



South Coast Region
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San Diego, CA 92123
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April 23, 2009

Jennifer Vilasenor
City of Huntington Beach, Planning Department
2000 Main Street
Huntington Beach Ca, 92648
Phone #: 714-374-1661
Fax #: (714) 541-5157



Subject: Comments on the Mitigated Negative Declaration for the Goodell Property Pre-zoning and Annexation (Zoning Map Amendment No. 06-03 and Annexation No. 06-02 in the City of Huntington Beach, Orange County, California (SCH# 2009031094).

Dear Ms. Vilasenor:

The Department of Fish and Game (Department) has reviewed the above-referenced Notice of Intent to adopt a Mitigated Negative Declaration (MND) for the proposed project relative to impacts to biological resources and regional conservation planning. The proposed MND was received by the Department on March 26, 2009.

The site is located to the east of the terminus of Bolsa Chica Street, north and west of the Shea Hearthside Homes site. The existing unimproved open space is contiguous with the Department-managed Bolsa Chica Ecological Reserve ("BCER", southwest of the property). The proposed project is the pre-zoning and annexation of approximately 6.2 acres of County of Orange property into the City of Huntington Beach. The City agreed to annex the property in conjunction with the annexation of the Brightwater development which abuts the parcel to the west. Currently, the property is unincorporated County land surrounded by the City of Huntington Beach. The re-zone and annexation would allow future development of the site with up to 22 units. Any development on the site would require a subsequent CEQA document. The site would include a 3-acre open space dedication (1 acre of coastal conservation and 2 acres as open space park).

The Department is a Trustee Agency with jurisdiction over natural resources affected by the project under the California Environmental Quality Act (CEQA Section 15386) and Responsible Agency (Section 15381) over those aspects of the proposed project that come under the purview of the California Endangered Species Act (Fish and Game Code Section 2050 *et seq.*).

We offer the following comments on the MND based on our expertise in the area as the land managers of the BCER and our knowledge of the biological resources in the area.

The MND states the site supports 0.23 acre of chenopod scrub and "other ruderal habitats", which are not sensitive. However, the MND goes on to state the site is utilized by several raptor species including the fully protected white-tailed kite (*Elanus leucurus*) and the Northern Harrier (*Circus cyaneus*) a species of special concern. In addition to the raptors on site, the MND also states a California gnatcatcher (*Poliopitila californica californica*) has been observed foraging in the chenopod scrub in 2005.

Conserving California's Wildlife Since 1870

ATTACHMENT NO. 4.7

Based on the information provided in the MND, it appears that although the site is small and does not support pristine native habitat, the remaining habitat is extremely important to the wildlife associated with the BCER. The Department is concerned that although a portion of the site is proposed as conservation, the further restriction of open space and additional edge-effect created by new development on the 3.2 acres could have a significant impact on the resources utilizing the site. This would negatively impact the BCER by reducing foraging habitat for raptors thereby forcing them onto the BCER, increasing public use of the BCER, increasing invasive exotic plants and animals into the BCER, and potentially impact coastal California gnatcatchers known to forage on the project site.

1. **Raptor habitat.** The site supports not only raptor roosting habitat (i.e., trees), but also supports critical foraging habitat (i.e., nonnative grasses and ruderal vegetation that supports ground squirrel and small mammals). The reduction of foraging habitat for raptors would negatively impact BCER by forcing the raptors on the Goodell property to move to the remaining open space habitat of BCER. Increased competition can result in prey-switching by raptors on the BCER from small mammals to bird species including sensitive species like the fully protected California least tern (*Sternula antillarum browni*) and western snowy plover (*Charadrius alexandrinus nivosus*). Any increase in predation on sensitive species by the displacement of raptors from the Goodell property would be significant under CEQA.
2. **Impacts to Public Use.** Part of that Department's responsibility in managing BCER is the management of access by the surrounding residents. The Department continues to expend a significant amount of resources for public outreach to control off-leash dogs, trespassing by pedestrians, unauthorized trails, all-terrain vehicles, and bicycles. The additional homes and access would result in additional strain on the Department's staff. To fully minimize the impacts to the BCER below a level of significance, the Department recommends the applicant pursue methods to restrict access to the BCER from the development, or work with the Department to fund patrols and public outreach to minimize the development's impact to the BCER in perpetuity.
3. **Invasive Species.** The proposed project could have a significant impact to the BCER by further subjecting the BCER to an increase of invasive species from the development. The Department recommends the applicant use non-invasive and native vegetation for landscaping in all areas that abut open space. Furthermore, the applicant should avoid all plants listed as invasive on the California Exotic Pest Plants Council website at <http://www.cal-ipc.org>.
4. **Impacts to California Gnatcatcher.** The MND indicates a California gnatcatcher (federally listed endangered, state species of special concern) was observed foraging in the chenopod scrub habitat in 2005. The Department is concerned that the proposed project could have a significant impact on California gnatcatcher. California gnatcatcher is known to nest in the coastal sage scrub habitat on the Brightwater property and BCER adjacent to the proposed development, and is known to forage on the Goodell property. Therefore, it is reasonable to conclude that the reduction in foraging habitat has the ability to result in "take" as defined by the Federal Endangered Species Act. The Department recommends the applicant consult with the U.S. Fish and Wildlife Service regarding potential "take" of California gnatcatcher and propose adequate mitigation to replace the function and values of the foraging habitat lost by the development of the property.

Jennifer Vilasenor
April 23, 2009
Page 3 of 3

Thank you for this opportunity to provide comment. Questions regarding this letter and further coordination on these issues should be directed to Erinn Wilson, Staff Environmental Scientist, at (714) 968-0953.

Sincerely,

Theresa A. Stewart
for Edmund J. Pert
Regional Manager
South Coast Region

cc: Helen Birss, Los Alamitos (electronic copy only)
Erinn Wilson, Huntington Beach (electronic copy only)
Matt Chirdon, Oceanside (electronic copy only)
Jeff Stoddard, Newport Beach
Kelly O'Reilly, Huntington Beach
Jonathan Snyder, U.S. Fish and Wildlife Service, Carlsbad

ATTACHMENT NO. 4.9



Linda S. Adams
Secretary for
Environmental Protection



Department of Toxic Substances Control

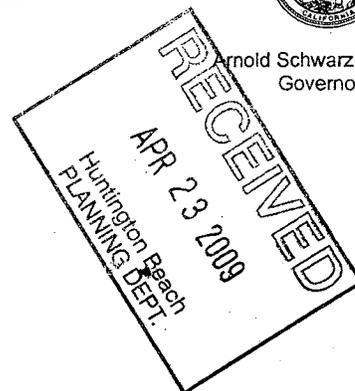
Maziar Movassaghi, Acting Director
5796 Corporate Avenue
Cypress, California 90630



Arnold Schwarzenegger
Governor

April 22, 2009

RECEIVED APR 23 2009



Ms. Jennifer Villasenor
City of Huntington Beach Planning Department
2000 Main Street
Huntington Beach, California 92648
jvillasenor@surfcity-hb.org

DRAFT MITIGATED NEGATIVE DECLARATION (ND) FOR GOODELL PROPERTY
PRE-ZONING AND ANNEXATION (SCH# 2009031094)

Dear Ms. Villasenor:

The Department of Toxic Substances Control (DTSC) has received your submitted document for the above-mentioned project. As stated in your document: "The proposed project involves the pre-zoning and annexation of approximately 6.2 acres of property in the County of Orange unincorporated Bolsa Chica area located on the Upper Bench of the Bolsa Chica Mesa. The City agreed to process this annexation at the request of the Orange County Local Agency Formation Commission (LAFCO) in conjunction with the annexation of the Brightwater Project into the City of Huntington Beach. The annexation of Brightwater resulted in the subject site becoming an unincorporated "island" which is contrary to LAFCO policies".

Based on the review of the submitted document DTSC has the following comments:

- 1) The ND should identify and determine whether current or historic uses at the project area may have resulted in any release of hazardous wastes/substances.
- 2) The document states that the ND would identify any known or potentially contaminated sites within the proposed project area. For all identified sites, the ND should evaluate whether conditions at the site may pose a threat to human health or the environment. Following are the databases of some of the regulatory agencies:
 - National Priorities List (NPL): A list maintained by the United States Environmental Protection Agency (U.S.EPA).

Ms. Jennifer Villasenor
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- EnviroStor, a database primarily used by the California Department of Toxic Substances Control, at [www. Envirostor.dtsc.ca.gov](http://www.Envirostor.dtsc.ca.gov).
 - Resource Conservation and Recovery Information System (RCRIS): A database of RCRA facilities that is maintained by U.S. EPA.
 - Comprehensive Environmental Response Compensation and Liability Information System (CERCLIS): A database of CERCLA sites that is maintained by U.S.EPA.
 - Solid Waste Information System (SWIS): A database provided by the California Integrated Waste Management Board which consists of both open as well as closed and inactive solid waste disposal facilities and transfer stations.
 - Leaking Underground Storage Tanks (LUST) / Spills, Leaks, Investigations and Cleanups (SLIC): A list that is maintained by Regional Water Quality Control Boards.
 - Local Counties and Cities maintain lists for hazardous substances cleanup sites and leaking underground storage tanks.
 - The United States Army Corps of Engineers, 911 Wilshire Boulevard, Los Angeles, California, 90017, (213) 452-3908, maintains a list of Formerly Used Defense Sites (FUDS).
- 3) The ND should identify the mechanism to initiate any required investigation and/or remediation for any site that may be contaminated, and the government agency to provide appropriate regulatory oversight. If hazardous materials or wastes were stored at the site, an environmental assessment should be conducted to determine if a release has occurred. If so, further studies should be carried out to delineate the nature and extent of the contamination, and the potential threat to public health and/or the environment should be evaluated. It may be necessary to determine if an expedited response action is required to reduce existing or potential threats to public health or the environment. If no immediate threat exists, the final remedy should be implemented in compliance with state laws, regulations and policies.
- 4) The project construction may require soil excavation and soil filling in certain areas. Appropriate sampling is required prior to disposal of the excavated soil. If the soil is contaminated, properly dispose of it rather than placing it in another

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location. Land Disposal Restrictions (LDRs) may be applicable to these soils. Also, if the project proposes to import soil to backfill the areas excavated, proper sampling should be conducted to make sure that the imported soil is free of contamination.

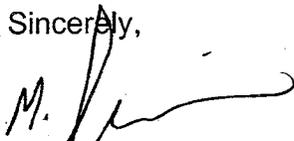
- 5) Human health and the environment of sensitive receptors should be protected during the construction or demolition activities. A study of the site overseen by the appropriate government agency might have to be conducted to determine if there are, have been, or will be, any releases of hazardous materials that may pose a risk to human health or the environment.
- 6) If during construction/demolition of the project, soil and/or groundwater contamination is suspected, construction/demolition in the area should cease and appropriate health and safety procedures should be implemented. If it is determined that contaminated soil and/or groundwater exist, the ND should identify how any required investigation and/or remediation will be conducted, and the appropriate government agency to provide regulatory oversight.
- 7) If weed abatement occurred, onsite soils may contain herbicide residue. If so, proper investigation and remedial actions, if necessary, should be conducted at the site prior to construction of the project.
- 8) If it is determined that hazardous wastes are, or will be, generated by the proposed operations, the wastes must be managed in accordance with the California Hazardous Waste Control Law (California Health and Safety Code, Division 20, Chapter 6.5) and the Hazardous Waste Control Regulations (California Code of Regulations, Title 22, Division 4.5). If it is determined that hazardous wastes will be generated, the facility should also obtain a United States Environmental Protection Agency Identification Number by contacting (800) 618-6942. Certain hazardous waste treatment processes or hazardous materials, handling, storage or uses may require authorization from the local Certified Unified Program Agency (CUPA). Information about the requirement for authorization can be obtained by contacting your local CUPA.
- 9) If the site was used for agricultural, livestock or related activities, onsite soils and groundwater might contain pesticides, agricultural chemical, organic waste or other related residue. Proper investigation, and remedial actions, if necessary, should be conducted under the oversight of and approved by a government agency at the site prior to construction of the project.

