

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES**

**ARROYO SECO FOUNDATION, a California
Non-Profit Corporation; PASADENA
AUDUBON SOCIETY, a California Non-Profit
Corporation;**

Petitioners and Plaintiffs.

v.

**COUNTY OF LOS ANGELES, a political
subdivision of the State of California and Charter
County; COUNTY OF LOS ANGELES BOARD
OF SUPERVISORS, governing body of the
County of Los Angeles; COUNTY OF LOS
ANGELES DEPARTMENT OF PUBLIC
WORKS, a public entity; LOS ANGELES
COUNTY FLOOD CONTROL DISTRICT, a
public entity; and DOES 1-10, inclusive.**

Respondents, and Defendants.

**LOS ANGELES COUNTY FLOOD CONTROL
DISTRICT, a public entity; and ROES 1-10,
inclusive.**

Real Parties in Interest and Defendants.

CASE NO.: BS152771

**[PROPOSED] PEREMPTORY WRIT OF
MANDATE**

**Assigned for All Purposes to Honorable James C.
Chalfant, Dept: 85**

**Trial Date: February 14, 2017
Continue Trial Date: March 23, 2017**

1 To the County Of Los Angeles, County Of Los Angeles Board Of Supervisors, County Of Los
2 Angeles Department Of Public Works, and Los Angeles County Flood Control District (collectively,
3 "Respondents"):

4 Judgment having been entered in this proceeding, ordering the issuance of a peremptory writ
5 of mandate from this Court,

6 YOU ARE ORDERED, upon receiving service of this writ, to:

7 1. Void and set aside the November 12, 2014 certification of the portions of the Final
8 Environmental Impact Report ("EIR") for the Devil's Gate Sediment Removal and
9 Management Project ("Project") that are necessary to bring Respondents' actions into
10 compliance with CEQA.

11 a. Take action to remedy the inadequacies found by the Court in the Final EIR as described
12 in the Court's Decision, which includes the February 14, 2017 Tentative Decision and
13 March 23, 2017 Tentative Decision, as modified by the Reporters' Transcripts of
14 Proceedings for the February 14, 2017 and March 23, 2017 hearings, viz. Mitigation
15 Measure Air Quality 1 (MM AQ-1), Mitigation Measures Biological Resources 6, 7, and
16 8 (MM BIO-6, MM BIO-7, and MM BIO-8), and the EIR's cumulative impacts analysis
17 for biological resources. including but not limited to the following actions which
18 Respondents elect to take:

19 i. Respondents shall recirculate, for a 45-day public comment period, pages 83-85,
20 130-134, 690-694, and 707 of the Final EIR (Administrative Record pages
21 AR6718-6720, AR6765- 6769, and AR 7315-7319, AR7332, respectively)
22 revised to:

- 23 1. Provide substantial evidence to support the 1:1 mitigation ratios in MM
24 BIOI-6, -7, and -8, and therefore the Final EIR's conclusion that the
25 biological resource impacts will be reduced to less than significant levels;
26 and
- 27 2. Confirm that Mitigation Measures BIO-1 through BIO-8 will be applied
28 as mitigation to the Water Conservation Project should such a project go
forward.
3. Modify MM AQ-1 to read as follows: "LACFCD shall require all
construction contractors during the sediment removal phase of the
Proposed Project to use only sediment removal dump trucks that meet

EPA's emission standards for Model Year 2010. ~~Model Year 2007 or~~
later."

4. Amend the Mitigation Monitoring and Reporting Program ("MMRP") to update MM AQ-1 as specified above.
2. Revise and recirculate all necessary portions of the Final EIR and Mitigation Monitoring and Reporting Program ("MMRP") for a 45-day public comment period.
3. Place the recirculated portions of the Final EIR and any amended portion of the MMRP on the publically noticed agenda of the Board of Supervisors for hearing and public comment.
4. Suspend any and all Project activities unless and until Respondents have taken the necessary corrective actions to comply with CEQA and the writ.
5. Ensure that the entire EIR has been completed in compliance with CEQA and the CEQA Guidelines prior to its recertification.
6. Comply with the provisions of CEQA and the CEQA Guidelines in all other respects.
7. File and serve an initial return to the writ no later than 90 days after service of the writ. The return shall specify the actions taken to comply with the terms of the peremptory writ of mandate.
8. Under Public Resources Code section 21168.9(b), this Court will retain jurisdiction over the Respondents' proceedings through a return to the writ until the Court determines that the District has complied with CEQA and the writ.
9. Under Public Resources Code section 21168.9(c), this Court does not direct Respondents to exercise their lawful discretion in any particular way.

