

County of Los Angeles Department of Public Works

Attn: Water Resources Division – Reservoir Cleanouts

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January 15, 2014

Subject: Devil's Gate Reservoir Sediment Removal and Management Project - Keith Lilley

Dear Mr. Lilley,

This communication is intended as a Public Comment on the Draft Environmental Impact Report for the project.

I have been a property owner and taxpayer in the City of Pasadena, California for eight years. Listed on my Secured Property Tax For Fiscal Year July 1, 2013 to June 30, 2014 are the following Direct Assessments that I pay yearly to Los Angeles County: Flood Control, County Park District, County Sanitation District.

With this investment I place my trust in you and other managers in government agencies to make the best choices in how this money is spent. In reading through the description of this project and its many pages of appendixes on a very limited time schedule due to its requirement to be fully digested during a time of year when the Holiday schedule coincides, it appears to be quite alarming in its sloppiness and redundancy. However, I do appreciate the amount of difficulty you are faced with trying to coordinate all the different elements involved. Likewise, my comments are not as complete and detailed as I would like them to be.

CUMULATIVE AFFECT ANALYSIS INCOMPLETE

Why isn't there an assessment of the cumulative affect this project will have on the local ecosphere? Why is there no mention of the proposed Metro/Caltrans extension and tunnel construction of the 710 freeway? Is it lack of information each has of the other or simply expedient for both agencies; Metro/Caltrans and LACFC to coincide EIR studies to leave each other out? What is the logical explanation for this important omission when Gail Farber, your experienced director, spent nineteen years working for Caltrans?

CULTURAL RESOURCE ANALYSIS UNDULY MINIMIZED

Did you know that the sand and soils in what you call the Devil's Gate Dam Reservoir are of great value? In addition to being a taxpayer and having a financial investment in Hahamongna Watershed Park well-being, which you have regrettably avoided using its proper identifying name throughout the report, I am an oil painter trained in the technique of the historic High Renaissance period. The sand and soil in Hahamongna Watershed Park is collected to grind and mix with oil mediums to create an unique color palette and chemical alchemy that is distinctive to upper arroyo and mountains.

Did you know that the consultants you've hired who claim to have expertise on this subject appear to have failed you? They claim that since no ancient

bones have been left in the area you call the reservoir after decades of the site being pillaged and degraded, there could be no possible sacredness or historical significance in this part of the Arroyo Seco. How can you agree with their analysis? Your consultant and agent addressed this concern at a community meeting by rephrasing the question: "Are there any ghosts in the Devil's Gate Dam Reservoir?"

Why were the many artists, painters, spiritualists and naturalists, historians and kin to the native tribes that once camped along the shores of this river not considered? Did you know that this is what makes a place sacred and its rarity culturally important? Why did you not take advantage of the world class curators and experts on arroyo culture and art right here in the San Gabriel Valley?

INCOMPLETE DATA ON COMMERCIAL ENTERPRISE OPERATIONS AND LIABILITIES

Is Vulcan Materials, a private business, the likely award for this multi-million dollar trucking contract as well as the excavation job? Are you considering other private companies to avoid the appearance of making an extremely large gift to Vulcan Materials? What is the sales percentage paid out of your budget to the company or companies that receive the contracts?

Did you know that Vulcan Materials is the same company that has chosen, out of its short-term self-interest, to intentionally remove and severely alter the San Gabriel mountain skyline? Why would you pick a company that has demonstrated a lack of respect and care for aesthetics, and historic resources for the very part of this job that requires sensitivity?

Why does your report reveal a dismissal of the need to have low emission vehicles perform this massive undertaking? Is your 100 million dollar budget too restrictive? Do you need more money? Do you have enough budgeted for the massive claims and damages that will not be covered by the operators insurance policies?

As you can see in other public comments, the health and economic affects on residents will be quite severe and you have been formally noticed prior to taking any action. How will private commercial entities share in intentional liability? Who will be protected from or assume all of it?

Do you know of any protection the law provides when a "defendant" (that would be you and your agents/contractors) intentionally activates or causes intensification of a poison? Recently, in *People v. Atlantic Richfield Company, et al.*, Superior Court of California, County of Santa Clara, Case No. 1-00-CV-788657, Proposed Statement of Decision the judge wrote about lead paint poisons being unleashed upon an uninformed public:

"Each Defendant certainly knew or should reasonably have known that exposure to lead at high levels, including exposure to lead paint, was fatal or at least detrimental to children's health.

That knowledge alone should have caused each Defendant to cease its promotion and sale of lead pigment and/or lead paint for home use.

Instead, after becoming aware of the hazards associated with lead paint, they continued to sell it."

How is what manufactures of poisons did in that case different from what you

suggest doing in all of the alternative projects you have presented? Isn't the lack of a long term plan that does not put at risk the health and safety of living beings (not buildings) the same as selling lead paint year after year because nobody is watching? Is it a "So what? We'll just pay the fines and the claims."? As a taxpayer, you and I are partners, we can't operate like malignant psychopathic narcissists.

