

ARROYO SECO FOUNDATION

July 12, 2018

DEPARTMENT OF THE ARMY
LOS ANGELES DISTRICT, U.S. ARMY CORPS OF ENGINEERS
REGULATORY DIVISION
ATTN: Bonnie Rogers, SPL-2014-00591
LOS ANGELES DISTRICT CORPS OF ENGINEERS
915 Wilshire Blvd. Ste 930
LOS ANGELES, CALIFORNIA 90017

By email to Bonnie.L.Rogers@usace.army.mil

Public Notice/Application No.: SPL-2014-00591-BLR

Project: Devil's Gate Reservoir Sediment Removal and Management Project

Dear Ms. Rogers:

The Notice for Application SPL-2014-00591-BLR was originally issued without notification of key stakeholders. The Arroyo Seco Foundation did not see the notice until after the initial comment period had closed. Thank you for providing a two week extension, but that simply is not sufficient to allow many interested stakeholders to evaluate the technical issues detailed in the Notice.

The Arroyo Seco Foundation has a long history of working with the USACE and should have been included in the initial notification. We have communicated with USACE personnel regarding this project, and informed the USACE staff of our lawsuit, together with the Pasadena Audubon Society, against the applicant and this project. Furthermore ASF operates a native plant nursery in Hahamongna Watershed Park on the edge of the project area and should have been included in the notification list for that reason alone. We are concerned that many stakeholders with a long history of involvement in Hahamongna Watershed Park and the Arroyo Seco have not yet been notified or informed of this notice.

In addition to considering this as a response the Notice, please also consider this a letter of protest for the poor communication regarding this highly publicized project. We insist that USACE should initiate a more thorough outreach and communication program regarding this application and provide a meaningful extension of the comment period.

A public hearing to illuminate the many issues in this highly controversial project should also be mandatory.

Sincerely,



Tim Brick
Managing Director

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PO Box 91622, Pasadena, CA 91109-1622

Topic and Page	Comments
Property rights, page 2	The notice discusses the Corps’ responsibility to respect property rights, which we commend. In this case, the applicant is seeking to pursue a massive mining and trucking operation in a City of Pasadena park, based on a 1919 easement. ASF believes that the applicant’s mining and trucking operation far exceeds the purposes of the easement and overburdens it. Protecting property rights in this case means considering the input of the City of Pasadena which has consistently called for a smaller, more gradual and ongoing sediment removal program than the massive, disruptive program proposed by the applicant.
Public hearing, page 3	“Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.” The failure to adequately inform stakeholders and interest parties and the abbreviated comment period make it impossible to the Corps to determine the overall public interest in this project which has been highly contentious for eight years now. There are numerous issues in these comments that require clarification and documentation that can only be accomplished by a proper public hearing on the application. These issues include endangered species protection, documentation of sources, prospects for mitigation, the appropriateness of off-site mitigation, the lack of analysis of cultural resources and numerous other issues.
EIS Determination, page 3	Please provide any documentation of the consideration of EIS-related issues that justifies your preliminary determination.
Coastal Zone Management, page 3	The Arroyo Seco is a coastal watershed that flow through the Los Angeles River to Long Beach. Please explain how the Corps determined that this project would not affect coast zone resources.
Cultural Resources, page 3	<p>There are numerous aspects of cultural resources, besides listing on the National Register of Historic Places, which should be evaluated. The City of Pasadena <u>Master Environmental Impact Report for the Arroyo Seco Master Plan</u> provides some important documentation of Cultural Resources.</p> <p>The Sunset Overlook Trailhead area, is located immediately northeast of the project area in Hahamongna Watershed Park. A <u>cultural resources investigation</u> was conducted for that project.</p> <p>The Arroyo Seco Master EIR evaluated cultural resources for the Hahamongna Watershed Park environs, including conducting an archaeological records search and site reconnaissance (Arroyo Seco Master EIR, p. 3.4-1), and described in detail</p> <p>Federal, state and local regulatory agencies provide the framework for</p>

