5.6 - Hazards and Hazardous Materials

5.6.1 - Introduction

This section describes the existing hazardous materials setting and potential effects from project implementation on the site and its surrounding area. Descriptions and analysis in this section are based on information contained in the Environmental FirstSearch Report, West Balboa Boulevard, Newport Beach, CA 92663 prepared on July 7, 2008 by FirstSearch Technology Corporation, and the Dredged-Material Evaluation, prepared in February 2009 by NewFields, LLC. Both of these documents are included in this EIR as Appendix G.

Background

The state of California defines hazardous materials as substances that are toxic, ignitable or flammable, reactive, and/or corrosive. The state also defines hazardous materials as substances that show high acute or chronic toxicity, are carcinogenic (cause cancer), have bioaccumulative properties (accumulate in the body's tissues), are persistent in the environment, or are water reactive. The primary concern associated with a hazardous materials release is the short- and/or long-term effect to the public from exposure to the hazardous material. The best way to reduce the liability for a hazardous material release is through regulation governing the storage, use, manufacturing, and handling of hazardous materials. These regulations are typically issued by the United States Environmental Protection Agency (EPA), but various local agencies are tasked with the responsibility of monitoring those facilities that use, store, transport, and dispose of hazardous materials for compliance with the federal guidelines or, if applicable, with more stringent state guidelines.[1]

The Environmental Protection Agency (EPA) classifies a material as hazardous if it has one or more of the following properties:

- Ignitability - oxidizers, compressed gasses, and extremely flammable liquids and solids.
- Corrosivity - strong acids and bases.
- Reactivity - explosives or compounds that generate toxic fumes when exposed to air or water.
- Toxicity - materials listed by EPA as capable of inducing systematic damage in humans or animals.

Many common household materials, referred to as household hazardous wastes (HHWs), display one or more of the above properties. HHWs consist of any material discarded from homes that may threaten human health or the environment when disposed of improperly. These products can include household cleaners, deodorizers, personal hygiene products, landscaping products, pet care products, paint products, photographic chemicals, swimming pool chemicals, batteries, and automotive products and fluids. These HHWs can also be associated with commercial uses.

[1] Newport Beach General Plan, Safety Element. July 2006.

The American Society for Testing Materials (ASTM) has developed a standard for Phase I Environmental Site Assessments (ESAs) written to satisfy the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) appropriate inquiry requirement. The ASTM standard is the most widely accepted nationwide protocol for environmental assessment of commercial properties and seeks to identify "recognized environmental conditions" on a property. The most current ASTM standard for a Phase I ESA is named ASTM E 1527-00, Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process.

The ASTM Phase I standard typically includes the following tasks:

- Site Reconnaissance
- Regulatory Database Review
- Interviews with Knowledgeable Individuals
- Historical Land/Title Records Review
- Historical Aerial Photograph Review
- Topographic Map Review

5.6.2 - Existing Conditions

The existing site encompasses approximately 10.45 acres and is built up in nature with residential (i.e., mobile homes), community service (e.g., community center, public tennis courts, beach access, etc.), and surface parking lot uses. The approximate 10.45-acre site is bordered on the east by an asphalt parking lot, the American Legion Post 291, residential and commercial uses, and 15th Street; to the south by West Balboa Boulevard and residential uses; and to the west by 18th Street, a hotel and residential uses, and 19th Street along the public beach. Such land uses are not typical generators of hazardous wastes or materials.

Regulatory Records Review

CEQA requires that the Lead Agency consult the lists of hazardous waste sites compiled by various state agencies, pursuant to Government Code Section 65962.5 (Public Resources Code Section 21092.6). Available Standard Environmental Record Sources from federal and state regulatory agency databases were reviewed to identify use, generation, storage, treatment, and/or disposal of hazardous materials and chemicals or release incidents of such materials that may have impacted the project site. The regulatory databases were provided to MBA from FirstSearch (see Appendix E-1 of the EIR for the *Environmental FirstSearch Report* dated July 2008). The *Standard Environmental Record Sources* that were included in this review follow the ASTM standard E1527-05 guidelines. Table 5.6-1 below summarizes the findings of the regulatory database search.

