ATTACHMENT M
BOARD OF ZONING APPEALS STAFF REPORT
(DATED MARCH 18, 2021)

PLANNING & COMMUNITY DEVELOPMENT DEPARTMENT

STAFF REPORT

DATE: MARCH 18, 2021

TO: BOARD OF ZONING APPEALS

FROM: LUIS ROCHA, ZONING ADMINISTRATOR

SUBJECT: APPEAL OF HEARING OFFICER'S DECISION:
MODIFICATION TO CONDITONAL USE PERMIT #6222
3420 AND 3500 NORTH ARROYO BLVD

RECOMMENDATION:

It is recommended that the Board of Zoning Appeals:

1. Adopt a Resolution certifying the Final Environmental Impact Report (SCH #2014101022) and adopting Environmental Findings of Fact and a Mitigation Monitoring And Reporting Program (Attachment C);

2. Adopt a Resolution adopting a Statement of Overriding Considerations for the project (Attachment D); and

3. Uphold the Hearing Officer's decision and approve Modification to Conditional Use Permit #6222 with the findings in Attachment A and conditions in Attachment B.

EXECUTIVE SUMMARY:

On January 6, 2021, the Hearing Officer considered, at its regularly noticed hearing, Modification to Conditional Use Permit #6222. The Modification to Conditional Use Permit #6222 application was requested to allow infrastructure improvements in the Open Space (OS) zoning district.

Staff recommended the Hearing Officer approve Modification to Conditional Use Permit #6222, based on the analyses, that the findings necessary for approving the Modification to Conditional Use Permit could be made. Staff concluded that the proposed project, to allow the repair and replacement of City's water infrastructure facilities within the Upper Arroyo Seco are activities and uses that are desirable in the OS zoning district and compatible with adjoining land uses. The Arroyo Seco area is native to this area of Pasadena, and the proposed improvements will allow the restoration of the Canyon Area that was damaged following the fire-related events of 2009. In addition, the proposed project, including the reconfiguration and expansion of infiltration basins, will allow the City to fully utilize its pre-1914 water rights. At the conclusion of the public hearing,

and after public testimony, the Hearing Officer approved Modification to Conditional Use Permit #6222 (Attachment F).

On January 19, 2021, The Arroyo Seco Foundation (appellant) filed an appeal (Attachment G) with the Board of Zoning Appeals, of the Hearing Officer's decision. The hearing before the Board of Zoning Appeals is a *de novo* hearing where the Board has no obligation to honor the prior decision and has the authority to make an entirely different decision.

Staff recommends that the Board of Zoning Appeals adopt a Resolution certifying the Final Environmental Impact Report (SCH #2014101022) and adopting Environmental Findings of Fact and a Mitigation Monitoring And Reporting Program (Attachment C); adopt a Resolution adopting a Statement of Overriding Considerations for the project (Attachment D); and uphold the Hearing Officer's January 6, 2021 decision and approve Modification to Conditional Use Permit #6222, based on the findings provided in Attachment A, with the conditions in Attachment B.

BACKGROUND:

Existing Site Characteristics:

The Project site is located within the Arroyo Seco Watershed, which is a subwatershed of the larger Los Angeles River Watershed. The Arroyo Seco is a perennial creek, which means there is generally flowing water year-round, but the flow is below the surface (underground) in some locations. Creek flows that originate in the San Gabriel Mountains continue to flow south through the cities of Pasadena, South Pasadena and Los Angeles, before joining the Los Angeles River just east of Elysian Park and west of the Interstate (I) 5/I-110 Interchange. Within the City of Pasadena, the Arroyo Seco passes through three distinct recreational areas: (1) Upper Arroyo Seco, containing Hahamongna Watershed Park and Devil's Gate Dam; (2) Central Arroyo Seco, containing the Brookside Golf Course and Rose Bowl; and (3) Lower Arroyo Seco, containing an archery range, casting pond, and Memorial Grove. The project proposes new facilities and improvements in the Upper Arroyo Seco (in the City of Pasadena on land owned by the City). The project site can be accessed via I-210 at the Windsor Avenue exit and traveling northward for approximately 0.8 mile to its intersection with Ventura Street. From this intersection, the formerly paved JPL East Parking Lot is located approximately 0.27 mile north along Explorer Road, or north along North Arroyo Boulevard (also referred to as Gabrielino Trail).

Adjacent Uses:

North: San Gabriel Mountains
South: Open Space
East: Residential
West: Residential

Adjacent Zoning:

North: OS (Open Space)
South: OS (Open Space)
East: County of Los Angeles (Altadena)
West: City of La Canada Flintridge

Project Background:

Conditional Use Permit #6222 was reviewed and approved by the Hearing Officer on January 7, 2015. The Conditional Use Permit was a request to allow the applicant, City of Pasadena Water and Power Department (PWP), to perform repair and replacement of facilities within the Arroyo Seco Canyon Area that were damaged or destroyed by Station Fire-related events of 2009.

Conditional Use Permit #6222 consisted of three primary areas: Area 1, known as the Arroyo Seco Headworks; Area 2, known as the Arroyo Seco Intake; and Area 3, the JPL East Parking Lot. These areas are connected together by the Gabrielino Trail, which serves as a recreational trail and the access road for City of Pasadena and United States Forest Service (USFS) vehicles heading into the Arroyo Seco Canyon.

Area 1 includes the existing Headworks structure across the stream, an approximate 1,000-foot portion of the Arroyo Seco streambed and associated sedimentation basins, naturally vegetated areas, and the Gabrielino Trail. The improvements in Area 1 included the removal of the exposed portions of the Headworks structure, and the rehabilitation of an approximate six-acre area of the Arroyo Seco floodplain that was significantly impacted by flooding in 2010. In addition, the original project included stream restoration involving native plant re-vegetation and removal of invasive species on approximately 1,000 feet of the stream; construction of a rock bank revetment; bank stabilization; creation of planting islands; and installation of woody debris clusters. Lastly, a new trail was also proposed across the Arroyo Seco from the lower portion of Area 1.

In Area 2, the primary structures include a diversion structure and intake structure, an equipment building, the Gabrielino Trail, and a historic bridge (Bridge No. 3) over the Arroyo Seco. As part of the original project, the proposed improvements in Area 2 included the replacement of the diversion weir and intake structures and reconstruction of the access road (bridge). An equipment building located north of the intake structure that was damaged by the 2010 winter storms was also proposed to be replaced.

Area 3 includes the JPL East Parking Lot, adjacent City-owned spreading basins, and the access bridge that connects the Parking Lot to the JPL Campus to the west. Improvements proposed in Area 3 included a reconfiguration of the JPL parking lot to provide a public recreational parking lot, enlarging existing spreading basins, and adding new sedimentation basin. Additionally, an access road, a potential future pedestrian pathway, a guard station near the JPL Bridge access point, and a public restroom were proposed.

A Conditional Use Permit was required because improvements were proposed within the OS Zoning District. An Initial Environmental Study and Mitigated Negative Declaration prepared for the project by BonTerra Psomas in compliance with the California Environmental Quality Act (CEQA) was adopted by the Hearing Officer in conjunction with the approval of the Conditional Use Permit.

The Hearing Officer's decision was appealed to the Board of Zoning Appeals, which held a de novo hearing on March 4, 2015. At the conclusion of the public hearing, the Board of Zoning Appeals upheld the Hearing Officer's decision, and adopted the Initial Environmental Study and Mitigated Negative Declaration, and approved Conditional Use Permit.

The Board of Zoning Appeals' decision was appealed to the City Council, and the City Council held a de novo hearing on June 1, 2015. At the conclusion of the public hearing, the City Council

upheld the Board of Zoning Appeals' decision, and adopted the Initial Environmental Study and Mitigated Negative Declaration, and approved Conditional Use Permit #6222.

On July 2, 2015, petitioners Spirit of the Sage Council and Project Solution filed a lawsuit against the City seeking to invalidate the City's approval of the Initial Study/Mitigated Negative Declaration (IS/MND). On March 23, 2017, the Los Angeles Superior Court issued a ruling that was partly unfavorable to the City. On June 26, 2017, the Court issued a Writ of Mandate ordering the City to invalidate approval of the Conditional Use Permit and MND, with the exception of those specific project elements the Court found severable under Public Resources Code Section 21168.9(b).

The Court found that the elements of the Arroyo Seco Canyon Project related to increased diversions of surface water (i.e., greater taking of stream water from the Arroyo Seco beyond its current withdrawal) required evaluation through the preparation of an Environmental Impact Report (EIR). The Court also ruled that the elements of the project that did not relate to increased diversions were severable from the remainder of the project and the Arroyo Seco Canyon Project IS/MND, therefore these components were to remain intact, allowing them to move forward without any additional environmental review pursuant to CEQA.

To comply with the Writ of Mandate, on July 24, 2017, the City Council reviewed and approved a Modification to CUP #6222, rescinding and setting aside the part of the project that would allow for increased capacity to take water from the Arroyo. Specifically the dam, weir, intake facility and water collections upstream from the dam/weir at Area 2, and select spreading basin work in Area 3, which would have increased percolation capacity, were rescinded from the CUP #6222 approval.

These elements of the project are only allowed to proceed after the City has prepared and certified an Environmental impact Report (EIR) that analyzes the potential significant effects of such facilities and related potential for increased water diversion from the Arroyo Seco on biological resources from the diversion point downstream.

An EIR has been prepared by the City for the elements of the project described above, in accordance with the terms and provisions of the Judgment and Peremptory Writ of Mandate, the City's Declaration in Support of the Judgment, the Statement of Decision on Petition for Writ of Mandate, and the Settlement Agreement.

PROJECT DESCRIPTION:

The applicant, City of Pasadena Water and Power Department (PWP), submitted a Modification to Conditional Use Permit #6222 request to allow the elements of the project that were set aside with the approval of the first Modification to CUP #6222 by the City Council in July 2017 to proceed.

Because several components of the Arroyo Seco Canyon Project were allowed to proceed without any additional environmental review beyond the adopted IS/MND pursuant to CEQA, the project boundaries of Area 2 and Area 3 proposed with this Modification have been refined from the original Conditional Use Permit #6222 to reflect the activities subject to review under the EIR.

The project proposed with this Modification includes improvements in two primary areas: Area 2, Diversion and Intake Replacement, and Area 3, Spreading Basin Improvements. These two areas are connected by the Gabrielino Trail/Access Road, which includes three bridge crossings over the Arroyo Seco in the vicinity of the project site. The proposed project involves water

infrastructure facility improvements in both areas, as well as construction of truck traffic along portions of the Gabrielino Trail/Access Road.

The proposed project's Area 2 is located approximately 0.4 miles upstream along the Arroyo Seco from the JPL Bridge. Project features cover approximately 0.5 acres of the area. The primary features and structures in Area 2 include an existing concrete diversion weir and intake structure, the Gabrielino Trail/Access Road, and the Arroyo Seco.

In Area 2, the proposed project includes the demolition of the existing diversion and intake structures, and construction of a new diversion weir and intake in the same location within the Arroyo Seco as the current facility. The proposed diversion control structure would span the width of the existing channel and a weir crest gate would be mechanically operated. During high flow conditions, the weir would be lowered to move sediment downstream and periodically restore the streambed elevation to the crest of the notch. The new intake would be equipped with a trash rack and fish screens to prevent future fish from entering the conveyance system to the spreading basins in Area 3.

The proposed project would also be protective of the potential for future fish populations in the Arroyo Seco with the inclusion of a roughened channel downstream of the diversion structure that would allow return passage upstream when the weir crest gate is lowered.

Area 3 is located off of Explorer Road in the formerly paved JPL East Parking Lot and existing City infiltration basins. The Project covers approximately 9 acres including approximately 3 acres of additional spreading area. After NASA's completion of a new parking structure on the JPL campus in 2016, they vacated the former parking lot, and removed the paving for the specific purpose of accommodating Pasadena Department of Water and Power's planned expansion of the spreading basins. The former JPL parking lot is currently unpaved, with the exception of the temporary alignment of Explorer Road.

In Area 3, the proposed project includes the reconfiguration and expansion of the spreading basins in order to accommodate the increased diversion of stream flows for infiltration into the Raymond Basin. Existing Ponds 1 and 2, and Basins 1 and 2, would be replaced with Basin A and six new/expanded spreading basins. The new basins would remain connected to the remaining existing downstream basins within the City's spreading basin system.

With implementation of the proposed project, the City would be able to divert an average of approximately 3,080 acre-feet per year (acre-ft/yr), resulting in an average of approximately 1,035 acre-ft/yr of additional diverted flows into the spreading basins. Long-term operations in Areas 2 and 3 would not be substantively different than the current conditions. No new employees or operations would be required to continue maintenance on the proposed facilities.

Any improvements within the OS Zoning District are subject to the review and approval of a Conditional Use Permit.

Public Hearing:

The Modification to Conditional Use Permit #6222 application was presented to the Hearing Officer at a public hearing on January 6, 2021. Staff recommended that the Hearing Officer approve the application on the basis that the required findings could be made.

At the hearing, the applicant provided an overview of the project. Four letters in opposition of the

project were received prior to the hearing, and three comments in opposition were submitted during the hearing. The comments mainly expressed the following concerns:

- the proposed project would be detrimental to natural environment; and
- the stream flow would be a superior alternative to the project.

At the conclusion of public testimony, the Hearing Officer approved the Modification to Conditional Use Permit #6222, as recommended by staff. This decision was based that all of the required findings to support the Modification to Conditional Use Permit #6222 could be made, as provided in attached decision letter (Attachment F). To supplement the decision, the Hearing Officer provided an addendum with explanation for approval of the application (Attachment I).

ANALYSIS:

The Conditional Use Permit process allows the City to review the project to determine if the proposed improvements will be compatible with the surrounding uses and require that the proposal adhere to specific conditions related to construction, operation, appearance, etc. In order to approve the Conditional Use Permit, six specific findings (Attachment A) must be made in the affirmative. These findings relate to the project meeting the intent and purpose of its Zoning District and the Zoning Code. Per Section 17.64.050.A.4, before approval of a modification, the applicable review authority shall make the required findings for the original approval, and an additional finding that there are changed circumstances sufficient to justify the modification of the original approval.

The City of Pasadena owns the right to divert up to 25 cubic feet per second (cfs) of surface water from the Arroyo Seco for direct use or to spread for percolation in spreading basins for groundwater pumping credits from the Raymond Basin. Of the total amount of water that is infiltrated into the groundwater through its existing spreading basins, Pasadena Department of Water and Power has the right to pump between 60% to 80% of that amount for beneficial use in the City's water supply. The proposed project would more fully capture the City's allocation of up to 25 cfs to augment local groundwater supplies.

According to PWP, the current spreading basins reach an equilibrium during recharge events of 18 cfs, meaning that sustained diversions equaling 18 cfs would fill the basins to capacity, with water percolating at generally the same rate as entering the basins; however, higher flows beyond 18 cfs would not be able to be infiltrated due to capacity constraints. Dividing this 18 cfs recharge capacity by the surface area of the existing spreading basins (approximately 13 acres), the basins exhibit an average percolation rate of 2.72 feet per day (ft/d), or 1.4 cfs/acre.

Improvements in the intake structure, however, would allow for diversion of PWP's right to 25 cfs during high flows, which would be an improvement upon the current structure that requires high flows to bypass the diversion/intake structure because of the previous damage to the facility and the inability to remove sediment and debris prior to entering the spreading basins. The proposed Project's Area 3 configuration includes a maintainable sedimentation basin (Basin A) located prior to the entry of flows into the spreading basins. This improvement upon the current design would substantively reduce sediments in the spreading basins that settle on the ground surface of the basin and decrease infiltration rates.

The improvements proposed with the project would allow for increased utilization of the City's surface water rights from the Arroyo Seco and maximize the beneficial uses of this important local water resource. The proposed project would implement a multi-benefit approach to the repair

and replacement of damaged infrastructure in the Arroyo Seco, with the overall project objective of increasing the beneficial use of the surface water rights held by the City and improving biological functions within the Arroyo Seco. For any future fish populations that may establish in the Arroyo Seco, the new intake would include a fish screening feature to prevent fish populations from passing into the intake and conveyance system, and a roughened channel would be constructed directly downstream of the new weir to allow for future fish passage upstream during moderate flow periods.

Section 15124 of the State CEQA Guidelines requires the Project Description of an EIR to include a statement of the objectives sought by the proposed project, which is intended to help the Lead Agency to develop a reasonable range of alternatives to evaluate in the EIR and the preparation of Findings of Fact and a Statement of Overriding Considerations, if necessary. The statement of objectives may include the project benefits. The objectives that have been established for the proposed project in the EIR are:

1. Fully divert and utilize the City's 25 cubic feet per second surface water rights while operating in a manner objectively consistent with the Raymond Basin Judgment.
2. Increase the capacity and functionality of the spreading basins to increase PWP's ability to recharge the groundwater basin, as envisioned by the 2011 Water Integrated Resources Plan with its recommendation to maximize the value of the groundwater basin and non-potable supplies.
3. Provide opportunities for increased aquatic biological functions within the Arroyo Seco by: (1) protecting fish and eliminating the unimpeded passage of stream flows that could carry aquatic animals into the conveyance system, and (2) reducing existing impediments to fish passage at the diversion weir structure.
4. Increase PWP's ability to rely upon local water for its potable water supply to reduce reliance upon imported water supplies from the Metropolitan Water District of Southern California (MWD).

APPEAL:

On January 19, 2021, The Arroyo Seco Foundation (appellant) filed an appeal (Attachment G) with the Board of Zoning Appeals, of the Hearing Officer's decision. The appellant cites the following reasons for the appeal:

- **The Hearing Officer failed to address numerous points of contention outlined in comments on the Final Environmental Impact Report (FEIR) made by the Arroyo Seco Foundation, Ken Kules, Hugh Bowles, and the Pasadena Audubon Society, indicating that he did not invest the time to understand the underlying arguments in those comments and imprudently chose not to question City staff regarding how the FEIR and the staff report and presentations addressed FEIR comments.**

  In the Hearing Officer's Addendum (Attachment I), the Hearing Officer provides the following responses to this assertion:

  "1. In advance of the public hearing, I thoroughly reviewed the entire CEQA documentation associated with the proposed project, which is exhaustive. This included the primary CEQA documents themselves (DEIR, FEIR), numerous technical studies, and documents addressing concerns raised by project opponents.

2. In advance of the public hearing, I thoroughly reviewed several letters provided by the appellant and other stakeholders.

3. There was substantial public testimony during the public hearing—notably, by the appellants—as well as other parties. I heard, and considered, all of this public testimony before rendering my decision on the Modification to Conditional Use Permit #6222.

4. The appellant's contention that I "failed to consider significant gaps in the FEIR" is inaccurate. The concerns expressed in the appeal were voiced in the letters I reviewed and in public testimony provided at the hearing—again, this project has an exhaustive administrative record relative to environmental issues, all of which I reviewed in advance of the hearing, and/or considered as part of the testimony during the hearing. Based upon these documents and testimony, I found the appellant's arguments to be less than persuasive and/or refuted by other portions of the public record (documents/testimony provided by city staff, environmental consultants, and/or legal counsel).

5. The assertion that the hearing officer "did not clearly demonstrate his consideration of the issues raised here and in comments on the FEIR, nor did he engage in any questioning of staff on these matters in the hearing" is inaccurate. I am under no legal obligation to "demonstrate my consideration" of an issue in public comments during a hearing; further, whether I "engage in any questioning of staff" on a matter in no way demonstrates that I am somehow unaware of a particular issue. Were decision-makers to be held to that standard, most determinations would be challenged as insufficient.

   It is often the case that I will ask staff questions while conducting hearings. I ask questions for a variety of reasons: to secure more information, to better understand a particular issue, to interpret or better understand a Municipal Code requirement, and for other reasons. With respect to the requested Modification to Conditional Use Permit #6222, I did not find any reason to ask additional questions of staff beyond what I said during the hearing.

   I have served for nearly twenty years as a hearing officer, I have conducted more than 150 hearing officer hearings, and I have considered several hundred land-use applications. I feel confident that I have demonstrated the following abilities: one, a thorough understanding of the California Environmental Quality Act; two, the ability to read, absorb, and evaluate technical reports from experts in various fields (traffic, biology, geology, noise, etc.); three, to conduct a thorough review of background information—such as CEQA documents, reports, technical studies, photographs, land-use applications, plans, videos, and other materials) provided by City staff, legal counsel, and other stakeholders (applicants, neighbors, interest groups, issue advocates, and the general public) in advance of the public hearing; four, that I provide ample opportunity for all parties to present information, documentation, and testimony during the hearing; and, finally, that I give due consideration to the evidence and testimony provided by all parties, prior to rendering a decision on a particular land-use application. The appellant's suggestion to the contrary is inaccurate; further, were the appellant's allegations correct, they would be entirely inconsistent with my extensive record of service as a hearing officer."

- **Failure to include an evaluation of the condition of future ponding upstream of Devil's Gate Dam in assessing the impact of the project on the Monk Hill Basin.**

  This assertion is inaccurate. In the Settlement Agreement between the Arroyo Seco Foundation (ASF), the Pasadena Audubon Society and the Los Angeles County Flood Control District (LACFCD), signed on July 7, 2020, agreement 1.g. states:

  > During the annual maintenance period (i.e. after the District's initial removal of 1.7 mcy of sediment), and unless otherwise required for safe dam operation, the District agrees to reduce the release of water from the dam after the storm season so that, to the extent feasible, a pool of water remains behind the dam until July first of that year.

  While it is unclear what benefit the appellants believe will be realized by holding water behind the Devil's Gate dam, the following analysis demonstrates that the proposed Project will have little effect on this pool of water under the terms agreed upon by the LACFCD.

  Per the LACFCD, the "storm season" is defined as October 15 through the following April 15; flows occurring during this period are thus excluded from any obligation within the Settlement Agreement. From data used to develop Table HYD-1 in Topical Response HYD-1 in the Final EIR, the Project is projected to divert less than 264 acre-feet out of a total additional annual average of 1,035 acre-feet (25%) during the months of April, May and June covered by the Settlement Agreement. These totals, however, include the first 14 days of April which are not subject to the Settlement Agreement. Analysis of daily Arroyo Seco stream flow data, considering only the 76 days between April 15 and June 30 of the last 31 years from the Arroyo Seco stream gage (USGS 110980) reveals that on average, the proposed Project would only divert an additional 105 acre-feet per year (AFY) during the Settlement Agreement period, or only 10% of additional Project diversions. According to the Los Angeles County Department of Public Works (LACDPW) stream gage below Devil's Gate Dam (F-277), the Dam has discharged on average 573 AFY during this same period, more than five-times the additional diversion that would result from this project. Thus, additional Project diversions would comprise only a small percentage in comparison with water discharged by Devil's Gate Dam during this period.

  Over the past 31 years, only 66 days between April 15 and June 30 (the period affected by the Settlement Agreement) have had sufficient flow at the Arroyo Seco gage to be considered for additional diversion by the Project, an average of 2.1 days per year. This is equivalent to an occurrence of only 2.8% of all days covered by the Settlement Agreement period. During these 66 days, 44 have had no discharge from Devil's Gate Dam. Only 8 of the past 31 years (none occurring within the past decade) have had at least one day within the Settlement Agreement period with sufficient flow to be considered by the Project, but which have also experienced discharge at the Devil's Gate Dam.

  It should be noted that the LACDPW assigns a value of 0 cfs for groundwater infiltration behind Devil's Gate Dam in its Devil's Gate Stormwater Capture Model. As LACDPW has determined percolation behind the Dam to be ineffective, this model is currently being used to size the facilities proposed to pump water out of Devil's Gate Reservoir to infiltration basins so that it may percolate to the underlying aquifer in the Monk Hill Basin.

  Additional analysis of the effects of the Settlement Agreement upon ponding need not be considered because of the unlikelihood of observing flows large enough to be affected by the Project within the 76-day period affected by the Settlement Agreement, the limited impact of Project diversions upon Devil's Gate discharge volume, and the insignificant Devil's Gate Dam infiltration rate.

- **Failure to address that there will be an adverse and significant impact on the Raymond Basin groundwater.**

  This assertion is inaccurate. This comment references a comment letter on the Arroyo Seco Canyon Project from Ken Kules dated December 31, 2020, which claims that the proposed Project will have a detrimental effect on groundwater recharge in the Raymond Basin. Mr. Kules argues that were it not for the increase in diversions proposed by the Project, this water would largely percolate in the natural stream bed and in the ponding behind Devil's Gate Dam. Included in his letter, Mr. Kules provides calculations based off of historic stream flow data at the Arroyo Seco stream gage (USGS 110980) to attempt to show that the proposed Project's diversion of surface water will result in less groundwater recharge than were the water left to flow in its natural stream bed.

  To make this argument, Mr. Kules makes several erroneous assumptions:

  - Assumption #1: A streambed percolation rate of 5 cubic feet per second (cfs) per mile.

  This assumption is based off of a Phillip Williams & Associates (PWA) 2000 study that made assumptions from qualitative visual observations of the rate of leakage from streambeds, distances, and heterogeneity of the watershed. These assumptions were not supported by any quantitative measurements. Additionally, the presumption of a constant percolation rate overlooks any effects of soil moisture or pore saturation. While initial percolation rates in a dry porous media might be temporarily high, as the underlying vadose zone begins to saturate, percolation rates decline to a much lower steady-state. On January 18, 1999 when this estimate was made, no significant rainfall had occurred for more than a month. Streambed materials would have been dry and more receptive to percolation than under saturated conditions when pore spaces are filled. Mr. Kules extrapolated an assumed rate of infiltration from qualitative visual observations by PWA to define a quantitative infiltration rate of 5 cfs per mile for streambeds. There is no direct field measurement in the Arroyo Seco to substantiate this value.

  - Assumption #2: Devils Gate Percolation between 24 cfs and 29 cfs

  This assumption, estimated in the same PWA 2000 study, extrapolates the spreading basin percolation rates to the full Devil's Gate Reservoir. This estimation equates percolation in the spreading basins, which have historically received no more than 25 cfs of diversion flow, with that of Devil's Gate Reservoir, which received flows as high as 4,300 cfs in the year prior to this assumption. Such high flows would carry a heavy sediment load which would be ponded behind Devil's Gate Dam and could significantly lower percolation rates through siltation and plugging of pore space. The PWA Study quotes the LACDPW as noting "…that while it is possible to control the level of sediment entering the existing Arroyo Seco Spreading Grounds by only diverting during times of relatively sediment-free flow, there is no way to control the level of sediment carried by flows that eventually pond at the dam." Even though LACDPW, as operator of the Devil's Gate Dam and Reservoir, plans regular maintenance to avoid largescale sediment removal projects in the future, the purpose of this removal is for flood control and not for any expected increase in percolation. In fact, LACDPW has assigned a value of 0 cfs for groundwater infiltration behind Devil's Gate Dam in its Devil's Gate Stormwater Capture Model. As LACDPW has determined percolation behind the Dam to be ineffective, this model is currently being used to size the facilities proposed to pump water out of Devil's Gate Reservoir to infiltration basins so that it may percolate to the underlying aquifer. In summary, the underlying sediments beneath the reservoir are silt and silty-sand with lower infiltration rates compared to the gravelly sand at the spreading basins. This is corroborated by LACDPW's estimate of a low infiltration rate of 0 cfs at the reservoir to

develop their project design to pump ponded water from the reservoir to the spreading basins.

- Assumption #3: Constant 4 cfs contribution to stream flow from sources between the Arroyo Seco stream gage and Devil's Gate Dam

Using a limited historical period of only 11 days (from February 6-16, 2017), when hydrology was admittedly not affected by high flows or stormwater, Mr. Kules uses the comparison between flow at the Arroyo Seco stream gauge (USGS 110980) and flow at the LACDPW gage below Devil's Gate Dam (F-277) to estimate other inflows to the Arroyo Seco for the reach below the City's existing point of diversion. These sources would include Millard Creek, the Altadena Storm Drain and the West Altadena Drain, among others which flow principally during and after storm events ignored by Mr. Kules through his limited data selection. Mr. Kules states that the discharge at gage F-277 below Devil's Gate Dam, on days when flow at the Arroyo Seco stream gage is equal to the spreading basins' long-term percolation rate of 18 cfs, is equal to the contribution to Arroyo Seco flow from other sources located downstream of the gage. He then extrapolates this 11-day Dam discharge average of 4 cfs to cover the entire 10,957 days (30 years) of the modeled period.

His methodology overlooks decades of data from both gages that shows long-term average flows for the 31-year period of 9.52 cfs at the upstream Arroyo Seco stream gage and 15.79 cfs at the discharge of Devils Gate Dam. Specifically, when Arroyo Seco flows of 18 cfs were observed, Devil's Gate Dam has historically discharged an average of 21.26 cfs, not 4 cfs as proposed by Mr. Kules in his limited data selection. By choosing a period of medium flow (from February 6-16, 2017, the Arroyo Seco flows averaged 13.2 cfs) not influenced by rain events, this assumption is not representative of Project conditions and ignores the proposed Project changes to current operations, (i.e. diverting 25 cfs from flows up to 100 cfs during larger storm events).

On average, Devil's Gate Dam has discharged 11,429 acre feet per year (AFY) or 15.79 cfs since 1989, while stream flow at the Arroyo Seco gage has averaged 6,891 AFY, 9.52 cfs. Devil's Gate outflows leave the Monk Hill Subbasin via the lower Arroyo Seco and Los Angeles River, which are mostly concrete-lined from Devil's Gate Dam to San Pedro Bay. Of the total Devil's Gate discharge lost from the basin, 9,334 AF occurs from January through April (or an average of 40 cfs over those four months) and is the water that the proposed Project is intending to partially capture and infiltrate into the groundwater basin. Ken Kules' analysis does not account for the magnitude of water released annually from the Dam and lost to the ocean.

- Assumption #4: Only 18 cfs can be diverted in the existing condition

Although the current spreading basin capacity infiltrates approximately 18 cfs at a sustained rate, the basins have the ability to percolate at a higher rate for a short period of time. The diversion structure has the ability to divert the full right of 25 cfs.

While questioning the validity of its underlying assumptions for the reasons highlighted above, an analysis has been conducted to consider Mr. Kules' calculations on their own merit. Using his assumptions of Devil's Gate percolation between 24 and 29 cfs, additional flows of 4 cfs, no rainfall within the basin and the other assumptions detailed above, we repeated Mr. Kules' calculations. While we can confirm the validity of most of his calculations, it would appear on the final page that he did not convert from cubic feet per second (a flow rate) into acre feet (a volume) for proposed condition percolation totals (11,678 to 13,772 AF) as he had done for the existing condition percolation totals. Without

this calculation error, proposed condition percolation would be between 772 and 911 AFY (not 424 AFY).

Taking into account this conversion error, Mr. Kules' summary table has been corrected below in Table 2. Even if one were to overlook the errors in the assumptions made for this calculation, it can be seen that the proposed Project would not have a net-negative effect upon recharge in the Monk Hill Subbasin as stated by Mr. Kules.

Table 2. Updated Summary of Ken Kules' Calculations (Acre Feet per Year)

Summary	Kules Assumed Existing Conditions	Kules Modeled Project Condition	Corrected Kules Modeled Project Condition
Diverted and Spread			
Baseline	1,973	1,973	1,973
Increment	0	1,104	1,104
Percolation behind Devil's Gate Dam (streambed and ponding)	1,047	424	841
New Groundwater Pumping (80% of increment)	0	(883)	(883)
Effect on Groundwater	3,020	2,618	3,035

- **Failure to Provide for Fish Passage or Adequate Streamflow to Accommodate Potential Fish Populations.**

This assertion is inaccurate. The Fish and Game Code requires that free passage over or around any dam, as well as sufficient streamflow be allowed to pass over, around or through a dam to accommodate "any fish that may be planted or exist below the dam." Contrary to the commenter's assertion that the proposed Project does not comply with Fish and Game Code 5937, the proposed diversion/intake structure in Area 2 would improve biological functions beyond the current conditions, and would allow for compliance with the Fish and Game Code requirements through the diversion's design features and through operational requirements, as set forth in MM-BIO-7.

As stated in Section 4.2.5 of the Draft EIR, if fish were present in the Study Area in the current condition, fish could be transported downstream to be potentially stranded in the spreading basins due to the lack of a fish screen at the intake or in isolated pools of water between the diversion and the JPL Bridge, or lost when passed into Devil's Gate Reservoir where flows spread out and habitat is unsuitable. The loss of surface water connectivity within the Arroyo Seco and subsequent isolation of pools occurs primarily during the late summer/early fall months when there are periods of low to zero flows in the stream above the diversion structure in Area 2. Stream flows within the Arroyo Seco are below 1 cfs approximately 35% of the year and drop to zero approximately 10% of the year, based on data from the United States Geologica ``l Survey (USGS) stream gage No. 11098000. This lack of surface water is the primary barrier for fish movement in the existing condition from about the JPL Bridge upstream where substrate and cover is good, but surface water is lacking. Below the JPL Bridge, the flatter sediment load of the reservoir is open to solar heating, is dominated by finer substrates, and cover and pools are rare or absent. Also, the Arroyo Seco is subject to frequent dry conditions due to loss of aboveground flow as the channel emerges from the canyon into the alluvium, where water flow is primarily subterranean.

Further, as assessed under Threshold 4.2d in Section 4.2, Biological Resources of the Draft EIR, under existing conditions the diversion dam is a barrier to the movement of small aquatic animals due to an approximate 4-foot elevation drop downstream of the structure, in addition to steep channel segments and step-pool or bedrock drops preventing upstream fish passage. Therefore, if fish were to be present, their movement would be restricted and they may perish due to isolation or stranding.

The proposed Project would remedy some of the existing conditions in the Arroyo Seco that hinder the survival of fish populations. The proposed Project would include a fish screen to prevent future fish populations from being conveyed into and isolated within the spreading basins. Additionally, the Project includes an engineered roughened channel downstream of the new diversion structure and operable weir gate to allow return passage upstream should fish pass during periods of high flows. The proposed roughened channel profile slope downstream of the diversion weir would be 4% and, therefore, reasonably similar to a natural steep section or chute in the adjacent reaches of channel. The roughened channel would be designed to allow operational changes that could accommodate low- and high-flow fish passage and would include a small cushion pool at the crest to prevent injury and an asymmetric cross-section to provide appropriate depths and velocities across the range of design flows.

The comment erroneously claims the EIR takes the position that compliance with California Fish and Game Code (CFGC) sections 5901 and 5937 is contingent upon native fish being found within 1,500 feet upstream to 2,000 feet downstream of the Project site, and that the California Department of Fish and Wildlife (CDFW) found the finding false and the Project violates the codes. The proposed Project will be built and can be operated as if fish were present under the current condition; this includes implementation of a Monitoring Plan (MM-BIO-7). The proposed length of the stream identified to be monitored is within a section that has an upstream barrier (Brown Mountain Dam located approximately 3.9 river miles from Area 2) and downstream barrier (Devil's Gate Dam located approximately 1.7 river miles from Area 2) that limits the movement of fish in the Arroyo Seco. At the time of the preparation of the EIR there was no identified plan to remove either barrier, so limiting the monitoring between the two substantial structures is appropriate. Importantly, the CDFW stated in their second comment letter (dated January 6, 2021) that the agency "…agrees that the area surveyed for the Project and use of the 2010 California Salmonid Stream Habitat Restoration Manual (4th Edition) is adequate…" and "…looks forward to coordinating with Pasadena Water and Power on diversion structure and the Monitoring Plan…" as required by MM-BIO-7, indicating that the approach of utilizing subsequent monitoring and potential fish rescue is appropriate given current conditions.

- **Failure to include information lawfully required Information in the FEIR about the Potential Presence of Fish in the Arroyo and to Support its Finding that No Fish are in the Arroyo with Substantial Evidence.**

  The topic of the adequacy of fish studies performed for the Project was adequately addressed in the Draft EIR. The section of the Arroyo Seco surveyed for the proposed Project, as stated in the Biological Resources Technical Report, prepared by Dudek, dated May 2020 (Appendix D to the Draft EIR) includes an upstream barrier (Brown Mountain Dam) and downstream barrier (Devil's Gate Dam) that limits the movement of fish in the Arroyo Seco and presents a partially closed system (i.e., fish cannot leave). The Study Area for the fish survey was conducted in one continuous pass that originated where surface water ended downstream of the JPL bridge to the Brown Mountain Dam. At the time of the survey, October 14, 2019, USGS stream gage No. 110980001, located approximately one mile upstream of Area 2, recorded water flow at less than 1 cubic foot

per second and the gage height was recorded at less than one foot. This indicates that water levels were low within the Study Area portion of the Arroyo Seco during the survey which reduces the potential habitat and refugia for fish and makes it more likely that a trained observer would locate any fish, not just rainbow trout or arroyo chub. As stated in the Fisheries Review Letter authored by Dr. Camm Swift included as Appendix B-1 of the DEIR, there are currently no fish known to inhabit the Arroyo Seco above Devils Gate Dam, according to surveys and observations made by National Oceanic and Atmospheric Administration Steelhead Recovery coordinator Mark Capelli In August 2018 (email dated August 22, 2019) and by California Fish and Wildlife Fishery Biologist John O'Brien (email communication dated August 22, 2019).

This comment asserts that the Draft EIR does not adequately describe the environmental baseline conditions regarding fish in the Arroyo Seco. Section 4.2 of the EIR and Appendix (Biological Resources Technical Report for the Arroyo Seco Canyon Project Areas 2 and 3) provide an in-depth literature review and field studies to adequately document the environmental baseline for the existing conditions of fish in the Arroyo Seco.

This comment states that MM BIO-7 misstates CFGC Sections 5932 and 5937, narrows the requirements contained therein, and sets infeasible conditions for a purported future compliance with the codes. These assertions are inaccurate. At the time of the preparation of the EIR, there was no identified plan to remove Devil's Gate Dam, which inhibits upstream passage of fish. CFGC 5937 requires sufficient water to pass over, around or through a dam, to keep adequate conditions for the
passage of any fish that may be planted or exist below the dam. The proposed Project has committed to satisfy these requirements.

Fish are not expected to occur downstream of Area 2 based upon the existing conditions described throughout the EIR and its appendices. As such, MM-BIO-7 identifies a methodology to determine the presence of downstream fish, should conditions change in the future. As stated in MM-BIO-7, annual survey protocols shall be established to the satisfaction of CDFW and set forth in a Native Resident and Migratory Fish Monitoring Plan (Monitoring Plan). If the results of the annual surveys reveal a positive presence of native fish, the Monitoring Plan shall set forth thresholds for determining the permanency of the population, and whether or not connectivity both upstream and downstream of the diversion structure is appropriate and in the best interest of the long-term survival of an established native or migratory fish population, given hazards associated with stranding downstream. Further, MM-BIO-7 requires that until passage for steelhead is restored to the Arroyo Seco, the City shall implement a program to rescue fish between the diversion structure and the JPL Bridge. If rescue is determined to be ineffective or impractical, then the City shall modify its operations to accommodate passage. Lastly, MM-BIO-7 requires that at such time as steelhead passage is restored, the City shall alter either the design of the diversion/weir structure, the operational methods of the diversion/weir structure, or both to satisfy CFGC Sections 5901 and 5937. In summary, the proposed Project is protective of future fish populations through design features (i.e. fish screen, roughened channel, and an operable weir gate) and the Draft EIR requires that the City provide for the passage of fish through design changes or operational changes, as appropriate to satisfy Fish and Game Code Sections 5901 and 5937. Importantly, the CDFW stated in their second comment letter (dated January 6, 2021) and submitted for review at the Hearing Officer's meeting, that the agency looks forward to coordinating with the City on diversion structure and the Monitoring Plan (MM-BIO-7) to ensure compliance as set forth by CFGC sections 5901 and 5937.

- **The FEIR Deprived the Public of a Meaningful Opportunity to Comment Upon Changes in the Project, Environmental Setting, Mitigation Measures and Other Critical Data.**

  Regarding the comment that there have been changes to the Draft EIR that would result in environmental impacts, this assertion is inaccurate. It is assumed that this comment refers to changes made through the Final EIR, as described in Section 3, Changes to the Draft EIR, although the comment is not clear on this. None of the modifications to the text itemized in the Final EIR provide new information that would trigger recirculation of the EIR prior to certification, per the guidance provided in CEQA Guidelines Section 15088.5.

  Regarding the revision to Cultural Resources, the additional information on the El Prieto Trail was not included in the Draft EIR because the trail is outside of the study area and although the road may have been used for local access, the road has been dramatically altered by subsequent historical flood events and altered by CCC-era road construction such that the original route no longer retains the necessary physical or material integrity to convey their history. The additional information was provided for context, and the Final EIR clearly states that it does not have any effect on the analyses, conclusions, or mitigation measures set forth in the Draft EIR or the associated Cultural Resources Technical Report, and that no other revisions are required.

  Regarding the additional text added to "Areas of Known Controversy" in the Executive Summary of the Draft EIR, the issue of percolation rates is part of the larger context of concerns related to the expansion of the spreading basins articulated through several comment letters provided through the Notice of Preparation public review period. Table 1-1 in Section 1, Introduction of the Draft EIR, includes general summaries of the NOP comments received, which includes the following, "This letter requests evaluation of: alternatives to the Project; evaluation of cumulative impacts related to the Devil's Gate sediment removal project; assessment using the best available information related to percolation rates in spreading basins; and requests decreased diversions and reliance more on the natural stream hydrology." Further, several of the comment letters included in Appendix A of the Draft EIR provide detailed descriptions of such concerns, which are subsequently thoroughly addressed throughout Section 4.5, Hydrology and Water Quality of the Draft EIR. In the Final EIR, the topic is further explained in response to Comment Letter 6, as well as subsequent letters. As stated in Section 3.1, Introduction of the Final EIR, none of these additional explanations provide new information that would trigger recirculation of the EIR prior to certification, per the guidance provided in CEQA Guidelines Section 15088.5.

  Regarding the recent sightings of the endangered least Bell's vireo downstream of the proposed diversion dam, this information was made available after the public review period for the Draft EIR. Nevertheless, Appendix D of the Draft EIR acknowledges the occurrence of this species in Hahamongna Watershed Park. The occurrence of a breeding pair does not change the analysis that the Project will have a less than significant impact on downstream habitat, including occupied least Bell's vireo habitat, as stated in Section 4.2.5, Appendix D of the Draft EIR, and the updated analysis (performed by Psomas and dated October 14, 2020) that was included in the Final EIR.

  Regarding the addition of the mountain lion discussion to the Final EIR, mountain lions are identified as occurring in the Study Area in Section 5.3.5 of Appendix D of the Draft EIR. The Project's lack of impact on the movement of terrestrial wildlife, which includes the mountain lion, is discussed in Section 4.2.5 of the Draft EIR. As stated in the Final EIR, mountain lions would only be expected as a transient in the Project sites and natal dens would not be expected based upon studies of the species. Thus, the consideration

of listing mountain lions under the California Endangered Species Act does not change the environmental setting since impacts to the species are not expected and no new mitigation would be required. As stated in Section 3.1, Introduction of the Final EIR, none of these additional explanations provide new information that would trigger recirculation of the EIR prior to certification, per the guidance provided in CEQA Guidelines Section 15088.5.

Regarding the comment that implementation of MM-BIO-4 and MM-BIO-6 would cause significant environmental impacts if implemented, this assertion is inaccurate. MM-BIO-4 and MM-BIO-6 both require the approval of Habitat Mitigation and Monitoring Plans by CDFW, U.S. Army Corps of Engineers, and Los Angeles Regional Water Quality Control Board. These agencies are also responsible for issuing permits for impacts to jurisdictional waters. As such, implementing the establishment of vegetation and jurisdictional waters would be subject to their conditions and approval and conducted in accordance with all applicable regulations, and these agencies would not permit activities that could further impact sensitive resources on-site or downstream of the proposed mitigation areas. Further, the California Environmental Quality Act (CEQA) explicitly excludes restoration of a natural resource from environmental review, and such activities are categorically exempt (see CEQA Guidelines Section 15307 and 15308). As stated in Section 3.1, Introduction of the Final EIR, none of these additional explanations provide new information that would trigger recirculation of the EIR prior to certification, per the guidance provided in CEQA Guidelines Section 15088.5.

- **The only remedy for these failures is recirculation of the EIR with regard to these issues.**

  This assertion is inaccurate. As addressed through responses above, no new significant information has been provided that would deprive the public of a meaningful opportunity to comment upon a substantial adverse environmental effect of the project or a feasible way to mitigate or avoid such effects. The Hearing Officer made clear that he had thoroughly read the Draft EIR and Final EIR, including all comment letters received by the City leading up to, and during, the hearing. The Hearing Officer explicitly stated his understanding of the nature of the project and the issues raised at the hearing prior to certifying the Final EIR.

The Final EIR provides comprehensive responses to all comment letters received during the public review period, and no new information was provided during the preparation of the Final EIR or subsequently prior to the Hearing Officer's meeting on January 6, 2021, that would trigger recirculation of the EIR prior to certification, per the guidance provided in CEQA Guidelines Section 15088.5.

TREE PROTECTION ORDINANCE:

The City's Tree Protection Ordinance (Section 8.52 of the City's Municipal Code) provides for the preservation of mature trees and has a list of protected tree species. "Public tree" means a tree located in a place or area under ownership or control of the city including but without limitation streets, parkways, open space, parkland and including city owned property under the operational control of another entity by virtue of a lease, license, operating or other agreement. Since the project areas are located within the OS Zoning District, any trees located within these areas is considered a public tree. Any request to remove a public and/or street tree must be reviewed by the Urban Forestry Division in the Public Works Department.

As part of the original Conditional Use Permit #6222, a total of 17 protected trees were proposed and approved to be removed. With the revision to the project, currently 19 protected trees are proposed to be removed with the project. Specifically, all 19 trees are located in Area 2, and of these trees, only two trees are the same trees that were previously approved to be removed.

PWP is currently working with the Urban Forestry Division in the Public Works Department for the removal of these protected trees.

GENERAL PLAN CONSISTENCY:

The City's General Plan Open Space and Conservation Element sets forth objectives related to the use of water resources in the City (City of Pasadena 2012). The proposed project supports these objectives, as follows:

- Increase the efficiency of water use among Pasadena residents, and commercial and industrial organizations.

The proposed project would facilitate the efficient use of water in the Arroyo Seco by allowing for the full utilization of the City's surface water rights and reducing reliance upon imported water supplies from the Metropolitan Water District of Southern California (MWD). PWP has a longstanding right to divert up to 25 cfs from this source. MWD imports water from the Sacramento-San Joaquin Delta via the State Water Project, and from the Colorado River. In recent years, MWD has imposed allocation limits on its water supply deliveries to its member agencies, and the future reliability of imported water will continue to face uncertainties from climate change, environmental regulations, and droughts. Another important issue associated with imported water is cost, which has increased substantially in the past few years (City of Pasadena 2012). Achieving water supply reliability will depend on a number of key water policy and management decisions on a regional and local level, including implementation of projects such as the proposed Arroyo Seco Canyon Project Areas 2 and 3.

- Protect local water supply sources and plant trees and vegetation that are consistent with habitat and water conservation policies.

The proposed project would facilitate the protection of local water supply sources by improving the ability of the diversion weir and intake structure to capture water during high-flow storm events. It has been PWP's practice in the past (more so after floods following the Station Fire damaged the upstream settling basins) to bypass water from high-flow storm events when the water is sediment-laden and turbid in order to protect the existing infrastructure from damage. The proposed project would include improvements to the diversion weir and intake structure to better accommodate turbid waters in high-flow events, as well as improvements to the capacity of the spreading basins, both of which would facilitate increased availability and use of local water supply sources.

- Improve surface permeability and recharge aquifers/enhance storm water quality to prevent pollution/trash from entering Los Angeles and San Gabriel Rivers and ocean.

The proposed project would improve the functionality and efficiency of the facilities responsible for the diversion and infiltration of water into the Raymond Basin. PWP has in the past forfeited available water due to the lack of spreading capacity within the spreading basins. The increased capacity and efficiency of the spreading basin improvements in Area 3 (which includes a new sedimentation basin for sediment to settle out before water is directed to the spreading basins)

would maximize capacity and infiltration rates, thereby improving the recharge of groundwater supplies.

Furthermore, the project is consistent with the following General Plan Land Use Element Policies:

- Policy 2.14 – Natural Areas: maintain existing and acquire additional natural areas to protect watersheds, natural resources, and afford recreational opportunities for Pasadena's residents;

- Policy 10.9 – Natural Open Space: protect natural open spaces, hillsides, watersheds, and critical habitats to safeguard the health, safety, and beauty of the City for the benefit of present and future generation; and

- Policy 10.18 – Water Quality: encourage the use of natural processes to capture, treat, and infiltrate urban runoff throughout the watershed.

The proposed project would repair and replace the City's water infrastructure facilities in the Upper Arroyo Seco that were damaged by debris flows caused by storms following the 2009 Station Fire. Damage to these structures has greatly reduced the City's capacity to divert water from the Arroyo Seco for spreading and pumping credits. The proposed improvements would allow for increased utilization of the City's pre-1914 surface water rights from the Arroyo Seco and maximize the beneficial use of this important local water resource. As discussed in the report, the proposed project would implement a multi-benefit approach to the repair and replacement of damaged infrastructure in the Arroyo Seco, with the overall project objective of increasing the beneficial use of the surface water rights held by the City and improving biological functions within the Arroyo Seco.

The spreading basin designs in Area 3 would incorporate a network of local trails for recreation use, and these recreational amenities would be further improved through selective planting around the basins. The proposed basin layout and landscaping would enhance the proposed trail network for pedestrians and equestrian usage with incorporation of benches, interpretive signage, and shade structures adjacent to the spreading basins along the proposed pedestrian trails/maintenance roads.

ENVIRONMENTAL REVIEW:

In accordance with the requirements of the California Environmental Quality Act, an Environmental Impact Report (EIR) was prepared in order to identify and analyze the project's potential impacts on the environment.

The Draft EIR was made available for public review and comment from June 15, 2020 through July 31, 2020 for a total of 46 days for public review.

The Final EIR consist of:

1. The Draft EIR or a revision of the Draft.
2. Comments and recommendations received on the Revised Draft EIR either verbatim or in summary.
3. A list of persons, organizations, and public agencies commenting on the Revised Draft EIR.
4. The responses of the lead agency to significant environmental points raised in the review and consultation process.

5. Any other information added by the lead agency.

The responses to comments include copies of all the letters received during the Draft EIR public review period, as described further below, as well as responses to all comments received. In addition to these responses to comments, the Final EIR contains clarifications, corrections of minor revisions to the text, tables, figures, and/or appendices of the Draft EIR.

The FEIR identified potentially significant effects related to the following topics: Biological Resources, Cultural and Tribal Cultural Resources, Hazards and Hazardous Materials, Noise, Recreation, and Transportation. With incorporation of mitigation measures, the FEIR determined that all potentially significant effects would be reduced to a less-than-significant level, with the exception of impacts related to Cultural Resources, which would remain significant and unavoidable after mitigation. Therefore, a Statement of Overriding Consideration is required for approval of the proposed project.

Cultural Resources – Significant and Unavoidable

A structural evaluation of Bridge No. 3 was conducted in 2018, subsequent to the placement of the temporary structural bridge overlay, which determined that the condition of Bridge No. 3 continues to deteriorate and is no longer safe for use (TJC 2018). Upon completion of the proposed Project, the City intends to keep the Bridge No. 3 overlay structures as-is, with the understanding that the reconstruction/replacement of Bridge No. 3 will eventually be required if the City wishes to maintain the bridge. The temporary structural bridge overlay allows for the safe passage of vehicles and pedestrians along the Gabrielino Trail/Access Road and to the USFS facilities and allows access to large vehicles, including fire trucks, that were previously restricted due to the loading limitations of the original bridge even before it was damaged. Since the temporary structure is constructed of steel elements and concrete, and will experience relatively light traffic, its expected service life is estimated to exceed 50 years. There may be safety risks associated with the continued deterioration of Bridge No. 3 if structural members fail and fall, and therefore the City may need to remove dangerous elements to protect public safety. Because there are no plans for the future reconstruction/replacement of the Bridge No. 3 at the time of the preparation of this Draft EIR, it is anticipated that the existing bridge may continue to deteriorate, and although not anticipated at this point, may even be removed to protect public safety.

Mitigation Measure

MM-CUL-2: Prior to construction completion, the City shall ensure preparation of Historic American Engineering Record (HAER) documentation for Bridge No. 3 in accordance with the Secretary of the Interior's Standards for Architectural and Engineering Documentation. Documentation shall be completed by a qualified historic preservation professional who meets the Secretary of the Interior's Professional Qualifications Standards for architectural history. The documentation shall capture the physical description of the existing bridge with: 1) existing as-builts/drawings (where/if available); 2) a written narrative that includes a detailed history and architectural description of the bridge and a discussion of its historical significance; 3) photographs of the bridge with large format negatives to demonstrate its current condition; and 4) provide other photographs of the bridge prior to installation of the current overlay. Upon approval of the final HAER package, the City shall offer one original copy of the final HAER package to the City of Pasadena Historic Preservation Program, the South Central Coastal Information Center at California State University, Fullerton, and the Angeles National Forest Administrative Office.

Prior to project construction completion, the City shall conduct a review of the bridge overlay design on Bridge No. 3 and construction materials used in the bridge overlay to determine improvements that can be made to conform with the City's Arroyo Seco Design Guidelines. Examples of potential improvements include, but are not limited to, evaluation of appropriate paint colors that reflect the natural character of the Arroyo Seco, and replacement of components with more natural materials (e.g. wood, concrete, brick, arroyo stone piers, unpainted weathering steel or other natural materials, such as copper and wrought iron). The proposed design improvements shall be submitted to the City of Pasadena Department of Planning – Historic Preservation for review and approval.

The above mitigation measures are feasible and will reduce the proposed Project's impacts to cultural resources. However, there are no feasible mitigation measures that would reduce impacts to Bridge No. 3 to a level below significant. Therefore, these impacts must be considered significant and unavoidable even after implementation of all feasible mitigation measures. Pursuant to Section 21081(a)(3) of the California Public Resources Code, as described in the Statement of Overriding Considerations, the City has determined that specific economic, legal, social, technological, or other considerations make infeasible the alternatives identified in the EIR, and the identified cultural (historic) impacts are thereby acceptable because of specific overriding considerations.