Ms. Jennifer Villasenor
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- 10) DTSC can provide guidance for cleanup oversight through an Environmental Oversight Agreement (EOA) for government agencies that are not responsible parties, or a Voluntary Cleanup Agreement (VCA) for private parties. For additional information on the EOA or VCA, please see www.dtsc.ca.gov/SiteCleanup/Brownfields, or contact Ms. Maryam Tasnif-Abbasi, DTSC's Voluntary Cleanup Coordinator, at (714) 484-5489.

If you have any questions regarding this letter, please contact me at (714) 484-5472 or at "ashami@DTSC.ca.gov".

Sincerely,



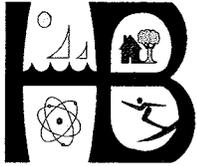
Al Shami
Project Manager
Brownfields and Environmental Restoration Program – Cypress Office

cc: Governor's Office of Planning and Research
State Clearinghouse
P.O. Box 3044
Sacramento, California 95812-3044

Mr. Guenther W. Moskat, Chief
Planning and Environmental Analysis Section
CEQA Tracking Center
Department of Toxic Substances Control
P.O. Box 806
Sacramento, California 95812-0806

CEQA #2533

ATTACHMENT NO. 4.13



CITY OF HUNTINGTON BEACH

ENVIRONMENTAL BOARD

April 29, 2009

City of Huntington Beach
2000 Main Street
Huntington Beach, California 92648

Attention: Mr. Rami Talleh, Senior Planner

Subject: **ENVIRONMENTAL ASSESSMENT NO. 08-017**
Goodell Property Pre-zoning and Annexation

Dear Mr. Talleh:

At the April 2, 2009 Environmental Board meeting, the members reviewed the subject project Environmental Assessment document. The Board offers the following comments for your consideration:

1. The Proposal is difficult to evaluate in its present form due to a conspicuous absence of useful mapping of the area. The maps provided in the Assessment do not provide sufficient detail, of the area as a whole or breakdown of the proposed project sections, to give the Board a workable impression of the impact of the proposed usage, both to the site and surrounding area. The Assessment should at least utilize available satellite imaging technology (such as Google Maps) so the Board and all other interested parties can fully appreciate the potential impact to the site.
2. The Board received comment from citizens concerned with the maintenance of existing foliage, including trees, bushes, and scrub, as being vital to the local ecosystem. The Board recommends further study and solicitation of input from local citizenry and involved organizations to more fully examine this issue.

The Board appreciates the opportunity of commenting on this project. Please don't hesitate to contact us with questions or concerns.

Very truly yours,
HB ENVIRONMENTAL BOARD

David Guido, LEED A.P.
Chair

CC: City Council Members

ATTACHMENT NO. 4.14

Historic Resources Board

An advisory board to the Huntington Beach City Council

Planning Department
Jennifer Villaseñor, Associate Planner

Regarding the Mitigated Negative Declaration for the Goodell Property Annexation, the Historic Resources Board of Huntington Beach has several concerns we would like to address in the hope that a more comprehensive report will generate the most appropriate finding.

The Goodell property, located just off Warner Avenue immediately north of the recently annexed Brightwater Development, in addition to being a contiguous part of the Bolsa Chica ecosphere is host to two important historical resources.

The first is well documented as ORA-83, an archeological site containing possibly the world's richest collection of prehistoric cogstones, matched only by its mirror twin in the southern hemisphere (see Bolsa Chica Land Trust report). There are also Native American remains from more recent prehistoric tribal activities at this site.

The second is a portion of the battery and bunker complex installed across the Bolsa Chica by the United States military for coastal artillery defenses during WWII, a rare extant example of Huntington Beach's participation in that historic conflagration.

Our main concern is twofold. One, the historic resources that share the site are not documented to the extent their significance deserves and that significance merits a different initial rezoning designation for the site. Two, the proposed rezoning for residential development seems premature, given the available data for the aforementioned resources and the current/past use.

The initial rezoning combination that includes residential development on the upper mesa on the property is, to a degree, based on the current Orange County designation from a previous residential development proposal. That proposal and the designation that goes with it, does not have and could not consider the most recent developments surrounding ORA-83 and its multiple resources on the neighboring Brightwater property. Similar mitigation measures for that project have been insufficient at best and more in depth study should be required before a residential designation is given. The more recent historic structures (bunkers, etc.), though less glamorous than an archeological site, are deserving of more attention as well. Further, the current Mitigated Negative Declaration documents do not explain how proposed mitigation measures are to be implemented or supervised should residential development occur, a likely scenario given the current proposal and the recent history of the city. Finally, the criteria for the level of significance given these resources are not transparent in the current Mitigated Negative Declaration documents and therefore could seem

Historic Resources Board

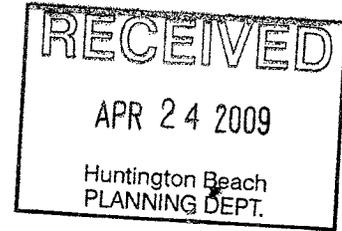
An advisory board to the Huntington Beach City Council

subjective or even, to a small degree, arbitrary.

It makes far more sense to the Historic Resources Board for the city to annex the property with a designation for what it actually is currently, open space, or has actually been in the past, agricultural, etc. Then, with the studies and mitigation measures called for, the process for a residential development designation could start from an appropriate baseline.

Respectfully submitted,

Historic Resources Board



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ENDORSEMENTS

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Orange Coast League of
Women Voters
Orange County
Coastkeeper
Peninsula Open Space Trust
Sea and Sage Audubon
Sierra Club
Angeles Chapter
Surfrider Foundation

April 24, 2009

City of Huntington Beach
Planning Department
Attn: Jennifer Villasenor
2000 Main Street
Huntington Beach, CA 92648

Re: Goodell Annexation Environmental Assessment No. 08-017

Dear Ms. Villasenor,

It is the Bolsa Chica Land Trust's position the entire 6.2 acres of the DE Goodell property being considered for annexation by Huntington Beach is part of the 8,000 year old, internationally significant, ORA 83 Cogged Stone site. This site was originally comprised of over 17 acres of which eleven acres were destroyed by the Hearthside Homes Brightwater development. Those 11 acres are now gone forever.

The attached exhibits support the Land Trust's position. They represent either the entire 17 acre ORA 83 site or the 11 acres within the Hearthside Homes Brightwater development. They are submitted to the City for review to illustrate the significance of ORA 83.

- In 2001, the State Historic Preservation Commission unanimously voted ORA 83 a State Historic Site. (Exhibit A)
- A memo from the Native American Heritage Commission dated April 4, 2008 (Exhibit B) raised the following concerns:
 - ORA 83 is a sacred cemetery. "In the project archaeologist's memorandum to the company, dated January 17, 2007, it refers to a February 3, 2007 ceremony and assumed reburial. This action would be after AB2641 extending the definition of a cemetery and a place with "multiple burials" to private land." "Therefore, considering the 87 burials from ORA 83, whose chronology is unknown or certainly unclear, and given the number of burials at this project site, how can one say it is not a Cemetery?"
 - The developer has stated since 1992 that there were no human remains found at ORA 85. Yet in a memo from Nancy Wiley to Ed Mountford, Ms. Wiley state " Ted and I will wrap each burial with its grave goods... Each individual will be wrapped again in a colored burlap coded to male (blue), female (red) and unknown (beige). Children will additionally have a color separation or other designator."

5200 Warner Avenue - Suite 108 - Huntington Beach, CA 92649 - (714) 846-1001
www.bolsachicalandtrust.org

ATTACHMENT NO. 4.17

- In an email message of December 6, 2007, the developer's archeologist (Nancy Wiley), when asked by the NAHC staff when the human remains were found, told the staffer that "Ed Mountford has said that I cannot prepare a chronology for you until he talks to his attorney – Susan Hori."
- In an April 8, 2008 letter to the Coastal Commission (Exhibit C), Larry Myers, Executive Director of the Native American Heritage Commission, states the following:

“ The NAHC has not received a report clearly showing the dates, locations and details of burial discoveries. At this point based on the information available and the large number of burials recovered and associated items, *it appears that the whole area may be a burial ground.* Southern California Indians created and used discrete areas as cemeteries. The NAHC understands that the Coastal Commission will be reviewing its permit for the Brighwater Project. The NAHC suggests that the Coastal Commission consider requiring some sort of guarantee or performance bond in order to assure that all required reports are provided on a timely basis and that documentation is completed and reburials of remains and artifacts occur as agreed.”

The Bolsa Chica Land Trust believes it is **IMPORTANT TO PRESERVE THE ARCHAEOLOGICAL SITE ON THE GOODELL PROPERTY** for the following reasons.

1. It is all that remains of the 8000 year old village, cemetery, and ceremonial site that is the oldest prehistoric village in Orange County.
2. Eleven acres of the seventeen acre site have been destroyed to make way for a housing development.
3. To date, at least 178 human bone concentration representing an unknown number of individuals, over 100 thousand artifacts, semi-subterranean house pits, and numerous cogged stones have be recovered from the 11 acres. The burials were recovered from an area adjacent to the remaining 6 acre Goodell property.
4. The site was the manufacturing and distribution center for the ancient stone sculptures known as *cogged stones* which played an important part in an ancient California Native American religion.
5. Over 700 of the cogged stones have been found in the area of the village. Only a few have been found at any other archaeological site in the region.
6. The site may contain evidence for a connection between the prehistoric peoples of northern Chile where the only other cogged stones outside of California have been found.
7. As the remaining intact cultural deposit representing this ancient village and cemetery, it should be preserved as a historic park honoring the first settlers in the region, the California Native Americans.
8. As such, it could be an educational resource for school children and the public as well as a place where the descendents of the California Native Americans of the region could celebrate their cultural heritage.
9. The descendants of the tribelets known as the Gabrielino/Tongva and Juaneno/Acjachemem consider this to be the place of their ancestors and a sacred ceremonial site.

10. Archaeological sites are fragile and non-renewable. Archaeology is a destructive process. It is essential that a "witness area" of this highly significant archaeological site be preserved for future generations with advanced, non-destructive, archaeological techniques which can provide answers to the questions we cannot answer with today's technology.

Residential development on this archaeological site is not appropriate. Follow the previous court decisions and do an EIR at the earliest time, which is now. It will save a lot of time and expense in the future.

