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***December 17, 2009***

Planning Commission  
City of Oxnard  
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**VIA EMAIL AND SUBMISSION AT HEARING**

***Re: Public Comments on Re-circulated Portions of PEIR for the Oxnard 2030 General Plan & Request for Re-circulation of PEIR Sections Pertaining to Environmental Resources, Infrastructure and Community Services, Safety and Hazards, and Community Development***

Dear Chair Frank, Members of the Planning Commission, and Mr. Williamson:

Thank you for the opportunity to comment on the re-circulated portions of the City of Oxnard's 2030 General Plan ("2030 Plan") Program Environmental Impact Report ("PEIR"). Ventura Coastkeeper ("VCK") is a program of the Wishtoyo Foundation, a community based 501(c)(3) non profit with over 700 members consisting of Ventura County residents, Chumash Native Americans, and the general public that enjoys, depends on, and visits Ventura County's inland and coastal waterbodies. VCK's mission is to protect, preserve, and restore the ecological integrity and water quality of Ventura County's inland and coastal waterbodies for all beings in the County's diverse community through outreach and education, restoration projects, advocacy, litigation, and community organizing and empowerment. In commenting on the 2030 Plan, VCK draws upon the Wishtoyo Foundation's unique cultural perspective, our involvement with the local community, and our experience protecting, preserving, monitoring, and restoring Oxnard's and Ventura County's waterways and waterbodies.

Of particular importance to Wishtoyo and its Ventura Coastkeeper Program is that the 2030 Plan adequately protects the ecological integrity and water quality of the Ormond Beach Wetlands watershed, the Mugu Lagoon watershed, and the Santa Clara River watershed, while also protecting and improving the health and wellbeing of all of Oxnard's residents.

As such, VCK respectfully submits the following comments, and also requests that additional sections of the PEIR are modified and re-circulated for public review and comment.

**I. Sufficiency of the PEIR's Re-circulated Portions**

- A.) While VCK supports the change on the land use map at the Halaco slag heap property from "industrial" to "resource protection," we urge that the Halaco smelter property's land use designation is changed from industrial to resources protection as well. Restoration of the Halaco smelter property into functioning wetlands is not only critical to Ormond Beach Wetland recovery and ecological health, but it will provide room for the wetlands to retreat upon inland encroachment of the ocean due to sea level rise, and will also provide enhanced public access and enjoyment opportunities. Enhanced public access will in turn help improve Oxnard's economy by promoting local tourism and will improve well being amongst local residents.
- B.) The re-circulated PEIR fails to adequately consider the impact on the Ormond Beach wetlands of designating industrial land uses near the Ormond Beach Wetlands. Considering that the PEIR's re-circulated land use map still identifies industrial land use designations near and adjacent to the Ormond Beach Wetland Areas, the impacts to the Ormond Beach wetland's ecological integrity, water quality, aesthetic beauty, wildlife, potential for tourism, and social, economic, and environmental restoration efforts must be analyzed. Part of this analysis must analyze the effect of Sea Level Rise on the Ormond Beach Wetlands should the 2030 Plan be approved and its PEIR certified as proposed, in accordance with the sea level rise forecasts in the March 2009 California Climate Change Center Report, "The Impact of Sea Level Rise on the California Coast"<sup>1</sup>.

## **II. Sufficiency of PEIR**

- A.) The PEIR's analysis of environmental impacts is insufficient because it fails to analyze the 2030 Plan's impacts on the water quality, ecological integrity, and wildlife of Mugu Lagoon and the Santa Clara River Estuary. Without meaningful analysis of these impacts, the PEIR will not be able to adequately mitigate for the 2030 General Plan's environmental impacts to the Santa Clara River Estuary and Mugu Lagoon<sup>2</sup> that will accompany land use change and increased development in their watersheds.
- B.) The City's 2030 General Plan should facilitate the State Coastal Conservancy's plan to acquire, permanently protect, and restore the Ormond Beach wetlands to improve the health, wellbeing, and economic conditions of all of Oxnard's residents, and to protect an ecosystem that is crucial to the preservation and

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<sup>1</sup> [http://www.pacinst.org/reports/sea\\_level\\_rise/report.pdf](http://www.pacinst.org/reports/sea_level_rise/report.pdf)