The structural overlay bridge installed in 2017 that spans the entire length of Bridge No. 3 is not in conformance with the Secretary of the Interior's Standards for the Treatment of Historic Properties in consideration of its proposed permanency. As a potentially permanent design feature, the continued presence of the overlay structure on Bridge No. 3 is considered a significant impact to historical resources, as the overlay detracts from nearly all of its important character-defining features and introduces incompatible, highly visible, modern materials. It is anticipated that Bridge No. 3 will continue to deteriorate, and as a result, PWP will need to remove dangerous elements of the bridge (damaged joists, for example) and even partially or fully demolish the bridge to protect public safety as it continues to deteriorate. MM-CUL-2, which requires preparation of Historic American Engineering Record (HAER) documentation for Bridge No. 3 in accordance with the Secretary of the Interior's Standards, and sharing documentation with the City of Pasadena, the SCCIC, and the Angeles National Forest, as well as implementing adjustments to bring the bridge overlay components into compliance with the Arroyo Seco Design Guidelines, to the extent feasible. Implementation of MM-CUL-2 would lessen impacts but would not reduce impacts to Bridge No. 3 below a level of significance. Therefore, impacts to cultural resources under CEQA are considered significant and unavoidable, even with implementation of MM-CUL-2. (Draft EIR, p. 4.3-33 through 4.3-34)

Overriding Considerations of the Project

The Overriding Considerations include, but are not limited to:

- Replacement of 90-year old facilities that were damaged during storms following the 2009 Station Fire with the construction of a new diversion and intake structure that will provide increased capacity to divert Arroyo Seco flows from the larger storm events, consistent with the City's water rights. By capturing a greater proportion of the larger stream flows and diverting these to spreading basins, more water is retained in the Hahamongna Watershed and infiltrated to the underlying Raymond Basin, and less water is lost to outflows from Los Angeles County Devil's Gate Dam.

- Construction of an additional 3 acres of spreading basins that will allow for the projected increase in diversions to percolate into the Raymond Basin which serves as underground reservoir for the City's local water supplies.

- Additional local water supply which increase reliability and system resiliency by reducing the City's dependency upon more expensive water imported from the environmentally-sensitive Sacramento/San Joaquim Delta and the Colorado River.

- An additional tool for managing and improving the reliability of the Raymond Basin in partnership with other Raymond Basin member agencies and the County of Los Angeles in conformance with standards and requirements of the regulating agencies.

- The inclusion of features in the diversion and intake structures that do no currently exist that will protect aquatic animals from passing into the conveyance system and that will allow for passage of any future fish.

- The addition of bio-retention basins that will protect the water quality of the Arroyo Seco by capturing and treating surface runoff prior to percolation into the groundwater table.

- A spreading basin design that emulates natural channels and stream functions for visual enhancement and that incorporates a network of natural trails for recreational use.

- The conversion of a barren formerly paved parking lot into a multi-purpose water supply and recreation area that will include native landscaping for shade and habitat.

Alternatives

The Final EIR includes an evaluation of three alternatives, as summarized below:

- Alternative A – No Project/No Action

Under Alternative A, the proposed Project would not be implemented. The Areas 2 and 3 of the Project site would remain unchanged, and no development activity would occur. Operations and maintenance activities would continue to occur into the future, as in the current condition.

Alternative A would result in reduced environmental impacts to almost all environmental topics in the short-term because construction activity would not occur. Alternative A would also result in reductions to impacts associated with long-term Hydrology. However, Alternative A does not meet the Project objectives, including increasing groundwater recharge and enhancing local water supplies for more reliable water service, and would not avoid or reduce the Project's significant impact on historical resources. Additionally, the proposed Project would result in benefits to the topics of Biological Resources and Greenhouse Gas Emissions that would not occur under Alternative A, such that maintaining the current condition would be more impactful to the environment in the long-term to these two topics.

For CEQA purposes, this alternative is rejected because it would not meet any of the project objectives and it could potentially result in significant and unavoidable impacts to historical resources.

- Alternative B – Redesigned Spreading Basins in Area 3

Under Alternative B, all activities proposed within Area 2 would continue to be implemented, as set forth in the proposed Project. The alternative design of Area 3 would mimic the primary design objectives and operational characteristics of the Project, including: use of a settling basin to facilitate removal of debris and sediment from water prior to conveyance to the spreading basins, use of a concrete flume to meter flow into the infiltration basins, and use of stepped basins with gravity flow interconnection pipes. This alternative would relocate some of the parking stalls from the future recreational parking lot located just south of the JPL Bridge to the eastern edge of Area 3 near the Explorer Well site to provide for the altered configuration of the spreading basin design. The relocated parking stalls would be intermittent angled along the Explorer Road.

The objective of Alternative B would be to provide an improved design with more appeal for recreational users by eliminating the rectangular shapes of the existing condition, as well as the proposed Project design, through use of curvilinear basin features that more closely resemble natural channel and stream functions. The recreational amenities would be further improved through the use of native, drought-tolerant landscape plantings around the basins. The Alternative B basin layout and landscaping would have the added benefit of enhancing the proposed trail network for pedestrians and equestrian usage, with incorporation of educational kiosks, benches, interpretive signage, and shade structures adjacent to the spreading basins along the proposed pedestrian trails/maintenance roads. Alternative B would replace the enclosed concrete sedimentation basin (Basin A) with an open settlement pond. Alternative B would also include a slight realignment of Explorer Road to reflect the more curvilinear contours of the spreading basins and to allow for the future Explorer Well site to be east of the recreational trail amenities. Relocating the well site to the east would make it less prominent when viewing the area from the Gabrielino Trail above.

Alternative B would result in similar short-term construction-related impacts when compared to the proposed Project for all environmental topics with the exception of a temporary increase in water supply for landscaping irrigation. For long-term operational impacts, all environmental factors would have similar impacts under Alternative B to the proposed Project. However, Alternative B would result in benefits to the environment that would not occur under the proposed Project. Alternative B would develop curvilinear grading contours at the spreading basins to facilitate a more naturalized appearance consistent with a park setting, improved recreational amenities, such as connective trails and interpretive signage, and natural native landscaping to enhance the recreational experience.

Alternative B would not increase any new long-term environmental impacts and would increase long-term benefits to Biological Resources and Recreation. However, Alternative B would not eliminate the significant unavoidable impact to cultural resources.

For CEQA purposes this alternative cannot be rejected because Alternative B would meet all of the project objectives, and impacts would be the same as those anticipated from the proposed Project with the exception of short-term impacts related to utilities and service systems. Alternative B would not eliminate the significant unavoidable impact to cultural resources, which would be same determination as the proposed Project. As such, Alternative B would be feasible to implement. The City has determined Alternative B to be the preferred alternative, and the features included in Alternative B are part of the proposed project as analyzed under the Modification to Conditional Use Permit #6222.

- Alternative C – Historic Bridge Rehabilitation

Under Alternative C, all activities proposed within Areas 2 and 3 would continue to be implemented, as set forth in the proposed Project. Alternative C also includes the implementation of the recommendations of the Arroyo Seco Bridge (B3) Assessment Deterioration Comparison prepared by TJC Associates Inc. in 2018 (TJC 2018) as they relate to the reconstruction or replacement of primary structural features on historic Bridge No. 3, which is located within the Project's study area along the Gabrielino Trail/Access Road. The location of Bridge No. 3 is identified on Figure 2-4A within Section 2, Environmental Setting, of the Draft EIR. Alternative C would remove the bridge overlay deck on historic Bridge No. 3 and repair or replace the structural elements of the bridge in accordance with the U.S. Department of the Interior Standards for the Treatment of Historic Properties.

All of the primary structural elements of the bridge--specifically, the joists below the bridge deck, the heavy timber support element at mid-span, the A-frame trusses on the east and west sides of the bridge, and the steel elements of the bridge--are deteriorated and subject to fail, and would be replaced under Alternative C. The heavy timber midspan member that is the primary structural element of the bridge appears to have significant bearing failure under the supported members. If the mid-span support continues to deteriorate and fail, catastrophic failure of the bridge will occur; therefore, replacement of the heavy timber mid-span support beam(s) would be a priority. Replacement of the center support member would require temporary supports to be placed in the Arroyo Seco to relieve the load on the beam while the deteriorated beam was replaced. Additionally, portions or all of the joists would be removed.

Alternative C would result in slightly increased short-term construction impacts to most environmental topics. For long-term impacts, Alternative C would not provide the protections related to wildfire preparedness as it pertains to the City's ability to accommodate firefighting equipment into and out of the Arroyo Seco Canyon and the Angeles National Forest and would result in increased long-term wildfire risks when compared to the proposed Project. However, this Alternative would eliminate the significant unavoidable impact related to historic resources and would be considered to be the environmentally superior alternative to the proposed Project.

For CEQA purposes this alternative cannot be rejected because it would meet all of the project objectives and it would result in slightly greater impacts to air quality, biological resources, cultural resources, hydrology and water quality, noise, recreation, transportation, tribal cultural resources, and wildfire. Alternative C would eliminate the significant and unavoidable impact anticipated under the proposed Project. As such, Alternative C would be feasible to implement.

CONCLUSION:

It is staff's assessment that the findings necessary for approval of the Modification to Conditional Use Permit to allow the repair and replacement of City's water infrastructure facilities within the Upper Arroyo Seco can be made.

The Conditional Use Permit process is intended to allow for activities and uses which may be desirable in an applicable zoning district and compatible with adjoining land uses, but whose effect on a site and its surroundings have to be analyzed prior to allowing such use. In this case, the Arroyo Seco area is native to this area of Pasadena. The proposed improvements will allow the restoration of the Canyon Area that was damaged following the fire-related events of 2009. In addition, the proposed project will allow the City to fully utilize its pre-1914 water rights. As such,

staff determined the proposed improvements merit an approval in the affirmative since the proposed work is consistent with the current operation of the Arroyo Seco Canyon Area.

Therefore, staff recommends that the Board of Zoning Appeals uphold the Hearing Officer's decision and adopt a Resolution certifying the Final Environmental Impact Report (SCH #2014101022) adopting findings, adopting the Mitigation Monitoring and Reporting Program (Attachment C); adopt a Resolution adopting a Statement of Overriding Considerations for the project (Attachment D); and approve the application with the findings in Attachment A and the Conditions of Approval in Attachment B.

RECOMMENDATION:

It is recommended that the Board of Zoning Appeals:

1. Adopt a Resolution certifying the Final Environmental Impact Report (SCH #2014101022), and adopting Environmental Findings of Fact and a Mitigation Monitoring and Reporting Program (Attachment C);

2. Adopt a Resolution adopting a Statement of Overriding Considerations for the project (Attachment D); and

3. Uphold the Hearing Officer's decision and approve Modification to Conditional Use Permit #6222 with the findings in Attachment A and conditions in Attachment B.

Respectfully Submitted,

Luis Rocha
Zoning Administrator

Prepared By:

Beilin Yu
Senior Planner

Attachments:

Attachment A – Modification to Conditional Use Permit #6222 Findings
Attachment B – Conditions of Approval
Attachment C – Resolution Certifying the FEIR, Adopting Environmental Findings of Fact and a Mitigation Monitoring and Reporting Program
Attachment D – Resolution Adopting a Statement of Overriding Considerations
Attachment E – Final Environmental Impact Report
Attachment F – Hearing Officer Decision Letter (dated January 11, 2021)
Attachment G – Appeal Application and Appeal Letter (dated January 19, 2021)
Attachment H – Responses to Request for Appeal (dated March 2021)
Attachment I – Hearing Officer Addendum (dated March 5, 2021)

ATTACHMENT A
SPECIFIC FINDINGS FOR MODIFICATION TO CONDITIONAL USE PERMIT #6222

Conditional Use Permit: To Allow Infrastructure Improvements within OS Zoning District

1. *The proposed use is allowed with a Conditional Use Permit within the applicable zoning district and complies with all applicable provisions of this Zoning Code.* The proposed improvements are permitted subject to the review and approval of a conditional use permit. The improvements proposed with the project will allow for increased utilization of the City's surface water rights from the Arroyo Seco and maximize the beneficial uses of this important local water resource. The proposed project will implement a multi-benefit approach to the repair and replacement of damaged infrastructure in the Arroyo Seco, with the overall project objective of increasing the beneficial use of the surface water rights held by the City and improving biological functions within the Arroyo Seco. For any future fish populations that may establish in the Arroyo Seco, the new intake will include a fish screening feature to prevent fish populations from passing into the intake and conveyance system, and a roughened channel will be constructed directly downstream of the new weir to allow for future fish passage upstream during moderate flow periods. To ensure the project does not negatively impact the surrounding areas, conditions have been recommended through mitigation measures, as well as conditions of the conditional use permit approval.

2. *The location of the proposed use complies with the special purposes of this Zoning Code and the purposes of the applicable zoning district.* The subject site is located within the Open Space (OS) zoning district and has been utilized for open space use. The purpose of the project is to repair as well as enhance existing amenities within the Arroyo Seco Canyon Area. The proposed conditional use permit will allow for the necessary repairs of the existing Water Division facilities, while expanding open space opportunities for members of the public. As such, the location of the proposed use complies with the special purposes of this Zoning Code and the purposes of the applicable zoning district.

3. *The proposed use is in conformance with the goals, policies, and objectives of the General Plan and the purpose and intent of any applicable specific plan*. The City's General Plan Open Space and Conservation Element sets forth objectives related to the use of water resources in the City (City of Pasadena 2012). The proposed project supports these objectives, as follows:

    - Increase the efficiency of water use among Pasadena residents, and commercial and industrial organizations.

    The proposed project will facilitate the efficient use of water in the Arroyo Seco by allowing for increased utilization of the City's surface water rights and reducing reliance upon imported water supplies from the Metropolitan Water District of Southern California (MWD). PWP has a longstanding right to divert up to 25 cfs from this source. MWD imports water from the Sacramento-San Joaquin Delta via the State Water Project, and from the Colorado River. In recent years, MWD has imposed allocation limits on its water supply deliveries to its member agencies, and the future reliability of imported water will continue to face uncertainties from climate change, environmental regulations, and droughts. Another important issue associated with imported water is cost, which has increased substantially in the past few years (City of Pasadena 2012). Achieving water supply reliability will depend on a number of key water policy and management decisions on a regional and local level, including implementation of projects such as the proposed Arroyo Seco Canyon Project Areas 2 and 3.

- Protect local water supply sources and plant trees and vegetation that are consistent with habitat and water conservation policies.

The proposed project will facilitate the protection of local water supply sources by improving the ability of the diversion weir and intake structure to capture water during high-flow storm events. It has been PWP's practice in the past (more so after floods following the Station Fire damaged the upstream settling basins) to bypass water from high-flow storm events when the water is sediment-laden and turbid in order to protect the existing infrastructure from damage. The proposed project will include improvements to the diversion weir and intake structure to better accommodate turbid waters in high-flow events, as well as improvements to the capacity of the spreading basins, both of which will facilitate increased availability and use of local water supply sources.

- Improve surface permeability and recharge aquifers/enhance storm water quality to prevent pollution/trash from entering Los Angeles and San Gabriel Rivers and ocean.

The proposed project will improve the functionality and efficiency of the facilities responsible for the diversion and infiltration of water into the Raymond Basin. PWP has in the past forfeited available water due to the lack of spreading capacity within the spreading basins (Carollo Engineers 2013). The increased capacity and efficiency of the spreading basin improvements in Area 3 (which includes a new sedimentation basin for sediment to settle out before water is directed to the spreading basins) will maximize capacity and infiltration rates, thereby improving the recharge of groundwater supplies.

Furthermore, the project is consistent with the following General Plan Land Use Element Policies:

- Policy 2.14 – Natural Areas: maintain existing and acquire additional natural areas to protect watersheds, natural resources, and afford recreational opportunities for Pasadena's residents;
- Policy 10.9 – Natural Open Space: protect natural open spaces, hillsides, watersheds, and critical habitats to safeguard the health, safety, and beauty of the City for the benefit of present and future generation; and
- Policy 10.18 – Water Quality: encourage the use of natural processes to capture, treat, and infiltrate urban runoff throughout the watershed.

The proposed project will repair and replace the City's water infrastructure facilities in the Upper Arroyo Seco that were damaged by debris flows caused by storms following the 2009 Station Fire. Damage to these structures has greatly reduced the City's capacity to divert water from the Arroyo Seco for spreading and pumping credits. The proposed improvements, including the reconfiguration and expansion of infiltration basins, will allow for increased utilization of the City's pre-1914 surface water rights from the Arroyo Seco and maximize the beneficial use of this important local water resource. The proposed project will implement a multi-benefit approach to the repair and replacement of damaged infrastructure in the Arroyo Seco, with the overall project objective of increasing the beneficial use of the surface water rights held by the City and improving biological functions within the Arroyo Seco.

The spreading basin designs in Area 3 will incorporate a network of local trails for recreation use, and these recreational amenities will be further improved through selective planting around the basins. The proposed basin layout and landscaping will enhance the proposed

trail network for pedestrians and equestrian usage with incorporation of benches, interpretive signage, and shade structures adjacent to the spreading basins along the proposed pedestrian trails/maintenance roads.

4. *The establishment, maintenance, or operation of the use would not, under the circumstances of the particular case, be detrimental to the health, safety, or general welfare of persons residing or working in the neighborhood of the proposed use.* The proposed improvements are intended to increase water quality and supply reliability, and to expand the potential for recreational activities within the Arroyo Seco Canyon Area. These improvements will adhere to all building code requirements, especially the requirements for accessibility. In addition, the proposal will also be required to meet the standards of all respective City departments prior to the issuance of any building permits. Furthermore, conditions of approval have been imposed to reduce any potential impacts resulting from the project.

5. *The use, as described and conditionally approved, would not be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the City*. The proposed improvements are not intended to be obtrusive to the surrounding areas. The project is intended to implement a multi-benefit approach to the repair and replacement of damaged infrastructure in the Arroyo Seco, with the overall project objective of increasing the beneficial use of the surface water rights held by the City and improving biological functions within the Arroyo Seco. For any future fish populations that may establish in the Arroyo Seco, the new intake will include a fish screening feature to prevent fish populations from passing into the intake and conveyance system, and a roughened channel will be constructed directly downstream of the new weir to allow for future fish passage upstream during moderate flow periods. These improvements will be required to adhere to all requirements, including, but not limited to compliance with the building code. The proposal will also be required to meet all conditions as imposed herein by all respective City departments, as well as state agencies prior to the issuance of building permits (ex. Building, Water, Zoning etc.).

6. *The design location, operating characteristics, and size of the proposed use would be compatible with the existing and future land uses in the vicinity in terms of aesthetic values, character, scale, and view protection.* The proposed water facilities are repairs to existing facilities for the most part, and the new percolation ponds will be in close proximity to existing ponds and will replace a parking lot, thereby improving the aesthetic value of the area. The proposed recreational amenities proposed as part of the project will be of a size, style and scale that will be compatible to the natural surroundings. The physical features of the recreational amenities will not be a design feature of primary focus, but will allow the trees, vegetation, streambed, and mountainous terrain to take the spotlight.

7. *There are changed circumstances sufficient to justify the modification to the original approval.* The proposed project under this Modification request are the elements of the project that were set aside with the approval of the first Modification to CUP #6222 by the City Council in July 2017. An Environmental Impact Report, in accordance with the requirements of the California Environmental Quality Act, has been prepared for these components and activities. The FEIR identified potentially significant effects related to the following topics: Biological Resources, Cultural and Tribal Cultural Resources, Hazards and Hazardous Materials, Noise, Recreation, and Transportation. With incorporation of mitigation measures, the FEIR determined that all potentially significant effects will be reduced to a less-than-significant level, with the exception of impacts related to Cultural Resources, which will remain significant and unavoidable after mitigation.

ATTACHMENT B
CONDITIONS OF APPROVAL FOR MODIFICATION TO CONDITIONAL USE PERMIT #6222

The applicant or successor in interest shall meet the following conditions:

1. The proposed project shall substantially conform to the site plan submitted with this application and dated "Approved at Hearing March 18, 2021", except as modified herein.

2. The approval of this application authorizes the improvements within the Arroyo Seco Area, which include those improvements identified in the plans stamped "Approved at Hearing January 6, 2021", including, but not limited to:
   a) construction of a new diversion weir and intake in the same location as the existing structure,
   b) construction of an engineered roughened channel in the section of stream directly downstream of the diversion structure,
   c) replacement of existing Ponds 1 and 2, and Basins 1 and 2, with Basin A, and
   d) construction of six new spreading basins.

3. In accordance with Section 17.64.040 of the Pasadena Municipal Code, the exercise of the right granted under this application must be commenced within three years of the effective date of the approval. This approval is eligible for two one-year extensions. Each one year extension is required to be reviewed and approved by the Hearing Officer at a noticed public hearing. In order for a project to be eligible for a time extension, the applicant is required to submit the required fee and time extension application to the Permit Center prior to the expiration date of the land use entitlement.

4. Pursuant to Chapter 17.61.040.J (Post-Approval Procedures) of the Zoning Code, the Zoning Administrator can call for a review of the approved conditions if it can be reasonably shown that there are grounds for revocation or modification of this Conditional Use Permit. These conditions may be modified or new conditions may be added to reduce any impacts of the use.

5. Any change to these conditions of approval or expansion of the use shall require the modification of this Conditional Use Permit or a new Conditional Use Permit.

6. The applicant or successor in interest shall meet the applicable code requirements of all other City Departments.

7. The applicant or successor in interest shall retain a Mitigation Monitoring Coordinator (Mitigation Coordinator) with experience on large construction projects to serve as a liaison to between the development/construction team and the City. The Mitigation Coordinator will monitor the implementation of the Mitigation Monitoring and Reporting Program as specified in the project Environmental Impact Report or Mitigated Negative Declaration, and prepare and submit written weekly reports to the Condition/Mitigation Monitoring Coordinator of the City of Pasadena. The format of the written reports is subject to approval by the Code Compliance Manager.

<u>Planning Division</u>

8. The applicant or successor in interest shall meet all of the mitigation measures of the Final Environmental Impact Report.

9. The project shall adhere to the City regulations governing hours of construction, noise levels generated by construction and mechanical equipment, and the allowed level of ambient noise as specified in Chapter 9.36 of the Pasadena Municipal Code.

Public Works Department

10. Approval from the Urban Forestry Advisory Committee (UFAC) for the proposed tree removal/tree planting on this project. Please contact Michael King, Urban Forestry, at (626) 744-9846 or MKing@cityofpasadena.net , for more details.

11. In addition to the above condition, the requirements of the following ordinance may apply to the proposed project:

    City Trees and Tree Protection Ordinance - Chapter 8.52 of the PMC
    The ordinance provides for the protection of specific types of trees on private property as well as all trees on public property. No street trees in the public right-of-way shall be removed without the support of the Urban Forestry Advisory Committee. No trees shall be damaged by the proposed construction, if a City tree is damaged, the applicant may be liable for the assessed value of the tree. Refer to https://www.cityofpasadena.net/public-works/parks-and-natural-resources/urban-forestry/ for guidelines and requirements for tree protection.

12. Prior to the start of construction or the issuance of any permits, the applicant shall submit a Construction Staging and Traffic Management Plan to the Department of Public Works for review and approval. The template for the Construction Staging and Traffic Management Plan can be obtained from the Department of Public Works webpage at: https://www.cityofpasadena.net/public-works/engineering-and-construction/engineering/. A non-refundable flat fee, based on the current General Fee Schedule, is required for plan review and on-going monitoring during construction. This plan shall show the impact of the various construction stages on the public right-of-way (and the private street) including all street occupations, lane closures, detours, staging areas, and routes of construction vehicles entering and exiting the construction site. An occupancy permit shall be obtained from the department for the occupation of any traffic lane, parking lane, parkway, or any other public right-of-way. All lane closures shall be done in accordance with the Manual of Uniform Traffic Control Devices (MUTCD) and California Supplement. If the public right-of-way occupation requires a diagram that is not a part of the MUTCD or California Supplement, a separate traffic control plan must be submitted as part of the Construction Staging and Traffic Management Plan to the department for review and approval. No construction truck idling or staging, material storage, or construction trailer are allowed in the public right-of-way.

13. The applicant shall protect all existing public facilities and maintain the right of way in good clean condition during the construction. If any damage is proven to be caused by the subject development, the applicant is responsible for replacing and/or repairing the facilities to the satisfaction of the City, prior to the issuance of Certificate of Occupancy.

ATTACHMENT C
RESOLUTION CERTIFYING THE FEIR, ADOPTING ENVIRONMENTAL FINDINGS OF FACT AND A MITIGATION MONITORING AND REPORTING PROGRAM

RESOLUTION NO. _____

A RESOLUTION OF THE BOARD OF ZONING APPEALS OF THE CITY OF PASADENA CERTIFYING THE FINAL ENVIRONMENTAL IMPACT REPORT (SCH NO. 2014101022) FOR THE ARROYO SECO CANYON PROJECT AREAS 2 AND 3, ADOPTING ENVIRONMENTAL FINDINGS AND A MITIGATION MONITORING AND REPORTING PROGRAM

WHEREAS, on January 6, 2021, the Hearing Officer held a duly noticed public hearing to consider the Arroyo Seco Canyon Project Areas 2 and 3, proposed to repair and replace the City's water infrastructure facilities in the Upper Arroyo Seco, and during the public hearing on the Project, the Hearing Officer received oral and written evidence concerning the environmental impacts of the Project. This evidence included the Final EIR, including the public comments about environmental impacts that were made on the Draft Environmental Impact Report prepared for the Project.

WHEREAS, on March 18, 2021, the Board of Zoning Appeals held a duly noticed public hearing to consider an appeal of the Hearing Officer's decision, and conducted a de novo review of the matter, including the receipt of additional public comment and responses thereto.

NOW, THEREFORE, THE BOARD OF ZONING APPEALS OF THE CITY OF PASADENA RESOLVES AS FOLLOWS:

The Findings of Fact, including the Resolutions set forth therein, attached hereto are adopted.

Adopted at the _____ meeting of the Board of Zoning Appeals on the _____ day of _____, 2020 by the following vote:

_____
Recording Secretary

APPROVED AS TO FORM:

/s/ Theresa Fuentes
Theresa E. Fuentes
Assistant City Attorney

Findings of Fact
Arroyo Seco Canyon Project Areas 2 and 3

Modification to Conditional Use Permit No. 6222
State Clearinghouse No. 2014101022

Prepared for:

City of Pasadena Department of Water and Power
150 South Los Robles Avenue, Suite 200
Pasadena CA 91101

Prepared by:

DUDEK
38 North Marengo Avenue
Pasadena, California 91101

December 2020

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Findings of Fact

Proposed Project Summary

As described in the Arroyo Seco Canyon Project Areas 2 and 3 Project (proposed Project) Draft Environmental Impact Report (EIR), the City owns the right to divert up to 25 cubic feet per second (cfs) of surface water from the Arroyo Seco for direct use or to spread for percolation in spreading basins for groundwater pumping credits from the Raymond Basin. Of the total amount of water that is infiltrated into the groundwater through its existing spreading basins, PWP has the right to pump between 60% to 80% of that amount for beneficial use in the City's water supply. In order to more fully capture the City's allocation of up to 25 cfs to augment local groundwater supplies, water infrastructure improvements would be constructed.

The proposed Project includes improvements in two primary areas: Area 2, Diversion and Intake Replacement and Area 3, Spreading Basin Improvements, both located within the Arroyo Seco within the City of Pasadena. These two areas are connected by the Gabrielino Trail/Access Road, which includes three bridge crossings over the Arroyo Seco in the vicinity of the Project site. The proposed Project involves water infrastructure facility improvements in both areas, as well as temporary construction truck traffic along portions of the Gabrielino Trail/Access Road.

In Area 2, the proposed Project would demolish the existing diversion and intake structures and construct a new diversion weir and intake in the same location within the Arroyo Seco as the current facility. The proposed diversion control structure would span the width of the existing channel and a weir crest gate would be mechanically operated. During high flow conditions, the weir would be lowered to move sediment downstream and periodically restore the streambed elevation to the crest of the notch. The new intake would be equipped with a trash rack and fish screens to prevent future fish from entering the conveyance system to the spreading basins in Area 3. The proposed Project would also be protective of the potential for future fish populations in the Arroyo Seco with the inclusion of a roughened channel downstream of the diversion structure that would allow return passage upstream when the weir crest gate is lowered.

In Area 3, the proposed Project includes the reconfiguration and expansion of the spreading basins in order to accommodate the increased diversion of stream flows for infiltration into the Raymond Basin. Existing Ponds 1 and 2, and Basins 1 and 2, would be replaced with Basin A and six new/expanded spreading basins. The new basins would remain connected to the remaining existing downstream basins within the City's spreading basin system. With implementation of the proposed Project, the City would be able to divert an average of approximately 3,080 acre-feet per year (acre-ft/yr), resulting in an average of approximately 1,035 acre-ft/yr of additional diverted flows into the spreading basins. Long-term operations in Areas 2 and 3 would not be substantively different than the current conditions. No new employees or operations would be required to continue maintenance on the proposed facilities.

I. Resolution Regarding Certification of the EIR

Pursuant to State CEQA Guidelines Section 15090, the Hearing Officer certifies that: (1) it has reviewed and considered the Final EIR prior to approving the project, (2) the Final EIR is an accurate and objective statement that fully complies with CEQA, the State CEQA Guidelines, and the City's local environmental guidelines, and (3) the Final EIR reflects the independent judgment of the City of Pasadena. The Hearing Officer certifies the Final EIR based on the findings and conclusions herein.

The Hearing Officer finds that the additional information provided in the staff report, in the comments (and any responses thereto) received after circulation of the Draft EIR, in the evidence presented in written and oral testimony presented at public meetings, and otherwise in the administrative record, does not constitute new information requiring recirculation of the Final EIR under CEQA. None of the information presented to the Hearing Officer after circulation of the Draft EIR has deprived the public of a meaningful opportunity to comment upon a substantial environmental impact of the project or a feasible mitigation measure or alternative that the City has declined to implement.

II. Resolution Regarding Environmental Impacts Not Analyzed in the EIR

The Hearing Officer hereby finds that the following potential environmental impacts of the project were found to be less than significant in the Initial Study, did not require the imposition of mitigation measures, and therefore did not require study in the EIR: (1) Aesthetics, (2) Agriculture and Forestry Resources, (3) Energy, (4) Geology and Soils, (5) Greenhouse Gas Emissions, (6) Hazards/Hazardous Materials, (7) Land Use and Planning, (8) Mineral Resources, (9) Population and Housing, (10) Public Services (11) Utilities and Service Systems, and (12) Wildfire (see Initial Study, Appendix A of the Draft EIR).

In addition, the following topics were scoped out within the Initial Study: (1) Air Quality [Odors] and (2) Biological Resources [Habitat Conservation Plan].

III. Resolution Regarding Environmental Impacts Determined to be Less than Significant without Mitigation

The Hearing Officer finds that the proposed Project will have no impact or a less than significant impact without mitigation on a number of environmental topics. For some of these topics, compliance with applicable regulatory requirements is assumed, as discussed in the EIR, which would ensure that impacts remain less than significant. Environmental topics determined to be less than significant without mitigation are listed below. For each topic, the discussion begins with a delineation of the potential impacts evaluated in the EIR, as specifically related to that topic, along with page citations as to where in the EIR the relevant discussion is found, and is followed by an explanation of the substantial evidence in support of the EIR conclusion that a significant impact would not occur.

a) Air Quality

i. Potential Impacts Evaluated

- Would the project conflict with or obstruct implementation of the applicable air quality plan? (Draft EIR, p. 4.1-23)
- Would the project result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard? (Draft EIR, p. 4.1-24)

- Would the project expose sensitive receptors to substantial pollutant concentrations? (Draft EIR, p. 4.1-30)

ii. Proposed Mitigation – None Required

iii. Findings Pursuant to CEQA Guidelines Section 15091

As noted above and explained below, the Draft EIR analysis determined that implementation of the proposed Project would not result in significant impacts related to air quality. As such, findings to CEQA Guidelines Section 15091 are not warranted.

iv. Supporting Explanation

The proposed Project would not result in a cumulatively considerable net increase of any criteria pollutant for which the region is non-attainment under an applicable federal or state ambient air quality standard. Because the Project would not result in an increase in the frequency and severity of existing air quality violations, the Project would not conflict with Consistency Criterion No. 1 of the SCAQMD CEQA Air Quality Handbook. Additionally, implementation of the Project would not exceed the demographic growth forecasts in the SCAG 2016 RTP/SCS; therefore, the Project would be consistent with the SCAQMD 2016 AQMP, which based future emission estimates on the SCAG 2016 RTP/SCS. Thus, the Project would not conflict with Consistency Criterion No. 2. Based on these considerations, impacts related to the Project's potential to conflict with or obstruct implementation of the applicable air quality plan would be less than significant. (Draft EIR, p. 4.1-23 through 4.1-24)

Construction of the proposed Project would result in emissions of criteria air pollutants from mobile, area, and/or stationary sources. Construction of the Project would commence with site preparation, grading and earthwork excavation. It is anticipated that approximately 1,608 cubic yards of earthwork material would be exported to support the construction of Area 2. Additionally, it is anticipated that approximately 11,000 cubic yards and 37,000 cubic yards of earthwork material would be required to be exported and imported respectively during Area 3 construction. The material is assumed to be transported during the grading and excavation phases. Upon completion of these phases, vertical building construction and paving/concrete installation would commence. Construction activity is assumed to occur at the site for approximately 8 hours per day, 5 days per week (22 days a month), during Project construction. Construction activities would not generate emissions in excess of the SCAQMD daily construction emissions thresholds for VOCs, NOx, CO SO_x, PM_{10}, and $PM_{2.5}$. Based on the Project-generated construction emissions of criteria air pollutants, which did not exceed the SCAQMD daily thresholds, the Project would not result in generation of a cumulatively considerable net increase of any criteria pollutant for which the region is non-attainment under an applicable federal or state ambient air quality standard due to short-term construction. Impacts would be less than significant and no mitigation is required. (Draft EIR, p. 4-1.24 through 4.1-30)

The City of Pasadena Department of Water and Power (PWP)'s future schedule of operation and maintenance activities for Project-related facilities would not substantively differ from the current maintenance routine and procedures. As such, the Project would not result in generation of a cumulatively considerable net increase of any criteria pollutant for which the region is non-attainment under an applicable federal or state ambient air quality standard due to long-term operations. Impacts would be less than significant and no mitigation is required. (Draft EIR, p. 4.1-24 through 4.1-30)

Sensitive receptors are those individuals more susceptible to the effects of air pollution than the population at large, including residences, schools, playgrounds, childcare centers, long-term healthcare facilities, rehabilitation

centers, convalescent centers, and retirement homes. The nearest off-site sensitive receptors would be single-family homes approximately 250 feet east from Area 3. (Draft EIR, p. 4.1-30)

Localized Significance Thresholds Analysis. Construction activities associated with the Project would result in temporary sources of on-site fugitive dust and construction equipment emissions and would not exceed the SCAQMD daily LSTs for NO_2, CO, PM_{10}, and $PM_{2.5}$ emissions in excess of site-specific LSTs; therefore, site-specific construction impacts during construction of the Project would be less than significant. (Draft EIR, p. 4.1-30 through 4.1-31)

CO Hotspots. Traffic-congested roadways and intersections have the potential to generate localized high levels of CO. During construction of the Project, construction traffic would affect the intersections near the Project site. However, the construction traffic for the proposed Project would be temporary and would not be a source of daily, long-term mobile-source emissions. In addition, due to continued improvement in vehicular emissions at a rate faster than the rate of vehicle growth and/or congestion, the potential for CO hotspots in the SCAB is steadily decreasing. Finally, transportation impacts would be less than significant with mitigation. (Draft EIR, p. 4.1-31)

Toxic Air Contaminants. Toxic air contaminants (TACs) are defined as substances that may cause or contribute to an increase in deaths or in serious illness, or that may pose a present or potential hazard to human health. Diesel particulate matter emissions would be emitted from heavy equipment operations and heavy-duty trucks. The duration of the proposed construction activities would constitute a small percentage of the total 30-year exposure period. The construction period for the proposed Project would be approximately 16 months, after which construction-related TAC emissions would cease. However, because of the nature of the proposed Project, emissions would not be concentrated in any one work area for the entire construction duration. Project construction would not generally remain in a single location for more than a few weeks. Due to this relatively short period of exposure and minimal particulate emissions on-site, TACs generated during construction would not be expected to result in concentrations causing significant health risks. (Draft EIR, p. 4.1-31 through 4.1-32)

Health Impacts of Criteria Air Pollutants. Construction emissions of the Project would not exceed the SCAQMD thresholds for any criteria air pollutants, including VOC, NOx, CO, SO_x, PM_{10}, and $PM_{2.5}$. Construction of the proposed Project would not result in exceedances of the SCAQMD significance thresholds for certain criteria pollutants (O3, NO_x, CO, PM_{10}). Therefore, the Project would not expose sensitive receptors to substantial pollutant concentrations or potential health effects associated with criteria air pollutants due to short-term construction. Impacts would be less than significant and no mitigation is required. (Draft EIR, p. 4.1-32 through 4.1-33)

PWP's future schedule of operation and maintenance activities for Project-related facilities would not substantively differ from the current maintenance routine and procedures. No new employees are required for the long-term operation of the Project components; therefore, no long-term operational air quality impacts from traffic would result. No new emissions-generating land uses are proposed; therefore, no long-term operational air quality emissions from mobile equipment or stationary machinery would result. As such, the Project would not expose sensitive receptors to substantial pollutant concentrations or potential health effects associated with criteria air pollutants due to long-term operations. Impacts would be less than significant and no mitigation is required. (Draft EIR, p. 4.1-33)

Cumulative Impacts

Impacts resulting from the proposed Project air pollutant emissions would not be cumulatively considerable and no mitigation is required. (Draft EIR, p. 4.1-33)

b) Greenhouse Gas Emissions

i. Potential Impacts Evaluated

- Would the project generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment? (Draft EIR, p. 4.4-19)
- Would the project conflict with an applicable plan, policy, or regulation adopted for the purpose of reducing the emissions of greenhouse gases? (Draft EIR, p. 4.4-21)

ii. Proposed Mitigation – None Required

iii. Findings Pursuant to CEQA Guidelines Section 15091

As noted above and explained below, the Draft EIR analysis determined that implementation of the proposed Project would not result in significant impacts related to greenhouse gas emissions. As such, findings to CEQA Guidelines Section 15091 are not warranted.

iv. Supporting Explanation

Construction of the proposed Project would result in GHG emissions primarily associated with use of off-road construction equipment, on-road hauling and vendor (material delivery) trucks, and worker vehicles. Total construction emissions for the proposed Project were estimated to be 523 MT CO_2e. Estimated amortized Project-generated construction emissions over 30 years would be approximately 17 MT CO_2e per year. As with Project-generated construction air quality pollutant emissions, GHG emissions generated during construction of the proposed Project would be short-term in nature, lasting only for the duration of the construction period for each phase, and would not represent a long-term source of GHG emissions. Because there is no separate GHG threshold for construction, the evaluation of significance is discussed in the operational emissions analysis below. (Draft EIR, p. 4.4-19)

PWP's future schedule of operation and maintenance activities for Project-related facilities would not substantively differ from the current maintenance routine and procedures. However, the project would include new hydraulic motors and winches as part of the design for Area 2, which would be electrically powered. The total proposed Project emissions during operation were estimated to be approximately 3 MT CO_2e per year which includes amortized construction emissions of 20 MT CO_2e per year. Although not quantified, the proposed Project would further reduce City's reliance upon purchased imported water supplies from the Metropolitan Water District of Southern California (MWD). Because the Project would increase the supply of local groundwater in replacement of imported water, there would be a reduction in electricity associated with the water source. For imported water, electricity is needed to supply and transport the water from sources in other parts of California, which is a very energy-intensive process to pump the water across the State through topographical elevation changes. However, for local groundwater, electricity is only needed for pumping. Accordingly, electricity associated with supply of water from MWD is avoided as a result of replacing some of the City's reliance on imported water source with local groundwater supplies. (Draft EIR, p. 4.4-20)

Consistency with the City's Climate Action Plan (CAP). The Project would be consistent with the necessary applicable GHG reduction actions found within the CAP Consistency Checklist. Additionally, the Project would not result in a change in land use that would generate GHG emissions in excess of the Project site's existing land use designation (CAP Checklist Step 2). Therefore, the Project would be consistent with the City's CAP. (Draft EIR, p. 4.4-21 through 4.4-23)

Consistency with the California Air Resources Board (CARB) Scoping Plan. The CARB Scoping Plan, approved by CARB in 2008 and updated in 2014 and 2017, provides a framework for actions to reduce California's GHG

emissions and requires CARB and other state agencies to adopt regulations and other initiatives to reduce GHGs. Most of these measures focus on area source emissions (e.g., energy usage, high-GWP GHGs in consumer products) and changes to the vehicle fleet (i.e., hybrid, electric, and more fuel-efficient vehicles) and associated fuels (e.g., Low Carbon Fuel Standard), among others. The proposed Project would not conflict with implementation of the measures identified in the Scoping Plan. (Draft EIR, p. 4.4-23)

Consistency with the Southern California Association of Governments' RTP/SCS. Connect SoCal is a long-range visioning plan that builds upon and expands land use and transportation strategies established over several planning cycles to increase mobility options and achieve a more sustainable growth pattern. Because the Project is not growth inducing, this type of consistency analysis does not apply. However, the proposed Project was found consistent with major goals of the Connect SoCal. (Draft EIR, p. 4.4-23 through 4.4-25)

Consistency with the Senate Bill 32 and Executive Order S-3-05. The Project would not interfere with implementation of any of the previously described GHG reduction goals for 2030 or 2050 because the Project would be consistent with the City's CAP. With respect to future GHG targets under SB 32 and Executive Order S-3-05, CARB has also made clear its legal interpretation that it has the requisite authority to adopt whatever regulations are necessary, beyond the AB 32 horizon year of 2020, to meet the SB 32 40% reduction target by 2030 and the Executive Order S-3-05 80% reduction target by 2050.

Based on the considerations previously outlined, the Project would not conflict with an applicable plan, policy, or regulation adopted for the purpose of reducing the emissions of GHGs. This impact would be less than significant. (Draft EIR, p. 4.4-25)

Cumulative Impacts

The analysis of the Project's GHG emissions are inherently a cumulative analysis because climate change is a global issue and the emissions from individual Projects are negligible in a global context. Accordingly, the analysis above takes into account the potential for the proposed Project to contribute to a cumulative impact of global climate change, which was determined to be less than significant. Given the proposed Project's consistency with local, statewide and regional plans adopted for the purpose of reducing GHG emissions, it is concluded that the proposed Project's incremental contribution to GHG emissions and their effects on climate change would not be cumulatively considerable. For these reasons, the proposed Project's cumulative contribution to global climate change is less than significant. (Draft EIR, p. 4.4-26)

c) Hydrology and Water Quality

i. Potential Impacts Evaluated

- Would the project substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the project may impede sustainable groundwater management of the basin? (Draft EIR, p. 4.5-18)
- Would the project substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner which would:
    - Result in substantial erosion or siltation on or off site? (Draft EIR, p. 4.5-22)
    - Substantially increase the rate or amount of surface runoff in a manner which would result in flooding on or off site? (Draft EIR, p. 4.5-27)

- Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff? (Draft EIR, p. 4.5-28)
- Impede or redirect flood flows? (Draft EIR, p. 4.5-30)

ii. Proposed Mitigation – None Required

iii. Findings Pursuant to CEQA Guidelines Section 15091

As noted above and explained below, the Draft EIR analysis determined that implementation of the proposed Project would not result in significant impacts related to hydrology and water quality. As such, findings to CEQA Guidelines Section 15091 are not warranted.

iv. Supporting Explanation

The City's existing spreading basin facilities infiltrate surface water flows into the groundwater, as shown by the historic diversion of up to 25 cfs (essentially all low flows and a moderate proportion of flows during the wet season of the year) throughout recent history, and its subsequent infiltration through the spreading basins. As stated in Section 4.5, Hydrology and Water Quality in the Draft EIR, the amount of pumping credit the City receives after spreading is less than 100%, (between 60% and 80%), meaning that for every 1 acre-foot (325.8 million gallons) of the City's surface water right that is diverted, metered, and spread in the spreading basins, the City receives between 0.6 to 0.8 acre-feet in additional pumping credit, leaving 0.2 to 0.4 acre-feet in the aquifer for protection of the groundwater table (general benefit). No party to the Raymond Basin, including the City, is allowed to pump the remaining amount of City-owned water that is left in the Monk Hill Subarea. (Final EIR, Response 7-5, p. 2-108).

Disrupted infiltration of surface water into the Monk Hill Subarea during construction would result in a negligible impact to groundwater supplies due to the short-term nature of the disruption and the capacity of the adjacent Arroyo Seco streambed to continue to percolate water into the groundwater basin. Additionally, this negligible disruption would be entirely offset over time by the increased diversions in Area 2 and corresponding percolation associated with the expanded spreading basins during long-term operations of Area 3. Similarly, temporary demands for potable water during construction would represent approximately 0.0053% of the annual available water supply in the PWP service area, which is a negligible amount. Therefore, short-term construction activities would not substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the project may impede sustainable groundwater management of the basin, and impacts would be less than significant. (Draft EIR, p. 4.5-18 through 4.5-19)

In the long-term, the proposed Project would allow higher flow storm events to be diverted at Area 2 because of the improved intake design and because more sediment-laden flows could be conveyed to and settled in Basin A, thereby capturing a greater proportion of the high flows for infiltration into the groundwater basin. Additionally, the expanded basin size and potentially increased percolation rates would allow for PWP to divert and recharge its 25 cfs surface water rights to a fuller extent. Because more surface area available for spreading and percolation, combined with more water available for spreading, directly results in more groundwater recharge, the proposed Project would result in a net benefit for groundwater supplies within the Raymond Basin. The increase in spreading basin surface area leading to greater recharge potential, improvements to the intake structure which would allow for continued diversion of PWP surface water rights during high flows, and the inclusion of an improved sedimentation basin to maintain higher infiltration rates, would all contribute to increased groundwater recharge in the Arroyo Seco Spreading Grounds as compared with the existing condition. Therefore, long-term operational activities would not substantially decrease groundwater supplies or interfere substantially with groundwater

recharge such that the project may impede sustainable groundwater management of the basin, and impacts would be less than significant. (Draft EIR, p. 4.5-19 through 4.5-21)

Prior to commencement of grading within Area 2, a temporary coffer dam would be installed in the Arroyo Seco upstream and downstream of the intake replacement area within Area 2, which would provide a dry area for construction activities within the streambed. The Project would involve the removal of sediment and debris that has accumulated upstream and downstream of the existing weir, and demolition would commence. During construction, erosion control measures would be implemented per the requirements of the Project's SWPPP, as required by the Construction General Permit. Construction activities within Area 3 would not require the diversion of any flows in the stream or otherwise require dewatering, as the earthwork would be above the water table and outside of the streambed of the Arroyo Seco. Therefore, compliance with the requirements of the Project Dewatering to Surface Waters Permit would ensure that the temporary diversion of the Arroyo Seco to allow for construction within the streambed would not result in substantial erosion or siltation, and impacts would be less than significant. (Draft EIR, p. 4.5-22 through 4.5-23)

The proposed improved spreading basins would allow the City to capture flows up to 25 cfs more frequently and for an expanded period of time, by allowing for additional diversions during major storm events, which typically occur in the wet season when water levels are generally not a limiting factor for the downstream natural system. Conversely, during dry season low flows, the Project would have very little change (i.e., immeasurable, if any) to current diversions within the Arroyo Seco or contribution to any existing limiting factors. (Draft EIR, p. 4.5-23)

Dry Year Velocity and Depth. The maximum velocity in the stream with the proposed Project's diversions (with-diversions) compared to a scenario of no diversions (without-diversions) was determined to be higher in some locations immediately upstream of the Devil's Gate Dam. The representative dry year without-diversions and with-diversions maximum depth drops by approximately 1.3 feet. In the without-diversion scenario, the total runoff for the representative dry year is approximately 2,480 acre-feet (af), while the with-diversions for the representative dry year is approximately 550 af. Therefore, the difference in runoff volume accounts for the difference in maximum depths. It is important to note that the area of inundation is approximately the same between the two scenarios, owing largely to the shape of the reservoir upstream of the Dam. (Draft EIR, p. 4.5-23 through 4.5-24)

Average Year Velocity and Depth. Unlike the dry year scenarios, the maximum velocity in the without-diversion scenario is higher than in the with-diversion (proposed Project) scenario in some locations immediately upstream of the Dam. The representative average year without-diversion and with-diversions maximum depth are indistinguishable from one another because the maximum water surface elevation (WSE) is the same (approximate WSE of 1,035 feet). The factor that controls the depth and WSE is the operation of Devil's Gate Dam. Despite the same maximum depths, the with-diversion scenario has greater inundation durations at the Devils' Gate Reservoir fringes because the with-diversion scenario reservoir depth reaches the operational curve elevation more slowly than does the without-diversion scenario. (Draft EIR, p. 4.5-24)

Wet Year Velocity and Depth. Like the other representative scenarios, there are differences in maximum velocity upstream of the reservoir. The difference between the representative wet year without-diversion and with-diversion maximum velocity is lower in magnitude than in the similar representative dry and average scenarios. This appears to be a function of the rate at which the reservoir fills in the represented wet year scenarios. In summary, the results of HEC-RAS modeling indicated relatively small, and in some cases negligible, effects on maximum velocity and depth of flows within the Arroyo Seco when comparing the with-diversion (proposed Project conditions) to the without-diversions (baseline conditions). The effects of the proposed Project were limited to the stream channel within the lower Devil's Gate Reservoir and the backwater area immediately upstream of the Devil's Gate Dam. It was determined that these effects would be a function of both Dam operations (i.e. timing of releases, extent of

reservoir filling) as well as increased stream diversions resulting from this proposed Project, and their individual effects were not distinguished. (Draft EIR, p. 4.5-24 through 4.5-25)

Sediment Transport. In summary, an increase in the surface water diversions at Area 2 are intended to increase the amount of surface water flow entering the spreading basins in Area 3. These proposed increased diversions, however, would be a continuation of current diversion practices during dry weather flows, and would result in a measurable increase in diversion only during larger flows. Therefore, the proposed Project would not change drainage patterns, but would merely redirect additional surface flows. The spreading basins in Area 3 would be similar in type and structure to the existing spreading basins and thus would not increase the potential for erosion above that of the existing condition. The proposed Project would not measurably alter the course of the Arroyo Seco, impact overall sediment transport, or result in substantial erosion or siltation on-site or off-site, and impacts would be less than significant. (Draft EIR, p. 4.5-26 through 4.5-27)

Construction of the diversion structure in Area 2 would require temporary diversion of Arroyo Seco Creek flows through the installation of a coffer dam upstream of the construction activity area. Stream flows would temporarily pool upstream of this coffer dam and would be pumped beyond the Area 2 construction back into the Arroyo Seco channel. Construction of the diversion structure would be scheduled to avoid the wet/rainy season that might lead to increased stream flows that could cause flooding upstream of the coffer dam. Ponded water and stream flow shall be monitored during the diversion structure construction to ensure that pumping is sufficient to prevent upstream flooding. During construction activities, no diversion would occur. Therefore, low flows would remain in the streambed throughout the duration of construction activities. Because the Arroyo Seco flows are ultimately held back at the Dam, which is designed to contain the high variability of storm flows, any variations in in-stream flows due to short-term construction activities that would result in the temporary lack of diversions into the spreading basins would be well within the natural variation of flows in the Arroyo Seco and would not increase the rate or amount of surface runoff in a manner which would result in flooding on or off site. Impacts would be less than significant and no mitigation is required. (Draft EIR, p. 4.5-27)

The proposed improvements within Area 2 would be in the same location as the existing infrastructure. Construction of the streambed shoulder and bank, including the roughened channel, downstream of the new diversion structure would be with permeable engineered streambed material (ESM). The ESM selected for the Project would consist of a well-graded mixture of rock, gravel, and sand similar to natural streambed material, and would not add any new impervious surfaces within the Arroyo Seco streambed. In summary, the proposed improvements to the diversion structure and spreading basins would not change drainage patterns nor involve the addition of impervious cover that would impede infiltration of stormwater. Alterations in the diversion structure would increase water spreading within the basins during high flows, but would not result in the flooding of any structures. The diversion structure would be designed to divert up to the City's 25 cfs surface water right, and by design, it would not be capable of flooding other structures due to the outlet design at the terminus of the spreading basins. Rehabilitation of existing spreading basins and the grading/excavation of additional basins would increase infiltration capacity by removing less permeable materials, thus decreasing the potential for flooding and surface flows. Impacts would be less than significant and no mitigation is required. (Draft EIR, p. 4.5-28)

Under the current conditions, all stormwater flows are conveyed within the Project study area via sheetflows into the Arroyo Seco. There are no constructed storm drain facilities within the Project study area, other than the existing subterranean Altadena Storm Drain, the Altacrest Drain and BI 0710 – Unit 1. No realignments are proposed for these drains as part of the Project and these drains do not receive stormwater from the Project area. Therefore, the Project would have no impact on the capacity of "existing or planned stormwater drainage systems". The proposed Project has a less than significant impact on the capacity of the Arroyo Seco to accommodate additional flows during construction activities. Regarding the potential for sources of polluted runoff, construction activities could result in

short-term erosion and associated siltation of the Arroyo Seco. Incorporation of required BMPs for materials and waste storage and handling, and equipment and vehicle maintenance and fueling would reduce the potential discharge of polluted runoff from construction sites, consistent with the State NPDES General Construction Permit. Compliance with existing regulations would prevent violation of water quality standards and minimize the potential for contributing sources of polluted runoff. Therefore, compliance with existing regulations would ensure that the Project would not add substantial sources of polluted runoff or otherwise substantially degrade surface quality from demolition and construction activities. Impacts would be less than significant and no mitigation is required. (Draft EIR, p. 4.5-28 through 4.5-29)

Area 2 does not currently contain a stormwater drainage system; stormwater drains naturally along the Arroyo Seco channel. Area 3 receives stormwater from three storm drains that discharge into the Arroyo Seco and bypass the Project basins, the Altadena Storm Drain, the Altacrest Drain and BI 0710 – Unit 1. No realignments are proposed for these drains as part of the Project and these drains do not receive stormwater from the Project area. Project components, both in Areas 2 and 3, would not be substantively different in type or function from the existing structures and materials. Thus, the proposed Project would not contribute additional sources of polluted runoff and impacts would be less than significant. (Draft EIR, p. 4.5-30)

Stormwater drainage in Area 2 currently follows the natural flow of the Arroyo Seco channel and thus would be temporarily altered during construction in this Area using a coffer dam and sump pump; however, these diversions would be temporary and would be scheduled so as to avoid wet/rainy season when heavy rainfall is more likely. No flows would be diverted into Area 3 during construction and thus any potential flooding would not be impeded by construction in this area but would flow parallel to Project construction activities. Impacts related to the temporary diversion of flows around the construction within Area 2 would be less than significant and no mitigation is required. (Draft EIR, p. 4.5-30)

The expanded spreading basins within Area 3 would provide additional capacity to accommodate diversions from the Arroyo Seco. This would be an expansion of an existing condition and would not otherwise impede or redirect flood flows in a manner that is substantively different from current conditions. The proposed diversion structure would continue to divert all the flows from the stream during low flow periods and a moderate proportion of flows during the wet season similar to the existing condition, but would increase diversions from the larger storm events consistent with the City's water rights. At times, during large storm events the diversion structure would be bypassed to avoid any potential debris damage. Area 3 is not proposed in an existing flood plain as identified by the Federal Emergency Management Agency (FEMA) Flood Insurance Rate Maps. Thus, any flows that are not diverted to the spreading basins (i.e. flows above 25 cubic feet per second), would not be affected by Project improvements. Impacts would be less than significant and no mitigation is required. (Draft EIR, p. 4.5-30 through 4.5-31)

Cumulative Impacts

Groundwater Supplies/Recharge. The geographic context for the analysis of cumulative impacts related to groundwater supplies and recharge is the Raymond Basin. Because the proposed Project and cumulative projects would not substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that they could cumulatively impede sustainable groundwater management of the basin, cumulative impacts to groundwater resources during construction and operation of the proposed Project and related projects would not be cumulatively considerable, and would not result in significant cumulative impacts. (Draft EIR, p. 4.5-31 through 4.5-32)

Hydrology/Water Quality. The geographic context for the analysis of cumulative impacts related to hydrology and water quality is the Arroyo Seco Sub-watershed boundary. The Draft EIR and supporting technical studies concluded

that no significant impacts would result from the diversion of flows associated with the proposed Project, as detailed in Section 4.2, Biological Resources, which summarizes the findings of the BRTR (see Appendix D of the Draft EIR), which includes the Arroyo Seco Canyon Diversions Biological Impacts Memorandum (see Appendix J of the BRTR in Appendix D of the Draft EIR) and the supporting Hydraulics, Sediment Transport, and Groundwater Analysis (see Appendix F of the Draft EIR). The minor impacts to riparian woodland that were identified as a result of changes in maximum inundation modeled under dry year conditions is further reduced by the County's Sediment Removal Project as explained in Topical Response BIO: Cumulative Impacts and Devil's Gate Reservoir, which is based on the Update Study (September 2020) – Arroyo Seco Canyon Diversions Biological Impacts Memorandum, included as Attachment C of the Final EIR.

