

# Agenda Report

December 16, 2013

**TO:** Honorable Mayor and City Council

**FROM:** Department of Public Works

**SUBJECT: SUBMITTAL OF COMMENTS TO THE COUNTY OF LOS ANGELES REGARDING THE DRAFT ENVIRONMENTAL IMPACT REPORT AND PROPOSED ALTERNATIVES FOR THE DEVIL'S GATE RESERVOIR SEDIMENT REMOVAL AND MANAGEMENT PROJECT AND AUTHORIZE STAFF TO TAKE ADDITIONAL ACTIONS AS NECESSARY**

## **RECOMMENDATION:**

It is recommended that the City Council:

1. Authorize the Mayor to send a letter to Los Angeles County of behalf of the City of Pasadena transmitting the comments to Devil's Gate Reservoir Sediment Removal Project Draft Environmental Impact Report (DEIR) as contained in Attachment E to this report and strongly advocating that Los Angeles County:
  - A. Study the project needs in greater detail including associated downstream effects;
  - B. Prepare a project design more closely resembling the configuration, aesthetics, habitat restoration and vegetation management described in the adopted Hahamongna Watershed Park Master Plan (HWPMP); and
  - C. Involve the City of Pasadena at a staff level in the precise design and engineering tasks related to the project; and
2. Direct staff to utilize the Hahamongna Watershed Park Advisory Committee meetings to receive additional public comment, review additional data and documents as they become available, and facilitate additional presentations as necessary.

## **MUNICIPAL SERVICES COMMITTEE RECOMMENDATIONS:**

On November 12, 2013, LACFCD provided an update on the DEIR and proposed alternatives for the Devil's Gate Dam Sediment Removal and Management Project to the Municipal Services Committee. Following discussion, the Committee invited LACFCD to make a presentation regarding the project objectives to the full City Council. LACFCD made this presentation at the December 9, 2013 City Council meeting.

**ENVIRONMENTAL ADVISORY COMMISSION RECOMMENDATION:**

At its regular meeting on November 19, 2013, the Environmental Advisory Commission formed an ad hoc committee to develop a recommendation regarding the DEIR and proposed alternatives for the Devil's Gate Dam Sediment Removal and Management Project to the City Council. The Environmental Advisory Committee's December 12, 2013 letter to the City Council is contained in Attachment A.

**HAHAMONGNA WATERSHED PARK ADVISORY COMMITTEE RECOMMENDATION:**

At its regular meeting on November 13, 2013, the Hahamongna Watershed Park Advisory Committee formed an ad hoc committee to develop a recommendation regarding the DEIR and proposed alternatives for the Devil's Gate Dam Sediment Removal and Management Project to the City Council. The Hahamongna Watershed Park Advisory Committee's December 6, 2013 letter to the City Council is contained in Attachment B.

**BACKGROUND:**

In 1919, the City granted an easement to the Los Angeles County Flood Control District (LACFCD) for the purposes of flood control and water conservation. The easement area was defined by both a boundary description and the 1075 foot elevation contour. LACFCD constructed the Devil's Gate Dam and reservoir in 1920 and has continually operated and maintained the facility. The easement was revised in 1965 to expand the subject area to its current size of 254 acres (Attachment C).

As part of normal seasonal conditions, sediment is transported out of the San Gabriel Mountains by storm water and deposited in the Devil's Gate Reservoir. This sediment is periodically removed as a part of maintenance operations. The last major sediment removal effort took place in 1994 with the removal of 190,000 cubic yards (CY).

As the HWPMP was developed, the County participated in the planning effort and their flood control and water conservation goals strongly influenced the plan's goals and objectives and the basin design.

A more detailed timeline of the history of Devil's Gate Reservoir and Hahamongna Watershed Park is found in Attachment D.

The 2009 Station Fire burned approximately 100% of the undeveloped watershed tributary to Devil's Gate Reservoir. The storms that occurred in the two following rain seasons deposited more than one million CY of sediment. This major sediment inflow significantly reduced the reservoir's capacity. According to LACFCD, in its current condition, the reservoir no longer has the capacity to safely contain another major debris event; and the outlet works have a risk of becoming clogged and inoperable.

As a result, a project to remove sediment from behind Devil's Gate Dam commenced in 2011. The Los Angeles County Board of Supervisors directed LACFCD to complete an

Environmental Impact Report which would assess the impacts associated with removing sediment from within the reservoir.