Sincerely,



Gerald L. Chapman
Goodell Committee Chairman
Bolsa Chica Land Trust

Attached Exhibits:

- Exhibit A SHPO Staff Recommendation
- Exhibit B April 4, 2008 NAHC Letter
- Exhibit C April 4, 2008 NAHC Letter

ATTACHMENT NO. 4.19

EXHIBIT A

Staff Evaluation

Cogged Stone Site
CA-ORA_83
Huntington Beach, Orange County

The Cogged Stone Archaeological Site (CA-ORA-83) is a large prehistoric village site and cemetery situated on the upper bench of the Bolsa Chica Mesa overlooking the Bolsa Chica wetlands and, in pre-Contact times, the mouth of the Santa Ana River. The site was occupied from ca. 8000 to 2000 years before present and takes its name from the over 400 unique artifacts known as cogged stones that have been recovered from deposits within the site, some of which appear to represent various stages of production. The cogged stones show no recognizable signs of wear and some have been found within the context of Native American human burials. Smaller numbers of the cogged stones have been found throughout the region with the majority of them found in sites along the Santa Ana River drainage.

The Cogged Stone Site is significant under Criteria A and D. The site is significant under Criterion A in the area of native American history and tradition for its association with the traditional oral history and folklore of the Maritime Shoshone as the burial ground of exalted beings and the site of the cogged stones (called "star stones" by the elders), which were part of an astronomically-based religion; and because of its association with a strong emphasis on plant food procurement and processing, along with new cultural concerns relating to non-utilitarian artifacts such as beads, pendants, charmstones, discoidals, and cogged stones. As such, the site is significant to the cultural traditions of the contemporary Maritime Shoshone community and plays a role in their historically rooted beliefs, customs, and practices.

The site is significant under Criterion D in the area of prehistoric archaeology because, although the property has been previously subjected to limited archaeological excavations that have yield important scientific data, the site contains intact cultural deposits. Site CA-ORA-83 has the potential to provide important information regarding an Early Holocene transportation corridor and ritual interaction sphere that extended from the Orange County coast along the Santa Ana River drainage to the Mojave Desert. The numerous time-sensitive artifacts recovered from deposits within the site may be used to assess the chronological placement of many site sin the southern California region that do not have datable materials, but have yield some time-sensitive artifacts. Additionally, because the site was occupied during periods of significant environmental change, it has the potential to provide important information regarding cultural responses to major environmental change.

The Cogged Stone Site (CA-ORA-83) is the earliest-dated occupation and cemetery in the region and one of the last remaining early Holocene-era sites along the Orange County coast of southern California. Staff recommends listing at the state level of significance.

J. Charles Whatford
Associate State Archaeologist
October 14, 2001

ATTACHMENT NO. 4.20

EXHIBIT

B

STATE OF CALIFORNIA

Arnold Schwarzenegger, Governor

NATIVE AMERICAN HERITAGE COMMISSION

916 CAPITOL MALL, ROOM 384
SACRAMENTO, CA 95814
(916) 658-6251
Fax (916) 657-6590
Web Site www.nahc.ca.gov
e-mail: ds_nahc@pacbell.net



April 4, 2008

The Hon. Anthony Morales, Chairman
Gabrieleno/Tongva San Gabriel Band of Mission Indians
P.O. Box 693
San Gabriel, CA 91778

Sent by FAX to: 858-694-3373
Number of pages: 3

Re: My draft Staff Report and Professional Assessment Regarding the Hearthside Homes Project at Bolsa Chica Mesa Known as Briothwater Homes, a 349 Single Homes Development, Focusing on the CA-ORA-83 Issues only. Site is Adjacent to the City of Huntington Beach, Orange County, California

Dear Chairman:

I am writing you as the Most Likely Descendant (MLD), one of two assigned to the above reference project, in response to your questions about Special Condition #23 of the California Coastal Commission Permit Application No. 5-05-020. The NAHC is preparing another and an official response to concerns raised by Teresa Henry, Coastal Commission District Manager; however, it may not be submitted in a timely manner. That is why I am addressing answers to concerns raised by you. My comments and response are as follows:

1. Issue of Reburial of the Remains and all Associated Grave Good to Occur after Documentation is Complete: This issue is stated as a requirement on page 6 of the CGC Special Condition #23. The Native American Heritage Commission (NAHC) supports this requirement. We understand from the landowner's contract archaeologist, Nancy Anastasia Wiley, Ph.D., President of Scientific Resource Surveys, Inc. (SRS) that much of the documentation has been done but is NOT COMPLETE. We support its completion in this manner: a) priority documentation be given to those items that are generally accepted 'associated grave goods,' therefore, the *cogged stones, charmstones, discoids and beads* be documented prior to reburial. b) that sufficient time be allowed for proper preparation of the burials (e.g. wrapped in white sheets or if children, sheets of other colors) as the archaeologist (e.g. SRS) outlined in the January 19, 2007 memorandum to Hearthside Homes Senior Vice President (please see Exhibit A). The reburial with associated grave goods is customary for both the Gabrieleno/Tongva and Juaneño people (note, from the Handbook of North American Indians, vol. 6, California; Robert F. Heizer, volume editor, Smithsonian Institution, Washington, D.C., 1978): "Here the dead were buried with artifacts used during life." (page 545) Also, apparently, both MLDs and the archaeologist are in agreement that the balance of more than 100,000 artifacts, excavated at the ORA-83 and the project site, can be sorted and documented after the reburials take place on a power-sort way, that is only a percentage of

ATTACHMENT NO. 4.21

02/2014 07:40 FAX

- the material in the 2,000 boxes and bags of remains would be sorted and documented.
2. Issue of What are Associated Grave Goods: It is customary for the NAHC to accept the determination and definition of 'associated grave goods' as presented by California Native American tribes. With regard to the more than 400 cogged stones found at ORA-83, archaeologists are not certain what they represent. Yet they are a spectacular discovery and, in the opinion shared with the NAHC on April 2, 2008, of Dr. Wiley, "there is no other such deposit of cogged stones anywhere in the world." What is acknowledged is that 22 were found in one house pit, meaning both the burial therein was a person of perhaps spiritual or political significance and the use of cogged stones at the site must have meant something very special. The NAHC does have access to photos of that house pit site as well as other house pit sites that contained cogged stones and locations where concentrated bone fragments were discovered at scattered sites that also included cogged stones. Now, the NAHC feels there is general agreement from the project archaeologist and between both Most Likely Descendants (MLDs) that the priority 'associated grave goods' includes cogged stones, charmstones, discoids and beads. There is little disagreement, in our view about these. There may be some disagreement that some of cogged stones and other items, discovered at a location other than a burial, are not 'associated grave goods; this would be a matter for mediation, a role requested by one of the MLDs and accepted by the NAHC and the other MLD. Also, the California 3rd Appellate Court Decision in the case of People versus Van Horn (218 Cal.App.3rd 1378; 267 CalRptr. 804 [Mar. 1990] may strengthen the right of culturally-affiliated Native American tribes as to who has the authority over both remains and associated grave goods.
3. Issue: Is the ORA-83 a sacred cemetery? As a junior staff person at the NAHC, I believe it is. This is based on the lack of information provided to the NAHC, the Orange County Sheriff-Coroner, and apparently the MLDs about when remains were discovered. When the NAHC requested that information, the project archaeologist responded by saying that she "...cannot prepare a chronology...." (Please see Exhibit "D"). Furthermore in the project archaeologist's memorandum to the company, dated January 17, 2007, it refers to a February 3, 2007 ceremony and assumed reburial (please see Exhibit "A") this action would be after the law extending the definition of a cemetery and a place with "multiple burials" to private land. Formerly, the definition of a cemetery as comprising six or more burials was limited to public cemeteries; now, AB 2641 extends the definition among other provisions. It amends Public Resources Code §5097.98 that says (a) Descendants shall complete their inspection and make recommendations or preferences for treatment (to the landowner) within 48 hours; and (b) preferences for treatment shall include all reasonable options including associated items (e.g. grave goods)." Therefore, considering the 87 burials from ORA-83, whose chronology is unknown or certainly unclear, and given the number of burials at this project site, how can one say that it is not a sacred cemetery? The Native American Heritage Commission determined a University of California, San Diego site, with 30 discovered burials and perhaps fewer artifacts and grave goods a "sanctified cemetery" at their meeting of March 12, 2008 in San Diego County.
4. Territorial Issues: It is generally accepted that the cogged stones are found in the coastal areas extending from Ventura County in California to parts of Baja California Norte, of the Republic of Mexico. Then, they are found in coastal areas of Central Chile in South America. Also, it is clear from the map on

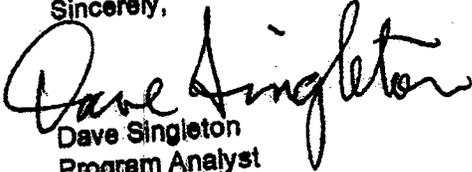
ATTACHMENT NO. 4.22
 ATTACHMENT NO.

2/2014 07:44 FAX

the cogged stones that they were very special items to the Juanenõ as well as the Gabrieleno Tongva people. The Handbook of North American Indians, vol. 8, referenced above, includes the Bolsa Chica project site within the Gabrieleno Tongva territory. Lowell Bean, one of California's most respected scholars, edited the article on the Gabrieleno Tongva. The 1925 map of the Juaneno territory, prepared by Alfred Louis Kroeber, eminent ethnologist, shows the Bolsa Chica project area is a 'shared area' between the two tribal groups; both groups participate in an Annual Pilgrimage that starts at the ancient village of Panhe in northern San Diego County, includes Bolsa Chica and ends at Puvungna on the campus of California State University, Long Beach in Los Angeles County. Therefore, the NAHC feels that both have standing for their recommendations regarding the ORA-83, Bolsa Chica site, its discovery and treatment of the Native American human remains and the associated grave goods.

If you have any questions, please contact me at (916) 653-6251.

Sincerely,


Dave Singleton
Program Analyst

ATTACHMENT NO. 4.23

EXHIBIT "A"
Bolsa
Chica

January 19, 2007

TO: Ed Mountford, Brian Bartlett- Hearthside Homes
[cc: Joyce Perry, David Belardes, Robert Dorame, Anthony Morales]

FROM: Ted and Nancy Wiley- SRS, Inc.
[cc: Jeff and Joanne Couch, Tracey Stopes, Paul E. Langenwalter]

RE: Reburial- Ora-85 Internments and Associated Materials

This memo provides a quick update regarding the status of our work towards the final reburial of human remains and associated grave goods on February 3, 2007.

All work is on schedule and will be finished by this Friday, January 26, 2007. Joanne is in the process of completing a comprehensive tracking sheet for the reburial of all associated materials including artifacts and sacred earth. Jeff has nearly completed the reburial map to include size of the reburial pit and a proportional layout of the Ora-85 individuals. A grid will then be laid out within the pit so that there can be an exact placement of each individual on the reburial date. By Friday, Paul Langenwalter will produce his customary burial chart listing all known characteristics of each burial and most importantly, sex and age, when possible.