The County of Los Angeles's Devil's Gate Sediment Removal Project required the development of a Habitat Mitigation and Monitoring Plan (HMMP), which includes an assessment of the hydrology of the area and concludes that, inclusive of a reduction in stream flows from the proposed Project's diversions, flows will be enough to support the existing retained vegetation as well as the additional riparian habitat to be restored per HMMP requirements throughout the Devil's Gate Reservoir area. The conclusions of the Devil's Gate Reservoir Sediment Removal Project CEQA document, HMMP, and resource agency consultation are consistent with the conclusion of the original Memo and provide further evidence that the project diversions are not expected to significantly affect downstream biological resources. It should also be noted that the conclusion of the Arroyo Seco Canyon Diversions Biological Impacts Memorandum (see Appendix J of the BRTR in Appendix D of the Draft EIR), as presented in the Draft EIR, that subsurface flows draining from adjacent uplands are expected to be the most substantial factor in supporting the riparian habitat of the Devil's Gate Reservoir is also supported by the HMMP, which describes the hydrology of the area similarly. These consistent results further verify the Arroyo Seco flows and pool inundation are less important for riparian habitat success within the Devil's Gate Reservoir area than upland subsurface flows, which are not affected by the proposed Project. The HMMP was reviewed and subsequently approved by resource agencies including the California Department of Fish and Wildlife, U.S. Army Corps of Engineers, and the Regional Water Quality Control Board. (Final EIR, Response 1-4, p. 2-9)

Because the proposed Project and cumulative projects would not alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in such a manner that could cause substantial erosion, siltation, flooding or polluted runoff, cumulative impacts to hydrology and water quality during construction and operation of the proposed Project and related projects would not be cumulatively considerable, and would not result in significant cumulative impacts. (Draft EIR, p. 4.5-32 through 4.5-33)

d) Noise

i. Potential Impacts Evaluated

- Would the project result in generation of excessive groundborne vibration or groundborne noise levels? (Draft EIR, p. 4.6-16)

ii. Proposed Mitigation – None Required

iii. Findings Pursuant to CEQA Guidelines Section 15091

As noted above and explained below, the EIR analysis determined that implementation of the proposed Project would not result in significant impacts related to noise. As such, findings to CEQA Guidelines Section 15091 are not warranted.

iv. Supporting Explanation

The nearest vibration-sensitive receivers near Area 2 are residences located approximately 800 feet to the east to where demolition/construction activity would be occurring on the Project site and with anticipated construction equipment. The nearest vibration-sensitive receivers near Area 3 are residences located approximately 250 feet to the east to where demolition/construction activity would be occurring on the Project site and with anticipated construction equipment. The major concern with regards to construction vibration is related to building damage, which typically occurs at vibration levels of 0.5 inches per second or greater for buildings of reinforced-concrete, steel, or timber construction. The anticipated vibration levels associated with on-site Project construction at Areas 2 and 3 would be approximately 0.0005 and 0.0028 inches per second respectively, which are well below the threshold of 0.5 inches per second for building damage. Therefore, short-term construction activities of the proposed Project would not result in generation of excessive short-term groundborne vibration or groundborne noise levels. Impacts would be less than significant and no mitigation is required. (Draft EIR, p. 4.6-16 through 4.6-17)

PWP's future schedule of operation and maintenance activities for Project-related facilities would not substantively differ from the current maintenance routine and procedures. No new employees are required for the long-term operation of the Project components; therefore, no long-term operational vibration from traffic would result. Area 2 would include the installation of several pieces of mechanical equipment (motors and winches). However, these items would be relatively small, would not produce substantial levels of groundborne vibration and would operate infrequently. At Area 3, no new noise-generating land uses are proposed; therefore, no long-term operational vibration from mobile equipment or stationary machinery would result. As such, the Project will not result in generation of excessive long-term groundborne vibration or groundborne noise levels. Impacts would be less than significant and no mitigation is required. (Draft EIR, p. 4.6-17)

Cumulative Impacts

The proposed Project and related projects may generate vibration during construction processes. Vibration produced during construction of the Project would be well below thresholds of perception, annoyance or building damage. The Devil's Gate Project EIR determined that there could be an exceedance of the Los Angeles County threshold of perception; therefore, a mitigation measure was required, restricting the use of large bulldozers and other large equipment within 180 feet of residential uses. With implementation of this mitigation measure, it was determined that the resultant vibration would be less than significant. Additionally, the closest portion of the Project site representing an active work area (Basin J) is located approximately 500 feet from the Devil's Gate Project site to the southwest. Therefore, construction vibration from the two projects is not expected to combine at nearby noise-sensitive receivers. Cumulative impacts related to construction vibration would therefore be less than significant. (Draft EIR, p. 4.6-19)

e) Tribal Cultural Resources

i. Potential Impacts Evaluated

- Would the project cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is:
    - Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code section 5020.1(k)? (Draft EIR, p. 4.9-8)

ii. Proposed Mitigation – None Required

iii. Findings Pursuant to CEQA Guidelines Section 15091

As noted above and explained below, the EIR analysis determined that implementation of the proposed Project would not result in significant impacts related to tribal cultural resources. As such, findings to CEQA Guidelines Section 15091 are not warranted.

iv. Supporting Explanation

No archaeological resources were identified within the Project site as a result of the California Historical Resources Information System records search or Native American outreach, or associated with the three previously recorded prehistoric or historic-era archaeological resources identified within 0.5-mile of the Project site (i.e. the John L. Behner Water Treatment Plant, Bridge No. 2 [concrete arch bridge], and Bridge No. 3 [king truss bridge]). No previously recorded tribal cultural resources (TCR)s listed in the CRHR or a local register were identified within the Project site. During the AB 52 notification and consultation process, the consulting Tribe provided documentation for their belief that TCRs affiliated with the Tribe do exist within and surrounding the proposed Project site. A short-term impact to a TCR can be defined as an impact that would prevent potential use of or access to a tribal cultural resource, such as for ceremonial purposes; however, no TCRs have been identified on the Project site that meet these criteria of use. Therefore, there are no Project-related conditions that would cause a short-term impact, regardless of presence of any archaeological or tribal cultural resources. Therefore, short-term construction impacts related to a site, feature, place, cultural landscape, sacred place, or object with cultural value to a California Native American tribe, and that is listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources would be less than significant, and no mitigation is required. (Draft EIR, p. 4.9-8)

Based on the results of the archaeological records search, the NAHC Sacred Land Files search and AB 52 consultation, impacts to tribal cultural resources would be less than significant. Therefore, no mitigation measures are required. (Draft EIR, p. 4.9-8)

Cumulative Impacts

Sufficient evidence of existing TCRs within or surrounding the Project site has not been identified through various records searches or AB 52 consultation and as such, the Project site is not part of an existing or known grouping of TCRs that would be impacted as part of the cumulative impacts of other projects. The Devil's Gate Sediment Removal Project Environmental Impact Report was completed prior to the enactment of AB 52; therefore, no formal tribal consultation was conducted for that project. However, the Devil's Gate Sediment Removal Project EIR did include mitigation measures, including archaeological monitoring of native sediments, to address any potential impacts to known or unknown cultural resources. Determinations would be made on a case-by-case basis, and the effects of cumulative development on TCRs would be mitigated to the extent feasible in accordance with CEQA and other applicable legal requirements. Therefore, the proposed Project would not cumulatively contribute to a significant impact associated with TCRs and impacts would be less than significant. (Draft EIR, p. 4.9-10)

IV. Resolution Regarding Environmental Impacts Mitigated to Below a Level of Significance

The Hearing Officer finds that mitigation measures have been identified in the Final EIR that will reduce the following potentially significant environmental impacts to below a level of significance. For each environmental topic within this category, the discussion below begins with a delineation of the potential impacts evaluated in the EIR, as specifically related to that topic, along with page citations as to where in the EIR the relevant discussion is found,

and is followed by presentation of the mitigation measure(s) identified in the EIR for that topic, and then provides an explanation of the substantial evidence in support of the EIR conclusion that the impact would be reduced to a level less than significant with implementation of the mitigation measure(s).

f) Biological Resources

i. Potential Impacts Evaluated

- Would the project have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service? (Draft EIR, p. 4.2-20)
- Would the project have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service? (Draft EIR, p. 4.2-21)
- Would the project have a substantial adverse effect on state or federally protected wetlands (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means? (Draft EIR, p. 4.2-28)
- Would the project interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites? (Draft EIR, p. 4.2-31)
- Would the project conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance? (Draft EIR, p. 4.2-35)

ii. Proposed Mitigation

Special-Status Wildlife Species

MM-BIO-1 Prior to commencement of any earthmoving activities or the pre-construction staging of equipment on the Project site, the City shall develop a Preconstruction Survey and Relocation Plan for terrestrial reptiles, including the California newt, two-striped gartersnake, Southern California legless lizard, and coastal whiptail. Although considered to be extinct, Pasadena shrimp (*Syncaris pasadenae*) will be added to the Plan as a focal species. The Preconstruction Survey and Relocation Plan shall be submitted to the California Department of Fish and Wildlife (CDFW) for review prior to any ground-disturbing activities within potentially occupied habitat.

The Plan shall include at a minimum, the following: (1) protocols for pre-construction surveys to flush out and/or move identified special status wildlife within the study area, as feasible; (2) the timing, frequency, and locations where surveys should be conducted; (3) the habitat and conditions in the proposed relocation site(s); (4) the methods that would be used for trapping and relocating identified species; (5) protocols for documentation/recordation of the species and number of animals relocated; and (6) protocols for notifying CDFW in the event that identified species cannot be relocated.

The Plan shall require that a Biological Monitor be present during all vegetation clearing and ground disturbance activities within Area 2, as well as three times weekly until construction activities are

completed. For Area 3, a Biological Monitor will be present during initial vegetation clearing and initial ground disturbance activities. The Biological Monitor shall be familiar with southwestern willow flycatcher and least Bell's vireo and shall conduct pre-clearing non-protocol surveys for this species while onsite. If a least Bell's vireo or other State of federally listed species is detected, work activity within 500 feet of the detected occupied habitat will be temporarily halted and the City will consult with the appropriate wildlife agencies. With authorization from these agencies, which may include a 'take' permit, the project will proceed in accordance with conditions developed in the consultation. Conditions will include avoidance and minimization measures to prevent or minimize impacts on the listed species(s) occurring on or adjacent to the site.

The Plan shall require that any individual special-status terrestrial wildlife species observed within the study area during the pre-construction survey(s) shall be flushed out and/or moved out of harm's way to avoid direct impacts to these species, and if special-status species are detected, the Biological Monitor shall capture and relocate individuals to nearby undisturbed areas with suitable habitat outside of the construction area, but as close to their origin as possible. The final recordation/documentation of any wildlife relocated during Project activities shall be made available to CDFW for confirmation that construction activities were executed in compliance with the approved Preconstruction Survey and Relocation Plan.

MM-BIO-2 Project construction shall be conducted in compliance with the conditions set forth in the Migratory Bird Treaty Act (MBTA) and California Fish and Game Code with methods approved by the California Department of Fish and Wildlife (CDFW) to protect active bird/raptor nests. To the maximum extent feasible, vegetation removal shall occur during the non-breeding season for nesting birds (generally late September to early March) and nesting raptors (generally early July to late January) to avoid impacts to nesting birds and raptors. If the Project requires that work be initiated during the breeding season for nesting birds (March 1–September 30) and nesting raptors (February 1–June 30), in order to avoid direct impacts on active nests, a pre-construction survey shall be conducted by a qualified Biologist for nesting birds and/or raptors within 3 days prior to clearing of any vegetation and/or any work near existing structures (i.e., within 300 feet for nesting birds, 500 feet for southwestern willow flycatcher and least Bell's vireo, and within 500 feet for nesting raptors). If the Biologist does not find any active nests within or immediately adjacent to the impact areas, the vegetation clearing/construction work shall be allowed to proceed.

If the Biologist finds an active nest within or immediately adjacent to the construction area and determines that the nest may be impacted or breeding activities substantially disrupted, the Biologist shall delineate an appropriate buffer zone around the nest depending on the sensitivity of the species and the nature of the construction activity. Any nest found during survey efforts shall be mapped on the construction plans. The active nest shall be protected until nesting activity has ended. To protect any nest site, the following restrictions to construction activities shall be required until nests are no longer active, as determined by a qualified Biologist: (1) clearing limits shall be established within a buffer around any occupied nest (the buffer shall be 100–300 feet for nesting birds, 500 feet for southwestern willow flycatcher and least Bell's vireo, and 300–500 feet for nesting raptors), unless otherwise determined by a qualified Biologist and (2) access and surveying shall be restricted within the buffer of any occupied nest, unless otherwise determined by a qualified Biologist. Encroachment into the buffer area around a known nest shall only be allowed if the Biologist determines that the proposed activity would not disturb the nest occupants.

Construction can proceed when the qualified Biologist has determined that fledglings have left the nest or the nest has failed.

MM-BIO-3 A CDFW-approved bat biologist shall conduct a pre-construction bat habitat assessment within the Project and within a 500-foot buffer. The assessment will consist of a daytime roost assessment to identify any sign indicating presence (i.e. guano, staining, etc.), acoustic monitoring for nighttime bat emergence and foraging activity, and visual emergence observations. Potential for roosting shall be categorized by 1) potential for solitary roost sites, 2) potential for colonial roost sites (10 bats or more). If the potential for colonial roosting is determined, those trees shall not be removed during the bat maternity roost season (March 1 – July 31). Trees potentially supporting colonial roosts outside of maternity roost season, and trees potentially supporting solitary roosts may be removed via a two-step removal process, whereby some level of disturbance (such as trimming of lower branches) (at the direction of Biological Monitor) is applied to the tree on day one to allow bats to escape during the darker hours, and the roost tree shall be removed two days later (i.e., there shall be no less or more than two nights between initial disturbance and the grading or tree removal). When feasible, trees will be dropped slowly and a Biological Monitor will monitor the activity. If buildings are determined to be occupied, one-way exclusionary devices will be placed over bat access points and left in place for two nights prior to building removal.

MM-BIO-4 Direct impacts to sensitive vegetation communities (white alder–California sycamore woodland association and California sycamore woodlands alliance) shall be mitigated through a combination of on-site and/or off-site measures. Mitigation for impacts to sensitive vegetation communities shall consider and overlap with compensation for jurisdictional waters (MM-BIO-6) since the sensitive vegetation is associated with the jurisdictional limits of Arroyo Seco. Mitigation for direct impacts to sensitive vegetation communities shall be implemented through on-site creation/enhancement, program funding, mitigation bank credits, and/or creation/enhancement of native vegetation communities on City lands. Mitigation acreages shall be implemented as shown in the Table below.

Sensitive Vegetation Community	Direct Impacts (acres)	Mitigation Ratio	Mitigation (acres)
white alder–California sycamore woodland association	0.47	3:1	1.41
California sycamore woodlands alliance	0.04	3:1	0.12
Totals:	**0.51**	**—**	**1.53**

On-site Mitigation. White alder-California sycamore woodland association and California sycamore woodlands alliance could be established within Area 1 (previously approved components of the Arroyo Seco Canyon Project), and California sycamore woodlands alliance could be established in the upland portions surrounding the spreading basins in Area 3. Prior to the issuance of a grading permit or any earthwork on the Project site, PWP shall prepare a Habitat Mitigation and Monitoring Plan (HMMP) for habitat enhancement and creation activities. The HMMP shall at a minimum include a feasible implementation structure, salvage/seeding details, invasive species eradication methods, irrigation system and schedule, a monitoring schedule, performance standard of success, estimated costs, the implementation of a restrictive covenant on the land, long-term management of the habitat, and identification of responsible entities. The HMMP shall include restoration of the following habitats:

Riparian Woodlands. Impacted areas of (white alder–California sycamore woodland association and California sycamore woodlands alliance) shall be created/restored within and adjacent to the same on-site areas that the woodland currently existed prior to Project implementation, as well as other areas deemed to have appropriate soils and topography for successful establishment. Understory areas shall be revegetated with a diversity of locally collected seeds. Temporary irrigation shall be established and maintained, with irrigation suspensions in times of rainfall. Successful establishment of the woodland shall be determined only after removal of irrigation system and confirmed ability of the woodland to survive in the absence of irrigation.

It is anticipated that a one-time restoration effort followed by monitoring and invasive weed removal for a minimum of five (5) years would be required. The HMMP shall be submitted by the City to CDFW, USACE, and RWQCB for review and comment, and revised to the satisfaction of the City and the three agencies.

Off-site Mitigation. If mitigation is implemented through mitigation program funding and/or mitigation bank credits, the City shall work with CDFW, USACE, and RWQCB to ensure the mitigation program funding and/or mitigation bank credits are appropriate to offset permanent impacts. If program funding is utilized, it would be accompanied by a specific work plan identifying habitat/jurisdictional resource acreage and/or functional gains. Mitigation lands shall be comprised of similar or higher quality riparian woodland and preferably located in the vicinity of the site or watershed. Off-site mitigation lands will be protected in perpetuity under a conservation easement, with a non-wasting endowment and manager/easement holder for long-term management.

If mitigation is implemented through offsite enhancement of City-owned lands, the City shall prepare a HMMP that details the location and existing conditions of the offsite lands. The HMMP shall at a minimum include a feasible implementation structure, salvage/seeding details, invasive species eradication methods, irrigation system and schedule, a monitoring schedule, performance standard of success, estimated costs, the implementation of a restrictive covenant on the land, long-term management of the habitat, and identification of responsible entities. It is anticipated that a one-time restoration effort followed by monitoring and invasive weed removal for a minimum of five (5) years would be required. The HMMP shall be submitted by the City to CDFW, USACE, and RWQCB for review and comment, and revised to the satisfaction of the City and the three agencies.

MM-BIO-5 To prevent inadvertent disturbance to sensitive vegetation communities outside the limits of work, the construction limits shall be clearly demarcated (e.g., installation of flagging or temporary high visibility construction fence) prior to ground disturbance activities. All construction activities including equipment staging and maintenance shall be conducted within the marked disturbance limits. A qualified biologist shall be present during initial ground-disturbing activities within the Project site to ensure that Project activities stay within the demarcated limits. The integrity of the demarcation limits will be checked in accordance with the monitoring required in MM-BIO-1.

Additionally, all hollow posts and pipes associated with new facilities in Areas 2 and 3 shall be capped to prevent wildlife entrapment and mortality. Metal fence stakes used on the Project site shall be plugged with bolts or other plugging materials to avoid impacts to raptor talons. Additionally, the City shall ensure the prohibition of the use of rodenticides throughout all construction activities.

MM-BIO-6 Mitigation for direct impacts to jurisdictional waters shall be implemented through on-site enhancement of remaining jurisdictional waters and/or off-site acquisition, program funding, and/or mitigation bank credits. Mitigation ratios for each type of jurisdictional waters is shown in the Table below. Mitigation for temporary and permanent impacts to jurisdictional wetlands and waters shall consider and overlap with compensation for sensitive vegetation communities (MM-BIO-4).

Jurisdictional Waters Type	Direct Impacts (acres)	Mitigation Ratio	Mitigation (acres)[a]
USACE waters of the United States	0.20	1:1	0.20
RWQCB waters of the state	2.58	1:1	2.58
CDFW streambed and bank, with riparian vegetation[b]	0.49	3:1	1.47
CDFW streambed and bank, with non-riparian habitat[c]	2.41	1:1	2.41

Notes:
[a] Mitigation areas for each jurisdictional type may overlap
[b] white alder–California sycamore woodland (0.48 acres) and coast live oak woodland (<0.01 acres)
[c] California sagebrush–California buckwheat–laurel sumac scrub (<0.001 acres); urban/developed (0.03 acres); disturbed habitat (2.38 acres); laurel sumac scrub (<0.01 acres)

On-site Mitigation. Jurisdictional waters and associated vegetation could be established within Area 1 (previously approved components of the Arroyo Seco Canyon Project). Prior to the issuance of a grading permit or any earthwork on the Project site, PWP shall prepare a HMMP for habitat enhancement and creation activities. The HMMP shall at a minimum include a feasible implementation structure, salvage/seeding details, invasive species eradication methods, irrigation system and schedule, a monitoring schedule, performance standard of success, estimated costs, the implementation of a restrictive covenant on the land, long-term management of the habitat, and identification of responsible entities. The HMMP shall include restoration of the following habitats:

Riparian Woodlands. Impacted areas of (white alder–California sycamore woodland association and coast live oak woodland) shall be created/restored within and adjacent to the same on-site areas that the woodland currently existed prior to Project implementation, as well as other areas deemed to have appropriate soils and topography for successful establishment. Understory areas shall be revegetated with a diversity of locally collected seeds. Temporary irrigation shall be established and maintained, with irrigation suspensions in times of rainfall. Successful establishment of the woodland shall be determined only after removal of irrigation system and confirmed ability of the woodland to survive in the absence of irrigation.

It is anticipated that a one-time restoration effort followed by monitoring and invasive weed removal for a minimum of five (5) years would be required. The HMMP shall be submitted by the City to the CDFW, USACE, and RWQCB for review and comment, and revised to the satisfaction of the City and the three agencies.

Off-site Mitigation. If mitigation is implemented through mitigation program funding and/or mitigation bank credits, the City shall work with the CDFW, USACE, and RWQCB to ensure the mitigation program funding and/or mitigation bank credits are appropriate to offset permanent impacts. If program funding is utilized, it would be accompanied by a specific work plan identifying habitat/jurisdictional resource acreage and/or functional gains. Mitigation lands shall be comprised of similar or higher quality riparian woodland and preferably located in the vicinity of the site or watershed. Off-site mitigation lands will be protected in perpetuity under a conservation

easement, with a non-wasting endowment and manager/easement holder for long-term management.

If mitigation is implemented through offsite enhancement of City-owned lands, the City shall prepare a HMMP that details the location and existing conditions of the offsite lands. The HMMP shall at a minimum include a feasible implementation structure, salvage/seeding details, invasive species eradication methods, irrigation system and schedule, a monitoring schedule, performance standard of success, estimated costs, the implementation of a restrictive covenant on the land, long-term management of the habitat, and identification of responsible entities. It is anticipated that a one-time restoration effort followed by monitoring and invasive weed removal for a minimum of five (5) years would be required. The HMMP shall be submitted by the City to the CDFW, USACE, and RWQCB for review and comment, and revised to the satisfaction of the City and the three agencies.

MM-BIO-7 Prior to the commencement of earthmoving within Area 2 for the demolition of the existing diversion/weir structure, the City shall develop a Native Resident and Migratory Fish Monitoring Plan (Monitoring Plan), in consultation with CDFW. This Monitoring Plan shall set forth annual monitoring requirements to determine if native fish species or migratory fish populations are present within an approximate 3,500-foot section of the stream (about 1,500 feet upstream of the diversion/weir structure to the abandoned headworks (Area 1) and 2,000 feet downstream to the JPL Bridge at the mouth of the canyon). The Monitoring Plan will include the results of the baseline conditions for fish, which shall be conducted prior to commencement of earthwork in Area 2 within the 3,500 section of the stream using the survey methodology described in the 2010 California Salmonid Stream Habitat Restoration Manual (4th Edition). Annual survey protocols shall be established to the satisfaction of CDFW and set forth in the Monitoring Plan. If the results of the annual surveys reveal a positive presence of native fish, the Monitoring Plan shall set forth thresholds for determining the permanency of the population, and whether or not connectivity both upstream and downstream of the diversion structure is appropriate and in the best interest of the long-term survival of an established native or migratory fish population, given hazards associated with stranding downstream. Until passage for steelhead is restored to the Arroyo Seco, the City shall implement a program to rescue fish between the diversion structure and the JPL Bridge. If rescue is determined to be ineffective or impractical, then the City shall modify its operations to accommodate passage. At such time as steelhead passage is restored, the City shall alter either the design of the diversion/weir structure, the operational methods of the diversion/weir structure, or both to satisfy Fish and Game Code Sections 5901 and 5937.

MM-BIO-8 A qualified biologist shall be present during initial ground-disturbing activities within the Project site to ensure that Project activities stay within the demarcated limits, as required in MM-BIO-5. This qualified biologist shall identify the number of City-protected trees that are removed as a result of Project construction activities, as well as trees that would be encroached upon. This inventory of trees shall be used to determine an appropriate tree replacement program that shall be, at a minimum, consistent with the administrative guideline tree replacement matrix of the City's Tree Ordinance (Chapter 8.52 of the Pasadena Municipal Code), as it relates to tree replacement of protected trees.

Trees within approximately 15 feet of proposed construction activity shall be temporarily fenced with chain-link fencing in accordance with the City's Tree Ordinance and Tree Protection Guidelines. The fencing shall be installed to the extent of the tree's dripline plus four (4) radial feet and be

minimum six (6) feet high with an access gate of minimal width. The fenced area shall be considered the Tree Protection Zone (TPZ) unless proximate construction required temporary removal.

All trees that have been substantially root pruned (30% or more of their root zone) during construction within the TPZ shall be monitored by an International Society of Arboriculture Certified arborist for the first five years after construction completion. The arborist shall submit an annual report, photograph each tree and compare tree health and condition to the original, pre-construction baseline. For trees that do not survive the five-year monitoring period, such trees shall be replaced in accordance with the requirements of this measure.

For all trees that are identified for removal resulting from the proposed Project, such trees shall be inspected by a qualified arborist for contagious tree diseases, including but not limited to Polyphagous Shot Hole Borer; thousand canker fungus, and goldspotted oak borer. If contagious tree diseases are identified, the trees shall be treated using the best available management practices relevant for each tree disease observed prior to transporting the trees offsite.

iii. Findings Pursuant to CEQA Guidelines Section 15091

Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the Final EIR.

iv. Supporting Explanation

One special-status amphibian (California newt) and three reptiles (two-striped gartersnake, Southern California legless lizard, and coastal whiptail) have occurred in the study area. These species are all designated as CDFW special-status species (SSC). It is unlikely that short-term construction activities could cause the greater population of these special-status species to drop below self-sustaining levels due to the relatively small area of construction activity and the short-term nature of the construction schedule. However, in order to ensure that potential impacts to special status species are reduced to the extent feasible, MM-BIO-1 requires the preparation of a Pre-Construction Survey and Relocation Plan, which would set forth protocols and procedures for surveying, identifying, and relocating wildlife that may be within the construction impact area. Project implementation of MM-BIO-1 would reduce potential direct impacts to special-status reptile wildlife (i.e. California newt, two-striped gartersnake, Southern California legless lizard, and coastal whiptail) to a level less than significant. In addition, the Project could result in direct impacts to nesting birds (i.e., direct impacts to individuals, active nests, eggs, or young), particularly during the general nesting season of February 1 through August 31. Construction activities that could result in direct impacts to nesting birds include vegetation and tree removal during grading activities. Project implementation of MM-BIO-2 (i.e., seasonal recommendations, pre-construction survey, avoidance buffers, and monitoring) would reduce potential direct impacts to a less-than-significant level. One special-status bat species (hoary bat) has a moderate potential for day/night roosting, maternity roosts, and foraging habitat within the study area. No direct temporary impacts would occur; however, because habitat loss and/or mortality or injury to individual species is a reasonable possibility, direct permanent impacts would be considered potentially significant. Project implementation of MM-BIO-3 (i.e., seasonal recommendations, preconstruction survey, avoidance buffers, and monitoring) would reduce potential direct impacts to a less-than-significant level. Direct impacts to day roosts occupied by individual special-status bat species would be less than significant as the impact would not be expected to reduce populations to below self-sustaining levels. (Draft EIR, p. 4.2-20 through 4.2-21)

During operations, City personnel would continue to provide maintenance of the diversion and intake structures in Area 2 as occurs under existing conditions. When necessary, cleaning of the spreading basins in Area 3 would

continue to be accomplished by mechanically scraping the top layer of soil using front-end loaders, graders, or scrapers. Regular maintenance of these areas to maintain the function of each facility will limit the growth of vegetation that could provide habitat for special-status species. As such, no long-term operational impacts are expected to special-status species. (Draft EIR, p. 4.2-21)

The proposed Project would have direct impacts to two CDFW sensitive vegetation communities: white alder-California sycamore woodland association and California sycamore woodlands alliance due to the construction in Area 2 of the new roughened channel and slope stabilization. The white alder–California sycamore woodland and California sycamore woodlands alliance vegetation communities are considered sensitive by CDFW due to their relative rarity and therefore, the loss of these vegetation communities (both permanent and temporary) would be considered significant, absent mitigation. Project implementation of MM-BIO-4 (i.e., compensation for direct impacts to sensitive vegetation communities) would reduce potential direct impacts to a less-than-significant level. Potential short-term or temporary indirect impacts to sensitive vegetation communities in the study area would primarily result from construction activities and include impacts related to or resulting from the generation of fugitive dust, increased human activity, and the introduction of pollutants from construction equipment. Potential construction-related indirect impacts to sensitive vegetation communities would be less than significant with the implementation of MM-BIO-5 (i.e., demarcation of disturbance limits) and MM-BIO-6 (biological monitoring during construction). (Draft EIR, p. 4.2-21 through 4.2-22)

The proposed Project would result in direct temporary and/or permanent impacts to these potentially jurisdictional waters. Direct impacts include discharge of fill (i.e., grading and construction/reconstruction of structures) to potentially jurisdictional waters, which would alter the size, scope, and character of these aquatic resources and therefore would be significant, absent mitigation. Potential permanent and/or temporary direct impacts to potential jurisdictional waters would be reduced to less than significant with the implementation of MM-BIO-5 and MM-BIO-6 (i.e., on-site restoration and/or land acquisition, mitigation program funding, and/or mitigation bank credits). Consultation with, and permit issuance from, USACE, RWQCB, and CDFW may result in higher mitigation ratios and specific criteria for restoration beyond the minimum standards presented in this mitigation. Potential temporary indirect impacts to potential jurisdictional waters in the study area would primarily result from construction activities and would include impacts from the generation of fugitive dust and the introduction of chemical pollutants (including herbicides). The required SWPPP will mandate the implementation of best management practices (BMPs) to reduce or eliminate construction-related pollutants in the runoff, including sediment. Therefore, temporary indirect impacts would be less than significant due to compliance with regulations. (Draft EIR, p. 4.2-28 through 4.2-30)

Potential long-term operational impacts are related to aquatic and semi-aquatic movement over the diversion structure. Factors that affect suitability for movement include existing natural and proposed Project features such as, channel bank slope gradients, vegetative cover, surface flow conditions, subsurface (i.e., groundwater) conditions, the height of the diversion structure relative to stream elevations upstream and downstream of the diversion, and presence/absence of fish screens in the diversion intake. The proposed Project has been designed in consideration of a future condition where fish are re-established in the Arroyo Seco. In this potential future scenario, the proposed Project design does not conflict with Fish and Game Codes 5901 and/or 5937. Until such time as connectivity is re-established for fish passage at the Devil's Gate Dam and channels to the ocean downstream of the Project, and to Brown Mountain Dam upstream, MM-BIO-7 (Native Resident and Migratory Fish Monitoring Plan preparation and implementation) is recommended to be responsive to the CDFW comment letter received during the NOP review period for this Project to allow for the future use of the Study Area as a movement corridor for native resident or migratory fish species. (Draft EIR, p. 4.2-31 through 4.2-35)

Direct impacts to trees can be classified as a removal or encroachment. Trees are identified for removal when they are located within the permanent impact boundary. Direct tree impacts would result in the removal of 19 protected trees in total, of which all are located in Area 2. Impacts to these trees would be significant, absent mitigation, in accordance with the City's Tree Ordinance (Chapter 8.52 of the Pasadena Municipal Code). Project implementation of MM-BIO-8 (i.e., tree replacement and protection) would reduce potential direct impacts to a less-than-significant level. Indirect impacts to trees are the result of changes to the site that may cause tree decline, even when the tree is not directly injured. Indirect tree impacts may potentially occur to 13 additional protected trees. Indirect impacts could potentially result in tree mortality adjacent to the Project work areas, which would be significant, absent mitigation, under the City's Tree Ordinance. Project implementation of MM-BIO-8 would reduce potential indirect impacts to a less-than-significant level. (Draft EIR, p. 4.2-35 through 4.2-37)

Cumulative Impacts

As part of the Final EIR, the *Update Study (September 2020) - Arroyo Seco Canyon Diversions Biological Impacts Memorandum* (included as Appendix C to the Final EIR) provides an update to the analysis included in the Draft EIR and BRTR related to cumulative impacts associated with the ongoing County of Los Angeles Department of Public Works' Devil's Gate Reservoir Sediment Removal Project located adjacent to the Project site . The Update Study reviews the potential water diversion impacts of the proposed Project under the changed conditions resulting from the initiation of the Devil's Gate Reservoir Sediment Removal Project. Based on aerial photography from March 2020, approximately 31 acres were disturbed in the initial phase of the Devil's Gate Project. As subsequent phases of the Devil's Gate Project are completed, the disturbance footprint will continue to expand throughout the 65-acre designated sediment removal area. At the completion of the Devil's Gate Project, the County will annually remove new growth within a 42-acre long-term maintenance area.

As a consequence of the recontoured Reservoir basin, the inundation margins within the Reservoir will have retracted back into the unvegetated disturbance area; therefore, the previously identified minimal impacts of the proposed Project as set forth in the Draft EIR on riparian woodland and associated species will be further reduced. In other words, the recent change in existing conditions due to the County's Sediment Removal Project has reduced the area potentially supporting riparian vegetation at the margins and the proposed Project's estimated impact on downstream biological resources is also reduced, resulting in a less significant impact than even previously modeled.

As a result of the Devil's Gate Project and associated reservoir basin recontouring, the vertical distance from some of the remaining vegetation to the reservoir pool is expected to increase beyond reach thereby reducing the vegetation's hydraulic reliance on the pool. As a result, a slight retraction in the pool margin resulting from project diversions would impact less riparian woodland vegetation than previously modelled for the Draft EIR, resulting in a less significant impact than previously modeled.

The Devil's Gate Project also includes a habitat restoration element within upper portions of the Reservoir area. Project mitigation and regulatory permit conditions associated with the Devil's Gate Project required the development of a Habitat Mitigation and Monitoring Plan (HMMP), which concludes that the hydrology of the area, inclusive of a reduction in stream flows from the proposed project diversions, is enough to support the existing retained vegetation as well as the additional riparian habitat to be restored per HMMP requirements throughout the Reservoir area. Habitat mitigation efforts within the reservoir area are also expected to result in an increased overall community health due to increased biological diversity over time. Both the projected increased health and the long-term maintenance requirements of the HMMP are expected to increase the likelihood of riparian habitat persistence and expansion in the reservoir area. As a result, minor changes resulting from Project diversions are

increasingly more unlikely to negatively affect the riparian habitat of the reservoir area and have a less than significant impact on habitat mitigation efforts. (Final EIR, Topical Response BIO, p. 2-267)

The Project's contribution to cumulative impacts would be reduced to less than significant or avoided through the mitigation measures. Therefore, with implementation of MM-BIO-1 through MM-BIO-8, impacts would not be cumulatively considerable. (Draft EIR, p. 4.2-37 through 4.2-39)

g) Cultural Resources

i. Potential Impacts Evaluated

- Would the project cause a substantial adverse charge in the significance of an historical resource pursuant to §15064.5? (Draft EIR, p. 4.3-22)
- Would the project cause a substantial adverse change in the significance of an archaeological resource pursuant to §15064.5? (Draft EIR, p. 4.3-35)
- Would the project directly or indirectly destroy a unique paleontological resource or site or unique geologic feature? (Draft EIR, p. 4.3-36)

ii. Proposed Mitigation

MM-CUL-1 Prior to the commencement of construction vehicle and truck traffic along the Gabrielino Trail/Access Road north of the JPL Bridge, the City shall ensure that Bridge No. 2 and all identified arroyo stone wall features along the affected portions of the Gabrielino Trail/Access Road are properly protected for the duration of construction activities. The City shall install temporary protective barriers in the form of concrete k-rails along the decorative railings of Bridge No. 2 on both sides of the road to protect the railings from further deterioration and damage from vehicles. The concrete k-rails shall be removed once the Project is completed leaving Bridge No. 2 intact. The concrete k-rails shall be installed parallel to the Bridge's existing baluster railings, with approximately 2 feet of separation between the k-rail and the resource. The k-rails shall be positioned to ensure that the Bridge railings are protected from daily construction traffic. The k-rails shall not be permanently attached to the bridge. All arroyo stone wall features adjacent to the Gabrielino Trail/Access Road shall be protected by concrete k-rails wherever feasible; however, in areas where k-rails would create an impassable or bottleneck situation for vehicles, the City shall utilize other reasonable protections, including cones and flagging, to ensure that the arroyo stone walls are not inadvertently damaged during construction vehicle movement and equipment transport. The plans for the temporary barriers shall be reviewed by a qualified architectural historian prior to Project implementation. In order to ensure that the bridge and stone walls are adequately protected during Project activities, the City shall ensure completion of pre-construction and post-construction surveys by a qualified historic preservation consultant to ensure that adverse effects or significant impacts have not occurred to Bridge No. 2. If the pre-construction survey identifies deficiencies in the protections for Bridge No. 2 or the stone walls, recommendations for additional physical barriers or visual warnings shall be provided and implemented prior to initiation of construction activities. The installation/construction methodology and post-construction survey shall be submitted to the City of Pasadena Department of Planning – Historic Preservation for review and approval.

MM-CUL-3 Prior to commencement of Project construction activities that would require equipment staging at the Behner Water Treatment Plant (WTP), the City shall ensure that the exterior of the WTP building

is adequately protected from equipment and vehicle staging activities. The northwest and southwest exterior elevations of the WTP shall, at a minimum, be protected by construction fencing and signage to ensure that none of the major exterior character-defining features of the building are inadvertently damaged. Fencing shall be placed at a minimum distance of five (5) feet from the exterior of the building, and crews working in the immediate vicinity should be alerted to the presence of an historical resource and instructed to avoid it. The City shall ensure that Project-related equipment and materials are not in contact with the exterior or the building, including absolute avoidance of leaning materials and equipment against exterior walls. The temporary fencing, signage, and barriers shall be removed at the conclusion of construction activities.

MM CUL-4 Prior to commencement of earthmoving activities, the City shall retain a qualified Archaeologist meeting the Secretary of the Interior's Professional Qualification Standards for Archaeology. The Archaeologist shall be present at the pre-grade conference; shall establish procedures for archaeological resource surveillance; and shall establish, in cooperation with the Contractor, procedures for temporarily halting or redirecting work to permit the sampling, identification, and evaluation of the artifacts, as appropriate. At a minimum, in the event archaeological resources are exposed during construction activities, all construction work occurring within 100 feet of the find shall immediately stop until a qualified archaeologist can evaluate the significance of the find and determine whether or not additional study is warranted. The Archaeologist shall first determine whether it is a "unique archaeological resource" pursuant to the California Environmental Quality Act (CEQA, i.e., Section 21083.2[g] of the California Public Resources Code) or a "historical resource" pursuant to Section 15064.5(a) of the State CEQA Guidelines. If the archaeological resource is determined to be a "unique archaeological resource" or a "historical resource", the Archaeologist shall formulate a mitigation plan in consultation with the City of Pasadena that satisfies the requirements of the above-referenced sections. The Archaeologist shall prepare a report of the results of any study prepared as part of a testing or mitigation plan, following guidelines of the California Office of Historic Preservation, and s/he shall record the site and submit the recordation form to the City of Pasadena and the California Historic Resources Information System (CHRIS) at the South Central Coastal Information Center (SCCIC) at California State University, Fullerton. Work may proceed in other areas of the site, subject to the direction of the Archaeologist.

MM-PALEO-1 Prior to commencement of any grading activity on-site, the City shall retain a qualified Paleontologist per the Society of Vertebrate Paleontology (SVP) (2010) guidelines. The paleontologist shall prepare a Paleontological Resources Impact Mitigation Program (PRIMP) for the Project. The PRIMP shall be consistent with the SVP (2010) guidelines. Minimum requirements to be set forth in the PRIMP include: (1) attendance at the preconstruction meeting and worker environmental awareness training, where monitoring is required within the proposed Project site based on construction plans and/or geotechnical reports; (2) procedures for adequate paleontological monitoring and discoveries treatment, and paleontological methods, including sediment sampling for microvertebrate fossils, reporting, and collections management; (3) mandatory monitoring on-site during all rough grading and other significant ground-disturbing activities, including auguring in previously undisturbed, fine-grained Pleistocene alluvial deposits; (4) mandatory actions in the event that paleontological resources (e.g., fossils) are unearthed during grading, including the requirement for the paleontological monitor to temporarily halt and/or divert grading activity to allow recovery of paleontological resources, and roping/fencing off of the discovery with a 50-foot radius buffer; and (5) if resources are discovered, methods for coordination

between the qualified paleontologist and the City for appropriate exploration and/or salvage, as well as final disposition of the resources in an accredited institution or museum, such as the Natural History Museum of Los Angeles County.

iii. Findings Pursuant to CEQA Guidelines Section 15091

Changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect as identified in the Final EIR.

iv. Supporting Explanation

The following historical resources/historic properties were identified within the Project APE as a result of the property significance evaluations: John L. Behner Water Treatment Plant, Bridge No. 2, and Bridge No. 3. During construction activities, the Behner WTP adjacent to Area 3 would be used for temporary construction materials and equipment staging. The Behner WTP appears eligible under NRHP/CRHR Criteria C/3 at local level, and City Criterion 2c (3S/3CS/5S3) and is considered an historical resource under CEQA/historic property under Section 106 of the NHPA. Short-term construction activities have the potential to inadvertently damage the Behner WTP by construction equipment and materials staging in proximity to the building. Therefore, MM-CUL-3 is required. MM-CUL-3 requires protection from equipment staging activities, vehicle staging activities, and fence placement for the exterior of the Behner WTP. With incorporation of MM-CUL-3, potential short-term impacts to Behner WTP would be less than significant. (Draft EIR, p. 4.3-22 through 4.3-35)

The potential of encountering and impacting unknown archaeological resources during Project implementation is low; however, it is always possible that unanticipated discoveries could be encountered during ground-disturbing activities associated with the proposed Project. If such unanticipated discoveries were encountered, impacts to encountered resources could be potentially significant. However, with implementation of MM-CUL-4, which requires that all construction work occurring within 100 feet of the find shall immediately stop until a qualified archaeologist, meeting the Secretary of the Interior's Professional Qualification Standards for Archaeology, can evaluate the significance of the find, potentially significant impacts to archaeological resources would be reduced to less-than-significant levels. With incorporation of MM-CUL-4, the Project's potential to cause a substantial adverse change in the significance of an archaeological resource pursuant to §15064.5 would be reduced to a level less than significant. (Draft EIR, p. 4.3-35 through 4.3-36)

No paleontological resources were identified within the proposed Project site as a result of the institutional records search or desktop geological review. The portions of Areas 2 and 3 underlain by Holocene gravel deposits (within the Arroyo Seco Drainage) have low paleontological sensitivity increasing to moderate or high sensitivity with depth, and the Pleistocene alluvial fan deposits within the northeastern portion of the Area 3 have moderate to high paleontological sensitivity. If intact paleontological resources are located onsite, ground-disturbing activities associated with construction of the proposed Project, such as earthwork/excavation and trenching for pipeline connections, have the potential to destroy a unique paleontological resource on site. As such, the proposed Project site is considered to be potentially sensitive for paleontological resources, and without mitigation, the potential damage to paleontological resources during construction associated with the proposed Project is considered a significant impact. Given the proximity of past fossil discoveries in the surrounding area within Pleistocene alluvial deposits, the proposed Project site is highly sensitive for supporting paleontological resources below the depth of fill and weathered, Pleistocene alluvial deposits. With implementation of MM-PALEO-1, which requires preparation of a Paleontological Resources Impact Mitigation Program (PRIMP) for the Project, the proposed Project's potential to directly or indirectly destroy a unique paleontological resource or site or unique geologic feature would be reduced to less than significant. (Draft EIR, p. 4.3-36 through 4.3-37)

Cumulative Impacts

Previously Approved Components of Arroyo Seco Canyon Project (ASCP). For the cumulative project, construction activities in Area 1 would only involve the use of Bridge No. 3 during short-term construction activities, likely at the same time as the proposed Project. Temporary placement of the bridge overlay was not determined to result in a significant impact, as described above. Therefore, the potential for both the proposed Project and this cumulative project to use the Bridge No. 3 at the same time would not result in cumulatively considerable impacts. The proposed Project's mitigation (MM-CUL-1) for Bridge No. 2, which is also an historical resource for the purposes of CEQA, requires placement of temporary k-rails, or other feasible protections, along the balustrade section of the bridge to protect it from vehicle and equipment damage. As long as the protective rails Bridge No. 2 are removed at the end of the proposed Project, as required by the proposed mitigation, there would not be cumulative impacts to Bridge No. 2 either. MM-CUL-3 has protections for Behner WTP during construction activities, which would reduce potential cumulative impacts to this structure. (Draft EIR, p. 4.3-37 through 4.3-38)

Devil's Gate Reservoir Sediment Removal and Management Project. This cumulative project proposes to remove sediment and restore habitat at the Devil's Gate Reservoir and not upstream where historical resources pursuant to §15064.5 have been identified by the proposed Project, and no upstream issues were identified. Therefore, no cumulative impacts to historical resources pursuant to §15064.5 are expected from this cumulative project. (Draft EIR, p. 4.3-38)

Oak Grove Area Improvements (OGAI) Project. Potential impacts from the OGAI Project to any evaluated historical resources identified in this EIR (i.e. Bridge No. 2, Bridge No. 3, Behner WTP) would only potentially affect their integrity of setting. Because this cumulative project would be visually removed and physically distant from all historical resources pursuant to §15064.5 identified for the proposed Project, there would be no impacts to the settings of these identified historical resources. Therefore, no cumulative impacts to historical resources pursuant to §15064.5 are expected from this cumulative project. (Draft EIR, p. 4.3-38)

LACFCD Pump back/Intake at Devil's Gate to Eaton Canyon. Potential impacts to historical resources would only potentially affect their integrity of setting. If the cumulative project were to be implemented, holding water in the Devil's Gate Reservoir and pumping the water to the spreading basins would not impact the settings of any nearby historical resources. Therefore, no cumulative impacts to historical resources pursuant to §15064.5 are expected from this project. (Draft EIR, p. 4.3-38)

Explorer Groundwater Well. Because the Behner WTP building appears eligible, it is considered an historical resource pursuant to §15064.5. Cumulative impacts could be mitigated provided that the renovation of Behner WTP to augment the water treatment capacity under this cumulative project adheres to Secretary of Interior Standards for Rehabilitation. However, if the proposed changes would occur on the building's interior and would not impact any of the building's exterior character-defining features, the cumulative project would likely result in a less than significant impacts to historical resources. Therefore, this cumulative project has the potential to result in impacts to the Behner WTP historical resource pursuant to §15064.5 if not adequately mitigated. However, since the proposed Project would not result in long-term impacts to Behner WTP, and mitigation would adequately address any short-term impacts from staging, the proposed Project would not result in cumulatively considerable impacts to Behner WTP. (Draft EIR, p. 4.3-39)

Cumulative Impacts for Archaeology and Paleontological. Despite the site-specific nature of the resources, in the event that unknown or undocumented archaeological resources are discovered, implementation of MM-CUL-1 would reduce the potential for cumulative impacts. Additionally, it is anticipated that cultural resources that are potentially affected by related projects would also be subject to the same requirements of CEQA as the proposed

Project and any impacts would be mitigated, as applicable. These determinations would be made on a case-by-case basis, and the effects of cumulative development on cultural resources would be mitigated to the extent feasible in accordance with CEQA and other applicable legal requirements. The paleontological impacts are specific to that site and its users and would not be in common or contribute to (or shared with, in an additive sense) the paleontological impacts on other project sites. Cumulative paleontological impacts related to nearby cumulative projects in the area that involve ground disturbance would require site-specific paleontological analyses. If potential impacts would occur, recommendations would be required to mitigate any potential effects related to paleontological resources, in accordance with CEQA. Therefore, with MM-PALEO-1, the Project's contribution to paleontological impacts would not be cumulatively significant Therefore, cumulative impacts are considered to be less than significant. (Draft EIR, p. 4.3-39)

h) Noise

i. Potential Impacts Evaluated

- Would the project result in generation of a substantial temporary or permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies.? (Draft EIR, p. 4.6-9)

ii. Proposed Mitigation

MM-NOI-1 The City and/or their Construction Contractor shall implement the following noise reduction measures during all construction activities:

- Equip all construction equipment (fixed or mobile) with properly operating and maintained mufflers, consistent with or exceeding manufacturers' standards.
- Ensure that construction equipment engine enclosures and covers as provided by manufacturers shall be in place during operation.
- Place all stationary construction equipment so that the equipment is as far as feasible from noise-sensitive receptors and so that the emitted noise is directed away from the noise-sensitive receptors.
- Locate equipment and materials staging in areas that will create the greatest distance between staging area noise sources and noise-sensitive receptors during Project construction.
- Ensure that construction equipment is shut down when not in use.
- Limit haul truck deliveries to the same hours specified for the operation of construction equipment.

iii. Findings Pursuant to CEQA Guidelines Section 15091

Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the Final EIR.

iv. Supporting Explanation

Construction activities would require the use of standard construction equipment such as loaders, dozers, backhoes, dump trucks, graders, pumps, rollers, and cranes. The nearest sensitive receptors to Area 2 are the residential land uses approximately 800 feet to the east in Altadena, part of unincorporated Los Angeles County, the USFS compound approximately 870 feet to the northwest in Pasadena, and residential land uses approximately 1,700 feet to the west in the City of La Cañada Flintridge. The nearest sensitive receptors to Area 3 are the residential land uses approximately 250 feet to the east in Altadena and in Pasadena. Whereas the Area 2 active Project construction area is quite small, the construction area constituting Area 3 is relatively large. While the nearest work within Area 3 would take place within 250 feet of the nearest residences, construction activities would more typically take place approximately 400 feet from the nearest residences.

