claims, the City extended the review period in a manner that allowed opportunities to overcome such difficulties to the extent that they existed.

54. **Public Participation-Format of Comments:** CEQA Guideline Section 15202(a) states “Public comments may be restricted to written communication.” The citation that the commentor provides (Public Resources Code Section 21082.1(b)) pertains to the preparation of the environmental document, not to the responses to comments. That citation reads, in full, as follows: “This section is not intended to prohibit, and shall not be construed as prohibiting, any person from submitting information or other comments to the public agency responsible for preparing an environmental impact report, draft environmental impact report, negative declaration, or mitigated negative declaration. The information or other comments may be submitted in any format, shall be considered by the public agency, and may be included, in whole or in part, in any report or declaration.”
55. **Public Participation-Status of Sierra Club Comments on DEIR:** The commentor’s suppositions about the City’s considerations of the Sierra Club’s comments are inaccurate. Furthermore, the City has communicated directly with the Sierra Club concerning the issues that the commentor raises (see Response to Letter O.6).

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**environmental**  
DEFENSE CENTER

September 22, 2008

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**Re: Ormond Beach Specific Plan Recirculated Draft Environmental Impact Report – State Clearinghouse No. 2005091094**

Dear Ms. Mallory:

These comments are submitted by the Environmental Defense Center on behalf of the Sierra Club, Los Padres Chapter regarding the City of Oxnard's Ormond Beach Specific Plan Recirculated Draft Environmental Impact Report ("RDEIR").

The Sierra Club, Los Padres Chapter ("Sierra Club") has been involved for many years with efforts to protect sensitive coastal habitat areas at Ormond Beach and protection of Ormond Beach is its highest environmental priority for Ventura County. The Sierra Club has submitted comments on prior iterations of the environmental impact report.

The Environmental Defense Center ("EDC") is a non-profit, public interest law firm that represents community organizations in matters affecting California's southern coastal environment. The EDC protects and enhances the environment through education, advocacy and legal action.

Section numbering in this comment letter is intended to replicate the section numbering in the RDEIR.

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### **Introduction**

In May 2007, the City of Oxnard previously released a draft environmental impact report ("draft EIR") evaluating the potential environmental impacts of the Ormond Beach Specific Plan. Following a 60 day public comment period, the City determined that several sections warranted additional analysis, including water resources, biological resources, air quality, and the alternatives discussion.<sup>1</sup> As a result, the City decided to republish and recirculate the entire EIR, rather than just selected sections.<sup>2</sup>

We appreciate the City's commitment to attempt to address the issues that were raised during the comment period. Unfortunately, the RDEIR contains a significant number of inadequacies. These include the following:

- The RDEIR does not comply with CEQA requirements for a legally adequate Project description.
- The RDEIR does not comply with CEQA requirements for analyzing cumulative impacts. In some instances, the RDEIR does not even consider cumulative impacts.
- The RDEIR's water resources impact analysis fails to identify sufficient water supplies, fails to account for the effects of climate change on water supply, and fails to identify adequate mitigation to reduce or avoid the impacts to water supply.
- The RDEIR fails to evaluate the Project's impacts on global climate change.
- The RDEIR fails to identify biological resources in the Project area, fails to account for the effects of climate change on biological resources in the Project area, fails to identify adequate mitigation to reduce or avoid impacts to biological resources, and, as a result, fails to identify Class I impacts to biological resources including sensitive and endangered species.
- The RDEIR fails to evaluate the Project's consistency with the 2020 General Plan.
- The RDEIR understates agricultural impacts and fails to adequately mitigate agricultural impacts.

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<sup>1</sup> City of Oxnard. 2008. Notice of Availability/Notice of Completion for Environmental Impact Report No. 05-03: North and South Ormond Beach Recirculated Draft Environmental Impact Report State Clearinghouse Number 2005091094. Jul 21.

<sup>2</sup> Id.

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- The RDEIR fails to identify, consider, and compare the merits of a reasonable range of alternatives.

In addition, the public participation process surrounding the RDEIR has been subject to several procedural problems.

The correction of these and other deficiencies that are discussed below will result in "significant new information" being added to the EIR and will require recirculation.<sup>3</sup>

## 2.0 Project Description

The RDEIR does not comply with CEQA requirements for a legally adequate Project description.

*The Project description does not provide sufficient detail for evaluation and review of environmental impacts*

A project description must contain sufficient detail to support the evaluation and review of environmental impacts in the EIR.<sup>4</sup> The description must include the project's "technical, economic, and environmental characteristics."<sup>5</sup> The RDEIR fails to conform to these standards. In particular, the description for the Southern subarea lacks any meaningful details about the characteristics of the Project. (RDEIR at 2-19.) The RDEIR takes just over one page to purportedly describe these "business/research campus, light industrial facilities and harbor-related uses." This stands in stark contrast to the five pages devoted to the residential development in the Northern subarea (which itself may not be adequate). No actual detail is provided regarding the specific uses of the Southern subarea, only the barest outline.

The inadequate description requires the public to put its "blind trust" in the lead agency, which is counter to "CEQA's fundamental goal that the public be fully informed as to the environmental consequences of action by their public officials."<sup>6</sup> The Project description be revised because it impossible to verify the impacts analyses without meaningful details about the Project.

*The Project description is improperly narrow*

A curtailed or distorted project description may stultify the objectives of the reporting process. Only through an accurate view of the project may affected outsiders and public decision-makers balance the proposal's benefit against its environmental cost, consider mitigation measures,

<sup>3</sup> CEQA Guidelines § 15088.5.

<sup>4</sup> CEQA Guidelines § 15125.

<sup>5</sup> CEQA Guidelines § 15125.

<sup>6</sup> *Laurel Heights Improvement Association v. The Regents of the University of California* (1988) 47 Cal. 3d 376, 404.

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assess the advantage of terminating the proposal (i.e., the “no project” alternative) and weigh other alternatives in the balance.<sup>7</sup>

The Project description is too narrow because the RDEIR presumes that development identified in the City of Oxnard’s General Plan 2020 (“2020 GP”) must occur. Although not explicitly stated, in the Project description, the RDEIR states elsewhere that “offsite alternatives would fail to meet the basic objectives identified in the 2020 General Plan for *the development* of the Study Area . . . .”<sup>8</sup> (RDEIR at 4-3 emphasis added.) This approach misconstrues the purpose and nature of the General Plan. A general plan permits, but does not require development.<sup>9</sup> This is not to downplay the importance of the general plan as a planning document. Certainly, planning decisions must be consistent with a general plan.<sup>10</sup> But a general plan does not require that development identified in the document must occur. The Land Use Element of the 2020 GP itself recognizes the distinction, stating, “the 2020 General Plan *permits* approximately 3500 dwelling units at low-medium density . . . .”<sup>11</sup> However, nowhere in the document is it stated that development of the study area must occur.<sup>12</sup>

(2)

*The Project objectives are too narrow and omit key principles intended to guide planning for the Ormond Beach Study Area*

In addition, the Project objectives are limited to 2020 GP objectives identified specifically for new development, but do not include other Project objectives that are identified in the 2020 GP for the Study Area. The RDEIR Project objectives are clearly limited to the objectives identified for “new development” in the Ormond Beach Study Area.<sup>13</sup> (RDEIR at 2-4.) However, the Land Use Element identifies six general “principal areas of concern relating to the Ormond Beach study area”:

(3)

- Protection of significant wetlands and other habitat resources and enhancement of degraded resources
- Aesthetics in relation to blighted conditions
- Beach access and recreational use opportunities consistent with Coastal Act resource protection policies
- Need for visitor serving facilities
- Desirability of providing for a variety of housing types
- Desirability of relocating certain existing land uses in the study area<sup>14</sup>

<sup>7</sup> *County of Inyo v. City of Los Angeles* (3d Dist. 1977) 71 Cal App. 3d 185, 192-193 (italics in original).

<sup>8</sup> We disagree with this conclusion as discussed below regarding Project alternatives.

<sup>9</sup> The 2020 GP Housing Element does not assume that the Ormond Beach area would contribute to satisfying the City’s housing needs within the time frame covered. (RDEIR at 3.7-4.)

<sup>10</sup> *Leshner Communications, Inc. v. City of Walnut Creek* (1990) 52 Cal. 3d 531, 540.

<sup>11</sup> Land Use Element at V-41 (emphasis added).

<sup>12</sup> Land Use Element at V-40 – V-43.

<sup>13</sup> See also, Land Use Element at V-41-43.

<sup>14</sup> Land Use Element at V-41.

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It is from these principles that the City identified the development objectives (identified in the Project description), resource enhancement goals<sup>15</sup> (not included in the Project description), and “anticipated” land uses<sup>16</sup> for the study area. Other sections of the RDEIR identify this broader list of objectives. (e.g., RDEIR at 3.7-3 and 5-4) They are, however, conspicuously absent from the Project description. The RDEIR must be revised to include all of the applicable principles and objectives for this planning area.

The Project description in the RDEIR must also be revised to include an underlying Project purpose in the statement of objectives.<sup>17</sup> This should be stated as:

The underlying purpose of the Project is the consideration of potential land use changes in the Ormond Beach study Area, as guided by the City of Oxnard’s 2020 General Plan. Potential land use changes have been proposed in two Specific Plans – the Southshore Specific Plan and the South Ormond Beach Specific Plan.

In addition, in accordance with the discussion above, the Project objectives must also be revised to include, as the first consideration, the six areas of concern identified in the 2020 GP Land Use Element. The Project objectives currently in the RDEIR can remain, but by their own terms, they are only properly considered with respect to new development.

The improperly narrow Project objectives result in an inadequate articulation of alternatives in the RDEIR and also cause the RDEIR to mischaracterize the ability of alternatives to meet Project objectives. These inadequacies are discussed below in the Project Alternatives section.

*The Project objectives are described inconsistently in the RDEIR*

A second problem with the Project description is that it is described inconsistently within the document. “An accurate and stable project description is the *sine qua non* of an informative and legally sufficient EIR.”<sup>18</sup> The Project objectives (which are otherwise too narrow as discussed above) described in Section 2.2 of the RDEIR are different than the Project objectives described in Section 4.0 of the RDEIR (Project Alternatives). Section 4.0 summarizes the Project objectives. (RDEIR at Table 4-1.) However, this summary tends to eliminate or downplay mention of open space, coastal and resource protection. For example, the third “thematic objective” in Table 4-1 – “Address historic functional issues and management and improve appearance of area” eliminates reference to the more detailed description in the Project objectives of Section 2.2, which included addressing:

<sup>15</sup> Land Use Element at V-43.

<sup>16</sup> Land Use Element at V-41.

<sup>17</sup> There is currently no statement of underlying purpose in the RDEIR. CEQA Guidelines § 15124(b).

<sup>18</sup> *County of Inyo v. City of Los Angeles* (3d Dist. 1977) 71 Cal App. 3d 185, 193 (italics in original).

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- Inappropriate and environmentally damaging use of ocean front area;
- Poor water management in the study area and related adverse effects on wetlands resources;
- Relocation or removal of the Halaco Engineering Company facility and restoration of the site; and
- A broad mix of residential, commercial and open space uses that will create an overall appearance comparable to, or superior to the northern portion of the City.

(4)

The objectives identified in Section 4.0 are thus a narrower list of Project objectives. This narrower list was apparently used to consider, compare, and eliminate Project alternatives. (RDEIR at 4-1- "These thematic objectives, which are summarized in Table 4-1, are the basis for the comparative analysis of the merits of the Project Alternatives".) This is precisely the outcome that an accurate and stable project description is intended to avoid.

The RDEIR fails to identify all necessary agency actions for the Project

Lastly, the Project description fails to identify the full scope of related environmental review and consultation requirements mandated by federal, state, and local law.<sup>19</sup> Specifically, Section 2.4.1 fails to identify the need for the City of Oxnard to issue a coastal development permit for the subdivision of two parcels in the Southern Subarea – 231-0-040-195 and 231-040-200. Both parcels lie partially within the Coastal Zone and will need to be subdivided in accordance with the Project description, which states that the Southern portion of these parcels will remain under County jurisdiction, while the Northern portion of these parcels will be annexed by the City and require a change in zoning consistent with conversion to light industrial use. (See also RDEIR Fig. 2-4.) This division of the lots will require a coastal development permit.<sup>20</sup>

(5)

The RDEIR asserts at 3.7-10 that a coastal development permit is not required because "[n]one of the land within the Coastal Zone is proposed for development as part of the Specific Plan and the applicants are not seeking to subdivide the parcels as part of their current application." The Coastal Act, however, defines "development" to include:

Change in the density or intensity of use of land, including, but not limited to, subdivision pursuant to the Subdivision Map Act (commencing with Section 66410 of the Government Code), and any other division of land, including lot splits . . . .<sup>21</sup>

<sup>19</sup> CEQA Guidelines § 15124(d)(1)(c).  
<sup>20</sup> Pub. Resources Code §§ 30106, 30600.  
<sup>21</sup> Pub. Resources Code § 30106.

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Coastal Commission staff confirm that any re-division of land requires a coastal development permit.<sup>22</sup> The applicant and the lead agency cannot avoid this fact by deferring application for the subdivision to some future date.

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### 3.2 Geology and Geologic Resources

#### 3.2.3.3 Cumulative Impacts

The geologic resources cumulative impact analysis does not comply with CEQA and therefore fails to disclose potentially significant cumulative impacts. A cumulative impact "consists of an impact which is created as a result of the combination of the project evaluated in the EIR together with other projects causing related impacts."<sup>23</sup> Cumulative impact analysis is required in an EIR because "[t]he full environmental impact of a proposed . . . action cannot be gauged in a vacuum."<sup>24</sup> A cumulative impact is considered significant when the project's incremental effect is cumulatively considerable.<sup>25</sup>

To properly assess whether the potential cumulative impacts of a project may be significant, a lead agency must first consider the project's effects in connection with the effects of past projects, other current projects, and probable future projects to determine whether the combined effects would be cumulatively significant.<sup>26</sup> To do so, a lead agency may either:

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- A) Discuss "a list of past, present, and probably future projects producing relate or cumulative impacts including, if necessary, those projects outside the control of the agency" ("list method"), or
- B) Discuss "a summary of projections contained in an adopted general plan or related planning document, or in a prior environmental document which has been adopted or certified, which described or evaluated regional or areawide conditions contributing to the cumulative impact ("summary of projections method")."<sup>27</sup>

Once a lead agency has determined whether the combined effects of all projects would be cumulatively significant, then it must consider whether the project's incremental effects are cumulatively considerable.<sup>28</sup> The RDEIR must always, in the first instance, however, consider the project in light of past, present and probable future projects.

<sup>22</sup> Christensen, Deanna (California Coastal Commission, Coastal Program Analyst). 2008. Personal Communication to Karen Kraus. Sep 17.

<sup>23</sup> CEQA Guidelines § 15130(a)(1).

<sup>24</sup> *Whitman v. Board of Supervisors* (2d Dist. 1979) 88 Cal. App. 3d 397, 408.

<sup>25</sup> CEQA Guidelines §§ 15130(a), 15065(a)(3).

<sup>26</sup> CEQA § 21083; CEQA Guidelines § 15065(a)(3).

<sup>27</sup> CEQA Guidelines § 15130(b)(1).

<sup>28</sup> *Communities for a Better Environment v. California Resources Agency* (3d Dist. 2002) 103 Cal. App. 4<sup>th</sup> 98, 120.

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The geologic resources cumulative impacts discussion fails to consider the Project in light of past, present and probable future projects. It does not comply with either method identified in the CEQA Guidelines. The discussion makes no effort to identify any past, current, or future projects. (RDEIR at 3.2-27.) Although the discussion does identify a Class II impact, the two sentence "analysis" is conclusory and utterly devoid of any meaningful information. It also fails define the geographic scope of the area affected and provide an explanation for the geographic limitation used.<sup>29</sup> It is thus impossible to discern whether it discloses the full scope of potential impacts and whether identified mitigation is adequate.

④

### 3.3 Water Resources

#### Water supply assessment and verification is inadequate

With a project of this size, it must be demonstrated, as a general matter, that total projected water supplies available during normal, single-dry and multiple-dry water years during a 20-year projection will meet projected water demand for the Project in addition to existing and planned future uses.<sup>30</sup> If this demonstration cannot be made, then other water supplies must be demonstrated.<sup>31</sup>

The RDEIR asserts that "it will have a reliable portfolio of water supplies to meet anticipated demand for both the project and the presumed cumulative development anticipated under the City's current General Plan. (RDEIR at 3.3-46.) However, this conclusion is belied by the potential 5 year gap in water supply identified elsewhere in the RDEIR:

⑦

The potential construction timing disconnect between capacity and delivery capability may result in the City's continued reliance on its currently available sources into the period between 2010 and 2016 (Kennedy/Jenks, May 2007). In other words, there may be a delay in the availability of the groundwater credits and recycled water delivery capability anticipated from the initial phase of the GREAT Program. (RDEIR at 3.3-30.)

The RDEIR fails to demonstrate how the City will acquire water supply to remedy this potential 5 year gap. The demand reduction program suggested in the RDEIR does not comport with the requirements of SB 610 or SB 221.<sup>32</sup> The impact analysis in the RDEIR incorrectly presumes there will be no impacts to water supply.

<sup>29</sup> CEQA Guidelines § 15130(b)(3).

<sup>30</sup> Water Code § 10910(c); Gov. Code § 66473.7(a).

<sup>31</sup> Water Code § 10910(c)(3), 10911(a); Gov. Code § 66473.7(d).

<sup>32</sup> Water Code § 10910(c)(3), 10911(a); Gov. Code § 66473.7(d).

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The water supply assessment and verification also fail to properly consider the potential impacts of climate change on water supply, and are therefore inadequate. This issue is discussed in more detail below.

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The RDEIR must be revised to correct these errors. The underlying water supply assessments and verification must also be corrected.

**3.3.1.2.7 Climate Change Effects on Water Supplies**

The water resources impact analysis does acknowledge that global climate change may impact water supply. Unfortunately, other than recognizing that climate change is relevant to water supply, the RDEIR otherwise fails to consider the effects of climate change on the Project. (RDEIR at 3.3-38.)

CEQA requires the analysis of any significant effects a project might cause "by bringing development and people into the area affected."<sup>33</sup> This Project would bring in up to 1200 residential units, as well as an unspecified number and type of industrial and business uses, into a region that is already tight on water supply. It is quite likely that the effects of climate change may exacerbate this Project's impacts on water supply. Climate change effects may also reduce the effectiveness of identified mitigation measures and the RDEIR must include a discussion of these effects. The RDEIR relies on a complicated and interrelated series of water sources to demonstrate supply for this Project, and a reduction or loss of just one of those supplies could tumble the "house of cards" built to supply this Project with water.

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The RDEIR dismisses climate change effects as speculative and uncertain. As discussed below, the likelihood and effects of climate change are far from uncertain. The Department of Water Resources (DWR) has prepared a comprehensive study of the potential impacts of climate change on the State Water Project, a significant source of water for this area and for the Project.<sup>34</sup> The information in this report should be clearly explained in the RDEIR, including a discussion of how the scenarios identified by DWR could potentially impact the water supply for the Project, as well as existing and planned future users.<sup>35</sup> This approach would properly disclose to the public and to decision makers the potential for climate change to exacerbate the Project's impacts on water supply. The RDEIR should similarly identify, discuss and incorporate other information regarding the effects of climate change on water supply.

**3.3.4.4 Mitigation**

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<sup>33</sup> CEQA Guidelines § 15126.2.

<sup>34</sup> Department of Water Resources. 2006. Progress on Incorporating Climate Change into Planning and Management of California's Water Resources: Technical Memorandum Report. Jul. [Attached]

<sup>35</sup> The DWR report notes that its report is not sufficient in itself "to make policy decisions." This does not mean that the information should be ignored by decision makers, as the RDEIR suggests. (RDEIR at 3.3-39.)

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The RDEIR purports to impose “design, construction, and occupancy BMPs to protect sensitive riparian, wetland, and marine environments, reduce adverse affects to runoff water quality, and treat runoff generated by the community development and residential-occupancy phases to existing condition and levels.” (RDEIR at 3.3-104.) However, the RDEIR itself does not impose such requirements, but defers them to the Specific Plans. Lead agencies may not defer preparation of mitigation plans.<sup>36</sup> Notwithstanding this prohibition, mitigation measures may specify performance standards, but the BMPs identified in the RDEIR do not comport with this exception. The BMPs identified “are not meant to be an exhaustive list,” but only a “guide.” (RDEIR at 3.3-104.) They are not required to be implemented (RDEIR at 3.3-104.) They cannot thus be relied on to reduce adverse impacts.

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**3.3.3.3 Cumulative Impacts**

The water resources cumulative impact analysis does not comply with CEQA and therefore fails to disclose potentially significant cumulative impacts.

The water resources cumulative impacts discussion fails to consider the effects of the Project in light of past, present and probable future projects. It does not comply with either method identified in the CEQA Guidelines. The water supply cumulative impacts discussion makes no effort to identify any past, current, or future projects. (RDEIR at 3.3-102.) The “analysis” is completely conclusory and utterly devoid of any meaningful information. It also fails to define the geographic scope of the area affected and provide an explanation for the geographic limitation used.<sup>37</sup> It is thus impossible to discern whether it discloses the full scope of potential impacts and whether identified mitigation is adequate.

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The Flood Control and Stormwater Drainage cumulative impacts discussion is similarly flawed. It vaguely mentions “new development” and also identifies a few “approved Specific Plan areas.” If using the list method, the analysis falls short by failing to identify a full list of past, present, and probable future projects. If relying on the summary of projections method, the analysis fall short because it fails to explain that the “approved Specific Plan areas” have been evaluated in a prior environmental document that has been adopted or certified, referencing and making those documents available to the public, and explaining how the environmental documents describe or evaluate the regional or area wide conditions contributing to the cumulative impact.<sup>38</sup> In addition, this portion of the cumulative impact analysis fails to even consider the full Project, considering only the Northern Subarea. (RDEIR at 3.3-103.) It also fails to define the geographic scope of the area affected and provide an explanation for the geographic limitation used.<sup>39</sup>

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<sup>36</sup> CEQA Guidelines § 15126.4(a)(B).  
<sup>37</sup> CEQA Guidelines § 15130(b)(3).  
<sup>38</sup> CEQA Guidelines §§ 15130(b)(1)(B) and (d).  
<sup>39</sup> CEQA Guidelines § 15130(b)(3).

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The Wastewater Collection and Treatment cumulative impacts discussion appears to rely on analyses in the Wastewater Collection System Master Plan. Again, if the RDEIR intends to rely on the summary of projections method, the analysis falls short because it fails to explain whether the Wastewater Collections System Master Plan has been evaluated in a prior environmental document that has been adopted or certified, to reference and make this document available to the public, and to explain how the environmental document describes or evaluate the regional or area wide conditions contributing to the cumulative impact.<sup>40</sup> It also fails define the geographic scope of the area affected and provide an explanation for the geographic limitation used.<sup>41</sup>

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### 3.4 Air Quality

#### 3.4.3.3 Cumulative Impacts

The air quality cumulative impact analysis does not comply with CEQA or with applicable Ventura County APCD guidance and therefore fails to disclose potentially significant cumulative impacts. The RDEIR states that it follows the Ventura County APCD Air Quality Assessment Guidelines for evaluating cumulative air quality impacts, but fails to actually do so. (RDEIR at 3.4-21.) For example, the RDEIR purports to follow the procedures for projects "conforming to applicable general plans." (RDEIR at 3.4-21). This is inappropriate since this Project does not conform to the 2020 GP and will require general plan amendments in order to proceed. (RDEIR at 2-20.) Furthermore, the RDEIR does not even accurately follow these provisions. Step 2 of the Guidelines is to "Determine the current estimated population of the growth area." The RDEIR fails to identify any population estimates anywhere in the discussion. The remaining steps are similarly disregarded. The RDEIR thus fails to disclose any meaningful basis for its conclusion that the proposed Project is consistent with the Ventura County AQMP and thus without cumulative air quality impacts.

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The RDEIR discussion otherwise fails to consider the effects of the Project in light of past, present and probable future projects. It does not comply with either method identified in the CEQA Guidelines. It also fails define the geographic scope of the area affected and provide an explanation for the geographic limitation used.<sup>42</sup>

#### 3.4.3.6 Global Climate Change

One of the stated reasons for recirculating the draft EIR was to address the subject of global climate change, which was not included in the draft EIR. While we appreciate that the lead agency has now included a discussion of this subject in the RDEIR, there are nonetheless multiple and significant deficiencies with this discussion.

<sup>40</sup> CEQA Guidelines §§ 15130(b)(1)(B) and (d).

<sup>41</sup> CEQA Guidelines § 15130(b)(3).

<sup>42</sup> CEQA Guidelines § 15130(b)(3).

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The RDEIR's summary of the state of science is flawed

The RDEIR's summary of the scientific background includes statements that minimize or discount the scientific consensus regarding the causes and effects of climate change. This primarily results from the RDEIR's unbalanced reliance on outdated references, e.g., US EPA 2000 (RDEIR at 3.4-30) and IPCC 2001 (RDEIR at 3.4-32). The RDEIR's reliance on these outdated references suggests that significant uncertainty exists where it does not. This approach is not consistent with the "good faith effort at full disclosure" required under CEQA.<sup>43</sup> For example, the RDEIR cites to IPCC 2001 to support statements that scientific uncertainty remains about the extent to which human activity causes climate change. (RDEIR at 3.4-32). The RDEIR fails to report, however, that IPCC 2007 (which is referenced elsewhere in the RDEIR discussion) concludes, based on all available evidence, that it is very likely (+90%) that human activities are warming the planet.<sup>44</sup> Furthermore, as reported by the State Attorney General, multiple major scientific bodies in the United States with relevant expertise have issued reports or statements that confirm the IPCC's conclusion, including The National Academy of Sciences, The American Meteorological Society, The American Geophysical Union, and The American Association for the Advancement of Science.<sup>45</sup>

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In addition, none of the references cited by the RDEIR in the global climate change analysis are identified in the References section. Without the full citation, readers know only the date and author of the reference and have no way of reviewing the actual source of information upon which the RDEIR relies. This makes it impossible for the public and decision makers to independently evaluate the statements and conclusions made in the RDEIR.<sup>46</sup>

The RDEIR fails to consider impacts of climate change on the Project

The RDEIR summarizes the potential effects that "could be experienced in California" as a result of climate change, but fails to consider any of these effects on the Project itself. (RDEIR at 3.4-32 – 3.4-34). The effects of global climate change may exacerbate this Project's impacts or reduce the effectiveness of identified mitigation measures and the RDEIR must include a discussion of these effects.<sup>47</sup> Of note is the fact that the RDEIR does discuss climate change impacts in the water supply impact analysis (RDEIR at 3.3-38 – 3.3-40.) Although that analysis is less than adequate, the fact that it is included in that discussion, makes the omission in every other impact analysis area all the more glaring.

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<sup>43</sup> CEQA Guidelines § 15151.

<sup>44</sup> Intergovernmental Panel on Climate Change (IPCC). 2007. Climate Change 2007: Synthesis Report. [Attached]

<sup>45</sup> California Office of the Attorney General. 2008. <http://ag.ca.gov/globalwarming/contrarians.php>. Global Warming Contrarians and the Falsehoods they Promote. Webpage viewed Aug 30. [Attached]

<sup>46</sup> *Santiago Water District v. County of Orange* (4<sup>th</sup> Dist. 1981) 1881 Cal. App. 3d 818, 831 (the public and decision makers should have before them the basis for the agency's opinion so as to enable them to make an independent, reasoned judgment).

<sup>47</sup> CEQA Guidelines § 15126.2.

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The RDEIR fails to adequately analyze Project's impacts on climate change

The RDEIR asserts that because CARB and VCAPCD have not provided a methodology to establish "an appropriate baseline, to develop a project-level inventory for the project, or to evaluate the significance of [greenhouse gas] emission changes", it is currently too speculative to evaluate climate change impacts at a local level and impossible to assign mitigation. (RDEIR at 3.4-38 – 3.4-39). As explained below, this approach is flatly inconsistent with CEQA requirements. It also ignores available guidance regarding the evaluation of climate change impacts under CEQA.

Baseline. The Project's baseline, or environmental setting, is the physical environmental conditions in the vicinity of the project as they exist at the time the Notice of Preparation is published.<sup>48</sup> As described at 3.4-39:

The Ormond Beach Study area is currently in agricultural production. On a continuous basis, there is minimal existing measurable level of greenhouse gas emissions associated with the current agricultural production.

This is an accurate assessment of the Project's baseline, as defined by the CEQA Guidelines. In contrast, statements in the RDEIR that Project greenhouse gas emissions are not "new," but simply shifted from other residential locations (see, e.g., 3.4-39 and 3.4-41) are inconsistent with the CEQA Guidelines, inconsistent with the RDEIR's own description of the Project baseline, and wholly speculative.<sup>49</sup>

Greenhouse Gas Emission Inventory. The RDEIR fails to include a complete and adequate inventory of greenhouse gas (GHG) emissions. The RDEIR's inadequacies cannot be excused by its assertion that CARB and the VCAPCD have not yet provided a methodology to develop an inventory for the Project. (RDEIR at 3.4-48.) There are guidance documents available from reputable agencies that identify methodologies to develop GHG inventories.<sup>50</sup> However, even without such guidance, CEQA requires that an EIR "provide decision-makers with information which enables them to make a decision which intelligently takes account of environmental consequences," and that the document make "a good faith effort at full disclosure."<sup>51</sup> As noted in *Berkeley Keep Jets Over the Bay Committee v. Board of Port Commissioners* (2001) 91 Cal.App.4th 1344,

<sup>48</sup> CEQA Guidelines § 15125.

<sup>49</sup> See, e.g., *Center for Biological Diversity v. City of Desert Hot Springs* #RIC464585 (Riverside County Superior Court, August 6, 2008) (assumption that GHG emissions from new housing development would displace GHG emissions from old housing development was speculative and unlikely).

<sup>50</sup> See, e.g., Office of Planning and Research. 2008. CEQA and Climate Change: Addressing Climate Change Through California Environmental Quality Act (CEQA) Review. Jun 17. (Attachment 2) [Attached]; California Air Pollution Control Officers Association (CAPCOA). 2008. CEQA and Climate Change: Evaluating and Addressing Greenhouse Gas Emissions From Projects Subject to the California Environmental Quality Act. Jan. (ch. 8) [Attached].

<sup>51</sup> CEQA Guidelines § 15151.

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1370-71, the fact that a single methodology does not exist for quantifying an impact does not excuse the lead agency from analyzing the issue. Instead, the agency must “use its best efforts to find out and disclose all that it reasonably can” and must conduct a “thorough investigation” (emphasis in original; citing CEQA Guidelines §§ 15144, 15145). The RDEIR falls far short of this standard.

The RDEIR identifies only a portion of the direct GHG emissions associated with the Project – natural gas consumption and motor vehicle use (construction and operation). Other direct emissions that must be considered include:

- Manufacturing and transport of building materials;
- Electricity generation and transmission for the heating, cooling, lighting and other energy demands of buildings;
- Water supply<sup>52</sup> and transportation to the project;
- Fugitive emissions, such as methane leaks from pipeline systems and leaks of HFC from air conditioning systems;
- Wastewater and solid waste storage or disposal, including transport where applicable.

The inventory must also identify and evaluate indirect emissions and growth inducing impacts.<sup>53</sup>

In addition, the GHG emission inventory discussion is so cursory and vague that it renders the entire analysis insufficient. There is no description anywhere in the RDEIR of the basis for emissions that are included. What, for example, is the scope of vehicle emissions that were evaluated? Were emissions from development in both the Northern Subarea and the Southern Subarea inventoried?<sup>54</sup> A complete lack of supporting data and modeling analyses further compounds this inadequacy. For example, although it identifies the use of the URBEMIS 2007 9.2.4 Model, the RDEIR fails to disclose any assumptions underlying the use of this model or whether it was modified at all to evaluate this Project. CAPCOA’s January 2008 *CEQA and Climate Change*, identifies several shortfalls of the URBEMIS model.<sup>55</sup> However, it is impossible to discern whether the RDEIR corrects for these shortcomings.

Perhaps in an attempt to veil these significant flaws in its GHG inventory, the RDEIR makes spurious, unsupported assertions, such as “new residential development

<sup>52</sup> See, e.g., Office of Planning and Research. 2008. *CEQA and Climate Change: Addressing Climate Change Through California Environmental Quality Act (CEQA) Review*. Jun 17. (p 5). [Attached]

<sup>53</sup> CEQA Guidelines § 15358(a)(1).

<sup>54</sup> The description of “area sources” only mentions “residences.” (RDEIR at 3.4-42). Following an inquiry to planning staff, some information was provided to EDC two weeks prior to the RDEIR comment deadline. Mallory, Kathleen. 2008. Email to Karen Kraus RE Ormond Beach DEIR GHG Modeling. Sep 8. [Attached]. This is an insufficient period of time to review the data, and in any case, providing information to EDC does not satisfy the lead agency’s obligation to disclose this information to the public in the RDEIR.

<sup>55</sup> CAPCOA 2008 at 59-63.

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does not necessarily create entirely new GHG emissions,” and “an individual project cannot generate enough greenhouse gas emissions to influence global climate change.” (RDEIR at 3.4-41).

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Significance Determination. Even for those GHG emissions that it does identify, the RDEIR fails to include an analysis of the Project’s potential impacts on global climate change. The RDEIR concludes that an impact evaluation would be “speculative” based on several purported reasons. (RDEIR at 3.4-39 – 3.4-40). The litany of stated reasons, however, boils down to two untenable excuses – 1) scientific uncertainty regarding climate change impacts to the environment ; and 2) lack of guidance and methodology for assessing Project specific impact on global climate change.

The IPCC, Union of Concerned Scientists, and the California Climate Change Center have published several studies that identify how climate change will affect the environment.<sup>56</sup> In California alone, an increase in GHG emissions will result in the following global warming effects:<sup>57</sup>

- Loss in Sierra snow pack
- Increase in sea level rise
- More heat wave days in major urban centers
- Increase in heat-related deaths
- Increases in ozone formation (smog)
- More critically dry years
- Decrease in forest yields
- Increases in large wildfires
- Increased electricity demand

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Even effective lowering of current emissions will result in a 3.0 – 5.4% increase in temperature and all of the aforementioned impacts. Less effective lowering of current emissions will result in a 5.5 – 10.4% increase in temperature and enormous impacts to the State.<sup>58</sup>

The concern about climate change has increased recently due to the realization that there is a “lag time” between the changes in the environment and the warming effect. Scientists now agree that “the climate system will continue to change for many decades

<sup>56</sup> Union of Concerned Scientists. 2006. California Global Warming Impacts and Solutions, available at [http://www.ucsusa.org/clean\\_california/ca-global-warming-impacts.html](http://www.ucsusa.org/clean_california/ca-global-warming-impacts.html); California Climate Change Center reports are available at <http://calclimate.berkeley.edu/research.html> and include: Baldocchi and Wong, 2006; Battles et al., 2006; Cavagnaro et al., 2006; Cayan et al., 2006a; Cayan et al., 2006b; Cayan et al., 2006c; Drechsler et al., 2006; Franco and Sanstad, 2006; Fried et al., 2006; Gutierrez et al., 2006; Joyce et al., 2006; Lenihan et al., 2006; Luers et al., 2006; Luers and Moser, 2006; Medellin et al., 2006; Miller and Schlegel, 2006; Moritz and Stephens, 2006; Vicuña, 2006; Vicuña et al., 2006; Westerling and Bryant, 2006.

<sup>57</sup> Union of Concerned Scientists. 2006. Climate Change Campaign: California Global Warming Impacts and Solutions. Feb.

<sup>58</sup> Id.

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(centuries for sea level) even in the absence of future changes in atmospheric composition.”<sup>59</sup> Some warn that we may be approaching the “point of no return.”<sup>60</sup> Others note that global temperatures can “change substantially in only a decade or two” and that we could be on the path to another rapid change in climate temperatures and resulting effects.<sup>61</sup> Accordingly, the pressure on modern society to cease contributing to climate change through greenhouse gas emissions is even greater than previously thought. In *The Winds of Change*, environmental journalist Eugene Linden notes the significant micro repercussions that global warming is already having on our society, both in terms of actual damages from intense storms and hurricanes, but also through rising insurance rates in coastal areas.<sup>62</sup>

As to the lack of guidance and methodologies for assessing Project specific impacts on global climate change, a lack of guidance does not relieve the lead agency from its obligation to evaluate a Project’s environmental impact.<sup>63</sup> However, the RDEIR is incorrect that such guidance does not exist. The Governor’s Office of Planning of Research has issued a Technical Advisory to assist public agencies in assessing climate change issues.<sup>64</sup> Notably, this document states:

Lead agencies should determine whether greenhouse gases may be generated by a proposed project, and if so, quantify or estimate the GHG emissions by type and source. Second, the lead agency *must assess whether those emissions are individually or cumulatively significant.*<sup>65</sup>

Additionally, the California Air Pollution Control Officers Association has issued a resource document identifying approaches to evaluating a project’s impacts on global climate change.<sup>66</sup>

It is correct that there are no local or State established thresholds of significance for evaluating climate change impacts. However, this fact also does not relieve the lead agency of its obligation under CEQA to determine whether the Project may have

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<sup>59</sup> Wigley, T.M.L. 2005. The Climate Change Commitment. *Science* (vol. 37). Mar 18.; Meehl, G.A., et al. 2005. How Much More Global Warming and Sea Level Rise? *Science* (vol. 307). Mar 18.; Karl, T.R. and Trenberth, K.E. 2003. Modern Global Climate Change. *Science* (vol. 32). Dec 5.; Hasselmann, K., et al. 2003. The Challenge of Long-Term Climate Change. *Science* (vol. 302). Dec 12.; Levin, K. and Pershing, J. 2006. *Climate Science 2005: Major New Discoveries*. World Resources Institute. Mar (citing Barnett, T., et al. 2005. Penetration of Human-Induced Warming into the World’s Oceans. *Science* (vol. 309). Jul 8.

<sup>60</sup> Alley, R.B. 2004. Abrupt Climate Change. *Scientific American*. Nov.

<sup>61</sup> Broecker, W.S. 1995. Chaotic Climate: Global temperatures have been known to change substantially in only a decade or two. Could another jump be in the offing? *Scientific American*. Nov.

<sup>62</sup> Newsweek. 2006. Tides Turning: A new book predicts that climate change is likely to be abrupt and cataclysmic – and that these sudden shifts could cripple national economies. Mar 25.

<sup>63</sup> CEQA Guidelines § 15064(b).

<sup>64</sup> Office of Planning and Research (2008).

<sup>65</sup> Office of Planning and Research (2008) at 5 (emphasis added).

<sup>66</sup> CAPCOA 2008.

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significant climate change impacts.<sup>67</sup> A lead agency must meaningfully attempt to quantify a particular impact and determine whether the impact is significant.<sup>68</sup> Here, there is nothing speculative about the fact that 1) new sources of GHG add to existing levels; and 2) the State has determined existing levels are unacceptable and must be reduced within a fixed timeframe.

AB 32 (California's Global Warming Solutions Act) requires that GHG emissions in the state must be reduced to 1990 levels by 2020.<sup>69</sup> This emissions cap is equivalent to a 25% reduction from 2006 levels.<sup>70</sup> Clearly, if emissions must be *reduced*, any new emissions will result in a significant effect.<sup>71</sup>

The failure to find the GHG emissions of the project to be significant is a critical flaw in the RDEIR. Without a finding of significance, the lead agency cannot require mitigation or find other alternatives to be environmentally preferable. In this case, any increase in emissions should be considered significant from both a project-specific and cumulative standpoint.<sup>72</sup>

The RDEIR is thus fundamentally inadequate because it fails to analyze Project specific climate change impacts. It is also inadequate for its failure to analyze cumulative climate change impacts.<sup>73</sup> A project's impacts require a mandatory finding of significance if they are "cumulatively considerable."<sup>74</sup> In a case such as this, where the existing environmental problems are severe, the threshold for determining that a project's

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<sup>67</sup> CEQA Guidelines §§ 15064(b) and 15126(a). See also, Guideline § 15064.7 (which encourages, but does not require adoption of thresholds of significance); and Brown, Edmund G. (Attorney General). 2007a. Letter to Jared Hart (City of San Jose) RE Comments on Draft Environmental Impact Report for Coyote Valley Specific Plan SCH# 2005062017. Jun 17. (disagreeing with City of San Jose's determination that evaluating project's climate change impacts would be speculative without threshold for evaluation). [Attached]

<sup>68</sup> *Berkeley Keep Jets over the Bay Committee v. Board of Port Commissioners*, (2001) 91 Cal. App. 4<sup>th</sup> 1344, 1370-71.

<sup>69</sup> The California Global Warming Solutions Act of 2006, Health and Safety Code §38500 et seq.

<sup>70</sup> 9/27/06 Press Release from the Office of the Governor, available at <http://gov.ca.gov/index.php?print-version/press-release/4111>.

<sup>71</sup> Brown, Edmund G. (Attorney General). 2007. Letter to Maureen Parks (Contra Costa County Planning Commission) RE Comments on the ConocoPhillips Rodeo Refinery Expansion Project and Final Environmental Report (File #LP052048). May 8. (p. 6, "... the requirements of AB 32 create a point of reference for determining significance. Because the state is committed to a 25% decrease in GHG emissions, anything that produces a large increase clearly could be an obstacle to complying with AB 32 and should be considered a potentially significant cumulative impact.") [Attached]

<sup>72</sup> See, e.g., CAPCOA 2008 at 27-30. This approach has been taken by other lead agencies. See California State Lands Commission Venoco Ellwood Oil Development DEIR (2008); Marin Countywide Plan Update DEIR (2007); San Diego Association of Governments Regional Transportation Plan DEIR (2007).

<sup>73</sup> See, e.g., *Terminal Plaza Corp. v. City and County of San Francisco* (1<sup>st</sup> Dist. 1986) 177 Cal. App. 3d 892, 904-905 (the fact that a project's cumulative impacts are uncertain does not relieve a lead agency from including such impacts in its analysis).

<sup>74</sup> CEQA §21083(b)(2).

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contribution to a cumulative impact is significant is that much lower.<sup>75</sup> Therefore, the RDEIR must fully analyze the Project's cumulative impact on global climate change.

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Mitigation. The RDEIR fails to analyze any potential mitigation measures to avoid or minimize the Project's climate change impacts. Here again the RDEIR tries to justify its deficiency by asserting that there is no guidance available on how to adequately control or mitigate GHG emissions. (RDEIR at 3.4-40.) Again, the RDEIR is factually inaccurate as to the existence of relevant guidance.<sup>76</sup> Even without such guidance, the lead agency still has an obligation to identify mitigation measures in an EIR.<sup>77</sup>

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The RDEIR includes a table describing how the Project is consistent with the 2006 Climate Action Team (CAT) Report GHG emission reduction strategies. The purpose for including this information in the RDEIR is unclear. If these Project provisions are intended to be mitigation measures, they have been identified without any analysis, so there is no meaningful way for the public or decision makers to determine whether they are feasible or will effectively lessen impacts. On their face however, these provisions are not mitigation as they are part of the Project description. Furthermore, the CAT Report recommendations are general in nature, directed at State agencies, and non-binding. They do not meet CEQA's requirements that mitigation measures be known, effective, feasible, and enforceable.<sup>78</sup>

After completing a meaningful analysis of Project impacts, the RDEIR should discuss and analyze measures that are capable of reducing the Project's GHG emissions. The first priority should be to reduce direct Project-related emissions. When such emissions have been reduced to the greatest extent feasible, the second strategy should be to require the purchase of GHG offsets through a credible program (e.g., the California Climate Action Registry). Through such measures, 100% of the emissions from the Project could be mitigated.

### 3.5 Hazards and Hazardous Materials

#### 3.5.3.2.3 Cumulative Impacts

The hazards and hazardous materials cumulative impact analysis does not comply with CEQA and therefore fails to disclose potentially significant cumulative impacts. This cumulative impacts discussion fails to consider the effects of the Project in light of past, present and probable future projects. It does not comply with either method identified in the CEQA Guidelines. The discussion makes no effort to identify any past, current, or future projects. (RDEIR at 3.5-18.) It also fails define the geographic scope of the area affected and provide an explanation for the geographic limitation used.<sup>79</sup> In

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<sup>75</sup> *Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692, 721; *Communities for a Better Environment v. California Resources Agency* (2002) 103 Cal.App.4th 98, 120.

<sup>76</sup> See, e.g., Office of Planning and Research 2008, Attachment 3; CAPCOA 2008 at Chapter 9 and App. B.

<sup>77</sup> CEQA Guidelines § 15126.4.

<sup>78</sup> CEQA Guidelines § 15126.4.

<sup>79</sup> CEQA Guidelines § 15130(b)(3).

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addition, the project specific impact analysis is deferred until completion of future testing (RDEIR at 3.5-18.) Nonetheless, without any information about hazards from other projects, or information about hazards from this project, the RDEIR concludes that cumulative impacts will be less than significant. This conclusion has no basis in substantial evidence. The cumulative impact analysis fails to comply with CEQA, and it is thus impossible to discern whether it discloses the full scope of potential impacts.

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### 3.6 Biological Resources

#### 3.6.1 Existing Conditions

*The RDEIR fails to adequately identify biological resources in the Project area*

An EIR must include "a description of the physical environmental conditions in the vicinity of the project."<sup>80</sup> This constitutes the baseline conditions by which the lead agency determines whether an impact is significant.<sup>81</sup> In describing the baseline conditions, "special emphasis should be placed on environmental resources that are rare or unique to that region and would be affected by the project."<sup>82</sup> In general:

The EIR must demonstrate that the significant environmental impacts of the proposed project were adequately investigated and discussed and it must permit the significant effects of the project to be considered in the full environmental context.<sup>83</sup>

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As detailed by Mr. David Magney, a specialist in botanical resources and wetlands with extensive experience in the Ormond Beach area, the RDEIR is wholly inadequate in its identification of botanical species.<sup>84</sup> It omits species known to occur in the area, is not based on field surveys, and fails to follow standard survey and assessment protocols.<sup>85</sup> It also understates the likelihood of occurrence in the Project area of species that are rare to the region.<sup>86</sup>

This description of the environmental setting does not provide an adequate baseline by which the lead agency can assess the magnitude of Project impacts. For example, the RDEIR fails to identify any impacts to special status plant species. However, this conclusion is unsupported given the fact that no field surveys were performed.<sup>87</sup> Mr. Magney concludes that significant impacts to special status plant species are likely.

<sup>80</sup> CEQA Guidelines § 15125(a).

<sup>81</sup> CEQA Guidelines § 15125(a).

<sup>82</sup> CEQA Guidelines § 15125(c).

<sup>83</sup> CEQA Guidelines § 15125(c).

<sup>84</sup> Magney, David L. 2008. Letter to Kathleen Mallory (City of Oxnard) re Comments on the Ormond Beach Specific Plan Recirculated DEIR (SCH 2005091094). Sep 22. [Attached]

<sup>85</sup> Id.

<sup>86</sup> Id.

<sup>87</sup> Id.

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The RDEIR must be revised to address the inadequate description of the biological resources in the Project area and update the impact analysis in accordance with revised baseline conditions.

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### 3.6.3 Project Impacts and Mitigation

#### The RDEIR fails to consider the impacts of climate change on the Project

As discussed above, the RDEIR summarizes the potential effects that "could be experienced in California" as a result of climate change, but fails to consider any of these effects in almost every impact analysis for the Project. (RDEIR at 3.4-32 – 3.4-34.) CEQA requires analysis of any significant effects a project might cause "by bringing development and people into the area affected."<sup>88</sup>

One of the direct effects of climate change in the Study Area impacting the Project will be sea level rise.<sup>89</sup> In the report, "Overview of Sea Level Rise and Some Implications for Coastal California," the staff of the California Coastal Commission summarized information about sea level rise and investigated possible side effects to the California coast from a possible acceleration of sea level rise.<sup>90</sup> The report states:

Coastal wetlands will be greatly modified by changes in sea level; however, the consequences will vary with the different wetland areas. *Overall there will be greater areas of inundation.* The change in the intertidal area will depend on local topography, the future change in tidal range, *and the ability of the wetland to migrate both up and inland.* . . .

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Wetland changes also will be affected by inland development. Historically, wetland areas migrated both upward and landward as they were inundated. If the inland area has a slope and soil composition that can support a wetland area and is not already developed, then inland migration may be possible.<sup>91</sup>

The RDEIR must discuss how these effects may exacerbate the Project's impacts on biological resources as well as reduce the effectiveness of mitigation measures.<sup>92</sup> For

<sup>88</sup> CEQA Guidelines § 15126.2.

<sup>89</sup> The RDEIR states, without any supporting reference, that "sea level could rise as much as two feet along the California Coast." Recent scientific reports do not put this upper limit on sea level rise. IPCC 2007 at 45.

<sup>90</sup> California Coastal Commission. 2001. Overview of Sea Level Rise and Some Implications for Coastal California. Jun 1. [Attached]

<sup>91</sup> California Coastal Commission 2008 at "Wetlands" (emphasis added).

<sup>92</sup> The 2020 GP also requires the City to "confer with appropriate state and federal agencies and seek information and advice concerning the probability, impacts, and mitigation measures to minimize beach erosion and inundation of coastal development" and to "evaluate specific mitigation measures in EIRs for new development in coastal areas" Safety Element IX-18.

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example, the RDEIR fails to take into account the fact that development in the Northern and/or Southern portions of the Study Area will limit the ability of the Ormond wetlands to migrate inland as sea level rises. This may result in loss of wetlands, as well as habitat for sensitive, threatened, and endangered species.<sup>93</sup>

The RDEIR fails to consider the impact of the Project on the State Coastal Conservancy's Wetland restoration plan

The California Coastal Conservancy is the steward agency for an Ormond wetland restoration project, and the RDEIR identifies the Coastal Conservancy as a responsible agency in the Project Description for the "[a]pproval of acquisition of 220 acres for restoration purposes. (RDEIR at 2-21.) Notwithstanding this recognition, the RDEIR fails to consider the impact of the Project on the Coastal Conservancy's plan for the Ormond wetland restoration project.<sup>94</sup> The RDEIR must be revised to describe the Ormond wetland restoration plan and analyze the impacts of the Project on that plan.

The mitigation measures are inadequate to reduce or avoid identified impacts

The RDEIR relies on inadequate mitigation measures to reduce Class I and other impacts.

First, the RDEIR improperly defers mitigation of impacts to biological resources.<sup>95</sup> Multiple impacts (primarily indirect impacts to the Ormond wetland area) rely on the "Ormond Beach Natural Resource Management Program"<sup>96</sup> to reduce Class I biological impacts to less than significant – e.g., Impact BIO-10 (Sensitive Offsite Habitats), Impact BIO-11 (Western Snowy Plover), Impact BIO-12 (California Least Tern), Impact BIO-22 (Sensitive Offsite Habitats), Impact BIO-23 (Special-status Plants), Impact BIO-26 (Western Snowy Plover), Impact BIO-27 (California Least Tern). This program, however, is not actually identified in the list of mitigation measures in the RDEIR. (RDEIR at 3.6-61 – 3.6-65.)

In addition, this program has yet to be developed. (RDEIR at 3.6-41.) The RDEIR states that "a qualified biologist" will prepare the program, but this approach has been held explicitly contrary to CEQA.<sup>97</sup> (RDEIR at 3.6-41.) Lead agencies may not defer preparation of mitigation plans. Notwithstanding this prohibition, CEQA does provide

<sup>93</sup> California Coastal Commission 2008 at "Wetlands".

<sup>94</sup> CEQA Guidelines, App. G (IX(b)) requires the lead agency to consider whether the Project would conflict with any applicable land use plan, policy or regulation of an agency with jurisdiction over the project.

<sup>95</sup> CEQA Guidelines § 15126.4(a)(B).

<sup>96</sup> The RDEIR notes several governmental and NGOs that would be consulted for the development of this program, but does not include the California Coastal Commission. This program involves sensitive habitat, and potential coastal access, within the coastal zone, so the Coastal Commission must approve the plan.

<sup>97</sup> *Defend the Bay v. City of Irvine* (4<sup>th</sup> Dist. 2004) 119 Cal App. 4<sup>th</sup> 1261, 1275 (deferral is impermissible when the agency "simply requires the applicant to obtain a biological report and then comply with any recommendations that may be in that report.").

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that mitigation measures may specify "performance standards which would mitigate the significant effect of the project and which may be accomplished in more than one specified way."<sup>98</sup> The measures identified in the RDEIR, however, do not satisfy these criteria. The measures identified are vague (e.g., fail to define location and boundaries to implement measures; fail to describe content of signage "information" and "directions"; fail to define how public information program would be implemented). The measures identified are open-ended (e.g. "construct seasonal *and/or* permanent fencing"). And, the measures identified omit important plan components (e.g., no measure to implement monitoring and reporting to evaluate success of program and status of species).

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Absent this program, the RDEIR identifies no mitigation to reduce the Class I impact for Impact BIO-11 (Western Snowy Plover). In addition, the U.S. FWS has stated that the Project could have significant effects on the breeding success of the western snowy plover and California least tern.<sup>99</sup> The RDEIR, therefore, has no basis to conclude that Impact BIO-11 (Western Snowy Plover), Impact BIO-12 (California Least Tern), Impact BIO-22 (Sensitive Offsite Habitats), Impact BIO-26 (Western Snowy Plover), and Impact BIO-27 (California Least Tern) are less than significant.

Second, Mitigation Measure BIO-2 (Foraging Habitat Creation/Restoration), significantly reduces the CDFG recommended habitat acquisition ratio. (RDEIR at 3.6-63.) For the Northern Subarea, only 30.2 acres of offsite habitat would have to be created or restored to compensate for the destroyed 302 acres of foraging habitat. (RDEIR at 3.6-63.) The RDEIR fails to provide any explanation for this lack of adequate mitigation or significant departure from CDFG's recommendation. "The EIR must contain facts and analysis, not just the agency's bare conclusions or opinions."<sup>100</sup> The RDEIR suggests that a more detailed rationale is available in "Appendix A-3," but no such Appendix is available in the Appendices provided with RDEIR. (RDEIR at 4.6-63). Therefore, the RDEIR has no basis to conclude that impacts BIO-4, 7, 8, 10, 16, 19, and 22 are less than significant.<sup>101</sup>

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In addition, for the Southern Subarea, only 15.5 acres of offsite habitat would have to be created or restored to compensate for the destroyed 375 acres of foraging habitat. (RDEIR at 3.6-63.) The stated rationale for this reduction is that the Southern Subarea applicant will be "providing on-site protection for the southern 220 acres of agricultural land that may or may not be converted into a habitat restoration project." (RDEIR at 3.6-63.) The rationale is dishonest at best because the RDEIR itself acknowledges that the 220 acres "may or may not" be used for a habitat restoration project. It is not appropriate to significantly reduce feasible mitigation to credit the applicant for something that only "may" happen. If the 220 acres is used for a habitat restoration project, it would be to enhance the Ormond wetland area and would not be

<sup>98</sup> CEQA Guidelines § 15126.4(a)(B).

<sup>99</sup> Root, Roger R. (U.S. FWS). 2008. Letter to Kathleen Mallory (City of Oxnard) re Recirculated Draft Environmental Impact Report No. 05-03: North Ormond Beach and South Ormond Beach Projects, City of Oxnard, Ventura County, California. Sep 16.

<sup>100</sup> *Laurel Heights Improvement Assoc. v. Regents of University of California*, 47 Cal. 3d 376 (1988), 404.

<sup>101</sup> See also Magney 2008.

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appropriate to mitigate upland foraging habitat.<sup>102</sup> Even if the 220 acres does remain in agricultural use, there is no legally enforceable mechanism in place to ensure it would remain in continued agricultural use (e.g., conservation easement), and the applicant should not receive mitigation credit without any such mechanism in place.

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Therefore, the RDEIR has no basis to conclude that impacts BIO-4, 7, 8, 10, 16, 19, and 22 are less than significant.<sup>103</sup>

The RDEIR also has no basis to conclude that Mitigation Measure BIO-5 will reduce impacts from increased runoff and pollution. No information is provided on the design of the bioswales, and design "is critical to the functionality, ability of this method to adequately mitigate for the known and unknown contaminants that occur in urban and industrial runoff."<sup>104</sup> Regardless of the type and number of bioswales, during heavy rains, floodwaters will bypass any bioswales and result in adverse impacts to habitats and wildlife.<sup>105</sup> Therefore the RDEIR has no basis to conclude that impacts to Mugu lagoon, other sensitive habitats, and the species that rely on those habitats will be less than significant.

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### 3.6.4.3 Cumulative Impacts

The biological resources cumulative impact analysis fails to consider the effects of the Project in light of past, present and probable future projects, as required by CEQA. Instead, the cumulative impact discussion in the biological resources section simply makes vague reference to "past development" in the region, as well as to the lack of "substantial development projects" "in the immediate vicinity of the proposed project site". (RDEIR at 3.6-61.) This discussion does not comply with either method identified in the CEQA Guidelines. Furthermore, it applies an inconsistent geographic scope, utilizing a "region" wide area for past projects, but the "immediate vicinity" for proposed development, and it fails to provide any explanation for these geographic limitations.<sup>106</sup> The cumulative analysis also fails to take into account the indirect biological resource impacts (e.g., impacts to the Ormond Beach wetland area).

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Without the full identification and evaluation of past, present and future projects, as well as the complete identification of Project impacts it is impossible to evaluate whether the Project's incremental effect is "cumulatively considerable." However, even on its own terms, the analysis is internally inconsistent and unsupportable, stating that past development has resulted in the constriction of regional wildlife movement and extremely limited availability of habitat in the Oxnard coastal area, but that the loss of almost 700 acres of habitat, which supports several special status species and is part of a regional wildlife movement corridor would have less than significant cumulative impact.

<sup>102</sup> Magney 2008.

<sup>103</sup> See also Magney 2008.

<sup>104</sup> Magney 2008.

<sup>105</sup> Magney 2008.

<sup>106</sup> CEQA Guidelines § 15130(b)(3).

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(RDEIR at 3.6-61. This conclusion appears to entirely overlook even the minimally described impacts of past development.

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**3.7 Land Use and Planning**

**3.7.3.2 Project Impacts**

The RDEIR fails to adequately evaluate the Project's consistency with the 2020 GP. An EIR must discuss any inconsistencies between a proposed project and applicable general plans.<sup>107</sup> In particular, a Specific Plan must be consistent with the General Plan.<sup>108</sup> The RDEIR does consider the Project's consistency against the Land Use and Housing Element, but inexplicably omits other GP elements. (RDEIR at 3.7-21 and 3.7-26.)

For example, the RDEIR does not evaluate the Project's consistency with the Open Space/Conservation Element. This element includes several Goals, Objectives and Policies of relevance here, including the goal of "Maintenance and enhancement of natural resources and open space."<sup>109</sup> Objectives include:

1. Protect unique biological habitats from development.
2. Manage water resources to prevent overdraft and loss of water quality.
3. Protect agricultural lands from premature and unnecessary urbanization.
- ....
8. Preserve the coastline and beaches and minimize beach erosion.<sup>110</sup>

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Policies include:

2. The City should encourage the preservation and enhancement of the wetlands in the Ormond Beach and Mugu lagoon.
3. Sensitive habitat areas are to be designated as permanent open space on the Land Use Map.
- ....
4. The City should consider setting aside nature preserves that encompass sensitive habitat areas for educational and research purposes.<sup>111</sup>

The RDEIR must be revised to evaluate the Project's consistency with the Open Space/Conservation Element. This discussion should include the information EDC has provided in this letter, which demonstrates the Project is not consistent with the Open Space/Conservation Element. As discussed throughout this letter, development in the

<sup>107</sup> CEQA Guidelines § 15125.

<sup>108</sup> Gov. Code § 65454.

<sup>109</sup> Open Space/Conservation Element at VIII-50.

<sup>110</sup> Open Space/Conservation Element at VIII-50 – VIII-51.

<sup>111</sup> Open Space/Conservation Element at VIII-51.

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Study Area significantly impacts agricultural and biological resources in the Northern and Southern Subarea and these impacts have not been adequately mitigated. Indirect impacts to the wetlands adjacent to the study area are significant and unmitigated. Sea level rise will exacerbate these impacts. Rather than encouraging preservation and enhancement of the Ormond Beach wetlands, this Project threatens them.

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The RDEIR also omits discussion of the Safety Element, which includes the following policy:

In view of the potential rise in sea level, the City should confer with appropriate state and federal agencies and seek information and advice concerning the probability, impacts, and mitigation measures to minimize beach erosion and inundation of coastal development and shall evaluate specific mitigation measures in EIRs for new development in coastal areas.<sup>112</sup>

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The RDEIR must be revised to include discussion of the Safety Element and other General Plan Elements that are not currently included in the RDEIR.

In addition, the RDEIR does not discuss any provisions of the Coastal Land Use Plan. Presumably this is because of the erroneous assertion at 3.7-10 that a coastal development permit is not required. As discussed above, however, the Project description clearly includes division of lots that are within the Coastal Zone, and the Coastal Act requires a coastal development permit for that division. Given this, the RDEIR here, must evaluate the Project's consistency with the Coastal Land Use Plan, including the following provision:

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Although they are degraded, the Ormond Beach wetlands can be preserved, and possibly restored. Additional planning to determine the location and character of this restoration will need to be undertaken prior to any major redevelopment of the area.<sup>113</sup>

The RDEIR also fails to even evaluate all portions of the Land Use Element for consistency. For example, the RDEIR fails to address consistency with Item G in the Land Use Element:

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New development shall be sited and designed in a manner that will mitigate potential use conflicts and protect the ongoing operations of . . . the Navy's Point Mugu facilities."<sup>114</sup>

### 3.7.3.3 Cumulative Impacts

<sup>112</sup> Safety Element IX-18.

<sup>113</sup> Coastal Land Use Plan at III-8.

<sup>114</sup> Land Use Element at V-43.

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The Land Use and Planning cumulative impact analysis fails to consider the effects of the Project in light of past, present and probable future projects. It does not comply with either method identified in the CEQA Guidelines. The discussion makes vague reference to "other proposed development in South Oxnard," but fails to identify any past, current, or future projects. (RDEIR at 3.7-35.) It also fails define the geographic scope of the area affected and provide an explanation for the geographic limitation used.<sup>115</sup> Without the full identification and evaluation of past, present and future projects, as well as the complete identification of Project impacts it is impossible to evaluate whether the Project's incremental effect is "cumulatively considerable." However, even on its own terms, the analysis is internally inconsistent and unsupportable. For example, the Land Use and Planning cumulative impacts analysis mentions how the Project and proposed development would displace agricultural uses, but concludes that long term changes in land use would nonetheless be less than significant. Elsewhere in the RDEIR, however, "cumulative conversion of Ag lands to non-ag uses" is identified as a Class I impact. (RDEIR at 3.8-28.)

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### 3.8 Agricultural Resources

#### 3.8.4.2/3.8.4.4 Discussion of Impacts/Mitigation Measures

There are several problems with the impact and mitigation analysis in the Agricultural Resources section. The RDEIR identifies two Class I Agricultural Resources Impacts, Impact AG-5 (Direct Farmland Conversion) in the Northern Subarea and Impact AG-7 (Direct Farmland Conversion) in the Southern Subarea. (RDEIR at 3.8-23 and 3.8-26.) According to the RDEIR, this represents the loss of 322 acres and 375 acres, respectively, of Prime Farmland and Farmland of Statewide Importance.

The first problem is that Impact AG-7 potentially understates the loss of direct farmland conversion. The 375 acres is calculated based on the presumption that 220 acres will remain in agricultural use. However, elsewhere in the RDEIR, it is anticipated that these same 220 acres may be converted for habitat restoration. (See, e.g., RDEIR at 2-19, 3.6-63.) Impact AG-7 should be revised to take into account the potential loss of an additional 220 acres.

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Second, the RDEIR makes no attempt to impose feasible measures which could minimize these Class I impacts (or the cumulative Class I impact also associated with farmland conversion).<sup>116</sup> CEQA Guidelines allow for compensation of an impact to occur via the replacement or provision of substitute resources or environments.<sup>117</sup> The RDEIR entirely dismisses the possibility of such offsite mitigation, but treats the issue as an all or nothing proposition – presuming that acreage must be replaced at a 1:1 ratio – and thus dismisses it as infeasible. (RDEIR at 3.8-24 and 3.8-26.) The RDEIR, however, does not consider conservation of less acreage, which would reduce the cost for the applicants.

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<sup>115</sup> CEQA Guidelines § 15130(b)(3).

<sup>116</sup> CEQA Guidelines § 15126.4(a)(1).

<sup>117</sup> CEQA Guidelines § 15370(e).

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Imposition of this mitigation measure may not reduce the class of impact, but it would still minimize adverse impacts and must be considered.

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The RDEIR's reliance on the applicants' estimate of agricultural land values ranging from "\$75,000 to \$100,000," is inconsistent with other figures in the RDEIR which place agricultural land values in the area at "\$65,000." (RDEIR at 3.6-63.) Even this figure may overstate current land values, and is provided without any basis. This calls into question the RDEIR's conclusion that mitigation of Impact AG-5 and AG-7 at a 1:1 ratio would actually be infeasible.

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Lastly, the RDEIR suggests that offsite mitigation would be infeasible because "While there are entities within Ventura County that could conceivably manage agricultural conservation programs . . . there are currently no such programs in place." The RDEIR fails to consider whether there are any State agencies that could assist with agricultural conservation. For example, the State Coastal Conservancy administers funds for the purchase of land and easements, and is currently interested in conserving agricultural acreage with the Study area.

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### 3.8.4.3 Cumulative Impacts

The agricultural resources cumulative impact analysis fails to consider the effects of the Project in light of past, present and probable future projects. It does not comply with either method identified in the CEQA Guidelines. The discussion fails to identify any past, current, or future projects, but instead vaguely refers to "other pending urban development projects." (RDEIR at 3.8-28.) It also fails to define the geographic scope of the area affected and provide an explanation for the geographic limitation used.<sup>118</sup> Although the RDEIR does identify a cumulative Class I impact here, without a complete identification and analysis of past, present and future projects, the full cumulative impact has not been disclosed.

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## 3.9 Public Facilities and Services

### 3.9.3.2.2 Cumulative Impacts (including 3.9.3.3.4, 3.9.3.4.4, 3.9.3.6.3, 3.9.3.5.3, 3.9.3.7.3, 3.9.3.8.4)

The public facilities and services cumulative impact analysis fails to consider the effects of the Project in light of past, present and probable future projects. The various cumulative impacts discussions in this section do not comply with either method identified in the CEQA Guidelines. Some fail to mention any other projects at all – see, e.g., public school cumulative impacts. (RDEIR at 3.9-24.) Most vaguely reference other documents – see, e.g., fire protection cumulative impacts (RDEIR at 3.9-27), energy and public utilities (RDEIR at 3.9-38.) If the intent here is to utilize the summary of projections method, the analysis fall short because it fails to explain that the identified documents have been evaluated in a prior environmental document that has been adopted

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<sup>118</sup> CEQA Guidelines § 15130(b)(3).

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or certified, reference and make those documents available to the public, and explain how the environmental documents describe or evaluate the regional or area wide conditions contributing to the cumulative impact.<sup>119</sup> In all cases, the cumulative impacts discussions are conclusory and devoid of any meaningful information. In addition, each discussion fails define the geographic scope of the area affected and to provide an explanation for the geographic limitation used.<sup>120</sup> It is thus impossible to discern whether the RDEIR discloses the full scope of potential impacts and whether identified mitigation is adequate.

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### 3.10 Transportation and Circulation

#### *Cumulative Impacts*

The RDEIR omits any discussion of cumulative transportation and circulation impacts. The RDEIR must always consider the effects of the project in light of past, present and probable future projects. Even where a lead agency determines that a cumulative impact is not significant, a lead agency must, at a minimum, describe the basis for its conclusion that the impact is not significant.<sup>121</sup> The RDEIR is inadequate as a matter of law based on its failure to discuss cumulative transportation and circulation impacts. Had a cumulative traffic analysis been conducted it would likely have found significant impacts. A recent traffic study reviewing only proposed developments concluded that 23 major intersections in the City of Oxnard will fail to meet a C level of service by 2020.<sup>122</sup>

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### 3.11 Noise

#### *Cumulative Impacts*

The RDEIR omits any discussion of cumulative noise impacts. The RDEIR must always consider the effects of the project in light of past, present and probable future projects. Even where a lead agency determines that a cumulative impact is not significant, a lead agency must, at a minimum, describe the basis for its conclusion that the impact is not significant.<sup>123</sup> The RDEIR is inadequate as a matter of law based on its failure to discuss cumulative noise impacts.

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### 3.12 Cultural Resources

#### *Cumulative Impacts*

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<sup>119</sup> CEQA Guidelines §§ 15130(b)(1)(B) and (d).

<sup>120</sup> CEQA Guidelines § 15130(b)(3).

<sup>121</sup> CEQA Guidelines § 15130(a).

<sup>122</sup> Sanchez, Jose L. 2008a. Traffic Expert Backs Change In Oxnard Growth: Oxnard told to modify how it deals with growth. Ventura County Star. Sep 11. [Attached]

<sup>123</sup> CEQA Guidelines § 15130(a).

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The RDEIR omits any discussion of cumulative cultural resources impacts. The RDEIR must always consider the effects of the project in light of past, present and probable future projects. Even where a lead agency determines that a cumulative impact is not significant, a lead agency must, at a minimum, describe the basis for its conclusion that the impact is not significant.<sup>124</sup> The RDEIR is inadequate as a matter of law based on its failure to discuss cumulative cultural resources impacts.

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### 3.13 Visual/Aesthetic Resources

#### 3.13.2.4 Cumulative Impacts

The visual/aesthetic resources cumulative impact analysis fails to consider the effects of the Project in light of past, present and probable future projects. It does not comply with either method identified in the CEQA Guidelines. The discussion fails to identify any past, current, or future projects, but instead vaguely refers to "other pending urban development projects." (RDEIR at 3.8-28.) The discussion generally references the General Plan, but if the intent here is to utilize the summary of projections method, the analysis fall short because it fails to explain that the identified documents have been evaluated in a prior environmental document that has been adopted or certified, reference and make those documents available to the public, and explain how the environmental documents describe or evaluate the regional or area wide conditions contributing to the cumulative impact.<sup>125</sup> It also fails define the geographic scope of the area affected and provide an explanation for the geographic limitation used.<sup>126</sup> Although the RDEIR does identify a cumulative Class I impact here, without a complete identification and analysis of past, present and future projects, the full cumulative impact has not been disclosed, and it is impossible to evaluate whether identified mitigation is adequate.

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### 4.0 Project Alternatives

CEQA not only requires the identification of significant adverse environmental effects, it also compels a lead agency to "mitigate those adverse environmental effects through the imposition of feasible mitigation measures *or through the selection of feasible alternatives.*"<sup>127</sup> The analysis of project alternatives is thus one of the most important features of an EIR. To adequately carry out this portion of the analysis:

An EIR for any project . . . must consider a reasonable range of alternatives to the project, or to the location of the project which (1) offer substantial environmental advantages over the project proposal . . . ; and (2) may be 'feasibly accomplished in a successful manner' considering the economic, environmental, social and technological factors involved.<sup>128</sup>

<sup>124</sup> CEQA Guidelines § 15130(a).

<sup>125</sup> CEQA Guidelines §§ 15130(b)(1)(B) and (d).

<sup>126</sup> CEQA Guidelines § 15130(b)(3).

<sup>127</sup> *Sierra Club v. State Board of Forestry* (1994) 7 Cal. 4<sup>th</sup> 1215, 1233 (emphasis added).

<sup>128</sup> *Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal. 3d 553, 566 (italics deleted from original) (hereafter "*Goleta Valley II*").

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#### 4.2 Project Objectives

Articulating complete and accurate project objectives is a fundamental foundation to the alternatives analysis in an EIR. The CEQA Guidelines directly associate the description of project objectives to the alternatives analysis:

A clearly written statement of objectives will help the lead agency develop a reasonable range of alternatives to evaluate in the EIR . . . .<sup>129</sup>

As discussed above regarding Section 2.0, the Project objectives in the RDEIR are improperly narrow in that they are limited to the 2020 GP objectives identified specifically for new development, but do not include other Project objectives that are consistent with the 2020 GP (in particular, protection of significant wetlands and other habitat resources and enhancement of degraded resources). Moreover, even within the limited context of the "new development" Project objectives that are identified in Section 2.0, the RDEIR inconsistently describes the objectives, utilizing a narrower list of objectives in the alternatives analysis – a list that tends to either eliminate or downplay mention of open space, coastal, and resource protection. (RDEIR at 4-1 – 4-2.)

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As discussed below, the improper Project objectives result in an unreasonably limited range of alternatives. They also prevent the RDEIR from properly characterizing the ability of the alternatives to meet Project objectives.

The RDEIR should be revised to include all relevant Project objectives, including the six general "principal areas of concern relating to the Ormond Beach study area" that are set forth in the Land Use Element. Each of these objectives should be considered in the analysis and comparison of alternatives.

#### 4.4-4.5 Alternatives Selection Process/Description of Project Alternatives

The RDEIR's Alternatives selection process and description of Project Alternatives suffers from multiple inadequacies.

##### The RDEIR fails to consider offsite alternatives

The RDEIR improperly eliminates offsite alternatives from the analysis. An EIR must describe a range of reasonable alternatives to the project, *or to the location of the project*.<sup>130</sup> The RDEIR states:

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Offsite project alternatives were considered and screened from further analysis in this EIR as the proposed Project involves the development of General Plan 2020 Ormond Beach Specific Plan Area. Any offsite

<sup>129</sup> CEQA Guidelines §15124(b).  
<sup>130</sup> CEQA Guidelines § 15126.6(a) (emphasis added).

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alternatives would fail to meet the basic objectives identified in the 2020 General Plan for the development of the Study Area and, therefore, further consideration is not required under CEQA. (RDEIR at 4-3.)

The RDEIR is flawed because it does not even identify the alternative sites that were considered and provides only the bare assertion that these offsite locations fail to meet Project objectives.<sup>131</sup> The RDEIR must explain in meaningful detail, the basis for its determination that offsite alternatives do not meet Project objectives.<sup>132</sup> "To facilitate CEQA's informational role, the EIR must contain facts and analysis, not just the agency's bare conclusions or opinions."<sup>133</sup> The RDEIR must at least identify the offsite locations that were considered and explain how they do or do not conform to the Project objectives.

Moreover, the RDEIR's broad dismissal of offsite alternatives is undermined by Alternative 1, which does relocate a portion of the Project to an offsite location.<sup>134</sup> (RDEIR at 4-6.) The RDEIR must also explain why it is appropriate to consider offsite locations for some portions of the Project, but not others.

The RDEIR's circular logic – that the Project objective is to develop within the Ormond Beach Study Area, therefore no locations outside the Study Area could meet the Project objective – has been refuted as a matter of law.<sup>135</sup> The mere fact that a general plan has been completed does not preclude an EIR analysis from proceeding with "regional blinders."<sup>136</sup> At a minimum, the RDEIR should consider whether the 2020 GP identifies any alternative sites that would be suitable for either of the Specific Plan developments.<sup>137</sup> In some cases, a Project EIR may represent the culmination of multiple planning and legislative decisions, and the consideration of offsite alternatives would in effect require the lead agency to undo those decisions. This, however, is not that case. In fact, this Project as proposed requires the City Council to undo an entire series of legislative decisions, including, general plan amendments, annexations, and re-zoning. (RDEIR at 2-20 – 2-21.) Under such circumstances, it is reasonable to also consider offsite alternatives.<sup>138</sup>

In addition, the conclusion that offsite alternatives would not meet Project objectives is indefensible. As discussed above, the RDEIR has improperly narrowed the Project objectives, as well as unreasonably presumed that new development identified in

<sup>131</sup> LAFCO Policies 3.1.5.1.iii and 3.1.5.2 also require an evaluation to determine if sufficient vacant lands or land that can be redeveloped currently exist within the City's jurisdiction.

<sup>132</sup> *Laurel Heights Improvement Assoc. v. Regents of University of California* (1988) 47 Cal. 3d 376, 405 (EIR inadequate for eliminating offsite alternatives and failing to provide adequate explanation).

<sup>133</sup> *Id.* at 404.

<sup>134</sup> "This alternative is nearly identical to the specific plans as proposed, except the high school site proposed in the Northern Subarea would be relocated to the east, *just outside of the Study Area*" (emphasis added) (RDEIR at 4-6.)

<sup>135</sup> *Citizens of Goleta Valley v. Board of Supervisors of Santa Barbara Co.* (1988) 197 Cal. App. 3d 1167 (*Goleta Valley I*).

<sup>136</sup> *Goleta Valley II* at 573.

<sup>137</sup> *Id.*

<sup>138</sup> *Id.*

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the 2020 GP must occur. These legally insupportable decisions, which prioritize and emphasize new development in a manner inconsistent with the 2020 GP description for the Ormond Beach Study Area, undoubtedly underlie the conclusion to screen out offsite alternatives. In contrast, correctly framed Project objectives would reintroduce and reprioritize the other areas of concern identified for the Ormond Beach Study Area in the 2020 GP. That complete list is:

- Protection of significant wetlands and other habitat resources and enhancement of degraded resources
- Aesthetics in relation to blighted conditions
- Beach access and recreational use opportunities consistent with Coastal Act resource protection policies
- Need for visitor serving facilities
- Desirability of providing for a variety of housing types
- Desirability of relocating certain existing land uses in the study area<sup>139</sup>

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Offsite alternatives considered in light of the above list of Project objectives, could meet most of these project objectives, as well as avoid or substantially lessen Project impacts (e.g., Agricultural impacts, Biological Resource impacts). Offsite alternatives should be analyzed with respect to relocating either one<sup>140</sup> or both of the Specific Plan developments at an offsite location.

*The RDEIR does not include an adequate range of alternatives that would meet coastal enhancement objectives and reduce or avoid impacts to Ormond wetlands*

The RDEIR fails to identify adequate onsite alternatives that would meet coastal enhancement Project objectives and reduce or avoid impacts to the Ormond wetland area. This inadequacy results from the fact that the RDEIR has improperly limited the Project objectives, failed to disclose the full scope Project impacts on biological resources, and failed to adequately mitigate such impacts.

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The RDEIR only includes one alternative, Alternative 4, which somewhat promotes this objective and reduces or avoids some of the Project impacts. Under Alternative 4, all of the Study Area north of McWane Boulevard would remain in agricultural uses, while the area south of McWane would be set aside for resource protection. (RDEIR at 4-12.)

The RDEIR should also include an alternative that would set aside all of the Study Area south of Hueneme Road for resource protection, while the area north of Hueneme Road would remain in Agricultural use ("Sierra Club/EDC Alternative"). This alternative could meet all of the properly identified Project objectives, except those associated with providing housing. This alternative is significantly distinguishable from Alternative 4

<sup>139</sup> 2020 GP Land Use Element at V-41.

<sup>140</sup> The RDEIR does not appear to contemplate the possibility of locating just one, as opposed to both of the Specific Plan developments to an offsite location.

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because it provides more acreage in support of resource protection.<sup>141</sup> By eliminating residential and industrial development from the Study Area, this alternative would significantly reduce or avoid most of the Project impacts, especially impacts to the Ormond wetlands. It would meet the enhancement of coastal resource objective by accommodating inland migration of the wetland area against sea level rise, providing a significant area for the restoration of critical upland habitat, and providing a significant buffer from inland development impacts.<sup>142</sup>

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The RDEIR should consider alternatives in combination with each other

The RDEIR should consider alternatives in combination with each other. For example, The RDEIR should consider the Sierra Club/EDC Alternative in combination with offsite alternatives. This combination meets Project objectives and reduces or avoids Project impacts.

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Alternative 1 does not meet the CEQA requirement that alternatives must avoid or substantially lessen Project impacts

It appears that Alternative 1 was included not because it reduces impacts, but because it was requested by a property owner. The purpose of a Project alternative is to "avoid or substantially lessen any of the significant effects of the project."<sup>143</sup> Alternative 1, however, increases adverse impacts, by increasing the number of residential units in the Northern subarea development. (RDEIR at 4-6.) This alternative should be eliminated from the range of alternatives considered in the RDEIR.

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Alternative 5 is not clearly described or analyzed

The RDEIR fails to describe Alternative 5 in sufficiently meaningful detail to inform the public or the decision makers about its likely impacts. The City has added Alternative 5 in response to comments received on the draft EIR, and characterizes this alternative as having "less intensive development" than the Project. (RDEIR at 4-14.) With the information provided, however, it is impossible to independently verify the RDEIR's conclusion. For example, the description for the Southern Subarea lacks any actual detail about the "port related" development that could occur, simply noting that it could be similar to uses that occur to the west of the Study Area, which "tend to support very low employment densities." (RDEIR at 4-14.) The map provided does not add any additional information. (RDEIR Figure 4-6.)

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The RDEIR description requires the public to put its "blind trust" in the lead agency, but this is counter to "CEQA's fundamental goal that the public be fully

<sup>141</sup> Zedler, Joy (Professor of Botany, University of Wisconsin-Madison). 2008. Letter to Kathleen Mallory (City of Oxnard) Re: Ormond Beach Specific Plan Recirculated Deir, South Ormond Specific Plan And Southshore Specific Plan. Sep 11. [Attached]

<sup>142</sup> Zedler 2008; California Coastal Commission 2001; Magney 2008.

<sup>143</sup> CEQA Guidelines § 15126.6(a).

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informed as to the environmental consequences of action by their public officials."<sup>144</sup> It is particularly important that information about this alternative be fully developed because the RDEIR has identified it as the environmentally superior "build" alternative. (RDEIR at 4-33.) It is impossible to verify this determination without meaningful details about this alternative.

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#### 4.6 Comparison of Merits of Project Alternatives

As discussed above, the RDEIR alternative selection process and alternative descriptions are significantly flawed. As a result, this comparison of alternatives is inherently unsound and fails to meet one of the RDEIR's most crucial informative functions for the public and decision makers.<sup>145</sup> This fundamental flaw in the RDEIR mandates recirculation of the document.

In addition, notwithstanding the above flaws, the comparison of the merits of Project alternatives fails to adequately evaluate whether the alternatives meet the basic Project objectives. In some cases the analysis finds that development alternatives are consistent with certain Project objectives (e.g., protection of coastal resources), when in fact they are not. In other cases, the RDEIR states that coastal resource protection objectives are "not applicable" to certain alternatives, even though they are.

##### Alternative 1 does not meet the objective of coastal resource protection

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The RDEIR fails to adequately explain that Alternative 1 will not achieve the objective of protecting significant wetlands and other habitat resources and enhancing degraded resources. (RDEIR at 4-19 and 4-29.) This alternative is essentially the same as the Project. As discussed above, implementation of the Project will have significant adverse impacts on the Ormond wetland area as it currently exists and will significantly impede State efforts to enhance the Ormond wetland area.

The RDEIR states that the ability of the Northern Subarea to protect coastal resources is "not applicable." (RDEIR at 4-19.) However, as discussed above, development in the Northern Subarea will result in indirect impacts on the Ormond wetlands and the Mugu wetlands, so the proper conclusion here is that the Northern Subarea will not meet this objective. The RDEIR states the Southern Subarea will protect coastal resources. (RDEIR at 4-19.) This conclusion also fails to take into account the indirect impacts to Ormond and Mugu wetland areas, neither of which are adequately mitigated. It also fails to consider information regarding the effects of sea level rise on wetlands and how inland development will limit wetland migration in response to sea level rise. Therefore, the RDEIR must be revised to find that Alternative 1 does not meet this objective.

<sup>144</sup> *Laurel Heights Improvement Association v. The Regents of the University of California* (1988) 47 Cal. 3d 376, 404.

<sup>145</sup> *Sierra Club v. State Board of Forestry* (1994) 7 Cal. 4th 1215, 1233.

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In addition, the RDEIR fails to address the potential feasibility of this Alternative, particularly the feasibility of introducing large-scale residential development in the Region. Other pending residential projects in the City of Oxnard have been canceled recently due to poor economic conditions.<sup>146</sup>

Alternative 2 does not meet the objective of coastal resource protection

The RDEIR incorrectly asserts that Alternative 2 (“no Project/Existing Plan (Oxnard General Plan 2020)”) will “meet all of the City of Oxnard General Plan 2020 Objectives.” (RDEIR at 4-30.) This alternative would allow for “substantially more” development in the Study Area. (RDEIR at 4-31.) Thus, the adverse biological impacts described above would be even more significant. The RDEIR also asserts that the coastal resource protection objection is “not applicable” for the Northern Subarea in this Alternative. However, as discussed above, development in the Northern Subarea has indirect impacts on the Ormond wetlands and the Mugu wetlands.

Alternative 4 is applicable to the coastal resource protection objective

The RDEIR states that the Northern Subarea is “not applicable” to the coastal resource protection objective. (RDEIR at 4-20.) By eliminating residential development from the Study Area, this alternative would reduce impacts to the Ormond and Mugu wetlands. It would accommodate inland migration of the wetland area against sea level rise and provide buffer from inland development impacts.

The RDEIR concludes without any basis that Alternative 4 would have indirect adverse effects “since it may lead to proposals to accommodate population growth and provide other urban uses in lands not currently planned for that purpose” (and would presumably conclude the same for the Sierra Club/EDC Alternative) (RDEIR at 4-12.) However, this conclusion is speculative and made without any actual facts or analysis, as required under CEQA.<sup>147</sup> For example, the RDEIR does not even consider the Growth Management Element of the 2020 GP. This conclusion also apparently fails to take into account more recent information about the economic viability, and hence the likelihood, of new residential developments within the City of Oxnard.<sup>148</sup> The RDEIR also fails to support its conclusory assertion that Alternative 4 would be economically infeasible. (RDEIR at 4-32.)

Alternative 5 does not meet the objective of coastal resource protection

The RDEIR fails to explain the ability of Alternative 5 to meet the Project objectives. (RDEIR at 4-33.) Similar to Alternative 1, this alternative will not achieve

<sup>146</sup> See, e.g., Sanchez 2008.

<sup>147</sup> *Laurel Heights Improvement Association v. The Regents of the University of California* (1988) 47 Cal. 3d 376, 404.

<sup>148</sup> See, e.g., Sanchez, Jose L. 2008. Project at Levitz Property Cancelled: Bad Economy Makes Condos Infeasible Now. Ventura County Star. Sept 3. [Attached]

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coastal resource protection objectives. This alternative is essentially the same as the Project. Implementation of the Project will have significant adverse impacts on the Ormond wetland area as it currently exists and will significantly impede efforts to enhance the wetland system. Although the RDEIR asserts that Alternative 5 will have less intensive development and therefore less adverse impacts, as discussed above, the RDEIR does not provide sufficient detail about the alternative to verify these conclusions. In addition, the RDEIR fails to address the potential feasibility of this Alternative, including the feasibility of introducing large-scale residential development in the Region.

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#### 4.7 Environmentally Superior Alternative

The RDEIR concludes that Alternative 4, the conservation alternative, is the environmentally superior alternative, but once again betrays its development bias, asserting that “[w]here a ‘no development’ alternative is determined to be the Environmentally Superior Alternative, CEQA requires that the EIR identify the environmentally superior development alternative.” (RDEIR at 4-33.) The RDEIR then identifies Alternative 5 as the “Environmentally Superior *Build* Alternative.” (RDEIR at 4-33, emphasis added.)

This approach utterly misconstrues CEQA requirements. CEQA guidelines state:

If the environmentally superior alternative is the “no project” alternative, the EIR shall also identify an environmentally superior alternative among the other alternatives.<sup>149</sup>

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Here, the “no project” alternative is not the environmentally superior alternative, so there is no requirement to identify a second “environmentally superior” alternative.

The RDEIR identifies Alternative 4 as the environmentally superior alternative. This conclusion is correct of the alternatives included in the RDEIR. However, as discussed above, EDC and Sierra Club recommend another alternative be included in the RDEIR – setting aside all of the Study Area south of Hueneme Road for resource protection, while the area north of Hueneme Road would remain in Agricultural use – as an environmentally superior alternative. This alternative is significantly distinguishable from Alternative 4 because it provides more acreage in support of resource protection. It would meet the enhancement of coastal resource objectives by accommodating inland migration of the wetland area against sea level rise, providing a significant area for the restoration of critical upland habitat, and providing a significant buffer from inland development impacts.

The Sierra Club/EDC Alternative meets most of the Project alternatives. However, an alternative could be developed to also meet the urban development Project

<sup>149</sup> CEQA Guidelines § 15126(e)(2).

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objectives by combining the Sierra Club/EDC Alternative with other alternatives, such as offsite development of one or both of the Specific Plans (see discussion above).

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### Section 5.5 Growth Inducing Impacts

The RDEIR fails to use baseline conditions (existing conditions) to evaluate growth inducing impacts. Instead, the RDEIR compares the Project against the maximum development that would be allowed under the 2020 GP. (RDEIR at 5-6.) CEQA requires that impacts be evaluated against baseline conditions.<sup>150</sup>

In addition, the RDEIR fails to consider several issues pertinent to growth inducement from the Project. These include the impact of residential development on nearby agricultural land – e.g., will increases in land value occur that make farming less desirable or affordable to farmers; will proximity to residential land require farmers to change practices making farming less desirable? Also, what will be the impact of the significant loss of agricultural acreage on industry in the region that supports agriculture, and how will this in turn impact the continuing viability of agriculture in the region? An additional consideration the RDEIR fails to consider is the impact of residential development on the nearby Naval Base and whether encroachment of residential development may interfere with mission activities, ultimately impacting the continued viability of the Base.

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### Public Participation Concerns

Public participation is a fundamental part of the environmental review process.<sup>151</sup>

[P]ublic review provides the dual purpose of bolstering the public's confidence in the agency's decision and providing the agency with information from a variety of experts and sources.<sup>152</sup>

We have multiple concerns about the lead agency's treatment of public participation.

As EDC testified during the August 21 Planning Commission Hearing, the Notice of Availability of the RDEIR is procedurally deficient. CEQA Guideline Section 15087 requires that:

The lead agency shall provide public notice of the availability of a draft EIR at the same time it sends a notice of completion to the Office of Planning and Research.

(52)

<sup>150</sup> CEQA Guidelines § 15125(a). See, also *Environmental Planning and Information Council v. County of El Dorado* (3d Dist. 1982) 131 Cal. App. 3d 350 (“in comparing an old general plan with a new county general plan that would allow less growth than the old plan, the EIR had to address the existing level of actual physical development in the county as the base line for the comparison.”)

<sup>151</sup> CEQA Guidelines § 15201.

<sup>152</sup> *Schoen v. Department of Forestry & Fire Protection* (1<sup>st</sup> Dist. 1997) 58 Cal. App. 4<sup>th</sup> 556, 573-574.

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According to the Office of Planning and Research's CEQAnet database, the Notice of Completion for the draft EIR was received on July 23.<sup>153</sup> The City, however, did not send its Notice of Availability to the public until many days after July 23.<sup>154</sup> In fact, the City apparently did not send its Notice to the public until after July 24, which is the date identified on the Notice of Availability as the official commencement of the public review period. The City's newspaper notice, which was published on July 24, was also provided after the RDEIR was received at OPR.<sup>155</sup> In any case, the newspaper notice would not cure the procedural defect, as the CEQA Guidelines require newspaper notice in addition to the notice that is required to be mailed to individuals.<sup>156</sup> This clear procedural violation of CEQA requires that the notice for the RDEIR be re-initiated and that the RDEIR should be re-circulated for an adequate public comment period.

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The Notice of Availability also fails to specify the address where all documents referenced in the RDEIR are available for review, as required by CEQA.<sup>157</sup> Recirculation is also warranted because of the difficulties the public has experienced in accessing the RDEIR and related documents during the public review period.<sup>158</sup> To date, although the RDEIR is posted to the City of Oxnard's website, it is not possible to download the document because it freezes during the downloading process. Copies of the Specific Plans were not added to the City's website until several weeks into the public review period. Even once those documents were added, it was not possible to print the South Ormond Beach Specific Plan. Additional problems with obtaining materials referenced in the RDEIR are discussed above.

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In addition, there is some confusion regarding whether City staff intend to accept DVD submissions as comments on the RDEIR and whether DVDs submitted as comments on the draft EIR were considered and added to the administrative record. CEQA, however, explicitly states that "comments may be submitted in any format."<sup>159</sup> Therefore, the DVDs submitted by the Sierra Club on the draft EIR and any DVDs submitted as comment on the RDEIR must be considered, responded to, and included in the administrative record.

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Finally, we also have pending questions regarding the status of the comments Sierra Club submitted on the draft EIR. It appears that the City may not have considered all or a portion of Sierra Club's comments. It is also unclear whether a complete version of the Sierra Club's comment is in the administrative record. A representative of the

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<sup>153</sup> Office of Planning and Research. 2008a. Ormond Beach Specific Plans. <http://www.ceqanet.ca.gov>. queried Sep 15. (p. 2) [Attached]

<sup>154</sup> City of Oxnard. 2008a. Postmarked Envelope Addressed to Alan Sanders. Jul 28. [Attached]

<sup>155</sup> City of Oxnard. 2008. Notice of Availability/Notice of Completion Environmental Impact Report No. 05-03. Ventura County Star. Jul 24. [Attached]

<sup>156</sup> CEQA Guidelines § 15087.

<sup>157</sup> Pub. Resources Code § 21092 (b)(1).

<sup>158</sup> See, e.g., *Ultramar, Inc. v. South Coast Air Quality Management Dist.* (2d Dist. 1993) 17 Cal. App. 4<sup>th</sup> 689, 700) (comment period does not begin to run until lead agency provides public with complete copy of environmental document).

<sup>159</sup> CEQA § 21082.1(b).

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Sierra Club was initially informed that City staff were unaware of most of the comment documentation submitted by the Sierra Club on the draft EIR.<sup>160</sup> This calls into question whether the Sierra Club's comment was properly considered by the lead agency. Subsequent communications from City staff have not fully clarified this issue.<sup>161</sup> To date, it is unknown whether the City reviewed the Sierra Club's comment in its entirety and whether the Sierra Club's entire submission is in the administrative record. Unfortunately, because the City decided to re-circulate the entire draft EIR for comment and did not prepare a response to public comments, it is impossible to independently verify whether the City did or did not consider the Sierra Club's comments on the draft EIR.

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A lead agency's failure to consider public comments may frustrate the public participation requirements of the environmental review process, and is prejudicial error.<sup>162</sup> Here, the Sierra Club submitted a wide range of comments on the draft EIR that did not support the action proposed by the lead agency and were not duplicative of other comments submitted. As documented in the Sierra Club's comments submitted on the RDEIR, the RDEIR was not substantially updated or influenced by these comments, demonstrating that the lead agency failed to consider the Sierra Club comments. The confusion regarding the City's consideration of Sierra Club's comment and whether the full content of the comment is in the administrative record has also significantly the Sierra Club from reviewing the RDEIR and preparing comments on this document.

#### Conclusion

For the reasons described above, the RDEIR must be revised and recirculated.

Sincerely,

/s/  
Karen M. Kraus  
Staff Attorney

Attachments (enclosed on CD)

<sup>160</sup> Sanders, Alan (Sierra Club). 2008. Letter to City of Oxnard, City Council RE The Planning Department Has Lost Substantial Evidence Placed On the Public Record Regarding the Ormond Beach Specific Plan DEIR, South Ormond Specific Plan and Southshore Specific Plan of 2007. Aug 5. [Attached]

<sup>161</sup> Martin, Sue (City of Oxnard). 2008. Letter to Alan Sanders re August 5, 2008, Correspondence Pertaining to the Ormond Beach Draft Environmental Impact Report. Aug 6. [Attached]

<sup>162</sup> *Environmental Protection and Information Center v. California Department of Forestry* (July 17, 2008) 2008 DJDAR10971, 10979.

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List of Attachments

Brown, Edmund G. (Attorney General). 2007. Letter to Maureen Parks (Contra Costa County Planning Commission) RE Comments on the ConocoPhillips Rodeo Refinery Expansion Project and Final Environmental Report (File #LP052048). May 8.

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Sanchez, Jose L. 2008a. Traffic Expert Backs Change In Oxnard Growth: Oxnard told to modify how it deals with growth. Ventura County Star. Sep 11.

Sanders, Alan (Sierra Club). 2008. Letter to City of Oxnard, City Council RE The Planning Department Has Lost Substantial Evidence Placed On the Public Record Regarding the Ormond Beach Specific Plan DEIR, South Ormond Specific Plan and Southshore Specific Plan of 2007. Aug 5.

Zedler, Joy (Professor of Botany, University of Wisconsin-Madison). 2008. Letter to Kathleen Mallory (City of Oxnard) Re: Ormond Beach Specific Plan Recirculated Deir, South Ormond Specific Plan And Southshore Specific Plan. Sep 11.

**LETTER O.5    FRIENDS OF THE SANTA CLARA RIVER**

**Commentor:** Friends of the Santa Clara River, Ron Bottorff (08-07-08)

**Response**

1. **Request for Extension of Public Review Period:** Comment noted. In response to multiple requests for such, the City extended the review period for the RDEIR from 45 days to 60 days.

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**From:** "Ron Bottorff" <bottorffm@verizon.net>  
**To:** "Kathleen Mallory" <kathleen.mallory@ci.oxnard.ca.us>, <edmund.sotelo@ci.oxnard.ca.us>  
**Date:** 8/7/2008 2:52:05 PM  
**Subject:** Ormond Beach Specific Plan RDEIR

Dear Members of the Oxnard Planning Commission:

There are several problems with the current September 8 deadline for comment on the Ormond Beach Specific Plan RDEIR. We request a re-start of the comment period for the following reasons.

1. The issues are complex and involve not only the RDEIR but also the Local Coastal Plan and the Oxnard General Plan.
2. There is an issue to be resolved regarding the loss or misplacement of prior comments on the DEIR.
3. Several projects in Oxnard are currently in some stage of preparation, requiring large amounts of volunteer time for analysis and response. These include Jones Ranch, the Edison Peaker Plant, and the General Plan.

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These facts call for a reset of the timeframe for comment on the RDEIR. Friends of the Santa Clara River requests a 90-day comment period that will start after public notices are recirculated. (Recirculation is needed because the current time period for comment began before circulation of the public notice).

Thank you.

Ron Bottorff, Chair  
Friends of the Santa Clara River

**LETTER O.6 SIERRA CLUB**

**Commentor:** Sierra Club, Alan Sanders (09-21-08, 09-22-08)

**Response**

1. **Second Revision and Recirculation:** The commentor recommends that the City revise and recirculate the DEIR a second time. Given that the Final EIR (FEIR) has not been substantially revised from the RDEIR, and consistent with the provisions of Section 21092.1 of the Public Resources Code, as outlined in Section 15088.5(f)(1) of the CEQA Guidelines, recirculation is not necessary.
2. **Truncated Analysis of Biological Impacts:** The commentor feels that RDEIR's analysis of biological impacts is "truncated" and defers the necessary studies and surveys until after Project approval. As explained below in Response to Comments O.6-33 to O.6-73, which address the commentor's specific comments on the RDEIR's biologic impacts, the RDEIR's analysis addresses CEQA requirements for assessment of biological impacts in accordance with CEQA Guidelines Section 15126 et seq.
3. **Agricultural Resources Analysis:** The commentor feels that the RDEIR's analysis of agricultural resource impacts is flawed. As explained in Response to Comments O.6-108 to O.6-117, which address the commentor's specific comments on the RDEIR's agricultural impacts discussions, the RDEIR's analysis addresses CEQA requirements for assessment of agricultural resource impacts in accordance with CEQA Guidelines Section 15126 et seq.
4. **Alternatives Analysis:** The commentor asserts that the RDEIR fails to identify or analyze a reasonable range of alternatives. The RDEIR's analysis of alternatives addresses the requirements of CEQA Section 15126.6, including those related to analysis of a sufficient range of alternatives and the breadth of analysis in terms of issues evaluated. Compliance with CEQA requirements regarding alternatives is further discussed under Response to Comment O.6-142 below.
5. **CEQA Procedural Requirements:** The commentor claims that the City failed to comply with several aspects of CEQA's procedural requirements, including notification and opportunity to comment. Based on the documentation provided in the RDEIR and public record, the City complies with CEQA procedural requirements. Furthermore, partly in response to the commentor's request, the City extended the review period by 15 days, thus allowing 60 days for submittal of comments.
6. **Comment Period:** The commentor requests extension of the comment period to 90 days and renotification of the availability of the RDEIR. Partly in response to the commentor's

request, the City extended the review period by 15 days to allow 60 days for submittal of comments. Particularly in light of the fact that the review period for the May 2007 DEIR was also extended to 60 days, the public had sufficient time to provide comments on the RDEIR.

7. **Sierra Club Comments on May 2007 DEIR:** The commentor claims that the City lost or misplaced the comments that the Sierra Club submitted on the May 2007 DEIR and that the City's failure to accept unwritten documentary evidence caused significant injury to the Sierra Club. The City appreciates the comments that the Sierra Club submitted on the May 2007 DEIR. These comments, in part, served as the basis for development of the Natural Resources Management Program (NRMP) cited in the RDEIR. In response to the first claim, the City and its consultants carefully reviewed all comments submitted on the May 2007 DEIR, including the comments submitted by the Sierra Club. A summary of these comments was posted on the City's website during the 60-day review period for the RDEIR. In preparing the RDEIR, the City's consultants relied on many of the comments on the May 2007 DEIR to guide and inform the updated sections of the RDEIR. In response to the concern regarding the submitted DVD documentaries, CEQA Guidelines Section 15202(a) states "Public comments may be restricted to written communication." Although the City had no statutory obligation to review the DVD documentaries, it did review the material submitted by the Sierra Club.
8. **RDEIR Review Period:** The commentor requests a 90-day review period in part because of its efforts to comment on the McGrath Peaker Plant project. The City extended the review period by 15 days to allow 60 days for submittal of comments. In light of the fact that the review period for the May 2007 DEIR was also extended to 60 days, the commentor had sufficient time to provide comments on the RDEIR.
9. **Project Description:** The commentor asserts that the RDEIR's project description (Section 2) is inadequate because the RDEIR does not include details regarding urbanization of the subject property, and justification for widening local roadways. Urbanization is discussed in Section 3.7 (Land Use) of the RDEIR, and the necessity for road widening is discussed in Section 3.10 (Transportation and Circulation) of the RDEIR. Many of the roadways subject to widening are listed under Mitigation Measure Trans-2 in Section 3.10, which is designed to eliminate the significant impact associated with development in accordance with City Standards. In addition to the project details provided in the RDEIR, project details within the Specific Plans are incorporated by reference in Section 2.3 of the RDEIR.

The commentor also felt that the project description was inadequate because it did not include reference to amendments to the LCP or to coastal development permits (CDPs). The project description accurately explains the actions covered by the RDEIR. Furthermore, the

Study Area for the subject projects is entirely outside of the Coastal Zone, and therefore does not require any amendments to the LCP or any CDPs.

10. **Volume of Material/Two Projects:** The commentor claims that the amount of information covered by the RDEIR, in light of other ongoing projects, makes it impossible for the public to provide informed comments within the period provided. As discussed in Response OS.6-6 above, with the extension of the review period for the RDEIR to 60 days and the extended period for review of the May 2007 DEIR to 60 days, the public had sufficient opportunity to prepare and submit meaningful comments. The commentor also recommends that the two projects under consideration be subject to separate environmental evaluations to reduce the amount of information that the public has to review. The City's decision to prepare a single EIR for the two projects reflects a long-standing commitment to address development in the Ormond Beach Study Area as comprehensively as possible. The coincidental submittal of applications by the proponents of the developments in the Northern and Southern Subareas afforded the City the opportunity to consider the environmental implications of the two projects at the same time, rather than segmenting the Study Area and assessing the environmental implications in a piecemeal manner.
  
11. **Conflict with General Plan Conservation Element:** The commentor claims that the proposed projects are in conflict with the Conservation Element of the City's General Plan, stating the General Plan is in conflict with itself. The commentor further suggests that consideration of the projects be deferred until completion of the General Plan. The RDEIR's analysis appropriately evaluates the projects in light of the adopted General Plan. Also, the projects under consideration were originally proposed in 2004; it would not have been appropriate for the City to force applicants to put their projects on hold until completion of the General Plan Update.
  
12. **Environmental Setting:** The commentor asserts that the RDEIR fails to adequately describe the project's environmental setting, largely due to the perception that the description of biological resources is deficient, and that the RDEIR did not appear to include surveys of sensitive species and their habitats. Each of the twelve subsections of Section 3 (Environmental Analysis) of the RDEIR begins with a description of the existing conditions relevant to the impact being analyzed. These discussions accurately depict the essential baseline conditions against which project impacts are evaluated. Section 3.6 of the RDEIR, Biologic Resources, provides ample discussion on the regional setting of the study area, including adjacent offsite sensitive habitats. Sections 3.6.1.5 and 3.6.1.6 of the RDEIR discuss the findings of the reconnaissance field surveys conducted in 2004 in the Northern Subarea and Southern Subarea of the project site. Please refer to Master Response 2 above for additional response to comments regarding impacts to sensitive offsite habitat and sensitive species.

The also City notes that CEQA Guidelines Section 15125(a), which the commentator cites in part, also requires, “The description of the environmental setting shall be no longer than is necessary to an understanding of the significant effects of the proposed project and its alternatives.” The Environmental Setting provided in Sections 2.3 and 3.6.1 of the RDEIR complies with this requirement.

13. **Plan Consistency:** The commentator claims that the RDEIR is deficient in assessing consistency of the project proposals with relevant plans, including the General Plan requirements for the Coastal Zone, as evidenced by “the need for the City to amend its LCP as part of the Project.” The City believes that the RDEIR’s assessment of plan consistency provided in Section 3.7 of the RDEIR addresses the requirements of CEQA. Further, the City notes that the proposed development occurs entirely outside of the Coastal Zone, so no LCP amendment is warranted.
14. **Sensitive Habitat Areas:** The commentator asserts that the RDEIR evaluation does not reach far enough in evaluating potential impacts on sensitive habitat areas. The baseline descriptions and the natural resources analyses in the RDEIR are sufficiently broad in terms of both geographic and subject area coverage. Please refer to Master Response 2 above for response to comments regarding impacts to sensitive offsite habitat and sensitive species and the Ormond Beach NRMP.
15. **Discussion of Plans:** The commentator claims that the RDEIR fails to address a variety of relevant plans in detail. The RDEIR’s description of relevant plans and assessment of the projects’ consistency with those plans in Section 3 of the RDEIR addresses the requirements of CEQA.
16. **Breadth and Depth of Analysis:** The commentator provides citations from State law and CEQA case law and asserts that the RDEIR does not properly address the standards established through the law for adequate analysis and mitigations of the project’s environmental impacts, including biological resources, aesthetics, air and water quality, traffic, noise and public safety. The balance of the comments in the letter elaborates upon this claim. Comment noted. See the responses below to comments regarding specific impacts.
17. **Planned Road Widening:** The commentator states that the RDEIR should conclude that the planned widening of roads would have direct impacts on various biological resources. The RDEIR’s assessment of impacts on biological resources does consider the direct impacts associated with implementation of the proposed specific plans, which include road widening as part of the project. These biologic impacts of the proposed specific plans were determined to be less than significant with mitigation. Roadways subject to widening are listed under Mitigation Measure Trans-2 in Section 3.10.

18. **Biological Analysis:** The commentor asserts that the RDEIR's biological analysis does not meet established legal standards because it does not address the consequences to the area's endangered, threatened and rare species; address habitat loss as a result of the project; or provide a comprehensive analysis of impacts to the areas myriad biological resources. Impacts to the area's sensitive habitat and endangered, threatened and rare species are discussed in Section 3.6 of the RDEIR under Biology Impacts BIO-7 through BIO-12 and BIO-19 through BIO-29. Please refer to Master Response 2 above for response to comments regarding impacts to sensitive offsite habitat and sensitive species, and the Ormond Beach NRMP. The NRMP was designed to reduce or avoid indirect impacts to sensitive natural resources, particularly federal and state listed species and their habitats at Ormond Beach. Please also see the responses below (Comments O.6-36 to O.6-76) to specific comments regarding the RDEIR's analysis of the above listed impacts.
19. **Land Use Analysis:** The commentor claims that the proposed specific plans will conflict with the City's adopted General Plan and LCP, and the City's policy relating to habitat protection from the General Plan and LCP. The assessment under Land-1 in Section 3.7 of the RDEIR discusses the consistency of the projects with the General Plan; this section complies with the requirements of CEQA. CEQA does not require a point-by-point defense of project consistency; rather, it seeks cases where the project clearly conflicts with adopted plans. Per the City's adopted thresholds, the Land Use and Planning analysis in RDEIR (Section 3.7) relies heavily on a comparison of the uses proposed in the specific plans with the General Plan land use map, as well as a review of consistency with General Plan land use policies. As that analysis indicates, there are no substantial conflicts or inconsistencies. For the subject matter regarding sensitive habitat areas, wildlife and impacts to public views, the F or RD? EIR includes discrete impact discussions elsewhere in the document. Further, the City notes that the proposed development occurs entirely outside of the Coastal Zone, and thus is not subject to the LCP.

The commentor also asserts that the project will have a significant environmental effect on established recreation uses. No existing recreational uses are presently located in the development area (note that the southernmost 220 acres of the Study Area will remain in the unincorporated area of the county, and is not part of the project development area). Additionally, the project will include multi-use trails for improved access to Ormond Beach. As discussed under Public Facilities Impact-14 in Section 3.9 of the RDEIR, the proposed projects meet or exceed park and recreation QUIMBY requirements, and impacts to parks and recreational resources are considered less than significant.

20. **Naval Base Conflicts:** The commentor asserts that the RDEIR does not consider potential effects at Naval Base Ventura County Point Mugu (NBVC Point Mugu), which the commentor refers to as NBPM. Comment noted. The City continues to coordinate with

NBVC concerning potential City actions that might affect its operations. This includes responding to the comments of Captain C.B. Conners, Commanding Officer of NBVC, on the RDEIR (submitted 09-22-08). The City's responses to those comments can be found on the response page for Letter F.2 of this document.

21. **Significance Thresholds—Division of Community and Habitat Conservation Plan (HCP):** The commentor challenges the RDEIR's statements that the projects would not divide an established community and that there are no habitat conservation plans in place for the Study Area. These statements in the RDEIR are accurate. The projects do not divide any established communities and there are no habitat conservation plans in place within the Study Area. The commentor also notes that the United States Fish and Wildlife Service (USFWS) advised that an HCP would be necessary to avoid unpermitted take of federally listed species. As discussed in Response to Comment Letter F.1 to the USFWS, the City and the project applicants will continue to coordinate with USFWS concerning permitting requirements, including an incidental take permit and a HCP if such are deemed necessary.
22. **City Land Use Significance Thresholds:** The commentor disagrees with the RDEIR's conclusions regarding the City's CEQA thresholds for land use compatibility and impacts to offsite biological resources. Comment noted. Land Use compatibility is discussed in Impact Land-4 (Land Use Compatibility) in Section 3.7 of the RDEIR. Compatibility with the NBVC as it related specifically to noise impacts on the study area is discussed in Section 3.11 of the RDEIR under Impact Noise-2 (Point Mugu Naval Air Station); the impact was determined to be less than significant after mitigation. Please refer to Master Response 2 above for response to comments regarding impacts to sensitive offsite habitat and sensitive species.
23. **Impact Land-1, Consistency with General Plan Land Use Policy:** The commentor's challenges the RDEIR's conclusion under Impact Land-1, which the City determined to be Class III less than significant. The commentor bases his claim that the impact should be Class I significant and unavoidable, in part, on the argument that the City's General Plan designations are not meant to have the same weight as zoning designations; this is an inaccurate interpretation of State planning law (both statutes and case law). The commentor further states that the impact analysis should be based on the County's plans, as well as the City's. Because the Study Area falls entirely within the City's sphere of influence, the RDEIR's focus on City general plan policy is appropriate. Finally, the commentor states that the City's General Plan Land Use Map conflicts with the General Plan's goals of protecting sensitive habitat areas. This comment relates to the City's current General Plan, not the RDEIR.

24. **Impact Land-2, Consistency with General Plan Land Use Map:** The commentor states that the RDEIR’s impact analysis should be based on the County’s plans, as well as the City’s; that the City’s General Plan designations are not meant to have the same weight as zoning designations; and that the projects should be compared with habitat maps that are “currently being developed.” First, as discussed above under Response O.6-23, the Study Area falls entirely within the City’s sphere of influence, so the RDEIR’s focus on City general plan policy is appropriate. In response to the second assertion, California state law (both statutory and case law) clearly establishes the general plan as the primary expression of land use and development policy, with zoning serving as an implementation tool that must be consistent with the general plan. Finally, the City is under no obligation to evaluate the projects with maps that have no official status, or maps that have not been completed.
25. **Impact Land-3, Consistency with Zoning Ordinance and Map:** The commentor reiterates concern that the RDEIR should base its impact analysis on the County’s General Plan. As discussed above under Responses O.6-23 and O.6-24, the Study Area falls entirely within the City’s sphere of influence, so the RDEIR’s focus on City general plan policy is appropriate.
26. **Impact Land-4, Land Use Compatibility:** The commentor claims that the projects will lead to the destruction of agricultural land and sensitive habitat and the closure of NBVC Point Mugu. The RDEIR addresses the potential for effects on these subjects under separate analyses under agricultural resources, biological resources, and noise (DEIR Sections 3.8, 3.6 and 3.11, respectively). The environmental analysis for these impacts are not intended to be addressed under Impact Land-4. Please also refer to Response O.6-20 for additional response regarding NBVC. Comment noted.
27. **Impact Land-5, Consistency with the Housing Element:** The commentor mistakenly states that the projects will not be required to fulfill the requirements of the City’s Affordable Housing Ordinance. As discussed in Impact Land-5 in Section 3.7 of the DEIR, the specific plan for the Northern Subarea includes a policy commitment to comply with the City’s Affordable Housing Ordinance. The number of affordable units will be ten percent of the total residential units within the project as required by the City of Oxnard. The commentor also incorrectly states that since the City’s Housing Element does not consider the Study Area in its evaluation of sites suitable for affordable housing, that the Study Area is not designated for housing in the General Plan. This assumption is incorrect. Comments noted.
28. **Impact Land-6, Consistency with Local Area Formation Commission (LAFCO) Policy:** The commentor offers a variety of observations supporting his contention that the Study Area should not be annexed to the City. The Study Area has been within the City of Oxnard Sphere of Influence (SOI) since 1981, and the City’s 2020 General Plan has designated the

area for broad mix of urban uses since 1990. Comment noted. (Please also refer to Ventura LAFCO submitted comments, which are included in Letters C.6 and C.7 of this document.)

29. **Impact Land-6 (LCP):** The commentor advises that the RDEIR should consider the City's LCP in its analysis. The development proposed under the specific plans occurs entirely outside of the Coastal Zone, and thus is not subject to the LCP.
30. **Impact Land-6 (General Plan):** The commentor argues that the City's General Plan Conservation Element does not support development of the Study Area and that the RDEIR should have based its conclusions on that assumption. This is incorrect; the City's 2020 General Plan has designated the area for a broad mix of urban uses since 1990.
31. **Impact Land-7, Consistency with SCAG Goals and Policies:** The commentor states that since some of SCAG's policies conflict with one another regarding protection of biological resources while accommodating development, the protectionist policies in the LCP shall therefore prevail. Comments noted. Perceived conflicts in SCAG's policies are immaterial to the RDEIR. Additionally, as discussed above under Response O.6-29, the development proposed under the specific plans occurs entirely outside of the Coastal Zone, and thus is not subject to the LCP.
32. **Impact Land-8, Long-Term Changes in Land Use Patterns and Growth:** The commentor disagrees with the RDEIR's analysis of potential growth-inducement as Class III less than significant. As explained in Sections 1.2 (Summary of the Proposed Projects), 3.7.1.1.4 (CURB) and 3.7.3.3 (Land Use, Cumulative Impacts) of the RDEIR, the area surrounding the Study Area is either developed or set-aside for conservation (through the SCC and SOAR/CURB). Thus, the projects will not induce growth in surrounding areas. Comment noted.
33. **SCC Wetland Restoration Project:** The commentor claims that the RDEIR inaccurately characterizes the State Coastal Conservancy (SCC) wetland restoration efforts, specifically with respect to SCC's acreage requirements. The acreage references in the RDEIR date back to information published in 2003 by the SCC concerning Ormond Beach acquisitions (as follows):

*The reservation of funds is also proposed for the acquisition of the adjoining 220 acres of former wetlands that are currently owned and farmed by Southland Sod.*

*A critical mass of 750 acres of restored wetlands and associated habitat at Ormond Beach is expected to create a self-sustaining biological system and enough tidal prism and flushing action to maintain health and hydrologic function.*

As requested by the SCC in its comment letter (S.1, herein), the FEIR has been updated to delete reference to specific acreage needs.

34. **Biological Reports:** The commentor states that the Sierra Club provided the City with several biological reports. The reports included an analysis completed by Dr. Patricia Baird for a 10-acre RV park in Port Hueneme, over a mile from the Ormond Beach Study Area. The commentor errantly states that Dr. Baird's analysis is relevant to the RDEIR. The commentor also cites a report prepared by Mary Lou Ferrer that estimates the location of historical wetlands in the Ormond Beach area. While these reports are of historical interest, the past location of wetlands is not, and should not, be the basis for evaluation of impacts on existing wetlands, none of which occur within the Study Area.
35. **Biological Baseline:** The commentor claims that the RDEIR does not establish a sufficient baseline for evaluation of biological impacts, and does not include review of wildlife species and sensitive habitat in the surrounding area. The RDEIR relies on a long history of research conducted within the Study Area and adjacent areas, including some of the reports provided by the commentor. The field survey conducted by the City's consultants reflects a snapshot of conditions during the period in which the baseline assessment was being prepared; it is not represented in the RDEIR as a comprehensive assessment. The information provided in the RDEIR sufficiently establishes the baseline for the impact assessment. Please refer to Master Response 2 above for response to comments regarding impacts to sensitive offsite habitat and sensitive species.
36. **Impact BIO-1, Direct Impacts to Habitat and Vegetation – Invasive Species:** The commentor disagrees with the impact conclusion of less than significant after mitigation. The RDEIR appropriately recognizes the difficulty of controlling invasive species, which is why the issue is addressed both as a mitigation measure (BIO-1, Invasive Species Control) and as a feature of the Ormond Beach NRMP. Furthermore, between the time that the DEIR was prepared and the RDEIR was prepared, the applicants for the Northern Subarea modified the SouthShore Specific Plan to exclude the species listed under Impact BIO-1. The discussion in the FEIR removes specific reference to these species, while drawing the same impact conclusion (i.e., less than significant).
37. **Impact BIO-2, Direct Impacts to Habitat and Vegetation Stormwater Runoff:** The commentor disagrees with the impact conclusion of less than significant. The RDEIR cites project design features, such as replacement of the agricultural ditches with bioswales and a lake, that will address stormwater quality in compliance with City standards. In addition, Mitigation Measure BIO-5 (Wetland Runoff Control) proposes measures that would supplement the benefit of the onsite measures proposed by the applicants. As a result, the RDEIR accurately concludes that the impact will be Class III less than significant.

38. **Impact BIO-3, Direct Impact to Habitat and Vegetation – Waters of the U.S.:** The commentor challenges the RDEIR’s conclusion that development of the northern subarea will not significantly result in beneficial impacts for waters of the US. The conclusion of the impact analysis is based on the benefits associated with replacement of agricultural ditches with bioswales that will capture runoff into the proposed lake. The lake and bioswales will be vegetated with native wetland species and include 12 acres of lake, which would improve the habitat quality and increase the quantity of U.S. lakes from 6.5 to 12 acres. The impact was determined to be beneficial.
39. **Impact BIO-4, Direct Impacts to Common Wildlife Species:** The commentor claims that the proposed development of the Northern Subarea will result in significant unavoidable impacts to the foraging habitat of common bird species and that there is no way to mitigate such impacts. Based on the documentation provided in the RDEIR, the City disagrees. Mitigation BIO-2 requires the restoration or enhancement of coastal native grassland/dune foraging habitat in the vicinity of the project site at a mitigation ratio of 0.1 to 1. Implementation of this mitigation will result in a residual impact of less than significant. Comment noted.
40. **Impact BIO-5, Direct Impacts to Common Wildlife Species – Displacement/Mortality of Wildlife:** The commentor claims that the proposed development of the Northern Subarea will result in significant unavoidable impacts due to displacement of and/mortality to wildlife and that there is no way to mitigate such impacts. Based on the documentation provided in the RDEIR, the City disagrees. The impact was determined to be Class III less than significant because the wildlife species that would be displaced or inadvertently destroyed by construction activities are relatively common and low in number, and implementation of the proposed project is not expected to reduce current populations of common wildlife species in the region to below self-sustaining levels or otherwise substantially affect common fish or wildlife species populations on or adjacent to the project site. Comment noted.
41. **Impact BIO-6, Direct Impacts to Wildlife Species - Nesting Birds:** The commentor claims that the proposed development of the Northern Subarea will result in significant unavoidable impacts to the nesting areas of common birds and that there is no way to mitigate such impacts. Based on the documentation provided in the RDEIR, the City disagrees. Mitigation BIO-3 requires that a qualified biologist conduct a pre-construction survey for nesting birds prior to construction or site preparation activities. Implementation of this mitigation will result in a Class II impact of significant but feasibly mitigated. Comment noted.
42. **Impact BIO-7 (a-m), Direct Impacts to Special Status Wildlife:** The commentor claims that the proposed development of the Northern Subarea will result in significant unavoidable impacts to the foraging habitat of special-status bird species and that there is no way to

mitigate such impacts. The commentor further states that Mitigation Measure BIO-2 is neither adequate nor feasible. Based on the documentation provided in the RDEIR, the City disagrees. Mitigation BIO-2 requires the restoration or enhancement of coastal native grassland/dune foraging habitat in the vicinity of the project site at a mitigation ratio of 0.1 to 1. Implementation of this mitigation will result in a residual impact of significant but feasibly mitigated (Class II). Comment noted.