<sup>2</sup> Mugu Lagoon is one of the few remaining significant, highest quality, saltwater wetland habitats in Southern California. As such, its 1,474 acres has been designated by California as an Area of Special Biological Significance ("ASBS").<sup>2</sup> Mugu Lagoon provides habitat to several resident and migratory endangered and threatened species, supporting the greatest concentration of water-associated birds north of Anaheim Bay, provides the largest remaining natural Brown Pelican roosting area in Southern California, serves as a staging grounds for seals and birds moving to and from Anacapa Island, provides rearing and spawning habitat for numerous fish, and supports over 60,000 shorebirds each spring, up to 10,000 in winter (Page and Shuford 2000), and thousands of ducks during migration and winter.<sup>2</sup> Mugu Lagoon is also home to a historic traditional Chumash village site, Chumash sacred grounds, and Chumash burial sites.

prosperity of numerous endangered fish and birds, and to marine wildlife. In addition, the PEIR is insufficient because it fails to analyze the 2030 Plan's impact on the State Coastal Conservancy's Ormond Beach Restoration Plan and efforts.

### **III. New Information Requires Recirculation of Additional PEIR Sections**

CEQA requires that the PEIR Sections on Environmental Resources (including, but not limited to its subsections on biological resources, aesthetic resources, water resources, and water quality); on Infrastructure and Community Services; on Safety and Hazards, and on Community Development are re-circulated because, 1.) new Ventura Coastkeeper Watershed Monitoring Program data generated between July and December 2009 indicates that Oxnard's storm drains, streets, rivers, estuaries, and coastal waters/beaches are polluted with trash that impairs Oxnard's inland and coastal waterbodies and the human health, property value, and wellbeing of its residents, and because 2.) the 2030 General Plan and its PEIR will intensify this trash pollution and its environmental impacts.

The purpose of recirculation is to give the public and other agencies an opportunity to evaluate the new data and the validity of conclusions drawn from it. *Save Our Peninsula Comm. v Monterey County Bd. of Supervisors* (2001) 87 CA4th 99, 131, 104 CR2d 326; *Sutter Sensible Planning, Inc. v Board of Supervisors* (1981) 122 CA3d 813, 822, 176 CR 342. While there is no provision in CEQA or the CEQA Guidelines directing how lead agencies should handle new environmental information that surfaces before the EIR is certified but that is not added to the EIR, court decisions have filled the gap. If new information is significant, recirculation is required (*Western Placer Citizens for an Agric. & Rural Env't v County of Placer* (2006) 144 CA4th 890, 899, 50 CR3d 799; *Save Our Peninsula Comm. v Monterey County Bd. of Supervisors* (2001) 87 CA4th 99, 131, 104 CR2d 326; *Chaparral Greens v City of Chula Vista* (1996) 50 CA4th 1134, 1146, 58 CR2d 152).

In *Laurel Heights II*, the court gave four examples of situations in which new information is significant, and thus recirculation is required (6 C4th at 1130). Two of these examples are: 1.) When the new information shows a new, substantial environmental impact resulting either from the project or from a mitigation measure; 2.) When the new information shows a substantial increase in the severity of an environmental impact, except that recirculation would not be required if mitigation that reduces the impact to insignificance is adopted.

The data in Table 1 generated by VCK's Watershed Monitoring Program pursuant to VCK's Quality Assurance Project Plan ("QAPP")<sup>3</sup> that is certified and approved by the

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<sup>3</sup> A QAPP's purpose is to assure that appropriate methods of data collection are used and that documentation of the quality assurance approach is available for users of the data. Data collected under VCK's QAPP is certified to be provide as information to the Regional and State Boards for their use, if they so choose, in Clean Water Act Section 305(b) reporting, which sets forth a list of State's impaired waterbodies. Components of a QAPP include Quality Assurance and Quality Control. Quality Assurance includes activities that ensure that data collected are of adequate quality given the monitoring objectives. Quality Assurance consists of two separate but interrelated activities: Quality Control and Quality Assessment. Quality control refers to the technical activities employed to ensure that the data collected are

Los Angeles Regional Water Quality Board, demonstrates a newly documented significant and persistent presence of trash 1.) in the Western Branch of Mugu Lagoon off of Arnold Road; 2.) in the Oxnard Industrial Drain; 3.) in the J. Street Drain; 4.) along J-St. towards Hueneme Road; 5.) in Bubbling Springs; 6.) in the Ormond Beach Wetlands; 7.) in the Oxnard Storm Channel discharging into the Santa Clara River just downstream of Highway 101; 8.) in the Santa Clara River downstream of Highway 101; and 9.) in the Santa Clara River Estuary.