MM-NOI-1 would be incorporated into the Project in order to further reduce noise from construction within Area 3 and to support Policies 7b and 7c of the Pasadena Comprehensive General Plan's Noise Element. MM-NOI-1 specifies noise-control measures to minimize noise effects upon sensitive receptors. In addition, the Project would be conducted in accordance with the City's Municipal Code requirements regarding limitations on noise-generating construction activities to the specified hours. Implementation of MM-NOI-1 and compliance with applicable municipal code restrictions related to construction activities would ensure that short-term construction noise generated by on-site construction activity would not result in substantial temporary increases in ambient noise levels in the vicinity of the Project in excess of standards established. (Draft EIR, p. 4.6-9 through 4.6-13)

The Project would result in local, short-term increases in roadway noise as a result of construction traffic. Project-related traffic would include workers commuting to and from Areas 2 and 3; vendors bringing materials; and haul trucks removing demolished structural materials, vegetative materials, and excavated soils from the Project site, as well as trucks entering the Project area to deliver materials, concrete, etc. Construction traffic, including haul/dump trucks related to construction activities, would not result in substantial temporary or permanent increase in ambient noise levels in the vicinity of the Project in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies. Impacts would be less than significant and no mitigation is required. (Draft EIR, p. 4.6-15 through 4.6-16)

PWP's future schedule of operation and maintenance activities for Project-related facilities would not substantively differ from the current maintenance routine and procedures. No long-term operational noise or vibration from traffic would result. At Area 2, mechanical equipment noise would be infrequent and relatively low in noise level, and therefore would result in a less than significant noise impact. At Area 3, no long-term operational noise or vibration from mobile equipment or stationary machinery would result. As such, the Project would not result in generation of a substantial permanent increase in ambient noise levels in the vicinity of the Project in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies. Impacts would be less than significant and no mitigation is required. (Draft EIR, p. 4.6-16)

Cumulative Impacts

On-Site Construction Noise. The analysis of on-site construction noise in the Draft EIR determined that at noise-sensitive areas adjacent to Area 3 (the portion of the Project site nearest to the Devil's Gate project), the highest construction noise levels at the nearby residences are predicted to occur during the demolition phase and grading-excavation phases, when noise levels are estimated to be approximately 67 dBA Leq and 68 dBA Leq, respectively, when construction occurs near the eastern Project boundary. These noise levels were below the limits set by the City and County Code requirements and were less than significant. MM-NOI-1 would be implemented to further reduce noise from construction within Area 3 and to support Policies 7b and 7c of the Pasadena Comprehensive General Plan's Noise Element. Therefore, it is unlikely that construction noise from the two projects would combine in a measurable fashion at nearby noise-sensitive receivers, located approximately 250 feet or more further to the

east (at 750 feet from the Devil's Gate work, the noise level would be diminished by approximately 10 dB compared to the same noise level at 250 feet). Therefore, with implementation of MM-NOI-1 and compliance with applicable municipal code restrictions related to construction activities for the Project and cumulative projects, short-term construction noise generated by on-site construction activity would not result in cumulatively considerable substantial temporary increases in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies. (Draft EIR, p. 4.6-18)

Off-Site Roadway Construction Noise. The portion of the Project's construction route that would be in proximity to and partially coincident with the Devil's Gate project is limited to the area of North Windsor Avenue at Oak Grove Drive and adjacent to the I-210 freeway. The predicted noise level increase in this area would be 1 dB or less. Similarly, the predicted noise level increase in this area from the Devil's Gate project is 0 dB. Thus, while individual truck pass-by noise would be clearly audible to nearby noise-sensitive receivers located near North Windsor Avenue and Oak Grove Drive, the cumulative increase would be negligible, less than significant and not cumulatively considerable. (Draft EIR, p. 4.6-19)

i) Recreation

i. Potential Impacts Evaluated

- Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated? (Draft EIR, p. 4.7-11)

ii. Proposed Mitigation

MM-REC-1 Prior to the closure of recreational trails for public use, the City of Pasadena shall post signs providing at least one week of advanced notice of the dates and times of planned trail closures at the following locations:

- Intersection of Ventura Street and Windsor Avenue
- Sunset Overlook
- Altadena Crest Trail (adjacent to the North Arroyo Boulevard)
- Arroyo Seco Trail
- West Rim Trail/East Rim Trail

In addition to the closure notice signage, the City shall provide the locations of nearby trails and recreational facilities in the surrounding area that would be open for public use at the times when the trails are closed. This information shall also be posted on the City's Parks, Recreation and Community Services website.

iii. Findings Pursuant to CEQA Guidelines Section 15091

Changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect as identified in the Final EIR.

iv. Supporting Explanation

The proposed Project involves construction activity and facility improvements in Areas 2 and 3, as well as construction truck traffic along portions of the Gabrielino Trail/Access Road. During the Project's construction activities, North Arroyo Boulevard (Gabrielino Trail/Access Road) would be made available for construction-related vehicles. North Arroyo Boulevard would provide vehicular access to the Behner Water Treatment Plant (WTP), the northernmost portion of Area 3 near the JPL Bridge, and northward along the Gabrielino Trail/Access Road to Area 2. Although Project construction would result in temporary restricted access to portions of existing recreational trails, the Project would not substantially increase use of other existing parks or recreation facilities such that substantial physical deterioration of these facilities will occur or be accelerated. Impacts to existing trails as a result of Project construction would be temporary, and upon completion of construction activities, all temporary fencing, flagging, signage, soil stockpiles, and/or mobile and stationary construction equipment would be removed from Areas 2 and 3. Although substantial impacts to recreational facilities are not anticipated; implementation of MM-REC-1 would ensure adequate notification to the public of trail closures due to short-term Project construction impacts. Therefore, impacts would be less than significant with mitigation incorporated. (Draft EIR, p. 4.7-11 through 4.7-13)

Impacts to recreational uses are not anticipated during the ongoing maintenance of the diversion and intake structures in Area 2 or the cleaning of the spreading basins in Area 3. Maintenance will be confined to areas that have previously been associated with ASCP facilities and would not permanently alter any existing trails or access roads. Once construction activities are complete, all temporary restricted access to the trails within Area 3 as a result of Project construction would be lifted, and all realigned trails would be operational. There would be no long-term impacts to recreational facilities as a result of the proposed Project, and therefore, no mitigation is required. (Draft EIR, p. 4.7-13)

Cumulative Impacts

Cumulative projects would not result in the construction of new residences or facilitate the development of residences and, therefore, would not result in increased population or the associated increased demand for neighborhood or regional parks or other recreational facilities. Although construction of cumulative projects, in addition to the proposed Project, could temporarily limit access or result in construction-related emissions, noise, dust, visual, and traffic impacts; recreational users may choose to visit other parks, trails or recreation facilities in the area that would remain accessible during construction of cumulative projects. It is anticipated that visitors would disperse throughout the area during construction of cumulative projects, and that there would not be a substantial increase in use of any one park or facility. In addition to the trails and recreational facilities in the immediate Project area, parks including Charles White Park, Loma Alta County Park, Angeles National Forest, Olberz Park, and Memorial Park, among others would be accessible during Project construction and construction of cumulative projects. Additionally, implementation of mitigation measure MM-REC-1 outlined above, would ensure that use of existing neighborhood and regional parks or other recreational facilities would not be increased in such a manner that substantial physical deterioration of the facility would occur or be accelerated. Therefore, as impacts to recreational uses as a result of the Project and cumulative project construction would be temporary, and surrounding recreational opportunities would remain accessible, and impacts would be less than cumulatively considerable. (Draft EIR, p. 4.7-14 through 4.7-15)

j) Transportation

i. Potential Impacts Evaluated

- Would the project conflict with a program, plan, ordinance, or policy addressing the circulation system, including transit, roadway, bicycle, and pedestrian facilities? (Draft EIR, p. 4.8-5)

ii. Proposed Mitigation

MM TRA-1 During the peak phase of construction activities (i.e. during the demolition phase requiring haul truck trips) in Area 3, all Construction Contractors shall schedule the arrival and departure of the sediment export haul trucks to be outside the AM peak hours of 7:30 AM to 8:30 AM and the PM peak hours of 4:30 PM to 5:30 PM.

MM TRA-2 During construction activities in Areas 2 and 3, use of the North Arroyo Boulevard or Gabrielino Trail/Access Road by hikers, bicyclists and equestrians shall be limited or prohibited when temporary partial or full closures of the Gabrielino Trail/ Access Road, Explorer Road, hiking trails or maintenance roads is necessary. In addition to the requirements for notification set forth in the City's Supplements and Modifications to the Greenbook, flagpersons and/or other safety procedures shall be used as necessary to ensure the safety of recreational users.

MM TRA-3 Prior to the start of construction, the City and/or their Construction Contractor shall provide written notice to the USFS and residences at the Ranger Station of the anticipated construction schedule, stating that access may be temporarily obstructed on an intermittent basis and providing a schedule of anticipated closures. In order to ensure that emergency vehicles would not be obstructed at any time, any temporary obstructions to the Gabrielino Trail/Access Road that could hinder emergency vehicular access shall be mobile and able to be removed from the roadway immediately upon notice from emergency responders.

MM CUML-1 The City and/or their Construction Contractor shall coordinate with the Los Angeles County Department of Public Works and/or their contractor for the sediment removal activities at Devil's Gate Reservoir regarding the schedule of trucks to and from landfills that would require the use of Interstate 210 eastbound ramps/Arroyo Boulevard intersection. If it is determined that activities would overlap and Project traffic and cumulative traffic including the Devil's Gate project traffic would have vehicle queues at Caltrans facilities that exceed available storage lengths, then the City and/or their contractor shall implement construction vehicle/hauling restrictions that disallow the proposed Project's truck traffic during the AM and PM peak hours of 7:30 AM to 8:30 AM and 4:30 PM to 5:30 PM.

iii. Findings Pursuant to CEQA Guidelines Section 15091

Changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect as identified in the Final EIR. (Draft EIR, p. 4.8-5)

iv. Supporting Explanation

The proposed Project would require construction activities that would involve the transport of workers to and from the Project site, as well as construction equipment and construction vehicles.

Area 2: Short-Term Construction Impacts. The proposed Project would generate less than 500 ADT, and hence would not require a traffic impact analysis per County of Los Angeles Department of Public Works (LACDPW) Transportation Impact Analysis Report Guidelines. Similarly, the City of Pasadena does not require analysis of construction traffic and considers any non-residential project which is expected to generate fewer than 300 ADT

exempt from conducting a transportation impact analysis. Therefore, no significant impacts to the roadway facilities due to short-term construction of Area 2 would occur. (Draft EIR, p. 4.8-6 through 4.8-7)

Area 3: Short-Term Construction Impacts. The peak phase of Area 3 constructions would cause an increase in the average daily traffic greater than 500 ADT. Although this threshold is applicable to long-term operational activities and not applicable to construction traffic, it is possible that roadway facilities could be impacted during approximately 10 days during construction in Area 3. MM-TRA-1 would reduce construction trips that could potentially increase congestion on freeways and arterial roadways during the peak hour. MM-TRA-1 would reduce traffic congestion associated with the 500 ADT during the peak phase of construction in Area 3. (Draft EIR, p. 4.8-7 through 4.8-10)

Impacts to Transit, Bicycles and Pedestrian Facilities. During construction of Area 2, there would be periods where sections of the trail would need to be partially or fully closed, mainly during excavations, construction of the new intake, trenching for the new intake service structure, and hauling in materials/equipment. The portion of Gabrielino Trail/Access Road along the construction zone may also need to be reduced in width for the duration of the construction period during work hours to allow for parked construction vehicles (e.g., pickup trucks). Temporary closure of the Gabrielino Trail/Access Road and any other public roads (e.g. Explorer Road) that may be impacted during short-term construction activities would be executed in a manner that ensured compliance with applicable plans and policies addressing the circulation system, including roadway, bicycle, and pedestrian facilities. The City will follow the Supplements and Modifications to the Greenbook regarding notifications to residents and businesses affected by the temporary closures of the Gabrielino Trail/Access Road. MM-TRA-2 requires use of flagpersons and/or other safety procedures to be used as necessary to ensure the safety of recreational users along the Gabrielino Trail/Access Road during construction activities that could involve partial road closures. (Draft EIR, p. 4.8-10 through 4.8-11)

Cumulative Impacts

Based on review of cumulative projects in the area, during construction of the proposed Project Areas 2 and 3, sediment removal activities at the Devil's Gate Reservoir and construction of the Explorer Groundwater Well would most likely be ongoing. Based on the queuing analysis of cumulative conditions provided above, the proposed Project would have a potentially significant queuing impact at the I-210 eastbound ramps/Arroyo Boulevard intersection. Therefore, the project would contribute to a cumulatively significant impact to the Caltrans ramp intersection during short-term construction of Area 3. Therefore MM-CUML-1 is proposed, which requires that the City shall coordinate with the contractor for Devil's Gate Reservoir to avoid potential queuing impacts at the I-210 eastbound ramps/Arroyo Boulevard intersection during peak phase of Area 3 construction under cumulative conditions. (Draft EIR, p. 4.8-11 through 4.8-19)

k) Tribal Cultural Resources

i. Potential Impacts Evaluated

- Would the project cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is:
    - A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1. In applying the criteria set forth in

subdivision (c) of Public Resource Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe? (Draft EIR, p. 4.9-9)

ii. Proposed Mitigation

MM-TCR-1 Prior to commencement of any ground-disturbing activities, the City of Pasadena shall retain a Native American Monitor approved by the Gabrieleño Band of Mission Indians-Kizh Nation – the tribe that consulted on this project pursuant to Assembly Bill AB 52 (the "Tribe" or the "Consulting Tribe"). The Tribal monitor shall only be present on the Project site during the construction phases that involve ground-disturbing activities. Ground disturbing activities may include, but may not be limited to, pavement removal, potholing or auguring, grubbing, tree removals, boring, grading, excavation, drilling, and trenching within the Project area. The Tribal Monitor shall complete daily monitoring logs that provide descriptions of the day's activities, including construction activities, locations, soil, and any cultural materials identified. The onsite monitoring shall end when all ground-disturbing activities on the Project site are completed, or when the Tribal Representatives and Tribal Monitor have indicated that all upcoming ground disturbing activities at the Project site have little to no potential for impacting Tribal Cultural Resources. Upon discovery of any Tribal Cultural Resources, construction activities shall cease in the immediate vicinity of the find (not less than the surrounding 100 feet) until the find can be assessed. All Tribal Cultural Resources unearthed by Project activities shall be evaluated by the qualified archaeologist (as required in MM-CUL-4) and the Tribal Monitor approved by the Consulting Tribe. If the resources are Native American in origin, the Consulting Tribe will retain it/them in the form and/or manner the Tribe deems appropriate, for educational, cultural and/or historic purposes.

MM-TCR-2 If human remains and/or grave goods are discovered or recognized at the Project Site, all ground disturbance shall immediately cease, and the county coroner shall be notified per Public Resources Code Section 5097.98, and Health & Safety Code Section 7050.5. Human remains and grave/burial goods shall be treated alike per California Public Resources Code section 5097.98(d)(1) and (2). Work may continue on other parts of the Project site while evaluation and, if necessary, mitigation takes place (CEQA Guidelines Section 15064.5[f]). If a non-Native American resource is determined by the qualified archaeologist to constitute a "historical resource" or "unique archaeological resource," time allotment and funding sufficient to allow for implementation of avoidance measures, or appropriate mitigation, must be available. The treatment plan established for the resources shall be in accordance with CEQA Guidelines Section 15064.5(f) for historical resources and PRC Sections 21083.2(b) for unique archaeological resources. Preservation in place (i.e., avoidance) is the preferred manner of treatment. If preservation in place is not feasible, treatment may include implementation of archaeological data recovery excavations to remove the resource along with subsequent laboratory processing and analysis. Any historic archaeological material that is not Native American in origin shall be curated at a public, non-profit institution with a research interest in the materials, such as the Natural History Museum of Los Angeles County or the Fowler Museum, if such an institution agrees to accept the material. If no institution accepts the archaeological material, it shall be offered to a local school or historical society in the area for educational purposes.

iii. Findings Pursuant to CEQA Guidelines Section 15091

Changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect as identified in the Final EIR.

iv. Supporting Explanation

Pursuant to AB 52, the City sent notification letters on November 7, 2019, to two tribes that have requested notification of Pasadena projects. The Gabrieleño Band of Mission Indians – Kizh Nation requested formal consultation. Although no TCRs have been identified as present within the Project site as a result of the NAHC SLF and a review of the CRHR and local register, information gathered during tribal consultation demonstrates a potential for unknown subsurface TCRs to be impacted by the Project, which could result in a significant impact. Therefore, mitigation measures have been included to provide for tribal monitoring of ground disturbing activities (MM-TCR-1), and inadvertent discovery of TCRs (MM-TCR-2). Implementation of MM-TCR-1 and MM-TCR-2 would ensure that potential short-term construction impacts related to an unknown site, feature, place, cultural landscape, sacred place, or object with cultural value to a California Native American tribe, would be reduced to a level less than significant. (Draft EIR, p. 4.9-9 through 4.9-10)

Cumulative Impacts

The cumulative impacts analysis on TCRs considers whether impacts of the proposed Project together with other projects identified within the vicinity of the Project site, when taken as a whole, substantially diminish the number of TCRs within the same or similar context. The Devil's Gate Sediment Removal Project is located to the south and west of the proposed Project site. Since the Devil's Gate project EIR was completed prior to the enactment of AB 52, no formal tribal consultation was conducted. However, the project EIR did include mitigation measures, including archaeological monitoring of native sediments, to address any potential impacts to known or unknown cultural resources. It is anticipated that TCRs that are potentially affected by related projects would also be subject to the same requirements of CEQA and AB 52 as the proposed Project and any impacts would be mitigated, as applicable. These determinations would be made on a case-by-case basis, and the effects of cumulative development on TCRs would be mitigated to the extent feasible in accordance with CEQA and other applicable legal requirements. Therefore, the proposed Project would not cumulatively contribute to a significant impact associated with TCRs and impacts would be less than significant. (Draft EIR, p. 4.9-10)

V. Resolution Regarding Environmental Impacts Determined to be Significant and Unavoidable

The Hearing Officer finds that mitigation measures have been identified in the Final EIR to reduce the following potentially significant environmental impacts of the proposed Project to below a level of significance, with the exception of impacts to cultural resources, which would remain significant and unavoidable. For each environmental topic within this category, the discussion below begins with a delineation of the potential impacts evaluated in the EIR, as specifically related to that topic, along with page citations as to where in the Draft EIR the relevant discussion is found, and is followed by presentation of the mitigation measure(s) identified in the Draft EIR for that topic, and then provides an explanation of the substantial evidence in support of the EIR conclusion that the following impacts have been determined to fall within the "significant unavoidable impacts" category.

l) Cultural Resources

i. Potential Impacts Evaluated

- Would the project cause a substantial adverse change in the significance of an historical resource pursuant to §15064.5? (Draft EIR, p. 4.3-22)

ii. Proposed Mitigation

MM-CUL-2 Prior to construction completion, the City shall ensure preparation of Historic American Engineering Record (HAER) documentation for Bridge No. 3 in accordance with the Secretary of the Interior's Standards for Architectural and Engineering Documentation. Documentation shall be completed by a qualified historic preservation professional who meets the Secretary of the Interior's Professional Qualifications Standards for architectural history. The documentation shall capture the physical description of the existing bridge with: 1) existing as-builts/drawings (where/if available); 2) a written narrative that includes a detailed history and architectural description of the bridge and a discussion of its historical significance; 3) photographs of the bridge with large format negatives to demonstrate its current condition; and 4) provide other photographs of the bridge prior to installation of the current overlay. Upon approval of the final HAER package, the City shall offer one original copy of the final HAER package to the City of Pasadena Historic Preservation Program, the South Central Coastal Information Center at California State University, Fullerton, and the Angeles National Forest Administrative Office.

Prior to project construction completion, the City shall conduct a review of the bridge overlay design on Bridge No. 3 and construction materials used in the bridge overlay to determine improvements that can be made to conform with the City's Arroyo Seco Design Guidelines. Examples of potential improvements include, but are not limited to, evaluation of appropriate paint colors that reflect the natural character of the Arroyo Seco, and replacement of components with more natural materials (e.g. wood, concrete, brick, arroyo stone piers, unpainted weathering steel or other natural materials, such as copper and wrought iron). The proposed design improvements shall be submitted to the City of Pasadena Department of Planning – Historic Preservation for review and approval.

iii. Findings Pursuant to CEQA Guidelines Section 15091

The above mitigation measures are feasible, are adopted, and will reduce the proposed Project's impacts to cultural resources. However, there are no feasible mitigation measures that would reduce impacts to Bridge No. 3 to a level below significant. Therefore, these impacts must be considered significant and unavoidable even after implementation of all feasible mitigation measures. Pursuant to Section 21081(a)(3) of the California Public Resources Code, as described in the Statement of Overriding Considerations, the City has determined that specific economic, legal, social, technological, or other considerations make infeasible the alternatives identified in the EIR, and the identified cultural (historic) impacts are thereby acceptable because of specific overriding considerations.

iv. Supporting Explanation

The structural overlay bridge installed in 2017 that spans the entire length of Bridge No. 3 is not in conformance with the Secretary of the Interior's Standards for the Treatment of Historic Properties in consideration of its proposed permanency. As a potentially permanent design feature, the continued presence of the overlay structure on Bridge No. 3 is considered a significant impact to historical resources, as the overlay detracts from nearly all of its important character-defining features and introduces incompatible, highly visible, modern materials. It is anticipated that Bridge No. 3 will continue to deteriorate, and as a result, PWP will need to remove dangerous elements of the bridge (damaged joists, for example) and even partially or fully demolish the bridge to protect public safety as it continues to deteriorate. MM-CUL-2, which requires preparation of Historic American Engineering Record

(HAER) documentation for Bridge No. 3 in accordance with the Secretary of the Interior's Standards, and sharing documentation with the City of Pasadena, the SCCIC, and the Angeles National Forest, as well as implementing adjustments to bring the bridge overlay components into compliance with the Arroyo Seco Design Guidelines, to the extent feasible. Implementation of MM-CUL-2 would lessen impacts but would not reduce impacts to Bridge No. 3 below a level of significance. Therefore, impacts to cultural resources under CEQA are considered significant and unavoidable, even with implementation of MM-CUL-2. (Draft EIR, p. 4.3-33 through 4.3-34)

VI. Resolution Regarding Alternatives

The Hearing Officer declares that the City has considered and rejected as infeasible Alternatives (i.e., the Reduced Diversion with In-Stream Spreading Alternative, and the Consolidated Facility Below JPL Bridge Alternative) identified in the Final EIR as set forth herein. CEQA requires that an EIR describe and evaluate the comparative merits of a reasonable range of alternatives to a project, or to the location of a project, that: (1) would feasibly attain most of the project objectives but would avoid or substantially lessen any significant impacts of the project, and (2) may be feasibly accomplished in a successful manner within a reasonable period of time considering the economic, environmental, social and technological factors involved. An EIR does not need to address alternatives that are not feasible, and the consideration of alternatives is to be judged against a rule of reason.

The lead agency is required to identify the environmentally superior alternative, but is not required to choose the environmentally superior for approval over the proposed Project if the alternative does not provide substantial advantages over the project (i.e., does not avoid or substantially reduce the significant impact(s) that would otherwise occur from the project), does not attain most of the project objectives, or is infeasible due to social, economic, technological or other considerations.

The Final EIR identifies objectives for the Project as follows (see Draft EIR, p. 3-12):

- Fully divert and utilize the City's 25 cubic feet per second surface water rights while operating in a manner objectively consistent with the Raymond Basin Judgment.
- Increase the capacity and functionality of the spreading basins to increase PWP's ability to recharge the groundwater basin, as envisioned by the 2011 Water Integrated Resources Plan with its recommendation to maximize the value of the groundwater basin and non-potable supplies.
- Provide opportunities for increased aquatic biological functions within the Arroyo Seco by: (1) protecting fish and eliminating the unimpeded passage of stream flows that could carry aquatic animals into the conveyance system, and (2) reducing existing impediments to fish passage at the diversion weir structure.
- Increase PWP's ability to rely upon local water for its potable water supply to reduce reliance upon imported water supplies from the Metropolitan Water District of Southern California (MWD).

The alternatives analyzed in the Draft EIR represent a reasonable range of alternatives based on the applicable provisions of the CEQA Guidelines.

a) Alternatives Considered But Rejected

The Hearing Officer finds that all the alternatives eliminated from further consideration in the Final EIR are infeasible, would not meet the basic project objectives, and/or would not reduce or avoid any of the significant effects of the proposed Project for the following reasons.

CEQA Guidelines Section 15126.6(c) recommends that an EIR identify alternatives that were considered for analysis but rejected as infeasible and briefly explain the reasons for their rejection. According to the CEQA Guidelines, among the factors that may be used to eliminate alternatives from detailed consideration in an EIR are (i) failure to meet most of the basic project objectives, (ii) infeasibility, or (iii) inability to avoid significant environmental impacts. With regard to feasibility, Section 15126.6(f)(1) states, "among the factors that may be taken into account when addressing the feasibility of alternatives are site suitability, economic viability, availability of infrastructure, general plan consistency, other plan or regulatory limitations, jurisdictional boundaries, and whether the applicant can reasonably acquire, control, or otherwise have access to the alternative site." Two alternatives for the Project were considered, but ultimately rejected from further analysis in the Draft EIR, consistent with Section 15126.6(c) of the CEQA Guidelines.

The Reduced Diversion with In-Stream Spreading Alternative considered either: (1) leaving the flows in the "natural stream" and allowing them to be naturally absorbed within the stream, with the City taking credit for up to the calculated natural stream percolation capacity, and diverting the remainder into the spreading basins to achieve the goal of more fully utilizing the City's 25 cfs water rights; or (2) installing a low berm facility within the Arroyo Seco near Johnson Field that would "spread" the flows within the stream bed and slow water to allow percolation. Regarding the potential "natural stream" approach, it is important to note that the "natural stream" channels noted above would only comply with the Raymond Basin Judgment if these were "leading to such existing or future spreading grounds", and do not include the existing natural stream in isolation. In the absence of direct use of the water (i.e. diversion into a treatment plant rather than infiltration into the groundwater basin), the only way for the City to earn pumping credit is by diversion from the natural stream, and for that diverted water to end up in spreading grounds. As such, leaving the flows in the "natural stream" is not an option set forth in the Raymond Basin Judgment and is therefore infeasible. This scenario would require a re-negotiation of the adjudicated agreement, as there is no ability in the Judgment for the City to take pumping credit for water left in the stream. The process for changing any of the components of the Judgment would require legal action beginning with a petition to the Court. All parties to the Judgment would have an opportunity to remark, including on any other aspects of the Judgment. For these reasons, the City has been consistent in its rejection of this potential alternative in the past, and therefore has eliminated it as a potential alternative to the proposed Project.

The Consolidated Facility Below JPL Bridge Alternative includes relocating the diversion capabilities of the diversion weir and intake structure within Area 2 and the sedimentation function of the former settlement ponds in Area 1 to a consolidated facility downstream of the JPL Bridge. The consolidated facility would include a diversion structure and a sediment forebay to simplify sediment management and maintenance activities by replacing scattered diversion and sedimentation facilities, presently located within the Arroyo Seco Canyon and accessed by canyon roads, which are difficult to navigate and maintain, to a consolidated facility downstream of the mouth of the canyon. Although this alternative would satisfy the proposed Project Objectives, this alternative does not avoid any significant environmental impacts of the proposed Project and would increase the environmental impacts in comparison to the proposed Project. This potential alternative would create a new engineered facility within the Arroyo Seco where none currently exists, rather than replacement in-kind of an existing facility within largely the same footprint as the current facility. All environmental topics would have increased impacts, rather than reduced environmental impacts, which is contrary to the intent of an alternatives analysis pursuant to Section 15126.6(a) of the CEQA Guidelines. Additionally, creation of a new dam structure that would span the width of the Arroyo Seco would involve a more complex set of regulatory permitting requirements, not only for the construction but for the routine maintenance that would be required for operation of the project. Finally, the proposed Project's only unavoidably significant environmental impact is related to impacts to the historic Bridge No. 3, and this potential alternative scenario would have the same impacts as the proposed Project thereon.

b) Alternative A – No Project/No Action

Under Alternative A, the proposed Project would not be implemented. The Areas 2 and 3 of the Project site would remain unchanged, and no development activity would occur. Operations and maintenance activities would continue to occur into the future, as in the current condition.

Alternative A would result in reduced environmental impacts to almost all environmental topics in the short-term because construction activity would not occur. Alternative A would also result in reductions to impacts associated with long-term Hydrology. However, Alternative A does not meet the Project objectives, including increasing groundwater recharge and enhancing local water supplies for more reliable water service, and would not avoid or reduce the Project's significant impact on historical resources. Additionally, the proposed Project would result in benefits to the topics of Biological Resources and Greenhouse Gas Emissions that would not occur under Alternative A, such that maintaining the current condition would be more impactful to the environment in the long-term to these two topics.

For CEQA purposes, this alternative is rejected because it would not meet any of the project objectives and it could potentially result in significant and unavoidable impacts to historical resources.

c) Alternative B – Redesigned Spreading Basins in Area 3

Under Alternative B, all activities proposed within Area 2 would continue to be implemented, as set forth in the proposed Project. The alternative design of Area 3 would mimic the primary design objectives and operational characteristics of the Project, including: use of a settling basin to facilitate removal of debris and sediment from water prior to conveyance to the spreading basins, use of a concrete flume to meter flow into the infiltration basins, and use of stepped basins with gravity flow interconnection pipes. This alternative would relocate some of the parking stalls from the future recreational parking lot located just south of the JPL Bridge to the eastern edge of Area 3 near the Explorer Well site to provide for the altered configuration of the spreading basin design. The relocated parking stalls would be intermittent angled along the Explorer Road.

The objective of Alternative B would be to provide an improved design with more appeal for recreational users by eliminating the rectangular shapes of the existing condition, as well as the proposed Project design, through use of curvilinear basin features that more closely resemble natural channel and stream functions. The recreational amenities would be further improved through the use of native, drought-tolerant landscape plantings around the basins. The Alternative B basin layout and landscaping would have the added benefit of enhancing the proposed trail network for pedestrians and equestrian usage, with incorporation of educational kiosks, benches, interpretive signage, and shade structures adjacent to the spreading basins along the proposed pedestrian trails/maintenance roads. Alternative B would replace the enclosed concrete sedimentation basin (Basin A) with an open settlement pond. Alternative B would also include a slight realignment of Explorer Road to reflect the more curvilinear contours of the spreading basins and to allow for the future Explorer Well site to be east of the recreational trail amenities. Relocating the well site to the east would make it less prominent when viewing the area from the Gabrielino Trail above.

Alternative B would result in similar short-term construction-related impacts when compared to the proposed Project for all environmental topics with the exception of a temporary increase in water supply for landscaping irrigation. For long-term operational impacts, all environmental factors would have similar impacts under Alternative B to the proposed Project. However, Alternative B would result in benefits to the environment that would not occur under the proposed Project. Alternative B would develop curvilinear grading contours at the spreading basins to facilitate a more naturalized appearance consistent with a park setting, improved recreational amenities, such as connective trails and interpretive signage, and natural native landscaping to enhance the recreational experience.

Alternative B would not increase any new long-term environmental impacts and would increase long-term benefits to Biological Resources and Recreation. However, Alternative B would not eliminate the significant unavoidable impact to cultural resources.

For CEQA purposes this alternative cannot be rejected because Alternative B would meet all of the project objectives, and impacts would be the same as those anticipated from the proposed Project with the exception of short-term impacts related to utilities and service systems. Alternative B would not eliminate the significant unavoidable impact to cultural resources, which would be same determination as the proposed Project. As such, Alternative B would be feasible to implement. **The City has determined Alternative B to be the preferred alternative.**

d) Alternative C – Historic Bridge Rehabilitation

Under Alternative C, all activities proposed within Areas 2 and 3 would continue to be implemented, as set forth in the proposed Project. Alternative C also includes the implementation of the recommendations of the Arroyo Seco Bridge (B3) Assessment Deterioration Comparison prepared by TJC Associates Inc. in 2018 (TJC 2018) as they relate to the reconstruction or replacement of primary structural features on historic Bridge No. 3, which is located within the Project's study area along the Gabrielino Trail/Access Road. The location of Bridge No. 3 is identified on Figure 2-4A within Section 2, Environmental Setting, of the Draft EIR. Alternative C would remove the bridge overlay deck on historic Bridge No. 3 and repair or replace the structural elements of the bridge in accordance with the U.S. Department of the Interior Standards for the Treatment of Historic Properties.

All of the primary structural elements of the bridge--specifically, the joists below the bridge deck, the heavy timber support element at mid-span, the A-frame trusses on the east and west sides of the bridge, and the steel elements of the bridge--are deteriorated and subject to fail, and would be replaced under Alternative C. The heavy timber mid-span member that is the primary structural element of the bridge appears to have significant bearing failure under the supported members. If the mid-span support continues to deteriorate and fail, catastrophic failure of the bridge will occur; therefore, replacement of the heavy timber mid-span support beam(s) would be a priority. Replacement of the center support member would require temporary supports to be placed in the Arroyo Seco to relieve the load on the beam while the deteriorated beam was replaced. Additionally, portions or all of the joists would be removed.

Alternative C would result in slightly increased short-term construction impacts to most environmental topics. For long-term impacts, Alternative C would not provide the protections related to wildfire preparedness as it pertains to the City's ability to accommodate firefighting equipment into and out of the Arroyo Seco Canyon and the Angeles National Forest and would result in increased long-term wildfire risks when compared to the proposed Project. However, this Alternative would eliminate the significant unavoidable impact related to historic resources and would be considered to be the environmentally superior alternative to the proposed Project.

For CEQA purposes this alternative cannot be rejected because it would meet all of the project objectives and it would result in slightly greater impacts to air quality, biological resources, cultural resources, hydrology and water quality, noise, recreation, transportation, tribal cultural resources, and wildfire. Alternative C would eliminate the significant and unavoidable impact anticipated under the proposed Project. As such, Alternative C would be feasible to implement.

VII. Resolution Regarding Significant Irreversible Environmental Changes

State CEQA Guidelines Section 15126.2(c) requires an EIR to discuss the significant irreversible environmental changes which would be caused by the proposed Project. Generally, an impact would occur under this category if, for example: (1) the project involved a large commitment of nonrenewable resources; (2) the primary and secondary impacts of the project would generally commit future generations to similar uses; (3) the project involves uses in which irreversible damage could result from any potential environmental incidents associated with the project; and (4) the proposed consumption of resources are not justified (for example, results in wasteful use of resources).

Construction Materials Use

Fossil fuel would be used during construction activities in Area 2 and 3 and would include gasoline/diesel for construction equipment, material deliveries, demolition waste disposal, and construction crew travel. No natural gas is required. However, once construction activities cease, petroleum use from off-road equipment and transportation vehicles would not differ from the operations at the Project site in the current existing condition. Because of the short-term nature of construction and relatively small scale of the construction activities required for the Project, the petroleum consumption would be negligible when compared to California's daily total use. Project impacts related to consumption of nonrenewable resources are considered to be less than significant because the Project would not use unusual or wasteful amounts of energy or construction materials.

In addition to fossil fuel use, a variety of resource materials would be used during the construction process, including steel, wood, concrete, electrical wiring, and fabricated materials. Upon completion of the construction activities, the commitment of such materials is considered irreversible because it is unlikely that the facilities would ever be decommissioned, and if they were decommissioned in the future, it is unlikely that the materials would be reused. Construction and demolition (C&D) waste is required to be diverted from landfills by the CALGreen Code, which requires a minimum 50 percent of diversion; however, for the purposes of this analysis, the use of such resources is considered a permanent and irreversible use.

Construction materials used in Area 2 include the concrete, metal, and rocks for the diversion and intake structure as well as the engineered roughened channel. Additionally, concrete, cinderblocks, roofing materials, and electrical components and wiring would be used for the intake service building, which would house the electrical and hydraulic controls for the diversion structure. Construction materials used in Area 3 would include pipes and valves, as well as engineered fill materials (e.g. sands and gravel) to construct the bermed walls of the spreading basins.

Resources used for the Project would be typical of similar water infrastructure projects in the region and would require a relatively minimal amount of resources when compared to land use development projects with habitable structures. Therefore, although irretrievable commitments of resources would result from the proposed Project, such changes would be less than significant.

Irreversible changes may occur from environmental damage, such as spill or release of hazardous materials due to failure of human-made structures, or accidental fire resulting from mechanical or electrical failure. While there are many other types of accidents possible, those listed above represent the key sources for irreversible damage that can be associated with water infrastructure projects. Compliance with applicable state and local regulations, the proposed Project would not result in irreversible damage from environmental accidents associated with the Project. (Draft EIR, p. 5-11)

Operational Use of Resources

Once operational, the Area 2 components would consume more energy on a daily basis than is currently consumed, given the addition of the intake service building that would house the electrical and hydraulic controls for the diversion structure. A portion of the energy used would be provided by non-renewable sources, which would be an irreversible commitment of such resources.

The Pasadena Water and Power would service the Project, and the design of the proposed Project are all subject to regulations that are working to reduce the amount of non-renewable resources from development projects. The electrical demand associated with the Area 2 activities is a minor energy consumer compared to other local and regional users that have long-term operations.

No new employees are required for the long-term operation or maintenance of the Project components in Area 2. No operational changes would occur, and may be potentially reduced with the automation of the weir to control flows in the intake. Similarly, PWP's future schedule of maintenance activities would not substantively differ from the current maintenance routine and procedures. The long-term use of non-renewable fossil fuel resources would not be substantively different than in the current condition, and impacts would be less than significant. Therefore, the operation of the proposed Project would not be considered a significant irreversible environmental effect or cause irreversible environmental damage. (Draft EIR, p. 5-12)

VIII. Resolutions Regarding Growth-Inducing Impacts

State CEQA Guidelines Section 15126.2(d) requires an EIR to discuss the ways in which the project could foster economic or population growth, or the construction of additional housing, either directly or indirectly, in the surrounding environment. Growth inducement, however, is not considered necessarily detrimental, beneficial, or significant to the environment.

The proposed Project would not directly foster economic or population growth. The Project does not involve the construction of any habitable structures that could support any occupiable land uses; no commercial or residential activity would result from Project implementation. No new employees would be required for the long-term operation and maintenance of the proposed Project.

The proposed Project would not indirectly foster economic or population growth, or otherwise remove a barrier to growth. The proposed Project would facilitate the efficient use of water in the Arroyo Seco by allowing for the increased utilization of the City's surface water rights and reducing reliance upon imported water supplies from the MWD. The proposed Project would not change the sustainable yield of the groundwater basin or otherwise alter the anticipated water supply projections set forth in the City's Urban Water Management Plan (UWMP). Therefore, the Project would not increase the available water supply such that population growth could be indirectly induced. Because there would be no direct or indirect impact related to fostering economic or population growth, or otherwise remove a barrier to growth, there would be no cumulative impacts related to growth-inducing impacts.

Additionally, the Project would not propose any physical or regulatory changes that would remove a restriction to or encourage population growth in the Project area, such as regulatory changes including General Plan Amendments encouraging population growth, specific plan amendments, zone reclassifications, sewer or water annexations; Local Agency Formation Commission annexation; or other similar actions. The Project is intended to increase water supply reliability and water system resiliency through an increase in local water supplies and would not encourage housing growth or result in growth-inducing impacts. (Draft EIR, p. 5-12 through 5-13)

IX. Resolution Regarding Adoption of Mitigation Monitoring and Reporting Program

Pursuant to Public Resources Code Section 21081.6, the Hearing Officer hereby adopts the Mitigation Monitoring and Reporting Plan ("MMRP") attached to this Resolution as Attachment 1, and incorporated herein. This MMRP includes all of the mitigation measures analyzed in the Draft EIR, which are applicable to both the proposed Project and the preferred Alternative B.

X. Resolution Regarding Custodian of Records

The documents and materials that constitute the record of proceedings on which these findings are based are located at the City of Pasadena, Planning & Community Development Department at 175 North Garfield Avenue, Pasadena, California 91101 and with the Director of Planning & Community Development, who serves as the custodian of these records.

XI. Resolution Regarding Notice of Determination

Staff is directed to file a Notice of Determination with the Clerk of the County of Los Angeles within five working days of final approval of Alternative B, as may be further modified by any conditions of approval imposed by the Hearing Officer.

Attachment 1

Mitigation Monitoring and Reporting Program

Mitigation Monitoring and Reporting Program
Arroyo Seco Canyon Project Areas 2 and 3

Modification to Conditional Use Permit No. 6222
State Clearinghouse No. 2014101022

Prepared for:

City of Pasadena Department of Water and Power
150 South Los Robles Avenue, Suite 200
Pasadena CA 91101

Prepared by:

DUDEK
38 North Marengo Avenue
Pasadena, California 91101

December 2020

Mitigation Monitoring and Reporting Program

Section 15097 of the California Environmental Quality Act (CEQA) Guidelines requires that, whenever a public agency approves a project based on a mitigated negative declaration or an environmental impact report (EIR), the public agency shall establish a mitigation monitoring or reporting program to ensure that all adopted mitigation measures are implemented.

This mitigation monitoring and reporting program (MMRP) for the Arroyo Seco Canyon Project Areas 2 and 3 (proposed Project) has been prepared pursuant to CEQA (Public Resources Code Section 21000 et seq.) and the CEQA Guidelines (14 California Code of Regulations, Chapter 3, Sections 15074 and 15097). This MMRP is intended to be used by City of Pasadena staff and mitigation monitoring personnel to ensure compliance with mitigation measures during project implementation. Mitigation measures identified in this MMRP were developed in the Draft EIR prepared for the proposed Project. A master copy of this MMRP shall be kept in the office of the City of Pasadena Department of Water and Power and shall be available for viewing upon request.

The Draft EIR for the proposed Project presents a detailed set of mitigation measures required for implementation. As noted above, the intent of the MMRP is to ensure the effective implementation and enforcement of all adopted mitigation measures. The MMRP includes all mitigation measures identified in the Draft EIR and, for each measure, the party responsible for implementation and implementation timing (see Table 1).

Table 1. Mitigation Monitoring and Reporting Program

Mitigation Measure	Party Responsible for Implementation	Implementation Timing
Mitigation Measures Identified in the Environmental Impact Report		
Biological Resources		
MM-BIO-1: Prior to commencement of any earthmoving activities or the pre-construction staging of equipment on the Project site, the City shall develop a Preconstruction Survey and Relocation Plan for terrestrial reptiles, including the California newt, two-striped gartersnake, Southern California legless lizard, and coastal whiptail. Although considered to be extinct, Pasadena shrimp (*Syncaris pasadenae*) will be added to the Plan as a focal species. The Preconstruction Survey and Relocation Plan shall be submitted to the California Department of Fish and Wildlife (CDFW) for review prior to any ground-disturbing activities within potentially occupied habitat. The Plan shall include at a minimum, the following: (1) protocols for pre-construction surveys to flush out and/or move identified special status wildlife within the study area, as feasible; (2) the timing, frequency, and locations where surveys should be conducted; (3) the habitat and conditions in the proposed relocation site(s); (4) the methods that would be used for trapping and relocating identified species; (5) protocols for documentation/recordation of the species and number of animals relocated; and (6) protocols for notifying CDFW in the event that identified species cannot be relocated. The Plan shall require that a Biological Monitor be present during all vegetation clearing and ground disturbance activities within Area 2, as well as three times weekly until construction activities are completed. For Area 3, a Biological Monitor will be present during initial vegetation clearing and initial ground disturbance activities. The Biological Monitor shall be familiar with southwestern willow flycatcher and least Bell's vireo and shall conduct pre-clearing non-protocol surveys for this species while onsite. If a least Bell's vireo or other State of federally listed species is detected, work activity within 500 feet of the detected occupied habitat will be temporarily halted and the City will consult with the appropriate wildlife agencies. With authorization from these agencies, which may include a 'take' permit, the project will proceed in accordance with conditions developed in the consultation. Conditions will include avoidance and minimization measures to prevent or minimize impacts on the listed species(s) occurring on or adjacent to the site. The Plan shall require that any individual special-status terrestrial wildlife species observed within the study area during the pre-construction survey(s) shall be flushed out and/or	(1) City of Pasadena/PWP shall ensure the development of a Preconstruction Survey and Relocation Plan (2) Subsequently, City of Pasadena/PWP shall ensure the final documentation of any wildlife relocated during Project activities is provided to CDFW for confirmation that construction activities were executed in compliance with the Preconstruction Survey and Relocation Plan	(1) Prior to commencement of any earthmoving activities or the pre-construction staging of equipment on the Project site (2) Upon completion of final documentation of compliance with the Preconstruction Survey and Relocation Plan

Mitigation Measure	Party Responsible for Implementation	Implementation Timing
moved out of harm's way to avoid direct impacts to these species, and if special-status species are detected, the Biological Monitor shall capture and relocate individuals to nearby undisturbed areas with suitable habitat outside of the construction area, but as close to their origin as possible. The final recordation/documentation of any wildlife relocated during Project activities shall be made available to CDFW for confirmation that construction activities were executed in compliance with the approved Preconstruction Survey and Relocation Plan.		
MM-BIO-2: Project construction shall be conducted in compliance with the conditions set forth in the Migratory Bird Treaty Act (MBTA) and California Fish and Game Code with methods approved by the California Department of Fish and Wildlife (CDFW) to protect active bird/raptor nests. To the maximum extent feasible, vegetation removal shall occur during the non-breeding season for nesting birds (generally late September to early March) and nesting raptors (generally early July to late January) to avoid impacts to nesting birds and raptors. If the Project requires that work be initiated during the breeding season for nesting birds (March 1–September 30) and nesting raptors (February 1–June 30), in order to avoid direct impacts on active nests, a pre-construction survey shall be conducted by a qualified Biologist for nesting birds and/or raptors within 3 days prior to clearing of any vegetation and/or any work near existing structures (i.e., within 300 feet for nesting birds, 500 feet for southwestern willow flycatcher and least Bell's vireo, and within 500 feet for nesting raptors). If the Biologist does not find any active nests within or immediately adjacent to the impact areas, the vegetation clearing/construction work shall be allowed to proceed. If the Biologist finds an active nest within or immediately adjacent to the construction area and determines that the nest may be impacted or breeding activities substantially disrupted, the Biologist shall delineate an appropriate buffer zone around the nest depending on the sensitivity of the species and the nature of the construction activity. Any nest found during survey efforts shall be mapped on the construction plans. The active nest shall be protected until nesting activity has ended. To protect any nest site, the following restrictions to construction activities shall be required until nests are no longer active, as determined by a qualified Biologist: (1) clearing limits shall be established within a buffer around any occupied nest (the buffer shall be 100–300 feet for nesting birds, 500 feet for southwestern willow flycatcher and least Bell's vireo, and 300–500 feet for nesting raptors), unless otherwise determined by a qualified Biologist and (2) access and surveying shall be restricted within the buffer of any occupied nest, unless otherwise determined by a qualified Biologist. Encroachment into the buffer area around a known nest shall only be allowed if	City of Pasadena/PWP shall ensure that a qualified Biologist conducts surveys in compliance with the conditions set forth in the Migratory Bird Treaty Act (MBTA) and California Fish and Game Code	Nesting bird pre-construction survey shall be conducted by a qualified Biologist for nesting birds and/or raptors within 3 days prior to clearing of any vegetation and/or any work near existing structures

Mitigation Measure	Party Responsible for Implementation	Implementation Timing
the Biologist determines that the proposed activity would not disturb the nest occupants. Construction can proceed when the qualified Biologist has determined that fledglings have left the nest or the nest has failed.		
MM-BIO-3: A CDFW-approved bat biologist shall conduct a pre-construction bat habitat assessment within the Project and within a 500-foot buffer. The assessment will consist of a daytime roost assessment to identify any sign indicating presence (i.e. guano, staining, etc.), acoustic monitoring for nighttime bat emergence and foraging activity, and visual emergence observations. Potential for roosting shall be categorized by 1) potential for solitary roost sites, 2) potential for colonial roost sites (10 bats or more). If the potential for colonial roosting is determined, those trees shall not be removed during the bat maternity roost season (March 1 – July 31). Trees potentially supporting colonial roosts outside of maternity roost season, and trees potentially supporting solitary roosts may be removed via a two-step removal process, whereby some level of disturbance (such as trimming of lower branches) (at the direction of Biological Monitor) is applied to the tree on day one to allow bats to escape during the darker hours, and the roost tree shall be removed two days later (i.e., there shall be no less or more than two nights between initial disturbance and the grading or tree removal). When feasible, trees will be dropped slowly and a Biological Monitor will monitor the activity. If buildings are determined to be occupied, one-way exclusionary devices will be placed over bat access points and left in place for two nights prior to building removal.	City of Pasadena/PWP shall ensure that a qualified bat biologist conducts a bat habitat assessment within the Project and within a 500-foot buffer	Within 3 days prior to clearing of any vegetation and/or any work near existing structures.
MM-BIO-4: Direct impacts to sensitive vegetation communities (white alder–California sycamore woodland association and California sycamore woodlands alliance) shall be mitigated through a combination of on-site and/or off-site measures. Mitigation for impacts to sensitive vegetation communities shall consider and overlap with compensation for jurisdictional waters (MM-BIO-6) since the sensitive vegetation is associated with the jurisdictional limits of Arroyo Seco. Mitigation for direct impacts to sensitive vegetation communities shall be implemented through on-site creation/enhancement, program funding, mitigation bank credits, and/or creation/enhancement of native vegetation communities on City lands. Mitigation acreages shall be implemented as shown in the Table below.	(1) City of Pasadena/PWP shall ensure that a qualified biologist prepares a Habitat Mitigation and Monitoring Plan (2) City of Pasadena/PWP shall ensure that the HMMP is submitted to CDFW, USACE, and RWQCB for review and comment, and revised to the satisfaction of the City and the three agencies.	(1) Prior to the issuance of a ground disturbing activities or the pre-construction staging of equipment on the Project site (2) Prior to the issuance of a ground disturbing activities or the pre-construction staging of equipment on the Project site

Mitigation Measure	Party Responsible for Implementation	Implementation Timing

Sensitive Vegetation Community	Direct Impacts (acres)	Mitigation Ratio	Mitigation (acres)
white alder–California sycamore woodland association	0.47	3:1	1.41
California sycamore woodlands alliance	0.04	3:1	0.12
Totals:	**0.51**	**—**	**1.53**

On-site Mitigation. White alder-California sycamore woodland association and California sycamore woodlands alliance could be established within Area 1 (previously approved components of the Arroyo Seco Canyon Project), and California sycamore woodlands alliance could be established in the upland portions surrounding the spreading basins in Area 3. Prior to the issuance of a grading permit or any earthwork on the Project site, PWP shall prepare a Habitat Mitigation and Monitoring Plan (HMMP) for habitat enhancement and creation activities. The HMMP shall at a minimum include a feasible implementation structure, salvage/seeding details, invasive species eradication methods, irrigation system and schedule, a monitoring schedule, performance standard of success, estimated costs, the implementation of a restrictive covenant on the land, long-term management of the habitat, and identification of responsible entities. The HMMP shall include restoration of the following habitats:

Riparian Woodlands. Impacted areas of (white alder–California sycamore woodland association and California sycamore woodlands alliance) shall be created/restored within and adjacent to the same on-site areas that the woodland currently existed prior to Project implementation, as well as other areas deemed to have appropriate soils and topography for successful establishment. Understory areas shall be revegetated with a diversity of locally collected seeds. Temporary irrigation shall be established and maintained, with irrigation suspensions in times of rainfall. Successful establishment of the woodland shall be determined only after removal of irrigation system and confirmed ability of the woodland to survive in the absence of irrigation.

It is anticipated that a one-time restoration effort followed by monitoring and invasive weed removal for a minimum of five (5) years would be required. The HMMP shall be submitted by the City to CDFW, USACE, and RWQCB for review and comment, and revised to the satisfaction of the City and the three agencies.