43. **Impact BIO-8, Direct Impact to Special Status Wildlife – Burrowing Owl:** The commentor challenges the conclusions of the RDEIR, claiming that impacts to burrowing owls would be significant and unavoidable. The commentor further asserts that Mitigation Measure BIO-2 (Foraging Habitat Creation/Restoration) is neither adequate nor feasible. The City disagrees with the commentor's opinion on the level of significance and notes that the analysis also calls for application of Mitigation Measure BIO-4 (Pre-Construction Survey for Burrowing Owl) to address the potentially significant impact. Implementation of these mitigations will result in a Class II impact of significant but feasibly mitigated.
44. **Impact BIO-9, Wildlife Corridor:** The commentor disagrees with the RDEIR's conclusion that impacts of development the Northern Subarea on wildlife corridors would be less-than-significant. The impact was determined to be Class III less than significant due to the location of the Northern Subarea adjacent to residential development and bordered by a major road to the south, which substantially limits connectivity to other wildlife habitat south of Hueneme Road. Comment noted.
45. **Impact BIO-10, indirect Impacts to Sensitive Offsite Habitats:** The commentor challenges the RDEIR's assessment of potential impacts to offsite habitats, stating that mitigation of such impacts would be infeasible. Based on the documentation provided in the RDEIR, the City disagrees. Mitigation BIO-5 requires the implementation of additional measures to minimize runoff and pollution from entering nearby wetlands, such as trash traps and other storm water cleaning devices. Implementation of this mitigation, along with bioswales incorporated into the project design and Mitigation Measure Water-10 that requires long term water quality monitoring will result in a residual impact of significant but mitigable. Please also refer to Master Response 2 above for additional response to comments regarding impacts to sensitive offsite habitat.
46. **Impact BIO-11, Indirect Impacts to Special Status Wildlife Western Snowy Plover:** The commentor disagrees with the RDEIR's description of potential impacts on the western snowy plover, stating that the mitigation is not feasible and that the project would violate the Endangered Species Act and the Coastal Act. The commentor also discounts the benefits of Mitigation Measure BIO-5 (Wetland Runoff Control) and the Ormond Beach NRMP. The description included as part of Impact BIO-11 in the RDEIR properly acknowledges the

status of the western snowy plover within and adjacent to the Study Area. The description explains that, while snowy plovers are present at Ormond Beach, they are not expected to occur in the Northern Subarea. Thus, the RDEIR concludes that there are no direct impacts as a result of the proposed project. The RDEIR does, however, recognize that there could be indirect impacts associated with increased human presence and identifies measures that would reduce the level of significance to Class II status (significant but feasibly mitigated). The City thus disagrees with the commentor.

Please refer to Master Response 2 above for additional response to comments regarding impacts to sensitive offsite habitat and sensitive species, including the two federally protected species: the California least tern and the western snowy plover. Master Response 2 also addresses concerns regarding the Ormond Beach NRMP.

47. **Impact BIO-12 Indirect Impacts to Special Status Wildlife California Least Tern:** The commentor disagrees with the RDEIR's description of potential impacts on the California least tern, stating that the mitigation is not feasible and that the project would violate the Endangered Species Act and the Coastal Act. The commentor also discounts the benefits of Mitigation Measure BIO-5 (Wetland Runoff Control) and the Ormond Beach NRMP. The description included as part of Impact BIO-12 in the RDEIR properly acknowledges the foraging and breeding tendencies of the least tern, including the fact they have been known to rely on areas near, but not within, the Northern Subarea. Thus, the RDEIR concludes that there are no direct impacts as a result of the proposed project. The RDEIR does, however, recognize that there could be indirect impacts associated with increased human presence and identifies measures that would reduce the level of significance to Class II status (significant but feasibly mitigated). The City thus disagrees with the commentor.

Please refer to Master Response 2 above for additional response to comments regarding impacts to sensitive offsite habitat and sensitive species, including the two federally protected species: the California least tern and the western snowy plover. Master Response 2 also addresses concerns regarding the Ormond Beach NRMP.

48. **Range of Species Analyzed:** The commentor feels that the RDEIR's indirect impact analysis inappropriately focuses on too few species, claiming that there are others that should be included. The RDEIR's analysis considers those special-status species that inhabit or rely on areas within reasonable proximity to the Study Area. The City, thus, disagrees with the commentor's claim.
49. **Impact BIO-13, Direct Impacts to Habitat and Vegetation – Invasive Species:** The commentor disagrees with the impact conclusion. The RDEIR appropriately recognizes the difficulty of controlling invasive species, which is why the issue is addressed through

implementation of Mitigation Measure BIO-1 for invasive plant species control, and implementation of the Ormond Beach NRMP. Furthermore, at the request of the City, the applicants for the Southern Subarea modified their specific plan prior to preparation of the RDEIR to exclude invasive species. Implementation of Mitigation BIO-1, along with the NRMP and the project omission of invasive species, will result in a residual impact of significant but feasibly mitigated (Class II).

- 50. Impact BIO-14 Direct Impacts to Habitat and Vegetation – Stormwater:** The commentor disagrees with the impact conclusion. The RDEIR cites project design features that will address stormwater quality in compliance with City standards. In addition, Mitigation Measure BIO-5 (Wetland Runoff Control) proposes measures that would supplement the benefit of the onsite measures proposed by the applicants, including the proposed bioswales that will be vegetated with native wetland species and will be part of a proposed open space/greenbelt area at the southern edge of the developed portion of the Southern Subarea. As a result, the RDEIR accurately concludes that the impact will be Class III less than significant.
- 51. Impact BIO-15, Direct Impacts to Habitat and Vegetation – Waters of the U.S.:** The commentor challenges the RDEIR's conclusion that development of the Southern Subarea will not significantly result in beneficial impacts for waters of the U.S. The conclusion of the impact analysis is based on the benefits associated with the replacement of agricultural ditches with the proposed bioswales that capture runoff and establishment of open space/greenbelt area at the southern edge of the developed portion of the Southern Subarea. The bioswales will be vegetated with native wetland species and will be part of a 51-acre open space/greenbelt area. This would improve the habitat quality and increase the acreage of wetlands and waters of the U.S. from 5 to over 50 acres. The impact was determined to be beneficial. Comment noted.
- 52. Impact BIO-16, Direct Impacts to Common Wildlife Species – Bird Foraging Habitat:** The commentor claims that the proposed development of the Southern Subarea will result in significant unavoidable impacts to the foraging habitat of common bird species and that there is no way to mitigate such impacts. The City disagrees with the commentor concerning the impacts foraging habitat for common bird species. Mitigation BIO-2 requires the restoration or enhancement of coastal native grassland/dune foraging habitat in the vicinity of the project site at a mitigation ratio of 0.1 to 1. Implementation of this mitigation will result in a residual impact of significant but feasibly mitigated (Class II).

The commentor also points out discrepancies in the RDEIR's characterization of the wetland restoration prospects for the southernmost 220 acres of the Southern Subarea. In response to the comment, Section 3.6 of the FEIR has been modified to reconcile the inconsistency in the

description of the 220 acres. References to the 220 acres now clearly indicate that the applicants propose to maintain the land for agricultural uses, as opposed to conversion to wetland as part of a third-party restoration project.

- 53. Impact BIO-17, Direct Impacts to Common Wildlife Species – Displacement/Mortality of Wildlife:** The commentor claims that the proposed development of the Southern Subarea will result in significant unavoidable impacts due to displacement of and/mortality to wildlife and that there is no way to mitigate such impacts. Based on the documentation provided in the RDEIR, the City disagrees. The impact was determined to be Class III less than significant because the wildlife species that would be displaced or inadvertently destroyed by construction activities are relatively common and low in number, and implementation of the proposed project is not expected to reduce current populations of common wildlife species in the region to below self-sustaining levels or otherwise substantially affect common fish or wildlife species populations on or adjacent to the project site. Comment noted.
- 54. Impact BIO-18, Direct Impacts to Common Wildlife Species – Nesting Birds:** The commentor claims that the proposed development of the Southern Subarea will result in significant unavoidable impacts to the nesting areas of common birds and that there is no way to mitigate such impacts. Based on the documentation provided in the RDEIR, the City disagrees. Mitigation BIO-3 requires that a qualified biologist conduct a pre-construction survey for nesting birds prior to construction or site preparation activities. Implementation of this mitigation will result in a Class II impact of significant but feasibly mitigated. Comment noted.
- 55. Impact BIO-19 (a-u), Direct Impacts to Special Status Wildlife:** The commentor claims that the proposed development of the Southern Subarea will result in significant unavoidable impacts to the foraging habitat of special-status bird species and that there is no way to mitigate such impacts. The commentor further states that Mitigation Measure BIO-2 is neither adequate nor feasible. Based on the documentation provided in the RDEIR, the City disagrees. The RDEIR individually analyzes impacts to 22 distinct special status species, and recommends two mitigations (in addition to site design and implementation of the Ormond Beach NRMP). Mitigation BIO-2 requires the restoration or enhancement of coastal native grassland/dune foraging habitat in the vicinity of the project site at a mitigation ratio of 0.1 to 1. Additionally, Mitigation BIO-3 requires that a qualified biologist conduct a pre-construction survey for nesting birds prior to construction or site preparation activities. Implementation of these mitigations will result in a residual impact of significant but feasibly mitigated (Class II). Comment noted.
- 56. Impact BIO-20 Direct Impacts to Special Status Wildlife – Burrowing Owl:** The commentor challenges the conclusions of the RDEIR, claiming that impacts to burrowing

owls would be significant and unavoidable. The commentor further asserts that Mitigation Measures BIO-2 and BIO-4 are neither adequate nor feasible. The City disagrees with the commentor's opinion on the level of significance. Mitigation BIO-2 requires the restoration or enhancement of coastal native grassland/dune foraging habitat in the vicinity of the project site at a mitigation ratio of 0.1 to 1. Mitigation BIO-4 requires that a qualified biologist conduct a pre-construction survey for Burrowing Owl prior to construction or site preparation activities. Mitigation BIO-4 also requires a 250-foot buffer area where no construction activities will occur. Implementation of these mitigations will result in a residual impact of less than significant. Comment noted.

57. **Impact BIO-21, Direct Impacts to Wildlife Corridors:** The commentor disagrees with the RDEIR's conclusion that impacts on wildlife corridors would be Class III less-than-significant. The City disagrees with the commentor's opinion on the level of significance. As discussed in Section 3.6 of the RDEIR under Impact BIO-21, the impact was determined to be Class III less than significant due to the location of the Southern Subarea adjacent to existing development, and proposed open space/agriculture for the southern portion of the Southern Subarea, which limits connectivity. Comment noted.
58. **Impact BIO-22, Indirect Impacts to Offsite Sensitive Habitats:** The commentor challenges the RDEIR's assessment of potential impacts to offsite habitats, stating that mitigation of such impacts would be infeasible. Based on the documentation provided in the RDEIR, the City disagrees. Please refer to Master Response 2 above for response to comments regarding impacts to sensitive offsite habitat and sensitive species.
59. **Impact BIO-23, Indirect Impacts to Special Status Plants:** The commentor feels that the RDEIR's indirect impact analysis inappropriately focuses on too few plant species, claiming that there are others that should be included. The RDEIR's analysis considers those special-status species that occur within reasonable proximity to the Study Area. Since most of the project area is dominated by non-native plant species, potential indirect impacts are limited to only two sensitive species – the spiny rush and salt marsh bird's beak. Implementation of Mitigations BIO-1 (Invasive Species Control) and BIO-5 (Wetland Runoff Control) and the Ormond Beach NRMP will result in a Class II impact of significant but feasibly mitigated.
60. **Impact BIO-24, Indirect Impacts to Special Status Wildlife – Tidewater Goby:** The commentor disagrees with the RDEIR's description of potential impacts on the tidewater goby, stating that the mitigation is not feasible and that the project would violate the Endangered Species Act and the Coastal Act. The commentor also discounts the benefits of Mitigation Measure BIO-5 (Wetland Runoff Control). The City disagrees with this assessment. The description included as part of Impact BIO-24 in the RDEIR properly acknowledges the status of the tidewater goby near the Study Area. The description explains

that, while tidewater goby is present at the J Street Drain at Ormond Beach 1.3 miles west of the Southern Subarea, they are not expected to occur in the Southern Subarea. Thus, the RDEIR concludes that there are no direct impacts as a result of the proposed project. The RDEIR further concludes that any potential indirect impacts associated with the project, such as increased pollution and runoff, would be avoided through implementation of bioswales and stormwater detention areas that are proposed as part of the project design and identified in the specific plan for the Southern Subarea. Mitigation BIO-5 would additionally limit impact by requiring implementation of additional measures to minimize runoff and pollution from entering nearby wetlands, such as trash traps and other storm water cleaning devices.

- 61. Impact BIO-25 Indirect Impacts to Special Status Wildlife – Threespined Unarmored Stickleback:** The commentor disagrees with the RDEIR’s description of potential impacts on the threespined unarmored stickleback, stating that the mitigation is not feasible and that the project would violate the Endangered Species Act and the Coastal Act. The commentor also discounts the benefits of Mitigation Measure BIO-5 (Wetland Runoff Control). The description included as part of Impact BIO-24 in the RDEIR properly acknowledges the status of the threespined unarmored stickleback near the Study Area. The description explains that, while threespined unarmored stickleback is present in the drainage ditch at Ormond Beach, they are not expected to occur in the Southern Subarea. Thus, the RDEIR concludes that there are no direct impacts as a result of the proposed project. The RDEIR further concludes that any potential indirect impacts associated with the project would be avoided through implementation of bioswales and stormwater detention areas that are proposed as part of the project design and identified in the specific plan for the Southern Subarea. Mitigation BIO-5 would additionally limit impact by requiring implementation of additional measures to minimize runoff and pollution from entering nearby wetlands, and Mitigation Measure Water-10 will require long term water quality monitoring.
- 62. Impact BIO-26 Indirect Impacts to Special Status Wildlife – Western Snowy Plover:** The commentor disagrees with the RDEIR’s description of potential impacts on the western snowy plover, stating that the mitigation is not feasible and that the project would violate the Endangered Species Act and the Coastal Act. The commentor also discounts the benefits of Mitigation Measures BIO-1 (Invasive Plant Species Control) and BIO-5 (Wetland Runoff Control) and the Ormond Beach NRMP. The description included as part of Impact BIO-26 in the RDEIR properly acknowledges the status of the western snowy plover within and adjacent to the Study Area. The description explains that, while snowy plovers are present at Ormond Beach, they are not expected to occur in the Southern Subarea. Thus, the RDEIR concludes that there are no direct impacts as a result of the proposed project. The RDEIR does, however, recognize that there could be indirect impacts associated with increased human presence and identifies Mitigation Measures BIO-1 and BIO-5 that would reduce the level of significance to Class II status (significant but feasibly mitigated). Please refer to

Master Response 2 above for additional response to comments regarding impacts to sensitive offsite habitat and sensitive species, including the Western Snowy Plover.

- 63. Impact BIO-27 Indirect Impacts to Special Status Wildlife – California Least Tern:** The commentor disagrees with the RDEIR’s description of potential impacts on the California least tern, stating that the mitigation is not feasible and that the project would violate the Endangered Species Act and the Coastal Act. The commentor also discounts the benefits of Mitigation Measure BIO-5 (Wetland Runoff Control) and the Ormond Beach NRMP. The description included as part of Impact BIO-27 in the RDEIR properly acknowledges the foraging and breeding tendencies of the least tern, including the fact they have been known to rely on areas near, but not within, the Southern Subarea. Thus, the RDEIR concludes that there are no direct impacts as a result of the proposed project. The RDEIR does, however, recognize that there could be indirect impacts associated with increased human presence and identifies Mitigation Measures BIO-1 (Invasive Plant Species Control) and BIO-5 (Wetland Runoff Control) that would reduce the level of significance to Class II status (significant but feasibly mitigated). Please refer to Master Response 2 above for additional response to comments regarding impacts to sensitive offsite habitat and sensitive species, including the California Least Tern.
- 64. Impact BIO-28, Indirect Impacts to Special Status Wildlife – White-faced Ibis:** The commentor disagrees with the RDEIR’s description of potential impacts on the white-faced ibis, stating that the mitigation is not feasible and that the project would violate the Endangered Species Act and the Coastal Act. The commentor also discounts the benefits of Mitigation Measure BIO-1 (presumably a errant reference to Mitigation Measure BIO-5, which is cited in the analysis). The description included as part of Impact BIO-28 in the RDEIR properly acknowledges the status of the white-faced ibis near the Study Area. The description explains that, while white-faced ibis may be present at the Mugu Lagoon, they are not expected to occur in the Southern Subarea. Thus, the RDEIR concludes that there are no direct impacts as a result of the proposed project. The RDEIR further concludes that any potential indirect impacts associated with the project would be avoided through implementation of the Ormond Beach NRMP and Mitigation Measure BIO-5 (Wetland Runoff Control).
- 65. Impact BIO-29, Cumulative Impacts:** The commentor challenges the characterization of potential cumulative impacts in the RDEIR, which is Class III less than significant. The commentor argues that the RDEIR fails to acknowledge or analyze “the totality of all that urbanization will bring into the rural area.” The commentor would like the project to be evaluated as a cumulative impact to other projects in the coastal area that displace similar habitat, such as Seabridge and Northshore. The commentor also lists a few other properties that may potentially have a cumulative impact on the area, such as the Metropolitan Water

District property across Edison drive which may be developed as a desalination plant, water agency pipelines, a potential regional airport at NBVC, and Pacific Vehicle Processors request to be able to use agricultural lands at Ormond Beach. The cumulative analysis was conducted in accordance with CEQA requirements. As discussed in Section 3.6.3.4.3 of the RDEIR, the cumulative impact to biologic resources from the proposed project was determined to be Class III less than significant because of the relatively fragmented nature of remaining natural habitat areas in the immediate region, and because little or no substantial development projects are proposed in the immediate vicinity that would be included in the cumulative impact analysis. The sites listed by the commentor are speculative in nature, or are not within proximity to be considered within the cumulative analysis.

- 66. Impact BIO-25 Indirect Impacts to Special Status Wildlife – Threespined Unarmored Stickleback:** See response to Comment 0.6-61.
- 67. Impact BIO-28, Indirect Impacts to Special Status Wildlife – White-faced Ibis::** See response to Comment 0.6-64.
- 68. Impact BIO-29, Cumulative Impacts:** See response to Comment 0.6-65.
- 69. Mitigation Measure BIO-1, Invasive Plant Species Control:** The commentor questions the potential benefit of the mitigation measure in controlling the adverse consequences of invasive species. The RDEIR recognizes the difficulty of controlling invasive species, which is why the issue is addressed both as a mitigation measure and as a feature of the Ormond Beach NRMP.
- 70. Mitigation Measure BIO-2, Foraging Habitat Creation/Restoration:** The commentor questions the sufficiency of the 0.1 to 1.0 mitigation ratio along with other aspects of the mitigation measure. As the RDEIR explains, the basis for the 0.1 to 1.0 mitigation requirement is the marginal habitat value of the highly developed agricultural lands in the Study Area. The RDEIR’s observation that “this mitigation ratio is smaller than desired from a habitat standpoint” is intended to acknowledge that there are those in the environmental community who would desire a greater ratio, including the commentor. With respect to land values, the commentor refers to the discussion under Impact AG-5 in Section 3.8.4.2.2 of the RDEIR. That discussion cites cost ranges for fee title purchase of land and for acquisition of conservation easements. The agricultural land value discussion under Mitigation Measure BIO-2 in Section 3.6.3.5 of the RDEIR refers to the upper end of the range of costs for acquiring a conservation easement (i.e., \$65,000), not to the cost of purchasing land, which would range from \$75,000 to \$100,000, as explained under Impact AG-5 in the RDEIR.
- 71. Mitigation Measure BIO-3, Pre-Construction Survey for Nesting Birds:** The commentor feels that the pre-construction survey required by this mitigation measure would be

insufficient and inadequate. As written, the Mitigation Measure BIO-3 in Section 3.6.3.5 of the RDEIR addresses standards of practice determined to be sufficient for such projects. Note that neither the USFWS nor the CDFG took issue with the proposed mitigation approach.

72. **Mitigation Measure BIO-4, Pre-Construction Survey for Burrowing Owls:** The commentor feels that the pre-construction survey for Burrowing owls required by this mitigation measure would be insufficient and inadequate. As written, the Mitigation Measure BIO-4 in Section 3.6.3.5 of the RDEIR addresses standards of practice determined to be sufficient for protection of Burrowing owl nests. Note that neither the USFWS nor the CDFG took issue with the proposed mitigation approach.
73. **Mitigation Measure BIO-5, Wetland Runoff Control:** The commentor feels that the runoff controls required by this mitigation measure (installation and maintenance of trash traps at entrances to bioswales) would be insufficient and inadequate, even in combination with the water quality monitoring called for in Mitigation Measure Water-10. These measures will ensure that the bioswales proposed as part of the subject projects will be effective. Furthermore, Mitigation Measure BIO-5 also calls for additional measures to be instituted should the water quality monitoring indicate higher than acceptable levels of pollutants (i.e., stormwater cleaning devices such as continuous deflective separation units, grease traps, ultraviolet radiation units appropriate for treating the specific pollution problem identified).
74. **Residual Impacts:** In this comment, the commentor reiterates several of the comments that are otherwise provided in conjunction with specific impact analyses. Those comments and the City's responses are provided elsewhere throughout this response section. Please refer to Master Response 2 above for response to comments regarding the Ormond Beach NRMP and potential Habitat Conservation Plan (HCP).
75. **Figure 3.6-3:** The commentor states that the figure is not of sufficient scale or clarity to exhibit elevation changes. Figure 3.6-3 is not intended to depict such information. As explained in Section 3.6.1.5.4 of the RDEIR, Figure 3.6-3 it is intended to show "the Study Area in relation to nearby Ormond Lagoon, Mugu Lagoon, Oxnard Canal No. 3, J Street Drain, and the Oxnard Industrial Drain."
76. **Ormond Beach Natural Resource Management Program (NRMP) and United States Fish and Wildlife Service (USFWS) Consultation:** The commentor claims that the NRMP is non-compliant with CEQA because it is outside the scope of this CEQA document, and that the RDEIR ignores activities already being undertaken. The intent of the Ormond Beach NRMP is to reinforce and supplement the activities that the commentor mentions by establishing an ongoing funding source to support them. Note that through development agreements and specific plans, the NRMP is considered part of the project, and therefore,

under CEQA, is within the scope of CEQA. The NRMP consciously outlines activities that have been initiated by other entities, including those that the commentor mentions, with the intent of avoiding “reinvention of the wheel.” The commentor further suggests that several individual features of the NRMP would be ineffective. While this could be true if those features were proposed in the absence of the other aspects of the NRMP, the intent of the NRMP is to realize the synergistic effect of multiple initiatives. Finally, the commentor notes that “the USFWS has already opined that a Habitat Conservation Plan (HCP) must be done.” Actually, the USFWS comment letter (Comment Letter F.1) recommends that the project “seek an incidental take permit through the HCP process.” It does not state that an HCP must be done. As noted under Master Response 2 above, the City acknowledges that USFWS and CDFG exercise independent jurisdiction to protect federally-listed species under the ESA and state-listed species under the California Endangered Species Act (CESA), respectively, and the City encourages the project proponents and the resource agencies to discuss possible application of the ESA and CESA to these projects. For purposes of CEQA, however, the City has determined that with respect to sensitive offsite habitat and species they support, all direct impacts have been avoided and any potential indirect impacts have been mitigated to a less-than-significant level. Please refer to Master Response 2 above for additional response to comments regarding impacts to sensitive offsite habitat and sensitive species and the Ormond Beach NRMP. The commentor also provides an opinion regarding the Predator Management Plan and Invasive Plant Control Program listed in the NRMP. As discussed in Section 3.6.3.3 of the RDEIR, the Predator Management Plan lists control of trash and litter through use of animal proof lids on trash receptacles as a primary deterrent to discourage predators such as gulls, crows, ravens, skunks and raccoons; any necessary removal of a predator animal by animal control would be in consultation with appropriate agencies such as DFG, and would not necessarily result in the “kill” of a predator animal. Please refer to Response O.6-69 above regarding BIO-1 (Invasive Species Control).

77. **Impacts AES-1 through AES-7, Visual Quality/ Scenic Vistas:** The commentor challenges the RDEIR’s findings concerning the potential impacts to scenic vistas from the roadways in and around the Study Area, which were determined to be Class III less than significant for Impacts AES-1 through AES-7. The RDEIR’s analyses supporting these findings are consistent with the City’s established thresholds and adopted City policy concerning scenic resources. Thus, no revision to the RDEIR is warranted. The commentor also asserts that the mitigation measures for biological impacts conflict with the graphics of landscaping shown in Section 3.13 of the RDEIR, indicating that the graphics include invasive plant species, and that the landscaping program rests largely on this type of invasive and nonnative landscaping. Mitigation Measure BIO-1 (Invasive Plant Species Control) already recognizes the discrepancy noted by the commentor, and requires that the landscaping plan for the Northern and Southern subareas be revised so as to exclude invasive plants, and replace them with non-invasive species, preferably locally native species, examples of which can be found in

the plant palette in the specific plan for the Southern Subarea. Similar effects of visually pleasing landscaping can be obtained through use of native species, including use of native grasses, shrubs, and trees. The project is not dependent upon the use of invasive species to retain the determination of Class III less than significant for Impacts AES-1 through AES-7.

78. **Impact AES-8, Scenic Highways:** The commentor disagrees with the RDEIR's findings, which were determined to be Class III less than significant. The analysis is based on the City's established thresholds and acknowledges the status of Hueneme Road and Pleasant Valley Road as scenic roadways according to the City's General Plan. Comment noted; no revision to the RDEIR is required.
79. **Impact AES-9, Visual Character:** The commentor claims that the analysis fails to consider views from locations outside of the Study Area. In fact, the RDEIR's analysis concludes that the loss of visual character associated with conversion of the agricultural lands in Study Area to urbanized land uses is a Class I significant and unavoidable impact, irrespective of the point of view. Please note that point of view is not a material aspect of the City's threshold or policy position on the status of agricultural land as an important visual resource.
80. **Impact AES-10 and AES-11, Light and Glare:** The commentor challenges the RDEIR's findings concerning light and glare, which were determined to be Class III less than significant. As noted in the RDEIR, all development in the Study Area will have to comply with City development standards and regulations related to lighting. In addition, both the SouthShore Specific Plan and the South Ormond Beach Specific Plan include provisions to limit or avoid light spillage onto adjacent properties, as indicated in the RDEIR's discussion of this subject in Section 3.13.3.2.2.
81. **Impact AES-12, Cumulative Impacts:** The commentor asserts that the analysis of impacts is too limited and, in particular, should consider nighttime views from the locations evaluated. The RDEIR's analysis of scenic vistas is not limited to daytime views. The RDEIR does recognize the cumulative visual impact as Class I significant and unavoidable due to the change in the visual character of the area from rural to urbanized. Views at specific times of day or night would not alter this Class I determination, and there is no feasible way to mitigate for the loss of the visual resource value associated with the conversion of agricultural land.
82. **AES Mitigation Measures:** The commentor questions the RDEIR's discussion of mitigation for aesthetic and visual impacts, which does not recommend mitigation measures. As the analysis in Section 3.13.3.3 of the RDEIR explains, several City standards otherwise address potential visual impacts, and there is no feasible way to mitigate for the loss of the visual resource value associated with the conversion of agricultural land.

83. **Air Quality—Project/Combined Effects:** The commentor claims that the RDEIR’s analysis does not comply with legal requirements for air quality analysis, particularly the consideration of project versus combined effects. As discussed under the individual air quality impact discussions in Section 3.4.3 of the RDEIR, the RDEIR does employ methods that consider the relationship between individual projects contributions and the cumulative setting, based on standards established by the Ventura County Air Pollution Control District’s Air Quality Management Plan and Clean Air Plan.
84. **Air Quality Analysis:** The commentor incorrectly claims that the RDEIR fails to quantify the potential contributions of the projects to pollutant emissions. Tables 3.4-6 through 3.4-12 in the RDEIR present quantified analyses of the potential project-related effects for a variety of category pollutants. The commentor also claims that the RDEIR fails to deal with greenhouse gas and carbon emissions, both of which are addressed in the RDEIR (Please refer to Master Response 3 above for response to comments regarding Global Climate Change).
85. **Air Quality Effects of Widened Roadways:** The commentor asserts that the RDEIR’s air quality analysis ignores the air quality impact of widening roadways. While it is true that the RDEIR does not include a specific impact category referring to widened roadways, it does consider the air quality effects of increased traffic resulting from each of the development projects under impact discussions AQ-4 and AQ-7 in Section 3.4 of the RDEIR, and the cumulative impacts of vehicle trips under impact discussions AQ-9 and AQ-10 of the RDEIR.
86. **Air Quality—Diesel Emissions:** The commentor states his impression that the air quality analysis does not account for diesel emissions in the Southern. In fact, the RDEIR’s analysis assumes that the vehicle mix for traffic generated by the projects includes diesel-fueled vehicles. The computer model used to calculate air quality emissions takes into account land uses by acreage and number of dwelling units to determine type and quantity of projected air emissions. A copy of the Air Quality Emissions Calculations report is provided in Appendix C of the RDEIR.
87. **Impact AQ1, Soil Import in the Northern Subarea:** The commentor questions the breadth of the analysis of air quality effects related to importing soil and requests that the EIR include a health risk assessment for soil transport. The assessment of air quality impacts associated with soil transport addresses the potential effects of movement of the soil to the site and disturbance at the site. Also, as mentioned in the Impact AQ-1 analysis in Section 3.4 of the RDEIR, the proposed haul route for soil does not pass close to sensitive receptors; and consequently the Ventura County Air Pollution Control District is not requesting a health risk assessment for the transport of the fill.

88. **Impacts AQ-2 through AQ-8:** For each of these impacts, the commentor repeats his opinion that the impact should be categorized as Class 1 significant and unavoidable, without offering support for his assertions. The RDEIR's conclusions regarding air emissions are based on compliance with the City's thresholds. The commentor also states that possible mitigations must be included in the RDEIR, which they are (Please refer to Mitigation Measures AQ-1 through AQ-4 in Section 3.4.3.4 of the RDEIR).
89. **Impact AQ-9, Cumulative Impacts:** The commentor disagrees with the use of AQMP consistency as a threshold for determining the severity of cumulative impacts. Appendix G of the CEQA Guidelines supports reliance on local air quality district standards, stating "Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon ...." Thus, the RDEIR's approach is consistent with CEQA.
90. **Global Warming:** The commentor takes issue with the RDEIR's discussion of climate change impacts. Please refer to Master Response 3 above for response to comments regarding Global Climate Change.
91. **Ocean Acidification/Carbon Emissions:** The commentor requests that the ocean acidification and oceanic impacts of carbon emissions be evaluated in the EIR. No local, state or federal thresholds have been established for ocean acidification resulting from project carbon emissions.
92. **Sea Level Rise:** Please refer to Master Response 1 above for response to comments regarding Sea Level Rise.
93. **Traffic Impact Analysis:** The commentor challenges the findings of the traffic analysis in Section 3.10 and Appendix B of the RDEIR based largely on his disagreement with the threshold of significance that underlies the analysis. The commentor provides an opinion that the analysis must use existing conditions as the baseline for impact assessment, rather than the 2020 conditions without the project as the baseline, and that the impact threshold should be to achieve Level of Service (LOS) C, consistent with the City's General Plan goal. The methodology employed for the traffic analysis is consistent with the requirements of CEQA and appropriately isolates the contributions of the projects to roadway congestion in a manner that allows for the identification of project-specific mitigation measures.

The commentor expresses concern regarding funding for the identified off-site transportation projects in the County. The City's traffic impact fee is structured to cover the cost of interchange improvements and some auxiliary capacity on State highways. Applicants are required to pay in to the City's traffic impact fee, thereby funding these improvements. Additionally, as a standard condition of project approval, the City of Oxnard

works with the Ventura County Public Works Agency Transportation Department to ensure that the applicant for each project pays applicable County of Ventura traffic impact fees based on the average daily trip (ADT) calculation for each project.

The commentor also claims that the RDEIR does not provide justification for the need for roadway projects. The necessity for roadway improvements and road widening is discussed in Section 3.10 (Transportation and Circulation) of the RDEIR. Many of the roadways subject to widening are listed under Mitigation Measure Trans-2 in Section 3.10, which is designed to eliminate the significant impact associated with development in accordance with City Standards.

94. **Impact Trans-3, Northern Subarea Soil Import Traffic:** The commentor claims that this analysis does not consider changes in traffic conditions that occurred following the initial study, which could discount some new traffic. The analysis for impact from soil import does assume that baseline conditions reflect existing conditions, and assesses the temporary trips associated with the proposed 11-week soil haul operation (See Table 3.10-16 in the RDEIR). The analysis additionally describes the effects on specific intersections that the incremental trips associated with soil hauling will have on travel conditions (See Table 3.10-17 in the RDEIR). Based on this analysis, two intersections would experience Class II significant but feasibly mitigated impact due to the temporary soil import-related vehicle trips. To address this impact, the RDEIR recommends Mitigation Measure Trans-3 that would require temporary traffic signals at two intersections, and contribution of pro-rata funds to repave or rehabilitate Hueneme Road. Implementation of this measure would reduce the impact to Class III less than significant. This methodology and the resulting findings address CEQA's requirements for assessment of temporary traffic impacts resulting from soil import.
95. **Impact Trans-4, Freight Movement:** The commentor disagrees with the RDEIR's findings regarding freight movement, which were determined to be Class III less than significant. The commentor list port activities and traffic, and transportation of passenger vehicles as issues that should be considered under this impact analysis. The commentor also noted that mitigation was not recommended for this impact. As discussed in Section 3.10.3.3 of the RDEIR, the City of Oxnard has designed Hueneme and Arnold Roads and Edison Drive as truck routes, and these roadways are expected to continue to serve existing freight movement needs, including those for the port, and accommodate freight for the commercial and light industrial uses in the proposed projects. Further discussion on the freight needs of the port is provided in Section 3.10.1.2.2 of the RDEIR. With the proposed roadway improvements identified in the specific plans, and implementation of Mitigation Measures Trans-1 (Northern Subarea Traffic) and Trans-2 (Combined Subarea Traffic), the impacts of the proposed specific plans on freight movement are considered less than significant. The

transportation analysis is consistent with the requirements of CEQA, and no revision to the RDEIR is required

96. **Impact Trans-5, Transit Services:** The commentor disagrees with the RDEIR’s findings regarding impact to transit services, which were determined to be Class III less than significant, and claims that the RDEIR does not sufficiently analyze the impact. The commentor quotes the RDEIR as an example, stating that “the public transportation system will be determined based on the service providers routes and technical requirements.” The commentor opines that these details should be part of the environmental review. The City of Oxnard encourages and supports expanded transit service within and adjacent to the Study Area, and the project developers will work with transit providers such as Gold Coast Transit (see comment letter U.1) on the engineering details of the public transportation system based on the service providers routes. However, as noted in letter U.1 from Gold Coast Transit, at this time there is no Gold Coast Transit route along Hueneme Road east of Perkins Road in the vicinity of the proposed developments, and no route is proposed for the near future unless sufficient demand developed in the area. Therefore, specific engineering details such as location and quantity of transit stops cannot be finalized at this time. The proposed Projects would be required to comply with the City Code and public safety provisions relative to internal and external signage location and design and other right-of-way requirements.
97. **Impact Trans-6, Non-Motorized Transportation – Bike and Pedestrian:** The commentor disagrees with the RDEIR’s findings, which were determined to be Class III less than significant. The commentor asserts that the development will alter Hueneme Road so that it is no longer attractive to bicyclists partially due to the increase in vehicles in the area. Both projects call for perimeter and internal pathway and bikeway systems that will enhance pedestrian and bicycle mobility, including a Class I bicycle trail that will be located within the public right-of-way on the south side of Hueneme Road between Edison Drive and Arnold Road. This trail will be constructed as part of the Pacific Bicycle and Hiking Trail identified in the Circulation Element of the Oxnard 2020 General Plan. Class II bikeways will also be provided in the public right of way on other public streets. A description of the bicycle circulation system is provided in Section 2.3.3.3 of the RDEIR. Bicycle and Pedestrian circulation plans are also provided in each of the specific plans for the two subareas.
98. **Project Build-out/Vehicle Speeds:** The commentor refers to an observation from the Noise analysis in Section 3.11.1.3 (Traffic Noise) of the RDEIR that speculates that vehicle speeds are likely to be reduced as the project builds out. This anecdote is an accurate observation concerning travel behavior in built-up areas compared with undeveloped areas. Also, it is immaterial to the findings of either the traffic analysis in Section 3.10 or the noise analysis in Section 3.11 of the RDEIR. Comment noted.

99. **Oxnard Traffic Initiative:** The commentor refers to the failed Oxnard Traffic Initiative (November 2008) and discussions that occurred during the election season. These comments are immaterial to the RDEIR.
100. **Noise General:** The commentor challenges the methodology for assessment of noise impacts, and expresses concern that the noise sampling does not consider sensitive receptors in the sensitive habitat area and east of the project area, and does not consider noise generate by the project's industrial uses on this area. As described in Section 3.11.3 of the RDEIR, the City's environmental consultants employed methods and applied thresholds consistent with the CEQA Guidelines, the City's Noise Ordinance, and the Federal Interagency Committee on Noise (FICON). Impacts on sensitive off-site habitat area, including noise, light, and human intrusion, are predominately addressed in the RDEIR under Section 3.6 Biologic Resources. As discussed under Impact BIO-22 Sensitive Offsite Habitat, the proposed project incorporates some measures to reduce indirect impacts such as light, noise, and human intrusion by including a 200-foot wide greenbelt to serve as buffer between the development and the 220-acre open space/agricultural area. A 150-foot buffer/setback with a vegetative screen is also required between the non-agricultural uses on the subject property and the agricultural uses east of the study area. Additionally, the City zoning ordinance and South Ormond Beach Specific Plan restrict light industrial uses to those that do not generate noise, smoke, gas, odor, dust and vibration<sup>1</sup>. As discussed under the Land Use Designations section in Chapter Two of the South Ormond Beach Specific Plan, to protect the environmentally sensitive areas adjacent to the site, development standards and permitted uses in the Light Industrial zone parallel to the buffer area adjacent to the 200 acre area will be more restricted than those allowed in the City's M-1 zone.
101. **Impact Noise-1, Northern Traffic Noise:** The commentor claims that the methods used for the traffic-related noise analysis are inadequate because they do not consider noise impacts outside of the Study Area. As described in Section 3.11.3 of the RDEIR, the City's consultants employed methods and applied thresholds consistent with the CEQA Guidelines, the City's Noise Ordinance, and the Federal Interagency Committee on Noise (FICON). Please refer to Response O.6-100 for additional discussion regarding noise at sensitive offsite habitat and noise east of the study area.
102. **Impact Noise-2, Northern Subarea Point Mugu Naval Air Station (NAS):** The commentor disagrees with the RDEIR's finding regarding impact from the Point Mugu NAS, which was determined to be Class II significant but feasibly mitigated, and points out that air missions related to the base should not be altered due to noise impacts upon the new

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<sup>1</sup> Oxnard Municipal Code, Section 16-220(B)

residents in the Northern Subarea. There is no evidence that the NAS would alter its flight patterns in response to the Northern Subarea development, as suggested by the commentor. Thus, no revisions to the RDEIR are required.

103. **Impact Noise-4, Southern Subarea Point Mugu NAS:** The commentor challenges the RDEIR's finding regarding impact from the Point Mugu NAS, which was determined to be Class III less than significant, and points out that air missions related to the base should not be altered due to noise impacts upon the new residents or businesses in the Southern Subarea. There is no evidence that the NAS would alter its flight patterns in response to the Southern Subarea development, as suggested by the commentor. Also, the RDEIR discloses the potential for periodic noise impacts resulting from aircraft overflight. Furthermore, the commentor's speculation centers on potential changes in NAS operations, not on the potential environmental consequences of the project. Thus, no revisions to the RDEIR are required.
104. **Impact Noise-7, Combined Traffic Noise:** The commentor disagrees with the RDEIR's finding regarding impact from traffic noise, which was determined to be Class II significant but feasibly mitigated, and claims that the methods used for the traffic-related noise analysis are inadequate because they do not consider noise impacts outside of the Study Area. As described in Section 3.11.3 of the RDEIR, the City's consultants employed methods and applied thresholds consistent with the CEQA Guidelines, the City's Noise Ordinance, and the Federal Interagency Committee on Noise (FICON). Please also refer to Response O.6-100 for additional discussion regarding noise at sensitive offsite habitat and noise east of the study area.
105. **Impact Noise-8, Pacific Vehicle Preparation Facility (PVP) Noise:** The comment focuses on the potential for noise generation from the project, not on potential exposure to noise associated with PVP operations, which is the subject of this impact discussion.
106. **Noise Mitigation Measures:** The mitigation measure cited in the RDEIR are targeted at impacts identified in the analysis, which addresses thresholds of significance derived from the CEQA Guidelines, the City's Noise Ordinance, and the Federal Interagency Committee on Noise (FICON). The RDEIR does not conclude that noise associated with the development of the project would affect sensitive receptors at Ormond Beach, as suggested by the commentor. Thus, no mitigation measures related to such would be warranted. Please also refer to Response O.6-100 for additional discussion regarding noise at sensitive offsite habitat.
107. **Public Safety Sea Level Rise:** Please refer to Master Response 1 above for response to comments regarding Sea Level Rise..

108. **Ag Land Loss:** The commentor claims that the RDEIR cites the goal of the projects as proposed rather than identifying feasible mitigation measures capable of minimizing impacts. The discussion provided as part of Impact AG-7 (Direct Farmland Conversion) in Section 3.8 of the RDEIR explains the basis for the findings of infeasibility. As the discussion explains, feasibility is defined as “capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors,” per section 21061.1 of the California Public Resources Code. In preparing the RDEIR, the City reviewed a variety of actions that might offset the effects of the loss of productive agricultural land, including requirements for direct preservation of agricultural land elsewhere in the region and/or financial contribution to efforts to acquire conservation easements or deed restrictions on land currently used for production. The City has also considered imposition of other requirements such as stockpiling of high quality topsoil and offering it as soil amendments for marginally viable agricultural land; converting nearby areas not used for farmland to farmland (e.g., open space or industrial lands); and/or financially contributing to an organization that performs agricultural conservation. Based on its evaluation of these and other potential measures, the City concluded that they would not be feasible for the Ormond Beach Specific Plan projects. Therefore, the proposed project would result in a Class I significant and unavoidable impact.
109. **Impact AG-1, Agricultural Zoning:** The commentor disagrees with the RDEIR’s finding regarding impact from agricultural zoning, which was determined to be Class III less than significant. As explained under Impact AG-1 in Section 3.8.4.2.1 of the RDEIR, the Study Area has been within the City of Oxnard Sphere of Influence since 1981, and the City’s 2020 General Plan has designated the area for a broad mix of urban uses since 1990. The adoption of the specific plans and the other approvals required for implementation will reconcile the City’s General Plan and zoning with the proposed projects. This would establish consistency of zoning with the General Plan, as required by State law, not the other way around (i.e., general plan consistency with zoning), as suggested by the commentor.
110. **Impact AG-2, Induced Farmland Conversion:** The commentor disagrees with the RDEIR’s finding regarding impact from induced farmland conversion, which was determined to be Class III less than significant, because the Project Alternative 1 plan could place a school on adjacent farmland east of Olds Road. As explained under Impact AG-2 in Section 3.8.4.2.1 of the RDEIR, the proposed project is not expected to directly or indirectly result in conversion of adjacent farmlands to non-agricultural use. Agricultural lands east of the Study Area would be protected from conversion to urban or other uses by the existing SOAR ordinance. Although the existing SOAR ordinance expires on December 31, 2020, the City of Oxnard 2020 General Plan indicates that the area at the southeast corner of

Hueneme Road and Arnold Road, between the Study Area and Naval Air Station Point Mugu, is considered a potential greenbelt expansion area, which would further protect this area from conversion to urban uses.

111. **Impact AG-3, Agricultural Water Supply:** The commentor disagrees with the RDEIR's finding regarding agricultural water supply, which was determined to be Class III less than significant. While the proposed projects would result in conversion of agricultural water allocations to urban uses, they would not affect the allocations for land remaining in agricultural uses.
112. **Impact AG-4, Dust Impacts to Local Crops:** The commentor claims that the characterization of impacts to crops associated with dust from construction activities is inaccurate, but provides no substantive support for his assertion. Thus, no revisions to the RDEIR are required.
113. **Impact AG-5, Northern Subarea Direct Farmland Conversion:** The commentor accurately cites the analysis under Impact AG-5 in Section 3.8.4.2.2 of the RDEIR, then suggests that future policy actions could change the outcome of the analysis. In the absence of suggested policy commitments, the RDEIR's analysis remains accurate. Thus, no revisions are required. Also, the commentor's reference to the LCPP is not relevant, since the proposed development is entirely outside of the coastal zone
114. **Impact AG-6, Northern Subarea Land Use Conflicts:** The commentor disagrees with the RDEIR's finding regarding land use conflicts for the Northern Subarea, which was determined to be Class III less than significant. The discussion under Impact AG-6 in Section 3.8.4.2.2 of the RDEIR explains the relationship between proposed development in the Northern Subarea and continuing agricultural operations to the east, citing required 150-foot wide "shelter belt" agricultural buffering and buyer notification disclosure requirements. Thus, the RDEIR's analysis addresses the commentor's concerns for potential impacts on new occupants of the area. The RDEIR also cites project features that will allow the existing agricultural operators to continue their operations without adverse effects associated with the proximity of new development. Finally, the commentor's concerns with respect to potential chemical deposits are addressed in Section 3.5 (Hazards and Hazardous Materials) under RDEIR Section 3.5.3.2, Project Impacts.
115. **Impact AG-7, Southern Subarea Direct Farmland Conversion:** The commentor accurately cites the analysis under Impact AG-7 in Section 3.8.4.2.3 of the RDEIR, then suggests that future policy actions could change the outcome of the analysis. In the absence of suggested policy commitments, the RDEIR's analysis remains accurate. Thus, no

revisions are required. Also, the commentor's reference to the LCPP is not relevant, since the proposed development is entirely outside of the coastal zone.

116. **Impact AG-8, Southern Subarea Land Use Conflicts:** The commentor disagrees with the RDEIR's finding regarding land use conflicts for the Southern Subarea, which was determined to be Class III less than significant. The discussion under Impact AG-8 in Section 3.8.4.2.3 of the RDEIR explains the relationship between proposed development in the Southern Subarea and continuing agricultural operations to the east, citing buffering and disclosure requirements. Thus, the RDEIR's analysis addresses the commentor's concerns for potential impacts on new occupants of the area. The RDEIR also cites project features that will allow the existing agricultural operators to continue their operations without adverse effects associated with the proximity of new development. Finally, the commentor's concerns with respect to potential chemical deposits are addressed in Section 3.5 (Hazards and Hazardous Materials) under RDEIR Section 3.5.3.2, Project Impacts.
117. **Impact AG-9, Cumulative Conversion of Agricultural Land:** The commentor suggests that the City's General Plan might not support conversion of agricultural land in the Study Area. In fact, the General Plan calls for conversion of the Study Area to urban uses, and has done so since 1990. Also, the commentor's reference to the CLUP is not relevant, since the proposed development is entirely outside of the coastal zone.
118. **Light Pollution:** The commentor claims that light pollution is more physical in nature than an aesthetic impact, and that the ambient light has an adverse impact on sensitive habitat areas. As explained under Impact AES-11 (Nighttime Light and Glare) in the RDEIR, the development of the specific plans would introduce new sources of nighttime light and glare (e.g., vehicle headlights and lights used within buildings located throughout the project site). The specific plans include provisions to limit or avoid light spillage onto adjacent properties. See discussion of Lighting starting on page 7.56 in the South Ormond Beach Specific Plan (July 1, 2008) and Section 7.3.5, Landscape and Development Area Lighting, on page 7-24 of the SouthShore Specific Plan (July 11, 2008). Additionally, impacts on sensitive off-site habitat area, including noise, light, and human intrusion, are predominately addressed in the RDEIR under Section 3.6 Biologic Resources. As discussed under Impact BIO-22 Sensitive Offsite Habitat, the proposed project incorporates measures to reduce indirect impacts such as light, noise and human intrusion by including a 200-foot wide greenbelt to serve as buffer between the development and the 220-acre open space/agricultural area.
119. **Hydrology and Water:** The commentor suggests that the discussions of various water-related subjects be reorganized within the EIR. When preparing the EIR, the City's consultants considered an organization similar to that suggested by the commentor, but

determined that keeping all subjects related primarily to water together in the Water Resources Section 3.3 would allow readers to navigate the EIR document more easily. Additionally, the organization is more in keeping with CEQA environmental checklist (CEQA Guidelines Appendix G). Please refer to Master Response 1 above for response to comments regarding Sea Level Rise.

120. **Figure 3.3-4:** The figure in question has been updated to depict accurate information.
121. **Perkins and Oxnard Drains:** The narrative in question has been updated to reflect the information provided by the commentor.
122. **Ormond Lagoon Estuary:** The commentor states that breaching of the Lagoon berm is tied to rainfall, rather than to the season (i.e., winter). The RDEIR states in Section 3.3.1.6.2 (Ormond Lagoon) that the berm breaches “when sufficient storm flows occur and/or wave energy increases in the winter.” Thus, breaching can be prompted by storm flows (which are not necessarily seasonal) or by wave energy (which typically increases during the winter). Thus, no revisions are required.
123. **Lagoon Berm:** The commentor provides some history concerning the mechanical breaching of the Ormond Lagoon Berm. Comment noted. We appreciate receipt of this historical data.
124. **Water Levels:** As noted in the narrative that the commentor cites, the information in question is an accurate description of analysis included in 1996 environmental impact report prepared by Impact Sciences for the J Street Drain, Oxnard Industrial Drain and Hueneme Drain Improvement Project.
125. **Impact Water-1, Northern Subarea Water Supply Availability:** The commentor disagrees with the RDEIR’s finding regarding water supply availability for the Northern Subarea, which was determined to be Class III less than significant. The commentor lists seven reasons why the North Ormond Beach Water Supply Assessment & Verification (July 2008) is not valid. In conjunction with the development of the RDEIR, the City prepared a comprehensive citywide analysis of water supply and demand that took into consideration all ongoing projects in Oxnard, as well as all current and anticipated sources of supply. This information was further refined in November 2009 in an addendum to the July 2008 WSA. Also, as stated in the Section 3.3.1.3 of the FEIR, the City Council, at its January 15, 2008, and October 19, 2009, meetings, directed staff to require that all new projects defined as discretionary and not exempt from CEQA be water demand neutral to the City’s water system. Project proponents are required to can contribute water rights, water supplies, or financial or physical offsets to achieve water neutrality. Typical options open to project proponents include transfers of FCGMA groundwater allocations to the City through

agricultural conversion or otherwise, participation in expansions of the City's GREAT Program recycled water system through physical or financial contributions, and participation in water conservation projects that produce quantifiable, sustainable water savings.

126. **Impact Water-2, Northern Subarea Water Facility Construction:** The commenter disagrees with the RDEIR's finding regarding water facility construction for the Northern Subarea, which was determined to be Class III less than significant. The commenter specifies that construction of water facilities such as GREAT has growth inducing impacts and effects upon wetlands. As the discussion under Impact Water-2 in Section 3.3.3.3.1 of the RDEIR explains, the City approved EIR/EIS for the GREAT program includes a Monitoring, Mitigation, and Reporting Plan (MMRP) which addresses the construction impacts of Phase 1 and Phase 2 of the program, including facilities that will serve development in the Northern Subarea. As further discussed under Impact Water-2, the wetland element could be covered under the EIR/EIS for the GREAT program at a program level and developed to project specific level.
127. **Impact Water-3, Northern Subarea Wasteful Use of Water:** The commenter disagrees with the RDEIR's finding regarding the wasteful use of water in the Northern Subarea, which was determined to be Class III less than significant. The commenter considers the proposed Lake SouthShore a wasteful use of water, in spite of the functions that it will serve to retain stormwater, control contamination, and provide wildlife habitat benefits. As the RDEIR suggests, the City does not consider these uses wasteful.
128. **Impact Water-4, Northern Subarea Construction-Related Surface Water Quality:** The commenter disagrees with the RDEIR's finding regarding water supply availability for the Northern Subarea, which was determined to be Class II significant but feasibly mitigated with implementation of Mitigation Measures Water-7 (Dewatering), Water-8 (Stormwater Pollution Prevention Plan) & Water-9 (Stormwater Pollution Control Plan) The comment focuses on the potential effects of soil-borne contaminants. This subject is addressed in Section 3.5 (Hazards and Hazardous Materials) under Section 3.5.3.2, Project Impacts.
129. **Impact Water-5, Northern Subarea Post Construction Surface Water Quality:** The commenter disagrees with the RDEIR's finding regarding post construction surface water quality for the Northern Subarea, which was determined to be less than significant but feasibly mitigated with implementation of Mitigation Measure Water-10 [Stormwater Quality Urban Impact Mitigation Plan (SQUIMP)] As the discussion under Impact Water-5 in Section 3.3.3.3.1 of the RDEIR explains, the design, construction, and operation of Lake SouthShore will employ best management practices to ensure that any stormwater runoff that is discharged into the Oxnard Industrial Drain will have been treated to minimize

residual pollutants. Furthermore, as noted by the commentator, the developers of the project will be bound by a variety of requirements that are administered by several permitting and regulatory agencies [e.g., the City of Oxnard, the Regional Water Quality Control Board (RWQCB), the California Department of Fish and Game (CDFG)]. These requirements will serve to avoid the types of impacts the commentator warns about. Finally, as Impact Water-5 points out, the reduction in irrigated land within the Study Area will reduce the amount of infiltration of any contaminants from historic agricultural activities into the shallow groundwater or migration of these potential contaminants to downstream lagoons.

130. **Impact Water-6, Northern Subarea Flood Control and Stormwater:** The commentator challenges the findings of the flood control and stormwater drainage analysis for the Northern Subarea, which was determined to be Class III less than significant, and asserts that the baseline data is “fatally flawed.” As required by the City, the SouthShore Specific Plan commits to project design features that will address the requirements of the Ventura County Watershed Protection District for 10 and 100 year events, as explained in the discussion of Impact Water-6 in Section 3.3.3.3.1 of the RDEIR. Please refer to Master Response 1 above for response to comments regarding Sea Level Rise.
131. **Impact Water-9, Northern Subarea Wastewater Collection and Treatment:** The commentator disagrees with the RDEIR’s finding regarding wastewater collection and treatment for the Northern Subarea, which was determined to be Class III less than significant. The commentator states that the City may not have adequate treatment capacity to accommodate the project. As described under Impact Water-9 in Section 3.3.3.3.1 of the RDEIR, the City’s 2005 Wastewater Master Plan Update anticipates development of the Study Area, so future infrastructure improvements have been accounted for. Thus, no revision of the analysis is required.
132. **Impact Water-10, Southern Subarea Water Supply Availability:** The commentator disagrees with the RDEIR’s finding regarding water supply availability for the Southern Subarea, which was determined to be Class III less than significant. The commentator lists seven reasons why the North Ormond Beach Water Supply Assessment & Verification (July 2008) is not valid. In conjunction with the development of the RDEIR, the City prepared a comprehensive citywide analysis of water supply and demand that took into consideration all ongoing projects in Oxnard, as well as all current and anticipated sources of supply. This information was further refined in November 2009 in an addendum to the July 2008 WSA. Also, as stated in the Section 3.3.1.3 of the FEIR, the City Council, at its January 15, 2008, and October 19, 2009, meetings, directed staff to require that all new projects defined as discretionary and not exempt from CEQA be water demand neutral to the City’s water system. Project proponents are required to can contribute water rights, water supplies, or financial or physical offsets to achieve water neutrality. Typical options open to project

proponents include transfers of FCGMA groundwater allocations to the City through agricultural conversion or otherwise, participation in expansions of the City's GREAT Program recycled water system through physical or financial contributions, and participation in water conservation projects that produce quantifiable, sustainable water savings.

133. **Impact Water-11, Southern Subarea Water Facility Construction:** The commentor disagrees with the RDEIR's finding regarding water facility construction for the Southern Subarea, which was determined to be Class III less than significant. As the discussion under Impact Water-11 in Section 3.3.3.3.2 of the DEIR explains, the City approved and EIR/EIS for the GREAT program includes a Monitoring, Mitigation, and Reporting Plan (MMRP) which addresses the construction impacts of Phase 1 and Phase 2 of the program, including facilities that will serve development in the Southern Subarea.
134. **Impact Water-12, Southern Subarea Wasteful Use of Water:** The commentor disagrees with the RDEIR's finding regarding the wasteful use of water in the Southern Subarea, which was determined to be Class III less than significant. The commentor refers to his comments on Impact Water-3, which focus on his contention that the proposed Lake SouthShore (which is in the Northern Subarea, not Southern Subarea) is a wasteful use of water. The comment is not relevant to Impact Water-12.
135. **Impact Water-13, Southern Subarea Construction-Related Surface Water Quality:** The commentor disagrees with the RDEIR's finding regarding the construction-related surface water quality in the Southern Subarea, which was determined to be Class II significant but feasibly mitigated with implementation of Mitigation Measures Water-7 (Dewatering), Water-8 (Stormwater Pollution Prevention Plan) and Water-9 (Stormwater Pollution Control Plan) The commentor refers to his comment on Impact Water-4, which relate principally to the potential for release of soil-borne contaminants into the natural water system. This subject is addressed in Section 3.5 (Hazards and Hazardous Materials) under Section 3.5.3.2, Project Impacts.
136. **Impact Water-14, Southern Subarea Post Construction Surface Water Quality:** The commentor disagrees with the RDEIR's finding regarding post construction surface water quality in the Southern Subarea, which was determined to be Class II significant but feasibly mitigated with implementation of Mitigation Measure Water-10 (SQUIMP). The commentor refers to his comment on Impact Water-5. As the discussion under Impact Water-5 in Section 3.3.3.3.1 of the RDEIR explains, the design, construction, and operation of stormwater collection, retention, and discharge facilities will employ best management practices to ensure that any stormwater runoff that is discharged into the Oxnard Industrial Drain, Ormond Lagoon, and Mugu Lagoon will have been treated to minimize residual

pollutants. The detention/biofilter buffer zone in the Southern Subarea will separate the open space area from industrial uses, and the project will also use bioswales to address post-construction water quality issues. Furthermore, as noted by the commentor, the developers of the project will be bound by a variety of requirements that are administered by several permitting and regulatory agencies (e.g., the City of Oxnard, the RWQCB, CDFG). These requirements will serve to avoid the types of impacts the commentor warns about. Finally, as discussed above under Response O.6-29 regarding Impact Water-5, the reduction in irrigated land within the Study Area will reduce the amount of infiltration of any contaminants from historic agricultural activities into the shallow groundwater or migration of these potential contaminants to downstream lagoons.

137. **Impact Water-17, Southern Subarea Changes in Flow:** The commentor disagrees with the RDEIR's finding regarding the changes in flow in the Southern Subarea, which was determined to be Class II significant but feasibly mitigated with implementation of mitigation measure Water-15 (down-gradient sewer study) The commentor refers to his comments on Impact Water-9, in which he states that the City may not have adequate treatment capacity to accommodate the project. As described under Impact Water-17 in Section 3.3.3.3.2 of the RDEIR, the City's 2005 Wastewater Master Plan Update anticipates development of the Study Area, so future infrastructure improvements have been accounted for. Thus, no revision of the analysis is required.
138. **Impact Water-18, Cumulative Water Supply:** The commentor disagrees with the RDEIR's finding regarding cumulative water supply, which was determined to be Class III less than significant. The commentor refers to his comments on Impact Water-1. See above response to Comment O.6-125 (Impact Water-1). The commentor also refers to cumulative impact assessments for stormwater runoff, flooding and drainage, which are addressed under Impact Water-19 in Section 3.3.3.3.3 of the RDEIR.
139. **Cumulative Impacts Generally:** The commentor claims that the DEIR does not adequately analyze the cumulative impacts of the project. Partially in response to this comment, Section 2.0 of the FEIR (Project Description) has been augmented to include an explanation of the policies and programs and a list of the development projects that collectively constitute the basis for the cumulative impact discussions throughout the EIR. Also, the commentor claims that the RDEIR does not include an assessment of cumulative impacts to biological resources. Please refer to Impact BIO-29, Cumulative Impacts, in Section 3.6.3.4.3 of the RDEIR for a review of cumulative impacts on biological resources.
140. **Growth Inducement:** The commentor asserts that the DEIR does not adequately identify or analyze the project's growth inducing impacts, and focuses his comments in part on his concern that the "planned widening of the road network could have growth-inducing

effects.” This concern is not relevant to the subject of project-related growth inducement, as required by CEQA, which states that EIRs must discuss the ways in which projects could foster growth in the surrounding environment. On this matter, the RDEIR explains in Sections 1.2 (Summary of the Proposed Projects), 3.7.1.1.4 (CURB) and 3.7.3.3 (Land Use, Cumulative Impacts) that the area surrounding the Study Area is either developed or set-aside for conservation (through the SCC and SOAR/CURB). Thus, as concluded in Section 5.5 (Growth Inducing Impacts) of the RDEIR, the projects will not induce growth in surrounding areas.

**141. Mitigation Measures Generally:** The commentor expresses a broad opinion that the RDEIR’s mitigation measures are inadequate, and he elaborates by referring to mitigation measures that do not appear anywhere in the RDEIR (e.g., mitigations regarding working hours, a “negation program”, and a “promise to reduce potential impacts”). He also refers to “the County” in his comments. It appears that the commentor has mistakenly included comments prepared for another EIR.

**141.5 Social and Economic Impacts:** The commentor states that the RDEIR fails to consider and mitigate social and economic impacts, specifying that encroachment on the NBVC Point Mugu could potentially cause the base to lose its competitive edge in competing with other military bases to avoid base closure or reductions. This prediction is speculative on the part of the commentor, and was not expressed as a concern in the comment letter from Captain C.B. Conner, the U.S. Navy Commanding Officer for NBVC (Letter F.2). The commentor also points out that the DEIR does not discuss agricultural jobs losses. Although economics of the area are important factor for decision makers and must be carefully considered within the review of a project, economic factors by themselves are not considered environmental impacts under CEQA<sup>2</sup>. In accordance with CEQA Guideline 15131(c), information regarding agricultural jobs will be discussed within the staff report to allow the City Council to consider this factors in reaching a decision on the project

**142. Alternatives:** The commentor claims that the RDEIR does not adequately describe a reasonable range of alternatives to the proposed project. The CEQA Guidelines Section 15126.6 provides the following guidance on the evaluation of alternatives:

(d) Evaluation of alternatives. The EIR shall include sufficient information about each alternative to allow meaningful evaluation, analysis, and comparison with the proposed project. A matrix displaying the major characteristics and significant

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<sup>2</sup> CEQA Guideline 15064 (e) & 15131(a) - Economic and social changes resulting from a project shall not be treated as significant effects on the environment.

environmental effects of each alternative may be used to summarize the comparison. If an alternative would cause one or more significant effects in addition to those that would be caused by the project as proposed, the significant effects of the alternative shall be discussed, but in less detail than the significant effects of the project as proposed.

The RDEIR complies with this requirement by focusing primarily on the impacts of the project, with comparative assessments of the other alternatives considered. This includes Alternative 4 (Conservation), which is based on the land use map included in the Ormond Beach Task Force's "Consensus Plan" to which the commentator refers. The level of analysis contained in the RDEIR is suitable to address the requirements of CEQA.

143. **Ormond Beach Task Force Consensus Plan:** The commentator provides a summary of the Ormond Beach Task Force's "Consensus Plan." Comment noted.
144. **Conceptual Management Plan for Ormond Beach:** The commentator provides a summary of Mary Lou Furrer's "Conceptual Management Plan for Ormond Beach," stating his opinion that it should have been considered as an alternative in the RDEIR. The City's environmental consultants reviewed Ms. Furrer's document, which covers a much larger area than that covered by the specific plans under consideration, as part of their efforts to consider historical documents relevant to the Study Area. The commentator's citation of the content of the document does not constitute a comment on the RDEIR, so no response is required.
145. **Sierra Club DVDs:** The commentator refers to a DVD submitted in conjunction with his comments. As discussed above under Response O.6-7, the City's environmental consultant viewed the video material submitted with the May 2007 DEIR and the transcription submitted during the review period for the RDEIR. While the video and the transcription provide interesting information concerning the history of the Ormond Beach area and the opinions of key stakeholders concerning local natural resources, they do not include any comments on either the DEIR or the RDEIR. Thus, no response is required.
146. **Proposed Habitat Restoration Acreage:** The commentator repeats his earlier expressed concern (Comment O.6-33) with the RDEIR's repeated citation of 220 acres as the area that might be acquired for habitat restoration, claiming that more land would be required. Please refer to Response to Comment O.6-33.
147. **Sustainable Agriculture Alternative:** The commentator claims that the RDEIR does not include an alternative that would sustain agricultural uses in the Study Area. In fact, Alternative 3, as presented in the RDEIR, would result in the continuation of agricultural

uses pursuant to the County of Ventura General Plan and zoning (please refer to RDEIR Section 4.5.4).

148. **NBPM Sustainability:** The commentor claims that the RDEIR fails to consider an alternative that would make NBVC Point Mugu sustainable into the future. The proposed project for the Southern Subarea is actually designed to respond to concerns expressed by the Navy. As their comments on the RDEIR (Letter F.2) indicate, the Navy sees the proposed project as an improvement over the City's existing land use plan.
149. **Alternatives Analysis:** The commentor complains that the alternatives considered in the RDEIR were not developed to the same level as the proposed project. This is consistent with the requirements of the CEQA statutes and guidelines Section 15126.6(d), which states that an "EIR shall include sufficient information about each alternative to allow meaningful evaluation, analysis, and comparison with the proposed project." There is no requirement that the alternatives be described at the same level of detail as the proposed project.
150. **Alternatives to the Automobile:** The commentor states that the RDEIR has an important opportunity to present a more balanced approach to land use development and transportation planning. This statement misconstrues the purpose of the RDEIR, which is not itself a plan or project, but rather the environmental evaluation of a proposed project and alternatives to that project. Thus, this comment pertains more to the City's planning practices than it does to the RDEIR.
151. **Comparison of Alternatives:** The commentor claims that the RDEIR fails to identify and analyze a credible range of alternatives. Section 4.0 of the RDEIR presents five alternatives to the proposed project, which is consistent with the CEQA Guidelines' direction that "the range of alternatives required in an EIR is governed by a 'rule of reason' that requires the EIR to set forth only those alternatives necessary to permit a reasoned choice<sup>3</sup>.

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<sup>3</sup> CEQA Guideline Section 15126.6(a), Alternatives to the Proposed Project. An EIR shall describe a range of reasonable alternatives to the project, or to the location of the project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project, and evaluate the comparative merits of the alternatives. An EIR need not consider every conceivable alternative to a project. Rather it must consider a reasonable range of potentially feasible alternatives that will foster informed decision making and public participation. An EIR is not required to consider alternatives which are infeasible. The lead agency is responsible for selecting a range of project alternatives for examination and must publicly disclose its reasoning for selecting those alternatives. There is no ironclad rule governing the nature or scope of the alternatives to be discussed other than the rule of reason. (Citizens of Goleta Valley v. Board of Supervisors (1990) 52 Cal.3d 553 and Laurel Heights Improvement Association v. Regents of the University of California (1988) 47 Cal.3d 376).

152. **General Plan Update:** The commentor expresses his opinion that the City’s ongoing General Plan Update should identify parcels in the city to remain undeveloped. This comment does not pertain to the RDEIR and, thus, requires no response.
153. **Quantitative Comparison of Alternatives:** The commentor asserts that the RDEIR’s comparison of alternatives is based on false assumptions and flawed methodology, but he provides no support for this assertion. In the absence of more information concerning the assertion, no response is possible.
154. **Redraft and Recirculate:** The commentor states his opinion that, in light of his comments, the RDEIR should be redrafted and recirculated. Because the City’s responses to his and others’ comments do not constitute “significant new information,” no such redrafting and recirculation is warranted.



## Sierra Club

Los Padres Chapter

Santa Barbara and Ventura Counties

Arguello Group

Concho Group

Santa Barbara Group

Sespe Group

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September 22, 2008

City of Oxnard  
Planning Department

### **RE: ORMOND BEACH SPECIFIC PLAN RDEIR, SOUTH ORMOND SPECIFIC PLAN AND SOUTHSHORE SPECIFIC PLAN.**

The Sierra Club, Los Padres Chapter, has had a long history of involvement with efforts to protect sensitive coastal habitat areas at Ormond Beach. Departed Club members Cynthia Leake and Roma Armbrust devoted their lives to educating the public about the unique features that make Ormond the "Jewel of Oxnard." The Club has made the protection of Ormond Beach its highest environmental priority for Ventura County. The Club has acted on this priority by acting to found and by joining Ormond Beach Observers, The Ormond Beach Task Force, the Ormond Project and the Ormond Beach Wildlife Patrol.

### **INTRODUCTION**

We have examined the Recirculated Draft Environmental Impact Report, ("RDEIR") for the northern subsection of the Ormond Beach Specific Plan area, known as the "Southshore Specific Plan" ("SSP") project and the southern subsection, known as the "South Ormond Specific Plan" ("SOSP") project. Environmental review for both of these areas has been combined within this RDEIR, hereinafter referred to as the ("Project").

The RDEIR for this Project is fatally flawed, as was its predecessor Draft Environmental Impact Report, (DEIR), by both procedural and substantive deficiencies and is inadequate as a matter of law under the California Environmental Quality Act, ("CEQA") because: 1) The project description is unclear and incomplete; 2) The RDEIR fails to adequately discuss the Project's environmental setting; 3) The RDEIR fails to identify and adequately discuss significant environmental effects of the Project; 4) The RDEIR fails to properly identify and discuss cumulative impacts of the Project; 5) The RDEIR fails to consider growth inducing impacts; 6) The proposed mitigation measures are inadequate as a matter of law; 7) The RDEIR fails to consider social and economic impacts; 8) The RDEIR fails to adequately discuss alternatives to the proposed project; 9) The RDEIR must comply with CEQA.

Therefore, the Club recommends that the recirculated draft document be revised and recirculated again, for a second time, as a new RDEIR as required by Public Resources Code Section ("PRCS") 21000 et seq., and the CEQA Guidelines, California Code of Regulations, title 14, section 1500 et seq., ("CEQA Guidelines").

Moreover, the RDEIR contains only the most truncated "analysis" of the far-reaching environmental consequences of the Project, as did its predecessor DEIR. In most instances, the RDEIR systematically disregards the severity of most of the Project's environmental impacts and consistently defers the necessary studies and surveys until after Project approval. Nowhere is this more apparent than in the RDEIR's analysis of biological impacts. While noting that the Ormond area provides habitat for over 100 endangered, threatened and rare plant and wildlife species, the RDEIR makes no attempt to actually analyze the Project's impacts on those species. The document's treatment of impacts related to loss of agricultural resources is equally flawed. In a glaring omission, the RDEIR fails to provide any mitigation for the loss of County farmland that would occur upon implementation of the Project. This deficiency is especially disturbing inasmuch as the process of adoption of the proposed specific plans presents a tremendous opportunity to preserve agricultural land and to adopt a farmland preservation program.

The RDEIR also fails to adequately identify or analyze a reasonable range of alternatives to the Project that could potentially reduce adverse impacts, as is required by CEQA. Rather than seize the opportunity afforded by the drafting of the specific plans to consider broad land use considerations, and alternative approaches to habitat restoration, agricultural land protection, recreational uses, and transportation planning, the document's alternatives analysis focuses myopically on only a few issues.

Perhaps most important, the RDEIR's failure to provide the requisite impact analysis undermines the opportunities and advantages of the environmental review process.

Because the RDEIR fails to honestly evaluate the need for habitat restoration, agricultural land protection, recreational uses, and transportation planning, the document fails to sufficiently analyze impacts and mitigation measures, does not identify an acceptable range of alternatives to the proposed Project, and all but ignores the Project's cumulative impacts. Only by recirculating a corrected document, and starting the process anew can the public, decision-makers, and the affected agencies be adequately informed of the Project's environmental repercussions.

Recirculation of this document presented the City, and decisionmakers with an opportunity to correct fatal flaws in the previous documents. Unfortunately, that opportunity was squandered as the RDEIR fails to consider comments made by the public and responsible agencies that could have made the document compliant with CEQA.

The RDEIR was not legally noticed to the public and substantially fails to answer any of the previous comments made by the Club and other commenters.

The Club must recommend restart of the comment period for the Ormond Beach Specific Plan Recirculated DEIR, for the South Ormond Specific Plan and Southshore Specific Plan.

The City of Oxnard has failed to provide adequate notification and an adequate time for comment on the above referenced documents. The City has also allowed for the spoliation of evidence provided by the Sierra Club and other parties.

Please allow us to again request that the City of Oxnard consider taking immediate action to address these problems. Subsequent to our last letter requesting an extension of the comment period we have learned that the proper mechanism for minimizing injury to the public trust is for a **RESTART** of the comment period for the above referenced projects with adequate time for the public to comment on the documents.

The City of Oxnard is not allowing enough time for either its decisionmakers or the public to actually read the voluminous documents. Citizens interested in commenting on this project must at a minimum read 71 pages of material each day of the 45-day comment period. Additionally, commenters must be reading the 2020 General Plan, Local Coastal Plan, Transportation Circulation Plans, CEQA Manuals and other documents concurrently. Therefore the public does not have a realistic opportunity to read, understand and comment on the RDEIR. Section 15022 (a) (6) provides that the lead agency should have policies "Assuring adequate opportunity and time for public review and comment on the Draft EIR or Negative Declaration."

Additionally, there are problems with the legal distribution of notices for the project. The City has started the clock on its comment period on July 24. However, the legal notices sent to the Sierra Club and other interested parties were not placed in the mail until July 28, resulting in an earliest possible delivery date of July 29. The loss of those 5 days for comments causes injury to the public trust and violates CEQA Guidelines.

The formal notice sent to interested parties outside of Oxnard would require even more time.

#### **Section 15105, Public Review Period for a Draft EIR...**

(a) The public review period for a draft EIR shall not be less than 30 days nor should it be longer than 60 days except under unusual circumstances. When a draft EIR is submitted to the State Clearinghouse for review by state agencies, the public review period shall not be less than 45 days, unless a shorter period, not less than 30 days, is approved by the State Clearinghouse. In this instance, the drafting of two specific plans, one EIR, revisions to the General Plan, annexation by LAFCO and all of the other

related issues certainly defines the term "unusual circumstances." Therefore, upon recirculation for the second time the comment period should be extended to 90 days.

The failure of the City to provide the required 45-day comment period due to its failure to provide legal notice violates the terms of this section. Therefore the City must re-notify the public in conformance with Section 15105 (b).

The release of the RDEIR documents at the same time that the City of Oxnard is also working on its General Plan, Jones Ranch, the Edison Peaker Plant, and several other projects creates a significant problem for members of the public and decisionmakers interested in making comment on these projects.

Another problem to be resolved is an issue to be regarding the loss or misplacement of the Sierra Club comments on the 2007 DEIR by the planning Department staff.

The Planning Department has lost or mishandled substantial evidence placed on the public record regarding the Ormond Beach Specific Plan DEIR, South Ormond Specific Plan and Southshore Specific Plan of 2007

On July 20, 2007 acting as Conservation Chair of the Los Padres Chapter of the Sierra Club, I submitted evidence on the public record on the above referenced project. My submission included written comments, 20 exhibits that include 12 documents and 8 video DVD documentaries, and the CONCEPTUAL MANAGEMENT PLAN FOR ORMOND BEACH, that includes appendices A through F and 10 maps created for this plan. Together our submission consisted of hundreds of pages and thousands of hours of work to bring all of this information together for the benefit of the public trust (see attached TABLE OF CONTENTS).

On July 31, 2008 I called City Planner Kathleen Mallory to discuss the availability of the Sierra Club evidence from July 2007 for the Recirculated Draft Environmental Impact Report. Ms Mallory informed me that she had no knowledge of the greater part of the Sierra Club evidence.

On August 4, 2008, after a search of planning department offices, Ms Mallory confirmed that she had only 2 documents in her possession. One of these documents is the Sierra Club Comment Letter; the other is a prior letter to the Planning Commission. **All of the remaining documents, maps and documentaries were missing!**

During both of my conversations with Ms Mallory I learned of her displeasure with our submission of the DVD documentaries. But at no time prior to July 31 did she or any other employee of the City ever inform us that the City would refuse to accept the Club's evidence, nor were we informed that there was any problem with our written evidence.

Therefore please be informed that the failure to accept evidence supplied by the Sierra Club or to act in good faith causes significant injury to the Club and other members of the public.

This injury is compounded daily as the clock runs on the deadline to submit comments for the RDEIR. As of September 8, 2008 only about one third of the evidence submitted by the Club was accounted for. Therefore, the Club must spend time accounting for what exactly has been preserved on the public record and what has not. Obviously, we are prevented from making meaningful comment on the RDEIR without having exact information as to the status of our prior comments.

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We recommend an immediate investigation of the actions taken by planning department staff.

We also recommend consideration of those actions that the City may take to minimize our injury and to make us whole.

Please consider that the Sierra Club is also working in support of your (Planning Commission) decision to reject the McGrath Peaker Plant project. That work also requires a commitment of substantial time and energy.

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These facts call for re-notification and a time extension for comment on this project. Therefore we recommend a 90-day comment period that will start after public notices are recirculated. Comments beyond 60 days are allowed by CEQA in "special circumstances." The items listed above individually and collectively fit this very definition.

**THE RDEIR DOES NOT COMPLY WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT.**

**1(a) THE RDEIR FAILS TO PROVIDE AN ADEQUATE PROJECT DESCRIPTION**

Under CEQA, the inclusion in the EIR of a clear and comprehensive description of the proposed Project is critical to meaningful public review. The project description provided in an EIR must be "stable, accurate and finite." County of Inyo v. City of Los Angeles, (71 Cal.App.3d 185, 193 (1977) ("Inyo II"). The court in Inyo II explained why a thorough project description is necessary: "A curtailed or distorted project description may stultify the objective of the reporting process. Only through an accurate view of the project may affected outsiders and public decision-makers balance the proposal's benefit against its environmental cost, consider mitigation measures, assess the advantage of terminating the proposal (i.e., the "no project" alternative) and weigh other alternatives in the balance." 71 Cal.App.3d at 192-93.

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Here the RDEIR omits important information relating to details of the Project, which are necessary to ascertain the validity of the environmental impact analysis; Specifically, the Project's proposal to urbanize an area that is now characterized by sensitive habitat areas, agricultural lands and Navy Base Point Mugu, ("NBPM"). Additionally, there are plans to widen local roadways, purportedly to accommodate 2020 traffic flows at a particular level of service ("LOS") that is completely unjustified in the RDEIR.

The project description obtained in the RDEIR fails to identify and discuss critical aspects of the project. For example, the project could include substantial amendments to the local coastal program for the City ("LCP"), including changes to the coastal land use plan ("CLUP") and Zoning Ordinance components of the LCP. In the case of the CLUP, the Project makes changes to the existing conditions near the beach area. As discussed below, these changes require a change in the LCP because the project description is highly inaccurate and fails to account for the extensive habitat areas in the beach area of the city. By seeking to lock this inaccurate baseline description into the RDEIR, the City is making a significant change to the CLUP that is not considered in the Project description. In addition, the City is proposing to eliminate the current CLUP policy prohibiting development near the beach area that interferes with public views and habitat protection. The required amendments to the LCP thus constitute major revisions to a central policy that governs the entire beach area, not just the area of the Project site. The Project would also authorize bulldozing and construction in an area of the RDEIR site that has been identified as critical to a number of wildlife species. The failure of the RDEIR to provide any discussion of these major aspects of the Project renders the Project description fatally deficient.

In a similar vein, the proposed amendments to the zoning ordinance will affect an area much larger than the footprint of the identified developments. Although the proposed language included in the documents provided to the public is unclear, it appears that the City is proposing to create a new class of "uses" in the Resource Protection ("RP") Zone that are currently not permitted. These new or revised uses include general commercial uses, industrial uses, and impacts related to the proposed residential and industrial development.

In addition to providing these new uses throughout the RP zone, the proposed project will result in an approval process that will allow the City to approve a project even if it will have "injurious or detrimental effect." As a result, the City will be able to approve any activities in the RP zone, whatever their impacts.

Moreover, the required Zoning Ordinance amendments may include language that authorizes the City to approve projects without the need for a Coastal Development Permit, (CDP). The required LCP amendments will thus give the City authority to move ahead with "incidental" projects in the RP area of the Coastal Zone without ever coming within the purview of the Coastal Act's permitting requirements. As in the case of the CLUP amendments, these significant changes to the Zoning Ordinance are buried in the "fine print" of the Project, and receive no mention at all in the Project Description.

#### 1(b) THE RDEIR COMBINES TWO DISTINCT PROJECTS WITHIN ITS SCOPE

The two distinct projects that are combined under the scope of this one RDEIR are separate and distinct and each requires its own environmental review. The combination of these separate projects harms the public because interested parties must now try to respond to twice the amount of information in a time frame designed for a single project. The length of the documents for this project insures that it would be

nearly impossible for an individual to read all of the supplied text. This problem is exacerbated by the requirement to be reading companion documents like the City 2020 General Plan, ("GP") and Local Coastal Plan, ("LCP") concurrently.

The Sierra Club is a member of the Ormond Beach Task Force, which deals with Ormond Beach area issues and is therefore informed of other issues related to the Ormond area. Numerous other projects are now being proposed for this area including parts of the City's GREAT Program, E.F. Oxnard's Brine discharge, The Calleguas Brine Line, SCE's pipeline removal, the Coastal Conservancy's Wetlands Restoration Project, Agromin expansion, the Ventura County Watershed Protection District, J Street Drain project and others. Additionally, the City is now reviewing environmental documents for a Peaker Plant and many other projects in other parts of the City. Projects within the Channel Islands harbor currently undergoing environmental review also fall within the City.

The release of the RDEIR at the same time that the City of Oxnard is also working on its General Plan Amendments and releasing environmental documents for several other projects throughout the City creates a significant problem for members of the public interested in making comment on these projects. Together, these documents contain thousands of pages.

The number of pages of required reading for these projects is significantly beyond the physical ability of individuals who wish to comment. This means that citizens must choose from among several projects as to the ones with which they will participate because they can't possibly respond to all of the projects, even in smaller areas like Ormond Beach. Club members are especially concerned that because it is necessary to know what is going on within all of the Ormond Projects, that it is impossible to make informed, meaningful comments.

Because the City has overseen these Ormond area plans for more than 15 years, it has the ability to influence the timing of the release of documents as well as the organizational structure. It is only appropriate that citizens be given a reasonable time to comment on all of the projects that have an Ormond connection, as a minimum. These citizens have been denied adequate opportunity to comment on these projects because of the inappropriate lumping of these separate projects within this one RDEIR.

Lastly, the Project is in significant conflict with the GP Conservation element, Ag lands protection and other sections and with the LCP. This results, in large part, because the old GP talks about protecting sensitive habitats, farmland and the Navy Base at the same time that it talks about development--in the same area. These conflicts could be easily resolved because the City is proceeding on an updated GP. Processing this RDEIR before the GP revisions can take place forces changes in land uses that the City may soon rule to be unacceptable. The changes in the GP must come prior to making land use changes over hundreds of acres including prime agricultural lands and sensitive habitat areas so that the city can minimize impacts by exploring a full range of alternatives that are not presented in the RDEIR. Just as carts must come before horses, General Plans must come before Specific Plans. The old GP must be revised because we now know so much more, due to new information, about the specific needs of the Ormond Beach and Point Mugu Sensitive Habitat areas, the significant loss of County agricultural lands and the Base Realignment and Closure Process that could eliminate our County's most important

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employer. CEQA demands considerations of real alternatives. The City's best bet at accomplishing this is to first, complete the revision of the GP so that the decisionmakers can resolve the conflicts in policies and goals, and then to draft Specific Plans that are reflective of those policies.

2. The RDEIR Fails to Adequately Discuss the Project's Environmental Setting

An EIR "must include a description of the environment in the vicinity of the project, as it exists before the commencement of the project, from both the local and a regional perspective." CEQA Guidelines Section 15125; see also Environmental Planning and Info. Council v. County of El Dorado, 131 Cal.App.3d 350, 354 (1982). Knowledge of the regional setting is critical to the assessment of environmental impacts. CEQA requires that special emphasis be placed on environmental resources that are rare or unique to the region that would be affected by the project. CEQA Guidelines Section 15125 (c).

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An EIR's description of a project's environmental setting plays a crucial part in all of the subsequent parts of the EIR because it provides "the baseline physical conditions by which a lead agency determines whether an impact is significant." CEQA Guidelines, Section 15125 (a). "Without a determination and description of the existing physical conditions on the property at the start of the environmental review process, the EIR cannot provide a meaningful assessment of the environmental impacts of the proposed project." Save Our Peninsula Committee v. Monterey County Board of Supervisors, 87 Cal.App.4th 99, 119 (2001). As will be discussed below, the DEIR's discussion of the area's existing biological resources is sorely deficient.

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Ventura County is host to over 100 special status species. The Hueneme, Ormond, Mugu area (HOM) provides habitat at various times for almost all of these species. The survival of many of these species and capacity for reproduction in the wild are in immediate jeopardy. Many of these species are currently experiencing a dramatic rate of decline. Given the magnitude of these issues, one would expect the RDEIR to have included comprehensive surveying and mapping of these resources. Instead, the document merely contains a rather shallow representation of the general locations of generic plant and animal species. We can find no evidence that the RDEIR has conducted any meaningful surveys of sensitive species and their habitats that would provide the basis for an analysis of impacts. Equally troubling, although the entire area appears to have extensive endangered, threatened and rare animal species populations, the RDEIR has failed to identify area migration corridors. Nor, has the RDEIR attempted to update wetland maps. Absent this environmental information, it is simply not possible for the RDEIR to estimate how implementation of the respective specific plans would impact the area's sensitive biological resources, its wildlife movement corridors or its wetlands.

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A second re-draft RDIR must discuss any inconsistencies between the proposed project and existing general plans and regional plans, including, but not limited to, air quality control plans, regional transportation plans, and regional plans for the protection of the Coastal Zone. CEQA guidelines, Section 15125. (b). Despite this requirement for a comprehensive and informative discussion, the DEIR is limited largely to an inaccurate discussion of the relationship of the Project and the City's current General Plan, ("GP"). Contrary to the RDEIR's apparent claim in

In this regard, the Project plainly is inconsistent with the City's GP planning documents for the Coastal Zone, as evidenced by the need for the City to amend its LCP as part of the Project. 13

The RDEIR mentions the "Ormond Beach Dunes Area" as a natural feature but fails to include similar habitat at NBPM, the duck clubs, Pt. Mugu State Park or the Santa Monica Mountains National Recreation Area. Habitat areas at NMPM are as important as what is found at Ormond. Yet there is a complete failure to identify the sensitive habitats, sensitive species or the impacts to be expected from the Project. 14

In addition, the RDEIR fails to address in any detail a number of other relevant plans in the area, including: County air quality, wastewater and traffic plans; fresh water availability, regional mobility, management and air quality management plans, regional plans relating to protection of Ormond Beach; regional coastal protection plans developed by the Coastal Commission as well as the Ormond Beach Task Force, Habitat Conservation Plans ("HCP") for the protection of threatened and endangered species, plans related to the survival of NBPM and the City of Oxnard General Plan and related planning documents. 15

### 3) The RDEIR Fails to Adequately Analyze and Mitigate the Project's Significant Environmental Impacts

Meaningful analysis of impacts effectuates one of CEQA's fundamental purposes: to "inform the public and responsible officials of the environmental consequences of their decisions before they are made." Laurel Heights Improvement Ass'n v. Regents of the University of California, 6 Cal.4<sup>th</sup> 1112, 1123 (1993) ("Laurel Heights II"). To accomplish this purpose, an EIR must contain the facts and analysis, not just an agency's bare conclusions. Citizens of Goleta Valley v. Board of Supervisors, 52 Cal.3d 553, 568 (1990). Nor may an agency defer its assessment of important environmental impacts until after the Project is approved. Sundstrom v. County of Mendocino, 202 Cal.App.3d 296, 306-07 (1988). An EIR's conclusions must be supported by substantial evidence. Laurel Heights Improvement Ass'n v. Regents of the University of California, 47 Cal.3d 376, 409 (1988) ("Laurel Heights I"). The DEIR fails to fulfill this paramount CEQA purpose, both because it neglects to present all relevant facts relating to the Project's potential environmental impacts and because its cursory conclusions are based upon no analysis. 16

A draft EIR must identify and focus on the possible significant environmental effects of a proposed project pub. RCS 21000 (a): CEQA Guidelines Section 15126, (a). "Significant effect of the environment" means "a substantial or potentially substantial change in the environment." Public Resource Code PRC Section 21068. ("Environment" means "the physical conditions which exist within the area which will be a) affected by a proposed project, including land, air, water, minerals, flora, fauna, noise, objects of historical significance." PRC Section 21060.5. In interpreting this language, the California Supreme Court has expressly rejected limiting the definition of significant effect to "a momentous or important effect of a permanent or long-enduring nature" and has further stated that it will "not countenance abuse of the 'significant effect' qualification as a subterfuge to excuse the making of reports otherwise required by the Act." No Oil, Inc. v. City of Los Angeles (1975) 13 Cal.3D 68 at 84, sn. 17.

10 The RDEIR for the Project fails to identify a number of potential effects of the Project that are significant within the meaning of CEQA. The RDEIR further fails to adequately or accurately discuss certain of the effects that are identified. The following considers land use, biological, visual quality, air and water quality, traffic and noise, and public safety impacts in turn.

11 The RDEIR should conclude that the planned widening of roads would have a direct, significant impact on wetlands, migration corridors and possibly on other biological resources as well. Given the extensive biological resources in the area, the impacts to these resources would be significant. The RDEIR, however, contravenes CEQA because it fails to actually analyze these significant impacts. CEQA requires that an EIR must be detailed, complete, and reflect a good faith effort at full disclosure. CEQA Guidelines Section 15151. The document should provide a sufficient degree of analysis to inform the public about the proposed Project's adverse environmental impacts and to allow decision-makers to make informed judgments. Consistent with this requirement, the information regarding the Project's impacts must be "painstakingly ferreted out." Environmental Planning and Information Council of Western El Dorado County v. County of El Dorado, 131 Cal.App.3d 350, 357 (1982) (finding inadequate an EIR for a general plan amendment where the document did not make clear the effect on the physical environment).

16 The RDEIR's treatment of biological resources impacts does not come close to meeting this legal standard. Indeed, with the exception of a limited discussion relating to the potential for a few select problems with wildlife, the RDEIR never addresses the actual and specific consequences to the area's endangered, threatened and rare species from the impacts created by the Project. Once the RDEIR conducts the necessary surveys and mapping, it must analyze the loss of habitat that would occur as a result of the Project. A revised document must, for example, correlate an individual aspect of the project to sensitive habitat and sensitive species, analyze the severity and extent of habitat loss in the context of the quality of the habitat, identify the specific species that would be impacted, and, finally, analyze the significance of the expected impacts in light of these facts. Unless and until the RDEIR is revised to provide a comprehensive analysis of impacts to the area's myriad biological resources, the public and decision-makers will remain uninformed as to whether the magnitude of project components contemplated by the RDEIR will destroy the biodiversity of the Hueneme, Ormond, Mugu ecological system.

a) Land Use

19 A project is normally considered to have a significant effect on the environment if it will "conflict with adopted environmental plans and goals of the community where it is located." CEQA Guidelines, Appendix G (a). The project will conflict with the adopted GP and LCP for the City, which prohibits development that harms sensitive habitat areas, wildlife, and interferes with public views. The Project clearly will have a significant effect on the environment in this regard.

Additionally, the project conflicts with established policies in other neighboring jurisdictions including, Ventura County, NBVC, the City of Port Hueneme, SOAR, LAFCO and others.

A project is also considered to have a significant environmental effect if it will "conflict with established recreational, educational, religious or scientific uses of the area." CEQA Guidelines, Appendix G (w). The area adjacent to and including part of the Project site is subject to a range of established public recreational uses. Impacts resulting from the Project will clearly have a significant environmental impact on all of these established recreational uses.

The City's GP contains several policy directives that are in conflict with the goals of the Project:

- 1) Policy Number 2: The city should encourage the preservation and enhancement of wetlands in the Ormond Beach and Mugu lagoon.
  - 2) Policy Number 3: Sensitive habitat areas are to be designated as permanent open space on the Land Use Map.
  - 3) Policy Number 4: The city should limit the recreational activities in open space areas with sensitive habitats to those that have minimal impacts on sensitive habitats.
- Collectively, these policies indicate a larger goal of protecting the sensitive habitat aspects of the Ormond Beach area. The RDEIR completely misses the point that although most of the impacts on sensitive habitats would be characterized as "indirect impacts" they are nevertheless devastating to the policies listed above. In fact, the level of adversity created by indirect impacts may sometimes exceed the level of adversity create by direct impacts, especially when dealing, as in this case with unique, sensitive habitats. Therefore the RDEIR must come to grips with the reality that even though the projects goals don't include destruction of sensitive habitat areas and the resident species, that this is exactly the predictable result and that there are alternatives and mitigation for all of the impacts that follow.

The policies supporting protection of sensitive habitat areas in the GP are further supported by the City's CLUP. The CLUP reflects that Environmentally Sensitive Habitat Areas, ("ESHAs") shall be protected against significant disruption of habitat value. **Development in areas adjacent to ESHAs shall be sited and designed to prevent impacts, which would significantly degrade those areas and shall be compatible with the continuance of these habitat areas.**

The RDEIR fails to consider the effects of conflicts with existing land uses at NBPM. The document states: "Its proximity to urbanized areas, interaction with civil air traffic, and other non-aviation mission constraints present operational challenges to point Mugu's aviation missions. Some of these influences arise from the recent rapid growth of surrounding communities...." The shorthand word for this effect is ("encroachment"). NBPM lost some missions and gained others in the most recent Base Realignment and Closure, ("BRAC") process. Because NBPM is experiencing encroachment issues which will be exacerbated by the Project the RDEIR must evaluate the impacts associated with the project on Base land use, and upon Social and Cultural impacts and upon economic impacts.

20 Residential development within the proximity of NBPM creates a significant adverse impact that has no listed mitigation.

Industrial development with the proximity of NBPM creates a significant adverse impact that has no listed mitigation.

21 The RDEIR mistakenly states that thresholds of significance (a) and (c) do not apply since the Project "would not divide and established community and there are no habitat conservation plans or natural community conservation plans in place for the Study area." However the Coastal Conservancy is in the process of finalizing such a conservation plan. Additionally, the USFWS has several Endangered Species Recovery Plans that specifically name Ormond Beach. For example, the project area is defined as potential habitat for light footed clapper rails, salt marsh bird's beak and other listed species. The USFWS has also advised that an HCP would be necessary to avoid unpermitted take of federally listed species. The Ormond Beach Consensus Plan was adopted by the OBTF in 2004. The City LCP has conservation language as does the McClelland Report and the City GP. The County has several similar policy guidelines. Therefore, the LPC believes the mandatory levels of significance have been met for both measures. The encroachment of open space that has been part of the viability of NBPM could be interpreted to "divide an established community" as it divides the community from its required mission space thereby creating a situation that could result in the closure of the Navy Base and elimination of an existing community.

) The City's Guidelines frame the following question: "Is the project inconsistent, or in conflict with the environmental goals, policies or action programs in the General Plan?" The answer is Yes. The GP has several passages and policies that support the protection of biological resources at Ormond Beach with recognition that Ormond has unique features.

22 The City's Guidelines also ask the question: "Is there evidence of substantial land use incompatibility between the proposed project and neighboring land uses?" The answer is yes. The Project creates significant impacts to sensitive habitat areas throughout the project vicinity including Ormond Beach, the duck clubs, and NBPM. The Project also conflicts with neighboring agricultural lands.

The same questions should be asked for this impact category, and every other impact category for each of the neighboring jurisdictions.

The RDEIR is blind to impacts upon all neighboring jurisdictions as if indirect impacts somehow stop at the project borders. Because of the fatal flaw the RDEIR leaves the job of identification and analysis to the public in clear contravention of CEQA.

23 The RDEIR incorrectly finds consistency with General Plan land use policy in Impact Land-1, Consistency with General plan land use Policy, when it should be listed as a Class I unmitigated significant impact because it fails to list significant impacts to the GP policies of Balanced Development, Historical Issues and Management Problems, Aesthetic Appearance, Minimized Impacts on Sensitive Natural Resources, Air Quality, Water Resources, Public Facilities and Services, Traffic Impacts, Regional Land Use Planning, minimized or Avoid

Impacts on Regional Resources and Facilities, Minimized Conflicts with Power Station and the Naval Facilities.

The RDEIR must find a Class I unmitigated significant impact for both subareas because the RDEIR must consider all GP designations for both the City and the County including those calling for protection of sensitive habitat areas and agricultural lands. The RDEIR must also consider that the GP designations are not meant to have the weight of actual zoning designations made after annexation. Until that happens the County's pre-annexation must be considered to be no more than advisory. The uses planned in the RDEIR do not conform with County mapping designations and they prove to be inconsistent with many City GP policies. For example, the GP incorrectly assumes that pre-annexation designations would not conflict with goals of protecting sensitive habitat areas. Substantial evidence shows that this is not true.

23

The RDEIR incorrectly finds consistency with Impact Land-2, Consistency with General Plan land use Map. The RDEIR must find a Class I unmitigated significant impact for both subareas because the RDEIR must consider all GP designations for both the City and the County including those calling for protection of sensitive habitat areas and agricultural lands. The RDEIR must also consider that the GP mapping is not meant to have the weight of actual zoning designations made after annexation. Until that happens the County's mapping is the guiding document. The uses planned in the RDEIR do not conform with County mapping designations.

24

The proposed changes in land use designations must be considered in relationship to maps currently being developed that illustrate the extent of sensitive habitat areas so that existing conflicts are visible when placed on a map.

The RDEIR incorrectly lists Impact Land-3, Consistency with Zoning Ordinance and Map as Class III for each subarea when it should be listed as a Class I unmitigated significant impact. The Project area is currently zoned for agriculture. However, the county also has policies for protection of sensitive habitat areas, biological resources, air quality, transportation and circulation, use of public services and other County GP policies that are subverted by the change in zoning resulting from the project. The planned change without mitigation for impacts in each of the affected categories creates a significant impact for each of the subareas.

25

The RDEIR incorrectly lists Impact Land-4, Land Use Compatibility as Class III when it should be listed as Class I unmitigated significant impacts for each of the subareas. The planned uses of the northern area are not compatible with existing uses and will lead to destruction of agricultural lands, sensitive habitats and closure of NBPM.

The RDEIR fails to consider conflicts with policy guidelines of other agencies including the County GP.

The southern subarea has similar impacts, but significantly more impacts on sensitive habitat areas, biological resources and wildlife corridors at the same time.

Not one word has been said on impacts to NBPM. Those impacts include a direct threat to the missions conducted at the Base and to the Base's survival.

Both subareas will create significant unavoidable Class I impacts to the existing and planned future wetlands restoration areas.

Both subareas will create impacts to the viability of agriculture in the County.

20

21 Impact Land 5, Consistency with housing element. The RDEIR notes that the GP evaluation of the housing element, "does not include Ormond Beach...." Therefore there is no requirement that Ormond be used to fulfill requirements of the City's Affordable Housing Ordinance. Shifting housing development into an area not identified in the plan is a significant Class I impact.

The RDEIR incorrectly lists Impact Land-6 as Class III when it should be listed as Class I unmitigated significant impacts because:

- 1) The proposal would create or result in corridors, peninsulas, or flags of city or district area or would otherwise cause or further the distortion of existing boundaries.
- 2) The proposal would result in a premature intrusion of urbanization into a predominantly agricultural area.
- 3) The proposal is inconsistent with state law, adopted spheres of influence, adopted general or specific plans, or these policies.
- 4) For reasons of topography, distance, natural boundaries, or like considerations, the extension of services would be financially infeasible, or another means of supplying services by acceptable alternatives is preferable.
- 5) Annexation would encourage a type of development in an area that due to terrain, isolation or other economic or social reason, is not in the public interest.
- 6) The proposal appears to be motivated by inter-agency rivalry or other motives not in the public interest.
- 7) The proposed boundaries do not include logical service areas or are otherwise improperly drawn.
- 28 8) The proposal is largely inconsistent with the GP and may be found to be more inconsistent with the GP update. The current GP is eight years beyond its planned revision so any analysis must consider that the GP is non-compliant with that requirement.
- 9) A proposed greenbelt between South Oxnard and Camarillo/ Thousand Oaks has not been moved forward but should be considered as proposal that would be significantly impacted.
- 10) The CURB line was never meant to be a static feature. New information on requirements for protection, of habitat areas, agriculture and NBPM demand a revision of the CURB lines.
- 11) Impacts on neighboring agriculture will be significant. Urbanization of this area may make continued agricultural uses infeasible. The cumulative effect of the direct loss of ag lands along with the indirect impacts could result in the loss of required critical mass to maintain the long-term survival of area agriculture.
- 12) Sufficient existing school capacity does not exist.

The LPC alleges that all of the guidelines listed above are in effect providing for ample reasons why annexation should be denied. Furthermore as the RDEIR states, "the study area cannot be characterized as "urban". The principal support for attribution of favorable factors for the Project seems to be the general plan language that identifies residential and urban uses. However, clearly the GP is conflicted between protecting sensitive habitat areas and the listed urban uses. The CLUP should be our guide to resolve this conflict. Coastal Act policy 30241, 30242 and 30243 herein incorporated by reference, speak to protection of agricultural lands. Coastal Act Policy 30231, 30236 and 30240 herein incorporated by reference speaks to the

protection of ESHAs and similar habitats. Coastal Act Policy 30251 is herein incorporated by reference. GP Local Policies 37 and 38 speak to visual resources.

28

More importantly, the City's own Local Coastal Policies:

(1) If policies of this plan overlap or conflict, the most protective policy of coastal resources shall prevail.

**(2) If there are any conflicts between the policies or land use designations of the Coastal Plan and the existing General Plan, the Coastal Plan shall prevail.**

29

The RDEIR mistakenly concludes that the only language in city documents support development of the area. The GP Conservation element implementation measures include (5) Adopt a Resources Protection zoning designation for sensitive habitats to prevent the encroachment of detrimental habitats and (19) Rehabilitate, restore and protect existing environmental resources in Ormond Beach area and enhance public access to this resource by 1995 in the event that a major private development for the Ormond Beach Specific Plan Area is not approved within 24 months of the adoption of this 2020 General Plan...." Similar language appears throughout the GP therefore the LPC does hereby incorporate by reference the 2020 GP, and the LCP. The GP policies that support protection of sensitive habitat areas, agricultural lands and NBPM were collectively relied on by the City when it invited OBTF to make land use recommendations for the Specific Plan. The City was informed as early as 1996 that the forthcoming recommendations by OBTF would be for abandonment of development plans in favor of policies to protect habitats, agriculture and the Navy Base. The OBTF adopted the Ormond Beach Task Force Consensus Plan in 1998 (See Exhibit 12) and revised the Called the OBTF Consensus Plan 2003, (See Exhibit 10). Therefore, the City should have interpreted this recommendation as evidence from stakeholders that the GP needed revisions to protect economic and environmental resources.

30

The RDEIR mistakenly identifies that Impact Land-7 is a Class III impact. SCAG policies are at time conflicting in that they call for protection of biological resources while planning for development. The aspects of the Project that conflict with the former are in conflict with the protectionist policies. When conflict arises in the Ormond Beach area "**the Coastal Plan shall prevail.**"

31

The RDEIR mistakenly labels Impact Land-8 as a Class III impact when it is a Class I impact with no feasible mitigation. The RDEIR selectively quotes only policies that support development and fails to cite those policies that are in conflict. Therefore the impacts identified with the cumulative and growth-inducing elements of the project must be acknowledged.

32

The RDEIR mistakenly counts on the CURB line as if it were a permanent feature that would preclude future development to conclude that no growth inducing effects would result from the project. Additionally, the project has elements of urban development the can be placed across the CURB line because of exemptions. Therefore the combination of leap-frogging across the CURB line and eventual expiration of the CURB line contribute to eventual urbanization of the surrounding area.

The RDEIR failed to identify any of the significant impacts related to one of the most massive projects undertaken within the City in many years. Many residual impacts remain that

32 were not considered by the RDEIR. This failure renders this section incomplete and inadequate requiring revision and recirculation of the RDEIR.

**b) Biological Resources**

A finding of significance is mandatory when a project "has the potential to substantially degrade the quality of the environment" to "reduce the number or restrict the range of a rare or endangered plant or animal community." PRCS 1083, 21087; Guidelines, Section 15065. A project is normally considered to have a significant effect on the environment if it will: "Substantially affect a rare or endangered species of animal or plant or the habitat of the species;" "interfere substantially with the movement of any resident or migratory fish or wildlife species," or "substantially diminish habitat for fish, wildlife or plants." CEQA Guidelines, Appendix G (c), (d), (t).

33 The RDEIR exposes a fatal flaw in its analysis at page 3.6-3: "The area may be sold to the California Coastal Conservancy or partner organization as part of the larger 750 acre Ormond Beach Wetlands restoration project." The passage implies that the goal of all interested parties is to restore a maximum of 750 acres. Nothing could be further from the truth. The Sierra Club, Ormond Beach Observers, the Ormond Beach Task Force, Western Alliance For Nature, Environmental Coalition and Earth Alert are non-profit organizations that have all expressed an interest in acquiring all available land south of Hueneme road. The Sierra Club would also support acquisition of the area north of Hueneme Road. Therefore, it is more appropriate to use the figure 1,750 acres as the goal for restoration.

34 The Club has provided the City has with several biological reports. The first was prepared by Dr. Patricia Baird, who is on the faculty of California State University, Long Beach. The Baird report provides a biological assessment of the habitat areas near the Project site and analyzes the impacts on plant and animal species, including species listed as threatened or endangered. As established by Dr. Baird's report, impacts created by the proposed project will "reduce the number or restrict the range of a rare or endangered animal or plant species," including the California least tern, and Western snowy plover. The finding of significance is therefore mandatory in this case. In addition, Dr. Baird's report shows that the Project will result in each of the impacts on wildlife species and habitat that are normally considered to be significant under CEQA. The second report by Mary Lou Furrer is the Ormond Beach Conceptual Management Plan, (OBCMP) which uses mapping to show where historical wetlands can be restored.

35 The biological information contained in the RDEIR does not provide substantial evidence in support of a finding that the Project will not have a significant effect on wildlife species. Although the RDEIR devotes substantial attention to assembling some data on wildlife species in the area, this analysis is devoted largely to the footprint of the developments to the exclusion of the surrounding agricultural lands and sensitive habitat areas.

The RDEIR failed to document the full range of wildlife or sensitive species likely to be found within the Northern project area. Instead the document states that further wildlife studies

are needed in violation of CEQA guidelines that the studies are done prior to any decisions to be made. The RDEIR defers to future studies in several other sections of the DEIR.

The DEIR fails to identify many of the habitat types that can be found in the Hueneme/Ormond/Mugu ("HOM") area adjacent to the project site. Each of these habitat types are subject to differing ecological influences and are used by varying lists of species. The coastal strand, southern coastal foredunes, backdunes, coastal sage scrub, estuarine and fresh water wetlands each require description and analysis.

The Ormond Lagoon area also has different habitat values that vary seasonally depending on factors like annual precipitation, seasonal precipitation, temperature and other factors. Dr. Rim Fay refers to the system as a reverse estuary because of its ability to transition from lagoon type during the dry seasons to an estuary associated with major storm events. The Project has indirect effects upon all of these habitats and associated wildlife, yet fails to follow CEQA guidelines for disclosure and analysis of information.

The RDEIR similarly fails to provide adequate analysis on habitat types at NBPM or in the other areas east of Arnold Road.

The RDEIR says: "More thorough wildlife surveys are necessary in order to determine the presence of absence of several potentially occurring special-status species in the Southern Subarea." 3.6-19. This violates CEQA Guidelines.

The methodology used in the RDEIR for determining the baseline of expected plant and animal life and for sensitive plants and animals is incomplete and inadequate and therefore in need of major revision. Although it is not unusual to rely on lists like the California Natural Diversity Data Base, ("CNDDB") such list aren't always the definitive source of information. In this instance the combined knowledge of all the people who watch over the Ormond area is the definitive source. The point is that the RDEIR understates the biota of the project site and adjacent areas at every opportunity in such a way as to indicate prejudice and bad faith. For example, the DEIR at 3.6-34 states that regarding two recent assessments "Both of these studies rely heavily on the previous data from adjoining sensitive resource areas." Therefore the inadequacies of studies done years ago get passed on to this generation of inadequate studies. This deficiency is confirmed by the one-day field survey done on November 3, 2004.

The LPC as a participant in the Ormond Beach Wildlife Patrol ("OBWP") is relying on information gathered by participants who are on site every day of the year for many years in succession. Obviously, the LPC would have data on substantially more species on substantially more occasions.

Just prior to the release of the DEIR in May 2007 a large project was conducted along the perimeters of the southern subarea. The canal that follows the northern property line of the Reliant energy plant, then proceeding south to join with the old Oxnard drain and part of the Oxnard Drain was lined with large trees forming a riparian area. Several species of trees formed a canopy over parts of the drainage canals and along the banks. Additionally, large trees

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growing in other parts of the southern subarea have been removed, thereby altering potential habitat uses.

35 The partial list of wildlife (3.6.1.6.2) stated as being present in the canal at the southern end of the southern subarea is a greatly truncated. For a more accurate representation see the OBCMP, (Exhibit 20, Appendix A).

The lists of birds that might be found on southern subarea grasslands are equally truncated, (Exhibit 20, Appendix A).

Under habitat types the lost riparian should be listed.

36 The impact of Invasive Species identified for the northern subarea, ("Impact BIO-1") is incorrectly identified as a Class II impact in the RDEIR when it is in fact Class I. Mitigation is not feasible. There is no agency or protocol in existence to stop the spread of seeds or pollen that could disperse non-native species. Therefore this Class I impact requires further analysis and mitigation.

The RDEIR identified the planned importation of non-native species that is an official part of the project but failed to identify that residents will each choose a variety of non-native species for decoration of their home area. It would be impossible to stop this common practice of residents and property owners. Therefore this Class I impact requires further analysis and mitigation.

37 The Class I impact for Stormwater Runoff identified for the northern subarea, ("Impact BIO-2") is incorrectly identified as a Class III impact in the RDEIR. Mitigation is not feasible. There is no agency or protocol in existence to stop the migration of waters from the project area to the sensitive habitat areas at Ormond. Witness the contamination that has flowed from the Environmental Protection Agency, Superfund nominated Halaco site. No Ventura County agency acted to stop the contamination of local waters for over 40 years. Additionally, the Ormond lagoon area is contaminated by chemicals related to storm runoff from the Oxnard Industrial Drain, ("OID") the J-Street Drain, Bubbling Springs Creek, and several ditches that carry runoff from agricultural fields. None of this runoff is regulated or controlled. Therefore this Class I impact requires further analysis and mitigation.

Ultimately the runoff will end up in ESHA located in the Ormond lagoon area or the Mugu estuary.

38 The RDEIR impact identified for the northern subarea, ("Impact BIO-3") Waters of the United States, is incorrectly identified as a beneficial impact. Mitigation is not feasible. There is no agency or protocol in existence to stop the flow of pollutants from the project area into sensitive habitat areas. The OID is directly connected with those areas. All waters that flow into the OID end up in the Ormond lagoon thereby having impacts upon ESHA and endangered species.

Additionally, there is no agreement to insure that wildlife attracted to the lake will not later be deemed to be a nuisance and subjected to destruction as frequently happens in other Oxnard lakes. Consultation with USFWS is required. A CDP is required. Section 1600 agreements are required. Therefore this Class I impact requires further analysis and mitigation.

The impact RDEIR identified for the northern subarea, ("Impact BIO-4") Bird Foraging Area is incorrectly identified as a Class II impact. Mitigation is not feasible. There is no agency or protocol in existence to replace lost habitat for wildlife. Even row-crops provide habitat for resting, roosting, foraging and other uses. Recent surveys have shown a steep decline of many avian species due to the loss of habitat in Southern California. Therefore this Class I impact requires further analysis and mitigation.

39

The RDEIR fails to consider the sheer value of space in discussing this impact. Wildlife often needs some degree of separation among individuals of a given species or between species. Therefore the loss of space cannot be mitigated by increasing the habitat value of other areas.

The RDEIR impact identified for the northern subarea, ("Impact BIO-5") Displacement/Mortality of Wildlife is incorrectly identified as a Class III impact. Mitigation is not feasible. Replacement habitat is not available as adjacent habitat areas may already be at carrying capacity. Additionally, even common species are important because of their role in an ecological system. Some species may act as forage for sensitive species like black-shouldered kites, peregrine falcons burrowing owls and others. Loss of hundreds of acres of habitat-- however degraded-- next to sensitive habitat areas is much more significant than the RDEIR acknowledges. Therefore this Class I impact requires further analysis and mitigation.

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The mass of biota available as forage for adjacent wildlife will be completely eliminated.

The RDEIR impact identified for the northern subarea, ("Impact BIO-6") Nesting Birds is incorrectly identified as a Class II impact. Mitigation is not feasible. There is no agency or protocol in existence to stop the loss of nests in the immediate project vicinity. Therefore this Class I impact requires further analysis and mitigation.

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The RDEIR impact identified for the northern subarea, ("Impact BIO-7") Special Status Bird Foraging Habitat is incorrectly identified as a Class II impact. Mitigation is not feasible. The RDEIR has not identified the full range of species that could use the site and has underestimated the habitat uses that take place. Several species may use the area for breeding even if nests are located off site. The site is also used for resting, roosting and other uses. There is no agency or protocol in existence to adequately compensate for the loss of these important aspects of the survival of wildlife. Therefore this Class I impact requires further analysis and mitigation.

42

RDEIR Impact 7a White Tailed (Black Shouldered) Kite fails to adequately assess the Class I impacts that would result from development of the northern subsection. It is certain that individuals of the species will lose 322 acres of foraging habitat and that additional acreage will be degraded as habitat due to the urbanization of the Ormond area.

Each of the listed causes of their decline shall be expected to occur: car strike, loss and fragmentation of their habitat, increased attacks by crows and ravens and reduction in prey items due to increased development.

"White tailed kites require large areas of open space or grassland for foraging and secluded areas for nesting in trees or shrubs." (RDEIR p3.6-45).

Mitigation Bio-2 is not an adequate or feasible mitigation for harm to biological resources. Bio-2 simply provides a name for a mitigation without any substantive or enforceable measures that would make it real.

RDEIR impact 7b, Northern Harrier, fails to adequately assess the Class I impacts that would result from development of the northern subsection. It is certain that individuals of the species will lose 322 acres of foraging habitat and that additional acreage will be degraded as habitat due to the urbanization of the Ormond area.

Northern harriers are residents of most of the southern subarea and multiple individuals may be seen on any given day. Therefore, car strike, loss and fragmentation of their habitat, increased attacks by crows and ravens and reduction in prey items due to increased development will result from development of the northern subarea.

Northern harriers require large areas of open space, grasslands and marsh for foraging and secluded areas for resting and roosting.

Mitigation Bio-2 is not an adequate or feasible mitigation for harm to biological resources. Bio-2 simply provides a name for a mitigation without any substantive or enforceable measures that would make it real.

RDEIR impact 7c, Sharp-shinned Hawk, fails to adequately assess the Class I impacts that would result from development of the northern subsection. It is certain that individuals of the species will lose 322 acres of foraging habitat and that additional acreage will be degraded as habitat due to the urbanization of the Ormond area.

Sharp-shinned hawks are residents of most of the both subareas and multiple individuals may be seen on any given day. Therefore, car strike, loss and fragmentation of their habitat, increased attacks by crows and ravens and reduction in prey items due to increased development will result from development of the northern subarea.

Sharp-shinned hawks require large areas of open space, trees or forested areas, grasslands and marsh for foraging and secluded areas for resting and roosting.

Sharp-shinned hawks were severely impacted by the removal of trees throughout the southern subarea. One Sharp-shinned hawk was found injured by a car strike in the southern subarea by the OBWP in 2007.

Mitigation Bio-2 is not an adequate or feasible mitigation for harm to biological resources. Bio-2 simply provides a name for a mitigation without any substantive or enforceable measures that would make it real.

RDEIR impact 7d, Cooper's hawk, fails to adequately assess the Class I impacts that would result from development of the northern subsection. It is certain that individuals of the species will lose 322 acres of foraging habitat and that additional acreage will be degraded as habitat due to the urbanization of the Ormond area.

Cooper's hawks are residents of most of the both subareas and multiple individuals may be seen on any given day. Therefore, car strike, loss and fragmentation of their habitat, increased attacks by crows and ravens and reduction in prey items due to increased development will result from development of the northern subarea.

Cooper's hawks require large areas of open space, trees or forested areas, grasslands and marsh for foraging and secluded areas for resting and roosting.

Cooper's hawks were severely impacted by the removal of trees throughout the southern subarea.

Mitigation Bio-2 is not an adequate or feasible mitigation for harm to biological resources. Bio-2 simply provides a name for a mitigation without any substantive or enforceable measures that would make it real.

RDEIR Impact 7e, Ferruginous Hawk, fails to adequately assess the Class I impacts that would result from development of the northern subsection. It is certain that individuals of the species will lose 322 acres of foraging habitat and that additional acreage will be degraded as habitat due to the urbanization of the Ormond area.

Ferruginous hawks are visitors of most of the both subareas. Therefore, car strike, loss and fragmentation of their habitat, increased attacks by crows and ravens and reduction in prey items due to increased development will result from development of the northern subarea.

Ferruginous hawks are very shy and require large areas of open space for foraging and secluded areas for resting and roosting. The OBWP has made many sightings of Ferruginous hawks.

Mitigation Bio-2 is not an adequate or feasible mitigation for harm to biological resources. Bio-2 simply provides a name for a mitigation without any substantive or enforceable measures that would make it real.

RDEIR Impact 7f, Merlins, fails to adequately assess the Class I impacts that would result from development of the northern subsection. It is certain that individuals of the species will lose 322 acres of foraging habitat and that additional acreage will be degraded as habitat due to the urbanization of the Ormond area.

Mitigation Bio-2 is not an adequate or feasible mitigation for harm to biological resources. Bio-2 simply provides a name for a mitigation without any substantive or enforceable measures that would make it real.

RDEIR Impact 7g, peregrine falcons, fails to adequately assess the Class I impacts that would result from development of the northern subsection. It is certain that individuals of the species will lose 322 acres of foraging habitat and that additional acreage will be degraded as habitat due to the urbanization of the Ormond area.

Peregrine falcons are visitors of most of the both subareas. Therefore, car strike, loss and fragmentation of their habitat, increased attacks by crows and ravens and reduction in prey items due to increased development will result from development of the northern subarea.

Peregrine falcons are very shy and require large areas of open space for foraging and secluded areas for resting and roosting. The OBWP has made many sightings of peregrine falcons. Peregrine falcons are still in a recovery phase, meaning that not enough individuals are yet present to make any conclusions regarding nesting habitat. Additionally, peregrines that forage on gulls and other marine related species continue to suffer eggshell thinning. Therefore, successful reproduction locally may be dependent upon the ability to forage into inland areas like the northern subarea.

Mitigation Bio-2 is not an adequate or feasible mitigation for harm to biological resources. Bio-2 simply provides a name for a mitigation without any substantive or enforceable measures that would make it real.

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RDEIR Impact 7h, Long-billed curlew, fails to adequately assess the Class I impacts that would result from development of the northern subsection. It is certain that individuals of the species will lose 322 acres of foraging habitat and that additional acreage will be degraded as habitat due to the urbanization of the Ormond area.

Long-billed curlews are residents of the southern subarea but may forage in the northern area. Therefore, car strike, loss and fragmentation of their habitat, and reduction in prey items due to increased development will result from development of the northern subarea.

The OBWP has made many sightings of Long-billed curlew. Mitigation Bio-2 is not an adequate or feasible mitigation for harm to biological resources. Bio-2 simply provides a name for a mitigation without any substantive or enforceable measures that would make it real.

RDEIR Impact 7i, Mountain plovers, fails to adequately assess the Class I impacts that would result from development of the northern subsection. It is certain that individuals of the species will lose 322 acres of foraging habitat and that additional acreage will be degraded as habitat due to the urbanization of the Ormond area.

Mountain plovers are frequent visitors of most of the southern subareas frequently drawing hordes of birdwatchers to the area. Therefore, car strike, loss and fragmentation of their habitat, increased attacks by predators and reduction in prey items due to increased development will result from development of the northern subarea.

Mountain plovers require large areas of open space for foraging and secluded areas for resting and roosting. The OBWP has made many sightings of Mountain plovers.

Mitigation Bio-2 is not an adequate or feasible mitigation for harm to biological resources. Bio-2 simply provides a name for a mitigation without any substantive or enforceable measures that would make it real.

RDEIR Impact 7j, Short eared owls, fails to adequately assess the Class I impacts that would result from development of the northern subsection. It is certain that individuals of the species will lose 322 acres of foraging habitat and that additional acreage will be degraded as habitat due to the urbanization of the Ormond area.