*j bartlett
Joanne
sf
js*

Accordingly, we anticipate and request your cooperation for the following:

- 1] On Monday, January 29th, the final pit be excavated by Hearthside at the far western end of the newly designated reburial area according to the specifications of the reburial map and under the direction of Jeff Couch.
- 2] The access ramp be placed at the south end of the pit in order to leave as much area in the designated reburial area as undisturbed as possible.
- 3] On Tuesday and Wednesday, January 30th and 31st, Jeff will grid the pit and Eric and his Pacific Paving crew will haul all associated earth from behind the trailers down to the pit and place the appropriate dirt in the corresponding square in the grid.
- 4] Then on Thursday, February 1st, matrix from the sorting process will also be taken to the pit and placed in the appropriate grid squares. In this way, all materials besides the human bone and associated artifacts will already be placed in the ground at least two days prior to the Saturday reburial.
- 5] On Friday, February 2nd, Ted and I will wrap each burial with its grave goods in white cloth as requested by the Juaneno Band. Each individual will then be wrapped again in colored burlap coded to male [blue], female [red], and unknown [beige]. Children will additionally have a color separation or other designator. This coding will aid the participants in the various ceremonies in addressing the reburied individuals in a more personal manner.
- 6] On Saturday, February 3rd, Ted and I will place the Ora-85 people in the ground within their reserved space for the morning ceremony.
- 7] We have requested that the Juaneno have their ceremony first so that after their ceremony, mats and animal skins may be added to the individual wrappings as requested by the Gabrielino. There is a precedent by Signal Landmark for purchasing leather [or

[Handwritten signature]

ATTACHMENT NO. 4.24

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skins] for reburial. The first reburial in the early 1990s did have these materials. This was a preference of Raymond Belardes, the first Most Likely Descendant on this project. The Gabrielino should be reimbursed for this purchase since you are paying for the white cloth requested by the Juaneno.

- 8] We have also had one of our people paid to pick up elders of a tribal group to attend the reburial if they cannot drive or do not have transportation. We suggest that you offer to provide compensation for one person from each tribal group to do the same.
- 9] Please have extra security on Saturday from sunrise to sunset.
- 10] Please remember that Hearthside has always been responsible for filling in the pit at day's end with both the removed earth and placing in the pit a chain link fencing barrier.

As an aside, I further understand from my staff that there has been some discussion about reburying all of the artifacts from the site at the same time as the reburial. SRS has an obligation to document any artifacts to be reburied as mandated by County and Coastal Commission Guidelines and State law. All artifacts associated with the burials will be documented beforehand and then reburied on Saturday with the appropriate individual. The remaining site artifacts cannot be reburied at that time because they have not been processed or documented yet, since all efforts have been focused on burial-related materials only. In addition, Cal. State Los Angeles has an extensive collection of materials removed from this site by Prof. Hal Eberhart prior to ARI, Westec or SRS's work, and ARI's artifacts were given to PCAS when Marie Cottrell dissolved that non-profit corporation in the early 1980's. The Native Americans would have to request that these artifacts be returned from Cal State LA and PCAS under the Repatriation Act before a reburial of artifacts could occur. There is, however, an adequate area designated by Hearthside for Ora-85 and Ora-83 reburials for future repatriation of additional materials. The Ora-85 non-burial artifacts, therefore, will not be reburied on February 3rd but legally this matter has no bearing on the repatriation of human remains and associated grave goods from that site.

This is a brief outline of the anticipated activities for next week. Ted and I will arrive in Orange County on Monday, January 29th at 10:00 pm and will be on-site starting late morning on Tuesday. If any party has questions or requests changes to this schedule please call me at 907-723-1896; e-mail me at wileycoyote@aptalaska.net; or talk with me in person on Tuesday. We look forward to a respectful and successful reburial on February 3rd.

EXHIBIT 10

From: Dave Singleton <ds_nahc@pacbell.net>
 Subject: Telephone Conversations with Nancy Anastasia Wiley, Ph.D., Pres. of SRS Inc.
 Date: April 3, 2008 4:35:07 PM PDT
 To: Larry Myers <lm_nahc@pacbell.net>
 Cc: Anthony Madrigal <am_nahc@pacbell.net>

April 3, 2008

Hi Larry & Anthony:

This is an outline of my recent conversations with Nancy Anastasia Wiley, the Project Archaeologist for Hearthside Homes, developer of Brightwater Homes, a residential project of proposed 349 homes built on the Bolsa Chica Mesa, adjacent to the northern city limits for Huntington Beach, Orange County. The property is owned by Signal Landmark of Irvine; Orange County.

The main points of my conversations with Dr. Wiley are:

1. Cogged Stones as 'associated grave goods;' Dr. Wiley confirmed that the 22 cogged stones found at the 'house-pit' of an apparent Shaman or tribal leader are clearly associated grave goods;
2. Dr. Wiley also indicated that other personal items such as charmstones, beads, discoidals and cogged stones, if found with burials are clearly 'associated grave goods;'
3. The documentation on the identified four types of grave goods has been substantially done but is NOT COMPLETE; Dr. Wiley seemed to welcome the NAHC support for the immediate and the longer-range (the 100,000 artifacts, et al) documentation to be done;
4. Dr. Wiley also seemed to welcome the NAHC as a 'mediator' in the project at MLD Morales' request.
5. Dr. Wiley wants to retain good relations with the NAHC and has offered to make a presentation in the NAHC offices on ORA-83 with films of the cogged stones and other items;

While the NAHC and her archaeologist peers may disagree with the manner in which Dr. Wiley and SRS has managed this project, the NAHC and others would not have the hard facts of the 174 burials discovered; 87 still to be re-buried; the number of cogged stones (more than 400), the 100,000 artifacts and thousands of archaeological features of significance, had not Dr. Wiley provided that information to the NAHC. She also cooperated with photographing of the 2,000 boxes of un-sorted material in three trailers in Temecula.

Dave

From: wileycoyote@srscorp.net
 Subject: [Fwd: ORA-83, The Cogged Stone Site]
 Date: December 17, 2007 6:03:42 PM PST
 To: ds_naho@pacbell.net
 1 Attachment, 32.0 KB

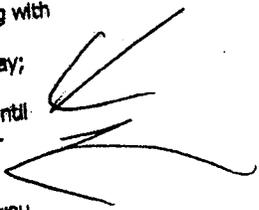
Dave- Let's try this again!!!

----- Original Message -----
 Subject: [Fwd: ORA-83, The Cogged Stone Site]
 From: wileycoyote@srscorp.net
 Date: Thu, December 6, 2007 6:54 pm
 To: ds_nahc@pacbell.net

----- Original Message -----
 Subject: ORA-83, The Cogged Stone Site
 From: wileycoyote@srscorp.net
 Date: Thu, December 6, 2007 6:52 pm
 To: ds_nahc@pacbell.net

Dave-

- In regards to our phone conversation today:
- 1- attached is the 'Inventory List of Unfinished Work' that I submitted to the Gabrielino and Juaneno groups when Ed decided to have a meeting with them without me;
 - 2- a proofsheets of photos will be e-mailed to you by my staff later today; printed copies will be given to Anthony on Monday;
 - 3- Ed Mountford has said that I cannot prepare a chronology for you until her talks to his lawyer- Susan Hori. If this is not in writing by Monday- I will give one verbally to Anthony at the meeting.



It was good talking with you. The Native people speak very highly of you.

Nancy Anastasia Wiley



November 5th.doc (32.0 KB)

ATTACHMENT NO. 4.27

EXHIBIT

E

STATE OF CALIFORNIA

Arnold Schwarzenegger, Governor

NATIVE AMERICAN HERITAGE COMMISSION

915 CAPITOL MALL, ROOM 264
SACRAMENTO, CA 95814
(916) 653-4082
Fax (916) 657-8390
Web Site: www.nahc.ca.gov
e-mail: lm_nahc@pacbell.net



April 8, 2008

Theresa Henry
The California Coastal Commission
South Coast Area Office
200 Ocean Gate Suite 1000
Long Beach CA 908024302
Fax (562) 590 5084

Re: Brightwater-Bolsa Chica Project

Dear Ms. Henry:

The Native American Heritage Commission (NAHC) is informed by the NAHC appointed Most Likely Descendent, Anthony Morales, that Hearthside Homes has proposed reburial of 87 human remains from ORA-83 on April 21, 2008. The NAHC is also informed that documentation on the associated grave goods has been substantially done but is not complete. These associated grave goods include cogged stones, charm stones, beads and discoids and other items.

The NAHC supports the Most Likely Descendants' request that documentation on all associated grave goods be completed before reburial and that all grave goods be reburied with remains. In this regard, the NAHC notes that the Cultural Resources Grading Monitoring Plan at page 6 dated 12-12-05 adopted pursuant to Special Condition No. 23, of the Coastal Permit indicates that human remains and any "artifacts associated with human remains" will be reburied after documentation is complete. It is also noted that above 12-12-05 Monitoring Plan at page 7 also specifies that the location of the artifacts (associated with human remains) in the ground in relationship to the human remains will be documented so that when the human remains are reburied, the artifacts can be placed in the same relationship to the remains as they were when discovered. The Monitoring Plan also specifies that the artifacts (associated grave goods) will be kept with the human remains and examined and documented, and will be reburied together with the human remains.

The NAHC notes that based on information received from the project archaeologist, 22 cogged stones were discovered in a large burial pit. These are clearly associated with the human remains. The NAHC also notes that there are approximately 4217 artifacts that were found on ORA-83 including numerous cogged stones (over 400 on the project) and the NAHC is informed that only artifacts associated with remains are being processed at

ATTACHMENT NO. 4.28

this time. Based on information received from the project archaeologist, the NAHC believes that there are numerous other artifacts that must be analyzed and documented and that many of these may be determined to be artifacts associated with human remains and should be reburied with remains. NAHC is aware of information that indicates there were numerous bone clusters where cogged stones were present, which suggests these features are burial areas.

As you are aware Public Resources Code 5097.98 requires that the recommendation of the Most Likely Descendant with regard to treatment of remains and associated items be given great deference by the land owner and that if an agreement as to disposition cannot be reached, the law mandates that the remains and associated items be reburied on the property in a dignified manner not subject to subsurface disturbance. The NAHC strongly supports the recommendations of the Most Likely Descendants in determining which artifacts are artifacts associated with human remains and that otherwise pertain to the burial. The Most Likely Descendant has specialized knowledge of the local tribal community burial practices and beliefs.

The NAHC is informed that both Most Likely Descendants support waiting 6 months for the first reburial until major features that are clearly associated with individual burials can be studied and documentation on these completed. The NAHC supports this disposition.

The NAHC remains concerned about the Brightwater -Bolsa Chica Project. Although the NAHC has been in contact with the project archaeologist and has received a January 2007 and a November 5, 2008 status report, as of this date the NAHC has not received a promised map from the project archaeologist showing burials, house pits, photos and features. The NAHC has not received a report clearly showing the dates, locations and details of burial discoveries. At this point based on information available and the large number of burials recovered and associated items, it appears that the whole area may be a burial ground. Southern California Indians created and used discrete areas as cemeteries. The NAHC understands that the Coastal Commission will be reviewing its permit for the Brightwater Project. The NAHC suggests that the Coastal Commission consider requiring some sort of guarantee or performance bond in order to assure that all required reports are provided on a timely basis and that documentation is completed and reburials of remains and artifacts occur as agreed.

Sincerely,

original signature on file

Larry Myers, Executive Secretary NAHC

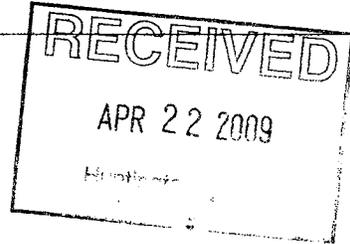
Cc: Bill Mungry, Chairman NAHC
Anthony Madrigal, General Counsel NAHC
Dave Singleton, NAHC
Susan Hori, Counsel Brightwater Homes
Nancy Anastasia Wiley, Project Archaeologist



California Cultural Resource Preservation Alliance, Inc.