	<p>evaluating and protecting cultural resources. Specifically, CEQA Guidelines Section 15064.5 explains when such resources must be considered historic, and grants a local agency considerable latitude in assigning historic status to un-designated resources.</p> <p>Because of extensive native American presence by the Hahamongna Indians in this area, there is the possibility of impacts to paleontological resources. The Hahamongna Watershed Park area was used in the past by the Gabrieliño/Tongva Native American population. It was a transportation corridor for coastal Native Americans to travel to the desert through the Arroyo Seco and nearby Millard Canyon. New site grading and construction may still reveal human remains and artifacts.</p> <p>If such remains are encountered during project construction, California Health and Safety Code § 7050.5 requires construction to stop until the County Coroner has made the necessary findings as to the origin and disposition of the remains, complying in turn with Public Resources Code § 5097.98. The Corps should require a pre-construction briefing for all heavy equipment operators who would be grading in the Arroyo Seco, and by extension.</p> <p>Lots of additional requirements contained in the above document on paleontology; vertebrate Paleontology; grading etc. should be considered; on 3-26 or page 68.</p> <p>Hahamongna Master Plan</p> <p>In 1987, a Preliminary Assessment of the Prehistoric Cultural Resources of the Devil’s Gate Reservoir 4 (HWP) was undertaken as part of the Environmental Baseline Study, Devil’s Gate Multi-Use Project, Cotton/Beland/Associates, Inc., February 1988.</p>
<p>Endangered Species, page 3</p>	<p>A least Bell’s vireo has recently been spotted in the project area. Documentation is found in eBird. The presence of the least Bell’s vireo necessitates a formal consultation process with US Fish & Wildlife Service. How can the Corps claim that the project would not likely impact the habitat of the least Bell’s vireo when the applicant has already applied for an incidental take permit from the CA Department of Fish and Wildlife, but has ignored the US Fish and Wildlife, which offers greater protection!</p>
<p>Public Hearing</p>	<p>A public hearing is absolutely required to deal with the many issues raised by this notice and the poor communication and outreach regarding the notice itself. Numerous local groups and individuals have strongly opposed the</p>

	<p>magnitude and destructiveness of the applicant’s program for nine years. The Arroyo Seco Foundation has called for a careful, ongoing, sustainable sediment management for thirty years, but instead the applicant has ignored their responsibility to properly maintain their facilities and promote public safety while protecting the rich environmental values of Hahamongna and the Arroyo Seco, a major tributary of the Los Angeles River.</p>
<p>Baseline information, p. 4</p>	<p>What is the basis of the measurements contained in this section? Did the Corps conduct a baseline study or delineation study of the Hahamongna basin? If so, please provide that study and the date involved. Please also inform us if the measurements came from the applicant or their consultants.</p> <p>We believe that the baseline study underestimates the amount of waters of the United States contained in the Hahamongna basin and that whatever study was used must have relied on an unusually dry period.</p>
<p>Project description, page 4-5</p>	<p>“The proposed project excavation limits and reservoir configuration are 5 designed to avoid many on-site habitat and recreational areas (see attached Work Plan Map).” This statement makes presumptions that are not documented by facts. Cf: section below on Avoidance.</p>
<p>Permanent loss</p>	<p>“The project would result in permanent loss of aquatic resource habitat functions to 20.9 acres (19.4 acres of non-wetland waters of the United States and 1.5 acres of wetland waters of the United States) due to proposed frequent maintenance to maintain flood storage capacity.” This statement makes clear that the permanent loss of aquatic resource habitat functions is due to the proposed annual maintenance which the applicant seeks, not to initial excavation itself. The applicant seeks a permanent permit to destroy invaluable aquatic resource habitat functions that USACE is charged with protecting. Instead of a permanent loss, these resources can be protected by a careful, science-based program that would remove sediment and habitat in a manner that would protect aquatic resources and endangered species.</p>
<p>Hahamongna Park, page 5</p>	<p>The applicant is seeking to undertake a project that is wholly contained in a park that is owned and operated by the City of Pasadena. The name of that park is Hahamongna Watershed Park, but this incorrect reference is the only time that the park is referred to in the USACE notice. Note that the name of the park contains the word “watershed” in it because when the City of Pasadena established the park twenty five years ago it wanted to show respect for the rich natural resources that are contained in this precious alluvial canyon and basin. The applicant’s continued attempts to mask the character of the area are transparent.</p>
<p>Construction equipment, page 5</p>	<p>The description of construction equipment dramatically underestimates the amount of equipment that will be used. For instance, “two tender trucks” deceptively masks the reality that their schedule of 425 truckloads a day amounts to one truck a minute. The trucks will haul the habitat and sediment twenty five miles away on crowded freeways. It is ludicrous to suggest that</p>