Mitigation Measure	Party Responsible for Implementation	Implementation Timing
Off-site Mitigation. If mitigation is implemented through mitigation program funding and/or mitigation bank credits, the City shall work with CDFW, USACE, and RWQCB to ensure the mitigation program funding and/or mitigation bank credits are appropriate to offset permanent impacts. If program funding is utilized, it would be accompanied by a specific work plan identifying habitat/jurisdictional resource acreage and/or functional gains. Mitigation lands shall be comprised of similar or higher quality riparian woodland and preferably located in the vicinity of the site or watershed. Off-site mitigation lands will be protected in perpetuity under a conservation easement, with a non-wasting endowment and manager/easement holder for long-term management. If mitigation is implemented through offsite enhancement of City-owned lands, the City shall prepare a HMMP that details the location and existing conditions of the offsite lands. The HMMP shall at a minimum include a feasible implementation structure, salvage/seeding details, invasive species eradication methods, irrigation system and schedule, a monitoring schedule, performance standard of success, estimated costs, the implementation of a restrictive covenant on the land, long-term management of the habitat, and identification of responsible entities. It is anticipated that a one-time restoration effort followed by monitoring and invasive weed removal for a minimum of five (5) years would be required. The HMMP shall be submitted by the City to CDFW, USACE, and RWQCB for review and comment, and revised to the satisfaction of the City and the three agencies.		
MM-BIO-5: To prevent inadvertent disturbance to sensitive vegetation communities outside the limits of work, the construction limits shall be clearly demarcated (e.g., installation of flagging or temporary high visibility construction fence) prior to ground disturbance activities. All construction activities including equipment staging and maintenance shall be conducted within the marked disturbance limits. A qualified biologist shall be present during initial ground-disturbing activities within the Project site to ensure that Project activities stay within the demarcated limits. The integrity of the demarcation limits will be in accordance with the monitoring required in MM-BIO-1. Additionally, all hollow posts and pipes associated with new facilities in Areas 2 and 3 shall be capped to prevent wildlife entrapment and mortality. Metal fence stakes used on the Project site shall be plugged with bolts or other plugging materials to avoid impacts to raptor talons. Additionally, the City shall ensure the prohibition of the use of rodenticides throughout all construction activities.	(1) City of Pasadena/PWP shall ensure that a qualified biologist conducts flagging of disturbance limits (2) City of Pasadena/PWP shall ensure that a qualified biologist conducts the required monitoring	(1) Prior to commencement of any ground disturbing activities or the pre-construction staging of equipment on the Project site (2) Ongoing during construction in compliance with Preconstruction Survey and Relocation Plan per MM-BIO-1

<table>
<tr><th>Mitigation Measure</th><th>Party Responsible for Implementation</th><th>Implementation Timing</th></tr>
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MM-BIO-6: Mitigation for direct impacts to jurisdictional waters shall be implemented through on-site enhancement of remaining jurisdictional waters and/or off-site acquisition, program funding, and/or mitigation bank credits. Mitigation ratios for each type of jurisdictional waters is shown in the Table below. Mitigation for temporary and permanent impacts to jurisdictional wetlands and waters shall consider and overlap with compensation for sensitive vegetation communities (MM-BIO-4).
<table>
<tr><th>Jurisdictional Waters Type</th><th>Direct Impacts (acres)</th><th>Mitigation Ratio</th><th>Mitigation (acres)[a]</th></tr>
<tr><td>USACE waters of the United States</td><td>0.20</td><td>1:1</td><td>0.20</td></tr>
<tr><td>RWQCB waters of the state</td><td>2.58</td><td>1:1</td><td>2.58</td></tr>
<tr><td>CDFW streambed and bank, with riparian vegetation[b]</td><td>0.49</td><td>3:1</td><td>1.47</td></tr>
<tr><td>CDFW streambed and bank, with non-riparian habitat[c]</td><td>2.41</td><td>1:1</td><td>2.41</td></tr>
</table>
Notes:
a. Mitigation areas for each jurisdictional type may overlap
b. white alder–California sycamore woodland (0.48 acres) and coast live oak woodland (<0.01 acres)
c. California sagebrush–California buckwheat–laurel sumac scrub (<0.001 acres); urban/developed (0.03 acres); disturbed habitat (2.38 acres); laurel sumac scrub (<0.01 acres)

On-site Mitigation. Jurisdictional waters and associated vegetation could be established within Area 1 (previously approved components of the Arroyo Seco Canyon Project). Prior to the issuance of a grading permit or any earthwork on the Project site, PWP shall prepare a HMMP for habitat enhancement and creation activities. The HMMP shall at a minimum include a feasible implementation structure, salvage/seeding details, invasive species eradication methods, irrigation system and schedule, a monitoring schedule, performance standard of success, estimated costs, the implementation of a restrictive covenant on the land, long-term management of the habitat, and identification of responsible entities. The HMMP shall include restoration of the following habitats:

Riparian Woodlands. Impacted areas of (white alder–California sycamore woodland association and coast live oak woodland) shall be created/restored within and adjacent to
</td>
<td>
(1) City of Pasadena/PWP shall ensure that a qualified biologist prepares a Habitat Mitigation and Monitoring Plan
(2) City of Pasadena/PWP shall ensure that the HMMP is submitted to CDFW, USACE, and RWQCB for review and comment, and revised to the satisfaction of the City and the three agencies.
</td>
<td>
(1) Prior to the issuance of a ground disturbing activities or the pre-construction staging of equipment on the Project site
(2) Prior to the issuance of a ground disturbing activities or the pre-construction staging of equipment on the Project site
</td>
</tr>
</table>

Mitigation Measure	Party Responsible for Implementation	Implementation Timing
the same on-site areas that the woodland currently existed prior to Project implementation, as well as other areas deemed to have appropriate soils and topography for successful establishment. Understory areas shall be revegetated with a diversity of locally collected seeds. Temporary irrigation shall be established and maintained, with irrigation suspensions in times of rainfall. Successful establishment of the woodland shall be determined only after removal of irrigation system and confirmed ability of the woodland to survive in the absence of irrigation. It is anticipated that a one-time restoration effort followed by monitoring and invasive weed removal for a minimum of five (5) years would be required. The HMMP shall be submitted by the City to the CDFW, USACE, and RWQCB for review and comment, and revised to the satisfaction of the City and the three agencies. **Off-site Mitigation.** If mitigation is implemented through mitigation program funding and/or mitigation bank credits, the City shall work with the CDFW, USACE, and RWQCB to ensure the mitigation program funding and/or mitigation bank credits are appropriate to offset permanent impacts. If program funding is utilized, it would be accompanied by a specific work plan identifying habitat/jurisdictional resource acreage and/or functional gains. Mitigation lands shall be comprised of similar or higher quality riparian woodland and preferably located in the vicinity of the site or watershed. Off-site mitigation lands will be protected in perpetuity under a conservation easement, with a non-wasting endowment and manager/easement holder for long-term management. If mitigation is implemented through offsite enhancement of City-owned lands, the City shall prepare a HMMP that details the location and existing conditions of the offsite lands. The HMMP shall at a minimum include a feasible implementation structure, salvage/seeding details, invasive species eradication methods, irrigation system and schedule, a monitoring schedule, performance standard of success, estimated costs, the implementation of a restrictive covenant on the land, long-term management of the habitat, and identification of responsible entities. It is anticipated that a one-time restoration effort followed by monitoring and invasive weed removal for a minimum of five (5) years would be required. The HMMP shall be submitted by the City to the CDFW, USACE, and RWQCB for review and comment, and revised to the satisfaction of the City and the three agencies.		
MM-BIO-7: Prior to the commencement of earthmoving within Area 2 for the demolition of the existing diversion/weir structure, the City shall develop a Native Resident and	City of Pasadena/PWP shall ensure that a qualified biologist prepares a	Prior to the issuance of a ground disturbing activities or the pre-

Mitigation Measure	Party Responsible for Implementation	Implementation Timing
Migratory Fish Monitoring Plan (Monitoring Plan), in consultation with CDFW. This Monitoring Plan shall set forth annual monitoring requirements to determine if native fish species or migratory fish populations are present within an approximate 3,500-foot section of the stream (about 1,500 feet upstream of the diversion/weir structure to the abandoned headworks (Area 1) and 2,000 feet downstream to the JPL Bridge at the mouth of the canyon). The Monitoring Plan will include the results of the baseline conditions for fish, which shall be conducted prior to commencement of earthwork in Area 2 within the 3,500 section of the stream using the survey methodology described in the 2010 California Salmonid Stream Habitat Restoration Manual (4th Edition). Annual survey protocols shall be established to the satisfaction of CDFW and set forth in the Monitoring Plan. If the results of the annual surveys reveal a positive presence of native fish, the Monitoring Plan shall set forth thresholds for determining the permanency of the population, and whether or not connectivity both upstream and downstream of the diversion structure is appropriate and in the best interest of the long-term survival of an established native or migratory fish population, given hazards associated with stranding downstream. Until passage for steelhead is restored to the Arroyo Seco, the City shall implement a program to rescue fish between the diversion structure and the JPL Bridge. If rescue is determined to be ineffective or impractical, then the City shall modify its operations to accommodate passage. At such time as steelhead passage is restored, the City shall alter either the design of the diversion/weir structure, the operational methods of the diversion/weir structure, or both to satisfy Fish and Game Code Sections 5901 and 5937.	Native Resident and Migratory Fish Monitoring Plan that sets forth survey protocols satisfaction of CDFW.	construction staging of equipment on the Project site
MM-BIO-8: A qualified biologist shall be present during initial ground-disturbing activities within the Project site to ensure that Project activities stay within the demarcated limits, as required in MM-BIO-5. This qualified biologist shall identify the number of City-protected trees that are removed as a result of Project construction activities, as well as trees that would be encroached upon. This inventory of trees shall be used to determine an appropriate tree replacement program that shall be, at a minimum, consistent with the administrative guideline tree replacement matrix of the City's Tree Ordinance (Chapter 8.52 of the Pasadena Municipal Code), as it relates to tree replacement of protected trees. Trees within approximately 15 feet of proposed construction activity shall be temporarily fenced with chain-link fencing in accordance with the City's Tree Ordinance and Tree Protection Guidelines. The fencing shall be installed to the extent of the tree's dripline plus four (4) radial feet and be minimum six (6) feet high with an access gate of minimal width. The fenced area	(1) City of Pasadena/PWP shall ensure that a qualified biologist identifies City-protected trees (2) City of Pasadena/PWP shall ensure that a qualified biologist prepares tree mitigation per City's Tree Ordinance	(1) Upon completion of demarcation limits per MM-BIO-5 (2) Upon determination of the final number/type of impacted trees

Mitigation Measure	Party Responsible for Implementation	Implementation Timing
shall be considered the Tree Protection Zone (TPZ) unless proximate construction required temporary removal. All trees that have been substantially root pruned (30% or more of their root zone) during construction within the TPZ shall be monitored by an International Society of Arboriculture Certified arborist for the first five years after construction completion. The arborist shall submit an annual report, photograph each tree and compare tree health and condition to the original, pre-construction baseline. For trees that do not survive the five-year monitoring period, such trees shall be replaced in accordance with the requirements of this measure. For all trees that are identified for removal resulting from the proposed Project, such trees shall be inspected by a qualified arborist for contagious tree diseases, including but not limited to Polyphagous Shot Hole Borer; thousand canker fungus, and goldspotted oak borer. If contagious tree diseases are identified, the trees shall be treated using the best available management practices relevant for each tree disease observed prior to transporting the trees offsite.		
Cultural Resources and Tribal Cultural Resources		
MM-CUL-1: Prior to the commencement of construction vehicle and truck traffic along the Gabrielino Trail/Access Road north of the JPL Bridge, the City shall ensure that Bridge No. 2 and all identified arroyo stone wall features along the affected portions of the Gabrielino Trail/Access Road are properly protected for the duration of construction activities. The City shall install temporary protective barriers in the form of concrete k-rails along the decorative railings of Bridge No. 2 on both sides of the road to protect the railings from further deterioration and damage from vehicles. The concrete k-rails shall be removed once the Project is completed leaving Bridge No. 2 intact. The concrete k-rails shall be installed parallel to the Bridge's existing baluster railings, with approximately 2 feet of separation between the k-rail and the resource. The k-rails shall be positioned to ensure that the Bridge railings are protected from daily construction traffic. The k-rails shall not be permanently attached to the bridge. All arroyo stone wall features adjacent to the Gabrielino Trail/Access Road shall be protected by concrete k-rails wherever feasible; however, in areas where k-rails would create an impassable or bottleneck situation for vehicles, the City shall utilize other reasonable protections, including cones and flagging, to ensure that the arroyo stone walls are not inadvertently damaged during construction vehicle movement and equipment transport. The plans for the temporary barriers shall be reviewed by a qualified architectural historian prior to	(1) City of Pasadena/PWP shall ensure that plans for temporary barriers to protect all historic features duration of construction activities are reviewed by a qualified architectural historian (2) City of Pasadena/PWP shall ensure completion of pre-construction surveys by a qualified historic preservation (3) City of Pasadena/PWP shall ensure completion of post-construction surveys by a qualified historic preservation	(1) Prior to the commencement of construction vehicle and truck traffic along the Gabrielino Trail/Access Road north of the JPL Bridge (2) Prior to the commencement of construction vehicle and truck traffic along the Gabrielino Trail/Access Road north of the JPL Bridge (3) Upon completion of construction traffic along the Gabrielino Trail/Access

Mitigation Measure	Party Responsible for Implementation	Implementation Timing
Project implementation. In order to ensure that the bridge and stone walls are adequately protected during Project activities, the City shall ensure completion of pre-construction and post-construction surveys by a qualified historic preservation consultant to ensure that adverse effects or significant impacts have not occurred to Bridge No. 2. If the pre-construction survey identifies deficiencies in the protections for Bridge No. 2 or the stone walls, recommendations for additional physical barriers or visual warnings shall be provided and implemented prior to initiation of construction activities. The installation/construction methodology and post-construction survey shall be submitted to the City of Pasadena Department of Planning – Historic Preservation for review and approval.		Road north of the JPL Bridge
MM-CUL-2: Prior to construction completion, the City shall ensure preparation of Historic American Engineering Record (HAER) documentation for Bridge No. 3 in accordance with the Secretary of the Interior's Standards for Architectural and Engineering Documentation. Documentation shall be completed by a qualified historic preservation professional who meets the Secretary of the Interior's Professional Qualifications Standards for architectural history. The documentation shall capture the physical description of the existing bridge with: 1) existing as-builts/drawings (where/if available); 2) a written narrative that includes a detailed history and architectural description of the bridge and a discussion of its historical significance; 3) photographs of the bridge with large format negatives to demonstrate its current condition; and 4) provide other photographs of the bridge prior to installation of the current overlay. Upon approval of the final HAER package, the City shall offer one original copy of the final HAER package to the City of Pasadena Historic Preservation Program, the South Central Coastal Information Center at California State University, Fullerton, and the Angeles National Forest Administrative Office. Prior to project construction completion, the City shall conduct a review of the bridge overlay design on Bridge No. 3 and construction materials used in the bridge overlay to determine improvements that can be made to conform with the City's Arroyo Seco Design Guidelines. Examples of potential improvements include, but are not limited to, evaluation of appropriate paint colors that reflect the natural character of the Arroyo Seco, and replacement of components with more natural materials (e.g. wood, concrete, brick, arroyo stone piers, unpainted weathering steel or other natural materials, such as copper and wrought iron). The proposed design improvements shall be submitted to the City of Pasadena Department of Planning – Historic Preservation for review and approval.	(1) City of Pasadena/PWP shall ensure completion of a Historic American Engineering Record (HAER) documentation for Bridge No. 3. (2) City of Pasadena/PWP shall ensure completion of a review of the bridge overlay design on Bridge No. 3 for compliance with the City's Arroyo Seco Design Guidelines	(1) Prior to the commencement of construction vehicle and truck traffic along the Gabrielino Trail/Access Road north of the JPL Bridge (2) Prior to the completion of construction activities in Area 2

Mitigation Measure	Party Responsible for Implementation	Implementation Timing
MM-CUL-3: Prior to commencement of Project construction activities that would require equipment staging at the Behner Water Treatment Plant (WTP), the City shall ensure that the exterior of the WTP building is adequately protected from equipment and vehicle staging activities. The northwest and southwest exterior elevations of the WTP shall, at a minimum, be protected by construction fencing and signage to ensure that none of the major exterior character-defining features of the building are inadvertently damaged. Fencing shall be placed at a minimum distance of five (5) feet from the exterior of the building, and crews working in the immediate vicinity should be alerted to the presence of an historical resource and instructed to avoid it. The City shall ensure that Project-related equipment and materials are not in contact with the exterior or the building, including absolute avoidance of leaning materials and equipment against exterior walls. The temporary fencing, signage, and barriers shall be removed at the conclusion of construction activities.	City of Pasadena/PWP shall ensure installation of protective measures for building protection from equipment and vehicle staging activities	Prior to commencement of Project construction activities that would require equipment staging at the Behner Water Treatment Plant
MM-CUL-4: Prior to commencement of earthmoving activities, the City shall retain a qualified Archaeologist meeting the Secretary of the Interior's Professional Qualification Standards for Archaeology. The Archaeologist shall be present at the pre-grade conference; shall establish procedures for archaeological resource surveillance; and shall establish, in cooperation with the Contractor, procedures for temporarily halting or redirecting work to permit the sampling, identification, and evaluation of the artifacts, as appropriate. At a minimum, in the event archaeological resources are exposed during construction activities, all construction work occurring within 100 feet of the find shall immediately stop until a qualified archaeologist can evaluate the significance of the find and determine whether or not additional study is warranted. The Archaeologist shall first determine whether it is a "unique archaeological resource" pursuant to the California Environmental Quality Act (CEQA, i.e., Section 21083.2[g] of the California Public Resources Code) or a "historical resource" pursuant to Section 15064.5(a) of the State CEQA Guidelines. If the archaeological resource is determined to be a "unique archaeological resource" or a "historical resource", the Archaeologist shall formulate a mitigation plan in consultation with the City of Pasadena that satisfies the requirements of the above-referenced sections. The Archaeologist shall prepare a report of the results of any study prepared as part of a testing or mitigation plan, following guidelines of the California Office of Historic Preservation, and s/he shall record the site and submit the recordation form to the City of Pasadena and the California Historic Resources Information System (CHRIS) at the South Central Coastal Information Center (SCCIC) at California State University, Fullerton. Work may proceed in other areas of the site, subject to the direction of the Archaeologist.	(1) City of Pasadena/PWP shall ensure hiring of a qualified archaeologist for meeting attendance and preparation of a mitigation plan (2) If any archaeologic finds are studied, the City of Pasadena/PWP shall ensure the qualified archaeologist prepares a testing or mitigation plan	(1) Prior to the commencement of a ground disturbing activities or the pre-construction staging of equipment on the Project site (2) Upon discovery of any archaeologic finds

Mitigation Measure	Party Responsible for Implementation	Implementation Timing
MM-PALEO-1: Prior to commencement of any grading activity on-site, the City shall retain a qualified Paleontologist per the Society of Vertebrate Paleontology (SVP) (2010) guidelines. The paleontologist shall prepare a Paleontological Resources Impact Mitigation Program (PRIMP) for the Project. The PRIMP shall be consistent with the SVP 2010 guidelines. Minimum requirements to be set forth in the PRIMP include: (1) attendance at the preconstruction meeting and worker environmental awareness training, where monitoring is required within the proposed Project site based on construction plans and/or geotechnical reports; (2) procedures for adequate paleontological monitoring and discoveries treatment, and paleontological methods, including sediment sampling for microvertebrate fossils, reporting, and collections management; (3) mandatory monitoring on-site during all rough grading and other significant ground-disturbing activities, including augering in previously undisturbed, fine-grained Pleistocene alluvial deposits; (4) mandatory actions in the event that paleontological resources (e.g., fossils) are unearthed during grading, including the requirement for the paleontological monitor to temporarily halt and/or divert grading activity to allow recovery of paleontological resources, and roping/fencing off of the discovery with a 50-foot radius buffer; and (5) if resources are discovered, methods for coordination between the qualified paleontologist and the City for appropriate exploration and/or salvage, as well as final disposition of the resources in an accredited institution or museum, such as the Natural History Museum of Los Angeles County.	City of Pasadena/PWP shall ensure hiring of a qualified paleontologist to prepare a Paleontological Resources Impact Mitigation Program	Prior to the commencement of a ground disturbing activities
Noise		
MM-NOI-1: The City and/or their Construction Contractor shall implement the following noise reduction measures during all construction activities: • Equip all construction equipment (fixed or mobile) with properly operating and maintained mufflers, consistent with or exceeding manufacturers' standards. • Ensure that construction equipment engine enclosures and covers as provided by manufacturers shall be in place during operation. • Place all stationary construction equipment so that the equipment is as far as feasible from noise-sensitive receptors and so that the emitted noise is directed away from the noise-sensitive receptors. • Locate equipment and materials staging in areas that will create the greatest distance between staging area noise sources and noise-sensitive receptors during Project construction.	City of Pasadena/PWP shall ensure construction activities implement required noise reduction actions	During all demolition, earthwork and construction activities

Mitigation Measure	Party Responsible for Implementation	Implementation Timing
• Ensure that construction equipment is shut down when not in use. • Limit haul truck deliveries to the same hours specified for the operation of construction equipment.		
Recreation		
MM-REC-1: Prior to the closure of recreational trails for public use, the City of Pasadena shall post signs providing at least one week of advanced notice of the dates and times of planned trail closures at the following locations: • Intersection of Ventura Street and Windsor Avenue • Sunset Overlook • Altadena Crest Trail (adjacent to the North Arroyo Boulevard) • Arroyo Seco Trail • West Rim Trail/East Rim Trail In addition to the closure notice signage, the City shall provide the locations of nearby trails and recreational facilities in the surrounding area that would be open for public use at the times when the trails are closed. This information shall also be posted on the City's Parks, Recreation and Community Services website.	City of Pasadena/PWP shall ensure implementation of required notifications	During all demolition, earthwork and construction activities
Transportation		
MM-TRA-1: During the peak phase of construction activities (i.e. during the demolition phase requiring haul truck trips) in Area 3, all Construction Contractors shall schedule the arrival and departure of the sediment export haul trucks to be outside the AM peak hours of 7:30 AM to 8:30 AM and the PM peak hours of 4:30 PM to 5:30 PM.	City of Pasadena/PWP shall ensure construction activities comply with haul truck schedule limits	During demolition phase in Area 3
MM-TRA-2: During construction activities in Areas 2 and 3, use of the North Arroyo Boulevard or Gabrielino Trail/Access Road by hikers, bicyclists and equestrians shall be limited or prohibited when temporary partial or full closures of the Gabrielino Trail/ Access Road, Explorer Road, hiking trails or maintenance roads is necessary. In addition to the requirements for notification set forth in the City's Supplements and Modifications to the Greenbook, flagpersons and/or other safety procedures shall be used as necessary to ensure the safety of recreational users.	City of Pasadena/PWP shall ensure notification of trail closure and safety procedures	During demolition, grading, and construction activities

Mitigation Measure	Party Responsible for Implementation	Implementation Timing
MM-TRA-3: Prior to the start of construction, the City and/or their Construction Contractor shall provide written notice to the USFS and residences at the Ranger Station of the anticipated construction schedule, stating that access may be temporarily obstructed on an intermittent basis and providing a schedule of anticipated closures. In order to ensure that emergency vehicles would not be obstructed at any time, any temporary obstructions to the Gabrielino Trail/Access Road that could hinder emergency vehicular access shall be mobile and able to be removed from the roadway immediately upon notice from emergency responders.	City of Pasadena/PWP shall ensure notification of trail closure to USFS	Prior to commencement of construction activities, and ongoing, as needed
MM-CUML-1: The City and/or their Construction Contractor shall coordinate with the Los Angeles County Department of Public Works and/or their contractor for the sediment removal activities at Devil's Gate Reservoir regarding the schedule of trucks to and from landfills that would require the use of Interstate 210 eastbound ramps/Arroyo Boulevard intersection. If it is determined that activities would overlap and Project traffic and cumulative traffic including the Devil's Gate project traffic would have vehicle queues at Caltrans facilities that exceed available storage lengths, then the City and/or their contractor shall implement construction vehicle/hauling restrictions that disallow the proposed Project's truck traffic during the AM and PM peak hours of 7:30 AM to 8:30 AM and 4:30 PM to 5:30 PM.	City of Pasadena/PWP shall ensure coordination with LACDPW	During demolition, grading, and construction activities
Tribal Cultural Resources		
MM-TCR-1: Prior to commencement of any ground-disturbing activities, the City of Pasadena shall retain a Native American Monitor approved by the Gabrieleño Band of Mission Indians-Kizh Nation – the tribe that consulted on this project pursuant to Assembly Bill AB 52 (the "Tribe" or the "Consulting Tribe"). The Tribal monitor shall only be present on the Project site during the construction phases that involve ground-disturbing activities. Ground disturbing activities may include, but may not be limited to, pavement removal, potholing or auguring, grubbing, tree removals, boring, grading, excavation, drilling, and trenching within the Project area. The Tribal Monitor shall complete daily monitoring logs that provide descriptions of the day's activities, including construction activities, locations, soil, and any cultural materials identified. The on-site monitoring shall end when all ground-disturbing activities on the Project site are completed, or when the Tribal Representatives and Tribal Monitor have indicated that all upcoming ground disturbing activities at the Project site have little to no potential for impacting Tribal Cultural Resources. Upon discovery of any Tribal Cultural Resources, construction activities shall cease in the	(1) City of Pasadena/PWP shall retain a Native American Monitor approved by the Gabrieleño Band of Mission Indians-Kizh Nation. (2) City of Pasadena/PWP shall ensure that the Native American Monitor observes ground disturbing activities	(1) Prior to commencement of ground disturbing activities and during any ground disturbing activities. (2) Only on the Project site during the construction phases that involve ground-disturbing activities

Mitigation Measure	Party Responsible for Implementation	Implementation Timing
immediate vicinity of the find (not less than the surrounding 100 feet) until the find can be assessed. All Tribal Cultural Resources unearthed by Project activities shall be evaluated by the qualified archaeologist (as required in MM-CUL-4) and the Tribal Monitor approved by the Consulting Tribe. If the resources are Native American in origin, the Consulting Tribe will retain it/them in the form and/or manner the Tribe deems appropriate, for educational, cultural and/or historic purposes.		
MM-TCR-2: If human remains and/or grave goods are discovered or recognized at the Project Site, all ground disturbance shall immediately cease, and the county coroner shall be notified per Public Resources Code Section 5097.98, and Health & Safety Code Section 7050.5. Human remains and grave/burial goods shall be treated alike per California Public Resources Code section 5097.98(d)(1) and (2). Work may continue on other parts of the Project site while evaluation and, if necessary, mitigation takes place (CEQA Guidelines Section 15064.5[f]). If a non-Native American resource is determined by the qualified archaeologist to constitute a "historical resource" or "unique archaeological resource," time allotment and funding sufficient to allow for implementation of avoidance measures, or appropriate mitigation, must be available. The treatment plan established for the resources shall be in accordance with CEQA Guidelines Section 15064.5(f) for historical resources and PRC Sections 21083.2(b) for unique archaeological resources. Preservation in place (i.e., avoidance) is the preferred manner of treatment. If preservation in place is not feasible, treatment may include implementation of archaeological data recovery excavations to remove the resource along with subsequent laboratory processing and analysis. Any historic archaeological material that is not Native American in origin shall be curated at a public, non-profit institution with a research interest in the materials, such as the Natural History Museum of Los Angeles County or the Fowler Museum, if such an institution agrees to accept the material. If no institution accepts the archaeological material, it shall be offered to a local school or historical society in the area for educational purposes.	City of Pasadena/PWP shall ensure compliance with applicable protocols and notifications and prepare a treatment plan, as appropriate	Upon discovery of human remains and/or grave goods during construction activities
Mitigation Measures Revised and/or Carried Forward from 2015 IS/MND Mitigation Monitoring and Reporting Program		
MM HAZ-1 The City shall require Construction Contractors to implement the following measures: • Trucks and equipment entering the site shall be inspected to be free from oil, gasoline, or other vehicle fluid leaks.	City of Pasadena/PWP	Periodically during construction (at least once per month)

Mitigation Measure	Party Responsible for Implementation	Implementation Timing
• Equipment fueling areas shall be located outside jurisdictional waters as identified by the USACE and CDFW. • Hazardous materials shall not be stored within the 50-year floodplain for the Arroyo Seco. Instead, hazardous materials shall be stored within staging areas located away from the Arroyo Seco and shall be removed prior to the start of the storm season. • All hazardous material spills and contaminated soils shall be excavated immediately upon discovery to minimize soil and water contamination and the potential of wildlife being poisoned or otherwise harmed. • The Contractor shall maintain hazardous materials spill control, containment, and cleanup kits of adequate size and materials for potential accidental instream spills and releases.		
MM HAZ-2 Should discolored or odorous soils be encountered during grading and excavation activities in Area 3, the Contractor shall have a sample of the soils analyzed for the presence of contamination. If the results of the testing show that chemical levels are present below regulatory levels, grading and excavation activities may proceed accordingly. Otherwise, remediation and/or removal of the contaminated soils shall be completed prior to continued ground disturbance if chemical levels are above regulatory standards. Remediation and/or disposal shall be conducted with the oversight of applicable regulatory agencies such as the Los Angeles County Fire Department, the South Coast Air Quality Management District (SCAQMD), the California Department of Toxic Substances Control (DTSC), and/or the U.S. Environmental Protection Agency in compliance with established maximum contaminant levels (MCLs).	City of Pasadena/PWP	During construction activities, if odorous or discolored soils are found
MM HAZ-3 The Contractor shall schedule the access road reconstruction in Area 2 so as to shorten the necessary closures of the access road to the extent feasible. The Contractor shall also inform the Pasadena Department of Water and Power (PWP), the Pasadena Fire Department, the Pasadena Police Department, the Los Angeles County Fire Department, and the United States Forest Service (USFS) at least one week in advance of the start of construction of the times when work on the Gabrielino Trail/access road are planned. Any major changes to the schedule shall be forwarded to these agencies at least one week prior to trail closures.	City of Pasadena/PWP and Parks and Natural Resources Division	At least one week prior to bride and Gabrielino Trail/Access Road closure

Mitigation Measure	Party Responsible for Implementation	Implementation Timing
MM HAZ-4 The Contractor shall not use, operate, or cause to be operated any internal combustion engine that uses hydrocarbon fuel, unless the engine is equipped with a spark arrestor and is maintained in effective working order, or the engine is constructed, equipped and maintained for the prevention of fire.	City of Pasadena/PWP	Periodically during construction (at least once per month

ATTACHMENT D
RESOLUTION ADOPTING A STATEMENT OF OVERRIDING CONSIDERATIONS

RESOLUTION NO. _____

A RESOLUTION OF THE BOARD OF ZONING APPEALS OF THE CITY OF PASADENA ADOPTING A STATEMENT OF OVERRIDING CONSIDERATIONS IN CONNECTION WITH THE ARROYO SECO CANYON PROJECT AREAS 2 AND 3 (ALTERNATIVE B)

WHEREAS, the California Environmental Quality Act ("CEQA") requires the decision-making agency to balance the economic, legal, social, technological, or other benefits of a project against its unavoidable environmental impacts when determining whether to approve a project. If the benefits of the project outweigh the unavoidable adverse impacts, those impacts may be considered acceptable. CEQA requires the agency to provide written findings supporting the specific reasons for considering a project acceptable when significant impacts are unavoidable. Such reasons must be based on substantial evidence in the administrative record.

WHEREAS, on January 6, 2021, the Hearing Officer held a duly noticed public hearing to consider the Arroyo Seco Canyon Project Areas 2 and 3, (Project or proposed Project) proposed to repair and replace the City's water infrastructure facilities in the Upper Arroyo Seco that were damaged by debris flows caused by storms following the 2009 Station Fire. At that meeting, the Hearing Officer certified the Environmental Impact Report for the Project, adopted A Resolution Of The Hearing Officer Of The City Of Pasadena Certifying The Final Environmental Impact Report (SCH No. 2014101022) For The Arroyo Seco Canyon Project Areas 2 And 3, Adopting Environmental Findings And A Mitigation Monitoring And Reporting Program, and adopted a Resolution Of The Hearing Officer Of The City of Pasadena Adopting A Statement of Overriding Considerations In Connection With The Arroyo Seco Canyon Project Areas 2 And 3 (Alternative B).

WHEREAS, on March 18, 2021, the Board of Zoning Appeals held a duly noticed public hearing to consider an appeal of the Hearing Officer's decision, and conducted a de novo review of the matter.

WHEREAS, damage to these structures has greatly reduced the City's capacity to divert water from the Arroyo Seco for spreading and pumping credits. The proposed improvements would allow for increased utilization of the City's pre-1914 surface water rights from the Arroyo Seco and maximize the beneficial use of this important local water resource. The proposed Project includes improvements in two primary areas: Area 2, Diversion and Intake Replacement and Area 3, Spreading Basin Improvements. These areas are connected by the Gabrielino Trail/Access Road, which includes three bridge crossings over the Arroyo Seco in the vicinity of the Project site. The proposed Project

involves construction activity and water infrastructure facility improvements in both areas, as well as construction truck traffic along portions of the Gabrielino Trail/Access Road.

The proposed Project would also improve biological functions within the Arroyo Seco. For any future fish populations that may establish in the Arroyo Seco, the new intake would include fish screens to prevent fish populations from passing into the intake and conveyance system, and a roughened channel constructed downstream of the new diversion structure to allow upstream fish passage under certain conditions.

In Area 2, the Project would demolish and remove the following structures: (1) existing concrete diversion weir, associated masonry abutments, and rock wall built over concrete dam that extends under the trail; (2) intake structure, metal ladder and platform, and trash racks; (3) concrete slab adjacent to the Gabrielino Trail/Access Road, and (4) excavations of soil/sediment, rocks, debris, and vegetation within the upstream diversion pool, downstream streambed, and on the adjacent slopes on the downstream side of the diversion weir.

The Project involves the construction of a new diversion weir and intake in the same location within the Arroyo Seco as the current facility. The proposed reinforced concrete diversion control structure would span the entire width of the existing channel with an operable weir crest gate located in a notched section of the structure that would be mechanically operated. Operation of the crest gate would be controlled by water depth measurements from a transducer located immediately upstream of the diversion. The crest gate would be raised to create a pool of water for diversion to the intake structure and lowered to bypass diversions. During high flow conditions, the weir gate would be lowered to move sediment downstream and periodically restore the streambed elevation to the crest of the notch. A roughened channel would be constructed in the section of stream directly downstream of the diversion structure. The new intake would be equipped with a trash rack and fish screens.

In Area 3, the proposed Project includes the reconfiguration and expansion of the spreading basins in order to accommodate the increased diversion of stream flows for infiltration into the Raymond Basin. Existing Ponds 1 and 2, and Basins 1 and 2, would be replaced with Basin A and six new/expanded spreading basins. Stream flows from the existing conveyance system would outlet to the new sedimentation basin (Basin A) or to new spreading Basin E located over the existing Pasadena Pond 1. Basin F would be adjacent to mature trees to be preserved and would be located at the site of the existing Pasadena Pond 2. Basins G, H, and I would be located at the site of the existing Basins 1 and 2 and a portion of the City's open area (i.e., formerly paved JPL East Parking Lot). Each new basin would have an access ramp for maintenance. The new basins would remain connected to the remaining existing downstream basins within the City's spreading basin system.

Upon completion of the proposed Project, the City intends to keep the existing structural bridge overlay on top of Bridge No. 3 into the foreseeable future, but the City may need to remove some or all of the bridge to protect public safety. During construction of the proposed Project, there may be times when portions of the Altadena Crest Trail, Gabrielino Trail/Access Road, Arroyo Seco Trail, and the unnamed trails/maintenance roads would be partially or fully closed to the public due to construction activities. Upon completion of the proposed Project, the temporarily disrupted trail network would be restored.

Long-term operations in Areas 2 and 3 would not be substantively different than the current conditions. No new employees or operations would be required to continue maintenance on the proposed facilities. At the hearing, the Board of Zoning Appeals also considered the Final Environmental Impact Report (the "Final EIR") that was prepared for the Project and certified the Final EIR by adopting Resolution No. ____.

WHEREAS, as set forth in Resolution No. _____, Alternative B to the proposed Project was not rejected, and was identified as the preferred project. Alternative B includes an alternative design to Area 3, the objective of which would be to provide an improved design with more appeal for recreational users by eliminating the rectangular shapes of the existing condition, as well as the proposed Project design, through use of curvilinear basin features that more closely resemble natural channel and stream functions. Accordingly, it is the changes to the proposed Project as set forth in Alternative B that are the subject of this SOC.

WHEREAS, during the public hearing on the Project, the Board of Zoning Appeals received oral and written evidence concerning the environmental impacts of the Project and the Overriding Considerations of the Project. This evidence included the Final EIR, including the public comments about environmental impacts that were made on the Draft Environmental Impact Report prepared for the Project. Those Overriding Considerations include, but are not limited to:

- Replacement of 90-year old facilities that were damaged during storms following the 2009 Station Fire with the construction of a new diversion and intake structure that will provide increased capacity to divert Arroyo Seco flows from the larger storm events, consistent with the City's water rights. By capturing a greater proportion of the larger stream flows and diverting these to spreading basins, more water is retained in the Hahamongna Watershed and infiltrated to the underlying Raymond Basin, and less water is lost to outflows from Los Angeles County's Devil's Gate Dam.
- Construction of an additional 3 acres of spreading basins that will allow for the projected increase in diversions to percolate into the Raymond Basin which serves as an underground reservoir for the City's local water supplies.

- Additional local water supply which increases reliability and system resiliency by reducing the City's dependency upon more expensive water imported from the environmentally-sensitive Sacramento/San Joaquin Delta and the Colorado River.
- An additional tool for managing and improving the reliability of the Raymond Basin in partnership with other Raymond Basin member agencies and the County of Los Angeles in conformance with standards and requirements of the regulating agencies.
- The inclusion of features in the diversion and intake structures that do not currently exist that will protect aquatic animals from passing into the conveyance system and that will allow for passage of any future fish.
- The addition of bio-retention basins that will protect the water quality of the Arroyo Seco by capturing and treating surface runoff prior to percolation into the groundwater table.
- A spreading basin design that emulates natural channels and stream functions for visual enhancement and that incorporates a network of local trails for recreational use.
- The conversion of a barren formerly paved parking lot into a multi-purpose water supply and recreation area that will include native landscaping for shade and habitat.

NOW THEREFORE, BE IT RESOLVED THAT, the Board of Zoning Appeals acknowledges the environmental impacts identified in the Final EIR and elsewhere in the record of proceedings, but finds that the benefits of the Project, as modified by Alternative B, outweigh the significant and unavoidable impacts identified in the Final EIR and the record of proceedings. In making this finding, the Board of Zoning Appeals has balanced the benefits of the Project, as modified by Alternative B, against its unavoidable impacts and indicates its willingness to accept those adverse impacts. The Board of Zoning Appeals finds that the benefits of the Project, as modified by Alternative B, set forth in Section 3 above, independent of any other benefits, warrant approval of the Project, as modified by Alternative B, notwithstanding the unavoidable environmental impacts of the Project.

Adopted at the _____ meeting of the Board of Zoning Appeals on the _____ day of _____, 2021.

_____
Recording Secretary

Approved as to form:

/s/ Theresa Fuentes
Theresa E. Fuentes
Assistant City Attorney

0000165519C031

ATTACHMENT E
FINAL ENVIRONMENTAL IMPACT REPORT

CAN BE VIEWED AT:
https://www.cityofpasadena.net/planning/arroyo-seco-canyon-project-areas-2-and-3/

ATTACHMENT F
HEARING OFFICER DECISION LETTER (DATED JANUARY 11, 2021)

PLANNING & COMMUNITY DEVELOPMENT DEPARTMENT
PLANNING DIVISION

January 11, 2021

City of Pasadena
Water and Power Department
150 South Los Robles Avenue, Suite 200
Pasadena, CA 91101

Re: Modification to Conditional Use Permit #6222 **PLN2019-00297**
3420 and 3500 North Arroyo Blvd
Council District #1

Dear Ms. Ventura:

Your application for a **Modification to Conditional Use Permit #6222** at **3420 and 3500 North Arroyo Blvd** was considered by the **Hearing Officer** on **January 6, 2021.**

MODIFICATION TO CONDITIONAL USE PERMIT#6222: To allow the repair and replacement of City's water infrastructure facilities within the Upper Arroyo Seco that were damaged by debris flows caused by storms following the 2009 Station Fire. Damage to these structures has greatly reduced the City's capacity to divert water from the Arroyo Seco for spreading and pumping credits. The proposed improvements would allow for increased utilization of the City's pre-1914 surface water rights from the Arroyo Seco. A Conditional Use Permit is required for improvements within the Open Space (OS) Zoning District.

After careful consideration of this application, and with full knowledge of the property and vicinity, the Hearing Officer made the findings as shown on Attachment A to this letter. Based upon these findings, it was decided by the Hearing Officer that the **Conditional Use Permit** be **approved** with the conditions in Attachment B and in accordance with approved plans stamped **January 6, 2021.**

In accordance with Section 17.64.040 (Time Limits and Extensions) of the Pasadena Municipal Code, the exercise of the right granted under this application must be commenced within three years of the effective date of the approval. This approval is eligible for two one-year extensions. Each one year extension is required to be reviewed and approved by the Hearing Officer at a noticed public hearing. In order for a project to be eligible for a time extension, the applicant is required to submit the required fee and time extension application to the Permit Center prior to the expiration date of the land use entitlement. The right granted by this approval may be revoked if the entitlement is exercised contrary to the conditions of approval or if it is exercised in violation of the Zoning Code.

You are advised that an application for a building permit is not sufficient to vest the rights granted by this approval. The building permit must be issued and construction diligently pursued to

completion prior to the expiration of this approval. It should be noted that the time frame within which judicial review of the decision must be sought is governed by California Code of Civil Procedures, Section 1094.6.

You are hereby notified that, pursuant to Pasadena Municipal Code Chapter 17.72, any person affected or aggrieved by the decision of the Hearing Officer has the right to appeal this decision within **ten days (January 19, 2021)**. The effective date of this case will be **January 20, 2021**. Prior to such effective date, a member of the City Council or Planning Commission may request that it be called for review to the Board of Zoning Appeals. However, if there is a request for a call for review, the appeal period will continue to run. If the tenth day falls on a day when City offices are closed, the appeal deadline shall be extended through the next day when offices are open. The decision becomes effective on the eleventh day from the date of the decision. The regular Appeal fee is $1,614.50. The Appeal fee for non-profit community-based organizations is $807.25.

Any permits necessary may be issued to you by the Building Division on or after the effective date stated above. A building permit application may be submitted before the appeal deadline has expired with the understanding that should an appeal be filed, your application may, at your expense, be required to be revised to comply with the decision on the appeal. A copy of this decision letter (including conditions of approval) shall be incorporated into the plans submitted for building permits.

The Hearing Officer certified the Final Environmental Impact Report (SCH #2014101022) and adopted CEQA Findings and a Mitigation Monitoring and Reporting Program for the proposed project, and adopted a Statement of Overriding Considerations. The FEIR identified potentially significant effects related to the following topics: Biological Resources, Cultural and Tribal Cultural Resources, Hazards and Hazardous Materials, Noise, Recreation, and Transportation. With incorporation of mitigation measures, the FEIR determined that all potentially significant effects would be reduced to a less-than-significant level, with the exception of impacts related to Cultural Resources, which would remain significant and unavoidable after mitigation.

Hazardous Material: The Project site is not listed on any hazardous materials or waste databases pursuant to Section 65962.5 of the Government Code.

For further information regarding this case please contact **Beilin Yu** at **byu@cityofpasadena.net**.

Please be advised that during this COVID-19 health emergency, all individuals performing work on the site are required to adhere to the City's policies related to social distancing (see attached guidelines).

Sincerely,

Paul Novak
Hearing Officer

Enclosures:
Attachment A: Specific Findings of Approval
Attachment B: Conditions of Approval
Attachment C: Site Plan
Attachment D: Resolution Certifying the FEIR, Adopting Environmental Findings of Fact and a Mitigation Monitoring And Reporting Program
Attachment E: Resolution Adopting A Statement of Overriding Considerations
Attachment F: Mitigation Monitoring and Reporting Program

xc: City Manager, City Clerk, City Council, City Council District Liaison, Building Division, Public Works, Design and Historic Preservation, Department of Transportation, Hearing Officer, Code Compliance, Case File, Decision Letter File, Planning Commission (9)

ATTACHMENT A
SPECIFIC FINDINGS FOR MODIFICATION TO CONDITIONAL USE PERMIT #6222

Conditional Use Permit: To Allow Infrastructure Improvements within OS Zoning District

1. *The proposed use is allowed with a Conditional Use Permit within the applicable zoning district and complies with all applicable provisions of this Zoning Code.* The proposed improvements are permitted subject to the review and approval of a conditional use permit. The improvements proposed with the project will allow for increased utilization of the City's surface water rights from the Arroyo Seco and maximize the beneficial uses of this important local water resource. The proposed project will implement a multi-benefit approach to the repair and replacement of damaged infrastructure in the Arroyo Seco, with the overall project objective of increasing the beneficial use of the surface water rights held by the City and improving biological functions within the Arroyo Seco. For any future fish populations that may establish in the Arroyo Seco, the new intake will include a fish screening feature to prevent fish populations from passing into the intake and conveyance system, and a roughened channel will be constructed directly downstream of the new weir to allow for future fish passage upstream during moderate flow periods. To ensure the project does not negatively impact the surrounding areas, conditions have been recommended through mitigation measures, as well as conditions of the conditional use permit approval.

2. *The location of the proposed use complies with the special purposes of this Zoning Code and the purposes of the applicable zoning district.* The subject site is located within the Open Space (OS) zoning district and has been utilized for open space use. The purpose of the project is to repair as well as enhance existing amenities within the Arroyo Seco Canyon Area. The proposed conditional use permit will allow for the necessary repairs of the existing Water Division facilities, while expanding open space opportunities for members of the public. As such, the location of the proposed use complies with the special purposes of this Zoning Code and the purposes of the applicable zoning district.

3. *The proposed use is in conformance with the goals, policies, and objectives of the General Plan and the purpose and intent of any applicable specific plan*. The City's General Plan Open Space and Conservation Element sets forth objectives related to the use of water resources in the City (City of Pasadena 2012). The proposed project supports these objectives, as follows:

   - Increase the efficiency of water use among Pasadena residents, and commercial and industrial organizations.
   -

   The proposed project will facilitate the efficient use of water in the Arroyo Seco by allowing for the full utilization of the City's surface water rights and reducing reliance upon imported water supplies from the Metropolitan Water District of Southern California (MWD). PWP has a longstanding right to divert up to 25 cfs from this source. MWD imports water from the Sacramento-San Joaquin Delta via the State Water Project, and from the Colorado River. In recent years, MWD has imposed allocation limits on its water supply deliveries to its member agencies, and the future reliability of imported water will continue to face uncertainties from climate change, environmental regulations, and droughts. Another important issue associated with imported water is cost, which has increased substantially in the past few years (City of Pasadena 2012). Achieving water supply reliability will depend on a number of key water policy and management decisions on a regional and local level, including implementation of projects such as the proposed Arroyo Seco Canyon Project Areas 2 and 3.

- Protect local water supply sources and plant trees and vegetation that are consistent with habitat and water conservation policies.

The proposed project will facilitate the protection of local water supply sources by improving the ability of the diversion weir and intake structure to capture water during high-flow storm events. It has been PWP's practice in the past (more so after floods following the Station Fire damaged the upstream settling basins) to bypass water from high-flow storm events when the water is sediment-laden and turbid in order to protect the existing infrastructure from damage. The proposed project will include improvements to the diversion weir and intake structure to better accommodate turbid waters in high-flow events, as well as improvements to the capacity of the spreading basins, both of which will facilitate increased availability and use of local water supply sources.

- Improve surface permeability and recharge aquifers/enhance storm water quality to prevent pollution/trash from entering Los Angeles and San Gabriel Rivers and ocean.

The proposed project will improve the functionality and efficiency of the facilities responsible for the diversion and infiltration of water into the Raymond Basin. PWP has in the past forfeited available water due to the lack of spreading capacity within the spreading basins (Carollo Engineers 2013). The increased capacity and efficiency of the spreading basin improvements in Area 3 (which includes a new sedimentation basin for sediment to settle out before water is directed to the spreading basins) will maximize capacity and infiltration rates, thereby improving the recharge of groundwater supplies.

Furthermore, the project is consistent with the following General Plan Land Use Element Policies:

- Policy 2.14 – Natural Areas: maintain existing and acquire additional natural areas to protect watersheds, natural resources, and afford recreational opportunities for Pasadena's residents;
- Policy 10.9 – Natural Open Space: protect natural open spaces, hillsides, watersheds, and critical habitats to safeguard the health, safety, and beauty of the City for the benefit of present and future generation; and
- Policy 10.18 – Water Quality: encourage the use of natural processes to capture, treat, and infiltrate urban runoff throughout the watershed.

The proposed project will repair and replace the City's water infrastructure facilities in the Upper Arroyo Seco that were damaged by debris flows caused by storms following the 2009 Station Fire. Damage to these structures has greatly reduced the City's capacity to divert water from the Arroyo Seco for spreading and pumping credits. The proposed improvements will allow for increased utilization of the City's pre-1914 surface water rights from the Arroyo Seco and maximize the beneficial use of this important local water resource. The proposed project will implement a multi-benefit approach to the repair and replacement of damaged infrastructure in the Arroyo Seco, with the overall project objective of increasing the beneficial use of the surface water rights held by the City and improving biological functions within the Arroyo Seco.

The spreading basin designs in Area 3 will incorporate a network of local trails for recreation use, and these recreational amenities will be further improved through selective planting around the basins. The proposed basin layout and landscaping will enhance the proposed

trail network for pedestrians and equestrian usage with incorporation of benches, interpretive signage, and shade structures adjacent to the spreading basins along the proposed pedestrian trails/maintenance roads.

4. *The establishment, maintenance, or operation of the use would not, under the circumstances of the particular case, be detrimental to the health, safety, or general welfare of persons residing or working in the neighborhood of the proposed use.* The proposed improvements are intended to increase water quality and supply reliability, and to expand the potential for recreational activities within the Arroyo Seco Canyon Area. These improvements will adhere to all building code requirements, especially the requirements for accessibility. In addition, the proposal will also be required to meet the standards of all respective City departments prior to the issuance of any building permits. Furthermore, conditions of approval have been imposed to reduce any potential impacts resulting from the project.

5. *The use, as described and conditionally approved, would not be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the City*. The proposed improvements are not intended to be obtrusive to the surrounding areas. The project is intended to implement a multi-benefit approach to the repair and replacement of damaged infrastructure in the Arroyo Seco, with the overall project objective of increasing the beneficial use of the surface water rights held by the City and improving biological functions within the Arroyo Seco. For any future fish populations that may establish in the Arroyo Seco, the new intake will include a fish screening feature to prevent fish populations from passing into the intake and conveyance system, and a roughened channel will be constructed directly downstream of the new weir to allow for future fish passage upstream during moderate flow periods. These improvements will be required to adhere to all requirements, including, but not limited to compliance with the building code. The proposal will also be required to meet all conditions as imposed herein by all respective City departments, as well as state agencies prior to the issuance of building permits (ex. Building, Water, Zoning etc.).

6. *The design location, operating characteristics, and size of the proposed use would be compatible with the existing and future land uses in the vicinity in terms of aesthetic values, character, scale, and view protection.* The proposed water facilities are repairs to existing facilities for the most part, and the new percolation ponds will be in close proximity to existing ponds and will replace a parking lot, thereby improving the aesthetic value of the area. The proposed recreational amenities proposed as part of the project will be of a size, style and scale that will be compatible to the natural surroundings. The physical features of the recreational amenities will not be a design feature of primary focus, but will allow the trees, vegetation, streambed, and mountainous terrain to take the spotlight.

7. *There are changed circumstances sufficient to justify the modification to the original approval.* The proposed project under this Modification request are the elements of the project that were set aside with the approval of the first Modification to CUP #6222 by the City Council in July 2017. An Environmental Impact Report, in accordance with the requirements of the California Environmental Quality Act, has been prepared for these components and activities. The FEIR identified potentially significant effects related to the following topics: Biological Resources, Cultural and Tribal Cultural Resources, Hazards and Hazardous Materials, Noise, Recreation, and Transportation. With incorporation of mitigation measures, the FEIR determined that all potentially significant effects will be reduced to a less-than-significant level, with the exception of impacts related to Cultural Resources, which will remain significant and unavoidable after mitigation.

ATTACHMENT B
CONDITIONS OF APPROVAL FOR MODIFICATION TO CONDITIONAL USE PERMIT #6222

The applicant or successor in interest shall meet the following conditions:

1. The proposed project shall substantially conform to the site plan submitted with this application and dated "Approved at Hearing January 6, 2021", except as modified herein.

2. The approval of this application authorizes the improvements within the Arroyo Seco Area, which include those improvements identified in the plans stamped "Approved at Hearing January 6, 2021", including, but not limited to:
    a) construction of a new diversion weir and intake in the same location as the existing structure,
    b) construction of an engineered roughened channel in the section of stream directly downstream of the diversion structure,
    c) replacement of existing Ponds 1 and 2, and Basins 1 and 2, with Basin A, and
    d) construction of six new spreading basins.

3. In accordance with Section 17.64.040 of the Pasadena Municipal Code, the exercise of the right granted under this application must be commenced within three years of the effective date of the approval. This approval is eligible for two one-year extensions. Each one year extension is required to be reviewed and approved by the Hearing Officer at a noticed public hearing. In order for a project to be eligible for a time extension, the applicant is required to submit the required fee and time extension application to the Permit Center prior to the expiration date of the land use entitlement.

4. Pursuant to Chapter 17.61.040.J (Post-Approval Procedures) of the Zoning Code, the Zoning Administrator can call for a review of the approved conditions if it can be reasonably shown that there are grounds for revocation or modification of this Conditional Use Permit. These conditions may be modified or new conditions may be added to reduce any impacts of the use.

5. Any change to these conditions of approval or expansion of the use shall require the modification of this Conditional Use Permit or a new Conditional Use Permit.

6. The applicant or successor in interest shall meet the applicable code requirements of all other City Departments.

7. The applicant or successor in interest shall retain a Mitigation Monitoring Coordinator (Mitigation Coordinator) with experience on large construction projects to serve as a liaison to between the development/construction team and the City. The Mitigation Coordinator will monitor the implementation of the Mitigation Monitoring and Reporting Program as specified in the project Environmental Impact Report or Mitigated Negative Declaration, and prepare and submit written weekly reports to the Condition/Mitigation Monitoring Coordinator of the City of Pasadena. The format of the written reports is subject to approval by the Code Compliance Manager.

<u>Planning Division</u>

8. The applicant or successor in interest shall meet all of the mitigation measures of the Final Environmental Impact Report.

9. The project shall adhere to the City regulations governing hours of construction, noise levels generated by construction and mechanical equipment, and the allowed level of ambient noise as specified in Chapter 9.36 of the Pasadena Municipal Code.

10. The applicant shall satisfy all applicable requirements of the United States Army Corps of Engineers; the State of California Regional Water Quality Control Board, Los Angeles Region; and the State of California Department of Fish and Wildlife; and provide evidence of compliance to the satisfaction of the Zoning Administrator.

11. If construction will occur within the Los Angeles County Flood Control District easement, the applicant shall secure any applicable permit from the Los Angeles County Flood Control District; and provide evidence of compliance to the satisfaction of the Zoning Administrator.

Public Works Department

12. Approval from the Urban Forestry Advisory Committee (UFAC) for the proposed tree removal/tree planting on this project. Please contact Michael King, Urban Forestry, at (626) 744-9846 or MKing@cityofpasadena.net , for more details.