**P.O. Box 54132
Irvine, CA 92619-4132**

**An alliance of American Indian and scientific communities working for
the preservation of archaeological sites and other cultural resources.**



April 20, 2009

Jennifer Villasenor, Associate Planner
City of Huntington Beach
Planning Department
2000 Main Street
Huntington Beach, CA 92648

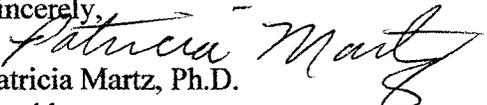
Subject: environmental Assessment No. 08-017 (Goodell Property)

Dear Miss Villasenor:

Evidently you did not read my letter of March 20, 2009 where I wrote to alert you to the fact that the aforementioned property is part of the 17.2 acre archaeological site (CA-ORA-83/86/144) that has been determined eligible for the National Register of Historic Places and is listed on the sacred site registry maintained by the California Native American Heritage Commission. The proposed zoning and annexation is an action that requires the City to comply with Senate Bill 18. SB 18 requires local governments to consult with California Native American tribes prior to making certain planning decisions to aid in the protection of traditional tribal cultural places.

We are deeply concerned about the proposed pre-zoning and annexation and development plans for the 6.2 acres of property known as the Goodell property. With the destruction of 11 acres of the site for the Brightwater housing project, the 6.2 acres represent all that is left of this significant archaeological site that most certainly contains the last remaining burials and cultural artifacts that are part of the ancient cemetery and village. The loss of the remaining portion of this world class archaeological site and most importantly, the disturbance of the remaining burials, would be a tragedy.

It is troubling that nowhere in this proposal is there any mention of the fact that the property contains a significant archaeological site and cemetery or its importance to the local Native American descendants whose ancestors are buried there. The uses mentioned would disturb more burials and prohibit access to the site for ceremony. SB 18 amended Government Code §66560 to include open space for the protection of cultural places as an allowable purpose of the open space element. We hope that the City will take care to protect the cultural resources and will give at least as much consideration to California Native American descendants as they would to natural resources on the property. If you have any questions, I can be reached at pmartz@calstacla.edu or (949) 559-6490.

Sincerely,

Patricia Martz, Ph.D.
President

ATTACHMENT NO. 4.30



California Cultural Resource Preservation Alliance, Inc.

**P.O. Box 54132
Irvine, CA 92619-4132**

**An alliance of American Indian and scientific communities working for
the preservation of archaeological sites and other cultural resources.**

Cc: Fred Wilson, City Administrator
Keith Bohr, Mayor
Joe Carchio, Council Member
Gil Coerper, Council Member
Devin Dwyer, Council Member
Jill Hardy, Council Member
Cathy Green, Mayor Pro Tem
Don Hansen, Council Member
Joe Shaw, Planning Commissioner
Dave Singleton, Native American Heritage Commission
Jennifer McGraf, City Attorney

ATTACHMENT NO. 4.31

April 22, 2009

City of Huntington Beach
Planning Department
ATTN: Jennifer Villasenor
2000 Main St.
Huntington Beach, CA 92648

Re: Goodell Annexation Environmental Assessment No. 08-017

Dear Ms. Villasenor,

I am writing to express the following concerns with the Goodell property pre-zoning and annexation project Environmental Assessment No. 08-017.

Mapping Accuracy

No legal boundary descriptions are provided in the EA for the proposed RL, OS-PR, and CC zoning designations.

Additionally, the proposed zoning map included with the EA was produced by generalized drawing software without being geo-referenced to latitude & longitude. Given this lack of geospatial accuracy, it is impossible to know with any certainty the location of the proposed zoning lines in relation to the sensitive biological resources that exist on the property and whether or not the proper buffers mandated by the city's LCP are being provided.

I'd like to request that for this project and all future projects that GIS software be used to produce proposed zoning maps at the start of the project lifecycle and that the underlying GIS data files be made available to all project stakeholders. Only then will it be possible to accurately determine the impacts to sensitive biological resources.

Southern Tarplant

The EA asserts on p.19 that:

“Southern tarplant has the potential to occur within the project site but was not observed during field surveys because no suitable habitat is present for it to exist on the site.”

Those field surveys missed several populations of southern tarplant, a CNPS List 1B.1 species (rare, threatened, or endangered in California or elsewhere; seriously endangered in California). Southern tarplant is actually quite plentiful on certain portions of the property.

See attached for the results of a GPS-based southern tarplant survey that I conducted last year on May 26, 2008. Each red dot on this survey map indicates one or more southern tarplants within the +/- 2m margin of error for my GPS unit. My survey shows that both the proposed RL and OS-PR areas contain significant tarplant populations. The CC zoning area needs to be expanded to encompass these two significant populations.

ATTACHMENT NO. 4.32

Also attached is an independent southern tarplant survey conducted by Huntington Beach resident Dena Hawes on August 5, 2008, and subsequently submitted to the CNDDB. This survey corroborates my own findings and provides ground-level context photographs.

Southern tarplant can currently be found in numerous locations on the Goodell property as of April 17, 2009.

Raptors

The EA and referenced biological resources report classifies the eucalyptus trees on the site as “ornamental habitat”, and on p.18 the EA asserts:

“The ruderal vegetation as well as the ornamental non-native trees on the site provide foraging area for several raptor species including ferruginous hawk, red-tailed hawk, white-tailed kite, northern harrier, prairie falcon and American Kestrel but are not considered sensitive and provide only marginal habitat for amphibians, reptiles and small mammals due to repeated ground disturbance over time. However, while ornamental habitat is not considered a sensitive habitat type, existing eucalyptus trees on the site are contiguous with the ESHA and are considered a significant biological resource.”

This assertion admits the raptor foraging value of the eucalyptus trees, and admits that the Goodell eucalyptus trees are contiguous with adjacent ESHA (which is comprised of the same types of eucalyptus trees found on the Goodell property), yet arrives at the conclusion that the Goodell eucalyptus trees are not ESHA.

Attached below are maps that document all raptor sightings that I and other observers have made from 2004 through the present day along the eastern edge of the Bolsa Chica mesa. These data were submitted to the California Coastal Commission during the processing of the Shea Parkside LCP amendment and resulted in the commission declaring the northern Shea eucalyptus grove to be ESHA along with the southern grove. From these maps it is clear that the ESHA should extend onto the Goodell property which is in between the two Shea groves. Thus the proposed CC zoning needs to be expanded to encompass all of the ESHA, and the OS-PR zoning needs to be relocated outside of the ESHA at a minimum distance of 100ft from the ESHA as called for by the city’s LCP. Note that this 100ft distance will likely be too conservative for the Coastal Commission, which approved a Shea Parkside development envelope no closer than approximately 250ft from the north grove ESHA.

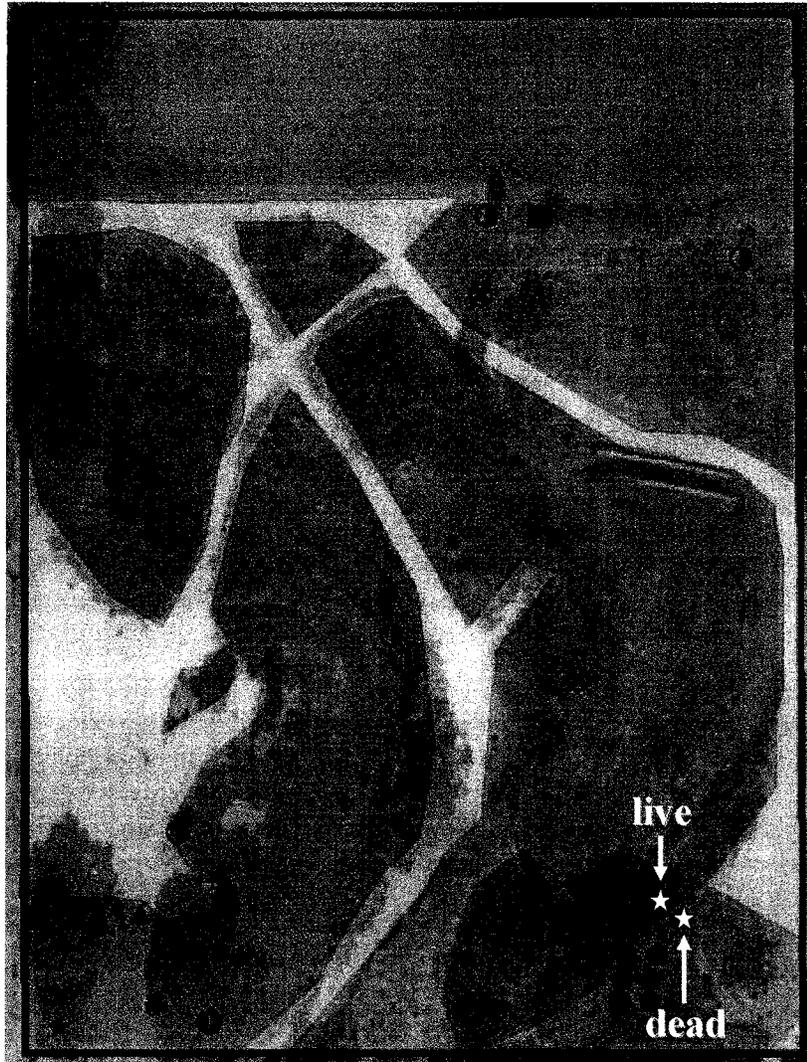
The attached Google Earth maps provide two data representations for each species. The left map of each pair renders all of the sighting location placemarks in the same size, but uses color gradations to denote the relative difference in the number of sightings (white indicates a single sighting, whereas fully-saturated red indicates the location with the most sightings). The right map of each pair uses the same red color for all of the sighting location placemarks, but scales the size of each placemark to correspond to the number of sightings (i.e. a placemark with 10 sightings will have 10 times the area of a placemark with a single sighting).

Note that while the number of sightings is rendered next to each placemark, Google Earth may locate these numbers far from the placemark when many placemarks are crowded into a small area, particularly for the scaled placemark maps. Thus these sightings counts are really only useful when using Google Earth interactively where mouse-over animation makes it clear which

count is associated with a given placemark (the KML file for the data can be provided upon request so that interested readers can examine my data further in an interactive manner).

Lowland Eucalyptus Trees Omitted from Biological Survey

Curiously, two lowland eucalyptus trees (one live, one dead) on the Goodell property have been omitted from the SWCA biological resources survey referenced by the EA. These two trees are amongst the most popular raptor perches of the eastern Bolsa Chica mesa. I have annotated the SWCA map below with white icons to show the omitted trees:



EIR Required

Given the important sensitive resources on this site, an EIR is required to assess the impacts since this pre-zoning process moves the site one step closer to development.

Sincerely,

Mark D. Bixby

Mark D. Bixby
17451 Hillgate Ln
Huntington Beach, CA 92649-4707
714-625-0876
mark@bixby.org

ATTACHMENT NO. 4.36

Mark Bixby Southern Tarplant Survey – May 26, 2008



Dena Hawes Southern Tarplant Survey – August 5, 2008

ATTACHMENT NO. 4.38

Mail to:
 California Natural Diversity Database
 Department of Fish and Game
 1807 13th Street, Suite 202
 Sacramento, CA 95814
 Fax: (916) 324-0475 email: WHDAB@dfg.ca.gov

For Office Use Only

Source Code HAWOZFOOD | Quad Code 3311861
 Elm Code _____ Occ. No. _____
 EO Index No. _____ Map Index No. _____

Date of Field Work mm/dd/yyyy: 3/5/08

California Native Species Field Survey Form

Scientific Name: CENTROMADIA PARRYI SSP AUSTRALIS

Common Name: SOUTHERN TARPLANT

Species Found? Yes No _____ If not, why? _____

Total No. Individuals 85? Subsequent Visit? yes no
 Is this an existing NDDDB occurrence? no Punk.

