City of Huntington Beach
P. O. BOX 190 • 2000 MAIN STREET • CALIFORNIA 92648

September 17, 2012

The Honorable Thomas J. Borris
Presiding Judge of the Superior Court
700 Civic Center Drive West
Santa Ana, CA 92701

RE: Grand Jury Report on NESI-ASCON Toxic Dump Site

Dear Judge Borris:

The Huntington Beach City Council, in conjunction with the City Manager's Office, has reviewed the 2011-2012 Orange County Grand Jury report titled "NESI-ASCON Toxic Dump Site." We would like to thank the members of the Grand Jury for devoting their time and hard work during the past year to create this report.

The Huntington Beach City Council and the City Manager's Office have consistently been engaged and aware of the desire to seek final clean up of the NESI-ASCON Toxic Dump Site. The City of Huntington Beach is providing the following response to each of the findings and recommendations, in accordance with California Penal Code Sections 933 and 933.05 (a) and (b).

FINDINGS

F1. The subject area is a former dumpsite where industrial and oil field wastes were disposed of into surface impoundments.

The City agrees with this finding.

F2. Numbers of unsuccessful efforts to clean up the site had been made from the early 1980's.

The City partially agrees with this finding.

Although the site has not been completely cleaned up, considerable progress has been made, including two successful removal actions. Since the 2003 State of California Consent Order, over 150,000 tons of waste and on-site material has been removed safely from the Site and disposed at a central California landfill.

Waste removal occurred in 2005 and 2006 with the need to stabilize the exterior earthen berms along Hamilton Avenue. This included removal of waste in Lagoons 4 and 5, necessitated by 200-year storm events. An Interim removal measure most recently occurred

in 2010 and 2011 which disposed of large quantities of material from Lagoons 1, 2 and 3. This measure also facilitated data collection which is being used to assist in determining the final clean up method.

F3. The California Department of Toxic Substances Control (DTSC), an agency under the California Environmental Protection Agency, became lead clean-up agency in 1989.

The City agrees with this finding.

F4. The 1999-2000 Grand Jury studied the problems of potential dangers to the health and safety of the community and recommended that the City of Huntington Beach pursue a more stringent policy of safety enforcement of the appropriate regulations and rules pertinent to the toxic dangers facing the City.

The City agrees with this finding that the 1999-2000 Grand Jury studied the NESI/ASCON site.

F5. The 1999-2000 Grand Jury found that the City of Huntington Beach did not assume the degree of responsibility for monitoring the Nesi/Ascon site that seemed prudent to that Grand Jury.

The City agrees this finding was previously made in the 1999-2000 Grand Jury report. However, since the issuance of this report, the City of Huntington Beach already responded to the Grand Jury and addressed the matter (attachment #1).

F6. A Consent Order and Decree was issued in 2003 by the State DTSC through which seven companies agreed to take on the task and expense of reclaiming the site.

The City agrees with this finding.

F7. DTSC driven "clean-up" began in 2003

The City agrees with this finding.

F8. Final remediation has still not been attained but is expected to be completed in 2015.

The City partially agrees with this finding.

The City agrees that final remediation of the site has not been attained. However, the City has not been notified by DTSC of a specific completion date.

F9. Clean-up is taking an extraordinarily long time to achieve, far longer than originally contemplated.

The City agrees with this finding.

F10. Some neighbors claim that there have been abnormally high numbers of physical and neurological illnesses in nearby housing owning to the toxicity of the site, although Public Health Agency statistics do not appear to bear this out. Such public health statistics have not calmed the fears of some local residents.

The City agrees that some residents have raised concerns, and they were addressed in the information received from the Orange County Health Care Agency (OCHCA) in the form of a letter from the University of California regarding this issue (attachment #2).

RECOMMENDATIONS

R1. The Huntington Beach City Council should give the Nesi/Ascon site (now called the Ascon Landfill) a high priority and use their positions to bring pressure on the appropriate entities to hasten (in accordance with State law) the final effective reclamation of this site.

The recommendation has been implemented.