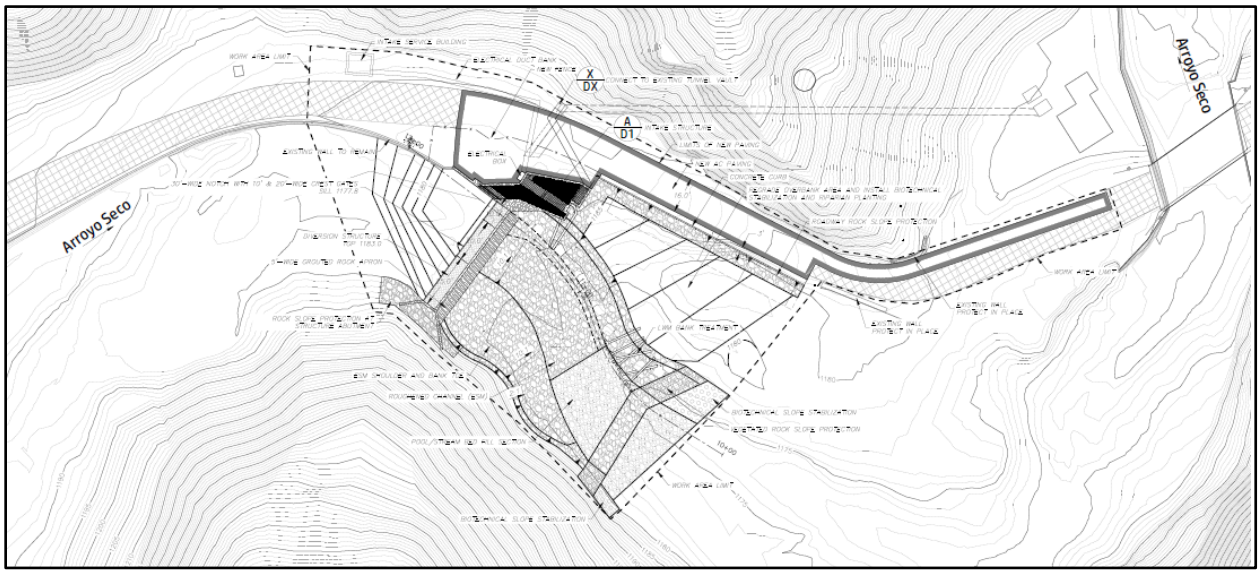
13. In addition to the above condition, the requirements of the following ordinance may apply to the proposed project:

    City Trees and Tree Protection Ordinance - Chapter 8.52 of the PMC
    The ordinance provides for the protection of specific types of trees on private property as well as all trees on public property. No street trees in the public right-of-way shall be removed without the support of the Urban Forestry Advisory Committee. No trees shall be damaged by the proposed construction, if a City tree is damaged, the applicant may be liable for the assessed value of the tree. Refer to https://www.cityofpasadena.net/public-works/parks-and-natural-resources/urban-forestry/ for guidelines and requirements for tree protection.

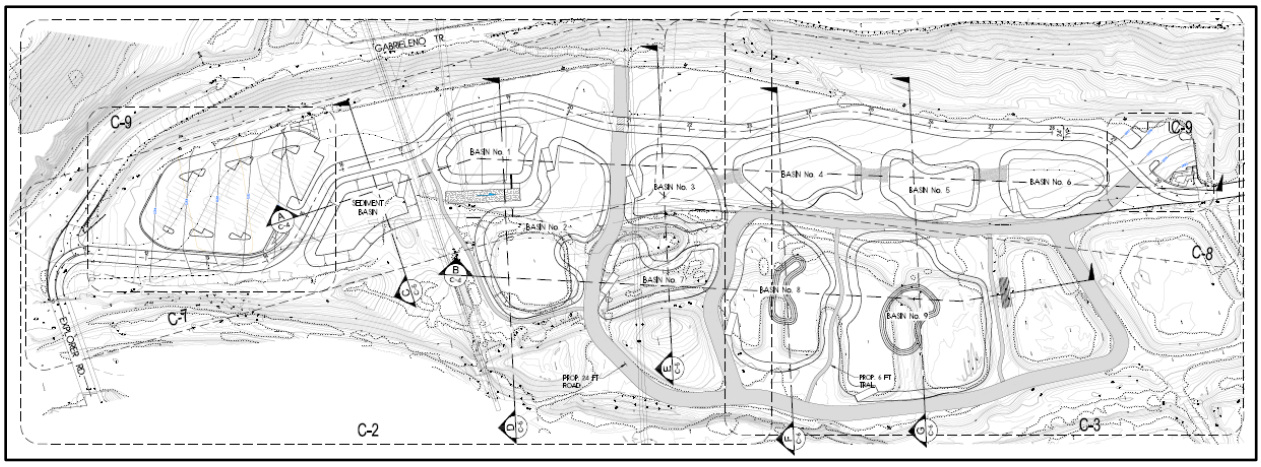
14. Prior to the start of construction or the issuance of any permits, the applicant shall submit a Construction Staging and Traffic Management Plan to the Department of Public Works for review and approval. The template for the Construction Staging and Traffic Management Plan can be obtained from the Department of Public Works webpage at: https://www.cityofpasadena.net/public-works/engineering-and-construction/engineering/. A non-refundable flat fee, based on the current General Fee Schedule, is required for plan review and on-going monitoring during construction. This plan shall show the impact of the various construction stages on the public right-of-way (and the private street) including all street occupations, lane closures, detours, staging areas, and routes of construction vehicles entering and exiting the construction site. An occupancy permit shall be obtained from the department for the occupation of any traffic lane, parking lane, parkway, or any other public right-of-way. All lane closures shall be done in accordance with the Manual of Uniform Traffic Control Devices (MUTCD) and California Supplement. If the public right-of-way occupation requires a diagram that is not a part of the MUTCD or California Supplement, a separate traffic control plan must be submitted as part of the Construction Staging and Traffic Management Plan to the department for review and approval. No construction truck idling or staging, material storage, or construction trailer are allowed in the public right-of-way.

The applicant shall protect all existing public facilities and maintain the right of way in good clean condition during the construction. If any damage is proven to be caused by the subject development, the applicant is responsible for replacing and/or repairing the facilities to the satisfaction of the City, prior to the issuance of Certificate of Occupancy.

ATTACHMENT C
SITE PLAN



Area 2: Diversion and Intake Replacement



Area 3: Spreading Basin Improvements

ATTACHMENT D
RESOLUTION CERTIFYING THE FINAL EIR,
ADOPTING ENVIRONMENTAL FINDINGS OF FACT AND
A MITIGATION MONITORING AND REPORTING PROGRAM

RESOLUTION NO. 2021-01

A RESOLUTION OF THE HEARING OFFICER OF THE CITY OF PASADENA CERTIFYING THE FINAL ENVIRONMENTAL IMPACT REPORT (SCH NO. 2014101022) FOR THE ARROYO SECO CANYON PROJECT AREAS 2 AND 3, ADOPTING ENVIRONMENTAL FINDINGS AND A MITIGATION MONITORING AND REPORTING PROGRAM

WHEREAS, on January 6, 2021, the Hearing Officer held a duly noticed public hearing to consider the Arroyo Seco Canyon Project Areas 2 and 3, proposed to repair and replace the City's water infrastructure facilities in the Upper Arroyo Seco, and during the public hearing on the Project, the Hearing Officer received oral and written evidence concerning the environmental impacts of the Project. This evidence included the Final EIR, including the public comments about environmental impacts that were made on the Draft Environmental Impact Report prepared for the Project.

NOW, THEREFORE, THE HEARING OFFICER OF THE CITY OF PASADENA RESOLVES AS FOLLOWS:

The Findings of Fact, including the Resolutions set forth therein, attached hereto are adopted.

Adopted at the Special meeting of the Hearing Officer on the 6th day of January, 2021 by the following vote:

Recording Secretary

APPROVED AS TO FORM:

Theresa E. Fuentes
Assistant City Attorney

#KODDNAQ10ER7YQv1

ATTACHMENT E
RESOLUTION ADOPTING A STATEMENT OF OVERRIDING CONSIDERATIONS

RESOLUTION NO. **2021-02**

A RESOLUTION OF THE HEARING OFFICER OF THE CITY OF PASADENA ADOPTING A STATEMENT OF OVERRIDING CONSIDERATIONS IN CONNECTION WITH THE ARROYO SECO CANYON PROJECT AREAS 2 AND 3 (ALTERNATIVE B)

WHEREAS, the California Environmental Quality Act ("CEQA") requires the decision-making agency to balance the economic, legal, social, technological, or other benefits of a project against its unavoidable environmental impacts when determining whether to approve a project. If the benefits of the project outweigh the unavoidable adverse impacts, those impacts may be considered acceptable. CEQA requires the agency to provide written findings supporting the specific reasons for considering a project acceptable when significant impacts are unavoidable. Such reasons must be based on substantial evidence in the administrative record.

WHEREAS, on January 6, 2021, the Hearing Officer held a duly noticed public hearing to consider the Arroyo Seco Canyon Project Areas 2 and 3, (Project or proposed Project) proposed to repair and replace the City's water infrastructure facilities in the Upper Arroyo Seco that were damaged by debris flows caused by storms following the 2009 Station Fire. Damage to these structures has greatly reduced the City's capacity to divert water from the Arroyo Seco for spreading and pumping credits. The proposed improvements would allow for increased utilization of the City's pre-1914 surface water rights from the Arroyo Seco and maximize the beneficial use of this important local water resource. The proposed Project includes improvements in two primary areas: Area 2, Diversion and Intake Replacement and Area 3, Spreading Basin Improvements. These areas are connected by the Gabrielino Trail/Access Road, which includes three bridge crossings over the Arroyo Seco in the vicinity of the Project site. The proposed Project involves construction activity and water infrastructure facility improvements in both areas, as well as construction truck traffic along portions of the Gabrielino Trail/Access Road.

The proposed Project would also improve biological functions within the Arroyo Seco. For any future fish populations that may establish in the Arroyo Seco, the new intake would include fish screens to prevent fish populations from passing into the intake and conveyance system, and a roughened channel constructed downstream of the new diversion structure to allow upstream fish passage under certain conditions.

In Area 2, the Project would demolish and remove the following structures: (1) existing concrete diversion weir, associated masonry abutments, and rock wall built over concrete dam that extends under the trail; (2) intake structure, metal ladder and platform, and trash racks; (3) concrete slab adjacent to the Gabrielino Trail/Access Road, and (4) excavations of soil/sediment, rocks, debris, and vegetation within the upstream diversion

pool, downstream streambed, and on the adjacent slopes on the downstream side of the diversion weir.

The Project involves the construction of a new diversion weir and intake in the same location within the Arroyo Seco as the current facility. The proposed reinforced concrete diversion control structure would span the entire width of the existing channel with an operable weir crest gate located in a notched section of the structure that would be mechanically operated. Operation of the crest gate would be controlled by water depth measurements from a transducer located immediately upstream of the diversion. The crest gate would be raised to create a pool of water for diversion to the intake structure and lowered to bypass diversions. During high flow conditions, the weir gate would be lowered to move sediment downstream and periodically restore the streambed elevation to the crest of the notch. A roughened channel would be constructed in the section of stream directly downstream of the diversion structure. The new intake would be equipped with a trash rack and fish screens.

In Area 3, the proposed Project includes the reconfiguration and expansion of the spreading basins in order to accommodate the increased diversion of stream flows for infiltration into the Raymond Basin. Existing Ponds 1 and 2, and Basins 1 and 2, would be replaced with Basin A and six new/expanded spreading basins. Stream flows from the existing conveyance system would outlet to the new sedimentation basin (Basin A) or to new spreading Basin E located over the existing Pasadena Pond 1. Basin F would be adjacent to mature trees to be preserved and would be located at the site of the existing Pasadena Pond 2. Basins G, H, and I would be located at the site of the existing Basins 1 and 2 and a portion of the City's open area (i.e., formerly paved JPL East Parking Lot). Each new basin would have an access ramp for maintenance. The new basins would remain connected to the remaining existing downstream basins within the City's spreading basin system.

Upon completion of the proposed Project, the City intends to keep the existing structural bridge overlay on top of Bridge No. 3 into the foreseeable future, but the City may need to remove some or all of the bridge to protect public safety. During construction of the proposed Project, there may be times when portions of the Altadena Crest Trail, Gabrielino Trail/Access Road, Arroyo Seco Trail, and the unnamed trails/maintenance roads would be partially or fully closed to the public due to construction activities. Upon completion of the proposed Project, the temporarily disrupted trail network would be restored.

Long-term operations in Areas 2 and 3 would not be substantively different than the current conditions. No new employees or operations would be required to continue maintenance on the proposed facilities. At the hearing, the Hearing Officer also

considered the Final Environmental Impact Report (the "Final EIR") that was prepared for the Project and certified the Final EIR by adopting Resolution No. 2021-01

WHEREAS, as set forth in Resolution No2021-01 Alternative B to the proposed Project was not rejected, and was identified as the preferred project. Alternative B includes an alternative design to Area 3, the objective of which would be to provide an improved design with more appeal for recreational users by eliminating the rectangular shapes of the existing condition, as well as the proposed Project design, through use of curvilinear basin features that more closely resemble natural channel and stream functions. Accordingly, it is the changes to the proposed Project as set forth in Alternative B that are the subject of this SOC.

WHEREAS, during the public hearing on the Project, the Hearing Officer received oral and written evidence concerning the environmental impacts of the Project and the Overriding Considerations of the Project. This evidence included the Final EIR, including the public comments about environmental impacts that were made on the Draft Environmental Impact Report prepared for the Project. Those Overriding Considerations include, but are not limited to:

- Replacement of 90-year old facilities that were damaged during storms following the 2009 Station Fire with the construction of a new diversion and intake structure that will provide increased capacity to divert Arroyo Seco flows from the larger storm events, consistent with the City's water rights. By capturing a greater proportion of the larger stream flows and diverting these to spreading basins, more water is retained in the Hahamongna Watershed and infiltrated to the underlying Raymond Basin, and less water is lost to outflows from Los Angeles County's Devil's Gate Dam.
- Construction of an additional 3 acres of spreading basins that will allow for the projected increase in diversions to percolate into the Raymond Basin which serves as an underground reservoir for the City's local water supplies.
- Additional local water supply which increases reliability and system resiliency by reducing the City's dependency upon more expensive water imported from the environmentally-sensitive Sacramento/San Joaquin Delta and the Colorado River.
- An additional tool for managing and improving the reliability of the Raymond Basin in partnership with other Raymond Basin member agencies and the County of Los Angeles in conformance with standards and requirements of the regulating agencies.
- The inclusion of features in the diversion and intake structures that do not currently exist that will protect aquatic animals from passing into the conveyance system and that will allow for passage of any future fish.

- The addition of bio-retention basins that will protect the water quality of the Arroyo Seco by capturing and treating surface runoff prior to percolation into the groundwater table.
- A spreading basin design that emulates natural channels and stream functions for visual enhancement and that incorporates a network of local trails for recreational use.
- The conversion of a barren formerly paved parking lot into a multi-purpose water supply and recreation area that will include native landscaping for shade and habitat.

NOW THEREFORE, BE IT RESOLVED THAT, the Hearing Officer acknowledges the environmental impacts identified in the Final EIR and elsewhere in the record of proceedings, but finds that the benefits of the Project, as modified by Alternative B, outweigh the significant and unavoidable impacts identified in the Final EIR and the record of proceedings. In making this finding, the Hearing Officer has balanced the benefits of the Project, as modified by Alternative B, against its unavoidable impacts and indicates its willingness to accept those adverse impacts. The Hearing Officer finds that the benefits of the Project, as modified by Alternative B, set forth in Section 3 above, independent of any other benefits, warrant approval of the Project, as modified by Alternative B, notwithstanding the unavoidable environmental impacts of the Project.

Adopted at the Special meeting of the Hearing Officer on the 6th day of January, 2021.

Recording Secretary

Approved as to form:

Theresa E. Fuentes
Assistant City Attorney

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ATTACHMENT F
MITIGATION MONITORING AND REPORTING PROGRAM

Mitigation Monitoring and Reporting Program
Arroyo Seco Canyon Project Areas 2 and 3

Modification to Conditional Use Permit No. 6222
State Clearinghouse No. 2014101022

Prepared for:

City of Pasadena Department of Water and Power
150 South Los Robles Avenue, Suite 200
Pasadena CA 91101

Prepared by:

DUDEK
38 North Marengo Avenue
Pasadena, California 91101

December 2020

Mitigation Monitoring and Reporting Program

Section 15097 of the California Environmental Quality Act (CEQA) Guidelines requires that, whenever a public agency approves a project based on a mitigated negative declaration or an environmental impact report (EIR), the public agency shall establish a mitigation monitoring or reporting program to ensure that all adopted mitigation measures are implemented.

This mitigation monitoring and reporting program (MMRP) for the Arroyo Seco Canyon Project Areas 2 and 3 (proposed Project) has been prepared pursuant to CEQA (Public Resources Code Section 21000 et seq.) and the CEQA Guidelines (14 California Code of Regulations, Chapter 3, Sections 15074 and 15097). This MMRP is intended to be used by City of Pasadena staff and mitigation monitoring personnel to ensure compliance with mitigation measures during project implementation. Mitigation measures identified in this MMRP were developed in the Draft EIR prepared for the proposed Project. A master copy of this MMRP shall be kept in the office of the City of Pasadena Department of Water and Power and shall be available for viewing upon request.

The Draft EIR for the proposed Project presents a detailed set of mitigation measures required for implementation. As noted above, the intent of the MMRP is to ensure the effective implementation and enforcement of all adopted mitigation measures. The MMRP includes all mitigation measures identified in the Draft EIR and, for each measure, the party responsible for implementation and implementation timing (see Table 1).

Table 1. Mitigation Monitoring and Reporting Program

Mitigation Measure	Party Responsible for Implementation	Implementation Timing
Mitigation Measures Identified in the Environmental Impact Report		
Biological Resources		
MM-BIO-1: Prior to commencement of any earthmoving activities or the pre-construction staging of equipment on the Project site, the City shall develop a Preconstruction Survey and Relocation Plan for terrestrial reptiles, including the California newt, two-striped gartersnake, Southern California legless lizard, and coastal whiptail. Although considered to be extinct, Pasadena shrimp (*Syncaris pasadenae*) will be added to the Plan as a focal species. The Preconstruction Survey and Relocation Plan shall be submitted to the California Department of Fish and Wildlife (CDFW) for review prior to any ground-disturbing activities within potentially occupied habitat. The Plan shall include at a minimum, the following: (1) protocols for pre-construction surveys to flush out and/or move identified special status wildlife within the study area, as feasible; (2) the timing, frequency, and locations where surveys should be conducted; (3) the habitat and conditions in the proposed relocation site(s); (4) the methods that would be used for trapping and relocating identified species; (5) protocols for documentation/recordation of the species and number of animals relocated; and (6) protocols for notifying CDFW in the event that identified species cannot be relocated. The Plan shall require that a Biological Monitor be present during all vegetation clearing and ground disturbance activities within Area 2, as well as three times weekly until construction activities are completed. For Area 3, a Biological Monitor will be present during initial vegetation clearing and initial ground disturbance activities. The Biological Monitor shall be familiar with southwestern willow flycatcher and least Bell's vireo and shall conduct pre-clearing non-protocol surveys for this species while onsite. If a least Bell's vireo or other State of federally listed species is detected, work activity within 500 feet of the detected occupied habitat will be temporarily halted and the City will consult with the appropriate wildlife agencies. With authorization from these agencies, which may include a 'take' permit, the project will proceed in accordance with conditions developed in the consultation. Conditions will include avoidance and minimization measures to prevent or minimize impacts on the listed species(s) occurring on or adjacent to the site. The Plan shall require that any individual special-status terrestrial wildlife species observed within the study area during the pre-construction survey(s) shall be flushed out and/or	(1) City of Pasadena/PWP shall ensure the development of a Preconstruction Survey and Relocation Plan (2) Subsequently, City of Pasadena/PWP shall ensure the final documentation of any wildlife relocated during Project activities is provided to CDFW for confirmation that construction activities were executed in compliance with the Preconstruction Survey and Relocation Plan	(1) Prior to commencement of any earthmoving activities or the pre-construction staging of equipment on the Project site (2) Upon completion of final documentation of compliance with the Preconstruction Survey and Relocation Plan

Mitigation Measure	Party Responsible for Implementation	Implementation Timing
moved out of harm's way to avoid direct impacts to these species, and if special-status species are detected, the Biological Monitor shall capture and relocate individuals to nearby undisturbed areas with suitable habitat outside of the construction area, but as close to their origin as possible. The final recordation/documentation of any wildlife relocated during Project activities shall be made available to CDFW for confirmation that construction activities were executed in compliance with the approved Preconstruction Survey and Relocation Plan.		
MM-BIO-2: Project construction shall be conducted in compliance with the conditions set forth in the Migratory Bird Treaty Act (MBTA) and California Fish and Game Code with methods approved by the California Department of Fish and Wildlife (CDFW) to protect active bird/raptor nests. To the maximum extent feasible, vegetation removal shall occur during the non-breeding season for nesting birds (generally late September to early March) and nesting raptors (generally early July to late January) to avoid impacts to nesting birds and raptors. If the Project requires that work be initiated during the breeding season for nesting birds (March 1–September 30) and nesting raptors (February 1–June 30), in order to avoid direct impacts on active nests, a pre-construction survey shall be conducted by a qualified Biologist for nesting birds and/or raptors within 3 days prior to clearing of any vegetation and/or any work near existing structures (i.e., within 300 feet for nesting birds, 500 feet for southwestern willow flycatcher and least Bell's vireo, and within 500 feet for nesting raptors). If the Biologist does not find any active nests within or immediately adjacent to the impact areas, the vegetation clearing/construction work shall be allowed to proceed. If the Biologist finds an active nest within or immediately adjacent to the construction area and determines that the nest may be impacted or breeding activities substantially disrupted, the Biologist shall delineate an appropriate buffer zone around the nest depending on the sensitivity of the species and the nature of the construction activity. Any nest found during survey efforts shall be mapped on the construction plans. The active nest shall be protected until nesting activity has ended. To protect any nest site, the following restrictions to construction activities shall be required until nests are no longer active, as determined by a qualified Biologist: (1) clearing limits shall be established within a buffer around any occupied nest (the buffer shall be 100–300 feet for nesting birds, 500 feet for southwestern willow flycatcher and least Bell's vireo, and 300–500 feet for nesting raptors), unless otherwise determined by a qualified Biologist and (2) access and surveying shall be restricted within the buffer of any occupied nest, unless otherwise determined by a qualified Biologist. Encroachment into the buffer area around a known nest shall only be allowed if	City of Pasadena/PWP shall ensure that a qualified Biologist conducts surveys in compliance with the conditions set forth in the Migratory Bird Treaty Act (MBTA) and California Fish and Game Code	Nesting bird pre-construction survey shall be conducted by a qualified Biologist for nesting birds and/or raptors within 3 days prior to clearing of any vegetation and/or any work near existing structures

Mitigation Measure	Party Responsible for Implementation	Implementation Timing
the Biologist determines that the proposed activity would not disturb the nest occupants. Construction can proceed when the qualified Biologist has determined that fledglings have left the nest or the nest has failed.		
MM-BIO-3: A CDFW-approved bat biologist shall conduct a pre-construction bat habitat assessment within the Project and within a 500-foot buffer. The assessment will consist of a daytime roost assessment to identify any sign indicating presence (i.e. guano, staining, etc.), acoustic monitoring for nighttime bat emergence and foraging activity, and visual emergence observations. Potential for roosting shall be categorized by 1) potential for solitary roost sites, 2) potential for colonial roost sites (10 bats or more). If the potential for colonial roosting is determined, those trees shall not be removed during the bat maternity roost season (March 1 – July 31). Trees potentially supporting colonial roosts outside of maternity roost season, and trees potentially supporting solitary roosts may be removed via a two-step removal process, whereby some level of disturbance (such as trimming of lower branches) (at the direction of Biological Monitor) is applied to the tree on day one to allow bats to escape during the darker hours, and the roost tree shall be removed two days later (i.e., there shall be no less or more than two nights between initial disturbance and the grading or tree removal). When feasible, trees will be dropped slowly and a Biological Monitor will monitor the activity. If buildings are determined to be occupied, one-way exclusionary devices will be placed over bat access points and left in place for two nights prior to building removal.	City of Pasadena/PWP shall ensure that a qualified bat biologist conducts a bat habitat assessment within the Project and within a 500-foot buffer	Within 3 days prior to clearing of any vegetation and/or any work near existing structures.
MM-BIO-4: Direct impacts to sensitive vegetation communities (white alder–California sycamore woodland association and California sycamore woodlands alliance) shall be mitigated through a combination of on-site and/or off-site measures. Mitigation for impacts to sensitive vegetation communities shall consider and overlap with compensation for jurisdictional waters (MM-BIO-6) since the sensitive vegetation is associated with the jurisdictional limits of Arroyo Seco. Mitigation for direct impacts to sensitive vegetation communities shall be implemented through on-site creation/enhancement, program funding, mitigation bank credits, and/or creation/enhancement of native vegetation communities on City lands. Mitigation acreages shall be implemented as shown in the Table below.	(1) City of Pasadena/PWP shall ensure that a qualified biologist prepares a Habitat Mitigation and Monitoring Plan (2) City of Pasadena/PWP shall ensure that the HMMP is submitted to CDFW, USACE, and RWQCB for review and comment, and revised to the satisfaction of the City and the three agencies.	(1) Prior to the issuance of a ground disturbing activities or the pre-construction staging of equipment on the Project site (2) Prior to the issuance of a ground disturbing activities or the pre-construction staging of equipment on the Project site

Mitigation Measure	Party Responsible for Implementation	Implementation Timing

Sensitive Vegetation Community	Direct Impacts (acres)	Mitigation Ratio	Mitigation (acres)
white alder–California sycamore woodland association	0.47	3:1	1.41
California sycamore woodlands alliance	0.04	3:1	0.12
Totals:	**0.51**	**—**	**1.53**

On-site Mitigation. White alder-California sycamore woodland association and California sycamore woodlands alliance could be established within Area 1 (previously approved components of the Arroyo Seco Canyon Project), and California sycamore woodlands alliance could be established in the upland portions surrounding the spreading basins in Area 3. Prior to the issuance of a grading permit or any earthwork on the Project site, PWP shall prepare a Habitat Mitigation and Monitoring Plan (HMMP) for habitat enhancement and creation activities. The HMMP shall at a minimum include a feasible implementation structure, salvage/seeding details, invasive species eradication methods, irrigation system and schedule, a monitoring schedule, performance standard of success, estimated costs, the implementation of a restrictive covenant on the land, long-term management of the habitat, and identification of responsible entities. The HMMP shall include restoration of the following habitats:

Riparian Woodlands. Impacted areas of (white alder–California sycamore woodland association and California sycamore woodlands alliance) shall be created/restored within and adjacent to the same on-site areas that the woodland currently existed prior to Project implementation, as well as other areas deemed to have appropriate soils and topography for successful establishment. Understory areas shall be revegetated with a diversity of locally collected seeds. Temporary irrigation shall be established and maintained, with irrigation suspensions in times of rainfall. Successful establishment of the woodland shall be determined only after removal of irrigation system and confirmed ability of the woodland to survive in the absence of irrigation.

It is anticipated that a one-time restoration effort followed by monitoring and invasive weed removal for a minimum of five (5) years would be required. The HMMP shall be submitted by the City to CDFW, USACE, and RWQCB for review and comment, and revised to the satisfaction of the City and the three agencies.

Mitigation Measure	Party Responsible for Implementation	Implementation Timing
Off-site Mitigation. If mitigation is implemented through mitigation program funding and/or mitigation bank credits, the City shall work with CDFW, USACE, and RWQCB to ensure the mitigation program funding and/or mitigation bank credits are appropriate to offset permanent impacts. If program funding is utilized, it would be accompanied by a specific work plan identifying habitat/jurisdictional resource acreage and/or functional gains. Mitigation lands shall be comprised of similar or higher quality riparian woodland and preferably located in the vicinity of the site or watershed. Off-site mitigation lands will be protected in perpetuity under a conservation easement, with a non-wasting endowment and manager/easement holder for long-term management. If mitigation is implemented through offsite enhancement of City-owned lands, the City shall prepare a HMMP that details the location and existing conditions of the offsite lands. The HMMP shall at a minimum include a feasible implementation structure, salvage/seeding details, invasive species eradication methods, irrigation system and schedule, a monitoring schedule, performance standard of success, estimated costs, the implementation of a restrictive covenant on the land, long-term management of the habitat, and identification of responsible entities. It is anticipated that a one-time restoration effort followed by monitoring and invasive weed removal for a minimum of five (5) years would be required. The HMMP shall be submitted by the City to CDFW, USACE, and RWQCB for review and comment, and revised to the satisfaction of the City and the three agencies.		
MM-BIO-5: To prevent inadvertent disturbance to sensitive vegetation communities outside the limits of work, the construction limits shall be clearly demarcated (e.g., installation of flagging or temporary high visibility construction fence) prior to ground disturbance activities. All construction activities including equipment staging and maintenance shall be conducted within the marked disturbance limits. A qualified biologist shall be present during initial ground-disturbing activities within the Project site to ensure that Project activities stay within the demarcated limits. The integrity of the demarcation limits will be in accordance with the monitoring required in MM-BIO-1. Additionally, all hollow posts and pipes associated with new facilities in Areas 2 and 3 shall be capped to prevent wildlife entrapment and mortality. Metal fence stakes used on the Project site shall be plugged with bolts or other plugging materials to avoid impacts to raptor talons. Additionally, the City shall ensure the prohibition of the use of rodenticides throughout all construction activities.	(1) City of Pasadena/PWP shall ensure that a qualified biologist conducts flagging of disturbance limits (2) City of Pasadena/PWP shall ensure that a qualified biologist conducts the required monitoring	(1) Prior to commencement of any ground disturbing activities or the pre-construction staging of equipment on the Project site (2) Ongoing during construction in compliance with Preconstruction Survey and Relocation Plan per MM-BIO-1

<table>
<tr><th>Mitigation Measure</th><th>Party Responsible for Implementation</th><th>Implementation Timing</th></tr>
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<td>
MM-BIO-6: Mitigation for direct impacts to jurisdictional waters shall be implemented through on-site enhancement of remaining jurisdictional waters and/or off-site acquisition, program funding, and/or mitigation bank credits. Mitigation ratios for each type of jurisdictional waters is shown in the Table below. Mitigation for temporary and permanent impacts to jurisdictional wetlands and waters shall consider and overlap with compensation for sensitive vegetation communities (MM-BIO-4).
<table>
<tr><th>Jurisdictional Waters Type</th><th>Direct Impacts (acres)</th><th>Mitigation Ratio</th><th>Mitigation (acres)[a]</th></tr>
<tr><td>USACE waters of the United States</td><td>0.20</td><td>1:1</td><td>0.20</td></tr>
<tr><td>RWQCB waters of the state</td><td>2.58</td><td>1:1</td><td>2.58</td></tr>
<tr><td>CDFW streambed and bank, with riparian vegetation[b]</td><td>0.49</td><td>3:1</td><td>1.47</td></tr>
<tr><td>CDFW streambed and bank, with non-riparian habitat[c]</td><td>2.41</td><td>1:1</td><td>2.41</td></tr>
</table>
Notes:
a. Mitigation areas for each jurisdictional type may overlap
b. white alder–California sycamore woodland (0.48 acres) and coast live oak woodland (<0.01 acres)
c. California sagebrush–California buckwheat–laurel sumac scrub (<0.001 acres); urban/developed (0.03 acres); disturbed habitat (2.38 acres); laurel sumac scrub (<0.01 acres)

On-site Mitigation. Jurisdictional waters and associated vegetation could be established within Area 1 (previously approved components of the Arroyo Seco Canyon Project). Prior to the issuance of a grading permit or any earthwork on the Project site, PWP shall prepare a HMMP for habitat enhancement and creation activities. The HMMP shall at a minimum include a feasible implementation structure, salvage/seeding details, invasive species eradication methods, irrigation system and schedule, a monitoring schedule, performance standard of success, estimated costs, the implementation of a restrictive covenant on the land, long-term management of the habitat, and identification of responsible entities. The HMMP shall include restoration of the following habitats:

Riparian Woodlands. Impacted areas of (white alder–California sycamore woodland association and coast live oak woodland) shall be created/restored within and adjacent to
</td>
<td>
(1) City of Pasadena/PWP shall ensure that a qualified biologist prepares a Habitat Mitigation and Monitoring Plan
(2) City of Pasadena/PWP shall ensure that the HMMP is submitted to CDFW, USACE, and RWQCB for review and comment, and revised to the satisfaction of the City and the three agencies.
</td>
<td>
(1) Prior to the issuance of a ground disturbing activities or the pre-construction staging of equipment on the Project site
(2) Prior to the issuance of a ground disturbing activities or the pre-construction staging of equipment on the Project site
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</table>

Mitigation Measure	Party Responsible for Implementation	Implementation Timing
the same on-site areas that the woodland currently existed prior to Project implementation, as well as other areas deemed to have appropriate soils and topography for successful establishment. Understory areas shall be revegetated with a diversity of locally collected seeds. Temporary irrigation shall be established and maintained, with irrigation suspensions in times of rainfall. Successful establishment of the woodland shall be determined only after removal of irrigation system and confirmed ability of the woodland to survive in the absence of irrigation. It is anticipated that a one-time restoration effort followed by monitoring and invasive weed removal for a minimum of five (5) years would be required. The HMMP shall be submitted by the City to the CDFW, USACE, and RWQCB for review and comment, and revised to the satisfaction of the City and the three agencies. **Off-site Mitigation.** If mitigation is implemented through mitigation program funding and/or mitigation bank credits, the City shall work with the CDFW, USACE, and RWQCB to ensure the mitigation program funding and/or mitigation bank credits are appropriate to offset permanent impacts. If program funding is utilized, it would be accompanied by a specific work plan identifying habitat/jurisdictional resource acreage and/or functional gains. Mitigation lands shall be comprised of similar or higher quality riparian woodland and preferably located in the vicinity of the site or watershed. Off-site mitigation lands will be protected in perpetuity under a conservation easement, with a non-wasting endowment and manager/easement holder for long-term management. If mitigation is implemented through offsite enhancement of City-owned lands, the City shall prepare a HMMP that details the location and existing conditions of the offsite lands. The HMMP shall at a minimum include a feasible implementation structure, salvage/seeding details, invasive species eradication methods, irrigation system and schedule, a monitoring schedule, performance standard of success, estimated costs, the implementation of a restrictive covenant on the land, long-term management of the habitat, and identification of responsible entities. It is anticipated that a one-time restoration effort followed by monitoring and invasive weed removal for a minimum of five (5) years would be required. The HMMP shall be submitted by the City to the CDFW, USACE, and RWQCB for review and comment, and revised to the satisfaction of the City and the three agencies.		
MM-BIO-7: Prior to the commencement of earthmoving within Area 2 for the demolition of the existing diversion/weir structure, the City shall develop a Native Resident and	City of Pasadena/PWP shall ensure that a qualified biologist prepares a	Prior to the issuance of a ground disturbing activities or the pre-

Mitigation Measure	Party Responsible for Implementation	Implementation Timing
Migratory Fish Monitoring Plan (Monitoring Plan), in consultation with CDFW. This Monitoring Plan shall set forth annual monitoring requirements to determine if native fish species or migratory fish populations are present within an approximate 3,500-foot section of the stream (about 1,500 feet upstream of the diversion/weir structure to the abandoned headworks (Area 1) and 2,000 feet downstream to the JPL Bridge at the mouth of the canyon). The Monitoring Plan will include the results of the baseline conditions for fish, which shall be conducted prior to commencement of earthwork in Area 2 within the 3,500 section of the stream using the survey methodology described in the 2010 California Salmonid Stream Habitat Restoration Manual (4th Edition). Annual survey protocols shall be established to the satisfaction of CDFW and set forth in the Monitoring Plan. If the results of the annual surveys reveal a positive presence of native fish, the Monitoring Plan shall set forth thresholds for determining the permanency of the population, and whether or not connectivity both upstream and downstream of the diversion structure is appropriate and in the best interest of the long-term survival of an established native or migratory fish population, given hazards associated with stranding downstream. Until passage for steelhead is restored to the Arroyo Seco, the City shall implement a program to rescue fish between the diversion structure and the JPL Bridge. If rescue is determined to be ineffective or impractical, then the City shall modify its operations to accommodate passage. At such time as steelhead passage is restored, the City shall alter either the design of the diversion/weir structure, the operational methods of the diversion/weir structure, or both to satisfy Fish and Game Code Sections 5901 and 5937.	Native Resident and Migratory Fish Monitoring Plan that sets forth survey protocols satisfaction of CDFW.	construction staging of equipment on the Project site
MM-BIO-8: A qualified biologist shall be present during initial ground-disturbing activities within the Project site to ensure that Project activities stay within the demarcated limits, as required in MM-BIO-5. This qualified biologist shall identify the number of City-protected trees that are removed as a result of Project construction activities, as well as trees that would be encroached upon. This inventory of trees shall be used to determine an appropriate tree replacement program that shall be, at a minimum, consistent with the administrative guideline tree replacement matrix of the City's Tree Ordinance (Chapter 8.52 of the Pasadena Municipal Code), as it relates to tree replacement of protected trees. Trees within approximately 15 feet of proposed construction activity shall be temporarily fenced with chain-link fencing in accordance with the City's Tree Ordinance and Tree Protection Guidelines. The fencing shall be installed to the extent of the tree's dripline plus four (4) radial feet and be minimum six (6) feet high with an access gate of minimal width. The fenced area	(1) City of Pasadena/PWP shall ensure that a qualified biologist identifies City-protected trees (2) City of Pasadena/PWP shall ensure that a qualified biologist prepares tree mitigation per City's Tree Ordinance	(1) Upon completion of demarcation limits per MM-BIO-5 (2) Upon determination of the final number/type of impacted trees

Mitigation Measure	Party Responsible for Implementation	Implementation Timing
shall be considered the Tree Protection Zone (TPZ) unless proximate construction required temporary removal. All trees that have been substantially root pruned (30% or more of their root zone) during construction within the TPZ shall be monitored by an International Society of Arboriculture Certified arborist for the first five years after construction completion. The arborist shall submit an annual report, photograph each tree and compare tree health and condition to the original, pre-construction baseline. For trees that do not survive the five-year monitoring period, such trees shall be replaced in accordance with the requirements of this measure. For all trees that are identified for removal resulting from the proposed Project, such trees shall be inspected by a qualified arborist for contagious tree diseases, including but not limited to Polyphagous Shot Hole Borer; thousand canker fungus, and goldspotted oak borer. If contagious tree diseases are identified, the trees shall be treated using the best available management practices relevant for each tree disease observed prior to transporting the trees offsite.		
Cultural Resources and Tribal Cultural Resources		
MM-CUL-1: Prior to the commencement of construction vehicle and truck traffic along the Gabrielino Trail/Access Road north of the JPL Bridge, the City shall ensure that Bridge No. 2 and all identified arroyo stone wall features along the affected portions of the Gabrielino Trail/Access Road are properly protected for the duration of construction activities. The City shall install temporary protective barriers in the form of concrete k-rails along the decorative railings of Bridge No. 2 on both sides of the road to protect the railings from further deterioration and damage from vehicles. The concrete k-rails shall be removed once the Project is completed leaving Bridge No. 2 intact. The concrete k-rails shall be installed parallel to the Bridge's existing baluster railings, with approximately 2 feet of separation between the k-rail and the resource. The k-rails shall be positioned to ensure that the Bridge railings are protected from daily construction traffic. The k-rails shall not be permanently attached to the bridge. All arroyo stone wall features adjacent to the Gabrielino Trail/Access Road shall be protected by concrete k-rails wherever feasible; however, in areas where k-rails would create an impassable or bottleneck situation for vehicles, the City shall utilize other reasonable protections, including cones and flagging, to ensure that the arroyo stone walls are not inadvertently damaged during construction vehicle movement and equipment transport. The plans for the temporary barriers shall be reviewed by a qualified architectural historian prior to	(1) City of Pasadena/PWP shall ensure that plans for temporary barriers to protect all historic features duration of construction activities are reviewed by a qualified architectural historian (2) City of Pasadena/PWP shall ensure completion of pre-construction surveys by a qualified historic preservation (3) City of Pasadena/PWP shall ensure completion of post-construction surveys by a qualified historic preservation	(1) Prior to the commencement of construction vehicle and truck traffic along the Gabrielino Trail/Access Road north of the JPL Bridge (2) Prior to the commencement of construction vehicle and truck traffic along the Gabrielino Trail/Access Road north of the JPL Bridge (3) Upon completion of construction traffic along the Gabrielino Trail/Access

Mitigation Measure	Party Responsible for Implementation	Implementation Timing
Project implementation. In order to ensure that the bridge and stone walls are adequately protected during Project activities, the City shall ensure completion of pre-construction and post-construction surveys by a qualified historic preservation consultant to ensure that adverse effects or significant impacts have not occurred to Bridge No. 2. If the pre-construction survey identifies deficiencies in the protections for Bridge No. 2 or the stone walls, recommendations for additional physical barriers or visual warnings shall be provided and implemented prior to initiation of construction activities. The installation/construction methodology and post-construction survey shall be submitted to the City of Pasadena Department of Planning – Historic Preservation for review and approval.		Road north of the JPL Bridge
MM-CUL-2: Prior to construction completion, the City shall ensure preparation of Historic American Engineering Record (HAER) documentation for Bridge No. 3 in accordance with the Secretary of the Interior's Standards for Architectural and Engineering Documentation. Documentation shall be completed by a qualified historic preservation professional who meets the Secretary of the Interior's Professional Qualifications Standards for architectural history. The documentation shall capture the physical description of the existing bridge with: 1) existing as-builts/drawings (where/if available); 2) a written narrative that includes a detailed history and architectural description of the bridge and a discussion of its historical significance; 3) photographs of the bridge with large format negatives to demonstrate its current condition; and 4) provide other photographs of the bridge prior to installation of the current overlay. Upon approval of the final HAER package, the City shall offer one original copy of the final HAER package to the City of Pasadena Historic Preservation Program, the South Central Coastal Information Center at California State University, Fullerton, and the Angeles National Forest Administrative Office. Prior to project construction completion, the City shall conduct a review of the bridge overlay design on Bridge No. 3 and construction materials used in the bridge overlay to determine improvements that can be made to conform with the City's Arroyo Seco Design Guidelines. Examples of potential improvements include, but are not limited to, evaluation of appropriate paint colors that reflect the natural character of the Arroyo Seco, and replacement of components with more natural materials (e.g. wood, concrete, brick, arroyo stone piers, unpainted weathering steel or other natural materials, such as copper and wrought iron). The proposed design improvements shall be submitted to the City of Pasadena Department of Planning – Historic Preservation for review and approval.	(1) City of Pasadena/PWP shall ensure completion of a Historic American Engineering Record (HAER) documentation for Bridge No. 3. (2) City of Pasadena/PWP shall ensure completion of a review of the bridge overlay design on Bridge No. 3 for compliance with the City's Arroyo Seco Design Guidelines	(1) Prior to the commencement of construction vehicle and truck traffic along the Gabrielino Trail/Access Road north of the JPL Bridge (2) Prior to the completion of construction activities in Area 2

Mitigation Measure	Party Responsible for Implementation	Implementation Timing
MM-CUL-3: Prior to commencement of Project construction activities that would require equipment staging at the Behner Water Treatment Plant (WTP), the City shall ensure that the exterior of the WTP building is adequately protected from equipment and vehicle staging activities. The northwest and southwest exterior elevations of the WTP shall, at a minimum, be protected by construction fencing and signage to ensure that none of the major exterior character-defining features of the building are inadvertently damaged. Fencing shall be placed at a minimum distance of five (5) feet from the exterior of the building, and crews working in the immediate vicinity should be alerted to the presence of an historical resource and instructed to avoid it. The City shall ensure that Project-related equipment and materials are not in contact with the exterior or the building, including absolute avoidance of leaning materials and equipment against exterior walls. The temporary fencing, signage, and barriers shall be removed at the conclusion of construction activities.	City of Pasadena/PWP shall ensure installation of protective measures for building protection from equipment and vehicle staging activities	Prior to commencement of Project construction activities that would require equipment staging at the Behner Water Treatment Plant
MM-CUL-4: Prior to commencement of earthmoving activities, the City shall retain a qualified Archaeologist meeting the Secretary of the Interior's Professional Qualification Standards for Archaeology. The Archaeologist shall be present at the pre-grade conference; shall establish procedures for archaeological resource surveillance; and shall establish, in cooperation with the Contractor, procedures for temporarily halting or redirecting work to permit the sampling, identification, and evaluation of the artifacts, as appropriate. At a minimum, in the event archaeological resources are exposed during construction activities, all construction work occurring within 100 feet of the find shall immediately stop until a qualified archaeologist can evaluate the significance of the find and determine whether or not additional study is warranted. The Archaeologist shall first determine whether it is a "unique archaeological resource" pursuant to the California Environmental Quality Act (CEQA, i.e., Section 21083.2[g] of the California Public Resources Code) or a "historical resource" pursuant to Section 15064.5(a) of the State CEQA Guidelines. If the archaeological resource is determined to be a "unique archaeological resource" or a "historical resource", the Archaeologist shall formulate a mitigation plan in consultation with the City of Pasadena that satisfies the requirements of the above-referenced sections. The Archaeologist shall prepare a report of the results of any study prepared as part of a testing or mitigation plan, following guidelines of the California Office of Historic Preservation, and s/he shall record the site and submit the recordation form to the City of Pasadena and the California Historic Resources Information System (CHRIS) at the South Central Coastal Information Center (SCCIC) at California State University, Fullerton. Work may proceed in other areas of the site, subject to the direction of the Archaeologist.	(1) City of Pasadena/PWP shall ensure hiring of a qualified archaeologist for meeting attendance and preparation of a mitigation plan (2) If any archaeologic finds are studied, the City of Pasadena/PWP shall ensure the qualified archaeologist prepares a testing or mitigation plan	(1) Prior to the commencement of a ground disturbing activities or the pre-construction staging of equipment on the Project site (2) Upon discovery of any archaeologic finds

Mitigation Measure	Party Responsible for Implementation	Implementation Timing
MM-PALEO-1: Prior to commencement of any grading activity on-site, the City shall retain a qualified Paleontologist per the Society of Vertebrate Paleontology (SVP) (2010) guidelines. The paleontologist shall prepare a Paleontological Resources Impact Mitigation Program (PRIMP) for the Project. The PRIMP shall be consistent with the SVP 2010 guidelines. Minimum requirements to be set forth in the PRIMP include: (1) attendance at the preconstruction meeting and worker environmental awareness training, where monitoring is required within the proposed Project site based on construction plans and/or geotechnical reports; (2) procedures for adequate paleontological monitoring and discoveries treatment, and paleontological methods, including sediment sampling for microvertebrate fossils, reporting, and collections management; (3) mandatory monitoring on-site during all rough grading and other significant ground-disturbing activities, including augering in previously undisturbed, fine-grained Pleistocene alluvial deposits; (4) mandatory actions in the event that paleontological resources (e.g., fossils) are unearthed during grading, including the requirement for the paleontological monitor to temporarily halt and/or divert grading activity to allow recovery of paleontological resources, and roping/fencing off of the discovery with a 50-foot radius buffer; and (5) if resources are discovered, methods for coordination between the qualified paleontologist and the City for appropriate exploration and/or salvage, as well as final disposition of the resources in an accredited institution or museum, such as the Natural History Museum of Los Angeles County.	City of Pasadena/PWP shall ensure hiring of a qualified paleontologist to prepare a Paleontological Resources Impact Mitigation Program	Prior to the commencement of a ground disturbing activities
Noise		
MM-NOI-1: The City and/or their Construction Contractor shall implement the following noise reduction measures during all construction activities: • Equip all construction equipment (fixed or mobile) with properly operating and maintained mufflers, consistent with or exceeding manufacturers' standards. • Ensure that construction equipment engine enclosures and covers as provided by manufacturers shall be in place during operation. • Place all stationary construction equipment so that the equipment is as far as feasible from noise-sensitive receptors and so that the emitted noise is directed away from the noise-sensitive receptors. • Locate equipment and materials staging in areas that will create the greatest distance between staging area noise sources and noise-sensitive receptors during Project construction.	City of Pasadena/PWP shall ensure construction activities implement required noise reduction actions	During all demolition, earthwork and construction activities

Mitigation Measure	Party Responsible for Implementation	Implementation Timing
• Ensure that construction equipment is shut down when not in use. • Limit haul truck deliveries to the same hours specified for the operation of construction equipment.		
Recreation		
MM-REC-1: Prior to the closure of recreational trails for public use, the City of Pasadena shall post signs providing at least one week of advanced notice of the dates and times of planned trail closures at the following locations: • Intersection of Ventura Street and Windsor Avenue • Sunset Overlook • Altadena Crest Trail (adjacent to the North Arroyo Boulevard) • Arroyo Seco Trail • West Rim Trail/East Rim Trail In addition to the closure notice signage, the City shall provide the locations of nearby trails and recreational facilities in the surrounding area that would be open for public use at the times when the trails are closed. This information shall also be posted on the City's Parks, Recreation and Community Services website.	City of Pasadena/PWP shall ensure implementation of required notifications	During all demolition, earthwork and construction activities
Transportation		
MM-TRA-1: During the peak phase of construction activities (i.e. during the demolition phase requiring haul truck trips) in Area 3, all Construction Contractors shall schedule the arrival and departure of the sediment export haul trucks to be outside the AM peak hours of 7:30 AM to 8:30 AM and the PM peak hours of 4:30 PM to 5:30 PM.	City of Pasadena/PWP shall ensure construction activities comply with haul truck schedule limits	During demolition phase in Area 3
MM-TRA-2: During construction activities in Areas 2 and 3, use of the North Arroyo Boulevard or Gabrielino Trail/Access Road by hikers, bicyclists and equestrians shall be limited or prohibited when temporary partial or full closures of the Gabrielino Trail/ Access Road, Explorer Road, hiking trails or maintenance roads is necessary. In addition to the requirements for notification set forth in the City's Supplements and Modifications to the Greenbook, flagpersons and/or other safety procedures shall be used as necessary to ensure the safety of recreational users.	City of Pasadena/PWP shall ensure notification of trail closure and safety procedures	During demolition, grading, and construction activities

Mitigation Measure	Party Responsible for Implementation	Implementation Timing
MM-TRA-3: Prior to the start of construction, the City and/or their Construction Contractor shall provide written notice to the USFS and residences at the Ranger Station of the anticipated construction schedule, stating that access may be temporarily obstructed on an intermittent basis and providing a schedule of anticipated closures. In order to ensure that emergency vehicles would not be obstructed at any time, any temporary obstructions to the Gabrielino Trail/Access Road that could hinder emergency vehicular access shall be mobile and able to be removed from the roadway immediately upon notice from emergency responders.	City of Pasadena/PWP shall ensure notification of trail closure to USFS	Prior to commencement of construction activities, and ongoing, as needed
MM-CUML-1: The City and/or their Construction Contractor shall coordinate with the Los Angeles County Department of Public Works and/or their contractor for the sediment removal activities at Devil's Gate Reservoir regarding the schedule of trucks to and from landfills that would require the use of Interstate 210 eastbound ramps/Arroyo Boulevard intersection. If it is determined that activities would overlap and Project traffic and cumulative traffic including the Devil's Gate project traffic would have vehicle queues at Caltrans facilities that exceed available storage lengths, then the City and/or their contractor shall implement construction vehicle/hauling restrictions that disallow the proposed Project's truck traffic during the AM and PM peak hours of 7:30 AM to 8:30 AM and 4:30 PM to 5:30 PM.	City of Pasadena/PWP shall ensure coordination with LACDPW	During demolition, grading, and construction activities
Tribal Cultural Resources		
MM-TCR-1: Prior to commencement of any ground-disturbing activities, the City of Pasadena shall retain a Native American Monitor approved by the Gabrieleño Band of Mission Indians-Kizh Nation – the tribe that consulted on this project pursuant to Assembly Bill AB 52 (the "Tribe" or the "Consulting Tribe"). The Tribal monitor shall only be present on the Project site during the construction phases that involve ground-disturbing activities. Ground disturbing activities may include, but may not be limited to, pavement removal, potholing or auguring, grubbing, tree removals, boring, grading, excavation, drilling, and trenching within the Project area. The Tribal Monitor shall complete daily monitoring logs that provide descriptions of the day's activities, including construction activities, locations, soil, and any cultural materials identified. The on-site monitoring shall end when all ground-disturbing activities on the Project site are completed, or when the Tribal Representatives and Tribal Monitor have indicated that all upcoming ground disturbing activities at the Project site have little to no potential for impacting Tribal Cultural Resources. Upon discovery of any Tribal Cultural Resources, construction activities shall cease in the	(1) City of Pasadena/PWP shall retain a Native American Monitor approved by the Gabrieleño Band of Mission Indians-Kizh Nation. (2) City of Pasadena/PWP shall ensure that the Native American Monitor observes ground disturbing activities	(1) Prior to commencement of ground disturbing activities and during any ground disturbing activities. (2) Only on the Project site during the construction phases that involve ground-disturbing activities

Mitigation Measure	Party Responsible for Implementation	Implementation Timing
immediate vicinity of the find (not less than the surrounding 100 feet) until the find can be assessed. All Tribal Cultural Resources unearthed by Project activities shall be evaluated by the qualified archaeologist (as required in MM-CUL-4) and the Tribal Monitor approved by the Consulting Tribe. If the resources are Native American in origin, the Consulting Tribe will retain it/them in the form and/or manner the Tribe deems appropriate, for educational, cultural and/or historic purposes.		
MM-TCR-2: If human remains and/or grave goods are discovered or recognized at the Project Site, all ground disturbance shall immediately cease, and the county coroner shall be notified per Public Resources Code Section 5097.98, and Health & Safety Code Section 7050.5. Human remains and grave/burial goods shall be treated alike per California Public Resources Code section 5097.98(d)(1) and (2). Work may continue on other parts of the Project site while evaluation and, if necessary, mitigation takes place (CEQA Guidelines Section 15064.5[f]). If a non-Native American resource is determined by the qualified archaeologist to constitute a "historical resource" or "unique archaeological resource," time allotment and funding sufficient to allow for implementation of avoidance measures, or appropriate mitigation, must be available. The treatment plan established for the resources shall be in accordance with CEQA Guidelines Section 15064.5(f) for historical resources and PRC Sections 21083.2(b) for unique archaeological resources. Preservation in place (i.e., avoidance) is the preferred manner of treatment. If preservation in place is not feasible, treatment may include implementation of archaeological data recovery excavations to remove the resource along with subsequent laboratory processing and analysis. Any historic archaeological material that is not Native American in origin shall be curated at a public, non-profit institution with a research interest in the materials, such as the Natural History Museum of Los Angeles County or the Fowler Museum, if such an institution agrees to accept the material. If no institution accepts the archaeological material, it shall be offered to a local school or historical society in the area for educational purposes.	City of Pasadena/PWP shall ensure compliance with applicable protocols and notifications and prepare a treatment plan, as appropriate	Upon discovery of human remains and/or grave goods during construction activities
Mitigation Measures Revised and/or Carried Forward from 2015 IS/MND Mitigation Monitoring and Reporting Program		
MM HAZ-1 The City shall require Construction Contractors to implement the following measures: • Trucks and equipment entering the site shall be inspected to be free from oil, gasoline, or other vehicle fluid leaks.	City of Pasadena/PWP	Periodically during construction (at least once per month)

Mitigation Measure	Party Responsible for Implementation	Implementation Timing
• Equipment fueling areas shall be located outside jurisdictional waters as identified by the USACE and CDFW. • Hazardous materials shall not be stored within the 50-year floodplain for the Arroyo Seco. Instead, hazardous materials shall be stored within staging areas located away from the Arroyo Seco and shall be removed prior to the start of the storm season. • All hazardous material spills and contaminated soils shall be excavated immediately upon discovery to minimize soil and water contamination and the potential of wildlife being poisoned or otherwise harmed. • The Contractor shall maintain hazardous materials spill control, containment, and cleanup kits of adequate size and materials for potential accidental instream spills and releases.		
MM HAZ-2 Should discolored or odorous soils be encountered during grading and excavation activities in Area 3, the Contractor shall have a sample of the soils analyzed for the presence of contamination. If the results of the testing show that chemical levels are present below regulatory levels, grading and excavation activities may proceed accordingly. Otherwise, remediation and/or removal of the contaminated soils shall be completed prior to continued ground disturbance if chemical levels are above regulatory standards. Remediation and/or disposal shall be conducted with the oversight of applicable regulatory agencies such as the Los Angeles County Fire Department, the South Coast Air Quality Management District (SCAQMD), the California Department of Toxic Substances Control (DTSC), and/or the U.S. Environmental Protection Agency in compliance with established maximum contaminant levels (MCLs).	City of Pasadena/PWP	During construction activities, if odorous or discolored soils are found
MM HAZ-3 The Contractor shall schedule the access road reconstruction in Area 2 so as to shorten the necessary closures of the access road to the extent feasible. The Contractor shall also inform the Pasadena Department of Water and Power (PWP), the Pasadena Fire Department, the Pasadena Police Department, the Los Angeles County Fire Department, and the United States Forest Service (USFS) at least one week in advance of the start of construction of the times when work on the Gabrielino Trail/access road are planned. Any major changes to the schedule shall be forwarded to these agencies at least one week prior to trail closures.	City of Pasadena/PWP and Parks and Natural Resources Division	At least one week prior to bride and Gabrielino Trail/Access Road closure

Mitigation Measure	Party Responsible for Implementation	Implementation Timing
MM HAZ-4 The Contractor shall not use, operate, or cause to be operated any internal combustion engine that uses hydrocarbon fuel, unless the engine is equipped with a spark arrestor and is maintained in effective working order, or the engine is constructed, equipped and maintained for the prevention of fire.	City of Pasadena/PWP	Periodically during construction (at least once per month

COVID-19 SAFETY GUIDANCE FOR CONSTRUCTION SITES

APRIL 1, 2020

The following guidelines are based on Interim CDC's Guidance for Businesses and Employers to Plan and Respond to Coronavirus Disease 2019 (COVID-19), OSHA's Guidance on Preparing Workplaces for COVID-19, and other publications.