Collection? If yes: _____
 Number _____ Museum / Herbarium _____

Reporter: DENA HAWES
Address: 5252 VINELAND DR.
HUNTINGTON BEACH, CA 92649
E-mail Address: h1eat@social.rr.com
Phone: (714) 846-2239

Plant Information

Phenology: 50 % 50 % _____ %
 vegetative flowering fruiting

Animal Information

# adults	# juveniles	# larvae	# egg masses	# unknown
<input type="checkbox"/>				
breeding	wintering	burrow site	rookery	nesting
<input type="checkbox"/>				
other				

Location Description (please attach map AND/OR fill out your choice of coordinates, below)

County: ORANGE Landowned / Mgr.: DONALD E. GOODELL

Quad Name: _____ Elevation: 40'

T _____ R _____ Sec _____, _____ 1/4 of _____ 1/4, Meridian: H M S Source of Coordinates (GPS) topo. map & type): GPS

T _____ R _____ Sec _____, _____ 1/4 of _____ 1/4, Meridian: H M S GPS Make & Model GARMIN Geko 101

Datum: NAD27 NAD83 WGS84 Horizontal Accuracy 15' meters (see)

Coordinate System: UTM Zone 10 UTM Zone 11 OR Geographic (Latitude & Longitude)

Coordinates: Easting/Longitude W 118° 02.395' Northing/Latitude N 33° 42.567'

Habitat Description (plant communities, dominants, associates, substrates/soils, aspects/slope):
AREA IS DENSELY VEGETATED W/ NON-NATIVE INVASIVE SPECIES - TREE TOBACCO, PAPAAS GRASS, BLACK MUSTARD, CROWN DAISY, RUSSIAN THISTLE, FIVE-HOOK BASSIA. SMALL POPULATION OF SEASIDE HELIOTROPIS ALSO PRESENT. SOIL IS HARDPACK W/ FINE GRAIN, LOOSE SURFACE LAYER. HIGHLY DISTURBED. SLOPE IS LEVEL (SMALL PLATEAU CARVED INTO THE SIDE OF THE MESA).

Other rare taxa seen at THIS site on THIS date:

Site Information Overall site quality: Excellent Good Fair Poor

Current / surrounding land use: FARMING ON FIELD DIRECTLY BELOW SITE TO THE EAST, EXTREME AMOUNT OF VANDALISM & DIGGING FROM AREA TEENAGERS. ADJACENT TO FARM ACCESS ROAD

Visible disturbances: MOUNTAIN BIKE TRAIL ON HILLSIDE, BMX BIKE JUMPS; TEENS DIGGING OUT BURIED LOW II AMMUNITION BUNKER (ENTRANCE IS ON THE TARPLANT PLATEAU)

Threats: OFFLEASH DOGS, HUMAN TRAMPLING, BIKES, DIGGING, VANDALISM

Comments: PLANTS ARE LARGE (UP TO 3' TALL) AND DENSE; IMPOSSIBLE TO GET ACCURATE SPECIMEN COUNT DUE TO THICK BRUSH & TARPLANT SIZES. AREA OF TARPLANT COVERS APPROX 60' AREA IS UNPROTECTED

Determination: (check one or more, and fill in blanks)

Keyed (cite reference): _____

Compared with specimen housed at: _____

Compared with photo / drawing in: _____

By another person (name): _____

Other: _____

Photographs: (check one or more) Slide Print Digital

Plant / animal _____

Habitat _____

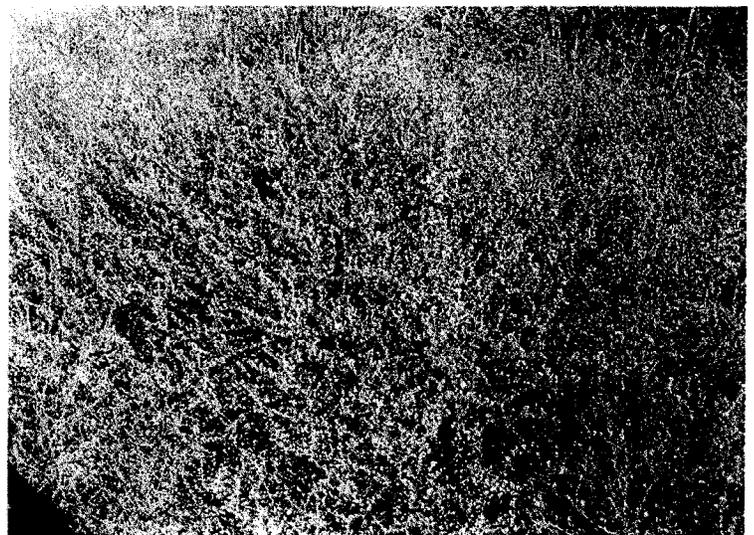
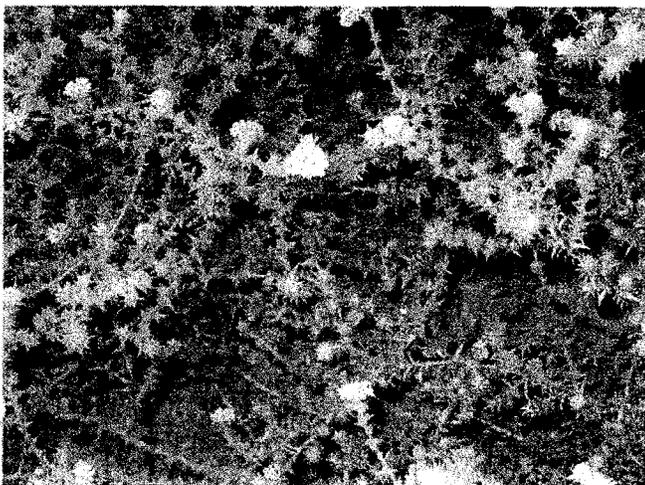
Diagnostic feature _____

May we obtain duplicates at our expense? DIGITAL (yes) no



W 118°02.395'
N33°42.567'

Photo looking south. Nearest intersection is Bolsa Chica Road and Los Patos. Brightwater housing development is under construction to the immediate west of the site. Tarplant habitat continues deep into the brush in the center of the photo. Thick invasive growth of black mustard, russian thistle, and five-hook bassia makes it difficult to count the tarplants. This area supported a substantial population of southern tarplant in 2006 and a smaller number in 2007 (extreme drought year). 2008 population is large and extensive; estimated at 85 plants up to 3' tall. Area has long history of mountain biking, BMX, paintball/BB shooting, and digging. Nearby WWII ammo bunker is currently being excavated by area teens; bunker is out of frame to the right of the photo. Property owner has partially filled the site with fill dirt and buried the bunker (2004?); Bobcat was used to dump & compact the fills. Tarplant habitat is in danger of being damaged or destroyed when/if bunker is reburied or fills removed. Bunker access by teens likewise increases probability of tarplant destruction from trampling, bike activity, and vandalism. Hillside erosion and silt drift from fills have buried seasonal ponds on the site.



ATTACHMENT NO. 4.40

Mail to:
 California Natural Diversity Database
 Department of Fish and Game
 1807 13th Street, Suite 202
 Sacramento, CA 95814
 Fax: (916) 324-0475 email: WHDAB@dfg.ca.gov

For Office Use Only
 Source Code _____ Quad Code 33118G1
 Elm Code _____ Occ. No. _____
 EO Index No. _____ Map Index No. _____

Date of Field Work mm/dd/yyyy: 8/5/08

California Native Species Field Survey Form

Scientific Name: PENTROMADIA PARRYI SSP AUSTRALIS

Common Name: SOUTHERN TARPLANT

Species Found? Yes No _____ If not, why? _____

Total No. Individuals 60? Subsequent Visit? yes no
 Is this an existing NDDDB occurrence? no unk.

Collection? If yes: _____
 Number _____ Museum / Herbarium _____

Reporter: DENA HAWES

Address: 5252 VINELAND DR
HUNTINGTON BEACH, CA 92649

E-mail Address: hlcat@soocal.cc.com

Phone: (714) 846-2239

Plant Information Phenology: <u>75.0</u> % vegetative <u>25.0</u> % flowering <u>—</u> % fruiting	Animal Information # adults _____ # juveniles _____ # larvae _____ # egg masses _____ # unknown _____ <input type="checkbox"/> breeding <input type="checkbox"/> wintering <input type="checkbox"/> burrow site <input type="checkbox"/> rookery <input type="checkbox"/> nesting <input type="checkbox"/> other
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Location Description (please attach map AND/OR fill out your choice of coordinates, below)

County: ORANGE Landowner/ Mgr.: DONALD E. GOODELL

Quad Name: _____ Elevation: 40'

T _____ R _____ Sec _____, _____ 1/4 of _____ 1/4, Meridian: H M S Source of Coordinates (GPS, topo. map & type): GPS

T _____ R _____ Sec _____, _____ 1/4 of _____ 1/4, Meridian: H M S GPS Make & Model GARMIN Geko 101

Datum: NAD27 NAD83 WGS84 Horizontal Accuracy 16 meters/feet

Coordinate System: UTM Zone 10 UTM Zone 11 OR Geographic (Latitude & Longitude)

Coordinates: Easting/Longitude W 118° 02.430' Northing/Latitude N 33° 42.545'

Habitat Description (plant communities, dominants, associates, substrates/soils, aspects/slope):
LOCATION IS A SILTED-IN SEASONAL POND. CURRENT VEGETATION CONSISTS OF DEAD/SEEDING BLACK MUSTARD, CROWN DAISY, YELLOW STARTHISTLE, FOXTAIL, RUSSIAN THISTLE, SOIL IS HARDPACK, FINE GRAINED. AREA ORIGINALLY CONTAINED COASTAL SAGE SCRUB BUT IS NOW PRIMARILY INVASIVE NON-NATIVE SPECIES. AREA IS APPROXIMATELY 60' X 20'. SMALL POPULATION OF SOUTHERN TARPLANT GROWING APPROX 30' DUE EAST OF PRIMARY SITE (10-15 PLANTS).

Other rare taxa seen at THIS site on THIS date: _____

Site Information Overall site quality: Excellent Good Fair Poor

Current / surrounding land use: MAJOR HOUSING DEVELOPMENT ON ADJACENT PROPERTY; FARMING ACTIVITY ON PROPERTY BELOW THE SITE. PLANTS ARE GROWING AT EDGE OF ACCESS ROAD.

Visible disturbances: MOUNTAIN BIKE TRAILS, BMX BIKE JUMPS, VEHICLE TRAFFIC/FARM EQUIPMENT ON ROAD. PAINTBALL / BB SHOOTING BLINDS NEARBY.

Threats: HUMAN TRAMPLING, OFFLEASH DOGS, VEHICLES, BICYCLES, VANDALISM, MOST PLANTS HAVE HEAVY DAMAGE.