The City has always maintained the clean-up of the Ascon site as a City priority and the project remains as one of the "Major Projects" in the City. Previously, the City had a City Council Subcommittee review the matter. The site is currently a standing agenda item on the City's Southeast Area Committee meetings. This committee, which is partially made up of three City Council Members, is regularly briefed by City staff and a representative of the responsible party regarding the status of the site clean-up. In addition, numerous City Council Study Sessions and community meetings have been held at City Hall and within the community to discuss the project. DTSC has also been in attendance at these meetings in order to receive input from the City Council and the public in regards to the final clean up methodology. Lastly, all standing members of the City Council have conducted tours of the site which allowed them the ability to provide input to DTSC representatives.

The City will also send a letter to DTSC within 30 days of this response requesting that the final site remediation be completed as quickly as possible. However, the City does not direct the clean up at Ascon, which is a State-regulated site. The parties cooperating in the clean-up of the Ascon Landfill Site work at the direction of DTSC.

R2. The Huntington Beach City Council in conjunction with the Orange County Health Agency (Public Health) should inquire into the possibility that health issues in the neighborhood of the dumpsite were caused or exacerbated by proximity to the site.

The recommendation has been implemented.

The City received information from the Orange County Health Care Agency (OCHCA) in the form of a letter from the University of California that addresses the matter (attachment #2).

The preceding responses to the Grand Jury findings and recommendations are from the individual City Council Members and the City Manager from the City of Huntington Beach.

Mayor, Donald F. Hansen, Jr.

Mayor Pro Tem, Devin Dwyer

Council Member, Connie Boardman

Council Member, Keith Bohr

Council Member, Joe Carchio

Council Member, Matthew Harper

Council Member, Joe Shaw

City Manager, Fred Wilson

City of Huntington Beach
2000 MAIN STREET CALIFORNIA 92648
OFFICE OF THE MAYOR
Telephone (714) 536-5553

DRUG USE IS LIFE ABUSE

October 9, 2000

RECEIVED
OCT 05 2000
Orange County Grand Jury

Judge C. Robert Jameson
Presiding Judge of Superior Court
700 Civic Center Drive West
Santa Ana, CA 92701

Honorable Judge Jameson:

SUBJECT: NESI (ASCON) ACTIVITY UPDATE AND SCHEDULE

In response to the June 9, 2000 Grand Jury letter, the City of Huntington Beach placed security requirements on the NESI (ASCON) site in Huntington Beach. These requirements included interior and exterior fencing repairs and replacement, posting "HAZARDOUS AREA" signs, removal of interior vegetation and tree trimmings. In addition, Green Park Group, LLC agrees to perform weekly inspections and long-term fence replacements.

On July 27, 2000, the City received a completion report from Marina Robertson of the Green Park Group, LLC regarding site security. To date, the site meets City site security requirements.

Additionally, NESI is currently in the Voluntary Cleanup Agreement (VCA) with the California Environmental Protection Agency, Department of Toxic Substance Control (DTSC). Under the terms and conditions of the agreement, DTSC manages and controls the site investigation, cleanup activities, and soil remediation.

If you have any questions or need additional information, please contact me at 714/536-5553.

Sincerely,

Dave Garofalo
Mayor

DG/MPD/DSO/bjg

RECEIVED
OCT 13 2000
Orange County Grand Jury

c: Orange County Grand Jury
Ray Silver, City Administrator
Ronald E. Lowenberg, Chief of Police
Michael P. Dolder, Fire Chief
Howard Zelefsky, Planning Director
Duane S. Olson, Division Chief/Fire Marshal

USC
UNIVERSITY
OF SOUTHERN
CALIFORNIA

Jennifer Dreesen

9862 Harbor Point Circle

Huntington Beach CA 92646

October 5, 2011

Dear Ms. Dreesen:

Keck School of Medicine

Department of Preventive Medicine

Thomas Mack,MD MPH
Professor

In response to the concern you have expressed about the occurrence of brain stem malignancy in the children of south Huntington Beach, particularly in respect to the ASCOM dumpsite, I have examined the California Cancer Registry (CCR) records of central nervous system malignancies in children in Orange County and Huntington Beach. As you know, the CCR is a legally mandated registration of all cancers diagnosed in the residents of California, including Orange County, for which, among other characteristics, the age, residential address, and date of diagnosis of all cases have been recorded since 1988.