DATED: _____

Hon. James C. Chalfant
JUDGE OF THE SUPERIOR COURT



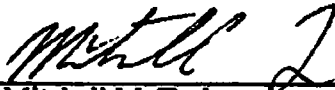
SHERRI R. CARTER
MAY 17 2017


ANITA BARRON

1 APPROVED AS TO FORM:


2 DATED: April 18, 2017

MITCHELL M. TSAI, ATTORNEY AT LAW

3
4 By: 
5 Mitchell M. Tsai

6 DATED: April 18, 2017

ADAMS BROADWELL JOSEPH & CARDOZO

7
8 By: 
9 Christina M. Caro

10 Attorneys for Petitioners Arroyo Seco Foundation &
11 Pasadena Audubon Society

12 DATED: April __, 2017

Mary C. Wickham, County Counsel
OFFICE OF COUNTY COUNSEL

14 BEST BEST & KRIEGER, LLP

15
16
17 By: _____
18 Michelle Ouellette
19 Sarah E. Owsowitz

20 DATED: April __, 2017

OFFICE OF COUNTY COUNSEL

21
22 By: _____
23 Michael S. Simon
24 Lauren E. Dods

25 Attorneys for Respondents and Real Parties In Interest
26 County of Los Angeles, County of Los Angeles Board of
27 Supervisors, County of Los Angeles Department of Public
28 Works and Los Angeles County Flood Control District

CASE NAME:

Arroyo Seco Foundation et al. v. County of Los Angeles et al.

CASE NUMBER:

BS152771

**PROOF OF ELECTRONIC SERVICE
PROPOSED ORDER**

1. I am at least 18 years old and not a party to this action.

a. My residence or business address is (specify):

601 Gateway Blvd., Suite 1000, South San Francisco, CA 94080

b. My electronic service address is (specify): apember@adamsbroadwell.com

2. I electronically served the *Proposed Order (Cover Sheet)* with a proposed order in PDF format attached, and a proposed order in an editable word-processing format as follows:

a. On (name of person served) (if the person served is an attorney, the party or parties represented should also be stated.):
See attached Service List.

b. To (electronic service address of person served): See attached Service List.

c. On (date): April 18, 2017

Electronic service of the *Proposed Order (Cover Sheet)* with the attached proposed order in PDF format and service of the proposed order in an editable word-processing format on additional persons are described in an attachment.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: April 18, 2017

Alisha Pember

(TYPE OR PRINT NAME OF DECLARANT)



(SIGNATURE OF DECLARANT)

PROOF OF SERVICE

I, Alisha C. Pember, declare as follows:

I am a resident of the State of California, and employed in South San Francisco, California. I am over the age of 18 years and am not a party to the above-entitled action. My business address is Adams Broadwell Joseph & Cardozo, 601 Gateway Boulevard, Suite 1000, South San Francisco, California, 94080.

On April 18, 2017, I served the foregoing document entitled:

[PROPOSED] ORDER (COVER SHEET)

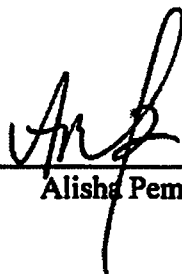
By Electronic Service: by electronic service on the parties listed below, via either electronic transmission or notification consistent with California Code of Civil Procedure 1010.6.

By U.S. Mail: by placing a true copy thereof in an envelope, sealing, and placing it for collection and mailing following ordinary business practices for mailing with the U.S. Postal Service, with postage prepaid, on the parties listed below. I am readily familiar with our business' practice for collection and processing of documents for mailing with the U.S. Postal Service.

Michael S. Simon, Deputy County Counsel
Lauren E. Dods, Senior Deputy County Counsel
County Counsel
County Counsel
648 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, California 90012-2713
Email: msimon@counsel.lacounty.gov
Email: ldods@counsel.lacounty.gov

Michelle Ouellette
Sarah Owsowitz
Best Best & Krieger LLP
3390 University Avenue
5th Floor
Riverside, CA 92501
Email: Michelle.Ouellette@bbklaw.com
Email: Sarah.Owsowitz@bbklaw.com

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed April 18, 2017, at South San Francisco, California.



Alisha Pember