LACFCD prepared an Initial Study in September 2011. The City submitted comments to the County during the scoping period on November 10, 2011 (Attachment E). Following the Initial Study and scoping period, LACFCD prepared a DEIR and released it for review and comment on October 23, 2013. LACFCD has held three public meetings to collect comments on the DEIR. Staff has been present at all three of these meetings. In addition, LACFCD made a presentation and responded to questions at the November 12, 2013 Municipal Services Committee meeting and at the November 13, 2013 HWPAC meeting.

### **CITY REVIEW AND COMMENTS ON THE DRAFT ENVIRONMENTAL IMPACT REPORT**

The Departments of Fire, Human Services and Recreation, Planning, Police, Public Works, Transportation, Public Health and Pasadena Water and Power reviewed and commented on the DEIR. Comments are included as Attachment F.

Additionally, the City Attorney's Office has reviewed the City's role related to this project and process. The Department of Public Works has prepared a comparison of the project and alternative designs to the adopted HWPMP.

### **DISCUSSION OF CITY'S ROLE AS A REVIEW (AND/OR RESPONSIBLE AGENCY)**

#### ***City May Be a Responsible Agency If There Are Project Elements Outside of the County Easement Area***

The City may be a responsible agency. The City may be required to exercise its discretion over secondary aspects of the project. Accordingly, and pursuant to Public Resources Code §§ 21104, 21153 and 21069, the City's comments consider those aspects of the project over which it has potential jurisdiction, as well as other comments of concern to the City.

#### ***City Is Not a Responsible Agency within the County Easement Area***

The City is not; a responsible agency with regard to any of the County's operations within the County's easement area. The County's easement area is generally depicted in numerous City documents, including but not limited to the HWPMP. It is the City's understanding at this time that the County is proposing that all aspects of its project will take place within the County easement area.

Pursuant to the 1919 Grant of Easement from the City to the County, the City granted the County an "easement and right to construct and maintain . . . such dam or dams with spillways, by-passes, tunnels and other appurtenances" for the purpose of flood control and water storage. The 1919 easement included six conditions. The fourth condition read in its entirety: "That the removal of such brush, trees and vegetation within the area proposed to be flooded by waters impounded by said dam as shall [be] deemed necessary by the City, shall be done by and at the expense of the City, and that the

District shall have no right to enter upon the City's land for that purpose." Even with these conditions, the 1919 easement granted the County sole control over the dam as follows, ". . . but the construction, maintenance and management of said dam and the disposition of waters impounded thereby shall be solely under the control of the district."

In 1965, the parties expanded the area subject to the easement. In doing so, the 1965 Easement Deed states that the conditions contained in the 1919 easement "have been and are (as the case may be) being fulfilled and met by the Grantee [County]; to be effective for the purpose of continuity and with respect to additional property made subject to said conditions by this grant, Grantor [City] further acknowledges that said conditions heretofore satisfied have been and are being (as the case may be) satisfactorily discharged by Grantee as to any and all land owned by Grantor and subject to this grant of easement." The City then granted to the County "a perpetual easement for reservoir, water conservation and flood control purposes, including the right to construct, reconstruct, inspect, maintain, repair and operate a dam, spillway, reservoir, tunnels, by-passes, channels, embankments, protection works, and appurtenant structures for the purpose of controlling, confining, storing and conserving water for, over and across real property hereinafter described."

Accordingly, in 1965 the City found the fourth condition of the 1919 easement related to removal of vegetation in the easement area to have been satisfied, and then granted to the County the perpetual and unconditional right to, among other things, maintain the reservoir and embankments within the easement area as necessary to control flood waters.

The County's actions as currently proposed in the EIR do not appear to overburden its easement or exceed the scope of the authority granted to the County in the easement. Accordingly, at this time it appears that the City is not a responsible agency with regard to the actions described in the EIR.

Nothing the City states herein waives its rights to continue its analysis or modify its conclusions herein as the County's project progresses or may change.

## COMPARISON TO THE ADOPTED HWPMP

The HWPMP was adopted in 2003 as part of the master planning efforts for the Arroyo Seco. The plan provides an analysis of the then-existing conditions, a review of pertinent documents, input from a wide variety of stakeholders and land managers and a set of recommendations for the future of this park site. The overarching intent of the HWPMP is to strike a balance between the often competing primary elements of the site: water resources; habitat; recreation; flood management; and cultural resources.