During the period 1988-2009 (the last year for which complete counts are yet available), 40,495 California residents were diagnosed with brain malignancies, of which 3467were from Orange County. The highest rates of brain cancer occur in persons over 65; the rate of occurrence among persons in their seventies is six times the rate among children.
Brain cancers in both adults and children are known to be decreasing slightly in frequency over time everywhere in the country, and this has been true in California, so that the overall rate per 100,000 residents fell from 6.1 in the period 1988-1999 to 5.8 in the period 2000-2009. Brain cancer occurrence is known to vary with three factors in addition to age and calendar year, namely sex, race and relative affluence/education. Rates are somewhat higher in men than women and in persons of European origin (i.e. whites) than in African-Americans, Latinos, or Asian-Americans. Rates are also somewhat higher in children from communities with persons of higher income and better education. The reasons for these discrepancies are not yet known. No differences are known to occur between the causes or the occurrence patterns of brain stem cancers and other brain cancers.

In Orange County from 1988-2009, there were 4189 cases for an annual rate of 6.3 per 100,000 in all races., whereas in whites the rate was 7.4 per 100,000. The annual rate in men was 7.5 per 100,000, and in women 5.8 per 100,000. Among whites in the county in the earlier period from 1988-1999 it was 7.8 per 100,000, and later, from 2000-2009, it was 6.8 per 100,000, decreasing as expected. Among children less than 15 years of age, there were 3 annual cases per 100,000 for brain cancer overall and 0.7 cases per 100,000 restricted to the brain stem. These rates represent 409 childhood cases; 93 of which were anatomically situated in the brain stem.

At the level of the city or neighborhood, rates in subgroups become less stable and therefore less accurate because of the smaller numbers of cases and because of inaccuracy in the estimates of the size of the local population caused by demographic changes from year to year, including those due to residential development, and shifts in ethnicity. It is therefore more convenient to compare cancer frequencies between subgroups. In Huntington Beach over the same period of 1988-2009, 570 cases of brain cancer occurred, with an (approximate) annual rate of 8.8 per 100,000 persons, this higher rate reflecting the relatively homogenous white, somewhat more affluent, population. Of these, 297 occurred in the period 1988-1999 and 273 in the period 2000-2009. Applying the Orange County childhood annual rates to the childhood population of Huntington Beach, we would expect roughly 25 brain cancers to have appeared over the 24 year period, of which 5 or 6 would have been expected to occur in the brain stem. The number actually registered in kids from Huntington Beach was 25, of which 8 were ascribed to the brain stem.

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Table 1. Annual cases of brain malignancy registered in Orange County by community, age and subsite

	Huntington Beach South			Huntington Beach North			Other Orange County		
Year	Adult	Child Brain Stem	Child Other Brain	Adult	Child Brain Stem	Child Other Brain	Adult	Child Brain Stem	Child Other Brain
1988	5	0	1	16	0	0	134	2	12
1989	6	0	0	16	0	0	129	2	15
1990	6	1	0	17	0	0	139	1	10
1991	4	0	1	12	0	0	110	2	11
1992	7	0	1	16	0	0	123	4	8
1993	8	0	0	16	0	1	125	5	16
1994	8	1	0	21	0	0	127	8	8
1995	10	0	1	17	0	0	157	1	12
1996	4	0	1	10	0	0	132	6	11
1997	8	0	0	16	0	1	144	1	11
1998	10	1	0	15	0	0	143	4	7
1999	11	2	1	24	0	1	148	7	23
2000	11	1	0	11	0	0	166	10	14
2001	9	0	0	13	0	0	137	1	11
2002	9	1	1	14	0	1	144	9	18
2003	10	0	0	12	0	1	150	4	8
2004	12	0	0	20	0	1	179	3	15
2005	5	0	0	13	0	1	171	4	18
2006	16	1	0	20	0	0	161	5	15
2007	15	0	1	20	0	0	186	0	24
2008	11	0	0	14	0	1	159	4	13
2009	10	0	1	17	0	0	171	2	19
Total	195	8	9	350	0	8	3235	85	299

If we divide Huntington Beach into northern and southern parts at Garfield Avenue, 62% of the city's population lives in the northern part and 38% in the southern part according to the 2000 census. Accordingly, 350 (64%) of the cases of brain cancer occurred among the residents of the northern part, whereas 195 (36% appeared in persons in the southern part. Of the 25 childhood cases, only 8 lived in the northern part, and 17 lived in the southern part, including all 8 of those with brain stem malignancy. Such a discrepancy certainly justifies the concerns of the residents of southern Huntington Beach. In fact, there are two unexplained discrepancies. Not only did about twice as many childhood brain stem cancers as expected occur in the southern part, but just as unexpectedly, none at all occurred in the northern part of the city, whereas three or four would have been expected. Not surprisingly, no one noticed that even more unusual discrepancy.