Comments: AREA IS UNFENCED, NOT SIGNED, AND NO SECURITY. PROPERTY IS HEAVILY USED BY AREA RESIDENTS & JUVENILES/ TEENS FOR RECREATION. OWNER WANTS TO BUILD HIGH DENSITY DEVELOPMENT

Determination: (check one or more, and fill in blanks)
 Keyed (cite reference): _____
 Compared with specimen housed at: _____
 Compared with photo / drawing in: _____
 By another person (name): _____
 Other: _____

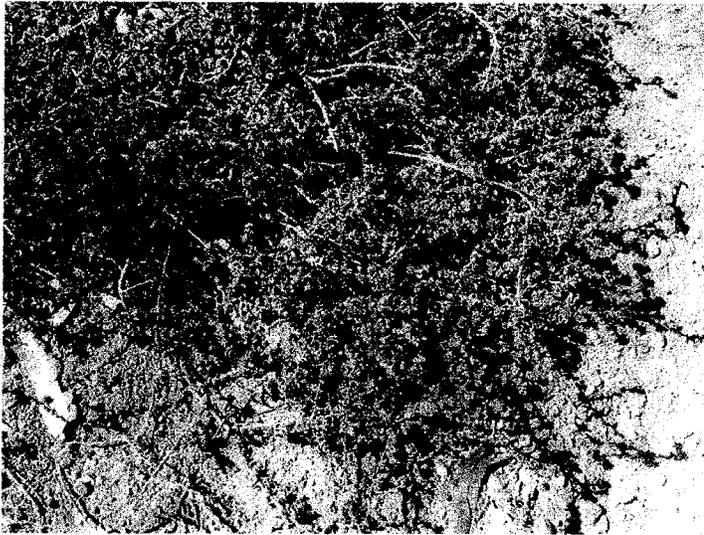
Photographs: (check one or more) Slide Print Digital
 Plant / animal Habitat Diagnostic feature

May we obtain duplicates at our expense? yes no



Photo looking northwest. Nearest intersection is Bolsa Chica Road and Los Patos. Brightwater housing development is under construction to the immediate west of the site. Continuation of tarplant habitat area is out of frame to the right of the photo. BMX bike jump and bike trail through the tarplant habitat are plainly visible. Area supported southern tarplant in 2006 (approx 25 plants). 2008 population is more extensive. Majority of tarplants in this area have died from trampling and bicycle activity; tarplants out of frame are larger.

W 118°02.430'
N33°42.545'



Small tarplant colony growing approx. 30' due east of the site. 10-15 plants.

ATTACHMENT NO. 4.42

Mail to:
 California Natural Diversity Database
 Department of Fish and Game
 1807 13th Street, Suite 202
 Sacramento, CA 95814

Fax: (916) 324-0475 email: WHDAB@dfg.ca.gov

For Office Use Only

Source Code _____ Quad Code 3311861

Elm Code _____ Occ. No. _____

EO Index No. _____ Map Index No. _____

Date of Field Work mm/dd/yyyy: 8/5/08

California Native Species Field Survey Form

Scientific Name: CENTROMAEDIA PARRYI SSP AUSTRALIS

Common Name: SOUTHERN TARPLANT

Species Found? Yes No _____ If not, why? _____

Total No. Individuals 25? Subsequent Visit? yes no

Is this an existing NDDDB occurrence? no ~~unk.~~

Collection? If yes: _____
 Number _____ Museum / Herbarium _____

Reporter: DENA HAWES

Address: 5252 VINELAND DR.
HUNTINGTON BEACH, CA 92649

E-mail Address: hreat@social.cc.com

Phone: (714) 846-2239

Plant Information

Phenology: 60 % 90 % _____ %
 vegetative flowering fruiting

Animal Information

adults _____ # juveniles _____ # larvae _____ # egg masses _____ # unknown _____

breeding wintering burrow site rookery nesting other

Location Description (please attach map AND/OR fill out your choice of coordinates, below)

County: ORANGE Landowner / Mgr.: DONALD E. GOODELL

Quad Name: _____ Elevation: 2'

T _____ R _____ Sec _____, _____ 1/4 of _____ 1/4, Meridian: H M S Source of Coordinates (GPS, topo. map & type): GPS

T _____ R _____ Sec _____, _____ 1/4 of _____ 1/4, Meridian: H M S GPS Make & Model GARMIN BEKO 101

Datum: NAD27 NAD83 WGS84 Horizontal Accuracy 15' meters/feet

Coordinate System: UTM Zone 10 UTM Zone 11 OR Geographic (Latitude & Longitude)

Coordinates: Easting/Longitude 118°02.388' Northing/Latitude N 33°42.540'

Habitat Description (plant communities, dominants, associates, substrates/soils, aspects/slope): SLOPE IS LEVEL (BASE OF HILL). AREA IS DENSELY VEGETATED W/ NON-NATIVE INVASIVE SPECIES - CRYSTALLINE ICEPLANT, SLENDER-LEAVED ICEPLANT, YELLOW SWEET-CLOVER, RUSSIAN THISTLE, FIVE-HOOK BASSIA, BLACK MUSTARD. ONE OR TWO FASCICULATED TARWEED PLANTS PRESENT. SOIL IS HARDPACK W/ LARGE AMOUNT OF CRUSHED DEAD VEGETATION COVERING SURFACE. SMALLER POPULATION OF SOUTHERN TARPLANT (APPROX 10 PLANTS) GROWING IN DENSE VEGETATION 80-100' SOUTH OF SITE. RED-STEMMED GOOSEFOOT & FIVE-HOOK BASSIA ARE DOMINANT; ALSO ICEPLANTS.

Other rare taxa seen at THIS site on THIS date: _____

Site Information Overall site quality: Excellent Good Fair Poor

Current / surrounding land use: FARMING ON ADJACENT PROPERTY - FARMLAND IS SITE OF PROPOSED 150-HOUSE DEVELOPMENT

Visible disturbances: FARM ACCESS ROAD, MOUNTAIN BIKE TRAILS DOWN HILLSIDE, TRAILS IN BRUSH THROUGH TARPLANT VICINITY. TRASH ACCUMULATION AND VANDALISM.

Threats: BICYCLES, OFF-LEASH DOGS, FARM VEHICLES, HUMAN TRAMPLING, VANDALISM, PAINTBALL/BB SHOOTING, TRANSIENTS

Comments: AREA HAS BEEN REPEATEDLY USED AS FARM EQUIPMENT STORAGE (DISC, PLOW, SURAPER, ETC). POPULATION IS BISECTED BY MOUNTAIN BIKE TRAIL & BORDERED BY FARM ACCESS ROAD. VERY HEAVY RECREATIONAL USE BY RESIDENTS. AREA IS COMPLETELY UNPROTECTED.

Determination: (check one or more, and fill in blanks)

Keyed (cite reference): _____

Compared with specimen housed at: _____

Compared with photo / drawing in: _____

By another person (name): _____

Other: _____

Photographs: (check one or more) Slide Print Digital

Plant / animal _____

Habitat _____

Diagnostic feature _____

May we obtain duplicates at our expense? yes no

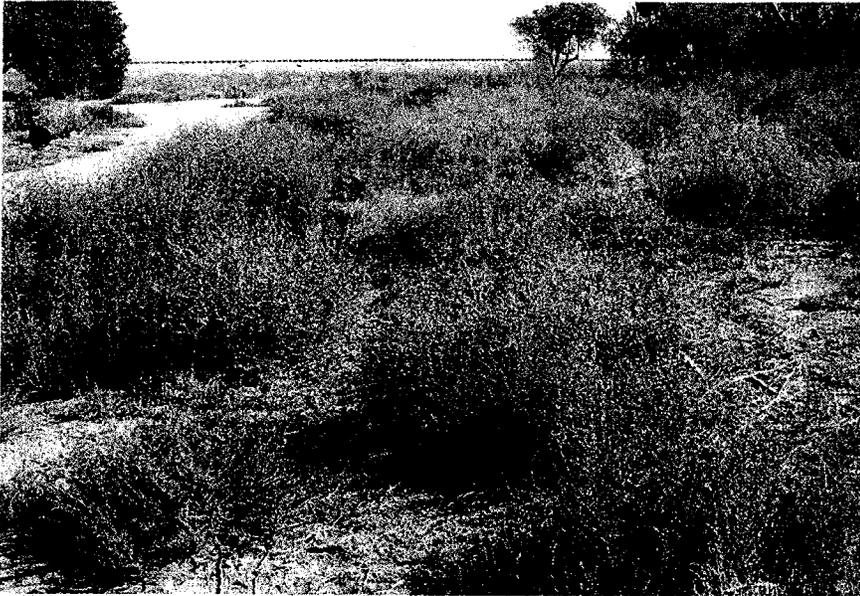


Photo looking south; farm access road visible in the upper left of image. Planted field out of frame to the left.

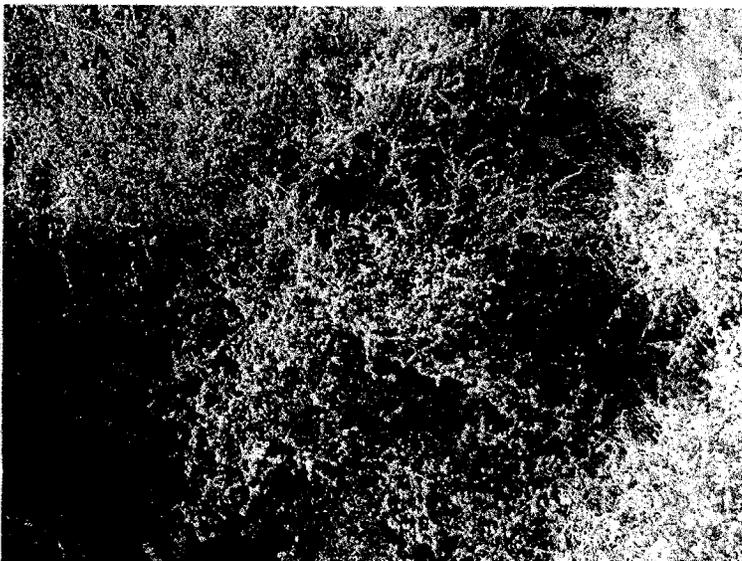


Smaller colony of southern tarplant (approximately 10 plants) is growing in the middle of the dense invasive vegetation in upper center of photo. Site contained approximately 30 tarplants in 2006; area is now choked with growth-inhibiting invasive species, especially iceplants.

Photo looking north. → Farm access road partially visible; road continues up the hill past buried WWII bunker and extensive southern tarplant colony. Planted field visible in upper right.



Tarplant colony is located at the base of the mesa and the site has a history of use as a farm equipment storage area. Also heavily used by off-leash dogs, juveniles/teens for paintball & BB shooting; mountain bike trails come off the hillside and bisect the colony. Area subject to heavy trampling, littering, vegetation damage, and erosion from bike trails..



W 118°02.388'
N33°42.540'

Southern tarplants are fairly large, up to 2' in height. Found growing amongst dense russian thistle, five-hook bassia, and iceplants. Adjacent farm field is the site of a proposed housing tract.