Short-eared owls are frequent visitors of most of both subareas. Therefore, car strike, loss and fragmentation of their habitat, increased attacks by predators and reduction in prey items due to increased development will result from development of the northern subarea.

Short-eared owls require large areas of open space for foraging that are not affected by light pollution and secluded areas for resting and roosting. The OBWP has made many sightings of Short eared owls.

Mitigation Bio-2 is not an adequate or feasible mitigation for harm to biological resources. Bio-2 simply provides a name for a mitigation without any substantive or enforceable measures that would make it real.

RDEIR Impact 7k, Loggerhead shrike, fails to adequately assess the Class I impacts that would result from development of the northern subsection. It is certain that individuals of the species will lose 322 acres of foraging habitat and that additional acreage will be degraded as habitat due to the urbanization of the Ormond area.

Loggerhead shrikes are frequent visitors of most of both subareas. Therefore, car strike, loss and fragmentation of their habitat, increased attacks by predators and reduction in prey items due to increased development will result from development of the northern subarea.

Loggerhead shrikes require large areas of open space for foraging and secluded areas for resting and roosting. The OBWP has made many sightings of Loggerhead shrikes.

Mitigation Bio-2 is not an adequate or feasible mitigation for harm to biological resources. Bio-2 simply provides a name for a mitigation without any substantive or enforceable measures that would make it real.

RDEIR Impact 7l, California horned larks, fails to adequately assess the Class I impacts that would result from development of the northern subsection. It is certain that individuals of the species will lose 322 acres of foraging habitat and that additional acreage will be degraded as habitat due to the urbanization of the Ormond area.

California horned larks are frequent visitors of most of the both subareas. Therefore, car strike, loss and fragmentation of their habitat, increased attacks by predators and reduction in prey items due to increased development will result from development of the northern subarea.

California horned larks require large areas of open space, including grasslands, coastal foredunes and backdunes, sage scrub and other habitats for foraging and secluded areas for resting and roosting. The OBWP has made many sightings of California horned larks.

Mitigation Bio-2 is not an adequate or feasible mitigation for harm to biological resources. Bio-2 simply provides a name for a mitigation without any substantive or enforceable measures that would make it real.

RDEIR Impact 7m, Tricolored blackbirds, fails to adequately assess the Class I impacts that would result from development of the northern subsection. It is certain that individuals of the species will lose 322 acres of foraging habitat and that additional acreage will be degraded as habitat due to the urbanization of the Ormond area.

Tricolored blackbirds are frequent visitors of most of the both subareas. Therefore, car strike, loss and fragmentation of their habitat, increased attacks by predators and reduction in prey items due to increased development will result from development of the northern subarea.

Tricolored blackbirds require open space, including grasslands, marshlands and other habitats for foraging and secluded areas for resting and roosting. The OBWP has made many sightings of Tricolored blackbirds.

Mitigation Bio-2 is not an adequate or feasible mitigation for harm to biological resources. Bio-2 simply provides a name for a mitigation without any substantive or enforceable measures that would make it real.

RDEIR Impact Bio-8, Burrowing owls, fails to adequately assess the Class I impacts that would result from development of the northern subsection. It is certain that individuals of the species will lose 322 acres of foraging habitat and that additional acreage will be degraded as habitat due to the urbanization of the Ormond area.

Burrowing owls are frequent visitors of most of the both subareas and have been observed in their burrows in the southern subarea. Therefore, car strike, loss and fragmentation of their habitat, increased attacks by predators and reduction in prey items due to increased development will result from development of the northern subarea.

Burrowing owls require large areas of open space, including grasslands, marsh lands and other habitats for foraging and secluded areas for resting and roosting. The OBWP has made many sightings of Burrowing owls.

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#3  
Mitigation Bio-2 is not an adequate or feasible mitigation for harm to biological resources. Bio-2 simply provides a name for a mitigation without any substantive or enforceable measures that would make it real.

#4  
The RDEIR impact identified for the northern subarea, ("Impact BIO-9") Wildlife corridors is incorrectly identified as a Class II impact. Mitigation is not feasible. The northern subarea functions as a corridor connecting areas east of the project area with the southern subarea. The location of Hueneme Road and Olds Road would diminish the value as a wildlife corridor but the area would still have significant value in this regard especially during the night. There is no agency or protocol in existence to remedy the loss of this wildlife corridor. Therefore this Class I impact requires further analysis and mitigation.

#5  
The RDEIR impact identified for the northern subarea, ("Impact BIO-10") Sensitive offsite habitats is incorrectly identified as a Class II impact. Mitigation is not feasible. The RDEIR'S failure to understand the real impacts associated with the introduction of a large residential community into a rural area dominated by agriculture and sensitive habitat areas is a massive breakdown in the requirements of CEQA that have already been sited. It would be impossible, in the timeframe given for comments to adequately list all of the individual indirect impacts that could be expected from the urbanization of this area. The effect would be to create a constant presence of people, their pets, their trash, their pollutants, their noise, their nighttime lighting, their traffic, urban runoff, waste, use of water and many other effects. All area habitats would be significantly degraded in value. Native plants and animals would all suffer the largest loss of sensitive habitat area in Ventura County in many years. Special status species would all be placed closer to jeopardy status or local extirpation. The impacts to sensitive habitat would be catastrophic and regional in significance. Nothing in the RDEIR would indicate a recognition of the severity of the situation. Hardly anything is said about the many ways that habitat would be degraded. Therefore the proposed mitigations are astonishing in their ineffectiveness.

The RDEIR must comment on the impacts of each sensitive habitat type in the HOM area. This must include habitats at NBPM and the surrounding agricultural lands and duck clubs. There is no agency or protocol in existence to engage in any meaningful mitigation. Therefore this Class I impact requires further analysis and mitigation.

The RDEIR recognizes a problem with cats but only lists a few of the species that would become prey. The impact created is of such significance that consultation with USFWS and CDFG is required. The same goes for dogs. They weren't mentioned at all, curiously. The numbers of species likely to be harmed by dogs, and their walkers is also a significant unmitigated impact. What other invasive species will we see? Ferrets? Goldfish? These are real problems to be expected with the urbanization of the project site.

The RDEIR mistakenly refers to the lake as a barrier when it would be more accurately characterized as an impediment. Regardless, in the case of dogs, their owners will be driving them down to the sensitive habitat areas. Cats can easily find their way around the "barrier" or over the same bridges that people use to enter and exit.

The RDEIR notes that, "The Ormond Beach and point Mugu areas support a wide array of sensitive plant and wildlife species and southern coastal salt marsh habitat that could be impacted indirectly by increased development in the nearby upland areas. For example, residential development close to these areas would likely result in higher human use of the area which would cause negative impacts to native species such as trampling and competition with non-native plant and animal populations." 3.6-49. This acknowledgement doesn't begin to describe the expected indirect impacts. The proposed mitigations are inadequate as per CEQA Guidelines.

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The impact identified for the northern subarea, ("Impact BIO-11") western Snowy plover is incorrectly identified as a Class II impact. Mitigation is not feasible. Snowy plovers are extremely sensitive to human disturbance and disturbance by dogs or other domestic animals. Plovers will start to depart nests sites when humans are 200 yards away. The increased human and pet traffic at Ormond Beach would result in significant harm and harassment as defines "take" in the Endangered Species Act, ("ESA"). The mitigations defined are not adequate to avoid the expected harm. The effect on Oxnard ESHA is significant, and a violation of the Coastal Act.

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There is no agency or protocol in existence to avoid take of snowy plovers. Therefore this Class I impact requires further analysis and mitigation, but would likely result in violation of the ESA. Mitigation Bio-5 is not an adequate or feasible mitigation for harm to biological resources. Bio-5 simply provides a name for a mitigation without any substantive or enforceable measures that would make it real the same applies to the Ormond Beach Natural Resource Management Program, (OBNRMP).

The RDEIR impact identified for the northern subarea, ("Impact BIO-12") California least terns, is incorrectly identified as a Class II impact. Mitigation is not feasible. California least terns are extremely sensitive to human disturbance and disturbance by dogs or other domestic animals. Least terns were locally extirpated from Ormond Beach for a period of about 40 years until 1990. In 1990 the LPC acted to start the OBWP. The LPC has acted to try to protect both least terns and plovers since that time and has documented human disturbances throughout these past 18 years. Therefore based on these years of daily observations we must conclude that increased human and pet traffic at Ormond Beach would result in significant harm and harassment as defines "take" in the Endangered Species Act, ("ESA") to least terns. Least terns at Ormond have in recent years experienced site abandonment due to harassment. The population has not recovered from this impact. Least terns should nest in colonies of thousands of birds. At Ormond the numbers in 2007 are approximately 40 nests. In 2008 the nesting numbers were higher but numbers of successfully fledged birds was low due to unpermitted take resulting from people and pets. A number this low does not constitute a viable colony. Additional pressure on least terns when they have not recovered from the most recent devastating events may result in local extirpation. The mitigations defined are not adequate to avoid the expected harm. The effect on Oxnard ESHA is significant, and a violation of the Coastal Act. There is no agency or protocol in existence to avoid take of least terns. Therefore this Class I impact requires further analysis and mitigation, but would likely result in violation of ESA.

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 There is no agency or protocol in existence to avoid take of least terns. Therefore this Class I impact requires further analysis and mitigation, but would likely result in violation of the ESA. Mitigation Bio-5 is not an adequate or feasible mitigation for harm to biological resources. Bio-5 simply provides a name for a mitigation without any substantive or enforceable measures that would make it real the same applies to the Ormond Beach Natural Resource Management Program, (OBNRMP).

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 For some unexplained reason the RDEIR added analysis of direct impacts to several, but not all, of the sensitive species that would be expected to be found in and around the northern subarea. However, the RDEIR fails to include analysis of indirect impacts for most of these species. The RDEIR does include analysis, however incomplete, of indirect impacts to two sensitive species--least terns and snowy plovers. But what about light-footed clapper rails, Belding's savannah sparrows, long billed curlews, brown pelicans, etc. etc.. Rather than listing each species, the LPC hereby asserts that each of the sensitive species that appear in the Sensitive Species List that is part of Conceptual Management Plan for Ormond Beach, are likely to be experience Class I impacts that are not even addressed as indirect impacts in this DEIR, and certainly are not mitigated.

Failure of the DEIR to consider the whole range of species that would experience direct and indirect impacts due to the residential development is a substantial violation of CEQA.

It is also noteworthy that indirect impacts to wildlife at NBPM are completely ignored.

Sensitive plants are not considered as either direct or indirect impacts at either Ormond Beach or Mugu.

The LPC does not wish to assume the onus to rewrite the DEIR for the project proponent by listing each species and habitat type that could be expected to suffer adverse impacts, but which was omitted from the RDEIR, as this is a violation of the intent of CEQA. The City must act to remedy these gross omissions. We suggest that each of the species listed in the sensitive species list included in the Ormond Beach Conceptual Management Plan be considered in the same way that least terns and snowy plovers were considered in the RDEIR.

#### **Southern Subarea Direct impacts**

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 The impact identified for the southern subarea, ("Impact BIO-13") invasive species is incorrectly identified as a Class II impact. Mitigation is not feasible. There is no agency or protocol in existence to stop the spread of seeds or pollen that could disperse non-native species or to control individuals who do not wish to cooperate with any plans. Therefore this Class I impact requires further analysis and mitigation, but would likely result in violation of the ESA. Mitigation Bio-2 is not an adequate or feasible mitigation for harm to biological resources. Bio-2 simply provides a name for a mitigation without any substantive or enforceable measures that would make it real.

In addition to the 370 acres identified the remaining 220 acres will not likely qualify for acquisition and wetlands restoration and therefore must be considered as part additional area to be developed.

The RDEIR impact identified for the southern subarea, ("Impact BIO-14") stormwater runoff is incorrectly identified as a Class III impact. Mitigation is not feasible. There is no agency or protocol in existence to stop stormwater runoff from migrating into sensitive habitat areas. Therefore this Class I impact requires further analysis and mitigation, but would likely result in violation of the ESA.

The RDEIR impact identified for the southern subarea, ("Impact BIO-15") waters of the United States, is incorrectly identified as a Class IV beneficial impact. Increase in waters of the United States is beneficial. However, if this feature comes at the cost of development of hundreds of acres of agricultural lands that currently provide habitat and buffer then the impact is significant and adverse. The combination pedestrian trails and outdoor eating areas will create Class I impacts by bringing unregulated people and food products into a sensitive area. Mitigation is not feasible. There is no agency or protocol in existence to stop the migration of waters from the project area to the potential restoration area or to mitigate the impacts associated with the trails and picnic area. Therefore this Class I impact requires further analysis and mitigation.

#### Direct Impacts

The impact identified for the southern subarea, ("Impact BIO-16") foraging habitat is incorrectly identified as a Class II impact. Mitigation for loss of foraging habitat is not feasible. There is no agency or protocol in existence to recreate the habitat that is lost. In fact the 370 acres lost are part of the area identified by the Consensus Plan and Ormond Beach Conceptual Management Plan as an integral part of area restoration efforts. The loss of 370 acres is a significant adverse impact that cannot be dealt with by simplistic measures like Bio-4. Therefore this Class I impact requires further analysis and mitigation.

In any event, the RDEIR follows a fatal flaw that it contains throughout its analysis by assuming that the 220 acres it keeps citing is the extent of potential acquisition and restoration. The Western Alliance for Nature, ("WAN") is a land conservancy that has offered to help with the purchase of any Ormond area property for which there is a willing seller. Many other Conservancies are in existence for this very purpose. The LPC INSISTS THAT ALL OF THE SOUTHERN SUBAREA SHOULD BE CONSIDERED FOR RESTORATION. Therefore this Class I impact requires further analysis and mitigation.

The impact identified for the southern subarea, ("Impact BIO-17") displacement/mortality of wildlife is incorrectly identified as a Class III impact. Mitigation is not feasible. There is no agency or protocol in existence to stop the displacement or mortality of wildlife in the project area or near this area. For certain species a forced move may be a death sentence. The RDEIR must consider the population of species that were on the Project site until these alterations. Therefore this Class I impact requires further analysis and mitigation.

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SA  
 The impact identified for the southern subarea, ("Impact BIO-18") nesting birds is incorrectly identified as a Class II impact. Mitigation is not feasible. There is no agency or protocol in existence to stop the destruction of nests in the project area or near this area. Furthermore, the RDEIR says there are no trees in the Project area. This is now true because a major project has recently been completed to remove a large number of trees around the perimeter of the area. This tree removal was a project that had significant impacts upon the baseline of species found in the area but which had no environmental review. The fragmenting of the effects of a Project is forbidden by CEQA, yet this is exactly what has happened. The RDEIR must consider the population of species that were on the Project site until these alterations. Therefore this Class I impact requires further analysis and mitigation.

There is no agency or protocol in existence to avoid loss of nests. Therefore this Class I impact requires further analysis and mitigation, but would likely result in violation of the migratory Bird Treaty Act and Fish and Game Code. Mitigation Bio-3 is not an adequate or feasible mitigation for harm to biological resources. Bio-3 simply provides a name for a mitigation without any substantive or enforceable measures that would make it real.

The impact identified for the southern subarea, ("Impact BIO-18") is incorrectly identified as a Class III impact. Mitigation is not feasible. There is no agency or protocol in existence to stop the spread of seeds or pollen that could disperse non-native species or to control individuals who do not wish to cooperate with any plans. Therefore this Class I impact requires further analysis and mitigation.

SB  
 The impact identified for the southern subarea, ("Impact BIO-19") special status birds is incorrectly identified as a Class II impact. Mitigation is not feasible. There is no agency or protocol in existence to stop the impacts to special status birds. The RDEIR incorrectly minimizes the number of special status species that are found in the area. The RDEIR also incorrectly states that the site is used only for foraging. Most of the special status species cited can be observed resting, roosting, breeding and foraging within the project area. Several special status species had nests in trees recently removed from the area as previously stated. Therefore this Class I impact requires further analysis and mitigation.

This Class I impact would likely result in violation of the migratory Bird Treaty Act and Fish and Game Code. Mitigation Bio-2 is not an adequate or feasible mitigation for harm to biological resources. Bio-2 simply provides a name for a mitigation without any substantive or enforceable measures that would make it real.

SL  
 The impact identified for the southern subarea, ("Impact BIO-21") is incorrectly identified as a Class II impact. Mitigation is not feasible. There is no agency or protocol in existence to stop the harm and harassment to burrowing owls resulting from the project. The DEIR incorrectly predicts a low likelihood that burrowing owls would use the site. The likelihood is rather high. Members of the OBWP have observed burrowing owls throughout the Project area. These observations have been noted almost every year for the past several years. The project site must be ranked as excellent habitat for burrowing owls. The loss of this habitat

is a significant adverse impact to this special status species. Therefore this Class I impact requires further analysis and mitigation.

RDEIR ("Impact-19a") American bittern, fails to adequately assess the Class I impacts that would result from development of the southern subarea. It is certain that individuals of the species will lose as much as 595 acres of foraging habitat and that additional acreage will be degraded as habitat due to the urbanization of the Ormond area.

Each of the listed causes of their decline shall be expected to occur: car strike, loss and fragmentation of their habitat, increased attacks by crows and ravens and reduction in prey items due to increased development.

American bitterns require large areas and secluded areas for nesting in trees or shrubs. Mitigation Bio-2 is not an adequate or feasible mitigation for harm to biological resources. Bio-2 simply provides a name for a mitigation without any substantive or enforceable measures that would make it real.

RDEIR ("Impact 19b") White Tailed (Black Shouldered) Kite, fails to adequately assess the Class I impacts that would result from development of the southern subarea. It is certain that individuals of the species will lose as much as 595 acres of foraging habitat and that additional acreage will be degraded as habitat due to the urbanization of the Ormond area.

Each of the listed causes of their decline shall be expected to occur: car strike, loss and fragmentation of their habitat, increased attacks by crows and ravens and reduction in prey items due to increased development.

"White tailed kites require large areas of open space or grassland for foraging and secluded areas for nesting in trees or shrubs." (RDEIR p3.6-45).

Kites nested in the trees recently removed as a precursor to this project. Cumulative effect is loss of nesting habitat. Furthermore, nest sites in the vicinity will also be lost due to the effects of urbanization of the project site.

Mitigation Bio-2 and 3 are not an adequate or feasible mitigation for harm to biological resources. Bio-2 and 3 simply provides a name for a mitigation without any substantive or enforceable measures that would make it real.

RDEIR ("Impact-19c") Bald eagle, fails to adequately assess the Class I impacts that would result from development of the southern subarea. It is certain that individuals of the species will lose as much as 595-acres of foraging habitat and that additional acreage will be degraded as habitat due to the urbanization of the Ormond area.

Each of the listed causes of their decline shall be expected to occur: car strike, loss and fragmentation of their habitat, increased attacks by crows and ravens and reduction in prey items due to increased development.

Bald eagles require large areas for foraging and secluded areas for nesting in trees or shrubs.

Mitigation Bio-2 is not an adequate or feasible mitigation for harm to biological resources. Bio-2 is simply provides a name for a mitigation without any substantive or enforceable measures that would make it real.

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RDEIR ("Impact-19d"), Northern Harrier, fails to adequately assess the Class I impacts that would result from development of the southern subsection. It is certain that individuals of the species will lose as much as 595 acres of foraging habitat and that additional acreage will be degraded as habitat due to the urbanization of the Ormond area.

Northern harriers are residents of most of the southern subarea and multiple individuals may be seen on any given day. Therefore, car strike, loss and fragmentation of their habitat, increased attacks by crows and ravens and reduction in prey items due to increased development will result from development of the southern subarea.

Northern harriers require large areas of open space, grasslands and marsh for foraging and secluded areas for resting and roosting.

Mitigation Bio-2 is not an adequate or feasible mitigation for harm to biological resources. Bio-2 simply provides a name for a mitigation without any substantive or enforceable measures that would make it real.

RDEIR ("Impact-19e"), Sharp-shinned Hawk, fails to adequately assess the Class I impacts that would result from development of the southern subsection. It is certain that individuals of the species will lose as much as 595 acres of foraging habitat and that additional acreage will be degraded as habitat due to the urbanization of the Ormond area.

Sharp-shinned hawks are residents of most of the both subareas and multiple individuals may be seen on any given day. Therefore, car strike, loss and fragmentation of their habitat, increased attacks by crows and ravens and reduction in prey items due to increased development will result from development of the southern subarea.

Sharp-shinned hawks require large areas of open space, trees or forested areas, grasslands and marsh for foraging and secluded areas for resting and roosting.

Sharp-shinned hawks were severely impacted by the removal of trees throughout the southern subarea. One Sharp-shinned hawk was found injured by a car strike in the southern subarea by the OBWP in 2007.

Mitigation Bio-2 is not an adequate or feasible mitigation for harm to biological resources. Bio-2 simply provides a name for a mitigation without any substantive or enforceable measures that would make it real.

RDEIR ("Impact-19f"), Cooper's hawk, fails to adequately assess the Class I impacts that would result from development of the southern subsection. It is certain that individuals of the species will lose as much as 595 acres of foraging habitat and that additional acreage will be degraded as habitat due to the urbanization of the Ormond area.

Cooper's hawks are residents of most of the both subareas and multiple individuals may be seen on any given day. Therefore, car strike, loss and fragmentation of their habitat, increased attacks by crows and ravens and reduction in prey items due to increased development will result from development of the southern subarea.

Cooper's hawks require large areas of open space, trees or forested areas, grasslands and marsh for foraging and secluded areas for resting and roosting.

Cooper's hawks were severely impacted by the removal of trees throughout the southern subarea.

Mitigation Bio-2 is not an adequate or feasible mitigation for harm to biological resources. Bio-2 simply provides a name for a mitigation without any substantive or enforceable measures that would make it real.

RDEIR ("Impact-19g, Ferruginous Hawk, fails to adequately assess the Class I impacts that would result from development of the southern subsection. It is certain that individuals of the species will lose as much as 595 acres of foraging habitat and that additional acreage will be degraded as habitat due to the urbanization of the Ormond area.

Ferruginous hawks are visitors of most of the both subareas . Therefore, car strike, loss and fragmentation of their habitat, increased attacks by crows and ravens and reduction in prey items due to increased development will result from development of the southern subarea.

Ferruginous hawks are very shy and require large areas of open space for foraging and secluded areas for resting and roosting. The OBWP has made many sightings of Ferruginous hawks.

Mitigation Bio-2 is not an adequate or feasible mitigation for harm to biological resources. Bio-2 simply provides a name for a mitigation without any substantive or enforceable measures that would make it real.

RDEIR ("Impact-19h, Merlins, fails to adequately assess the Class I impacts that would result from development of the southern subarea. It is certain that individuals of the species will lose as much as 595 acres of foraging habitat and that additional acreage will be degraded as habitat due to the urbanization of the Ormond area.

Mitigation Bio-2 is not an adequate or feasible mitigation for harm to biological resources. Bio-2 simply provides a name for a mitigation without any substantive or enforceable measures that would make it real.

The impact identified for the southern subarea, ("Impact BIO-19i") Peregrine falcons, is incorrectly identified as a Class II impact. Mitigation is not feasible because BIO-2 is inadequate and insufficient to deal with the loss of habitat and related impacts to peregrine falcons. It is certain that individuals of the species will lose as much as 595 acres of foraging habitat and that additional acreage will be degraded as habitat due to the urbanization of the Ormond area.

Class I impacts would result from development of the southern subarea. Peregrine falcons are visitors of most of the both subareas . Therefore, car strike, loss and fragmentation of their habitat, and reduction in prey items due to increased development will result from development of the southern subarea.

Peregrine falcons are very shy and require large areas of open space for foraging and secluded areas for resting and roosting. The OBWP has made many sightings of peregrine falcons. Peregrine falcons are still in a recovery phase, meaning that not enough individuals are yet present to make any conclusions regarding nesting habitat. Additionally, peregrines that forage on gulls and other marine related species continue to suffer eggshell thinning. Therefore, successful reproduction locally may be dependent upon the ability to forage into inland areas like the southern subarea.

Peregrines are frequently observed on the Ormond generating station, at NBPM, and Pt. Mugu State Park. Therefore all habitat uses may occur at the Project vicinity. The RDEIR inappropriately assumes that since its consultants did not observe breeding and other behaviors that it would not be likely to occur. There is no agency or protocol in existence to stop the harm and harassment to peregrine falcons. Therefore this Class I impact requires further analysis and mitigation.

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This Class I impact would likely result in violation of the Migratory Bird Treaty Act and Fish and Game Code. Mitigation Bio-2 is not an adequate or feasible mitigation for harm to biological resources. Bio-2 simply provides a name for a mitigation without any substantive or enforceable measures that would make it real.

RDEIR ("Impact-19j, ") Light-footed clapper rail, fails to adequately assess the Class I impacts that would result from development of the southern subsection. It is certain that individuals of the species will lose the potential of 595 acres of restoration project, of foraging habitat and that additional acreage will be degraded as habitat due to the urbanization of the Ormond area.

Light-footed clapper rail are residents of the area adjacent to the southern subarea but may use the area as a corridor to travel westward. Therefore, car strike, loss and fragmentation of their habitat, and reduction in prey items due to increased development will result from development of the southern subarea.

Light-footed clapper rails are extremely shy. Any increase in noise, light, visibility of cars, pets and people will force Light-footed clapper rails to vacate their habitat in violation of the ESA. Development of the southern subarea will preclude the possibility of creating habitat for the Light-footed clapper rail as listed in the official recovery plan for Light-footed clapper rails.

Mitigation Bio-2 is not an adequate or feasible mitigation for harm to biological resources. Bio-2 simply provides a name for a mitigation without any substantive or enforceable measures that would make it real.

55 ) RDEIR ("Impact-19k"), Long-billed curlew, fails to adequately assess the Class I impacts that would result from development of the southern subsection. It is certain that individuals of the species will lose as much as 595 acres of foraging habitat and that additional acreage will be degraded as habitat due to the urbanization of the Ormond area.

Long-billed curlews are residents of the southern subarea. Therefore, car strike, loss and fragmentation of their habitat, and reduction in prey items due to increased development will result from development of the southern subarea.

The OBWP has made many sightings of Long-billed curlew. Mitigation Bio-2 and 3 are not an adequate or feasible mitigation for harm to biological resources. Bio-2 and 3 simply provides a name for a mitigation without any substantive or enforceable measures that would make it real.

RDEIR ("Impact-19l"), Mountain plovers, fails to adequately assess the Class I impacts that would result from development of the southern subsection. It is certain that individuals of the species will lose as much as 595 acres of foraging habitat and that additional acreage will be degraded as habitat due to the urbanization of the Ormond area.

Mountain plovers are frequent visitors of most of the southern subarea frequently drawing hordes of birdwatchers to the area. Therefore, car strike, loss and fragmentation of their habitat, increased attacks by predators and reduction in prey items due to increased development will result from development of the southern subarea.

Mountain plovers require large areas of open space for foraging and secluded areas for resting and roosting. The OBWP has made many sightings of Mountain plovers.

Mitigation Bio-2 and 3 are not an adequate or feasible mitigation for harm to biological resources. Bio-2 and 3 simply provides a name for a mitigation without any substantive or enforceable measures that would make it real.

RDEIR ("Impact 19m"), Short eared owls, fails to adequately assess the Class I impacts that would result from development of the northern subsection. It is certain that individuals of the species will lose as much as 595 acres of foraging habitat and that additional acreage will be degraded as habitat due to the urbanization of the Ormond area.

Short-eared owls are frequent visitors of most of both subareas . Therefore, car strike, loss and fragmentation of their habitat, increased attacks by predators and reduction in prey items due to increased development will result from development of the northern subarea.

Short-eared owls require large areas of open space for foraging that are not affected by light pollution and secluded areas for resting and roosting. The OBWP has made many sightings of Short eared owls.

Mitigation Bio-2 is not an adequate or feasible mitigation for harm to biological resources. Bio-2 simply provides a name for a mitigation without any substantive or enforceable measures that would make it real.

RDEIR ("Impact-19n"), Loggerhead shrike, fails to adequately assess the Class I impacts that would result from development of the southern subarea. It is certain that individuals of the species will lose as much as 595 acres of foraging habitat and that additional acreage will be degraded as habitat due to the urbanization of the Ormond area.

Loggerhead shrikes are frequent visitors of most of both subareas . Therefore, car strike, loss and fragmentation of their habitat, increased attacks by predators and reduction in prey items due to increased development will result from development of the southern subarea.

Loggerhead shrikes require large areas of open space for foraging and secluded areas for resting and roosting. The OBWP has made many sightings of Loggerhead shrikes.

Mitigation Bio-2 is not an adequate or feasible mitigation for harm to biological resources. Bio-2 simply provides a name for a mitigation without any substantive or enforceable measures that would make it real.

RDEIR ("Impact-19o"), Bank swallow, fails to adequately assess the Class I impacts that would result from development of the southern subarea. It is certain that individuals of the species will lose as much as 595 acres of foraging habitat and that additional acreage will be degraded as habitat due to the urbanization of the Ormond area.

Bank swallows are frequent visitors to the southern subarea . Therefore, car strike, loss and fragmentation of their habitat, increased attacks by predators and reduction in prey items due to increased development will result from development of the southern subarea.

Bank swallows require large areas of open space for foraging and secluded areas for resting and roosting.

Mitigation Bio-2 is not an adequate or feasible mitigation for harm to biological resources. Bio-2 simply provides a name for a mitigation without any substantive or enforceable measures that would make it real.

RDEIR ("Impact-19p"), Purple martin, fails to adequately assess the Class I impacts that would result from development of the southern subarea. It is certain that individuals of the

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species will lose as much as 595 acres of foraging habitat and that additional acreage will be degraded as habitat due to the urbanization of the Ormond area.

Purple martins are visitors of the southern subarea. Therefore, car strike, loss and fragmentation of their habitat, increased attacks by predators and reduction in prey items due to increased development will result from development of the southern subarea.

Purple martins require large areas of open space for foraging and secluded areas for resting and roosting.

Mitigation Bio-2 is not an adequate or feasible mitigation for harm to biological resources. Bio-2 simply provides a name for a mitigation without any substantive or enforceable measures that would make it real.

RDEIR ("Impact-19q"), California horned larks, fails to adequately assess the Class I impacts that would result from development of the southern subarea. It is certain that individuals of the species will lose as much as 595 acres of foraging habitat and that additional acreage will be degraded as habitat due to the urbanization of the Ormond area.

California horned larks are frequent visitors of most of both subareas. Therefore, car strike, loss and fragmentation of their habitat, increased attacks by predators and reduction in prey items due to increased development will result from development of the southern subarea.

California horned larks require large areas of open space, including grasslands, coastal foredunes and backdunes, sage scrub and other habitats for foraging and secluded areas for resting and roosting. The OBWP has made many sightings of California horned larks.

Mitigation Bio-2 is not an adequate or feasible mitigation for harm to biological resources. Bio-2 simply provides a name for a mitigation without any substantive or enforceable measures that would make it real.

RDEIR ("Impact-19r"), Belding's savannah sparrow, fails to adequately assess the Class I impacts that would result from development of the southern subarea. It is certain that individuals of the species will lose as much as 595 acres of foraging habitat and that additional acreage will be degraded as habitat due to the urbanization of the Ormond area.

Belding's savannah sparrows are frequent visitors of most of both subareas. Therefore, car strike, loss and fragmentation of their habitat, increased attacks by predators and reduction in prey items due to increased development will result from development of the southern subarea.

Belding's savannah sparrow require large areas of open space, salt marshes with *salicornia virginica*, grasslands, coastal foredunes and backdunes, sage scrub and other habitats for foraging and secluded areas for resting and roosting. The OBWP has made many sightings of Belding's savannah sparrow.

Mitigation Bio-2 is not an adequate or feasible mitigation for harm to biological resources. Bio-2 simply provides a name for a mitigation without any substantive or enforceable measures that would make it real.

RDEIR ("Impact-19s"), large billed savannah sparrow, fails to adequately assess the Class I impacts that would result from development of the southern subarea. It is certain that

individuals of the species will lose as much as 595 acres of foraging habitat and that additional acreage will be degraded as habitat due to the urbanization of the Ormond area.

Large billed savannah sparrow are frequent visitors. Therefore, car strike, loss and fragmentation of their habitat, increased attacks by predators and reduction in prey items due to increased development will result from development of the southern subarea.

Large billed savannah sparrow require large areas of open space for foraging and secluded areas for resting and roosting.

Mitigation Bio-2 is not an adequate or feasible mitigation for harm to biological resources. Bio-2 simply provides a name for a mitigation without any substantive or enforceable measures that would make it real.

RDEIR ("Impact-19t"), lark sparrow, fails to adequately assess the Class I impacts that would result from development of the southern subarea. It is certain that individuals of the species will lose as much as 595 acres of foraging habitat and that additional acreage will be degraded as habitat due to the urbanization of the Ormond area.

Large billed savannah sparrow are occasional visitors. Therefore, car strike, loss and fragmentation of their habitat, increased attacks by predators and reduction in prey items due to increased development will result from development of the southern subarea.

Lark sparrows require large areas of open space for foraging and secluded areas for resting and roosting.

Mitigation Bio-2 is not an adequate or feasible mitigation for harm to biological resources. Bio-2 simply provides a name for a mitigation without any substantive or enforceable measures that would make it real.

RDEIR ("Impact -19u, Tricolored blackbirds, fails to adequately assess the Class I impacts that would result from development of the southern subsection. It is certain that individuals of the species will lose as much as 595 acres of foraging habitat and that additional acreage will be degraded as habitat due to the urbanization of the Ormond area.

Tricolored blackbirds are frequent visitors of most of the both subareas. Therefore, car strike, loss and fragmentation of their habitat, increased attacks by predators and reduction in prey items due to increased development will result from development of the southern subarea.

Tricolored blackbirds require open space, including grasslands, marshlands and other habitats for foraging and secluded areas for resting and roosting. The OBWP has made many sightings of Tricolored blackbirds.

Mitigation Bio-2 is not an adequate or feasible mitigation for harm to biological resources. Bio-2 simply provides a name for a mitigation without any substantive or enforceable measures that would make it real.

RDEIR ("Impact Bio-20"), Burrowing owls, fails to adequately assess the Class I impacts that would result from development of the southern subarea. It is certain that individuals of the species will lose as much as 595 acres of foraging habitat and that additional acreage will be degraded as habitat due to the urbanization of the Ormond area.

Burrowing owls are frequent visitors of most of the both subareas and have been observed in their burrows in the southern subarea. Therefore, car strike, loss and fragmentation of their habitat, increased attacks by predators and reduction in prey items due to increased development will result from development of the southern subarea.

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 Burrowing owls require large areas of open space, including grasslands, marshlands and other habitats for foraging and secluded areas for resting and roosting. The OBWP has made many sightings of Burrowing owls.

Mitigation Bio-2 and 4 are not an adequate or feasible mitigation for harm to biological resources. Bio-2 and 4 simply provides a name for a mitigation without any substantive or enforceable measures that would make it real.

The RDEIR ("Impact Bio-21") Wildlife corridors, identified for the southern subarea, are incorrectly identified as a Class II impact. Mitigation is not feasible. The southern subarea functions as a corridor connecting areas east west north and south to each other and to the project area itself. The location of the project site is perhaps the most important corridor in Ventura County linking wetlands from Hueneme to Mugu. The value of the site as a wildlife corridor is of such importance that the prospect of a meaningful wetlands restoration in the area is totally dependent upon the ability to prevent its conversion to an urban setting.

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 The RDEIR mischaracterizes the impact and fails to understand how the ecology of the area functions. The RDEIR says: "This is not a significant impact because the development is positioned adjacent to existing development to the north and proposes open space/agriculture for the southern portion of the Southern Subarea adjacent to Ormond Beach." Neither of these reasons have anything to do with the loss of hundreds of acres of wildlife corridors. The Ormond Beach Consensus Plan recommended that all of this area be either restored or kept as open space in recognition of the advice of experts and responsible agencies as to the need to keep development out of the area. The RDEIR fails to consider the dimensions of the project when placed on area maps. The Project inserts a large urban area between the proposed restoration area to the West and habitat areas east of Arnold Road. The Project will separate the area's hydrology, sensitive habitats and wildlife forever. This may lead to genetic isolation of some species, loss of migration corridors and other habitat uses. There is no agency or protocol in existence to stop the impact associated with the loss of wildlife corridors. Therefore this Class I impact requires further analysis and mitigation.

The area also has significant value in this regard during the night because of the ability to keep light pollution away from sensitive habitat areas. There is no agency or protocol in existence to remedy the loss of this wildlife corridor. Therefore this Class I impact requires further analysis and mitigation.

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 The RDEIR ("Impact BIO-22") Sensitive offsite habitats is incorrectly identified as a Class II impact when it should be identified as Class I. Mitigation is not feasible. The RDEIR'S failure to understand the real impacts associated with the introduction of a large residential community into a rural area dominated by agriculture and sensitive habitat areas is a massive breakdown in the requirements of CEQA that have already been mentioned. It would be impossible, in the timeframe given for comments to adequately list all of the individual indirect impacts that could be expected from the urbanization of this area. The effect would be to create a constant presence of people, their pets, their trash, their pollutants, their noise, their nighttime lighting, their traffic, urban runoff, waste, use of water and many other effects. All area habitats would be significantly degraded in value. Native plants and animals would all suffer the largest loss of sensitive habitat area in Ventura County in many years. Special status species would all

be placed closer to jeopardy status or local extirpation. The impacts to sensitive habitat would be catastrophic and regional in significance. Nothing in the RDEIR would indicate a recognition of the severity of the situation. Hardly anything is said about the many ways that habitat would be degraded. Therefore the proposed mitigations are astonishing in their ineffectiveness.

The RDEIR must comment on the impacts of each sensitive habitat type in the HOM area. This must include habitats at NBPM and the surrounding agricultural lands and duck clubs. There is no agency or protocol in existence to engage in any meaningful mitigation. Therefore this Class I impact requires further analysis and mitigation.

The RDEIR notes that "The Ormond Beach and point Mugu areas support a wide array of sensitive plant and wildlife species and southern coastal salt marsh habitat that could be impacted indirectly by increased development in the nearby upland areas. For example, residential development close to these areas would likely result in higher human use of the area which would cause negative impacts to native species such as trampling and competition with non-native plant and animal populations." 3.6-49. This acknowledgement doesn't begin to describe the expected indirect impacts. The proposed mitigations Bio I,II and V are inadequate as per CEQA Guidelines.

The RDEIR, ("Impact BIO-23") Indirect impacts to special status plants is a Class I impact. Mitigation is not feasible. The increased human traffic resulting from the project at Ormond Beach would result in significant harm to listed plants as defines "take" in the Endangered Species Act, ("ESA"). Other similar plants and habitats would soon be degraded or destroyed. The mitigations defined are not adequate to avoid the expected harm. The effect on Oxnard ESHA is significant, and a violation of the Coastal Act.

The RDEIR cites indirect impacts to only two of the sensitive plants that are found in the HOM area. All sensitive plants in the area would be subject to the trampling, competition with invasive species and other problems. The DEIR must perform analysis of coulter's goldfields, red sand verbena and each of the other sensitive plants found in the area. Mitigation is not feasible because the mitigation measures listed are incomplete and inadequate.

There is no agency or protocol in existence to avoid harm to special status plants. In fact most responsible agencies refuse to take any action even when endangered plants are under direct threat of local extirpation or extinction. Therefore this Class I impact requires further analysis and mitigation, but would likely result in violation of the ESA. Mitigation Bio-1 and Bio-5 are not an adequate or feasible mitigation for harm to biological resources. Bio-1 Bio-5 simply provides a name for a mitigation without any substantive or enforceable measures that would make it real.

The RDEIR, ("Impact BIO-24") Tidewater goby, is a Class I impact. Mitigation is not feasible. The increased human traffic resulting from the project at Ormond Beach would result in significant harm and harassment so as defines "take" in the Endangered Species Act, ("ESA"). The RDEIR fails to consider the full range of indirect impacts associated with the Project. For example, in recent years individuals have attempted to drain the lagoon that provides critical habitat to tidewater gobies. These actions have been made by people curious to see what the effect would be, people who were directed as employees of local industries to drain area waters and others whose motives are not understood. Regardless, this indirect threat can be correlated

to increase with the number of people and industries in the area. The RDEIR appears to be ignorant of the problem, yet it is well known to members of the OBWP and resource agencies. There are also the potential of chemical spills and other actions that can affect the water temperature, depth, salinity, ph, and other factors that are critical to the survival of the tidewater goby. Any discharge of petroleum products or toxic materials would have the prospect of destroying the population of tidewater gobies at Ormond Beach. The mitigations defined are not adequate to avoid the expected harm. The effect on Oxnard ESHA is significant, and a violation of the Coastal Act.

There is no agency or protocol in existence to avoid harm to tidewater gobies. Therefore this Class I impact requires further analysis and mitigation, but would likely result in violation of the ESA. Mitigation Bio-5 is not an adequate or feasible mitigation for harm to biological resources. Bio-5 simply provides a name for a mitigation without any substantive or enforceable measures that would make it real.

The RDEIR, ("Impact BIO-25") Three-spined unarmored stickleback is a Class I impact. Mitigation is not feasible. The species has been identified as being present in Ormond waterways and is mentioned in biological literature. It is the job of the RDEIR to pursue a definitive answer to the exact species of stickleback that is residing at Ormond Beach. The increased human traffic resulting from the project at Ormond Beach would result in significant harm to listed Three-spined unarmored stickleback so as defines "take" in the Endangered Species Act, ("ESA"). The mitigations defined are not adequate to avoid the expected harm. The effect on Oxnard ESHA is significant, and a violation of the Coastal Act.

There is no agency or protocol in existence to avoid harm to Three-spined unarmored stickleback Therefore this Class I impact requires further analysis and mitigation, but would likely result in violation of the ESA.

The RDEIR ("Impact BIO-26") Western Snowy plover, is a Class I impact. Mitigation is not feasible. Snowy plovers are extremely sensitive to human disturbance and disturbance by dogs or other domestic animals. Plovers will start to depart nests sites when humans are 200 yards away. The increased human and pet traffic at Ormond Beach would result in significant harm and harassment as defines "take" in the Endangered Species Act, ("ESA"). The mitigations defined are not adequate to avoid the expected harm. The effect on Oxnard ESHA is significant, and a violation of the Coastal Act.

There is no agency or protocol in existence to avoid take of snowy plovers. Therefore this Class I impact requires further analysis and mitigation, but would likely result in violation of the ESA. Mitigations Bio-1 Bio-5 are not an adequate or feasible mitigation for harm to biological resources. Bio-1 and Bio-5 simply provides a name for a mitigation without any substantive or enforceable measures that would make it real the same applies to the Ormond Beach Natural Resource Management Program, (OBNRMP).

The RDEIR impact ("Impact BIO-27") California least terns, is a Class I impact. Mitigation is not feasible. California least terns are extremely sensitive to human disturbance and disturbance by dogs or other domestic animals. Least terns were locally extirpated from Ormond Beach for a period of about 40 years until 1990. In 1990 the LPC acted to start the

OBWP. The LPC has acted to try to protect both least terns and plovers since that time and has documented human disturbances throughout these past 18 years. Therefore based on these years of daily observations we must conclude that increased human and pet traffic at Ormond Beach would result in significant harm and harassment as defines "take" in the Endangered Species Act, ("ESA") to least terns. Least terns at Ormond have in recent years experienced site abandonment due to harassment. The population has not recovered from this impact. Least terns should nest in colonies of thousands of birds. At Ormond the numbers in 2007 are approximately 40 nests. In 2008 the nesting numbers were higher but numbers of successfully fledged birds was low due to unpermitted take resulting from people and pets. A number this low does not constitute a viable colony. Additional pressure on least terns when they have not recovered from the most recent devastating events may result in local extirpation. The mitigations defined are not adequate to avoid the expected harm. The effect on Oxnard ESHA is significant, and a violation of the Coastal Act. There is no agency or protocol in existence to avoid take of least terns. Therefore this Class I impact requires further analysis and mitigation, but would likely result in violation of ESA. 03

There is no agency or protocol in existence to avoid take of least terns. Therefore this Class I impact requires further analysis and mitigation, but would likely result in violation of the ESA. Mitigations Bio-1 Bio-5 are not an adequate or feasible mitigation for harm to biological resources. Bio-1 and Bio-5 simply provides a name for a mitigation without any substantive or enforceable measures that would make it real the same applies to the Ormond Beach Natural Resource Management Program, (OBNRMP).

The RDEIR, ("Impact BIO-28") white-faced ibis is a Class I impact. Mitigation is not feasible. The increased human traffic resulting from the project at Ormond Beach would result in significant harm to white faced ibis. This shy species is slowly returning to the Ormond area after years of absence. Impacts from the project will reverse this trend and lead to extirpation of the species in the area.

The mitigations defined are not adequate to avoid the expected harm. The effect on Oxnard ESHA is significant, and a violation of the Coastal Act. 04

There is no agency or protocol in existence to avoid harm to white faced ibis. Therefore this Class I impact requires further analysis and mitigation, but would likely result in violation of the ESA. Mitigation Bio-1 is not an adequate or feasible mitigation for harm to biological resources. Bio-1 simply provides a name for a mitigation without any substantive or enforceable measures that would make it real.

The RDEIR impact identified for the Project ("Impact BIO-29") Cumulative Impacts, is a Class I impact. The RDEIR is incorrect when saying that, "Because of the relatively fragmented nature of remaining natural habitat areas in the immediate region, and because little or no development is proposed in the region, the impacts on vegetation and wildlife habitat as a result of the proposed project would not cumulatively contribute to the loss of these resources in the region." First, the fragmentation of existing natural habitats is irrelevant to this discussion. The RDEIR must concentrate on analysis of cumulative impacts on the environment. In fact, the current degradation of some habitat areas makes the case that additional impacts cannot be tolerated. Additionally the RDEIR fails to acknowledge or analyze the totality of all that urbanization will bring into this rural area. Secondly, this project must be evaluated as a cumulative impact to other projects in the coastal area that displace similar habitat. The city has 05

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 recently approved of large projects at Seabridge, Northshore and other areas that when combined with this Project has regional significance. Thirdly, the DEIR is incorrect. Several other projects are planned regionally and locally that have cumulative impacts. Metropolitan Water District, ("MWD") has held title to property across Edison drive from this project for the purpose of building a desal plant. Biologists have noted that development of that site in conjunction with the Project would exacerbate the impact on wildlife corridors, hydrology and other impacts mentioned in the LPC comments. Several water agencies are considering the release of their brine waters or the building of pipelines through the Project area. The Oxnard GREAT program plans on water treatment plans. Even the Project has an alternative plan to use land outside the SOAR CURB line to place a school and undisclosed other projects in County agricultural lands. A regional airport has been discussed for NBPM. The City has been conducting a project located on the old Village West site associated with the Wastewater Treatment Plant. Southern California Edison plans to remove an old pipeline. Pacific Vehicle Processors has asked to be able to use agricultural lands at Ormond Beach aside from actions related to the Project. There are certainly more projects that have biological impacts including several planned annexations of agricultural lands into the City of Oxnard. Mitigation is not feasible if impacts are not disclosed. There is no agency or protocol in existence to deal with the cumulative impacts created by the Project. Therefore this Class I impact requires further analysis and mitigation.

#### ADDITIONAL IMPACTS TO BIOLOGICAL RESOURCES

The RDEIR fails to consider direct impacts and indirect impact to many sensitive species that may be found in the Project area and vicinity. The RDEIR'S list of sensitive species to be found in the southern subarea is not reflective of what can normally be found there. A more accurate list can be made by consultation with local authorities and reference materials or the Sensitive Species List that is part of Conceptual Management Plan for Ormond Beach.

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 The impact identified for the southern subarea, ("Impact BIO-25") is incorrectly identified as a Class II impact. Please refer to our comments on Impact BIO-1 which we herein incorporate by reference in their entirety. The placement of the urban impacts associated with industrial and commercial facilities immediately adjacent to the most sensitive habitat area in Ventura County guarantees significant violations of every law designed to protect sensitive habitats and species. Mitigation is not feasible because the measures cited are insufficient and inadequate to remedy the weight of constant 24 hour a day intrusions into the lifecycles of everything that lives in the sensitive habitat areas. The cursory treatment of this issue by the DEIR reflects a complete lack of understanding on the functioning of the area ecology and/or lack of good faith in complying with CEQA. There is no agency or protocol in existence to remedy the myriad of problems that would fall under this category. For example the 200 foot buffer would have no influence in stopping people, pets, invasive species, noise, lighting, traffic air pollution, water pollution and many other impacts from transversing this short distance. Furthermore, the collective mitigation measures insure that the area previously purchased by the Coastal Conservancy would function, according to Dr. Rim Fay, "not as a functioning ecological system but as an urban park. It would be diminished from being a restoration project to a simple landscaping project." Therefore this Class I impact requires further analysis and mitigation.

The impact identified for the southern subarea, ("Impact BIO-28") is incorrectly identified as a Class II impact. Please refer to our comments for Impact BIO-12. All of those comments are herein incorporated by reference in their entirety. Again, the Project has the effect of placing a large food magnet for every predator in southern California to be drawn to the area where they will then prey on snowy plovers and other avifauna. Mitigation is not feasible because the myriad of problems created cannot be remedied by the simplistic mitigations offered. There is no agency or protocol in existence to stop the significant adverse indirect impacts caused by the project. Therefore this Class I impact requires further analysis and mitigation.

The RDEIR impact identified for the southern subarea, ("Impact BIO-29") is a Class II impact. Please refer to our comments for BIO-13. The LPC hereby incorporates by reference all of our previous comments on BIO-13 in their entirety. The volume of people brought into the area of sensitive habitats is similar to the ones listed in BIO 13. However, the proximity of food sources to entice predators is significant. Mitigation is not feasible, because the listed measures are insufficient and inadequate to deal with the impacts. There is no agency or protocol in existence to stop take of California least terns. Therefore this Class I impact requires further analysis and mitigation.

## MITIGATION MEASURES

Mitigation Measure BIO-1 is insufficient and inadequate to have any beneficial effect upon controlling invasive plants. Having recognized the need to create a mitigation the RDEIR fails to establish an effective mitigation. This is understandable because it would be next to impossible to actually control invasive plants in such a large area.

That control would require preventing invasive plants from arriving in the project area and from allowing migration of plants, spores or seeds into neighboring habitat areas.

The claim that BIO-1 would achieve this goal must be considered to be a claim made in bad faith because it is neither practical nor enforceable.

In the end invasive plants in large numbers could be spread to neighboring areas without any mechanism for showing from whence they had come. Therefore, all impacts claimed to be mitigated by BIO-1 are not in fact mitigated and should be considered to be Class I unmitigated impacts.

Mitigation Measure BIO-2 is insufficient and inadequate to have any beneficial effect upon wildlife. The mitigation ratio of .1 to 1 for loss of habitats is not a fair trade for the net loss of habitat for wildlife. Most wildlife requires distance and spacing from other members of the same species and other species. Therefore the concept of creating higher value habitat where wildlife are confined to an area 10 percent of the size of their normal habitat cannot be of equal value. But then, the amount of acreage to be restored is inappropriately reduced by half, further undermining an already flawed concept.

First, all 917 acres in the project area must be considered as lost for habitat uses. Furthermore a value must be considered for neighboring habitats rendered useless by impacts of the project.

Many more species than those listed will suffer habitat losses.

The RDEIR states: "It is recognized that this mitigation ratio is smaller than desired from a habitat standpoint, but it is the greatest amount determined feasible by the City." The passage should say: "Even though the mitigation ratio is ridiculously small, so much so that it would not constitute a fair trade for the impacts created, City staff has determined arbitrarily, capriciously and without substantial evidence to support this arrangement."

The numbers derived for the cash value of impacts to the environment from this project are insignificant and devoid of contact with reality. This deal would be bad for the environment at almost any amount because of the net effect on sensitive habitat throughout the HOM area. The RDEIR names several organizations as possible recipients of mitigation funds without the required disclosure that any of those groups have agreed to accept. Terms for acceptance must be disclosed as part of the RDEIR.

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Mitigations for initial restorations are not a fair trade for loss of habitat. The 7-year limit on funds for maintenance is insufficient and inadequate as well. This scenario would result in net loss of habitat without any funding mechanism after 7 years. The number of acres to be mitigated is the full 917 but the amount of \$3,500 per acre is insufficient.

Another math problem surfaces when using a base agricultural value of \$65,000 per acre when in this same document values starting at \$75,000 and ranging much higher are given. Perhaps the best mechanism for determining the value of this property is to use the value that will come after annexation and re-zoning. After all, it is the replacement value of the habitat lost that should be mitigated.

Mitigation Measure BIO-3, Pre-construction survey for nesting birds is insufficient and inadequate to have any beneficial effect upon wildlife. It is impossible to enforce. Years after Project approval all of this is forgotten.

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The shallowness of BIO-3 and inability to show a good faith effort to mitigate impacts on biological resources created by the project result in a failure to actually mitigate any of the impacts for which BIO-3 is listed. Therefore, all impacts claimed to be mitigated by BIO-3 are not in fact mitigated and should be considered to be Class I unmitigated impacts.

Mitigation Measure BIO-4, Pre-construction survey for Burrowing owls is insufficient and inadequate to have any beneficial effect upon wildlife. The measure has no benefit to burrowing owls off the project site. The measures for burrowing owls on the site would not prevent site abandonment. Typically this very shy species will abandon areas where they view a constant influx of humans. Therefore it should be assumed that no burrowing owls could survive area construction.

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The attempt to move burrows should be met with citations from CDFG.

The shallowness of BIO-4 and inability to show a good faith effort to mitigate impacts on biological resources created by the project result in a failure to actually mitigate any of the impacts for which BIO-4 is listed. Therefore, all impacts claimed to be mitigated by BIO-4 are not in fact mitigated and should be considered to be Class I unmitigated impacts.

Mitigation Measure BIO-5, Wetland Runoff Control is insufficient and inadequate to have any beneficial effect upon wildlife. It is impossible to enforce. Years after Project approval all of these requirements will be forgotten and statute of limitations will be expired.

13

The RDEIR states that: "Although bioswales are incorporated into the project design to reduce pollution and runoff, their function is limited." The RDEIR next promises future actions by the City to remedy any runoff problems.

The shallowness of BIO-5 and inability to show a good faith effort to mitigate impacts on biological resources created by the project result in a failure to actually mitigate any of the impacts for which BIO-5 is listed. Therefore, all impacts claimed to be mitigated by BIO-5 are not in fact mitigated and should be considered to be Class I unmitigated impacts.

### RESIDUAL IMPACTS

The RDEIR eliminated most of the mitigation measures for the biological resources section that were present in the DEIR in favor of five newly constructed mitigations that individually and in total fail to provide the legal mitigations required for significant impacts.

The reduction in the number of specific mitigations demonstrates a shotgun approach rather than an attempt to deal with each of the impacts that are created by the Project. Worse yet, is a constant attempt by the RDEIR to defer identification of specific mitigations rather than dealing with them now.

The Ormond Beach Natural Resources Management Program (OBNRMP) is not listed as a mitigation. Rather, it is an implausible speculation that has no detail and no definitive timeframe for being divulged to the public.

The same holds true for issuance of an incidental take permit and Habitat Conservation Plan. If there are no problems, it could take at least two years to get all parties to agree.

The RDEIR, in speaking of this process, notes that it involves, "indirect impact to listed species...(3.6-65)." This is correct. Therefore, it must be acknowledged that the USFWS normally does not engage in formal consultation for species that are not federally listed.

The RDEIR, just as the DEIR before it, has missed consideration of numerous types of impacts. Light pollution, noise, harassment created by the sheer volume of urban users introduced into sensitive habitat areas, trash that serves as bait for predators are all among the impacts not discussed.

Impacts on many sensitive species were not listed—Western pond turtles, harbor seals, brown pelicans, etc. The RDEIR should use the Sensitive Species list provided by the Club in the OBCMP, Exhibit 20. "An Ecological Assessment..." by Dr. Pat Baird, could also be instructive. Actually no marine mammals were mentioned even though area beaches take constant use by adults and pups.

The most striking deficiency in the RDEIR's biological analysis is a lack of coordination with local experts and other responsible agencies in developing comprehensive and current surveys of bird species in the area. It is primarily out of concern for the great number of sensitive species at Ormond Beach that State and Federal wildlife agencies have participated in the planning process undertaken by OBTF. For this reason alone, the RDEIR's biological analysis is patently deficient

14 and requires that the RDEIR be revised and recirculated. Indirect impacts to sensitive habitat and species at NBPM are neither identified nor provided mitigation.

## COMMENTS

15 Figure 3.6.3 is not of sufficient scale and clarity to exhibit elevation changes. Perhaps an enlarged topographic map using the 6-inch scale would suffice.

### Ormond Beach Natural Resource Management Program and USFWS Consultation

The planned OBNRMP is being done outside the scope of this CEQA document. Therefore, the OBNRMP is non-compliant with CEQA. A separate document done later will not suffice, as it would result of fragmentation of environmental review of this project.

Apparently, the Plan has been developed to this point without even the most casual of conversations with the USFWS, (Personal Conversation 9/08). Nor has any discussion taken place with other stakeholders including the Sierra Club, Ormond Beach Observers, the Ormond Beach Task Force, and others.

10 Mitigation must be performed in the Ormond area. Mandalay Beach would not be an appropriate mitigation site. OBNRMP is insufficient and inadequate to have any beneficial effect on wildlife. There are no provisions for enforcement for the Plan itself, nor would there be without the establishment of a bond. The LPC has experience with mitigation measures that violate similar terms. It is impossible to give any agency to act on language, even substantially stronger than the proposed mitigation. Enforcement of the terms of the mitigation cannot occur without bonds and creation of a schedule of fines and penalties. OBO, OBWP, WAN, Earth Alert have already designed several pamphlets. Volunteers from these organizations have been working for 20 years to protect biological resources at Ormond Beach. Fencing, signmaking, beach clean-ups and docent programs have been in effect for years. The prime directive of all of these groups is not to gain financially at the expense of the biological resources, but to preserve and protect.

Please refer to the Ormond Beach Consensus Plan. That document is one of the best expressions of the goal of various stakeholders. It is clear that acquisition of land for the purpose of habitat restoration is of utmost importance and that the OBNRMP would be considered insignificant by comparison.

The LPC, since 1990, has placed thousands of signs at Ormond Beach. The LPC has constructed and installed more signs than all other parties by a factor of many times. Therefore, the LPC has direct evidence as to the value of sign placement and its ability to affect impacts. Placement of signs is never a bad idea. However, it hardly constitutes a valid mitigation, especially in light of the other volunteer groups poised to do the same job. Apparently, the RDEIR has failed to learn of the work currently being done by the LPC, OBO, WAN, Earth

Alert and others. USFWS, CDFG and other responsible agencies have years of investment in this program as well.

The same can be said for fencing. Honestly, it's a sad day when a plan is devised to use the good will of volunteers to cobble up a phony mitigation plan.

Predator control is a beautiful euphemism for killing wildlife. First, the Project will invite predators into the area by way of all of the food products that will be introduced into this new urban park. Then these same animals will need to be destroyed. The question is, how shall terns and plovers and other sensitive wildlife survive in this area while the war against predators rages around their nesting areas?

The work crews and equipment needed to control all of the trash mentioned in the RDEIR is itself an impact not analyzed within the documents.

The OBNRMP plan for dealing with predators is impractical. It is not based on the best available information, but seems to be a package of ill-founded proposals designed to show that some small measures are being taken.

Invasive plants will be flooding the area as a result of the Project. Clearly, the plan sounds very much like the landscaping project of which the OBTF was forewarned many years ago by biologist Dr. Rim Fay.

OBWP volunteers are providing information to the public today that is not a part of the OBNRMP.

Enforcement is not a mitigation but a requirement of existing laws. Violators should be prosecuted. Agencies that fail in their duties should be reprimanded.

ESA Section 7 Consultation must be done as part of this environmental review. USFWS has already opined that an HCP must be done. A similar process will be necessary with CDFG, the Coastal Commission and others. What about Coastal Development Permits?

Because of the items listed above, the mitigation with the OBNRMP is fatally flawed and will not work.

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### c) Visual Quality

Although the RDEIR concludes that there are visual impacts that cannot be mitigated and that a statement of overriding considerations with respect to impacts on visual resources may be required, the RDEIR failed to consider all of the visual impacts. Perhaps most significantly, the measures designed to mitigate impacts on visual resources—primarily landscaping—conflict with existing plans to mitigate impacts on biological resources. The graphics included in the RDEIR show the types of trees and landscaping that are being planned for the Project. These invasive plant species will create significant adverse impact on native plants, wildlife and sensitive habitat areas. Nonnative species will act as habitat areas for attracting predators that will in turn create significant adverse impacts. Although the mitigation program offered for biological impacts appears to preclude such potentially injurious landscaping, the entire program for limiting impacts on visual resources appears to rest largely on this same type of landscaping.

The RDEIR's analysis of impacts on visual resources also fails to take into account the Project's interference in the full range of views from public access points. Nor does the RDEIR adequately address visual impact of nighttime views.

17 The Visual Setting and Viewshed sections failed to include views of the Channel Islands. This is a serious omission because of the unique views of the Islands that are only available from the project area. The GP contains language identifying island views as a significant local resource. Point Hueneme is the closest landfall to the Channel Islands. The angle of view towards the Southwest affords special morning and sunset viewing opportunities. During winter solstice the sun sets between Anacapa and Santa Cruz islands offering a view found no where else on the coast. These views are enhanced by the reflections in local waters combined with the foregrounds available using bulrushes, southern coastal foredunes, area wildlife and lagoon or estuary features.

Impact AES-1: Scenic Vistas-Rose Avenue is an unmitigated Class I impact rather than the Class III impact listed in the RDEIR. Vistas from the northern edge of the agricultural area offer the longest south-facing panorama of the agricultural fields, ocean and islands from the City's eastern border.

Impact AES-2: Scenic Vistas-Hueneme Road is an unmitigated Class I impact rather than the Class III impact listed in the RDEIR. Vistas from the scenic Hueneme road corridor offer scenic views in all directions. The RDEIR describes the Project plans to alter this variety of vistas of natural landscapes in favor of completely urbanized development that would block views in all areas. This replacement of natural panoramas with urbanized features is a significant impact.

Impact AES-3: Scenic Vistas-Pleasant Valley Road is an unmitigated Class I impact rather than the Class III impact listed in the RDEIR. Vistas from the scenic road corridor identified in the City GP offer scenic views in all directions. The RDEIR describes the Project plans to alter this variety of vistas of natural landscapes in favor of completely urbanized development that would block views in all areas. This replacement of natural panoramas with urbanized features is a significant impact.

Impact AES-4: Scenic Vistas-Olds Road is an unmitigated Class I impact rather than the Class III impact listed in the RDEIR. Vistas from the Road are available in all directions. The Project will block views to the west and south resulting in significant impacts.

Impact AES-5: Scenic Vistas-Hueneme Road Southern Subarea is an unmitigated Class I impact rather than the Class III impact listed in the RDEIR. Vistas from the road to the south, southeast and southwest would be eliminated. These are the most prominent vistas from the roadway. The measures listed to minimize impacts are inadequate to have any effect.

Impact AES-6: Scenic Vistas-Arnold Road is an unmitigated Class I impact rather than the Class III impact listed in the RDEIR. Vistas from the road to the south, west and southwest would be eliminated. These are the most prominent vistas from the roadway. The measures listed to minimize impacts are inadequate to have any effect.

Impact AES-7: Scenic Vistas-Edison Drive is an unmitigated Class I impact rather than the Class II impact listed in the RDEIR. Vistas from the road to the south, east and southeast would be eliminated. These are the most prominent vistas from the roadway. The measures listed to minimize impacts are inadequate to have any effect.

Impact AES-8: Scenic Highways is an unmitigated Class I impact rather than the Class II impact listed in the RDEIR. Vistas from the highway to the west and southwest would be eliminated. The measures listed to minimize impacts are inadequate to have any effect.

Impact AES-9: Visual Character is an unmitigated Class I impact as described in the RDEIR. However, the RDEIR fails to adequately describe the totality of the impacts. The RDEIR failed to consider views from many locations that have relevance to this issue. Hueneme Pier, Hueneme Beach, McWane Blvd., Ormond Beach, The Duck Clubs, Casper Road, NBPM, nearshore waters, Pt Mugu State Park must all be considered.

Impact AES-10: Daytime Light and Glare is an unmitigated Class I impact rather than the Class III impact listed in the RDEIR. Glare acts to accentuate the negative features of urban development that are being introduced into the area. The measures listed to minimize impacts are inadequate to have any effect.

Impact AES-11: Nighttime light and Glare is an unmitigated Class I impact rather than the Class III impact listed in the RDEIR. The RDEIR substantially misunderstands both the character and significance of this impact and therefore has looked at it as an aesthetic impact. Nighttime lighting should be considered separately because of its link to area ecology and other issues, See comments Section I. The measures listed to minimize impacts are inadequate to have any effect.

Impact AES-12: Cumulative impacts are an unmitigated Class I impact as listed in the RDEIR. However, the impacts are substantially more pronounced than listed in this section. For example, nighttime views are only considered under the subject of light and glare. In truth, the

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81 aesthetic aspects of the area apply for nighttime views where the changing celestial aspects combine with fog, moonlight, and other forces. Nighttime views from all of the places used for daytime views should have been gathered.

82 Mitigation Measures. The RDEIR gave up and quit its job of considering mitigations offering up only the lamest of excuses. This flagrant display of bad faith must be noted by decisionmakers because of its violation of CEQA Guidelines.

**d) The RDEIR Fails to Adequately Identify or Analyze the Air Quality Impacts that Would Result From Implementation of the Project**

A project will normally be considered to have a significant effect on the environment if it will "violate any ambient air quality standards, contribute substantially to an existing or projected air quality violation, or expose sensitive receptors to substantial pollutant concentrations." CEQA Guidelines, Appendix G (x). The Project will result in the emission of subject pollutants in a nonattainment zone. Accordingly, the Project will result in, or contribute to the violation of a local air quality standard, and is inconsistent with local and state air quality plans that mandate reductions in emissions.

83 The essential argument of the RDEIR appears to be that since air quality in the area is already degraded, the additional degradation caused by the project will not be significant. The courts, however, have expressly rejected this kind of analysis of significant impacts, which seeks to minimize individual impacts by measuring them against combined effects. The courts have instead demanded that effects be viewed cumulatively, with the significance of the impacts determined on the basis of considering project impacts together with combined effects. See King's County Farm Bureau et al v. City of Hanford (1990) 221 Cal.App. 3d692, 718-721.

84 Ventura County is a non-attainment area for the federal 8-Hour Ozone Standard and the State P.M.-10 Standard. As such, the RDEIR should have fully analyzed the consequences of implementing the Project on air pollution levels and the County's ability to attain air quality standards. CEQA requires an EIR to analyze the severity and extent of the impact. Once again, the RDEIR makes no attempt to quantify the total increase in emissions resulting from the increase in population, vehicle trips and industrial production, or to model the effect that the increased emissions would have on attainment projections. Similarly, the RDEIR fails to even attempt to deal with issues related to Greenhouse Gasses (GHG) and carbon emissions. The RDEIR must provide this analysis.

85 The RDEIR's air quality "analysis" ignores altogether the air quality impact of widening area roadways contemplated by the Project. The correlation between air pollution and vehicular emissions is well documented. In particular, vehicles are a major source of ground-level ozone. See The Specter of Sprawl, attached as Exhibit 6. The RDEIR's complete failure to identify the increase of air emissions and the effect that these emissions would have on the attainment of ozone and particulate standards triggers the need for recirculation of the RDEIR.

The flaws in the RDEIR's air quality analysis extend beyond its failure to adequately identify and analyze the impacts relating to ozone in PM-10. Astonishingly, the document does not even acknowledge the increase in diesel emissions that would result from implementation of the South Ormond Specific Plan including the proposed harbor overlay. California has classified the particulate fraction of diesel exhaust as a toxic air contaminant and established toxicity criteria for those emissions. Diesel exhaust causes cancer and other serious health effects. The health effects of diesel emissions are described fully in The Dangers of Diesel Emissions, attached as Exhibit 7. Implementation of the roadway expansion portion of the project combined with increased daily vehicle trips generated by both specific plans would likely result in a substantial increase in diesel particulate emissions. Sources of these diesel emissions include increased truck travel along expanded roads, and the heavy-duty construction equipment used to construct the project. The proposed harbor overlay is an admission of intent to increase harbor related business in the southern subarea. The RDEIR must calculate the emissions that will result from increased ship and truck traffic from the port. The revised RDEIR should identify the increase in diesel particulate emissions from implementation of the Project and provide an analysis on the health effects from these increased emissions. The revised RDEIR should also identify and analyze the feasibility of implementing alternatives to diesel. Attached as Exhibit I is a study prepared for the San Francisco Board of Supervisors related to diesel emissions, which addresses these issues. We strongly urge the City to use the San Francisco study as a prototype for its analysis of diesel emissions.

Impact AQ-1: Soil import in the northern subarea, should be listed as a Class 1 impact. Substantially more mitigation is required. The RDEIR fails to consider that work being done along Hueneme Road has slowed or stopped vehicle traffic every day leading to an increase in vehicle emissions for all vehicles traveling along this road. These increases must be considered cumulatively with grading, construction and all other area sources.

The RDEIR has not disclosed the contents of fill being transported. Dredge spoils from Calleguas Creek may contain pollutants.

Soils disturbed on the project site may contain traces of DDT and related chemicals.

South Oxnard residents are currently subjected to air pollutants emanating from the port, area businesses, Halaco and other sources. Because of the issue of environmental justice the RDEIR must err on the side of protecting the local community. Therefore the Club hereby requests a health risk assessment for the transport of the fill.

Impact AQ-2: Construction related particulates, should be listed as a Class 1 impact. An increase in PM-10s and PM-2.5s is predictable. Analysis should also consider the storage site for soil that will be transported.

Impact AQ-3: Construction related emissions, is listed as a Class 1 impact. Project applicants must be made to compensate the public and public trust should findings of overriding considerations be passed. Discussion of possible mitigations must be included in the RDEIR.

Impact AQ-4: Project related emissions, in the northern subarea, is a Class 1 impact. Project applicants must be made to compensate the public and public trust should findings of overriding considerations be passed. Discussion of possible mitigations must be included in the RDEIR.

**Impact AQ-5:** construction related particulates, in the southern subarea, should be listed as a Class 1 impact. Project applicants must be made to compensate the public and public trust should findings of overriding considerations be passed. Discussion of possible mitigations must be included in the RDEIR.

**Impact AQ-6:** Construction related emissions, is listed as a Class 1 impact. Project applicants must be made to compensate the public and public trust should findings of overriding considerations be passed. Discussion of possible mitigations must be included in the RDEIR.

**Impact AQ-7:** Project related emissions, in the southern subarea, is a Class 1 impact. Project applicants must be made to compensate the public and public trust should findings of overriding considerations be passed. Discussion of possible mitigations must be included in the RDEIR.

**Impact AQ-8:** Contribution to cumulative particulates should be listed as a Class 1 impact. Project applicants must be made to compensate the public and public trust should findings of overriding considerations be passed. Discussion of possible mitigations must be included in the RDEIR.

**Impact AQ-9:** Cumulative emissions should be listed as a Class 1 impact. For the purposes of CEQA the important factor is net increase in emissions--not the position taken by regulatory agencies. The AQMP has a narrow mandate that does not absolve the RDEIR from discussion of the cumulative effects of the project. Project applicants must be made to compensate the public and public trust should findings of overriding considerations be passed. Discussion of possible mitigations must be included in the RDEIR.

Residual impacts cannot be eliminated by the combination of mitigation measures. All impacts listed as Class I by the RDEIR as well as those listed by the Club should be considered to be Class I unmitigated impacts.

**PROJECT IMPACTS ON GLOBAL WARMING**

The RDEIR fails to analyze the effects of the project on global warming because of the current status of legislation and other laws that could mandate criteria for determining findings of significance. However, it is possible to quantify cumulative effects for the project and to evaluate the project's attempts to comply with AB 32 and the 2006 CAT Report.

First, the RDEIR should address the issue of locating residential and industrial developments far from the urban centers of both types of development in the City of Oxnard. The City has many opportunities to infill closer to the center of town. Both developments will require substantial amounts of new infrastructure. This will create the need for building delivery systems, housing for police, fire, schools and other infrastructure.

Residents of the residential development will be required to travel the longest distances of any Oxnard residents to participate in central or north Oxnard activities. Likewise, non-coastal related businesses will be forced to travel the longest distance to get to Highway 101. The President of Cisco Inc. explained the disadvantages of being located at Ormond Beach to the City during their pre-application hearing before the City Council.

The RDEIR should provide a comparison of GHGs produced per annum at the project site and other central locations.

The RDEIR failure to consider the goals of AB 32, the 2006 CAT Report and California Executive Orders mean that an opportunity to build this project with AB32 compliance in mind will be lost. The alternative is that as we get closer to the deadlines all area residents must pay the price for conformance.

### **Ocean Acidification**

The RDEIR fails to consider another cumulative impact linked to carbon emissions that result in ocean acidification (OA). OA is linked to declining productivity of shelled organisms from reef building creatures to very small organisms. Dead zones are expanding in many locations including California's north coast.

Total Carbon emissions for the project must be considered for both atmospheric and oceanic impacts.

### **Sea level rise**

Air emissions from the project contribute to a cumulative impact that may be the cause of global warming and therefore sea level rise. The impact has a local effect that could affect this project because of its relative height in relationship to the ocean, but more importantly to the level of surface waters. Water levels in the OID and Ormond lagoon are not static. Over time, the water level in these water bodies--and even the planned Southshore Lake--will rise.

The RDEIR fails to explore the connectivity between emissions and local hydrology or to look at sea level rise as an isolated event. Regardless, the location of the project in relation to expected water contours should be mapped in the RDEIR.

### **E) The RDEIR Fails to Adequately Identify and Analyze the Traffic Impacts that Would Result From the Project**

The RDEIR fails to attempt to assess the actual effect on traffic that would result from implementation of the roadway projects. Data on additional intersections is necessary. The current data includes intersections along Saviers, Rose and Rice Avenues but only one

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23 ) intersection on Ventura Road. Assessments made on the reduction of Levels of Service, ("LOS") due to previous projects or proposed mitigations are inaccurate, always underestimating LOS levels and therefore minimizing the listed traffic impacts. Increases in LOS are measured not against a current baseline for the purposes of measuring impacts, but rather against the predicted LOS in the Oxnard GP. This methodology gives a comparison against previous predictions but doesn't accurately measure the effect of the project upon local traffic conditions. The public and decisionmakers want to know how will the project alter driving time and congestion along particular routes. This isn't clear with the RDEIR. The RDEIR calculates that road widening along Hueneme road and extension of Rose Avenue will remedy some impacts but in truth it just moves bottlenecks to other locations. Numerous studies have demonstrated the rebound effect of increasing roadway capacity. It is a well-documented phenomenon that, rather than improve traffic flow and minimize travel delay, increases in highway capacity encourage additional car travel. (See Ventura County Congestion Management Plan, October 2004, attached as Exhibit 1; Why Are Roads So Congested, attached as Exhibit 2; Creating Congestion: Why Building More Roads Increases Traffic, attached as Exhibit 3; Beyond Gridlock—Meeting California's Transportation Needs in the 21<sup>st</sup> Century, attached as Exhibit 4; More Sprawl, More Traffic, No Relief: An Analysis of Proposed Potomac River Crossings, attached as Exhibit 5; and The Specter of Sprawl, attached as Exhibit 6; The Dangers of Diesel Emissions, attached as Exhibit 7; Diesel Emissions, attached as Exhibit 8) In order for the public and decision-makers to understand the traffic consequences of the Project, the RDEIR must acknowledge that the roadway projects would result in a significant increase in traffic and analyze the consequences of this increased traffic.

) The document simply does not include accurate information about the relationship between the 2020 demographic projections, the projected traffic flows, and the existing and projected LOS on these roadways. Absent this information, neither the public nor decision-makers can ascertain whether each and every one of the proposed roadway improvements is necessary.

Nor does the RDEIR provide any evidence that such an ambitious program could ever be funded. Indeed, funding sources appear to be conspicuously absent. According to the following, Ventura County Congestion Management Program ("CMP"), Ventura County is the largest urban county without a local sales tax for transportation purposes, so improvements on the County's highway system are reliant on the State. Now that the County's electorate has soundly rejected Measure B, the County's half-percent sales tax measure to fund transportation projects in the County, it is highly unlikely that the State would be expected to fund off project road-widening programs.

The Project's cavalier approach to building its way out of apparent traffic congestion is especially troubling in light of the RDEIR's failure to justify the need for the roadway projects. The City should revise the RDEIR's project description to fully explain the correlation between the updated demographic projections and the need to widen area roadways.

) The RDEIR uses the City's thresholds of significance to determine the significance of impacts. However, since the impacts created are sometimes in Port Hueneme or the County those agency criteria should be used if they are more restrictive.

The RDEIR must compare the traffic LOS with the project against a baseline of current conditions.

The RDEIR vastly underestimates the predicted daily trips generated by each subarea of the project.

Impact Trans-1 purports to deal with peak-hour traffic conditions generated by the northern subarea. However, the assessment does not even try to show the increase in traffic above a current baseline. Because the RDEIR compares the increase in traffic to 2020 predictions it doesn't look for mitigations to increased traffic that are less than the predictions even when significant in comparison to today's baseline.

Mitigation Measures Trans-1 is insufficient and inadequate to remedy either the impacts identified by the RDEIR or the greater impacts that should be identified. Ventura Road/Hueneme Road is in the City of Port Hueneme and therefore requires acceptance from the Port Hueneme City Council.

Impact Trans-2 Peak-hour Traffic Conditions--Combined Subareas purports to deal with peak-hour traffic conditions generated by the northern subarea. However, the assessment does not even try to show the increase in traffic above a current baseline. Because the RDEIR compares the increase in traffic to 2020 predictions it doesn't look for mitigations to increased traffic that are less than the predictions even when significant in comparison to today's baseline. The RDEIR points out that 19 intersections would have an LOS rating of D or worse as predicted by the 2020 GP. If this is true the City exceeded its own traffic policy guidelines in pre-zoning this same area. If the GP was violating its own new policies at the time of adoption, this fact should have altered the pre-zoning of the Specific Plan area.

Mitigation Measures for Impact Trans-2 fail to remedy the significance of impacts resulting in significant unmitigated Class 1 Impacts. The RDEIR continues to identify measures required in other jurisdictions to mitigate impacts created in the City of Oxnard. Port Hueneme and the County should reject the planned mitigations as they alter the present flow of traffic creating local impacts for the benefit of Oxnard. Within The City the same phenomena exists where impacts are passed on to other intersections.

Impact Trans-3 Northern Subarea Soil Import Traffic -- deals with traffic conditions generated by the northern subarea soil importation over an 11 week time frame. The assessment does not consider the increase in traffic and change in traffic conditions since the initial study. Because the RDEIR does not consider the present status of road conditions it doesn't look for mitigations to increased traffic. The RDEIR must revise the its analysis of these impacts with new data on Port related traffic, Traffic for new developments in Port Hueneme and South Oxnard and other reasonably foreseeable projects that have surfaced since the initial study for this project.

Mitigation Measures for Impact Trans-3 are pushed into another jurisdiction. The mitigation should be rejected which would result in an unmitigated Class I impact.

95 **Impact Trans-4** dealing with freight movement should be listed as an unmitigated Class I impact. The Changes in LOS to intersections already nonconforming with GP policies must be identified as significant to the movement of freight.

New information related to expanded Port activities must be considered.

Transport of passenger vehicles on surface streets must be considered under this category or added as a separate impact. Traffic impacts, air quality impacts and any other impacts created by all vehicles using any part of the project area must be considered within the RDEIR.

All Port related traffic that results from the planned use of the Harbor Overlay must be considered at this time.

Mitigation Measures for Impact Trans-4, Freight movement were not developed because many freight movements generated by the project have not been considered. The mitigation presented is inadequate and insufficient and should be rejected which would result in an unmitigated Class I impact.

94 **Impact Trans-5** dealing with Transit services should be listed as an unmitigated Class I impact. The RDEIR fails to engage in any meaningful analysis of this issue. The RDEIR says, "The specific design of the public transportation system will be determined based on the service providers' routes and technical requirements." Those details should be part of the environmental review. Details of how public transit will be handled is of interest to the public.

Mitigation Measures for Impact Trans-5 were not even developed by the RDEIR! Therefore, impacts related to transit are not mitigated and must be considered Class I.

97 **Impact Trans-6** dealing with non-motorized and pedestrian traffic should be listed as an unmitigated Class I impact. The Project will so alter the character of Hueneme Road that it will no longer be as attractive to bicyclists as it is now. Many individuals and clubs, partially because of the reduced level of service, currently use this route. Bike lanes next to a freeway are not popular with either pedestrians or bicyclists. Therefore the mitigation is insufficient and inadequate.

98 The RDEIR correctly concludes that: "When the project is built out, it is likely that the higher traffic volumes will reduce the typical vehicle speeds...." The passage is important because it indicates a type of impact that is not considered in the RDEIR. Streets and roadways may experience a decrease in capacity or average travel time that is not reflected within the system of looking at LOS at intersections. This type of impact must be considered for all local streets and roadways expected to carry traffic from the project.

### Report Suggests That The Status Quo Is Not An Option

99 Recent information has surfaced regarding traffic impacts that has relevance to everything presented in the RDEIR section on traffic impacts. During an Oxnard City Council hearing on a proposed Oxnard Traffic Initiative on September 9th., it was announced by City manager Edmund Sotelo that a new traffic study was to be released within 30 to 60 days.

During this discussion mayor Tom Holden suggested that decisions on traffic issues should await release of the report. This suggestion holds true for the purposes of the traffic section within the RDEIR.

A second report was presented to the City Council on September 9 that presented information on financial impacts of the proposed initiative Measure V, the Oxnard Traffic Initiative. Two days later Jose Sanchez reported in the September 11 edition of the Ventura County Star that Traffic expert backs change in Oxnard growth and Oxnard told to modify how it deals with growth.

The article features quotations from traffic consultant, Richard Dowling, of Dowling Associates Inc.. According to Dowling "The city of Oxnard is "headed toward a lot of trouble" if it does not change its course with regard to traffic...." "The city's options are to either change its general plan and modify how it manages growth or adopt the proposed Oxnard Traffic Initiative," he said.

"Without a change in development policies, 23 major intersections will fail to meet a C level of service by 2020", according to the report. The number of failing intersections could increase to as many as 45 (See Exhibit 21).

In sum, the failure of the RDEIR to accurately portray the existing and projected traffic levels and the need for the roadway projects contemplated by the Project undercuts the legitimacy of the environmental impact analysis. In addition, because the RDEIR fails to actually analyze the traffic consequences of roadway projects, as required by CEQA, the RDEIR must be revised and recirculated.

A project normally will be considered to have a significant environmental impact if it will "cause an increase in traffic which is substantially in relation to the existing traffic load and the capacity of the street system." CEQA Guidelines, Appendix G (1) The location for the proposed projects will require the alternation of roadways. The Project would contribute to a significant increase in traffic on adjacent county roads and city streets in both Oxnard and Port Hueneme that is not considered within the RDEIR.

#### **f) NOISE**

A project will normally be considered to have a significant effect on the environment if it will "substantially increase the existing noise level for adjoining areas." CEQA Guidelines, Appendix G. Given that the Project area is bordered by undeveloped habitat areas, it will plainly result in substantial increases in ambient noise levels for adjoining areas. The project would create an unmitigated Class I impact.

Sound levels were taken during a single 2-day period. No information is provided demonstrating if the noise levels recorded were typical or unusual. This sampling methodology is insufficient and inadequate. No noise sampling was done in the sensitive habitat area, or in .

areas outside the new boundaries for City of Oxnard. Therefore the RDEIR fails to consider sensitive receptors along Hueneme Road to the east of the Project area, rendering the document insufficient and inadequate and in need of revision and recirculation.

The criteria used to determine compatibility is designed for residential development and doesn't consider sensitive receptors. Sensitive receptors are not considered throughout this section. All of the predicted noise levels are based upon noise generated by traffic. Nothing is done to consider noise generated by the project's industrial uses. These uses are the closest to sensitive receptors and are therefore the most significant noise impacts to be considered in this section.

**Impact Noise-1** Traffic Noise resulting from the Northern subarea would result in an unmitigated Class I impact. However, the RDEIR fails to adequately consider all of the impacts that result from the project. These impacts include sensitive receptors and areas in Port Hueneme and in the County areas outside City boundaries. Most notable, are impacts to the southern subarea that would occur if the area is not developed or becomes part of a restoration project.

At this time, traffic noise eastward of Edison drive is subdued most of the time. Traffic associated with the project will change this forever.

**Impact Noise-2** Point Mugu Naval Air Station would result in an unmitigated Class I impact. Air missions related to the base should not be altered due to noise impacts upon new residents. Another part of this impact would exist if air missions alter flights to avoid residents and thereby fly over sensitive habitat areas.

**Impact Noise-4** Point Mugu Naval Air Station noise on southern subarea would result in an unmitigated Class I impact. Air missions related to the base should not be altered due to noise impacts upon new residents or businesses. Another part of this impact would exist if air missions alter flights to avoid residents and thereby fly over sensitive habitat areas. These impacts include sensitive receptors and areas in Port Hueneme and in the County areas outside City boundaries. Members of the OBWP frequently record the flight paths of aircraft practicing approach, landings and take-offs from NBPM. These flights frequently circle to the west of Arnold Road and sometimes to the west of the Ormond generating station. These flights create noise over the flight areas that must be identified. But more importantly, if these flights are changed so that aircraft fly over sensitive receptors so as to avoid new residences then this must be identified as an impact resulting from the project.

**Impact Noise-7** Traffic Noise resulting from the Combined subareas would result in an unmitigated Class I impact. However, the RDEIR fails to adequately consider all of the impacts that result from the project. These impacts include sensitive receptors and areas in Port Hueneme and in the County areas outside City boundaries.

**Impact Noise-8** Pacific Vehicle Processors would result in an unmitigated Class I impact. The RDEIR fails to adequately consider all of the impacts that result from this type of industry and other industries that are a part of the Project. These impacts include sensitive receptors.

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The Mitigation Measures listed apply almost exclusively to reduce impacts to residences. The issue of sensitive receptors at Ormond Beach including the public enjoying quiet recreational pursuits is not mitigated resulting in significant impacts.

f Public Safety

The finding of significance is mandatory, when "a project will cause substantial adverse affects on human beings, either directly or indirectly." PRCS Section 21083 (c). A project normally will be considered to have a significant effect on the environment if it will: "create a public health hazard;" "cause substantial flooding;" or "expose people or structures to major geologic hazard." CEQA Guidelines, Appendix G (v), (r), (s).

On June 21, 2007, at a hearing of the Oxnard Planning Commission, the Sierra Club provided information to the decision makers that the Project area was historically a low-lying wetlands that extended beyond Hueneme Road. Additional information was provided regarding predictions that rising sea level, sometimes attributed to global warming, are predicted to advance into these same low lying areas within the next 100 years. It is within the purview of the City to require that information regarding the existing Class A Federal Flood Zone be extended to show where the Class A line of demarcation would fall based on anticipated rise in sea level.

Related to the concept of rising sea levels is a safety issue related to tsunamis and the City's system of providing early warning for residents. The DEIR fails to connect the dots that exist between the issues of earthquake, high water levels, liquefaction and tsunami that are more serious in light of the predicted rise in sea level.

The RDEIR notes that Southern California Edison maintains a gas pipeline that runs underneath the project site. The RDEIR fails to address safety issues related to the placement of residents, businesses and schools within an area of potential danger in the event of fire or explosion.

g) **The DEIR Fails To Adequately Mitigate Impacts Relating To The Loss Of Agricultural Land**

The DEIR identifies that the Project would result in the loss of several hundred acres of prime agricultural lands resulting from implementation of the proposed specific plans. This loss of agricultural lands would constitute a significant impact on the environment. Rather than identify feasible mitigation measures capable of minimizing impact, the DEIR cites the goal of the Project as proposed.

The City of Oxnard had opportunity to support Measure A on the November 2004 ballot, which provided for a plan to fund the purchase of conservation easements and implementation of a farm land preservation program. Rather than supporting Measure A, the City Council voted to implement its own farm land preservation program. Because the City has publicly expressed its

reference to establish its own farm land preservation program, all aspects of implementation of the proposed plan should be discussed within the RDEIR.

The RDEIR's failure to conduct the necessary study to determine the feasibility of the farm land preservation program clearly violates state law. CEQA requires that an agency's conclusion that mitigation is infeasible be supported by substantial evidence. CEQA Sections 21081, 21081.5. Yet here, the RDEIR admits that it would take further study to even determine if such a program is feasible. Given the importance of the County's agricultural resources and the City's own acknowledgement that a farm land preservation program would provide permanent protection for this declining resource, the RDEIR must assess the feasibility of this mitigation measure prior to project approval. If the measure is determined to be feasible, the City's General Plan update process affords an ideal opportunity to adopt this program to protect agricultural resources. The RDEIR fails to mention several objectives like: Preserve permanent agricultural land within the Oxnard Planning Area."

Impact AG-1, Ag Zoning Conflicts on existing zoning is incorrectly rated as a Class III impact when it is in fact an unmitigated Class I impact for both subareas. Ventura County has zoned most of the project as Agricultural Exclusive, ("A-E") due to the rating of Project area soils as "Prime" and because most of the area land uses are agricultural. Ventura County and LAFCO both have strong policies to prevent the loss of agricultural lands. The City of Oxnard GP also has policies to protect agricultural lands within the City. Therefore, the mere changing of the zoning after annexation without considering any mitigations does not diminish the significance of the impacts on existing zoning for agricultural use.

The RDEIR mentions language in the GP supportive of development but fails to mention language supportive of protecting agriculture. The development of hundreds of acres of Oxnard agricultural lands make this area even more critical to keep the City compliant with 2020 GP policies.

Impact AG-2, Induced Farmland Conversion deals with impacts on the existing environment which due to location or nature, could result in conversion of farmland to non-agricultural uses. It is incorrectly rated as a Class III impact when it is in fact an unmitigated Class I impact for both subareas. In fact, the Project Alternative 1 plans to place a school and possibly other projects related development that is SOAR exempt into the SOAR protected agricultural lands to the east of Olds Road. Precedent for this was established when Pacifica high school was built on agricultural lands not annexed into the City. Additional annexations of lands outside the SOI are probable sometime after completion of the Project. Precedent for this was established by several recent annexations including North Shore. Increased traffic due to changes in Hueneme Road and Rose Avenue will route significantly more traffic than the high volumes created by the project onto roads now shared with agricultural production thereby creating the probability that some farms will abandon agricultural production. Other SOAR exemptions may be anticipated just as religious based interests are seeking exemption in the Simi Valley area. The previous instances are direct impacts. Additional impacts will occur as human activities that are generated from the project area negatively impact area agriculture. For example, vandalism and theft of farm equipment will increase significantly. Therefore, the impact identified as Impact AG-2 must be separated into direct and indirect impacts associated with each subarea.

Impact AG-3, Ag Water Supply, deals with impacts on loss of water to agricultural uses is incorrectly rated as a Class III impact when it is in fact an unmitigated Class I impact for both subareas. The water volume transferred to urban uses is no longer available to agriculture. This creates a significant impact.

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Impact AG-4, Dust Impacts to local Crops, uses is incorrectly rated as a Class III impact when it is in fact an unmitigated Class I impact for both subareas. The impact also involves other emissions that could impact agricultural production. This creates a significant impact.

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Impact AG-5, Direct farmland conversion, in the northern subarea deals with impacts on loss of prime agricultural lands, creating an unmitigated Class I impact. The impact cannot be mitigated because the City and county have no program for transfer of development rights or transfer of other levels of protection. However, should such policy be considered, the Project area would become the area of highest priority in Ventura County for protection. The LPC encourages responsible agencies to consider all mechanisms that might result in creation of protective land use policies for the Project location due to its regional significance.

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Impact AG-6, land use conflicts in the northern subarea, is incorrectly rated as a Class III impact when it is in fact an unmitigated Class I impact. The RDEIR failed to include the effects on residents/students of material associated with Halaco engineering that has been deposited on nearby soils and residues of DDT also present within area soils. The RDEIR underestimates the impacts associated with placing residential communities in proximity to agricultural land uses.

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The RDEIR also fails to consider impacts on agricultural production that result from urbanization of this area. Loss of the ability to spray by farmers may be legal as the RDEIR states and still be a significant impact.

Impact AG-7, Direct farmland Conversion of the southern subarea dealing with impacts of the loss Prime agricultural lands creates an unmitigated Class I impact. The impact cannot be mitigated because the City and county have no program for transfer of development rights or transfer of other levels of protection. However, should such policy be considered, the Project area would become the area of highest priority in Ventura County for protection. The LPC encourages responsible agencies to consider all mechanisms that might result in creation of protective land use policies for the Project location due to its regional significance.

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The RDEIR acknowledges that conversion of these lands is a Class I impact.

Impact AG-8, land use conflicts in the southern subarea, is incorrectly rated as a Class III impact when it is in fact a Class I impact that is not adequately mitigated. The RDEIR failed to include the effects on residents/students of material associated with Halaco engineering that has been deposited on nearby soils and residues of DDT also present within area soils. These contaminants could cause illness of persons spending time in the area. This area is directly down wind from the Halaco superfund site.

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The RDEIR underestimates the impacts associated with placing urban uses in proximity to agricultural land uses, sensitive habitat areas and NBPM.

Use of buffers are not sufficient to diminish land use conflicts resulting in impacts that are Class I.

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Impact AG-9, dealing with cumulative impacts on Prime agricultural lands creates an unmitigated Class I impact. The RDEIR sites GP language that appears to be consistent with the Project. However, as previously stated other GP language and CLUP indicates conflicts with the desire to protect sensitive habitats and agricultural resources.

The failures in identifying and mitigating impacts to agriculture require that the document be revised and recirculated.

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**H) Light Pollution**

Light and Glare is treated in the RDEIR as a facet of aesthetic impacts, which is appropriate. Light pollution, however, is an impact that is more physical in nature in that it involves a change in the ambient lighting levels. The RDEIR has failed to correct this flaw in the DEIR. This change in ambient levels has significant adverse impacts on sensitive habitat areas because wildlife that requires dark conditions as part of their normal life cycle find difficulties surviving in a world where it is never dark. Many species that reside in the project area and adjacent areas are nocturnal. The Project will add to the overall level of area ambient lighting due to the way light travels. This increase in light will make all of the features and wildlife in the area more visible to predators and people. The result will be harm and harassment to sensitive species that could result in local extirpation of many species that currently survive in the area.

Nighttime lighting in the Ormond area is already at an intolerable level. It is nearly blinding for humans walking from the beach area north towards the City. Many species of small birds like California least terns, are visible to humans and therefore more readily visible to nocturnal predators. Even on evenings with low-lying clouds the reflection of area lights off the bottom of clouds can alter the lighting in the area.

Light pollution also has effects upon humans. Persons wishing to view astronomical features are dependent upon some level of darkness to operate telescopes and binoculars. Light pollution is a known deterrent to this type of activity. Other humans may simply wish to view coastal features at night. Project lighting alters this type of nighttime public viewing.

Mitigations for this impact are not feasible therefore light pollution must be considered to be an unmitigated Class I impact.

A revised RDEIR should deal with the issue of light pollution as it applies to the physical environment--other than aesthetics.

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**D) Hydrology and Water**

These two issues would best be dealt with separately. Hydrology and Flooding seem to have a connection due to the direct relationship between the two subjects. Water Quality and

Quantity seem to be best discussed as a separate issue or under public infrastructure. The issue is important in this case because Hydrology and Flooding did not get the same level of attention as the Water Quantity issues. Hydrology and Flooding are also linked to Sea Level Rise therefore they would together make a logical section for analysis.

Figure 3.3-4 has the green colored water flow arrows west of Edison Drive indicating a westward flow. The direction of those flows are to the east. Jones and Stokes had correct data in their South Ormond Beach Conceptual Management Plan. This information is also contained in the OBCMP. The RDEIR has failed to correct this flaw in the DEIR.

Some of the language in Section 3.3.1.6.1 referring to the OID is also incorrect. The RDEIR says, "The Perkins Drain is in disrepair and no longer hydrologically connected to Oxnard Drain. Water from the OID now flows directly into Ormond Lagoon. A flap gate in a remnant portion of the Perkins Drain east of the OID allows runoff from the Ormond Lagoon to flow down the coast an ultimately to a wetland area east of the Halaco dump site" (Impact Sciences, 1996). The Perkins Drain is hydrologically connected to the Oxnard Drain although there are impediments that make the connection intermittent. The water described as flowing to east of Halaco can continue on to the Oxnard Drain when the lagoon level gets closer to 6.8 feet. EPA removed the flap gate in 2007.

The Club attempted to correct the language contained above in the 2007 DEIR but note that it has been moved to another section but is still present in the RDEIR.

The Ormond Lagoon/Estuary functions similar to the RDEIR description with some minor caveats. Rather than being connected to the winter season as a time of year, the Lagoon berm seems to be tied to rainfall. In some years the winter season and rainfall have a correlation but there are exceptions. In general, the Lagoon can survive winters of low level rains depending on the height of the lagoon. The lagoon can usually survive storm events of 1 inch in 24 hours. The lagoon can survive somewhat greater events when the water level is below 6.0 feet.

The RDEIR notes the abandonment of mechanical breaching of the lagoon berm by the Ventura County Flood Control District due to requests by regulatory agencies. These requests followed the presentation of the video, Death of the Least Terns, Sanders, 1992 and a formal legal conference between responsible agencies and the Sierra Club.

The RDEIR ON 3.3-52 repeats a series of statements involving water levels and effects thereof in 1994 and 1995 that are substantially incorrect. These conditions were the subject of an emergency permit by VCFCD before the California Coastal Commission that was successfully appealed by the Sierra Club. The Club argued that the high water conditions were the result of unpermitted fill that had been placed by some of the parties that were now supporting emergency permits. Furthermore, the Club argued that VCFCD, Halaco, and John Does had altered the flow of Waters of the United States without required Coastal Development Permits, Section 1600 agreements, CEQA, Section 404 Permits, USFWS Permits to Take, etc.. The water levels noted and other statement in this passage are incorrect. In using this questionable information, some of which was created in 1995 to circumvent possible criminal prosecutions the DEIR has acted to impugn its own integrity. In any event, the Coastal Commission rejected the information the DEIR now uses as a baseline for area hydrology. The question is, how did information so false

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124 find its way into this RDEIR? See Exhibit 9 for several letters written in 1995 and 1996 to responsible agencies on this subject.

**Impact Water-1** Water Supply Availability in the Northern Subarea is an unmitigated Class I impact. The North Ormond Beach Water Supply Assess & Verification, (NOBWSAV) is not valid for several reasons: 1. miscalculation of the amount of water needed; 2. Miscalculation of the amount of water available; 3. Miscalculation of the amount of overdraft based on the RDEIR'S original figures; 4. Invalid assumptions on the amount of water available from MWD/Calleguas, UWCD and the GREAT program; 5. Invalid extrapolation and assumptions for last 5 years of MWD water availability, (2025 to 2030); 6. Assumptions on the future funding and City approvals of the GREAT program; 7. Miscalculation on the amount of water available from the GREAT program.

125 The 2007 DEIR concluded that the Northern Subarea had inadequate water supplies based on current availability and the necessity to assure that future sources would be available when required. Therefore, due to state law a Class I unmitigated impact was identified.

Now the RDEIR, with essentially the same set of facts has reconstructed the language on this impact so as to downgrade the impact to Class III. The change is based on a "reasonable assumption" that both the GREAT and the M&I Supplemental Programs will be implemented within a required timeframe.

Opposition exists to funding for the GREAT program. This opposition along with the complexities of gaining all requisite approvals diminishes the prospects of those approvals. Therefore, the assumptions made by the RDEIR that adequate water supply will be available before start of construction must be considered to be speculative, and a violation of CEQA.

The RDEIR plans to secure additional water is highly speculative especially in light of litigation and administrative decisions over the significant environmental impacts facing MWD, CMWD, UWCD and GREAT. MWD faces years of litigation involving both of its main sources of water supply. Recent court decisions based on new Biological Opinions may be just a first phase in what will be a continuous diminishing supply from SWP. Colorado River supplies are in constant flux. The RDEIR presents some information on MWD's Colorado River supply but fails to detail several known problems. The RDEIR must divulge all of the information available concerning litigation protection of federally listed species and competing claims to this water supply. UWCD ability to deliver water could be diminished by two new BOs dealing with the Freeman Diversion Project and Santa Felicia Dam. These two BOs reach a jeopardy decision in each case. UWCD contests the decisions and wishes to pursue administrative remedies. That process will likely require years before resolution. GREAT may have difficulty with permits needed from RWQCB. The RDEIR correctly asserts that future supplies for CMWD are directly linked to supplies available to MWD. Therefore probable supply interruptions should be

disclosed rather than taking an advocacy position that this could not occur. Disclosure of these potential problems should have been included in the RDEIR.

The two Final Biological Opinions issued by the National Marine Fisheries Service for the Vern Freeman Diversion Dam and Fish Passage Facility, and for the Santa Felicia Hydroelectric Project respectively, are both located on the Santa Clara River in Ventura County.

The Decisions are concerned with the recovery of the endangered Southern California steelhead, listed as endangered under the Federal Endangered Species Act in the Santa Clara River Watershed. These protections are specified and required in the afore mentioned Biological Opinions.

These Biological Opinions find that the Freeman and Santa Felicia facilities cause jeopardy to the endangered Southern California steelhead, and adversely modify this species' critical habitat. The implementation of the measures required in these Opinions offer real potential for the recovery of the Southern California steelhead in the Santa Clara River watershed.

The facilities' operators, United Water Conservation District (UWCD), has repeatedly acted to delay actions to benefit the steelhead. Now that the Consultation is complete and leaves no question about the need or requirement for remedies for Southern California steelhead, UWCD is seeking an "eleventh hour stay." However, there is no acceptable basis for delay. NMFS has complied with the law and provided clear direction in accordance with the facts, even negotiating with and working with UWCD over a period of years before completing the long overdue Opinions. The NMFS is calling for immediate action to implement these remedies to assist in the efforts to bring the Southern California steelhead back from the brink of extinction.

UWCD is faced with two decisions each of which could seriously affect projected delivery numbers contained in the RDEIR. UWCD may also be facing other administrative difficulties not revealed in the RDEIR.

THE required WSA is undermined by the following: reliability of water supply from CMWD and UWCD are not accurately assessed and may be substantially lower than projected; groundwater pumping allocations may be substantially reduced due to problems listed above with UWCD; The City may yet curtail its commitment to the GREAT program. The City cannot verify water availability throughout normal, wet, dry and multiple dry years.

The RDEIR failed to consider all of the additional impacts to existing water users in the City associated with the required demands of the Project. Even with completion of Phase II of the Great program Project impacts related to new demand for water would put existing Oxnard residents close to the brink of catastrophe for the benefit of the Project and its new residents. A revised RDEIR must consider the true impacts to all area residents including the growth inducing elements.

Mitigations designed to minimize identified impacts are infeasible and unable to affect timing problems. Cumulative impacts are ignored. Future impacts based upon global warming are not adequately analyzed so no mitigations were identified.

Conclusions made regarding projected availability of water in 2010 and throughout the life of the project are not supported by substantial evidence.

The conclusions made by the RDEIR require not one but several procedures to fall into place without any delay. This defeats the purpose of Senate Bills 901, 610 and 221.

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**Impact Water-2** Water facility construction, produces a significant Class I impact due to its growth inducing impacts and effects upon wetlands. The need for additional phases of the GREAT are, in part, a result of the need for new water infrastructure created by the project. Although the Great program EIR deals with some aspect of future phases it does not absolve the RDEIR of the necessity to identify the real growth inducing aspects of the current project. Additionally the GREAT program EIR did not deal with the AB32 issues now requisite of the RDEIR.

The GREAT program is growth inducing in itself and threatening to the long-term water supply for most residents in Oxnard/Port Hueneme.

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**Impact Water-3** wasteful use in the northern subarea is a significant Class I impact. All of the water needed for Southshore lake could be used for more important purposes. The purpose of the lake is primarily to mitigate for stormwater runoff, and water contamination type impacts. But in this instance the mitigation creates another significant impact.

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**Impact Water-4** construction related surface water quality must be considered a Class I impact. The RDEIR fails to identify or analyze DDT present in project area soils or the impact upon surface waters or people. Other pesticides pose similar dangers. The potential impacts are multiplied by the prevailing flow of waters towards Mugu or Ormond lagoon. The mitigation for this impact is not feasible because of the prospect of significant rains storms that would force the flow of untreated water into the OID.

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**Impact Water-5** post construction surface water quality for the northern subarea must be considered to be a Class I impact. The same problems exist as stated in our comment for Impact 4. However the prospects of flow of untreated water into the OID increase with time. Since the life of the project will be greater than 25 years the prospect of exceeding the criteria for a 25-year storm event are substantial. Additionally, the system designed for retaining runoff can not deal with smaller rain events due to the low elevation of the area and possibility that Southshore lake will be filled to capacity before any storm event.

The RDEIR underestimates the possibility of groundwater contamination by historic contaminants--DDT. The city has done area studies that show high levels of DDT in area soils. Mechanisms of migration are well known and expected.

The City of Oxnard has many policies and guidelines dealing with discharges to sensitive areas, as do the RWQCB, COE, CDFG and other agencies. However, as shown in the case of the unpermitted alteration of waters of the United States by the VCFCO unpermitted activity can continue for years without intervention by responsible agencies. These problems continue until today. Therefore the actual impacts of all water related activities must be assessed in the RDEIR.

The RDEIR concentrates on the flow of waters to the west, to the OID and eventually to the Ormond Lagoon. This water along with water that flows south along Edison drive and Arnold Road will flow to Mugu lagoon.

Also necessary is consideration of salts, silt and other chemicals that would be deposited in the fill introduced into the area for both subareas. The RDEIR aerial photos of the area

illustrate that the southern section of the large agricultural field to the northwest of the Ormond Generating Station is essentially barren resulting from introduced fill.

The effects of these impacts do not stop at the shoreline. Yet no consideration is given to the variety of chemicals expected to be carried into local near shore waters.

**Impact Water-6.** Flood control and stormwater drainage for the northern subarea is a Class I impact.

It is highly probable due to the low elevation of the project area, increased runoff associated with the conversion of uncovered soil to impermeable surfaces and the normally high elevation of water in the OID that Southshore lake may not be able to contain rain events much smaller than the requisite 3/4 inch county requirement. Regardless, certainly larger events or multiple event sin close succession will overwhelm the designed system and result in unrestrained discharge into the OID and therefore sensitive habitat areas.

As stated previously the baseline data on area hydrology is fatally flawed. Additionally, the hydrology is changing. Sand deposition, seasonal storms, El nino and other cyclical effects, change in amounts of storm water runoff and rising sea water along with other factors may create impacts to the Project or surrounding environment. These effects were in large part the center of earlier controversies. The RDEIR must try to grasp the impacts associated with developments in a low-lying coastal alluvial plain. Included in this consideration should be the potential for watercourses to change their direction of flow as is usual in this type of location. Where is the 100-year flood plain today after new runoff patterns are considered? Where will they be after rising seawater factors are considered?

The baseline data is flawed leading to a flawed analysis. The Project will result in increased runoff to sensitive habitat areas because there are no other places to go. Certainly, water can be temporarily held during small rain events. However, when large successive storm events arrive this low lying area will experience of additional runoff from the Project.

The designed system in fact doesn't have the slightest possibility of containing insignificant rain events. Therefore the RDEIR must consider the impacts of yearly unmitigated discharges into the OID.

The RDEIR says: "The project would not release a flow at a greater rate than currently leaves the site in the existing condition based on the 10-year, 24 hour event." This is not true. Flow would be substantially greater, even in a substantially smaller event. The runoff rate to the Arnold Road drain would also increase by a significant margin.

**Impact Water-9.** Wastewater collection and treatment may be a Class I impact. The City of Oxnard may not have adequate treatment capacity for the project area when combined with all future planned projects. City department managers have publicly disputed available capacity figures.

**Impact Water-10.** Water supply availability for the southern subarea is a Class I impact. Please see the club comments for **Impact Water-1** which are herein incorporated by reference.

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Impact Water-11, Water facility construction for the southern subarea. for the southern subarea is a Class I impact. Please see the club comments for Impact Water-2 which are herein incorporated by reference.

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Impact Water-12, Wasteful use of water for the southern subarea, for the southern subarea is a Class I impact. Please see the club comments for Impact Water-3 which are herein incorporated by reference.

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Impact Water-13, construction related surface water quality for the southern subarea is a Class I impact. Please see the club comments for Impact Water-4 which are herein incorporated by reference.

Impacts from this impact in have the potential to affect sensitive habitat areas more directly because of the drainage patterns and proximity of sensitive resources.

Impact Water-14, Post construction related surface water quality for the southern subarea is a Class I impact. Please see the club comments for Impact Water-5 which are herein incorporated by reference.

Impacts from this impact in have the potential to affect sensitive habitat areas more directly because of the drainage patterns and proximity of sensitive resources.

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Potential impacts of southern subarea runoff water quality that would be directed to sensitive habitats is incorrectly identified and not analyzed. These habitats are already experiencing significant impacts that were not even discussed in the RDEIR. Additional runoff from the project will overwhelm the area's ability to recover and pose significant harm to endangered species so as defines "take" in the ESA. Formal consultations with USFWS are required. However, these requirements must be part of the CEQA process as well. The RDEIR'S failure to supply this information requires revision and recirculation of the document. The City of Oxnard has many policies and guidelines dealing with discharges to sensitive areas, as do the RWQCB, COE, CDFG and other agencies. However, as shown in the case of the unpermitted alteration of waters of the United States by the VCFCD, unpermitted activity can continue for years without intervention by responsible agencies. These problems continue until today. Therefore the actual impacts of all water related activities must be assessed in the DEIR.

The RDEIR concentrates on the flow of waters to the west, to the OID and eventually to the Ormond Lagoon. This water along with water that flows south along Edison drive and Arnold Road will flow to Mugu lagoon.

Also necessary is consideration of salts, silt and other chemicals that would be deposited in the fill introduced into the area for both subareas. The RDEIR aerial photos of the area illustrate that the southern section of the large agricultural field to the northwest of the Ormond Generating Station is essentially barren resulting from introduced fill.

The effects of these impacts do not stop at the shoreline. Yet no consideration is given to the variety of chemicals expected to be carried into local near shore waters.

**Impact Water-17.** Flood control and stormwater drainage for the southern subarea, for the southern subarea is a Class I impact. Please see the club comments for **Impact Water-9** which are herein incorporated by reference. 137

**Impact Water-18.** Water supply availability for the southern subarea is a Class I impact. Please see the club comments for **Impact Water-1** which are herein incorporated by reference.

Cumulative impacts are significant for storm water, runoff, water supply, flooding and drainage because the Project is located in the same area that the City has sensitive habitats and its water runoff storage capacity. Existing problems are compounded by the size of the project and the need to move water quickly into areas that are already beyond capacity or sensitive habitats. The baseline data is flawed resulting in flawed analysis throughout this section.

The City of Oxnard will annex hundreds of acres into the City and build the equivalent to a City the size of Port Hueneme by 2020. The Project is a substantial part of this increase of urban area. 138

The Project will also be considered to have a significant effect if it will "substantially degrade water quality." CEQA Guidelines, Appendix G. The DEIR notes that permits may be required from the Water Quality Control Board, as well as from the State for stream alteration, yet no meaningful discussion is offered of the potential water quality impacts requiring such permits.

#### 4. The DEIR fails to adequately analyze the cumulative impacts of the Project.

An EIR must discuss significant "cumulative impacts." CEQA Guidelines Section 15130 (a). "Cumulative impacts are defined as 'two or more individual effects which, when considered together, are considerable or which compound or increase other environmental impacts.'" CEQA Guidelines Section 15355 (a). "Individual effects may be changes resulting from a single project or a number of separate projects." *Id.* A legally adequate "cumulative impacts analysis" views a particular project over time and in conjunction with other related past, present, and reasonably foreseeable future projects whose impacts might compound or interrelate with those of the project at hand. "Cumulative impacts can result from individually minor but collectively significant projects taking place over a period of time." CEQA Guidelines Section 15355 (b). The cumulative impacts concept recognizes that "the full environmental impact of a proposed...action cannot be gauged in a vacuum." Whitman v. Board of Supervisors, 88 Cal.App.3d 397, 408 (1979). 139

Because the Hueneme, Ormond, Mugu area provides habitat for a vast array of sensitive species, and because implementation of the Project would significantly impact these species, the DEIR should have carefully analyzed the cumulative impacts to biological resources. The need for such analysis is compelling, given the DEIR's own assertion that natural habitats have already been severely fragmented and lost due to previous developments and many sensitive

species no longer occupy the remaining degraded habitat. Incredibly, the DEIR contains no analysis whatsoever of the Project's cumulative impact upon biological resources. The DEIR makes no attempt, for example, to identify projected development plans and projects for other jurisdictions in the area. The DEIR's failure to analyze the cumulative impacts from all of these other projects as well as from the proposed general plan update triggers the requirement that the EIR be revised and recirculated.

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In analyzing the "cumulative impacts" of a project, an EIR must consider "the change in the environment which results from the incremental impact of the project when added to other closely related past, present, and reasonably foreseeable probable future projects." CEQA Guidelines, Section 15355. The DEIR apparently relies on the "list" method for its analysis of cumulative impacts. The list of projects provided, however, is incomplete. Furthermore, the discussion of the cumulative impacts of the listed projects is inadequate.

A significant defect in the cumulative impacts analysis of the DEIR involves the City's current update of its General Plan and LCP, for which environmental review has been initiated. This update effort seeks to make significant changes to the City's planning documents that would allow for greater range of development in the Ormond Beach area of the City. For example, the DEIR discusses mechanisms to exploit language within the SOAR agreements that allow for schools and other projects to be located outside the SOAR CURB line. Additionally, after adoption of the existing General Plan, the City has acted to annex substantial (approximately 380 acres) amounts of acreage outside the City's sphere of influence. The City is currently working toward several similar annexations. Therefore, analysis of cumulative impacts cannot be confined just to areas within the city limits, sphere of influence, or the SOAR CURB line.

While the list method enables an agency to consolidate and condense its review of cumulative impacts, an agency must still offer a meaningful analysis of the cumulative impacts of the different projects listed. The few pages of cursory analysis offered in the DEIR are plainly deficient in this regard.

##### 5. The DEIR Fails to Adequately Identify or Analyze the Project's Growth-Inducing Impacts

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CEQA requires that an EIR include a "detailed statement" setting forth the growth-inducing impacts of the proposed project. Cal.PRCs 21100 (b) (5); City of Antioch v. City Council of Pittsburgh, 187 Cal.App.3d 1325, 1337 (1986). The statement must "discuss the ways in which the proposed project could foster economic growth, or the construction of additional housing, either directly or indirectly in the surrounding environment." Guidelines Section 15126.2 (d). It must also discuss how projects "may encourage and facilitate other activities that could significantly affect the environment, either individually or cumulatively" or "remove obstacles to population growth." Id.

The planned widening of the area road network could have growth-inducing effects. But rather than generally discuss where and when this growth would occur or evaluate the environmental impacts associated with this growth, the DEIR merely states that impacts of this

growth are addressed in other sections of the EIR. We cannot find any evidence that the DEIR has, in fact, analyzed the effect of this growth anywhere in the DEIR. Moreover, the DEIR admits that in the area east of the Project site where the SOAR ordinance has effect, that project-related but SOAR exempt components of the Project can be located. Unfortunately, rather than analyze these impacts, the DEIR merely asserts that these Project components are speculative and may not occur. Nowhere does the DEIR address the relationship between increased highway capacity and land use development. Nor does the document acknowledge that increased highway capacity is an indispensable prerequisite for future development.

While the DEIR need not predict the precise form, location and amount of commercial and residential development resulting from the proposed Project, it must attempt to describe the general form, location and amount of such development that now seems reasonable to anticipate. The DEIR must also include effects on infrastructure that can in turn be growth inducing. Moreover, the Project proponents are heralding the positive economic advantages of the project on neighboring areas. These factors also have negative impacts that are not considered in the DEIR. The DEIR must be revised and recirculated and must include this analysis.

**6. The mitigation measures for the project are inadequate as a matter of law.**

Under CEQA, mitigation measures must be capable of "avoiding," "minimizing" or "reducing" potential environmental impacts. CEQA Guidelines Section 15739. Agencies may not rely on mitigation measures of unknown efficacy in concluding that significant impacts will be lessened or avoided. Kings County Farm Bureau v. City of Hanford (1990) 221 Cal.App.3d 692, 727. Nor may agencies defer or delegate their obligation to formulate mitigation measures. Id.; Sundstrom v. County of Mendocino (1988) 202 Cal.App.3d 296; Orocino Gold Mining Corp. v. County of El Dorado (1990) 225 Cal.App.3d 872, 884-885. When mitigation measures may result in significant effect, these effects must also be analyzed. CEQA Guidelines Section 15370.

Under these principles, the mitigation measures proposed for the Project are inadequate as a matter of law. With respect to the mitigations proposed for impacts on visual quality, the measures included as part of the Project will result in significant effects that must be analyzed. For example, the mitigation for visual impacts includes extensive landscaping, as well as altering the existing grade of the project site. As discussed above, the planned landscaping may pose a further threat to protected plant and wildlife species in the area; whatever affects it may have on visual resources. In addition, the proposed grading may affect area water flow, the introduction of nonnative species, and addition of silt and sediment to area streams and wetlands. These potentially significant effects need to be independently analyzed.

With respect to noise impacts, the project simply "requires" that construction be carried out during normal working hours. This stipulation, however, does not serve to reduce or minimize the increased noise levels themselves. For sensitive receptors that remain near the project site throughout the day, including humans and the resident wildlife species, the level of impacts will remain unchanged. Although the DEIR refers to a number of other mitigation measures, these appear to be discretionary in nature and cannot be relied upon to successfully mitigate impacts.

With respect to impacts on biological resources, the DEIR completely fails to understand both the nature of numerous significant indirect impacts created by the Project and the type of mitigations required to have any effect on minimizing the impacts that are created. The mitigations devised do not constitute adequate mitigation within the meaning of CEQA. First, no one is under any obligation to move forward with the "negation program." Not even the City itself has given any firm commitment to enter into any agreement.

Indeed, in the June 2007 public meeting for the project, many residents offered substantial evidence to prove that the failure to employ real mitigations would likely result in catastrophic harm to all area wildlife and habitat areas, including many endangered species.

Furthermore, even if responsible agencies agree to participate in the "mitigation program," there is no guarantee of their continuing participation over the life of the project. On the contrary, the proposed agreements are vague, undefined and superficial. Thus, there is absolutely no guarantee that biological monitoring, resource management, public access or program evaluation aspects of the mitigation program will be continued for any significant length of time, much less for the life of the project.

In addition, certain aspects of the "mitigation program" simply do not constitute mitigation within the meaning of CEQA. Much of the so-called mitigations do not operate in any manner to reduce the impacts of the project. The mitigation program also places heavy emphasis on efforts to enforce existing laws. Enforcement of existing laws does not constitute mitigation for the impacts created by this project because these are ongoing commitments that exist with or without the Project.

As a factual matter, the mitigation program as described in the DEIR simply does not reduce or minimize the significant effect of the project on biological resources to a level below significance. As described in evidence submitted by the Sierra Club and many other expert witnesses, the Project would pose a direct threat to protected wildlife species despite the presence of the described mitigations.

Finally, it is apparent that many of the proposed mitigations may result in creating significant effects on the environment. Because the DEIR proposes mitigations without providing any analysis of their environmental effects, the proffered mitigation program is fatally defective.

CEQA requires that mitigation measures be identified and analyzed. "Purpose of an environmental impact report is...to list ways in which the significant effects of such a project might be minimized...." CEQA Section 21061. The California Supreme Court has described the mitigation and alternative sections of the EIR as the "core" document. Citizens of Goleta Valley v. Board of Supervisors, 52 Cal.App.3d 553 (1990).

In the present case, the DEIR's failure to conduct an analysis of the impacts to biological resources renders it unable to identify proper mitigation for such impacts or to propose alternatives that could alleviate them. Amazingly, rather than propose realistic mitigation

measures, the DEIR looks to the good will of other agencies and individuals to develop and implement and fund required mitigations. Therefore, no additional protection to the area's sensitive species would be forthcoming due to mitigations required by approvals of the Project.

Because many impacts to biological resources will be significant, the detailed analysis of environmental analysis must be performed now. As the Court of Appeal explained in Stanislaus Natural Heritage Project v. County of Stanislaus, 48 Cal.App. 4<sup>th</sup> 182 (1996), CEQA requires that this environmental review take place before project approval. Id. at 196 (citing Laurel Heights II for the proposition that a fundamental purpose of CEQA is to "inform the public and responsible officials of the environmental consequences of their decision before they are made"). In Stanislaus, the Court rejected the argument that a programmatic EIR for a specific plan and general plan amendment could ignore site specific environmental review because future phases of the development project would include environmental review, stating that "tiering is not a device for deferring the identification of significant environmental impacts that the adoption of a specific plan can be expected to cause." Id. at 199. The Court emphasized that agencies should expect environmental analysis to involve some degree of forecasting: We do not by this opinion place any new burdens on preparers of EIRS. Our opinion today is merely an affirmation of already existing law. "Drafting an EIR...necessarily involves some degree of forecasting. While forecasting the unforeseeable is not possible, an agency must use its best efforts to find out and disclose all that it reasonably can." Id. at 206. Citing CEQA Guidelines Section 15144.