**Table 1: Ventura Coastkeeper Watershed Monitoring Program Oxnard Trash Data**

<b>Monitoring Date</b>	<b>VCK Site</b>	<b>Location</b>	<b>Longitude</b>	<b>Latitude</b>	<b>Pieces of Trash</b>	<b>Recorders</b>
11/1/2009	OB-1	Ormond Beach Wetlands	-119.1820194	34.1371556	10 to 50	Art Flynn, Mike Smith, Jason Weiner
10/22/2009	OB-1	Ormond Beach Wetlands	-119.1820194	34.1371556	50+	Jason Weiner, Mike Smith
9/24/2009	OB-1	Ormond Beach Wetlands	-119.1820194	34.1371556	1 to 10	Erick Burres, Jason Weiner
7/17/2009	OB-1	Ormond Beach Wetlands	-119.1820194	34.1371556	50+	Jim Hensley, Paul Felix, Trevor Smith, Jason Weiner
12/5/2009	OB-3(b)	Ormond Beach Wetlands (J-St. Drain inlet)	n.a.	n.a.	3	RESTOR volunteers, Monique Myers
12/5/2009	OB-4(b)	Ormond Beach Wetlands (OID inlet)	n.a.	n.a.	100+	RESTOR volunteers, Monique Myers
12/5/2009	OB-4	Oxnard Industrial Drain (OID) - upstream of Arcturus & Cypress	-119.1693333	34.1513917	100+	RESTOR Program, Jason Weiner (4 volunteers)
11/2/2009	OB-4	Oxnard Industrial Drain (OID) - upstream of Arcturus & Cypress	-119.1693333	34.1513917	1,000+	Jason Weiner
9/24/2009	OB-4	Oxnard Industrial Drain (OID) - upstream of Arcturus & Cypress	-119.1693333	34.1513917	100+	Erick Burres, Jason Weiner

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adequate given the monitoring objectives to be tested. Quality Assessment activities are implemented to quantify the effectiveness of the quality control procedures.

8/27/2009	OB-4	Oxnard Industrial Drain (OID) - upstream of Arcturus & Cypress	-119.1693333	34.1513917	1,000+	Trevor Smith, Art Flynn, Jason Weiner
7/17/2009	OB-4	Oxnard Industrial Drain (OID) - upstream of Arcturus & Cypress	-119.1693333	34.1513917	50+	Jim Hensley, Paul Felix, Trevor Smith, Jason Weiner

<b>Monitoring Date</b>	<b>VCK Site</b>	<b>Location</b>	<b>Longitude</b>	<b>Latitude</b>	<b>Pieces of Trash</b>	<b>Recorders</b>
11/1/2009	O-2 MS4	Western Branch Mugu Lagoon by Arnold Road Drain	-119.1559667	34.1232806	100+	Art Flynn, Mike Smith, Jason Weiner
8/27/2009	O-2 MS4	Western Branch Mugu Lagoon by Arnold Road Drain	-119.1559667	34.1232806	100+	Trevor Smith, Art Flynn, Jason Weiner
7/28/2009	O-2 MS4	Western Branch Mugu Lagoon by Arnold Road Drain	-119.1559667	34.1232806	100+	Jason Weiner
7/17/2009	O-2 MS4	Western Branch Mugu Lagoon by Arnold Road Drain	-119.1559667	34.1232806	50+	Jim Hensley, Paul Felix, Trevor Smith, Jason Weiner
12/5/2009	OB-3	J-St. Drain (J St. and Hueneme Rd.)	-119.1861167	34.1472833	100+	RESTOR Program, Jason Weiner (4 volunteers)
11/1/2009	OB-3	J-St. Drain (J St. and Hueneme Rd.)	-119.1861167	34.1472833	1,000	Art Flynn, Mike Smith, Jason Weiner
9/24/2009	OB-3	J-St. Drain (J St. and Hueneme Rd.)	-119.1861167	34.1472833	200+	Erick Burres, Jason Weiner
8/27/2009	OB-3	J-St. Drain (J St. and Hueneme Rd.)	-119.1861167	34.1472833	<200	Trevor Smith, Art Flynn, Jason Weiner
7/17/2009	OB-3	J-St. Drain (J St. and Hueneme Rd.)	-119.1861167	34.1472833	50+	Jim Hensley, Paul Felix, Trevor Smith, Jason Weiner
12/13/2009	span	J St. Drain (Hueneme Rd. to Bard Rd.)	range	range	1336	11 volunteers (street & drain pickup)
11/22/2009	span	J St. Drain (Hueneme Rd. to Bard Rd.)	range	range	3989	68 volunteers
10/10/2009	span	J St. Drain (Hueneme Rd. to Bard Rd.)	range	range	3878	23 volunteers