Table 5.6-1: Summary of Regulatory Database Search

Database	Min. Search Distance (miles)	Map Finding Summary
National Priorities List (NPL)	1.25	0
Delisted NPL	0.75	0
Comprehensive Environmental Response, Compensation, and Liability Information Systems List (CERCLIS)	0.75	1
CERCLIS – No Further Remedial Action Planned (CERCLIS – NFRAP)	0.75	2
Resource and Recovery Information System – Permitted Treatment and Disposal Facilities (RCRA – TSD)	0.75	0
Corrective Action Report (RCRA COR)	1.25	0
RCRA Generators (LQG, SQG)	0.50	6
RCRA-NLR	0.50	1
Federal, State, Tribal IC/EC	0.50	0
Emergency Response Notification System (ERNS)	0.50	0
Tribal Lands	1.25	0
State Sites Database (CalSites)	1.25	4
State/Tribal VCP	0.75	0
State/Tribal Brownfields	0.75	0
Spills-1990	0.50	3
Solid Waste Facilities/Landfill Sites (SWL)	0.50	1
Other	0.50	3
Permits	0.50	9
Active Underground Storage Tank Facilities/ Aboveground Storage Tank (UST/AST)	0.50	1
Leaking Underground Storage Tank (LUST)	0.75	11
Source: Environmental FirstSearch Report, West Balboa Boulevard, Newport Beach, CA 92663. July 7, 2008.		

Because the property's length covers roughly three city blocks, the approximate minimum search distance for each *Standard Environmental Record Source* listed above was increased by at least 0.25 mile.

Leaking Underground Storage Tanks (LUST)

The California Regional Water Quality Control Board (RWQCB) compiles an underground storage tank (UST) case list that identifies sites of soil and groundwater contamination caused by unauthorized releases from leaking USTs (LUSTs). According to a review of the database, the closest LUST site is Mobil 18-HG7, located at 1500 Balboa in Newport Beach. This facility reported a

gasoline release in June 1986 that affected groundwater, but the case was closed in October 2000. All remaining LUST sites are located at least 0.40 mile from the project site.

Registered Underground Storage Tanks (UST)

The County Environmental Health Department (EHD) compiles a registered underground storage tank (UST) list that identifies facilities with on-site USTs. Based on information obtained during the site visit and by reviewing the database report, an identified UST site is located approximately 0.2 mile from the proposed project.

State Sites Database

The California EPA database identifies known and potential hazardous substance sites targeted for cleanup. Based on information obtained during the site visit and by reviewing the database report, all identified State Site facilities are located at least 0.3 mile from the project site.

RCRIS Generator

The EPA's Resource Conservation and Recovery Act (RCRA) facilities database identifies properties that report generation, storage, transportation, treatment, or disposal of hazardous waste. RCRIS small- and very small-quantity generators are facilities that generate less than 1,000 kg/month of non-acutely hazardous waste. RCRIS large-quantity generators are facilities that generate more than 1,000 kg/month of non-acutely hazardous waste. Based on information obtained during the site visit and by reviewing the database report, all identified generator sites are located at least 0.15 mile from the project site.

Solid Waste Facilities/Landfill Sites (SWF/LF)

The California Integrated Waste Management Board maintains the Solid Waste Information System, an inventory of the solid waste facilities in the State of California. One solid waste landfill was listed as an unmapped site in the *FirstSearch Report*. This facility could not be plotted due to errors or missing information in the regulatory records. The unmapped solid waste landfill site in the database report was reviewed, and it was determined that the facility would not impact the project site.

Permits

This database contains information concerning Orange County permitted facilities. Based on information obtained during the site visit and by reviewing the database report, all identified permits sites are located at least 0.15 mile from the proposed project.

RCRA-NLR

The EPA's list of all registered hazardous waste generators includes sites that are classified as NLR (no longer regulated) generator facilities. Based on information obtained during the site visit and by reviewing the database report, one identified NLR site is located approximately 0.2 mile from the project site.

CERCLIS/NFRAP

The Comprehensive Environmental Response, Compensation and Liability Information System (CERCLIS) database contains data on potentially hazardous waste sites that have been reported to the US EPA by states, municipalities, private companies, and private persons. CERCLIS contains sites that are either proposed to or are on the National Priorities List (NPL) as well as sites that are in the screening and assessment phase for possible inclusion on the NPL. The No Further Action Planned Report (NFAPR) database contains information pertaining to sites that have been removed from the U.S. EPA's CERCLIS database. NFRAP sites may be sites where, following an initial investigation, no contamination was found, contamination was removed quickly without need for the site to be placed on the NPL, or contamination was not serious enough to require federal Superfund action NPL consideration. All identified CERCLIS/NFRAP sites are located at least 0.3 mile from the project site.

CERCLIS

CERCLIS contains data on potentially hazardous waste sites that have been reported to the US EPA by states, municipalities, private companies, and private persons. CERCLIS contains sites that are either proposed to or on the National Priorities List (NPL) as well as sites that are in the screening and assessment phase for possible inclusion on the NPL. A CERCLIS site is located approximately 0.55 mile from the project site.