The LACFCD project and alternatives bear a resemblance to the HWPMP. The proposed basin is located in the same general area as shown in the HWPMP, the proposed truck ingress/egress locations are consistent, and to the extent it can be determined by the DEIR and HWPMP, it appears the project would not substantially affect the City's existing facilities or the ability to implement most of the HWPMP. The proposed project and alternatives substantially differ from the HWPMP in the areas of habitat restoration and vegetation management.

The HWPMP discusses at some length flood water and sediment/debris management. It establishes (described as identified by the County) a minimum flood control capacity of 2.3 million CY<sup>1</sup> and includes a conceptual grading plan that would create a flood management/conservation pool of 3 million CY. At the time of the HWPMP preparation, the sediment removal required was described as approximately 800,000 CY. When completed, the basin would have a 69-acre surface area (HWPMP, 3.1). The LACFCD project would remove 2.9 million CY over a 120-acre area to create a capacity of approximately 4 million CY (DEIR, 2.3, 2.4). The alternatives would remove between 2.4 and 4.0 million CY over an area of 76 to 84 acres.

The proposed project and alternatives differ substantially from the HWPMP in the biological resources category. The project and alternatives larger footprint would have a larger initial and ongoing impact to native vegetation and habitat than envisioned in the HWPMP. The HWPMP describes a habitat restoration plan and distinct vegetation types that would occur at various elevations within the basin. Corresponding with the water level of the conservation pool (HWPMP, 3.3), vegetation below elevation 1030 feet would be periodically removed as a part of regular maintenance, over an approximately 54-acre area. For elevations above 1030 feet, including the side slopes of the basin, the HWPMP describes a habitat restoration plan including periodic replanting due to future sediment removal efforts. The proposed project would periodically remove vegetation from the entire basin as a part of regular maintenance (DEIR 2.5.2), resulting in significantly less habitat than described in the HWPMP. The alternatives describe similar maintenance over areas ranging from 47 to 91 acres.

Since the HWPMP adoption in 2003, the existing site conditions have changed and accordingly, certain improvements described in the plan are no longer anticipated. Since adopting the HWPMP, the City has decided to eliminate sports field #3 (July 12, 2010), redirect funding away from a habitat restoration effort adjacent to the basin (October 29,

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<sup>1</sup> The HWPMP uses acre-feet as a unit of measure. 1 acre-foot = 1, 613.33 cubic yards.

2012), and pursue an alternative location for sports field #2 (ongoing). The HWPMP includes 3 spreading basins on the west side of the park. These basins do not have the percolation rates of the new and existing basins on the east side of the park. Based on the current Arroyo Seco Canyon Project Conceptual Design Report, the east side spreading basins will provide the capacity to spread Pasadena Water and Power's Arroyo Seco water diversion rights. The project and alternatives now propose utilizing some of this area (field #3, west spreading basins) as part of the flood control basin. Encroaching into these areas contributes to the project and alternatives' increased basin area as compared to the HWPMP. Alternative 3 is the closest in proposed size at 76 acres.

The recommendations in the HWPMP are based upon a set of goals and objectives that were developed through a rigorous community process. The complete list of goals and objectives can be found in Attachment G. The Devil's Gate Sediment Removal Project and alternatives were reviewed for consistency with HWPMP goals and objectives.

***Goal 1: Preserve, restore and enhance the native habitats***

The project and alternatives are inconsistent with this goal and its objectives due to the size of the basin areas and corresponding maintenance plans. The HWPMP recommends habitat restoration efforts of varying types at varying elevations (HWPMP, 3.3). The proposed project and alternatives would maintain the basin area with far less vegetation (DEIR, 2.5.2). While not directly addressed by this goal, the natural habitat is the dominant factor affecting aesthetics. The proposed project or alternatives would result in substantially degraded aesthetics from most viewing areas.

***Goal 2: The Devil's Gate flood control basin will be managed to provide protection to the developed and natural downstream areas***

The project and alternatives are consistent with this goal and partially consistent with its objectives. The flood control objectives are met, but objectives related to a more low-impact and comprehensive approach to sediment management are either not met or not included in the project or alternatives. The inclusion of the Central and Lower Arroyo downstream areas in a further modeling and sediment transport analysis is recommended since sediment removed from the reservoir by the FAST method (DEIR, 2.5.2) will move through this area. Accordingly, these reaches of the Arroyo Seco stream could be impacted under the proposed project or any of the proposed alternatives and should be included within the project area.