11/1/2009	OB-2	Bubbling Springs by Bard Rd. & J.St.	-119.187125	34.160775	50	Art Flynn, Mike Smith, Anne Warren, Sandy Warren, Jason Weiner
9/24/2009	OB-2	Bubbling Springs by Bard Rd. & J.St.	-119.187125	34.160775	8	Erick Burres, Jason Weiner
8/27/2009	OB-2	Bubbling Springs by Bard Rd. & J.St.	-119.187125	34.160775	10 to 50	Trevor Smith, Art Flynn, Jason Weiner

<b>Monitoring Date</b>	<b>VCK Site</b>	<b>Location</b>	<b>Longitude</b>	<b>Latitude</b>	<b>Pieces of Trash</b>	<b>Recorders</b>
12/5/2009	OB-2b	Bubbling Springs by Hueneme Rd.	-119.1908083	34.1477611	40	RESTOR Program, Jason Weiner (4 volunteers)
7/28/2009	OB-2b	Bubbling Springs by Hueneme Rd.	-119.1908083	34.1477611	5	Jason Weiner
7/17/2009	OB-2b	Bubbling Springs by Hueneme Rd.	-119.1908083	34.1477611	10 to 50	Jim Hensley, Paul Felix, Trevor Smith, Jason Weiner
12/7/2009	SC-02	Santa Clara River (just downstream Hwy 101)	-119.1959389	34.2362472	150+	Mati Waiya, Jason Weiner
11/28/2009	SC-02	Santa Clara River (just downstream Hwy 101)	-119.1959389	34.2362472	50	Jason Weiner
10/29/2009	SC-02	Santa Clara River (just downstream Hwy 101)	-119.1959389	34.2362472	8	Jason Weiner
9/20/2009	SC-02	Santa Clara River (just downstream Hwy 101)	-119.1959389	34.2362472	10	Mati Waiya, Jason Weiner
8/27/2009	SC-02	Santa Clara River (just downstream Hwy 101)	-119.1959389	34.2362472	1 to 10	Trevor Smith, Art Flynn, Jason Weiner
12/7/2009	O-1 MS4	Oxnard Storm Channel into Santa Clara River upstream of SC-02	-119.1887583	34.2389139	60	Anthony Lesney, Jason Weiner
9/20/2009	O-1 MS4	Oxnard Storm Channel into Santa Clara River upstream of SC-02	-119.1887583	34.2389139	30	Mati Waiya, Jason Weiner
8/27/2009	O-1 MS4	Oxnard Storm Channel into Santa Clara River	-119.1887583	34.2389139	50 to 100	Trevor Smith, Art Flynn, Jason Weiner

		upstream of SC-02				
12/7/2009	SC-01	Santa Clara River Estuary	-119.2564167	34.2363333	500+	Anthony Lesney, Jason Weiner (trash on banks and in water)
11/30/2009	SC-01	Santa Clara River Estuary	-119.2564167	34.2363333	20	Jason Weiner (trash in water)

As Stated in the Revised Draft: July 27, 2007 Los Angeles River Watershed Trash TMDL:

“Trash in waterways causes significant water quality problems. Small and large floatables can inhibit the growth of aquatic vegetation, decreasing spawning areas and habitats for fish and other living organisms. Wildlife living in rivers and in riparian areas can be harmed by ingesting or becoming entangled in floating trash. Except for large items such as shopping carts, settleables are not always obvious to the eye. They include glass, cigarette butts, rubber, construction debris and more. Settleables can be a problem for bottom feeders and can contribute to sediment contamination. Some debris (e.g. diapers, medical and household waste, and chemicals) are a source of bacteria and toxic substances. Floating debris that is not trapped and removed will eventually end up on the beaches or in the open ocean, repelling visitors away from our beaches and degrading coastal waters.”