Bolsa Chica Cumulative Raptor Survey, 2004 to Present

ATTACHMENT NO. 4.45

American Kestrel. (*Falco sparverius*)

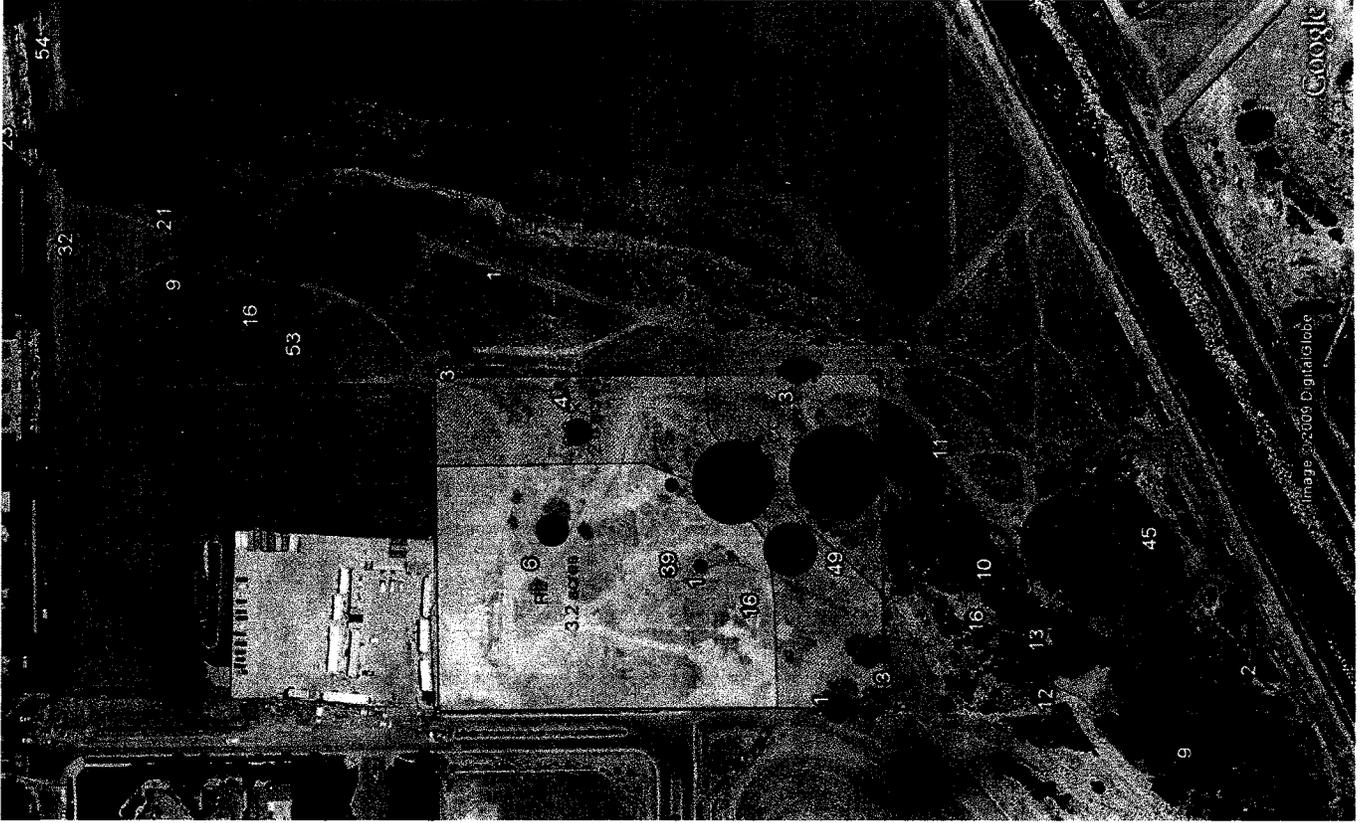


ATTACHMENT NO. 4.46

Barn Owl (*Tyto alba*)



Cooper's Hawk (*Accipiter cooperii*)



ATTACHMENT NO. 4.48

Great Horned Owl (*Bubo virginianus*)



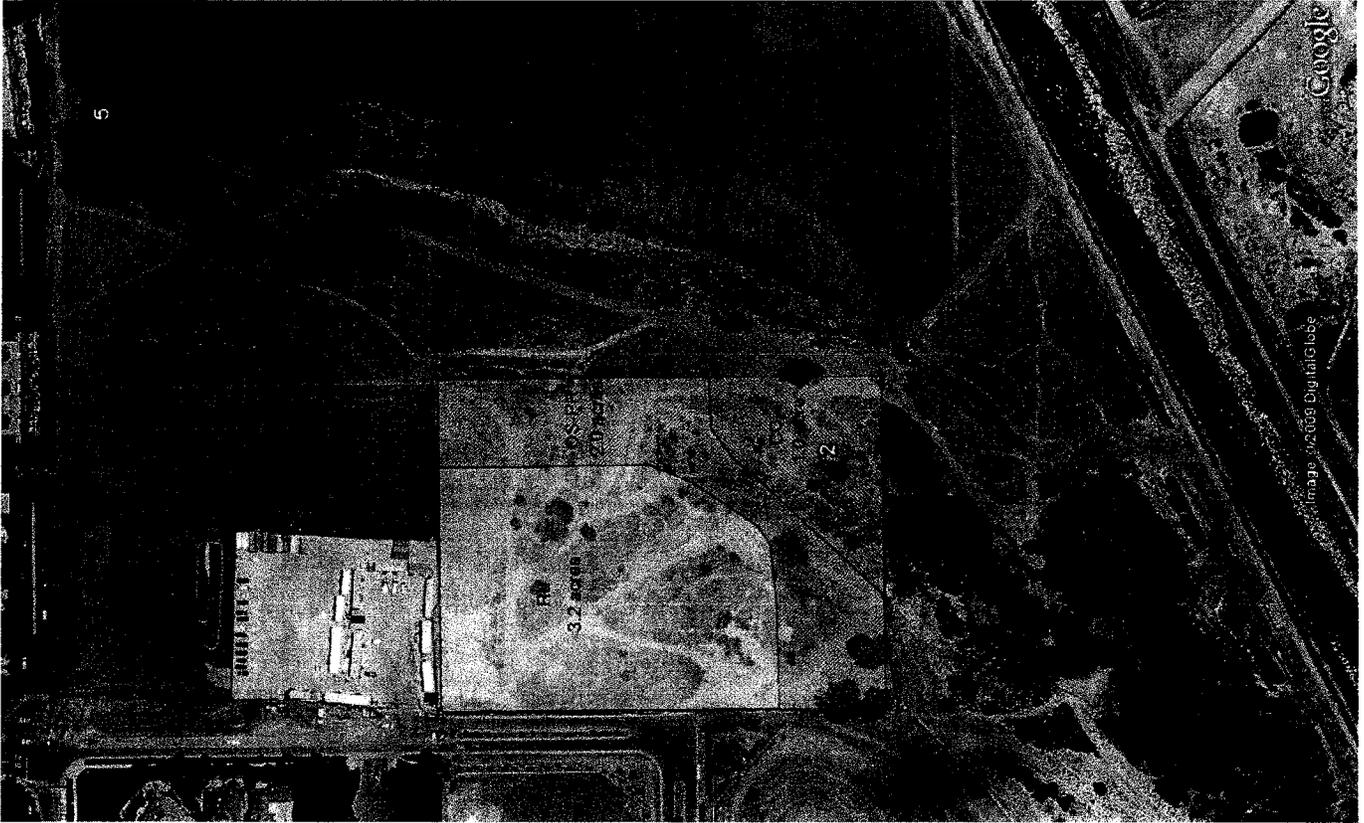
Merlin (*Fa' columbarius*)



Northern Harrier (*Circus cyaneus*)



Peregrine Falcon (*Falco peregrinus*)



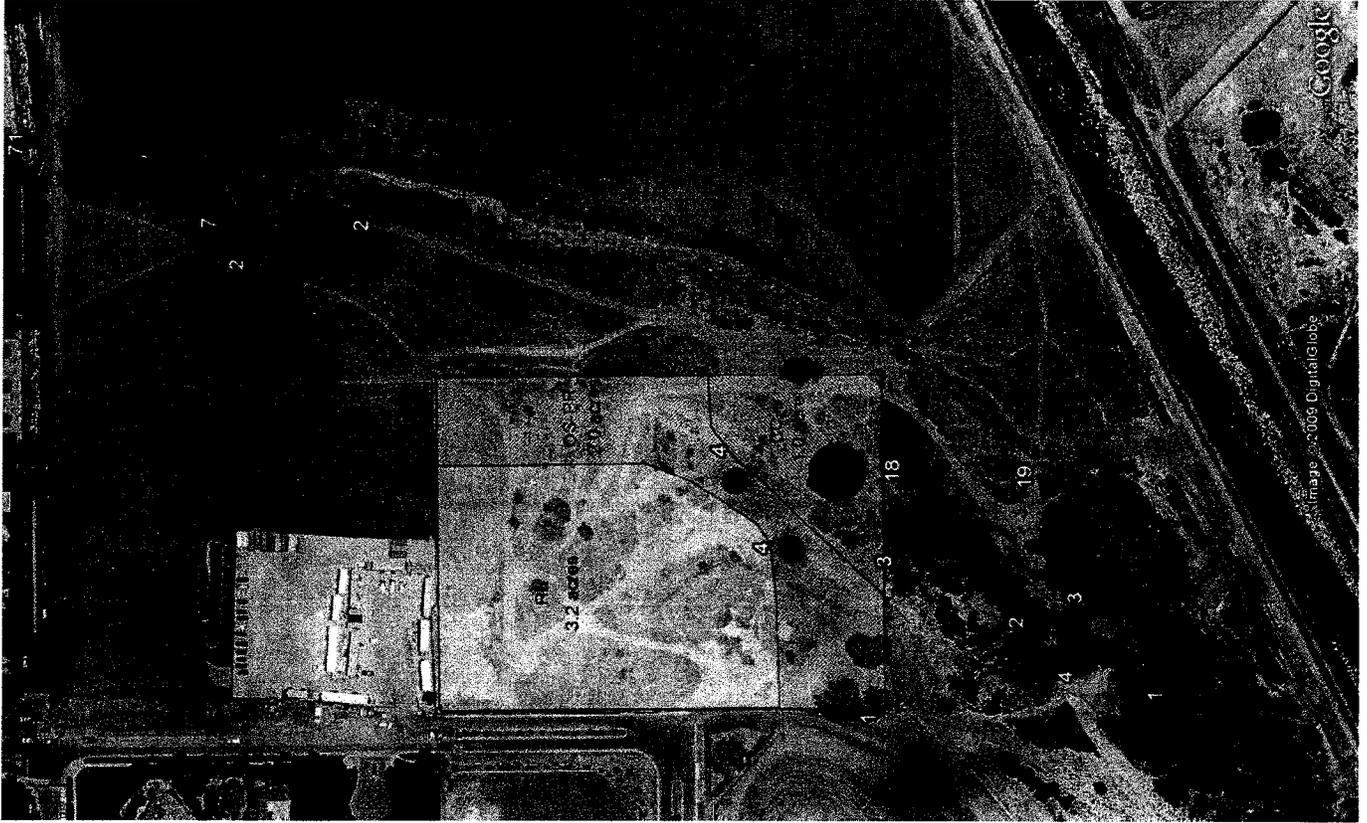
Red-shouldered Hawk (*Buteo lineatus*)



Red-shouldered Hawk (*Buteo lineatus*)



Red-tailed Hawk (*Buteo jamaicensis*)



Sharp-shinned Hawk
(Accipiter striatus)



Sharp-shinned Hawk
(Accipiter striatus)



Turkey Vulture (*Cathartes aura*)