At the same time, CEQA requires that project description and environmental impact assessments account for reasonably foreseeable future phases, or other reasonably foreseeable consequences of proposed projects. (Laurel Heights I at 393-99.) In Laurel Heights I, the California Supreme Court required that an EIR analyze future effects of project expansion or other action where "(1) it is a reasonably foreseeable consequence of the initial project; and (2) the future expansion or action will be significant that it will likely change the scope or nature of the initial project or its environmental effects." Id. at 396. In that case, the Court required the University's EIR to discuss the future expansion of its project in order to inform decision-makers and the public about the impacts that would likely occur. Id.

The DEIR's promise to reduce potential impacts on biological resources does not constitute suitable mitigation. This failure demonstrates the substantive inadequacies of the DEIR's environmental review. Moreover, the County may not use the failure of its review to avoid mitigation: "The agency should not be allowed to hide behind its own failure to collect data." Sundstrom v. County of Mendocino 202 Cal.App.3d at 361.

In sum, the DEIR's discussion of biological resources is incomplete, misleading and unsupported by necessary analysis due in large part because of the failure of the DEIR to identify impacts and to devise mitigations. In light of the flaws identified above, the EIR must be substantially revised and recirculated before the City can properly consider approving the Project.

**7 THE DEIR fails to consider and mitigate social and economic impacts**

Encroachment is an effect of the Project on NBPM. The results of encroachment could result in NBPM losing its competitive edge during the next round of BRAC proceedings. NBPM lost some missions in the last round but also gained some others. During the next round NBPM will be forced to compete with other military bases or face reduction or possible closure. Encroachment was a significant force in determining which missions and bases were moved or closed in the last round. The DEIR failed to consider encroachment issues as they relate to loss of current missions, failure to secure new missions or transferred missions or long term sustainability of the base. Nor did the DEIR look at encroachment as regards sensitive habitat areas.

This failure of the DEIR is compounded by its failure to consider the social and economic impacts resulting from loss of missions or base closure. The described eventuality has the potential of creating the largest economic and social impact ever felt in Ventura County.

The Oxnard GP describes an agricultural work force in 1990 of 16 percent, making it the largest working sector in the community. Therefore the GP contains several goals and policies regarding protection of the long-term sustainability of agriculture. The DEIR fails to include data on how many agricultural jobs and land have been lost. Nor is any information provided regarding the social economic impacts associated with the elimination of a significant portion of the City's remaining agricultural lands.

Should the DEIR be revised, the impacts of this issue should be considered. Also considered should be impacts to neighboring communities and the County.

#### 8 The RDEIR Fails To Adequately Describe A Reasonable Range of Alternatives to the Proposed Project.

CEQA requires the analysis of feasible alternatives to projects. The RDEIR largely fails to identify a reasonable range of on- and offsite alternatives as required by CEQA. See Sierra Club v. Contra Costa County (1992) 10 Cal.App. 4<sup>th</sup> 1212; Save San Francisco Bay Association v. San Francisco Bay Conservation and Development Commission (1992) 10 Cal.App. 4<sup>th</sup> 908.

Every EIR must describe a range of alternatives to the proposed project and its location that would feasibly attain the Project's basic objectives while avoiding or substantially lessening the Project's significant impacts. CEQA Section 21100 (b) (4); CEQA Guidelines Section 15126 (d). A proper analysis of alternatives is essential for the DEIR to comply with CEQA's mandate that significant environmental damage be avoided or substantially lessened where feasible. PRCS 21002; CEQA Guidelines Sections 15002 (a) (3), 150251 (a) (2), 15126 (d); Citizens for Quality Growth v. City of Mount Shasta, 198 Cal.App.3d 433, 443-45 (1988). As stated in Laurel Heights I, "without meaningful analysis of alternatives in the DEIR, neither the courts nor the public can fulfill their proper roles in the CEQA process....[courts will not] countenance a result that would require blind trust by the public especially in light of CEQA's fundamental goal that

the public be fully informed as to the consequences of action by their public officials." 47 Cal.App.3d at 404. The RDEIR's discussion of alternatives in the present case fails to live up to these standards.

Furthermore, the recirculation of the DEIR gave the City a second chance to consider addition and/or revision of alternatives based upon substantial evidence on the public record.

The RDEIR fails, in every way possible to identify real alternatives to the proposed project. This failure is especially significant considering the volumes of information that are available to the City that contain the core concepts of viable alternatives. First, is the Ormond Beach Task Force's Consensus Plan of 2003, OBTF was invited by the City of Oxnard to make a land use recommendation for the Ormond Specific Plan area circa 1995. OBTF consisted of all area stakeholders who wished to be part of this effort. City staff requested of OBTF that our recommendation would be included as a second conservation alternative to supplement whatever appears in the DEIR for the Specific Plan (See Exhibit 9, Oxnard Staff Report 12/30/2003 and Exhibit 12, OBTF Consensus Plan 98). OBTF worked on a first draft in 1996 that was never ratified by the group. Instead, OBTF worked together to draft a final version that was voted on in 1998 that was termed the Ormond Beach Consensus Plan (Exhibit 12 OBTF Consensus Plan 98). The plan was later revised by some minor changes with a name change to the Ormond Beach Consensus Plan 2003 that were agreed to without any votes of opposition in January 2004. The Consensus Plan has the benefit of having had input from area property owners, responsible agencies, environmental organizations and members of the public. No other land use recommendation dealing with Ormond Beach issues has approached the level of public involvement and expertise that contributed to the drafting of the Consensus Plan. Since the City of Oxnard established this task for OBTF, the failure to incorporate the Consensus Plan into the analysis undertaken in the RDEIR results in a fatal flaw because of the omission of substantial evidence on the public record.

Furthermore, the failure to include the OBTF Consensus Plan may breach a contract between the City and OBTF.

City staff has opined that the RDEIR Conservation Alternative, Alternative 4, is the same as the Consensus Plan. This is not true. Both Plans share the concept of Conservation but the alternative appearing in the RDEIR is a far cry from the product of years of work that lead to a viable alternative to this Project-- OBTF Consensus Plan 2003. The Conservation Alternative in the RDEIR lacks the depth of reasoning that brought a large and diverse group of stakeholders to vote unanimously on two occasions, 5 years apart, to support the core concept that without protecting an area substantially larger than the core wetlands area, the Ormond Beach wetlands cannot survive as a functioning ecological system (See Exhibit 10, OBTF consensus Plan 2003).

The "GREATER ORMOND BEACH TASK FORCE CONSENSUS PLAN 2003" is dedicated to the memory of past OBTF president, Roma Armbrust who gave the last energy of her life in pursuit of a mechanism to implement the goals of the plan. It states in part:

"Ormond Beach is the most important wetlands restoration opportunity in Southern California. Restoring and uniting all these wetlands would offer a tremendous habitat to a variety of wildlife.

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As well known as the 1,100-mile coastline of California is throughout the world, it still harbors secrets. Among them is Ormond Beach, a wild stretch of the California coast in western Ventura County that whispers a tale of what California beach life once was like.

Ormond Beach stretches from the Pt. Mugu Naval Air Station to the City of Port Hueneme boundary. To the person driving quickly past, the patchwork of industrial and agricultural parcels along Hueneme Road in South Oxnard obscures the environmental jewel that lies beyond. But to the initiated, Ormond Beach reveals a stunning ecosystem that combines ocean, sandy beach, estuary, marsh, dunes and uplands. Among its astounding 10 endangered or special status species, Ormond Beach harbors seven endangered or special status birds. As many as 300 bird species have been sighted here. Many of them migrate the Pacific Flyway as they have since the last Ice Age. At Ormond Beach, the birds still find a place where they can live as Nature intended, amidst the landscape of marshes and wind-sculpted dunes that gradually change from year to year.

As one of the best of the state's last surviving wetlands, the secret biological treasure at Ormond Beach is becoming better known. United under the name the Ormond Beach Task Force, the community and numerous governmental agencies have developed a consensus plan on how to best preserve it.

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The Greater Ormond Beach Task Force approved Consensus Plan 2003 on January 22, 2004. The Task Force is comprised of representatives from the City of Oxnard, resource agencies, property owners, environmental groups, community organizations, industry, public utility and additional stakeholders within the planning area and beyond. The Task Force has reached a consensus among the regular participants (see list) on a Consensus Plan which consists of a draft land use map for the Ormond Beach area and a set of policy recommendations. These are recommendations to the Oxnard City Council, property owners and other decision-makers on what future land uses should be considered in the area. Consensus Plan 2003 supercedes Consensus Plan 1998, which was approved by the Task Force in 1999.

#### **CHANGED CIRCUMSTANCES:**

Property ownership development proposals and issues have changed frequently. The Oxnard 2020 General Plan and the Oxnard Local Coastal Plan have provided the only long-term planning context. The rapid change of participants and proposals led the Task Force to conclude that changed circumstances dictated reconsideration of some of the previous recommendations.

The Task Force believes that in light of changed circumstances these policy recommendations represent valid guidelines to economically viable land uses in the area which appropriately balance future development and conservation at Ormond Beach, and the overall South Oxnard area. Using these recommendations as a starting point, the Task Force welcomes a dialog with the City, other property owners, and the surrounding community to finally plan the Ormond Beach area in a way that benefits all parties. The Task Force requests direct inclusion in any land use planning in the greater Ormond Beach area.

#### **CONSENSUS PLAN 2003 RECOMMENDATIONS:**

(See Exhibit 10, Consensus Plan Map)

**PLAN AREA 1:**

Recommendation: These wetland, dune and beach areas should be entirely conserved and peripheral areas enhanced or restored.

Status: Much of this property is now under consideration for acquisition and permanent protection.

**PLAN AREA 2A:**

Recommendation: These wetland, dune and beach areas should be entirely conserved and peripheral areas enhanced or restored.

Status: Coastal Conservancy property

**PLAN AREA 2B:**

Recommendation: This area should be designated for upland and wetland restoration.

Status: agricultural row crops

**PLAN AREA 2C:**

Recommendation: This area should be designated for upland and wetland restoration and agriculture.

Status: in sod production

**PLAN AREA 3:**

Recommendation: This area should be designated for agriculture and resource conservation.

Status: in sod production

**PLAN AREA 4:**

Recommendation: This area should be designated for agriculture and resource conservation.

Status: agricultural row crops – residential development proposed

**PLAN AREA 5:**

Recommendation: Resource protection, upland and wetland restoration, educational use, water quality treatment facility, interpretive center, visitor center, and research center.

Status: vacant

**PLAN AREAS 6A AND 6B (HALACO PROPERTY):**

Recommendation: Halaco facility and adjacent slag heap should be acquired, impacts remediated and habitat areas restored. The slag heap in Plan Area 6A should be removed and the wetland restored. The Halaco facilities in Plan Area 6B, west of the Oxnard Industrial Drain, should be replaced with visitor serving facilities.

Status: metals recycling facility and slag heap.

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 The Task Force recommendations for areas 3 and 4: "designated for agriculture and resource conservation" reflect that the strategy for ultimate acquisition and habitat restoration could be combined with support of agricultural uses until funds for restoration became available. Alternative 4 in the RDEIR does not acknowledge this finding of the Task Force. Therefore the recommendations of the largest stakeholder group dealing with Ormond area land use designations are not contained within the RDEIR.

### Conceptual Management Plan for Ormond Beach

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 Another basis for alternatives analysis comes from Mary Lou Furrer's Conceptual Management Plan for Ormond Beach (CMPOB). The Plan contains substantial baseline data on Ormond's biota and habitat types and then illustrates where wetlands restoration can transition into associated uplands. The report was prepared by Mary Lou Furrer under the direction of Wayne Ferren at the University of California at Santa Barbara. This report describes the superior value of the Project site as a restoration area because it occupies the same area as historic wetlands shown in wetlands mapping done by the 1855 geological survey. **CMPOB** supports an expanded restoration project aimed at the long-term sustainability of a functioning ecological system. It also develops the concept of acting to help recover several endangered species that have been extirpated at Ormond Beach. The RDEIR totally fails to produce an alternative of similar depth. The **CMPOB** is a real alternative that deserves to be more fully developed and which should have been more fully developed in the RDEIR.

(Please see: Exhibit 20, Conceptual Management Plan for Ormond Beach, Mary Lou Furrer, including Maps 1 through 10)

The following recommendations are from the **CMPOB**:

## **RECOMMENDATIONS**

### **PHASE I: IMMEDIATE MINIMUM COMPLIANCE**

#### Discussion

Biological resources in the Hueneme/Ormond Mugu (HOM) area have been under tremendous pressure for many decades now. Survival of individual species and of habitat areas is extremely precarious. Many species have become locally extirpated and some local species are now considered to be extinct. Habitat types are either reduced below the critical mass necessary to provide any benefit to wildlife or are eliminated entirely.

Destruction of biological resources in the HOM area has often proceeded openly, with little or no comment or intervention on the part of responsible agencies. Failure to protect biological resources has often resulted in violation of existing law and policy, and in violation of the public trust.

Future protection of area resources must be rooted in moving to achieve compliance with all applicable law and policy. This obligation is outstanding and therefore should be accomplished with all available speed. This could be done by moving immediately to use those Federal laws and policies which provide the strongest and clearest mandates for resource protection.

Several federally listed endangered and threatened species exist in the HOM area. Impacts on these species, especially California least terns has been well documented over the past twenty years. Loss of habitat and human disturbances may at times result in violations of both ESA and CESA.

A key to protection of listed species in the HOM area is immediate movement to achieve compliance with the ESA and CESA. ESA has a provision for delineation of critical habitat. This provision has not been employed for any of the listed species which may be found in HOM. Critical habitat was not listed in the case of California least terns, apparently out of a desire to not inadvertently eliminate potential habitat. However, failure to delineate Critical Habitat has resulted in a situation where nothing is treated as Critical Habitat, and therefore nothing is protected, contrary to the specified goals of ESA. Such delineation is clearly under the purview of USFWS. It is, therefore, recommended the USFWS move immediately to comply with ESA by acting to protect critical habitat.

Many of the habitat areas used by listed species in HOM are well known to local biologists and responsible agencies. These areas should be mapped so all parties may be immediately informed as to the potential range of listed species in the area. It is recommended that during the interim while USFWS and other agencies are reviewing the merits of Critical Habitat that the proposed areas be treated as "de facto" critical habitat.

A wetlands delineation is currently being completed by the Corps of Engineers for much of the Ormond area. Until the document is released, it is somewhat difficult to specify the exact boundaries of Waters of the United States and associated wetlands under section 404 of the Clean Water Act. However, some preliminary work has been done by the Baldwin Company (Sanders, D., 1989) and the City of Oxnard (McClelland 1985). The City of Oxnard has been notified that some of its land use designations fail to conform with the California Coastal Act provisions relative to protection of wetlands (Johnson, 1992).

Even the Sanders delineation done on behalf of a developer acknowledges wetlands in excess of those protected in Oxnard's CLUP. This delineation is currently being modified by the Corps of Engineers. In all probability, the ultimate delineation of area wetlands will be substantially greater than those recognized by the City of Oxnard. It is therefore recommended that all responsible agencies move immediately to construct general mapping of those sensitive habitat areas which are least in question. This is necessary so that while the boundaries of areas in question and marginal areas may be argued, uncontested wetlands and critical habitat are not being degraded.

Part of the Ormond dunes and wetlands is currently zoned as Resource Protection area (RP) in the City of Oxnard Coastal Land Use Plan (CLUP). Neighboring Port Hueneme has zoned the eastern end of Hueneme Beach as Park/Open Space. Both of these designations fall far short of achieving adequate protection for state and federally listed species in the respective cities. The local designations for these areas are noteworthy in that they already fall far short of recognizing resources which are afforded protection under state and federal law. When state and federal agencies more clearly define habitat areas for listed species and boundaries for jurisdictional wetlands, the deficiencies in local designations will become acutely apparent. It is

therefore recommended that the City of Oxnard and the City of Port Hueneme move to amend law use designations so as to protect listed species and wetlands. All lands and waters which provide essential habitat for federally listed species should be zoned for Resource protection (RP). All waters of the United States and associated wetlands should be similarly zoned.

The operative word for Phase I recommendations is IMMEDIATE. The necessity of immediate actions results from ongoing violations of the City of Oxnard's CLUP, the City of Oxnard 2020 General Plan, the California Coastal Act, CESA, ESA and the Clean Water Act. Other violations may occur as well. It should be noted that the goals of Phase I recommendations are not full compliance with applicable laws and policies but merely MINIMUM compliance with those which are most obviously abrogated.

Phase I is NOT a call for further study of area resources. This action is reserved for later stages. Numerous other studies and reports suffice to establish the present location of biological resources and the legal necessity for their protection.

### Recommended Procedures for Phase I

- **Establish resources protection area.**

Start with a map of the HOM area which shows designated resource protection areas (map 1).

- **Establish habitat for California least tern.**

Using criteria derived from the CLTRP, delineate habitat areas essential to the survival of California least terns (map 2).

- **Establish habitat for Western snowy plovers.**

In consultation with those biologists most knowledgeable of the issue (Keeney, Page, Stenzel, Baird, Holmgren), USFWS, CDFG and CCC delineate habitat likely to be considered critical to Western snowy plovers (map 3).

- **Establish habitat for salt marsh bird's beak and other imperiled species.**

Using the SMBBRP, delineate areas of extant and potential populations of Cordylantus maritimus maritimus (map 4). (California brown pelicans, light-footed clapper rails, peregrine falcons, bald eagles and unarmored three-spined sticklebacks may deserve consideration which could be included on map 4, but only as it doesn't slow the process, otherwise they may be considered in later stages.

- **Establish definitive wetland boundaries.**

Using the maps prepared by Dana Sanders together with those prepared for the McClelland Report (or the official delineation of the Army Corps of Engineers if it is completed in time), prepare a map of waters of the United States and related wetlands (map 5).

- **Combine areas into new resource protection area.**

Assemble a composite of areas most in need of immediate protection (map 6).

- **Coordinate new protection measures.**

Responsible agencies should now, with composite map in hand, coordinate specific measures to implement the goal of providing immediate protection to the most sensitive HOM areas. Assignment of responsibilities for these measures is equally necessary. Perhaps most important, since the goal is compliance with the law, is the establishment of effective penalties

for violations. Otherwise, this exercise may result in a return to square one, where we have a meaningless map and nothing else. It is imperative that all law enforcement personnel understand what area is being protected and all applicable codes available for citations. Protection of resources might be facilitated by implementing the following:

- Establish "de facto" critical habitat for federally listed species
- Specify procedures and penalties for "take" of habitat.
- Establish basic wetlands boundaries.
- Specify procedures and penalties enforceable by CDFG.
- Specify procedures and penalties for violations of municipal codes for the City of Oxnard and the City of Port Hueneme.
- Coordinate between responsible agencies the immediate need to define an overall area which requires the highest level of protection.
- Identify specific goals and implementation measures.
- Establish a calendar for action and list responsible parties.

## PHASE II: INTERIM COMPLIANCE AND ENHANCEMENT

### Discussion

While Phase I recommends actions dealing only with the most immediate requisite goals for protection of resources in the HOM area, Phase II moves into a greater range of federal and state law and policy which though equally important are more complex. Phase II seeks to further develop the range of protected species and habitats in the area. Several of the listed species which use this area have recovery plans which call for habitat enhancement. Some specifically mention the Ormond area. Other listed species are more wide-ranging. Such species might derive direct benefit through protection or enhancement of habitat in the HOM area.

In addition to federally listed species, the HOM area provides habitat to greater numbers of state-listed species, as well as federal and state candidate species and other species of special concern. Habitat for these species warrants some level of protection which should be considered within Phase II.

Phase II initiates a much broader range of policy requirements than Phase I. Greater emphasis is made in working toward full compliance with ESA and other federal policies. Compliance with CESA, the California Coastal Act and the public Trust Doctrine of the State Lands Commission is attempted. Local planning provisions for protection of open space and biological resources are supported.

Phase II initiates a process whereby wetlands restoration and other habitat enhancement measures are employed as the primary device for achieving compliance with all policy which mandates protection of biological resources. Phase II assumes only an interim position in this endeavor. Full compliance with existing policy requires substantial restoration projects. These projects would involve a long planning process, substantial costs and transfers of ownership and land acquisition. These complexities are reserved for Phase III.

The goal of Phase II is to proceed towards rehabilitation of existing habitats under present land ownership configurations. This phase is needed to counteract the existing inertia to await completion of more studies before moving. This phase also has immediate benefit in that several enhancement projects are possible which would not negatively effect a comprehensive enhancement project for the HOM area.

## Recommended Procedures for PHASE II

- **Define habitat areas for Federally listed species to include foraging and roosting areas and enhancement possibilities.**

### California least terns

Phase I only defined the boundaries of existing habitat used by California least terns. The California Least Tern Recovery Plan (CLTRP) calls for enhancement of habitat. Perhaps most lacking has been any focus of foraging habitat. It is known that historically, terns depended on substantially greater foraging areas to support the local population. Therefore, steps made to protect only nesting sites without regard for forage upon which the population is dependent are insufficient and non-compliant with ESA and CLTRP.

The following actions are recommended for the benefit of California least terns:

- Elimination of non-native plants within Southern Coastal Foredunes.
- Reintroduction of native plant species whenever possible.
- Insure that nesting areas do not suffer from human disturbances.
- Protect all HOM waters from pollutants which might impact critical food supply for least terns.
- Develop additional forage through enhancement of existing foraging areas and construction of additional habitat.
- Protect all roosting and staging areas.
- Eliminate all vehicle traffic on area beaches.

### Western snowy plovers

Western snowy plovers use much of the same area as least terns but are more dependent upon the inter-tidal area from water's edge to the rack line of ocean waters and shoreline of the lagoon areas. The following actions are recommended:

- Eliminate all vehicle traffic on area beaches.
- Eliminate use of beach cleaning machines on the eastern end of Hueneme Beach and any other likely location for nesting plovers.
- Enforce leash laws for both Port Hueneme and Oxnard.

### Salt marsh bird's beak

Salt marsh bird's beak is presently confined to areas in the vicinity of the Ormond Beach Generating station. Location and re-establishment of additional habitat for this plant would conform to the Recovery Plan.

The following actions are recommended:

- Remove all non-native plant species in the vicinity of existing habitat.
- Eliminate all off-road vehicle traffic.
- Establish additional habitat.

Peregrine falcon

A peregrine falcon is now residing in the HOM area. Re-establishment of local nesting would be an extremely significant development. This species has been frequently observed in the vicinity of the Ormond generating station and at Mugu Lagoon. All open space south of Hueneme Road is potential habitat for the falcon. It is recommended that:

- All potential habitat for the peregrine falcon be identified and protected.

Bald eagle

Bald eagles are common visitors to the area. Local nesting was known historically. All remaining open spaces in the HOM area are potential habitat. It is recommended that:

- All potential habitat for the bald eagle be identified and protected.

Light-footed clapper rail

Light-footed clapper rails are present at Mugu Lagoon. The eastern end of Ormond Beach may provide additional habitat. It is recommended to:

- Provide additional habitat through a habitat enhancement project at the eastern end of Ormond Beach.

Unarmored three-spined stickleback

Unarmored three-spined stickleback fish have, in the past, been found in the HOM area estuaries. The potential uses of HOM waters for this subspecies or related subspecies should be investigated.

- Potential habitat should be protected.
- **Define habitat areas for candidate species**

The list of candidate species which may be found in the HOM area is considerable (see sensitive species discussion in Habitat Description chapter). Each habitat type to be found in the area has several dependent candidate species. All open space south of Hueneme Road provides essential habitat for several candidate species. Existing provisions for protection of sensitive species in the HOM area largely excludes recognition of species which use transition areas and wetlands-associated uplands. Some of the best habitat for these species is found between Perkins Road on the west and a spur of the Ventura County Railroad line on the east and between Hueneme Road and the coast.

This area provides important links to other protected areas and is important to area ecology. An example is the need for insect pollinators to help propagate salt marsh bird's-beak. These pollinators require neighboring uplands for their survival. Therefore, the endangered plant requires the uplands as well.

- **Recognition of other Sensitive Species**

The multitude of remaining species on the sensitive species list serve to complete the picture of biological diversity in the HOM area. The legal criteria for protection of any one of

these, or all of them together, is probably insufficient to inspire a call for action. However, their sheer numbers demonstrate a need to depart from single species management, which has itself been insufficient and disastrous.

- **Establishment of Sensitive Ecological Areas (SEA's) as defined by the California Coastal Act.**

Rather than place all emphasis on state and federally protected species, it is past time that planning focuses on sensitive habitats and ecological systems. The Interagency MOU on Biodiversity (Appendix B) is a call for just this kind of approach.

Section 30240 of the California Coastal Act provides protection of sensitive habitat areas from disruption and from adjacent developments. However, much of the authority to implement this provision falls to the respective cities and county in their LCPs. Several conflicts exist in the HOM area where sensitive habitats are actually zoned as coastal industrial or some other urbanized use. Review of these conflicts should be initiated. The original intent of the CCA was to provide periodic reviews (every 5 years). Such review should result in amendments to LCPs for both cities and the county in order to achieve compliance with Section 30240.

- **Initiate Interim restoration projects.**

Map 7 illustrates some areas which could site immediate habitat enhancement projects. The below recommended projects include only those areas of public lands or private lands where the owner has expressed interest in resource protection.

#### Eastern Hueneme Beach

The eastern end of Hueneme Beach Park should be restored. The presence of fresh water throughout the year offers a unique restoration potential to re-establish fresh water marsh. Such restoration benefits several endangered habitats. Restoration benefits several endangered habitats. Restoration benefits several federally listed species. Restoration is in compliance with ESA, CESA and CCA. Restoration is also consistent with a current zoning—open space/Parks. This area could provide a wonderful educational children's park.

#### Hueneme Lagoon

Expansion and enhancement of the lagoon area and tributaries is a potential interim project. Serious attention to water quality in the lagoon is of immediate importance. Such restoration provides immediate benefit to a large number of listed and other sensitive species.

#### Wastewater treatment site pond

This small pond provides habitat to an amazing number of species. The pond might be expanded, thereby providing additional habitat. This project would provide forage for California least terns and other species.

#### Salt Marsh, Perkins Road

A small triangle of salt marsh survives north of the Perkins Road parking lot. This site is cut off from tidal flow. Small changes in drainage could substantially enhance this sensitive habitat.

#### SCE Enhancement Projects

SCE is just finishing a survey of sensitive species on their properties at the Ormond Generating Station. Several possibilities exist, including enhancement of habitat for salt marsh bird's-beak, salt marsh restoration and enhancement of coastal dunes. SCE apparently awaits decisions being made by the City of Oxnard, and the Baldwin Company regarding potential additional restoration. SCE should be encouraged to go forwards immediately as local history is filled with studies never implemented.

#### California Coastal Conservancy Plans

The California Coastal Conservancy should be encouraged to continue its efforts to promote area habitat restoration, with the original partners or with others, such as the County.

#### Establish Fresh Water Foraging Areas

Additional fresh water foraging habitat might be expanded by increasing the size of the small pond located west of the Reliant generating station. The pond is at the turn in the Ventura County railroad spur. Expansion of the pond might serve a second purpose in creating a barrier for illegal off road vehicles.

### **PHASE III: LONG TERM ECOLOGICAL SYSTEMS ENHANCEMENT**

#### Discussion

Phase III of this plan is designed to come as close as possible to full compliance with all federal, state and local law and policy which provide protection and enhancement for biological resources. The models which are provided compare existing resources with historical configurations. It is recommended that restoration and enhancement which closely approximates historical patterns (Map 8) provides the most appropriate model for achieving this goal.

The legal basis for habitat enhancement is found in numerous federal, state and local laws and policies. The Endangered Species Act and Clean Water Act call for avoidance of impacts and enhancement of degraded habitats whenever possible.

Several recovery plans for endangered species speak not just generally to the habitat types found in this area but to this area specifically. Unfortunately, future listings will probably add to the significance of this area. Numerous new candidate species will need to be listed if areas such as these do not receive enhancement.

The CESA provides additional support for restoration and enhancement. The California Coastal Act supports resource protection for habitat areas within the Coastal Zone. The Interagency MOU on Biodiversity advocates an end to single species management. All agencies have agreed to promote protection to ecological systems in order to protect the greatest biological diversity. General Plans for Ventura County and the City of Oxnard also recognize the need to protect area resources.

Accomplishment of this goal is feasible only if elected representatives, responsible agencies and local property owners provide support. Clearly, conflicts exist and will continue to

surface throughout the planning process. However, mechanisms for conflict resolution have previously been devised for other restoration projects. Some of these mechanisms might be employed and adapted for local use.

### Recommended Procedures for Phase III

#### **Change land use planning for both cities and the county**

A restoration plan will require changes in land use planning and zoning for both cities and the county to establish resource protection areas. These changes should be considered to be appropriate in order to conform with other policies such as the California Coastal Act and even local provisions for resource protection.

#### **Establish mechanisms for land acquisition**

Some area property owners may not favor participation in a restoration plan for a variety of reasons. Therefore, it may be necessary to establish a mechanism for land acquisition. Other property owners may favor economic incentives available to participants in wetlands restoration projects. The benefits for these and other property owners need to be made available at the earliest possible time in the process.

#### **Formation of a Conservancy**

The requirements necessary to coordinate all the related activities associated with wetlands restoration may be beyond the abilities or will of any local agencies. Formation of a Conservancy for the purposes of promoting establishment of an ecological reserve may be a necessity. Such organizations are common throughout California and assistance is available in forming such an entity (Appendix F).

#### **Establish models for restoration and enhancement**

Two conceptual models are constructed for the purpose of showing possible configurations of restoration projects in the HOM area. The basis for these models is to attempt to reconstruct ecological systems which resemble historical configurations. These configurations are known to have provided excellent habitat for the diversity of life now imperiled. Similar restoration projects have already demonstrated that a high degree of success can be expected. Use of these models will immediately benefit wildlife and plant life. However, the greatest benefits are derived by humans. The models greatly expand public recreational and educational opportunities. The models also have the potential of providing a sustainable economic amenity to the community.

(Map 8), developed by Wayne R. Ferren Jr., curator of the Herbarium at the University of California at Santa Barbara, is a composite which illustrates the extent of historical geographical features in the current HOM area. It additionally shows the two large historic lagoons which were surrounded by vast salt marshes.

#### **Model I (Map 9)**

This map was also composed by Ferren, and illustrates potential restoration configurations from Map 8. Other potential restoration possibilities for this model include:

- Potential wetland and aquatic habitat;

- Potential wetland habitat creation sites; and
- Potential buffer sites.

### Model II (Map 10)

Model II is an extension of Model I and assumes Phase I and II have been implemented whereby the dunes and beach areas have been designated for resource protection. This model calls for increased protection to allow for establishment of an ecological system that more approximates the historical land features. The recommended restoration and enhancement plans may include:

- Hueneme Road be established as the physical dividing line between protection/restoration/enhancement and development;
- The land use designation in the far eastern corner of the map should be dedicated agriculture or open space to buffer the already established ecologically sensitive habitat areas;
- Restore freshwater element;
- Greater amount of area included for lagoon re-establishment to allow for tidal flushing; and

Use additional areas beyond Model I for upland and transitional areas or estuaries and lagoons to more approximate historical configurations. This therefore establishes an area that has salt marsh, lagoons, estuaries combined with uplands and transitional areas.

The LPC along with this comment is submitting several DVDs that support the concept of a sustainable restoration plan including a DVD interview and transcript of Wayne Ferren done by Earth Alert Executive Director, Janet Bridgers on the value of the project area as a potential wetlands restoration site. The other DVDs include local wildlife experts who provide substantial evidence in support of a sustainable restoration plan.

The failure of the RDEIR to accurately consider all of the area that has been proposed for habitat restoration further illustrates the inadequacy of the RDEIR's consideration of alternatives to the Project. The RDEIR erroneously states over and over that only 220 acres of the project site is suitable for restoration. In fact, as many experts have stated, all of the project area south of Hueneme Road would be an ideal location for a restoration effort, given its historical value as wetlands and location adjacent to a still-functioning wetland. The RDEIR conclusion to the contrary is not supported by substantial evidence and the RDEIR's refusal to follow CEQA Guidelines on the comparison of alternatives damages the public's ability to participate in this process.

The same failures exist in the development of viable alternatives for sustaining agriculture as part of the City's future. This violates several goals and objectives included in the City's GP. It also violates the spirit of CEQA. The RDEIR simply states that the City can move forward with the existing--County zoning. This avoids a serious discussion on how to make agriculture sustainable into the future.

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 Everything said about area ecology and agriculture applies to NBPM. The RDEIR fails to consider how to make the Base sustainable into the future. The Project should contain an alternative that shows where all of the different military related missions will be located in the midst of an urban environment. That alternative must also show how sensitive and endangered species will survive.

149  
 Implementation of either of the two specific plans within the Project would significantly impact the area's biological resources, farm lands, air quality, cultural resources, scenic highways, scenic views and vistas and the character of several communities. Although the RDEIR includes purported "alternatives" to the Project, these alternatives are not developed to the same level of serious consideration as is given to the preferred project. Unfortunately, these myopic alternatives are no substitute for a true alternatives analysis that would address all of the other issues that are present within the project location area.

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 Ventura County is at a crossroads. While retaining much of its agricultural and rural charm, the County is rapidly changing by adopting the same land use and traffic characteristics of its southern neighbors. Unfortunately, Ventura County is insufficiently supported by any real alternatives to the automobile. The RDEIR now has an important opportunity to implement a more balanced approach to land use development and transportation planning by adopting objectives, principles and standards designed to protect the diminishing resources in the County. Specifically, the City should take any and all action to substantially alter residents' current dependence on the private automobile. The revised RDEIR must include an alternative that embraces forward-looking and comprehensive land use and transportation planning designed to protect the environment and maintain quality of life for those living and working in this area.

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 In addition to the RDEIR's failure to identify and analyze a credible range of alternatives, the document also fails to provide an adequate comparative environmental evaluation of project alternatives. The EIR must include sufficient information about each alternative to allow meaningful evaluation, analysis and comparison with the proposed Project. CEQA Guidelines Section 15126.6 (b); King's County Farm Bureau v. City of Hanford, 221 Cal.App.3d 692, 733 (1990) (absence of comparative data precluded meaningful consideration of alternatives). Here, the RDEIR fails to provide the requisite comparative analysis of the few alternatives it does provide, however, more importantly, the RDEIR fails to consider substantial evidence in the form of the OBTF Consensus Plan 2003, the Ormond Beach Conceptual Management Plan, the South Ormond Conceptual Management Plan, The McClelland Report, federal recovery plans for each of the area's listed endangered species and several other regional management plans designed specifically to create alternatives to promote protection of sensitive habitats and species.

The document provides no detailed analysis—and certainly no quantification—addressing the environmental impacts likely to result from each alternative. The revised RDEIR should provide this analysis.

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 The current update to the City's General Plan should identify separate parcels in the city that remain undeveloped. The RDEIR's alternative analysis must at least address the feasibility

Of utilizing these parcels, singly or in combination, as a potential site or sites for residential and industrial development.

The RDEIR reports to offer a revised quantitative comparison of the Project with No Project and Conservation Alternative. This comparison, however, is based on false assumptions and flawed methodology. In violation of the requirements of CEQA, the comparison presents the Project Alternative as "straw men" that are dismissed without meaningful or accurate analysis. See Sierra Club v. Contra Costa County (1992) 10 Cal.App. 4<sup>th</sup> 1212; Save San Francisco Bay Association v. San Francisco Bay Conservation and Development Commission (1992) 10 Cal.App. 4<sup>th</sup> 908.

9) **The RDEIR Should Be Redrafted and Recirculated.**

CEQA requires recirculation of a revised DEIR "when significant new information is added to an environmental impact report" after public review and comment on the earlier DEIR. PRCS 21092.1. The opportunity for meaningful public review of significant new information is essential "to test, assess, and evaluate the data and make an informed judgment as to the validity of the conclusions to be drawn therefrom." Sutter Sensible Planning Inc. v. Sutter County Board of Supervisors, 122 Cal.App.3d 813, 822 (1981); City of San Jose v. Great Oaks Water Company, 192 Cal.App.3d 1005, 1017 (1987). An agency cannot simply release the draft report that "hedges on important environmental issues while deferring a more detailed analysis to the final [EIR] that is insulated from public review." Mountain Lion Coalition v. California Fish & Game Commission, 214 Cal.App.3d 1043, 1053 (1989).

In order to cure the panoply of RDEIR defects identified in this comment letter, its accompanying exhibits and the public testimony provided during hearings the process must begin anew. The City will have to obtain substantial new information to adequately assess the impacts from the proposed Project and to identify effective mitigation measures capable of alleviating these significant impacts. A good faith effort to consider project alternatives is required. Cumulative impacts and growth inducing impacts must be analyzed. A new RDEIR must be prepared and recirculated. That document must contain a viable alternative that would encompass the regional interests in protecting sensitive habitat areas, agricultural resources and the Navy Base at Point Mugu. CEQA requires that the public have a meaningful opportunity to review and comment upon this significant new information in the form of a second recirculated draft EIR.

**CONCLUSION:** For the foregoing reasons, the Sierra Club urges the City to delay further consideration of the Project unless and until it prepares and recirculates a revised draft EIR for the second time that fully complies with CEQA and the CEQA Guidelines.

Thank you for your consideration.

Sincerely,

*Alan*  
Alan Sanders

Alan Sanders
Conservation Chair
Sierra Club, Los Padres Chapter

**LETTER O.7 VENTURA AUDUBON SOCIETY**

**Commentor:** Ventura Audubon Society, Inc., Reed Smith (08-24-08)

**Response**

1. **Ormond Beach Deserving of Special Attention:** As expressed in the General Plan and the specific plans under consideration, the City concurs that the Ormond Beach area is rich in natural resources and is, therefore, requiring project specific mitigation measures to protect these resources.
2. **Insufficient Analysis of Least Tern and Snowy Plover Impacts:** The RDEIR discloses the potential for offsite impacts to these species and cites the commitment of the applicants and the City to contributing to a program that would minimize such potential impacts.
3. **Belding's Savannah Sparrow:** The FEIR narrative has been updated to remove references to the Belding's savannah sparrow's reliance on grassland for foraging. The impact analysis (BIO-19) has also been revised to reflect the absence of direct impacts. Note that the FEIR includes mitigation measures that would benefit the wetland and saltmarsh areas near the Study Area (BIO-5 and Water-10). Finally, the study that the commentor cites (A Survey of the Belding's Savannah Sparrow in California, 2001) does not assert that the bird's population had decreased "from habitat degradation and human trespass of their nesting areas." That study, which relied on a two-hour, two-person investigation, cited an increase since between 1973 and 2001 from 0 to 33 pairs. Note also that the same study observed an increase in the Belding's savannah sparrow in the Mugu Lagoon area from 175 pairs in 1973 to 809 pairs in 2001.
4. **Effectiveness of Open Space/Greenbelt Buffer:** Note that, in addition to mentioning the benefit of the buffer provided within the developed area of the Southern Subarea and the benefit of the separation provided by the 220 acres of agricultural land, the RDEIR also describes the Ormond Beach Natural Resource Management Program (NRMP), which includes several measures designed to avoid disturbance of offsite sensitive habitat areas.
5. **Mitigation Measure BIO-5:** The RDEIR accurately cites Mitigation Measure BIO-5 as having a beneficial effect on least tern and snowy plover habitat.
6. **Natural Resource Management Program (NRMP):** The FEIR has been revised to list DFG and the Audubon Society as organizations that will be consulted in the implementation of the NRMP. Also, the City welcomes the continued involvement of the Audubon Society in efforts to protect offsite sensitive resources. The commentor presumes that the docent coordinator mentioned will not be qualified to conduct the activities described. The City

intends to ensure that this will not be the case and looks forward to conferring with the Audubon Society to identify suitable resources. Finally, the language describing the period of enforcement has been revised to reflect a year-round emphasis, as deemed appropriate.

7. **Belding's Savannah Sparrow Mitigation:** Comment noted; see response to comment #0.7-3 above.
8. **Wintering Shorebirds and Migratory Waterfowl:** Contrary to the commentor's assertions, the EIR does acknowledge potential effects on wintering shorebirds and migratory waterfowl.
9. **Park Ranger:** The commentor is correct; the reference to the ranger in the discussion of the NRMP is anecdotal. The NRMP does, however, commit the City to enforcement through a combination of the docent program oversight and local law enforcement agencies. Also, the development agreement has been updated to clarify the application of funding contributions as they relate to the Snowy Plover and the Wetland Conservation Area.
10. **Preferred Alternative:** Comment noted.
11. **Alternative 5:** Assuming a typical employment density for light industrial uses (1,000 sf/employee), Alternative 5 would support approximately 1,900 employees. This compares with approximately 4,400 under the proposed project. The greater number of employees under the project would be attributable to a higher percentage of the area being developed for business park uses, which have a higher employment density (350 sf/employee).
12. **Preferences for Development of Study Area:** Comments noted.

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# The Ventura Audubon Society, Inc.

P.O. Box 24196, Ventura, CA 93003 [www.venturaaudubon.org](http://www.venturaaudubon.org)

August 24, 2008

Kathleen Mallory  
City of Oxnard, Planning Division  
214 S. C Street  
Oxnard, CA 93030

Re: Environmental Impact Report No. 05-03

Dear Ms. Mallory,

Thank you for the opportunity to comment on the environmental impact report on the North and South Ormond sub-areas project.

This letter constitutes the comments of the Ventura Audubon Society, including its 648 members and their families, to the above listed DEIR. I am a board member of this chapter of the National Audubon Society and I am a holder of a U.S. Fish and Wildlife Service Threatened and Endangered Species Recovery Permit for Western Snowy Plovers and California Least Terns.

As you've chosen to re-circulate the EIR with out responding to the original comments I've included much of the original background information in our first comments.

## **Ormond Beach is an area deserving of special protection**

Ormond Beach and its associated wetlands are a remnant of many habitats that have been reduced up to 90% in California by development of the coastal zone. Preservation of this area is of the utmost importance to maintain what is left of a valuable natural environment. The Ormond Beach/Pt. Mugu Lagoon complex has been designated an Important Bird Area (IBA) by the National Audubon Society. This was done because the area contains a significant proportion of the populations of sensitive bird species and the area is considered under a critical level of threat by development such as this project proposes.

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Ormond Beach provides nesting habitat to many bird species. Included are Horned Larks, Black-necked Stilts, American Avocets, Mallards, Gadwalls, Pied-billed Grebes, Red-winged Blackbirds, Western Snowy Plovers, California Least Terns and Belding's Savannah Sparrows.

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During the winter time thousands of shorebirds use Ormond Beach for foraging and resting. On any given winter day there may be 1,000 ducks present in the open water areas of Ormond Beach.

**Threats to Sensitive Bird Species**

We find that the DEIR falls short of meeting the requirements of the California Environmental Quality Act in that it fails to discuss specific threats to sensitive species in sufficient detail to assess the impact. The threat to the Western Snowy Plover (*Charadrius alexandrinus nivosus*) and the California Least Tern (*Sterna antillarum browni*) posed by this project is from the probability of increased beach use.

In a study of all the public beaches in Ventura County Ormond Beach was found to have the lowest human usage and the highest number of shore birds present. In the same study a high correlation was found between low human use and high shorebird use, (McCrary, et al, 2002).

Snowy Plovers and Least Terns have used Ormond Beach since before Europeans arrived. In the last decade there have been up to 81 nests per year of Least Terns on Ormond Beach and up to 43 nests per year of Snowy Plovers. The threat would occur by developing an area at the north end of Arnold Road in such a way as to significantly increase the number of people with direct access to Ormond Beach. The addition of 1,283 homes and a high school area will increase human use of the beaches containing nesting areas for the two species. Indeed, increased beach access is one of the stated goals of the project! No discussion is found in the DEIR of the anticipated number of people the project will bring to the area. It is natural for people in our community to go to the beach before and after work or school and on weekends. Increased beach use will also result from having an industrial park along Arnold Road. Workers will go to the beach before and after work and during lunch breaks.

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It is well established that increased human use of beach areas results in hazards to beach nesting birds. Many of the threats are directly to the nests and young of both species. The nests consist of scrapes in the sand into which sand colored speckled eggs are laid. The young birds when hatched are sand colored. There have been instances locally where young and eggs have been stepped on by people walking on the beach. The young birds are flightless for from 3 to 4 weeks and are vulnerable to being caught by dogs off leash in the area. This has

occurred locally in addition to dogs destroying nests. Recently nests of both species have been abandoned when people were too close to the nests for extended periods, (R. Smith, personal observation).

Increased beach use will mean increased garbage left on the beach. This poses a risk to the birds residing there because the garbage attracts nest and egg predators, specifically Crows, Ravens, Gulls and Coyotes.

The Oxnard City Council has passed ordinances to prohibit motor vehicles and ultralight airplanes from using Ormond Beach, but there are still several violations of these ordinances each year, (R. Smith, personal observation). Increasing human use by approving nearby development will increase these risks to the birds.

Both Least Terns and Snowy Plovers are sensitive to human disturbance in their nesting areas. Human recreational activities can decrease hatching success in snowy plovers, (Warriner, et al, 1986 and Schulz and Stock, 1991) and it has also been shown that beach recreation by humans can reduce Snowy Plover chick survival, (Ruhlen, et al, 2003). Forty-five percent of Least Tern colonies that failed in coastal New Jersey did so because of human disturbance, (Burger, 1984).

On Ormond Beach there is a portion of the beach ½ mile long that is not used by either Least Terns or Snowy Plovers to nest. This area appears to be excellent habitat for both species and has the lowest human usage of any portion of the beach. It is, however, directly in front of and slightly either side of the Reliant Power Plant. It is not known what causes the birds to avoid nesting in this area, but the high noise level of the plant might be a cause, (R. Smith, unpublished data). Least Terns identify each other and their offspring with auditory calls, (Moseley, 1979). Increased noise could interfere with mating, incubating and the adults' ability to locate chicks for feeding them. The addition of the industrial park alongside Arnold Road could increase the noise level on that end of the beach and discourage both species from nesting at that end of the beach.

Belding's Savannah Sparrow, (*Passerculus sandwichensis beldingi*), nest in coastal salt marsh vegetation only. It is closely associated with Pickleweed, (*Salicornia virginianus*). A resident population breeds in the salt marsh on each side of the Reliant Power Plant. The California Department of Fish and Game in their published information on the species states: "Ongoing concerns are flooding or other disruptions in the natural drainage of coastal wetlands because of upstream development or flood control, human disturbance, including trampling of marsh vegetation, and impact of exotic predators in marshes, especially domestic cats and non-native red foxes."

The California Department of Fish and Game found that the number of breeding pairs of Belding's Savannah Sparrows in the Ormond wetlands had decreased

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from 61 in 1996 to 33 in 2001 from habitat degradation and human trespass of their nesting areas, (Zemba, et al, 2001).

The construction of an industrial park so close to the salt marshes at Ormond Beach poses a serious threat to the species. Converting 375 acres of agricultural land to buildings and asphalt will result in increased rain runoff. Just the addition of fresh water could destroy the salt marsh that these birds rely on. The water quality of runoff from the proposed industrial park may contain oil and other chemicals that could alter the water chemistry of the salt marsh. The use of bioswales to filter the runoff water sounds like a good idea, but so far is a new and unproved technique for dealing with aquatic pollutants.

(3)

**Inadequate mitigation for the adverse impacts**

We also find that the DEIR fails to give adequate mitigation to adverse impact on sensitive species.

In discussing impacts to Least Terns and Snowy Plovers the DEIR states that the impact of human presence would be "mitigated by open space/greenbelt buffer included in the proposed project". This open space/greenbelt does not mitigate for the impact of people going to the beach. It only means that people on the project sites would have the greenbelt to enjoy.

(4)

For both Least Terns and Snowy Plovers there are only two proposed mitigation measures offered to offset adverse impacts. (Section 3.0) The first Mitigation Measure BIO-5 will have minimal benefit to Snowy Plovers and Least Terns and clearly does not offset the significant adverse impact created by increased human presence on the beach as is claimed by the EIR.

(5)

The second proposed mitigation measure is the "Ormond Beach Natural Resource Management Program". (Section 3.6.3.3) You fail to list the California Department of Fish and Game (DFG) as a primary approval agency. The DFG is the lead agency on Least Tern recovery. The DFG also funds breeding season monitoring of Snowy Plovers and Least Terns on Ormond Beach. The DFG should be an approving agency for any Management Program.

Additionally the Ventura Audubon Society (VAS) has been monitoring Snowy Plovers and Least Terns on Ormond Beach for over 20 years. Currently all Snowy Plover and Least Tern monitoring on Ormond Beach is performed by VAS members, both as federally permitted contractors to DFG and volunteer monitors. Therefore VAS should be included in the list of groups consulted for preparation of the Program along with DFG.

(6)

Under "Predator Management" you state that predator decisions will be under the direction of the docent coordinator. That person is not qualified to make those decisions as he is not a holder of a Recovery Permit under the Endangered

Species Act. He also has no direct information on predator losses which are documented by the species monitors. Predator removal decisions should be made by the DFG contracted Recovery Permit holders in consultation with USFWS and DFG. This will allow for predator removal that does not threaten successful nesting.

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Under "Enforcement" you state that active enforcement would be emphasized from March through September. Active enforcement should be pursued throughout the year. There is a significant winter flock of Snowy Plovers that needs protection. The birds (shorebirds, waders and waterfowl) that winter in the Ormond Beach wetlands (as noted above) also need protection during that portion of the year that nesting is not occurring. Wintering grounds protection from increased human uses of the beach is a vital need.

We do not find that having a few acres of grassland will mitigate the risk to Belding's Savannah Sparrows. (BIO-2) Belding's Savannah Sparrows are restricted in their range to Pickleweed (*Salicornia sp.*) marshes, not grasslands. An offsite preservation of grassland will have no benefit to Belding's Savannah Sparrows. Increased human presence in the Ormond Beach area will have a significant adverse impact on Belding's Savannah Sparrows. Restricting human access to the wetlands areas would be a worthwhile mitigation. One of the most effective enhancement techniques for Belding's Savannah Sparrows is the restoration of tidal flows to wetlands that have been cutoff from the ocean.

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No provision has been made to protect wintering shorebirds and migratory waterfowl that use the area for resting and feeding to gain the necessary strength for their migration to the arctic to nest. Fencing to keep the public out of the areas the birds need is one way to offset increased public use of the beach. That fencing without an ordinance prohibiting entry within the fenced area is un-enforceable. Currently the only law that is enforceable to protect the nesting area is the "take" provision of the federal Endangered Species Act. "Take" is difficult to prove to the extent needed to convince an U.S. Attorney to prosecute. A City Ordinance prohibiting entry into the fenced nesting areas, except by holders of a Recovery Permit under the Endangered Species Act, would be an enforceable law.

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There is a reference to a Park Ranger program for Ormond Beach. The EIR states that the ranger program contemplated for Oxnard's North Shore Development could be extended. (Note: This is not a requirement, only a mentioned possibility, within the EIR and therefore is not considered mitigation for any adverse impact. It is also contingent on a possible future sale of a portion of land and therefore is not mitigation.) There is a clause in the Developer Agreement with Marathon Land wherein the Developer agrees to fund a 1/2 time Ranger position for Western Snowy Plover protection on the contemplated Wetland Conservation Area. Western Snowy Plovers do not use or nest in the

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proposed Wetland Conservation Area. Considerable rewriting of this clause would be necessary to make it effective in any way.

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**Alternatives to the project**

In considering the proposed project as compared to the listed alternatives, we prefer Alternative Number 4 - Conservation. The conservation alternative will serve to protect the critical habitats at Ormond Beach and its associated wetlands and the wildlife species dependent on those habitats.

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The new Alternative Number 5 fails to indicate the magnitude of change in human presence for the Southern Subarea and the change in land use

**Ventura Audubon's position on development in the area**

We oppose any development south of Port Hueneme Road between Arnold Road and Perkins Road because of the degradation of the wildlife and habitat such development will cause. We think that development on the north side of Port Hueneme Road, in the Ormond Beach area, should be planned so it will not increase the human population significantly.

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The need for more housing and educational facilities in the City of Oxnard can be met by developing or re-developing land further away from this rare and valuable habitat.

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**Recommendation regarding the Draft Environmental Impact Report**

The Ventura Audubon Society recommends that the City of Oxnard Planning Commission deny certification of the Draft Environmental Impact Report covering both the North and South Ormond Beach Projects as the proposed mitigation fails to protect Ormond Beach sensitive species.

We look forward to your written responses to our comments. Any questions you have concerning these comments can be directed to me at (805) 652-0706.

Reed V. Smith  
Science Chair  
Ventura Audubon Society

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**LETTER A.1    BROWN WINFIELD CANZONERI ABRAM**

**Commentor:** Brown Winfield Canzoneri Abram Inc., Mark Steres (South Ormond) (09-22-08)

**Response**

1. **Foraging Habitat Quality:** The commentor asserts that “the Southern Subarea’s sod farm is very poor habitat for birds.” The commentor then states that the sod fields “do not provide any habitat for birds.” The RDEIR’s analysis and proposed mitigation reflect the former statement. That is, the mitigation ratio stated in Mitigation Measure BIO-2 (0.1 to 1.0) accounts for the fact that the foraging quality is degraded, in part by the pest control measures cited by the commentor. As the analysis in section 3.6.1.6.2 shows, birds were observed foraging in the Southern Subarea. Note that the FEIR reflects a minor revision in response to the observation of the commentor’s consultant; it no longer refers to the habitat value of sod farms in terms relative to row crop fields. This change does not result in any change in mitigation measures or change the conclusions or analysis.
2. **Transportation Mitigation:** The mitigation requirements (Mitigation Measure Trans-2:) described in the RDEIR were developed by the commentor’s consultant and verified by City staff. The manner in which the project applicants decide to share the cost of the mitigation requirements is subject to negotiation between the two parties.
3. **Foraging Habitat Quality:** Comment noted. See response to Comment #1.
4. **Transportation Mitigation:** Comment noted. See response to Comment #2.

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PLANNING DIVISION  
CITY OF OXNARD

MARK W. STERES

BROWN  
WINFIELD  
CANZONERI  
ABRAM  
INC.

File No. 1877.1

September 22, 2008

**BY E-MAIL AND HAND DELIVERY**

Ms. Kathleen Mallory, AICP  
Project Planner  
City of Oxnard  
305 West 3<sup>rd</sup> Street  
Oxnard, California 93030

Re: **Comments to Ormond Beach Specific Plan Recirculated Draft EIR, dated July 2008**

Dear Ms. Mallory:

We represent the property owners within the proposed South Ormond Beach Specific Plan ("Specific Plan"), also identified as the Southern Subarea of the Ormond Beach Specific Plan Recirculated Draft EIR ("Draft EIR"). On behalf of the property owners of the Southern Subarea, we are submitting written comments to the Draft EIR.

Our comments relate to the following:

1. Section 3.6 -- Biological Resources. Mitigation Measure BIO-2 requiring habitat fees is not applicable to the Southern Subarea. Contrary to general statements made in the Draft EIR, the Southern Subarea's sod farm is very poor habitat for birds, mostly because of the extensive and pervasive rodent control program for the last 25 years. Simply put, the sod fields impacted by the proposed Specific Plan do not provide any foraging habitat for birds. Although the drainage channels may provide foraging habitat for raptors, the drainage channels will not be disturbed under the proposed Specific Plan. As such, there are no facts to support a potential significant impact or the requirement for habitat mitigation. ①
2. Section 3.10 -- Transportation. Mitigation Measure TRANS 2 provides for numerous traffic improvements as mitigation for the combined impacts from implementation of both the Northern and Southern Subareas, without providing for the proportional share of costs and timing of the improvements by Subarea. We request that the Final EIR provide that the proportional share of costs and the timing of improvements be determined by the City. ②

ATTORNEYS AT LAW    TELEPHONE: 213.687.2100    FACSIMILE: 213.687.2149    WWW.BWCALAW.COM  
ONE CALIFORNIA PLAZA    300 SOUTH GRAND AVENUE, 14<sup>TH</sup> FLOOR, LOS ANGELES, CALIFORNIA 90071-3124

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A. /  
Ms. Kathleen Mallory  
Project Planner, City of Oxnard  
September 22, 2008  
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### Section 3.6 -- Biological Resources

The entire Southern Subarea, except for the drainage channels, has been used as a sod farm for over 25 years. The sod farm has never been suitable as a foraging habitat for raptor species because there are no rodents in a sod farm to forage. By its nature as a sod farm, all rodents are eradicated because rodents burrow and damage sod. The sod farm in the Southern Subarea has had a very aggressive rodent control program for over 25 years.

Attached hereto is a letter from Mr. Gramckow, President of Marathon Land, Inc. The attached letter explains the rodent control program for over 25 years, and that no rodent habitat exists on the sod fields. Also attached is a memorandum from Mr. Greg Ainsworth, Senior Biologist, Impact Sciences, which concludes that the sod farm in the Southern Subarea does not provide foraging habit for raptor species as a result of the sod farm's aggressive rodent control program.

The Draft EIR only infers that the sod farm directly provides habitat for birds, but provides no facts. Whenever specific facts are provided in the Draft EIR, however, the facts correctly state that the habitat is only on the edge in the drainage channels or adjacent to the sod fields, but not upon the sod fields themselves (See Section 3.6.1.6.2, pages 3.6-15 to 3.6-16; Section 3.6.1.6.3; and Section 3.6.1.6.5). The drainage channels will not be disturbed, the sod farm does not provide habitat, and thus there is no basis to find a significant impact nor impose any mitigation measure. (3)

In the Draft EIR, BIO impacts 16, 19, 20 and 22 state that different birds may forage, and burrowing owls may burrow, in the Southern Subarea. The draft EIR then states that the potential significant impact may be mitigated through implementation of Mitigation Measure BIO-2 (Habitat Fees). There are absolutely no supporting facts, however, in the Draft EIR nor the Appendix that foraging or burrowing occurs *on* the sod farms. There are no facts to support Mitigation Measure BIO-2, nor to impose habitat fees on the Southern Subarea. The expert evidence submitted with this comment letter, however, provides substantial evidence that the sod fields are not a foraging habitat for raptor species, and any impact is less than significant.

Because the sod farm does not provide any foraging habitat, and the drainage channels which may provide foraging habitat will not be disturbed under the Specific Plan, potential BIO impacts 16, 19, 20 and 22 are less than significant and no mitigation measures are required. As such, there is no nexus for Mitigation Measure BIO-2 and Mitigation Measure BIO-2 is not

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Ms. Kathleen Mallory  
Project Planner, City of Oxnard  
September 22, 2008  
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applicable to the Southern Subarea. Please revise Mitigation Measure BIO-2 to strike any requirements for the Southern Subarea. (3)

Section 3.10 – Transportation

Impact TRANS-2 of the Draft EIR compares the 2020 traffic conditions for the combined development of the Northern and Southern Subareas with the 2020 conditions with the development of the Northern Subarea only. Mitigation Measure TRANS-2 sets forth several traffic improvements to mitigate the significant impacts to less than significant. The mitigation measures, however, fail to set forth the proportional impacts by Subarea or the timing for implementing the various traffic improvements. We request that the Final EIR provide that the proportional share of costs and the timing of improvements be determined by the City. (2)

We appreciate the ability to comment on the Draft EIR, and your consideration of the matters set forth herein. If you have any questions regarding the information provided, please contact Mr. Jurgen Gramckow, Mr. Greg Ainsworth, or me.

Very truly yours,



Mark W. Steres  
of Brown Winfield Canzoneri Abram, Inc.

MWS/sea

Enclosures

cc: Clients  
Mr. David Armstrong  
Mr. Dennis Hardgrave

A. 2

# SOUTHLAND

## SOD FARMS

*Exclusive Growers of Genuine Marathon*

July 17, 2007

Ms. Kathleen Mallory, AICP  
Project Planner  
City of Oxnard  
305 W. Third St.  
Oxnard, CA 93030

Re: South Ormond Beach EIR  
Raptor Habitat Mitigation

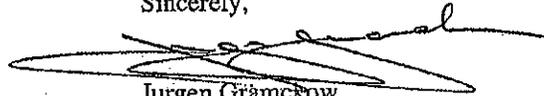
Dear Ms. Mallory,

The above referenced EIR characterizes farmland as rodent habitat and by extension raptor forage area. While that may be generally true for orchards and some field crops, it is not the case for sod farm land. Any rodent burrowing in the sod fields translates directly into crop damage in the form of holes in the sod, which would render the pieces un-saleable. We therefore maintain a very aggressive program of trapping and poisoning any and all rodents that encroach upon our fields. We have done so, on the subject property for over 25 years and are confident no evidence of rodent habitat can be found in the sod fields.

The EIR correctly states that there are rodents to be observed in the banks of the Edison Drive and Oxnard Drainage District ditches. However, those ditches are not subject to our development plan. They will remain in tact until such time as they may become subject to wetlands restoration. At that point, it can be expected that raptor forage area will increase.

We therefore respectfully request that the EIR be revised as to the characterization of our sod fields as raptor foraging area and that associated mitigation requirements be removed accordingly.

Sincerely,



Jurgen Gramckow  
President  
Marathon Land, Inc.

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**SOUTHLAND**

**SOD FARMS**

*Exclusive Growers of Genuine Marathon*

**Jurgen Gramckow  
Statement of Qualifications**

July 19, 2007

I have been employed in the sod farming industry for 37 years. During that time I have held a wide variety of positions in operations and management. I have been president of Southland Sod Farms since 1990. Southland Sod grows sod on approximately 2000 acres in the Oxnard area. It is the largest sod farm in California. Additionally, we farm another 200 acres of vegetables and hay in Ojai, and I have also been involved in developing about 200 acres of avocado orchards in Santa Paula in the past. The following is a list of past educational and business accomplishments:

B.S. Mechanical Engineering, Stanford University, 1970  
Director Ventura County Farm Bureau  
Director Ventura County Agricultural Association  
Director Fox Canyon Groundwater Management Agency  
Director Oxnard Drainage District (current)  
Director California Sod Growers Association (current)  
Member AB 325 California Department of Water Resources Landscape Water Conservation Task Force (1990)  
Member AB 2717 California Department of Water Resources Landscape Water Conservation Technical Advisory Committee (current)

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## IMPACT SCIENCES

803 Camarillo Springs Road, Suite A  
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www.impactsciences.com

### MEMORANDUM

**TO:** David Armstrong

**FROM:** Greg Ainsworth, Senior Biologist

**DATE:** July 19, 2007

**SUBJECT:** Assessment of Raptor Foraging Habitat on Northern Portion of the Southern Subarea of the Ormond Beach Specific Plan

At your request, I assessed the potential impact to foraging raptor species as a result of future development of the existing sod farm located in the Southern Subarea, immediately to the south of Hueneme Road, between Edison Drive and Arnold Road. I was accompanied by Mr. Steve Kawabuchi during my site visit. Mr. Kawabuchi is a Pest Control Advisor and Qualified Applicator for Southland Sod.

In the EIR, Section 3.6.1.6 - Southern Subarea states that "...sod farms provide better habitat for birds than the row crop fields." This statement is not substantiated and does not appear to be based on science or research. The primary food source for raptor species within agriculture are typically small mammal species, however, some common bird species could provide a food source, too. According to Mr. Kawabuchi, Southland Sod routinely eradicates rodents immediately upon observation of presence, since rodent burrowing directly damages the sod. Common control practices include trapping and poisoning of the rodents. Upon a brief reconnaissance of the sod farmed areas, no rodent presence was observed. The actively farmed sod areas within the Specific Plan would not support foraging habitat for the sensitive raptor species listed in Table 3.6-7 of the EIR, since it has been common practice to eliminate their primary prey (rodents) from the sod fields immediately upon observation. Additionally, because farmed sod does not typically produce seed, is mowed regularly, is cultivated on a regular basis, and insect presence is controlled with routine pesticide applications; common bird presence is expected to be low.

As stated on page 3.6-13 of the EIR (Subsection 3.6.1.6.2 Wildlife), "...the sod farm operations bears similarities in function to a grassland habitat interspersed with freshwater wetlands." This statement is also not substantiated and does not appear to be based on science or research. This statement (as well as the aforementioned statement provided above from Section 3.6.1.6 of the EIR) does not take into consideration the typical horticultural operations involved with growing sod for commercial uses, i.e., rodent control, pesticide/fungicide applications, routine cultivation. Sod farms are also "monotypic", whereas, native grasslands and wetlands typically have species diversity.

OFFICES IN SOUTHERN CALIFORNIA, BAY AREA AND SACRAMENTO VALLEY

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David Armstrong  
July 19, 2007  
Page 2

Mitigation Measure BIO-4 states that there are 375 acres of bird foraging habitat within the Southern Subarea (not including the portions of the development planned for open space). In the second paragraph of Mitigation Measure BIO-4 the EIR states that "Development in the Southern Subarea would result in the loss of 375 acres of habitat". In my professional opinion, there is no nexus between the sod farm within the Specific Plan area and raptor foraging habitat. Therefore, in addition to the portions of the development planned for open space within the Southern Subarea, the existing sod farmed areas should also *not* be included in the mitigation acreage that is proposed for impacts to raptor foraging habitat within this Subarea, (375 acres) (Mitigation Measure BIO-4).

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**Education**

*Bachelor of Science, Environmental Horticulture Science, California Poly-*

*technic State University, San Luis Obispo*

*Master of City and Regional Planning (MCRP), Environmental Planning, California Polytechnic State University, San Luis Obispo*

**Training and Workshops**

*International Certified Arborist (Cert.*

*# WE-7473A)*

*Snowy Plover Surveying Techniques, Los Angeles Audubon Society, 2007*

*Desert Tortoise Surveying, Monitoring,*

*and Handling Techniques Workshop, The Desert Tortoise Council, 2006*

*Surveying Techniques and Habitat Assessment for Bats, The Wildlife Society, 2005*

*Mohave Ground Squirrel Workshop,*

*The Wildlife Society, 2005*

*Endangered Species Permitting and Planning, The Wildlife Society, 2005*

*California Rapid Habitat Assessment, California*

*Department of Fish and Game*

*Wetland Delineation & Management, Richard Chinn Environmental, 2003*



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**Greg Ainsworth**

*Senior Biologist*

Mr. Ainsworth has over eight years of experience in biology and project management. He has directed, managed, or conducted a broad range of wildlife and plant studies, protected tree surveys, biological resource inventories, sensitive species surveys, environmental impact assessments, biological constraints analyses, habitat restoration plans, and mitigation monitoring plans for a variety of private and public sector clients throughout central and southern California.

Mr. Ainsworth has a thorough understanding of the California Environmental Quality Act, both State and Federal Endangered Species Acts, and state and federal regulations and permits involving biological resources. His biological expertise includes knowledge of a wide range of terrestrial organisms and ecological relationships, with particular emphasis on habitat impact analysis, special-status plant and animal species, and wildlife movement corridors.

Mr. Ainsworth is a Certified Arborist with the International Society of Arboriculture and a certified wetland delineator (ACOE, #2128), and an approved biologist with several jurisdictions throughout central and southern California. Mr. Ainsworth has received formal training in conducting focused surveys and habitat assessments on the burrowing owl, snowy plover, desert tortoise, Mohave ground squirrel and several bat species.

**Representative Professional Experience**

- Managing and conducting construction monitoring efforts of potential impacts to great blue herons and black-crowned night herons for the Harbor District at the Channel Islands Harbor in Oxnard, California. Monitoring efforts includes the assessment of short-term impacts on herons, as well as long-term impacts on herons following the completion of construction related activities.
- Managing and performing annual biological surveys for 13,000-acre Specific Plan area located near Magic Mountain Entertainment Center in Valencia, California. Surveys conducted include: oak tree surveys per County of Los Angeles requirements, small and large mammal surveys (trapping, spotlighting, scent/track stations), reptile surveys (pitfall traps, drift fence arrays, raking for silvery legless lizard), and focused bat surveys (mist netting, and active/passive echolocation detection). Prepared all subsequent biota reports, including oak tree

**Professional Affiliations**

*Association of Environmental Professionals, Ventura County Representative,  
Channel Councils Chapter Board Member and Newsletter Editor  
International Society of Arboriculture  
The Wildlife Society  
Surfrider Foundation, volunteer*

reports for individual development sites located with the Specific Plan area.

- Managing and conducting protected tree surveys and preparing a technical tree report for the **City of Los Angeles Mountain Gate Project**.
- Preparing biological impact assessment and migration corridor study on proposed **Agoura Road project** site in unincorporated Los Angeles County. Assessing wildlife movement from Santa Monica Mountain Conservancy land through project site to the north.
- Preparing the biological resource section of draft EIR for **Masters College**. Mapped and characterized all on-site and adjacent plant communities.
- Managing and conducting oak tree surveys on approximately 400 oak trees for proposed **KRLA AM radio tower** site in unincorporated Los Angeles County. Preparing subsequent report per the Guidelines of the Los Angeles County Oak Tree Ordinance.
- Preparing **biological resource assessment** and analysis of potential impacts on **City of Malibu Biological Sensitive Habitat Areas**, for two proposed development sites in Malibu, CA.
- Preparing focused surveys for **arroyo chub, southwestern pond turtle, two-striped garter snake, coastal California gnatcatcher, special-status plants**; and conducting a protected tree survey per the **Ventura County Protected Tree Ordinance**, on the proposed **Wildwood Stable Estates** development site.
- Preparing **biological impact assessment**, mapping and characterization of plant communities, and migration corridor study on proposed project site planned for annexation into the **City of Santa Paula**. Conducting a protected tree survey per the requirements of the **City of Santa Paula's Protected Tree Guidelines**.
- Preparing **biological impact assessment**, mapping of plant communities and oak tree survey per the requirements of the **City of Santa Clarita's Oak Tree Ordinance** on the proposed **Robinson Ranch** development site in the **City of Santa Clarita**.
- Preparing **biological resource inventory** within the **City of Palmdale** limits and **Sphere of Influence** for **General Plan Update EIR**. Mapped and characterized all plant communities within project area.



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in Valencia, California. Surveys conducted include: oak tree surveys per County of Los Angeles requirements; small and large mammal surveys (trapping, spotlighting, scent/track stations), reptile surveys (pitfall traps, drift fence arrays, raking for silvery legless lizard), and focused bat surveys (mist netting, and active/passive echolocation detection). Prepared all subsequent biota reports, including oak tree reports for individual development sites located within the Specific Plan area.

- Managed and conducted oak tree surveys per City of Santa Clarita requirements and focused reptile surveys for the Oak Springs development site in the City of Santa Clarita.
- Conducted nesting/breeding bird surveys prior to grading of the 1200 acre Riverpark development site in the City of Oxnard.
- Managed and conducted numerous habitat assessments, focused plant and animal surveys, and construction monitoring for two large-scale dewatering projects in Los Angeles County.
- Performed habitat assessment for burrowing owl, coast horned lizard and Mohave ground squirrel for proposed development projects in Palmdale and Lancaster, California. Prepared biological constraints analysis and vegetation map for a 400-acre project site. Prepared a technical report based on the findings of the field studies to support a grading permit application to the County of Los Angeles.
- Conducted habitat assessments and special-status species surveys for biological resource sections for CEQA Initial Studies for the County of Ventura. Also, prepared biological resource sections of CEQA Initial Studies based on findings. Mr. Ainsworth is also a member of the County's committee for establishing criteria for identifying wetlands and vernal pools within the County as well as identifying locally important plant and animal species.
- Identified ecological sensitive areas, performed habitat assessments and reconnaissance-level biota surveys, and established a mitigation and monitoring plan for future expansions of the Ventura County Regional Sanitation District landfill site in Santa Paula, California.
- Conducted special-status species surveys and habitat assessments for on-going operational and maintenance activities on Exxon Mobil underground pipelines occurring throughout Southern and Central California.



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- Managing and conducting wintering bird and burrowing owl surveys on proposed 340-acre Antelope Raceway Project, located in unincorporated Los Angeles County.
- Conducted/managed presence/absence surveys for the City of Lancaster on western burrowing owl, Mohave ground squirrel, white-tailed ground squirrel, Le Conte's thrasher, desert cymopterus, white-bracted spineflower, short-joint beavertail, and pigmy poppy. Mapped on-site vegetation and protected trees (Joshua trees). Prepared biological resource section of FBIR, which included an assessment habitat quality to support winter foraging habitat for special-status bird species; an assessment of the biological value and connectivity to an adjacent Prime Desert Woodland Preserve; and an assessment of the regional and local importance of biota occurring on the project site.
- Have managed and performed numerous biological constraints analyses and impact assessments for project sites throughout Riverside, San Bernardino, Los Angeles, and Santa Barbara Counties. Conduct focused protocol-level surveys on potentially occurring special-status species and habitat assessments for project sites throughout southern California. Currently managing several projects in Palmdale/Lancaster that require habitat assessments and focused surveys for such species as burrowing owls, desert tortoise, Mohave ground squirrel, arroyo toad, coast horned lizard, and special-status plants.
- Managing and performing focused surveys on the desert tortoise, Mohave ground squirrel, burrowing owl, coast horned lizard, arroyo toad, and special-status plants on a 600 acre site proposed for the College Park Specific Plan development in the City of Palmdale. Preparing several technical reports based on focused survey results, including a Joshua Tree Preservation and Relocation Plan, a Landscape Concept Plan, and an Invasive Species Removal Program. Identifying mitigation areas for impacted biological resources located on the site.
- Managed the implementation of a Revegetation Plan for the Ventura County Water Protection District for the creation of wetland and riparian habitats. Monitored weed abatement and restoration activities for the creation of a floodplain terrace and new riparian habitat along the banks of the Arroyo Simi creek. Established weed abatement and planting guidelines for the restoration efforts.
- Managing and performing annual biological surveys for 13,000-acre Specific Plan area located near Magic Mountain Entertainment Center



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- Performed small mammal trapping using Sherman live traps on 1,200-acre site in San Joaquin Valley. Surveys occurred over a four month period for identification of special-status and common small mammal species occurring within operational and maintained easements of existing Exxon Mobile gas pipelines.
- Constraints and land use inventory for the future development of Unocal's 270-acre tank farm site in Avila Beach, California.
- Performed weekly focused surveys for coast horned lizard within the Santa Maria Riverbed prior and during excavation activities for the Santa Maria Water Protection District.
- Performed focused surveys for blunt-nose leopard lizard prior to road grading. Also performed construction monitoring for road grading activities for the Southern California Gas Company.
- Performed numerous focused surveys for California red-legged frog within riparian areas on a 50-acre site located in San Luis Obispo, California
- Performed construction monitoring for development of the Rabbit Ridge winery per requirements of a certified Mitigation and Monitoring Plan in Paso Robles, California.



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**manatt**  
manatt | phelps | phillips

**Susan K. Hori**  
Manatt, Phelps & Phillips, LLP  
Direct Dial: (714) 371-2528  
E-mail: shori@manatt.com

September 21, 2008

Client-Matter: 27958-031

**VIA FAX AND ELECTRONIC MAIL**

Kathleen Mallory  
Project Planner  
City of Oxnard, Planning Division  
214 S. C Street  
Oxnard, CA 93030

**Re: North and South Ormond Beach Recirculated Draft EIR**

Dear Ms. Mallory:

On behalf of Hearthside Homes, the project proponent for the SouthShore development (North Ormond Beach project), we submit the following comments on the Recirculated Draft EIR.

**1. Biological Resources.**

We question the identification as significant impacts resulting from the loss of what the EIR itself describes as "marginal habitat" for common birds and raptors, and the recommendation that the loss of this "marginal habitat" be mitigated at a ratio of 0.1 to 1 which for the SouthShore project would require the provision of 30.2 acres by restoring or enhancing coastal native grassland or open shrubland foraging habitat.

Enclosed is a memorandum prepared by Art Homrighausen of LSA Associates, Inc. that analyzes this potential impact in the context of the CEQA thresholds of significance and the lack of significant nexus between the impact of the project (the development of agricultural cropland) to the impact on sensitive resources. There is nothing in the EIR's analysis that supports a finding that the project would result in a significant adverse impact on either common foraging birds or raptors, including special-status birds. Nor does the EIR reflect consideration of the project's impact in relation to the amount of open areas that will remain available for foraging birds. When those areas are taken into consideration it is difficult to understand how the EIR could determine that the impact was significant. Mr. Homrighausen's memorandum provides a detailed biological analysis of the "impact," and evaluates the project's "impact" against the context of remaining foraging habitat that will continue to be available to support foraging birds.

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**LETTER A.2    MANATT PHELPS PHILLIPS**

**Commentor:** Manatt Phelps Phillips, Susan Hori (SouthShore) (09-21-08)

**Response**

1. **Biological Resources-Summation:** Comment noted. See responses to more specific comments contained in Comments 3 through 9 below.
2. **Agricultural Resources:** Comment noted.
3. **Biological Resources-Significance Criteria:** The RDEIR lists a variety of threshold features that assist in articulating the City's core thresholds for biological impacts. As the commentor states, in some cases the relationship between the thresholds and the impact analyses is not well established. The FEIR discussion and impact analyses include additional language to better establish the relationships. This additional language clarifies the analysis, but does not change any of the RDEIR's conclusions. Note also that the threshold relating to agricultural land conversion was inadvertently inserted in this section (verbatim).
4. **Impact BIO-1 (Invasive Species):** The commentor accurately surmises that Impact BIO-1 is intended to address the potential for exotic species to adversely affect sensitive native vegetation. Note that between the time that the DEIR was prepared and the RDEIR was prepared, the applicants for the Northern Subarea modified the SouthShore Specific Plan to exclude from their planting palette (?) the species listed under Impact BIO-1. The discussion in the FEIR removes specific reference to these species, while drawing the same impact conclusion (i.e., less than significant).
5. **Impact BIO-4 (Bird Foraging Habitat--Common Species):** Impact BIO-4 describes the loss of foraging habitat for common bird species, which—by definition—are neither rare or endangered. Thus, the impact should not have been classified as *significant but feasibly mitigated (Class II)*. Instead, it should be classified as *less than significant (Class III)*, consistent with the commentor's remarks.
6. **Impacts BIO-2, 3, 5, 6, 9, 10, 11, and 12:** Commentor observes that the impact analyses for these impacts appear to reach reasonable conclusions. Comment noted.
7. **Impacts Bio-7 and BIO-8:** The commentor questions the conclusion that the loss of foraging habitat for special-status bird species (BIO-7) and potential effects on Burrowing Owls (BIO-8) constitute significant impacts. He states that there is not sufficient support for a finding that these impacts rise to the level of substantial, as stated in the significance thresholds. Table 3.6-3 (Potential for Sensitive Wildlife Species to Occur within the Northern

Subarea) lists those species that have been observed in the area or that have a high potential to occur in the area. Based on this information, which is derived from a variety of sources, the RDEIR concludes that the impacts are *significant but feasibly mitigated (Class II)*. The required mitigation recognizes the degraded value of the habitat (see response to Comment #8 below).

8. **Biological Mitigation Measures:** The commentor acknowledges that Mitigation Measures BIO-3 and BIO-4 are appropriate, but takes issue with Mitigation Measure BIO-2, which addresses the loss of foraging habitat resulting from conversion of the Study Area from agricultural to urban uses. The commentor states that BIO-2 is “neither warranted nor commensurate with the level of impact,” which—as noted above—the commentor contests. Mitigation Measure BIO-2 outlines a reasonable strategy to offset the direct loss of foraging habitat for the special status bird species described under Impact BIO-7.
  
9. **Biological Resources-Impact Intensity and Context:** The commentor explains his approach to determining the level of impact for wildlife species, which relies on an evaluation of “impact intensity and context.” He argues that impacts should be stated in relative, rather than absolute, terms—taking into consideration the extent of habitat suitable for the species in the region. The RDEIR acknowledges the presence of nearby habitat the impact conclusions (namely Impact BIO-7) and the proposed mitigation (Mitigation Measure BIO-2) address the potential indirect impacts of the project on offsite habitat.



Kathleen Mallory  
September 21, 2008  
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In addition to Mr. Homrighausen's memorandum, we have also enclosed three exhibits depicting the regional context in which this impact must be considered. The first exhibit depicts the location of 3,880 acres of agricultural land immediately east of the SouthShore project area that will remain under agricultural production under SOAR. The second exhibit shows the approximately 33,000 acres included in the Oxnard/Camarillo greenbelt that will also remain available for foraging birds to utilize. The third exhibit shows that when land within the Oxnard/Camarillo Greenbelt, the agricultural land protected by SOAR outside the City's Urban Restriction Boundaries, and additional land in the immediately surrounding region up to the Los Angeles County line is taken into consideration, some 80,000 acres of raptor foraging habitat will remain. When compared against the amount of land that will remain available for foraging birds, including raptors and other sensitive species, the loss of 302 acres of acknowledged "marginal habitat" should not be considered significant. (As the exhibits are in color, a hard copy of this letter and the attached exhibits will be sent to you.)

①

In light of this additional information regarding the regional context and the lack of a nexus between the significance thresholds and the perceived impact, we would recommend that the analysis for BIO-4, BIO-7, and BIO-8 be revised to reflect that even with development of the project and the loss of "marginal habitat," there is sufficient foraging habitat remaining such that the impact is not significant and Mitigation Measure BIO-2 is not required.

**2. Agricultural Resources**

We agree with the analysis of impacts on agricultural resources but wish to emphasize the context in which agricultural land conversion should be considered. The Oxnard 2020 General Plan, adopted in 1990 and most recently amended in 2004, supersedes the Ventura County General Plan for the Study Area. The 2020 General Plan recommends a mix of low/medium density residential (8 to 12 dwelling units per acre), general commercial, school, and park uses in the area north of McWane Boulevard. For the portion of the Study Area south of McWane Boulevard, the General Plan proposes public utility/energy facilities, general, and miscellaneous open space designations. These designations were created to respond to the pattern of existing uses near the Study Area, within the City of Oxnard (see Figures 3.7-1 – 2020 General Plan Land Use and 3.7-2 – 2020 General Plan Ormond Beach Study Area) and in response to the City's obligations to meet regional housing, infrastructure and fiscal needs.

②

The long planned conversion of these lands to urban uses is consistent with the agricultural preservation policies of the County of Ventura and the City of Oxnard. The County and City SOAR ordinances provide for the preservation of thousands of acres of farmland in lands under the County's and the City's jurisdiction. Approximately 3,363 acres within the Oxnard Planning Area are covered by Williamson Act contracts. The County's and the City's

**manatt**  
manatt | phelps | phillips

Kathleen Mallory  
September 21, 2008  
Page 3

Greenbelt Agreements provide for the preservation of almost 30,000 acres of farmland within the City and the County, much of it northeast of the Study Area until at least the year 2020.

Given the long planned conversion of this land to urban uses and the agricultural preservation policies already in place, additional mitigation of impacts on agricultural resources would not be appropriate. This is particularly true given the high cost of other agricultural lands as noted in the DEIR at page 3.7-4. (Note that this entire Section should be repaginated since this section is designated as Section 3.8 in the Recirculated DEIR). Land at those prices could not be farmed economically without imposing a tax on the applicant or future property owners within the project. Such a tax would be unwarranted given the significant agricultural preservation policies now in place.

②

If you have any questions regarding our comments or the information provided, please do not hesitate to contact me.

Very truly yours,



Susan K. Hori  
Manatt, Phelps & Phillips, LLP

Enclosures

cc: Ed Mountford

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LSA ASSOCIATES, INC.  
20 EXECUTIVE PARK, SUITE 200 IRVINE, CALIFORNIA 92614 949.553.0666 TEL 949.553.8076 FAX

BERKELEY  
CARLSBAD  
FORT COLLINS

FRESNO  
PALM SPRINGS  
POINT RICHMOND

RIVERSIDE  
ROCKLIN  
SAN LUIS OBISPO  
SOUTH SAN FRANCISCO

MEMORANDUM

DATE: September 22, 2008  
TO: Ed Mountford  
FROM: Art Homrighausen  
SUBJECT: Ormond Beach Specific Plan EIR—Significance of Biological Impacts due to Loss of Agricultural Land

This memorandum discusses a finding of the Ormond Beach Specific Plan Draft Environmental Impact Report (DEIR), specifically the finding that the conversion of agricultural land constitutes a significant impact to raptor foraging habitat, which requires mitigation. In my opinion, this finding is somewhat arbitrary and capricious and merits reconsideration. There are two primary reasons for this opinion: (1) there is no link between the biological resources significance criteria described in the DEIR and this particular finding of a significant impact; and (2) there is no apparent consideration of the relative intensity of the impact within the regional context. These issues are discussed in more detail below.

SIGNIFICANCE CRITERIA

Under Section 3.6.2.3.2, "California Environmental Quality Act (CEQA)", the DEIR cites Appendix G of the California Environmental Quality Act (CEQA) Guidelines, which refer to substantial adverse effects on, or conflicts with, the following:

- Species, including their habitat, identified as candidate, sensitive, or special status species in local or regional plans, policies or regulations, or by the California Department of Fish and Game (CDFG) or United States Fish and Wildlife Service (USFWS)
- Riparian habitat or other sensitive natural community
- Federally protected wetlands
- Movement of any native fish or wildlife species, or established wildlife corridors or native wildlife nursery sites
- Local policies or ordinances protecting biological resources
- Adopted Habitat Conservation Plans (HCP), Natural Community Conservation Plans (NCCP), or other approved conservation plan

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Section 15065(a) also states that a project may have a significant effect when it has the potential to

- Substantially degrade the quality of the environment
- Substantially reduce the habitat of a fish or wildlife species
- Cause a fish or wildlife species to drop below self-sustaining levels
- Threaten to eliminate a plant or animal community
- Reduce the number or restrict the range of a rare, threatened, or endangered plant or animal

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The DEIR goes on to state that determining whether impacts are substantial depends on the resource itself and how that resource fits into a regional or local context. It acknowledges that impacts can be adverse but not substantial (i.e., they would not substantially diminish or result in the permanent loss of an important resource on a population-wide or region-wide basis).

The DEIR also defines "Significant Biological Resources," specifically:

- Habitats of endangered, threatened or rare species
- Wetland habitats
- Coastal habitats
- Migration corridors for fish or wildlife
- Locally important species/communities

(3)

Curiously, the recirculated DEIR, under Section 3.6.3.2, "Thresholds of Significance," adds another set of bullet-point significance thresholds from the City's Threshold Guidelines; these are generally in accordance with the Section 3.6.2.3.2 discussion, with one exception. The exception states:

*Covert [sic] prime agricultural land to a non-agricultural use, or impair the agricultural productivity of prime agricultural land.*

While this is certainly an appropriate threshold for examining impacts to agricultural land (indeed, the threshold is examined in great detail in the *Agricultural Resources* section), there is no explanation of how this threshold relates to a determination of biological impact significance.

Having defined the types of impact that are considered significant under the CEQA Guidelines and City thresholds, as well as the significant biological resources, the DEIR proceeds to discuss various categories of impact, some of which are linked to the identified significance criteria and some of which are not. For example, Impact BIO-1 regards invasive species. This significant impact is not explicitly linked to any of the impact criteria. Although there is an oblique reference to potential effects on "natural areas," which presumably contain some of the significant biological resources that are defined under the significance thresholds, there is no direct reference to these.

(4)

Impact BIO-4 (*Bird Foraging Habitat*) is particularly puzzling. The analysis states that the habitat is of marginal suitability because it consists of agricultural crops and is adjacent to existing residential development. Nevertheless, the conclusion is that the impact is significant. There is no demonstrated nexus to the significant resources that were previously defined, nor to the categories of impacts that are considered significant under the CEQA Guidelines. Indeed, the analysis under Impact BIO-5, which is deemed less than significant, while it seems to except birds, further argues against a finding of significant impact for BIO-4: "implementation of the proposed project is not expected to reduce current populations of common wildlife species in the region to below self-sustaining levels, or otherwise substantially affect common fish or wildlife species."

(5)

Other impacts, such as BIO-2, BIO 3, BIO5, BIO-6, BIO-9, BIO-10, BIO-11, and BIO-12 specifically consider resources and criteria that are set forth in the DEIR and appear to come to reasonable conclusions, with both significant and less than significant findings.

(6)

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The conclusions of significant direct impacts to special-status wildlife (i.e., impacts BIO-7 and BIO-8) are less supported. BIO-7a through BIO 8, discuss a series of special-status birds with *potential* (emphasis added) to occur. With respect to the Northern Subarea, there is no documentation of substantial use of this area by any of the species considered. In fact, the DEIR specifically states that the potential is low for even foraging by burrowing owl and short-eared owl. For some other species (e.g., Cooper's hawk and merlin), the DEIR implies that use of the site would be unexpected because they are not open-county birds, but impacts are nevertheless deemed significant. I also note here that Cooper's hawk is no longer considered a California Species of Special Concern by CDFG. I do not dispute the statements that these species are likely to occasionally forage in this area, but, with respect to habitat loss, there is no link to the "substantial" finding that is specifically defined earlier in the DEIR, including no consideration of how the loss fits into the local and regional context, which I discuss further below. It almost seems like there was a preordained finding that loss of agricultural land should require mitigation, and then "impacts" that could be so mitigated were identified.

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I would note that for some of the special-status species discussed, there are some potential effects for which measures are appropriate. One of the potential impacts to burrowing owl, although not expected, is the destruction of active burrows. Mitigation Measure BIO-4 is appropriate and is commensurate with the level of impact. Similarly, the requirement for Mitigation Measure BIO-3 (Preconstruction Survey for Nesting Birds) is appropriate. The potential impact to Mountain Plover (Impact BIO-7i) that is described in the DEIR is due to increased human disturbance and domestic animals, not loss of habitat. This impact is addressed through the Ormond Beach Natural Resource Management Program, along with similar impacts to other special-status species, such as snowy plover and least tern. However, Mitigation Measure BIO-2 is neither warranted nor commensurate with the level of impact.

8

In summary, the DEIR identifies no link between the stated impact significance criteria and the finding of significance for the habitat loss described in impacts BIO-4, BIO-7, and BIO-8.

### IMPACT INTENSITY AND CONTEXT

As part of the evaluation relative to stated impact significance criteria, I usually consider some additional guidelines that have been developed at LSA. For species of limited distribution in a subregion, or other wise of special interest (for example a California Species of Special Concern), I consider whether the loss is a consequential portion of a known population in the region, with "consequential" being determined by the reasonable judgment of trained professionals; this judgment is based on dual consideration of the intensity of the impact and the context (i.e., the relative sensitivity of the species), both in its range and in the subregion. This is similar to the "substantial" definition that is given in the DEIR.

9

The DEIR identifies impacts to marginal foraging habitat for a few raptor species, specifically naming red-shouldered hawk and red-tailed hawk, as well as several special-status species. However, there is no consideration or discussion of how much similar habitat there is within the region, nor with the status of this habitat. The project area lies within the Oxnard plain. Within the plain area, there are over 45 square miles (28,800 acres) within the Oxnard/Camarillo Greenbelt; 3,880 acres of agricultural land immediately east of the project that are not in the Greenbelt, but outside the City Urban Restriction Boundaries (CURB) line; and additional undeveloped land to the east of that. This provides a total of over 80,000 acres of raptor foraging habitat between the project area and the Los

A.2

LSA ASSOCIATES, INC.

Angeles County line, south of Highway 101. This does not include the more than 3,800 acres of open area at the Point Mugu Base and the 580-acre Ventura County Game Preserve.<sup>1</sup> The loss of less than 700 acres due to the Ormond Beach Specific Plan should be considered in the context of the total amount of open space within this portion of the County. The result of such an analysis is that less than 1 percent of potential foraging habitat in the subregional area would be lost to this development.

This situation can be compared with the CDFG stance on loss of similar foraging habitat in other areas of Southern California. CDFG frequently comments on DEIRS in areas where there is no large-scale land conservation program, with a recommendation that the project proponent should preserve 0.5 acre of raptor foraging area for every 1.0 acre of similar area that is developed. This same ratio for impacts to grassland is formalized in the San Diego County Biological Mitigation Ordinance, which is tied to the City and County's multiple species NCCPs/HCPs. The result of this recommended ratio, which is generally considered adequate to reduce impacts to a less than significant level, is preservation of approximately one-third of the raptor foraging habitat over the large areas that are considered.

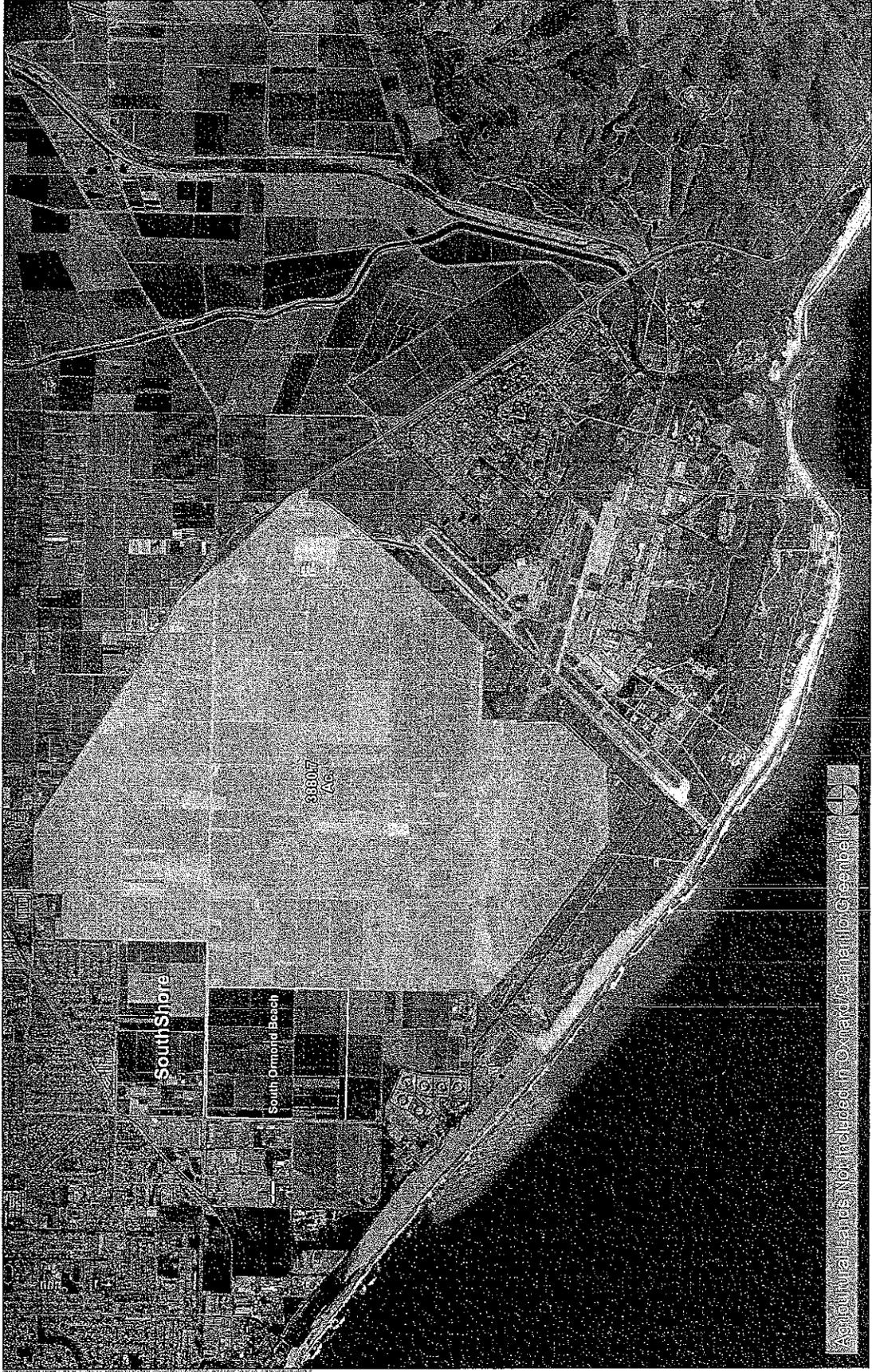
In Orange County, the amount of grassland foraging habitat that is preserved in the Central/Coastal and Southern subregions of the NCCP/HCP program is approximately 42 percent and 71 percent, respectively. On the basis of this conservation, the USFWS and CDFG granted coverage for grassland-oriented raptor species, such as northern harrier, in the Central Coastal subregion, and white-tailed kite and burrowing owl in the Southern subregion. This "coverage" finding means that the agencies determined that the plans provide for survival and recovery of the species.

In general, the resource agencies agree that project impacts that are in accordance with the guidelines and provisions of an adopted NCCP/HCP are considered less than significant. It is also worth noting that the covered species in these instances described above are considerably less common than the species mentioned in the Ormond Beach DEIR (i.e., red-shouldered hawk and red-tailed hawk), which are among the most common raptor species in Southern California.

## CONCLUSION

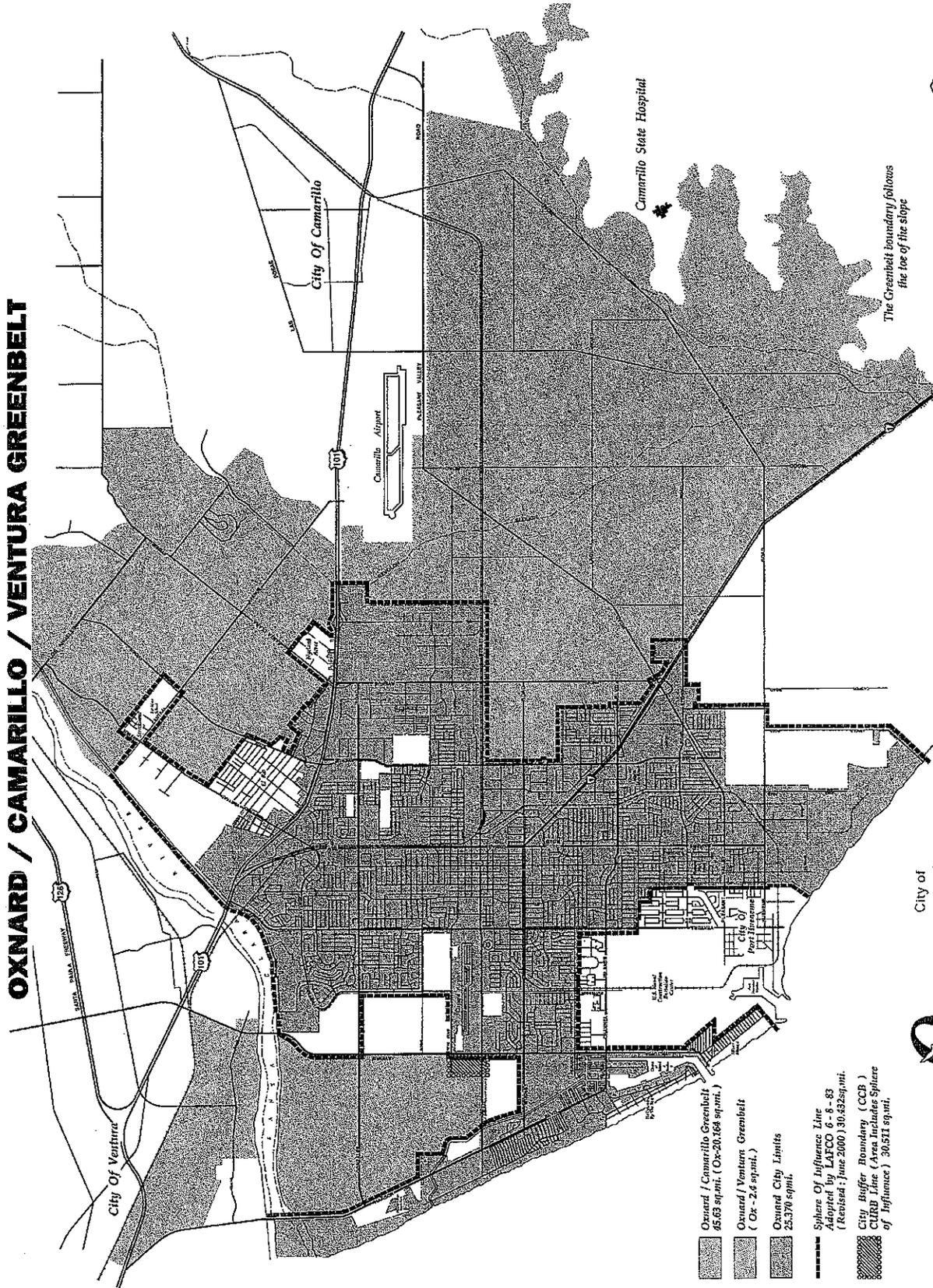
The DEIR for Ormond Beach does not provide an identified nexus between impact significance thresholds and the finding of significance for Impacts BIO-4, BIO-7, and BIO 8, nor is there otherwise a reasoned judgment that the loss of foraging habitat in the project area is significant in light of the thousands of acres of similar habitat that will remain in the foreseeable future. Furthermore, the DEIR itself acknowledges that "the impacts on vegetation and wildlife habitat as a result of the proposed project would not cumulatively contribute to the loss of these resources in the region." While findings of significance are ultimately up to the judgment and opinion of those responsible for preparation of the CEQA document and the decision makers, such judgments should be rational, and my opinion in this case is that the loss of the potential bird foraging habitat is not justified as a significant impact.

<sup>1</sup> Acreage estimates provided by FORMA, based on City of Oxnard planning documents, assessment of aerial photographs, and ESRI data.



A. 2

# OXNARD / CAMARILLO / VENTURA GREENBELT



The Greenbelt boundary follows the toe of the slope

-  Oxnard / Camarillo Greenbelt  
45.63 sq.mi. (Or-20,164 sq.mi.)
-  Oxnard / Ventura Greenbelt  
( Or - 2.4 sq.mi. )
-  Oxnard City Limits  
25,370 sq.mi.

**Sphere of Influence Line**  
 Adopted by LAFCO 6 - 8 - 83  
 ( Revised : June 2000 ) 30,432sq.mi.

**City Buffer Boundary (CCB)**  
 CUBB Line ( Area Includes Sphere  
 of Influence ) 30,511 sq.mi.

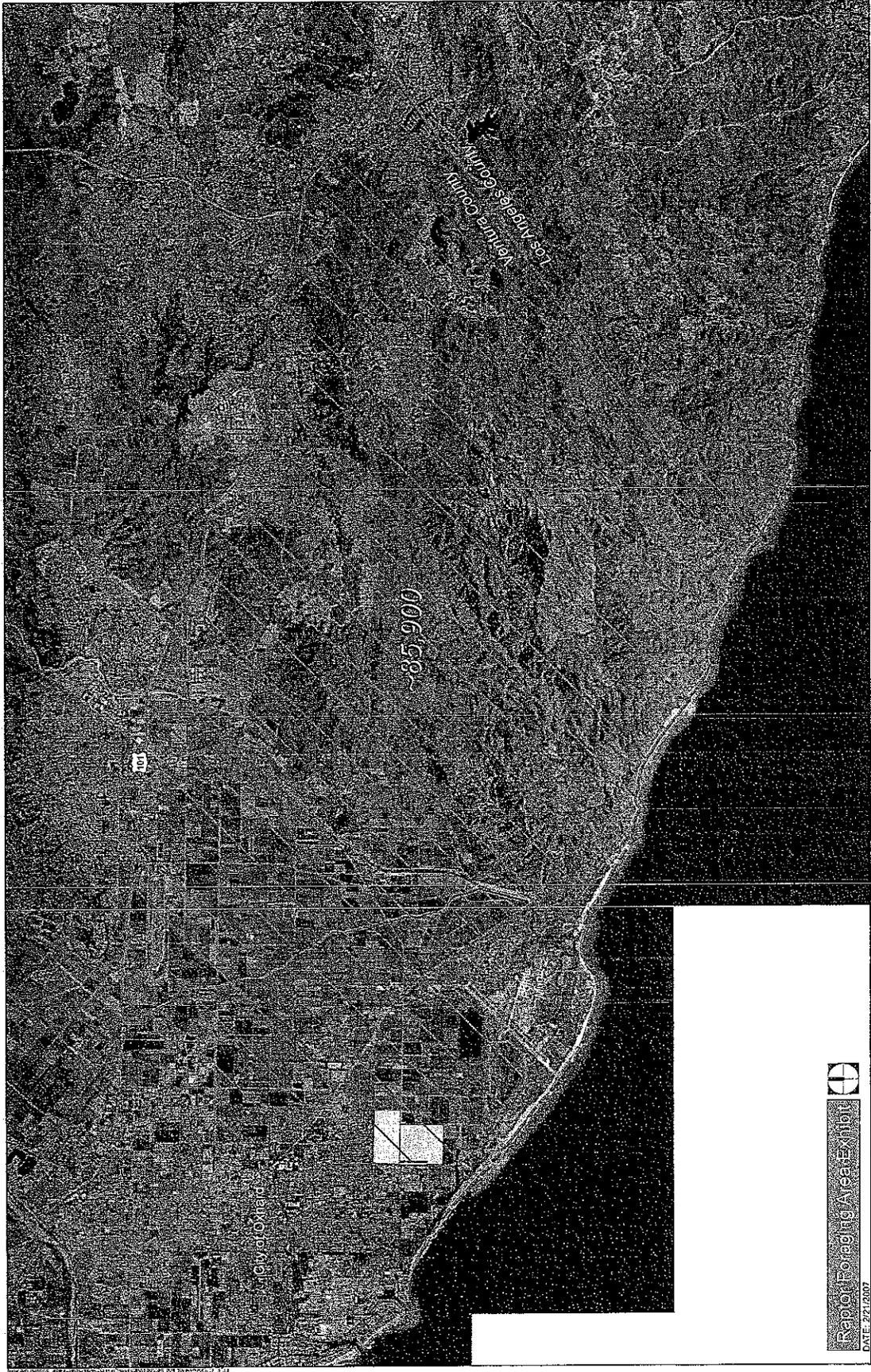
City of  
**Oxnard**

PLANNING AND ENVIRONMENTAL SERVICES



EXHIBIT 2

A. 2



Report Foraging Area Exhibit  
DATE: 7/21/2007

EXHIBIT 3

**LETTER I.1      KARINE ADALIAN**

**Commentor:** Karine Adalian (09-18-08)

**Response**

1. **Offsite Alternatives:** Comment noted. The RDEIR includes a discussion of potential offsite alternatives.
2. **Resource Protection:** Comment noted. The commentor opposes the projects as defined. The decision-makers will be provided with the FEIR and will have the opportunity to see the commentor's position as identified in the FEIR.

**From:** k.adalian@att.net  
**Sent:** Thursday, September 18, 2008 12:56 PM  
**To:** Kathleen.Mallory@ci.oxnard.ca.us  
**Subject:** North and South Ormond Beach Recirculated Draft EIR (SCH #2005091094)  
**Importance:** High

City of Oxnard  
Planning Division  
**ATTN: Kathleen Mallory** Kathleen.Mallory@ci.oxnard.ca.us FAX 805-385-7417  
214 S. C St.  
Oxnard, CA 93030

RE: North and South Ormond Beach Recirculated Draft EIR (SCH #2005091094)

Dear Ms. Mallory:

Along with many others, I would like to add my voice to support for the expansion and restoration of the Ormond wetland system and request that the re-circulated Draft Environmental Impact Report include additional alternatives that would reduce or avoid the impacts of development in the Ormond wetland area, including:

- Considering offsite alternatives for project development. ①
- Setting aside all land in the project area North and South of Hueneme Rd. for resource ② protection.

I am against the potential commercial development, light industrial development, and residential development of up to 1200 units in areas that currently support agricultural uses - and are near, or adjacent to, the Ormond wetland area. Development in these areas would further impinge on the already severely diminished wetland area and interfere with efforts to expand and restore the Ormond wetlands. The Ormond Beach wetland area supports over 200 species of migratory birds, including the endangered California least tern and western snowy plover. This area is renowned for its ecological value, but is still heavily fragmented and hard pressed by development. The lagoon site and surrounding wetlands once totaled 1,000 acres, but now only 250 acres of the original wetlands remain.

Again, I would like to see the expansion and restoration of the Ormond Wetland System and request that the re-circulated Draft Environmental Impact Report include additional alternatives that would reduce or avoid the impacts of development in the Ormond wetland area.

Thank you,

Karine Adalian  
4704 San Sebastian Dr.  
Oxnard, CA 93035

**LETTER I.2      JEAN ANKER**

**Commentor:** Jean Anker (09-19-08)

**Response**

1. **Opposition to Development of Study Area:** Comment noted. The commentor opposes development of the Study Area, but provides no comments on the EIR. The decision-makers will be provided with the FEIR and will have the opportunity to see the commentor's position as identified in the FEIR.

**From:** AnkerFam@aol.com  
**Sent:** Friday, September 19, 2008 11:22 PM  
**To:** Kathleen.Mallory@ci.oxnard.ca.us  
**Subject:** DEIR for North and South Ormond Beach

RE: DEIR for North and South Ormond Beach

Dear Ms. Mallory:

For the record, I would like to add my comments to the proposals for Ormond Beach. I am a new property owner and all I can say is, I get off the freeway at Las Posas and drive across Hueneme Road past the fields and the base and the turn-off to Pacific Coast HWY. And every time I say to myself this is an amazing part of our state. But when I get to the more industrial part of south Oxnard, I always feel a disconnect. Number one it's sort of like a ghost town. There is just something fundamentally awful about these industrial buildings so close to the beach and wetlands. It also feels dead, partly because the same buildings have been for lease or for sale for over a year.

My point is this, Why add industrial buildings to an area where they are inappropriate when you can't even rent or sell the ones that are already there?

Why build more cheap housing tracks when homes sit empty in the ones you already have. Especially with all that is going on with the banks and the real estate market, now seems like a terrible time to build more track homes.

The big question is this: Who will occupy these homes and these industrial buildings you are proposing to build?

Wouldn't it be far smarter in the long run for the city of Oxnard to support the Nature Conservancy and turn this into a really desirable area. And then maybe try to make it into something that people would actually like to be a part of. Why not listen to people like the Conservancy and The Sierra Club and others who are trying to protect our valuable coastal lands. Even the Navy doesn't want to see a lot more buildings in the area.

I would also like to recommend that you follow the guidelines of The Savior's Design Team and focus on creating Gateway Park for the Wetlands and other projects that can actually turn this area into a destination instead of just the abused step-child that it is now.

Our **assets** in the area are:  
Channel Islands University  
The Naval Bases  
The Wetlands  
The Beach  
The Agriculture

Our **liabilities** are

9/26/2008

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Halaco

The tacky motels and shopping centers

The ugly reliant power plant

other misc. ugly business parks, some of which are half empty.

Why not focus on our assets by making Ormond the Silicon Valley of Coastal Conservation and Green energy And make it a center for coastal eco tourism

If you want to build homes, build less of them and make sure they are truly innovative and state of the art as far as energy, eco, etc.

In other words have a theme and a sense of purpose, don't just build things to build things to create a hodgepodge of half baked ideas.

I know my comments are on the broad side, but frankly there are enough good people to hammer out the details. Act in accordance with The Ormond Task Force and you can't go wrong. You have a chance to make a difference and restore this breathtaking spot of coast. Do the right thing! In doing so you will also make Oxnard much more prosperous in the long run.

Jean Anker  
229 Morning Breeze Lane  
Port Hueneme, CA  
818 523-1975

Looking for simple solutions to your real-life financial challenges? [Check out WalletPop for the latest news and information, tips and calculators.](#)

**LETTER I.3      LORIE BAKER AND CASEY BURNS, ET AL.**

**Commentor:** Lorie Baker and Casey Burns, et al. (09-22-08)

**Response**

1. **Comments on May 2007 DEIR-Legal Questions:** The commentor asserts that the RDEIR does not respond to the comments that they submitted on the May 2007 DEIR and suggests that the City is legally obliged to do so. The RDEIR cites the City's rationale for revising and recirculating the RDEIR. It also cites Section 15088.5(f)(1) of the CEQA Guidelines, which reads as follows: "When an EIR is substantially revised and the entire document is recirculated, the lead agency may require reviewers to submit new comments and, in such cases, need not respond to those comments received during the earlier circulation period."
2. **Alternatives Analysis Inadequate:** With the exception of Alternative 5, which was added to the RDEIR in response to comments on the DEIR, all of the alternatives analyzed have been under consideration and part of the public discussion of the since the initiation of the environmental review process in 2004. With the addition of Alternative 5, the RDEIR describes a sufficient range of potential alternatives to the projects. The commentor incorrectly suggests that all alternatives must avoid or substantially lessen any of the significant effects of the project. The commentor also mistakenly states that Alternative 5 does not reduce the footprint of development.
3. **Foraging Habitat Mitigation Ratio:** The commentor asserts that the proposed mitigation ratio is "grossly insufficient" and questions the credit that the RDEIR granted for the southernmost 220 acres of the Southern Subarea. The 0.1. to 1.0 ratio reflects the marginal value of the foraging habitat given the highly controlled agricultural use of the land. However, the City does concurs that the Southerly applicant should not be granted mitigation credit for the southernmost 220 acres. Mitigation Measure BIO-2 in the FEIR reflects this change
4. **Habitat Mitigation:** The commentor correctly points out that the City may require a variety of mitigation approaches. In the case of Impact BIO-2, the City has chosen to require that the applicants contribute financially to an as-yet-undetermined entity to compensate for the loss of marginal habitat value.
5. **Bird Surveys:** The commentor claims that the mitigation measures referring to bird surveys are "not scientifically accurate." The commentor is referring to Mitigation Measures BIO-3 and BIO-4, which require pre-construction surveys for nesting birds and burrowing owls, respectively. The provisions of these mitigation measures are appropriate given the nature and circumstances of the project and the species being addressed.

6. **Natural Resource Management Program (NRMP):** The commentor questions the potential effectiveness of the proposed NRMP because of concerns over the enforcement authority of the applicants and the City. In part in response to this comment, the description of the NRMP has been revised to more clearly state implementation roles and responsibilities.
  
7. **Cumulative Impact Analyses:** The commentor claims that the RDEIR does not clearly establish the basis for the document's cumulative impact analyses, particularly for biological and agricultural resources. Partially in response to this comment, Section 2.0 of the FEIR (Project Description) includes an explanation of the policies and programs and a list of the development projects that collectively constitute the basis for the cumulative impact discussions throughout the EIR.

Z.3

September 22, 2008

Ms. Kathleen Mallory, Project Planner

City of Oxnard Planning Division

305 W. Third Street

Oxnard, CA 93030

**SUBJECT: OFFICIAL COMMENTS: NORTH AND SOUTH ORMOND BEACH RECIRCULATED DRAFT ENVIRONMENTAL IMPACT REPORT- PZ 03-640-1 (Specific Plan Adoption); PZ03-560-1 (Pre-Zoning); PZ 03-620-3 (General Plan Amendment); and PZ 05-670-3 (Development Agreement)**

Dear Ms. Mallory:

We have reviewed the Recirculated Draft Ormond Beach EIR (DEIR) dated July 2008, and have included our comments herein for your incorporation into the Administrative Record on this case, and for your consideration and response to these comments. Please take note that this letter closely reflects the original letter we submitted July 19, 2007 principally due to the fact that upon review of the revised DEIR, the items/concerns we raised at that time have still not been addressed as they legally must be. As such, in an effort to assist you in preparing the best possible informational document for the decision makers of the City of Oxnard and the general public, we are restating the majority of our previous comments as well as incorporating additional comments.

Please take note that the Recirculated DEIR was poorly navigable in terms of tracking changes made from the previous DEIR to the Recirculated version. Although perhaps not required of the applicant/City to provide better navigation (legality of this is unclear), it would have been a better practice to show where changes were made to provide the most open/informative/accessible document possible. This was unfortunately not provided by the City.

Although the following comments tend to focus on the Biological Resources and Agricultural Resources Section of the DEIR, it should be assumed that our comments reflect the overall concern that this DEIR, as prepared, is inadequate pursuant to the requirements of the California Environmental Quality Act (CEQA).

**ALTERNATIVES ANALYSIS- INADEQUATE:**

§15126.6(a) of CEQA states that an EIR:

"...shall describe a range of reasonable alternatives to the project ... which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project ...( b) ... even if these alternatives would impede to some degree the attainment of the project objectives, or would be more costly."

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North and South Ormond Beach

Recirculated Draft EIR, State Clearinghouse No. 2005091094

DEIR Comment Letter to Kathleen Mallory

Comments from Lorie Baker, et al

The Alternatives Analysis provided in the DEIR is inadequate at addressing project alternatives as prescribed in the above referenced section(s). An appropriate range of alternatives as detailed in CEQA S15126.6 was not provided. Alternative 1 does not propose to reduce or limit the significant effects of the proposed project. Alternative 1 proposes a use outside of the study area, which itself was not appropriately studied for its impacts, and does not propose to reduce or limit the effects of the project, merely relocate the school offsite to make room for more residential development. Alternative 2, although permissible per CEQA, is the no project/existing City of Oxnard 2020 General Plan option, which assumes a more intensive development scenario. A significant amount of speculation accompanies this analysis, assuming such intense development. There is no basis for speculation of a more intense development under Alternative 2. Alternatives cannot create a more damaging scenario, and be considered an adequate CEQA "Alternative". Alternatives 3 and 4, while they would indeed avoid and/or significantly lessen the impacts of the proposed project, do not meet the objectives-purpose and goal- of the proposed project. Alternatives 3 and 4 are said to have the potential for adverse impacts if development is not permitted and is therefore redirected elsewhere, possibly leading to a need to expand the CURB boundary in another location. This analysis is also speculative and inappropriate for providing rationale against the alternative. In addition Alternative 4, Conservation, was claimed not to be feasible by the City of Oxnard, as stated at the public workshop/hearing on the DEIR on July 16, 2007. A project not deemed feasible, again, does not properly address Alternatives as required.

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The Alternative deemed "Environmentally Superior Build Alternative" is NOT in fact at all environmentally superior. It merely reflects a shifting around of proposed uses, not a real reduction of the impact of the project footprint. An appropriate and worthy Alternative that should be adopted is a lesser, smaller project that while meeting project objectives can also reduce the environmental impacts associated with the project to less than significant levels (assuming development impacts receive proportionate/corresponding and enforceable mitigation). The applicant should be required to redesign the project to assess a physically smaller build out scenario. As will later be discussed, the project as proposed presents significant, as yet unmitigated impacts to biological and agricultural resources. The City of Oxnard should seek a project that provides for reasonable development of the applicant's property, provides a reasonable semblance of the vision of the 2020 General Plan while appropriately protecting an unusually and significant biologically sensitive habitat region/linkage area and agricultural resources. Since it does not appear that the City explored this alternative, per CEQA, please explain why.

IMPACT DISCUSSION AND MITIGATIONS- INADEQUATE:

A. Biological Impacts and Mitigation Measures:

Numerous impacts to, in particular, Biological Resources (e.g. special status species, rare, threatened and endangered species) were identified and discussed throughout the body of the Biological Resource section, and were repeatedly not appropriately carried over to the mitigation section. Assessments of biological impacts were not fully explored, partly due to, as the report states, the fact that only ONE total biological reconnaissance survey was conducted and provided limited information on plants and wildlife "since it was conducted only one day during the non-breeding season for birds and non-

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blooming period for most plant species" (DEIR, page 349, 3.6.3.1.2). In addition, the statement that "more thorough wildlife surveys are necessary in order to determine the presence or absence of several potentially occurring special status species in the Southern Subarea" (what about Northern Subarea?), is alarming, and may not be legal (e.g. Sundstrom vs County of Mendocino, 1988)- DEIR S3.6.3.1.2 Special Status Wildlife, last sentence.

Please take note, for this and for likely other sections in your DEIR, future studies are not permissible per CEQA. Under CEQA the impacts of a project must be studied in their entirety up front while the project is undergoing the environmental review process.

Portions of the Biological Resource Section correctly acknowledge biological impacts that are considered significant. Mitigating those impacts however has not adequately been demonstrated or accomplished throughout this section. In addition there are some locations such as in the Northern Subarea, north of Hueneme Road where impacts were inappropriately discounted. Due to lack of adequate biological surveys and the need for further information, as noted above, impacts to resources such as wildlife migration corridors and open waters (including waters of the U.S.) have not been adequately quantified and studied. Before any mitigation can rightly be applied to this project, the project and all resources it impacts must be properly analyzed in full. Additionally consultation with the applicable resource agencies is important to ensure potential mitigation measures would in fact feasibly mitigate impacts to less than significant levels.

The DEIR is inadequate at fully assessing and addressing project impacts, and inadequate at allocating proper and appropriate mitigation measures to these impacts. Rather than quickly determining that impacts, although significant, are unavoidable, we believe that serious efforts must be placed on providing mitigations with the nexus and rough proportionality that this project should uphold as a responsible party, whether you maintain the project as proposed or adjust the project to avoid/minimize impacts (CEQA, §15126.4(a)4). For the Biological Resources section as well as all other sections of this document, mitigations must present full detail as to who/what/when/where/why and how mitigations will be implemented throughout the life of the project.

The 5 Mitigation Measures identified at this time (previous DEIR had 7) are wholly inadequate for properly mitigating development of 700 acres of land with significant habitat/wildlife value in and around the project site. Throughout the document, mitigation measures do not adequately describe details regarding where this mitigation would occur, how it would be maintained, and when mitigation locations would be designated.

As proposed 677 acres of prime agricultural land and biological habitat will be lost to development (302 acres in the Northern Subarea and 375 acres in the Southern Subarea). The DEIR Mitigation Measure-BIO 2, suggests that an appropriate mitigation for the loss of this "low quality habitat" would be met at a 0.1 to 1 ratio, or the need to mitigate for approximately 30.2 acres (approximately 10 % of the land lost would be mitigated, and the mitigation itself at this time is highly subject to question in terms of completeness/accuracy). Furthermore the DIER states that the applicant may take credit for land not developed within the remaining 220 acres of the southern subarea, and of this only requiring

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approximately 15 acres for mitigation. There is not sufficient rationale provided to justify such a grossly insufficient mitigation ratio. The City deems this ratio as the most that is considered "feasible" with no supporting scientific data to support this determination. The applicant should at minimum have to permanently set aside the 220 acres, reduce total project footprint, AND mitigate offsite where there is not sufficient area or habitat to do so, given total loss of approximately 700 acres if project is approved. The applicant should not be permitted to taking credit for not developing at this time the 220 acres of planned "AG/OS." Simply not developing those 220 acres at this time in the southern subarea does not equate to mitigation. There are nearly 700 acres proposed to be permanently converted to intense land uses; mitigation currently proposed is absolutely fallacious and under representative of the true biological impacts and losses that will occur if the project is approved as proposed.