Not only does trash significantly impair the ecological integrity of Oxnard’s Waterbodies including Mugu Lagoon, the Ormond Beach Wetlands and its tributaries, the Santa Clara River, Santa Clara River Estuary, and Oxnard’s coastal marine waters, but trash in the quantities recorded by VCK in Oxnard’s waterways, on and originating from Oxnard’s streets, and on Oxnard’s beaches is 1.) a public health threat because it is a source of and is a conduit for bacteria growth, can be laden with toxic substances or sharp objects, and can provide breeding grounds for mosquitoes; 2.) decreases property values; 3.) decreases resident well being and enjoyment of their communities; 4.) detracts from resident’s and visitor’s aesthetic enjoyment of Oxnard’s waterbodies and environment; 5.) is a safety hazard to people who recreate in or on waterways, beaches, or waterbodies; 6.) and drives away visitors and tourists from Oxnard’s beaches, neighborhoods, commercial establishments, and wildlife sanctuaries.

Furthermore, trash entering the Ocean from Oxnard’s storm drains and waterways impacts the ecological integrity of our oceans, and our ocean’s marine mammals and fishes. Its is estimated that suspended in the North Pacific Gyre in between North America and Asia is a mass of trash twice the size of Texas.<sup>4</sup> Plastic trash is particularly alarming, not only due to its presence and toxicity, but because it does not biodegrade, but photodegrades and exponentially multiplies into smaller and smaller pieces the size of

<sup>4</sup><http://www.sfgate.com/cgi-bin/article.cgi?f=/c/a/2007/10/19/SS6JS8RH0.DTL>;  
<http://www.reuters.com/article/idUSTRE5730ET20090804>

zooplankton. According to Algalita Fish Research, “broken, degraded plastic pieces outweigh surface zooplankton in the central North Pacific by a factor of 6-1. That means six pounds of plastic for every single pound of zooplankton.” (see [http://www.algalita.org/pelagic\\_plastic.html](http://www.algalita.org/pelagic_plastic.html)). Fish ingest plastic, mistaking it for food, and consume other hydrophobic contaminants sorbed to the plastic along with the pollutants contained in plastic and plastic’s additives. Marine mammals and fish also die from trash entanglement and suffocation. Additionally, researchers are investigating the effect that plastics and trash may have on the water chemistry of our oceans.

Adoption of the 2030 Plan and Certification of the PEIR will increase the amount of trash generated in Oxnard due to the increase in development and the increases in population growth and visitors that the Plan encourages.<sup>5</sup> Without adequate mitigation measures incorporated in PEIR and the 2030 Plan to curb trash pollution from: existing land uses, increased residential and industrial land uses, and increases population growth and visitors that will be generated by the 2030 Plan, the 2030 Plan will significantly contribute to and increase trash pollution.

In summary, new information generated and provided by VCK publically documents for the first time, trash pollution that originates in Oxnard’s streets, residential neighborhoods, and commercial and industrial areas, and that ends up in Oxnard’s waterbodies, open storm drains, beaches, and coastal waters. This trash has a significant impact on the water quality, ecological integrity, and wildlife of Mugu Lagoon, the Ormond Beach Wetlands, the Santa Clara River Estuary and River, and the coastal ecosystems in Oxnard. Additionally, this trash has a significant impact on the health, wellbeing, community development, and economic condition of Oxnard’s visitors and residents. The increased development, population growth, and visitors enabled by the 2030 General Plan will intensify trash pollution and the its associated environmental impacts in Oxnard and in Oxnard’s surrounding communities. Accordingly, the PEIR must be revised to analyze the impacts the 2030 Plan and its land use changes have on trash pollution, and must provide mitigation measures to reduce the significant impacts of trash to a less than significant effect.

VCK thus requests that the PEIR sections pertaining to environmental resources, infrastructure and community services, safety and hazards, and community development are re-circulated in their entirety for public comment after adequate analysis and mitigation measures addressing Oxnard’s trash pollution are incorporated into the PEIR.

Thank you for considering our comments. Please feel free to contact us with any questions.

Sincerely,



Jason Weiner, M.E.M.  
Associate Director & Staff Attorney  
Wishtoyo’s Ventura Coastkeeper

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<sup>5</sup> ES-4 and ES-5 indicate that in comparison to 2005, the 2030 plan will increase residential acreage, increase central business district acreage, increase industrial acreage, increase agricultural acreage, and increase acreage for schools.