Emergency Response Notification System (ERNS)

The Emergency Response Notification System (ERNS) records and stores information on reported releases of oil and hazardous substances. Seven ERNS facilities were listed as unmapped sites in the *FirstSearch Report*. These facilities cannot be plotted due to errors or missing information in the regulatory records. The unmapped ERNS sites in the database report were reviewed, and it was determined that these facilities would not impact the project site.

Spills

This database is provided by the California Regional Water Quality Control Board (RWQCB). Based on information obtained during the site visit and by reviewing the database report, all identified spills sites are located at least 0.25 mile from the site.

Orphan Sites

Seven additional facilities were listed as unmapped sites in the *FirstSearch Report*. These facilities cannot be plotted due to errors or missing information in the regulatory records. MBA reviewed the unmapped sites in the database report and determined the facilities would not impact the project site.

Sediment Evaluation

In February 2009, Newfields, LLC. Prepared the *Dredged-Material Evaluation*. This Evaluation identified that in November 2008, NewFields, LLC conducted a dredged-material evaluation with the intent to identify hazardous materials in dredged sediments throughout the site. Three areas of

observation were tested and named Areas A, B, and C. Area A was comprised of 5 corings in the existing mobile home park, Area B consisted of 4 corings on the beach above the 0 feet MLLW. Furthermore, 7 corings comprised Area C which took place below 0 feet MLLW. Soils were tested based on their consistency to be deposited onsite, used for beach replenishment or disposed off-shore at the Environmental Protection Agency's (EPA's) LA-3 disposal site which is located off of Long Beach. Soil contamination tests for all three test areas showed no detectable signs of pesticides, PCBs, tributyltin, TRPH, oil and grease, phthalates, and PAHs. Furthermore, mercury was only detected in the upper and lower Area C test cores.

Bioaccumulation tests of the upper and lower Area C test cores were performed by NewFields, LLC. These tests revealed that no mercury was found in the tissue of biological organisms tested for the lower sediment layer of Area C. However, mercury was either undetected or detected at 0.01 to 0.013 mg/kg in the tissues of biological organisms in upper Area C test cores. This figure is still well below the U.S. Food and Drug Administration's (USDA's) limit of 1.0 mg/kg and the EPA risk-based guidance value of 0.3 mg/kg. Based on the above findings, the soils that will be dredged would not result in significant hazardous materials.

5.6.3 - Thresholds of Significance

According to the CEQA Guidelines' Appendix G Environmental Checklist, the following questions are analyzed and evaluated to determine whether hazards and hazardous materials impacts are significant environmental effects. Would the project:

a.) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?

b.) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving release of the hazardous materials into the environment?

c.) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?

d.) Be located on a site included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?

e.) For a project located within an airport land-use plan or, where such a plan has not been adopted, or within two miles of a public airport or public-use airport, would the project result in a safety hazard for people residing or working in the project area?

f.) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?

g.) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?

h.) Expose people or structures to a significant risk of loss, injury, or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?

5.6.4 - Project Impact Analysis and Mitigation Measures

This section discusses potential hazards and hazardous materials impacts associated with the proposed project and provides mitigation measures where necessary.

Routine Use

Impact 5.6-A:	**The project would not create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials.**

Project-Specific Analysis

During construction activities, the proposed marina area will be dredged to -12 MLLW. Based on the Dredged-Material Evaluation, there are soils that have detectable mercury concentrations, but the concentrations are below the USDA and EPA regulation limits. Therefore, the soils that will be dredged will not result in significant hazardous materials impacts.

During typical long term activities, the proposed project would not utilize or dispose of any hazardous materials of reportable quantities. Substances for landscaping, such as fertilizers and pesticides, would be subject to all applicable regulations. No hazard impacts would occur with project implementation.

Cumulative

As stated above, construction activities would not result in significant hazardous materials impacts and the long-term activities of the proposed project would not utilize or dispose of any hazardous materials of reportable quantities in its typical operations. Therefore, cumulative adverse impacts related to construction activities and the routine use of hazardous materials would be considered less than cumulatively considerable.

Mitigation Measures

Project Specific

No mitigation measures are required.

Cumulative

No mitigation measures are required.

Level of Significance After Mitigation

Project Specific

Less than significant.

Cumulative

Less than significant.

Accident Conditions

Impact 5.6-B:	**The project may create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving a release of the hazardous materials into the environment.**

Project-Specific Analysis

Project demolition will take place prior to grading and construction efforts on site. There is a potential for the existing onsite structures (i.e., Girl Scout house, community center, and mobile home structures) to contain asbestos and lead-based paint due to their age. Therefore, demolition activities have a potential to result in significant hazardous materials impacts related to asbestos and lead-based paint.