Referring to any area in the 220 acres as a buffer area is also insufficient. If this is to represent any kind of mitigation, then measures need to be taken to ensure habitat enhancement/augmentation that will actually provide buffer benefits. This all needs to be worked out in advance of project approvals, clearly specifying who/what/when/where/why and how.

The City is capable of requiring mitigation as long as there is a proven scientific nexus (and there is) and the City may require many options to proportionally ensure FULL mitigation occurs (see 2 paragraphs below for further detail on this). AB 2746 (April 17, 2006) Habitat Mitigation- provides that state or local agencies may authorize a nonprofit organization to hold title to and manage real property the agency requires be deeded to it to mitigate any adverse impacts on natural resources caused by permitted development project (e.g. mitigation is designed to minimize or compensate for adverse impacts upon natural resources). Local government (i.e. City of Oxnard) may require as a condition of development of prime agricultural land and known sensitive and threatened biological habitat, that another area of agricultural land and/or habitat of comparable or greater size be protected. Protection can occur by the local government taking fee title to land or by placing a conservation easement on the land, and assume all attendant stewardship responsibilities, or it may enter into an agreement with a nonprofit organization to accept and steward the land and hold the title or easement.

If these properties are to be developed (with either the as-proposed project or a lesser project) the applicant must offset potentially significant or known significant impacts where feasible. There ARE feasible alternatives and mitigations the City is authorized and able to require (recall CEQA Sec. 15126.6(b) discusses need for avoidance or minimization of impacts even if such measures may impede to some degree the attainment of the project objectives, or would be costly). AB 2746 is another such notice to the City on the matter of avoidance/mitigation. The 212 acres located in the Southern Subarea that are not proposed, as yet, for development should not at this time receive ANY credit for mitigation or protection as there is no plan or requirement in place to mandate a conservation easement to an appropriate entity in perpetuity. Most certainly, at minimum, portions of this 212 acres should be permanently protected. Please note that both restorative measures and status quo (sod farming) are recommended, as both habitats are critical to migrating birds, and other species. In addition other locations, in proximity to the proposed project such as nearby coastal habitat and agricultural lands of equal or greater value should be factored into the mitigation equation to ensure well rounded representation of habitat impacts to be offset. Discussion of impacts should ensure analysis and

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North and South Ormond Beach

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mitigation not only for direct impacts of the development but also indirect effects of the development such as impact to nearby sensitive habitat in the Ormond Beach area and surroundings.

On the whole, mitigations for species loss were repeatedly lacking in matching mitigations where species and associated habitat were not properly brought together (i.e. certain species of birds determined to be impacted by the project did not receive matching habitat compensation for their loss). The DEIR mitigations are not careful to account for the multiple species, multiple levels of impacts occurring. Mitigation to ensure future land for forage and nesting into perpetuity is certainly merited. Timing of mitigations, locations for mitigation, et cetera, was not adequately presented to sufficiently display "mitigation" to reduce impacts to less than significant levels.

Mitigations referring to bird surveys are also not scientifically accurate. Surveys to be conducted 20-45 days prior to construction activities is entirely too early to detect nesting birds. Further, if nesting birds are detected, a minimum 500 foot buffer is required for raptors and at least 100 foot buffer for other nesting birds. Surveys need to be conducted onsite and offsite.

Also, although helpful, the so-called Ormond Beach Natural Resource Management Program discuss informational signage, and volunteering at the nearby sensitive beaches and pamphlets to be passed to residents and businesses-which is just not enough mitigation to prevent human encroachment and impacts to the sensitive beaches/dune areas near project site. This is an unenforceable program as it stands at this time, and although it has been presented as positive benefit to wildlife, based on its components, only a distracter from true mitigation. Further authority to do so is questionable because the applicant does not have authoritative power over the impacted areas, and the City of Oxnard does not own all offsite affected areas either. A plan to officially divert foot/bike/car traffic to less sensitive beaches to the west may be a possible mitigation (some local entities are already considering a footpath, boardwalk, viewing tower to keep people out of some of the last remaining in tact wetlands we have in this region).

A recurring problem in the Draft EIR involves mitigation measures that are nonbinding on the permittee and unenforceable by the City of Oxnard.

CUMULATIVE IMPACT DISCUSSION- INADEQUACIES:

The Cumulative Impact discussions are inadequate and do not address City-wide and area-wide development patterns (recently past, present, and reasonably foreseeable projects) that cumulatively make this project proposal SIGNIFICANT. There are cumulative impacts to biological resources and agricultural resources, as well as all the remaining issue areas and they must be accurately assessed and minimized as feasible.

It is unclear how large of an area was included in the analysis of cumulative impacts and it is stated that there are no substantial projects within the immediate vicinity of the project site. However, there are a number of pending projects within areas of environmentally sensitive habitat and within wildlife movement corridors (e.g., multiple projects in the Santa Monica Mountains, the Cornerstone Church project, and the Simi Valley Landfill Expansion project) that would contribute to the cumulative loss of

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North and South Ormond Beach

Recirculated Draft EIR, State Clearinghouse No. 2005091094

DEIR Comment Letter to Kathleen Mallory

Comments from Lorie Baker, et al

environmentally sensitive habitat. As such, the cumulative impacts analysis must consider the project's contribution to the cumulative loss of habitat within the region—not just the immediate vicinity of the project site—by considering other pending projects within the County's and cities' jurisdictions.

①

CONCLUSION:

The Draft Recirculated Ormond Beach EIR presents significant, and as of yet, unavoidable, impacts to Biological Resources and Agricultural Resources (as well as other issue areas). We strongly urge you to revisit and revise the project description and associated DEIR to address the numerous inadequacies we have only hinted at here. While the City as well as the applicant may wish to move this project forward, this should not occur until substantial revisions to the proposed project and its mitigation plan are completed. Strong, thorough and workable mitigations to offset impacts are available and have not been explored. Also, please consider that the above referenced DEIR must be legally defensible, and at this time, it is poorly equipped to withstand the scrutiny of the judicial review. Furthermore, as a matter of the public trust, the City of Oxnard is obligated to ensure that representation of the facts and assessment of the facts are fully revealed and analyzed. Project alternatives should be explored that do not merely reflect the wishes of the applicant but that of the greater public interest.

If you have any questions of this group, or if there is any clarification we can provide please do not hesitate to contact us. The lead contact person for this project is Lorie Baker, at LorettaBaker1@yahoo.com or (818) 389-8904. Please inform us of any subsequently scheduled hearings for this project and provide any additional information you may distribute in the future.

Sincerely,

Lorie Baker, Land Use Planner

Casey Burns, Biologist

Daniel Klemann, Land Use Planner

cc. US Fish and Wildlife Service, Chris Dellith

California Department of Fish and Game, Jeff Humble

U.S. Army Corps of Engineers, David Castanon

7.3

**North and South Ormond Beach**

**Recirculated Draft EIR, State Clearinghouse No. 2005091094**

**DEIR Comment Letter to Kathleen Mallory**

**Comments from Lorie Baker, et al**

Western Alliance for Nature Conservancy

The Nature Conservancy, E.J. Remson

California Coastal Commission, Jack Ainsworth

Coastal Conservancy, Peter Brand

The Audubon Society, Marianne Slaughter

The Sierra Club, Alan Sanders

The Environmental Defense Center

The National Park Service, Melanie Beck; Santa Monica Mountains

The Santa Monica Mountains Conservancy, Paul Eldelman

The Los Angeles Regional Water Quality Control Board LB Nye

**LETTER I.4     ARCHIE BARD**

**Commentor:** Archie Bard (08-07-08)

**Response**

1. **Drainage Capacity:** Comment noted. Section 3.3 of the EIR discusses potential drainage and flooding impacts and presents mitigation measures that will ensure that the historical flooding problems described by the commentor will not reoccur. Specifically, Impacts Water-6, -8, -16, and -19 discuss the potential effects of development and Mitigation Measures Water-11, -12, -13, and -14 outline mitigation requirements. Also, both specific plans include drainage plans to address drainage infrastructure needs.

I.4

Archie Bard

1640 San Leandro Lane  
Santa Barbara, CA 93108

Phone  
805-969-0195

August 7, 2008

Mayor and Councilmen  
City of Oxnard  
305 West St.  
Oxnard, CA 93030

re:Ormond Beach Specific Plan Update

Gentlemen:

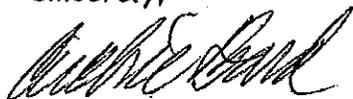
On February 13, 1998 I wrote you a letter regarding the Ormond Beach planning area. That letter addressed proposed land-use issues along Arnold Road and included photos taken in the winter of 1998 showing extreme flooding conditions to the adjacent properties. Three copies of those photos are enclosed herewith. As I recall, there were more photos included in the 1998 letter but I cannot find them. A copy of such letter is enclosed.

The exact location of each photo probably can be determined by reference to other landmarks in the area. To my best guess, the worst part of such flooding was within that area between one mile south of Hueneme Road to about a quarter mile south of Hueneme Road.

As you may recall, I operated the mushroom operation at the end of Arnold from 1960 until a few years ago. I can attest to the fact that access was severely impacted by heavy rainfall and many times we would have to go through the Point Mugu Navy Base to reach the plant.

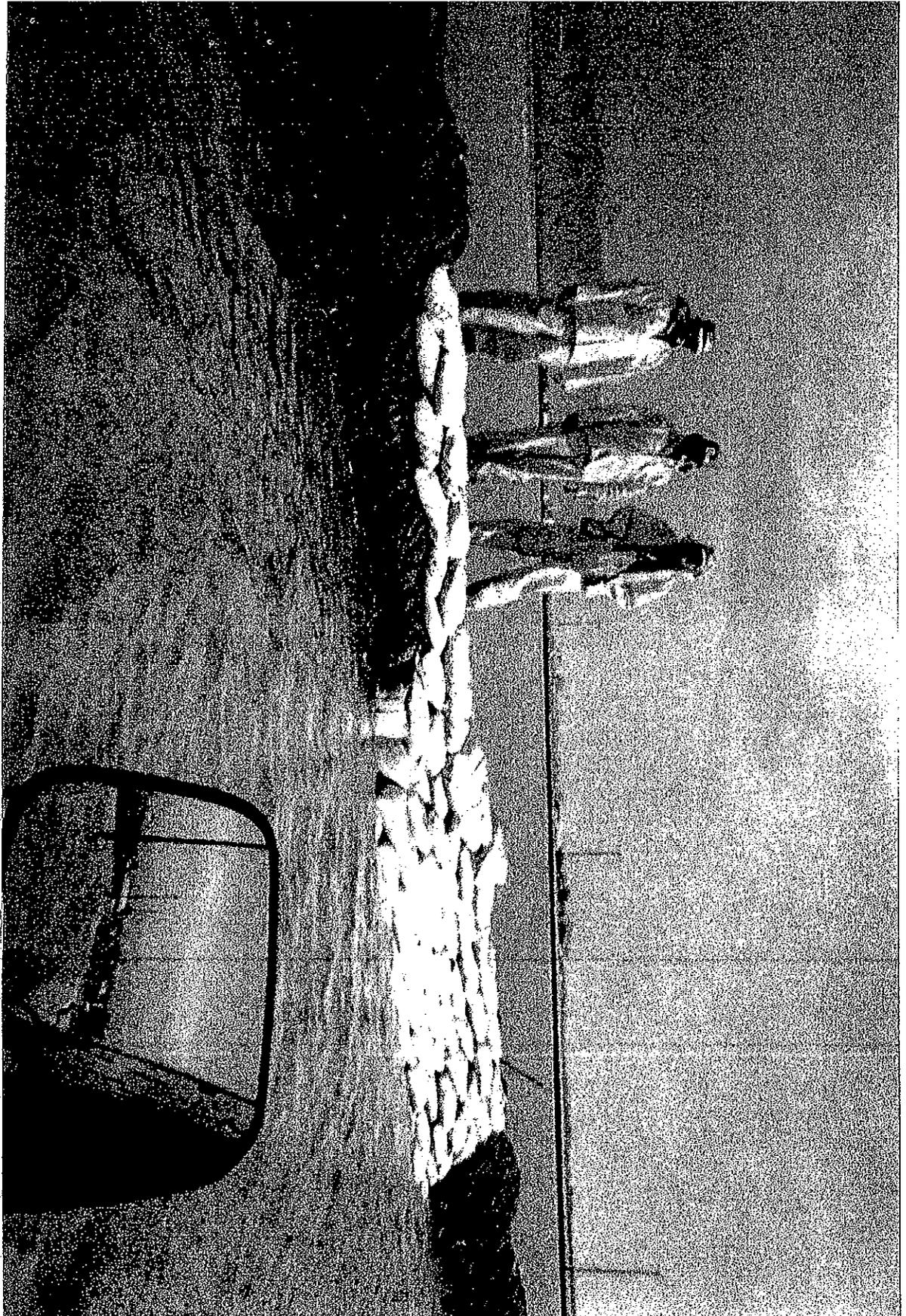
Therefore, I hope you will seriously take into consideration the effect of heavy rainfall in this area on the proposed development. Arnold Road has its own drainage system and the land is so flat that the drain ditch cannot adequately deal with large volumes of water to carry it to the Mugu drain.

Sincerely,

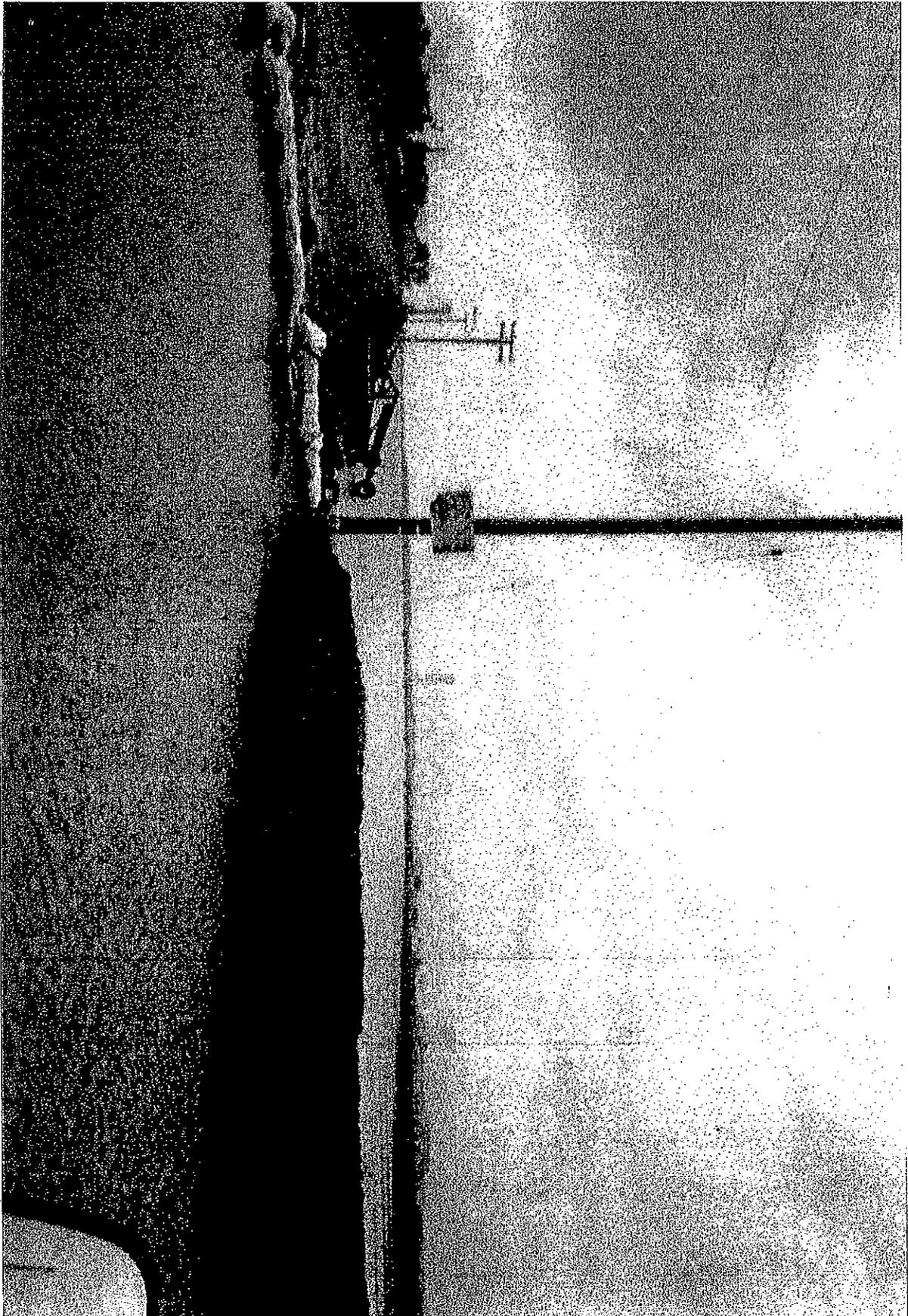


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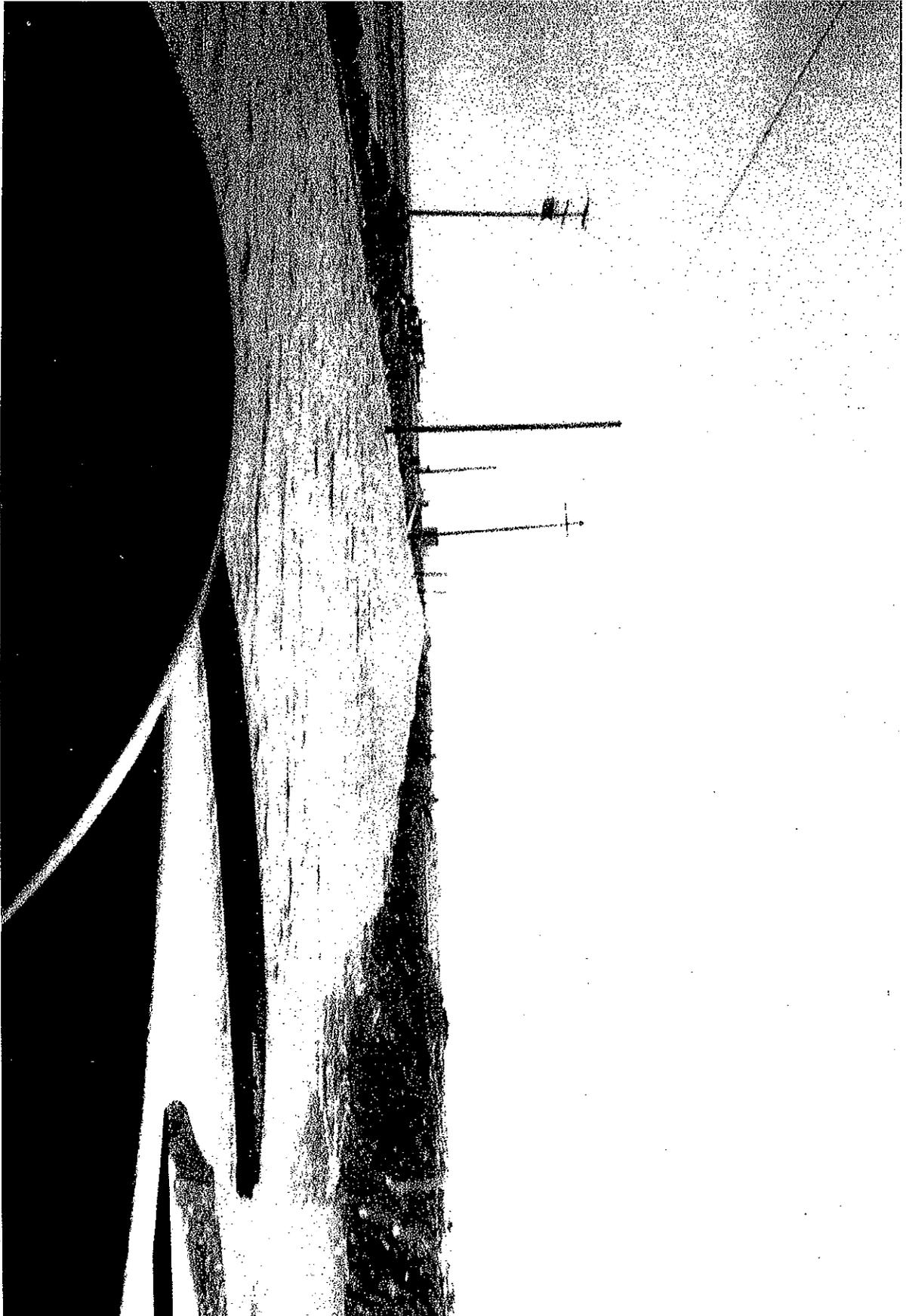
7.4



7.4



I.4



24

ARCHIE BARD

235 S. Padre Juan

Ojai, CA 93023

(805) 646-2824 or ~~340-4748~~

2/13/98

pg 652-8256

Mayor and Councilmen  
City of Oxnard  
305 West Third Street  
Oxnard, CA 93030

Subject: Ormond Beach Land Use

Gentlemen:

In connection with your decision to determine land uses (which would include urban growth boundaries) for the Ormond Beach area (that area south of Hueneme Road), I would like you to consider the following points outlined below. Enclosed are photos and other material which may help illuminate these points.

First of all, some of the main goals of the City should be reiterated, when considering land uses:

-To preserve and protect existing jobs as well as provide new jobs for its citizens.

-To protect and maintain environmentally sensitive areas.

-To maintain the viability of agriculture and to cut back on "urban sprawl" by causing housing to be built within existing City boundaries.

-To not jeopardize the presence of the U.S. Navy facility at Point Mugu.

Such goals and objectives can more readily be attained through a more rational land-use policy for this area, one that better reflects the realities of 1998 . This would favor a well-thought out industrial development (a continuation of what already exists) and agriculture vs residential uses (including a golf course, hotel, R.V. park, etc.).

Please consider the following:

- 1) Existing land use here is predominately industrial and placing residential use adjacent to and/or downwind from industry is very poor policy. The Edison Co. originally acquired 360 additional acres beyond the 180 acres required for their power generation plant in order to "protect" such investment by precluding incompatible residential development close by. This still is a valid policy.

(Please refer to the enclosed photos showing smoke and fumes from the Halaco plant, directly up-wind from Edison's proposed development)

2) The City of Oxnard needs to create more jobs and to preserve existing jobs. Converting prime farming land to a golf course and residential use would eliminate many ag related jobs.

Also, the City does not have an over-abundance of industrially zoned land, especially "Coastal Dependent" areas, or land that may be especially valuable for port related business.

(Please refer to enclosed article which discusses "Industrial Symbiosis", whereby one industry utilizes the waste product of another industry, and so on.)

3) Environmental Considerations: The waterways adjacent to the power station (to the north and east) are important habitats for wildlife. People, whether playing golf or living nearby, are not compatible in close proximity to such areas. On the other hand, most industrial use can easily be accommodated to exist benignly with environmentally sensitive areas.

Other wetland areas should be rehabilitated to former condition and be adequately protected against people. Adequate buffers should be incorporated to accomplish this objective.

It is also possible to incorporate visitor serving possibilities within such areas which would both allow educational and tourist attractions and at the same time protect such environmental asset.

(Please refer to photos which show these waterways)

4) Noise Considerations: The Ormond Beach area is subject to significant noise, primarily from the U.S. Navy's facility at Pt. Mugu. Boiler blow-downs at the Edison plant and a few of the other industries also produce loud, periodic noise. It is almost impossible to mitigate such noise on a sustained basis.

If the proposed commercial use of the Navy's landing strip becomes a reality, there would be additional noise in this area.

5) Aesthetic Limitations: The proximity to the looming power plant plus the towering power transmission lines are not compatible with residences. Other industry, close by, would not be similarly affected.

6) Geographical Limitations: Arnold Road is subject to heavy flooding during rainy periods. As little as 1" to 2" can make the road impassable, especially the middle portion (½ to 1 mile south of Hueneme Road) and at the end. The middle portion is where the Edison Co. plans their development.

7) Water Use: A golf course may not be the highest and best use for the land in terms of water use, all things considered. Low-water use industry, however, could be selected.

7.7

8) Hueneme Road is a major thoroughfare to and from the Port Hueneme commercial harbor, as well as serving the adjacent neighborhoods. Traffic will undoubtedly increase in the future. Residential use south of Hueneme Road only adversely impacts this situation, the ingress and egress to the harbor, as well as north and south access to this area across Hueneme Road.

9) It appears that there is a "ground swell" developing in the whole County, as well as Oxnard, to finding ways to protect the viability of agriculture by discouraging "urban sprawl". Satisfying housing needs can be accomplished by "in-filling" within existing City boundaries. Also, the sound principals of the "New Urbanism" can and should be incorporated and applied to redevelopment as well as new development. The City's Visions for a Livable Community is a very good start in this direction.

The enclosed map shows suggested land uses for this area. Basically, all land south of Hueneme Road is "off limits" for residential development. Agriculture and clean industry would occupy this area: south of Hueneme Road, east of Perkins and west of Arnold Road.

Some of the main questions are:

- Where do you draw the line to separate agriculture from industry?
- Where are the boundaries that delineate wetland areas?
- Size of "buffer" to separate environmentally sensitive areas from other uses?
- Can and should certain areas within agriculturally zoned land be earmarked for future industrial use on an "if, as and when needed" basis?

Thank you for your consideration in addressing these points.

Sincerely,

Archie Bard

**LETTER I.5      BARBARA BERNIS**

**Commentor:** Barbara Bernis (08-07-08)

**Response**

1. **Request for Extension of Public Review Period:** Comment noted. In response to multiple requests for such, the City extended the review period for the RDEIR from 45 days to 60 days.

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**From:** <BSexieSadie@aol.com>  
**To:** <kathleen.mallory@ci.oxnard.ca.us>  
**Date:** 8/7/2008 3:42:41 PM  
**Subject:** RDEIR extension request

Dear Ms. Mallory-

I am requesting that you please extend the time re. the RDEIR re. Ormond Beach in Pt. Hueneme. Thank you.



Sincerely,  
Barbara Berns  
T. Oaks/Camarillo  
805-497-3485

\*\*\*\*\*

Looking for a car that's sporty, fun and fits in your budget? Read reviews on AOL Autos.

(<http://autos.aol.com/cars-BMW-128-2008/expert-review?ncid=aolaut00050000000017>)

**LETTER I.6 MR. AND MRS. BRADEN, ET AL.**

**Commentor:** Mr. and Mrs. Braden, et al. (08-23-08)

**Response**

1. **OVSD Impacts:** As the RDEIR states, for the purposes of the CEQA analysis, payment of required new development fees pursuant to Government Code Section 65995 would reduce potential impacts on schools to a level considered less than significant. Therefore, the conclusion in Section 3.9.3.2 are sufficient.
2. **Demand for Housing:** The RDEIR focuses on issues related to the potential environmental consequences of the proposed projects. It does not evaluate the merits of the projects based on issues such as market demand, as suggested by the commentor. This topic is outside of the purview of CEQA and is a policy level discussion which will occur at the decision-making level.
3. **Extension of Rose Avenue-Safety:** As proposed, the roadway network for the SouthShore project will be built to City standards for safety and emergency access.
4. **Olds Road Congestion:** The traffic analysis assumes that the primary north-south access to the SouthShore project will be from Rose Avenue, not Olds Road. Nonetheless, the project will include capacity enhancements at the intersection of Olds and Hueneme Roads that will help manage the flow of traffic on Olds Road. .
5. **Demand for Industrial:** The RDEIR focuses on issues related to the potential environmental consequences of the proposed projects. It does not review the merits of the projects based on issues such as market demand, as suggested by the commentor. This topic is outside of the purview of CEQA and is a policy discussion that will occur at the decision-making level.
6. **Study Area as Open Space:** This comment relates to the merits of the projects as proposed, not to the environmental analysis. This topic is outside of the purview of CEQA and is a policy level discussion which will occur at the decision-making level.
7. **Two Separate Projects:** When the two project applicants initiated the development process, the City determined that it would be appropriate to consider the environmental implications of the projects in concert so as to avoid “piecemeal processing,” which is discouraged under CEQA. Note that the RDEIR’s analysis is structured in a manner that will allow the Planning Commission and City Council to consider the implications of the projects independently.

10

FROM : POSTAL COMM

FAX NO. : 8052402156

Aug. 25 2008 11:21AM P1

2774 Sanford St.  
Oxnard, California  
93033-8034  
23 August, 2008

Kathleen Mallory,  
Project Planner  
214 S. C Street  
Oxnard, Calif. 93030  
Attention: Planning Chairman & Commission

Dear Sirs:

Re: Southshore Development & Ormond Beach

We are property owners on Sanford Street in Pleasant Valley Estates. My husband and I were in attendance at the Public Hearing on 21st of August. However, due to the lateness of the meeting we were NOT able to stay for the remainder. We left at 10:15 p.m. and listened to the rest of the discussion at home. Many other developments were also discussed, but our letter and the notice in the paper only listed the Ormond Beach and Hearthside Homes project.

We are opposed to the Hearthside Development for the following reasons:

a. The number of homes to be built with its residents will greatly impact the Ocean View School District. As Super. Dr. Carrol stated this issue was never properly addressed by the developers. (1)

b. At the present time there is NO need for such a large number of houses to be built. As Shirley Goodwin stated at the meeting, "There is NO demand for housing." Many other developments already built are having trouble with their sales. (2)

On August 21 I made a survey within our tract from Beaumont to Reeder Streets, and there were a total of ten houses for sale; not including three or four other residences that are standing vacant. I'm sure you can find this likewise in other areas of our City.

c. The present plans of the development show Rose Avenue will be lengthened to Hueneme Road. However this is NOT a straight thoroughfare, instead it curves around before exiting. Yet this is the only entrance and exit for such a large number of homes. What about the safety issue where emergency vehicles must respond? Minutes become precious when someone is hurt! (3)

d. Also this project will create more congestion on Olds Road. And we've already had several problems of cars turning the corner too fast at Olds and Sanford. There have been several (4)

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d. cont'd.: incidents of cars crashing into fences, driving through a garage wall or family room wall. Fortunately no one has been injured yet. Speed bumps have been requested along Olds Road due to the Child Care facility and the Junior High, but nothing has been done.

(4)

We are also opposed to the Ormond Beach development for the following reasons:

a. The light industrial-business designs were well presented. But we already have many such buildings that are standing vacant and not being utilized. This was also mentioned by Shirley Goodwin during the Aug. 21 public hearing. "There is no demand for industrial."

(5)

b. What's going to happen to the Wetlands? We do not feel there is enough of a buffer area between the wetlands and the development. It's not considering the changes with the coast line or the rise of the ocean level. This is one of our MOST important natural resources, why not capitalize on this?

(6)

c. Why couldn't this be made open to the public and developed? It would be another item to enhance tourism. Some years ago my husband and I visited a Bird Sanctuary along the ocean front near Chula Vista. Special walkways were designed where one could walk and view the life - plant and animal in its natural habitat without damaging the area. This could be done with the various agencies within our region working together.

(7)

In conclusion, we feel these are TWO separate developments and should NOT be lumped together.

(8)

CANNIE & LARRY WILLIAMS  
4411 Olds Road  
Oxnard, Calif, 93033

Mr. & Mrs. Johnnie L. Braden  
CC: Councilman Flynn

MARY R. DAVIS  
2064 SANFORD ST.  
OXNARD CALIF 93033

Mr. & Mrs. J.E. Smith  
2140 SANFORD ST  
OXNARD, CA, 93033

Marianne Nakoa  
4920 Reeder Ave  
Oxnard, CA 93033

Mr & Mrs Robert Fowler  
2061 Sanford St  
OX 93033

Jerry + Stella Hatt  
2154 Sweetland St  
Oxnard, CA 93033

Carol Johnson  
4930 Reeder Ave.  
Oxnard, CA. 93033

John & Debbie Derby  
2170 SANFORD ST  
OXNARD, CA 93033

Vanessa Johnson  
Naomi Johnson

**LETTER I.7      RICHARD BURGESS**

**Commentor:** Richard Burgess (09-01-08)

**Response**

1. **Mitigation Measure BIO-1 (Invasive Plants):** As the commentor notes, the RDEIR recognizes the difficulty of controlling invasive species, which is why the issue is addressed both as a mitigation measure and as a feature of the Natural Resource Management Program (NRMP).
2. **Natural Resource Management Program:** The commitment to funding the NRMP is included in the development agreements for the two projects and will be part of the community financing districts for the projects. These mechanisms are sufficient to ensure that the projects are addressing their contribution to the potential offsite biological impacts. Therefore, the conclusions are sufficient.
3. **Mitigation Measure BIO-2 (Foraging Habitat/Restoration):** As the RDEIR explains, the basis for the 0.1 to 1.0 mitigation requirement is the marginal habitat value of the highly developed agricultural lands in the Study Area. The RDEIR's observation that "this mitigation ratio is smaller than desired from a habitat standpoint" is intended to acknowledge that there are those in the environmental community who would desire a greater ratio, including the commentor. Also, the ratio is not based on studies undertaken in San Diego, as the commentor asserts. Instead the ratio was based upon an analysis of habitat and financing of mitigation of these resources in Ventura County. Finally, the commentor refers to "habitat found at Ormond Beach," which Mitigation Measure BIO-2 is not intended to address.
4. **Exclusion of 220 Acres from BIO-2:** The calculation of the mitigation contribution associated with the development of the Southern Subarea has been modified. The City concurs that the applicant for development of the Southern Subarea should not be granted mitigation credit for the southernmost 220 acres. Mitigation Measure BIO-2 in the FEIR reflects this change. The revised discussion in the FEIR does not change any conclusion or significance criteria contained in the FEIR.
5. **Adequacy of Biological Impact Analysis:** Comment noted. The impact analysis and mitigation measures included in the RDEIR sufficiently address project-related impacts.

Z.7

September 1, 2008

Kathleen Mallory, AICP, Project Planner  
City of Oxnard  
305 W. 3<sup>rd</sup> St., 2<sup>nd</sup> Floor  
Oxnard, Ca. 93030

RECEIVED  
SEP 22 2008  
PLANNING DIVISION  
CITY OF OXNARD

Subject: Comments on Ormond Beach Specific Plan – Recirculated DEIR

Dear Ms. Mallory,

Thanks for allowing members of the public the opportunity, once again, of providing comments on this important document. The sheer volume of information (3200 pages, and counting, among 13 separate documents) is not only a challenge to review, but, given the project's circuitous path to a hearing, is indicative of the problems associated with development adjacent to one of California's last significant coastal wetlands.

As stated in my previous letter, by profession I am an Environmental Planner with a neighboring jurisdiction and I am very familiar with Ormond Beach as a botanist and a birder. Consequently, I am going to confine my comments to biological impacts because that is my expertise.

Biology

As noted in my previous letter, the Biology section does an adequate job of describing the existing resources in the area, however, many of the mitigation measure remain vague, tentative or contingent on a future action or study. The California Environmental Quality Act (CEQA) requires that adequate mitigation measures clearly explain how the measure will be implemented, who is responsible for the implementation, where it will occur and when it will occur. Mitigation measures consisting of further studies, or consultation with regulatory agencies that are not tied to a specific action plan are not considered adequate (Sundstrom v. County of Mendocino, 1998). Based on the existing mitigation measures, we do not feel that the impacts can be reduced to a less than significant level and the impacts to biological resources should be Class I (Significant and unavoidable) rather than Class II (Significant but mitigable). Below is our analysis of selected mitigation measures.

Mitigation Measure Bio-1 – Invasive Plant Species Control: This mitigation measure includes a list of recommendations for future studies and review of landscape plans all of which are to be concluded "prior to issuing building permits". There is no indication of the method or frequency of invasive species monitoring, just the assurance that this shall be determined by a qualified botanist and that future CC&Rs will include a list of plants to avoid. This measure is lacking in specificity and defers mitigation to a future date. In addition, CC&Rs are a notoriously ineffective way of ensuring that these measures are

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carried out. Unless otherwise indicated, the City has no right to go on to private land to enforce CC&Rs. Perhaps in recognition of this fact, the DEIR states that "Although the above measures will help to minimize invasive species in the project area it (sic) is difficult to enforce." As a solution to this inadequacy, the DEIR proposes that the Ormond Beach Natural Resource Management Program will include a non-native invasive plant species control element. The Ormond Beach Natural Resource Management Program does not presently exist and would, once again, involve a "qualified biologist" preparing a plan or updating an existing plan to mitigate impacts to special status species and their habitats. If the Ormond Beach Natural Resource Management Program is going to be put forward as a mitigation measure, it needs to be included in the EIR, otherwise it is just wishful thinking.

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Mitigation Measure BIO-2: Foraging Habitat Creation/Restoration: The principle problem with this mitigation measure is that the "City has determined that a mitigation ratio of 0.1 – 1 is the greatest amount feasible". The DEIR goes on to note, almost apologetically, that "It is recognized that this mitigation ratio is smaller than desired from a habitat standpoint, but it is the greatest amount determined feasible by the City." The City has no biological expertise upon which to base such a recommendation and this appears to be one more example of the City trying to soft-pedal the value of the habitat found at Ormond Beach. In addition, the City is intruding itself into the best available science and meddling in the outcome of the EIR – this is quite likely illegal. The ratio the City is promoting was derived from studies undertaken in San Diego. San Diego is entirely different from Ormond Beach and there is no substantiation that this is a reasonable number for our area. By the DEIRs own admission, this is an inadequate ratio and it does not represent adequate mitigation. The ratio should be increased to restore more rather than less habitat.

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As if this is not enough, the City is further reducing the mitigation requirement from 37.5 acres to 15.5 acres based on the fact that the Southern Subarea applicant is providing on-site protection for the southern 220 acres of agricultural land that may or may not be converted into a habitat restoration project. While the Southern Sub-area may become part of the larger Ormond Beach wetland restoration, the outcome is far from certain and is dependent on the financial eventualities of the land owner. This is an example of mitigation based on conjecture and is clearly inadequate per CEQA.

④

Several issues have not been adequately analyzed in the DEIR and also include inadequate mitigation measures. Perhaps foremost among these is the significant adverse effect that development of both sub-areas will have on the federally endangered California least tern, the federally threatened snowy plover, the endangered Belding's savannah sparrow and other sensitive species in adjacent habitats. The Southern sub-area with its light industrial facilities and harbor related uses is likely to cause direct mortality through abandonment of nests due to construction and occupancy of the proposed business park. Combined with this will be the increase in the presence of humans and domestic

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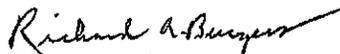
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animals due to the 1,283 residential dwelling units and associated facilities proposed for the northern sub-area. Together these two developments will have a severe adverse impact which cannot be mitigated on the California least tern, the snowy plover and other sensitive species of plants and animals. Studies of snowy plovers by UCSB (Lafferty, 2000) and the California Department of Fish and Game (Page et al. 1997) indicate that many historic breeding sites have been abandoned and that disturbance by humans is one of the leading causes. This is very clearly a Class I significant adverse impact. The DEIR proposes to mitigate this impact through wetland Runoff Control (Mitigation Measure BIO-5) which is completely beside the point considering that the main concern is increased human disturbance and the depredations of domestic animals. The document then goes on to propose that "pursuant to a development Agreement with the City, the developer is required to contribute to implementation of an "Ormond Beach Natural Resource Management Program". The proposed program would purportedly provide adequate funding for fencing, signage, predator management, invasive plant control, public information and enforcement.

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There are several problems with both the presentation and the effectiveness of this mitigation. First, as noted above, the Ormond Beach Natural Resource Management Program does not presently exist, so the mitigation is being tied to a future study in direct violation of *Sundstrom v. County of Mendocino*. Secondly, if the "Ormond Beach Natural Resource Management Program" is being proposed to mitigate specific impacts addressed in the DEIR, then it properly belongs in the DEIR and not in a Development Agreement which is a contract between the developer and the City. In addition, there is no supporting documentation to demonstrate the effectiveness of the "Management Program". In short, the proposed mitigation depends on a future study and measures that have no demonstrated efficacy. Because of the misinterpretation of this impact as a Class II, the Recirculated DEIR is inadequate in its present form and cannot be certified.

Sincerely,



Richard A. Burgess  
221 Juneau Place  
Oxnard, Ca. 93036

**LETTER I.8      EDWARD M. CASTILLO, ET AL.**

**Commentor:** Edward M. Castillo, et al. (09-15-08)

**Response**

1. **Previously Submitted Comments on May 2007 DEIR:** TThis submittal consists of 106 pages of comments submitted on the May 2007 DEIR in July 2007. With the exception of the two comments described below, all of the resubmitted comments originated from individuals or organizations not involved in the resubmittal. In most cases, those individuals and organizations submitted separate comments on the July 2008 RDEIR. In those cases, the new comments and responses to them are included in this document. For the others, pursuant to Section 21092.1 of the California Public Resources Code, and Section 15088.5(f)(1) of the CEQA Guidelines, since the RDEIR has been substantially revised and recirculated, the City is under no legal obligation to respond to comments submitted on the May 2007 DEIR.
2. **Linda Calderon DEIR Comments (June 11, 2007):** The commentor expressed opposition to both of the proposed development projects. These comments are noted, but do not pertain to the RDEIR and are not comments on the sufficiency of the environmental document. The commentor then listed a number of general environmental consequences that she believes could result from the projects. To the extent relevant and required by CEQA, these issues are addressed in the RDEIR. The FEIR will be provided to the decision making body and therefore, these bodies will be apprised of Ms. Calderon's position.
3. **E.D. Ellis DEIR Comments (July 12, 2007):** In his comments on the May 2007 DEIR (to which this letter refers), the commentor listed several concerns, including (1) AB 32, (2) hazardous materials, (3) septic tanks, (4) traffic, and (5) air quality related to dirt hauling. All of these items are addressed in the RDEIR, see Sections 3.4.3.6 (AB 32 and air quality), 3.5.3.2 (hazardous materials and septic tanks), and 3.10.3.3 (traffic), to the extent required by CEQA.

append to  
File "F"

September 15, 2008

RECEIVED

SEP 14 2008

PLANNING DIVISION  
CITY OF OXNARD

To Kathleen Mallory, Project Manager  
City of Oxnard

RE July 2008 North and South Ormond Beach Re-circulated Draft EIR No. 05-03

Please accept the following letters and documents for the re-circulated Draft EIR No. 05-03 concerning North and South Ormond Beach. We, the undersigned, respectfully request that all attached letters and documents be addressed in the final EIR No. 05-03 and all issues/concerns be answered and addressed to the satisfaction of the submitting parties.

①

Respectfully Submitted:

Edward M. Castillo

Edmund D. Ellis Jr ③

William "Bill" ~~Henry~~

Bob E. Perello

Doris O'Connell

Linda Calderon ②

Salvador Brown

Jerome S. Hopkins

Lydia Preston

Jean Rountree

Eduardo Roman

Mario F. Ellis

**LETTER I.9      DIANE DELANEY**

**Commentor:** Diane Delaney (08-09-08)

**Response**

1. **Request for Copy of RDEIR and Extension of Public Review Period:** Comment noted. Printed copies of the RDEIR were made available at City Hall and electronic copies were posted on the City's website. Also, in response to multiple requests for such, the City extended the review period for the RDEIR from 45 days to 60 days.

7.9

**From:** "Diane Delaney" <dedelane@earthlink.net>  
**To:** <kathleen.mallory@ci.oxnard.ca.us>  
**Date:** 8/9/2008 3:55:53 PM  
**Subject:** Ormond DEIR

Dear Ms. Mallory,

It is my understanding that there is a draft EIR that pertains to Ormond Beach.

I would appreciate a hard copy of that draft.

I would also request that the time for public comment be extended. There are too many documents to be reviewed in such a short period of time, and the citizens of Oxnard deserve an opportunity to be informed. (1)

Thank you.

Please mail same to  
Diane Delaney  
2045 San Sebastian Drive  
Oxnard, CA 93035

**CC:** <edmund.sotelo@ci.oxnard.ca.us>

**LETTER I.10 PATRICIA EINSTEIN**

**Commentor:** Patricia Einstein (09-13-08)

**Response**

1. **Separate EIRs for Two Projects:** When the two project applicants initiated the development process, the City determined that it would be appropriate to consider the environmental implications of the projects in concert so as to avoid “piecemeal processing,” which is discouraged under CEQA. Note that the RDEIR’s analysis and associated mitigation measures are structured in a manner that will allow the Planning Commission and City Council to consider the implications of the projects independently.
2. **Against Loss of Open Space:** The commentor opposes loss of open space in wetland areas. As stated in the RDEIR, the proposed projects would not directly affect any wetlands because there are no wetlands within the Study Area. Therefore, the analysis is sufficient.
3. **Opposes Development in the Southern Subarea:** The comment pertains to the commentor’s preference with respect to development, which is not a CEQA matter. The FEIR will be provided to the City Council and Planning Commission, so these bodies will be apprised of the commentor’s position.

F.10

**From:** Patricia Einstein <mrseinstein@mac.com>  
**To:** <Kathleen.Mallory@ci.oxnard.ca.us>  
**Date:** 9/13/2008 5:56:02 AM  
**Subject:** Written comment on North and South Ormond Project

Kathleen Mallory, Project Planner  
City of Oxnard Planning Division  
305 W. Third Street  
Oxnard, CA 93030

RE: North and South Ormond Beach Project

Again the E.I.R. on this project was enormous. The E.I.R. should have been split between the two projects. A separate E.I.R. for the Northern sub area of 322 acres and another E.I.R. for the Southern area of 375 acres.

Why wasn't the E.I.R. done separately?

I am strongly against the loss of open space in the area that is a natural wetland. Development in the Northern sub area is not near the coastal zone so development that area can be mitigated. A widen Hueneme Road will serve as an open wall if no development is done south of Hueneme Road.

Development in the Southern sub area should not take place. The zone of Resource Protected should stay Resource Protected. The coastal areas are being over developed and the loss of the open space will have some impact that may not be noticed immediately but in the next 20 or 50 years there will have some impact. One day many years from now this area may be completely underwater. Please make a commitment to the native habitat and stop the development at Hueneme Road. Leave the Southern sub area of 375 acres alone. Just let it stay as farmland until all of it can be purchased by a government agency for restoration and preservation.

September 13, 2008

Patricia Einstein

2014 Long Cove Dr.  
Oxnard, CA. 93036

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**LETTER I.11 HAROLD EPSTEIN**

**Commentor:** Harold Epstein (08-04-08)

**Response**

1. **Wetlands:** The commentor supports an “Ormond Beach Wetland Ecological Reserve” in lieu of the proposed projects. Comment noted but does not change any conclusion or significance criteria in the FEIR.

**From:** harold epstein <hale5757@yahoo.com>  
**To:** <kathleen.mallory@ci.oxnard.ca.us>  
**Date:** 8/4/2008 5:16:04 PM  
**Subject:** Fw: Ormond beach

--- On Mon, 8/4/08, harold epstein <hale5757@yahoo.com> wrote:  
From: harold epstein <hale5757@yahoo.com>  
Subject: Fw: Ormond beach  
To: kathleen.mallory@ci.oxnard.ca.us  
Date: Monday, August 4, 2008, 3:32 PM

--- On Mon, 8/4/08, harold epstein <hale5757@yahoo.com> wrote:  
From: harold epstein <hale5757@yahoo.com>  
Subject: Ormond beach  
To: kathleenmallory@ci.oxnard.ca  
Date: Monday, August 4, 2008, 2:50 PM

Kathleen

A wetland of a 1500 acres is a must. This a once in lifetime opportunity of Oxnard and Ventura County. This beach front wetland is a small piece of the past wetland. If you look at Bolsa Chica Ecological reserve (Huntington Beach,CA). Its listed as one of the top birding places in the nation. People from all over the USA visit there. This is a must for education and just to have a piece of nature for the city of Oxnard. Oxnard and Port Huemene are over developed and one less industrial park would not be missed. But Ormond Beach Wetland Ecological Reserve would be special place for the future.

Also correct email address in fridays paper

Harold epstein

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**LETTER I.12 BRIAN FOSTER**

**Commentor:** Brian Foster (Avian Research Associates) (09-22-08)

1. **Conservation/Restoration:** The commentor supports the creation of a large conservation/restoration area at Ormond Beach in lieu of the proposed projects. Comment noted but does not change any conclusion or significance criteria in the FEIR.

7.12



830 Orange Ave., Suite K  
Coronado, CA 92118

22 September 2008

Kathleen Mallory, Project Planner  
City of Oxnard Planning Division  
214 South C St.  
Oxnard, CA 93030  
kathleen.mallory@ci.oxnard.ca.us

Re: ORMOND BEACH SPECIFIC PLAN RECIRCULATED DEIR, SOUTH ORMOND SPECIFIC PLAN AND SOUTHSHORE SPECIFIC PLAN.

Dear Ms. Mallory,

This letter is in support of the creation of a large conservation/restoration area at Ormond Beach. The habitat types from coastal upland to tidal marsh are among the rarest remaining in southern California and any opportunity to preserve and restore such habitats must be aggressively pursued. The habitat values of coastal upland have long been ignored as these lands were the first to be built upon or converted to agriculture. Many of the species, such as the burrowing owl, which were reliant upon this habitat type have now been nearly extirpated from the coastal strip. While these species have not necessarily been endangered due to their more broad distributions, their loss from the habitat still represents a significant loss to the larger ecosystem. Currently, only small patches of undeveloped uplands, if any, adjacent to most marshes remain. The smaller the patch size, the more likely any species present will be extirpated in the long term.

Salt marsh habitats have mostly been protected in recent decades due to the rarity of many of the species inhabiting the remaining marshes. Unfortunately, the tendency has been to preserve the marsh and allow development to occur right up to the boundaries as defined by marsh-specific plant species. The result has been not only the loss of surrounding uplands but, also the minimization of buffer zones around the marshes. As the buffer zones have been largely non-existent, the marshes have been impacted by the effects of nearby development such as trash, feral animals, increased sedimentation, excess and polluted runoff. All these effects have served to reduce the quality of the marsh and consequently have often reduced the native species abundance within the habitat as a result. An opportunity to provide a large buffer zone around marsh habitat is thus of great importance.

Buffer zones act to minimize the negative effects of nearby developments in several ways. The physical distance lessens the frequency of intrusions by humans and their pets

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F.12

or feral animals inhabiting the development or animals such as common ravens and American crows that can exist in abnormally large numbers by foraging on the refuse supplied by development. Secondly, native habitat buffer zones can have habitat values themselves which is of importance to the overall species diversity. Third, buffer zones can include agricultural areas, such as sod farms, on the periphery that add to the distance effect as well as providing avian foraging opportunities that would not be available otherwise. Sod farms are a unique and potentially valuable modified habitat exploited by migratory shorebirds for foraging and roosting areas that may not be otherwise available.

The creation or restoration of habitats such as these will have values often unappreciated initially in the process. A large restoration area with connections between differing habitat types attracts a variety of visitors from the resident and migratory birds to the people who would wish to observe the migrants to local visitors who would enjoy the excursion possibilities.

As the environment changes in response to global warming and sea level rise, these habitats will only become more important as they have the potential to provide refugia to those species otherwise displaced or impacted. The expected changes will also lessen the agricultural values of these properties due to the salt water intrusion expected to increase over time.

In conclusion, I am in support of a wetlands and uplands restoration that would be largely unbroken and that would connect the coast to the uplands out to Hueneme Road. The 322 acre parcel north of Hueneme Road would provide additional buffering if preserved as additional open space or agricultural area, preferably for sod farming.

Sincerely,



Brian D. Foster, Ph.D.  
Vice President  
Avian Research Associates

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**LETTER I.13 LARRY GODWIN**

**Commentor:** Larry Godwin (08-27, 28, 29, 30, and 31-08; 09-01, 02, and 03-08)

**Response**

1. **2020 General Plan Ormond Beach Area:** The commentor refers language from the City’s existing 2020 General Plan that pertains to the “Ormond Beach Major Study Area,” which is a 2,789-acre area that encompasses the Study Area for the Ormond Beach Specific Plans along with other adjacent areas. The Study Area for the RDEIR consists of an approximately 917-acre area within the Major Study Area, as identified in the General Plan. The balance of the Major Study Area includes those which the State Coastal Conservancy (SCC) has already acquired or expects to acquire and approximately 1,500 acres that were added to SOAR following adoption of the 2020 General Plan in 1990 (see FEIR Figure 2-2). Comment noted. The commentor calls for the specific plans and FEIR to be based on a plan (“SCC Wetland Restoration Feasibility Plan”) that has not been completed. This plan is not a final plan and has not been adopted by the City Council or SCC.
2. **Coastal Zone and Coastal Commission Approval:** The South Ormond Beach Specific Plan applicant has initiated a lot line adjustment with the County of Ventura that will result in a lot configuration that clearly avoids any development within the Coastal Zone. Thus, in accordance with the California Coastal Act, there is no “project or action” that would invoke Coastal Commission jurisdiction, including a coastal development permit. Note also that the RDEIR was distributed to the Coastal Commission, and this agency did not provide any comments on the REDEIR document. Further, when meeting with this agency during the scoping process, the Coastal Commission did not indicate that a coastal permit would be required.
3. **High Pressure Gas Line:** State law provides that school sites “shall not be located ... within 1500 feet of the easement of an above ground or underground pipeline that can pose a safety hazard.” As the SouthShore Specific Plan specifies, the gas line to which the commentor refers is over 1,500 feet from the proposed elementary school sites.
4. **Provisional EIR/Specific Plan Contents:** The commentor provides several suggestions for inclusion of information in the South Ormond Beach Specific Plan and the RDEIR. Comments concerning the specific plan will be considered as part of the review process. With respect to the RDEIR, the analysis included in the RDEIR sufficiently addresses the areas that the commentor mentions.
5. **Detention Basin:** This comment refers to design features of the South Ormond Beach Specific Plan, not the RDEIR. Nonetheless, Mitigation Measure Water-12 (Stormwater

Control Structures and Devices) calls for both projects to construct detention basins to attenuate peak stormwater runoff flows and to provide large enough footprints to provide enough volume to perform their desired function.

6. **Permeable Surfaces:** This comment refers to design features of the South Ormond Beach Specific Plan, not the RDEIR. Nonetheless, Mitigation Measure Water-10 (Stormwater Quality Urban Impact Mitigation Plan (SQUIMP) Development Guidelines) will require the applicants to provide site planning, pollution prevention/source control, and treatment control measures. Therefore, the analysis and conclusions in the FEIR or RDEIR is sufficient.
7. **Greenhouse Gases (GHG):** The RDEIR addresses GHG, including calculations of estimated GHG emissions associated with the project (which are less than half the estimate of the commentor). Also, see Master Response 3: Global Climate Change.
8. **Wetland/Upland Habitat Impacts:** The RDEIR evaluates the potential effects of the proposed project on the existing environment within the Study Area, which does not include any wetland habitat. The RDEIR also evaluates the potential for offsite impacts on sensitive habitat areas and the resources they support. Therefore, the analysis and conclusions in the RDEIR are sufficient.
9. **Harbor Overlay/Air Pollution:** The EIR's air quality analysis is based on the traffic analysis, which accounts for the type of vehicle trip activity normally associated with light industrial uses. This analysis is sufficient to address the potential impacts of the project, as defined.
10. **Vehicle Processing Impacts:** First, the commentor presumes that the Harbor Overlay area will support vehicle processing operations. This has not been established within the specific plan; and in fact, the specific plan allows for a variety of uses within the subject area. Second, the South Ormond Beach Specific Plan. Where a regulation is specified within the specific plan, the applicant will have to comply with regulations contained in the city's Municipal Code. Both the specific plan and the Municipal Code contain regulations to address impacts to light and glare.
11. **Urban Heating:** The South Ormond Beach Specific Plan includes provisions to avoid heat island effects and to buffer developed areas from adjacent agricultural and/or wetland areas. Therefore,
12. **Outdoor Storage, Predators, and Trash:** The developers of the Southern Subarea will be required to comply with City standards for outdoor storage and management of waste, which will limit the attraction of cats and other predators to the area.

13. **M-1-PD Zone Permitted Uses:** The RDEIR evaluates the implications of the land use proposals contained in the July 2008 South Ormond Beach Specific Plan. The omission of the language cited by the commentor will not relieve the applicants and/or the ultimate developers of the Southern Subarea of their responsibilities to implement measures that would protect basic health, safety, and welfare.
  
14. **Ocean Rise:** The FEIR includes an expanded analysis of sea level rise as it relates to tsunami hazards and associated coastal flooding (see Impact GEO-5). See Master Response #1, Sea Level Rise.
  
15. **Fill Dirt for Southern Subarea:** The specific plan for the Southern Subarea (South Ormond Beach Specific Plan) has been updated to clarify the applicants intent with respect to fill material required for project construction. Rather than assuming that such material will originate from within the Study Area (specifically the southernmost 220 acres), the applicants will identify a source of material prior to submittal of development permit applications. At that time, the City will require a separate analysis to determine the potential environmental consequences of the identified source, including any stockpiling and transport required for project construction. The FEIR has been updated to reflect the soil proposal, including clarification that the applicant does not intend to borrow soil from the 220 acres that will remain in the unincorporated county. Thus, none of the actions to which the commentor refers will be required. The analysis and conclusions in the FEIR or RDEIR are, therefore, sufficient.

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SEP 8 2008

PLANNING DIVISION  
CITY OF OXNARD

August 27, 2008

Kathleen Mallory, Project Planner  
City of Oxnard, Planning Division  
214 S. C Street  
Oxnard, CA 93030

REFERENCE: RECIRCULATED DEIR No. 05-03 North and South Ormond Beach  
SUBJECT: Environmental Review Process is Flawed

**The whole environmental review process is flawed and in violation of the case law cited in the quotation below by Matthew Winegar, Oxnard Development Services Director. It is also in violation of the Oxnard 2020 General Plan requirements for the Ormond Beach Specific Plan, also quoted below.**

**The entire Ormond Beach Specific Plan Area must be included in the Specific Plan and EIR, not the 917 acres proposed.**

Matthew Winegar on January 13, 2004 presented to the City Council during Study Session R-2 the staff report "**Pre-Application Review for 595 Acres in the South Ormond Beach Specific Plan Area and Review of the Ormond Beach Specific Plan and EIR Work program**". Matthew Winegar prepared this report. The paragraph below requires that the entire approximately 1200 acres of the Ormond Beach Specific Plan area must be included in the EIR, not just the 917 acres of the combined North and South Ormond Plans.

*Ormond Beach Specific Plan Area*

**The 2020 General Plan designates the Ormond Beach Specific Plan Area boundaries and requires that it be planned in a comprehensive manner and states specific policies and objectives which are to be achieved. Case law also requires that the area be evaluated by a comprehensive EIR encompassing the entirety of the specific plan area. In addition to the south of Hueneme Road area, the other major areas within the specific plan boundary are the north of Hueneme area which was reviewed by the City Council in a pre-application in 2002, and the MWD/CDC property which is intended to be acquired by the Coastal Conservancy. The boundaries also include the Halaco property.**

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**The 2020 General Plan pages V-46 through V-50 detail the requirements for the Ormond Beach Specific Plan. To implement this specific plan the General Plan requires that the entire specific plan area be done as one specific plan. For the EIR to be certifiable the specific plan must conform to these pages in the 2020 General Plan. The paragraph below on page V-49 is an example of how encompassing the Ormond Beach Specific Plan must be.**

**In order to insure that the rehabilitation and enhancement of the coastal resources within the Ormond Beach area are made concurrent with the development of the upland portion of the area, the specific plan for the Ormond Beach area shall specify a resource enhancement schedule which requires that specific coastal resource enhancement activities commence prior to or concurrent with specific phases of upland development. Resource enhancement shall include, but not be limited to: beach access, wetland restoration, and removal of blighted uses and/or blighting influence's, such as the Halaco Engineering, Inc. site.**

**CEQA and the 2020 General Plan require that the EIR and Specific Plan be complete. That means that both must be based on a completed Coastal Conservancy Wetland Restoration Feasibility Plan.**

Submitted by



Larry Godwin  
3830 San Simeon Ave.  
Oxnard CA 93033

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SEP 8 2008

PLANNING DIVISION  
CITY OF OXNARD

August 28, 2008

Kathleen Mallory, Project Planner  
City of Oxnard Planning Division  
214 S. C Street  
Oxnard, CA 93030

REFERENCE: RECIRCULATED DEIR No. 05-03 North and South Ormond Beach  
SUBJECT: Coastal Zone lot split.

The South Ormond Beach Specific Plan proposes to split 4 parcels that are located south of the extension of McWane Boulevard and develop the northern portion of each. Two of the parcels (231-0-040-200 and 231-0-040-195), for a total of 80 acres, are partially in the Coastal Zone. The lot splits are "Development" pursuant to the Coastal Act, and therefore a coastal development permit is required for the proposed parcel splits.

In section 2.4.1 Actions Covered by this EIR, the California Coastal Commission approval of a Coastal Development Permit is not listed.

Submitted by



Larry Godwin  
3830 San Simeon Ave.  
Oxnard CA 93033

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SEP 8 2008

PLANNING DIVISION  
CITY OF OXNARD

August 29, 2008

Kathleen Mallory, Project Planner  
City of Oxnard, Planning Division  
214 S. C Street  
Oxnard, CA 93030

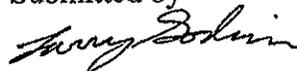
REFERENCE: RECIRCULATED DEIR No. 05-03 North and South Ormond Beach  
SUBJECT: High-pressure natural gas pipeline.

The high-pressure natural gas pipeline is incorrectly described in the DEIR on page 3.5-8. It is also incorrectly described in 1.2.4 of the SouthShore Specific Plan. The high-pressure gas transmission line is actually located along the most easterly portion of SCE's corridor, directly abutting the proposed residential and commercial property in the Northern Subarea and running under the proposed industrial facilities in the Southern Subarea.

The 40 year old high-pressure natural gas pipeline has a very large hazard zone, based on diameter and pressure. The DEIR must address the hazards of the high-pressure natural gas pipeline, and must specifically address:

- Can the elementary school in the Northern Subarea be constructed and if so under what conditions? The elementary school site is less than 1,500 feet from the high-pressure natural gas pipeline, which triggers the need for a risk analysis study. See the attached letter of December 20, 2004 from George Shaw, Field Representative, School Facilities Planning Division.
- What is the minimum distance from the pipeline required for new construction, particularly residential development?
- What is the maximum distance from the pipeline for which hazardous disclosure statements must be given to prospective purchasers of property?

Submitted by



Larry Godwin  
3830 San Simeon Ave.  
Oxnard CA 93033

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7.13



CALIFORNIA  
DEPARTMENT OF  
EDUCATION

1400 N STREET  
SACRAMENTO, CA  
95814-3901

**JACK O'CONNELL**  
State Superintendent of  
Public Instruction  
PHONE: (916) 319-0800

December 20, 2004

California State Lands Commission  
100 Howe Avenue, Suite 100-South  
Sacramento, CA 95825  
Attention: Cy Oggins

Ladies and Gentlemen:

At the November 30 public hearings in Oxnard, Congresswoman Lois Capps requested a 60-day extension of the public comment period on the EIS/EIR for the proposed BHP-Billiton LNG offshore terminal and onshore pipeline projects. Given the lack of notification to affected school districts, or to the Department, I supported the 60-day extension request as warranted and valuable to allow us to study the proposals. It is my understanding the request for the extension was not granted owing to federal rules or guidelines related to the offshore EIS, but that it would have been granted under California regulations governing EIR's. Inasmuch as it appears school districts with schools within 300 feet of one or more proposed pipelines were not noticed, I renew my support for the extension for proper study, and further request that it be granted owing to apparent irregularities in the noticing process.

As I stated at the November hearing, news of such a large capacity natural gas pipeline system near existing and planned schoolsites is alarming to the school districts affected. Although, pipeline accidents are rare, they occur, as we can recall from recent experiences in this country. Recognizing that the incidence of pipeline ruptures and ignitions is low, we must also recognize that the consequences can be extremely high. The larger the pipeline and the greater the pressure, the higher the potential for catastrophic consequences. In the standards for school site selection, Section 14010 of Title 5 of the California Code of Regulations provides that:

The site shall not be located near an above-ground water or fuel storage tank or within 1500 feet of the easement of an above ground or underground pipeline that can pose a safety hazard as determined by a risk analysis study, conducted by a competent professional, which may include certification from a local public utility commission.

In response to this regulation, the Department has developed a pipeline risk analysis protocol for school districts to use to evaluate the risk posed by pipelines above 80psi within 1500 feet of a schoolsite. We are advised by the industry that a 1500' study zone

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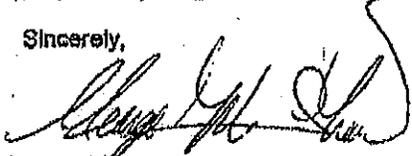
California State Lands Commission  
December 20, 2004  
Page 2

may not always be sufficient in the case of very large capacity, high pressure lines. I suspect that the pipelines proposed in this project fit into that category, making it prudent if not also necessary to evaluate a location within perhaps 2000' of a pipeline easement. We need to be able to study that before we can make a recommendation about extending the study zone for these pipelines.

What is known today is that the proposed pipelines go past or near several schools and schoolsites in several Ventura County school districts. Where pipelines exist and would be expanded in flow capacity, nearby schools would be subject to increased peril. Where pipelines do not exist but would if these projects are approved, nearby schools would be subject to a new and significant hazard. To my knowledge the EIS and EIR do not take into consideration these realities faced by the school districts, nor do they propose any mitigation should a school or schoolsite need to be relocated.

3

Sincerely,



George M. Shaw, Field Representative  
School Facilities Planning Division  
ph.: 805-892-9913  
GShaw@cde.ca.gov

cc: Charles Weis, Ventura County Superintendent of Schools

I. 13

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August 30, 2008

SEP 8 2008

PLANNING DIVISION  
CITY OF OXNARD

Kathleen Mallory, Project Planner  
City of Oxnard Planning Division  
214 S. C Street  
Oxnard, CA 93030

REFERENCE: RECIRCULATED DEIR No. 05-03 North and South Ormond Beach  
SUBJECT: Requirement for EIR to be a Provisional EIR.

The EIR for south of Hueneme Road must be a provisional EIR. The proposed specific plan south of Hueneme Road is too vague to be adequately evaluated. The following requirements must be included in the EIR and South Specific Plan:

- Each proposed development within this industrial zone shall have no implied right of development.
- To be approved each proposed development must prove that the impact of the development and accumulative impacts will not be detrimental to the environment or the wetland ecosystem.
- Each proposed development must have separate environmental review to evaluate impacts specific to each individual development.

The following requirements must be included in the North and South Ormond EIR and in the South Specific Plan:

- The impacts of each proposed development must be mitigated in the Ormond Beach Area and must be on a continual basis. Any increase in the impact of any development must be approved. All impacts shall be evaluated and mitigated before any increase in use is approved.
- All private development in the Ormond Beach Specific Plan Area shall be required to be in a wetland restoration, enhancement and maintenance district, which will be used south of Hueneme Road.
- Since noise and lighting are known to have a negative impact on wildlife in the uplands and wetlands at Ormond Beach, no operations and no lighting other than low-level security lighting will be allowed from 9:00pm to 6:00am.

Submitted by



Larry Godwin  
3830 San Simeon Ave.  
Oxnard CA 93033

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I. 13

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SEP 11 2008

PLANNING DIVISION  
CITY OF OXNARD

August 31, 2008

Kathleen Mallory, Project Planner  
City of Oxnard Planning Division  
214 S. C Street  
Oxnard, CA 93030

REFERENCE: RECIRCULATED DEIR No. 05-03 North and South Ormond Beach  
SUBJECT: Requirement for change in drainage and location of permeable pavements.

The detention basin to be used on the southern edge of the Southern Subarea is proposed to drain into the wetland/farmland or into the Oxnard Drainage District # 2 Channel Stretch #1. Neither of these is acceptable. After a storm event the water must be pumped to the Oxnard Industrial Drain. The release of water after a storm event into the wetland/farmland is at the wrong time as well. The wetland/farmland will already be saturated with water after a storm event and will most likely not need additional water. The Oxnard Drainage District # 2 Channel Stretch #1 will not be available for use. Since the Channel will be de-annexed after development, the Channel would be expected to be removed as part of the wetland restoration.

In both the Northern and Southern Subarea, the use of permeable pavements/surfaces in storage areas, parking areas and streets cannot be allowed. Any leakage of pollutants could drain into the soil and then migrate into the wetlands.

Submitted by



Larry Godwin  
3830 San Simeon Ave.  
Oxnard CA 93033

7.13

Kathleen Mallory, Project Planner  
City of Oxnard, Planning Division  
214 S. C Street  
Oxnard, CA 93030

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September 1, 2008

SEP 8 2008

PLANNING DIVISION  
CITY OF OXNARD

REFERENCE: RECIRCULATED DEIR No. 05-03 North and South Ormond Beach  
SUBJECT: Air Pollution, Harbor overlay, and Environmental Impacts

The DEIR must address greenhouse gas changes because of the proposed developments. According to the 2002 Purdue University study each year an average of 0.107 tons of carbon (greenhouse gases) are removed by each acre of farmland, 0.307 tons for grassland and 0.209 tons for wetland. The loss of farmland by these projects alone will increase greenhouse gas by approximately 116 tons of carbon per year (north 0.107 x 262 acres and south 0.307 x 287 acres).

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The DEIR must address the environmental impacts on the wetland/upland habitat from industrial operations in the Southern Subarea, particularly with the Harbor Overlay zoning.

8

The DEIR must address air pollution in the Harbor Overlay area caused by the processing of vehicles imported through the harbor. The analysis must include the expected number of car trips per year and haulaway truck trips per year plus cold starts within the vehicle storage areas. The normal "buy down" of emissions through contribution to the City's Transportation Demand Management (TDM) Program is not going to reduce the effect from this large amount of emissions. The onetime "buy down" does not solve an ongoing emissions problem, which will continue year after year.

9

The DEIR must also address the environmental impacts of:

- Processing vehicles 24-hours a day, noise (day and night), night light pollution from operational and security lighting, daytime glare off vehicles, and nighttime sky glow. 10
- Urban heating of the local area and adjacent wetland caused by the sun heating buildings, sidewalks, streets and parking lots. 11
- Allowing outdoor storage, including vehicles, equipment, shipping tanks and boxes, in the M-1-HR zone that may attract cats and other predators along with accumulation of trash. 12

The DEIR must evaluate the significance of the removal of the following statement, under permitted uses in the M-1-PD zone, from the July 2008 South Ormond Beach Specific Plan that was previously included in the May 2007 South Ormond Specific Beach Plan: "The development standards of this division will limit the creation of smoke, gas, odor, dust, sound and vibration that might be detrimental to health, safety and welfare." No longer limiting these impacts would certainly create a Class I impact that must be analyzed.

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Submitted by

Larry Godwin  
3830 San Simeon Ave.  
Oxnard CA 93033

I. 13

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SEP 8 2008  
PLANNING DIVISION  
CITY OF OXNARD

September 2, 2008

Kathleen Mallory, Project Planner  
City of Oxnard Planning Division  
214 S. C Street  
Oxnard, CA 93030

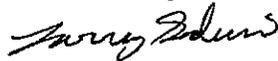
REFERENCE: RECIRCULATED DEIR No. 05-03 North and South Ormond Beach  
SUBJECT: Ocean Rise

Ocean rise, caused by global warming, is now a foregone conclusion. The only uncertainty is how high and how fast. At a recent Ormond Beach Task Force meeting, an Ormond Beach Wetland Restoration Feasibility Study update was given. The data shows that any ocean rise will move the ocean inland at Ormond Beach and that a 6 foot ocean rise, with storm surge, will move the ocean beach inland to McWane. The 342 acres owned by Southland Sod will be under the sea. Discussion at the Ormond Beach Task Force meeting indicated that it is probable that the ocean will reach McWane in 20 to 150 years.

The California Coastal Conservancy, because of ocean rise, has increased the acreage required for wetland restoration from a minimum of 750 acres to over 950 acres and will need all of the 342 acres owned by Southland Sod to allow the sea and the wetlands to move inland.

The EIR must therefore address ocean rise and anticipate that the ocean will move inland to McWane.

Submitted by



Larry Godwin  
3830 San Simeon Ave.  
Oxnard CA 93033

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SEP 8 2008

PLANNING DIVISION  
CITY OF OXNARD

September 3, 2008

Kathleen Mallory, Project Planner  
City of Oxnard Planning Division  
214 S. C Street  
Oxnard, CA 93030

REFERENCE: RECIRCULATED DEIR No. 05-03 North and South Ormond Beach  
SUBJECT: Soil Importation

The EIR must address the source of the fill dirt required in the Southern Subarea. The South Ormond Beach Specific Plan states the requirement for up to 1,100,000 cubic yards of fill, but neither the Specific Plan nor the EIR lists a source of this fill dirt. It is unknown if there will be any dirt available as part of the wetland restoration.

If a source of that amount of fill dirt is found, the dirt must be determined to be compatible with the existing soil. The EIR must analyze the fill dirt for compaction, water retention, expansion, to determine if the fill dirt will cause uneven settling of structures.

(15)

Submitted by



Larry Godwin  
3830 San Simeon Ave.  
Oxnard CA 93033

**LETTER I.14    SHIRLEY GODWIN**

**Commentor:** Shirley Godwin (09-03, 05, 06-08)

**Response**

1. **Alternative 5:** The Commentor asserts that Alternative 5 must be subjected to full environmental review. Section 15126.6 of the CEQA Guidelines provides the following direction concerning this issue:

*(d) Evaluation of alternatives. The EIR shall include sufficient information about each alternative to allow meaningful evaluation, analysis, and comparison with the proposed project. A matrix displaying the major characteristics and significant environmental effects of each alternative may be used to summarize the comparison. If an alternative would cause one or more significant effects in addition to those that would be caused by the project as proposed, the significant effects of the alternative shall be discussed, but in less detail than the significant effects of the project as proposed.*

The EIR's discussion of Alternative 5 and its comparative impacts vis-à-vis the project is consistent with the statutes pertaining to the level of required CEQA review

2. **Project Description-Pleasant Valley Drive:** The Commentor clarifies that East and West Pleasant Valley Road are incorrectly identified. The reference has been updated to read East Pleasant Valley Road, rather than West Pleasant Valley Road. The FEIR has been revised to reflect this correction. This modification does not change the conclusions or significance criteria contained in the RDEIR.
3. **Aerial Photography:** Figures 2.1 and ES-5 in the RDEIR have been updated with more recent aerial imagery.
4. **Public Scoping Meeting:** Both the May 2007 DEIR and the July 2008 RDEIR describe the June 2004 scoping meeting on page 4-3, under the discussion of the alternatives selection process.
5. **Hazardous Materials-Southern Subarea:** The South Ormond Beach Specific Plan explicitly prohibits "Manufacturing, processing or storage that could result in any discharge, intentional or otherwise, of hazardous material into the storm drain." The Specific Plan is more restrictive than the zoning code regarding limitations on generation and storage of hazardous materials. Also, in addition to the provisions of the Specific Plan, as described in the RDEIR under Impact HM-11, any facilities using hazardous substances will have to be

designed, constructed, and operated in accordance with applicable regulations. Furthermore, businesses that handle hazardous materials or generate hazardous waste would need a Certified Unified Program Agency (CUPA) permit from the City of Oxnard Fire Department.

6. **Aesthetics/Visual Resources:** Comments noted. The RDEIR's analysis accurately characterizes the projects' impacts on aesthetics and visual resources.
  
7. **Farmland Conservation Easement:** The commentor suggests that the RDEIR include analysis of a conservation easement over the Southern Subarea. Because such an easement is not part of the project under consideration or any other known project, there is no basis for the suggested analysis. The discussion provided as part of Impact AG-7 (Direct Farmland Conversion) in the RDEIR explains the basis for the findings of infeasibility of several potential agricultural mitigation measures. As the discussion explains, feasibility is defined as "capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors," per section 21061.1 of the California Public Resources Code. In preparing the RDEIR, the City reviewed a variety of actions that might offset the effects of the loss of productive agricultural land, including requirements for direct preservation of agricultural land elsewhere in the region and/or financial contribution to efforts to acquire conservation easements or deed restrictions on land currently used for production. The City has also considered imposition of other requirements such as stockpiling of high quality topsoil and offering it as soil amendments for marginally viable agricultural land; converting nearby areas not used for farmland to farmland (e.g., open space or industrial lands); and/or financially contributing to an organization that performs agricultural conservation. Based on its evaluation of these and other potential measures, the City concluded that they would not be feasible for the Ormond Beach Specific Plan projects.

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September 3, 2008

Kathleen Mallory, Project Planner  
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CITY OF OXNARD

Recirculated DEIR No. 05-03 North and South Ormond Beach

RE: Analysis needed for Alternative 5

It is stated in the Recirculated DEIR that Alternative 5 is the "Environmentally Superior Build Alternative" but there is no analysis to justify that conclusion, just assumptions. Tables 4-9, 4-10 and 4-11 are meaningless in the selection of Alternative 5 without more extensive discussion.

Alternative 5 seems to have been put forward by the property owners because it would be more economically, rather than environmentally, beneficial to them. It certainly seems that Alternative 5 is intended to become the project.

Northern Subarea impacts in Alternative 5 must be addressed:

- Elimination of the Community Sports Park in the northern part of the area would result in loss of two pedestrian/bicycle access points resulting in increased vehicle traffic on the only northern access road to the project, Rose Ave.
- Elimination of this park would impact other parks in the City with increased demand.
- Residential development on the 10 acre strip of the high school site would forever eliminate the future use of that property for a high school. The remainder of the site would be too small and the wrong configuration for a high school.
- Olds Road would not be widened or have a sidewalk or bicycle path.
- Eliminating the east/west road on the north (A St.) as well as vehicle access to Olds Road would change the traffic pattern and increase traffic on Hueneme Road, Rose Ave. (SouthShore Drive), and at the intersections of Hueneme Road at Rose Ave. and Hueneme Road at Arnold Road. These traffic impacts must be analyzed.
- It is unlikely that agricultural uses would remain on the Community Sports Park site or the balance of the high school site. These narrow strips between and beside residential development would not be viable for farming. It is likely that the self storage facility would be extended across the north. It is also likely that the balance of the high school site on the east would be developed as residential since it is within the Oxnard curb line (Sphere).

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I. 14

Southern Subarea impacts in Alternative 5 must be addressed:

- Designating the entire Southern Subarea as Harbor Industrial would increase vehicle and truck traffic to and from the Harbor storage areas on the site. Increased traffic impacts must be analyzed.
- There would be 24-hour operation with the resultant noise. The effect on the wetland habitat must be studied.
- There would be night operational and security lighting for the outdoor storage areas. The effect on the wetland habitat must be analyzed.
- There would be contaminated runoff into the soil and adjacent uplands/wetlands from the extensive parking lots.

Alternative 5 must have full environmental review before it can be considered as the project.



Shirley Godwin  
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Oxnard, CA 93033

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SEP 8 2008

PLANNING DIVISION  
CITY OF OXNARD

September 3, 2008

Kathleen Mallory, Project Planner  
City of Oxnard Planning Division  
214 S. C Street  
Oxnard, CA 93030

RE: Recirculated DEIR No. 05-03 North and South Ormond Beach

**Errors in Recirculated DEIR:**

- RDEIR 2.1 PROJECT LOCATION AND BOUNDARIES AND ES.2 SUMMARY OF THE PROPOSED PROJECTS Both continue to have the wrong northern boundary description: "West Pleasant Valley Drive". It should be East Pleasant Valley Road. (2)
- RDEIR Figures 2.1 and 3.2-6 and ES-5 photos dated July 2008 - Project location and boundaries: Aerial photo is not current and does not have the correct date on the photo. The oil tanks shown in the photo by the Reliant Generating plant were removed prior to 2002. These outdated maps mischaracterize the nature of the California Coastal Conservancy property. All photos in the recirculated DEIR must show the actual date that the photos were taken. (3)
- ES.4 and RDEIR 1.4 "Environmental Review and Public Participation" - The Recirculated DEIR does not include any mention of the public scoping meeting held on June 28, 2004 and does not include any of the written comments submitted at that meeting. In response to the question that I (Shirley Godwin) asked publicly during the meeting, Oxnard Development Services Director Matthew Winegar stated that this meeting was the public scoping meeting for the Ormond Beach EIR and that this meeting was the time to submit written comments. My written comments were handed directly to Oxnard Planning Manager Sue Martin and Planner Kathleen Mallory at that scoping meeting. I resubmitted copies of my scoping comments during the July 2007 DEIR comment period. There is still no mention of the June 2004 scoping meeting in the recirculated DEIR. (4)



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Oxnard, CA 93033

I. 14

September 5, 2008

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PLANNING DIVISION  
CITY OF OXNARD

Recirculated DEIR No. 05-03 North and South Ormond Beach

**RE: HAZARDS AND HAZARDOUS MATERIALS**

How will the usage, storage and transport of potentially hazardous materials south of Hueneme Road be addressed in the EIR when the South Ormond Beach Specific Plan does not have any specific development proposed as the project? The plan is to develop this area piecemeal. How will the hazards be identified and mitigation proposed when the hazards are not known? The South Ormond industrial area must have a provisional EIR with a separate EIR for each individual development that would evaluate the specific impacts of that development.

How will materials be transported to and from this proposed industrial area? Will a Ventura County Railroad spur be extended to this site. This railroad runs through residential neighborhoods in Oxnard and will impact the safety of Oxnard residents. How will this be mitigated?



Shirley Godwin  
3830 San Simeon Ave.  
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SEP 8 2008

PLANNING DIVISION  
CITY OF OXNARD

September 5, 2008

Kathleen Mallory, Project Planner  
City of Oxnard Planning Division  
214 S. C Street  
Oxnard, CA 93030

Recirculated DEIR No. 05-03 North and South Ormond Beach

**RE: 3.13 Aesthetics/Visual Resources**

The analysis of the aesthetic/visual resources is flawed and does not accurately describe the scenic vista from any of the vantage points mentioned.

Two story residential buildings in the North and 35' to 55' industrial buildings with outside storage areas and parking lots in the South would have a substantial adverse effect on the scenic vista.

Hueneme Road is designated part of the Coastal Scenic Drive with identifying signs along Hueneme Road.

Development of the North and South would result in the loss of the view of the agricultural land that is a significant part of the history and quality of life in the Oxnard coastal area.

South of Hueneme Road, the block walls and industrial buildings would replace the views of farmland, open space, sand dunes, the Channel Islands, sunsets and the glow of the ocean. Decorative walls or landscaping around the buildings cannot mitigate the loss of the existing view. The scenic vista would be lost forever.

The statement in 3.13 AES-2 that "There are no scenic vistas from the perspective of a westbound motorist traveling on Hueneme Road" is totally wrong. See the attached photo that was taken looking southwest from Hueneme Road. Note Anacapa and Santa Cruz Islands in the background of the photo. This is really a wonderful view that truly makes Hueneme Road a special part of the Coastal Scenic Drive.

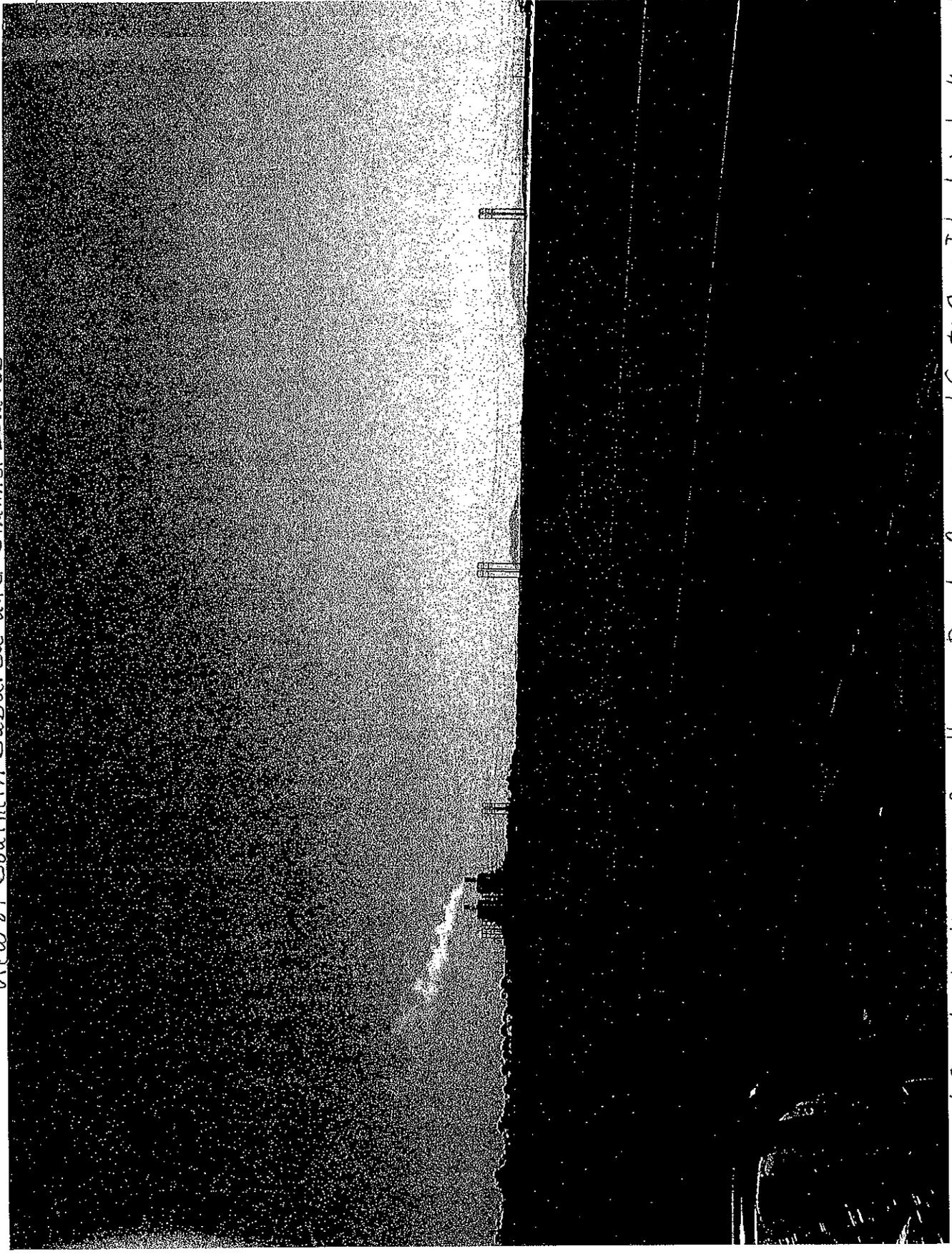


Shirley Godwin  
3830 San Simeon Ave.  
Oxnard, CA 93033

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View of Southern Subarea and Channel Islands



Amman Beach looking S.W. from Huenehme Road Anacapa and Santa Cruz Islands in background

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City of Oxnard Planning Division  
214 S. C Street  
Oxnard, CA 93030

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SEP 8 2008

September 6, 2008

PLANNING DIVISION  
CITY OF OXNARD

Recirculated DEIR No. 05-03 North and South Ormond Beach

**RE: Direct Farmland Conversion, AG-5 & AG-7**

In these sections, it is stated that the City of Oxnard has concluded that certain agricultural preservation mitigations "would not be feasible for the Ormond Beach Specific Plan Projects." "This includes requirements for direct preservation of agricultural land elsewhere in the region and/or financial contribution to efforts to acquire conservation easements or deed restrictions on land currently used for production."

The EIR must include current detailed analysis of the feasibility of a conservation easement to preserve the farmland of the Southern Subarea.

Since the 1981 LAFCO action and the 1990 adoption of the Oxnard 2020 General Plan, a lot has been learned about the value of agricultural land as habitat for wildlife near wetland areas. Agricultural land has recently been found to be a good neighbor for wetlands to prevent "wetland squeeze".

7

As reported in *California Coast & Ocean*, Volume 19, No. 3, Autumn 2003, published by the California Coastal Conservancy:

Normally as sea level rises, wetlands retreat inland. This is still physically possible in some places, such as Ormond Beach, in Ventura County, where marshland and dunes are backed by farmed fields. The Coastal Conservancy's plans for habitat restoration at Ormond Beach include conservation easements on adjoining farmlands.

If Hearthsides Homes, the Coastal Conservancy and an agricultural trust joined together to buy a conservation easement over the South Ormond project area, that land would remain in agricultural production instead of being converted to industrial uses. This would have many positive benefits including compatibility with the wetlands, maintenance of scenic views, less traffic impacts, prevention of encroachment on the Point Mugu Navy Base, and increased value to Hearthsides's Southshore residential development on the north. This would preserve agricultural land with compensation to the property owners on the South for the permanent agricultural conservation easement. Importantly, the landowners would be able to continue farming on this site rather than trying to find replacement farmland.

Shirley Godwin  
3830 San Simeon Ave.  
Oxnard, CA 93033

**LETTER I.15    KENDRA GONZALES**

**Commentor:** Kendra Gonzales (08-07-08)

**Response**

1. **Request for Extension of Public Review Period:** Comment noted. In response to multiple requests for such, the City extended the review period for the RDEIR from 45 days to 60 days.

2.15

**From:** Kendra Gonzales <earthworks\_works@yahoo.com>  
**To:** <kathleen.mallory@ci.oxnard.ca.us>, <edmond.satelo@ci.oxnard.ca.us>  
**Date:** 8/7/2008 4:47:41 PM  
**Subject:** Draft EIR for Ormand Beach Specific Plan(s)

As a citizen greatly concerned with the future of Ormond Beach area and the wetlands, I beseech you to extend the length of the public comment period.

The public needs more time to review lengthy documents, and more time for review should be offered without question in light of the fact that pertinent documents have been "lost or misplaced" by the city.

Additionally, I understand that the public notice period started July 24th, but notice did not go out until July 28th. Please do the right thing by the public that you are hired to represent.

Regards,

Kendra Gonzales  
Camarillo

**CC:** Al Sanders <alancatdaddy@aol.com>

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**LETTER I.16    JEAN HARRIS**

**Commentor:** Jean Harris (08-22-08)

**Response**

1. **Upland Required for a 750-acre Wetland:** The commentor would like to know how much upland acreage would be required to support a 750-acre wetland. Such a question is beyond the purview of the RDEIR and varies depending upon the jurisdiction.
2. **Sea Level Rise:** The FEIR includes an expanded analysis of sea level rise as it relates to tsunami hazards and associated coastal flooding (see Impact GEO-5). See Master Response #1, Sea Level Rise for additional explanation.
3. **Arcturus Road Spill:** The commentor inquires about the potential effect of a spill on Arcturus Road, which is outside of the Study Area. Thus, the issue falls outside of the purview of this RDEIR.
4. **Fill Requirements:** Both specific plans and the EIR acknowledge the need to import fill material to make the Study Area suitable for development. Also, Section 3.3 of the EIR includes analyses of various aspects of the Study Area's soil conditions, including evaluations of the implications of collapsible and sensitive soils in the area.

*F. 16*

AUGUST 22, 2008

RE CIRCULATED DRAFT E.I.R. 08-03 - NORTH AND SOUTH AT ORMOND BEACH

DEAR SIRs:

I HAVE FOUR QUESTIONS WHICH MUST BE ANSWERED THOROUGHLY TO GIVE A REPORT ON WHICH TO BASE FUTURE DECISIONS. WE HAVE AN OBLIGATION TO PROTECT THE EARTH AND THE PEOPLE.

1. HOW MUCH UPLAND IS REQUIRED FOR A HEALTHY 750 ACRE WETLAND? (1)
2. WHAT PROVISION IS MADE FOR SEA RISE IN GLOBAL WARMING? (2)
3. IF A SPILL OCCURS ON ARCTURUS ROAD, WHICH INDUSTRIES THERE WOULD BE HAZARDOUS TO PEOPLE? (3)
4. THE SOIL IN THE AREA IS TYPICAL WETLAND SOIL - SOFT, SPONGY, WET AT TIMES. CONSEQUENTLY, ANY BUILDING PLACED ON TOP OF THAT SOIL WOULD REQUIRE FILL TO STABILIZE THE CONSTRUCTION. WE NEED A MAP WHICH SHOWS THE DEPTH OF FILL THAT WOULD BE REQUIRED IN THE AREA. THE MAP SHOULD INCLUDE ANY LAND BEING CONSIDERED IN THIS E.I.R. FOR CONSTRUCTION. (4)

IF THIS IS NOT CLEAR, PLEASE PHONE ME: JEAN HARRIS 639 0945

THANK YOU.  
*Jean Harris*  
JEAN HARRIS  
THE VENTURAN  
4904 TELEGRAPH ROAD  
VENTURA, CA 93003

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AUG 25 2008

PLANNING DIVISION  
CITY OF OXNARD

**LETTER I.17 CYNTHIA HARTLEY**

**Commentor:** Cynthia Hartley (09-22-08)

**Response**

1. **Assessment of Nesting Shorebirds:** The commentor opines that the potential offsite impacts on nesting birds are not adequately addressed. See Master Response 2: Indirect Impacts Sensitive Offsite Habitat and Sensitive Species.
2. **Recreational Beach Use/ Shorebirds:** The RDEIR acknowledges the potential for disturbance of shorebirds resulting from increased human presence associated with the development of the projects under consideration. See Master Response 2: Indirect Impacts Sensitive Offsite Habitat and Sensitive Species.
3. **Leash Law Non Compliance:** Comment noted. The Ormond Beach Natural Resource Management Program (NRMP), to be funded by the project applicants, addresses both leash laws and effective enforcement .
4. **Effects of Noise on Avian Communication:** The commentor posits the theory that noise could affect shorebird nesting areas, based in part of the presence of the Ormond Beach Generating Station. The commentor further suggests that noise originating from development in the Southern Subarea would increase the noise level at the beach. Since the generating station lies between the Southern Subarea and the beach, it is improbable that noise from the light industrial and office uses would exacerbate any existing problems.
5. **Leash Law Enforcement:** The commentor provides helpful information concerning leash law enforcement. The City will take this information into consideration as it works with other stakeholders to structure and implement monitoring and enforcement activities at Ormond Beach. The comment does not change any conclusion or significance criteria. Therefore, the analysis is sufficient.
6. **Night Time Beach Access:** The commentor suggests that beach access roads be closed at night. The City will consider this suggestion as it works with other stakeholders to structure and implement monitoring and enforcement activities at Ormond Beach. Note that no beach access roads are proposed as part of either project under consideration. The comment does not change any conclusion or significance criteria. Therefore, the analysis is sufficient.
7. **Independence Day Beach Closure:** The commentor suggests that beach access be restricted during the Independence Day holiday. The City will consider this suggestion as it works with other stakeholders to structure and implement monitoring and enforcement activities at

Ormond Beach. The comment does not change any conclusion or significance criteria. Therefore, the analysis is sufficient.

8. **Winter Activity at Beach:** The commentor suggests that the activities described in the NRMP be extended into the winter months to provide protection for wintering shorebirds and migratory waterfowl. The City will consider this suggestion as it works with other stakeholders to structure and implement monitoring and enforcement activities at Ormond Beach. The comment does not change any conclusion or significance criteria. Therefore, the analysis is sufficient.
9. **Preference for Alternative 4:** The commentor prefers Alternative 4, which calls for conservation of the land in the Study Area for agricultural and open space uses. Comment noted. The comment will be transmitted as part of the FEIR to the decision making body.

P. 17

Cynthia Hartley  
3189 Hilltop Dr.  
Ventura Ca, 93003

September 16, 2008

Planning Commission  
City of Oxnard  
305 West Third Street  
West Wing, 2nd Floor  
Oxnard, CA 93030

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SEP 18 2008

PLANNING DIVISION  
CITY OF OXNARD

Re: Draft Environmental Impact Report 05-03, North and South Ormond Beach Projects

I have been tracking snowy plover population numbers and banded individuals for the past 13 years on Ormond Beach and I also hold a U.S. Fish and Wildlife Service Threatened and Endangered Species Recovery Permit for Western Snowy Plovers and California Least Terns. I have been monitoring nesting success of the California Least Terns and the Western Snowy plover at Ormond Beach since the inception of the current monitoring program in 2003.

I urge reassessment of the projected impacts to endangered nesting shorebirds from the proposed developments north and south Hueneme Road. The impacts have been inadequately assessed. Endangered **Western Snowy Plover (*Charadrius alexandrinus nivosus*)** and the **California Least Tern (*Sterna antillarum browni*)** nest on this beach and snowy plovers roost there in the winter. Also during winter and migration times, thousands of shorebirds use Ormond Beach for foraging and resting. Current use by humans and their pets already generates impacts to shorebirds and many of the mitigation measures proposed in the DEIR are currently in place, some are ineffective even at current beach usage levels. Developing in the area at the north end of Arnold Road would significantly increase the number of people with direct access to Ormond Beach beyond the current visitation levels. The addition of 1,283 homes, a high school and an industrial park near Ormond will increase human use of adjacent beaches, despite the presence of a lake and green belt. This proposal missed the current impacts, failed to take into account current protective measures along with the degree of success of these measures and did not project the new levels of beach visitation. Without this data it is not possible to propose appropriate mitigation measures.

**Impacts of recreational beach use to sensitive shorebird species**

It is well established that shorebirds depend on sandy beaches for forage and rest and are subject to disturbance from humans and especially from dogs (Burger 1981; Klein 1993.

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Shorebirds avoid humans by flying short distances. Constant disturbance is not immediately lethal, but each short flight is energetically costly (Nudds and Bryant, 2000) and can have a cumulative impact on a bird's ability to gain the necessary fat stores and to survive (Puttick, 1979). Shorebird abundance can be low on beaches with high human use, presumably because disturbance causes birds to seek more isolated locations (Hoopes 1993; Elias-Gerken 1994; McCrary and Pierson 2000). Beach nesting birds such as snowy plovers and least terns are particularly vulnerable. Snowy plovers have been documented to abandon summer breeding areas at Coal Oil Point Reserve in Santa Barbara due to human disturbance and at Goleta Beach they eventually abandoned their winter roosting area due to higher levels of disturbance (Lafferty, 2001). Human recreational activities have been documented to decrease nesting success in snowy plovers, (Warriner, et al, 1986 and Schulz and Stock, 1991) and reduce Snowy Plover chick survival (Ruhlen, et al, 2003). Human activities cause brooding adults to flush from nests, which decreases time brooding eggs, abandon nests and adults with chicks are exposed to decrease brooding time, limited foraging increase exposure to predators and separation from adults (Lafferty 2001).

(2)

**Leash law non compliance:** Voluntary compliance with leash laws is notoriously poor, especially with no enforcement. For example, only 10% of dog owners voluntarily leashed pets at Ocean Beach California (Hatch, 1996) and 7% at Devereux Slough (Lafferty, 2001). The leash law ordinance is currently posted in the parking lot at Arnold Road at the east end of Ormond Beach. A volunteer docent is present in the parking lot 50% of the time to remind visitors to leash their dogs. There are also signs posted on the seasonal protective fencing around the breeding area notifying beach goers that beyond the fencing is sensitive habitat for both snowy plovers and least terns. Based on data collective during the breeding season of 2008 I estimate approximately 1000 dogs visited Ormond Beach via the Arnold Rd. access (Hartley, unpublished data). Consistent with other locations, compliance with the leash law is rare, dog owners are often documented walking their off leash dogs inside the fenced and posted breeding ground, dogs have been documented killing snowy plover chicks and human trespassers have been seen walking behind the protective fencing (Hartley, personal observations). Law enforcement is not capable of enforcing the leash ordinance; dog owners leash their dogs upon the presence of officers and unleash them when officers leave. Police do not have the time and resources required to enforce the leash law (Oxnard PD, personal communication). Chick survival on the eastern end of Ormond Beach is poor due to the impact of dogs alone (Hartley, unpublished data). The addition of 1283 homes north of Hueneme Rd and a business park south would substantially increase the number of visitors and dogs to this beach. The current amount of dog visitation to the beach and the actual increase in visits was omitted from the current DEIR.

(3)

**Noise:** Although poorly understood, there is increasing evidence suggesting that urban noise negatively impacts avian communication. It has been documented that environmental noise from urban areas interferes with pair bonding (Swaddle, 2006) and that birds have had to alter song pitch to overcome urban noise (Slabbekoorn, Nature 2003). Least terns distinguish the call of their mates by subtle differences in the first

(4)

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note of their call (Moseley, 1979) and chicks respond to the specific call of their parents upon return to the nest. On Ormond Beach there is a portion of the beach ½ mile long that is not used by either Least Terns or Snowy Plovers to nest. This area appears to be excellent habitat for both species and has the lowest human usage of any portion of the beach. It is, however, directly in front of and slightly either side of the Reliant Power Plant. It is not known what causes the birds to avoid nesting in this area, but the high noise level of the plant might be a cause. Increased noise due to the new development could interfere with mating, incubating and the adults' ability to locate chicks for feeding them.

(4)

The addition of the industrial park alongside Arnold Road would increase the noise level and discourage both species from nesting from the entire beach. This issue was not addressed in the DEIR in any detail. Further discussion and an assessment of the increase in noise level must be addressed in order to fully assess necessary mitigation measures.

#### **Inadequate mitigation for adverse impacts**

The new release of this DEIR still falls short of meeting the requirements of the California Environmental Quality Act in that it fails to discuss specific threats to sensitive species in sufficient detail to assess the impact. Specifically, section 3.6.3.3 Ormond Beach Natural Resource Management Program and USFWS Consultation outlines several mitigation measures intended to offset the anticipated increase in human visitation and household pets associated with the development projects. Several of these measures are inadequate and need to be addressed:

**Leash law enforcement was not adequately addressed:** The most effective method of protecting least terns and snowy plovers would be the closure of Ormond Beach to dogs during the breeding season (April 1st through September 15). Such a policy would be consistent with the Southern Pacific Coast Regional Shorebird Plan (Page and Shufford 2000) which proposes limiting human disturbance to shorebirds by restricting dogs from important shorebird habitat. A dog restriction policy on Ormond Beach should be considered first as a mitigation effort. Ormond Beach has been designated an Important Bird Area (IBA) by the National Audubon Society. As California's wetlands continue to shrink Ormond Beach is becoming increasingly critical habitat. There are other beaches in the area that are groomed which would be more appropriate for dogs because these areas are poor habitat for shorebirds and do not support least terns or snowy plovers. Additionally, a sanctioned dog park in the area would provide an excellent opportunity for dog owners to run their unleashed dogs and alleviate the pressure of dogs in critical beach habitat.

(5)

The DEIR proposes part time enforcement in coordination with a docent program. Part time enforcement has been demonstrated to be ineffective in other locations and it is our experience that the presence of docents is only marginally successful as docents have no authority to issue tickets. The presence of part time enforcement at Vandenberg Airforce Base resulted in only 30% compliance with the leash law (Lafferty

I. 17

2001) while full time enforcement at Ocean Beach resulted in 100% compliance (Hatch, 1996). If a beach closure option is not adopted, the only way to ensure compliance with the leash ordinance is the presence of full time law enforcement. The applicant should supply funds for a full time ranger or police officer during the breeding season and part time in the non-breeding season.

5

A more severe option to mitigate increased beach visitation from pets from development residents would be to restrict homeowners from ownership of dogs and cats. This would greatly reduce the impact of local development to shorebirds.

**Night time beach access was not addressed:** No provisions were made for restricting access to the beach at night. The proximity of the development will doubtlessly result in beach visitation at night. Gates that close at dusk at all beach access roads will need to be installed, with law enforcement to ensure compliance.

6

**4<sup>th</sup> of July holiday beach closure was not addressed:** The week of the 4<sup>th</sup> of July is one of the most critical times for least terns. Most breeding birds have established nests at this point in the season and the first chicks hatch at this time. No mention was made of closure of the beach on the 4<sup>th</sup> of July holiday, prohibition of legal fireworks displays and enforcement of restrictions on illegal fireworks. Currently, the access to beach blocked at 4pm on 4<sup>th</sup> of July. This language needs to be added to the DEIR.

7

**No provision has been made to protect wintering shorebirds or migratory waterfowl:** Birds use the area for resting and feeding to gain the necessary strength for their migration to the arctic to nest. There will likely be increased visitation to the beach of people and pet dogs in the winter as well as in the summer. Snowy plovers use Ormond Beach as winter roosting habitat and will abandon if sufficiently disturbed, which impacts selection of summer breeding areas (Lafferty, 2001). The DEIR only proposed possible fencing of snowy plover habitat in the winter. In addition to protective fencing of the winter flock, leash law enforcement is critical to protecting birds from disturbance year round. Law enforcement or a ranger program needs to be provided during the non-breeding time as well (September 16 – March 31).

8

**Recommendation regarding the Draft Environmental Impact Report**

In considering the proposed project as compared to the listed alternatives, the preferred option is Alternative Number 4 - Conservation. The conservation alternative will serve to protect the critical habitats at Ormond Beach and its associated wetlands and the wildlife species dependent on those habitats. California wetlands continue to be consumed by development and once they are gone recovering them is costly and prohibitive. Ormond Beach wetlands will never be the same once development occurs so close to such critical habitat.

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The need for more housing and educational facilities in the City of Oxnard can be met by developing or re-developing land further away from this rare and valuable habitat. Development south of Port Hueneme Road between Arnold Road and Perkins Road

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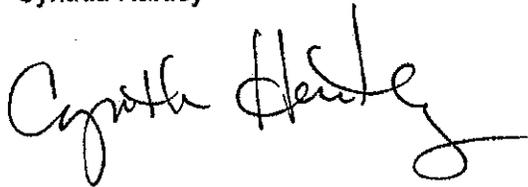
should not be considered because of the degradation of the wildlife and habitat such development will cause. Development on the north side of Port Hueneme Road should not increase the human population, nor should any development occur on the south side of Port Hueneme Road.

9

I recommend that the City of Oxnard Planning Commission deny certification of the Draft Environmental Impact Report covering both the North and South Ormond Beach Projects.

Any questions you have concerning these comments can be directed to me at (805) 653-1552.

Cynthia Hartley

A handwritten signature in cursive script that reads "Cynthia Hartley". The signature is written in black ink and is positioned below the printed name.

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Hartley, C. Unpublished data. The author of these comments is currently the Western Snowy Plover nest monitor on Ormond Beach and has been monitoring Western Snowy Plover populations at Ormond Beach for 12 years and Least Terns for 3 years.

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**LETTER I.18 DAVID MAGNEY**

**Commentor:** David Magney (09-22-08)

**Response**

1. **Hazardous Waste-DDT:** These comments are consistent with the RDEIR's finding that further site investigation and detailed soil analysis will be required as mitigation. The comment does not change any conclusion or significance criteria. Further, substantial evidence supports the RDEIR's conclusions. Therefore, the analysis is sufficient.
2. **Figure 3.6-1:** The map has been updated per the commentor's suggestions.
3. **State Coastal Conservancy Plan:** The acreage references in the RDEIR date back to information published in 2003 by the SCC concerning Ormond Beach acquisitions (as follows):

*The reservation of funds is also proposed for the acquisition of the adjoining 220 acres of former wetlands that are currently owned and farmed by Southland Sod.*

*A critical mass of 750 acres of restored wetlands and associated habitat at Ormond Beach is expected to create a self-sustaining biological system and enough tidal prism and flushing action to maintain health and hydrologic function.*

Thus, the RDEIR's citations are not "inaccurate and misleading," as the commentor claims. Nonetheless, the FEIR updates acreage references to reflect SCC's evolving perspective on its acreage needs.

4. **Botanical Survey:** The RDEIR relies on a long history of research conducted within the Study Area and adjacent areas. The field survey conducted by the City's consultants was intended to confirm the extensive body of research and studies upon which the RDEIR's evaluation is based, as cited in Section 3.6.1 of the document. It is not represented in the RDEIR as a comprehensive assessment, but rather as a means to validate the accuracy of the baseline information that has been gathered through at least 20 years of independent evaluation.
5. **Locally Rare Plants:** As the commentor's publication, Checklist of Ventura County Rare Plants (December 2008), notes, CEQA requires that thresholds of significance for general use in a lead agency's environmental review process "must be adopted by ordinance, resolution, rule, or regulation, and developed through a public review process and be supported by

substantial evidence. (CEQA Guidelines §15064.7).” The publication further acknowledges that, for a list of locally rare or sensitive species to function as a set of thresholds of significance, the list should be adopted through a public review process. The City’s published thresholds do not recognize the publication to which the commentor refers.

6. **Ventura marsh milk vetch (RDEIR Table 3.6-7):** The citations in Table 3.6-7 have been updated to read “near coastal salt marsh.”
7. **Osprey (RDEIR Table 3.6-9):** The note in Table 3.6-9 has been updated to read, “Not likely to occur at the project site due to ~~degraded~~ absence of suitable habitat.”
8. **JSA Study Date:** The referenced citation has been updated.
9. **Special-Status Plant Species:** The commentor states that, based on his research, special status plant species “could” occur in the Study Area. The City’s consultants concluded based on documentary research and site observations that such species do not exist within the Study Area. Thus, the RDEIR finds that there are no significant impacts.
10. **Foraging Habitat Mitigation:** The City continues to support the mitigation ratio recommended in the RDEIR but concurs with the commentor that the applicant for development of the Southern Subarea should not be granted mitigation credit for the southernmost 220 acres. The calculation of the mitigation contribution associated with the development of the Southern Subarea has, thus, been modified . The equation used to determine the contribution no longer excludes the southernmost 220 acres from consideration. Mitigation Measure BIO-2 in the FEIR reflects this change.
11. **Cumulative Impacts-State Coastal Conservancy Proposal:** The SCC has not published a wetlands restoration plan. Thus, the City is not in a position to account for such a plan in its cumulative assessment. Also, the commentor asserts that the project proposed for the Southern Subarea would preclude habitat restoration. This statement is contrary to the applicant’s publicly expressed willingness to sell the southernmost 220 acres of its property to the SCC. The acreage total that the applicant is willing to sell dates back to information published in 2003 by the SCC concerning Ormond Beach acquisitions (as follows):

*“The reservation of funds is also proposed for the acquisition of the adjoining 220 acres of former wetlands that are currently owned and farmed by Southland Sod. A critical mass of 750 acres of restored wetlands and associated habitat at Ormond Beach is expected to create a self-sustaining biological system and enough tidal prism and flushing action to maintain health and hydrologic function.”*

12. **Wildlife Linkages/Corridors:** The RDEIR accurately characterizes the potential impacts in light of the threshold, which will “interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors.” The City is familiar with the map and considered this resource document as part of its RDEIR analysis. Substantial evidence supports the RDEIR’s conclusions which finds that the projects will not adversely affect wildlife corridors. Therefore, no evidence is provided by the commentor that would change the conclusions contained in the RDEIR.
13. **Mugu Lagoon Impacts:** At its nearest point to the proposed development within the Southern Subarea, Mugu Lagoon is over two miles downstream, on the other side of the NBVC runway. Also, Mitigation Measure BIO-5: Wetland Runoff Control, does not recommend bioswales. Instead, it proposes measures that would supplement the benefit of the bioswales proposed by the applicant, which is essentially what the commentor is suggesting.
14. **Ag Land Value:** The RDEIR estimate value of agricultural land was accurate as of the date of preparation of the document and the valuation was explained in the Section 3.8.1.1 of this document
15. **Wetland Restoration Needs:** See response to comment #11.
16. **Sea Level Rise:** The FEIR includes an expanded analysis of sea level rise as it relates to tsunami hazards and associated coastal flooding (see Impact GEO-5). See Master Response 3: Global Climate Change.
17. **Out of Kind Mitigation:** The equation used to determine the mitigation contribution no longer credits the applicant for development of the Southern Subarea for the southernmost 220 acres, which eliminates the commentor’s concern that the City is permitting out-of-kind mitigation. Mitigation Measure BIO-2 in the FEIR reflects this change.

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# David Magney Environmental Consulting

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22 September 2008

Kathleen Mallory  
City of Oxnard  
Planning Division  
214 S. C Street  
Oxnard, CA 93030

**Subject: Comments on the Ormond Beach Specific Plan Recirculated DEIR (SCH 2005091094)**

Dear Ms. Mallory:

David Magney Environmental Consulting (DMEC) has been retained by the Environmental Defense Center to review and comment on the City of Oxnard's Ormond Beach Specific Plan (OBSP). This letter provides comments on the Recirculated Draft Environmental Impact Report (RDEIR or DEIR) for the Specific Plan. DMEC's comments will focus primarily on biological resource issues assessed, or not adequately assessed in the RDEIR published in July 2008.

DMEC has been in business since July 1997, specializing in biological resource assessments, CEQA, and wetlands (including delineation, impact assessment, and mitigation planning). DMEC is owned by Mr. David L. Magney. Mr. Magney is a biologist and geographer, specializing in botanical resources and wetlands, and has been consulting full time since 1985, working for Dames & Moore, Jones & Stokes Associates, Fugro West, Inc., and ENSR before establishing DMEC. Mr. Magney is considered an expert on the flora of Ventura County, and has been "certified" as a qualified biologist by Ventura County Planning Division, Los Angeles County Regional Planning (SEATAC), and Santa Barbara County. He serves on the Los Angeles County Environmental Review Board. Mr. Magney's CV is attached.

Mr. Magney and DMEC has extensive experience in the Ormond Beach area. Mr. Magney managed the South Ormond Beach Wetland Restoration Plan on behalf of the City of Oxnard and California State Coastal Conservancy in 1995, while employed by Jones & Stokes Associates. At DMEC, Mr. Magney managed the Calleguas Creek Watershed Wetland Restoration Plan, published in 2000, for the Coastal Conservancy, which included the wetlands associated with Mugu Lagoon (which includes South Ormond Beach). Mr. Magney has published a checklist of vascular plants of Ormond Beach, based on several year's worth of investigation.

The Specific Plan area consists of two subareas (Northern and Southern), consisting of 322 and 595 acres, respectively. To add confusion to the referenced areas, the Northern Subarea is also called the South Shore Specific Plan Area, and the Southern Subarea is also called South Ormond Beach Specific Plan Area. However, the South Ormond Beach Specific Plan Area does not include lands that have traditionally and consistently been referred to as South Ormond Beach, i.e. the 220 acres of former SCE property "not included at this time" to the south.

Regarding the OBSP RDEIR, it contains an assessment of biological resources, with some background information provided as Appendix A.



**Hazardous Waste - DDT**

Section 3.5.1.2 states, "It is possible that residual levels of agricultural chemicals may be present in soil and/or groundwater at the project site due to historical applications". I can state unequivocally that indeed the OBSP area IS contaminated with pesticides such as DDT and derivatives, at hazardous waste levels. This is based on sampling I commissioned while with Jones & Stokes Associates as part of the study I managed on a contract issued by the City of Oxnard to study the feasibility of wetland restoration on the former SCE property at South Ormond Beach (Jones & Stokes Associates 1995<sup>1</sup>). As part of that study, Jones & Stokes Associates reviewed published toxicity reports and contracted with EMCON Associates to determine contamination levels of a number of expected soil and water contaminants, including pesticides such as DDT and derivatives. The results of the sampling was included on Page 2-9 and in Table 2-3 of the JSA report, reporting levels of Total DDT at 2,264 parts per billion in sediment and 19,270 ppb in the Oxnard Industrial Drain. These levels exceed EPA thresholds for safety and the soil and water are considered toxic. According to the State of California, DTSC, Total DDT at levels greater than 1 ppm should be treated as hazardous waste<sup>2</sup>. Additionally, the DTSC recommends that for sites 61-100 acres in size should be sampled systematically with 25 composite samples from discrete samples taken on 1-acre centers<sup>3</sup>, <sup>4</sup>. DTSC recommends contacting that agency if the project site is over 100 acres.

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This information should have been used by the EIR consultant (URS) to identify areas known to be contaminated by hazardous waste, or conduct subsequent sampling in those areas to determine current conditions. This was not done. The RDEIR states that a Phase I Environmental Site Assessment (an assessment to determine the potential for hazardous materials) was performed by RBF in 2003 for the Northern Subarea. RBF's conclusions were that the site had a high potential for contamination by DDT and derivatives and recommended a Phase II site assessment. There is no evidence that a Phase II site assessment, which includes systematic soil sampling, was ever performed. Rather, URS simply recommends that a Phase II assessment be performed as mitigation. Since the handling and hazards associated with hazardous wastes are so onerous, the most appropriate action that the City should have taken was to require the Phase II assessment as part of the environmental review process, not deferred to study it later, after approval of the OBSP and establishment of conditions and mitigation.

Section 3.5.3.2.2 of the RDEIR identifies a significant impact: Impact HM-7: Impacts from Potentially Contaminated Soils Resulting from Agricultural Operations". This impact should be restated since it has been demonstrated through testing at an EPA-approved laboratory that the soils onsite do indeed contain DDT, DDD, and DDE at levels considered to be hazardous contamination. A Phase II site assessment should have been conducted as part of the DEIR to map and determine the exact levels and locations of soil that is contaminated.

<sup>1</sup> Jones & Stokes Associates, Inc. 1995. South Ormond Beach Wetland Restoration and Management Plan. (JSA 94-080.) Sacramento, California. Prepared for City of Oxnard Community Development Department, Oxnard, California.

<sup>2</sup> Martz, Fred. 1992. Guidance, Chapter 8, DDT in Soil: Guidance for the Assessment of Health Risk to Humans. July. Office of the Science Advisor. State of California, DTSC, Sacramento, California.  
Available at: <http://www.dtsc.ca.gov/AssessingRisk/upload/chap8.pdf>

<sup>3</sup> Chernoff, G., D. Taylor, & D. Oudiz. No date. Interim Guidance for Sampling Agricultural Fields That Are Proposed for School Sites. Human and Ecological Risk Division, Department of Toxic Substances Control, California Environmental Protection Agency, Sacramento, California.  
Available at: <http://www.dtsc.ca.gov/AssessingRisk/upload/Sampling-Ag-Fields-for-Schools.pdf>

<sup>4</sup> California Department of Toxic Substances Control. 2002. Interim Guidance for Sampling Agricultural Fields for School Sites. 26 August, Second Revision. California Environmental Protection Agency, Sacramento, California. Available at: <http://www.dtsc.ca.gov/Schools/upload/interim-ag-soils-guidance.pdf>

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Mitigation Measure HM-1: Soil Sampling, beginning on Page 3.5-18 of the RDEIR only requires further study, via a Phase II site assessment. There are no requirements in this mitigation measure on how the hazardous waste is to be treated if found onsite exceeding federal and state thresholds. The EIR needs to provide complete and feasible mitigation measures before they can be considered adequate, and for concerned citizens, regulatory and responsible agencies, and decisionmakers can make meaningful decisions about how best to deal with contaminated soils onsite that will be used for human habitation. The RDEIR fails in this respect.

①

**DEIR Biological Resources**

Section 3.6 addresses, or attempts to address, biological resource issues related to the OBSP.

Figure 3.6-1 of the RDEIR illustrates the location of various land uses in the area of the OBSP area, including game preserve lands. A small triangle-shaped parcel south of the southeastern corner of the OBSP area, immediately south of the Shoreline Organics parcel, is also a Ventura County Game Preserve, and should be corrected to show all such areas.

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Figure 3.6-1 also shows the former SCE tank farm as owned by Reliant Energy. This is wrong. The tank farm (no longer a tank farm) was purchased by the Coastal Conservancy a few years ago, as well as the wetland areas to the west and south of the generating station.

Section 3.6.1.2, page 3.6-3, states that the Coastal Conservancy is working on a plan to restore 750 acres of south Ormond Beach as wetlands. The actual acreage of the wetlands to be restored has yet to be determined, and 750 acres is considered a minimum number, as well as significant buffers of upland habitats. To state that the Coastal Conservancy is only considering a 750-acre area is inaccurate and misleading.

③

Table 3.6-1 lists 9 plant species as occurring in the Northern Subarea, and all of them are invasive exotics except the *Cupressus*, which was planted. A total of 16 plant species were identified in Table 3.6-4 for the Southern Subarea. This is a clear indication that the botanical survey (conducted on November 3, 2005) was wholly inadequate and did not follow minimum survey guidelines or professional standards for determining baseline conditions. Granted most of the property is in agricultural production, similar properties nearby, also in cropland, have many more species of plants than reported in the RDEIR. A drive-by look at the plants growing at the southern edge of the Northern Subarea on 18 September 2008 found at least another dozen plant species growing naturally, including: *Coryza bonariensis*, *Xanthium strumarium*, *Marah fabaceus*, *Opuntia*, *Diplachne uninerva*, *Carpobrotus edulis*, some of which are native species. None of these was identified in the EIR as present onsite, for either Subarea, supporting the argument that the biological assessment was wholly inadequate. The preparers did not follow standard botanical survey or assessment protocols published by the California Department of Fish and Game (2000<sup>5</sup>), California Native Plant Society (1995<sup>6</sup>, 2000<sup>7</sup>), or the U.S. Fish and Wildlife Service (2000<sup>8</sup>).

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<sup>5</sup> California Department of Fish and Game (CDFG). 2002. List of California Terrestrial Natural Communities Recognized by the California Natural Diversity Database. May 2002. Wildlife and Habitat Data Analysis Branch. The Resource Agency, State of California, Sacramento, California.

<sup>6</sup> California Native Plant Society (CNPS). 1995. Collecting Guidelines and Documentation Techniques, Policy Statement. Adopted 4 March 1995. Board of Directors, Sacramento, California. See [www.cnps.org](http://www.cnps.org) for complete text of policy statement.

<sup>7</sup> California Native Plant Society (CNPS). 2001. Botanical Survey Guidelines. Board of Directors, Sacramento, California. See [www.cnps.org](http://www.cnps.org) for complete text of guidelines.