	<p>their daily goal can be achieved with two tender trucks. One hundred and fifty diesel trucks making three round trips per day and causing massive traffic congestion and air pollution is a more likely estimate.</p>
<p>13,000 cubic yards, page 5</p>	<p>“It is estimated that an average of 13,000 cubic yards of sediment would potentially be washed down and deposited in the reservoir annually after completion of the Project.” This is a dramatic and irresponsible estimate of the amount of sediment that would potentially be washed down into the reservoir annually. In the two years following the Station Fire in 2009, the sediment inflow into the basin was approximately 1.1 million cubic yards. Those were extraordinary years, but the historic average sediment accumulation in the basin is far higher than 13,000 cubic yards.</p>
<p>AVOIDANCE, page 7</p>	<p>Avoidance should truly be the standard for this project.</p>
<p>Applicant Preferred Alternative, page 7</p>	<p>The applicant seeks a permanent static “future management area” of 49.26 acres where all valuable habitat would be destroyed annually. This approach fails to recognize the dynamic nature of the Hahamongna flood basin and the opportunities for a more appropriate, nature-based sediment management program after the initial extraction of 1.7 mcy is completed.</p> <p>Storms and floods will inevitably reshape the Hahamongna basin in the future, and valuable riparian and alluvial scrub habitat zones will shift with the reconfiguration. An environmentally-sensitive program would be to develop a habitat and sediment management program that protects the most valuable habitat zones and removes material from less valuable areas. This adaptive management approach should be guided by biological considerations, and the protection of aquatic resources, the water of the United States and endangered species. It should be based on performance standards that require the preservation and restoration of the highest value habitat.</p>
<p>Two Branch Alternative, page 7</p>	<p>This alternative removes an excessive amount of sediment and habitat in the Devil’s Gate basin and violates the direction of the Los Angeles County Board of Supervisors in their November 7, 2017 resolution approving the applicant’s project.</p>
<p>Front Basin Alternative, page 8</p>	<p>This program is even worse for the destruction it would bring to this wonderful alluvial basin and habitat corridor. It also violates County Supervisor November 7, 2017 direction.</p>
<p>Project’s Scale, page 8</p>	<p>“(t)he project’s scale reduced in 2017 to a proposed sediment removal amount of 30% less at 1.7 million cubic yards, with an 8% smaller footprint of 65 acres.” Please note that the amount of sediment to be removed from the basins was reduced from 2.4 million cubic yards to 1.7 mcf (30%), but the permanent destruction zone was only reduced by 8%. This has been deeply disappointing to the many stakeholder organizations and dedicated individuals who love Hahamongna for its rich natural resources.</p>
<p>Minimization, page 8</p>	<p>“The project to-date has been designed to minimize impacts to aquatic resources by reducing the total footprint of the proposed exaction area (see</p>

	<p>AVOIDANCE section above).” This statement is self-serving verbiage from the applicant that celebrates a small reduction (8%) in the excavation area, but fails to minimize the long-term impacts of the project. The best way to do that would be to avoid the annual destruction of valuable habitat and craft a habitat and sediment management program that would protect the most valuable habitat zones and endangered species and select lesser-value sediment accumulation zones for removal.</p>
<p>Compensation, page 8</p>	<p>“Onsite mitigation is proposed within Devil’s Gate Reservoir, outside the annual maintenance baseline footprint.” Because area is a flood control zone, any habitat restored or enhanced outside the annual maintenance baseline footprint is likely to be destroyed by storms and floods. The applicant is seeking a permanent permit to destroy 49 acres of streamzone. Will the applicant permanently restore habitat damaged by future flood flows? Of course not.</p>
<p>Offsite mitigation</p>	<p>It appears that offsite mitigation is required by Corps regulations because of the probability of future storms and floods destroying on-site habitat mitigation. The selection of the Peterson Ranch Mitigation Ban is highly objectionable. It is sixty miles away on the Santa Clara River watershed, in a remote, near-desert region that does not have the right kind of habitat to compensate for potential destruction of habitat for the least Bell’s vireo and other riparian and alluvial sage scrub species found in Hahamongna.</p> <p>Mitigation, as much as possible, should occur on-site in the Hahamongna region to ensure that the damage done to the rare alluvial canyon near a densely populated urban center will be compensated for locally. If Hahamongna does not provide sufficient acreage to properly mitigate, its tributaries and border zones, such as Millard Canyon, Flint Wash, and Cottonwood Canyon, should be utilized. If further acreage is need, other sites in the Arroyo Seco watershed should be utilized. Finally the other similar tributaries of the Upper Los Angeles River Watershed should be utilized.</p>
<p>Work Plan Map, page 11</p>	<p>This map shows the permanent destruction pit in a pleasant shade of blue. That is deceptive. It should be colored with a dull brown and ugly gray because that is how it will actually look.</p>
<p>Impacts to Waters of the US, page 12 and Jurisdictional Areas Map, page 13</p>	<p>Please provide the delineation study that documents this map. Who completed it and on what date?</p>
<p>Vegetation Communities Map, page 14</p>	<p>Did the Corps conduct its own habitat survey or simply rely on the applicant’s consultant? This map seems to have been prepared in 2014, but there have been significant changes in the basin in the last four years. A more up-to-date map is required for proper analysis of current conditions and potential mitigation sites.</p>

Devil's Gate Mitigation Areas, page 18	This map does not provide the legend for the colors used, so it is impossible to evaluate. This map should be reissued with appropriate documentation.
Peterson Ranch, page 19	This aerial view of the Peterson Ranch property should be compared with the applicant's Work Plan Map to illustrate how different and inappropriate the Peterson Ranch site is for off-site mitigation. ASF strongly objects to its use.