Project construction will also consist of extensive excavation of the marina. Work on the remaining areas will involve limited grading and trenching. These activities would involve typical construction methods and equipment onsite for a relatively limited time. Construction equipment will include diesel- and gasoline-powered engines. A very small (incalculable) risk is present from gasoline or diesel tank rupture. However, compliance with construction site safety regulations limits the risk of upset to less-than-significant levels. Because of the limited duration of these activities, there is minimal risk of spillage; therefore, the potential hazard impact during these activities would be less than significant.

Long-term activities associated with Marina Park as well as the facilities that are part of the Balboa Center complex would not typically use hazardous materials; therefore potential hazard impacts would be less than significant.

In addition, operation of the limited-stay visiting-vessel marina would allow vessels to stay at the marina for up to 30 days. The current City of Newport Beach Harbor regulations do not allow boat owners to use solvents or cleaners on the Newport Bay or at marinas. In addition, the proposed marina would not include maintenance areas, vehicle/boat wash areas, or fueling. Therefore, the potential for the proposed marina to experience a hazardous materials upset or accident condition is limited and considered less than significant.

Cumulative

Impacts associated with project demolition activities may result in significant hazardous materials impacts related to asbestos and lead-based paint. Therefore, the proposed project could contribute to significant cumulative hazardous materials impacts related to asbestos and lead-based paint.

Impacts related to the accidental release or a hazardous materials incident during long-term activities are site specific and would not contribute to a greater cumulative impact associated with a release or

incident. Therefore, the project's long-term contribution to potential cumulative hazardous materials impacts is considered less than cumulatively considerable.

Mitigation Measures

Project Specific

MM 5.6-B.1 Prior to demolition activities, the project proponent shall determine whether asbestos or lead-based paint materials are present within the existing onsite structures. If these materials are present, the project proponent shall properly dispose of these materials in a landfill that accepts asbestos and lead-based paint.

Cumulative

Implementation of Mitigation Measure MM 5.6-B-1 is required.

Level of Significance After Mitigation

Project Specific

Less than significant.

Cumulative

Less than significant.

Schools

Impact 5.6-C:	**The project would not emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school.**

Project-Specific Analysis

The proposed project is located approximately one-quarter mile from Newport Elementary School. However, implementation of the proposed project would not result in emission of hazardous materials or wastes that would pose a serious health risk to school activities. There are no significant or extraordinary conditions associated with the project that will result in the release of hazardous or acutely hazardous materials, substances, or waste. Compliance with applicable state and federal regulations with regard to the use of hazardous materials would ensure that any remote impact potential would be less than significant.

Cumulative

As stated above, the proposed project is located approximately one-quarter mile from Newport Elementary School. Implementation the proposed project would not result in emission of hazardous materials or wastes that would pose a serious health risk to school activities. Therefore, implementation of the proposed project would result in a less-than-significant cumulative impact related to the impact on schools due to releases of hazardous emissions.

Mitigation Measures

Project Specific

No mitigation measures are required.

Cumulative

No mitigation measures are required.

Level of Significance After Mitigation

Project Specific

Less than significant.

Cumulative

Less than significant.

Hazardous Materials Site Listing

Impact 5.6-D:	**The project would not be located on a site that is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would not create a significant hazard to the public or the environment.**

Project-Specific Analysis

Standard Environmental Record Sources from federal and state regulatory agency databases were reviewed to identify use, generation, storage, treatment, and/or disposal of hazardous materials and chemicals or release incidents of such materials that may have impacted the project site. The regulatory databases information provided by Environmental First Search indicated no evidence of listed hazardous materials site(s) within the project site; therefore, no impacts from listed hazardous material sites would occur.

In addition, construction activities will include dredging activities for the proposed marina. Based on the *Dredged-Material Evaluation*, there are soils that have detectable mercury concentrations, but the concentrations are below the USDA and EPA regulation limits. Therefore, the soils that will be dredged are not considered significant hazardous materials.

Cumulative

The proposed project is not on a regulatory list on a list of hazardous materials sites compiled pursuant to Government Code section 65962.5. Therefore, the project implementation would not contribute to potential cumulative impacts related to listed hazardous material sites within the City.

Mitigation Measures

Project Specific

No mitigation measures are required.

Cumulative

No mitigation measures are required.

Level of Significance After Mitigation

Project Specific

No impact.

Cumulative

No impact.