<sup>8</sup> U.S. Fish and Wildlife Service. 2000. Guidelines for Conducting and Reporting Botanical Inventories for Federally Listed, Proposed and Candidate Plants. January. Carlsbad, California.

Clearly, no botanist surveyed the specific plan area, or they were wholly unqualified or incompetent to do so.

The “explanation” in Section 3.6.1.6.6 as to why a comprehensive plant survey is not necessary because, “...most of the project site is highly disturbed and under agricultural production”, is not adequate to argue against conducting seasonal field surveys. Furthermore, assuming URS’ statement is correct, the field survey would not take long and would confirm their position. Without actual evidence and an attempt to document what species are present and habitat conditions, their conclusions are entirely unsubstantiated speculation. Too many times have special-status species been found in areas some biologists didn’t think could support them to trust such a judgment.

Section 3.6.1.5.6 of the RDEIR states that, “no special-status plant species were during the reconnaissance field survey and none are expected to occur due to lack of suitable habitat”. The fact that the URS “botanist” could not/did not identify more than half the plants species actually present onsite puts into serious question whether they could recognize one or more, if any, of the special-status plant species potentially occurring in the OBSP area. Furthermore, most annual and herbaceous perennial species are not identifiable or detectable in early November. Seasonal surveys are required during the spring and early summer to detect such special-status, much less more common, plant species.

I have documented 135 vascular plant taxa as occurring in the Ormond Beach area (Magney 2006<sup>9</sup>), which includes and focuses on the area immediately south and west of the OBSP areas; however, it is almost certain that at least 10 percent of those vascular plants on that list also occur within the OBSP boundaries. Furthermore, if intensive agricultural activities were to cease in any part of the OBSP areas, many of these species would recolonize those fallowed agricultural lands, as they originally occurred there prior to conversion of the land to agricultural production.

While the RDEIR actually lists all the categories of special-status species in text, it did not list any of the locally rare plants with potential to occur onsite (in text or on Table 3.6-6), as listed by the California Native Plant Society, Channel Islands Chapter, which has been available online and updated at least biannually since 2000 (Magney 2008<sup>10</sup>). Table 3.6-6 and 3.6-7 provide a short list of special-status species known or potentially present onsite or in the Ormond Beach area, with opinions about each taxon’s potential for occurrence in the OBSP area. Field surveys would have provided the necessary evidence to support the suppositions of URS, had adequate or even seasonal surveys been conducted. Regardless, the assessment on impacts to native plants, including special-status species, is wholly inadequate and must be assessed in much greater detail.

Page 3.6-18, 1<sup>st</sup> paragraph, states that Spiny Rush is a locally rare species. Spiny Rush (*Juncus acutus* ssp. *leopoldii*) is a CNPS List 4 species (CNPS 2001<sup>11</sup>); this is correctly noted on Table 3.6-6. A total of 34 vascular plants known to occur on South Ormond Beach are considered **rare** in Ventura County, which included taxa formally listed and listed by CNPS statewide. These are shown in bold typeface on the list

<sup>9</sup> Magney, D.L. 2006. Vascular Plants of South Ormond Beach, Oxnard, Ventura County, California. California Native Plant Society, Channel Islands Chapter, Ojai, California.

Published and available on <http://www.cnpsci.org/html/PlantInfo/SouthOrmondBeachPlants.pdf>.

<sup>10</sup> Magney, D.L. 2008. Checklist of Ventura County Rare Plants. 21 May 2008, Thirteenth edition. California Native Plant Society, Channel Islands Chapter, Ojai, California. Published on [www.cnpsci.org](http://www.cnpsci.org).

<sup>11</sup> California Native Plant Society (CNPS). 2001. *Inventory of Rare and Endangered Plants of California*. Sixth edition. (Special Publication No. 1.) Rare Plant Scientific Advisory Committee, David Tibor, Convening Editor, Sacramento, California. September.

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include as an attachment to this letter. Many of the rare plants known to occur in the Ormond Beach area are wetland plants, and are found in or adjacent to the Oxnard Drain, which passes through the OBSP area. The likelihood/potential for occurrence of these rare plants within the OBSP area, particularly in one or more of the drains, is much higher than stated by URS in the RDEIR, is not assessed at all. The EIR should be modified to include as assessment of these species. Federally listed *Cordylanthus maritimus* ssp. *maritimus* was observed and mapped by me, as part of the Jones & Stokes Associates (1995) study, on the old levee immediately adjacent to the Oxnard Drain, immediately south of the OBSP Southern Subarea, and has potential to occur onsite during favorable conditions some years. *Cordylanthus maritimus* ssp. *maritimus* was not previously known to occur in that part of South Ormond Beach before the heavy rainy season of 1994. While it is closely associated with Saltmarsh vegetation, it does best when salinity levels are only brackish, certainly not when the soil or water is hypersaline. It is possible that *Cordylanthus maritimus* ssp. *maritimus* occurs in the Oxnard Drain within the OBSP Southern Subarea, under favorable seasonal climate conditions.

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Table 3.6-7 of the RDEIR lists *Astragalus pycnostachyus* var. *lanosissimus* as occurring in coastal salt marsh habitat. That is not factually correct, and much more is known now about this endangered species since it was rediscovered at the North Shore site at Mandalay Beach (western Oxnard). A good summary of what is known about this plant is available on CNPS Channel Islands Chapter's website ([http://www.cnpsci.org/PlantInfo/RarePlants/VMM\\_FinalReport\\_042607minus\\_sensitive\\_info.pdf](http://www.cnpsci.org/PlantInfo/RarePlants/VMM_FinalReport_042607minus_sensitive_info.pdf)) in a report CNPS published in early 2007 (Jensen 2007<sup>12</sup>). It cannot tolerate saline (Saltmarsh) conditions; rather, it grows in coastal areas immediately adjacent to coastal saltmarsh habitats where the groundwater is relatively shallow, at least seasonally. Such conditions might exist along or adjacent to the Oxnard Drain; however, it has never been reported as occurring naturally in the area.

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Table 3.6-9 concludes that Osprey is not likely to occur onsite due to "degraded habitat". This conclusion is flawed as Osprey routinely forages and perches in area of southern California that are highly developed, such as in Long Beach along the San Gabriel River near its mouth, as observed and photographed by me on 24 August 1989. Osprey can certainly occur onsite, although it likely only happens infrequently.

7

Page 3.6-37 of the RDEIR gives the date of the Jones & Stokes Associates plan for South Ormond Beach as 1994. This is incorrect. It was published in May 1995; I was the primary author of that study.

8

The RDEIR failed to identify any impacts to special-status plant species, primarily because URS failed to conduct any botanical field surveys of the OBSP areas, and then concluded without any real evidence that none were present, or potentially present onsite. I have demonstrated above that one or more special-status plant species could occur onsite; therefore, the project does have potential to result in significant impacts that would require mitigation. This must be rectified.

9

The vast majority of biological resources impacts identified in the RDEIR are for loss of foraging habitat for a long list of special-status bird species. DMEC concurs with this generally; however, the proposed mitigation does not come close to reducing the impact to a level of insignificance. Even after mitigation, there will be a significant cumulative impact to foraging habitat for these species. Substantially more mitigation is required to reduce the level of significance to below significance thresholds.

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<sup>12</sup> Jensen, N.J. 2007. The Habitat of *Astragalus pycnostachyus* var. *lanosissimus* (Ventura Marsh Milk-vetch) and an Assessment of Potential Future Planting Sites. 26 April 2007. Submitted to David L. Magney, Channel Islands Chapter, California Native Plant Society, Ojai, California. California Native Plant Society, Sacramento, California. Available at [http://www.cnpsci.org/PlantInfo/RarePlants/VMM\\_FinalReport\\_042607minus\\_sensitive\\_info.pdf](http://www.cnpsci.org/PlantInfo/RarePlants/VMM_FinalReport_042607minus_sensitive_info.pdf).

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Section 3.6.3.4.3, Cumulative Impacts, of the RDEIR discounts that cumulative loss of 697 acres agricultural lands as functional habitat for wildlife because URS claims that the extant habitat in the area is fragmented and that no other development plans are proposed in the area. This is a spurious argument, and it ignores the specific and current proposal by the California State Coastal Conservancy to develop over 750 acres of South Ormond Beach into high functioning wetland and upland habitat, which would convert existing agricultural lands back to natural habitat. The OBSP proposal would permanently preclude much of the habitat restoration proposed by the State and other stakeholders, and would also preclude and prevent expansion and or migration of these existing and restored habitats inland as global warming causes sea level to rise. Sea level rise is a fact. What is not known is how fast and how high sea level will rise in the foreseeable future. Regardless, a rise in sea level by three (3) feet would put nearly all of the Southern Subarea of the ORSP area under sea water. When that happens, and if the ORSP area is developed as proposed by the City of Oxnard, existing and restored wetlands will have nowhere to migrate to as developed facilities will be protected by sea walls and levees.

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The loss of existing habitats at Ormond Beach can be measured with reasonable projections of various levels and timing of sea level rise, and should be part of the analysis of impacts associated with the OBSP, since it will preclude natural migration of natural coastal habitats inland as sea level rises.

**Wildlife Linkages/Corridors**

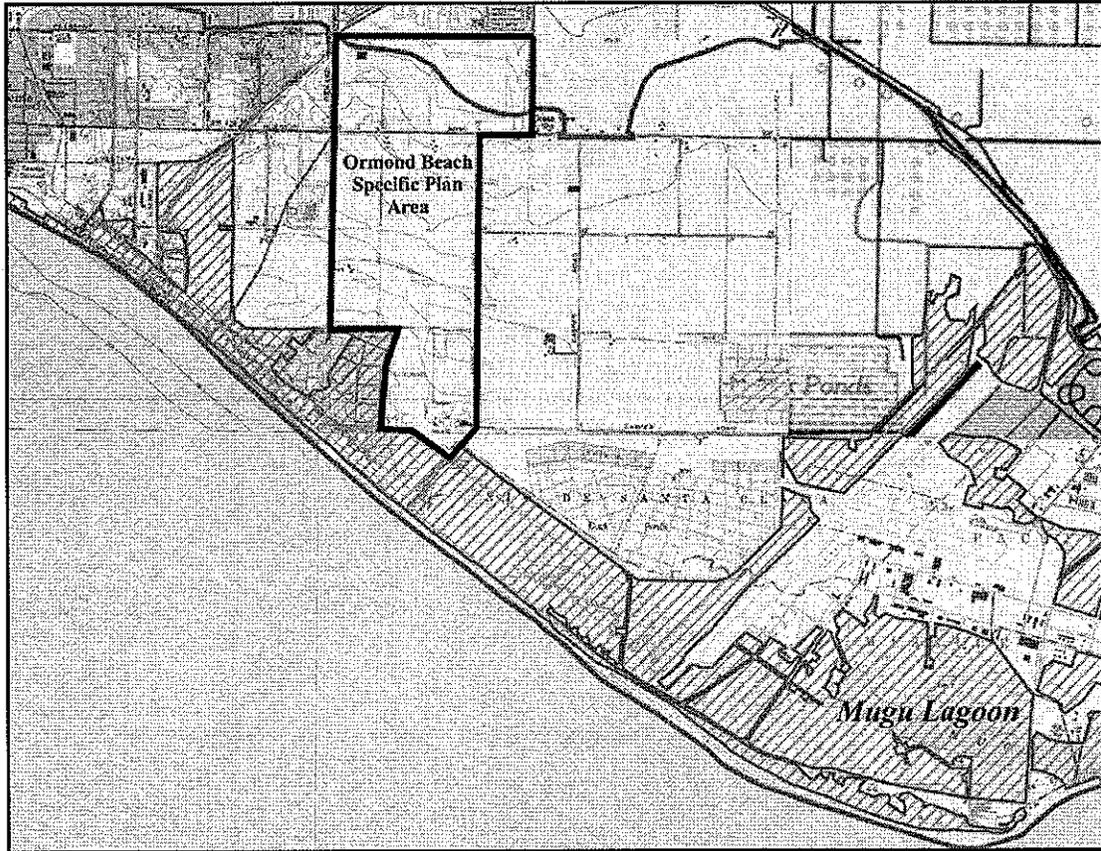
Section 3.6.1.5.4 of the RDEIR provides a 1-paragraph description of the condition of wildlife corridors for the Northern Subarea while Section 3.6.1.6.4 has an even shorter paragraph about it for the Southern Subarea. The RDEIR claims that the OCSP area is habitat for wildlife, but does not provide any information about its suitability, viability, or functionality as a wildlife corridor or part of a larger one. No data are provided about this in Section 3.6 of the RDEIR. It refers to a map, Figure 3.6-2, dated July 2008.

12

Ventura County Planning Division and South Coast Wildlands updated the known wildlife movement corridors for Ventura County in June 2007, in consultation with biologists knowledgeable of Ventura County wildlife. The map below shows the areas that County biologists consider to be viable and existing wildlife movement corridors in the area. The wildlife corridors/linkages are shown as polygons of green diagonal lines outlined in red.

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D A T E



12

It is clear that the map above shows that consensus by the local biology experts consider South Ormond Beach an important and viable wildlife linkage to Mugu Lagoon and the Santa Monica Mountains further to the east. The OBSP area, Southern Subarea, is immediately adjacent to the mapped wildlife corridor along South Ormond Beach. As stated in the RDEIR, numerous species of wildlife, in particular birds, use the ag lands of the OBSP area as foraging habitat, and almost certainly originate from the core habitat areas within or via the wildlife corridor areas shown the map above. The wildlife corridors areas mapped are primarily a function of what natural areas remain on the Oxnard Plain, and those areas would expand if the ag lands were to lay fallow and natural vegetation recolonized the area.

This is an important consideration since the Coastal Conservancy has been studying in detail exactly how best to restore natural habitats in Ventura County, with specific emphasis on South Ormond Beach. Converting the existing agricultural lands to other, non-habitat, uses would preclude habitat restoration in the region.

Furthermore, the RDEIR does not adequately quantify, much less recommend adequate mitigation to compensate for the loss of existing foraging habitat, decreasing the value and functionality of the existing wildlife corridor on South Ormond Beach, or eliminating potential for habitat restoration and expansion of wildlife habitat onsite.

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Much more analysis needs to be performed before the EIR can be considered adequate in regards to impacts to wildlife corridors.

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**Impacts to Mugu Lagoon**

Mugu Lagoon is widely known as an extremely important and sensitive coastal wetland ecosystem. It is habitat for several federally and state listed species of plants and animals, and many more special-status species that are not formally listed, but qualify for such legal protection. Mugu Lagoon is immediately downstream of the OBSP, as can be seen in the map above, and would receive all runoff from all development that would occur there. The current land use, agriculture, while not ideal, provides habitat for a number of species that use Mugu Lagoon as their primary base, foraging on OBSP area land.

13

While the RDEIR states that contamination from runoff would be mitigated by the use of bioswales, no details on their design was provided. The design is critical to the functionality, ability, of this method to adequately mitigate for the known and unknown contaminants that occur in urban and industrial runoff.

Regardless of the types of amounts of bioswales installed to filter out urban pollutants, when heavy rains occur, such as in 1969, 1978, 1994, 2005, and other years, the entire area is severely flooded, and water remains ponded for weeks, sometimes months. Under those conditions, all the floodwaters will bypass any bioswales that are constructed and the contaminated runoff will flow through Mugu Lagoon, resulting in adverse impacts to habitats and wildlife that use them.

**Value of Ag Land**

The stated value of the agricultural land in the OBSP area is \$65,000. This does not match what most agricultural land in the Oxnard Plain has sold for in the recent past. For example, a 131-acre farm was sold in Oxnard recently for \$7,000,000, which equals only \$53,400+ per acre, as listed on the LoopNet real estate website (<http://www.loopnet.com/xNet/MainSite/Comparables/Search/MaskedSearchResults.aspx>). Another 21-acre farm near Camarillo sold for \$400,000 or \$19,144 per acre in July 2008.

14

The value of the land to be converted from agriculture to other uses needs to be up to date and factually correct, with the basis for the valuation provided in the EIR.

**Wetlands Restoration Needs**

As mentioned elsewhere in this letter, the environmental community, scientists, the Coastal Conservancy, and a large number of stakeholders have been working for many years to develop a coordinated and workable plan to preserve and restore natural habitat in the South Ormond Beach area, with a major focus on wetland habitats. The RDEIR fails to recognize the scope or facts of those efforts. The proposed OBSP precludes to a large extent the goals and plans of the aforementioned. The RDEIR should be revised to consider the impacts of the OBSP on the plans of the Ormond Beach Task Force, Coastal Conservancy, and stakeholders.

15

The RDEIR fails to consider developing the OBSP area as wildlife habitat, or to provide space for those habitats remaining on South Ormond Beach to migrate/retreat inland as sea level rises. The RDEIR should include an alternative that would set aside all of the Southern Area of the ORSP south of Hueneme Road for resource protection, while the area north of Hueneme Road would remain in Agricultural use ("Sierra Club/EDC Alternative"). This alternative could meet all of the properly identified Project objectives, except those associated with providing housing. This alternative is significantly distinguishable from

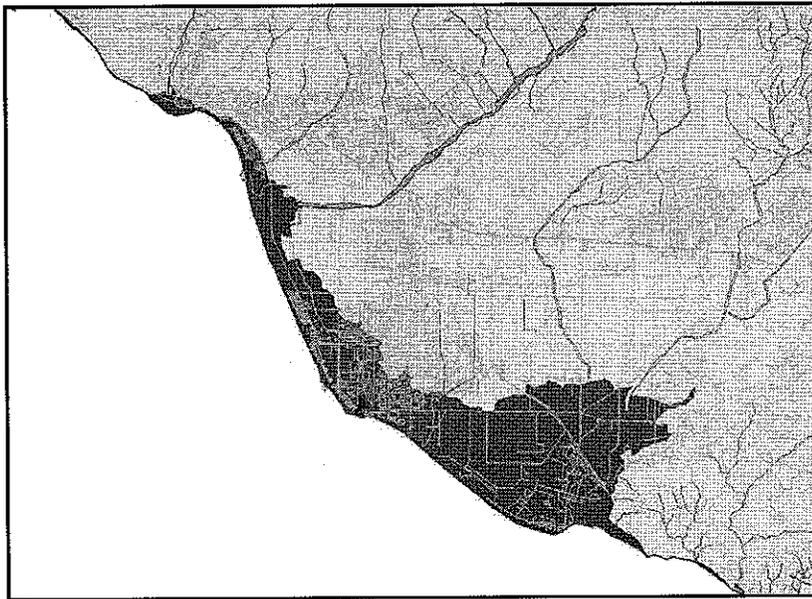
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Alternative 4 of the RDEIR because it provides more acreage in support of resource protection<sup>13</sup>. By eliminating residential and industrial development from the Study Area, this alternative would significantly reduce or avoid most of the Project impacts, especially impacts to the Ormond wetlands. It would meet the enhancement of coastal resource objective by accommodating inland migration of the wetland area against sea level rise, providing a significant area for the restoration of critical upland habitat, and providing a significant buffer from inland development impacts<sup>14</sup>.

(15)

The thick brown line on the map included above represents the 20-foot topographic contour. This line is important because if the icecaps melt and the Greenland Ice Sheet melts, sea level WILL rise at least 20 feet. The map below shows Ventura County and how far inland from existing conditions the shoreline will migrate with a 20-foot rise in sea level. As can be seen, all of Port Hueneme and all of Ormond Beach and Point Mugu will be under the ocean.



(16)

While sea level, even at its most rapidly projected rise, will not likely rise 20 feet in our lifetimes, if the ice sheets melt as described, it WILL rise, and prudent planning by land use planners and elected officials should be planning for the long term, not just for today. Even if the icecaps do not melt as described above, sea level is indeed rising, and even rising 2 to 3 feet will find that much of the southern portion of the OBSP Southern Area and nearly all of South Ormond Beach will be under water. This issue should be addressed in the EIR.

**Out of Kind Mitigation Issue**

The RDEIR suggests that the loss of agricultural lands used for foraging by a long list of wildlife species, primarily birds, can be mitigated by possibly preserving 220 acres of the Southern Subarea, which has been

(17)

<sup>13</sup> Zedler, Joy (Professor of Botany, University of Wisconsin-Madison). 2008. Letter to Kathleen Mallory (City of Oxnard) Re: Ormond Beach Specific Plan Recirculated DEIR, South Ormond Specific Plan And Southshore Specific Plan. Sep 11.

<sup>14</sup> Zedler 2008; California Coastal Commission 2001.

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proposed for wetland restoration. First, it is inappropriate to mitigate the loss of upland foraging habitat with wetland habitat. The proposed "potential" mitigation is also only at 10% of the area impacted. The RDEIR also does not state that the 220 acres would indeed serve as mitigation, only that it might be done in the future, or not. Nothing about this approach to mitigating for the loss of upland foraging habitat is mitigated to a level of less than significant by what has been recommended in the RDEIR.

Normally, habitat losses need to be replaced in-kind, in equal area, or at least equal function. The mitigation proposed does neither. Sometimes, partial mitigation credit is given for direct impacts by preserving similar habitat nearby, in perpetuity. This approach is well established in Sacramento County with the loss of Swainson's Hawk foraging and roosting habitat and for the loss of vernal pool and seasonal wetlands habitat. Similar approaches may be appropriate in the Oxnard Plain area and should have been considered in the EIR. Regardless, what has been proposed leaves 90% of the impact unmitigated, if implemented.

(17)

Thank you for the opportunity to provide comments on the Ormond Beach Specific Plan EIR. I am available to answer any questions you may have.

Sincerely,



David L. Magney  
President

cc: Karen Kraus, Esq., Environmental Defense Center

Attachments: Checklist of Plants of South Ormond Beach  
Resume for David L. Magney

7.18



Plants of South Ormond Beach, Oxnard, Ventura County, California

Scientific Name	Common Name	Growth Habit	Wetland		Family
			Indicator Status	Status	
<i>Abronia maritima</i>	Sticky Sand-verbena, Beach Pancake	PH	.	.	Nyctaginaceae
<i>Ambrosia chamissonis</i>	Beach Bur	PH	.	.	Asteraceae
<i>Ambrosia psilostachya</i> var. <i>californica</i>	Western Ragweed	BH	FAC	.	Asteraceae
<i>Amsinckia menziesii</i> var. <i>intermedia</i>	Rancher's Fire, Common Fiddleneck	AH	.	.	Boraginaceae
<i>Anagallis arvensis</i> *	Scarlet Pimpernel	AH	FAC	.	Primulaceae
<i>Anemopsis californica</i> var. <i>californica</i>	Yerba Manza	PH	OBL	.	Saururaceae
<i>Anthemis cotula</i> *	Mayweed	AH	FACU	.	Asteraceae
<i>Apium graveolens</i> *	Celery	PH	FACW*	.	Apiaceae
<i>Artemisia biennis</i> *	Biennial Wormwood	BH	FAC	.	Asteraceae
<i>Artemisia californica</i>	California Sagebrush	S	.	.	Asteraceae
<i>Arthrocnemum [Salicornia] subterminale</i>	Common Glasswort	S	OBL	.	Chenopodiaceae
<i>Arundo donax</i> *	Giant Reed	PG	FACW	.	Poaceae
<i>Aster subulatus</i> var. <i>ligulatus</i>	Annual Saltmarsh Aster	AH	FACW	.	Asteraceae
<i>Astragalus trichopodus</i> var. <i>lonchus</i>	Three-pod Milkvetch	PH	.	.	Fabaceae
<i>Atriplex californica</i>	California Saltbush	PH/S	FAC	.	Chenopodiaceae
<i>Atriplex lentiformis</i> var. <i>breweri</i>	Brewer's Saltbush or Quail Brush	S	FAC	.	Chenopodiaceae
<i>Atriplex leucophylla</i>	Beach Saltbush or Seascale	PH	FAC*	.	Chenopodiaceae
<i>Atriplex rosea</i>	Rose or Red or Tumbling Orache	AH	FACU	.	Chenopodiaceae
<i>Atriplex semibaccata</i> *	Australian Saltbush	PH	FAC	.	Chenopodiaceae
<i>Atriplex triangularis</i>	Halberd-jeaved Orache	AH	FACW	.	Chenopodiaceae
<i>Avena fatua</i> *	Wild Oat	AG	.	.	Poaceae
<i>Baccharis douglasii</i>	Saltmarsh Baccharis	S	OBL	.	Asteraceae
<i>Baccharis pilularis</i> ssp. <i>consanguinea</i>	Coyote Brush	S	.	.	Asteraceae
<i>Baccharis salicifolia</i>	Mulefat, Seep-willow	S	FACW	.	Asteraceae
<i>Bassia hyssopifolia</i> *	Five-hook, Smother-weed	AH	FAC	.	Chenopodiaceae
<i>Bolboschoenus [Scirpus] maritimus</i> var. <i>paludosus</i>	Saltmarsh Bulrush	PH	OBL	.	Cyperaceae
<i>Bolboschoenus [Scirpus] robustus</i>	Seashore Bulrush	PH	OBL	.	Cyperaceae
<i>Brassica nigra</i> *	Black Mustard	AH	.	.	Brassicaceae
<i>Bromus diandrus</i> *	Ripgut Grass	AG	(FACU-)	.	Poaceae
<i>Bromus hordeaceus</i> *	Soft Chess	AG	FACU-	.	Poaceae
<i>Bromus madritensis</i> ssp. <i>rubens</i> *	Red Brome	AG	NI	.	Poaceae
<i>Cakile maritima</i> *	European Searocket	AH	FACW	.	Brassicaceae
<i>Callistemon viminalis</i> *+	Weeping Bottle Brush	S	(FAC)	.	Myrtaceae
<i>Calystegia soldonella</i>	Beach Morning-glory	PV	.	.	Convolvulaceae
<i>Camissonia cheiranthifolia</i> ssp. <i>suffruticosa</i>	Beach Primrose	PH	.	.	Onagraceae
<i>Carpobrotus chilensis</i> *	Sea Fig	PH/S	.	.	Aizoaceae
<i>Carpobrotus edulis</i> *+	Hottentot Fig	PH/S	.	.	Aizoaceae
<i>Centaurea maculosa</i> *	Spotted Knapweed	BH	.	.	Asteraceae
<i>Centaurea melitensis</i> *	Tocalote	AH	.	.	Asteraceae
<i>Chamaesyce ocellata</i> ssp. <i>ocellata</i>	Littleye Spurge	AH	.	.	Euphorbiaceae
<i>Chamomilla suaveolens</i>	Pineapple Weed	AH	FACU	.	Asteraceae
<i>Chenopodium macrospermum</i> var. <i>halophilum</i> *	Coast Goosefoot	AH	(FACW)	.	Chenopodiaceae
<i>Chenopodium murale</i> *	Nettle-leaved Goosefoot	AH	(FACU)	.	Chenopodiaceae
<i>Conium maculatum</i> *	Poison Hemlock	BH	FACW	.	Apiaceae
<i>Convolvulus arvensis</i> *	Bindweed	PV	.	.	Convolvulaceae
<i>Coryza canadensis</i>	Horseweed	AH	FAC	.	Asteraceae
<i>Cordylanthus maritimus</i> ssp. <i>maritimus</i>	Salt Marsh Bird's Beak	AH	OBL	.	Orobanchaceae



Scientific Name	Common Name	Growth Habit	Wetland		Family
			Indicator Status		
<i>Coreopsis gigantea</i>	Giant Coreopsis	S	.		Asteraceae
<i>Cortedaria jubata</i> *	Andean Pampas Grass	PG	.		Poaceae
<i>Cortedaria selloana</i> *	Pampas Grass	PG	.		Poaceae
<i>Cotula coronopifolia</i> *	Brass Buttons	AH	FACW		Asteraceae
<i>Crassula connata</i>	Pygmy [Sand-] Weed	AH	FAC		Crassulaceae
<i>Cressa truxillensis</i> var. <i>truxillensis</i>	Spreading Alkali-weed	PH	FACW		Convolvulaceae
<i>Croton californicus</i> var. <i>californicus</i>	California Croton	PH	.		Euphorbiaceae
<i>Cuscuta salina</i> var. <i>major</i>	Saltmarsh Dodder	AV	(FACW)		Cuscutaceae
<i>Cynodon dactylon</i> *	Bermuda Grass	PG	FAC		Poaceae
<i>Cyperus eragrostis</i>	Umbrella-sedge	PH	FACW		Cyperaceae
<i>Cytisus scoparius</i> *	Scotch Broom	S	.		Fabaceae
<i>Distichlis spicata</i>	Saltgrass	PG	FACW		Poaceae
<i>Echinochloa crusgalli</i> var. <i>crus-galli</i> *	Barnyard Grass	AG	FACW		Poaceae
<i>Epilobium ciliatum</i> ssp. <i>ciliatum</i>	Northern Willow-herb	AH	FACW		Onagraceae
<i>Eriogonum parvifolium</i> var. <i>paynei</i>	Payne Dune Buckwheat	S	.		Polygonaceae
<i>Eucalyptus globulus</i> var. <i>globulus</i> +	Tasmanian Blue Gum	T	.		Myrtaceae
<i>Euthamia occidentalis</i>	Western Goldenrod	PH	OBL		Asteraceae
<i>Festuca pratensis</i> *	Meadow Fescue	PG	FACU		Poaceae
<i>Foeniculum vulgare</i> *	Sweet Fennel	PH	FACU		Apiaceae
<i>Frankenia salina</i>	Alkali Heath	PH	FACW+		Frankeniaceae
<i>Galium aparine</i>	Catchseed Bedstraw	AH	FACU		Rubiaceae
<i>Gnaphalium palustre</i>	Lowland Cudweed	AH	FACW-		Asteraceae
<i>Heliotropium curassavicum</i>	Alkali Heliotrope	PH	OBL		Hydrophyllaceae
<i>Heterotheca grandiflora</i>	Telegraph Weed	PH	.		Asteraceae
<i>Hirschfeldia incana</i> * [ <i>Erucastrum incanum</i> ]	Summer Mustard	A/BH	.		Brassicaceae
<i>Hordeum murinum</i> ssp. <i>leporinum</i> *	Hare Barley	AG	NI		Poaceae
<i>Isocoma menziesii</i> var. <i>vernonioides</i>	Coastal Goldenbush	S	.		Asteraceae
<i>Jaumea carnosa</i>	Fleshy Jaumea	PH	OBL		Asteraceae
<i>Juncus acutus</i> ssp. <i>leopoldii</i>	Spiny Rush	PH	FACW		Juncaceae
<i>Juncus balticus</i> ssp. <i>balticus</i>	Baltic Rush	PH	OBL		Juncaceae
<i>Juncus bufonius</i> var. <i>congestus</i>	Congested Toad Rush	AH	OBL		Juncaceae
<i>Juncus mexicanus</i>	Mexican Rush, Wiregrass	PH	FACW		Juncaceae
<i>Juncus textilis</i>	Basket Rush	PH	OBL		Juncaceae
<i>Kochia scoparia</i> *	Common Kochia	AH	NI*		Chenopodiaceae
<i>Lamarkia aurea</i> *	Goldentop	AG	.		Poaceae
<i>Lasthenia glabrata</i> ssp. <i>coulteri</i>	Rayless Goldfields	AH	FACW		Asteraceae
<i>Lavatera assurgentiflora</i> ssp. <i>assurgentiflora</i>	Malva Rose, Island Mallow	S	.		Malvaceae
<i>Leymus triticoides</i>	Creeping Ryegrass	PG	FAC+		Poaceae
<i>Limonium californicum</i>	California Sea Lavender	PH	OBL		Plumbaginaceae
<i>Malva parviflora</i> *	Cheeseweed	AH	.		Malvaceae
<i>Matrella leprosa</i>	Alkali-mallow	PH	FAC		Malvaceae
<i>Marrubium vulgare</i> *	White Horehound	S	FAC		Lamiaceae
<i>Medicago polymorpha</i> *	Common Burclover	AH	(FACU)		Fabaceae
<i>Melaleuca densa?</i> *	Bottlebrush Melaleuca	S	(FACU)		Myrtaceae
<i>Melilotus alba</i> *	White Sweetclover	AH	FACU+		Fabaceae
<i>Melilotus indica</i> *	Yellow Sweetclover	AH	FAC		Fabaceae
<i>Mesembryanthemum crystallinum</i> *	Crystalline Ice Plant	AH	(FAC)		Aizoaceae
<i>Mesembryanthemum nodiflorum</i> *	Slenderleaf Ice Plant	AH	FACU		Aizoaceae
<i>Monanthochloa littoralis</i>	Shoregrass	PG	OBL		Poaceae



Scientific Name	Common Name	Growth Habit	Wetland		Family
			Indicator Status		
<i>Myoporum laetum</i> *+	Myoporum, Wax Myrtle	S	(FAC)		Scrophulariaceae
<i>Nicotiana glauca</i> *	Tree Tobacco	S	FAC		Solanaceae
<i>Osteospermum fruticosum</i> *+	Trailing African Daisy	PH	.		Asteraceae
<i>Oxalis pes-caprae</i> *	Bermuda Buttercup	PH	.		Oxalidaceae
<i>Pennisetum clandestinum</i> *	Kikuyu Grass	PG	FACU+		Poaceae
<i>Piptatherum miliaceum</i> *	Smilo Grass	PG	(FACU)		Poaceae
<i>Plantago major</i> *	Broadleaf or Common Plantain	PH	FACW-		Plantaginaceae
<i>Polygonum punctatum</i>	Dotted Smartweed	AH	OBL		Polygonaceae
<i>Polypogon monspeliensis</i> *	Rabbitsfoot Beardgrass	AG	FACW+		Poaceae
<i>Pseudognaphalium stramineum</i> *	Cotton-battling Plant	BH	FAC-		Asteraceae
<i>Raphanus sativus</i> *	Wild Radish	AH	.		Brassicaceae
<i>Ricinus communis</i> *	Castor Bean	S	FACU		Euphorbiaceae
<i>Rumex crispus</i> *	Curly Dock	PH	FACW-		Polygonaceae
<i>Ruppia maritima</i>	Wigeon-grass, Ditch-grass	PH	OBL		Zosteraceae
<i>Salix exigua</i>	Narrow-leaved or Sandbar Willow	S	OBL		Salicaceae
<i>Salsola tragus</i> *	Russian Thistle	AH	FAC		Chenopodiaceae
<i>Sarcocornia pacifica</i> [ <i>Salicornia virginica</i> ]	Pacific Pickleweed or Swampfire	S	OBL		Chenopodiaceae
<i>Schoenoplectus</i> [ <i>Scirpus</i> ] <i>acutus</i> var. <i>occidentalis</i>	Viscid or Common Tule	PG	OBL		Cyperaceae
<i>Schoenoplectus</i> [ <i>Scirpus</i> ] <i>californicus</i>	California Bulrush	PH	OBL		Cyperaceae
<i>Senecio vulgaris</i> *	Common Groundsel	AH	NI*		Asteraceae
<i>Silybum marianum</i> *	Milk Thistle	AH	.		Asteraceae
<i>Sisymbrium altissimum</i> *	Tumble Mustard	AH	FACU		Brassicaceae
<i>Sisymbrium irio</i> *	London Rocket	AH	.		Brassicaceae
<i>Solanum nigrum</i> *	Black Nightshade	AH	FACU		Solanaceae
<i>Sonchus asper</i> *	Prickly Sow-thistle	AH	FAC		Asteraceae
<i>Sonchus oleraceus</i> *	Common Sow-thistle	AH	NI*		Asteraceae
<i>Spergularia marina</i>	Saltmarsh Sandspurry	AH	OBL		Caryophyllaceae
<i>Suaeda moquinii</i>	Bush Seepweed	S	FAC+		Chenopodiaceae
<i>Suaeda taxifolia</i>	California Seablite	S	FACW+		Chenopodiaceae
<i>Tetragonia tetragonioides</i> *	New Zealand Spinach	AH	.		Aizoaceae
<i>Triglochin concinna</i>	Utah Arrow-grass	PH	OBL		Scheuchzeriaceae
<i>Triglochin striata</i>	Three-ribbed Arrow-grass	PG	OBL		Scheuchzeriaceae
<i>Typha domingensis</i>	Narrow-leaved Cattail	PH	OBL		Typhaceae
<i>Urtica dioica</i> ssp. <i>holosericea</i>	Hoary or Giant Creek Nettle	PH	FACW		Urticaceae
<i>Urtica urens</i> *	Dwarf Nettle	AH	(FACU)		Urticaceae
<i>Washingtonia robusta</i> *+	Mexican Fan Palm	T	.		Arecaceae
<i>Xanthium strumarium</i> ssp. <i>canadense</i>	Cocklebur	AH	FAC+		Asteraceae
<i>Yucca baccata</i> *	Spanish Bayonet	S/T	.		Agavaceae
<i>Zantedeschia aethiopica</i> *	Calla Lily	PG	.		Arecaceae

Notes: Scientific nomenclature follows Hickman (1993) and Flora of North America Committee (1998-2007).

Scientific names in bold typeface are rare in Ventura County (<11 populations) or rare statewide.

Common names follow Abrams and Ferris (1960), Neihaus and Ripper (1976), and DeGarmo (1980).

An "\*" indicates non-native species which have become naturalized or persist without cultivation.

A "+ " indicates ornamental or agricultural plant species that are actively cultivated.

Growth habit definitions:

AG = annual grass or graminoid/monocot.

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Scientific Name	Common Name	Growth Habit	Wetland Indicator Status	Family
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- AH = annual herb.
- AV = annual vine.
- BH = biennial herb.
- PG = perennial grass or graminoid/monocot.
- PH = perennial herb.
- PV = perennial vine.
- S = shrub.
- T = tree.

Wetland indicator status (Reed 1988): OBL = obligate wetland species, occurs almost always in wetlands (>99% probability).  
 FACW = facultative wetland species, usually found in wetlands (67-99% probability).  
 FAC = facultative species, equally likely to occur in wetlands or nonwetlands (34-67% probability).  
 FACU = facultative upland species, usually occur in nonwetlands (67-99% probability).  
 + or - symbols are modifiers that indicate greater or lesser affinity for wetland habitats.  
 NI = no indicator has been assigned due to a lack of information to determine indicator status.  
 \* = a tentative assignment to that indicator status by Reed (1988).  
 A period "." indicates that no wetland indicator status has been given in Reed (1988).  
 Parentheses around an indicator status indicates the wetland status as suggested by David Magney based on extensive field observations.

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# Resume

## David Magney Environmental Consulting

### David L. Magney

President, Biologist/Botanist, Wetland Scientist, Certified Arborist

- EDUCATION:** B.A. Environmental Studies and Geography (emphasis is botany, cartography, and remote sensing), University of California at Santa Barbara, 1985.  
A.S. Landscape Horticulture and Certificate of Completion in Natural Resources, Ventura College, 1975.
- CERTIFICATIONS:** Approved Biologist: Los Angeles County Regional Planning Department, Sensitive Ecological Areas  
Approved Biologist: Ventura County Planning Division  
Approved Biologist: Santa Barbara County Planning Department  
Certified Arborist: International Society of Arboriculture (certification #WE-7674A)
- TRAINING:** Hydrogeomorphic Assessment of Wetland Function training course: National Wetland Science Training Cooperative, 1996.  
Hydrogeomorphic Approach to Assessment of Functions of Waters of the U.S., Including Wetlands, in the Santa Margarita Watershed. National Wetland Science Training Cooperative, 1997.  
Wetland Delineation, Federal Wetland Policy: Wetland Training Institute, 1989, 1991.  
Desert Tortoise Handling and Surveying: trained by Desert Tortoise Council (John Weir), 1988.  
Hazardous Waste Health and Safety Monitoring Training: Dames & Moore, 1987.  
ArcView 3 (GIS) training: Geo InSight International, 1998.  
Vegetation Rapid Assessment Classification: California Native Plant Society, 2003.  
Successful CEQA Compliance 2005: Ron Bass, for Ventura County Resource Management Agency, 16 June 2005. CEQA = California Environmental Quality Act.  
California Red-legged Frog Survey Methods: Vince Semonsen 2005.  
The Wildlife Society San Joaquin Valley Chapter workshop: Habitat Conservation Planning, 1992.  
American Association for the Advancement of Science symposium: Vernal Pools, 1989.  
Professional Soil Scientists of California workshop: Field Identification of Hydric Soils, 1989.  
SPOT Image Corporation: Satellite Imagery and GIS training course, 1995.  
Jones & Stokes Associates workshops: Project Management Seminars, 1990-92, Hydric Soils, 1991, 1992; Clean Water Act Regulations Concerning Wetlands (1989), and CEQA Requirements and Document Preparation, 1993, 1990, 1989; WordPerfect, Lotus 1-2-3 and Allways, Microsoft Word, Excel, ArcView, and GRASS software programs.  
Project Management Training: Dames & Moore seminar, 1988.  
California Agricultural Pest Control Adviser's License, 1975-77 (expired).
- QUALIFICATIONS AND EXPERIENCE:** Mr. Magney, President of David Magney Environmental Consulting, has over 30 years experience in biological studies and 20 years in environmental consulting. He has managed projects focusing on large-scale habitat classification and mapping, wetlands inventory and restoration planning, and water reuse and diversion that affect wetland habitats (palustrine, riverine, and estuarine) containing Southern Steelhead Trout, Tidewater Goby, Unarmored Threespine Stickleback, California Red-legged Frog, Southwestern Pond Turtle, Desert Tortoise, Giant Garter Snake, Blunt-nosed Leopard Lizard, San Diego Horned Toad, Snowy Plover, California Least Tern, Least Bell's Vireo, California Gnatcatcher, Burrowing Owl, San Joaquin Kit Fox, San Joaquin Antelope Squirrel, Mojave Ground Squirrel, Giant Kangaroo Rat, Tipton's Kangaroo Rat, Stephen's Kangaroo Rat, Los Angeles Pocket Mouse, fairy shrimp, as well as numerous special-status plant species. Mr. Magney also managed special-status species surveys in the Four Corners Region, Great Valley, Sierra Nevada, the California Central Coast, Southern California, and on Santa Cruz Island.  
Mr. Magney has prepared and reviewed biological resources sections of Environmental Impact Statements (EIS) and Environmental Assessments (EA) prepared pursuant to the National Environmental Policy Act (NEPA). He managed the botanical resources section for a programmatic EIS on the Central Valley Project Improvement Act of 1990, which included a project area covering most of California; EAs for Fort Hunter Liggett, Camp Roberts, a drilling project in the Los Padres National Forest (LPNF), off-highway vehicle trails in the LPNF, and the Santa Cruz Island Acoustic Range Facility (a former Navy facility).

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# Resume

## David Magney Environmental Consulting

### David L. Magney

President, Biologist/Botanist, Wetland Scientist, Certified Arborist

**QUALIFICATIONS  
AND EXPERIENCE  
(continued):**

Mr. Magney has prepared and managed biological resources sections of Environmental Impact Reports (EIRs) and Initial Studies (IS) pursuant to the CEQA for numerous projects in California. He has prepared EIRs for: general plans for the Cities of Lodi and Fairfield; the San Joaquin North County Landfill; a water main extension for Newhall County Water District, the Bridle Ridge Development in Santa Barbara County, and the Lyons Canyon Ranch development in Newhall for Los Angeles County Regional Planning. Mr. Magney has prepared numerous Initial Studies on biological resources for the Ventura County Planning Division since 1995. He has critically reviewed numerous CEQA documents since 1982, including Ventura Regional Sanitation District's EIR for the Toland Road Landfill on behalf of Ventura County Planning, and an EIR on a landfill project in Orange County for a neighboring city.

Mr. Magney has worked on watershed management plans, such as for the Calleguas Creek watershed in eastern Ventura County, focusing on upland and wetland habitat functions, characterizing habitat conditions, and developing restoration and management strategies to restore or enhance impacted functions. He recently completed a characterization and analysis of the urban streams within the City of Ojai.

Mr. Magney has served as an expert witness in Federal and California state courts. He was the U.S. Department of Justice's expert witness botanist on the EPA vs. Adam Bros. et al. wetlands (Clean Water Act) violation case (Los Angeles District Court). He served as wetlands/environmental expert witness for the Old Creek Ranch vs. Robert Watson (Ventura County Superior Court) on a property damages liability lawsuit. Both cases were settled prior to trial in DMEC's client's favor.

Mr. Magney has interpreted and processed satellite and aerial imagery (Landsat, SPOT, SAR, and color and IR aerial photography) using GRASS, ARC/INFO, and ERDAS Imagine software for large-scale projects: all of California to support an EIS for the Central Valley Project Improvement Act of 1992, natural vegetation of the Calleguas Creek watershed (in Ventura County) for the USFWS, Camp Pendleton Marine Corps Base, endangered species habitats within the Contra Costa Water District interim service area, central Ventura County for Unocal, the Ventura River for the Matilija Dam Removal Project, pipeline projects in coastal Ecuador and Mississippi to Alabama, and an impact evaluation for an oil-related project in Amazonian Ecuador. He has used satellite imagery to map vegetation/land cover for the Great Basin as part of a transmission line routing study.

Mr. Magney has managed oak tree assessment projects in California, including for the Lyons Canyon Ranch development in Newhall, creating a unique and robust GIS database and maps of all assessed oak trees, working closely with Certified Arborists.

Mr. Magney has been involved with a wide variety of projects including studies for oil/gas facilities, dams, residential and commercial developments, transportation facilities, landfills, sand and gravel mining operations, off-highway vehicle trails, and electrical/communications transmission lines. He has studied botanical and zoological resources, classified and mapped vegetation, delineated jurisdictional wetlands and waters of the United States, identified opportunities and constraints for land development, conducted initial studies and investigations for projects requiring CEQA and NEPA documentation, and prepared Natural Environmental Studies for Caltrans. Mr. Magney has extensive experience in wetlands, developing mitigation and restoration plans for coastal, riparian, and vernal pool wetlands.

Mr. Magney has conducted water quality sampling and monitoring for several projects to establish baseline conditions and conduct construction and post-construction monitoring, such as for Exxon's Las Flores refinery in Corral Canyon, Santa Barbara County. He has developed and implemented water quality controls for use during project construction and mitigation implementation. Mr. Magney is developing a water quality field sampling educational program for the Ojai Unified School District, including purchasing of field sampling equipment.

Mr. Magney is conducting extensive research on the flora of Ventura County, California, which will be published as A Flora of Ventura County, California, with an expected publication date in late 2007. This project was started in earnest in 1982 and includes original research and research on collections made by other botanists over the past century.

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## Resume

## David Magney Environmental Consulting

### David L. Magney

President, Biologist/Botanist, Wetland Scientist, Certified Arborist

#### QUALIFICATIONS AND EXPERIENCE (continued):

Prior to establishing David Magney Environmental Consulting, Mr. Magney worked as Senior Program Manager for Natural Resources at Fugro West, Inc. from 1995 to 1997; as a Senior Botanist for Jones & Stokes Associates, Inc., of Sacramento, California, from 1989 to 1995 where he worked on and managed projects with major biological or regulatory compliance components; and prior to 1989, and as the Botanist for Dames & Moore at their Santa Barbara office. He has also worked with the U.S. Forest Service, Los Padres National Forest, as a GS-9 Botanist (temporary) and on a voluntary basis, and as a Research Associate with the UC Santa Barbara Herbarium. Mr. Magney formerly owned and operated the Ojai Wilderness Institute.

#### PROFESSIONAL AFFILIATIONS:

American Society of Plant Taxonomists  
American Bryological and Lichenological Society  
AnacapaGIS, co-founder  
Association of State Wetland Scientists  
California Botanical Society  
California Lichen Society, Conservation Committee  
California Native Plant Society (Board Member 2002-2007, VP Conservation 1996; VP Legislation 1995; President 1991-1994; Chairman Wetlands Conservation Committee; Channel Islands Chapter President 2004-2007)  
Channel Islands Regional Geographic Information Systems, charter board member, past Chairman

International Society for Arboriculture (ISA)  
Native Plant Coalition, founder  
Northern California Botanists  
Sespe Institute, cofounder and vice president  
Society for Ecological Restoration  
Society of Wetland Scientists  
Southern California Botanists  
Santa Barbara Botanic Garden

#### PUBLICATIONS:

Magney, David L. in ed. *A Flora of Ventura County*. David Magney Environmental Consulting, Ojai, California.  
Magney, David L. in ed. *Vascular Flora of Ventura County, California*. Submitted to *Madroño*.  
Magney, David L. in ed. *A Comparison of Swedish and American Wetland Protection Laws*.  
Chattin, L., L. Rubin, and D. Magney. 2006. *A Winning Combination: Local Land-use Planning and Fine-scale Vegetation Maps*. *Fremontia* 34:3(9-13).  
Knudsen, K., and D.L. Magney. 2006. *Rare Lichen Habitats and Rare Lichen Species of Ventura County, California*. January 2006. *Opuscula Philolichenum* 3:49-52.  
Magney, David L. 2004. *How Common Are Mistletoes Anyway?* *Crossosoma* 30:1  
Magney, David L., and K.G. Niessen. 2005. *Oak Tree Data Assessment Solutions Using GIS*. 9 May 2005. David Magney Environmental Consulting, Ojai, California. Presented to ESRI ArcView User's Group, Ventura College, California.  
Magney, David L. 2005. *Atlas of California Native Terrestrial Snails in Ventura County*. 16 March 2005. David Magney Environmental Consulting, Ojai, California. Prepared for County of Ventura, Resource Management Agency, Planning Division. Ventura, California.  
Magney, David L. 2004. *Checklist of Ventura County Rare Plants*. 15 June 2004. California Native Plant Society, Channel Islands Chapter, Ojai, California. Updated periodically.  
Magney, David L. 2001. *Ventura County Plant Species of Local Concern*. December. California Native Plant Society, Channel Islands Chapter, Ventura, California.  
Magney, David L. 1999. *Preliminary List of Rare California Lichens*. *Bulletin of the California Lichen Society* 6(2):22-27.  
Tupen, Gaylene, and David Magney. 1996. *San Antonio Creek Habitat Characterization Study*. Poster presented at the American Fisheries Society Southern Steelhead Symposium, Ventura, California, March.  
Ferren, Wayne R. Jr., David L. Magney, and Teresa Sholars. 1995. *The Future of California Floristics and Systematics: Collecting Guidelines and Documentation Techniques*. *Madroño* 42(2): 197-210, April-June.

## Resume

## David Magney Environmental Consulting

### David L. Magney

President, Biologist/Botanist, Wetland Scientist, Certified Arborist

#### PUBLICATIONS

(continued):

- Magney, David L. and Emily B. Roberson. 1995. CNPS Statement on Seeding Following Wildfire. In *Brushfires in California: Ecology and Resource Management* (conference proceedings). International Association of Wildland Fire, Fairfield, Washington.
- Clark, George M., and David L. Magney. 1994. Vascular Plants of Bear Valley, Walker Ridge, and Surrounding Areas, Colusa and Lake Counties, California. *Four Seasons* 9(4):25-32.
- Magney, D.L., and K.M. Bogdan. 1993. What are ARNIs? *National Wetlands Newsletter* 15(3):4-5, May/June.
- Magney, D.L. 1993. Focus On Vernal Pools. *National Wetlands Newsletter* 15(3):6, May/June.
- Magney, D.L. 1993. Faults with Growing Season Determinations Using the U.S. Army Corps of Engineers Wetlands Delineation Manual. In *Riparian Management: Common Threads and Shared Interests* - Proceedings of a Conference, February 4-6, 1993; Water Resources Research Center, Albuquerque, New Mexico; College of Agriculture, University of Arizona, Tucson.
- Magney, D.L. 1992. Descriptions of Three New Southern California Vegetation Types: Southern Cactus Scrub, Southern Coastal Needlegrass Grassland, and Scalebroom Scrub. *Crossosoma* 18(1):1-9, June.
- Ferren, W., M. Capelli, A. Parikh, D. Magney, K. Clark, and J.R. Haller. 1990. *Botanical Resources at Emma Wood State Beach and the Ventura River Estuary, California: Inventory and Management*. (Herbarium Environmental Report No. 15.) University of California, Santa Barbara.
- Magney, David L. 1988. Habitat Survey for California Jewelflower *Caulanthus californicus* (S. Watson) Payson in the Los Padres National Forest. Ojai Wilderness Institute, Ojai, California. Prepared for U.S. Forest Service, Los Padres National Forest, Supervisor's office, Goleta, California, August 3.
- Magney, David L. 1988. Analysis of water quality of an intermittent stream, Santa Barbara County, California. (Presented as a poster at the California Riparian Systems Conference), Davis, California, September.
- Magney, David L. 1987. Distribution and Two New Populations of *Boschniakia strobilacea* (Orobanchaceae). *Madroño* 34(4):379-380.
- Olson, T., and David L. Magney. 1987. Distribution of Sensitive Plant and Wildlife Species Along Transmission Line Corridors in Southwestern San Joaquin Valley, California. In *Endangered and Sensitive Species of the San Joaquin Valley, California*, (proceedings of a conference) Contribution 36, December 10-11, California State College, Bakersfield.
- Ferren, W., and D. Magney. 1986. Wetland Vegetation of the Proposed Mandalay Beach State Park. Campbell & Campbell Associates, Santa Monica, California.
- Magney, David L. 1986. *A Flora of Dry Lakes Ridge, Ventura County, California*. (Herbarium Publication No. 5.) University of California, Santa Barbara.
- Magney, D.L. 1982. A History of Pine Mountain Lodge. Ojai, California.  
<http://www.magney.org/photofiles/PineMtnRegion1.htm>.

#### AWARDS AND GRANTS:

- California Native Plant Society - 1985, grant to conduct research on the flora of Ventura County, California.
- Swedish-American Bicentennial Fund - 1995, grant from Swedish government to conduct research on a comparison of American and Swedish wetland protection laws and how they are applied.

#### COMMITTEES:

- Caltrans Environmental Advisory Committee member, since 1991; also a panelist for Caltrans Mid-Level Managers training workshops.
- Caltrans California WILD (Wildflowers in Landscape Design) steering committee member.
- U.S. Army Corps of Engineers Regional Assessment Team "A-Team" vernal pool expert for developing Hydrogeomorphic Model for Vernal Pool Wetlands, an inter-agency task force for the National Plan to implement the Hydrogeomorphic Approach for assessing wetland functions, 1995-1996.
- Calleguas Creek Watershed Management Plan Committee member, since 1996. Habitat and Recreation Subcommittee and Scientific Advisory Group member.
- Sespe Institute, nonprofit California Corp.
- California Lichen Society, Conservation Committee

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## Resume

David Magney Environmental Consulting

### David L. Magney

President, Biologist/Botanist, Wetland Scientist, Certified Arborist

**COMMITTEES  
(continued):**

California Native Plant Society, Rare Plant Program Committee, since 2000; Local Flora Committee, Vegetation Committee, Policy Committee.  
Channel Islands Regional Geographic Information Systems Collaborative (CIRGIS), charter member since 2000, Incorporator, Chairman for 2002-2003, Board of Directors 2004-2007.  
East Merced County NCCP, Habitat & Biological Resources Committee, 2002-2005.  
Ventura County Planning Division, Sensitive Biological Resources Committee, 2003-2007.  
City of Ojai, Tree Committee, since 2005.  
Los Angeles County Regional Planning, Environmental Review Board, member since August 2006.  
Ventura River Watershed Planning Committee, member since 2005

**LETTER I.19 BILL MILEY**

**Commentor:** Bill Miley (09-19-08)

**Response**

1. **South Ormond SP Premise is Flawed:** As stated within the comment letter, the commentor's observations are based on conjecture concerning the genesis of the plan proposed for the Southern Subarea. Therefore, the analysis and conclusions contained in this section are sufficient.
2. **Unofficial Proposed Zoning:** The commentor states that the zoning for the Southern Subarea will have to be changed. This is true and the project includes a request for such a rezone.
3. **State Coastal Conservancy Restoration Plan:** The State Coastal Conservancy (SCC) has not published a wetland restoration plan. Thus, the City is not in a position to evaluate the consistency of the proposed specific plan with the SCC's efforts. Also, the 750 acre requirement that is cited in the RDEIR originates from the SCC, not the City, the applicant, or the City's consultants.
4. **Impact Water-10:** The RDEIR's findings are based on an extensive analysis of a broad variety water supply and demand factors.
5. **Impact Ag-7:** The RDEIR's analysis includes a clear explanation of its findings with respect to agricultural land impacts. The commentor simply disagrees with those findings.
6. **Visual Impacts:** The RDEIR's analyses of visual impacts are consistent with the City's established thresholds and adopted City policy concerning scenic resources. Thus, no revision to the RDEIR is warranted.
7. **Foraging Habitat Mitigation:** The City continues to support the mitigation ratio recommended in the EIR. As the RDEIR explains, the basis for the 0.1 to 1.0 mitigation requirement is the marginal habitat value of the highly developed agricultural lands in the Study Area.
8. **Biological Survey:** The RDEIR relies on a long history of research conducted within the Study Area and adjacent areas. The field survey conducted by the City's consultants was intended to confirm the extensive body of research and studies upon which the RDEIR's evaluation is based, as cited in the document. It is not represented in the RDEIR as a

comprehensive assessment, but rather as a means to validate the accuracy of the baseline information that has been gathered through at least 20 years of independent evaluation.

9. **General Plan Consistency:** The commentor accurately cites the CEQA Guidelines requirement that EIRs discuss inconsistencies between a project and applicable plans. CEQA does not require a point-by-point defense of project consistency; rather, it seeks cases where the project clearly conflicts with adopted plans. Per the City's adopted thresholds, the Land Use and Planning analysis in EIR (Section 3.7) relies heavily on a comparison of the uses proposed in the specific plans with the General Plan land use map, as well as a review of consistency with General Plan land use policies. As that analysis indicates, there are no substantial conflicts or inconsistencies. For the subject matter covered by the Open Space/Conservation Element, the RDEIR includes discrete impact discussions elsewhere in the document that are keyed to the City's thresholds. In cases where these thresholds are tied to the General Plan land use map or policies, those discussions cite the appropriate General Plan section (e.g., Visual/Aesthetic Resources analysis relies on policy statements from the Open Space/Conservation Element).
10. **Consistency with Land Use Map:** The commentor's observations are not substantiated by fact regarding the genesis of the plan proposed for the Southern Subarea.
11. **Consistency with Zoning:** The commentor appears to misunderstand the relationship between the City's General Plan and the County's zoning. The Study Area has been designated for urban uses in the City's General Plan since 1990. Upon annexation, which is proposed as part of the plan, the land will be zoned consistent with the proposed project and specific plan. At that point, land use jurisdiction will pass from the County to the City, which has been anticipated since the area was included within the City's sphere of influence.
12. **Visual Character:** See response to comment #6.
13. **Noise Impacts on Wildlife:** Comments noted. The City understands that some wildlife species may be sensitive. The RDEIR analysis concludes that the projects as proposed will not result in any noise-related impacts to wildlife species.
14. **Nighttime Light and Glare:** Any businesses operating in the Southern Subarea will have to comply with City development standards and regulations related to lighting, as well as the provisions of the South Ormond Beach Specific Plan, including those related to control of light and glare.

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**From:** WDMiley@aol.com  
**Sent:** Friday, September 19, 2008 2:26 PM  
**To:** kathleen.mallory@ci.oxnard.ca.us  
**Subject:** DEIR 05-03 COMMENTS  
9/19/08

TO: KATHLEEN MALLORY, PROJECT PLANNER  
CITY OF OXNARD PLANNING DIVISION  
214 S. C STREET, OXNARD, CA 93030  
(kathleen.mallory@ci.oxnard.ca.us)

FROM: BILL MILEY, SAVIERS ROAD DESIGN TEAM MEMBER  
(personal address) 919 NO. SIGNAL STREET, OJAI 93023  
(wdmiley@aol.com)

SUBJECT: RECIRCULATED DEIR NO. 05-03 NORTH AND SOUTH ORMOND BEACH (SCH # 2005091094) --  
COMMENTS FOCUS ON THE SOUTH ORMOND BEACH SPECIFIC PLAN--There are two sections to this DEIR letter (First) The relationship to the 2020 General Plan, and (Second) specific comments and challenges to the DEIR Elements. (There are 9 pages to this letter)

**Major challenge to this DEIR:** The principal theme in this comment about the Draft Environmental Impact Report, is that its premise is based on the 2020 General Plan zoning and land use elements which clearly do not reflect the stated objectives in the South Ormond Beach Specific Plan.

My Opinion: The foundation for this DEIR is flawed as the 2020 general plan calls for residential zoning south of hueneme road between Edison Road and Arnold, and ATERNATIVE #4 CONSERVATION failed to examine the value created for a Nature Resource environment (which the county government lists) from the almost completed Aspen Resoration Plan by the Coastal Conservancy.

**THE BEST CHOICE IS:**  
ES - 15 ALTERNATE 4 - CONSERVATION ALTERNATIVE.

This is the smart choice for the future of Onxard. It protects a viable wetland which will be enjoyed for centuries by our citizens and visitors to our city. It will maintain the natural environment which God created and enrich it protecting it from damage. Environmental tourism and folks "visiting" the natural environment for those interested in economics is a big business and renewable (year after year). Where as a business and industrial park is will only generate what it can produce and over time will "wear and tear" and be at the mercy of the world economy. No unending value here.

Yet this DEIR does its evaluation on a crafting of the specific plan to zone that same area as Light Industrial and Business-Research Park on the assumption the General Plan will be (is to be) amended. This has not been approved by either the Planning Commission or the City Council. Yet it is being presented as almost an accomplished fact as part of the plan document.

**My conclusion: IT IS IMPORTANT TO WAIT FOR COMPLETION OF THE ASPEN RESTORATION PLAN BEFORE APPROVING THIS SPECIFIC PLAN.**

**The reasons for my conclusion are:**

**#1. The premise on which the Specific Plan for the South Ormond Beach Area is flawed as it is not based on the current 2020 General Plan. Reasons are below.**

My understanding of how this "light industrial zoning and business research park zoning" and Harbor Overlay Zoning was crafted is this:

a ... In 1990 the original plan for 2020 was developed involving community input, planning commission proceeding and city council actions. Yet the city of Oxnard's population was probably less than 150,000 at that time.

①

I, 19

b ... The 2020 General Plan, with some Amendments and Technical changes formalized in 2004, still exists for a city of probably over 200, 000 people.

c ... Some time within the past 5 years or so, the Community Planning Director and one or more of the owners of that property met informally and talked about what could be done with their property as part of the longer range planning related to the "Ormond Beach Specific Plan" which was to be developed. They decided. (In my opinion is this a major flaw)

d ... Light industrial and business-research park zoning was selected for a variety of reasons, probably because it looked like it would work and the return (\$) on land investment would be good for the owners.

e ... At that time the acquisition and restoration of wetland property by the Coastal Conservancy was a future hope but not a fact. IT IS NOW A FACT 500 OR SO ACRES.

f ... The principle groups working for the wetlands protection are the Environmental Coalition, The Saviers Road Design Team, the Ormond Beach Task Force, and now the Nature Conservancy.

g ... The only official act related to the proposed zone change from Residential to Light Industrial for this area was a "pre-application" information presentation to the City Council in December, of 2003. On which the City Council took no action.

h ... No formal action to place this zone change in the 2020 plan has occurred since. In fact no public hearings have been held. No Planning Commission meeting agendas have dealt with it and no community meetings have occurred.

i ... In fact no public input on the possible rezoning of that land from Residential to something else has taken place.

j ... The DEIR "look" at ALTERNATIVE #4, was brief and limited as the major planning element for this is coming up with the completion of the Aspen Restoration plan for the Coastal Conservancy.

k ... Thus the objectives for the South Ormond Beach Specific Plan are founded on a "non-public, unofficial, and hypothecated zone which in reality should have not been created as the main scheme for this plan.

**#2 The south ormond beach specific plan is build on an "unofficial" proposed zone change from residential to industrial and business, research park and as such has no legitimate reason for existing in it current form. Therefore, it should be acknowledged by the city planning staff that such zoning would need to be officially amended into the general plan before a specific plan document could be legitimate and the basis of an deir.**

**#3. Since this Specific Plan (south) covers the larger area of the Ormond Beach wetlands and the needed buffer and uplands for a viable wetlands THE COASTAL CONSERVANCY'S RESTORATION PLAN being developed by the Aspen company is a key element in this planning process.**

a ... Therefore to do a proper full comprehensive planning and development Specific Plan should wait until the Aspen Plan is complete, presented and adopted by both the Conservancy, local involved community groups, especially the Ormond Beach Task Force and the City's Planning Commission and City Council.

b ... This Restoration Plan will show what is necessary for a viable, reclaimed, restored historical wetlands for the future viability of the area. It may show 750 acres, commonly mentioned but not official stated anywhere, or up to 1000 acres as many believe with buffer and uplands needed for a viable wetlands sustaining itself for the future--forever.

c ... To craft a Zoning Plan now before the completion of the Restoration Plan by the Aspen company, which is probably the most important Natural-Resource Protection Zone area documents is CRAZY-- and may be

①

②

③

considered as lacking foresight and giving some the conclusion that money is driving the completion of this specific plan (in a hurry) in 2007. This could have occurred any time in the past 17 years, but it didn't and it could occur sometime in the next 5 years.

3

**My conclusion and recommendation: The best conclusion would be to find the current crafted plan (DEIR) flawed and inappropriate to the General Plan 2020, and wait for the Aspen Restoration Plan to be finished and accepted and then redo the Ormond south Specific Plan.**

**SECOND SECTION - comments on the specific elements of the revised DEIR.**

**Specific Challenges to the overall DEIR:**

Elements:

ES-71 -- WATER-10 -- Less than significant is your conclusion. How can that be concluded. California is in a long term drought and state wide conservation measures are being reactivated and developed, and this plan says we will find enough water, but go ahead anyway. This is a faulty conclusion. Recently Calleguas Municipal Water declared a reduction in supply based on their allocation. The future for water in California is very questionable.

4

**This should be an Adverse Impact is unmitigatable and should "kill" this project. Water is a prime factor in the plan's "mix". And without specific allocations contacted for, the Plan is severely faulted. If left in agriculture, and water become scarce in the future, stopping the growing, or changing the crop would suffice for lack of water. But with an industrial-business mix shutting off or reducing the water would be disastrous. Planning for future water becomes impossible with Industrial-Business zoning.**

ES-54 -- AG 7 Conversion of prime agricultural land ---Allowing this to be significant and unavoidable is unacceptable.

5

**Oxnard plain was once the breadbasket of row crops for vegetables and some fruits for California and the nation and parts of the world. Moving marginable land to industrial and business would be acceptable but no more Prime Ag. Land. We can eat rows of vegetables and fruits but we can't eat industrial and business buildings.**

ES-86-87 -- AES-5,6,7,8-- (visual character) Loss and change of the visual character is unacceptable. Even in the General Plan 2020, view sheds, corridors and view plains are emphasized as being very valuable for our city. Listed are the Santa Clara River area, the views beyond to the Ventura hills, the coastal edges, the Southern-west shores all along the coast from Mandalay Shores to the Point Mugu area. With Ormond Beach and the south of Hueneme Road being emphasized.

6

**Oxnard city does not need (for the future of a viable enjoyable and nature oriented city) more blocked views of valuable view sheds. Concluding in the DEIR that the Adverse Impact in significant and unavoidable and not mitigable is Unacceptable and should flaw this plan.**

**More and more of the city is being built up. More and more of the land is being covered over. A good example is what is happening to West Wooley Road. What about the need for recreation, parks both active (we have a lot of those) and passive (we have few and need much more- folks like to go to nature areas where they can "lose" themselves by getting away from the "work" world. Oxnard has a chance now to create a world renown passive Beach-Wetlands area by smartly waiting for the Aspen restoration Plan and then redoing the South Ormond Beach area plan to enlarge and establish a Passive Resource Conservation area which will "work" forever.**

7

- ES-65 --BIO -19-- (Direct impacts to Common Wildlife Species...)
- ES-65 --BIO - 20 -- (Direct impacts to special status wildlife....)
- ES-66 --BIO - 22 -- (Direct impacts to...Peregrine Falcon)

The "research" apparently used to craft a Mitigation Plan for birds losing acreage for the nesting and foraging of 0.1 to 1 (lost) for the loss of 375 acres to industrial -business-research building is questionable at best.

**People with credentials in biology and ornithology dispute this ratio and it should be considered a "flawed" element in this plan. Mixed species need space to establish their territory, their nesting and foraging areas. To lose 90% of what they now have and be given by the human species just 10% of a "restored" grassland or dune is BOGUS natural science.**

7

It was sad enough when all of the areas in this plan were converted to sod - a uniform crop which makes it very difficult for natural animals (birds) to continue using that land for foraging.

**This adverse impact is unmitigatable and unacceptable. This is a "crazy" mitigation.**

**If this could be applied to people, we would take 30 single family houses which currently may have 2-5 people living in them and move all thirty "families" into three houses ...a 0.1 to 1 ratio...that is having between 20 to 50 people living in each house. That would create many disasters, physical health, mental health, violence, etc. Not acceptable.**

ES-65--BIO - 19 ( ...Foraging and Nesting birds.) So the mitigation activity for protecting nesting birds protected by the Migratory Bird Treaty Act will occur 45 to 20 day prior to any construction in the to be developed zone. And that activity done once is to protect any nesting birds during the period February through July.

**One survey, not good enough. The survey should be done every so many weeks during the entire nesting time one year prior to any construction. Then the EIR will really know what is going on. But, to add to the challenge of this element as being "less than significant", there is no mitigation plan shown if indeed nests are found and where and how many and how long occupied.**

8

Direct impacts to common wildlife species. Displacement/mortality of wildlife) "Less than significant with no mitigation"

NOT ACCEPTABLE. This seems to say -- TOO BAD, THATS SAD, BUT IT JUST WHAT ISI - AND BUILDINGS AND MORE PAVEMENT ARE MORE IMPORTANT THAT ANIMALS AND BIRDS. IT IS OK TO MOVE THE BIRDS OUT AND WHAT HAPPENS TO THEM IS "THE LUCK OF THE DRAW." FOR WE ARE NOT GOING TO DO ANYTHING ABOUT THAT EXCEPT GIVE THEM 1/10 OF THE LAND WE TAKE AWAY. ALSO WE DON'T CARE THAT EVEN IN ADJACENT AREAS BIRDS MAY GET DISTURBED AND SUFFER MORTALITY.

**WHAT KIND OF AN ADVERSE IMPACT STATEMENT IS THAT...NO MITIGATION AND WE DON'T CARE. NOT ACCEPTABLE AND FLAWED.**

ES - 76 -- LAND -1 -- (Consistency with General Plan Land Use Policy) What is going on here? The fact that this element has "no mitigation required" and the impact of the industrial development along with business and research park structures is "less than significant" boggles one's mind.

**There is no reference to the importance of coastal areas for natural scenic resources (and passive park-resource protection areas) in this impact statement. It fall short by miles and is not acceptable and flawed.**

9

What about the OPEN SPACE section in the 2020 General Plan which states:

"The city has three major natural scenic resources: beaches and coastline, inland resource areas, and agricultural areas.... **The beaches and coastline are recognized as Oxnard's primary natural scenic resource. (bold type is this author)** They provide unique views to the offshore Channel Islands and include coastal sand dune land forms south of 5th street, south of wooley road and in the Mandalay Beach State Park area. **...The Ormond Beach dune and wetlands are largely undeveloped with poor access, but they constitute a major scenic resource within the City.** (bold and underlines are from this author) ...The need to preserve and enhance existing open space while providing for the needs of increased population is covered in detail in the open space/conservation element." (end quote)

ES -76 --LAND - 2 -- (Consistent with General Plan Land Use Map) The south Ormond Beach area plan was crafted outside of the public sphere by the Community Development Director and several land owners with some

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information "leaking" out from time to time.

There was no official public input or opportunity to influence it. The zoning for the industrial park and business and research park doesn't even exist now and is proposed. It was proposed years ago, long before the Conservancy bought 500+ acres of wetland and the Aspen Restoration study was started.

**This element can't be consistent with the General Plan. Just because in the Proposal there is a request to amend the General Plan to make the zoning industrial-business research and open space doesn't make the need for mitigation for adverse impact unnecessary (which even the DEIR states there are 4-5 class I impacts)**

10

ES - 77 -- LAND -3 --(Consistency with zoning ordinance and Map) The county's zoning for that area is C-R which seems to show that the county planning department and Board of Supervisors and planning commission and participating citizens value that land for what it is zoned for. As it abuts the coastal zone and all those good elements which make up dunes, shores, lagoons, other wetlands areas and its overall value to this natural resource area. The planned zoning by the city planning director and this Proposed specific plan doesn't make the potential adverse impacts to making the zoning changes "less than significant".

11

**To change a county zone of C-R to M-1, BRP and some CR is significant and has adverse impacts. This Land -3 Mitigation Summary of "none required" and "less than significant" is unacceptable and flawed. The county planning dept. and planning commission with public hearing should be included in the comments.**

ES 85 -- Noise 1,2,3

ES 55 -- AES - 9 (Visual Character) Adverse: this is unacceptable. **This is unacceptable for a view shed which is unbeatable (pacific ocean and its shoreline and interior wetlands). This impact element is unacceptable and flawed. There needs to be onsite testing of the height issue using poles and tapes like is done on other sensitive projects which may block views and create "bad" view spaces.** Very few cities have long and short distance ocean views. Oxnard does and proposes to block some of that the industrial and business structures. Bad policy, bad policy and bad future. This is a nature resource and should be kept for all in the years to come. It has strong economic value.

12

ES - 86 - AES -5,6,7,8 - (Scenic Vistas - Roads ) What's this about no mitigation necessary as the Residual Impact is "less than significant". This statement is saying that a 55 foot height limits will not block certain if not major viewing from Hueneme road and the other east west roads. If the zoning allows for 55 feet we will get 55 feet in some places to occur sometime in the next 20 years we are told.

**This is unacceptable for a view shed which is unbeatable (pacific ocean and its shoreline and interior wetlands). This impact element is unacceptable and flawed. There needs to be onsite testing of the height issue using poles and tapes like is done on other sensitive projects which may block views and create "bad" view spaces.**

ES 69 , 85- NOISE 3.11 - NOISE 4, 5,6. (missing an important element: anthropogenic noises to wildlife biology) The less than significant conclusion on both the traffic and industrial generated noise and highway traffic misses the overriding point of anthropogenic noise bearing over the wetland as the air flow direction changes. This can be significant. Please see references below documenting impact of such noise on animals.

(source: "NOISE POLLUTION AND BIRD SONG" BY David Bird, BIRD WATCHER DIGEST.COM)

**ENVIRONMENT AND VOCALIZATION**

First, some background on how a bird's environment can affect its vocal signals. Basically, ambient noises, especially those with similar frequencies, can significantly mask a bird's song, affecting such aspects as its amplitude, frequency, rhythm, timbre, and call band-width. Burgeoning human populations have led to increasing urbanization, presenting "evolutionarily novel acoustic environments for many birds worldwide."

In short, this is an important issue and we have only recently begun to pay attention to it. Clear song transmission is critical to most birds because their reproductive success may depend on it. Song is important in resolving conflicts between males, allowing them to maintain their territories and repel intruders. Moreover, the quality of song learning in males and song repertoire size have both been positively correlated with female preferences when choosing a mate."

SOURCE: GAIL L. PATRICELLI, JESSICA BLICKLEY, DIANE BLACKWOOD GAIL L. PATRICELLI, JESSICA BLICKLEY, DIANE BLACKWOOD, UC Davis Research

13

Section of Evolution and Ecology, Section of Evolution and Ecology, GPatricelli@ucdavis.eduGPatricelli@ucdavis.edu

**This research found that Sound is used by birds for:**

- Parent-offspring recognition
- Social group coordination
- Predator alerting
- Establishing territories
- Finding mates

13

My conclusion: (THIS RESEARCH SHOWS THAT THE FOLLOWING FUNCTIONS THAT BIRDS USE FOR BEHAVIORAL PURPOSES, WHEN ANTHROPROGENIC ("MAN MADE SOUNDS) SOURCES INTERFERES AND DISTURBS THE BIRDS BEHAVIOR AND BIOLOGY. INDUSTRIAL, BUSINESS AND OTHER INDUSTRIES CLOSE TO A WETLAND WILL DO THIS ESPECIALLY WITH A OFF-SHORE AIR FLOW.)

ES-87 - 3.13 AES - 11 -- (Nighttime light and Glare) There will be significant nighttime light and glare from the industrial and bus park. Especially on those nights with fog. Lighting from an industrial and business park will certainly spill over. **This element needs to be reworked. It is well established with animals (as well as people) that each has its own 24 hours day and night species behavior and with spill-over light going into adjacent areas the 24 hours clocks of some if not all animals will be disturbed and their special survival questioned in that area. There are significant impacts and mitigation measures need to be stated and defended. This element is unacceptable and flawed.**

**\*\*\*\*\*Here is some evidence questioning the less than significant impact**

Artificial night lighting.

(source: Audubon author, website: <http://magazine.audubon.org/darksideoflight.html>)

The proliferation of artificial lighting threatens wildlife, ruins habitat, fouls the air, squanders resources, and blocks our view of the heavens. No wonder the pervasive problem has come to be called light pollution. The hundreds of species of migrating birds that fly after the sun sets, including most songbirds and many shorebirds, are prime examples. Normally they rely on constellations to guide them during their twice-yearly migrations. But scientists speculate that when they fly near urban areas, the bright lights short-circuit their steering sense. Numerous reports have documented birds flying off course toward lights on buildings, towers, lighthouses, even boats. "Both birds and insects demonstrate positive phototaxis," says Sidney Gauthreaux, a Clemson University biologist. "To put it simply, birds are attracted to light much like moths are to a flame. But the reasons are unclear. They may use it as a reference and home in on it." When birds suddenly reach the light's source, they often seem to become confused or blinded by the glare, which can be disastrous.

Birds may slam into windows, walls, floodlights, or even the ground.

The British Astronomical Association (BAA)(<http://www.britastro.org/dark-skies/about.htm?10>)

"Lights attract and disorientate animals...." "In a light polluted site, birds are continuous chirping throughout the night, in anticipation of a dawn that will not arrive for many hours. This seriously disrupts their sleep patterns, preventing them from resting." "Most songbirds evolved to migrate at night, when predators retire and winds subside. Lighting increases the mortality rate of wild birds, via fatal collisions with illuminated buildings (see the Fatal Light Awareness Program website)." "Insects are also detrimentally affected by bad lighting. Lights attract insects which are destined to be either killed instantly with the heat of the bulb, or to circle the light until they are too exhausted either to feed or procreate."

National Geographic Today

April 17, 2003

"Light pollution—the luminous orange glow that haloes cities and suburbs—threatens wildlife by disrupting biological rhythms and otherwise interfering with the behavior of nocturnal animals, new research shows. Now a movement is under way to turn off the lights, or at least turn them down, for the sake of all creatures that frequent the night." "Artificial lighting seems to be taking the largest toll on bird populations. Nocturnal birds use the moon and stars for navigation during their bi-annual migrations."

\*\*\*\*\*THE END \*\*\*\*\*

14

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(<http://www.walletpop.com/?NCID=emlcntuswall00000001>)

**LETTER I.20    PATRICIA MUNRO**

**Commentor:** Patricia Munro (09-22-08)

**Response**

1. **Public Facilities-Fire Station:** The commentor states that the applicant's contribution to the cost of a new fire station should be paid earlier (at 100 units, rather than 1,250). The applicant's Development Agreement calls for the contribution of \$2,000,000 to fund a new fire station upon issuance of the 750<sup>th</sup> building permit.
2. **Mitigation Bio-2:** The City continues to support the mitigation ratio recommended in the RDEIR. The calculation of the mitigation contribution associated with the development of the Southern Subarea has, however, been modified. The equation used to determine the contribution no longer credits the Southern Subarea applicant for not developing the southernmost 220 acres of the Study Area, so the requirement for the Southern Subarea is no longer 15.5 acres. Also, the mitigation measure calls for the applicants to contribute funding that would go to a suitable conservation organization or combination of organizations to implement a project or projects. The City will work with such organization(s) to ensure that the funding will be applied in a manner that offsets the impact of the projects.
3. **Noise:** Note that the introduction to the description of noise mitigation measures (Section 3.11.3.3) and Mitigation Measure Noise-2 both mention berms as potential features of noise mitigation strategies; they do not specifically prescribe them as mitigation solutions. Comment noted. Furthermore, the noise attenuation analysis conducted evaluated noise without construction of the berms and appropriate mitigation measures were developed. Installation of berming will improve noise attenuation.
4. **Southern Subarea Port Overlay:** The port overlay zone in the Southern Subarea was established to provide opportunities for the location of businesses serving the growing needs of Port Hueneme and the Harbor District.
5. **Sea Level Rise Maps:** The FEIR includes an expanded analysis of sea level rise as it relates to tsunami hazards and associated coastal flooding (see Impact GEO-5). See Master Response 3: Global Climate Change.
6. **Water Supply Analysis:** The City prepared a comprehensive citywide analysis of water supply and demand that took into consideration all ongoing projects in Oxnard, as well as all current and anticipated sources of supply. As stated in the RDEIR's analysis, the City is confident that the water supply sources upon which the projects are expected to rely will be available. Nonetheless, as outlined in the RDEIR, the City's program for monitoring citywide

supply and demand includes provisions that would suspend project approvals until sufficient supplies of water are available to support the anticipated project demand.

7. **Ormond Beach Task Force Consensus (January 2004):** Comment noted. The City's General Plan, which governs all land use and development decisions, has designated the area south of Hueneme Road for development since it was adopted in 1990.

Z. 20

September 22, 2008

City of Oxnard  
305 W. 3<sup>rd</sup> St., 2<sup>nd</sup> Floor  
Oxnard Ca. 93030

RECEIVED  
SEP 22 2008  
PLANNING DIVISION  
CITY OF OXNARD

Re: Comments on the Ormond Beach Specific Plan Recirculated Draft  
EIR No. 2005-03

Dear Ms. Mallory,

This letter constitutes my comments on the Draft EIR for the Ormond Beach Specific Plan. I would appreciate your taking these comments and addressing them in the Final EIR to make this a better project.

Public Facilities - Fire Station – The developer is required to contribute a lump sum of 75% of the cost for a new fire station at the issuance of the 1250<sup>th</sup> building permit. What if that many houses aren't built, does that mean the fire station won't be built? I think the fire station should be built when the first 100 houses are occupied on a pro-rata basis. The threshold should be much lower than the 1250<sup>th</sup> building permit.

①

Biology Mitigation Measure Bio-2 – The 0.1 – 1 ratio is too low to mitigate impacts to foraging raptors. The 15.5 acres provided will not support the number of raptors and birds displaced by the project. Where will the 15.5 acres be located and who will be the owner? After looking at the projected costs for restoration, it appears that the financing is inadequate to cover the restoration and monitoring. Who will pay for the short-fall? My work as a restoration biologist has sensitized me to this issue.

②

Noise – The standard setback from streets should be the maximum required. Berming is not a feasible mitigation measure when there is already insufficient soil.

③

Southern Sub-area – The Port overlay is an incompatible use with the adjacent sensitive habitat. What are the impacts and how will they be mitigated? Is there any designated need for this facility expressed by the Port of Heuneme or is it a money making scheme by the City of Oxnard?

④

I. 20

Thank you for including a section on the project's contribution to Global Warming per A.B. 32. However, I note that readily available maps depicting the extent of sea level rising were not included. These maps can easily be obtained from the California Coastal Conservancy and were presented to the public at a meeting of the Ormond Beach Task Force. They should be included in the DEIR. Projected sea levels indicate that much of the southern sub-area will be flooded as ocean levels rise. All of us will pay for this in our taxes and higher insurance rates.

5

### Water Supply- Section 3-3

We note that the mitigation for water supply in the DEIR is the same that was included for the Oxnard Village Specific Plan. It seems that this mitigation will be trotted out for all projects. We are presently in a drought and if 2009 turns out to be another dry year, California will have less available water than during 1976-77, the region's worst drought. In addition, the State's population in 1977 was 22 million, today it stands at 38 million and is growing by leaps and bounds.

6

The developer proposes to mitigate water supply impacts by assuming that the GREAT program and M&I Supplemental Program will be implemented as expected. Neither of these programs is fully operational and CEQA requires that mitigation be based on feasible measures that are currently available, not future programs that may or may not perform as expected. We feel that this approach to mitigating water availability impacts creates a precedent and becomes a convenient way of soft-pedaling the very real problem of water supply.

In closing, it is important to remember that one of the conclusions of the Ormond Beach Task Force Consensus Plan, January 22, 2004, was that there should be no development south of Hueneme Road. Lets honor Roma Armbrust's memory by adhering to that plan.

7

Thanks for considering these issues.

Sincerely,



Patricia K. Munro  
221 Juneau Place  
Oxnard, Ca. 93036

**LETTER I.21    ROGER PARISEAU**

**Commentor:** Roger Pariseau (09-22-08)

**Response**

1. **Foraging Species:** The City's biological consultants have found no published documentation of the presence of clapper-rail species foraging in the Southern Subarea. Section 3.6.1.6.7 of the RDEIR does, however, acknowledge there is a low-to-moderate potential for light-footed clapper rail (*Rallus longirostris*) to occur in Oxnard Canal #3.
2. **Species Lists:** Section 3.6.3.1 of the RDEIR explains the methods employed in preparing the assessment of biological impacts, including an explanation of the literature reviewed in establishing the lists cited in the RDEIR. Note that the commentor observes correctly that the narrative that accompanies Table 3.6-8 is inaccurate; the citation of the numbers of special status species should have been updated to correspond with Table 3.6-8 (which was updated between the May 2007 DEIR and July 2008 RDEIR). As the commentor notes and the RDEIR states, "no comprehensive wildlife surveys of use or distribution appear to be on record for the Southern Subarea." In the absence of such a survey, the RDEIR relies on other sources as cited in the document to determine potential direct impacts on special status wildlife species (Impact BIO-7 for the Northern Subarea and Impact BIO-19 for the Southern Subarea). Note also that the RDEIR describes both the Burrowing Owl and White Faced Ibis as species of concern (not Federally or State listed), consistent with the commentor's comment.
3. **California Brown Pelican:** The commentor's observations are consistent with the description in the RDEIR.
4. **Bald Eagle:** The commentor's observations are consistent with the description in the RDEIR.
5. **Project Re-Study/Deferral:** The RDEIR establishes a sound baseline for evaluation of project impacts and presents sound analysis to support conclusions of significance concerning wildlife species. Thus, there is no need to re-study these impacts or to defer decisions concerning the proposed projects.

I. 21



September 22, 2008

Planning Division  
Department of Development Services  
City of Oxnard  
Attention: Ms. Kathleen Mallory  
241 S. "C" Street  
Oxnard, CA 93030

Dear Ms. Mallory:

The Recirculated DEIR needs to be recast to reflect actual status of threatened and endangered species found at or near Ormond Beach. I am familiar only with birds and so will discuss only our avian species.

All the avians found at Ormond Beach are affected by the local ecosystems found at or near Ormond, in our ocean, or on the Channel Islands for those species which breed there and feed at or near Ormond Beach. Many bird species can successfully cohabit with humans; others cannot.

For instance, the Black Capped Night Heron, too often disturbed at Ormond and our other beach areas, have for the past two years roosted in my neighborhood (Lakehurst between Huntswood and Glenwood) -- and have made a total mess of the sidewalks over there. These birds previously roosted in trees along the railroad tracks south of McWane Blvd. A few years ago someone trimmed some and removed others of those trees. My point here is that even seemingly slight impacts upon an area can affect our natural resources. If we don't know what we're affecting, we must leave it alone!

This year we have experienced the most successful breeding season for both the Snowy Plover and the California Least Tern at Ormond Beach. This is due to active efforts by rather few concerned persons to help revive these species. Our California Brown Pelicans have also bred well this year. We must keep our ocean clean for these and all the other birds along our coast. This is beyond not dumping into the ocean. It is keeping land created offal from entering the water after first having been treated by Mother Nature.

The Ormond Beach DEIR lists, among other species,

Page 3.6-11: 3.6.1.5.7, lists the Belding's Savannah Sparrow as the only sensitive species to forage in the sod farm areas. Incorrect. Both clapper-rail species forage in this area.

Page 3.6-19: 3.6.1.6.7, There are 31 threatened or endangered bird

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| ②

species found in California, 19 of these occur within Ventura County and 18 -- not 19 as the DEIR avers -- of these at Ormond Beach Wetlands. Neither the Burrowing Owl nor the White Faced Ibis are California or Federally listed. Both are species of special concern. That same paragraph admits the absence of formal documentation (I assume the Audubon Society is an insufficiently important resource) but the DEIR continues to aver "no significant effect" for all avian (and other species). This DEIR appears to be all opinion with virtually no science applied to its findings or to its mitigations and resolutions.

2

Page 3.6-26: The California Brown Pelican feeds offshore of the entire Ormond Beach area as well as north and south of it. The quality of the fish in a given area, as affected by the quality of the ocean water, impacts their potential feeding areas. Sewage spills north and south of Ormond make this area favored by these birds.

3

Page 3.6-27: The Bald Eagle feeds periodically at Ormond Beach. A male (A-29) resides at Ormond Beach at the time of this writing. Fledgling Bald Eagles are seen annually all over the Ormond Beach area.

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Currently Protected Bird Species  
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(VC = Seen in Ventura County; \* = Seen at, over or offshore of Ormond Beach Wetlands)

1. Albatross, short-tailed (*Phoebastria albatrus*)
2. VC \* Condor, California (*Gymnogyps californianus*)
3. Crane, greater sandhill (*Grus canadensis tabida*)
4. VC Cuckoo, western yellow-billed (*Coccyzus americanus occidentalis*)
5. VC \* Eagle, bald (*Haliaeetus leucocephalus*)
6. VC \* Falcon, American peregrine (*Falco peregrinus anatum*)
7. Flicker, gilded northern (*Colaptes auratus chrysoides*)
8. Flycatcher, willow (*Empidonax traillii*)
9. VC \* Flycatcher, southwestern willow (*Empidonax traillii extimus*)
10. VC \* Gnatcatcher, coastal California (*Poliophtila californica californica*)
11. VC \* Hawk, Swainson's (*Buteo swainsoni*)
12. Murrelet, marbled (*Brachyramphus marmoratus*)
13. VC \* Murrelet, Xantus's (*Synthliboramphus hypoleucus*) - Listed in TEA but not in TEB
14. Owl, great gray (*Strix nebulosa*)
15. Owl, northern spotted (*Strix occidentalis caurina*)
16. Owl, elf (*Micrathene whitneyi*)
17. VC \* Pelican, California brown (*Pelecanus occidentalis californicus*)
18. VC \* Plover, western snowy (*Charadrius alexandrinus nivosus*)
19. Rail, California black (*Laterallus jamaicensis coturniculus*)
20. VC \* Rail, California clapper (*Rallus longirostris obsoletus*)
21. VC \* Rail, light-footed clapper (*Rallus longirostris levipes*)
22. Rail, Yuma clapper (*Rallus longirostris yumanensis*)
23. VC \* Shrike, San Clemente loggerhead (*Lanius ludovicianus mearnsi*)
24. VC \* Sparrow, Belding's savannah (*Passerculus sandwichensis beldingi*)
25. VC \* Sparrow, San Clemente sage (*Amphispiza belli clementeae*)
26. VC \* Swallow, bank (*Riparia riparia*)
27. VC \* Tern, California least (*Sterna antillarum browni*)
28. VC \* Towhee, Inyo California (*Pipilo crissalis eremophilus*)
29. Vireo, Arizona Bell's (*Vireo bellii arizonae*)
30. VC \* Vireo, Least Bell's (*Vireo bellii pusillus*)
31. Woodpecker, Gila (*Melanerpes uropygialis*)

2

References:

USF&W Threatened & Endangered Animals in California  
[http://ecos.fws.gov/tess\\_public/pub/stateListing.jsp?state=CA&status=listed](http://ecos.fws.gov/tess_public/pub/stateListing.jsp?state=CA&status=listed)  
[http://ecos.fws.gov/tess\\_public/pub/stateListing.jsp?state=CA&status=listed](http://ecos.fws.gov/tess_public/pub/stateListing.jsp?state=CA&status=listed)

I. 21

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USF&W Threatened & Endangered Birds in the United States  
[http://ecos.fws.gov/tess\\_public/SpeciesReport.do?groups=B&listingType=L&mapstatus=1](http://ecos.fws.gov/tess_public/SpeciesReport.do?groups=B&listingType=L&mapstatus=1)

<

[http://ecos.fws.gov/tess\\_public/SpeciesReport.do?groups=B&listingType=L&mapstatus=1](http://ecos.fws.gov/tess_public/SpeciesReport.do?groups=B&listingType=L&mapstatus=1)>

CA Dept. of Fish and Game Threatened and Endangered Animals [TEA]  
(May 2008, next listing due Oct. 2008)  
<http://www.dfg.ca.gov/biogeodata/cnddb/pdfs/TEAnimals.pdf>

CA Dept. of Fish and Game Threatened and Endangered Birds [TEB]  
[http://www.dfg.ca.gov/wildlife/species/t\\_e\\_spp/bird.html](http://www.dfg.ca.gov/wildlife/species/t_e_spp/bird.html)

CA Dept. of Fish and Game Bird Species of Special Concern  
[http://www.dfg.ca.gov/wildlife/species/publications/bird\\_ssc.html](http://www.dfg.ca.gov/wildlife/species/publications/bird_ssc.html)

Ventura Area Audubon Bird Listing  
<http://www.venturaaudubon.org/BirdList.htm>

An accurate compilation of the above can be found at:  
Endangered and Threatened Bird Species in Ventura County  
<http://oxnardcoastalwetlands.org/threatened-bird-species-ventura-county.html>

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Since the preparers of this Revised DEIR were unable to accomplish this elementary research, I suggest that this part and, perhaps, the bulk of the DEIR represents only opinion, erroneous data, conflicts with other portions of this DEIR and with the proposed Development Agreements. While it is painful, I recommend that all this voluminous material be scrapped, an honorable and proven accurate entity be hired to produce a completely accurate and correct report, and that any potential agreements be deferred until completion of this new EIR with at least six months after its publication to the public to study and absorb its information before again addressing the Ormond Beach Development proposals.

Roger G. Pariseau, Jr.  
1410 Junewood Way  
Oxnard, CA 93030-3334  
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Cell: 805.377.8879  
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[chair@fnnc.org](mailto:chair@fnnc.org)

5

**LETTER I.22 NANCY PEDERSEN**

**Commentor:** Nancy Pedersen (09-22-08)

**Response**

1. **Water Supply Source:** The City prepared a citywide analysis of water supply and demand that took into consideration all ongoing projects in Oxnard, as well as all current and anticipated sources of supply. As stated in the RDEIR analysis, the City is confident that the water supply sources upon which the projects are expected to rely will be available. Nonetheless, as outlined in the RDEIR, the City's program for monitoring citywide supply and demand includes provisions that would suspend project approvals until sufficient supplies of water are available to support the anticipated project demand.
2. **Demand for Housing:** The RDEIR focuses on issues related to the potential environmental consequences of the proposed projects. It does not evaluate the merits of the projects based on issues such as market demand.
3. **Ocean View School District:** As section 3.9.3.2 of RDEIR explains, development within the Study Area will be subject to new development fees pursuant to Government Code Section 65995. Under State law, payment of the developer fees provides full and complete mitigation of the project's impacts on school facilities. The RDEIR includes an assessment of school impacts consistent with the CEQA Guidelines and the requirements of State law.
4. **Parks:** The projects as proposed meet the City's adopted standards for park land, which call for approximately 7.5 acres of neighborhood parkland and 7.5 acres of community parkland per thousand residents. See Section 3.9.3.5 of the RDEIR.
5. **Cats and Dogs:** The Ormond Beach NRMP, as described in Section 3.6.3.3 of the RDEIR, includes several measures that would address potential problems associated with increased human presence in the Study Area, including measures to control disturbance by household pets.
6. **Wildlife:** The RDEIR assessment of potential impacts to wildlife species is based on years of documented observations and knowledge concerning the type and quality of habitat available within the Study Area. It would be inappropriate to introduce the type of anecdotal evidence of species presence in or reliance on the Study Area that the commentor cites.
7. **Port Overlay:** The commentor's opinion is based on speculation about the proposed port overlay; the speculation is not supported by the project description (i.e., proposed the Specific Plan).

8. **Truck-related Air Pollution:** The RDEIR's air quality analysis is based on assumptions concerning the type and amount of vehicle traffic associated with the uses proposed in the Study Area.
9. **Parking and Storm Runoff:** The project design proposed for the Southern Subarea includes measures to control stormwater runoff and the EIR requires mitigation that will further address such runoff.
10. **Light Pollution:** Any businesses operating in the Southern Subarea will have to comply with City development standards and regulations related to lighting, as well as the provisions of the South Ormond Beach Specific Plan, including those related to control of light and glare.
11. **Water Supply:** See response to Comment #1.
12. **Fill Dirt:** The South Ormond Beach Specific Plan has been updated to provide additional clarification concerning the source of fill material required for its proposed development. The FEIR analysis has been updated accordingly, with a description of the steps necessary to ensure suitable mitigation to address the potential impacts associated with developing and transporting fill material.

~~7.22~~

1.

Comments by Nancy Pedersen  
514 East Kamala Street  
Oxnard, CA 93033

RECEIVED  
SEP 22 2000  
PLANNING DIVISION  
CITY OF OXNARD

North Ormond Beach Project :  
SouthShore, Hearthside Homes  
Permit nos. PZ 03-640-1(Specific Plan adoption); PZ 03-560-1  
(Prezoning); PZ 03-620-3 (General Plan amendment); and PZ 05-  
670-3 (Development Agreement)

The DEIR for both projects is one of the most confusing documents I have ever read. It seems to be designed to cause the most confusion while providing the least amount of information about the project.

There is no realistic source of water for this project. With so many other projects either proposed or being proposed in Oxnard and Ventura County there is less water available now than at the beginning of this process. Water is becoming a critical issue all over the West. There is much concern that we will not have enough water for existing projects and the people who live in those houses. Where will this project find a source of water for so many new people? It is ludicrous to argue that people currently living in garages and in their cars will suddenly buy these houses. The new developments in Oxnard have to a large extent brought in people fleeing the over crowded freeways and cities of the Valley and Los Angeles.

The Oceanview School District is not being well treated by this developer. The children, parents and staff of this district are people who now live here. Their needs, requirements and quality of life should be the first concern before any new development is even considered.

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Nancy Pedersen  
514 E Kamala  
Oxnard, CA 93033

Comments by Nancy Pedersen

This project has too few parks and the alternatives do not fix this problem. To bring so many people into neighborhoods that are already short parks is inexcusable. Study after study shows the problems society must deal with when too many people live too close together without enough parkland to provide relief. Quality of Life matters, and having enough parkland is a basic human need.

4

We are presently having problems with dogs and cats so close to a breeding area for Snowy Plovers and Least Terns. With this housing development the problem will reach crisis proportions. Cats roam. Dogs get out of fences. This year's breeding season started as one of the best ever. It ended with far too many chicks killed by off leash dogs and other human created problems. There appears to be no real plan to control this problem.

5

*Nancy Pedersen*

*F. 22*

Comments by Nancy Pedersen  
514 East Kamala Street  
Oxnard, CA 93033

RECEIVED

SEP 22 2000

PLANNING DIVISION  
CITY OF OXNARD

South Ormond Beach Project  
Marathon Land et al

Permit nos. PZ03-640-02 (Specific Plan adoption); PZ 03-620-08 (General Plan amendment); and PZ 05-670-04 (Development Agreement)

Wildlife: This subject is not covered sufficiently. The sodfarm land is an area where many raptors hunt. It is a very efficient uplands to the wetlands south of it. Just this month (September) a Bald Eagle (tag A29) spent four days at the Ormond Beach Wildlife Pond. With the enormous territory covered by Bald Eagles, it is no surprise to hear he was seen hunting on the land that is the subject of this DEIR. A pair of peregrine falcons not only nest nearby but actively hunt this area. The presence of so many raptors explains why Audubon members and other bird watchers actively observe the sodfarm area as a prime bird watching area. Ormond Beach is attracting new birds every day both in terms of species and numbers. Noise pollution, air pollution, light pollution--all of these negatively affect wildlife and will be caused by the project south of Hueneme Road.

①

The Port Overlay south of Hueneme Road means more trucks, ships and trains. All are major sources of air pollution. Ventura County already has poor air quality. Cars driven from the port to PVP or similar facilities cause both traffic congestion on Hueneme Road and air pollution. Trains also cause air pollution and stall traffic as the trains wend their way across most of Oxnard's most congested intersections including 5 Points; 5th Street and Rose; and Patterson and Channel Islands Blvd.

①

*Nancy Pedersen*

Comments by Nancy Pedersen

The Port Overlay thus has impacts far beyond just the land it covers. More cars idling while waiting for trains to clear intersections cause more air pollution from those cars.

①

Trucks serving the port are also a major source of air pollution. So far the Port has escaped the Draconian measures being taken to control air pollution at other major California Ports that is negatively affecting the surrounding neighborhoods. These measures include forcing truckers to replace old polluting trucks with new, less polluting models and no longer allowing trucks to idle at the port. With the expansion of the port and the increase in pollution and traffic, we will also have to begin new measures to fix the air pollution and other problems created by a large port in a residential area. Who will pay for these programs? Who will pay to retire old trucks and loan truckers money to buy new trucks. With the credit industry in disarray, a new source of funds for such an expensive program will need to be found.

②

The large parking areas required by a port overlay will create problems of storm runoff.

③

Light pollution is a continuing problem. I live 2 miles from PVP but their lights illuminate my back yard at night. This is obviously not acceptable so close to breeding areas for Least Terns and Snowy Plovers and other rare or endangered birds.

④

There is no water supply for this project. Water is more of an issue nationwide than when this project was first proposed. Other very large projects are being completed or are nearing approval. There is not enough water for every large project to be built. Is there enough water for Wagon Wheel, RiverPark, Jones Town Ranch, the high rises next to Plaza Park and other densely populated developments?

⑤

*Nancy Pedersen*

I. 22

Comments by Nancy Pedersen

Where will the fill dirt come from for this project? The area south of Hueneme Road will require lots of fill dirt--it can not all come from the wetlands restoration on adjacent properties as that would require dredging the wetlands into a shipping channel. Trucking in dirt will require more trucks, more traffic congestion and more air pollution. As we all saw from the Seabridge experience, dirt haulers are paid by the load not the hour or mile. The dirt haulers behavior in traffic on Victoria Avenue was frightening. Speeding, swerving in and out of traffic and other unsafe behaviors were the norm. Who will pay for increased Police needed to prevent similar behavior on Hueneme Road and in the surrounding neighborhoods?

12

Nancy Pedersen

**LETTER I.23 JULIE PENA**

**Commentor:** Julie Pena (09-16-08)

**Response**

1. **Coastal Protection/Wetland Area:** Comment is an expression of the commentor's opinion concerning the development of the Study Area. It is not focused on the EIR.

*T. 23*

FROM : JULIE PENA

FAX NO. : 8059842127

Sep. 16 2008 11:02AM P1

9-16-08

Kathleen Mallory

FAX # 805-395-7417

**RE: North and South Ormond Beach Re-circulated Draft EIR  
(SCH #2005091094)**

I am a resident of Mandalay Shores, a Beach community in Oxnard. Thus, I am very interested in the protection of our coastal area.

The wetland area, north and south of Hueneme Road, needs to be set aside and recognized for the valuable natural asset that it is.

  
Julie Pena  
4936 Dolphin Way  
Oxnard, CA 93035

①

**LETTER I.24 REBECCA RALPH**

**Commentor:** Rebecca Ralph (09-29-08)

**Response**

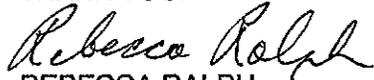
1. **Neighborhood Impact/Community Input:** The commentor is concerned that there has not been enough opportunity for community input. The RDEIR analysis addresses a variety of impacts that could affect the community and adjacent neighborhoods. The commentor is concerned that there has not been enough opportunity for community input. The City has sponsored several community meetings and conducted a variety of public meetings since the project was initiated in 2004. In addition, the development applicants have met with neighborhood groups and the Ormond Beach Task Force has been tracking the projects closely since the EIR process commenced in 2004.
2. **Traffic Impacts:** The EIR's traffic analysis assesses the potential impacts of the project at 40 intersections within the city, including several of the areas that the commentor mentions.

*7.24*

DATE: SEPTEMBER 29, 2008  
TO: MS. KATHLEEN MALLORY  
FROM: REBECCA RALPH  
RE.: MY CORRECTION ON PAG 2 - ORMOND BCH DRAFT EIR  
SCH # 2005091934

DEAR MS. MALLORY PLEASE FIND MY CORRECTED PAGE 2 OF MY LETTER  
DATED SEPTEMBER 21, 2008. (PER OUR CONVERSATION THE CORRECTION  
LAST WEEK SHOULD BE: 400,000 TO 500,000 - THE ERROR WAS: 4,000 TO  
5,000.)

THANK YOU.



REBECCA RALPH  
2000 E. SIERRA PLACE  
OXNARD, CA. 93033

TEL. NO. 805 986-1917

F. 24

September 21, 2008

CITY OF OXNARD  
CITY CLERK

08 SEP 22 AM 11:21

City Of Oxnard  
Planning Department  
214 S. C Street  
Oxnard, Ca. 93030

ATTN: Kathleen Mallory  
RE: North and South Ormond Beach Recalculated Draft EIR (SCH  
#2005091094)

Dear Ms. Mallory:

As a concern resident of the Diamond Bar/Green Castle Neighborhood I'm requesting further study on the impacts on the surrounding neighborhoods to the north of the proposed project. Not enough outreach for community input was given -- if any. You need to bring your presentation to our community -- for instance use the Channel Island High School or Oxnard Community College where the surrounding community could come and have full comprehension on the impacts to area. I have only seen snippets on TV and it seem vague and did address traffic.

This enormous project will add traffic with noise, air pollution, to an already congested streets. Because streets are unsafe for pedestrians or bicyclist this will add more vehicles to the streets, the need to chauffeur children safely to and from schools, additional traffic will make things worse. I live in the Diamond Bar/Green Castle Neighborhood and we are already sewn in with traffic. East Channel Island Blvd. a busy thoroughfare, at times it's bumper to bumper from Rose, Pacific Coast HWY. on ramp and over the East Channel Island Bridge to Rice. This a route taken by many people living in Oxnard. It already is risky to make a left coming out on to E. Channel Island where there is a pocket for left turns which fills up quickly in busy traffic (going west) dodging traffic (going east) towards Rice. In addition approved projects - I am have no idea what the number are for: the Fresh and Easy Market with shops on Channel Island and Rose, next to it the Church with parishioners, Channel Island High School (approx. 3,000 students), Oxnard Community College (not sure how many thousands students), Oxnard Community College Swap Meet (not sure how many customers). The current

①

②

~~I. 24~~

on going development of Oxnard College Community Park which is frequently called Sport Park with an agreement with Big League Dreams Sports Park, LLC that promises to bring in 4,000 to 5,000 people yearly to be successful. All of these projects have entrances and exit off Rose Ave./ E. Channel Island area that likely to become more congested. The City of Oxnard approved the EIR for College Park without adequate data that showed the impacts of Big League Dreams, LLC with events on the traffic, displacement of wild life (some of the butterflies and birds may have move to nearby Ormond Beach area), effects on wetland, loss of historical home (landmark) we have yet to see the outcome.

In the past mitigation in Oxnard has been unsuccessful. Not enough efforts have been made to bring a presentation and request for input from the neighboring areas near this huge development (like: Tierra Vista, College Park, College Park Estates, and Diamond Bar/Green Castle and others). Therefore, I oppose this project and ask that it not be certified.

Thank you.

Sincerely,

*Rebecca Ralph*

Rebecca Ralph, Secretary  
Diamond Bar/Green Castle Neighborhood  
2000 E. Sierra Place  
Oxnard, Ca. 93033

I. 24

on going development of Oxnard College Community Park which is frequently called Sport Park with an agreement with Big League Dreams Sports Park, LLC that promises to bring in 400,000 to 500,000 people yearly to be successful. All of these projects have entrances and exit off Rose Ave./E. Channel Island area that likely to become more congested. The City of Oxnard approved the EIR for College Park without adequate data that showed the impacts of Big League Dreams, LLC with events on the traffic, displacement of wild life (some of the butterflies and birds may have move to nearby Ormond Beach area), effects on wetland, loss of historical home (landmark) we have yet to see the outcome.

(2)

In the past mitigation of Oxnard has been unsuccessful. Not enough efforts have been made to bring a presentation and request for input from the neighboring areas near this huge development (like: Tierra Vista, College Park, College Park Estates, Diamond Bar/Green Castle and others). Therefore, I oppose this project and ask that it not be certified.

Thank you.

Sincerely,



Rebecca Ralph, Secretary  
Diamond Bar/Green Castle Neighborhood  
2000 E. Sierra Place  
Oxnard, Ca. 93033

**LETTER I.25 E. GLORIA ROMAN**

**Commentor:** E. Gloria Roman (09-22-08)

**Response**

1. **Leach Lines:** The RDEIR (Impacts HM-1 and HM-7) assesses the potential for soil contamination resulting from historical agricultural operations, including the use of septic systems (of which leach lines would have been a component). The RDEIR also includes a mitigation measure (HM-1) that will require thorough analysis of soil conditions prior to construction, with a specific mention of septic tanks and the potential for associated contamination.
  
2. **AB 32:** In response to comments submitted on the May 2007 DEIR (including the commentor's), an analysis of climate change impacts was added to the RDEIR. Also, see Master Response 3: Global Climate Change.

*I.25*

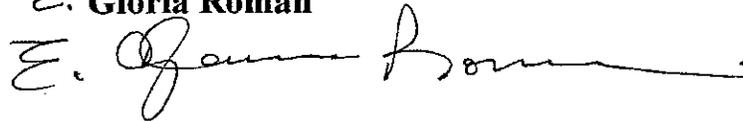
**Gloria Roman**  
**250 E. Pleasant Valley Rd. #47**  
**Oxnard, Ca. 93033**  
**805-488-0422**  
**09/22/08**

**Mrs. Kathleen Mallory, AICP, Project Planner**  
**Oxnard, Ca.**

**RE: RDEIR**

**With all due respect, I hereby reenter my last comments from  
Jun 20 2007, that have not been properly addressed or  
mitigated.**

**Thank You**

**E. Gloria Roman**  


I.25

**RECEIVED**

JUL 20 2007

PLANNING DIVISION  
CITY OF OXNARD

2:55 PM



**E. Gloria Roman**

**250 E. Pleasant Valley Rd.**

**Oxnard Ca. 93033**

**July 20, 2007**

**RECEIVED**

SEP 22 2006

PLANNING DIVISION  
CITY OF OXNARD

**Oxnard City Planning Division**

**Oxnard City Hall**

**Oxnard, Ca.**

**RE: Draft Environmental Impact Report on Ormond Beach Project.**

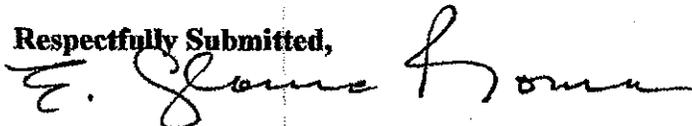
**There is no mention on the removal of the leech lines and how it will affect U.S. waters and streams in the area.**

①

**Inequity information as how these projects failed to properly, address the air quality which is included in AB 32 (Global Warming) or any mentioning of mitigation.**

②

**Respectfully Submitted,**



**E. Gloria Roman**

**LETTER I.26 JACK SCHIENBEIN**

**Commentor:** Jack Schienbein (08-09-08)

**Response**

1. **Availability of EIR/Notification:** Printed copies of the RDEIR were made available at City Hall and electronic copies were posted on the City's website. Also, in response to multiple requests for such, the City extended the review period for the RDEIR from 45 days to 60 days.

F. 20

**From:** "Jack Schienbein" <jack.san@worldnet.att.net>  
**To:** <Kathleen.mallory@ci.oxnard.ca.us>  
**Date:** 8/9/2008 8:43:21 PM  
**Subject:** PROJECTS

Hello Kathleen Mallory,

I understand there is a draft EIR that relates to the Ormond Beach projects. I have experienced (relating to other local projects) notifications that are nothing more than a short summary of a project leaving little or no details to agree with or comment about. Just as disappointing, is the short time period established between the receipt of the notice and the time that the project will be approved or not. I, and I'm sure all residents, feel cheated out of their legal rights to actively participate (intelligently) for approval or denial of a project. It is the responsibility of government officials to recognize that. That is why I (we) voted for them in the (previous election !!!).

①

If you have a copy of the draft Kathleen, I would appreciate seeing it.

Thank you.

My mailing address is:  
Jack Schienbein  
4737 San Sebastian Drive  
Oxnard, CA 93035

**CC:** <edmund.sotelo@ci.oxnard.ca.us>

**LETTER I.27    CHRISTINE SIMMONS**

**Commentor:** Christine Simmons (09-16-08)

**Response**

1. **Coastal Protection/Wetland Area:** Comment is an expression of the commentor's opinion concerning the development of the Study Area. It is not focused on the EIR given that the comment is not related to CEQA it is outside of the purview of CEQA.

**I.27**

FROM : JULIE PENA

FAX NO. : 8059842127

Sep. 16 2008 11:12AM P1

9-16-08

**Kathleen Mallory**

**FAX # 805-395-7417**

**RE: North and South Ormond Beach Re-circulated Draft EIR  
(SCH #2005091094)**

**I am a resident of Seabridge, a Channel Islands community in Oxnard.  
I am concerned with the Ormond project, because of the wetland area and our  
coastal community. Oxnard does not need more development. I needs to  
take care of the problems it now has with traffic, streets and police..**

**The wetland area, north and south of Hueneme Road, needs to be set aside  
and recognized for the valuable natural asset that it is.**

**Christine Simmons  
1555 Windshore Way  
Oxnard, CA 93036**

①

**LETTER I.28 WILLIAM L. TERRY**

**Commentor:** William L. Terry (09-22-08)

**Response**

1. **Fill Material:** As noted in the RDEIR, the fill material for the Northern Subarea will come from the Ventura County Watershed Protection District's Calleguas Creek existing permitted maintenance dredging program. The material, which is stockpiled at the County's stockpile site located near the intersection of Hueneme Road and Laguna Road, has been tested for contamination and determined to meet applicable standards. The specific plan for the Southern Subarea (South Ormond Beach Specific Plan) has been updated to clarify the applicants intent with respect to fill material required for project construction. Rather than assuming that such material will originate from within the Study Area (specifically the southernmost 220 acres), the applicants will identify a source of material prior to submittal of development permit applications. At that time, the City will require a separate analysis to determine the potential environmental consequences of the identified source, including any stockpiling and transport required for project construction. The RDEIR has been updated to reflect the updated content of the Specific Plan, including clarification that the applicant does not intend to borrow soil from the 220 acres that will remain in the unincorporated county.
2. **Water Resources:** In response to the requirements of State law, water supply assessments (WSAs) have been prepared for both the Northern and Southern Subareas. They are included as Appendix E to the RDEIR. In addition, the City has prepared a detailed analysis of citywide water supply and demand. The findings of the WSAs and the City's supply-demand analysis are reflected in the EIR.
3. **Visual/Aesthetic Resources:** The RDEIR includes an analysis of the potential visual and aesthetic impacts of the proposed projects that addresses the City's thresholds for such impacts. Note that the proposed development does not fall within the Coastal Zone, so the provisions of the Coastal Act do not apply.
4. **Transportation and Circulation-Access to Coastal Resources:** The proposed projects do not include any coastal access restrictions or limitations limitations given that they are not subject to the Coastal Act.
5. **Northern Subarea High School:** The RDEIR's analysis of alternatives (Section 4) addresses the comparative impacts of an alternative that would replace the project's proposed high school with homes (Alternative 1).

*I. 28*

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CITY OF OXNARD

William L. Terry  
250 E. Pleasant Valley Rd. #47  
Oxnard, Ca. 93033  
805-488-0422  
09/22/08

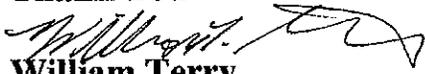
**Mrs. Kathleen Mallory, AICP, Project Planner  
Oxnard, Ca.**

**RE: RDEIR**

**With all due respect, I hereby reenter my last comments from  
Jun 20 2007, that have not been properly addressed or  
mitigated.**

**Adding to that, the Carbon Foot Print of the North and South  
Development have not been properly addressed or mitigated.**

**Thank You**

  
**William Terry**

T.28

RECEIVED

JUL 20 2007

PLANNING DIVISION  
CITY OF OXNARD

2:55 pm.  
*lr*

William L. Terry  
250 E. Pleasant Valley Rd.  
Oxnard, Ca. 93033  
805-488-0422  
07/20/07

Mrs. Kathleen Mallory, AICP, Project Planner  
Oxnard City Hall  
Oxnard, Ca.

RE: Draft Environmental Impact Report No. 2005-03

This Document is inadequate, a number of environmental issues that are Class 1 (Significant and Unavoidable).

Land Use and other Environmental issues: No information as to location of where all fill dirt is being extracted and the impact this will have on that area or what is contained in the fill.

①

Water Resources: Is there a certificate that certifies an adequacy of Short and Long term supply of palatable Water .

②

Visual/Aesthetic Resources: Per: California Coastal Act: Per: Restrict, Alter or Eliminate access to Visual/Aesthetic Coastal Resources.

③

Transportation and Circulation: Visual/Aesthetic Resources: Per: California Coastal Act: The Southern Subarea will impact Arnold Road which will Restrict or Alter physical access to Coastal Resources at Ormond Beach.

④

Northern Subarea: Do not address High School East of Olds Road and added number of Homes.

⑤

Thank You

*William L. Terry*

William L. Terry

**LETTER I.29 SALLIE WILLIAMS & ROBERT NEUBAUER**

**Commentor:** Sallie Williams & Robert Neubauer (09-22-08)

**Response**

1. **Conversion of Farmland (FMMP):** The southern and coastal areas of Ventura County, including the Study Area, are covered by the Farmland Mapping and Monitoring Program (FMMP). The mountainous northern part of the county is not. Therefore, this comment is not relevant for the project site.
2. **Connectivity between Ormond Beach and Mugu Lagoon:** The RDEIR acknowledges the relationship between the Study Area and nearby natural resources, including Ormond Beach and Mugu Lagoon.
3. **Plant and Animal Species:** As observed by the commentor, the RDEIR addresses federally protected plant and animal species.
4. **Burrowing Owl and Large Billed Savannah Sparrow:** The RDEIR assesses potential impacts to both of these bird species.
5. **Other Birds/Appendices:** An electronic version of EIR Appendix A-1, which lists the birds to which the commentor refers, was included with the printed version of the RDEIR and was also posted on the City's website.
6. **Wildlife Survey:** The RDEIR relies on a long history of research conducted within the Study Area and adjacent areas. The field survey conducted by the City's consultants was intended to confirm the extensive body of research and studies upon which the EIR's evaluation is based, as cited in the document. It is not represented in the EIR as a comprehensive assessment, but rather as a means to validate the accuracy of the baseline information that has been gathered through at least 20 years of independent evaluation. The information provided in the RDEIR sufficiently establishes the baseline for the impact assessment.
7. **Mitigation Measure BIO-2:** The City continues to support the mitigation ratio recommended in the RDEIR. The calculation of the mitigation contribution associated with the development of the Southern Subarea has, however, been modified. The equation used to determine the contribution no longer credits the applicants for conserving the southernmost 220 acres, so the requirement for the Southern Subarea is no longer 15.5 acres. Also, the mitigation measure calls for the applicants to contribute funding that would go to a suitable conservation organization or combination of organizations to implement a conservation

project or projects. The City will work with such organization(s) to ensure that the funding will be applied in a manner that offsets the impact of the proposed projects.

8. **Mitigation Measure BIO-5:** As noted above in response to comment #6, the RDEIR relies on a long history of research conducted within the Study Area and adjacent areas. The information provided in the RDEIR sufficiently establishes the baseline for the impact assessment.
9. **Mitigation Measure BIO-3:** The provisions outlined in Mitigation Measure BIO-3 provide sufficient protection for birds that might nest in the Study Area.
10. **Mitigation Measure BIO-4:** The provisions outlined in Mitigation Measure BIO-4 provide sufficient protection for the Burrowing Owl.
11. **Domestic Cats:** The Ormond Beach NRMP, which is described in the RDEIR, includes provisions that would reduce the potential for domestic cats to disturb offsite sensitive habitats.
12. **Domestic Cats:** See response to comment #11.
13. **General Plan Open Space Buffer/SOAR:** As explained in the RDEIR, the projects would not violate either the City's General Plan policies or the provisions of SOAR (which do not apply to the Study Area).
14. **Scenic Vistas:** The RDEIR (under Impact AES-9) discloses that the loss of visual character associated with the conversion of agricultural lands will constitute a significant and unavoidable impact.
15. **Project Objectives:** The proposed projects, in combination with historical and proposed projects in adjacent areas, comply with the objectives stated in the City's 2020 General Plan.
16. **Alternative 5:** Comment noted. It is an expression of the commentor's opinion concerning the development of the Study Area.

I.29

Sallie Williams & Robert A. Neubauer  
263 S. Ventura Rd. #267  
Port Hueneme, CA 93041  
September 22, 2008  
FAX # (323) 666-9651

Oxnard City Planning Division  
214 South C Street  
Oxnard, CA 93030  
FAX # ( 805) 385-7417

RE: Draft Environmental Impact Report No. 2005-03  
North and South Ormand Beach Recirculated DEIR  
State Clearinghouse No: 2005091094

3.8 Conversion of Prime Farmland of Farmland of Statewide Importance to Non-Agricultural Uses  
3.8.1.1. Stresses the value of agricultural land. These lands should be evaluated/included in the Farmland Mapping and Monitoring Program before any action is taken to change their use. FMMP has identified 127,000 ac. of important farmland in Ventura County but has currently Only mapped 47% of the total county area.

