

# Agenda Report

June 7, 2021

**TO:** Honorable Mayor and City Council

**FROM:** Planning & Community Development Department

**SUBJECT: APPEAL OF THE BOARD OF ZONING APPEALS' DECISION ON  
MODIFICATION TO CONDITIONAL USE PERMIT #6222  
3420 AND 3500 NORTH ARROYO BOULEVARD  
ARROYO SECO CANYON PROJECT**

## **RECOMMENDATION:**

It is recommended that the City Council:

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 Board of Zoning Appeals' 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 that the Hearing Officer approve Modification to Conditional Use Permit #6222, based on the analyses and that the findings necessary for approving the Modification could be made. Staff concluded that the proposed project, to allow the repair and replacement of the 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 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 K).

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

On March 18, 2021, the Board of Zoning Appeals considered Modification to Conditional Use Permit #6222. Staff recommended that the Board of Zoning Appeals uphold the Hearing Officer's January 6, 2021 decision and approve the Modification to Conditional Use Permit #6222.

At the conclusion of the public hearing, and after public testimony, a motion was made to uphold the Hearing Officer's decision, add additional conditions, and approve the Modification to Conditional Use Permit #6222 that resulted in a 5-0 vote by the Board of Zoning Appeals. The findings and conditions for the approval are specified in Attachment H (Board of Zoning Appeals Decision Letter).

On March 29, 2021, The Arroyo Seco Foundation (appellant) filed an appeal with the City Council, of the Board of Zoning Appeals' decision (Attachment F). The hearing before the City Council is a de novo hearing where the City Council has no obligation to honor the prior decision and has the authority to make an entirely different decision.

## **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 the 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.

#### Hearing Officer 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 the 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 on the fact 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 K). To supplement the decision, the Hearing Officer provided an addendum with explanation for approval of the application (Attachment J).

#### Board of Zoning Appeals' Public Hearing

On January 19, 2021, The Arroyo Seco Foundation (appellant) filed an appeal (Attachment I) with the Board of Zoning Appeals, of the Hearing Officer's decision. The appellant cited 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 the Hearing Officer 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.
- 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.
- Failure to address that there will be an adverse and significant impact on the Raymond Basin groundwater.
- Failure to provide for fish passage or adequate streamflow to accommodate potential fish populations.
- Failure to include 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 FEIR deprived the public of a meaningful opportunity to comment upon changes in the Project, Environmental Setting, Mitigation Measures and other critical data.
- The only remedy for these failures is recirculation of the EIR with regard to these issues.

On March 18, 2021, the Board of Zoning Appeals considered at a noticed public hearing, an appeal of the Hearing Officer's decision to approve Modification to Conditional Use Permit #6222. A response to each of the appellant's claims was provided to the Board of Zoning Appeals in the March 18, 2021, Board of Zoning Appeals staff report (Attachment M).

During public testimony, the appellant spoke in opposition and submitted a presentation to the Board of Zoning Appeals for review. At the conclusion of the public hearing, the Board of Zoning Appeals made a motion to uphold the Hearing Officer's decision and approve the project with the following four additional conditions of approval:

1. The project should seek stream flows that maximize percolation in the streams and habitats, to the extent possible.
2. The project should make renewed efforts to identify and understand the fish status within the stream and seek to support its habitat.
3. The applicant should provide a means to recover additional runoff water for diversion to the Raymond Basin.
4. A communication plan shall be developed by the Water and Power Department. The purpose of the communication plan is to provide interested parties the status of the project.

The motion resulted in a 5-0 vote by the members present. As a result, action was taken to approve Modification to Conditional Use Permit #6222 along with the findings and conditions in Attachment H.

### **APPEAL OF BOARD OF ZONING APPEALS DECISION**

On March 29, 2021, The Arroyo Seco Foundation (appellant) filed an appeal with the City Council, of the Board of Zoning Appeals' decision (Attachment F). The hearing before the City Council is a de novo hearing where the City Council has no obligation to honor the prior decision and has the authority to make an entirely different decision.

The appellant's reasons for the appeal of the Board of Zoning Appeals' decision can be found in Attachment F. Responses to the appeal application can be found in Attachment G.

### **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 can occur, 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

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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).

**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 consists 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 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 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 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 City Council uphold the Board of Zoning Appeals' decision and adopt a Resolution certifying the Final Environmental Impact Report (SCH #2014101022) adopting findings, adopt 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 City Council:

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 Board of Zoning Appeals' decision and approve Modification to Conditional Use Permit #6222 with the findings in Attachment A and conditions in Attachment B.

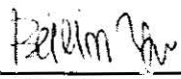
**FISCAL IMPACT:**

The recommended actions will have no immediate fiscal impact. There are sufficient appropriations available in the existing Capital Improvement Program budget to cover the cost of the proposed project, including construction. Further, PWP often uses the cost of imported water as a benchmark for evaluating alternative water supplies, and the increased local water supplies from the Arroyo Seco Canyon Project would cost less than importing water.

Respectfully submitted,

  
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STEVE MERMELL  
City Manager

Attachments: (13)

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 – Appeal Application of Board of Zoning Appeals' decision  
(dated March 29, 2021)  
Attachment G – Responses to the Appeal Application (dated May 2021)

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Attachment H – Board of Zoning Appeals' Decision Letter (dated March 23, 2021)

Attachment I – Appeal Application of Hearing Officer's decision  
(dated January 19, 2021)

Attachment J – Hearing Officer Addendum (dated March 5, 2021)

Attachment K – Hearing Officer Decision Letter (dated January 11, 2021)

Attachment L – Project Plans

Attachment M – Board of Zoning Appeals Staff Report (dated March 18, 2021)