***Goal 3: Conserve and protect the water resources of the Arroyo Seco***

The project and alternatives are consistent with this goal and partially consistent with its applicable objectives. There is an exception with one objective that addresses habitat restoration. The project and alternatives propose a maintaining the basin with less vegetation than the HWPMP suggests.

**Goal 4: *Provide diverse recreation opportunities for the Pasadena community***

This goal and objective are largely not applicable to the project or its alternatives, although the project may affect the City's ability to meet the goal. Providing recreational opportunities is not a LACFCD responsibility, nor a listed goal or objective of the project or alternatives. To the extent it can be determined by the DEIR and HWPMP, it appears the project or alternatives would not affect existing facilities or future projects as described in the HWPMP; however, due to the proposed sizes, the project or alternatives could partially prevent the City from achieving this HWPMP goal and objectives. Passive recreation within the vegetated areas would be affected by the project or alternatives.

**Goal 5: *Enrich and promote the unique history and culture of HWP***

This goal and objectives are largely not applicable to the project or its alternatives. There will be some potential for an educational component with the project or alternatives although it may not resemble what the HWPMP envisions.

**Goal 6: *Provide a safe and secure park***

This goal and objective are largely not applicable to the project or its alternatives.

**Goal 7: *Provide adequate circulation, access and parking***

This goal and objective are largely not applicable to the project or its alternatives but the project or alternatives would create temporary impacts to circulation and access. To the extent it can be determined by the DEIR and HWPMP, it appears the project or alternatives would not eliminate any pedestrian, vehicular, or trail routes or reduce the amount of available parking. The project and alternatives appear to use existing trail routes as the boundaries for the proposed basin. These existing routes are consistent with the HWPMP. Some trail re-alignment would be necessary to a cross-basin trail, but the continuity of these trails could be maintained.

The project or alternatives would represent a substantial change to the existing character of Hahmongna Watershed Park. Although detailed technical comments will be submitted to address various areas of the DEIR, many questions have been raised by the public and staff that have not been or cannot yet be addressed.

In addition to submitting the comments to LACFCD, the Department of Public Works recommends the retention of a technical expert to review the project and provide input on common questions heard throughout the DEIR review process including but not limited to: is project scope too large; is there true flood risk downstream; can a more gradual project be undertaken; and how frequently have storms associated with the Design Debris Event (DDE) occurred. Options for this recommendation include retaining an environmental engineering firm through a competitive selection process to conduct a peer review of the DEIR or retaining an academic expert with an appropriate background to review the DEIR.

The tentative timing would be to retain the technical expert by February 2014 and conduct the review over the following 2 to 3 months. If the retention of the technical expert requires a budget appropriation, the Department will return to City Council for the necessary appropriation as part of the regular budget amendment process.

Continued public interest and comment is expected as well. The Department of Public Works recommends utilizing HWPAC meetings as a means to receive public comment, review additional data and documents as they become available, and facilitate additional presentations as necessary. Special meetings may be scheduled as necessary to accommodate specific project timing.

**COUNCIL POLICY CONSIDERATION:**

This action is consistent with the City Council's Green Space, Recreation and Parks Master Plan goal regarding the protection of existing open space.



**FISCAL IMPACT:**

The costs associated with this action are minor and include ongoing staff review and coordination with County staff and consultants. The cost of the technical expert may warrant a budget appropriation. If so, staff will return to the City Council and request an amendment to the FY 2014 operating budget.

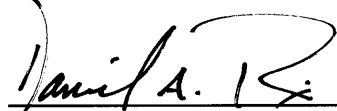
Respectfully submitted,



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SIOBHAN FOSTER  
Director of Public Works

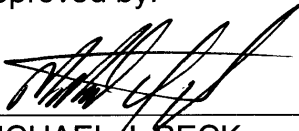
Prepared by:



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Approved by:



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MICHAEL J. BECK  
City Manager

- Attachment A – EAC Recommendations
- Attachment B – HWPAC Recommendations
- Attachment C – 1919 and 1965 Easements
- Attachment D – Detailed Timeline
- Attachment E – Scoping Letter
- Attachment F – Staff DEIR comments
- Attachment G – HWPMP Goals and Objectives