Airports

Impact 5.6-E:	**For a project located within an airport land-use plan or, where such a plan has not been adopted, within two miles of a public airport or public-use airport, the project would not result in a safety hazard for people residing or working in the project area.**

Project-Specific Analysis

The proposed project is not located within an airport land-use plan or within two miles of a public-use airport. Therefore, no airport safety hazard impacts would result from the proposed project.

Cumulative

As stated above, the proposed project is not located within an airport land-use plan or within two miles of a public or public-use airport. Therefore, the project would not contribute to cumulative adverse airport safety hazard impacts.

Mitigation Measures

Project Specific

No mitigation measures are required.

Cumulative

No mitigation measures are required.

Level of Significance After Mitigation

Project Specific

No impact.

Cumulative

No impact.

Private Airstrip

Impact 5.6-F:	**For a project within the vicinity of a private airstrip, the project would not result in a safety hazard for people residing or working in the project area.**

Project-Specific Analysis

The proposed project is not located within the vicinity of a private airstrip. Therefore, no impacts related to aircraft safety hazards would result from the proposed project.

Cumulative

As stated above, the proposed project is not located within the vicinity of a private airstrip. Therefore, no cumulative adverse impacts related to aircraft safety hazards would result from the proposed project.

Mitigation Measures

Project Specific

No mitigation measures are required.

Cumulative

No mitigation measures are required.

Level of Significance After Mitigation

Project Specific

No impact.

Cumulative

No impact.

Emergency Plans

Impact 5.6-G:	**The project would not impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan.**

Project-Specific Analysis

The Safety Element of the City's General Plan recognizes and responds to public health and safety risks that could cause exposure to the residents of Newport Beach. Implementation of city, county, and state emergency response and mutual aid plans enable the community to avert or minimize impacts to the extent practical and feasible and allow restoration of the City in a timely manner after an event.

Specifically, the Orange County Fire Services Area Plan Annex contains a Marine (Air/Sea) Disaster Response Plan that establishes protocols for marine disasters in the harbor or ocean from either aircraft or boating accidents. This plan, which includes a county-wide mutual-aid response to a disaster, would be implemented by the Newport Beach Fire Department (NBFD).

Within the NBFD, the Disaster Preparedness Coordinator has updated the City's Emergency Management Plan, including the development and implementation of training for City employees. The Emergency Management Plan describes the different levels of emergencies, the local emergency management organization, and the specific responsibilities of each participating agency, government office, and City staff member. A city-wide drill, which involves implementation of the Plan, is conducted annually.

Access to the peninsula is primarily obtained via Newport and Balboa Boulevards, and the project site is situated on Balboa Boulevard. The proposed project will not constrict access or result in modifications to Balboa or Newport Boulevards. The proposed project will not alter emergency access to surrounding uses, and onsite emergency access will be provided via the onsite circulation system. The onsite circulation system has been designed to accommodate emergency vehicles (e.g., turning radii, etc). Therefore, no impacts to the adopted emergency response plan or emergency evacuation plan would occur.

Cumulative

As stated above, implementation of the proposed project would not conflict with the City's existing emergency response or evacuation plan. Additionally, the onsite circulation system for the proposed project is designed to accommodate emergency vehicles and would not constrict or alter emergency access to surrounding uses. Therefore, no cumulative adverse impacts related to this issue would occur as a result of implementation of the proposed project.

Mitigation Measures

Project Specific

No mitigation measures are required.

Cumulative

No mitigation measures are required.

Level of Significance After Mitigation

Project Specific

No impact.

Cumulative

No impact.

Wildland Fires

Impact 5.6-H:	**The project would not expose people or structures to a significant risk of loss, injury, or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands.**

Project-Specific Analysis

The proposed project is located in a highly urbanized area and is surrounded primarily by residential development and commercial uses. The vicinity of the project site is considered to have a low fire risk. Fire risk is dependent upon the moisture level in the plants and the presence of incendiary sources. Although fire is a risk for any kind of structure, the proposed project would not be at any greater risk than other uses adjacent to the site. Project design will include emergency fire access routes, and the proposed structures will be reviewed by the Newport Beach Fire Department to ensure that the design meets the Fire Department standards, including those for building materials, sprinklers, internal fire walls, access for emergency vehicles, etc. Therefore, the proposed project

would not expose people or structures to a significant risk of loss, injury, or death involving wildland fires. Therefore, no impacts would occur.

Cumulative

The project site is not located in an area that is considered a wildland fire hazard area; therefore, the proposed project would not contribute to a cumulative increase in wildland fire hazards.

Mitigation Measures

Project Specific

No mitigation measures are required.

Cumulative

No mitigation measures are required.

Level of Significance After Mitigation

Project Specific

No impact.

Cumulative

No impact.