Construction industry employers shall develop a comprehensive COVID-19 exposure control plan, which includes control measures such as social distancing; symptom checking; hygiene; decontamination procedures, and training. An exposure control plan and the following practices must be followed to prevent any onsite worker from contracting COVID-19, as many people with COVID-19 are asymptomatic and can potentially spread disease. Failure to comply with this guidance shall be deemed as creating unsafe conditions and may result in withheld inspections or shutting down the construction site until corrected.

City staff will verify compliance with these guidelines during regular scheduled inspections for projects under construction as well as during investigations associated with complaints that may be submitted to the Pasadena Citizens Service Center at 626-744-7311 or at http://ww5.cityofpasadena.net/citizen-service-center/.

1. Practice social distancing by maintaining a minimum 6-foot distance from others. No gatherings of 10+ people. Workers on break or lunch break should not gather in groups and should maintain 6-foot distance.
2. Preclude gatherings of any size, and any time two or more people must meet, ensure minimum 6-foot separation. Meetings should be conducted online or via conference call when possible.
3. Provide personal protective equipment (PPE) such as gloves, goggles, face shields, and face masks as appropriate for the activity being performed. Do not share personal protective equipment.
4. The owner/contractor shall designate a site specific COVID-19 Supervisor to enforce this guidance. A designated COVID-19 Supervisor shall be present on the construction site at all times during construction activities. The COVID-19 Supervisor can be an on-site worker who is designated to carry this role.
5. Identify "choke points" and "high-risk areas" where workers are forced to stand together, such as hallways, hoists and elevators, break areas, and buses, and control them so social distancing is maintained.
6. Minimize interactions when picking up or delivering equipment or materials, ensure minimum 6-foot separation.
7. Stagger the trades as necessary to reduce density and maintain minimum 6-foot separation social distancing. Limit the number of people to the minimum possible. Restrict non-essential visitors.
8. Discourage workers from using other worker's phones, desks, offices, work tools and equipment. If necessary, clean and disinfect them before and after use, and hand shaking.
9. Post, in areas visible to all workers, required hygienic practices including not touching face with unwashed hands or gloves; washing hands often with soap and water for at least 20 seconds; use of hand sanitizer with at least 60% alcohol, cleaning AND disinfecting frequently touched objects and surfaces, such as workstations, keyboards, telephones, handrails, machines, shared tools, elevator control buttons, and doorknobs; covering the mouth and nose when coughing or sneezing as well as other hygienic recommendations by the CDC.
10. Place wash stations or hand sanitizers in multiple locations to encourage hand hygiene, identify location of trash receptacles for proper disposal.
11. Require anyone on the project to stay home if they are sick, except to get medical care.
12. Have employees inform their supervisor if they have a sick family member at home with COVID-19.
13. Maintain a daily attendance log of all workers and visitors.

ATTACHMENT G
APPEAL APPLICATION AND APPEAL LETTER (DATED JANUARY 19, 2021)

PASADENA PERMIT CENTER
www.cityofpasadena.net/permitcenter

REQUEST FOR APPEAL

APPLICATION INFORMATION

Project Address: 3420 and 3500 North Arroyo Blvd.

Case Type (MCUP, TTM, etc.) and Number: Modification to CUP #6222 and FEIR - Arroyo Seco Canyon Project

Hearing Date: January 6, 2021 Appeal Deadline: January 19, 2021

APPELLANT INFORMATION

APPELLANT: Arroyo Seco Foundation et. al. Telephone: [ ] 323 405-7326

Address: 539 E. Villa St. #2 Fax: [ ]

City: Pasadena State: CA Zip: 91101 Email: tim@arroyoseco.org

APPLICANT (IF DIFFERENT): City of Pasadena Water & Power Department

I hereby appeal the decision of the:

- ☒ Hearing Officer
- ☐ Design Commission
- ☐ Historic Preservation
- ☐ Zoning Administrator
- ☐ Director of Planning and Development
- ☐ Film Liaison

REASON FOR APPEAL

The decision maker failed to comply with the provisions of the Zoning Code, General Plan or other applicable plans in the following manner (use additional sheets if necessary):

The Arroyo Seco Foundation, a 501(c3) non-profit corporation, together with Pasadena Audubon Society, Hugh Bowles, and Pasadena residents Ken Kules and Morey Wolfson, join in this appeal of Hearing Officer Paul Novak's Certification of the Final Environmental Impact Report (SCH #2014101022) and the adoption of CEQA Findings and the Mitigation Monitoring and Reporting Program for the proposed Arroyo Seco Canyon Project. The Hearing Officer failed to consider significant gaps in the FEIR and the omission of important information that have deprived the public of a meaningful opportunity to understand and comment upon the impacts of the Project and the changes in it. The Hearing Officer's determination should be withdrawn. The EIR should be revised to respond to these concerns and other pertinent considerations and recirculated to allow agencies and the public to comment on the Projects and its impacts. See also attached statement.

Timothy F. Brick
Signature of Appellant

January 19, 2021
Date

* OFFICE USE ONLY

PLN # _____ CASE # _____ PRJ # _____

DESCRIPTION _____

DATE APPEAL RECEIVED: _____ APPEAL FEES: $_____ RECEIVED BY: _____

APP-RFA Rev: 1/18/07

PLANNING AND DEVELOPMENT DEPARTMENT
CURRENT PLANNING SECTION
175 NORTH GARFIELD AVENUE
PASADENA, CA 91101
T 626-744-4009
F 626-744-4785

ARROYO SECO FOUNDATION

Reason for Appeal of Hearing Officer's Determination Regarding FEIR and Conditional Use Permit #6222 - Arroyo Seco Canyon Project

The Arroyo Seco Foundation, together with Pasadena Audubon Society, Hugh Bowles, and Pasadena residents Ken Kules and Morey Wolfson, join in this appeal of Hearing Officer Paul Novak's Certification of the Final Environmental Impact Report (SCH #2014101022) and the adoption of CEQA Findings and a Mitigation Monitoring and Reporting Program for the proposed Arroyo Seco Canyon Project (the Project).

During the hearing of January, 6, 2021, the Hearing Officer failed to address numerous points of contention outlined in comments on the Final Environmental Impact Report (FEIR) made by the Arroyo Seco Foundation, Ken Kules, Hugh Bowles, and the Pasadena Audubon Society, indicating that he did not invest the time to understand the underlying arguments in those comments and imprudently chose not to question City staff regarding how the FEIR and the staff report and presentations addressed FEIR comments with regard to:

- **Failure to include an evaluation of the condition of future ponding upstream of Devil's Gate Dam in assessing the impact of the project on the Monk Hill Basin.**

  Both the FEIR (response 14.1-5) and the staff presentation at the hearing relied on analysis of historic conditions to make a case for the conclusion in the DEIR that "The proposed Project would not substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the project may impede sustainable groundwater management of the basin, and no mitigation is required." (p. 46)

  The FEIR analysis - which offers new arguments regarding Project impacts - is clearly deficient as it does not consider the changed condition regarding ponding upstream of Devil's Gate Dam as described in Ken Kules' December 31, 2020 FEIR comments (p. 6) nor does it even acknowledge that the changed condition will occur as a matter of a legal settlement achieved by the Arroyo Seco Foundation and Pasadena Audubon in July, 2020 in *Arroyo Seco Foundation v. Los Angeles County Flood Control District*. This settlement agreement has great relevance to the management of the Devil's Gate basin as well as to the habitat and groundwater percolation that will be impacted by the Project's diversions.

(ASF, p. 5). The Hearing Officer failed to note the omission of this matter in the FEIR or the City's analysis in this regard.

- **Failure to address that there will be an adverse and significant impact on the Raymond Basin groundwater**.

  The simple analysis on p. 10 of Mr. Kules' comments on the FEIR clearly shows that there will be an adverse impact on Raymond Basin groundwater as a result of ASCP operations. That impact has not been acknowledged or addressed by the Hearing Officer and mitigation has not been proposed. The analysis discussed in Mr. Kules' FEIR comments on pp. 11-13 concludes that the adverse impact is significant and a Finding of Overriding Considerations is required for the ASCP to proceed. The Hearing Officer failed to make a technically-based rational judgment concerning the validity of the City's assertion that Mr. Kules' comment on the FEIR (p.11) is "inaccurate." Without providing substantial reasons, the Hearing Officer accepted the City's dismissal of Mr. Kules' analysis. This, despite Mr. Kules' rigorous granular analysis. In addition, the Hearing Officer did not provide substantial justification for accepting the City's disregard for the changed operation of Devil's Gate Dam and reservoir.

- **Failure to Provide for Fish Passage or Adequate Streamflow to Accommodate Potential Fish Populations.**

  The Project concedes that the Project fails to comply with Fish & Game Code sections 5931 and 5937, which require that free passage over or around any dam as well as sufficient streamflow be allowed to pass over, around or through a dam to accommodate "any fish that may be planted or exist below the dam." (FEIR at 2-177.)

  The EIR takes the position that compliance with sections 5901 and 5937 is contingent upon the City locating native fish within 1,500 feet upstream to 2,000 feet downstream of the Project Site. (DEIR at ES-18.) The California Department of Fish & Wildlife, however, found that the City's finding is specious and is based upon an inadequate survey that fails to comply with California regulatory requirements (FEIR at 2-23). The Project clearly violates sections 5931 and 5937 which require that passage and streamflow be adequate for any fish, native or otherwise, that may exist downstream of the dam irrespective of whether the City's perfunctory search of them may happen upon one.

- **Failure to include information lawfully required Information in the FEIR about the Potential Presence of Fish in the Arroyo and to Support its Finding that No Fish are in the Arroyo with Substantial Evidence**

The Arroyo Seco Foundation and others who commented in the FEIR noted the glaring deficiencies in the FEIR's fish information and interpretation of the California Fish & Game Code (ASF p9). As the California Department of Fish & Wildlife notes, surveys were only conducted for southern steelhead and rainbow trout and not for any fish populations in general. (FEIR at 2-23.) In addition, California Department of Fish & Wildlife found that the methods utilized to conduct the wildlife surveys were inadequate and that the methods utilized by the City "can miss fish that may be hiding between boulders, below undercut banks, or in shadowed areas of the stream." (*Id.*) The Hearing Officer, however, did not note these comments, or question City staff about them, or respond to them in any way.

Failure to conduct adequate surveys for wildlife is more than just an omission of information. It represents a failure to adequately describe an environmental baseline, as well as a failure to supply substantial evidence to support the City's finding that there are no fish in the Arroyo.

MM Bio-7 has been substantially revised in the FEIR, but the measure misstates CA Fish & Game Code 5932 and 5937, narrows the requirements contained therein, and sets infeasible conditions for a purported future compliance.

The Hearing Officer asserted that he had reviewed the entire prior record of the CEQA proceedings but did not clearly demonstrate his consideration of the issues raised here and in comments on the FEIR, nor did he engage in any questioning of staff on these matters in the hearing. Resolution No. 2021-01 says that the evidence considered "included the Final EIR, including the public comments about environmental impacts that were made on the Draft Environmental Impact Report prepared for the Project" but does not cite consideration of comments made on the FEIR or responses to them.

The FEIR Deprived the Public of a Meaningful Opportunity to Comment Upon Changes in the Project, Environmental Setting, Mitigation Measures and Other Critical Data.

The FEIR makes numerous changes to the EIR including modifying "areas of known controversy," project objectives, new and previously undisclosed biological impacts to special status species, as well as new mitigation measures that could have undisclosed environmental impacts by themselves. (FEIR 3-1 – 3-12). In addition, the FEIR modified the environmental setting, noting previously undisclosed information concerning cultural resources on the Project Site.

In particular, the FEIR added a whole new area of controversy as to whether "percolation rates in the spreading basins are poor." The efficacy and efficiency of spreading basins as a means of recharging groundwater resources goes to the core project objectives, and the FEIR must be

recirculated with information as to the City's analysis regarding the percolation rates in spreading basins.

The FEIR fails to note recent sightings of a family of the endangered Least Bell's in the downstream area that will be impacted by increased diversions. It also documents the presence of an entirely new sensitive status species, mountain lion, which demonstrates that the FEIR omitted crucial information which was required to be included in the Draft EIR regarding the environmental baseline, and requires recirculation due to modifications in the environmental setting. (FEIR 3-2 – 3-3.)

The FEIR also adds additional mitigation activities that require environmental analysis. MM-BIO-4 mentions the establishment of white alder-California sycamore woodland in Area 1 without describing or analyzing the activities necessary to establish this particular habitat, activities that could have significant environmental impacts. MM-BIO-6 mentions the establishment of jurisdictional waters within Area 1, additional activities that could have significant environmental impacts that are not described in the current FEIR.

The only remedy for these failures is recirculation of the EIR with regard to these issues.

Mr. Kules raised the point with regard to CEQA Section 15088.5 requirements in his comments on the FEIR that "*the California Environmental Quality Act (CEQA) requires that the EIR be recirculated to provide opportunity to disclose the impacts."*

Section 21092.1 of the California Public Resources Code requires that "[w]hen significant new information is added to an environmental impact report after notice has been given pursuant to Section 21092 … but prior to certification, the public agency shall give notice again pursuant to Section 21092, and consult again pursuant to Sections 21104 and 21153 before certifying the environmental impact report" in order to give the public a chance to review and comment upon the information. (CEQA Guidelines § 15088.5.)

Significant new information includes "changes in the project or environmental setting as well as additional data or other information" that "deprives the public of a meaningful opportunity to comment upon a substantial adverse environmental effect of the project or a feasible way to mitigate or avoid such an effect (including a feasible project alternative)." (CEQA Guidelines § 15088.5(a).) Examples of significant new information requiring recirculation include "new significant environmental impacts from the project or from a new mitigation measure," "substantial increase in the severity of an environmental impact," "feasible project alternative or mitigation measure considerably different from others previously analyzed," as well as when "the draft EIR was so fundamentally and basically inadequate and conclusory in nature

that meaningful public review and comment were precluded." (*Id.*)

An agency has an obligation to recirculate an environmental impact report for public notice and comment due to "significant new information" regardless of whether the agency opts to include it in a project's environmental impact report. (*Cadiz Land Co. v. Rail Cycle* (2000) 83 Cal.App.4th 74, 95 [finding that in light of a new expert report disclosing potentially significant impacts to groundwater supply "the EIR should have been revised and recirculated for purposes of informing the public and governmental agencies of the volume of groundwater at risk and to allow the public and governmental agencies to respond to such information."].) If significant new information was brought to the attention of an agency prior to certification, an agency is required to revise and recirculate that information as part of the environmental impact report.

The Hearing Officer's failure to discuss the issues raised here has resulted in a CEQA administrative record that is sorely lacking and the EIR must be recirculated.

Conclusion

These significant gaps in the FEIR and the omission of important information have deprived the public of a meaningful opportunity to understand and comment upon the impacts of the Project and the changes in it. The Hearing Officer's determination should be withdrawn. The EIR should be revised to respond to these concerns and other pertinent considerations and recirculated to allow agencies and the public to comment on the Projects and its impacts.

References:

- *Arroyo Seco Foundation v. Los Angeles County Flood Control District* Settlement Agreement
- Arroyo Seco Foundation Comments on ASCP FEIR
- Comments of Ken Kules on ASCP FEIR

INTERNAL REVENUE SERVICE
P. O. BOX 2508
CINCINNATI, OH 45201

DEPARTMENT OF THE TREASURY

Date: JUN 16 2000

Employer Identification Number:
95-4328068
DLN:
600158184
Contact Person:
MARK G PEARCE ID# 31181
Contact Telephone Number:
(877) 829-5500
Our Letter Dated:
November 1991
Addendum Applies:
No

ARROYO SECO FOUNDATION
436 S ARROYO BLVD
PASADENA, CA 91105-2460

Dear Applicant:

This modifies our letter of the above date in which we stated that you would be treated as an organization that is not a private foundation until the expiration of your advance ruling period.

Your exempt status under section 501(a) of the Internal Revenue Code as an organization described in section 501(c)(3) is still in effect. Based on the information you submitted, we have determined that you are not a private foundation within the meaning of section 509(a) of the Code because you are an organization of the type described in section 509(a)(1) and 170(b)(1)(A)(vi).

Grantors and contributors may rely on this determination unless the Internal Revenue Service publishes notice to the contrary. However, if you lose your section 509(a)(1) status, a grantor or contributor may not rely on this determination if he or she was in part responsible for, or was aware of, the act or failure to act, or the substantial or material change on the part of the organization that resulted in your loss of such status, or if he or she acquired knowledge that the Internal Revenue Service had given notice that you would no longer be classified as a section 509(a)(1) organization.

You are required to make your annual information return, Form 990 or Form 990-EZ, available for public inspection for three years after the later of the due date of the return or the date the return is filed. You are also required to make available for public inspection your exemption application, any supporting documents, and your exemption letter. Copies of these documents are also required to be provided to any individual upon written or in person request without charge other than reasonable fees for copying and postage. You may fulfill this requirement by placing these documents on the Internet. Penalties may be imposed for failure to comply with these requirements. Additional information is available in Publication 557, Tax-Exempt Status for Your Organization, or you may call our toll free number shown above.

If we have indicated in the heading of this letter that an addendum applies, the addendum enclosed is an integral part of this letter.

Letter 1050 (DO/CG)

ARROYO SECO FOUNDATION

Because this letter could help resolve any questions about your private foundation status, please keep it in your permanent records.

If you have any questions, please contact the person whose name and telephone number are shown above.

Sincerely yours,

Steven T. Miller

Steven T. Miller
Director, Exempt Organizations

SETTLEMENT AGREEMENT AND GENERAL RELEASE

This Settlement Agreement and Mutual General Release ("**Agreement**") is made by and between Arroyo Seco Foundation, a California non-profit corporation ("ASF"), and Pasadena Audubon Society, a California non-profit corporation ("PAS"), on one hand (collectively referred to herein as "**Petitioners**"), and the Los Angeles County Flood Control District ("**District**"), a public entity, on the other hand. Petitioners and District are sometimes individually referred to in this Agreement as "Party" and collectively as the "Settling Parties".

Recitals

The construction project, which is the subject of this Agreement the ("Project"), is intended to restore 1.7 million cubic yards ("mcy") of flood protection capacity within the reservoir behind the District's Devil's Gate Dam, and to implement a reservoir management system to maintain that capacity.

The loss of this flood protection capacity was the result of the build-up of sediment in the reservoir over the years, especially after the August, 2009 Station Fire, and the subsequent large rainy seasons. The Station Fire burned nearly 252 square miles, including 100% of the undeveloped watershed surrounding the Reservoir, and the two large rainy seasons in the two following years after the Station Fire caused approximately 1.1 mcy of sediment to flow into the reservoir.

On November 12, 2014, the Los Angeles County Board of Supervisors, sitting as the Governing Board of the District, certified the Final Environmental Impact Report ("FEIR"), adopted findings and a Statement of Overriding Considerations, and approved the Project, adopting Alternative 3 Configuration D, which would have removed 2.4 mcy of sediment.

On December 11, 2014, Petitioners filed a lawsuit challenging the District's approval of the Project, contending that the Project violated CEQA.

On February 14 and March 23, 2017, the Court conducted hearings on the case, issued a tentative decision and adopted a final decision granting Petitioners' Petition for Writ of Mandate in part, finding that the FEIR was deficient as to Mitigation Measure Air Quality 1, Mitigation Measures Biological Resources 6, 7, and 8, and the FEIR's cumulative impacts analysis, and Directing the District to correct those deficiencies and to recirculate the necessary portions of the FEIR for public comment.

On July 24, 2017, the District Released the Revised FEIR ("RFEIR") for public comment.

On November 7, 2017 the Los Angeles County Board of Supervisors, sitting as the Governing Board of the District, conducted a public hearing on the RFEIR, adopted the RFEIR, and directed that the total volume of sediment removed during the Project be reduced by 700,000 cubic yards, while maintaining the proposed footprint, so that instead of removing a maximum

of 2.4 mcy of sediment, plus any additional inflows during the Project, a maximum of 1.7 mcy, plus any additional inflows during the Project, will be removed.

On December 5, 2017, the Court discharged the writ petition.

On December 7, 2017, Petitioners filed a second writ petition, contending that the Project continued to violate the requirements of CEQA.

In preparation for sediment excavation, the Project cleared vegetation over an approximately 50 acre region from November 2018 to January 2019. The first season of excavation of sediment from the Project has now occurred between May 2019 and November 2019, resulting in the excavation of approximately 445,460 cubic yards of sediment.

The Settling Parties now wish to settle all claims that each Party has or may have against the other arising from or relating to the lawsuit, including Petitioners' contentions concerning whether the Project violates CEQA, which claims now exist or may exist in the future relating to the project in any manner whatsoever.

NOW, THEREFORE, for full and valuable consideration, and based upon the foregoing recitals, and the terms, conditions, covenants and agreements contained herein, the Settling Parties agree as follows:

1. The Parties agree that, to further reduce the potential environmental impacts of the Project, the District will take the following additional actions listed below. The Parties further agree that each of these additional actions, both individually and cumulatively, are fully consistent with the RFEIR, and do not result in an additional environmental impact to the Project site or to the surrounding community:

    a. The District will not clear, excavate or otherwise conduct Project activities in the 14 acres behind the Permanent Maintenance Area depicted on the attached Exhibit A, which were originally designated for clearing and excavation as part of the project. Because these 14 acres will not be cleared, the Parties agree that the area will also not need to be restored by the Project.

    b. As depicted on Exhibit A, the District agrees to convert from annual maintenance to episodic maintenance, as those terms are defined in the RFEIR, approximately 4.46 acres at the bottom of the basin. This area will be in two, 75 foot wide strips adjacent to the two sides of the basin, and will include efforts to sculpt a diversion of low flows to assist in irrigation of these strips. Additionally, as depicted, an approximately 0.6-acre area near Lower Altadena Drain and an approximately 1.22-acre area near Flint Wash (collectively “Drainage Areas”) will be excluded from the annual and episodic maintenance regions, except as reasonably necessary to repair erosion or to address overgrowth clogging drainage of the Drainage Areas. The District will notify and consult with Petitioners at least 30 days prior to conducting any activities within the Drainage Areas. To the extent

that any portions of these areas have already been cleared of vegetation for the Project, the District will restore the Drainage Areas.

c. The District will carry out the habitat restoration plan approved by the California Department of Fish and Wildlife on November 16, 2018 ("Habitat Restoration Plan").

d. The District will make best efforts to prevent the inflow of trash from the West Altadena Storm Drain, located near 34.187295, -118.173141.

e. During the annual maintenance period (*i.e.* after the District's initial removal of 1.7 mcy of sediment), the District agrees to limit excavation of sediment to no more than 220,000 cubic yards per year.

f. During the annual maintenance period (*i.e.* after the District's initial removal of 1.7 mcy of sediment), the District agrees to limit the daily number of sediment removal truck trips to 300 round trips per day.

g. During the annual maintenance period (*i.e*. after the District's initial removal of 1.7 mcy of sediment), and unless otherwise required for safe dam operation, the District agrees to reduce the release of water from the dam after the storm season so that, to the extent feasible, a pool of water remains behind the dam until July first of that year. The District will allow ground depressions to form naturally and retain water within the Episodic Maintenance Areas of the Basin and will not drain ground depressions, with the exception of grading/maintenance required to maintain low flow pathways for the Episodic Maintenance Areas or to comply with health and safety requirements (such as vector control).

h. The District agrees to have wheel washes and rumble strips installed and maintained at the Project to ensure that there is not track-out of mud/dirt in violation of SCAQMD Rule 403. The District further agrees that, as specified in the permit with the City of Pasadena, the wheel wash constructed adjacent to the truck exit at Oak Grove Drive, will be removed at the conclusion of the removal of the 1.7 mcy of sediment, and the area will be restored.

i. To promote the unique benefits of utilization of extremely local native plant materials and seeds in the restoration process, the District will require its plant restoration services contractor to obtain plant material and seeds harvested from the Hahamongna Watershed Park by the Hahamongna Native Plant Nursery, operated by the Arroyo Seco Foundation ("ASF Nursery"), in the quantities specified in the attached Exhibit B. The District agrees to pay the ASF Nursery the then current commercial market rate for these plant materials and seeds, and ASF agrees that, in the event that the ASF Nursery is unable to timely deliver any of the agreed quantities, then those quantities may be obtained from other commercial nurseries. In an effort to assist the ASF Nursery in the production of the necessary plant materials and seeds, the District agrees to cause a pre-payment of $10,000.00 to be made to the ASF Nursery by no later than 120 days before

delivery of the plants material and seeds ("Advance Payment"). The Advance Payment shall be deducted from the total amount to be paid to the ASF Nursery for the agreed quantities of plant material and seeds to be obtained from the Nursery. Prior to this pre-payment the ASF Nursery will invoice the District's plant restoration services contractor for this pre-payment.

2. Petitioners agree to provide letters and other advocacy to permitting agencies and the local communities in support of the various actions the District will take, as described in paragraph 1(a) through 1(i), above.

3. The District will conduct and prepare an Annual Project Report, which will describe the amount of sediment gained or lost during that year's storm season, the current sediment capacity of the Basin, and the state of the Project's on- and off-site mitigation areas. The District will present the results of the Annual Project Report at the earliest feasible meeting of the Council of Arroyo Seco Agencies.

4. The District agrees to pay the Pasadena Audubon Society's actual costs for developing, planning, constructing and installing up to three "bird blinds", at locations mutually agreeable to PAS, the District, and the City of Pasadena near the project site, up to a maximum total amount of $50,000. The District further agrees to take all reasonable steps within the power of the District and the County to enable that installation (*e.g.* permitting, discussions with the Cities of La Canada Flintridge and Pasadena, *etc.*) PAS will provide the County invoices for the actual costs incurred for reimbursement. The District shall meet and confer with Pasadena Audubon Society regarding placement of the bird blinds.

5. The District agrees to publish on the Project website a copy of all reporting related to the project to United States Fish & Wildlife Services, the United States Army Corps of Engineers, the Regional Water Quality Control Board, the California Department of Fish & Wildlife and any other regulatory agencies, and to provide copies to the Arroyo Seco Foundation and to the Pasadena Audubon Society.

6. The District will encourage the United States Army Corps of Engineers to complete the Arroyo Seco Ecosystem Study, and to do so by April 1, 2021.

7. The District will request in writing that the United States Forest Service complete a seismic and structural study of Brown Canyon Dam in the upper Arroyo Seco by April 1, 2021.

8. The District will continue to require that the "check engine"/on board diagnostic system specified by CARB for that truck's model year is in working condition for all diesel trucks being used for the Project to alert the driver to any issues with the truck's emissions control system. The details of that requirement is attached hereto as Exhibit C.

9. The District will issue a report on the results of the Alternative Fuel (CNG) Truck Pilot Program, which the District conducted during the first season excavation, as soon it completes the report's preparation but no later than August 1, 2020. In addition, the District will amend its contract with the contractor for the project to offer an incentive

payment to promote the use of alternative fuel dirt hauling trucks (*e.g.* CNG fueled or electric powered), by agreeing to pay the contractor an additional $2.00 per ton amount for quantities of dirt hauled by trucks equipped with an Electric or CNG engine, certified by CARB and the USEPA to a 0.02 g/bhp-hr (grams per brake horsepower-hour) NOx emissions standard, as indicated in CARB's executive order for that particular engine.

10. The District will conduct the Phase 2A Truck Emissions Measurement Program in conjunction with UC Riverside, as discussed with La Canada-Flintridge for Healthy Air, during the second season of excavation as outlined in the attached Exhibit D or, if UC Riverside is not yet prepared to conduct those efforts in the second season of excavation, as soon thereafter as UC Riverside is prepared to do so. While UC Riverside is not yet capable of conducting the Phase 2B measurements outlined in Exhibit D, if UC Riverside becomes capable of doing so in one of the remaining excavation seasons in time for the District to reasonably conduct those Phase 2B measurements during one of the remaining excavation seasons, the District will do so.

11. The District will work to ensure that Project activities do not create standing water or mud in adjacent oak woodland within Hahamongna Watershed Park. This includes preventing runoff from street sweepers along Oak Grove Dr. from flowing into the park.

12. The District will consult with Petitioners to develop a plan to restore a natural appearance to the Southeast Entrance to the basin, provided that such a plan is acceptable to the City of Pasadena, which has the ultimate permitting authority for any such work.

13. The District agrees to pay Petitioners' reasonable attorney's fees and costs incurred as a result of the second writ petition in the total amount of $333,468.72. This amount will be made payable to the Mitchell M. Tsai, Attorney At Law PC, and shall be made within sixty (60) days of the date that this Agreement is approved by the Los Angeles County Board of Supervisors.

14. Petitioners agree to dismiss with prejudice its current second writ petition in the Superior Court for the County of Los Angeles (Case No. BS171826, Related Case No. BS152771) as to all named parties and all parties named as Does, and to dismiss with prejudice its appeal of the judgement in its first writ petition filed in the Court of Appeal of the State of California, Second District (Appeal No. B288034), both within thirty (30) days of the date that this Agreement is approved by the Los Angeles County Board of Supervisors.

15. Petitioners also agree not to further contest this Project (both the initial sediment removal of 1.7mcy and the annual maintenance) in court or in any public forum related to the Project, including but not limited to, any litigation concerning the project or the CEQA compliance of the project, so long as the Project is consistent with the Project as approved by the District, including as specified in this Agreement, as of the date this Agreement is approved by the Los Angeles County Board of Supervisors.

16. Although the Parties do not presently believe that such addenda or amendment will be necessary, to the extent that the implementation of this Agreement causes the need for an

addenda or amendment to the RFEIR, Petitioners agree to support and to advocate in favor of such addenda or amendment.

17. In consideration for this Agreement and the full performance by the District and Petitioners of the terms and conditions thereof, the Settling Parties hereby release and forever discharge each other, including all officers, directors, board members, agents, employees and contractors, from any and all claims, causes of action, damages, debts, demands, obligations, attorneys' fees, costs, and liabilities of any nature whatsoever, whether known or unknown, suspected or claimed, including any claimed rights under any additional insured endorsements, which the Settling Parties ever had, now have or ever may claim to have as of the date of this Agreement against each other (whether directly or indirectly), by reason of any act or omission concerning any matter, cause or thing, relating to the lawsuit. These releases and discharges include, but are not limited to, the District, the County of Los Angeles, and the Los Angeles County Board of Supervisors, both sitting as Governing Board of the District and sitting as the Governing Board of the County of Los Angeles.

18. Notwithstanding the release set above, the Settling Parties reserve and do not waive the right to enforce compliance with the terms of this Agreement

19. The parties agree that this Agreement may be enforced pursuant to Code of Civil Procedure Section 664.6. The parties further agree that the court may retain jurisdiction over the parties to enforce the settlement. Concurrently with execution of this Agreement, the Parties shall execute and file a stipulation with the Court, in substantially the same form as the attached Exhibit E, stating that pursuant to Code of Civil Procedure § 664.6 the parties agree that the court shall retain jurisdiction over the parties to enforce the settlement until performance in full of the terms of the settlement, and further stipulating that, and requesting the Court to find that, the changes to the Project specified in this Agreement are consistent with the RFEIR. The refusal of the Court to retain jurisdiction and/or make the requested findings shall not invalidate or otherwise change the terms of the Agreement.

20. The release set forth above is a general release of all claims, demands, causes of action, obligations, damages and liabilities of any nature arising from the lawsuit, and is intended to encompass all known, unknown, foreseen and unforeseen claims which the Settling Parties may have in relation to the Project, except for any claims which may arise from enforcement of the terms of this Agreement. The Settling Parties knowingly and intentionally waive any and all rights that each has against the other under the provisions of section 1542 of the California Civil Code, which provides as follows:

> "A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR."

21. The Settling Parties acknowledge and agree that this Agreement is a settlement of disputed claims. Neither the fact that the Settling Parties have settled nor the terms of this Agreement shall be construed in any manner as being an admission of any liability by Settling Parties or any of their employees or any affiliated person(s) or entity/ies in this or in any other matter.

22. The Settling Parties understand and agree that the agreements, undertakings, acts and other things done or to be done by them in this Settlement Agreement and Release shall run to and be mutually binding upon their successors, administrators and assigns.

23. The Settling Parties agree to execute and deliver any additional documents and instruments, and to perform any additional acts that may be necessary or appropriate to effectuate, consummate or perform any of the terms of this Agreement.

24. This Agreement constitutes the entire Agreement between the Settling Parties. Its terms supersede all prior discussions, understandings or agreements between the Settling Parties concerning the subject matter of this Agreement.

25. This Agreement may not be amended or modified except by a writing mutually signed by the Settling Parties.

26. This Agreement and its validity, construction and effect shall be governed by the laws of the State of California, and the Settling Parties agree that the venue for any dispute concerning this Agreement shall be in the Superior Court for the State of California, in the County of Los Angeles.

27. This Agreement has been jointly drafted by the Settling Parties, through their attorneys, and any rule of construction to interpret ambiguities against the drafter of the document shall not apply to either Party.

28. This Agreement may be executed by the Settling Parties hereto by facsimile or email, and in separate counterparts, and all such counterparts taken together shall be deemed to constitute one and the same Agreement.

IN WITNESS WHEREOF, the Settling Parties have executed this Agreement, which shall become effective on the date this Agreement is approved by the Los Angeles County Board of Supervisors.

Date: _____ **ARROYO SECO FOUNDATION**

By _____

Its _____

21. The Settling Parties acknowledge and agree that this Agreement is a settlement of disputed claims. Neither the fact that the Settling Parties have settled nor the terms of this Agreement shall be construed in any manner as being an admission of any liability by Settling Parties or any of their employees or any affiliated person(s) or entity/ies in this or in any other matter.

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Date: June 11, 2020

ARROYO SECO FOUNDATION

By Timothy F. Brick

Its Managing Director

Date: June 11, 2020

PASADENA AUDUBON SOCIETY

By Laura A Solomon

Its President

APPROVED AS TO FORM:

By: _____
Mitchell M. Tsai

Date: June 11, 2020

LOS ANGELES COUNTY FLOOD CONTROL DISTRICT

By _____
Daniel J. Lafferty
Deputy Director

APPROVED AS TO FORM:

By: _____
MARY C. WICKHAM
County Counsel
ROBERT C. CARTWRIGHT
Assistant County Counsel
MICHAEL S. SIMON
Senior Deputy County Counsel

Date: _____

PASADENA AUDUBON SOCIETY

By _____

Its _____

APPROVED AS TO FORM:

By: _____
Mitchell M. Tsai

Date: _____

LOS ANGELES COUNTY FLOOD CONTROL DISTRICT

By _____
Daniel J. Lafferty
Deputy Director

Date: July 7, 2020

APPROVED AS TO FORM:

By: _____
MARY C. WICKHAM
County Counsel
ROBERT C. CARTWRIGHT
Assistant County Counsel
MICHAEL S. SIMON
Senior Deputy County Counsel

EXHIBIT A

Figure X.
Impact Modifications

Map Features

- Additional Episodic Maintenance Areas
- Additional Mitigation Areas

2.00 ac.

2.46 ac.

1.22 ac.

0.60 ac.

Oak Grove Dr

La Canada Verdugo Pl

Chewton Ct

Vista Laguna Ter

W Shelly St

DRAFT

Service Layer Credits: Sources: Esri, HERE, Garmin, USGS, Intermap, INCREMENT P, NRCan, Esri Japan, METI, Esri China (Hong Kong), Esri Korea, Esri (Thailand), NGCC, (c) OpenStreetMap contributors, and the GIS User Community

ECORP Consulting, Inc.
ENVIRONMENTAL CONSULTANTS

2014-003.008 Devil's Gate Sediment Removal Project

Scale in Feet
0 100 200

[1] LADPW
Aerial Photo: ECORP, USGS

Map Date: 4/8/2020

Location: N:\2014\2014-003.008 Devils Gate Mitigation Plan\MAPS\meeting_maps_and_analysis\2018-02-28_CAD_Design_Update\DG_Impact_Modification_20200408.mxd (MAG) mguidry 4/8/2020

EXHIBIT B

DEVIL'S GATE RESERVOIR RESTORATION PROJECT - CONTAINER PLANT AND CUTTINGS NEEDS FOR PHASE 2 OF THE HABITAT RESTORATION

		PLANTS NEEDED BY NOVEMBER 15, 2020			PLANTS NEEDED BY NOVEMBER 15, 2021	
Scientific Name	**Common Name**	**Totals**	**ASF Commitment**	**Scientific Name**	**Totals**	**ASF Commitment**
Artemisia douglasiana	mugwort	957	300	*Artemisia douglasiana*	749	500
Baccharis pilularis	coyote brush	957	957	*Baccharis pilularis*	749	749
Baccharis salicifolia	mulefat	2393	1000	*Baccharis salicifolia**	1873	1000
*Populus fremontii**	Fremont cottonwood	957	957	*Populus fremontii*	749	749
Rubus ursinus	California blackberry	957	957	*Rubus ursinus*	749	749
Rosa californica	California wild rose	957	957	*Rosa californica*	749	749
Salix gooddingii	black willow	1914	400	*Salix gooddingii**	1498	400
Salix laevigata	red willow	957	300	*Salix laevigata**	749	300
Salix lasiolepis	arroyo willow	957	300	*Salix lasiolepis**	749	300
Sambucus mexicana	Mexican elderberry	479	479	*Sambucus mexicana*	375	375
Melica imperfecta	California melic	200		*Melica imperfecta*		
Polypodium californicum	California polypody	200		*Polypodium californicum*		
*Quercus agrifolia (containers)**	coast live oak	300		*Quercus agrifolia (containers)*		
*Quercus agrifolia (acorns)***	coast live oak	200	200	*Quercus agrifolia (acorns)*		
Rubus ursinus	California blackberry	200		*Rubus ursinus*		
Ericameria pinifolia	pinebush	200		*Ericameria pinifolia*		
Toxicodendron diversilobum	poison oak	200		*Toxicodendron diversilobum*		
	Totals	**12984**	**6807**		**8988**	**5871**
			$ 27,228			**$ 23,484**

* May include Black Cottonwood (Populus trichocarpa) if permitted
** May include Engelmann Oak (Quercus engelmanni) if permitted
- Agreed upon price $4 per unit
- $10,000 advance payment each year by July 18th

EXHIBIT C

EXHIBIT C

DRAFT MIL INSPECTION PROTOCOL
2020 HAULING SEASON

I. SCHEDULE, INSPECTION CYCLE, AND SELECTION PROCESS

A Clean Diesel Specialists (CDS) Technician will be on-site to conduct MIL inspections according to the following schedule:

> During the MIL Inspection Cycles (as described below), the CDS Technician will be on-site daily from 7:00am to 12:00pm, and one day per week between cycles until the end of September.

The schedule may vary. Public Works will notify Griffith Company of schedule changes.

Inspection Cycle. Each truck working on the project will be subject to the following MIL inspections.

- First Cycle. Each truck will be subject to a MIL inspection within two weeks of mobilization to the site. Trucks participating in the Phase II emissions testing will be excluded from the first cycle of MIL inspections.

- Second Cycle. Each truck will be subject to a second cycle of MIL inspections. The second cycle will occur approximately two months after the first cycle (first two weeks of July 2020).

- Third Cycle. Each truck will be subject to a third cycle of MIL inspections. The third cycle will occur approximately two months after the second cycle (first two weeks of July 2020).

- A CDS Technician will be on-site once/week after each cycle has been completed to check any trucks that may require confirmation of repair or to inspect new trucks that were added after the cycle was performed.

Selection Process. Approximately 15 trucks per day will be randomly selected by the CDS Technician for MIL inspection based on a fleet list of approved trucks provided by Public Works.

II. MIL INSPECTION PROCEDURE

Once a truck is selected, an inspection of the dash for MIL light or other aftertreatment lights will be performed. Photograph of the dash may be taken by CDS.

IF NO LIGHTS ARE FOUND TO BE ON, the CDS Technician will still hook up to OBD connector and read any stored fault(s).

If fault(s) are found pertaining to aftertreatment issues, the fault(s) will be cleared and re-inspected on the next scheduled inspection (see above) to determine if same faults returns. Faults can go active and inactive due to the duty cycle of the truck.

- If the same fault(s) are *not* found on the re-inspection, the truck will be green flagged, and no additional inspections will be conducted until the next inspection cycle.

- If the same fault(s) are found a second time, whether active or inactive, and they DO NOT DIRECTLY AFFECT EMISSIONS, the truck will be yellow flagged and require a third re-inspection the following week. The truck will be allowed to continue to work until the next inspection the following week

- If the same fault(s) are found on the re-inspection, whether active or inactive, and they DIRECTLY AFFECT EMISSIONS, the truck will be red flagged and removed from the project as described below in the Notification Process. The truck will not be allowed back on-site until these faults have been rectified and proof of repairs are submitted to Public Works for approval (proof of repair shall consist of a repair invoice or signed statement by driver/operator of the repairs made). If the repairs have not been repaired, at the discretion of the CDS Technician, the truck may be immediately removed from the project, and not allowed to return to the project until the repairs are made as described above.

- All OBD scans will be saved and sent to Public Works.

IF MIL LIGHT OR AFTERTREATMENT LIGHT IS ON, the CDS Technician will hook up to OBD connector and both active and inactive faults will be diagnosed.

- If fault(s) found DO NOT DIRECTLY AFFECT EMISSIONS, the truck will be yellow flagged and require a second re-inspection the following week. The truck will be allowed to continue to work until the next inspection the following week until no MIL or AFTERTREATMENT light is found. Examples of faults that DO NOT DIRECTLY AFFECT EMISSIONS to be yellow flagged:

  - Coolant Faults
  - Brake, clutch, throttle or wheel speed sensor faults
  - DPF soot level faults
  - Turbo Faults

- Engine faults (i.e. misfire, injector, crankcase vent press, etc.)

- If faults found DIRECTLY AFFECT EMISSIONS, the truck will be red flagged and removed from the project as described below in the Notification Process. The truck will not be allowed back on-site until these faults have been rectified and proof of repairs are submitted to Public Works for approval (proof of repair shall consist of a repair invoice or signed statement by driver/operator of the repairs made). If the repairs have not been completed, at the discretion of the CDS Technician, the truck may be immediately removed from the project, and not allowed to return to the project until the repairs are made as described above. Examples of faults that DIRECTLY AFFECT EMISSIONS to be red flagged:

  - SCR Conversion efficiency faults
  - NOX sensor faults
  - DEF faults
  - EGR Temp and Pressure faults
  - EGR Valve faults

- All OBD scans will be saved and sent to Public Works.

III. NOTIFICATION PROCESS

Public Works will provide the results of the MIL inspections to Griffith Company by 10 am the following day. If the truck has been red flagged as described above, the truck will be removed from the project at the end of the day that notification was provided to Griffith Company. The truck will not be allowed back on-site until these faults have been rectified and proof of repairs are submitted to Public Works for approval (proof of repair shall consist of a repair invoice or signed statement by driver/operator of the repairs made).

EXHIBIT D

LOS ANGELES COUNTY DEPARTMENT OF PUBLIC WORKS
CONSTRUCTION DIVISION

PROJECT MEMORANDUM

PROJECT NAME	Devil's Gate Dam and Reservoir Sediment Removal Project	PID	WRDM000037	PCA	HF00710004	MEMO NO	CM-8

TO:	Rick Pike	FROM:	Brittany Barker
ADDRESS:	Griffith Company 12200 Bloomfield Ave, Santa Fe Springs, CA 90670	ADDRESS:	LA County Public Works 900 S. Fremont Ave, Alhambra, CA 91803
TEL. No.	(714) 318-8288	TEL. No.	(626) 458-4971; (626) 476-4875 cell
FAX No.		FAX No.	
SUBJECT	**Phase 2 Truck Emissions Measurement Program – Part 1**		

MESSAGE:

On August 16, 2019, Public Works informed Griffith of Public Works' intention to work with CARB on the implementation of an additional higher-level truck emissions monitoring study at the Devil's Gate Reservoir Restoration Project. Discussions between CARB, UC Riverside (UCR), Public Works, and community stakeholders have been on-going developing a procedure on implementing this Phase 2 Truck Emissions Measurement Program (Phase 2 Program).

At the Partnering Meeting on September 24, 2019, Cal Earth requested that they be included in the discussions surrounding this Phase 2 Program to get a better understanding of the Program. Public Works set up a meeting on October 3, 2019 with CARB, UCR, Public Works, Griffith and Cal Earth, but Griffith and Cal Earth declined attending until they received a procedure in writing. The Operations Plan has been finalized and is attached to this Project Memorandum. Additionally, a draft flyer has been included for your consideration.

For the Phase 2 Program, the emissions information will be collected and analyzed by UCR, then reviewed by CARB for statistical purposes. Public Works will use the results to measure sediment haul truck emissions and inform future operations. Data will be confidential regarding driver name. Data will be associated with each truck number assigned to the project. Driver may be required to open the hood in order to allow UCR to verify that any required engine recalls have been performed. A photo may be taken of the associated engine tag and recall sticker. If the truck fails the UCR MIL check, then Public Works will be immediately notified and subsequently Griffith of the timeline driver will have to correct the MIL issue. Public Works proposes a per truck incentive of $200, which includes $125 to the owner.

Part 2 of the Phase 2 Program will be conducted in Spring 2020 that will similarly measure sediment haul truck emissions. Another Project Memorandum will be issued in the Spring once details are finalized.

SIGNED	Brittany S Barker	DATE	10/17/19

Assigned Document No.	

Devil's Gate Field On-Site Operations Plan

Purpose

Conduct OBD scans and emissions measurement of sediment haul trucks.

Test Equipment

HEM logger - J1939 mini logger

SilverScan - Computer (CARB) with SilverScan software

Camera – to take digital images of tested vehicle

Truck selection and testing location

1. All trucks will have emissions measured.
2. Trucks will be pulled aside near the scale at Devil's Gate. Specifically, before they approach the scales.
3. Truck selection will begin around the time the vehicles are making their second trip to the site (~8:30 AM) to not add any additional congestion to the early morning operation at the site.
4. Approximately 10 trucks will be tested each day.

Truck information gathering, OBD scanning, and data logging

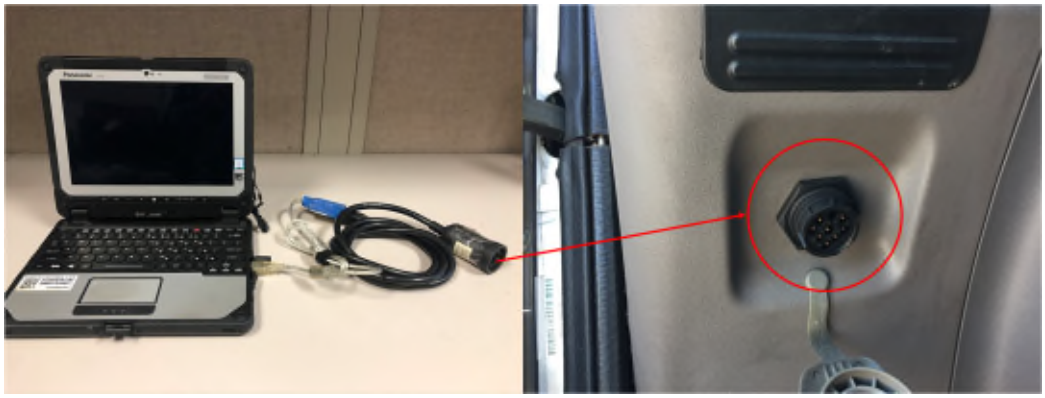
1. Two UCR engineers/technicians will be on-site at the test location.
2. Note that on the average, the OBD data collection is expected to take 15 minutes or less.
3. One UCR engineer/technician will take photographs of:

    a. License plate
    b. Overall truck (to identify truck type and manufacturer).
    c. Labels on side of door or at door jamb (VIN, year of MFR, make, build year, etc.)
    d. Odometer
    e. Whole dashboard if MIL error shows up.
    f. For trucks under recall status, the driver may be asked to open the hood of the vehicle to allow for pictures of the engine label to ensure the truck is compliant with any recall repairs.
    g. **Note that no pictures will be taken of the driver of the truck**.

4. Engine MIL bulb check: One engineer/technician will perform a MIL bulb check (key on/engine off) and illumination check (engine running for a few seconds to determine if the MIL turns off) before scan begins. If MIL bulb check fails, then PW will immediately be informed.

5. A second engineer/technician will perform the OBD data collection with a data logger and SilverScan computer. This will include fault codes or diagnostic massages from the engine's engine control module (ECM).

- <u>SilverScan Data Logging:</u> A computer loaded with SilverScan software will be plugged into the vehicle's ECM port. A picture of this system is provided below. The SilverScan software will collect information for:
  --- all "standard" diagnostic messages (DMs) or fault codes, including DM1=Active, DM2=Previous, DM6=Emission Pending, DM12=Emission, DM23=Emission Previous, DM27=All Pending, DM28=Emission Permanent. This will include current and historical data.
  --- Data will be collected from all relevant controllers including Engine 1 & 2 (0x00 & 01), Transmission 1 & 2 (0x03 & 4), Exhaust Emission Controller (Controller 0x3D), Aftertreatment 1 intake/outlet (0x51 & 0x52), DPF (0x55) and any other relevant controllers.



  --- The scan by the Silverscan computer will take approximately 2 minutes.

- <u>HEM mini logger: OBD scan</u>

  a. The data logger will be plugged into the vehicle ECM J1939 or J1979 (Volvo's) port. This is illustrated in the picture above.
     a. For trucks equipped with an ELD device that also connects to the truck's ECM port, UCR will provide the driver with an ELD waiver form from CARB providing UCR authorization to temporarily remove the ELD connector for the purpose of this test. UCR will reinstall the ELD at the completion of testing. The driver can hold onto the ELD during the testing round trip.
  b. The truck will be keyed on by the UCR engineer. Once activated with the data logger LED turned green, the data logger will collect data for approximately 120 seconds.
  c. This data logger will be removed from the truck's ECM port.

- HEM mini logger: data logging during one operational trip. Another HEM data logger will be installed to collect data while the driver carries out their normal operations over a single round trip that will include sediment pick-up, hauling of sediment away for disposal, and then returning to the site for its next load. The emphasis of this data collection will be on collecting real-time NOx sensor, exhaust temperature, GPS, engine speed and torque, and fuel flow data.

  d. Once the data logging is completed (c above), a second data logger will be installed into the truck's ECM J1939 or J1979 (Volvo's) port and its operation verified.
  e. The data logger will be secured with zip ties such that it does not intrude upon the driver during normal operation, as shown in the picture above.
  f. The data logger will collect data as the driver operates the truck over a single round trip of operation.
  g. The data logger will be removed as it returns to the scales after completing its round trip of operations. The removal of the data logger should take approximately 1 minute or less.

Data analysis

1. OBD data will be evaluated to identify any active, pending, or codes that may have recently cleared. Vehicles with active codes will be reported to the county. Other data will be summarized in a report that will be provided after the field study is completed.
2. Data relating to codes with historical codes or recently repaired codes will be included in the analysis report, **but will not be subject to enforcement by CARB.**
3. Average NOx emissions per trip will be reported for each truck based on data collected from the NOx sensor on the vehicle.
4. The emissions of NOx along the trip route will be calculated for different segments of the typical trip route.

DRAFT - TRUCKER FLYER

ENGINE OBD SCAN

Under contract with Los Angeles County, the University of California at Riverside in conjunction with TetraTech are collecting engine data from the heavy-duty haul trucks operating on the Devil's Gate project.