Did you know in July 2013 a report from the California Water Quality Monitoring Council said chromium VI was present in Pasadena water? The source of chromium VI in Pasadena drinking water is "naturally occurring" in contrast to the contamination caused by industry as in the Glendale water system. Whether the source is natural or industrial, chromium VI is especially toxic when made airborne by digging. ¹

Do you really think the use of a water spray truck will reduce the risk of contamination and its distribution? What about the dirt from tires and undercarriages? What about inadequate covering on the trucks? What about the surrounding living beings where the sediment will be dumped and poison made airborne again?

Is it a melodramatic scenario where 4,000,000 CY of sediment must be removed on a short, intensive schedule or flood damage will occur downstream? Isn't flood damage defined by property damage? How is property damage ever more important than the health of children and the elderly? Where is the legitimate scientific analysis that supports the extreme reaction? I see only analysis that supports a much more subtle approach presenting much less risk of harm to all living things—not buildings. Why have you interpreted your reports this way?

BEST MANAGEMENT PRACTICES HANDBOOK NOT FOLLOWED

In a document still in use by your agency entitled the Stormwater BMP Handbook, January 2003, Construction: Preservation of Vegetation EC-2, published by the California Stormwater Quality Association, it states clearly on the first page as best management practices this: " Carefully planned preservation of existing vegetation minimizes the potential of removing or injuring trees, vines, shrubs, and grasses that protect soil from erosion." Under the next heading, Suitable Applications: "Preservation of existing vegetation is suitable for use on most projects. Large project sites often provide the greatest opportunity for use of the BMP. Suitable applications include the following: Areas within the site where no construction activity occurs, or occurs at a later date. This BMP is especially suitable to multi year projects where grading can be phased.; Areas where natural vegetation exists and is designated for preservation. Such areas often include steep slopes, watercourse, and building sites in wooded areas.; Areas where local, state, and federal government require preservation, such as vernal pools, wetlands, marshes, certain oak trees, etc. These areas are usually designated on the plans, or in the specifications, permits, or environmental documents.; Where vegetation designated for ultimate removal can be temporarily preserved and be utilized for erosion control and sediment control.

On page 2, EC-2 Preservation of Existing Vegetation, Implementation: "The best way to prevent erosion is to not disturb the land."

Page 3, EC-2 Preservation of Existing Vegetation, Costs: There is little cost associated with preserving existing vegetation if properly planned during the project design, and these costs may be offset by aesthetic benefits that

enhance property values. During construction, the cost for preserving existing vegetation will likely be less than the cost of applying erosion and sediment controls to the disturbed area. Replacing vegetation inadvertently destroyed during construction can be extremely expensive, sometimes in excess of \$10,000 per tree." (Note: Update that cost to 2014 \$\$\$ and add ,000, per tree).

This best management practices manual contains guidelines on the use of soft bottom channel clearing. In these guidelines it describes the many requirements of the vehicles used at the site. It covers fueling, cleaning of equipment, potential chemical and oil spills and side casting. Did you know that side casting is defined as the piling of debris and soil to the side of the soft bottom channel is not permissible? The guidelines suggest: "The soil and sediments from previous storms could be groomed or leveled in a way to allow flow of water and minimize storm water pollution."

Why does this project violate so many provisions in the BMP Manual?

LONG TERM PLAN IS NOT INCLUDED

In my written scoping comment on this project, I suggested a **serpentine** type of ravine across the width of Hahamongna incorporating the natural willows and existing habitat as a filtration system and allowing for stream to flow carrying sediment with it. Why was this not studied as an alternative?

With respect to our forefathers design and engineering of Devil's Gate Dam and the other dams and debris basins along the foothills, isn't it an error in placement, design and engineering to call it or allow it to become a reservoir when it exists at the base of extremely high and steep, erosive mountains? Is that not a recipe for disaster in and of itself?

How do you get the sediment out of there safely? This is the permanent question as long as the dams and debris basins exist in the configuration that they do now. In the future, Devil's Gate Dam should and will be removed. The best possible use of resources is to prepare for that eventuality. The Los Angeles River is being restored. The lower Arroyo Seco at and around the confluence is in need of reconfiguration to protect property from the sometimes flood, help conserve water and filter pollutants. This is a transitional time for Southern California. It is a public works emergency that rises above the polemics. With the increase in climate instability the safest position is returning to a more natural state. It is a time for going with the flow instead of fighting it.

Thank you for the opportunity to comment.

Sincerely,

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¹ (Genesis of hexavalent chromium from natural sources in soil and groundwater By Christopher Oze, Proceedings of the National Academy of Sciences of the United States of America, vol. 104 no. 16, April 17, 2007, Boston, Mass. <http://www.pnas.org/content/104/16/6544.full>)