①

3.6.1.4 The analysis states the importance of the connectivity between Ormand Beach and Mugu Lagoon, their combined significant size and relatively undisturbed high quality habitats. The Southern Subarea adjoins this substantial mass, and as such is environmentally significant.

②

3.6.1.4.1, 3.6.1.4.2 The analysis sites the presence of Federally endangered and Federal Species of Concern for both plants and animals.

③

Table 3.6-3 Both the Burrowing Owl and the Large Billed Savannah Sparrow could be severely impacted if they are known to forage near the project area (sect. 3.6.1.6.2 states the Burrowing Owl has been observed in the Southern Subarea).

④

3.6.1.6.2 Other birds- the Americal Avocet, Blue and Green Winged Teal, Great Blue Heron, Green Heron are present here. Appendices were not included in the documents for public comment.

⑤

The loss of grassland has potential for great harm to the Mountain Plover, Northern Harrier, Beldings Savannah Sparrow, Western Meadowlark, White tailed Kite- included are two CA Species of Concern, one State listed Endangered, and one CA Fully Protected.

3.6.1.6.7.1 A more intensive wildlife survey needs to be conducted for the Southern Subarea because of the potential presence of Special Status Species.

⑥

Mit. Meas. BIO-2 The ratio of .1 to 1 (replacement acreage) is not acceptable mitigation. The DEIR even states it is less than desirable from a habitat standpoint.

⑦

On-site habitat loss cannot be mitigated by contributing funds elsewhere. It is more than distressing that so many Special Status wildlife species would be affected (BIO 7a-7m).

BIO-5 The analysis cannot claim "less than significant" destruction without having performed an Accurate survey (see comment on 3.6.1.6.7).

⑧

Draft EIR No. 2005-03 Comments by Sallie Williams & R.A. Neubauer September 22, 2008

Mit. Meas. BIO-3 The only way nesting birds can be protected is if the site prep etc. is done in non-breeding season. The proposed 50' fence barriers/ biologist monitoring on acreage of this size is not realistic or practical.

(9)

Mit. Meas. BIO-4 Ditto to BIO-3 (with 150' fences instead of 50' ones). Once again, the Burrowing Owl is a State and Federal Species of Concern.

(10)

Mit. Meas. BIO-5 The analysis has apparently given up on mitigating the potential destruction from domestic cats. It is not acceptable to abandon any effort to measure this potential wildlife loss.

(11)

Bio-10 Encroachment on wild habitat is what is contributing to endangered populations. Domestic cats are but one small part of the equation.

(12)

3.7.1.1.2 Consistency with the General Plan....

The proposals violate the Open Space Buffer designation. This project also violates the Save Open Space and Agricultural Resources (SOAR) Measure K ordinance.

(13)

3.13 AES-2 Scenic Vistas....

The study improperly states there are no scenic vistas from the perspective of westbound travel on Hueneme Road. Both sides offer vast expanses of scenic open space/agricultural lands. You cannot see the coastline from any part of this roadway which is identified as a Scenic Roadway in the General Plan.

(14)

Table 4-1

The project objectives do not jibe with the Oxnard General Plan 2020. Both No. Subarea and So. Subarea proposals would greatly harm, not protect resources eg. Air and Water Quality. The So. Subarea proposal would harm, not protect Coastal Resources and hinder, not improve Coastal Access and Recreation. The No. Subarea proposal does not provide a comprehensive planned development; and does not provide adequate Open Space and Recreation opportunities in relation to the density of housing proposed.

(15)

4.5.6 Alternative 5 North Subarea: It is unacceptable to eliminate the community park which constitutes open space for the residential density. While it is preferable to have 979 residential units as opposed to 1,283 or 1,545, the loss of a High School seems significant. Southern Subarea: It is unacceptable not to reduce the total square footage of development for this so called "scaled back" alternative. Wildlife habitat will be as destructive with or without employment density.

(16)

Respectfully Submitted,

*Sallie Williams + Robert A. Neubauer*

Sallie Williams & Robert A. Neubauer

**LETTER I.30 JIM YARBROUGH**

**Commentor:** Jim Yarbrough (09-08-08)

**Response**

1. **Consensus Plan:** Comment noted. It is an expression of the commentor's opinion concerning the development of the Study Area.
2. **Sierra Club Comments:** Comment noted. The City's response to comments submitted by the Sierra Club (Letter O.6) is included in this document.

7.30

**From:** jim yarbrough <jyarbro2003@yahoo.com>  
**To:** <kathleen.mallory@ci.oxnard.ca.us>  
**Date:** 9/8/2008 9:06:47 PM  
**Subject:** Ormand Beach Recirculated DEIR

This communication regards the North and South Ormand Beach Recirculated Draft Environmental Impact Report.

I strongly support the Ormand Beach Consensus Plan as the wisest course of action concerning preservation of Ormand Beach. It is critical that upland habitat contiguous with Ormand Beach be protected. The Ormand Beach Consensus Plan reflects the best available science in legal compliance with the California Environmental Quality Act (CEQA).

①

The Recirculated DEIR has many of the same flaws and lack of compliance with CEQA as the previous DEIR, and I therefore also endorse the extensive analysis and public comment submitted to the Oxnard Planning Department and/or Kathleen Mallory by Alan Sanders, Conservation Chair, Los Padres Chapter of the Sierra Club, on the Ormand Beach Specific Plan DEIR, South Ormand Beach Specific Plan, and Southshore Specific Plan.

②

Jim Yarbrough  
4102 Greenwood Street  
Newbury Park, CA 91320

**LETTER I.31 JOY ZEDLER**

**Commentor:** Joy Zedler, University of Wisconsin-Madison, Department of Botany (09-16-08)

**Response**

1. **Ormond Beach Conservation/Restoration:** Comment noted. The commentor cites a variety of reasons for supporting the restoration and conservation of both wetland and upland areas within the Study Area. This is an expression of the commentor's opinion concerning the development of the Study Area and does not refer to the analysis included in the RDEIR.

2.31



## DEPARTMENT OF BOTANY

COLLEGE OF LETTERS AND SCIENCE • UNIVERSITY OF WISCONSIN—MADISON

16 September 2008

Kathleen Mallory, Project Planner  
City of Oxnard Planning Division  
214 South C St.  
Oxnard, CA 93030  
kathleen.mallory@ci.oxnard.ca.us

Re: ORMOND BEACH SPECIFIC PLAN RECIRCULATED DEIR, SOUTH ORMOND SPECIFIC PLAN AND SOUTHSORE SPECIFIC PLAN.

This letter lends my enthusiastic support to the establishment of a major new and large conservation area at Ormond Beach. Having studied ecological conditions of southern California coastal ecosystems since the early 1970s, and having authored over a hundred relevant publications, including editing the *Handbook for Restoring Tidal Wetlands*—which focuses on this rare habitat type, **I strongly recommend that you take greatest advantage of the opportunities for conservation and restoration at Ormond Beach.**

It has been clear to me since the 1970s that far too much of southern California's coastal habitat has been lost to development or highly degraded by human activities. Further south, restoration activities that I've assisted with have had to "make do" with tiny patches of highly degraded land surrounded by urban and industrial land uses. As a result, the challenge to restore habitat and recover rare species has been difficult and costly.

But the Ormond Beach area is different and unique. An extensive habitat area can be acquired and restored more easily, first because the area is large and second because the land is less degraded.

It is important to acquire the largest possible acreage because:

A large protected area will support more species through the habitat-heterogeneity effect. For example, some fish use creeks and others benefit from a nearby marsh plain (Larkin, D. J., S. P. Madon, J. M. West and J. B. Zedler. 2008. Topographic heterogeneity influences fish use of an experimentally-restored tidal marsh. *Ecological Applications* 18:483-496). Likewise, the regionally rare annual pickleweed can persist best where water ponds in shallow depressions (Varty, A., and J. B. Zedler. 2008. How waterlogged microsites help an annual plant persist among salt marsh perennials. *Estuaries and Coasts* 31:300-312).

Large areas both provide more space for a diversity of species and they include more microhabitats that attract a wider variety of species. Note that plant germination requirements differ from one another, and small differences in habitat lead to differential establishment of annual plant species (Noe, G. B., and J. B. Zedler. 2000. Differential effects of four abiotic factors on the germination of salt marsh annuals. *American Journal of Botany* 87:1679-1692.)

Because temporal variability is high, it takes a large area to ensure that suitable conditions persist in at least some microhabitat (Noe, G. B., and J. B. Zedler. 2001. Variable precipitation limits the germination of upper intertidal marsh plants in southern California. *Estuaries* 24:30-40).

Large reserves are needed because restoring habitat for one threatened species can interfere with similar efforts for another species. Plants and animals that live together can have quite different

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habitat requirements. Management actions that benefit one can hinder another, thereby leading to the need for sufficient area to support multiple species. A simple example concerns a predator and its prey. Northern Harriers need access to prey which suggests the need for large open grassy areas, while clapper chicks need upland high-tide refuges with shrubs to hide from predators. For a site to support both, it needs to be large enough for both shrubby and open upland habitats.

Large areas provide broader buffers between developed and protect land. Broad buffers are critical, because many bird species are sensitive to nearby activities; some nocturnal animal species (e.g., lizards) are sensitive to nearby lights; loud noises are disruptive and distance protects species from noise; and there is more area to absorb inflowing contaminants (including urban runoff that might seem harmless) and thus allow higher quality habitat in core areas. Runoff confined to a small area can tip the balance toward invasive plants (Callaway, J. C., and J. B. Zedler. 1998. Interactions between a salt marsh native perennial (*Salicornia virginica*) and an exotic annual (*Polypogon monspeliensis*) under varied salinity and hydroperiod. *Wetlands Ecology and Management* 5:179-194).

A large coastal area will include critical upland habitat that is needed to support animal species that are necessary for wetland ecosystem functioning. For example, uplands support ground-nesting bees that pollinate salt marsh birds-beak (federally endangered plant). We documented this dependency in an early attempt to restore a population of this plant to Sweetwater Marsh along San Diego Bay (Parsons, L., and J. B. Zedler. 1997. Factors affecting reestablishment of an endangered annual plant at a California salt marsh. *Ecological Applications* 7:253-267). Inland habitats and shrubby species provide perches and refuges for animals (James, M. L., and J. B. Zedler. 2000. Dynamics of wetland and upland subshrubs at the salt marsh-coastal sage scrub ecotone. *American Midland Naturalist* 82:81-99.). We also showed that clapper rails need high quality uplands adjacent to wetlands. In addition, upland animals disperse salt marsh plant seeds; and upland herbivores and carnivores are part of the wetland food web.

Larger areas reduce changes that native species will succumb to more aggressive exotic species (cf. Williams, G. D., J. S. Desmond, and J. B. Zedler. 1998. Extension of two nonindigenous fishes, *Acanthogobius flavimanus* and *Poecilia latipinna*, into San Diego Bay marsh habitats. *California Fish and Game* 84(1):1-17).

Large areas are especially needed along the coast, where climate change will accelerate the rise of sea level. A large area provides room for habitats and their biota to migrate inland as water rise. Areas that are now uplands will be—and will need to be—the coastal wetlands of the future.

The opportunities at Ormond Beach for creating a large reserve and restoring its habitat are outstanding because:

The area available for acquisition and restoration is contiguous, with little fragmentation of habitats, and thus, ease of wildlife movement, species dispersal, and hydrological connectivity.

Remnant habitats are already heterogeneous, including coastal salt marsh, brackish marsh, freshwater marsh, tidal flats, coastal dune, and uplands of variable quality.

A long list of endangered and threatened birds indicates extremely high habitat value for rare species. A fish species is also on the list.

Many populations of species that are rare throughout the region are still represented.

Large areas are not yet annexed into the City, so City has the opportunity to support building elsewhere.

**I support the protection of a combined wetlands/uplands restoration that would create contiguous habitat extending from the coast to Hueneme Road.** Specifically, I recommend keeping the 322 acre north of Hueneme Road in agricultural/open space. This area would provide a large buffer for restoration efforts south of Hueneme Road. I recommend acquiring all available area south of Hueneme Road, and then extending the reserve east toward Mugu. There is no maximum area that would be too large to restore coastal habitat, support biodiversity and sustain ecosystem services. More is better!

I would appreciate notification by email that you received this communication ([jbzedler@wisc.edu](mailto:jbzedler@wisc.edu)). Thank you in advance.

Respectfully submitted,

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A handwritten signature in black ink, appearing to read "Joy Zedler". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Joy Zedler,  
Aldo Leopold Chair of Restoration Ecology, Professor of Botany

CC: Alan Sanders, Conservation Chair, Sierra Club, Los Padres Chapter, 232 N. Third St., Port  
Hueneme, CA 93041 ([alancatdaddy@aol.com](mailto:alancatdaddy@aol.com))



## **SECTION 2.0 CORRECTIONS AND ADDITIONS**

This section shows the substantive changes made to the EIR based on the public comments received on the Recirculated Draft EIR (RDEIR) (see Section 1.0, Responses to Comments). For revised text, deletions are indicated by strikethrough text and insertions are indicated by underlined text.

In addition to changes shown in this section, the City also made numerous minor corrections, minor technical edits, and other administrative edits that were also made but do not affect the conclusions of the EIR. These changes are reflected in the Final EIR sections (Volume I).

### **1.1.3 Responses to Comments on the RDEIR**

In accordance with Chapter 15088 of the California Environmental Quality Act (CEQA) Guidelines, the City of Oxnard, as the lead agency, has reviewed the comments received on the Recirculated Draft Environmental Impact Report (RDEIR) for the Ormond Beach Specific Plan Projects (dated July 2008) and has prepared written responses to the written comments received. The RDEIR was initially circulated for a 45-day public review period that began on July 24, 2008. In response to requests from several stakeholders, the City agreed to extend the review period by 15 days through September 22, 2008. The comments that the City received and the City's responses to those comments are included in Volume II of this FEIR.

## **ES.2 SUMMARY OF THE PROPOSED PROJECTS**

The project sites comprise the Ormond Beach Specific Plan Study Area, located on the Oxnard Plain in Ventura County, California (Figure ES-1). The boundaries of the Study Area are the easterly extension of West Pleasant Valley Drive on the north, an irregular line extending parallel to the Pacific Ocean on the south, the Olds Road and Arnold Road alignments on the east, and an irregular line that includes the Edison Drive alignment on the west (Figure ES-2). With the exception of a Southern California Edison transmission line right-of-way on the western edge, the property is located in unincorporated Ventura County, but within the City of Oxnard's SOI as defined by LAFCO, and within the City of Oxnard's City Urban Restriction Boundary (CURB) limits. The Study Area is currently almost exclusively used for agricultural activities. Sod-farming operations occupy the majority of these cultivated lands, while strawberries and other agricultural row crops are produced in the northeast portion of the site.

The Study Area is surrounded by non-agricultural uses within the City of Oxnard to the north, west, and south. Existing adjacent uses include single-family residential to the north (Villa Capri and Tierra Vista neighborhoods) and light industrial uses (vehicle preparation centers) to the west. A green-waste composting facility (Agromin Wood Products), the Reliant Energy Ormond Beach Generating Station, and natural features, including wetland, dune, and beach areas, adjoin the Study Area to the south. The southeastern corner of the Study Area is adjacent to the perimeter of Naval Base Ventura County Point Mugu. Existing adjacent uses also include agricultural operations to the east and southwest. The predominant crops within the properties east and southwest of the Study Area are row crops and sod. The Study Area is located approximately two miles east of the Port of Hueneme. Figure 2-1 (Section 2 of this report) shows surrounding ownerships.

### **ES.3 REQUIRED APPROVALS**

The projects require a number of discretionary approvals by both the Planning Commission and the City Council, including the following:

- General Plan amendment for each subarea.
- Establishment of zoning for the Northern and Southern subareas through adoption of specific plans for the project areas. The exception is the southernmost 220 acres in the Southern Subarea, which will retain its zoning under Ventura County jurisdiction.
- Approval of development agreements for each of the subareas.
- Approval of tentative tract maps for each of the subareas.

In addition to these City of Oxnard actions, other permits or actions by other agencies for which this document may be used are as follows:

- With the exception of the southernmost 220 acres, reorganization and approval by Local Agency Formation Commission (LAFCO) of annexation of the Northern and Southern subareas. [Annexation would be accompanied by the simultaneous detachment of the same area from the Ventura County Resource Conservation District and the Ventura County Fire Protection District.](#)
- Annexation to Metropolitan Water District of Southern California and Calleguas Municipal Water District.
- Army Corps of Engineers Nationwide Permit for activities within waters of the U.S. (33 CFR 330).
- Los Angeles Regional Water Quality Control Board Section 401 Water Quality Certification.
- Ventura County Watershed Protection District approval.
- ~~[California Department of Fish and Game Streambed Alteration Agreement \(Section 1601 of the California Fish and Game Code\).](#)~~

### **ES.4 ENVIRONMENTAL REVIEW AND PUBLIC PARTICIPATION**

The proposed specific plan projects represent discretionary actions subject to the environmental review requirements of the California Environmental Quality Act (CEQA). Therefore, this Environmental Impact Report (EIR) has been prepared to evaluate the impacts of the projects.

The [City of Oxnard's](#) Planning and Environmental Services Division determined in its initial review that there was a potential for the projects to cause significant environmental impacts and that an EIR was clearly required for the projects. Therefore an initial study was not required to be prepared, pursuant to Section 15063 (a) of the CEQA Guidelines. [The City did, however, sponsor a Community Scoping Meeting in June 2004 to inform interested stakeholders about the proposed projects and to solicit comments about them. As part of this process, the City presented three preliminary land use concepts for review and comment. The comments that the City received during and following the Scoping Meeting provided the basis for the development of project alternatives to considered in this EIR.](#)

[In September 2005, the City issued a ~~A~~ Notice of Preparation \(NOP\) ~~was issued in September 2005~~ and subjected the NOP to ~~for~~ a 30-day public review period. The City received written comments on the NOP from the following parties: County of Ventura Resource Management Agency, Planning Division; Oxnard Union High School District, Calleguas Municipal Water District, Ocean View Elementary School District, California Department of Transportation, Ventura County Air Pollution Control District, Ventura County Watershed Protection District, County of Ventura Public Works Agency Transportation Department, Ventura Local Agency Formation Commission, Southern California Association of Governments, Department of the Navy, Metropolitan Water District, California Governor's Office of Planning and Research \(OPR\), Roger Pariseau, and California Department of Toxic Substances Control \(see Appendix G\).](#)

[In May 2007, the City of Oxnard published the Ormond Beach Specific Plan Draft Environmental Impact Report \(DEIR\). The DEIR assessed the potential environmental implications of implementing two proposed specific plans: the SouthShore Specific Plan and the South Ormond Beach Specific Plan. The May 2007 DEIR was circulated for public review and comment for a period of 60 days, ending on July 20, 2007. During the public review process, the City accepted approximately 65 written and/or oral communications with comments on the proposed projects and the DEIR. The City also hosted two Planning Commission hearings \(June 21 and July 19, 2007\) and a separate community workshop on July 16, 2007. The City reviewed the comments submitted through these various forums and identified several specific environmental concerns that warranted additional environmental analysis. As a result, the City decided to revise and recirculate the DEIR.](#)

[The Recirculated Draft EIR \(RDEIR\) published on July 24, 2008, initiating a 45-day public review period. In response to requests from several stakeholders, the City agreed to extend the review period by 15 days through September 22, 2008. As part of the public review process, the City hosted a Planning Commission hearing on August 21, 2008. ~~A Notice of Availability will be issued concurrently with this Draft EIR announcing that the document is available to the public and agencies for review and comment. A 45-day public review period~~](#)

~~will be provided to receive comments. During this time, the City of Oxnard Planning Commission will also conduct a public hearing on the Draft EIR to receive comments on the document. Comments received will be reviewed and responses will be provided in the Final EIR.~~

As noted earlier, an EIR is an informational document to advise the public agency decision-makers and the public of the environmental effects of a project. CEQA Guidelines Section 15151 provides direction on the standard of adequacy for an EIR, stating the following:

*An EIR should be prepared with a sufficient degree of analysis to provide decision-makers with information which enables them to make a decision which intelligently takes account of environmental consequences. An evaluation of the environmental effects of a proposed project need not be exhaustive, but the sufficiency of an EIR is to be reviewed in the light of what is reasonably feasible. Disagreement among experts does not make an EIR inadequate, but the EIR should summarize the main points of disagreement among the experts. The courts have looked not for perfection but for adequacy, completeness, and a good faith effort at full disclosure.*

## **ES.5 SUMMARY OF IMPACTS**

The proposed specific plan projects would result in significant unavoidable impacts (Class I) for which there are no feasible mitigation measures and alternatives to the project that would avoid these impacts while still meeting the project objectives. The proposed Northern Subarea (SouthShore) Specific Plan would result in Class I impacts in five issue areas, while the Southern Subarea Specific Plan (South Ormond Beach) would result in Class I impacts in four issue areas. The Class I impacts are summarized below and are listed in Table ES-2 (Northern Subarea) and Table ES-3 (Southern Subarea).

### **Northern Subarea Class I Impacts (Significant and Unavoidable)**

- **Air Quality:** Exceedance of thresholds from construction- and project-related operational ROC and NO<sub>x</sub> emissions, resulting from heavy equipment used during construction, residential and non-residential sources including vehicular traffic, space and water heating, and consumer products.
- **Agricultural Resources:** The proposed development of the Northern Subarea would convert approximately 322 acres of prime farmland currently used for agricultural operations to urban and open space uses.
- **Noise:** Significant increases in traffic noise levels at noise-sensitive receivers located along several roadway segments. Along Pleasant Valley Road, City's Noise Ordinance standards would be exceeded for existing residential development.

- **Visual/Aesthetic Resources:** The transition of land from agricultural to urban uses constitutes a substantial change in the visual character of the area. The City of Oxnard views agricultural lands as an important visual resource, and loss of this resource is an unavoidable consequence of development.

#### **Southern Subarea Class I Impacts (Significant and Unavoidable)**

- **Air Quality:** Exceedance of thresholds from construction- and project-related operational ROC and NO<sub>x</sub> emissions resulting from heavy equipment used during construction, residential and non-residential sources including vehicular traffic, space and water heating, and consumer products.
- **Agricultural Resources:** The proposed project would convert approximately 375 acres of prime farmland currently used for agricultural operations to non-agricultural uses. The remaining 220 acres included in the Southern Subarea would continue to be available for agricultural production.
- **Visual/Aesthetic Resources:** The transition of land from agricultural to urban uses constitutes a substantial change in the visual character of the area. The City of Oxnard views agricultural lands as an important visual resource, and loss of this resource is an unavoidable consequence of development.

The proposed project would also result in various significant but feasibly mitigated, impacts (Class II). These impacts are summarized below and the mitigation measures to avoid these impacts, or to reduce them to less than significant levels, are presented in Section 3.0 of this document. These impacts and the associated mitigation measures are described in more detail in Table ES-2 (Northern Subarea) and Table ES-3 (Southern Subarea).

#### **Northern Subarea Class II Impacts (Significant but Feasibly Mitigated)**

- **Geology and Geologic Hazards:** Impacts from erosion, as well as hazards from seismic activity, expansive and collapsible soils.
- **Water Resources:** [Water Supply and demand; Shortshort](#)- and long-term potential impacts to runoff water quality; short term construction-related drainage impacts; potential wastewater treatment and conveyance infrastructure impacts.
- **Air Quality:** Soil import, grading and excavation, and equipment operation during construction activities would generate construction-related air pollutant emissions.
- **Hazards and Hazardous Materials:** The proposed project could result in impacts related to potentially contaminated soils and/or groundwater contamination resulting from the historical agricultural operations, at concentrations above regulatory action

levels. Potentially significant adverse health impacts to construction workers and/or future project site residents could occur if high levels of residual pesticides are present at the site.

- **Biological Resources:** 302 acres of habitat for common and special-status wildlife species, particularly birds, while marginal because it consists of agricultural crops and is adjacent to residential development, will be impacted as a result of the proposed project. Indirect impacts to offsite sensitive bird foraging habitat will result from increased visitation associated with increased human occupation of the area. Affected species include Western Snowy Plover (*Charadrius alexandrinus nivosus*) and California Least Tern (*Sterna antillarum browni*) that nest and forage at Ormond Beach and in the case of Least terns, along the adjacent drainage ditches.
- **Agricultural Resources:** Dust generated during construction could be deposited on adjacent agricultural lands with planted crops, temporarily reducing productivity. In addition, increase in traffic may result in permanent increase in emissions that could affect crops in adjacent agricultural lands.
- **Transportation and Circulation:** The addition of temporary soil import-related trips, as well as long-term development-generated would affect two intersections.
- **Noise:** The changes in traffic associated with future development of the Northern Subarea would result in significant increases in traffic noise levels at noise-sensitive receptors.
- **Cultural Resources:** Grading activities associated with site preparation could impact previously undiscovered cultural resources.

#### **Southern Subarea Class II Impacts (Significant but Feasibly Mitigated)**

- **Geology and Geologic Hazards:** Impacts from erosion, as well as hazards from seismic activity, expansive and collapsible soils. ~~Also, a tsunami generated by a seismic event or submarine landslide could potentially inundate the Southern Subarea.~~
- **Water Resources:** Water supply and demand; Shortshort- and long-term potential impacts to runoff water quality; short term construction-related drainage impacts; potential wastewater treatment and conveyance infrastructure impacts.
- **Air Quality:** Grading, excavation, and equipment operation during construction activities would generate construction-related air pollutant emissions.
- **Hazards and Hazardous Materials:** The proposed project could result in impacts related to potentially contaminated soils and/or groundwater contamination resulting from the historical agricultural operations, at concentrations above regulatory action levels. Potentially significant adverse health impacts to construction workers and/or

include an alternative that could feasibly accomplish most of the basic objectives of the project and could avoid or substantially lessen one or more of the significant effects, as required by CEQA. In response, the City worked with the project applicants to identify development alternatives that would satisfy those criteria. The result is Alternative 5, which is a composite of the alternatives for the Northern and Southern Subareas and reflects a lower level of intensity than the other alternatives that call for development (i.e., the Project and Alternatives 1 and 2).

- **Northern Subarea:** Under Alternative 5, the developed part of Northern Subarea would be reduced in size, the amount of residential acreage would be increased, and the density of proposed residential development would be reduced. The reduction in size of approximately 60 acres would occur along the northern and eastern edges of the Study Area, where it is assumed that the existing agricultural uses would remain. These changes would result in the elimination of the community park and the high school proposed as part of the project. Approximately 10 acres of the site proposed for the high school under the project would be converted to residential uses. In addition, the densities in remaining residential areas would be reduced, primarily along the eastern side SouthShore Drive and the northern edge of Lake SouthShore.
  
- **Southern Subarea:** In the Southern Subarea, Alternative 5 would consist of designating the entire developed area as Harbor Industrial. Since the permitted floor-area ratio would ~~remain the same~~ be considerably lower under this alternative, there would be ~~no~~ a substantial reduction in the total square footage of development compared with the project. The type of development would, however, shift from employment-intensive business park and light industrial uses to the type of port-related industrial that currently occurs to the west of the Study Area. Since these uses tend to support very low employment densities, there would be a reduction in the employment capacity of the area, and thus a reduction in the severity of impacts associated with human occupation.

**TABLE ES-2 (CONTINUED)**  
**SUMMARY OF IMPACTS AND MITIGATION MEASURES – NORTHERN SUBAREA**

Resource Area	Impact Summary	Mitigation Measure Summary	Residual Impact
3.3 Water Resources	<a href="#"><u>WATER-1: Water Supply Availability. As documented in the North Ormond Beach Water Supply Assessment &amp; Verification (July 2008) and its Addendum (November 2009), development of the Southern Subarea (in accord with the SouthShore Specific Plan) would generate estimated water demand of about 833 acre feet per year (AFY). Of this total, 443 AFY would be for potable needs and the balance (390 AFY) would be for landscaping and other non-potable needs. Based on the WSA, the project would have develop a program to offset a minimum of 402 AFY of demand through some combination of additional water supply contributions through extraordinary facilities development, extraordinary conservation measures, in-City retrofits, contributions to the development of recycled water facilities, or similar measures.</u></a>	<a href="#"><u>WATER-1: On-site Domestic Water System.</u></a> <a href="#"><u>WATER-2: On-site Recycled Water System</u></a> <a href="#"><u>WATER-3: Exterior Water Conservation</u></a> <a href="#"><u>WATER-4: Grey Water.</u></a> <a href="#"><u>WATER-5: Drought-Tolerant Landscaping.</u></a>	<a href="#"><u>Less than significant</u></a>
3.3 Water Resources	WATER-4: Construction-Related Surface Water Quality. According to the ESA prepared for the Northern Subarea, at least two adjoining offsite properties (have reported subsurface petroleum releases and contamination. It is likely that construction/demolition will require dewatering and that groundwater will be encountered. Dewatering could result in the discharge of groundwater contaminated with petroleum products. Pesticide contaminants from agricultural runoff have been found in samples obtained from sediment and wildlife in the Oxnard Drain. Indications are that the contaminant levels are decreasing due to changes in agricultural practices, but contaminant levels remain a concern. Another concern would be increased mobilization of contaminated sediments due to increased runoff to the Oxnard Drain from the new development, ultimately impacting Mugu or Ormond Beach lagoons.	WATER-6: Environmental Site Assessment. An environmental site assessment adequate to identify potential sources of stormwater contaminants and areas requiring remediation. The assessment must include the location and condition of areas used for the storage of pesticides and herbicides, petroleum storage tanks or fueling areas, septic tanks, and underground storage tanks. Areas of soil staining should be noted and the potential contaminant identified. Soil should be excavated to determine the exact vertical extent of contamination. If during soil removal, staining indicates petroleum contamination continuing below the ground surface, sampling should be performed to characterize the extent of contamination and identify appropriate remedial measures. WATER-7: De-Watering. De-watering operations during construction will utilize established BMPs for limiting the discharge of sediment. Prior to the discharge of de-watering from shallow groundwater, water quality sampling will be performed to determine if the groundwater to be de-watered is contaminated with pesticides or petroleum products. If levels of pollutants	Less than significant

**TABLE ES-2 (CONTINUED)**  
**SUMMARY OF IMPACTS AND MITIGATION MEASURES – NORTHERN SUBAREA**

<b>Resource Area</b>	<b>Impact Summary</b>	<b>Mitigation Measure Summary</b>	<b>Residual Impact</b>
	associated with site preparation at the proposed development site (including residential, mixed-use commercial, light industrial, developed open space uses) in the Study Area could impact previously undiscovered cultural resources.	all initial grading or excavation. An archaeologist will monitor all initial construction grading or excavation. If unanticipated resources are discovered, they will be evaluated according to the procedures set forth at CEQA Section 15064.5. If the evaluation determines that such resources are either unique or significant archaeological or historical resources and that the project would result in significant effects on those resources, then further mitigation would be required. In cases where the resources are unique, then avoidance, capping, or other measures, including data recovery, would be appropriate mitigation. If the resources are not unique, then recovery, without further mitigation, would be appropriate.	significant
<b>Class III Impacts – Ormond Beach (Northern Subarea)</b>			
<a href="#">3.2 Geology</a>	<a href="#">GEO-6: Coastal Flooding, Tsunami, and Sea-Level Rise. Coastal flooding associated with tsunamis and/or sea level rise could affect the coastal areas of Oxnard. The Study Area is not within 100- or 500-year floodplain and is not expected to be inundated by a tsunami. While there is research suggesting that sea-level rise could exacerbate the probability of coastal flooding in the Study Area by the end of the 21st century, additional local research and analysis are required to more fully understand how local circumstances would affect such probability. With the application of the City's development standards and continued focus on effective emergency management planning, the potential for coastal flooding is deemed to be less than significant (Class III).</a>	<a href="#">None required.</a>	<a href="#">Less than significant</a>
<a href="#">3.3 Water Resources</a>	<a href="#">WATER-1: Water Supply Availability. As documented in the North Ormond Beach Water Supply Assessment &amp; Verification (July 2008), development of the Northern Subarea (in accord with the South Shore Specific Plan) would generate estimated water demand of about 815</a>	<a href="#">Although no mitigation measures are required because the impact has been determined to be less than significant, the following mitigation measures are proposed to ensure adequate water supply availability for the project and other projects elsewhere in the city.</a>	<a href="#">Less than significant</a>

**TABLE ES-2 (CONTINUED)**  
**SUMMARY OF IMPACTS AND MITIGATION MEASURES – NORTHERN SUBAREA**

Resource Area	Impact Summary	Mitigation Measure Summary	Residual Impact
	<p>acre feet per year (AFY). Of this total, 560 AFY would be for potable needs and the balance (255 AFY) would be for landscaping and other non-potable needs. According to the SouthShore Specific Plan, development will be phased in accord with assumptions presented in a detailed citywide cumulative water supply assessment. Based on that phasing and the citywide assessment, the City's projected water supply is expected to be adequate to serve both the project demands as well as the cumulative demand of other anticipated future projects through the Year 2030. This conclusion is based on the reasonable assumption that the City's GREAT and M&amp;I Supplemental Programs will be implemented.</p>	<p>WATER-1: On-site Domestic Water System. WATER-2: On-site Recycled Water System WATER-3: Exterior Water Conservation WATER-4: Grey Water. WATER-5: Drought-Tolerant Landscaping.</p>	
3.3 Water Resources	<p>WATER-2: Water Facility Construction. The Northern Subarea will require the construction of facilities associated with Phase 1 of the GREAT program to ensure a 20-year supply of potable and recycled water. The City of Oxnard has adopted a project level EIR/EIS for the GREAT program. Most of the infrastructure for Phase 1 and Phase 2 of the GREAT program is proposed for construction at existing water facilities or involves replacement and expansion of existing water service pipelines within existing right-of-ways. The GREAT EIR/EIS includes a Monitoring, Mitigation, and Reporting Plan (MMRP) which addresses the construction impacts of Phase 1 and Phase 2.</p>	None required.	Less than significant
3.3 Water Resources	<p>WATER-3: Wasteful Use of Water. Individual building projects within the Northern Subarea would be required to meet standard requirements of the City, State, and Uniform Building Code. These requirements act to conserve potable water, ensure adequate water flow, and pay for the construction of improvements to the water distribution system as outlined in the City's Water Master Plan.</p>	None required.	Less than significant
3.3 Water Resources	<p>WATER-6: Flood Control and Stormwater Drainage. During construction,</p>	None required	Less than

**TABLE ES-3 (CONTINUED)**  
**SUMMARY OF IMPACTS AND MITIGATION MEASURES – SOUTHERN SUBAREA**

Resource Area	Impact Summary	Mitigation Measure Summary	Residual Impact
		foundation systems and floor slabs of the proposed structures shall consider the likely presence of expansive soil conditions, as well as collapsible and compressible soil conditions that have a high potential for both short- and long-term settlement and compression.	
3.2 Geology	<u>GEO-6: Coastal Flooding, Tsunami, and Sea Level Rise. Coastal flooding associated with tsunamis and/or sea level rise could affect the coastal areas of Oxnard. The Study Area is not within 100- or 500-year floodplain and is not expected to be inundated by a tsunami. While there is research suggesting that sea level rise could exacerbate the probability of coastal flooding in the Study Area by the end of the 21st century, additional local research and analysis are required to more fully understand how local circumstances would affect such probability. With the application of the City's development standards and continued focus on effective emergency management planning, the potential for coastal flooding is deemed to be less than significant (Class III).</u>		<u>Less than significant</u>
3.3 Water Resources	<u>WATER-10: Water Supply Availability. As documented in the South Ormond Beach Water Supply Assessment &amp; Verification (July 2008) and its Addendum (November 2009), development of the Southern Subarea (in accord with the South Ormond Beach Specific Plan) would generate estimated water demand of about 965 acre feet per year (AFY). Of this total, 785 AFY would be for potable needs and the balance (180 AFY) would be for landscaping and other non-potable needs. Based on the WSA, the project would have develop a program to offset a minimum of 402 AFY of demand through some combination of additional water supply contributions through extraordinary facilities development, extraordinary conservation measures, in-City retrofits, contributions to the development of recycled water facilities, or similar measures.</u>	<u>WATER-1: On-site Domestic Water System. WATER-2: On-site Recycled Water System WATER-3: Exterior Water Conservation WATER-4: Grey Water. WATER-5: Drought-Tolerant Landscaping.</u>	<u>Less than significant</u>
3.3 Water Resources	WATER-13: Construction-Related Surface Water Quality. The ESA prepared for the Southern Subarea identified superficial stains and odor which may be indicative of soil contamination in several locations. Pesticides, herbicides, fuels and other chemicals used in various agricultural operations could be present onsite. During construction these contaminants (if present) could be transported into the agricultural	WATER-6: Environmental Site Assessment. An environmental site assessment adequate to identify potential sources of stormwater contaminants and areas requiring remediation. The assessment must include the location and condition of areas used for the storage of pesticides and herbicides, petroleum storage tanks or fueling areas, septic tanks, and underground storage tanks. Areas of soil staining	Less than significant

**TABLE ES-3 (CONTINUED)**  
**SUMMARY OF IMPACTS AND MITIGATION MEASURES – SOUTHERN SUBAREA**

Resource Area	Impact Summary	Mitigation Measure Summary	Residual Impact
		<p>of sight.</p> <p>NOISE-3: Interior Noise Exposure. The methods required to mitigate interior noise exposures would depend on the locations of the residences relative to the roadways. In general, if the exterior traffic noise exposure is 65 dB L<sub>dn</sub> or less, no exceptional construction techniques would be required. Where the exterior traffic noise level is between 65 dB and 75 dB L<sub>dn</sub>, it is usually feasible to achieve the interior noise standard of 45 dB L<sub>dn</sub> by installing acoustically-rated glazing, using stucco or brick siding, and by minimizing the surface area of glazing that faces the roadways. Where the exterior traffic noise exposure exceeds 75 dB L<sub>dn</sub>, it is usually more difficult to achieve the interior noise standard in residences.</p> <p>NOISE-4: Post-Design Acoustical Analysis. To ensure satisfaction of the exterior and interior traffic noise standards for the noise sensitive land uses within the Study Area, an acoustical analysis should be prepared after the roadway and lot designs and grading plans have been finalized. The recommendations resulting from that analysis should be implemented to achieve noise standards.</p>	
3.12 Cultural Resources	CULTURAL-2: Construction-related Grading. Grading activities associated with site preparation at the proposed development site (including business park and light industrial uses) in the Study Area could impact previously undiscovered cultural resources. In the event that project-related activities impact a previously undiscovered CRHR eligible cultural resource, this would be considered to be significant but feasibly mitigated.	CULTURAL-1: Construction Period Monitoring. An archaeologist will monitor all initial grading or excavation. An archaeologist will monitor all initial construction grading or excavation. If unanticipated resources are discovered, they will be evaluated according to the procedures set forth at CEQA Section 15064.5. If the evaluation determines that such resources are either unique or significant archaeological or historical resources and that the project would result in significant effects on those resources, then further mitigation would be required. In cases where the resources are unique, then avoidance, capping, or other measures, including data recovery, would be appropriate mitigation. If the resources are not unique, then recovery, without further mitigation, would be appropriate.	Less than significant
<b>Class III Impacts – Ormond Beach (Southern Subarea)</b>			
<a href="#">3.2 Geology</a>	<a href="#">GEO-6: Coastal Flooding, Tsunami, and Sea-Level Rise. Coastal flooding associated with tsunamis and/or sea level rise could affect the</a>	<a href="#">None required.</a>	<a href="#">Less than significant</a>

**TABLE ES-3 (CONTINUED)**  
**SUMMARY OF IMPACTS AND MITIGATION MEASURES – SOUTHERN SUBAREA**

Resource Area	Impact Summary	Mitigation Measure Summary	Residual Impact
	<p><u>coastal areas of Oxnard. The Study Area is not within 100- or 500-year floodplain and is not expected to be inundated by a tsunami. While there is research suggesting that sea-level rise could exacerbate the probability of coastal flooding in the Study Area by the end of the 21st century, additional local research and analysis are required to more fully understand how local circumstances would affect such probability. With the application of the City's development standards and continued focus on effective emergency management planning, the potential for coastal flooding is deemed to be less than significant (Class III).</u></p>		
3.3 Water Resources	<p><del>WATER-10: Water Supply Availability. As documented in the South Ormond Beach Water Supply Assessment &amp; Verification (July 2008), development of the Southern Subarea (in accord with the South Ormond Beach Specific Plan) would generate estimated water demand of about 995 acre feet per year (AFY). Of this total, 815 AFY would be for potable needs and the balance (180 AFY) would be for landscaping and other non-potable needs. According to the South Ormond Beach Specific Plan, development will be phased in accord with assumptions presented in a detailed citywide cumulative water supply assessment. Based on that phasing and the citywide assessment, the City's projected water supply is expected to be adequate to serve both the project demands as well as the cumulative demand of other anticipated future projects through the Year 2030. This conclusion is based on the reasonable assumption that the City's GREAT and M&amp;I Supplemental Programs will be implemented.</del></p>	<p><del>Although no mitigation measures are required because the impact has been determined to be less than significant, the following mitigation measures are proposed to ensure adequate water supply availability for the project and other projects elsewhere in the city.</del></p> <p><del>WATER-1: On-site Domestic Water System.</del> <del>WATER-2: On-site Recycled Water System</del> <del>WATER-3: Exterior Water Conservation</del> <del>WATER-4: Grey Water.</del> <del>WATER-5: Drought Tolerant Landscaping.</del></p>	Less than significant
3.3 Water Resources	<p>WATER-12: Water Facility Construction. The Southern Subarea will require the construction of facilities associated with Phase 1 of the GREAT program to ensure a 20-year supply of potable and recycled water. The City of Oxnard has adopted a project level EIR/EIS for the GREAT program. Most of the infrastructure for Phase 1 and Phase 2 of the GREAT program is proposed for construction at existing water facilities or involves replacement and expansion of existing water service pipelines within existing right-of-ways. The GREAT EIR/EIS includes a Monitoring, Mitigation, and Reporting Plan (MMRP) which</p>	None required.	Less than significant

along the eastern edge of the Study Area, demarcated by Olds and Arnold roads, and along SouthShore Drive/Rose Avenue consistent with the City Master Plan of Bikeways.

### 1.3 REQUIRED APPROVALS

The projects require a number of discretionary approvals by both the Planning Commission and the City Council, including the following:

- General Plan amendment for each subarea.
- Establishment of zoning for the Northern and Southern subareas through adoption of specific plans for the project areas. The exception is the southernmost 220 acres in the Southern Subarea, which will retain its zoning under Ventura County jurisdiction.
- Approval of development agreements for each of the subareas.
- Approval of tentative tract maps for each of the subareas.

In addition to these City of Oxnard actions, other permits or actions by other agencies for which this document may be used are as follows:

- With the exception of the southernmost 220 acres, reorganization and approval by Local Agency Formation Commission (LAFCO) of annexation of the Northern and Southern subareas [and the simultaneous detachment of the same area from the Ventura County Resource Conservation District and the Ventura County Fire Protection District](#).
- Annexation to Metropolitan Water District of Southern California and Calleguas Municipal Water District. Army Corps of Engineers Nationwide Permit for activities within waters of the U.S. (33 CFR 330).
- Los Angeles Regional Water Quality Control Board Section 401 Water Quality Certification.
- Ventura County Watershed Protection District approval.
- ~~[California Department of Fish and Game Streambed Alteration Agreement \(Section 1601 of the California Fish and Game Code\)](#)~~.

### 1.4 ENVIRONMENTAL REVIEW AND PUBLIC PARTICIPATION

The proposed specific plan projects represent discretionary actions subject to the environmental review requirements of the California Environmental Quality Act (CEQA). Therefore, this Environmental Impact Report (EIR) has been prepared to evaluate the impacts of the projects. The Planning and Environmental Services Division determined in its initial review that there was a potential for the projects to cause significant environmental impacts and that an EIR was clearly required for the projects. Therefore an initial study was not required to be prepared, pursuant to Section 15063 (a) of the CEQA Guidelines. A Notice of Preparation (NOP) was issued in September 2005 for a 30-day public review period. The

- Annexation of the portions of Specific Plan Study Area to the City LAFCO [and the simultaneous detachment of the same areas from the Ventura County Resource Conservation District and the Ventura County Fire Protection District](#)
- General Plan amendment for each subarea
- Establishment of zoning for the Northern and Southern Subareas according to the City's Zoning Ordinance, since they are not currently within the City limits
- Approval of development agreements for each of the subareas

Approval of tentative tract maps for each of the subareas California Government Code Section 65451 includes the following requirements for specific plans:

- (a) A specific plan shall include a text and a diagram or diagrams which specify all of the following in detail:
  - (1) The distribution, location, and extent of the uses of land, including open space, within the area covered by the plan.
  - (2) The proposed distribution, location, and extent and intensity of major components of public and private transportation, sewage, water, drainage, solid waste disposal, energy, and other essential facilities proposed to be located within the area covered by the plan and needed to support the land uses described in the plan.
  - (3) Standards and criteria by which development will proceed, and standards for the conservation, development, and utilization of natural resources, where applicable.
  - (4) A program of implementation measures including regulations, programs, public works projects, and financing measures necessary to carry out paragraphs (1), (2), and (3).
- (b) The specific plan shall include a statement of the relationship of the specific plan to the general plan.

### **2.3.2 Study Area Context and Existing Conditions**

The 917-acre Ormond Beach Specific Plan Study Area is part of the approximately 1,380-acre Specific Plan Area designated in the City's 2020 General Plan (adopted November 1990). Of the remaining acreage, 265 acres have been acquired by the State Coastal Conservancy for wetland restoration and buffer areas, 276 acres have been acquired by the Nature Conservancy for wetland restoration and buffer areas, and approximately 60 acres (the former Halaco property) were recently acquired by Alpha and Omega Development, LLC. The "Halaco Site" has been proposed by the US Environmental Protection Agency (EPA) and the State of California to be added to the Superfund National Priorities List. The City of Oxnard owns another 13 acres and the Metropolitan Water District owns 20 acres (refer to Figure 2-1).

interpretive areas with signage, benches, and wildlife viewing areas. A fence will be located on the downhill side of the berm below the trail to protect sensitive wildlife areas.

## 2.4 INTENDED USES OF THIS EIR

CEQA identifies the lead agency as that entity with principal responsibility for approving a project. The City of Oxnard is the Lead Agency for development of the Study Area and the two proposed Specific Plan Project Areas. Other responsible agencies include the Ventura County Local Agency Formation Commission (LAFCO), Calleguas Municipal Water District, Metropolitan Water District, Ocean View School District, Oxnard Union High School District, the California Regional Water Quality Control Board, and the California Coastal Conservancy, as described below.

### 2.4.1 Actions Covered by this EIR

The actions that are intended to be covered by this EIR are as follows:

- Approval of General Plan amendments to establish consistency with the provisions of the specific plans (e.g., changes to the 2020 Land Use Map designation for the Study Area, changes to the text of the Land Use Element concerning the Ormond Beach Specific Plan Area; modification of the Circulation Map to cover the Study Area)
- With the exception of the southernmost 220 acres, approval of annexation of the Specific Plan Study Areas to the City of Oxnard by LAFCO [and the simultaneous detachment of the same area from the Ventura County Resource Conservation District and the Ventura County Fire Protection District](#)
- Establishment of pre-zoning per the City's Zoning Ordinance
- Approval of Tentative Tract Map(s) for the proposed development areas of the Specific Plan Study Areas
- Approval of Development Agreements for the Northern and Southern Subareas between the respective applicants and the City of Oxnard
- Approval by the Metropolitan Water District of California and the Calleguas Municipal Water District of the annexation into their service districts

Pursuant to CEQA Guidelines Section 15161, this EIR is intended to be used by the City of Oxnard as a Project EIR for these actions.

Other agencies using the EIR in their decision-making (Responsible Agencies) include the following:

- Ventura County Local Agency Formation Commission (LAFCO): Approval of annexations [and detachments](#)

## SECTION 3.0 ENVIRONMENTAL ANALYSES

### 3.1 INTRODUCTION

This section analyzes the potential environmental effects of the proposed specific plans for the Northern and Southern Subareas of the Ormond Beach Study Area.

#### 3.1.1 Content and Structure

This section analyzes the potential environmental effects of the proposed Northern and Southern Subarea Specific Plans as identified by the draft Baseline Report prepared for the City of Oxnard (URS Corp., 2005). This section includes the following subsections, which correspond with the required content of EIRs according to the CEQA statutes and guidelines.

- Geology and Geologic Hazards
- Water Resources
- Air Quality
- Hazards and Hazardous Materials
- Biological Resources
- Land Use and Planning
- Agricultural Resources
- Public Facilities and Services
- Transportation and Circulation
- Noise
- Cultural Resources
- Visual/Aesthetic Resources

Each of these subsections consists of a summary of the relevant existing conditions, an explanation of the regulatory framework affecting the subject, and a description of the potential project impacts and the mitigation measures proposed to address significant or potentially significant impacts.

For each impact discussion, the analysis concludes with a statement of the severity of the impact. These conclusions are presented according to the following classifications:

- **Class I – Significant and Unavoidable Impact.** An impact that cannot be avoided or reduced below the level of significance given reasonably available and feasible mitigation measures. Such an impact requires a Statement of Overriding Considerations to be issued if the project is approved.
- **Class II – Significant but Feasibly Mitigated Impact.** An impact that is potentially significant, but that can be reduced to below the significance level given reasonably

available and feasible mitigation measures. Such an impact requires CEQA Findings to be made if the project is approved.

- **Class III – Less than Significant Impact.** An impact that may be adverse, but does not exceed the significance level and does not require mitigation measures under CEQA. However, mitigation measures that could further lessen the minor adverse impacts may be recommended, if available and feasible.
- **Class IV – Beneficial Impact.** An effect that would reduce an existing environmental problem or hazard.

Section 15126(c) of the CEQA Guidelines requires that an EIR also identify “*significant irreversible environmental changes which would be involved in the proposed project should it be implemented.*” Section 15127 states that the information required by Section 15126.2(c) concerning irreversible changes, need to be included in EIRs prepared in connection with any of the following activities: a) the adoption, amendment, or enactment of a plan, policy, or ordinance of a public agency; b) the adoption by a Local Agency Formation Commission of a resolution making determinations; or c) a project which will be subject to the requirement for preparing an environmental impact statement pursuant to the requirements of the National Environmental Policy Act of 1969.

Since the two specific plans would be adopted by the City of Oxnard, significant irreversible environmental impacts are considered in Section 5.0, Other CEQA Considerations.

### **3.1.2 Cumulative Setting**

CEQA defines cumulative impacts as two or more individual actions that, when considered together, are considerable or will compound other environmental impacts. Cumulative impacts are the changes in the environment that result from the incremental effects of development of the proposed project and other nearby projects. For example, traffic impacts of two nearby projects may be insignificant when analyzed separately, but could have a significant impact when analyzed together. The consideration of the potential cumulative effects of all known projects within a reasonable range of a proposed project provides a more complete perspective on future environmental conditions. The City of Oxnard has posted on its website a list of planned, pending, and approved residential, commercial, and industrial projects within the City. Table 3.1-1 summarizes the total cumulative development in Oxnard based on this information as of July 2009. Table 3.1-2 details all residential projects of at least 10 units and all non-residential projects with at least 10,000 square feet, including all major specific plans under consideration (except for the Ormond Beach projects).

**TABLE 3.1-1**  
**CUMULATIVE PROJECT DEVELOPMENT SUMMARY**

<u>Project Type</u>	<u>Pending Development</u>
<u>Residential</u>	<u>10,850 Units</u>
<u>Commercial</u>	<u>4,790,000 Square Feet</u>
<u>Industrial</u>	<u>6,441,500 Square Feet</u>

Source: City of Oxnard, Development Services Department,  
Development Summaries, July 2009

The proposed projects are located in the southern part of Oxnard, while the projects listed in Table 3.1-2 are spread geographically throughout the city. Some impacts are not necessarily cumulatively considerable in relation to development that occurs further from the proposed project. For example, aesthetic and noise impacts tend to be isolated to areas nearby the Study Area, while traffic and water supply impacts have broader reach. Thus, some individual cumulative impact discussions rely on a smaller geographic area and cumulative project assumptions based on the subject matter. These are noted in the cumulative impact discussions as appropriate. Other issue areas consider cumulative development over a larger geographic area, such as all development within the city (e.g., water and traffic).

**TABLE 3.1-2  
CUMULATIVE PROJECT LIST**

<u>Type</u>	<u>Developer</u>	<u>Project</u>	<u>APN</u>	<u>Status</u>	<u>Res Units</u>	<u>Comm'l SF</u>	<u>Ind SF</u>
<b><u>Residential</u></b>	Various	RiverPark Projects	Various	1, 2, 4	1,886		
	Steadfast-Kyle Winning	Las Cortes	201010002	2	501		
	Casden	Casden			344		
	Trimark Pacific-Bill Teller	North Shore	183001074	4	292		
	Lauterbach & Associates	Arbor View (Mira Loma)	183016014	1	291		
	Shea Properties	Artisan Apartments	213003145	3	272		
	D. R. Horton	Seabridge	188025014	4	214		
	Paragon Communities	Westwinds		2, 4	207		
	Bill McRenolds	Gateway Walk	204002026	2	190		
	Tucker Investments-Anthony Delcado	Victoria/Hemlock	187006009	2	116		
	D.R. Horton	Orbela	185017009	4	105		
	Tucker Investments	Rose/Pleasant Valley	224002028	1	99		
	Mike Marlow	The Anacapa Condominiums	196003329	1	70		
	Pat McCarthy Construction	Paseo Nuevo	222007019	1	60		
	Press Courier Lofts, LLC	Press Courier Lofts	202019137	2	52		
	Aldersgate Investment	Colonial House Mixed Use	200025212	2	40		
	Cabrillo Econ Dev Corporation	Paseo De Luz	139025003	2	25		
	Cabrillo Econ Dev Corporation	Camino Gonzalez	139025003	2	18		
	Lauterbach & Associates	DAL- Villa San Lorenzo	222010201	1	16		
	<b><u>Commercial</u></b>	Shea Properties	Riverpark-The Collection	132011023	4		604,781
Centerpoint Mall/Coastal Architects		Centerpoint Mall Master Plan	203032026	1		469,767	
Duesenberg Investment Company		Third Tower	142002262	2		300,000	
Upside Investments		Carriage Square/ Lowe's	139025012	2		142,698	
T.M. Mian & Associates		Homewood Suites	213005203	3		98,798	
Michael Penrod		Rose Ranch	215006112	3		77,800	
Lauterbach & Associates		Radio Lazer	202009512	1		75,536	
Investec		Rancho Victoria	185017009	3		48,850	
David P. Waite		Embassy Suites Mandalay Beach Resort	191038010	1		37,900	
Heritage Equites, LLC		CVS Shopping Center	204006023	3		27,190	
Statham (Lance Smigel)		Statham Commercial	220001032	3		22,500	

**TABLE 3.1-2**  
**CUMULATIVE PROJECT LIST**  
**(Continued)**

<u>Type</u>	<u>Developer</u>	<u>Project</u>	<u>APN</u>	<u>Status</u>	<u>Res Units</u>	<u>Comm'l SF</u>	<u>Ind SF</u>
	<a href="#">Leedy Ying</a>	<a href="#">Shops at Vineyard</a>	<a href="#">142002116</a>	<a href="#">2</a>		<a href="#">20,000</a>	
	<a href="#">Churchyard and Development LLC</a>	<a href="#">Tesco</a>	<a href="#">221023251</a>	<a href="#">4</a>		<a href="#">19,554</a>	
	<a href="#">Lauterbach &amp; Associates</a>	<a href="#">Trinity Baptist Church</a>	<a href="#">216006107</a>	<a href="#">3</a>		<a href="#">18,800</a>	
	<a href="#">Cruz Espinosa</a>	<a href="#">Victory Outreach Church</a>	<a href="#">222010106</a>	<a href="#">3</a>		<a href="#">17,000</a>	
	<a href="#">Archdiocese of Los Angeles</a>	<a href="#">Our Lady of Guadalupe Church</a>	<a href="#">201004107</a>	<a href="#">1</a>		<a href="#">17,000</a>	
	<a href="#">Aldersgate Investments</a>	<a href="#">Colonial House Mixed Use</a>	<a href="#">200025202</a>	<a href="#">2</a>		<a href="#">16,000</a>	
	<a href="#">Paul Poirier</a>	<a href="#">Walgreens</a>	<a href="#">183013031</a>	<a href="#">4</a>		<a href="#">14,410</a>	
	<a href="#">Oxnard Center</a>	<a href="#">Centerpoint Mall Building "S"</a>	<a href="#">203032024</a>	<a href="#">4</a>		<a href="#">12,780</a>	
	<a href="#">John Parezo</a>	<a href="#">Oxnard Crossroads</a>	<a href="#">145021115</a>	<a href="#">1</a>		<a href="#">11,326</a>	
<b>Industrial</b>	<a href="#">Sunbelt Enterprises</a>	<a href="#">Seagate</a>	<a href="#">216020506</a>	<a href="#">4</a>			<a href="#">149,786</a>
	<a href="#">RIF-I Oxnard, LLC</a>	<a href="#">Seagate Industrial</a>	<a href="#">216020324</a>	<a href="#">1</a>			<a href="#">142,000</a>
	<a href="#">Raznick Realty Group</a>	<a href="#">Lion's Gate Annex</a>	<a href="#">220022009</a>	<a href="#">1</a>			<a href="#">124,195</a>
	<a href="#">Harry Ross Industries</a>	<a href="#">Harbor Freight</a>	<a href="#">201017050</a>	<a href="#">1</a>			<a href="#">99,782</a>
	<a href="#">Michael Wallace</a>	<a href="#">Wallace Business Park</a>	<a href="#">144014104</a>	<a href="#">1</a>			<a href="#">88,729</a>
	<a href="#">D2 Development</a>	<a href="#">Teal Club Self Storage</a>	<a href="#">183009057</a>	<a href="#">2</a>			<a href="#">80,407</a>
	<a href="#">EDCO</a>	<a href="#">Unnamed</a>	<a href="#">213003148</a>	<a href="#">3</a>			<a href="#">74,430</a>
	<a href="#">City of Oxnard</a>	<a href="#">Advanced Purification Facility</a>	<a href="#">231009225</a>	<a href="#">2</a>			<a href="#">60,000</a>
	<a href="#">Gary Shein</a>	<a href="#">Industrial Condominium Conversion</a>	<a href="#">220001021</a>	<a href="#">1</a>			<a href="#">36,480</a>
	<a href="#">Sunbelt Enterprises</a>	<a href="#">Rose &amp; Eastman</a>	<a href="#">216018311</a>	<a href="#">4</a>			<a href="#">33,000</a>
	<a href="#">City of Oxnard Parks Division</a>	<a href="#">RiverPark Landscape Maint Facility</a>	<a href="#">132003301</a>	<a href="#">1</a>			<a href="#">15,579</a>
	<a href="#">Mark Pittman</a>	<a href="#">Alcaraz Catering</a>	<a href="#">216016033</a>	<a href="#">4</a>			<a href="#">13,700</a>
	<a href="#">Quinn Company</a>	<a href="#">Quinn Equipment Rental Facility</a>	<a href="#">216021104</a>	<a href="#">3</a>			<a href="#">12,012</a>
	<a href="#">Lauterbach &amp; Associates</a>	<a href="#">Associated Ready Mixed</a>	<a href="#">216016040</a>	<a href="#">1</a>			<a href="#">11,421</a>
<b>Specific Plans</b>	<a href="#">Borchard Family</a>	<a href="#">Teal Club</a>			<a href="#">1,150</a>	<a href="#">37,000</a>	<a href="#">-</a>
	<a href="#">Daily Group</a>	<a href="#">Wagon Wheel/The Village</a>			<a href="#">1,500</a>	<a href="#">50,300</a>	<a href="#">-</a>
	<a href="#">Sakioka Farms Company</a>	<a href="#">Sakioka Farms</a>			<a href="#">900</a>	<a href="#">2,600,000</a>	<a href="#">5,500,000</a>
	<a href="#">Jones Ranch Specific Plan</a>	<a href="#">Jones Ranch</a>			<a href="#">2,500</a>	<a href="#">50,000</a>	<a href="#">-</a>

\* Status: 1 = Proposed; 2 = Approved; 3 = Plan Check; 4 = Under Construction

Source: City of Oxnard, Development Services Department, Development Summaries, July 2009

identify the extent of collapsible and sensitive soils. Potential impacts associated with sensitive, compressible and collapsible soils such as foundation settling are *significant but feasibly mitigated (Class II) to less than significant*.

### 3.2.3.2.2 — Applicable to Southern Subarea

**Impact GEO-6: Coastal Flooding, Tsunami, and Sea-Level Rise Hazard.** Coastal flooding associated with tsunamis and/or sea level rise could affect the coastal areas of Oxnard. According to FEMA and Cal EMA, the Study Area is not within 100- or 500-year floodplain and is not expected to be inundated by a tsunami. While there is research suggesting that sea-level rise could exacerbate the probability of coastal flooding in the Study Area by the end of the 21<sup>st</sup> century, additional local research and analysis are required to more fully understand how local circumstances would affect such probability. The generation of a tsunami from either a seismic event or submarine landslide could potentially inundate the Study Area. Currently, there is no method to predict when a tsunami will be generated because there are currently no known methods for predicting events that can generate a tsunami. However, tsunami hazard can be mitigated by either of two methods: 1) avoidance of the tsunami hazard zone; or 2) reliance on early detection of an arriving tsunami and appropriate evacuation of tsunami impact zones. The Southern Subarea of the project is located within the City of Oxnard Tsunami Hazard Zone and is designated to be light industrial development, agricultural, and open space uses. In the meantime, the City will continue to enforce development standards concerning the placement of structures in areas prone to flooding, based on the best available information published by FEMA or Cal EMA. It is to be expected that the light industrial portion of the Southern Subarea would be inhabited only during normal business hours and that, should it be required, appropriate warning of an approaching tsunami and evacuation of the area would be feasible. In August 2006, with the City of Oxnard's involvement, In addition, the City will continue to implement the recommendations of the Ventura County published the Operational Area Tsunami Evacuation Plan and . Based on that plan, the City published "Tsunami Emergency Information: How to Prepare, React, and Survive," a brochure that identifies evacuation routes and reunification areas for evacuees. With the application of the City's development standards and continued focus on effective emergency management planning, the Potential potential for coastal flooding tsunami hazard for the Southern Subarea is deemed significant but feasibly mitigated (Class II) to be less than significant (Class III).

### 3.2.3.3 Cumulative Impacts

**Impact GEO-7: Cumulative Impacts.** The potential cumulative impacts for geology do not generally extend far beyond a project's boundaries, since geological impacts are confined to discrete spatial locations and do not combine to create an extensive cumulative impact condition. The cumulative impacts related to geologic processes resulting from buildout of

structures, and Lake SouthShore shall consider the likely presence of expansive soil conditions, as well as collapsible and compressible soil conditions that have a high potential for both short- and long-term settlement and compression (addresses impacts GEO-4 and GEO-5).

***Plan Requirements and Timing.*** The final building foundation plans shall incorporate and accommodate soil engineering recommendations made by the geotechnical consultant. All grading and structural plans for the Ormond Beach Specific Plan Study Area, shall be submitted for review and approval by Development Services Department prior to issuance of a building permit..

***Monitoring.*** All earthwork and foundation construction shall be monitored by a qualified engineer/technician under the supervision of the Geotechnical Engineer of Record, including:

- Site preparation including site stripping, removal of subsurface structures, overexcavation, bottom observation, and recompaction
- Temporary excavation
- All foundation excavations
- Placement of all compacted fills and backfills
- Construction of slab and pavement subgrades

A representative of the Geotechnical Engineer of Record shall be present to observe the soil conditions encountered during construction, to evaluate the applicability of the recommendations presented in this report to the soil conditions encountered, and to recommend appropriate changes in design or construction if conditions differ from those anticipated.

The City shall review and approve plans and shall inspect for compliance with all requirements. Prior to issuance of a building permit, Development Services staff shall review project plans and verify that that soil grading and preparation requirements are printed on the plans. Building Division staff shall verify that CBC standards are met prior to issuance of Building Permits. Building inspectors shall conduct site inspections to assure that construction occurs consistent with approved plans.

#### ~~3.2.3.4.1 — Applicable to Southern Subarea~~

~~Mitigation Measure GEO-5: Tsunami Emergency Evacuation.~~ ~~Tsunami hazards in the proposed development area would be avoidable only if identified Tsunami zones are not developed. The County of Ventura and the City of Oxnard have collaborated to identify evacuation routes and reunification areas for evacuees. This information is published in the~~

~~County's Operational Area Tsunami Evacuation Plan and the City's brochure, "Tsunami Emergency Information: How to Prepare, React, and Survive." (Addresses impact GEO-6.)~~

~~***Plan Requirements and Timing.*** In order to avoid property damage and loss of life, future property and business owners and office and industrial tenants in the Southern Subarea must review and make available to all employees the County's Operational Area Tsunami Evacuation Plan and the City's brochure, "Tsunami Emergency Information: How to Prepare, React, and Survive."~~

~~***Monitoring.*** Prior to issuance and upon renewal of occupancy permits, the City shall ensure that business owners are aware of the documents that are available to help avoid property damage and loss of life from a tsunami.~~

#### **3.2.3.5 Residual Impacts**

Impacts GEO-1 through GEO-7 would be mitigated to less than significant levels via implementation of Mitigation Measures GEO-1 through GEO-54.



1989, approximately 23 square miles of the UAS was believed to be intruded by seawater. Because of increasing chloride concentrations, pumping was shifted from the UAS to the LAS; subsequently, water levels in the LAS declined to below sea level. Increasing chloride concentrations were observed in the LAS near Mugu submarine canyon as early as 1985, and high-chloride water in the LAS near Hueneme submarine canyon was discovered in 1989 (Izbicki, 1991).

After 1993, a combination of groundwater management strategies and increased availability of water from the Santa Clara River for groundwater recharge caused water levels in wells near the coast to rise above sea level and above water levels in the perched aquifer. Water levels in parts of the LAS near Hueneme submarine canyon also rose above sea level at that time, but water levels in the LAS near Mugu submarine canyon were still below sea level as late as 1996. As of 2003, annual monitoring and the findings of the United States Geological Survey's Regional Aquifer-System Analysis (RASA) study indicate that the UAS is now balanced with respect to seawater intrusion and overdraft impacts (Kennedy/Jenks 2003). However, the LAS remains ~~in overdraft and is still~~ subject to seawater intrusion in some areas, but not as severe as the conditions which existed in the late 1980's and early 1990's.

The Basin Plan (LARWQCB, 1994) objectives for groundwater quality from the perched aquifer are: 3,000 mg/l for TDS; 1,000 mg/l for sulfate; and 500 mg/l for chloride. TDS levels in the perched aquifer groundwater generally exceed 2,000 mg/l (Jones and Stokes, 2004). Because perched groundwater is not generally used for municipal or industrial purposes, there appears to be little data characterizing ~~pesticide contamination the water quality~~ of groundwater in the perched zone underlying ~~in~~ the project area.

### **3.3.1.2 Water Supply**

The primary legal standards for assessing the sufficiency of water supplies for new developments were established in Senate Bill 901 (1995), Senate Bill 610 (2001) and Senate Bill 221 (2001). Those statutes require as part of the environmental review of certain land development projects, the preparation of a "water supply assessment." As the land use planning agency, the City must then analyze within the CEQA context the environmental impacts of providing water to the project based upon the water supplies identified in the water supply assessment. Because of their size, both Ormond Beach projects require the preparation of water supply assessments. Kennedy/Jenks Consultants prepared project-specific water supply assessments (WSAs), titled *North Ormond Water Supply Assessment and Verification* and *South Ormond Water Supply Assessment and Verification*, both dated July 2008. In November 2009, addenda to each the WSAs were prepared in recognition of changed circumstances which may have an impact on s-in-the City's supplemental-water supply programs and long-term demand projections, including changes in the availability of reductions in imported and local groundwater sources supply, reductions in some

groundwater supplies, and some changes in anticipated future development within the City patterns which impacts the City's water demand projections. The WSAs are included in Appendix E of this report. These documents form the basis of the water supply analysis for this EIR and relevant findings from them are summarized below. The WSAs, their addenda, and their references are incorporated in their entirety by reference and are included as Appendix E to this document. They are also available for review at the City of Oxnard Planning and Environmental Services Division located at 214 South C Street Oxnard, California.

The WSAs analyze the sufficiency of the City's water supplies to serve the proposed projects, in addition to the demands of the City's existing and planned future customers. Pursuant to all applicable legal standards, the WSAs conclude that, with certain reasonable assumptions, there will be sufficient water supplies for the projects under all hydrologic conditions, including normal, single dry, and multiple dry years, for at least the next 20 years.

As has been described in the original and recirculated environmental review documents, along with the City's Urban Water Management Plan and the original and addendum Water Supply Assessments for this project, regulatory conditions involving water supplies and water policy occurring throughout the state have been in flux in recent years. Given this changing conditions, the City Council has adopted what might be considered an ultra-conservative approach to evaluating the impacts associated with providing water service to proposed new development. While the City remains confident in its finding that it has available sufficient and reliable supplies for the projects considered in this evaluation, along with existing and planned future customers, the City now imposes additional water supply-related mitigation requirements. That is, each project provide to the City sources of water rights or water supplies (as detailed below) sufficient to offset the entirety of the projected demand associated with the project – the project must be water supply neutral to the City.

This section contains a description of the City's current and planned future water supplies, along with an evaluation of the adequacy and environmental impacts of providing water to the project based upon the water supplies identified in the WSAs.

The City uses two sources of water to serve its customers: (1) imported surface water and (2) local groundwater. With very few exceptions, all City customers receive a blend of these two supplies through a combination of (1) City-owned groundwater wells; (2) groundwater purchased through a long-term contract with the United Water Conservation District (UWCD); and (3) imported surface water purchased through a contract with the Calleguas Municipal Water District (CMWD). Over the course of the next two decades, the City is projected to rely more heavily on local resources, including groundwater and highly treated recycled water. Table 3.3-2 shows the distribution of past deliveries to City customers according to the source of water delivered.

### Reliability of CMWD Supplies

As discussed above, along with MWD's reliability initiatives, CMWD has also taken significant steps to reduce its vulnerability to drought or other potential supply limitations. In accord with MWD's water management actions, CMWD also has a water shortage contingency analysis in its 2005 UWMP. CMWD's stages of action to reduce imported deliveries mirrors MWD's shortage approach by first encouraging voluntary behavioral changes before imposing mandatory reductions on its customers. Voluntary changes are expected to be sufficient to handle significant supply reductions, while mandatory actions would allow CMWD to weather reductions up to 50 percent.

It is clear that the reliability of CMWD's water supplies is linked directly to deliveries from MWD, with additional mitigation of supply risks from local groundwater storage and recycling programs. CMWD projections provided in its 2005 UWMP show that it has flexibility between its MWD supplies, its local projects, demand control measures, and available reserves to adequately meet service area demands in normal, single dry and multiple dry-year scenarios.

[Notwithstanding the above measures CMWD and MWD have undertaken to protect and preserve the integrity of their water supply commitments, in late 2009 MWD requested all of its retail water purveyors to implement a 23% reduction on water use. This drought response measure will persist for as long as the extraordinary water supply constraints continue to impact MWD and CMWD supplies. The City has evaluated this restrictions, along with other relevant changed conditions involving its water supply and demand projections in the 2009 Addendum to the WSA. The results of this evaluation are presented in the 2009 Addendum to the WSA and presented below.](#)

#### **3.3.1.2.2 Local Groundwater Supplies**

The groundwater supplies upon which the City relies are regulated through the Fox Canyon Groundwater Management Agency (FCGMA), which is an independent special district created by the California Legislature in 1983 to manage the groundwater resources within the groundwater basins underlying southwestern Ventura County. The FCGMA has jurisdiction over an area of approximately 185 square miles, including the City of Oxnard's main groundwater supply aquifers, the Oxnard Forebay and the Oxnard Plain basins.

As described below, the FCGMA has established a series of water management policies and programs that are intended to protect the long-term integrity and reliability of the local groundwater resources within its jurisdiction. The primary FCGMA regulatory tool is Ordinance 8.1. In meeting its goals in managing the local groundwater basins, the FCGMA has also adopted several resolutions and recently updated its Groundwater Management Plan, as discussed below.

The FCGMA's primary groundwater preservation program is embodied in Ordinance 8.1, which a) requires all groundwater wells to be registered with the agency, b) requires all groundwater use to be reported to the agency, and c) limits the amount of groundwater that may be pumped from within the agency's jurisdiction without the payment of a significant pumping surcharge (financial payment set at a rate roughly equivalent to the cost of purchasing a similar quantity of imported water currently set at \$725 per acre foot).

The FCGMA controls groundwater pumping through an allocation system. Each municipal and industrial groundwater user within the FCGMA, including the City of Oxnard, has an established groundwater pumping allocation, which the FCGMA monitors. The FCGMA imposes a nominal (currently \$4 per acre foot) pump charge for all pumping within the established allocation. As noted, any pumping above the allocation is subject to the pumping surcharge (~~currently \$725 per acre foot~~).

FCGMA policy also allows groundwater users to "bank" any unused groundwater allocation in the form of credits. For example, if the City limits its groundwater use to less than its annual allocation, it earns a conservation credit. Similarly, if "foreign water" (including recycled water) is used in-lieu of groundwater pumping and/or recharged into the local aquifers, additional credits (either conservation or storage) may be accrued. These credits may be used to offset any pumping in subsequent years to avoid payment of the GMA surcharge.

In addition to its own groundwater allocation, the City holds a water supply contract (the Oxnard Hueneme Pipeline Water Supply Contract) with the United Water Conservation District (UWCD). Pursuant to this contract, UWCD holds FCGMA allocations and credits for the benefit of the City. UWCD exercises this allocation when it delivers groundwater to the City from UWCD wells in the Forebay Basin.

Several other features of the FCGMA allocation and credit regulatory program are also important to the overall water supply and reliability assessment for the City. First, the FCGMA grants the City additional groundwater allocation when the City takes over water service responsibility for newly developed lands. For example, when agricultural lands are converted to municipal uses (e.g., commercial, industrial, or residential uses), the City obtains additional allocation. When the City takes over service responsibility to property already committed to municipal uses, the City takes over the existing allocation and credits previously dedicated to those lands.

As a method of reducing overall demands on local groundwater supplies, the GMA has implemented a staged "cutback" policy, through which it has reduced M&I allocation in increments of 5 percent, over a period of 25 years. As of July 1, 2009, municipal and industrial (M&I) pumpers have had a total of 20 percent cutback in their historical allocations. A final 5 percent cutback (for a total of 25 percent) is likely to be implemented

on January 1, 2010. The GMA does not prohibit pumping beyond the M&I allocations, however extractions beyond the pumping allocations are subject to a surcharge.

The City has managed its total GMA allocation to establish and maintain approximately 30,000 acre feet (AF) in GMA groundwater conservation credits associated with its own wells and an additional 7,000 AF of credits held with UWCD. The City uses its groundwater credit “bank” conjunctively with its imported supplies. During periods when imported supplies are restricted or when other operational considerations warrant it, the City relies more heavily on local groundwater, using a portion of its accumulated credits. During other periods, the City will reduce its groundwater use below its historical allocation to replenish its credit “bank.”

Table 3.3-3 shows the City’s allocation and credit balance as of 2007~~2009~~.

**TABLE 3.3-3  
FCGMA ALLOCATIONS AND CREDITS (AFY)**

	Allocation <sup>(a)</sup>	Credits <sup>(b)</sup>
Baseline Allocation	822.468	---
Historical Allocation	8,415.984	---
Transferred Allocation	1,487.798	---
Credits	---	<u>12,29430.000</u>
Total	10,726.25	<u>12,29430.000</u>

*Source: Hopkins Groundwater Consultants 2007 Report.*

Notes: (a) Allocations shown are after the 15 % reduction imposed by the FCGMA.

(b) Credits as of November the end of 2006~~2009~~. This table does not include additional City groundwater pumping allocation and credits held through the City’s water supply contract with UWCD, described below.

~~Finally, the FCGMA has implemented a series of three 5% reductions on allocations as a further means of maintaining the viability of local groundwater resources. The FCGMA has the authority to impose further cutbacks on allocated groundwater pumping. However, the FCGMA recently adopted a resolution which suspends the imposition of further cutbacks on those entities who participate in programs that provide new supplemental water supplies within the FCGMA jurisdictional boundaries. The City is a participant in such a program, and thus, expects to be exempted from further allocation cutbacks. The City’s supplemental water program is described below.~~

### **FCGMA Groundwater Management Plan**

Along with the regulatory tools described above, the FCGMA also promotes responsible groundwater management through the implementation of its Groundwater Management Plan. The FCGMA updated its operative Groundwater Management Plan in May 2007. Although the Management Plan contains a wide variety of programs that will further the FCGMA’s goals of preserving the local groundwater basin resources, there are two cornerstone

strategies articulated in the Plan: a) aggressive development and use of recycled water in lieu of groundwater and b) reduction in local groundwater pumping in certain areas that are difficult to recharge and are prone to localized over-pumping. These strategies call for these stressed areas to be supplied with alternative sources (e.g., recycled water, surface water, or groundwater obtained from areas easily recharged). In turn, the conservation credits developed from the reduced pumping in the stressed areas will be transferred for use in and around the Oxnard Forebay Basin because the Forebay is easily recharged.

The City is a primary participant in implementing these strategies. The City's Groundwater Recovery Enhancement and Treatment (GREAT) Program and the M&I Supplemental Water Program, both discussed below, are examples of these strategies. The GREAT Program will ultimately provide ~~approximately over~~ 20,000 acre feet per year of highly treated recycled water for regional use. The M&I Supplemental Water program currently offsets approximately 4,000 AFY ~~and will be expanded to offset 9,000 acre feet per year~~ of groundwater pumping in locally stressed areas.

### **3.3.1.2.3 M&I Supplemental Water Program**

The M&I Supplemental Water Supply Program provides surface water originally derived from outside the FCGMA, diverted from the Conejo Creek Diversion, to the Pleasant Valley County Water District (PVCWD) for agricultural irrigation. The PVCWD then transfers the groundwater conservation credits it earns from reducing its groundwater pumping to CMWD, which then transfers them UWCD. UWCD then pumps groundwater from the Oxnard Forebay Basin and provides it to its retail water purveyors, primarily the City of Oxnard. By virtue of this program, the City is able to access additional low cost groundwater supplies while also participating in a program that helps optimize groundwater recharge in key areas within the GMA. The current program yields approximately 4,000 acre feet per year on average.

~~The City and other parties responsible for implementing the M&I Supplemental Water Supply Program are currently developing an augmented version of this program that will yield 9,000 acre feet per year. Agreements for this augmented program are under negotiation. The augmented program and the associated agreements are expected to be completed in mid-2008.~~

It should be noted that the FCGMA and UWCD have safeguards in place to limit the pumping in the Oxnard Forebay Basin so that this portion of the aquifer is not stressed beyond its capability. For example, the M&I Supplemental Water Program allows UWCD to temporarily suspend deliveries when groundwater levels have dropped below a certain threshold. During these periods, the City can obtain its needed groundwater by shifting its pumping to wells in the Oxnard Plain outside of the Forebay (FCGMA, 2007).

Recent modeling work performed in conjunction with the ~~expansion of the~~ M&I Supplemental Water program demonstrates that it is highly unlikely that any restrictions on use of the credits generated through the program will be required. In other words, the shifting of pumping from the Pleasant Valley Basin to the Forebay and surrounding Oxnard Plain has proven to be a very effective method of improving the overall reliability and integrity of local groundwater resources.

Given the very limited uncertainties in the future management of the M&I Supplemental Water Supply Program, the City has incorporated it into its future planning as a fixed, firm water supply. As noted in the 2009 Addendum to the WSA and incorporated in the tables below, the yield of the M&I Supplemental Water Program is anticipated to decline over the next 10-15 years.

#### **3.3.1.2.4 GREAT Program**

Implementation of the GREAT Program will provide ~~approximately over~~ 20,000 AFY of additional assured water supplies to the City. The GREAT Program will be implemented in phases, with the first phase (~~approximately at least~~ 5,000 AFY) to be operational by 2011. The major components of the GREAT Program are modular, thus the remaining phase(s) may be made operational relatively quickly, as the City's water demand increases. A program EIR that addressed the environmental effects of this program was prepared and certified in 2004. That EIR documented that, with the exception of a small but finite safety risk associated with project elements within an identified tsunami hazard area, all of the project impacts can be mitigated to a less than significant level. Potentially significant but mitigable impacts were identified in the areas of land use, geology, cultural and paleontological resources, water resources, biological resources, air quality, traffic, noise, visual resources, public services and utilities, and hazardous materials and waste. As part of the GREAT Program approval, a Mitigation Monitoring and Reporting Plan (MMRP) was adopted to ensure that project-specific impacts of the program components are effectively mitigated. The GREAT Program elements are further described in the following sections.

#### **GREAT Program Elements**

The existing Oxnard Wastewater Treatment Plant (OWTP) currently produces approximately 20 million gallons per day (mgd) of secondary treated wastewater and discharges the effluent to the Pacific Ocean through its ocean outfall. The GREAT Program makes beneficial use of these water resources through advanced treatment and subsequent reuse through a number of mechanisms, as described in the Advanced Planning Study (Kennedy/Jenks, 2002) and the GREAT Program EIR and summarized below:

- **Advanced Water Treatment.** The City will construct an Advanced Water Purification Facility (AWPF) at the existing OWTP, to produce a high quality

recycled water product which will meet the California Department of Public Health (CDPH) criteria for groundwater recharge, agricultural and municipal uses. Treatment will include microfiltration/ultrafiltration, reverse osmosis, and advanced oxidation. The City expects to ~~complete final design work on the AWPf in late 2008~~, start construction in ~~early December~~ 2009, and have the AWPf operational in ~~2010/2011 by 2012~~.

- **Recycled Water ~~Delivery System~~ Backbone Pipeline, Phase I.** This pipeline and distribution project will deliver recycled water to customers along the Hueneme Road and Ventura Road corridors within the City, substituting recycled water for use of potable water where appropriate. The City expects to complete design work within the next few months and to start construction in early 2010. To meet the terms of the US Bureau of Reclamation grant, the Recycled Water Backbone Pipeline must also be completed by September 30, 2011. Additional details on the City's proposed recycled water system are described in the City's Recycled Water Masterplan Phase I.
- **Groundwater Injection.** Injection wells will provide a mechanism to store recycled water during periods when irrigation demand is low. Groundwater injection would serve as a mechanism to prevent seawater intrusion in the coastal LAS as part of the Seawater Intrusion Barrier Project. The City will likely partner with UWCD on this aspect of the GREAT Program.
- **Groundwater Desalination.** Groundwater will become a larger percentage of the City's water supply, due to the transfer of groundwater credits to the City from agricultural pumpers who use recycled water or from FCGMA groundwater pumping credits granted to the City from injecting recycled water into coastal aquifers. Local groundwater contains higher levels of total dissolved solids (TDS) than does imported water purchased from CMWD. To maintain the current water quality provided to City customers, the GREAT Program includes the construction of desalters to remove the dissolved minerals from the local groundwater. This would allow the City to increase the overall percentage of groundwater compared to surface water in its potable water supplies. ~~The City expects to complete the construction of the first desalter at the City's its Blending Station No. 1 is now fully operational in late 2008.~~ The City has begun ~~preliminary~~ design for its second desalter at the Blending Station No. 3. It is considering a third desalter at its Blending Station No. 4.
- **Concentrate Collection System.** Although not an essential element of the GREAT Program, the concentrate collection system would divert some portion of the highly degraded water entering the OWTP. Instead, this waste stream would bypass the treatment system and be disposed directly through the City's ocean outfall. This system would improve the efficiency of operation of both the OWTP and the AWPf.

The City is currently studying needed piping sizes and potential alignments for the concentrate collection system.

### **GREAT Program Effect on Available Water Supply**

The City will receive groundwater credits from the FCGMA for GREAT Program recycled water that is either injected into coastal aquifers or provided to ~~coastal~~ agricultural irrigators who subsequently reduce their groundwater pumping. Based on similar programs in place within the FCGMA area, it is expected the City will receive groundwater credits on a 1:1 (one AF to one AF) ratio. The groundwater credits can then be used by the City to support its groundwater pumping. The City may also use the recycled water directly for approved municipal uses, thus displacing the need for potable water delivery for these uses.

The FCGMA Management Plan presents the GREAT Program as the most important aspect of its anticipated management strategies. As a result, the City expects the FCGMA will offer significant regulatory support in helping the City implement the Program. The City has identified a number of agricultural irrigators along Hueneme Road, east of the AWPf, who could potentially utilize recycled water and reduce their groundwater pumping from the LAS. The City and UWCD are also working to secure several sites along Hueneme Road for potential recycled water injection wells. Additionally, the City has identified a number of existing facilities such as parks, schools, and golf courses that will have proximity to the main recycled water line and are good potential candidates for recycled water use (Kennedy/Jenks, May 2007). Serving recycled water to these existing facilities for their non-potable water needs will reduce the overall demand for potable water.

Using recycled water for groundwater injection for subsequent domestic water pumping (ASR program) or to combat seawater intrusion in coastal aquifers (Seawater Intrusion Barrier Project) would create a steady demand for recycled water that would translate into a fixed groundwater credit allocation from FCGMA.

As a conservative measure, the City has not incorporated projections of groundwater credits associated with the Seawater Injection Barrier in its water supply strategies (Kennedy/Jenks, June 2007). However, the City has included a projection of a 1:1 groundwater credit for either the direct use of recycled water when offsetting a groundwater use, or the direct injection of recycled water (Kennedy/Jenks, June 2007).

### **GREAT Construction Phasing**

Based on the recommendations of the 2005 UWMP, the capacity of the Phase 1 AWPf facility was expanded from 5.0 MGD to 6.25 MGD. The initial phase of the AWPf is planned for completion in ~~2010/2011/2012~~ (Thien Ng pers. corres., September 2009) ~~Tony Emmert pers. corres., January 2008~~). It is anticipated that recycled water infrastructure will

serve 2,450 AFY of M&I demands by year 2012; approximately 2,700 AFY of recycled water supply would be delivered to City M&I by year 2013; 3,150 AFY by 2016; and 5,050 AFY by year 2020 (Recycled Water Master Plan 2009). The Recycled Water Facilities Plan (Kennedy/Jenks, 2007) recommended two additional expansions of the AWPf to take it to 25.0 mgd by 2020. The first and second expansion phases of the GREAT Program are currently planned for 2015 and 2020 (Kennedy/Jenks, June 2007). Final expansion of the AWPf may be pushed to a date later than 2020, depending on the water supply and demand scenarios then existing within the City. Major components and capacities for Phase I and Phase II (Kennedy/Jenks, June 2007) of the GREAT program are as shown in Table 3.3-4.

The initial Phase 1 construction of the AWPf includes the completion of the main facility and infrastructure required for the future expansion of the facility's capacity. Additional treatment trains, or modules, can be added as needed, with significantly less comparative investment, to address future changes in water supply. The AWPf Phase 2A could be built as early as year 2015 and would supply an additional 7,000 AFY. AWPf Phase 2B is estimated to be complete by 2020, producing an additional 7,000 AFY. Dates for these AWPf expansions may be modified as water supply conditions change or circumstances require. AWPf Phase 2A and 2B may provide recycled water to M&I, agriculture, and groundwater recharge projects. Funding for AWPf Phase 2A and 2B will primarily be generated from fees paid by projects that increase water demands beyond the Phase I capacity of the GREAT Program. Future expansions of the AWPf, up to 25 mgd, will be undertaken by the City as needed.

Desalters at Blending Station 3 (BS3) Phase 1 are anticipated to be operating by 2013 (7.5 mgd product water capacity) and an additional desalters at Blending Station 1 (BS1) Phase 2 (15 mgd product water capacity) are projected to be operating by 2017 (according to the City's Fiscal Year 2008-2009 Capital Improvement Plan). BS3 Phase 2 (15 mgd product water capacity) anticipated to be operating by 2021 (personal communication with City Water Division, Tony Emmert, August 2009). However, these dates may be modified as conditions change. The construction of the recycled water delivery infrastructure and the Phase I capacity of the AWPf at 6.25 mgd are to be constructed concurrently. As with any construction project, it is possible the construction of the delivery capability for recycled water will lag the construction of the AWPf in the initial phase of the project. The potential construction timing disconnect between capacity and delivery capability may result in the City's continued reliance on its currently available sources into the period between 2010 and 2016 (Kennedy/Jenks, May 2007). In other words, there may be a delay in the availability of the groundwater credits and recycled water delivery capability anticipated from the initial phase of the GREAT Program. In anticipation of this potential delay, the City has developed a demand reduction program that is further described below.

The construction of the first groundwater desalter element of the GREAT Program is underway and is expected to go on line at Blending Station No. 1 in late 2008. This desalter will have 7.5 mgd (8,400 AFY) of capacity. The second desalter is expected on line in 2011 at Blending Station No. 3. By 2016, the City expects to have a minimum of 9.4 mgd (10,600 AFY) of desalting capacity. Since City wells will be pumped at a higher rate to accommodate greater demand, the desalters will be necessary to maintain an acceptable level of water quality as the City increases its reliance on groundwater.

**TABLE 3.3-4  
GREAT PROGRAM RECYCLED WATER FACILITIES PHASING**

Facility	Phase I		Phase II	
	2010/2011 <sup>1</sup>	2015	2020	Beyond 2020 Final Expansion
<b>AWPF<sup>2</sup></b>	6.25 mgd 7,000 AFY	12.5 mgd 14,000 AFY	18.25 mgd 21,000 AFY	25.0 mgd 28,000 AFY
<b>Preferred Project Recycled Water Facility<sup>3</sup></b>				
Alt. A Recycled Water Backbone System <sup>4</sup>	1.2—1.8 mgd 1,400—2,000 AFY			
<b>Alternatives—Recycled Water Facilities Plan<sup>3</sup></b>				
Alt. E. Groundwater Injection Wells <sup>5</sup>	6.25 mgd 7,000 AFY			
Alt. D Pleasant Valley Agricultural Area	3.57 mgd 4,000 AFY			
Alt. B project		0.17-0.26 mgd 200-300 AFY <sup>6</sup>		
Alt. C Ocean View Agricultural Area		3.57 mgd 4,000 AFY		

<sup>1</sup>—From Table ES-2, Summary of Identified Demands/ Final Report Oxnard Recycled Water Facilities Plan, May, 2007.

<sup>2</sup>—Dates for proposed expansions of AWPF from City of Oxnard Water Supply Strategies 2006 to 2016.

<sup>3</sup>—Description of recycled water alternatives from Final Report Oxnard Recycled Water Facilities Plan, May 2007. Actual implementation of alternatives are subject to future planning efforts.

<sup>4</sup>—The City of Oxnard Water Supply Strategies 2006 to 2016 states that the initial 1,250 AFY described in the Recycled Water Facilities Report will be expanded.

<sup>5</sup>—The City of Oxnard Water Supply Strategies 2006 to 2016 states that for City planning purposes, injection for domestic supply is assumed to reduce potable water demand by a 1:1 transfer of groundwater credits.

<sup>6</sup>—The Final Report Oxnard Recycled Water Facilities Plan states a time range for the three possible alternative B projects from 2010 to 2015.

### GREAT Program Financing

The City Council has approved the GREAT Program in its entirety and certified the City of Oxnard's Project EIR/EIS. In addition, the GREAT Program is a cornerstone strategy of the FCGMA Management Plan to ensure the ongoing integrity of the local groundwater basins. Some portions of the GREAT Program are fully funded and operational under construction (i.e., the Desalter located at Blending Station #1, ~~which is projected to be on-line in late 2008~~) and other portions of the Program are in various stages of design and implementation.

GREAT Program funding will derive from a combination of customers rates and charges, bond financing, grant funding and water resource development and connection fees imposed on new development. For example, in conjunction with the approval of the GREAT Program EIR/EIS, the City raised its customer connection fees significantly, in part to raise funds to construct the GREAT Program. The City has also received federal grant funding for a substantial portion of the Phase 1 GREAT Program and the Recycled Water Backbone System.

The only remaining contingency for the construction of the GREAT Program Phase 1 is the completion of the final design and award of a construction contract. ~~is the approval of the funding of the final program components.~~ The Recycled Water Facilities Plan (Kennedy/Jenks, May 2007) includes estimates for capital costs for the BRWS and the additional recycled water systems (portions of the GREAT Program infrastructure). An additional authorization of \$26,674,000 (in 2006 dollars) will be needed to complete the BRWS that includes construction of Phase I of the AWPF. The capital costs needed to create the infrastructure to support the projected 17,500 AFY of recycled water demand in 2006 dollars is \$60,219,000.

In 2004 and 2006, the City Council approved and appropriated over \$59 million in bonds, a portion of which are dedicated to the GREAT Program and the recycling projects discussed in this analysis. In late 2009, the City Council approved a two year budget and rate program (based upon an up-to-date is in the process of developing a Water Wastewater Rate and Fee Study) that will be incorporated into a Comprehensive Financing Plan and and master funding schedule for the completion of the GREAT Program, Phase 1. City staff plans to present for Council approval in early 2009 the bond financing and rate program to cover the cost of the BRWS that includes the first 6.25 mgd phase of the AWPF. Given the City Council's historical commitment to the GREAT Program and its regional importance, it is reasonable to expect this Council will authorize the funding of future these final components of the ~~Phase 1~~ GREAT Program elements as required to meet the City's water demands.

### GREAT Program Contingencies

As noted above, the GREAT Program is an important element of the City's long-term water supply portfolio. While its actions to date demonstrate the City's full commitment to the GREAT Program, certain future actions must be undertaken to ensure the timely implementation of the Program. [GREAT Program, Phase 1 is essentially fully approved and reliable. Subsequent phases of the](#) ~~Thus, the~~ GREAT Program, while considered a reliable future supply, ~~does~~ present a relatively small contingent element to the City's overall water supply reliability. The GREAT Program is reasonably considered a reliable future supply based on the following considerations:

As a part of the City Council's formal adoption of the GREAT Program, the following activities have occurred:

- A. **The GREAT Program Advanced Planning Study** was completed and approved in 2002.
- B. **GREAT Program Final EIR/EIS.** This document was certified in September 2004. The GREAT Program, Phase 1 was evaluated at the project level and Phase 2 was evaluated at the programmatic level. The EIR/EIS also included the construction of Blending Station No. 5.
- C. **Bonds and Rate Adjustments.** The City issued over \$48.6 million in municipal bonds in February 2004 and another \$50.0 million in 2006 to fund a significant portion of the GREAT Program. The City has established GREAT Program Finance, Steering and Capital Projects Committees to guide the financing programs necessary to implement the remaining elements of the GREAT Program. [In late 2009, the City Council approved a two year budget and rate program \(based upon an up-to-date Water and Wastewater Rate and Fee Studies\) and master funding schedule for the completion of the GREAT Program, Phase 1](#)~~The City expects to issue another bonding increment in early 2009 to fund the remaining elements of the phase 1 GREAT Program. In addition, t~~The City has completed the necessary rate models [and received approval](#) to implement adjustments to the City's water and wastewater rates, along with its water resource development and connection fees, to support the next increment of bond financing [for the GREAT Program.](#) ~~Rate adjustments are expected to be implemented in coordination with the approval of the bond issuance.~~ Subsequent financing needs for the phase 2 and phase 3 increments of the GREAT Program are relatively minor in comparison to the phase 1 costs and will be implemented consistent with the timing appropriate for those GREAT Program elements. [The City has received federal and local grants funds for both the GREAT Program, Phase 1 and the Recycled Water Backbone System.](#)

- D. **Acquisition of Property for AWPf.** The City has purchased the property on which the AWPf will be sited.
- E. **Recycled Water Backbone System.** The City Council considered and approved the “Recycled Water Backbone System Study” (October 2005), which evaluated the technical feasibility of using the abandoned Redwood Trunk Sewer (which was replaced with a new wastewater line) for a pipeline to serve recycled water to areas generally located in the northwest portion of the City. In November 2006, the City Council approved this project (along with certification of the associated environmental review), and adopted the City’s mandatory recycled water use ordinance discussed separately in this document. This project will provide up to 1,275 AFY of recycled water to M&I customers. At this time, approximately 1,250 AFY of in-City recycled water demand has been identified.
- F. **Recycled Water Program Management.** The City is preparing a “Recycled Water Master Plan.” This plan will address the institutional issues related to recycled water uses throughout the City. The Recycled Water Master Plan includes the following:
- (1) Public outreach strategy.
  - (2) Mandatory recycled water use ordinance and administrative code implementation programs.
  - (3) Grant funding identification.
  - (4) Site supervision and training.
  - (5) Standard drawings and details.
  - (6) Cost-sharing for system retrofits.

In addition, the City is actively pursuing the following interim strategies to reduce the potential for water supply shortages should there be any delay in implementation of the GREAT Program:

1. Accumulate groundwater credits for use while the GREAT Program implementation and expansion is underway.
2. Maximize the access to M&I Supplemental Water Supply Program ~~and finalize the augmented M&I Supplemental Water Program agreement.~~
3. Maximize the use of CMWD water to help bank groundwater conservation credits.
4. As necessary, purchase un-used O-H water from other O-H system contractors that under utilize their allocation.
5. Implement the initial phase of the GREAT Program (for 6.25 MGD) by 2012<sup>4</sup>.
6. Plan for the first expansion of the GREAT Program to be an additional 5.2 MGD (to 11.45 MGD).

Total for Recommended Projects (All except B3 and F)	17,280
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Source: Table ES-2, Final Report Oxnard Recycled Water Facilities Plan, May 2007.

### **3.3.1.2.6 UWCD Water Facilities**

United Water Conservation District is a local, special district that owns and operates local water supply facilities that directly and indirectly impact the reliability of the City's water supplies. First, UWCD owns and operates the El Rio Wellfield and the Oxnard-Hueneme Pipeline, components of a potable water supply facility for which the City holds a long-term water supply contract. Second, UWCD owns the Freeman Diversion on the Santa Clara River and a series of percolation ponds, which UWCD operates to augment the recharge of the Oxnard Forebay and Oxnard Plain basins.

#### **OH System Contract**

The City holds a long-term water supply contract with UWCD. UWCD relies on a group of wells located in the Oxnard Forebay basin to supply the City local groundwater pursuant to this contract. Because UWCD's wells are within the jurisdiction of the FCGMA, UWCD's holds a FCGMA pumping allocation for each of its contractors on the OH System, including the City. Until 2006, the City's groundwater suballocation of UWCD groundwater was 9,070 AFY. In 2006, it was reduced to 7,709 AFY as a result of planned cutbacks pursuant to FCGMA Ordinance No. 8.1. The final FCGMA cutback scheduled for January 2010 will reduce the City's suballocation from UWCD to 6,800 AFY. The City's current pumping suballocation is 7,709 AFY. The City also holds approximately 7,000 AF acre feet of credits on the OH System as of December 31, 2006.

UWCD also holds conservation credits accrued by the O-H contractors, including the City. Currently the City has approximately 7,000 AF of stored credits with UWCD (personal communication, Curtis Hopkins, August 2009).

Because the reductions in allocation are designed to protect and preserve the long-term integrity of bring the local groundwater basins within safe yield, the City's groundwater suballocations are considered to be a reliable future water source. The term of the OH System contract covers 1996 to 2036. This is the second in a series of water supply contracts between the two entities. For City planning purposes, the UWCD contract allocation is considered a fixed, firm water supply.

#### **UWCD Freeman Diversion**

In addition to its water supply facilities, UWCD also operates facilities which provide significant groundwater recharge to the local groundwater basins. These facilities are the Freeman Diversion on the Santa Clara River and several off-stream percolation basins (also

referred to as spreading grounds). UWCD diverts Santa Clara River water at the Freeman Diversion and delivers a portion of the water to the spreading grounds. The balance of the surface diversions are supplied to agricultural users in the region. The operation of UWCD facilities are funded through user water rates and a series of groundwater pump charges imposed on all local groundwater users. Through the operation of these facilities, UWCD has augmented over 1,000,000 acre-feet of recharge to the local groundwater basins beyond that which would occur without these recharge facilities. The overall integrity of the local groundwater basins are, in part, dependent on the continued augmented recharge obtained through Freeman Diversion operations.

The Santa Clara River is designated critical habitat for the endangered steelhead salmon. UWCD has operated the Freeman Diversion consistent with a biological opinion issued by the National Marine Fisheries Service. Among other operational considerations, the Freeman Diversion contains a fish ladder that provides physical passage for migrating fish on the Santa Clara River. Currently, UWCD is consulting with the National Marine Fisheries Service over potential changes to the operation of the Freeman Diversion. The scope of these discussions includes increasing the amount of water flowing through the fish ladder to augment the ability for fish passage through the diversion structure. Depending on the timing and magnitude of these changes, there could be an impact on the overall quantity of water diverted through the Freeman Diversion. This, in turn, could impact the efficiency of the augmented recharge obtained through the percolation basins, and the amount of surface water supplied to local agricultural users. These discussions have not yet yielded any specific result which could then be analyzed in this document.

#### **3.3.1.2.7 Other Projected City Water Supplies**

The City has identified other potential water supplies in addition to those described above:

##### **Ferro Property Program**

UWCD has approved, and is in the process of completing, the purchase of certain property located in the Oxnard Plain Forebay, which UWCD will convert into additional spreading basins. UWCD has approved a transfer agreement with the City through which the City will access additional local groundwater supplies. The FCGMA has also approved the transfers necessary to allow the City and United to collaborate on this water supply program. (FCGMA Resolution 2009-07.) The City Council will consider this transfer agreement in December 2009. Through this program, the City will obtain 11,000 AF of groundwater credits. The City plans to use these transferred credits within the period 2010-2011. This program also provides the City with an additional access to 1,000 acre-feet per year of groundwater, through 2019 (a total of an additional 8,000 acre-feet) (personal communication, Tony Emmert, September 2009). The groundwater obtained through this program will be delivered through City wells and the O-H pipeline.

### Transferred Allocations

It is estimated that the City will acquire 1.5 acre-feet per acre per year for agricultural lands that convert to M&I uses. The City has identified several areas that are in agriculture that are anticipated to undergo urban development including the Teal Club Specific Plan (SP) area, Sakioka Farms SP area, Camino Real Business Park, Jones Ranch SP, Ormond Beach North SP, and Ormond Beach South SP. Based on the potential conversion area and timing of development the City Planning Division has developed projections of transferred allocations. Water supply projections assume transfers of allocation of 525 AF per year from the Teal Club SP; 219 AF per year from the Sakioka Farms SP; 69 AF per year from the Camino Real SP; 145 AF per year from the Ormond Beach North SP; and 98 AF per year from the Jones Ranch SP by year 2015. This projection also assumes the transfer of an additional 260 AF per year from the Sakioka Farms SP; an additional 150 AF per year from the Jones Ranch SP; an additional 338 AF per year from the North Ormond Beach SP; and 231 AF per year from the Ormond Beach South SP by year 2020. This projection also assumes the transfer of an additional 332 AF per year from the Ormond Beach South SP and an additional 148 AF per year from the Sakioka Farms SP by year 2030.

### GMA Groundwater Credit Transfer

Transfer of 700 AF of GMA groundwater credits from PHWA to the City as part of the Three Party Water Supply Agreement, December 2002 (personal communication, Tony Emmert, August 2009, Calleguas Municipal Water District “Three Party Agreement” dated December 10, 2002 and “Purchase Order” dated January 1, 2003).

#### **3.3.1.2.78 Climate Change Effects on Water Supplies**

The City has conducted a survey of current literature on climate change and has summarized the potential impacts on water resources in California. To address uncertainties in the water supplies, the City has reviewed the most recent reports that address the potential effects of climate change on the Delta drainage area and the Colorado River Basin. The City has also summarized recommendations offered by state agencies, policy groups, and non-governmental organizations, and has compared them to MWD’s existing programs and climate change policies.

Recent climate change reports recognize that impacts on water resources largely depend on the degree of warming and concede there are significant uncertainties regarding the impact of climate change on local and regional climates. There is a great deal of uncertainty surrounding temperature rise predictions and the resulting impacts on local and regional climates because it is difficult to predict future greenhouse gas emissions and the resulting feedback processes in the climate system and hydrological cycle. Further, existing climate change models are imperfect and become increasingly imprecise when used to predict

are outside the design range of existing infrastructure. MWD recognizes that climate change will require water suppliers to develop new, alternative water supplies and to focus on water use efficiency. In March 2002, MWD's Board of Directors adopted climate change policy principles that relate to water resources. These principles are reflected in MWD's water supply planning efforts, including the IRP. Further, in response to climate change and uncertainty, MWD's 2005 Regional Urban Water Management Plan incorporated three basic elements to promote adaptability and flexibility, important in addressing impacts of climate change: conservation, groundwater recharge and water recycling.

MWD has been recognized for its positive approach by the IPCC in its recent 2007 Report on Climate Change: Climate Change Impacts, Adaptation and Vulnerability. The IPCC's climate change projections and adaptation options are internationally recognized by both governmental and non-governmental agencies, and its use of MWD as an example of how to manage climate change shows the professional wisdom of its programs.

Most recently, MWD approved criteria to further explain its position on the conveyance options that are currently being discussed to remedy the Delta, which include addressing projected sea level rise and change in inflows due to climate change. MWD's criteria provide that, whatever option is chosen, it should provide water supply reliability, improve export water quality, allow flexible pumping operations in a dynamic fishery environment, enhance the Delta ecosystem, reduce seismic risks and reduce climate change risks. MWD has demonstrated a commitment to addressing climate change by evaluating the vulnerability of its water systems to global warming impacts and has developed appropriate response strategies and management tools that account for the impacts of climate change on water supplies.

#### **3.3.1.2.9 Total Water Supply Summary**

Table 3.3-5 summarizes how the City's projected imported and local water supplies and groundwater credits from FCGMA, UWCD, and the GREAT Program will change between 2010 and 2030.

**TABLE 3.3-5**  
**PROJECTED ANNUAL WATER SUPPLIES AND CREDITS**

	2010	2015	2020	2025	2030
<b>ANNUAL SUPPLIES (Acre Feet Per Year)</b>					
Groundwater-City Wells <sup>(a)</sup>	8,380	8,380	8,380	8,380	8,380
Brine Water Loss <sup>(b)</sup>	(2,100)	(4,200)	(6,300)	(8,400)	(8,400)
UWCD Allocation <sup>(c)</sup>	6,800	6,800	6,800	6,800	6,800
CMWD Allocation <sup>(d)</sup>	11,840	11,840	11,840	11,840	11,840
M&I Supplemental Water <sup>(e)</sup>	5,000	3,000	1,000	1,000	1,000
GREAT Program Recycled Water Phase 1 M&I <sup>(f)</sup>	0	2,700	5,050	5,050	5,050
GREAT Program Recycled Water Phase 1 Agriculture Use <sup>(f)</sup>	0	4,300	1,950	1,950	1,950
GREAT Program Recycled Water Phase 2 <sup>(g)</sup>	0	7,000	14,000	14,000	14,000
Ferro Pit Program <sup>(h)</sup>	5,500	1,000	0	0	0
Transferred Allocations <sup>(i)</sup>	0	1,060	2,290	2,220	2,420
PHWA Program <sup>(j)</sup>	700	700	700	700	700
<b>Total Annual Supplies</b>	<b>36,120</b>	<b>42,580</b>	<b>45,710</b>	<b>43,540</b>	<b>43,740</b>
<b>Groundwater Banked Credits</b>					
Fox Canyon GMA credits (k)	30,000	AF			
UWCD credits (k)	7,000	AF			
GREAT Program credits at 2,500 AFY minimum X 20 years (l)	50,000	AF			
<b>Subtotal</b>	<b>87,000</b>	<b>AF</b>			

Notes: Values are rounded to the nearest 10 acre-feet.

- a) Projection includes the existing cutbacks (Fox Canyon Groundwater Management Agency-GMA, up to 25 %) and no anticipated future cutbacks in City's allocation. Source: City Water Resources (personal communication, Curtis Hopkins, August 2009).
- b) Brine Water Loss is the amount of brine reject water (approximately 20 % loss) associated with the City's potable water Desalters at Blending Stations No. 1 (BS1) (currently operating at 7.5 mgd product water capacity - 8,400 AFY) and future BS3. BS3 Phase 1 anticipated to be operating by 2013 (7.5 mgd product water capacity) and BS1 Phase 2 (15 mgd product water capacity) projected to be operating by 2017 (according to the City's Fiscal Year 2008-2009 Capital Improvement Plan). BS3 Phase 2 (15 mgd product water capacity) anticipated to be operating by 2021 (personal communication with City Water Division, Tony Emmert, August 2009). However, these dates may be modified as conditions change.
- c) This assumes the most conservative availability of City's allocation from UWCD which includes a total of 6,800 AFY. Also assumes that the GMA implements the full 25% cutback by 2010; and no anticipated future GMA cutbacks. The City had approximately 7,000 AF of credits banked with UWCD (personal communication, Curtis Hopkins, August 2009).
- d) MWD applied the 23% reduction to the assumed base supply, using a baseline period between 2004 and 2006, and calculated City supply at 11,385 AFY. However, the City's entitlement also includes sub allocations for P&G (2,800 AFY) and PHWA (3,262.5 AFY). The City is free to use any unused P&G and CMWD sub allocations. Program details provided by City Water Resources (2005 UWMP; personal communication, Tony Emmert, September 2009).
- e) Through the M&I Supplemental Water Program, the City has received a total of 15,886.7 AF between the years 2005-2008 – approximately 4,000 AFY. However, UWCD may temporarily reduce or suspend deliveries of M&I Supplemental Water when Forebay groundwater levels drop below a certain threshold. For example, UWCD has tentatively suspended deliveries of M&I Supplemental water given the current conditions in the Forebay as of late 2009. Even though deliveries are suspended, M&I Supplemental water credits continue to accumulate. Once the suspended deliveries are reinitiated, it is expected that the accumulated credits will be made available in full in subsequent years. Based on current information, the City anticipates 5,000 AF of M&I Supplemental Water will be available in 2010 and 0 AF in year 2011. As a conservative assumption, the City assumes that on average only 3,000 AFY of M&I Supplemental water credits will be available between the years 2012-2015. As the Camrosa Water District has a contractual first right of refusal of the Conejo Creek Diversion Project water, and has expressed plans to utilize most of this water within its district, the M&I Supplemental Water credits available will reduce to 1,000 AFY as the Camrosa non-potable water system infrastructure continues to develop. Based on the expected future expansion phases of the Camrosa system, this is projected to occur after year 2015.
- f) GREAT AWP Phase 1 (anticipated startup in 2010-2012) would produce a maximum of 6.25 mgd (7,000 AFY net production) (Source: UWMP, 2005; personal communication, Thien Ng, September 2009). Combined uses of recycled water from AWP Phase 1 (M&I and agriculture) does not exceed 7,000 AFY from 2012-2030. City anticipates that recycled water infrastructure will serve 2,450 AFY M&I demands by year 2012; approximately 2,700 AFY of recycled water supply would be delivered to City M&I uses by 2013; 3,150 AFY by 2016;

- and 5,050 AFY by year 2020 (Recycled Water Master Plan 2009). City assumes water produced in excess of M&I recycled water demands will be used for agricultural uses and groundwater recharge. City assumes GMA will allow credits for 100% of recycled water used directly or for injection (groundwater recharge) (personal communication, Steve Bachman, August 2009). It is assumed infrastructure to allow groundwater recharge will be in place by year 2015.
- g) This is a projected supply not previously utilized by the City. AWPf Phase 2A (anticipated 2015; based on 2009 Avoided Cost Model) would produce a maximum of an additional 7,000 AFY (net production). AWPf Phase 2B is anticipated to be operating by 2020 and produce a maximum of an additional 7,000 AFY (net production). Dates for these AWPf expansions may be modified as conditions change. AWPf Phase 2A and 2B may provide recycled water to M&I, agriculture, injection barrier, and groundwater recharge projects.
  - h) This is a projected supply not previously utilized by the City. Includes one-time transfer of 11,000 AF of groundwater credits to the City. City plans to use these transferred credits within the period 2010-2011. City will also obtain 1,000 AFY of credits from 2012-2019. Program details provided by City Water Resources (personal communication, Tony Emmert, September, 2009).
  - i) For agricultural property conversion - assume 1.5 acre-feet per acre per year. The credits depicted here are those used to meet demand and are not representative of the City's cumulative credit balance with the GMA. Transferred allocation values developed by City Planning Department (personal communication, Chris Williamson October 2009). Assumes transfers of 525 AF Teal Club SP; 219 AF Sakioka Farms SP; 69 AF Camino Real SP; 145 AF from the Ormond Beach North SP; and 98 AF Jones Ranch SP by year 2015. Assumes transfer of additional 260 AF Sakioka Farms SP; and additional 150 AF Jones Ranch SP; an additional 338 AF from the North Ormond Beach SP; and 231 AF Ormond Beach South SP by year 2020. Assumes additional 332 AF from Ormond Beach South SP and an additional 148 AF Sakioka Farms SP by year 2030.
  - j) Transfer of 700 AF of GMA groundwater Credits from PHWA to the City as part of the Three Party Water Supply Agreement, December 2002. Program details provided by City Water Resources (personal communication, Tony Emmert, August 2009).
  - k) The Credits depicted here are those used to meet demand and are not representative of the City's cumulative credit balance. Deliveries from the groundwater credits are shown only when there is insufficient supply to meet demand. At the end of 2008, the City had approximately 30,000 AF of groundwater credits with the GMA and 7,000 AF with UWCD. The groundwater credits are intended to be used to offset any reduced availability of imported water, or to mitigate unforeseen cutbacks, catastrophic events, facility failure, etc. The City can use these credits without GMA penalty. Program details provided by City Water Resources, personal communication, Tony Emmert, November 2009; personal communication, Curtis Hopkins, September 2009.
  - l) It is assumed future GREAT Program deliveries will be credited a minimum of 2,500 AFY starting in year 2015.

**3.3.1.3 Water Demand**

Table 3.3-~~6-6~~ shows the City of Oxnard Planning Division ~~2007~~ projections of total growth that is anticipated to occur between 2008 and ~~2020~~2030. The estimate is considered to represent the maximum level of development that could be expected to occur between 2008 and ~~2020~~2030.

**TABLE 3.3-~~66~~**  
**CITY OF OXNARD PLANNING DIVISION**  
**TOTAL GROWTH PROJECTIONS 2008 – 2020**

Land Use Type	Quantity
Residential	<del>13,142</del> <u>22,591</u> units
High-rise	1,574 units (approximately 10 acres)
Commercial	<del>6.49</del> <u>9</u> million sq. ft.
Industrial	<del>44</del> <u>11.8</u> million sq. ft.
Parks	<del>110</del> <u>208</u> acres
Hotels	<del>129</del> <u>143</u> rooms
Schools	<del>2</del> <u>7</u> elementary schools
Public	<del>2</del> <u>or 33 to 5</u> fire stations

Table 3.3-7 shows a breakdown of projected future development by land use type and the percentage of the total projected development that would occur within the seven proposed Specific Plan areas within the City. These Specific Plans are: 1) Wagon Wheel (Oxnard Village), 2) Jones Ranch, 3) Ormond Beach North (SouthShore), 4) Ormond Beach South, 5) Teal Club, 6) Sakioka Farms, 7) and Camino Real Business Park (Power Machinery).

**TABLE 3.3-7  
PROJECTED GROWTH WITHIN EXISTING SPECIFIC  
PLAN AREAS 2008—2020**

Type	Amount	Percent of Total Growth Within Proposed Specific Plan Areas
Residential	6,891 units	52.5%
High-rise	442 units	28.1%
Commercial	3.7 million square feet	61.3%
Industrial	10.2 million square feet	93.4%
Parks	123 acres	100%
Schools	2 elementary schools	100%
Public	2 fire department stations	100%

A detailed water demand model was developed as part of the 2005 UWMP and includes existing demand, demand from proposed buildout of the 2020 General Plan, unaccounted-for water loss, potential increase in per-unit demand, and a contingency. The model also accounts for reductions in demand due to the increased use of recycled water and water conservation. This model has been updated for buildout of the proposed 2030 General Plan Alternative B and to reflect recent changes in water supply and consumption, as accurately and as reasonably possible.

Components of demand are shown in Table 3.3-7 and discussed below:

- **2009 Baseline Demand.** This is an estimate of total demand for the calendar year 2009. As a conservative basis, water demand by existing customers is anticipated to remain fairly stable through 2030. In all likelihood current customers will continue to implement best management practices, which should reduce overall per capita water consumption.
- **Non-Revenue Water (i.e., Water Loss).** Water losses come from authorized, unmetered sources such as fire fighting and main flushing, or unauthorized sources such as leakage, illegal connections, and inaccurate flow meters. Non-Revenue water is estimated to be about 6% of water demand.
- **Ocean View System** (formerly Ocean View Municipal Water District [OVMWD]) primarily serves agricultural customers along East Hueneme Road. As part of a Local

- Agency Formation Commission action, the OVMWD district dissolved and the existing customers were added to the City of Oxnard water service area as the Ocean View System (OVS). Existing users in the OVS service area along East Hueneme Road receive water from the City through the UWCD O-H Pipeline System and the OVS system. Parcels within the former OVMWD service area also obtain water from private wells and from the UWCD PTP System. OVS customers use approximately 1,337 AFY of UWCD O-H water delivered via the City, according to UWCD data (average calculated for fiscal years 1999-2008).
- **PHWA Suballocation.** PHWA purchases water from the City per the Three Party Agreement which specifies a PHWA suballocation of CMWD water of 3,262.5 AFY. PHWA's mean annual purchase from the City was 1,911 AF for period 1999-2008 (personal communication, Steve Hickox, September 2009; personal communication, David Birch, September 2009). The City of Port Hueneme, the largest PHWA member agency, has implemented a meter retrofit program which should substantially reduce water demand within the City. PHWA is also implementing other water management programs which may decrease its per capita water demands.
  - **Procter & Gamble.** Procter & Gamble is a private user within the City of Oxnard which receives unblended imported water from the City through a special water service agreement. Current annual water demand for Procter & Gamble is approximately 2,300 AFY for the period 2001-2008. Procter & Gamble estimated future water demands are approximately 2,800 AFY, assumed to occur after year 2015 (personal communication, Dakota Corey, August 2009). Procter & Gamble has also indicated its intent to implement certain water reuse and conservation practices, and consider the use of recycled water to offset some of its demands. For the purpose of this analysis, the City assumes Procter & Gamble's overall water use will increase from 2,300 AFY to 2,800 AFY after 2015.
  - **Projected New Demand Increase for Development Projects Under Review.** Annual increase in water demand has been based on development applications received and under review and/or permitted. New 2010 to 2030 water demand is based on the buildout of the 2030 General Plan, Alternative B. Year to year projected new development demand based on the July 2009 City Project List, 2030 General Plan Background Report (2006), Ventura Council of Governments Decapolis Report, and UCSB Forecast.
  - **Projected New Demand Increase of Unknown Projects.** It is assumed that for any given timeframe, water demand could be 10% higher due to approved amendments to the 2030 General Plan.

- **Demand Management Programs.** In February 2008, Governor Schwarzenegger called for a 20 percent reduction in per capita water use statewide by 2020. The State Water Resources Control Board has released a draft statewide implementation plan for achieving this goal (Draft 20x2020 Water Conservation Plan, April 2009) which establishes regional baseline and target per capita water use values by State hydrologic region. The 2020 targeted daily per capita water use value established for the South Coast hydrologic region is 149 gallons per capita per day. The draft plan proposes a series of enforcement mechanisms and financial incentives to facilitate water conservation at the local level. The City is preparing a Conservation Master Plan, due by the end of 2009, which will identify potential demand management measures and potential demand reductions which will help the City meet the gallons per capita per day goals of the 20x2020 plan. The City anticipates a reduction in City-wide water demands of approximately 500 AFY for period 2010-2012, ramping up to 5% of demand from 2016-2020, and 10% reduction for period 2021-2030. Demand reductions recommended by City staff (personal communication, Tony Emmert and Dakota Corey, August-September 2009).

Table 3.3-7 shows the estimated annual water demand projections through the year 2030. On a day-to-day basis there will be variations, with higher demands typically during the summer and lower demands during the winter.

The water demand projections in Table 3.3-7 are conservative and likely overestimate demand. General Plans rarely reach buildout and are rarely amended so often as to produce a gain of 10 percent. Nevertheless, as noted above, water supply constraints throughout the State have persisted. Out of an abundance of caution, because of reduced reliability of water imports from the SWP the Oxnard the City Council, at its January 15, 2008, and October 19, 2009, meetings, directed staff to require that all new projects defined as discretionary and not exempt from CEQA be water demand neutral to the City's water system. Project proponents are required to ~~can~~ contribute water rights, water supplies, or financial or physical offsets to achieve water neutrality. Typical options open to project proponents include transfers of FCGMA groundwater allocations to the City through agricultural conversion or otherwise, participation in expansions of the City's GREAT Program recycled water system through physical or financial contributions, and participation in water conservation projects that produce measurablequantifiable, sustainable water savings. Several projects have already complied with this requirement and several others are currently in negotiations-working with the City to implement such programs. Projects that are ministerial and/or exempt from CEQA, such as single family residential projects or business tenant improvements, are not subject to the water demand neutral requirement.

At the October 27, 2009, meeting the City Council directed that the following components be incorporated into a written City water demand neutral policy:

- Proposed projects should either contribute new water supplies or the financial or physical equivalent to offset the estimated project demand.
- The City staff is to work with developers on quantifiable, implementable ~~will develop a menu of~~ mitigation options that may be unique for each project, that may include financial contributions toward the GREAT Program's recycled water facilities, financial contribution toward a City controlled water conservation project or program that would generate verifiable long-term water savings, and ~~or~~ implementation of a developer initiated water conservation project or program that would generate verifiable long-term water savings.