The data collected as part of this study is an extension of the opacity tests and MIL checks that are already being performed at the site by LA County.

Data collected include the following:

- **Visual and photographic inspection: License plate number, mileage, VIN, repair labels and other details.**
- **A ready-only scan of your truck's computer for stored data.**
- **Engine monitoring using a data logger for one round-trip.**

Note:

- **This will NOT alter your truck or affect your engine or performance in any way**
- **No personal info will be released**
- **No CARB enforcement action will result from this information.**

The process takes less than 15 minutes.

If any mechanical issues are noted, the information will be provided to the driver.

If you have any questions or issues, please contact (to be provided by Griffith Company).

Griffith Responses to Memo 8 –
Phase 2 Truck Emissions Measurement Program
Dated 10/24/19

1. What will this data be used for except to create a new level of inspection and oversight and compliance for the truckers? The OBD scan is essentially a check that the MIL is working correctly, that the bulb is illuminating properly, and that it is not turned off by something like disconnecting the battery. The NOx sensor data (collected during the round trip) would identify if there are obscure issues with the NOx catalyst that the MIL is not seeing. This will also ensure that there are not any areas of particularly high emissions in the community along the route.

2. What is the level of expertise of these representatives? (UCR Representative access to their truck) UCR has performed similar work, obtaining data from between 400 to 500 trucks over the past 3-5 years.

3. Have they been trained on this by the truck manufactures to perform this? For all types of trucks? UCR has performed this on a wide range of trucks over the 400-500 that they have data logged/scanned to date.

4. What other data will be collected and analyzed and used to interfere with the ability of the trucks to operate on this project? UCR will be logging the NOx sensor data from the truck itself, which will give an idea of the NOx emissions of the trucks.

5. How will the data will be used? Will it be used to apply new requirements on the project and remove trucks from the project? What guarantee does the trucker have that they will not be removed from the project or required to do more expenses in order to work on this project. Where is the compensation promise from the LAC for any subsequent payment for this potential impact? The essence of the OBD scan is very similar to that of the MIL check. The OBD scan can look for some things that might not be captured with the MIL light check, such as if the bulb is burned out or if the MIL light has been turned off by disconnecting the battery, or something similar. But in general, if the MIL is functioning correctly, the OBD scan will confirm the status of the MIL light. The NOx sensor data collected during the round trip could identify some significant issues that might not be captured by the MIL/OBD scan. But, in general, if the MIL/OBD is working properly, the MIL should capture any of these issues. If a problem is identified with the MIL light or major emissions component, or if it is otherwise determined that emissions components are not functioning correctly, then a repair will be needed without County compensation in order to continue working on the project. In addition, the data may be used to inform the County of potential modifications to operations that would enhance air quality, including, but not limited to, changes in hours of operations, route changes, changes in the number or frequency of truck trips, and changes to the types of trucks used on the project.

6. What does standing by while the UCR representative runs computer tests on the truck is consist of? UCR would merely need access to the trucks OBD port, and the ability to take a few photographs, and securing the data logger for the round trip. Then for removing the data logger once the truck returns to the site.

7. Does it manually control the engine and truck from their computer? No. The data loggers only read the signals that are publicly available from the engine control module and OBD system.

8. Per the memorandum this can take 15 to 30 minutes. What if the trucker loses a round while participating in this program. Where is the compensation? The OBD scans should actually take less than 10 minutes. If there any issues that make the inspection go beyond 15 minutes, then that truck would be released and not subjected to further OBD scans. The County has proposed an additional hour of compensation as an incentive for approximately 15 minutes of work.

9. Keeping the device hooked up to the trucks and asking them to do a run, what happens if the OBD is disconnected and its normal function can't work and it creates a failure on the truck? Will UCR pay for the repair? The data logger will be secured in such a manner that it should not disconnect, unless it is otherwise pulled out. Checks will be run during the OBD scan to ensure the data loggers operate correctly during the round trip and will not cause failures. Note that the data loggers are primarily reading information put out publicly by the engines control system and are not sending signals to the engines control system. The function should be similar to ELD devices that are commonly used by truckers.

10. The truckers will lose more time while pulling to the side to get connected and then disconnected, will they be compensated for all this down time? The County has proposed an additional hour of compensation as an incentive for approximately 15 minutes of work.

11. The truckers will be subjecting themselves to additional testing next season for Nox Devices to record Nox emissions & etc, the protocol of this is not known at this time since they don't have the devices designed yet. Damage to the trucks can occur from the device unless it's a known device and proven not to cause any damage to the trucks. The outcome of these tests can result to remove the truckers from the project. Where is the assurance that this will not be the case? UCR will be conducting trials on any new devices prior to bringing them to the test site in Spring 2020.

12. What happens if a truck needs a new emission system or new engine to keep working after the test is complete? What if they have to do a recall or get a sticker? Will that cost be covered including their lost revenue to chase down and do the additional work? As with the MIL Inspection, it is the truck owner's responsibility to maintain a properly functioning truck that meets 2010 emissions standards. The County will not compensate the driver for any repairs necessary.

EXHIBIT E

MITCHELL M. TSAI (Cal. Bar No. 277156)
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Attorneys for Petitioners and Plaintiffs,
ARROYO SECO FOUNDATION and PASADENA AUDUBON SOCIETY

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.: BS171826

STIPULATION RE SETTLEMENT AND REQUEST FOR CONTINUING JURISDICTION PURSUANT TO CCP § 664.6; [PROPOSED] ORDER

California Environmental Quality Act (Cal. Pub Res. Code § 21000 *et seq*.); Code of Civil Procedure §§ 1094.5, 1085

Assigned for All Purposes to the Honorable James C. Chalfant, Dep't 85

Petitioners ARROYO SECO FOUNDATION and PASADENA AUDUBON SOCIETY (collectively "Petitioners") and Respondents and Real Parties in Interest COUNTY OF LOS ANGELES, COUNTY OF LOS ANGELES BOARD OF SUPERVISORS, COUNTY OF LOS ANGELES DEPARTMENT OF PUBLIC WORKS, and LOS ANGELES COUNTY FLOOD CONTROL DISTRICT (collectively "Respondents" or with Petitioners as "Parties"), by and through their attorneys of record, hereby agree and stipulate as follows:

RECITALS

WHEREAS the Parties have arrived at a settlement agreement to amicably resolve the above captioned matter, a true and correct copy of which is attached as Exhibit 1 to this Stipulation ("Agreement");

WHEREAS, pursuant to this Agreement, the Parties wish to request that the court retain jurisdiction to enforce the terms of the Agreement pursuant to Section 664.6 of the Cal. Code of Civil Procedure ("CCP"); and

WHEREAS, pursuant to this Agreement, the Parties wish to request that the Court find that the changes to the Devil's Gate Dam Sediment Removal and Management Project ("Project") made by the Agreement are consistent with the July 24, 2017 Revised Final Environmental Impact Report ("RFEIR") for the Project.

STIPULATION

THEREFORE, IT IS HEREBY STIPULATED AND AGREED AS FOLLOWS:

1. The Court retain jurisdiction to enforce the terms of the Agreement pursuant to CCP § 664.6;

2. The Court dismiss the entire action of all parties and all causes of action with prejudice;

3. The Court find that the changes to the Project made by the Agreement are consistent with the RFEIR to the Project;

4. The undersigned have the authority to enter into this Stipulation on behalf of each of their respective clients; and

5. This Stipulation may be executed in counterparts and all such counterparts, when executed, shall constitute a valid and binding agreement.

/ / /

/ / /

/ / /

DATED: _____ MITCHELL M. TSAI, ATTORNEY AT LAW

By: _____
MITCHELL M. TSAI

Attorneys for Petitioners Arroyo Seco Foundation and Pasadena Audubon Society

DATED: _____ Mary C. Wickham, County Counsel
Michael S. Simon, Senior Deputy County Counsel
Los Angeles County Counsel's Office

BEST BEST & KRIEGER LLP

By: _____
MICHELLE OUELLETTE
SARAH E. OWSOWITZ

Attorneys for Respondents/Defendants COUNTY OF LOS ANGELES et al. and Real Party in Interest/Defendant LOS ANGELES COUNTY FLOOD CONTROL DISTRICT

[PROPOSED] ORDER

IT IS SO ORDERED.

Dated:_____

_____
THE HONORABLE JAMES C. CHALFANT
Judge of the Superior Court

ATTACHMENT H
RESPONSES TO REQUEST FOR APPEAL (DATED MARCH 2021)

Responses to Request For Appeal
Arroyo Seco Canyon Project Areas 2 and 3

Modification to Conditional Use Permit No. 6222
State Clearinghouse No. 2014101022

Prepared for:

City of Pasadena Department of Water and Power
150 South Los Robles Avenue, Suite 200
Pasadena California 91101

Prepared by:

DUDEK
38 North Marengo Avenue
Pasadena, California 91101

March 2021

Printed on 30% post-consumer recycled material.

Table of Contents

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1. Introduction

A Draft Environmental Impact Report (Draft EIR) for the Arroyo Seco Canyon Project Areas 2 and 3 (Project or proposed Project) was distributed on Monday, June 15, 2020 to federal, State, regional, and local agencies and interested parties and was made available for a 46-day public review period until Friday, July 31, 2020. The Final EIR was prepared to respond to the comment letters that were received by the City of Pasadena on the Draft EIR. The City received comment letters from five agencies: United States Fish and Wildlife, California Department of Fish and Wildlife, California Department of Transportation, South Coast Air Quality Management District, and City of La Cañada Flintridge; three local groups: Arroyo Seco Foundation, Pasadena Audubon Society, and West Pasadena Residents Association; and eleven community members. Chapter 2, Responses to Comments, of the Final EIR, includes copies of all the letters received during the Draft EIR public review period, as well as responses to all comments received.

The proposed Project and Final EIR were presented to the Hearing Officer on January 6, 2021, where City staff recommended adopting a resolution to certify the Final EIR adopting findings, adopting the Mitigation Monitoring and Reporting Program (MMRP), adopting a Resolution adopting a Statement of Overriding Considerations and adopt the Specific Findings to approve the Modification to Conditional Use Permit (CUP) #6222. The proposed Project was approved that night by the Hearing Officer.

On January 19, 2021, a Request for Appeal was filed by the Arroyo Seco Foundation, together with the Pasadena Audubon Society, Hugh Bowles, Ken Kules, and Morey Wolfson to appeal the decision to certify the Final EIR. This document includes responses to the Request for Appeal Application (Appendix A) and the attached Reason for Appeal of Hearing Officer's Determination Regarding FEIR and CUP #6222 (Appendix B).

Table 1. List of Commenters

Comment Letter	Name	Location in Document	Date
1	Arroyo Seco Foundation et. al.	Appendix A: Appeal Application	January 19, 2021
2	Arroyo Seco Foundation et. al.	Appendix B: Appeal Letter	January 19, 2021

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2 Response to Request for Appeal

Appeal Letter #1

1-1 The "Request for Appeal" provides an overview of the Appellant's reasoning for appealing the Hearing Officer's decision to certify the Final EIR. This summary does not include any specific information to refute the analysis included in the Final EIR. Rather, an itemized listing of the Appellant's reasons are included as a statement attached to the appeal. This statement is titled "Reason for Appeal of Hearing Officer's Determination Regarding FEIR and Conditional Use Permit #6222 - Arroyo Seco Canyon Project" and is addressed below in Responses 2-1 through 2-10.

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3 Response to Reason for Appeal of Hearing Officer's Determination

Appeal Letter #2

2-1 The Appellants (i.e. Arroyo Seco Foundation, Pasadena Audubon Society, Hugh Bowles, Ken Kules, Morey Wolfson) state that the Hearing Officer failed to address comments raised on the Final EIR, which is interpreted by the Appellants to indicate a lack of understanding of the comments received by the City. However, to the contrary, the Hearing Officer made clear that he had thoroughly read the Draft EIR and Final EIR, including all comment letters received by the City leading up to, and during, the hearing. The Hearing Officer explicitly stated his understanding of the nature of the project and the issues raised at the hearing prior to certifying the Final EIR.

2-2 Regarding the comment that the Final EIR does not adequately consider the changed condition of the Devil's Gate Reservoir, this assertion is inaccurate. In the Settlement Agreement between the Arroyo Seco Foundation (ASF), the Pasadena Audubon Society and the Los Angeles County Flood Control District (LACFCD), signed on July 7, 2020, agreement 1.g. states:

> During the annual maintenance period (i.e. after the District's initial removal of 1.7 mcy of sediment), and unless otherwise required for safe dam operation, the District agrees to reduce the release of water from the dam ***after the storm season*** so that, to the extent feasible, a pool of water remains behind the dam until July first of that year.

While it is unclear what benefit the appellants believe will be realized by holding water behind the Devil's Gate dam, the following analysis demonstrates that the proposed Project will have little effect on this pool of water under the terms agreed upon by the LACFCD.

Per the LACFCD, the "storm season" is defined as October 15 through the following April 15; flows occurring during this period are thus excluded from any obligation within the Settlement Agreement. From data used to develop Table HYD-1 in Topical Response HYD-1 in the Final EIR, the Project is projected to divert less than 264 acre-feet out of a total additional annual average of 1,035 acre-feet (25%) during the months of April, May and June covered by the Settlement Agreement. These totals, however, include the first 14 days of April which are not subject to the Settlement Agreement. Analysis of daily Arroyo Seco stream flow data, considering only the 76 days between April 15 and June 30 of the last 31 years from the Arroyo Seco stream gage (USGS 110980) reveals that on average, the proposed Project would only divert an additional 105 acre-feet per year (AFY) during the Settlement Agreement period, or only 10% of additional Project diversions. According to the Los Angeles County Department of Public Works (LACDPW) stream gage below Devil's Gate Dam (F-277), the Dam has discharged on average 573 AFY during this same period, more than five-times the additional diversion that would result from this project. Thus, additional Project diversions would comprise only a small percentage in comparison with water discharged by Devil's Gate Dam during this period.

Over the past 31 years, only 66 days between April 15 and June 30 (the period affected by the Settlement Agreement) have had sufficient flow at the Arroyo Seco gage to be considered for additional diversion by the Project, an average of 2.1 days per year. This is equivalent to an occurrence of only 2.8% of all days covered by the Settlement Agreement period. During these 66 days, 44 have had no

discharge from Devil's Gate Dam. Only 8 of the past 31 years (none occurring within the past decade) have had at least one day within the Settlement Agreement period with sufficient flow to be considered by the Project, but which have also experienced discharge at the Devil's Gate Dam.

It should be noted that the LACDPW assigns a value of 0 cfs for groundwater infiltration behind Devil's Gate Dam in its Devil's Gate Stormwater Capture Model. As LACDPW has determined percolation behind the Dam to be ineffective, this model is currently being used to size the facilities proposed to pump water out of Devil's Gate Reservoir to infiltration basins so that it may percolate to the underlying aquifer in the Monk Hill Basin.

Additional analysis of the effects of the Settlement Agreement upon ponding need not be considered because of the unlikelihood of observing flows large enough to be affected by the Project within the 76-day period affected by the Settlement Agreement, the limited impact of Project diversions upon Devil's Gate discharge volume, and the insignificant Devil's Gate Dam infiltration rate.

2-3 Regarding the comment's assertion that the Project would have a significant impact on the Raymond Basin groundwater supplies, this assertion is inaccurate. The comment references a comment letter on the Arroyo Seco Canyon Project from Ken Kules dated December 31, 2020, which claims that the proposed Project will have a detrimental effect on groundwater recharge in the Raymond Basin. Mr. Kules argues that were it not for the increase in diversions proposed by the Project, this water would largely percolate in the natural stream bed and in the ponding behind Devil's Gate Dam. Included in his letter, Mr. Kules provides calculations based off of historic stream flow data at the Arroyo Seco stream gage (USGS 110980) to attempt to show that the proposed Project's diversion of surface water will result in less groundwater recharge than were the water left to flow in its natural stream bed.

To make this argument, Mr. Kules makes several erroneous assumptions:

- Assumption #1: A streambed percolation rate of 5 cubic feet per second (cfs) per mile.

This assumption is based off of a Phillip Williams & Associates (PWA) 2000 study that made assumptions from qualitative visual observations of the rate of leakage from streambeds, distances, and heterogeneity of the watershed. These assumptions were not supported by any quantitative measurements. Additionally, the presumption of a constant percolation rate overlooks any effects of soil moisture or pore saturation. While initial percolation rates in a dry porous media might be temporarily high, as the underlying vadose zone begins to saturate, percolation rates decline to a much lower steady-state. On January 18, 1999 when this estimate was made, no significant rainfall had occurred for more than a month. Streambed materials would have been dry and more receptive to percolation than under saturated conditions when pore spaces are filled. Mr. Kules extrapolated an assumed rate of infiltration from qualitative visual observations by PWA to define a quantitative infiltration rate of 5 cfs per mile for streambeds. There is no direct field measurement in the Arroyo Seco to substantiate this value.

- Assumption #2: Devils Gate Percolation between 24 cfs and 29 cfs

This assumption, estimated in the same PWA 2000 study, extrapolates the spreading basin percolation rates to the full Devil's Gate Reservoir. This estimation equates percolation in the spreading basins, which have historically received no more than 25 cfs of diversion flow, with that of Devil's Gate Reservoir, which received flows as high as 4,300 cfs in the year prior to this assumption. Such high flows would carry a heavy sediment load which would be ponded behind Devil's Gate Dam and could

significantly lower percolation rates through siltation and plugging of pore space. The PWA Study quotes the LACDPW as noting "…that while it is possible to control the level of sediment entering the existing Arroyo Seco Spreading Grounds by only diverting during times of relatively sediment-free flow, there is no way to control the level of sediment carried by flows that eventually pond at the dam." Even though LACDPW, as operator of the Devil's Gate Dam and Reservoir, plans regular maintenance to avoid large-scale sediment removal projects in the future, the purpose of this removal is for flood control and not for any expected increase in percolation. In fact, LACDPW has assigned a value of 0 cfs for groundwater infiltration behind Devil's Gate Dam in its Devil's Gate Stormwater Capture Model. As LACDPW has determined percolation behind the Dam to be ineffective, this model is currently being used to size the facilities proposed to pump water out of Devil's Gate Reservoir to infiltration basins so that it may percolate to the underlying aquifer. In summary, the underlying sediments beneath the reservoir are silt and silty-sand with lower infiltration rates compared to the gravelly sand at the spreading basins. This is corroborated by LACDPW's estimate of a low infiltration rate of 0 cfs at the reservoir to develop their project design to pump ponded water from the reservoir to the spreading basins.

- Assumption #3: Constant 4 cfs contribution to stream flow from sources between the Arroyo Seco stream gage and Devil's Gate Dam

Using a limited historical period of only 11 days (from February 6-16, 2017), when hydrology was admittedly not affected by high flows or stormwater, Mr. Kules uses the comparison between flow at the Arroyo Seco stream gauge (USGS 110980) and flow at the LACDPW gage below Devil's Gate Dam (F-277) to estimate other inflows to the Arroyo Seco for the reach below the City's existing point of diversion. These sources would include Millard Creek, the Altadena Storm Drain and the West Altadena Drain, among others which flow principally during and after storm events ignored by Mr. Kules through his limited data selection. Mr. Kules states that the discharge at gage F-277 below Devil's Gate Dam, on days when flow at the Arroyo Seco stream gage is equal to the spreading basins' long-term percolation rate of 18 cfs, is equal to the contribution to Arroyo Seco flow from other sources located downstream of the gage. He then extrapolates this 11-day Dam discharge average of 4 cfs to cover the entire 10,957 days (30 years) of the modeled period.

His methodology overlooks decades of data from both gages that shows long-term average flows for the 31-year period of 9.52 cfs at the upstream Arroyo Seco stream gage and 15.79 cfs at the discharge of Devils Gate Dam. Specifically, when Arroyo Seco flows of 18 cfs were observed, Devil's Gate Dam has historically discharged an average of 21.26 cfs, not 4 cfs as proposed by Mr. Kules in his limited data selection. By choosing a period of medium flow (from February 6-16, 2017, the Arroyo Seco flows averaged 13.2 cfs) not influenced by rain events, this assumption is not representative of Project conditions and ignores the proposed Project changes to current operations, (i.e. diverting 25 cfs from flows up to 100 cfs during larger storm events).

On average, Devil's Gate Dam has discharged 11,429 acre feet per year (AFY) or 15.79 cfs since 1989, while stream flow at the Arroyo Seco gage has averaged 6,891 AFY, 9.52 cfs. Devil's Gate outflows leave the Monk Hill Subbasin via the lower Arroyo Seco and Los Angeles River, which are mostly concrete-lined from Devil's Gate Dam to San Pedro Bay. Of the total Devil's Gate discharge lost from the basin, 9,334 AF occurs from January through April (or an average of 40 cfs over those four months) and is the water that the proposed Project is intending to partially capture and infiltrate into the groundwater basin. Ken Kules' analysis does not account for the magnitude of water released annually from the Dam and lost to the ocean.

- Assumption #4: Only 18 cfs can be diverted in the existing condition

Although the current spreading basin capacity infiltrates approximately 18 cfs at a sustained rate, the basins have the ability to percolate at a higher rate for a short period of time. The diversion structure has the ability to divert the full right of 25 cfs.

While questioning the validity of its underlying assumptions for the reasons highlighted above, an analysis has been conducted to consider Mr. Kules' calculations on their own merit. Using his assumptions of Devil's Gate percolation between 24 and 29 cfs, additional flows of 4 cfs, no rainfall within the basin and the other assumptions detailed above, we repeated Mr. Kules' calculations. While we can confirm the validity of most of his calculations, it would appear on the final page that he did not convert from cubic feet per second (a flow rate) into acre feet (a volume) for proposed condition percolation totals (11,678 to 13,772 AF) as he had done for the existing condition percolation totals. Without this calculation error, proposed condition percolation would be between 772 and 911 AFY (not 424 AFY).

Taking into account this conversion error, Mr. Kules' summary table has been corrected below in Table 2. Even if one were to overlook the errors in the assumptions made for this calculation, it can be seen that the proposed Project would not have a net-negative effect upon recharge in the Monk Hill Subbasin as stated by Mr. Kules.

Table 2. Updated Summary of Ken Kules' Calculations (Acre Feet per Year)

Summary	Kules Assumed Existing Conditions	Kules Modeled Project Condition	Corrected Kules Modeled Project Condition
Diverted and Spread			
Baseline	1,973	1,973	1,973
Increment	0	1,104	1,104
Percolation behind Devil's Gate Dam (streambed and ponding)	1,047	424	841
New Groundwater Pumping (80% of increment)	0	(883)	(883)
Effect on Groundwater	3,020	2,618	3,035

2-4 Regarding the comment that the Project fails to provide for fish passage or streamflow for fish passage, per Fish and Game Code sections 5931 and 5937, this assertion is inaccurate. The Fish and Game Code requires that free passage over or around any dam as well as sufficient streamflow be allowed to pass over, around or through a dam to accommodate "any fish that may be planted or exist below the dam." Contrary to the commenter's assertion that the proposed Project does not comply with Fish and Game Code 5937, the proposed diversion/intake structure in Area 2 would improve biological functions beyond the current conditions, and would allow for compliance with the Fish and Game Code requirements through the diversion's design features and through operational requirements, as set forth in MM-BIO-7.

As stated in Section 4.2.5 of the Draft EIR, if fish were present in the Study Area in the current condition, fish could be transported downstream to be potentially stranded in the spreading basins due to the lack of a fish screen at the intake or in isolated pools of water between the diversion and the JPL Bridge, or lost when passed into Devil's Gate Reservoir where flows spread out and habitat is unsuitable. The loss of surface water connectivity within the Arroyo Seco and subsequent isolation of pools occurs primarily during the late summer/early fall months when there are periods of low to zero flows in the stream above the diversion structure in Area 2. Stream flows within the Arroyo Seco are below 1 cfs approximately 35% of the year and drop to zero approximately 10% of the year, based on data from the United States Geological Survey (USGS) stream gage No. 11098000. This lack of surface water is the primary barrier for fish movement in the existing condition from about the JPL Bridge upstream where substrate and cover is good, but surface water is lacking. Below the JPL Bridge, the flatter sediment load of the reservoir is open to solar heating, is dominated by finer substrates, and cover and pools are rare or absent. Also, the Arroyo Seco is subject to frequent dry conditions due to loss of aboveground flow as the channel emerges from the canyon into the alluvium, where water flow is primarily subterranean.

Further, as assessed under Threshold 4.2d in Section 4.2, Biological Resources of the Draft EIR, under existing conditions the diversion dam is a barrier to the movement of small aquatic animals due to an approximate 4-foot elevation drop downstream of the structure, in addition to steep channel segments and step-pool or bedrock drops preventing upstream fish passage. Therefore, if fish were to be present, their movement would be restricted and they may perish due to isolation or stranding.

The proposed Project would remedy some of the existing conditions in the Arroyo Seco that hinder the survival of fish populations. The proposed Project would include a fish screen to prevent future fish populations from being conveyed into and isolated within the spreading basins. Additionally, the Project includes an engineered roughened channel downstream of the new diversion structure and operable weir gate to allow return passage upstream should fish pass during periods of high flows. The proposed roughened channel profile slope downstream of the diversion weir would be 4% and, therefore, reasonably similar to a natural steep section or chute in the adjacent reaches of channel. The roughened channel would be designed to allow operational changes that could accommodate low- and high-flow fish passage and would include a small cushion pool at the crest to prevent injury and an asymmetric cross-section to provide appropriate depths and velocities across the range of design flows.

The comment erroneously claims the EIR takes the position that compliance with California Fish and Game Code (CFGC) sections 5901 and 5937 is contingent upon native fish being found within 1,500 feet upstream to 2,000 feet downstream of the Project site, and that the California Department of Fish and Wildlife (CDFW) found the finding false and the Project violates the codes. The proposed Project will be built and can be operated as if fish were present under the current condition; this includes implementation of a Monitoring Plan (MM-BIO-7). The proposed length of the stream identified to be monitored is within a section that has an upstream barrier (Brown Mountain Dam located approximately 3.9 river miles from Area 2) and downstream barrier (Devil's Gate Dam located approximately 1.7 river miles from Area 2) that limits the movement of fish in the Arroyo Seco. At the time of the preparation of the EIR there was no identified plan to remove either barrier, so limiting the monitoring between the two substantial structures is appropriate. Importantly, the CDFW stated in their second comment letter (dated January 6, 2021) that the agency "…agrees that the area surveyed for the Project and use of the 2010 California Salmonid Stream Habitat Restoration Manual (4th Edition) is adequate…" and "…looks forward to coordinating with Pasadena Water and Power on diversion structure and the

Monitoring Plan…" as required by MM-BIO-7, indicating that the approach of utilizing subsequent monitoring and potential fish rescue is appropriate given current conditions.

2-5 Regarding the comment related to the adequacy of fish studies performed for the Project, the topic was adequately addressed in the Draft EIR. The section of the Arroyo Seco surveyed for the proposed Project, as stated in the Biological Resources Technical Report, prepared by Dudek, dated May 2020 (Appendix D to the Draft EIR) includes an upstream barrier (Brown Mountain Dam) and downstream barrier (Devil's Gate Dam) that limits the movement of fish in the Arroyo Seco and presents a partially closed system (i.e., fish cannot leave). The Study Area for the fish survey was conducted in one continuous pass that originated where surface water ended downstream of the JPL bridge to the Brown Mountain Dam. At the time of the survey, October 14, 2019, USGS stream gage No. 11098000[1], located approximately one mile upstream of Area 2, recorded water flow at less than 1 cubic foot per second and the gage height was recorded at less than one foot. This indicates that water levels were low within the Study Area portion of the Arroyo Seco during the survey which reduces the potential habitat and refugia for fish and makes it more likely that a trained observer would locate any fish, not just rainbow trout or arroyo chub. As stated in the Fisheries Review Letter authored by Dr. Camm Swift included as Appendix B-1 of the DEIR, there are currently no fish known to inhabit the Arroyo Seco above Devils Gate Dam, according to surveys and observations made by National Oceanic and Atmospheric Administration Steelhead Recovery coordinator Mark Capelli In August 2018 (email dated August 22, 2019) and by California Fish and Wildlife Fishery Biologist John O'Brien (email communication dated August 22, 2019).

This comment asserts that the Draft EIR does not adequately describe the environmental baseline conditions regarding fish in the Arroyo Seco. Section 4.2 of the EIR and Appendix (Biological Resources Technical Report for the Arroyo Seco Canyon Project Areas 2 and 3) provide an in-depth literature review and field studies to adequately document the environmental baseline for the existing conditions of fish in the Arroyo Seco.

This comment states that MM BIO-7 misstates CFGC Sections 5932 and 5937, narrows the requirements contained therein, and sets infeasible conditions for a purported future compliance with the codes. These assertions are inaccurate. At the time of the preparation of the EIR, there was no identified plan to remove Devil's Gate Dam, which inhibits upstream passage of fish. CFGC 5937 requires sufficient water to pass over, around or through a dam, to keep adequate conditions for the passage of any fish that may be planted or exist below the dam. The proposed Project has committed to satisfy these requirements.

Fish are not expected to occur downstream of Area 2 based upon the existing conditions described throughout the EIR and its appendices. As such, MM-BIO-7 identifies a methodology to determine the presence of downstream fish, should conditions change in the future. As stated in MM-BIO-7, annual survey protocols shall be established to the satisfaction of CDFW and set forth in a Native Resident and Migratory Fish Monitoring Plan (Monitoring Plan). If the results of the annual surveys reveal a positive presence of native fish, the Monitoring Plan shall set forth thresholds for determining the permanency of the population, and whether or not connectivity both upstream and downstream of the diversion structure is appropriate and in the best interest of the long-term survival of an established native or migratory fish population, given hazards associated with stranding downstream. Further, MM-BIO-7 requires that until

[1] https://nwis.waterdata.usgs.gov/usa/nwis/uv/?cb_00060=on&cb_00065=on&format=gif_default&site_no=11098000&period=&begin_date=2019-10-12&end_date=2019-10-16

passage for steelhead is restored to the Arroyo Seco, the City shall implement a program to rescue fish between the diversion structure and the JPL Bridge. If rescue is determined to be ineffective or impractical, then the City shall modify its operations to accommodate passage. Lastly, MM-BIO-7 requires that at such time as steelhead passage is restored, the City shall alter either the design of the diversion/weir structure, the operational methods of the diversion/weir structure, or both to satisfy CFGC Sections 5901 and 5937. In summary, the proposed Project is protective of future fish populations through design features (i.e. fish screen, roughened channel, and an operable weir gate) and the Draft EIR requires that the City provide for the passage of fish through design changes or operational changes, as appropriate to satisfy Fish and Game Code Sections 5901 and 5937. Importantly, the CDFW stated in their second comment letter (dated January 6, 2021) and submitted for review at the Hearing Officer's meeting, that the agency looks forward to coordinating with the City on diversion structure and the Monitoring Plan (MM-BIO-7) to ensure compliance as set forth by CFGC sections 5901 and 5937.

2.6 Regarding the comment that there have been changes to the Draft EIR that would result in environmental impacts, this assertion is inaccurate. It is assumed that this comment refers to changes made through the Final EIR, as described in Section 3, Changes to the Draft EIR, although the comment is not clear on this. None of the modifications to the text itemized in the Final EIR provide new information that would trigger recirculation of the EIR prior to certification, per the guidance provided in CEQA Guidelines Section 15088.5.

Regarding the revision to Cultural Resources, the additional information on the El Prieto Trail was not included in the Draft EIR because the trail is outside of the study area and although the road may have been used for local access, the road has been dramatically altered by subsequent historical flood events and altered by CCC-era road construction such that the original route no longer retains the necessary physical or material integrity to convey their history. The additional information was provided for context, and the Final EIR clearly states that it does not have any effect on the analyses, conclusions, or mitigation measures set forth in the Draft EIR or the associated Cultural Resources Technical Report, and that no other revisions are required.

Regarding the additional text added to "Areas of Known Controversy" in the Executive Summary of the Draft EIR, the issue of percolation rates is part of the larger context of concerns related to the expansion of the spreading basins articulated through several comment letters provided through the Notice of Preparation public review period. Table 1-1 in Section 1, Introduction of the Draft EIR, includes general summaries of the NOP comments received, which includes the following, "This letter requests evaluation of: alternatives to the Project; evaluation of cumulative impacts related to the Devil's Gate sediment removal project; assessment using the best available information related to percolation rates in spreading basins; and requests decreased diversions and reliance more on the natural stream hydrology." Further, several of the comment letters included in Appendix A of the Draft EIR provide detailed descriptions of such concerns, which are subsequently thoroughly addressed throughout Section 4.5, Hydrology and Water Quality of the Draft EIR. In the Final EIR, the topic is further explained in response to Comment Letter 6, as well as subsequent letters. As stated in Section 3.1, Introduction of the Final EIR, none of these additional explanations provide new information that would trigger recirculation of the EIR prior to certification, per the guidance provided in CEQA Guidelines Section 15088.5.

2-7 Regarding the recent sightings of the endangered least Bell's vireo downstream of the proposed diversion dam, this information was made available after the public review period for the Draft EIR.

Nevertheless, Appendix D of the Draft EIR acknowledges the occurrence of this species in Hahamongna Watershed Park. The occurrence of a breeding pair does not change the analysis that the Project will have a less than significant impact on downstream habitat, including occupied least Bell's vireo habitat, as stated in Section 4.2.5, Appendix D of the Draft EIR, and the updated analysis (performed by Psomas and dated October 14, 2020) that was included in the Final EIR.

Regarding the addition of the mountain lion discussion to the Final EIR, mountain lions are identified as occurring in the Study Area in Section 5.3.5 of Appendix D of the Draft EIR. The Project's lack of impact on the movement of terrestrial wildlife, which includes the mountain lion, is discussed in Section 4.2.5 of the Draft EIR. As stated in the Final EIR, mountain lions would only be expected as a transient in the Project sites and natal dens would not be expected based upon studies of the species. Thus, the consideration of listing mountain lions under the California Endangered Species Act does not change the environmental setting since impacts to the species are not expected and no new mitigation would be required. As stated in Section 3.1, Introduction of the Final EIR, none of these additional explanations provide new information that would trigger recirculation of the EIR prior to certification, per the guidance provided in CEQA Guidelines Section 15088.5.

2-8 Regarding the comment that implementation of MM-BIO-4 and MM-BIO-6 would cause significant environmental impacts if implemented, this assertion is inaccurate. MM-BIO-4 and MM-BIO-6 both require the approval of Habitat Mitigation and Monitoring Plans by CDFW, U.S. Army Corps of Engineers, and Los Angeles Regional Water Quality Control Board. These agencies are also responsible for issuing permits for impacts to jurisdictional waters. As such, implementing the establishment of vegetation and jurisdictional waters would be subject to their conditions and approval and conducted in accordance with all applicable regulations, and these agencies would not permit activities that could further impact sensitive resources on-site or downstream of the proposed mitigation areas. Further, the California Environmental Quality Act (CEQA) explicitly excludes restoration of a natural resource from environmental review, and such activities are categorically exempt (see CEQA Guidelines Section 15307 and 15308). As stated in Section 3.1, Introduction of the Final EIR, none of these additional explanations provide new information that would trigger recirculation of the EIR prior to certification, per the guidance provided in CEQA Guidelines Section 15088.5.

2-9 Regarding the comment that the EIR for the proposed Project be recirculated for an additional public review due to the presence of "significant new information", this assertion is inaccurate. As addressed through Responses 2-2 through 2-8 above, no new significant information has been provided that would deprive the public of a meaningful opportunity to comment upon a substantial adverse environmental effect of the project or a feasible way to mitigate or avoid such effects. As stated in Response 2-1, the Hearing Officer made clear that he had thoroughly read the Draft EIR and Final EIR, including all comment letters received by the City leading up to, and during, the hearing. The Hearing Officer explicitly stated his understanding of the nature of the project and the issues raised at the hearing prior to certifying the Final EIR.

2-10 The Final EIR provides comprehensive responses to all comment letters received during the public review period, and no new information was provided during the preparation of the Final EIR or subsequently prior to the Hearing Officer's meeting on January 6, 2021, that would trigger recirculation of the EIR prior to certification, per the guidance provided in CEQA Guidelines Section 15088.5.

Appendix A

Request for Appeal

APPEAL LETTER #1

PASADENA PERMIT CENTER
www.cityofpasadena.net/permitcenter

REQUEST FOR APPEAL

APPLICATION INFORMATION

Project Address: 3420 and 3500 North Arroyo Blvd.

Case Type (MCUP, TTM, etc.) and Number: Modification to CUP #6222 and FEIR - Arroyo Seco Canyon Project

Hearing Date: January 6, 2021 Appeal Deadline: January 19, 2021

APPELLANT INFORMATION

APPELLANT: Arroyo Seco Foundation et. al. Telephone: [ ] 323 405-7326

Address: 539 E. Villa St. #2 Fax: [ ]

City: Pasadena State: CA Zip: 91101 Email: tim@arroyoseco.org

APPLICANT (IF DIFFERENT): City of Pasadena Water & Power Department

I hereby appeal the decision of the:

- ☒ Hearing Officer
- ☐ Zoning Administrator
- ☐ Design Commission
- ☐ Director of Planning and Development
- ☐ Historic Preservation
- ☐ Film Liaison

REASON FOR APPEAL

The decision maker failed to comply with the provisions of the Zoning Code, General Plan or other applicable plans in the following manner (use additional sheets if necessary):

1-1 The Arroyo Seco Foundation, a 501(c3) non-profit corporation, together with Pasadena Audubon Society, Hugh Bowles, and Pasadena residents Ken Kules and Morey Wolfson, join in this appeal of Hearing Officer Paul Novak's Certification of the Final Environmental Impact Report (SCH #2014101022) and the adoption of CEQA Findings and the Mitigation Monitoring and Reporting Program for the proposed Arroyo Seco Canyon Project. The Hearing Officer failed to consider significant gaps in the FEIR and the omission of important information that have deprived the public of a meaningful opportunity to understand and comment upon the impacts of the Project and the changes in it. The Hearing Officer's determination should be withdrawn. The EIR should be revised to respond to these concerns and other pertinent considerations and recirculated to allow agencies and the public to comment on the Projects and its impacts. See also attached statement.

Timothy F. Brick
Signature of Appellant

January 19, 2021
Date

* OFFICE USE ONLY

PLN # CASE # PRJ #

DESCRIPTION

DATE APPEAL RECEIVED: APPEAL FEES: $ RECEIVED BY:

APP-RFA Rev: 1/18/07

Appendix B

Reason for Appeal of Hearing Officer's Determination

ARROYO SECO FOUNDATION

APPEAL LETTER #2

Reason for Appeal of Hearing Officer's Determination Regarding FEIR and Conditional Use Permit #6222 - Arroyo Seco Canyon Project

The Arroyo Seco Foundation, together with Pasadena Audubon Society, Hugh Bowles, and Pasadena residents Ken Kules and Morey Wolfson, join in this appeal of Hearing Officer Paul Novak's Certification of the Final Environmental Impact Report (SCH #2014101022) and the adoption of CEQA Findings and a Mitigation Monitoring and Reporting Program for the proposed Arroyo Seco Canyon Project (the Project). 2-1

During the hearing of January, 6, 2021, the Hearing Officer failed to address numerous points of contention outlined in comments on the Final Environmental Impact Report (FEIR) made by the Arroyo Seco Foundation, Ken Kules, Hugh Bowles, and the Pasadena Audubon Society, indicating that he did not invest the time to understand the underlying arguments in those comments and imprudently chose not to question City staff regarding how the FEIR and the staff report and presentations addressed FEIR comments with regard to:

- **Failure to include an evaluation of the condition of future ponding upstream of Devil's Gate Dam in assessing the impact of the project on the Monk Hill Basin.**

  Both the FEIR (response 14.1-5) and the staff presentation at the hearing relied on analysis of historic conditions to make a case for the conclusion in the DEIR that "The proposed Project would not substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the project may impede sustainable groundwater management of the basin, and no mitigation is required." (p. 46)

  The FEIR analysis - which offers new arguments regarding Project impacts - is clearly deficient as it does not consider the changed condition regarding ponding upstream of Devil's Gate Dam as described in Ken Kules' December 31, 2020 FEIR comments (p. 6) nor does it even acknowledge that the changed condition will occur as a matter of a legal settlement achieved by the Arroyo Seco Foundation and Pasadena Audubon in July, 2020 in *Arroyo Seco Foundation v. Los Angeles County Flood Control District*. This settlement agreement has great relevance to the management of the Devil's Gate basin as well as to the habitat and groundwater percolation that will be impacted by the Project's diversions. 2-2

(ASF, p. 5). The Hearing Officer failed to note the omission of this matter in the FEIR or the City's analysis in this regard.

- **Failure to address that there will be an adverse and significant impact on the Raymond Basin groundwater**.

  The simple analysis on p. 10 of Mr. Kules' comments on the FEIR clearly shows that there will be an adverse impact on Raymond Basin groundwater as a result of ASCP operations. That impact has not been acknowledged or addressed by the Hearing Officer and mitigation has not been proposed. The analysis discussed in Mr. Kules' FEIR comments on pp. 11-13 concludes that the adverse impact is significant and a Finding of Overriding Considerations is required for the ASCP to proceed. The Hearing Officer failed to make a technically-based rational judgment concerning the validity of the City's assertion that Mr. Kules' comment on the FEIR (p.11) is "inaccurate." Without providing substantial reasons, the Hearing Officer accepted the City's dismissal of Mr. Kules' analysis. This, despite Mr. Kules' rigorous granular analysis. In addition, the Hearing Officer did not provide substantial justification for accepting the City's disregard for the changed operation of Devil's Gate Dam and reservoir.

2-3

- **Failure to Provide for Fish Passage or Adequate Streamflow to Accommodate Potential Fish Populations.**

  The Project concedes that the Project fails to comply with Fish & Game Code sections 5931 and 5937, which require that free passage over or around any dam as well as sufficient streamflow be allowed to pass over, around or through a dam to accommodate "any fish that may be planted or exist below the dam." (FEIR at 2-177.)

  The EIR takes the position that compliance with sections 5901 and 5937 is contingent upon the City locating native fish within 1,500 feet upstream to 2,000 feet downstream of the Project Site. (DEIR at ES-18.) The California Department of Fish & Wildlife, however, found that the City's finding is specious and is based upon an inadequate survey that fails to comply with California regulatory requirements (FEIR at 2-23). The Project clearly violates sections 5931 and 5937 which require that passage and streamflow be adequate for any fish, native or otherwise, that may exist downstream of the dam irrespective of whether the City's perfunctory search of them may happen upon one.

2-4

- **Failure to include information lawfully required Information in the FEIR about the Potential Presence of Fish in the Arroyo and to Support its Finding that No Fish are in the Arroyo with Substantial Evidence**

The Arroyo Seco Foundation and others who commented in the FEIR noted the glaring deficiencies in the FEIR's fish information and interpretation of the California Fish & Game Code (ASF p9). As the California Department of Fish & Wildlife notes, surveys were only conducted for southern steelhead and rainbow trout and not for any fish populations in general. (FEIR at 2-23.) In addition, California Department of Fish & Wildlife found that the methods utilized to conduct the wildlife surveys were inadequate and that the methods utilized by the City "can miss fish that may be hiding between boulders, below undercut banks, or in shadowed areas of the stream." (*Id.*) The Hearing Officer, however, did not note these comments, or question City staff about them, or respond to them in any way.

Failure to conduct adequate surveys for wildlife is more than just an omission of information. It represents a failure to adequately describe an environmental baseline, as well as a failure to supply substantial evidence to support the City's finding that there are no fish in the Arroyo.

2-5

MM Bio-7 has been substantially revised in the FEIR, but the measure misstates CA Fish & Game Code 5932 and 5937, narrows the requirements contained therein, and sets infeasible conditions for a purported future compliance.

The Hearing Officer asserted that he had reviewed the entire prior record of the CEQA proceedings but did not clearly demonstrate his consideration of the issues raised here and in comments on the FEIR, nor did he engage in any questioning of staff on these matters in the hearing. Resolution No. 2021-01 says that the evidence considered "included the Final EIR, including the public comments about environmental impacts that were made on the Draft Environmental Impact Report prepared for the Project" but does not cite consideration of comments made on the FEIR or responses to them.

The FEIR Deprived the Public of a Meaningful Opportunity to Comment Upon Changes in the Project, Environmental Setting, Mitigation Measures and Other Critical Data.

The FEIR makes numerous changes to the EIR including modifying "areas of known controversy," project objectives, new and previously undisclosed biological impacts to special status species, as well as new mitigation measures that could have undisclosed environmental impacts by themselves. (FEIR 3-1 – 3-12). In addition, the FEIR modified the environmental setting, noting previously undisclosed information concerning cultural resources on the Project Site.

2-6

In particular, the FEIR added a whole new area of controversy as to whether "percolation rates in the spreading basins are poor." The efficacy and efficiency of spreading basins as a means of recharging groundwater resources goes to the core project objectives, and the FEIR must be

recirculated with information as to the City's analysis regarding the percolation rates in spreading basins.

The FEIR fails to note recent sightings of a family of the endangered Least Bell's in the downstream area that will be impacted by increased diversions. It also documents the presence of an entirely new sensitive status species, mountain lion, which demonstrates that the FEIR omitted crucial information which was required to be included in the Draft EIR regarding the environmental baseline, and requires recirculation due to modifications in the environmental setting. (FEIR 3-2 – 3-3.) 2-7

The FEIR also adds additional mitigation activities that require environmental analysis. MM-BIO-4 mentions the establishment of white alder-California sycamore woodland in Area 1 without describing or analyzing the activities necessary to establish this particular habitat, activities that could have significant environmental impacts. MM-BIO-6 mentions the establishment of jurisdictional waters within Area 1, additional activities that could have significant environmental impacts that are not described in the current FEIR. 2-8

The only remedy for these failures is recirculation of the EIR with regard to these issues.

Mr. Kules raised the point with regard to CEQA Section 15088.5 requirements in his comments on the FEIR that "*the California Environmental Quality Act (CEQA) requires that the EIR be recirculated to provide opportunity to disclose the impacts."*

Section 21092.1 of the California Public Resources Code requires that "[w]hen significant new information is added to an environmental impact report after notice has been given pursuant to Section 21092 … but prior to certification, the public agency shall give notice again pursuant to Section 21092, and consult again pursuant to Sections 21104 and 21153 before certifying the environmental impact report" in order to give the public a chance to review and comment upon the information. (CEQA Guidelines § 15088.5.)

Significant new information includes "changes in the project or environmental setting as well as additional data or other information" that "deprives the public of a meaningful opportunity to comment upon a substantial adverse environmental effect of the project or a feasible way to mitigate or avoid such an effect (including a feasible project alternative)." (CEQA Guidelines § 15088.5(a).) Examples of significant new information requiring recirculation include "new significant environmental impacts from the project or from a new mitigation measure," "substantial increase in the severity of an environmental impact," "feasible project alternative or mitigation measure considerably different from others previously analyzed," as well as when "the draft EIR was so fundamentally and basically inadequate and conclusory in nature 2-9

that meaningful public review and comment were precluded." (*Id.*)

An agency has an obligation to recirculate an environmental impact report for public notice and comment due to "significant new information" regardless of whether the agency opts to include it in a project's environmental impact report. (*Cadiz Land Co. v. Rail Cycle* (2000) 83 Cal.App.4th 74, 95 [finding that in light of a new expert report disclosing potentially significant impacts to groundwater supply "the EIR should have been revised and recirculated for purposes of informing the public and governmental agencies of the volume of groundwater at risk and to allow the public and governmental agencies to respond to such information."].) If significant new information was brought to the attention of an agency prior to certification, an agency is required to revise and recirculate that information as part of the environmental impact report.

2-9

The Hearing Officer's failure to discuss the issues raised here has resulted in a CEQA administrative record that is sorely lacking and the EIR must be recirculated.

Conclusion

These significant gaps in the FEIR and the omission of important information have deprived the public of a meaningful opportunity to understand and comment upon the impacts of the Project and the changes in it. The Hearing Officer's determination should be withdrawn. The EIR should be revised to respond to these concerns and other pertinent considerations and recirculated to allow agencies and the public to comment on the Projects and its impacts.

2-10

References:

- *Arroyo Seco Foundation v. Los Angeles County Flood Control District* Settlement Agreement
- Arroyo Seco Foundation Comments on ASCP FEIR
- Comments of Ken Kules on ASCP FEIR

ATTACHMENT I
HEARING OFFICER ADDENDUM (DATED MARCH 7, 2021)

ZHO Addendum for
Modification to Conditional Use Permit #6222 (Arroyo Seco Canyon Project)
3420 and 3500 North Arroyo Boulevard

March 5, 2021

On January 11, 2021, I issued a written determination approving the Modification to Conditional Use Permit #6222 (Arroyo Seco Canyon Project). Concurrent to the approval, I adopted Resolution No. 2021-01 (A RESOLUTION OF THE HEARING OFFICER OF THE CITY OF PASADENA CERTIFYING THE FINAL ENVIRONMENTAL IMPACT REPORT (SCH NO. 2014101022) FOR THE ARROYO SECO CANYON PROJECT AREAS 2 AND 3, ADOPTING ENVIRONMENTAL FINDINGS AND A MITIGATION MONITORING AND REPORTING PROGRAM) as well as Resolution No. 2021-02 (A RESOLUTION OF THE HEARING OFFICER OF THE CITY OF PASADENA ADOPTING A STATEMENT OF OVERRIDING CONSIDERATIONS IN CONNECTION WITH THE ARROYO SECO CANYON PROJECT AREAS 2 AND 3 (ALTERNATIVE B)).

I have reviewed the appeal, filed by Arroyo Seco Foundation et al, which was filed on January 19, 2021, including both the one-page "request for appeal" and the "Reason for Appeal of Hearing Officer's Determination Regarding FEIR and Conditional Use Permit #6222 – Arroyo Seco Canyon Project."

I believe that staff, as well as the consultants/experts retained by the City, are the appropriate parties to address the specific allegations that the environmental analyses associated with the requested Modification to Conditional Use Permit #6222 are inadequate. In that regard, I do not address those specific issues herein.

This addendum will address the appellant's allegations concerning what I did, or purportedly. did not do, while considering the Modification to Conditional Use Permit #6222. Specifically, the appellant makes the following allegations:

> "The Hearing Officer failed to consider significant gaps in the FEIR and the omission of important information that have deprived the public of meaningful opportunity to understand and comment upon the impacts of the Project and the changes in it."
> (Request for Appeal application, under REASON FOR APPEAL)

> "The Hearing Officer asserted that he had reviewed the entire prior record of the CEQA proceedings but did not clearly demonstrate his consideration of the issues raised here and in comments on the FEIR, nor did he engage in any questioning of staff on these matters in the hearing."
> (Reason for Appeal" attachment, Page 3)

> "The Hearing Officer's failure to discuss the issues raised here has resulted in a CEQA administrative record that is sorely lacking and the EIR must be recirculated."
> (Reason for Appeal" attachment, Page 3)

With respect to these allegations, I hereby note the following:

1. In advance of the public hearing, I thoroughly reviewed the entire CEQA documentation associated with the proposed project, which is exhaustive. This included the primary CEQA documents themselves (DEIR, FEIR), numerous technical studies, and documents addressing concerns raised by project opponents.

2. In advance of the public hearing, I thoroughly reviewed several letters provided by the appellant and other stakeholders.

3. There was substantial public testimony during the public hearing—notably, by the appellants—as well as other parties. I heard, and considered, all of this public testimony before rendering my decision on the Modification to Conditional Use Permit #6222.

4. The appellant's contention that I "failed to consider significant gaps in the FEIR" is inaccurate. The concerns expressed in the appeal were voiced in the letters I reviewed and in public testimony provided at the hearing—again, this project has an exhaustive administrative record relative to environmental issues, all of which I reviewed in advance of the hearing, and/or considered as part of the testimony during the hearing. Based upon these documents and testimony, I found the appellant's arguments to be less than persuasive and/or refuted by other portions of the public record (documents/testimony provided by city staff, environmental consultants, and/or legal counsel).

5. The assertion that the hearing officer "did not clearly demonstrate his consideration of the issues raised here and in comments on the FEIR, nor did he engage in any questioning of staff on these matters in the hearing" is inaccurate. I am under no legal obligation to "demonstrate my consideration" of an issue in public comments during a hearing; further, whether I "engage in any questioning of staff" on a matter in no way demonstrates that I am somehow unaware of a particular issue. Were decision-makers to be held to that standard, most determinations would be challenged as insufficient.

   It is often the case that I will ask staff questions while conducting hearings. I ask questions for a variety of reasons: to secure more information, to better understand a particular issue, to interpret or better understand a Municipal Code requirement, and for other reasons. With respect to the requested Modification to Conditional Use Permit #6222, I did not find any reason to ask additional questions of staff beyond what I said during the hearing.

I have served for nearly twenty years as a hearing officer, I have conducted more than 150 hearing officer hearings, and I have considered several hundred land-use applications. I feel confident that I have demonstrated the following abilities: one, a thorough understanding of the California Environmental Quality Act; two, the ability to read, absorb, and evaluate technical reports from experts in various fields (traffic, biology, geology, noise, etc.); three, to conduct a thorough review of background information—such as CEQA documents, reports, technical studies, photographs, land-use applications, plans, videos, and other materials) provided by City staff, legal counsel, and other stakeholders (applicants, neighbors, interest groups, issue advocates, and the general public) in advance of the public hearing; four, that I provide ample opportunity for all parties to present information, documentation, and testimony during the hearing; and, finally, that I give due consideration to the evidence and testimony provided by all parties, prior to rendering a decision on a particular land-use application. The appellant's suggestion to the contrary is inaccurate; further, were the appellant's allegations correct, they would be entirely inconsistent with my extensive record of service as a hearing officer.

Again, I will defer to staff, as well as the consultants/experts retained by the City, are the appropriate parties to address the specific allegations that the environmental analysis are inadequate.

Given the foregoing, the appellant has not provided a basis upon which to reject my certification of the CEQA documents associated with the Modification to Conditional Use Permit #6222, nor has the appellant provided an adequate reason why my decision should be overturned on appeal. The appeal should, therefore, be denied, and my original decision to approve Modification to Conditional Use Permit #6222, and to certify the CEQA documents, should be sustained.