We then examined the pattern of brain cancer cases in relation to age, year, and more precise geographical location in order to assess the possibility of some form of causal clustering. The table below shows the years of occurrence of brain cancers in Huntington Beach, with the anatomical location of the childhood cases. Brain cancers in adults have slightly increased in frequency in the past few decades, reflecting the aging of the population. Like brain cancer in children generally, brain stem cancer in children is, if anything, less frequent in recent years than earlier, and this holds true for both parts of Huntington Beach as well as for the rest of

Orange County. Since southern Huntington Beach extends several miles from east to west as well as from north to south, we plotted the location of residences of affected children, both in relation to each other as well as in relation to the ASCOM dumpsite, since that has been a concern to residents (for confidentiality reasons, we cannot display the map). None of the cases resided at the time of diagnosis within a half-mile of the dumpsite, and only one residence was even that close. The other residential locations were dispersed widely, both from east to west and from north to south, across the southern part of the city.

We then tried to explain these discrepancies on the basis of available medical and biological information. It is true that the southern half of the city is overwhelmingly European-American, and somewhat more affluent than the rest of Orange County, including the northern half of the city. However, there is no known difference between the pattern of brain stem cancer and other brain cancer, in children or otherwise. The only certain environmental (i.e. non-genetic) cause of childhood brain malignancy is exposure to high doses of radiation, and in Huntington Beach the only source would be from outdated forms of treatment and those used to treat cancer. Dietary factors have long been hypothesized to be related to childhood brain cancer, but is seems highly unlikely that there would be a consistent difference between the diets of the relatively well-educated families in northern and southern Huntington Beach. Parental concerns would naturally be focused on the possibility of an environmental exposure of a chemical nature, possibly in relation to the dump site or some industrial location. However, while such concerns are often raised, they almost never can be substantiated.

Were carcinogens to have been emitted from a location in the midst of a residential community such as Huntington Beach, only the persons living right next to the point of emission would be subjected to a high level of exposure, because the concentration of any emission dissipates rapidly as it is diluted in the air, in geometric proportion to the distance from the site. Because they would be few in number, the likelihood of an identifiable excess in the context of the ordinary background frequency would be small. Moreover, the doses of carcinogens historically emitted in California have been miniscule, not only when emitted from dumpsites but also from poorly managed industrial sites. While it is never possible to rule out a link between such an emission and the occasional case, such an emission has never been large enough to explain a measurable cluster of cases, despite what we see in the movies. Moreover, the residential pattern of the cases in Huntington Beach is not one of geographical clustering, not only in relation to the ASCOM dumpsite but in relation to each other.

We do sometimes have concerns about carcinogens being emitted into the air not from a single point, but from many widely disseminated points, such as from the diesel exhausts of trucks or the flight paths of aircraft. If this kind of exposure were to have been carcinogenic in Huntington Beach, it could not explain the difference between the northern and southern parts of the city.

We are therefore left with no medical or biological explanation for either the overabundance of brain stem cancers in the children of southern Huntington Beach or the deficit of the same malignancies in northern Huntington Beach. The frequency is not increasing over time, and unless some new information comes to light, we must conclude that both of these discrepancies are due to chance.

Even though it might seem so initially, chance is not completely outrageous as an explanation. If four cases are expected to occur in a given place and time and 8 or more actually occur, one can calculate the odds of that happening by chance, and it is about one time in a hundred. To use a trivial but familiar every-day analogy, one time in a hundred is actually a more likely set of odds than the odds of getting three of a kind in a hand of 5 playing cards dealt from an honest deck. Considered in another way, picture 500 California communities similar in size and character to south Huntington Beach; one can predict on the basis of these odds that 8 or more childhood cases of brain stem cancer would be found to occur over a similar period in at least 5

of them by chance alone. Since this number or more such communities probably can be found in California alone, some are likely to be similarly affected at this time.

I will be happy to answer any additional questions you may have.

Sincerely,

Thomas Mack MD, MPH
Professor