~~Table 3.3-8 shows the estimated water demand projection through the year 2030. A WSA is required to provide estimates of supply and demand for 20 years in the future, so projections are shown through the year 2030. These estimates, which were developed by City Planning Division staff, were used to update the water demand tables incorporated into the 2005 UWMP for inclusion in the Ormond Beach WSAs. No change in the method or approach to water demand projections developed as part of the 2005 UWMP was made by the Planning Division. The only changes reflected in the calculations are updates to anticipated demands from the major developments, updates of the anticipated buildout schedules, and the addition of brine loss resulting from groundwater desalting (a form of water demand). Also, the demand projections are based on existing 2007 demand as opposed to the 2004 demand used in the 2005 UWMP. There have been no changes to the City limits, the City Urban Restriction Boundary (CURB), the City Sphere of Influence, or Planning Areas since the 2005 UWMP. These demand projections also include continued infill development, redevelopment, and intensification of existing lots.~~

**TABLE 3.3-87**  
**2007 CUMULATIVE WATER DEMAND**  
**PROJECTION THROUGH 2030 (AFY)**

<b>Water Demands</b>	<b>2010</b>	<b>2015</b>	<b>2020</b>	<b>2025</b>	<b>2030</b>
<b>Known Demands</b>					
2009 Baseline Demand <sup>(a)</sup>	28,900	28,900	28,900	28,900	28,900
2009 Non-Revenue Water <sup>(b)</sup>	2,150	2,150	2,150	2,150	2,150
OVS (formerly OVMWD)	1,340	1,340	1,340	1,340	1,340
PHWA <sup>(d)</sup>	1,910	1,910	1,910	1,910	1,910
Proctor & Gamble <sup>(e)</sup>	2,300	2,800	2,800	2,800	2,800
<b>Subtotal</b>	<b>36,600</b>	<b>37,100</b>	<b>37,100</b>	<b>37,100</b>	<b>37,100</b>
<b>Potential Demands</b>					
Projected New Demand Increase for Known Projects <sup>(f)</sup>	550	3,040	5,440	6,600	7,750
Projected New Demand Increase for Unknown Projects <sup>(g)</sup>	50	300	550	650	750
<b>Subtotal<sup>(h)</sup></b>	<b>600</b>	<b>3,340</b>	<b>5,990</b>	<b>7,250</b>	<b>8,500</b>
<b>Demand Reduction Programs</b>					
Demand Management Programs Reduction <sup>(i)</sup>	(500)	(1,620)	(2,150)	(4,440)	(4,560)
<b>Subtotal</b>	<b>(500)</b>	<b>(1,620)</b>	<b>(2,150)</b>	<b>(4,440)</b>	<b>(4,560)</b>
<b>Total Demand</b>	<b>36,700</b>	<b>38,820</b>	<b>40,940</b>	<b>39,910</b>	<b>41,040</b>

Source: Kennedy/Jenks Consultants, Final Water Supply Assessment and Verification-North Ormond and South Ormond, July 2008, and WSA Addenda, November 2009. See Appendix E.

- a) Baseline water demand for fiscal year 2009. Water demand by existing customers is anticipated to remain fairly stable through 2030. Baseline demand excludes annual demands for Proctor & Gamble, agricultural water for OVSA, and annual demands for PHWA. These three demands are summarized separately in this table. Data provided by City Planning Department (personal communication, Chris Williamson, August 2009) and City Water Resources (personal communication, Dakota Corey and Tony Emmert, September 2009).
- b) Non-revenue water = unaccounted-for water. Estimated at 6% of total demand (approximately 35,600 AFY x 6%). Source: personal communication, Dakota Corey, September 2009.
- c) Based on available billing data, OVSA customers have used approximately 1,337 AFY of UWCD O-H water delivered via the City.
- d) PHWA purchases water from the City per the Three Party Agreement; Agreement specifies PHWA suballocation of CMWD water of 3,262.5 AFY. PHWA mean annual purchases from the City was 1,911 AF for period 1999-2008 (source: personal communication, Steve Hickox, September 2009; personal communication, David Birch, September 2009). PHWA will begin water demand management programs in 2009 which may decrease water demands.
- e) Current annual water demand for Proctor & Gamble is approximately 2,300 AFY for the period 2001-2008. Proctor and Gamble estimated future water demands are approximately 2,800 AFY, assumed to occur after year 2015. Source: personal communication, Dakota Corey, August 2009.
- f) Annual increase in water demand based on development applications received for known projects. New water demands also include 2030 General Plan buildout, infill, redevelopment, and densification. Values provided by City Planning Department (personal communication, Chris Williamson and Kathleen Mallory, August 2009) and based on the following sources: July 2009 City Project List, CA Department of Finance, 2030 General Plan Background Report (2006), Ventura Council of Government data, and UCSB Forecast.
- g) Annual increase in water demand for unknown projects. Source: personal communication, Ken Ortega, September 2009.
- h) Cumulative total new demand based on the annual values for known and unknown projects.
- i) City anticipates the reduction in City-wide water demands via implementing several demand management programs. Estimated reduction is approximately 500 AFY for period 2010-2012, 2% of demand in 2013, 3% of demand in 2014, 4% of demand in 2015, 5% of demand from 2016-2020, and 10 percent reduction for period 2021-2030. City is preparing a Conservation Master Plan, due by the end of 2009, which will identify potential demand management measures and potential demand reductions. Demand reductions recommended by City staff (personal communication, Tony Emmert and Dakota Corey, August-September 2009).

### **3.3.1.4 Projected Water Supply Balance**

Tables 3.3-9-8 through 3.3-15-13 compare water supply and demands for a normal, single dry, and multiple dry water years as presented in the WSAs for the Ormond Beach projects. They show that for all water years from 2010 to 2030, the City's supplies are sufficient to meet projected demand. However, until the ~~augmented M&I Supplemental Program and the GREAT Program~~ ~~is~~are operational (i.e., 2011 or 20120), the City may ~~rely be dependent on a portion of its using FCGMA~~ groundwater credits to meet demand in multiple dry water years. It should also be noted that estimates of water demand are highly conservative and include a contingency factor. The WSAs also make the following recommendations to improve the margin of supply:

- Build up City Groundwater Credits between 2008 and 2010 for use in 2011 through 2016 until the GREAT Program expansion is operational.
- ~~Obtain final approval from the City Council for access to the supplemental water associated with UWCD's acquisition of the Ferro property for Augmented M&I Supplemental Water Supply Program and obtain approval by 2009.~~
- The City also has the option to pump additional groundwater from City wells above their allocation. However, this may result in additional surcharges from the GMA.
- The tables above are predicated on the City's utilizing its full ~~purchase order~~ entitlement of CMWD water, less the PHWA water use and reservation as discussed above. However, in 2007 PHWA only used 2,220 AFY of its 3,262.5 AFY of reservation. Thus the City could potentially purchase an additional 1,040 AFY of CMWD in times of need.
- Implement the initial phase of the GREAT Program (for 6.25 MGD) by 2011 when demand starts to increase. If the facility is delayed, then other sources of water would be needed. A portion or all could be from the rest of the CMWD Tier 1 rate or even Tier 2 water.
- The City also has options of purchasing un-used O-H water from other water purveyors.
- Plan for the first expansion of the GREAT Program to be an additional 5.2 MGD (to 11.45 MGD).
- Plan for the second expansion of the GREAT Program to be an additional 5.0 MGD (to 16.45 MGD). Before designing the second expansion, in particular, the demand and surplus projections should be revisited.
- The City could also implement additional temporary water demand measures for periods when supply is not sufficient to meet demand as outlined in City Ordinance

No. 2729, "City of Oxnard Water Conservation and Water Shortage Response Ordinance."

**TABLE 3.3-98**  
**PROJECTED SUPPLY AND DEMAND COMPARISON SCENARIO:**  
**NORMAL YEAR (AFY)**

	<u>2010</u>	<u>2015</u>	<u>2020</u>	<u>2025</u>	<u>2030</u>
Supply Totals	<u>36,110</u>	<u>42,570</u>	<u>45,930</u>	<u>44,090</u>	<u>44,300</u>
Demand Totals	<u>36,700</u>	<u>38,800</u>	<u>40,920</u>	<u>39,920</u>	<u>41,080</u>
Net Difference Supply vs. Demand	<u>(590)</u>	<u>3,770</u>	<u>5,010</u>	<u>4,170</u>	<u>3,220</u>
Groundwater Debit/Credit	<u>(590)</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
Net Difference to Annual Supply	<u>-2%</u>	<u>9%</u>	<u>11%</u>	<u>9%</u>	<u>7%</u>
Net Difference to Annual Demand	<u>-2%</u>	<u>10%</u>	<u>12%</u>	<u>10%</u>	<u>8%</u>
Draw on Credit Bank	<u>2%</u>	<u>0%</u>	<u>0%</u>	<u>0%</u>	<u>0%</u>
Supply vs. Demand with Credits	<u>0</u>	<u>3,770</u>	<u>5,010</u>	<u>4,170</u>	<u>3,220</u>

Source: Kennedy/Jenks Consultants, Final Water Supply Assessment and Verification-North Ormond and South Ormond, July 2008, and WSA Addenda, November 2009. See Appendix E.

**TABLE 3.3-109**  
**PROJECTED SUPPLY AND DEMAND COMPARISON SCENARIO:**  
**SINGLE DRY YEAR (AFY)**

	<u>2010</u>	<u>2015</u>	<u>2020</u>	<u>2025</u>	<u>2030</u>
Supply Totals	<u>36,110</u>	<u>42,570</u>	<u>45,930</u>	<u>44,090</u>	<u>44,300</u>
Demand Totals	<u>36,700</u>	<u>38,800</u>	<u>40,920</u>	<u>39,920</u>	<u>41,080</u>
Net Difference Supply vs. Demand	<u>(590)</u>	<u>3,770</u>	<u>5,010</u>	<u>4,170</u>	<u>3,220</u>
Groundwater Debit/Credit	<u>(590)</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
Net Difference to Annual Supply	<u>-2%</u>	<u>9%</u>	<u>11%</u>	<u>9%</u>	<u>7%</u>
Net Difference to Annual Demand	<u>-2%</u>	<u>10%</u>	<u>12%</u>	<u>10%</u>	<u>8%</u>
Draw on Credit Bank	<u>2%</u>	<u>0%</u>	<u>0%</u>	<u>0%</u>	<u>0%</u>
Supply vs. Demand with Credits	<u>0</u>	<u>3,770</u>	<u>5,010</u>	<u>4,170</u>	<u>3,220</u>

Source: Kennedy/Jenks Consultants, Final Water Supply Assessment and Verification-North Ormond and South Ormond, July 2008, and WSA Addenda, November 2009. See Appendix E.

**TABLE 3.3-110**  
**PROJECTED SUPPLY AND DEMAND COMPARISON SCENARIO:**  
**MULTIPLE DRY YEARS (2011 – 2015) (AFY)**

	<u>2011</u>	<u>2012</u>	<u>2013</u>	<u>2014</u>	<u>2015</u>
Supply Totals	<u>29,730</u>	<u>30,810</u>	<u>29,220</u>	<u>29,390</u>	<u>42,570</u>
Demand Totals	<u>37,240</u>	<u>37,780</u>	<u>38,540</u>	<u>38,680</u>	<u>38,800</u>
Net Difference Supply vs. Demand	<u>(7,510)</u>	<u>(6,970)</u>	<u>(9,320)</u>	<u>(9,290)</u>	<u>3,770</u>
Groundwater Debit/Credit	<u>7510</u>	<u>6970</u>	<u>9320</u>	<u>9290</u>	<u>0</u>
Net Difference to Annual Supply	<u>-25%</u>	<u>-23%</u>	<u>-32%</u>	<u>-32%</u>	<u>9%</u>
Net Difference to Annual Demand	<u>-20%</u>	<u>-18%</u>	<u>-24%</u>	<u>-24%</u>	<u>10%</u>
Draw on Credit Bank	<u>22%</u>	<u>26%</u>	<u>46%</u>	<u>86%</u>	<u>0%</u>
Supply vs Demand with Credits	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>3,770</u>

Source: Kennedy/Jenks Consultants, Final Water Supply Assessment and Verification-North Ormond and South Ormond, July 2008, and WSA Addenda, November 2009. See Appendix E.

**TABLE 3.3-11**  
**PROJECTED SUPPLY AND DEMAND COMPARISON SCENARIO:**  
**MULTIPLE DRY YEARS (2016-2020) (AFY)**

	<u>2016</u>	<u>2017</u>	<u>2018</u>	<u>2019</u>	<u>2020</u>
<u>Supply Totals</u>	<u>41,130</u>	<u>39,260</u>	<u>39,480</u>	<u>39,710</u>	<u>45,930</u>
<u>Demand Totals</u>	<u>38,900</u>	<u>39,410</u>	<u>39,910</u>	<u>40,420</u>	<u>40,920</u>
<u>Net Difference Supply vs. Demand</u>	<u>2,230</u>	<u>(150)</u>	<u>(430)</u>	<u>(710)</u>	<u>5,010</u>
<u>Groundwater Debit/Credit</u>	<u>0</u>	<u>150</u>	<u>430</u>	<u>710</u>	<u>0</u>
<u>Net Difference to Annual Supply</u>	<u>5%</u>	<u>0%</u>	<u>-1%</u>	<u>-2%</u>	<u>11%</u>
<u>Net Difference to Annual Demand</u>	<u>6%</u>	<u>0%</u>	<u>-1%</u>	<u>-2%</u>	<u>12%</u>
<u>Draw on Credit Bank</u>	<u>0%</u>	<u>1%</u>	<u>4%</u>	<u>8%</u>	<u>0%</u>
<u>Supply vs Demand with Credits</u>	<u>2,230</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>5,010</u>

Source: Kennedy/Jenks Consultants, Final Water Supply Assessment and Verification-North Ormond and South Ormond, July 2008, and WSA Addenda, November 2009. See Appendix E.

**TABLE 3.3-12**  
**PROJECTED SUPPLY AND DEMAND COMPARISON SCENARIO:**  
**MULTIPLE DRY YEARS (2021-2025) (AFY)**

	<u>2021</u>	<u>2022</u>	<u>2023</u>	<u>2024</u>	<u>2025</u>
<u>Supply Totals</u>	<u>43,400</u>	<u>43,450</u>	<u>43,500</u>	<u>43,560</u>	<u>44,090</u>
<u>Demand Totals</u>	<u>39,000</u>	<u>39,230</u>	<u>39,460</u>	<u>39,690</u>	<u>39,920</u>
<u>Net Difference Supply vs. Demand</u>	<u>4,400</u>	<u>4,220</u>	<u>4,040</u>	<u>3,870</u>	<u>4,170</u>
<u>Groundwater Debit/Credit</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
<u>Net Difference to Annual Supply</u>	<u>10.14%</u>	<u>9.71%</u>	<u>9.29%</u>	<u>8.88%</u>	<u>9%</u>
<u>Net Difference to Annual Demand</u>	<u>11.28%</u>	<u>10.76%</u>	<u>10.24%</u>	<u>9.75%</u>	<u>10%</u>
<u>Draw on Credit Bank</u>	<u>0.00%</u>	<u>0.00%</u>	<u>0.00%</u>	<u>0.00%</u>	<u>0%</u>
<u>Supply vs Demand with Credits</u>	<u>4,400</u>	<u>4,220</u>	<u>4,040</u>	<u>3,870</u>	<u>4,170</u>

Source: Kennedy/Jenks Consultants, Final Water Supply Assessment and Verification-North Ormond and South Ormond, July 2008, and WSA Addenda, November 2009. See Appendix E.

**TABLE 3.3-13**  
**PROJECTED SUPPLY AND DEMAND COMPARISON SCENARIO:**  
**MULTIPLE DRY YEARS (2026-2030) (AFY)**

	<u>2026</u>	<u>2027</u>	<u>2028</u>	<u>2029</u>	<u>2030</u>
<u>Supply Totals</u>	<u>43,660</u>	<u>43,710</u>	<u>43,760</u>	<u>43,820</u>	<u>44,300</u>
<u>Demand Totals</u>	<u>40,150</u>	<u>40,380</u>	<u>40,610</u>	<u>40,850</u>	<u>41,080</u>
<u>Net Difference Supply vs. Demand</u>	<u>3,510</u>	<u>3,330</u>	<u>3,150</u>	<u>2,970</u>	<u>3,220</u>
<u>Groundwater Debit/Credit</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
<u>Net Difference to Annual Supply</u>	<u>8%</u>	<u>8%</u>	<u>7%</u>	<u>7%</u>	<u>7%</u>
<u>Net Difference to Annual Demand</u>	<u>9%</u>	<u>8%</u>	<u>8%</u>	<u>7%</u>	<u>8%</u>
<u>Draw on Credit Bank</u>	<u>0%</u>	<u>0%</u>	<u>0%</u>	<u>0%</u>	<u>0%</u>
<u>Supply vs Demand with Credits</u>	<u>3,510</u>	<u>3,330</u>	<u>3,150</u>	<u>2,970</u>	<u>3,220</u>

Source: Kennedy/Jenks Consultants, Final Water Supply Assessment and Verification-North Ormond and South Ormond, July 2008, and WSA Addenda, November 2009. See Appendix E.

### **3.3.1.4.1 Water Demand Control Measures**

As discussed in some detail in the 2005 City UWMP, the City has several tools in place to control demand. These tools can be employed in response to any water supply constraint, whether a result of drought, an emergency, or other unusual conditions. These tools are summarized below.

#### **Diversity of Supply Sources**

Most importantly, but perhaps not an obvious tool, the City's water portfolio is quite diverse compared to most public water suppliers of its size. First, the City has some flexibility to shift its reliance between its local sources and its purchase of imported water. In California, it is relatively common for the northern region of the state to experience differing amounts of rainfall than the southern regions. In other words, the northern part of the state may have a series of very wet years, while the southern portion may have very dry years. In other years, the reverse may be true. Since the City's imported water derives primarily from Lake Oroville, which is dependent on hydrologic conditions in the northern part of the state, this source is "immune" from the conditions in the south. In contrast, the City's local supplies (groundwater) are dependent on the hydrologic conditions in the southern portion of the state. The City has the capability to alter its proportional reliance on these two sources based on hydrologic conditions. This same diversity of sources allows the City to respond to emergency conditions as well. For example, in prior years, the City's access to imported water has been temporarily suspended either for maintenance or as a result of earthquake damage. Between the City's groundwater wells and its access to local water through UWCD, the City has local infrastructure capable of meeting the entirety of the City's supply needs. Locally, the City's access to groundwater through both the UWCD and City facilities creates redundancy should a local emergency impact one system or the other. Certainly, the City could dramatically increase its reliance on imported water for temporary periods, should local conditions warrant.

Water Shortage Emergencies: Reductions in Water Use. The Oxnard Municipal Code grants the City Council the authority to impose voluntary or mandatory reductions on water use throughout the City. These Code provisions provide a high degree of flexibility to control customer demand based on emergency water shortage conditions.

#### **City Council Policy Regarding Development Approval**

[At its January 15, 2008, and October 19, 2009, meetings, the Oxnard City Council directed City staff to require that all new projects defined as discretionary and not exempt from CEQA be water demand neutral to the City's water system. To achieve neutrality, project](#)

~~proponents are required to contribute water rights, water supplies, or financial or physical offsets that will ensure sufficient supply to address project demands. Options available to project proponents include transfers of FCGMA groundwater allocations to the City through agricultural conversion, participation in expansions of the City's recycled water system through physical or financial contributions, and participation in water conservation projects that produce measurable sustainable water savings. On January 15, 2008, the City Council adopted a policy that ensures mitigation measures are imposed within the approval of new development so that the associated demand remains consistent with available supplies.~~ This policy and the manner in which the applicants are approaching their projects ensure that development approval will take place at the pace anticipated in the 2005 UWMP (and likewise, the analysis within this document) so that the growth in water demand does not exceed available supply. The net result of this policy will ensure that project approvals include conditions that a) control the pace of construction of any given project (and thus controls the pace at which water demand increases); b) allows participation in the contribution toward the development of additional water supplies that offsets the demand associated with the project; or c) suspends project approval until sufficient supplies are available to support the anticipated project demand.

### **Water Supply Reliability**

Based on the detailed analysis contained in the Ormond Beach WSAs as summarized above, the facts are sufficient for the City to conclude that it will have a reliable portfolio of water supplies to meet anticipated demand for both the project and the presumed cumulative development anticipated under the City's current General Plan. Based on the facts and analysis included in the WSAs, there is a reasonable likelihood these supplies will be available within the timeframe necessary to meet projected demands through 2030.

If completion of the GREAT Program facilities ~~and Augmented M&I Supplemental Program~~ ~~are is~~ delayed or if development proceeds more quickly than is reasonably anticipated, short-term demand could exceed supply. The City has anticipated this potential impact on water supply reliability and adopted the "water neutral" policy referenced above that ~~is to be included~~ ~~as a condition~~ in every project approval ~~conditions~~. The City has also secured commitments from project applicants, through language incorporated in the specific plans and/or development agreements that will ensure that development proceeds in a manner that will ensure supply will be available to serve future demands. These and other water supply conditions are described below.

#### **3.3.1.5 Water Distribution**

Oxnard's water distribution system consists of a wide variety of pipe types and sizes comprising over 500 miles of pipeline, 11,000 valves, and 4,000 fire hydrants throughout the

### 3.3.3 Project Impacts and Mitigation

#### 3.3.3.1 Project Conditions

##### 3.3.3.1.1 Northern Subarea

#### Water Supply and Demand

The North Ormond Beach Draft Water Supply Assessment & Verification (June 2008) [and its Addendum \(November 2009\)](#) estimated the water demand associated with development under the SouthShore Specific Plan (see Table 3.3-~~19~~17). The City has accounted for the total estimated demand of approximately ~~815-833~~ acre-feet per year (AFY) in its water supply planning (see page 3.3-46). Assuming a ~~2007-2009~~ citywide demand of approximately ~~28,490~~~~28,900~~ AFY and the projected 2030 demand of approximately ~~43,285~~~~41,040~~ AFY for the City's total service area, the SouthShore development project represents approximately ~~1-92.0~~ percent of the projected demand and approximately ~~5-56.7~~ percent of the anticipated increased demand in the City.

#### Potable Water Distribution

The proposed water distribution system for the Northern Subarea will make multiple connection points at Hueneme Road, Edison Drive, SouthShore Drive, and Olds Road. Multiple connection points will ensure an adequately "looped system." Internal distribution will be via a hierarchy of 8- to 16-inch water mains (see Figure 3.3-5).

The existing water lines that bisect the interior of the project (Mugu and Ocean View Water District) will be re-routed through the proposed development to maintain water service to existing customers. The perimeter water systems to support the Study Area will be sized by City staff to provide adequate flow and pressure demands.

It is anticipated that water service will be provided by lateral connections to the SCE-owned commercial/incubator property from the main water lines in Rose Avenue/SouthShore Drive.

The City of Oxnard is constructing a new blending station (Blending Station No. 5) at the northwest corner of the Northern Subarea. This blending station will provide blended water from CMWD and UWCD. The Northern Subarea will be fed via this blended line that will traverse from Blending Station 5 through the Edison property to SouthShore Drive to connect to the looping system in Hueneme Road and several other existing domestic water mains located at Olds Road.

**TABLE 3.3-1917**  
**WATER DEMAND ESTIMATE FOR THE NORTHERN SUBAREA**

Sector	Unit Measure	Demand <sup>(a)</sup>	Demand Total (AFY)
<a href="#">Single Family Residential – Low</a>	<a href="#">56.5 ac</a>	<a href="#">2,100 gpad</a>	<a href="#">85</a>
<a href="#">Single Family Residential – Low Medium</a>	<a href="#">37.3 ac</a>	<a href="#">2,100 gpad</a>	<a href="#">59</a>
<a href="#">Multi-Family Residential - Medium–</a>	<a href="#">40.9 ac</a>	<a href="#">2,800 gpad</a>	<a href="#">85</a>
<a href="#">Mixed use (Residential)</a>	<a href="#">20 DU</a>	-	
<a href="#">Mixed use (Commercial)</a>	<a href="#">62,726 sq. ft./ 4.2 acres</a>	<a href="#">1,500 gpad</a>	<a href="#">10</a>
<a href="#">Light Industrial</a>	<a href="#">568,052 sq. ft/ 37.2 acres</a>	<a href="#">2,800 gpad</a>	<a href="#">120</a>
<a href="#">School-Elementary</a>	<a href="#">650 students</a>	<a href="#">20 gpd/student</a>	<a href="#">15</a>
<a href="#">School-High School</a>	<a href="#">2,400 students</a>	<a href="#">25 gpd/student</a>	<a href="#">70</a>
<b><a href="#">Total Potable Demand</a></b>	-	-	<b><a href="#">443</a></b>
<a href="#">Parks and Open Space</a>	<a href="#">41.9</a>	<a href="#">3.5 AF/ac/yr<sup>(c)</sup></a>	<a href="#">147</a>
<a href="#">Lake SouthShore/Surrounding Open Space</a>	-	-	
<a href="#">On-site Lake Demand<sup>(e)</sup></a>	-	-	<a href="#">40</a>
<a href="#">Open Space</a>	<a href="#">23.1 acres</a>	<a href="#">3.5 AF/ac/yr<sup>(d)</sup></a>	<a href="#">81</a>
<a href="#">Other (Arterial Roadways)</a>	<a href="#">17.5 acres</a>	-	
<a href="#">Single Family &amp; Multi-Family Residential Landscaping</a>	<a href="#">90.2 ac</a>	-	<a href="#">123</a>
<b><a href="#">Total Landscaping Demand<sup>(b)</sup></a></b>	-	-	<b><a href="#">390</a></b>
<b><a href="#">Total Project Water Demand (AFY)<sup>(f)</sup></a></b>	-	-	<b><a href="#">833</a></b>
<b><a href="#">Transferred Allocation/Supply<sup>(g)</sup></a></b>			<b><a href="#">483</a></b>
<b><a href="#">Difference</a></b>			<b><a href="#">-350</a></b>
<b><a href="#">Difference with Recycled Water</a></b>			<b><a href="#">40</a></b>

Source: North Ormond Beach Water Supply Assessment & Verification, June 2008, [and Addenda, November 2009.](#)

- (a) [Unit demand factors from the 2005 Master Plan](#)
- (b) [A shift in demand from potable water to recycled water for irrigation of single-family and multi-family front lawns. Outdoor urban applied water was assumed to be 70 percent of total urban applied water.](#)
- (c) [Recycled water will not be available until mid 2010 at the earliest. Therefore, the developer will need to plan for landscaping to be served by domestic water up to the time when recycled water is available.](#)
- (d) [The Water Supply Assessment uses 3.5 AFY/acre for supply evaluation.](#)
- (e) [On-site Lake demand based on "Lake Water Supply, Demand and Irrigation Reservoir Memorandum- No. 8233E" by Pace.](#)
- (f) [Rounded to the nearest whole number.](#)
- (g) [Per Fox Canyon GMA Ordinance Code 8.1, the North Ormond Beach development will result in the conversion of 322 acres of agricultural land to urban uses. The present conversion rate is 1.5 AFY per acre of converted land. This conversion will yield 483 AFY of potable water supply to the development](#)

Water quality modeling was performed to predict the potential pollutant concentrations in the discharge from the proposed lake as a result of the 85th percentile storm (PACE, December 2006). The pollutants modeled included total suspended solids, total phosphorus, total nitrogen, copper, lead, zinc, total petroleum hydrocarbons, oil/grease and total dissolved solids. Existing stormwater pollutant concentrations were compared to the predicted pollutant concentrations in lake water after dilution and BMP treatment. The results from the water quality modeling based on the proposed lake properties indicated that concentrations of all pollutants modeled would be reduced with the exception of zinc.

**TABLE 3.3-2018**  
**LAKE SOUTHSORE PROPERTIES**

Operating Volume	108 AF
Average Depth	8 feet
Shoreline Slope	1:2
Shoreline Depth	15 inches
Surface Area	18 acres
Liner	30 mil PVC
Biofilters	7- to 10-Day Turnover Rate
Wetland Water Quality Filters	Min 18-hour HRT for Nuisance Flow <sup>1</sup>
Aeration	6- to 8-hour Turnover Rate

<sup>1</sup> The hydraulic retention time (HRT) is a measure of the average length of time that a soluble compound remains in a constructed reactor.

<sup>2</sup> Reference: Pace, October 2006

***Storm Drains.*** New storm drains will be required to convey drainage to the lake. Pipe sizes will range from 18 inches to 60 inches and will meet City storm drain standards. The storm drains will be sized using an estimated runoff of 2 cfs acre. Preliminary storm drain pipes were sized using Water Surface Pressure Gradient Software (WSPG). The volume of lake storage was based on the projected runoff volumes. An overall starting water surface elevation was then determined for the storm drain design. Pipelines were modeled using the calculated water elevations assuming that the starting water surface occurred during peak storage of stormwater runoff from a 10-year storm. Catch basins will be used to regulate the amount of surface water on the Northern Subarea street system. The lake level will allow for streets to be designed with minimal grades and slopes in accordance with City standards.

~~***Makeup Water Sources.*** Several potential water sources are currently being evaluated to fill and sustain water levels in the proposed lake. An evaluation of possible water supply sources is presented below (PACE 2005).~~

~~***Shallow Groundwater.*** Shallow groundwater is contained in a perched aquifer contained beneath existing agricultural areas. There are currently no detailed estimates of safe annual yield or water quality data from this source. In areas close to the ocean, saltwater intrusion may be an issue and therefore this water may not be suitable for irrigation. If~~

shallow groundwater is pursued as a source of makeup water, testing of the water shall be conducted to determine the salinity of the water and its feasibility for use in the lake. If the salinity exceeds the level that is determined usable for irrigation, shallow groundwater shall not be used, and one of the other potential sources shall be pursued. It is likely that poor water quality will preclude use of this source for lake makeup water.

- **UAS Groundwater.** Beneath the underlying confining layer of the shallow perched aquifer is the UAS. This is a potential source for the lake and irrigation due to the potential large safe yield and good water quality, but is probably less desirable as this water can be used for potable use. The FCGMA has jurisdiction over groundwater pumping in the Study Area and restricts future well withdrawals in this area to limit the impact of saltwater intrusion. Before the UAS can be used for makeup water, testing of the water shall be conducted to determine if seawater intrusion has affected the salinity of the water and its feasibility for use in the lake. If the salinity exceeds the level that is determined usable for irrigation, deep groundwater shall not be used and one of the other potential sources shall be pursued. If the salinity of the water does not present a problem for irrigation, deep groundwater may be a feasible option for makeup water.
- **United Water Conservation District (UWCD).** The UWCD encompasses 214,000 acres of the Santa Clara River Valley and the Oxnard Plain. District facilities within the Study Area include the O-H System which supplies drinking water to cities and urban areas on the Oxnard Plain and an agricultural water delivery system. UWCD has been historically used for agricultural purposes in the area and can be assumed to be adequate in both quantity and quality to meet the lake evaporation and project irrigation demands. The UWCD operates the O-H potable water pipeline. The Mugu lateral to this pipeline runs along the eastern extent of the Study Area.
- **Calleguas Municipal Water District (CMWD).** The CMWD is a potable water supplier that distributes both regional and locally developed water. The CMWD's supplemental drinking water supply is provided by the California State Water Project. Imported water is piped into the Calleguas service area through a system connection with the Metropolitan Water District of Southern California, a State water contractor. Prior to delivery to Calleguas, water is treated at Metropolitan's Jensen Treatment Facility in Granada and is then conveyed through 130 miles of large diameter pipeline to local water agencies and companies for ultimate delivery to area residents and businesses. CMWD water in the project area is distributed by the City of Oxnard.
- **City Potable Water.** The City of Oxnard, with a population of approximately 182,000, is the largest purveyor of domestic water supply in the Oxnard Plain, utilizing both local and imported water supplies. Water supply sources for the City include (1) a blend of local groundwater produced through City wells; (2) local groundwater purchased from UWCD;

~~and (3) imported surface water purchased from the CMWD. Potable water for the project will be provided by the City of Oxnard and the project will construct infrastructure to provide for the delivery of City potable water. The City of Oxnard is the most likely source for makeup water for the lake until a source of recycled water is available.~~

- ~~•**Reclaimed Water.** Currently, a source of CA Title 22 reclaimed water is not available adjacent to the Northern Subarea. However, the City of Oxnard has developed the GREAT as part of its Capital Improvement Program. The GREAT program is designed to meet the projected water supply needs of the City through the year 2020 (Kennedy/Jenks 2003) through a combination of wastewater recycling and reuse, groundwater injection, storage and recovery, and groundwater desalination. Phase 1 of the GREAT program includes the construction of a TTF at the existing OWWTP. A recycled water program would be implemented using effluent from the TTF for direct nonpotable use (primarily irrigation) to help reduce pumping of the overdrafted aquifers underlying the Oxnard Plain and Pleasant Valley area. Once the TTF is operational, recycled water can be made available as makeup water for the lake. Use of reclaimed water will require a NPDES permit from the LARWQCB. As proposed, the Northern Subarea would participate in the GREAT program, as follows: Lake SouthShore would provide a location for recycled water storage; Lake SouthShore would provide “buffer” to maintain storage during peak and non-peak demands throughout the year; Lake SouthShore would provide the City with the ability to pump recycled water during off peak hours allowing the City to conserve electrical power; the Hueneme Road corridor would provide a location for future groundwater injection wells and pumping appurtenances; Lake SouthShore would irrigate public park areas and provide recycled irrigation water to local parks within the Northern Subarea; the proposed project would provide a backbone recycled water network that may convey recycled water to other existing customers and agriculture irrigation customer; the proposed project would abandon the existing onsite water wells and convey any historic groundwater pumping rights to the City (as of April 2007, the FCGMA has not identified any existing groundwater allocations in the Northern Subarea).~~

**Lake Water Quality.** Lake source water will achieve applicable water quality standards for recreational use and aquatic and wildlife support. Discharge of recycled water to the municipal stormwater system will require an NPDES permit from the LARWQCB.

### **Wastewater**

The Study Area is adjacent to the Eastern Trunk Sewer which runs south along Edison Drive from Pleasant Valley Road. The pipeline turns west from Edison Road and follows McWane Blvd to the OWWTP. The Eastern Trunk Sewer adjacent to the Study Area is a 42 inch HDPE pipeline (Kennedy/Jenks, January 2006). The City’s GIS maps show that a section of

**3.3.3.1.2 Southern Subarea****Water Supply and Demand**

The South Ormond Beach Draft Water Supply Assessment & Verification (June 2008) [and its Addendum \(November 2009\)](#) estimated the water demand associated with development under the South Ormond Beach Specific Plan (see Table 3.3-~~2220~~). The City has accounted for the total estimated demand of approximately ~~995-965~~ acre-feet per year (AFY) in its water supply planning (see page 3.3-46). Assuming a 2007 citywide demand of approximately ~~28,490~~~~28,900~~ AFY and the projected 2030 demand of approximately ~~43,285~~~~41,400~~ AFY for the City's total service area, the South Ormond Beach development project represents approximately 2.3 percent of the projected demand and approximately ~~6.77.7~~ percent of the anticipated increased demand in the City.

**TABLE 3.3-~~2220~~**  
**WATER DEMAND ESTIMATE FOR SOUTHERN SUBAREA**

Sector	Unit Measure	Demand <sup>(a)</sup>	Demand Total (AFY)
Business/Research Park	<del>934,427 sq. ft./</del> 61.3 acres	1,500 gpad	105
Light Industrial	<del>3,447,578 sq. ft./</del> <del>226.4</del> <del>217.5</del> acres	2,800 gpad	<del>710</del> <del>680</del>
<b>Total Potable Demand w/o Landscaping</b>			<b><del>845</del><del>785</del></b>
<del>Park</del> <del>Misc. Open Space</del>	51.0 acres	3.5 AF/ac/yr (c)	180
<del>Misc. Open Space</del> <del>Agriculture</del>	<del>220.0</del> <del>228.6</del> acres		0
Other	36.4 acres		0
<b>Total Recycled Water Demand<sup>(b)</sup></b>			<b>180</b>
<b>Total <u>Project</u> Demand</b>			<b><del>995</del><del>965</del></b>
<b><u>Transferred Allocation/Supply<sup>(c)</sup></u></b>			<b><del>563</del></b>
<b><u>Difference</u></b>			<b><del>(402)</del></b>
<b><u>Difference with Recycled Water</u></b>			<b><del>(222)</del></b>

Source: South Ormond Water Supply Assessment & Verification, June 2008, [and Addendum, November 2009](#).

Notes:

(a) Unit demand factors from the 2005 Master Plan.

(b) Recycled water will not be available until mid 2010 at the earliest. Therefore, the developer will need to plan for landscaping to be served by domestic water up to the time when recycled water is available.

(c) [Per Fox Canyon GMA Ordinance Code 8.1, the South Ormond Beach development will result in the conversion of 375 acres of agricultural land to urban uses. The present conversion rate is 1.5 AFY per acre of converted land. This conversion will yield 563 AFY of potable water supply to the development. The Water Supply Assessment uses 3.5 AFY/acre for supply evaluation.](#)

**Potable Water Distribution**

A system of water mains will be contained in all the roadways on the project and connect to existing water lines in Hueneme Road. Water mains shall be sized in accordance with calculations for the worst-case water demand. The proposed water distribution system would make multiple connection points at Hueneme Road, Edison Drive, Rose Avenue, and Arnold Road. Multiple connection points will ensure an adequately "looped system." The "looped" water system shall provide adequate water pressure and fire flow for proposed structures.

Should fire-protection needs exceed the capacity of the proposed system, additional system upgrades would be completed by the facility or parcel requiring such upgrades to accommodate these increased requirements.

~~The Southern Subarea is expected to be annexed into the CMWD. Additional agreements will be required to complete the annexation.~~

~~The proposed project would participate in the City's GREAT program by utilizing reclaimed water for irrigation.~~

~~A Water Supply Assessment (WSA, Kennedy/Jenks Consultants, September 2006, included as Appendix E of this document) was prepared for the Southern Subarea, addressing the requirements of Section 10910 of the California Water Code (SB 610 and 221). The WSA concludes that with the existing water system and addition of facilities and programs, mostly as part of the GREAT program, there will be adequate water supply for the projected 20-year period, including contingency allowances in the projected demands. The WSA also recommends the implementation of measures to address the small margin of supply versus demand anticipated for 2008 and 2009.~~

The Schematic Water Plan for the Southern Subarea is shown in Figure 3.3-8 and the Southern Subarea Grading and Drainage Plan is shown in Figure 3.3-9. A Water Supply Assessment (Kennedy/Jenks, 2006) was prepared for the Southern Subarea, addressing the requirements of Section 10910 of the California Water Code (SB 610 and 221). The WSA concludes that with the existing water system and addition of facilities and programs, mostly as part of the GREAT program, there would be adequate supply for the projected 20-year period including contingency allowances in the projected demands.

### **Stormwater Management and Drainage**

At this time the stormwater flows generated from the Southern Subarea currently flow into a farm channel located along the western boundary which flows to the Oxnard Drain. The Oxnard Drain is a large channel running along the southern of Southern Subarea. It flows south to the western leg of Mugu Lagoon.

Stormwater detention in the Southern Subarea is proposed to be accommodated by a combination of bioswales along three north-south roadways and a detention basin along the southern edge of the developed area. Total acreage for offsite drainage to the channel adjacent the project is approximately 584.6 acres. In its current condition, the existing channel has the capacity to contain the undeveloped, offsite flows. According to the Oxnard Master Plan of Drainage (January 2001), the flow from the undeveloped condition is approximately 690 cfs. In the developed condition the flow increases to approximately 1,400

- Changes in Flow Directions: Potential changes in flow directions of peak stormwater runoff flows resulting from loss of precipitation infiltration areas and increases in impervious surfaces such as roads, driveways, patios, and rooftops.

#### **3.3.3.2.4 Wastewater Collection and Treatment**

- Wastewater Capacity: Existing wastewater collection and conveyance lines do not have sufficient capacity to accommodate wastewater from the project. Proposed wastewater flows would exceed the present capacity of the City of Oxnard Waste Water Treatment Plant (OWWTP)
- Exceedance of RWQCB Requirements: Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board (RWQCB) or result in a determination by the wastewater treatment provider which serves or may serve the project that it does not have adequate capacity to serve the project's projected demand in addition to the provider's existing commitments
- Wastewater Facility Construction: Require or result in the construction of new wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects

#### **3.3.3.3 Project Impacts**

##### **3.3.3.3.1 Northern Subarea**

##### **Water Supply and Demand**

*Impact Water-1: Water Supply Availability (Northern Subarea).* As ~~described~~ detailed in Table 3.3-17 above and as ~~detailed~~ described in the North Ormond Beach Water Supply Assessment & Verification (July 2008) and its Addendum (November 2009), development of the Northern Subarea (in accord with the SouthShore Specific Plan) would generate estimated water demand of about ~~815-833~~ acre feet per year (AFY). Of this total, ~~560-443~~ AFY would be for potable needs and the balance (~~255-390~~ AFY) would be for landscaping and other non-potable needs. Assuming a ~~2007-2009~~ citywide demand of approximately ~~28,490~~28,900 AFY and the projected 2030 demand of approximately ~~43,285~~41,040 AFY for the City's total service area, the SouthShore development project represents approximately ~~1.92~~2.0 percent of the projected demand and approximately ~~5.56~~7 percent of the anticipated increased demand in the City. The project's demand for potable water would be offset by a transfer of approximately 483 AFY of FCGMA allocation associated with the conversion of agricultural lands to urban uses.

Mitigation measures are provided below to help further reduce project specific water demands and to provide additional assurance that planned new water supplies would be available in advance of project-specific and other planned cumulative development.

As described in Section 3.3.1 (Water Resources Existing Setting) of this report, the City has comprehensive multifaceted Water Management Program that outlines how the City plans to provide an adequate water supply to meet forecasted water demands well into the future. In addition to its internal water management program, the City is working cooperatively with local groundwater managers such as the FCGMA, UWCD, and CMWD (Las Posas) on local groundwater management programs as well as CMWD and MWD on regional imported water supply issues. Together, these programs are intended to provide a high degree of flexibility to provide a reliable long term water supply under a broad range of known (i.e. projected growth and planned water supply projects) and unknown scenarios (i.e. global climate change). The availability of local groundwater as augmented by existing groundwater management programs (including groundwater recharge through the Freeman Diversion project and the Las Posas Aquifer Storage Project), imported State water, and the City's planned water recycling effort through it's GREAT and [Augmented the M&I Supplemental Water Program, and the transfer of allocation and credits associated with UCWD acquisition of the Ferro Property s](#)-will help to ensure that the City will be able to meet long term water demands.

~~The City's existing and ongoing water management programs provided about 28,490 AFY to serve the water needs of the City in 2007. The City's projected water supplies include water from both the City's Augmented M&I Supplemental Water and GREAT Programs. With the City's combination of State Water provided through CMWD, groundwater provided by UWCD and existing City wells, and the M&I Supplemental water programs, the City will have a 2010 water supply of about 40,625 AFY. This supply is projected to grow to 54,900 AFY in 2030 with the implementation of the GREAT Program (recycled water system). This projection assumes a 2030 production capacity of 17,100 AFY (16.95 mgd) for the GREAT AWPF facility. The initial phases of the GREAT Program and the related Recycled Water Backbone System have been approved by the City, are substantially funded and the City otherwise has plans in place to arrange for the remaining funding, and are pending implementation. In addition, the City is in the process of developing its Recycled Water Master Plan which will address implementation of the City's recycled water management program.~~

As thoroughly documented in the WSA, there is some degree of uncertainty with regard to the timing of both the demand coming on line as well as the continued availability of existing sources and the planned new supply sources. This is not atypical for a long range planning program that attempts to address future conditions that may be affected by a broad range of variables many of which are unknown at this time (such as economic conditions,

technological advances, environmental and social change, etc.). Nevertheless, the City has attempted to anticipate and have in place contingency plans to respond to these issues as described in the WSA and this document. Overall, the findings of this WSA (SB 610) and Water Supply Verification (SB 221) are that:

- The WSA considers water demands of the North Ormond Beach development project as well as water demands from other proposed or anticipated developments for the period 2010 to 2030.
- Water supplies as identified herein from CMWD, UWCD, and the City are considered as firm for the period 2010 to 2030.
- During the period 2010 to 2014, the City may draw on a portion of its groundwater credit bank of approximately 37,000 AF as an interim supply until the GREAT Program Phase 1 is completed as planned. Further, under extended dry and multiple dry year conditions, it is possible that during the years 2010 to 2014, the cumulative draw on the groundwater credits could nearly exhaust the City's currently available credits. However, the City has developed this credit bank for use during these types of extended drought or water supply restricted conditions.
- Once the GREAT Program Phase 1 is in full production, the City will restore its groundwater credit bank as a buffer against future supply constraints.
- Under the current estimated schedule, the production, use, and recharge of recycled water will be available for use in, or to offset, the potential demands from the North Ormond Beach by approximately 2015. Thus the North Ormond project must be implemented in a manner to expedite the production, use and recharge of recycled water.
- The GREAT Program continues to be an important element in providing water supply to the North Ormond Beach development project, along with other proposed or anticipated development.

Based on the facts cited and analysis above, the WSA concludes and verifies that the City's total, reasonably projected water supplies available during normal, single dry, and multiple dry water years during a 20-year projection are sufficient to meet the water demand associated with the project, in addition to the City's existing and planned future uses. In addition, it is assumed the project will be water neutral; that is the project will present to the City sufficient water rights or water supplies to offset the full estimated demand associated with the project. Thus, the project proponent must develop a program to offset a minimum of 350 AFY of demand through some combination of additional water supply contributions through extraordinary facilities development, extraordinary conservation measures, in-City

~~retrofits, contributions to the development of recycled water facilities, or similar measures. After careful consideration of these factors, the WSA concludes and verifies the following:~~

- ~~☐ Water supplies from CMWD and UWCD are considered reliably firm through 2030;~~
- ~~☐ The City can reliably expect that its groundwater pumping allocations will increase with the transfer of groundwater pumping rights that occurs as development occurs within the City;~~
- ~~☐ The GREAT Program is well defined and construction of the first phase is underway. While subsequent phases(s) are not yet fully designed or permitted, the City's commitment to the GREAT Program and the ongoing studies to further describe and provide funding for the program, full implementation can reasonably be anticipated; and~~
- ~~☐ The City's projected water supplies will meet the City's projected demand during normal, single dry, and multiple dry water years through the Year 2030. This includes both the proposed project as well as the anticipated cumulative development expected to occur during that time frame.~~

~~Based on these conclusions, and a detailed citywide cumulative water supply assessment, the City's projected water supply is expected to be adequate to serve both the project demands as well as the cumulative demand of other anticipated future projects through the Year 2030. This conclusion is based on the reasonable assumption that the City's GREAT and M&I Supplemental Programs will be implemented. The impact of proposed development within the Northern Subarea in accord with the SouthShore Specific Plan and the associated development agreement is, thus, considered significant but feasibly mitigated (Class II). Mitigation measures: Water-1, Water-2, Water-3, Water-4, Water-5.~~

***Impact Water-2: Water Facility Construction (Northern Subarea).*** The Northern Subarea will require the construction of facilities associated with Phase 1 of the GREAT program to ensure a 20-year supply of potable and recycled water. The City of Oxnard has adopted a project level EIR/EIS for the GREAT program. Most of the infrastructure for Phase 1 and Phase 2 of the GREAT program is proposed for construction at existing water facilities or involves replacement and expansion of existing water service pipelines within existing right-of-ways. Preliminary review of the GREAT program under the EIR/EIS has indicated that, with the exception of the wetlands element, there are no identifiable issues that could represent significant permitting challenges. The wetlands element could be covered under the environmental document for the GREAT program at a program level and developed to a project-specific level as that element is developed more substantially. The GREAT EIR/EIS includes a Monitoring, Mitigation, and Reporting Plan (MMRP) which addresses the construction impacts of Phase 1 and Phase 2. Potential construction-related effects associated

or open channel south on Olds Road, west on Hueneme Road, and then south on Arnold Road.

Based on the above, the Project will result in a net reduction in stormwater discharges during significant storm events so impacts would be considered *less-than-significant (Class III)*.

### Wastewater Collection and Treatment

***Impact Water-9: Wastewater Collection and Treatment (Northern Subarea).*** The 2005 Wastewater Master Plan Update for the City of Oxnard includes the proposed South Ormond Study Area in its wastewater flow projections. Therefore, build out of the Study Area has been accounted for in the analysis of future wastewater infrastructure needs. Additional studies are, however, needed to assess the impact to the existing sewer and wastewater treatment infrastructure. The impact to existing wastewater collection and conveyance lines, capacity of the OWWTP, wastewater treatment requirements and construction of wastewater infrastructure is considered *significant but feasibly mitigated (Class II) to less than significant (Class III)*. Mitigation measures: Water-15.

#### **3.3.3.3.2 Southern Subarea**

### Water Supply and Demand

***Impact Water-10: Water Supply Availability (Southern Subarea).*** As [detailed in Table 3.3-20 described above](#) and as detailed in the South Ormond Beach Water Supply Assessment & Verification (June 2008) [and its Addendum \(November 2009\)](#), development of the Northern Subarea (in accord with the SouthShore Specific Plan) would generate estimated water demand of about ~~995-965~~ acre feet per year (AFY). Of this total, ~~815-785~~ AFY would be for potable needs and the balance (180 AFY) would be for landscaping and other non-potable needs. Assuming a 2007 citywide demand of approximately ~~28,490~~28,900 AFY and the projected 2030 demand of approximately ~~41,400~~ 43,285 AFY for the City's total service area, the South Ormond Beach project represents approximately 2.3 percent of the projected demand and approximately ~~6.77.7~~ percent of the anticipated increased demand in the City. [The project's demand for potable water would be offset by a transfer of approximately 563 AFY of FCGMA allocation associated with the conversion of agricultural land to urban uses. Accounting for this transfer and the use of recycled water to address non-potable demand, the project-level water balance results in an overall deficit of approximately 220 AFY in 2030. Therefore, in order to be water neutral, the South Ormond Beach project will need to fund the construction of necessary recycled water infrastructure on site to serve the 180 AFY demand for recycled water and fund the construction of necessary recycled water infrastructure to serve potential recycled water customers to offset 222 AFY potable demand, or otherwise implement mitigation measures consistent with City policy as discussed in this document above.](#)

Mitigation measures are provided below to help further reduce project specific water demands and to provide additional assurance that planned new water supplies would be available in advance of project-specific and other planned cumulative development.

As described in Section 3.3.1 (Water Resources Existing Setting) of this report, the City has comprehensive multifaceted Water Management Program that outlines how the City plans to provide an adequate water supply to meet forecasted water demands well into the future. In addition to its internal water management program, the City is working cooperatively with local groundwater managers such as the FCGMA, UWCD, and CMWD (Las Posas) on local groundwater management programs as well as CMWD and MWD on regional imported water supply issues. Together, these programs are intended to provide a high degree of flexibility to provide a reliable long term water supply under a broad range of known (i.e. projected growth and planned water supply projects) and unknown scenarios (i.e. global climate change). The availability of local groundwater as augmented by existing groundwater management programs (including groundwater recharge through the Freeman Diversion project and the Las Posas Aquifer Storage Project), imported State water, and the City's planned water recycling effort through its GREAT and [Augmented-M&I Supplemental Water Programs, along with the access to allocation and credits associated with UWCD acquisition of the Ferro Property](#), will help to ensure that the City will be able to meet long term water demands.

The City's existing and ongoing water management programs provided about 28,490 AFY to serve the water needs of the City in 2007. The City's projected water supplies include water from both the City's Augmented M&I Supplemental Water and GREAT Programs. With the City's combination of State Water provided through CMWD, groundwater provided by UWCD and existing City wells, and the M&I Supplemental water programs, the City will have a 2010 water supply of about 40,625 AFY. This supply is projected to grow to 54,900 AFY in 2030 with the implementation of the GREAT Program (recycled water system). This projection assumes a 2030 production capacity of 17,100 AFY (16.95 mgd) for the GREAT AWP facility. The initial phases of the GREAT Program and the related Recycled Water Backbone System have been approved by the City, are substantially funded and the City otherwise has plans in place to arrange for the remaining funding, and are pending implementation. In addition, the City is in the process of developing its Recycled Water Master Plan which will address implementation of the City's recycled water management program.

As thoroughly documented in the WSA [and its addendum](#), there is some degree of uncertainty with regard to the timing of both the demand coming on line as well as the continued availability of existing sources and the planned new supply sources. This is not atypical for a long range planning program that attempts to address future conditions that may be affected by a broad range of variables many of which are unknown at this time (such

as economic conditions, technological advances, environmental and social change, etc.). Nevertheless, the City has attempted to anticipate and have in place contingency plans to respond to these issues as described in the WSA and this document. After careful consideration of these factors, the WSA and addendum concludes and verifies the following:

- The water demands of the South Ormond Beach development project as well as water demands from other proposed or anticipated developments for the period 2010 to 2030 are considered reliable.
- Water supplies as identified herein from CMWD, UWCD, and the City are considered as firm for the period 2010 to 2030.
- During the period 2010 to 2014, the City may draw on a portion of its groundwater credit bank of approximately 37,000 AF as an interim supply until the GREAT Program Phase 1 is completed as planned. Further, under extended dry and multiple dry year conditions, it is possible that during the years 2010 to 2014, the cumulative draw on the groundwater credits could nearly exhaust the City's currently available credits. However, the City has developed this credit bank for use during these types of extended drought or water supply restricted conditions.
- Once the GREAT Program Phase 1 is in full production, the City will restore its groundwater credit bank as a buffer against future supply constraints.
- Under the current estimated schedule, the production, use, and recharge of recycled water will be available for use in, and/or to offset, the potential demands from the South Ormond Beach project by approximately 2015. Thus the South Ormond project must be implemented in a manner to expedite the production, use and recharge of recycled water.
- The GREAT Program continues to be an important element in providing water supply to the South Ormond Beach development project, along with other proposed or anticipated development.

Based on the facts cited and analysis above, the WSA concludes and verifies that the City's total, reasonably projected water supplies available during normal, single dry, and multiple dry water years during a 20-year projection are sufficient to meet the water demand associated with the project, in addition to the City's existing and planned future uses. In addition, it is assumed that the project will be water neutral; that is, the project will present to the City sufficient water rights or water supplies to offset the full estimated demand associated with the project. Thus, the project proponent must develop a program to offset a minimum of 402 AFY of demand through some combination of additional water supply contributions through extraordinary facilities development, extraordinary conservation

measures, in-City retrofits, contributions to the development of recycled water facilities, or similar measures.

- ~~Water supplies from CMWD and UWCD are considered reliably firm through 2030;~~
- ~~The City can reliably expect that its groundwater pumping allocations will increase with the transfer of groundwater pumping rights that occurs as development occurs within the City;~~
- ~~The GREAT Program is well-defined and construction of the first phase is underway. While subsequent phases(s) are not yet fully designed or permitted, the City's commitment to the GREAT Program and the ongoing studies to further describe and provide funding for the program, full implementation can reasonably be anticipated; and~~
- ~~The City's projected water supplies will meet the City's projected demand during normal, single dry, and multiple dry water years through the Year 2030. This includes both the proposed project as well as the anticipated cumulative development expected to occur during that time frame.~~

~~Based on these conclusions, and a detailed citywide cumulative water supply assessment, the City's projected water supply is expected to be adequate to serve both the project demands as well as the cumulative demand of other anticipated future projects through the Year 2030. This conclusion is based on the reasonable assumption that the City's GREAT and M&I Supplemental Programs will be implemented. The impact of proposed development within the Northern-Southern Subarea in accord with the SouthShore-South Ormond Beach Specific Plan and the associated development agreement is, thus, considered *significant but feasibly mitigated (Class II)*. Mitigation measures: Water-1, Water-2, Water-3, Water-4, Water-5 *less-than significant (Class III)*.~~

**Impact Water-11: Water Facility Construction (Southern Subarea).** The Southern Subarea will require the construction of facilities associated with Phase 1 of the GREAT program to ensure a 20-year supply of potable and recycled water. The City of Oxnard has adopted a project level EIR/EIS for the GREAT program. Most of the infrastructure for Phase 1 and Phase 2 of the GREAT program is proposed for construction at existing water facilities or involves replacement and expansion of existing water service pipelines within existing right-of-ways. Preliminary review of the GREAT program under the EIR/EIS has indicated that, with the exception of the wetlands element, there are no identifiable issues that could represent significant permitting challenges. The wetlands element could be covered under the environmental document for the GREAT program at a program level and developed to a project-specific level as that element is developed more substantially. The GREAT EIR/EIS includes a Monitoring, Mitigation, and Reporting Plan (MMRP) which addresses the construction impacts of Phase 1 and Phase 2. Potential construction-related effects associated

sedimentation impacts to the watercourses and waterbodies in the Southern Subarea. Impacts would be *significant, but feasibly mitigated (Class II)*. Mitigation measures: Water-11, Water-12.

### **Wastewater Collection and Treatment**

***Impact Water-17: Wastewater Collection and Treatment (Southern Subarea).*** The draft 2005 Wastewater Master Plan Update for the City of Oxnard includes the Ormond Beach Specific Plan Area in its wastewater flow projections. Therefore, buildout of the Study Area has been accounted for in the analysis of future wastewater infrastructure needs. Additional studies are, however, needed to assess the impact to the existing sewer and wastewater treatment infrastructure. The impact to existing wastewater collection and conveyance lines, capacity of the OWWTP, wastewater treatment requirements and construction of wastewater infrastructure is considered *significant but feasibly mitigated (Class II)* to *less than significant (Class III)*. Mitigation measures: Water-15.

#### **3.3.3.3.3 Cumulative Impacts**

### **Water Supply**

***Impact Water-18: Cumulative Water Supply.*** The proposed projects would not result in a cumulative impact on water supply or water infrastructure. While the projects have not been determined to have either a project specific or cumulative impact on water supply, there is the potential that due to uncertainties, the City could face water shortages. Therefore, the following measures, many of which are recommended in the WSAs, are available and shall be implemented by the City and future developers, as necessary, to avoid or reduce the risk of potential future water shortages. While many of these measures are programmatic in nature and go beyond what can be accomplished at the project level, the project developers and subsequent developers shall be required to support the City with implementation of the following measures, as applicable. These measures help to illustrate the flexibility in programs that the City has to avoid environmental impacts associated with future water supply and demand issues.

- The City shall build up City Groundwater Credits between 2008 and 2010 for use in 2011 through 2016 until the GREAT Program expansion is operational.
- The City shall continue [to maximize its reliance on negotiations for Augmented the M&I Supplemental Water Supply Program](#) ~~and obtain approval by 2009.~~
- The City has the option to pump additional groundwater from City wells above their allocation. However, this may result in additional surcharges from the GMA.
- The supply and demand comparison tables above (Tables 3.3-~~9-8~~ through 3.3-~~1513~~) are predicated on the City's utilizing its full purchase order entitlement of CMWD water, less the PHWA water use and reservation as discussed above. However, in

- 2007 PHWA only used 2,220 AFY of its 3,262.5 AFY of reservation. Thus the City could potentially purchase an additional 1,040 AFY of CMWD in times of need.
- Implement the initial phase of the GREAT Program (for 6.25 MGD) by ~~2011~~ 2012 when demand starts to increase. If the facility is delayed, then other sources of water would be needed. A portion or all could be from the rest of the CMWD Tier 1 rate or even Tier 2 water.
  - Obtain City Council approval for use of the allocation and credits associated with UCWD's acquisition of the Ferro Property.
  - The City also has options of purchasing unused O-H water from other water purveyors.
  - Plan for the first expansion of the GREAT Program to be an additional 5.2 MGD (to 11.45 MGD).
  - The City should plan for the second expansion of the GREAT Program to be an additional 5.0 MGD (to 16.45 MGD). Before designing the second expansion, in particular, the demand and surplus projections should be revisited.
  - The City could also implement additional temporary water demand measures for periods when supply is not sufficient to meet demand as outlined in City Ordinance No. 2729, "City of Oxnard Water Conservation and Water Shortage Response Ordinance."
  - The City shall monitor the pace of new development as it relates to the phasing and implementation of new water supply systems and changing legal, environmental, technological, and social conditions. If it becomes apparent that the anticipated water supply systems are not keeping pace with development or should unanticipated events occur that would cause such new development to adversely impact local water supplies, the City shall curtail or limit the issuance of building permits until such time that a water supply can be assured.

Each project shall be required to pay a fair share contribution to all programs, such as the City's fee program, that are in place to fund the GREAT Program and to facilitate implementation of new water supplies for the City. In addition, all projects shall be required to comply with standard water conservation requirements of the City, State, and Uniform Building Code. These include the use of low-flush toilets and urinals, compliance with statewide efficiency standards for shower heads and faucets, and insulation of pipes to reduce water used before hot water reaches equipment or fixtures.

CEQA also requires that an EIR disclose the environmental effects of potential mitigation measures such as the implementation of the City's GREAT Program. A complete programmatic EIR that addressed the environmental effects of the GREAT was prepared and certified in 2004. That EIR document noted that, with the exception of a small but finite safety risk associated with project elements within an identified tsunami hazard area, all of

runoff generated by the community development and residential-occupancy phases to existing condition and levels.

The following mitigation measures are grouped into three categories: 1) water supply and demand measures, 2) water quality measures, 3) flood control and stormwater drainage measures, and 4) wastewater measures. The mitigation measures presented in this section are derived from several sources and are not meant to be an exhaustive list of applicable BMPs. They are instead a guide to the degree of mitigation that would be required to ensure water supply availability, protect water quality, minimize flooding hazards, and ensure adequate wastewater collection and treatment service in the Study Area.

#### **3.3.3.4.1 Water Supply and Demand Mitigation Measures**

While the project has not been determined to have either a project specific or cumulative impact on water supply, there is the potential that due to uncertainties, the City could face water shortages. Therefore the following measures shall be implemented, as necessary, to avoid or reduce the risk of potential future water shortages.

**Mitigation Measure Water-1: On-site Domestic Water System.** The on-site domestic water system shall include a:

- A public pipeline systems which feed into separate water meters for each ownership. In addition, there shall be separate water meters for each multi-family unit townhouses, but not apartment units. The high-rise residential towers may be master-metered.
- A separate water meter (1) for the common landscape areas that would be connected to the future recycled water system.
- All domestic water pipelines shall adhere to DOHS requirements for separation between water and recycled water/wastewater pipelines.
- The developer shall be responsible for payment of capital improvement/connection fees, including all related “installation fees.”
- [Developer shall provide the City any approvals necessary to dedicate to the City all FCGMA allocation associated with the project site, whether such allocation is associated with the conversion of agricultural to urban uses, or otherwise.](#)
- [Developer shall provide to the City addition water rights, water supplies, or water offsets in the form of recycled water facilities, conservation retrofits, financial contributions towards City programs which generate in-City water conservation, or participation in other similar programs with cumulatively result in a total water supply contribution, taken together with other water rights or FCGMA allocation provided to the City, which offset the entire estimated water demand associated with the project.](#)

**Mitigation Measure Water-2: On-site Recycled Water System.** An on-site recycled water system shall include the following:

### 3.4.3.3 Cumulative Impacts

*Impact AQ-8: Contribution to Cumulative Particulates.* ~~PM<sub>10</sub> emissions from project construction would result in a significant but feasibly mitigated (Class II) contribution to cumulative PM<sub>10</sub> impacts in the area.~~

The Ventura County APCD states that a project's contribution to cumulative air quality impacts should be evaluated based on its consistency with the ~~General Plan~~ land use assumptions in the AQMP. ~~The basis for determination of cumulative effect is, therefore, a comparison of the development proposed by the specific plans with the land use assumptions of the AQMP (i.e., City's 2020 General Plan Land Use Map). Although the Ventura~~ County is currently in non-attainment of state standards for PM<sub>10</sub> emissions, and project-generated PM<sub>10</sub> emissions could exacerbate such non-attainment, ~~Proposed~~ development of the Study Area ~~according to the specific plans, while is~~ generally consistent with the Oxnard 2020 General Plan ~~and, thus, the AQMP, would result in potentially significant impacts.~~ Implementation of standard dust control measures should, ~~however, would~~ ensure that the project's contribution to cumulative levels of PM<sub>10</sub> emissions ~~is minimized. Thus, the projects' cumulative contribution to particulates would~~ ~~to~~ be *significant but feasibly mitigated (Class II)*.

*Impact AQ-9: Cumulative Emissions.* A project with emissions of two pounds per day or greater of ROC, or two pounds per day or greater of NO<sub>x</sub>, that is found to be inconsistent with the AQMP will have a significant cumulative adverse air quality impact. Inconsistent projects are usually those that cause the existing population to exceed the population forecasts contained in the most recently adopted AQMP or more recent population forecasts.

Section 4.2.3 of the Ventura County APCD Guidelines ~~utilizes~~ ~~outlines~~ a method ~~of~~ ~~for~~ evaluating ~~the population growth associated with~~ a project's ~~growth~~ with respect to projected population growth in the area to determine consistency or inconsistency with the adopted AQMP. The ~~project area~~ Study Area has been identified as a Specific Plan Study Area in the City's 2020 General Plan. While the proposed project would require approval of a General Plan Amendment because the proposed subareas differ from those adopted in the General Plan, the proposed project generally conforms with the City's 2020 General Plan. Additionally, as determined in the analysis in Section 3.7 (Land Use and Planning), the project would not result in any significant land use and planning impacts.

According to the City's 2020 General Plan, under existing land use designations, the build-out of the Ormond Beach area could result in up to 3,500 residential units. The proposed project would result in the development of a 1,283 residential units. As the proposed project would result in considerably fewer residential units within the Ormond Beach Specific Plan Study Area than the General Plan, the project would not result in growth exceeding adopted

Based on the results of the 2006 site assessment and prior investigations conducted by other agencies, USEPA concluded that the Halaco Site will require additional cleanup to properly address the environmental and human health risks associated with the contamination (USEPA, 2007b). USEPA proposed adding the Halaco Site to the Superfund National Priorities List (NPL) on March 7, 2007. The site was added to the NPL on September 19, 2007 (USEPA, 2007a).

USEPA is conducting ongoing human health and ecological risk assessments for the site (USEPA, 2007c). The California Department of Public Health (CDPH) is also conducting a health risk assessment. In late 2007, the USEPA determined that a time-critical removal action was necessary to stabilize the site and reduce immediate concerns about contamination. Removal operations for Halaco's estimated 700,000 cubic yards of onsite waste were completed as of March 28, 2008 (USEPA, 2008). ~~Based on additional air, water, and soil sample results, the USEPA will determine late in 2008 what, if any, additional Superfund action is required.~~

In 2009, the California Department of Public Health (CDPH) completed a draft report summarizing its investigation of the public health implications of exposure to contamination from the Halaco Site. Key findings were that activities that create a lot of dust (e.g., dirt bike riding in contaminated areas) pose a public health concern but that the following exposure pathways pose no public health concern:

- Exposure to the soil in the nearby agricultural fields and neighborhoods.
- Short-term exposure when trespassing on the Halaco site.
- Visiting the Nature Conservancy Land, Ormond Beach, or the wetlands.
- Swimming in the Oxnard Industrial Drain.

Based on existing preliminary information, the Halaco site is not expected to present a hazard to human health at the Ormond Beach Specific Plan Study Area, because the proposed Project would not use groundwater (see Section 3.3, Water Resources), and because limited sampling in a residential area near the Halaco site did not show elevated levels of the specific contaminants of concern. ~~However, since the Study Area is located less than 4 miles from the Halaco site and USEPA is still developing its strategy for the Halaco Superfund Site, this preliminary assessment must be confirmed upon completion of USEPA's and CDPH's Health Risk Assessments (HRAs) prior to issuance of any building permits. The HRAs are scheduled to be completed by late 2008.~~

**Mitigation Measure HM-3: Phase II ESA.** Based on the period during which the existing structures in both the Northern and Southern subareas were built (prior to 1978), ACM and LBP may be present within the existing onsite structures and shall be handled properly prior to remodeling or demolition activities. In order to adequately assess the presence of ACMs and LBPs affecting the site, a Phase II ESA complying with ASTM standards shall be completed before recordation of any Tract Maps for the proposed Study Area. If either ACMs or LBPs are identified in the structures, then removal of these materials in compliance with state and federal requirements shall be undertaken prior to demolition of the structure, and the removed materials will be disposed of at an approved landfill.

All activities involving ACMs and LBPs will be required to comply with the California Code of Regulations Title 22, the California Health and Safety Code, and the Code of Federal Regulations Title 29 (Department of Labor), and Title 49 (Department of Transportation).

This mitigation addresses impacts HM-3 and HM-9 and reduces the impact to less than significant.

**Mitigation Measure HM-4: Halaco Site HRAs.** The City must affirm that the USEPA's and CDPH's Health Risk Assessments conclude that the Halaco site presents no risk to future development in the Study Area before issuing any building permits for the proposed Project. ~~These HRAs are scheduled to be completed by late 2008.~~

This mitigation addresses impacts HM-6 and HM-13 to less than significant.

#### **3.5.3.4 Residual Impacts**

Residual impacts on public safety caused by onsite hazards or hazardous materials would be mitigated to a less significant level with incorporation of mitigation measures HM-1 through HM-4.

**TABLE 3.6-6  
POTENTIAL FOR SENSITIVE PLANT SPECIES TO OCCUR  
IN THE SOUTHERN SUBAREA**

<b>Common Name</b>	<b>Scientific Name</b>	<b>Legal Status or Sensitivity</b>	<b>Habitat</b>	<b>Potential to Occur in Southern Subarea</b>	<b>Source</b>
Spiny rush	<i>Juncus acutus</i> ssp. <i>leopoldii</i>	CNPS 4,*	Freshwater wetlands, stream margins	Known to occur in the northwest portion of the Southland Sod Farm site in the Southern Subarea and adjacent to the Southern Subarea in the Oxnard Drain.	b, c
Southern tarplant	<i>Centromadia parryi</i> ssp. <i>australis</i>	CNPS 1B	Marshes and swamps, valley and foothill grassland, and vernal pools	Low potential to occur. The transitional habitats bordering open water/coastal brackish marsh habitat have a high potential to support this species; however, transitional habitats in the Southern Subarea are highly disturbed by agriculture.	d
Red sand verbena	<i>Abronia maritima</i> ssp. <i>maritima</i>	CNPS 4,*	Coastal sand dunes	Not expected to occur at the project site due to lack of suitable habitat. Occurs mainly on dunes of Ormond Beach.	c, d
Ventura marsh milk vetch	<i>Astragalus pycnostachyus</i> var. <i>lanosissimus</i>	FE, SE, CNPS 1B	<a href="#">Near Coastal-coastal</a> salt marsh	Not expected to occur at the project site due to lack of suitable habitat. Moderate potential to occur in <a href="#">near</a> salt marsh habitat at Ormond Beach. Re-establishment has been attempted, and potentially will be in future, by CDFG on State Coastal Conservancy lands at Ormond Beach.	d
Santa Barbara morning glory	<i>Calystegia sepium</i> ssp. <i>binghamiae</i>	CNPS 1A	Coastal salt marshes and swamps	Not expected due to lack of suitable habitat. Low potential to occur adjacent to the Southern Subarea. The open water/coastal brackish marsh habitat has a high potential to support this species; however, since this species is possibly extinct it is unlikely.	d
Salt marsh bird's beak	<i>Cordylanthus maritimus</i> ssp. <i>maritimus</i>	FE, SE, CNPS 1B	Coastal salt marsh, coastal dunes	Not expected to occur at the project site due to lack of suitable habitat, but known historically. Found adjacent to the Southern Subarea within the Ormond Beach back dune wetlands.	b
Dune larkspur	<i>Delphinium parryi</i> ssp. <i>blochmaniae</i>	CNPS 1B	Chaparral; coastal dunes. On rocky areas and dunes.	Not expected to occur at the project site due to lack of suitable habitat. High potential to occur in the southern foredune habitat in the project vicinity.	
	<i>Dithyrea maritime</i>	ST, CNPS 1B	Coastal dunes, coastal scrub (sandy)	Not expected to occur at the project site due to lack of suitable habitat. High potential to occur in the southern foredune habitat in the project vicinity.	
Small spikerush	<i>Eleocharis parvula</i>	CNPS 4	Marshes and swamps	Not expected due to lack of suitable habitat. High potential to occur adjacent to the Southern Subarea. Suitable habitat for this species is present in the open water/coastal brackish marsh habitat near the Southern Subarea at Ormond Beach.	d

### **3.6.3.3 Ormond Beach Natural Resource Management Program and USFWS Consultation**

Pursuant to a Development Agreement with the City, the ~~project applicants developer is are~~ required to ~~participate in~~ implementation of the an "Ormond Beach Natural Resource Management Program," prepared consistent with the framework outlined below and in consultation with, USFWS, MTC, SCC, TNC, and the City of Oxnard.

The purpose of the Natural Resource Management Program ~~would be is~~ to reduce or avoid indirect impacts to sensitive natural resources, particularly federal and state listed species and their habitats including Western snowy plovers and California least terns at Ormond Beach, Point Mugu, Ormond Lagoon, and The Nature Conservancy property that would result from expected increased visitation and household pets associated with the Ormond Beach Specific Plan development projects. A qualified biologist shall prepare a Natural Resource Management Program or update an existing management plan/program for special status species and their habitats at Ormond Beach. Although this program would be implemented for Ormond Beach, it would benefit other nearby sensitive habitat areas listed above. The Natural Resource Management Program shall be approved by USFWS. Funding to prepare and implement the management program shall be provided by the applicants. An approach to implement the program could be to expand the North Shore at Mandalay Ranger Program, create a similar program, or fund an existing program at Ormond Beach. The program ~~would~~ will provide adequate funding for part-time law enforcement and volunteer docent coordination in order to implement the following resource protection measures at Ormond Beach:

- **Fencing:** Construction and maintenance of seasonal and/or permanent fencing adequate to delineate and protect snowy plover and least tern nesting areas and sensitive dune areas on Ormond Beach. Fencing is typically installed in March and removed in September based on nesting activity observations.
- **Signage:** Installation and maintenance of informational and directional signage at 100-foot intervals along the beach and perimeter of the property to direct and inform people of the sensitive resources on Ormond Beach. The signage shall emphasize regulations pertaining to dogs on Ormond Beach and shall cite local ordinances and state and federal laws as applicable (e.g., "leash laws").
- **Predator Management:** Implementation of a predator management plan that would discourage potential predators and, if necessary, remove known predators from the area. The primary means of discouraging predators (e.g., gulls, crows, ravens, skunks, raccoons, and cats) would be to control trash and litter on the beach and in the immediate area. Trash cans with animal proof lids would be installed and maintained

year-round. Specific targeted measures would be employed if [snowy plover](#) and/or [least tern](#) nest predation increases significantly to a point of resulting in take as defined by the Endangered Species Act. The individual predator(s) would be targeted and removed by animal control under the direction of the docent coordinator, in consultation with appropriate agencies such as [the California Department of Fish and Game \(CDFG\)](#).

- **Invasive Plant Control:** To ensure that sensitive habitats on Ormond Beach are not degraded by non-native invasive plants, an invasive plant control program would be developed [and implemented](#). The plan would require the control and/or removal of invasive exotic plants found in the Ormond Beach dunes. Hand removal would be preferred, but some species may require herbicide application for effective removal or control.
- **Public Information:** [A program would be implemented](#) ~~Implementation of a program~~ that would inform the public about the unique and sensitive resources of the Ormond Beach area. Signs and pamphlets would be utilized to educate visitors on how to minimize human-caused impacts such as harassment of wildlife by dogs and cats, off-road vehicle (ORV) impacts, kites, beach grooming, trash, and water pollution. Public education should include information such as nearby “dog friendly” beaches.
- **Enforcement:** The City of Oxnard or [their](#) designee would enforce the provisions of the Ormond Beach ~~Natural Resource Management Program~~ [NRMP](#). Active enforcement would be emphasized from March through September [when sensitive species nesting activity occurs, but enforcement activities will occur year-round](#). Law enforcement would work in coordination with the docent coordinator and docent volunteers to ensure effective implementation of the program and to provide a safe environment for the coordinator, volunteers, and other visitors.

Although the Ormond Beach Natural Resource Management Program would reduce indirect impacts to the greatest extent feasible to nearby sensitive biological resources as a result of the proposed project, [the USFWS and CDFG continue to exercise independent jurisdiction to protect federally-listed species under the ESA and state-listed species under the California Endangered Species Act \(CESA\), respectively. Consistent with this jurisdiction and the associated permitting processes, the project applicants and the resource agencies will consider possible application of the ESA and CESA to these projects. there would still be a potential for “take” of federal and state listed species because impacts to these species would not be fully mitigated. Therefore, formal consultation with USFWS will be required under Section 7 of the Endangered Species Act, if there is a federal nexus or Section 10 if there is no federal nexus. Under Section 7, a Biological Assessment would be prepared and](#)

~~submitted to USFWS prior to construction in order to receive a Biological Opinion (incidental take permit) from USFWS. Under Section 10, preparation of a Habitat Conservation Plan (HCP) would be required. The timing and fair-share allocation of costs for any subsequent Biological Assessment/Opinion or Habitat Conservation Plan that might result from resource agency consultation are addressed in the development agreements.~~

#### **3.6.3.4 Project Impacts**

The following is a description of the impacts associated with development under the proposed specific plans for each of the two subareas based on the significance thresholds described in Section 3.6.3.2. For each subarea, the impacts are presented according to the following categories:

- Direct Impacts to Habitat and Vegetation
- Direct Impacts to Common Wildlife Species
- Direct Impacts to Special-status Wildlife
- Direct Impacts to Wildlife Corridors
- Indirect Impacts to Sensitive Habitats
- Indirect Impacts to Special-status Plants
- Indirect Impacts to Special-status Wildlife

##### **3.6.3.4.1 Northern Subarea**

#### **Direct Impacts to Habitat and Vegetation**

***Impact BIO-1: Invasive Species.*** The Northern Subarea does not contain native vegetation; however, impacts to nearby native vegetation at Ormond Beach could potentially include invasive species used in landscaping that could escape into natural areas and displace native vegetation. The master plant palette from the specific plan for the Northern Subarea specifically excludes several invasive species, including Australian saltbush (*Atriplex semibaccata*), pampas grass (*Cortaderia selloana*), myoporum (*Myoporum laetum*), and olive (*Olea europaea*). With implementation of Mitigation Measure BIO-1, impacts from invasive plant species are, therefore, considered *less than significant (Class III)*.

***Impact BIO-2: Stormwater Runoff.*** An increase in impervious area in the developed portions of the project site would likely cause increased runoff into wetlands and waters of the U.S. and could potentially contain higher amounts of pollutants such as oil and gas runoff. Most of the stormwater runoff will be filtered and captured in the manmade lake that will connect with the Oxnard Industrial Drain as proposed in the specific plan for the Northern Subarea. Since most of the runoff will be required to be detained and filtered by

waterfowl, and other birds. The foraging habitat acreage consists of 302 acres of the Northern Subarea and 375 acres of the Southern Subarea (not including the portions of the development planned as open space). CDFG considers raptor foraging habitat to be sensitive habitat, particularly if it supports sensitive species such as burrowing owls or white-tailed kites. White-tailed kites are known to forage in both the Northern and Southern Subareas, and burrowing owls have been observed in the Southern Subarea, which provides generally higher quality habitat than the Northern Subarea. CDFG, thus, calls for loss of such habitat to be adequately mitigated. Suitable mitigation would include the restoration or enhancement of coastal native grassland and open shrubland foraging habitat for raptors and other birds. Ideally, the mitigation land would be in the vicinity of the project site and near coastal wetlands.

Based on mitigation typically required by CDFG, the City has determined that a mitigation ratio of 0.1 to 1 is ~~the greatest amount feasible warranted (refer to detailed rationale in Appendix A-3). It is recognized that this mitigation~~ This ratio recognizes the degraded foraging value of the Study Area and is, thus, smaller-lower than would be desired from a habitat standpoint for undisturbed natural foraging areas, but it is the greatest amount determined feasible by the City.

~~This~~ The application of the 0.1 to 1.0 ratio would result in a mitigation requirement of 30.2 acres, or 10 percent, of the 302 acres of habitat being converted for the Northern Subarea. Development in the Southern Subarea would result in the loss of 375 acres of habitat, so the mitigation requirement would be 37.5 acres. Because the applicants for development in the Southern Subarea are providing on-site protection for the southern 220 acres of agricultural land that may or may not be converted into a habitat restoration project, the City determined that this should serve as credit for mitigation, so the mitigation requirement would be reduced from 37.5 acres to 15.5 acres. Mitigation shall consist of the applicants for the proposed projects contributing funds to restore bird and raptor foraging habitat at a higher functional quality, to one or more local conservation organizations such as The Nature Conservancy, State Coastal Conservancy, National Fish and Wildlife Foundation, or Mountains Restoration and/or Conservation Authority. This habitat would mitigate for the loss of raptor and other bird foraging habitat and would consist of grassland/open shrubland foraging habitat and at least 6.8 acres of open mud flat and/or low herbaceous wetland habitat for shorebirds.

Based on an agricultural land value of \$65,000 per acre, the City is requiring a mitigation contribution for initial restoration of \$1,963,000 for the Northern Subarea and \$1,007,500, 437,500 for the Southern Subarea. These funds would be paid to the City, which would in turn contribute them to a suitable conservation organization or combination of organizations to implement a project or projects ~~meeting the criteria set forth in Appendix A-3~~. In addition, a cash contribution shall be required of each developer to provide for

maintenance and monitoring costs for a period of seven years. Based on an estimated annual cost of \$3,500 per acre, the amounts required would be \$739,900 for the Northern Subarea developer and ~~\$379,750~~18,750 for the Southern Subarea developer. These funds would be paid to the City, to be contributed to a suitable conservation organization or combination of organizations to maintain a project or projects ~~meeting the criteria set forth in Appendix A-3~~. Therefore the total mitigation contribution for the Northern Subarea would be \$2,702,900 and the Southern Subarea would be ~~\$1,387,250~~3,356,250.

In order for a restoration project to qualify for mitigation funds, it must meet the following criteria:

- 1) At least half of the funds must be applied to restoration or enhancement of native grassland and the remaining portion could be applied to restoration or enhancement of native grassland and/or coastal dune habitats.
- 2) The restoration site must be adjacent to or within close proximity (less than 1 mile) to coastal wetland habitats. Coastal sites are preferred.
- 3) The restoration site must be within the region of the project site (within 15 miles).
- 4) The restoration project should be initiated prior to the completion of the development.
- 5) The funds can apply to more than one restoration project but each project must be at least 5 acres or more in order to cause a beneficial increase in prey abundance and diversity.
- 6) Each restoration project must be monitored and maintained for a minimum of a two-year period and until success criteria are met. If success criteria are not achieved by the end of the second year, maintenance and monitoring shall continue until success criteria are met.
- 7) Success criteria include the following:
  - a) There shall be no more than 10 percent weed cover at any given time during the maintenance period of the project.
  - b) Native cover shall be 50 percent after the second year and 70 percent after the third year.
  - c) Dominant vegetation cover shall consist of a minimum of 5 different native plant species.
- 8) A restoration implementation, maintenance, and monitoring plan shall be developed for each restoration project that receives the funds. A portion of the funds may be used to develop the restoration plan.

9) The habitat restoration shall focus on improving foraging habitat for sensitive species.

~~listed in Appendix A-3.~~ The land acquisition or restoration project shall be initiated prior to the onset of construction of the proposed development to ensure there is no significant temporal loss of foraging habitat for shorebirds and raptors, consistent with the provisions of the Oxnard GP LU Element policies described in Section 3.7.

This mitigation addresses impacts BIO-4, 7, 8, 10, 16, 19, 20, 22.

**Mitigation Measure BIO-3: Pre-Construction Survey for Nesting Birds.** Site preparation, grubbing, and vegetation clearing shall occur during the non-breeding season, if practicable. In the event this is not practicable, a pre-construction survey for nesting birds will be conducted by a qualified biologist to determine if active nests of special-status birds, or common bird species protected by the Migratory Bird Treaty Act and/or the California Fish and Game Code, are present in the construction zone or within 100 feet (200 feet for raptors) of the construction zone. The survey shall be conducted no earlier than 45 days and no sooner than 20 days prior to construction or site preparation activities that would occur during the nesting/breeding season of native bird species potentially nesting on the site (typically February through July). If active nests are found, a minimum 50-foot (this distance may be greater depending on the bird species and construction activity, as determined by the biologist) fence barrier shall be erected around the nest site and clearing and construction within the fenced area shall be postponed or halted, at the discretion of the biological monitor, until the nest is vacated and juveniles have fledged, as determined by the biologist, and there is no evidence of a second attempt at nesting. The biologist shall serve as a construction monitor during the breeding season to ensure that there are no inadvertent impacts to nesting birds.

This mitigation addresses impacts BIO-7l, 18, 19b, 19l, and 19q.

**Mitigation Measure BIO-4: Pre-Construction Survey for Burrowing Owl.** Since burrowing owls are known to forage in the Study Area and are likely to nest near the Southern Subarea, the following measures shall be implemented in order to avoid take of burrowing owls. A qualified biologist will survey for burrowing owl activities within the Study Area and a 250-foot buffer area 30 days prior to the commencement of grading to assess burrowing owl presence and need for further mitigation. If owls are found nesting in or near the Study Area, the nest will be protected by establishing a minimum of a 250-foot buffer where no construction activities will occur. A biological monitor would be present to ensure the nest is not disturbed by construction activities until it is fledged and determined inactive. Burrowing owls typically breed from late March to July. The burrowing owl protection areas will be marked with temporary construction fencing. Where avoidance cannot be fully implemented, additional measures may need to be implemented consistent

- Residents/students may experience dust, noise, odor and other nuisances that may be associated with commercial agriculture.
- Conversion of farmland may impact nearby growers by placing restrictions and limitations on pesticides, fungicides, and herbicides used on the crops. Restrictions could also be placed on noise, burning, and dust generation. In addition, vandalism and theft of farm equipment may occur due to the increase in urban uses adjacent to agricultural operations.

Land use conflict impacts can be mitigated through the implementation of buffer and/or fencing requirements at the perimeter of urban development areas, and through implementation of the Standard City of Oxnard buyer notification condition. Prior to issuance of site improvement permits, the City of Oxnard applies a standard condition of approval requiring that new residents are made aware that the surrounding lands will remain in commercial agriculture. Buyer notifications are commonly used in rural residential areas and are generally effective in minimizing land use conflicts between agriculture and residential uses. In addition, the proposed Northern Subarea specific plan includes a minimum 150-foot “shelter belt” – a buffer between the urban uses and the adjacent agricultural uses – that would further reduce land use conflict impacts.

The number of days and the choice of days available for farmers to use chemical applications within one-quarter mile (1,320 linear feet) of the high school and elementary school will decrease when the two proposed schools are constructed. The Ventura County Agricultural Commissioner currently prohibits chemical applications within one-quarter mile of a school on any day that the school is in session. Any benefits to the farmers, exercised or potential, to extend a fumigation buffer from the east side of Olds Road and Hueneme Road across the developer’s land, which is currently designated as farmland, will be foreclosed upon commencement of the proposed project. This impact is considered less than significant because a) the potential benefit is not a right and b) the land to be developed has been within the City of Oxnard Sphere of Influence for many years, with ample notice to the agricultural property owners that any agreements to extend fumigation buffers across the developer’s property were temporary.

Overall, the potential impacts related to land use conflicts in the Northern Subarea are considered *less than significant (Class III)*.

#### **3.8.4.2.3 Applicable to Southern Subarea**

**Impact AG-7: Direct Farmland Conversion.** The proposed project would convert approximately 375–366 acres of land currently used for agricultural operations to non-agricultural uses. The remaining 220–229 acres included in the Southern Subarea would continue to be available for agricultural production. The proposed project includes light

industrial uses, a business/research park, trails, and open space, including detention/biofiltration and greenbelt areas.

According to the Farmland Mapping and Monitoring Program, all of the ~~375-366~~ acres of the Southern Subarea that would be converted to non-agricultural uses are designated as Prime Farmland or Farmland of Statewide Importance, as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program. Based on the California Agricultural LESA Model Threshold of Significance, the score of 73.5 points for the Southern Subarea would be considered a potentially significant environmental impact resulting from the conversion of agricultural properties to non-agricultural uses.

The City of Oxnard has reviewed a variety of actions that might offset the effects of the loss of productive agricultural land. This includes requirements for direct preservation of agricultural land elsewhere in the region and/or financial contribution to efforts to acquire conservation easements or deed restrictions on land currently used for production. The City has also considered imposition of other requirements such as stockpiling of high quality topsoil and offering it as soil amendments for marginally viable agricultural land; converting nearby areas not used for farmland to farmland (e.g., open space or industrial lands); and/or financially contributing to an organization that performs agricultural conservation. Based on its evaluation of these and other potential measures, the City has concluded that they would not be feasible for the Ormond Beach Specific Plan projects. (For purposes of this evaluation, feasibility is defined as “capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors,” per section 21061.1 of the California Public Resources Code.) This conclusion is based on the following considerations:

- The change from agricultural uses to urban uses was set in motion in 1981, when the Ventura LAFCO updated the City’s Sphere of Influence (SOI) to include the Study Area. With the adoption of the SOI, LAFCO explicitly acknowledged that the Study Area would ultimately develop with urban uses, with services to be provided by the City of Oxnard. The City reaffirmed this vision in 1990, with the adoption of the City’s 2020 General Plan and certification of the General Plan’s Environmental Impact Report, along with adoption of a Statement of Overriding Consideration concerning agricultural land conversion.
- The financial contribution to either direct preservation through purchase or conservation through other means is infeasible based upon local and regional economics. According to information provided by the project applicants, the current comparable sales for agricultural land are in the range of \$75,000 to \$100,000 per acre, which represents a significant increase in recent years. Based on the acreage proposed for conversion to urban uses within the Southern Subarea (~~375366~~), this equates to a purchase price range of ~~\$28,125,000~~27,450,000 to ~~\$37,500,000~~36,600,000. Similarly,

**3.9 PUBLIC FACILITIES AND SERVICES****3.9.1 Existing Conditions****3.9.1.1 Public Schools**

The Ormond Beach Study Area falls within the Ocean View School District (OVSD) and the Oxnard Union High School District (OUHSD). These districts will provide public education services to the proposed project. OVSD provides public school facilities for students from kindergarten through eighth grade, and OUHSD serves ninth through twelfth grade students. The location of school districts and facilities is shown in Figure 3.9-1.

**3.9.1.1.1 Ocean View School District**

OVSD serves the public educational needs within an approximate 80-square mile area extending from the Pacific Ocean inland to the City of Oxnard, and from the eastern boundary of Ventura County to the City of Port Hueneme. Existing district facilities consist of three elementary schools (K-5), one junior high school (6-8), and two early childhood education preschools.

According to the California Department of Education (CDE), within OVSD in ~~2005-2006~~2008-2009 school year, there were ~~an estimated 1,996,001~~ students in grades K-6 and ~~496,507~~ in grades 7-8, ~~for serving~~ a total of ~~approximately 2,492,508~~ students. When enrollment is compared to capacity aggregated by grade level, an estimated capacity surplus of approximately 332 seats has been identified for grades K-8. Table 3.9-1 summarizes these capacity estimates.

**TABLE 3.9-1  
OVSD CAPACITY AND ENROLLMENT FIGURES**

School (Grade Level)	Capacity	Enrollment ( <del>2005-2006</del> <u>2008-2009</u> )	Surplus/(Shortage)
Elementary (K-6)	2,304	<del>1,996,001</del>	<del>308,303</del>
Middle School (7-8)	520	<del>496,507</del>	<del>24,13</del>
District Total	2,824	<del>2,492,508</del>	<del>332,316</del>

Sources: OVSD SFNA 2007, and California Department of Education, ~~2005-2006~~2008-2009 CBEDS

**3.9.1.1.2 Oxnard Union High School District**

OUHSD serves an approximate area bounded on the north generally by the Santa Clara River, on the east by the City of Camarillo, and on the southwest by the Pacific Ocean. Serving approximately 16,200 students during the school year of 2005/06, the District operates six comprehensive high schools and several special facilities within its service area.

- Neighborhood parks: 1.5 acres per 1,000 new residents
- Community parks: 1.5 acres per 1,000 residents

The City does not identify standards for mini-parks, community playfields, or special purpose parks.

### **Solid Waste Management**

The City of Oxnard considers the impact of a project on solid waste collection services and disposal facilities to be significant if:

- It would hinder the City's capability to implement or participate in appropriate source reduction and recycling programs to meet mandated waste reduction of 50 percent past the year 2000 in accordance with the California Integrated Waste Management Act of 1989.

### **Library Services**

Based on the goals contained in the Public Facilities Element of the General Plan, the City of Oxnard considers the impact of a project on library services to be significant if:

- The City's library system does not have the capacity to serve the project.

### **3.9.3.2 Public Schools Impacts**

Proposed development within the Study Area within the OVSD and OUHSD shall be subject to new development fees pursuant to Government Code Section 65995. Under State law, payment of the developer fees provides full and complete mitigation of the project's impacts on school facilities. A total of ~~537-551~~ single-family detached (SFD) and ~~746-732~~ ~~multisingle~~-family attached (MFA/SFA) homes are proposed for development in the Northern Subarea. ~~MFA homes include construction of 155 apartments that are part of the Affordable Housing requirement for the Study Area.~~ The impact of the proposed project on each of the school districts is discussed below.

#### **3.9.3.2.1 Applicable to Both Northern Subarea and Southern Subarea**

##### **Oceanview Elementary School District**

To evaluate school impacts, student generation rates identified for SFD and MFA units in the *2006-2007 School Facility Needs Analysis* have been applied to the anticipated development in the Study Area. Table 3.9-3 shows the yields broken down by grade level.

**TABLE 3.9-3  
2006-2007 OVSD STUDENT GENERATION RATES**

Dwelling Unit Type	K-65	76-8	Total
Single Family Detached	0.28840.2340	0.12030.1135	0.40870.3475
Multifamily/Single Family Attached	0.31030.1017	0.15860.1186	0.46890.2203

Source: OVSD School Facility Needs Analysis, [2007February 2009](#).

Based on these generation rates, the construction of 1,283 new units within the Study Area would generate approximately ~~569~~353 additional K-8 students, as shown in Table 3.9-4.

**TABLE 3.9-4  
STUDENT GENERATION**

Dwelling Unit Type	Number of Units	Number of Students		
		K-65	76-8	K-8
Single Family Detached	537551	155129	6563	220192
Multifamily/Single Family Attached	746732	23474	14887	349161
<b>Total</b>	<b>1,283</b>	<b>386203</b>	<b>183150</b>	<b>569353</b>

**Impact PFS/Schools-1: Elementary Schools.** Development of the Ormond Beach Specific Plan Study Area may generate a partial need for a new elementary school. A 10-acre (net) elementary school site has been designated as a potential use within the Northern Subarea, adjacent to West Park. The applicant for the Northern Subarea, which includes the new residential units and thus generates the demand for schools, and OVSD are working cooperatively on a mitigation agreement to facilitate the land acquisition, site improvements and construction of a new school. If OVSD and the applicant do not reach a mutually satisfactory agreement, the project will be subject to the statutory requirement to pay developer fees pursuant to Government Code Section 65995, which would thus reduce the impacts of the Northern Subarea component to less than significant. The developer of the Southern Subarea component will also be required to pay the statutory developer fees for commercial/industrial development. Payment of the developer fees will reduce the impact of the Southern Subarea on school facilities to less than significant.

Based on the foregoing analysis, implementation of the specific plans would generate additional students in the OVSD. Payment of the statutory development fees pursuant to Government Code Section 65995 or the agreements between OVSD and the project applicants to execute mitigation agreements would reduce these impacts to a level considered *less than significant (Class III)*.

**Oxnard Union High School District**

To evaluate school impacts, student generation rates identified in the *2006 School Facility Needs Analysis* have been applied to the anticipated development in the Study Area. Table 3.9-5 identifies these student generation rates.

**TABLE 3.9-5  
2006 OUHSD STUDENT GENERATION RATES**

Dwelling Unit Type	9-12
Single Family Detached	0.1958
<del>Multifamily</del> <del>Single</del> <del>Family</del>	0.1326
Attached	
<del>Apartments</del>	<del>0.0486</del>

Source: OUHSD School Facility Needs Analysis, 2006

Based on these generation rates, the construction of 1,283 new units within the Study Area would generate approximately ~~191~~205 additional 9-12 students, as shown in Table 3.9-6.

**TABLE 3.9-6  
STUDENT GENERATION**

Dwelling Unit Type	Number of Units	Number of Students
Single Family Detached	<del>537</del> <u>551</u>	<del>105</del> <u>108</u>
<del>Multifamily</del> <del>Single</del> <del>Family</del>	<del>594</del> <u>732</u>	<del>78</del> <u>97</u>
Attached		
<del>Apartments</del>	<del>155</del>	<del>8</del>
<b>Total</b>	<b>1,283</b>	<b><del>191</del><u>205</u></b>

Development of the Northern Subarea will contribute to the districtwide need for a new high school. A 48.5-acre (net) high school site has been designated as a potential use within the Northern Subarea, near the northwest corner of Hueneme Road and Olds Road.

The OUHSD is currently operating with a shortage of over 3,000 seats for grades 9-12. Thus, even without development of the Ormond Beach Study Area, the OUHSD would require either the provision of new or physically altered facilities. As noted above, the Northern Subarea has identified a potential site for a new high school which could be acquired by OUHSD.

**Impact PFS/Schools-2: High Schools.** Current school capacity does not adequately accommodate the anticipated number of students generated from the Ormond Beach Study Area, resulting in a potentially significant impact. This impact would be reduced to a level considered less than significant through payment of state-mandated new development fees

### **3.9.3.5 Parks and Recreation Impacts**

#### **3.9.3.5.1 Applicable to Northern Subarea**

The Northern Subarea would allow for development of up to 1,283 residences, along with commercial buildings, school facilities, parks, and light industrial uses. Based on the typical household size and the number of residential units, the proposed development will add approximately 4,940 people to the area. Based on the City's park planning standards, approximately 7.5 acres of neighborhood parkland and 7.5 acres of community parkland would be required.

*Impact PFS/Parks and Recreation-14: Parkland Standards (Northern Subarea).* The Northern Subarea plans for approximately ~~78.90~~ acres (net) of neighborhood parkland, ~~trails and open space, and 44 acres of open space, including~~ a 25.6-acre (net) community park, ~~an 1817.5-acre lake, and 7.3 acres of other~~ open space. Therefore, the proposed project meets or exceeds park and recreation area requirements, so this impact is *less than significant (Class III)*.

#### **3.9.3.5.2 Applicable to Southern Subarea**

Bicycle trails and pedestrian paths would be integrated into parkways and multi-purpose trail corridors that parallel arterial roads and collector streets for commuter and recreational purposes. Approximately 2-1/4 miles of pedestrian trails are planned to link the Northern and Southern subareas, as well as the neighborhoods to the north of the Study Area and the beach and wetlands areas southwest of the Study Area.

The Southern Subarea ~~would include~~ approximately a 220230 -acres community reserve area of agricultural land that could eventually be acquired. ~~Public use is likely to be severely restricted, initially because the area would continue to be farmed pending potential acquisition~~ for restoration purposes by the Coastal Conservancy or another similar entity, and then subsequently due to environmental sensitivity following restoration. ~~Therefore, Restoration plans could include an interconnected trail system is planned to that would connect with the Southern Subarea's meander through~~ greenbelts, allowing the public to walk to a series of habitat viewing areas. Observation decks would be located at the terminus of each greenbelt to allow public viewing without disturbing agricultural uses or sensitive habitat.

*Impact PFS/Parks and Recreation-15: Parkland Standards (Southern Subarea).* The Southern Subarea does not include residential uses and is not expected to have a significant impact on park and recreation facilities. However, the Southern Subarea has approximately 51 acres of ~~parks and greenbelts~~ developed open space (e.g., greenbelts, bioswales) and ~~220~~

| 230 acres of ~~permanently dedicated agricultural~~ open space. Therefore, the Southern Subarea will contribute to the amount of parks and open space in the project area, so this impact is *less than significant (Class III)*.

#### **3.9.3.5.3 Cumulative Parks and Recreation Impacts**

The Parks and Recreation Element of the 2020 General Plan contains a projection of the amount of neighborhood and community parkland needed to meet the needs of the population generated by the development of all residential uses allowed by the General Plan. This element of the General Plan also defines measures to acquire and develop the required sites. As discussed above, the proposed project exceeds the acreage of neighborhood and community parkland to meet the needs of the Study Area population at build-out. *No adverse cumulative impacts would occur.*

#### **3.9.3.5.4 Mitigation Measures**

No mitigation measures are required as no significant impacts have been identified.

#### **3.9.3.5.5 Residual Impacts**

No significant impacts to park and recreation areas will result from the proposed project.

#### **3.9.3.6 Solid Waste Management Impacts**

The City of Oxnard-owned Del Norte Regional Recycling and Transfer Station will provide solid waste disposal services to the Study Area. Any remaining refuse from the Study Area that cannot be accommodated by the transfer station will be hauled to other landfill sites in Ventura County. Study Area residents and business owners will pay user fees for solid waste collection and disposal services.

Development of the proposed project would temporarily generate construction-related solid waste. In the long term, additional solid waste will also be generated as the project is built out. Construction waste generation rates are projected to be 15 cubic yards of waste per residential unit and 70 cubic yards of waste per 20,000 square feet of commercial uses. In support of the City of Oxnard's efforts to reduce the volume of solid waste entering local landfills, a Special Use Permit for a Regional Materials Recovery and Waste Treatment Facility (MRF) was approved in June 1993. The facility opened in 1996. The MRF is an integral part of the City's source reduction and recycling program. Construction waste would be processed at the MRF, which can adequately handle the waste from construction of the proposed project.

**3.10.3.3 Project Impacts, Mitigation Measures, and Residual Impacts**

This section differs slightly from other sections in this chapter in that the discussion of project impacts is followed directly by the mitigation measures associated with those impacts and then by a discussion of residual impacts. This presentation is consistent with the methodology used for the Ormond Beach Traffic Impact Study (Appendix B). Note that the mitigation measures cited herein address the deficiencies in the local transportation network resulting from the development of the proposed specific plans. They are correlated with the thresholds cited below and the travel demand model employed for this EIR. To the extent practical, these mitigation measures have been coordinated with the City's capital improvement program as of the time this analysis was completed. In some cases, specific mitigation measures and the responsibility for implementing them will be reevaluated as part of the City's normal discretionary permitting process.

To calculate trips forecast to be generated by the projects, the Oxnard Traffic Model (OTM) trip generation rates were utilized. Table 3.10-10 summarizes the OTM trip generation rates used to calculate the number of trips forecast to be generated.

**TABLE 3.10-10  
OXNARD TRAFFIC MODEL (OTM) TRIP RATES**

Land Use	OTM Code	Units	AM Peak-hour			PM Peak-hour			Daily Trip Rate
			In	Out	Total	In	Out	Total	
Single Family Residential	1	DU	0.19	0.53	0.72	0.63	0.34	0.97	9.55
Multi Family Residential	2	DU	0.19	0.44	0.63	0.50	0.31	0.81	8.01
Apartment	3	DU	0.18	0.35	0.53	0.38	0.28	0.66	6.47
Neighborhood Commercial	7	KSF	0.26	0.12	0.38	2.94	3.06	6.00	81.16
General Commercial	10	KSF	0.13	0.05	0.18	1.47	1.53	3.00	40.00
Fast Food Restaurant	12	KSF	19.33	17.25	36.58	25.73	23.75	49.48	693.76
Business Park/R & D Center	22	KSF	0.58	0.21	0.79	0.22	0.54	0.76	10.65
Light/General Industrial	23	KSF	0.36	0.05	0.41	0.16	0.52	0.68	6.97
Self Storage	25	KSF	0.12	0.14	0.26	0.15	0.13	0.28	2.61
Elementary/Middle School	26	Students	0.17	0.11	0.28	0.01	0.01	0.02	1.09
High School	27	Students	0.22	0.08	0.30	0.03	0.05	0.08	1.38
Park	33	Acre	0.00	0.00	0.00	0.00	0.00	0.00	2.23

Source: City of Oxnard Traffic Model (OTM)

Source: RBF Consulting, Ormond Beach Traffic Impact Study, 2006.

**TABLE 4-2  
PROJECT IMPACTS TO BE AVOIDED OR SUBSTANTIALLY REDUCED**

<b>Northern Subarea</b>	<b>Post-Mitigation</b>	<b>Southern Subarea</b>	<b>Post-Mitigation</b>
GEO-1 Erosion	LTS	GEO-1 Erosion	LTS
GEO-2 Slope Stability	LTS	GEO-2 Slope Stability	LTS
GEO-3 Seismic Hazards	LTS	GEO-3 Seismic Hazards	LTS
GEO-4 Expansive Soils	LTS	GEO-4 Expansive Soils	LTS
GEO-5 Collapsible and Sensitive Soils	LTS	GEO-5 Collapsible and Sensitive Soils	LTS
<a href="#">WATER-1: Water Supply and Demand</a>	<a href="#">LTS</a>	<a href="#">WATER-1: Water Supply and Demand</a> <a href="#">GEO-6 Tsunami</a>	<a href="#">LTS</a>
WATER-4: Construction-Related Surface Water Quality	LTS	WATER-12: Construction-Related Surface Water Quality	LTS
WATER-5: Post-Construction Surface Water Quality	LTS	WATER-14: Post-Construction Surface Water Quality	LTS
WATER-7: Erosion	LTS	WATER-16: Erosion	LTS
WATER-9: Wastewater Collection and Treatment	LTS	WATER-17: Wastewater Collection and Treatment	LTS
AQ-1: Soil Import (Northern Subarea)	LTS	AQ-5: Construction Related Particulates	LTS
AQ-2: Construction Related Particulates	LTS	AQ-6: Construction Related Emissions	Significant
AQ-3: Construction Related Emissions	Significant	AQ-7: Project Related Emissions	Significant
AQ-4: Project Related Emissions	Significant	HM-7: Potentially Contaminated Soils	LTS
HM-1: Potentially Contaminated Soils	LTS	HM-8: Hazardous Materials Leaks and Spills	LTS
HM-2: Hazardous Materials Leaks and Spills	LTS	HM-9: Asbestos-Containing Materials/ Lead Based Paints	LTS
HM-3: Asbestos-Containing Materials/Lead Based Paints	LTS	BIO-16 Bird Foraging Habitat	LTS
BIO-4: Bird Foraging Habitat	LTS	BIO-18 Nesting Birds	LTS
BIO-6: Nesting Birds	LTS	BIO-19 Special-status Bird Foraging Habitat	LTS
BIO-7: Special-status Bird Foraging Habitat	LTS	BIO-20 Burrowing Owl	LTS
BIO-8: Burrowing Owl	LTS	BIO-22 Indirect (Offsite) Impacts to Sensitive Habitats	Sig/Mitigable
BIO-10: Indirect (Offsite) Impacts to Sensitive Habitats	Sig/Mitigable	BIO-26 Western Snowy Plover	Sig/Mitigable
BIO-11: Western Snowy Plover	Sig/Mitigable	BIO-27 California Least Tern	Sig/Mitigable
BIO-12: California Least Tern	Sig/Mitigable	BIO-13 Invasive Species (Southern Subarea)	LTS
AG-4: Dust Impacts to Local Crops	LTS	BIO-28: White-faced ibis (Southern Subarea)	Sig/Mitigable
AG-5: Direct Farmland Conversion	Significant	AG-4: Dust Impacts to Local Crops	LTS
TRANS-1: Peak Hour Traffic Conditions	LTS	AG-7: Direct Farmland Conversion	Significant
TRANS-3: Soil Import Traffic	LTS	TRANS-2 Peak Hour Traffic Conditions	LTS
NOISE-1: Traffic Noise	Significant	TRANS-3 Northern Subarea Soil Import Traffic	LTS
NOISE-2: Point Mugu Naval Air Station Noise	LTS	NOISE-7: Traffic Noise	LTS
CULTURAL-1 Construction-related Grading	LTS	NOISE-4: Point Mugu Naval Air Station Noise	LTS
AES-9 Visual Character	Significant	CULTURAL-1 Construction-related Grading	LTS
		AES-9 Visual Character	Significant

size of approximately 60 acres would occur along the northern and eastern edges of the Study Area, where it is assumed that the existing agricultural uses would remain. These changes would result in the elimination of the community park and the high school proposed as part of the project. Approximately 10 acres of the site proposed for the high school under the project would be converted to residential uses. In addition, the densities in remaining residential areas would be reduced, primarily along the eastern side SouthShore Drive and the northern edge of Lake SouthShore.

- **Southern Subarea:** In the Southern Subarea, Alternative 5 would consist of designating the entire developed area as Harbor Industrial. Since the permitted floor-area ratio would ~~remain the same under~~ be considerably lower under this alternative, there would be ~~no a substantial~~ reduction in the total square footage of development compared with the project. In addition, The ~~the~~ type of development would, ~~however,~~ shift from employment-intensive business park and light industrial uses to the type of port-related industrial that currently occurs to the west of the Study Area. Since these uses tend to support very low employment densities, there would be a reduction in the employment capacity of the area, and thus a reduction in the severity of impacts associated with human occupation.

Figures 4-5 and 4-6 depict the land uses under Alternative 5 and Table 4-8 shows the acreage distribution of uses.

**TABLE 4-8  
ALTERNATIVE 5 LAND USE AND DEVELOPMENT POTENTIAL**

Land Designation	Use	Northern Subarea		Southern Subarea		Total	
		Acres	DU/SF	Acres	SF	Acres	DU/SF
Residential-Low		136.6	819			136.6	819
Residential-Medium		9.6	155			9.6	155
Mixed-Use (Residential)			5			-	5
Mixed-Use (Commercial)		4.8	62,726			4.8	62,726
Light Industrial		37.2	568,052			37.2	568,052
Harbor Industrial				<u>287.4278.8</u>	<u>1,943,1244,381,700</u>	<u>278.8287.4</u>	<u>1,943,1244,381,700</u>
School		9.6				11.8	
Park		14.6		51.0		92.2	
Miscellaneous Open Space		35.3		<u>220.0228.6</u>		<u>252.5263.9</u>	
Other		15.3		36.4		<u>52.251.7</u>	
<b>Total Acreage</b>		<b>263.0</b>		<b>594.8</b>		<b><u>857.8886.6</u></b>	
<b>Residential Units</b>			<b>979</b>				<b>979</b>
<b>Non-Residential Square Footage</b>			<b>630,778</b>		<b><u>1,943,1244,381,700</u></b>		<b><u>2,573,9025,042,478</u></b>

**TABLE 4-10**  
**SIGNIFICANT AND POTENTIALLY SIGNIFICANT IMPACTS AND MITIGATION MEASURES**

Impact	Mitigation Measure	Proposed Project	Alternative 1: High School East of Olds Road	Alternative 2: No Project Existing City GP 2020	Alternative 3: No Project Existing County Plan	Alternative 4: Conservation	Alternative 5: Less Intensive Development
<b>3.2 Geology and Geologic Hazards</b>							
GEO-1	Erosion	X	X	X			X
	MM GEO-1: Erosion Control Measures						
	<i>Resulting Level of Significance</i>	<i>LTS</i>	<i>LTS</i>	<i>LTS</i>	<i>LTS</i>	<i>LTS</i>	<i>LTS</i>
GEO-2	Slope Stability	X	X	X			X
	MM GEO-1: Erosion Control Measures						
	MM GEO-2: Slope Stability						
	<i>Resulting Level of Significance</i>	<i>LTS</i>	<i>LTS</i>	<i>LTS</i>	<i>LTS</i>	<i>LTS</i>	<i>LTS</i>
GEO-3	Seismic Hazards	X	X	X			X
	MM GEO-3 Seismic Hazards						
	<i>Resulting Level of Significance</i>	<i>LTS</i>	<i>LTS</i>	<i>LTS</i>	<i>LTS</i>	<i>LTS</i>	<i>LTS</i>
GEO-4	Expansive Soils and GEO-5 Collapsible and Sensitive Soils	X	X	X			X
	MM GEO-4 Expansive and Collapsible Soils						
	<i>Resulting Level of Significance</i>	<i>LTS</i>	<i>LTS</i>	<i>LTS</i>	<i>LTS</i>	<i>LTS</i>	<i>LTS</i>
<a href="#">GEO-6</a>	<a href="#">Tsunami Hazard (Southern Subarea Only)</a>						
	<a href="#">MM GEO-5 Tsunami Hazards</a>	<a href="#">X</a>	<a href="#">X</a>	<a href="#">X</a>			<a href="#">X</a>
	<i>Resulting Level of Significance</i>	<a href="#">LTS</a>	<a href="#">LTS</a>	<a href="#">LTS</a>	<a href="#">LTS</a>	<a href="#">LTS</a>	<a href="#">LTS</a>
<b>3.3 Water Resources</b>							
<a href="#">WATER-1 / WATER-10:</a>	<a href="#">Water Supply and Demand</a>	<a href="#">X</a>	<a href="#">X</a>	<a href="#">X</a>			<a href="#">X</a>
	<a href="#">MM WATER-1: On-Site Domestic Water System</a>						
	<a href="#">MM WATER-2: On-Site Recycled Water System</a>						
	<a href="#">MM WATER-3: Exterior Water Conservation</a>						
	<a href="#">MM WATER-4: Grey Water</a>						
	<a href="#">MM WATER-5: Drought-Tolerant Landscaping</a>						
	<i>Resulting Level of Significance</i>	<a href="#">LTS</a>	<a href="#">LTS</a>	<a href="#">LTS</a>	<a href="#">LTS</a>	<a href="#">LTS</a>	<a href="#">LTS</a>
<a href="#">WATER-4 / WATER-12:</a>	<a href="#">Construction-Related Surface Water Quality</a>	X	X	X			X
	MM WATER-5: Environmental Site Assessment						
	MM WATER-6: De-Watering						
	MM WATER-7: Stormwater Pollution Prevention Plan						
	MM WATER-8: Stormwater Pollution Control Plan						
	<i>Resulting Level of Significance</i>	<i>LTS</i>	<i>LTS</i>	<i>LTS</i>	<i>LTS</i>	<i>LTS</i>	<i>LTS</i>
<a href="#">WATER-5 / WATER-14:</a>	<a href="#">Post-Construction Surface Water Quality</a>	X	X	X			X

**TABLE 4-11  
COMPARISON OF ALTERNATIVES WITH PROPOSED PROJECT**

Issue Area	Impact of Project (post mitigation)	Alt 1 – High School East of Olds Road	Alt 2 – No Project/ Existing Oxnard GP 2020	Alt 3 – No Project / County General Plan	Alt 4 – Conservation	Alt 5 – Less Intensive Development
<b>Northern Subarea</b>						
GEO-1: Erosion	LTS					
GEO-2: Slope Stability	LTS					
GEO-3: Seismic Hazards	LTS					
GEO-4: Expansive Soils	LTS					
GEO-5: Collapsible and Sensitive Soils	LTS					
<a href="#">WATER-1: Water Supply and Demand</a>	<a href="#">LTS</a>					
WATER-4: Construction-Related Surface Water Quality	LTS					
WATER-5: Post-Construction Surface Water Quality	LTS					
WATER-7: Erosion	LTS					
WATER-9: Wastewater Collection and Treatment	LTS					
AQ-1: Soil Import	LTS					
AQ-2: Construction Related Particulates	LTS					
AQ-3: Construction Related Emissions	Significant					
AQ-4: Project Related Emissions	Significant					
HM-1: Potentially Contaminated Soils	LTS					
HM-2: Hazardous Materials Leaks and Spills	LTS					
HM-3: Asbestos-Containing Materials/Lead Based Paints	LTS					
BIO-4: Bird Foraging Habitat	LTS					
BIO-6: Nesting Birds	LTS					
BIO-7: Special-status Bird Foraging Habitat	LTS					
BIO-8: Burrowing Owl	LTS					
BIO-10: Indirect (Offsite) Impacts to Sensitive Habitats	LTS					
BIO-11: Western Snowy Plover	LTS					
BIO-12: California Least Tern	LTS					
AG-4: Dust Impacts to Local Crops	LTS					
AG-5: Direct Farmland Conversion	Significant					
TRANS-1: Peak Hour Traffic Conditions	LTS					

**TABLE 4-11 (CONTINUED)**  
**COMPARISON OF ALTERNATIVES WITH PROPOSED PROJECT**

Issue Area	Impact of Project (post mitigation)	Alt 1 – High School East of Olds Road	Alt 2 – No Project/ Existing Oxnard GP 2020	Alt 3 – No Project / County General Plan	Alt 4 – Conservation	Alt 5 – Less Intensive Development
TRANS-3: Soil Import Traffic	LTS					
NOISE-1: Traffic Noise	Significant					
NOISE-2: Point Mugu Naval Air Station Noise	LTS					
CULTURAL-1: Construction-related Grading	LTS					
AES-9: Visual Character	Significant					
<b>Southern Subarea</b>						
GEO-1: Erosion	LTS					
GEO-2: Slope Stability	LTS					
GEO-3: Seismic Hazards	LTS					
GEO-4: Expansive Soils	LTS					
GEO-5: Collapsible and Sensitive Soils	LTS					
<a href="#">GEO-6: Tsunami Hazard</a>	<a href="#">LTS</a>					
<a href="#">WATER-10: Water Supply and Demand</a>	<a href="#">LTS</a>					
WATER-12: Construction-Related Surface Water Quality	LTS					
WATER-14: Post-Construction Surface Water Quality	LTS					
WATER-16: Erosion	LTS					
WATER-17: Wastewater Collection and Treatment	LTS					
AQ-5: Construction Related Particulates	LTS					
AQ-6: Construction Related Emissions	Significant					
AQ-7: Project Related Emissions	Significant					
HM-7: Potentially Contaminated Soils	LTS					
HM-8: Hazardous Materials Leaks and Spills	LTS					
HM-9: Asbestos-Containing Materials/Lead Based Paints	LTS					
BIO-16: Bird Foraging Habitat	LTS					
BIO-18 Nesting Birds	LTS					
BIO-19 Special-status Bird Foraging Habitat	LTS					
BIO-20 Burrowing Owl	LTS					

#### **4.6.5 Alternative 5: Less Intensive Development Alternative**

##### **4.6.5.1 Northern Subarea**

Impacts in the Northern Subarea would be similar to those of the proposed Project and Alternative 1 (see Table 4-10). Impacts under Alternative 5 would, however, be less pronounced due to decreased intensity of development compared to the proposed Project. The reduction would be manifest principally with traffic, air quality, noise, and indirect offsite habitat and species impacts, all of which are related to human occupation. In addition, because less land would be developed, direct impacts such as agricultural land conversion and direct habitat and species disturbance would be slightly lower. Also, although they are not significant or potentially significant impacts of the project, and thus not evaluated as part of this analysis, the public facility benefits of the project (i.e., the high school and community park) would not be realized under Alternative 5.

##### **4.6.5.2 Southern Subarea**

Impacts in the Southern Subarea would also be similar, but slightly less severe, than those of the proposed Project and Alternative 1 (see Table 4-10). Because the employment intensity of the harbor-related development would be lower than under the proposed project, impacts associated with human activity would not be as great. Specifically, traffic and associated air quality and noise impacts and indirect offsite habitat and species impacts would be less severe because fewer employees would be attracted to the area. On the other hand, the less employment-intensive types of development would result in fewer and less diverse jobs in the Ormond Beach area, which is counter to the City's overall economic development and jobs-housing balance objectives.

#### **4.7 ENVIRONMENTALLY SUPERIOR ALTERNATIVE**

The results of the comparative analysis of the proposed project and the alternatives indicate that the Conservation Alternative is the Environmentally Superior Alternative. However, as shown in Table 4-8, this alternative does not meet most of the basic objectives of the City of Oxnard and the two subarea property owners. Where a "no development" alternative is determined to be the Environmentally Superior Alternative, CEQA requires that the EIR identify the environmentally superior development alternative. In this case, Alternative 5 would be the Environmentally Superior Build Alternative.

#### **4.8 ALTERNATIVE SITES**

[The California Supreme Court, in Citizens of Goleta Valley v. Board of Supervisors \(1990\), determined that a discussion of alternative sites is needed if the project "may be feasibly accomplished in a successful manner considering the economic, environmental, social, and](#)

technological factors involved” at another site. As suggested in Goleta, several criteria form the basis of whether alternative sites need to be considered in detail. These criteria take the form of the following questions:

1. Could the size and other characteristics of another site physically accommodate the project?
2. Is another site reasonably available for acquisition?
3. Is the timing of carrying out development on an alternative site reasonable for the applicant?
4. Is the project economically feasible on another site?
5. What are the land use designation(s) of alternative sites?
6. Does the lead agency have jurisdiction over alternative sites? and
7. Are there any social, technological, or other factors that may make the consideration of alternative sites infeasible?

There are no other reasonably available sites within the Oxnard that could accommodate the scale of development and mix of uses anticipated by either of the specific plans under consideration in this document. While there are other undeveloped properties within the city that could accommodate some of the development features proposed in the specific plans, all of these properties are subject to other specific plans proposed by other development interests. Thus, the Ormond Beach applicants do not have access to these sites. Furthermore, the applicants have made substantial investments in the proposed project sites. Finally, the City is constrained in its ability to make other sites available because of the restrictions on annexation and development imposed by the SOAR (Save Open Space and Agricultural Resources) Ordinance and the associated City Urban Restriction Boundary (CURB).

In light of these considerations, relocating the development proposed under the specific plans would not be feasible from either an economic or timing standpoint. Consequently, because relocation of the project to an alternative site is not feasible, discussion of the impacts of alternative sites is not warranted.